

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

The Honourable Justice /
L'honorable juge
G. Normand Glaude

Commissaire

VOLUME 255

Held at :

Hearings Room
709 Cotton Mill Street
Cornwall, Ontario
K6H 7K7

Wednesday, July 16 2008

Tenue à:

Salle des audiences
709, rue de la Fabrique
Cornwall, Ontario
K6H 7K7

Mercredi, le 16 juillet 2008

Appearances/Comparutions

Ms. Julie Gauthier	Registrar
Ms. Maya Hamou	Commission Counsel
Ms. Karen Jones Mr. Peter Manderville	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Peter Chisholm Ms. Stephanie Gibson	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Ms. Marie Henein M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Jacques Leduc	Mr. Jacques Leduc

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1 --- Upon commencing at 9:35 a.m. /

2 L'audience débute à 9h35

3 **THE REGISTRAR:** Order; all rise. À l'ordre;
4 veuillez vous lever.

5 This hearing on the Cornwall Public Inquiry
6 is now in session. The Honourable Mr. Justice Normand
7 Glaude, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning,
10 all.

11 Mr. Leduc, s'il vous plaît?

12 **JACQUES LEDUC:** Resumed/Sous le même serment

13 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

14 **JONES (Cont'd/Suite):**

15 **MR. LEDUC:** Bonjour.

16 **THE COMMISSIONER:** You understand you are
17 still under oath, sir?

18 **MR. LEDUC:** Thank you.

19 **THE COMMISSIONER:** Thank you.

20 **MS. JONES:** Now, yesterday when we had left
21 the Hearing, we were discussing the full release and
22 undertaking not to disclose. That was a document prepared
23 in part by Malcolm MacDonald and reviewed by you, and we're
24 leading up to the time of the signature.

25 With regard to independent legal advice

1 which we touched on sometime yesterday very briefly, was it
2 at this stage that the concept or the idea of independent
3 legal advice had arisen in your discussions with Mr.
4 MacDonald and yourself?

5 **MR. LEDUC:** My recollection is that when we
6 left the Bishop's office having received instructions to
7 proceed with the preparation of the settlement, I indicated
8 to Mr. MacDonald that the document -- which documents would
9 be required and also that this was not going to happen
10 unless Mr. Silmsler was afforded the right to counsel and
11 received independent legal advice.

12 **MS. JONES:** So that was at your insistence
13 essentially?

14 **MR. LEDUC:** Yes.

15 **MS. JONES:** And did you find out who it was
16 that was going to be providing this independent legal
17 advice ahead of time?

18 **MR. LEDUC:** Ahead of time possibly the day
19 before.

20 **MS. JONES:** And -- yes?

21 **MR. LEDUC:** Yes.

22 **MS. JONES:** Okay. And it became known to
23 you at some point it was Sean Adams. Was there any
24 investigation on your part to see whether Sean Adams had
25 any potential conflict of interest in representing Mr.

1 Silmser?

2 MR. LEDUC: That would not have been my
3 task.

4 MS. JONES: Okay.

5 THE COMMISSIONER: But did you know that Mr.
6 Adams represented from time-to-time some priests?

7 MR. LEDUC: I knew that he had done some
8 work for the Diocese.

9 THE COMMISSIONER: M'hm.

10 MR. LEDUC: I don't believe I had any
11 particular knowledge of who his clients were.

12 THE COMMISSIONER: M'hm. But as a careful
13 solicitor who obviously with the idea of having independent
14 legal advice to protect your client as well, that in that
15 same vein would you not want to make sure that whoever --
16 that the person giving independent legal advice was not
17 closely connected with the Diocese?

18 MR. LEDUC: Mr. Commissioner, with all due
19 respect, any inquiry into a member of the Law Society's --
20 how would I say this -- any inquiry into his ability to
21 give legal advice or any inquiry into whether or not he had
22 a conflict, in my view, would be possibly presumptuous if
23 not outrageous in the sense that my request is that
24 independent legal advice be given to the individual who is
25 going to sign this agreement and these documents.

1 If that agreement is accompanied by a
2 certificate of independent legal advice signed by a
3 solicitor, there is no obligation to me to go any deeper
4 into who he is and what his qualifications are and whether
5 or not he has a conflict. And I think such inquiries may
6 not be well met by the solicitor who's giving the ILA.

7 **THE COMMISSIONER:** Okay.

8 **MS. JONES:** Now, I want to refer you to
9 again your statement. It's Exhibit 1887. I'm looking at
10 Bates page 2732.

11 **THE COMMISSIONER:** I'm sorry, which exhibit?

12 **MS. JONES:** Eighteen-eighty-seven (1887).

13 **MR. LEDUC:** At 32?

14 **MS. JONES:** At -- yes, 2732.

15 **MR. LEDUC:** Thank you.

16 **MS. JONES:** I'm looking at the bottom
17 paragraph that starts off, "I also insisted" just above the
18 September 2nd entry.

19 Do you see that portion?

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** I'll just read it into the
22 record:

23 "I also insisted on the complainant
24 getting independent legal advice. I
25 told Malcolm MacDonald this had to be

1 done and that the Certificate of
2 Independent Legal Advice should be
3 attached to the agreement. I
4 subsequently learned that the
5 complainant went to Sean Adams, a
6 lawyer with the firm Adams, Sherwood,
7 Swabey and Follon. This was the
8 complainant's choice."

9 Then further down, talking about Mr. Silmser
10 and Sean Adams:

11 "He did, however, witness the execution
12 of the release by the complainant and
13 signed the Certificate of Independent
14 Legal Advice, which was signed and
15 accompanied the release. In addition,
16 the complainant signed an
17 acknowledgement of having obtained
18 independent legal advice."

19 My question for you at this point is, did
20 you actually look at the document or documents that you're
21 referring to there in that paragraph once they were signed
22 at the time ---

23 **MR. LEDUC:** After they were signed?

24 **MS. JONES:** Directly after they were signed.

25 **MR. LEDUC:** No.

1 **MS. JONES:** You did not satisfy yourself at
2 that point that Mr. Silmsers had, in fact, gotten
3 independent legal advice?

4 **MR. LEDUC:** Mr. MacDonald called me to tell
5 me that the release and all other documentation had been
6 signed; that Sean Adams had met with Mr. Silmsers, had
7 signed the documentation in relation to ILA, the
8 acknowledgement, and that he was coming to my office to
9 deliver the document and I would receive the documents.
10 And what I'm not sure is when he received the cheque or
11 when he got the cheque.

12 He may have received the cheque before the
13 documents were signed, which he would have held in-escrow
14 of course. He would have had the documents signed and then
15 he would have been in a position to give Mr. Silmsers his
16 cheque.

17 If your question is, did I see the documents
18 after they were signed, the answer is not until January of
19 '94.

20 **MS. JONES:** And this is happening all in
21 September, '93?

22 **MR. LEDUC:** That's correct.

23 **MS. JONES:** Would you agree with me that
24 you, representing your client, perhaps should have looked
25 at that document to satisfy yourself and then satisfy your

1 client that, in fact, Mr. Silmsers had received independent
2 legal advice?

3 **MR. LEDUC:** Ms. Jones, I admitted to that in
4 a very public forum on national press at a press conference
5 in January of 1994, that it was my serious omission and
6 mistake, yes.

7 **MS. JONES:** Once the document was signed and
8 you received that information from Mr. MacDonald, was there
9 any further discussion with Malcolm MacDonald about this
10 independent legal advice?

11 **MR. LEDUC:** Not that I recall.

12 **MS. JONES:** Now, when all of this discussion
13 was being had about the full release, the settlement, and
14 drafts are going back and forth, et cetera, during that
15 period of time -- I don't have an exact date -- do you
16 recall ever going to Duncan McDonald's office in -- with
17 Malcolm MacDonald and either with or without Sean Adams and
18 possibly with Mr. Silmsers but certainly you and Malcolm
19 MacDonald. Did you ever go to Duncan McDonald's office to
20 discuss this particular matter?

21 **MR. LEDUC:** Never.

22 **MS. JONES:** Do you know Karen Derochie?

23 **MR. LEDUC:** Yes.

24 **MS. JONES:** And are you aware that she had
25 actually testified here at the Inquiry?

1 **MR. LEDUC:** Yes.

2 **MS. JONES:** And are you aware that she
3 actually testified that she recalled that there was a
4 meeting between yourself and Malcolm MacDonald that took
5 place in Duncan McDonald's office around this time period?

6 **MR. LEDUC:** I remember reading her
7 testimony, yes.

8 **MS. JONES:** And she recalls that you were
9 actually asked to leave the office by Mr. McDonald?

10 **MR. LEDUC:** That's her recollection.

11 **MS. JONES:** She said that according to her
12 it was a short meeting, maybe 10 or 15 minutes, but she
13 remembers it because after -- she's saying after you left
14 and Malcolm MacDonald left, Duncan McDonald was quite upset
15 and that was unusual for him. Did you recall reading that
16 in her transcript?

17 **MR. LEDUC:** Yes.

18 **MS. JONES:** Do you disagree with her version
19 of events?

20 **MR. LEDUC:** Yes, as a matter of fact, there
21 were no such events. I don't disagree with them; they did
22 not happen.

23 **MS. JONES:** And Ms. Derochie also says that
24 shortly after that meeting, four people came in the office
25 to meet with Duncan McDonald. She testified that it was

1 Malcolm MacDonald, Sean Adams and Jacques Leduc, which is
2 yourself. She also said there was another person, but she
3 didn't know him and she testified that she thought this
4 second meeting took place a couple of weeks after the
5 first.

6 She testified, as well, that Duncan McDonald
7 asked her to get rid of them, that he didn't want to see
8 them, so she asked those people to leave and they left.

9 She also testified:

10 "I don't think there was any reaction
11 from them when they were asked to
12 leave, but Duncan McDonald came down
13 after the people had left and, again,
14 he was upset, but he didn't say
15 anything to anybody at that time."

16 Do you recall having a meeting of that
17 nature with Duncan McDonald around that time period?

18 **THE COMMISSIONER:** I don't know what the
19 word "meeting", but do you remember attending at the office
20 and being asked to leave?

21 **MR. LEDUC:** I was never, ever, present at
22 Duncan McDonald's office with Malcolm MacDonald or Sean
23 Adams, with or without each one of them or with anyone
24 else, ever.

25 **MS. JONES:** Now, the next entry in your

1 statement occurs on September 2nd and it's stated there
2 that:

3 "On September 2nd, I received a cheque
4 from Gordon Bryan in the amount of
5 \$27,000 which was deposited and the
6 cheque made payable to Malcolm
7 MacDonald, in Trust, to complete the
8 settlement."

9 The issue now that I want to discuss with
10 you is where exactly the \$27,000 or the \$32,000 total sum
11 was actually derived from.

12 Are you aware of the breakdown as to who was
13 responsible for which amount?

14 **MR. LEDUC:** In the last few days, I believe
15 I was shown a copy of Malcolm MacDonald's trust ledger and
16 it showed a deposit of a trust cheque from me of \$27,000
17 and I believe it showed a deposit of \$5,000 and then the
18 issuance of the cheque to, I think, Mr. Adams -- or I'm not
19 sure who it was issued to -- but that's my recollection.

20 My recollection is that I received \$27,000
21 from the Diocese deposited in my trust account and issued
22 that cheque to Malcolm MacDonald in Trust.

23 **MS. JONES:** And where, in your impression,
24 was the other \$5,000 coming from?

25 **MR. LEDUC:** I thought it came from Father

1 Charles MacDonald.

2 **MS. JONES:** Was that how the discussion went
3 with the Bishop as to how the monies would be divided up or
4 with Malcolm MacDonald for that matter?

5 **MR. LEDUC:** I'm not sure. I'd have to look
6 at my -- yes; I think what I say on the previous page on
7 September 1st, it's Malcolm MacDonald's putting forth that
8 Father Charles would contribute five thousand.

9 **MS. JONES:** Now, we've also heard in this
10 Inquiry from former Chief Shaver. I think you're probably
11 aware of that as well.

12 And in his testimony, he said that he had
13 talked to the Bishop and the breakdown of the \$32,000 was
14 going to be as follows. That \$10,000 was going to be from
15 the Diocese, \$10,000 from Father Charlie and a further
16 \$12,000 from an unknown person.

17 Were you ever part of those discussions or
18 aware of that discussion or did you have a similar
19 discussion with the Bishop?

20 **MR. LEDUC:** I'm not aware of any such
21 discussion and I've never participated with anyone in any
22 such discussion and I was not aware of those facts or that
23 allegation, I should say.

24 **MS. JONES:** Chief Shaver has mentioned an
25 unknown person. Do you have any idea or any knowledge

1 about who that unknown person would be?

2 MR. LEDUC: No, I have no knowledge at all
3 about this -- what you just suggested, no.

4 MS. JONES: Okay.

5 I also want to go, please, to Exhibit 1889.
6 That is the discovery.

7 MR. LEDUC: Yes.

8 MS. JONES: And I'm specifically looking --
9 and it's Document Number 738153 and I'm specifically
10 looking at Bates page 3449.

11 MR. LEDUC: Yes.

12 MS. JONES: And this, to set you up here, is
13 the discovery of Bishop Larocque. At this particular
14 point, he's the one being asked questions. So when he says
15 "a witness", it's actually Bishop Larocque at this point.
16 And the question being put to Bishop Larocque at the bottom
17 of Bates page 3449 ---

18 MR. LEDUC: Yes.

19 MS. JONES: Just a moment, please. Thank
20 you.

21 The question is, Mr Annis:

22 "Our understanding, I believe, is that
23 it was \$27,000 paid by the Diocese."

24 The witness, who's Bishop Larocque, stated:

25 "The way it was presented to me as I

1 recall the conversation with the two
2 lawyers, was that Charlie would pay
3 \$10,000 and the Diocese would pay
4 twenty-two. I found out afterwards
5 that that's not the way that it was
6 done, but that's my recollection."

7 So do you recall having such a conversation
8 about how the breakdown of the money was going to be
9 between yourself, Malcolm MacDonald and the Bishop?

10 **MR. LEDUC:** No, my recollection is, as I've
11 stated in the statement, that it was twenty-seven five or a
12 total of thirty-two.

13 **MS. JONES:** Now, the cheque itself was
14 actually made payable to Malcolm MacDonald; I presume to
15 his trust account?

16 **MR. LEDUC:** Yes.

17 **MS. JONES:** Is that ---

18 **MR. LEDUC:** Malcolm MacDonald in Trust, yes.

19 **MS. JONES:** Now, this is obviously Father
20 Charles MacDonald's lawyer and not the Diocese's lawyer and
21 certainly not David Silmser or his lawyer. What was the
22 reason for making the cheque payable to Father Charles'
23 lawyer for this?

24 **MR. LEDUC:** I don't remember having any
25 particular consideration for who it should be made payable

1 to, except Malcolm was going to hold the funds in trust
2 until the release was signed and other documents
3 appropriate executed. So whether it was Malcolm or anyone
4 else was -- as long as it was to a lawyer in trust was in
5 my mind not relevant.

6 I mean, Malcolm MacDonald could have given
7 me a direction signed by David Silmsner saying make the
8 cheque payable to the Royal Bank or whatever. It's -- but
9 in this instance, we had agreed that Malcolm would hold the
10 funds in trust pending my receipt of the fully executed
11 documentation.

12 **MS. JONES:** Would not the norm have been --
13 especially considering the Diocese is paying \$27,000 of the
14 total amount -- would not the norm have been to issue a
15 cheque directly from the Diocese to Mr. Silmsner?

16 **MR. LEDUC:** Not necessarily.

17 **MS. JONES:** Would that not have been a usual
18 transaction in civil law?

19 **MR. LEDUC:** Not necessarily. Mr. MacDonald
20 could have received correspondence from Mr. Silmsner's
21 lawyer, a direction from Mr. Silmsner as to how he wanted
22 the monies paid. He could have had a conversation with Mr.
23 Silmsner to that end. To my knowledge, I don't know, except
24 that's what was done.

25 **MS. JONES:** Did you satisfy yourself that

1 that arrangement that you're describing there was possibly
2 made?

3 **MR. LEDUC:** No ---

4 **MS. JONES:** In other words ---

5 **MR. LEDUC:** --- I didn't.

6 **MS. JONES:** --- you delegated then the
7 responsibility, as it were, to decide how this cheque was
8 going to be paid to Malcolm MacDonald?

9 **MR. LEDUC:** That is done on a regular basis
10 when you're dealing with a member of the Bar who has a
11 trust account. You exchange funds in trust on a regular
12 basis for a specific purpose and this was a specific
13 purpose; completely acceptable process.

14 **MS. JONES:** So when Mr. Silmsler would
15 receive a cheque in settlement of this, the cheque would
16 actually be shown that it came from Malcolm MacDonald's
17 trust account?

18 **MR. LEDUC:** Could you be more precise in
19 your question? Is it a hypothetical or is it what actually
20 happened?

21 **MS. JONES:** No, what actually happened. I
22 assumed that Mr. Silmsler got a cheque that was drawn on
23 Malcolm MacDonald's trust account?

24 **MR. LEDUC:** My recollection of looking at
25 the -- Mr. MacDonald's trust ledger is that's what

1 happened. Now, I'm not sure -- I don't recall if the
2 cheque went to Adams in trust or directly to Silmsers. I
3 don't recall.

4 **MS. JONES:** But the cheque that would have
5 had the total amount of the settlement on it would be
6 coming from Malcolm MacDonald's trust account?

7 **MR. LEDUC:** I believe so.

8 **MS. JONES:** In other words, it would not
9 show on the face of the cheque that the money actually came
10 from the Diocese?

11 **MR. LEDUC:** No.

12 **MS. JONES:** Now, I understand that you
13 believe that Mr. Silmsers signed the release on September 3rd
14 or September 2nd, 1993?

15 **MR. LEDUC:** Yes.

16 **MS. JONES:** And we now get to the point
17 where you apparently received a copy of this release. I'll
18 just go back to it, which is Exhibit 1893.

19 **MR. LEDUC:** Yes.

20 **MS. JONES:** And it's your understanding that
21 Malcolm MacDonald dropped off the release at your office in
22 a sealed envelope. Is that correct?

23 **MR. LEDUC:** He didn't drop it off. He came
24 to my office; I met with him and we exchanged -- he gave me
25 the document, the brown envelope.

1 MS. JONES: Okay. So there was a physical -

2 --

3 MR. LEDUC: Yes.

4 MS. JONES: --- exchange then?

5 MR. LEDUC: Yes.

6 MS. JONES: All right.

7 And at that point you did not open up the
8 envelope?

9 MR. LEDUC: That's correct.

10 MS. JONES: And I also understand at that
11 point you called Gordon Bryan -- Reverend Bryan and had him
12 come over to pick up the envelope?

13 MR. LEDUC: Yes.

14 MS. JONES: And I also understand that you
15 told Reverend Bryan that it was confidential and had to be
16 filed?

17 MR. LEDUC: I suggested to him that it be
18 put in a confidential file, whether it was Father Charles'
19 file or the archives.

20 MS. JONES: And I believe -- did you witness
21 Mr. -- I'm sorry; Reverend Bryan sign across the seal of
22 the envelope? Did you see him do that or is that just your
23 understanding that's what happened?

24 MR. LEDUC: I don't recall seeing him do
25 that. He may have but I don't -- I have no recollection of

1 actually seeing him sign.

2 **MS. JONES:** Okay. Now, at this particular
3 point of time -- this is obviously a critical question --
4 did you read, at that point in time, the signed release and
5 undertaking that was signed by David Silmser and witnessed
6 by Sean Adams? Did you read it on that date when you
7 received it?

8 **MR. LEDUC:** As I've said a while ago, no, I
9 did not.

10 **MS. JONES:** And do you -- can you confirm
11 that that is something that you should have done at that
12 time?

13 **MR. LEDUC:** Yes.

14 **MS. JONES:** And by all accounts and purposes
15 you're representing your client and obviously it would have
16 been incumbent upon you to satisfy yourself that this
17 document had actually been signed?

18 **MR. LEDUC:** Yes. There is no excuse
19 professionally that I can give for that except there's an
20 explanation. I was dealing with Malcolm MacDonald, senior
21 member of the Bar, well respected member of the Bar, former
22 Crown Attorney, a seasoned lawyer. I had no reason to
23 expect anything else from the document then that which we
24 had agreed to. That's the explanation. It's not an
25 excuse, it's an explanation.

1 **MS. JONES:** But you do agree obviously you
2 should have read that before ---

3 **MR. LEDUC:** Yes.

4 **MS. JONES:** --- letting it proceed any
5 further?

6 **MR. LEDUC:** Yes.

7 **MS. JONES:** Now, the Bishop confirms as well
8 the same sort of sentiment. If I go back to Exhibit 1889,
9 which is the discovery document, and I'm looking at Bates
10 page 3446, line number eight. Again, this is the Bishop
11 being interviewed in the discovery. And the question is:

12 "And you said that was the first time
13 you saw the actual document."

14 Which he's talking about the release in ---

15 **MR. LEDUC:** I'm sorry; 3446?

16 **MS. JONES:** Yes.

17 **MR. LEDUC:** At line?

18 **MS. JONES:** Eight.

19 **MR. LEDUC:** Yes. I'm sorry.

20 **MS. JONES:** And the lawyer is basically
21 saying to the Bishop when you first saw this release form
22 sometime after obviously it was signed and the Bishop
23 agreed -- it was asked:

24 "Prior to that date had you had any
25 discussions with anybody about what the

1 release contained?"

2 And the Bishop replied:

3 "No. I took it for granted that our
4 lawyer would look after those things.
5 That's why he's hired."

6 So you'll agree with me there was obviously
7 an expectation on the Bishop's part anyway or your client's
8 part that you would have done what was necessary in order
9 to protect their interests in this whole release and
10 undertaking process?

11 **MR. LEDUC:** Yes.

12 **MS. JONES:** Did you ever see at this -- and
13 I'm talking about this critical time period. At this time
14 period did you see any correspondence or any documentation
15 with regards to Cornwall Police Service and David Silmser?

16 **MR. LEDUC:** No.

17 **MS. JONES:** And I'll just refer you to
18 Exhibit 266, please. It's Document Number 719998.

19 **MR. LEDUC:** Yes.

20 **MS. JONES:** There's also a handwritten
21 document similar to this but this is a memo or a release
22 form addressed to Cornwall City Police and to Detective
23 Sergeant Brunet and Officer Sebalj and this is where David
24 Silmser has signed, it's either the 2nd or the 3rd of
25 September 1993, and you'll see it would appear to be David

1 Silmsers signature and it would appear to be Sean Adams'
2 signature on that as well.

3 Did you see this document around this period
4 of time?

5 **MR. LEDUC:** No, ma'am.

6 **MS. JONES:** Did you have any knowledge that
7 such a document was being delivered to Cornwall police at
8 that time?

9 **MR. LEDUC:** Absolutely not.

10 **MS. JONES:** Now, I would like to please
11 refer you to Document 738053.

12 **THE COMMISSIONER:** Is that a new document?

13 **MS. JONES:** It is a new document, Mr.
14 Commissioner.

15 **THE COMMISSIONER:** Exhibit Number 1894 is a
16 letter dated September 6th, 1994 addressed to Mr. Jacques
17 Leduc from Peter Annis.

18 **--- EXHIBIT NO./PIÈCE NO. P-1894:**

19 (738053) Letter From Peter Annis to Jacques
20 Leduc - 06 Sep 94

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. LEDUC:** Yes.

23 **MS. JONES:** This is a letter that was
24 addressed to you on September 6th, 1994 and it's discussing
25 the statements that we've been referring to throughout the

1 last couple of days and it's referring to a paragraph that
2 Mr. Annis added to your statement concerning the dates of
3 approximately September 3rd and specifically dealing with
4 the direction that was provided to the Cornwall Police
5 Department as discussed.

6 MR. LEDUC: Yes.

7 MS. JONES: I just want to confirm that.

8 So if we could please go to that document
9 then, which is Exhibit 1888, and if we go to Bates page
10 2750, at the very bottom.

11 MR. LEDUC: Yes.

12 MS. JONES: If you compare that to Exhibit
13 1887, which is the earlier draft, the draft that we've been
14 referring to most of the time the last couple of days, it
15 would appear that the paragraph that starts off with "I
16 subsequently learned" was the paragraph that Mr. Annis is
17 referring to.

18 Can you confirm that, please?

19 MR. LEDUC: Bear with me for a second,
20 please.

21 Yes, the paragraph that -- on Bates page
22 2750, the paragraph at the bottom of the page which begins
23 "I subsequently learned" was -- was the one that was added
24 to the draft, yes.

25 MS. JONES: Okay. I'm just going to read it

1 in for the record:

2 "I subsequently learned through a
3 letter from Bryce Geoffrey dated
4 January 17th, 1994 that Silmser had
5 provided the Cornwall Police Department
6 with a one-page direction 'to close
7 your file and to stop further
8 proceedings'. I had been advised by
9 Mr. MacDonald that Mr. Silmser had
10 indeed withdrawn his complaint but I
11 did not know it was done through this
12 written direction which I assumed was
13 prepared by either Mr. MacDonald or Mr.
14 Adams based on Mr. Geoffrey's letter.
15 I have never seen the direction and do
16 not have a copy of it."

17 Is that consistent with your recollection of
18 this particular issue?

19 **MR. LEDUC:** It is.

20 **MS. JONES:** Now, the envelope itself is
21 actually a document. It's Document 716009.

22 **THE COMMISSIONER:** Exhibit 1895 is a
23 photocopy of the front of an envelope. Is that ---

24 **MS. JONES:** That's correct.

25 **THE COMMISSIONER:** All right. And it's

1 written "Private and Confidential: To be opened by bursar
2 or Bishop only" and there's an initial at the bottom.

3 --- EXHIBIT NO./PIÈCE No. P-1895:

4 (716009) Envelope addressed to Leduc &
5 Lafrance-Cardinal from A.M. MacDonald

6 MS. JONES: What exhibit number is that, Mr.
7 Commissioner?

8 THE COMMISSIONER: One eight nine five
9 (1895).

10 MS. JONES: Thank you.

11 Are you able to confirm if this is the
12 envelope that the release arrived in?

13 THE COMMISSIONER: A copy of.

14 MR. LEDUC: A photocopy of ---

15 MS. JONES: A photocopy of an envelope.

16 MR. LEDUC: I don't recall. I know it was a
17 brown envelope.

18 MS. JONES: Do you recall that your name
19 appeared on the front of the envelope?

20 THE COMMISSIONER: Well, it doesn't show
21 that.

22 MR. LEDUC: My firm.

23 THE COMMISSIONER: The firm name.

24 MR. LEDUC: The firm name.

25 MS. JONES: Do you recall that your firm

1 name, i.e. not the Bishop's name or somebody else's name, -
2 --

3 MR. LEDUC: Yes, yes, yes.

4 MS. JONES: But it was addressed to you.

5 MR. LEDUC: Yes. What I'm seeing in front
6 of me is clearly addressed to my law office.

7 THE COMMISSIONER: Well, attention Jacques
8 Leduc.

9 MR. LEDUC: Yes.

10 MS. JONES: Okay. Do you recall that the
11 envelope that you later learned contained a signed copy of
12 the release and undertaking, do you recall that the address
13 label was actually to your personal attention?

14 MR. LEDUC: No. Well, I wouldn't dispute it
15 and I would think it would probably be the case, and if
16 you're telling me this a photocopy of the envelope, then
17 yes.

18 MS. JONES: And certainly when Malcolm
19 MacDonald delivered the envelope to you, you said yourself
20 it was delivered to you in person ---

21 MR. LEDUC: That's correct.

22 MS. JONES: --- hand delivered.

23 THE COMMISSIONER: Well, wait a minute.
24 Hand delivered to you in person or ---

25 MR. LEDUC: Mr. MacDonald giving it to me in

1 person.

2 **THE COMMISSIONER:** Oh, all right.

3 So is that unusual that Mr. MacDonald would
4 go over, I take it, to your office and give it to you
5 personally?

6 **MR. LEDUC:** No. In some instances when
7 cheques are exchanged or documents are the result of some
8 escrow agreement, the lawyer will usually attend the other
9 lawyer's office to hand deliver the document or the cheque.

10 **THE COMMISSIONER:** The lawyer himself?

11 **MR. LEDUC:** Yes. In Cornwall we do. I've
12 had many occasions either to deliver a document or to
13 deliver a cheque in person.

14 **MS. JONES:** Now, when Mr. MacDonald
15 delivered this brown envelope to you in person, it was your
16 understanding that it contained the full release and
17 undertaking signed by Mr. Silmsler, the independent legal
18 advice certificate or certificates signed by Mr. Silmsler
19 and Mr. Adams. Was that your understanding?

20 **MR. LEDUC:** And the acknowledgement, yes,
21 the document, yes.

22 **MS. JONES:** And the acknowledgement. And
23 it's true that the arrangement was that Mr. MacDonald, in
24 effect Mr. Silmsler, would not get the money unless those
25 documents had been signed.

1 **MR. LEDUC:** That's correct.

2 **MS. JONES:** Would you agree with me that you
3 had not read over these documents ahead of time before
4 handing over the funds?

5 **THE COMMISSIONER:** In the microphone.

6 **MS. HENEIN:** I have lost count how many
7 times my friend has indicated and Mr. Leduc has answered he
8 did not read the documents when he received the envelope.
9 He did not look at them after they got handed to him by Mr.
10 MacDonald. My count is about six now.

11 **THE COMMISSIONER:** M'hm.

12 **MS. HENEIN:** So at some point I would think
13 that my friend has the answer that she wants and should
14 move on.

15 **THE COMMISSIONER:** Well, I don't know that
16 it's an answer that she wants. She's interested in getting
17 the evidence out of Mr. Leduc, but is there any reason to
18 belabour the point?

19 **MS. JONES:** No.

20 **THE COMMISSIONER:** Okay. Then let's try to
21 deal it otherwise.

22 **MS. JONES:** So in effect, with you
23 conducting yourself in this fashion, would it be fair to
24 say that you've delegated assuring your client's interests
25 are protected, essentially to Mr. MacDonald?

1 **MR. LEDUC:** No. I received direct
2 representation from a member of the Bar as to what was done
3 according to my instructions and I -- I fully expected, as
4 I should, that he would be good to his word and to his
5 professional representation. And I relied on that, as is
6 done on a regular basis in the practice of law.

7 **MS. JONES:** My understanding is that you had
8 not had that much contact with Malcolm MacDonald in this
9 sort of a situation before in a professional manner.

10 **MR. LEDUC:** That's correct.

11 **MS. JONES:** This was your first time dealing
12 with Mr. MacDonald ---

13 **MR. LEDUC:** No.

14 **MS. JONES:** --- on a matter such as this?

15 **MR. LEDUC:** Such as this, yes.

16 **MS. JONES:** And you were aware that Mr.
17 MacDonald had limited experience in civil law as compared
18 to yourself?

19 **MR. LEDUC:** Yes.

20 **MS. JONES:** And to be clear, when the cheque
21 was actually handed over to Mr. MacDonald, was this done by
22 Reverend Bryan or were you involved in that?

23 **MR. LEDUC:** No, it was a cheque for my trust
24 account and I'm not sure how it got to Mr. MacDonald. I
25 don't recall bringing it to him. I don't recall having it

1 delivered. I don't recall whether he picked it up. I have
2 no memory of how it got to Mr. MacDonald.

3 **MS. JONES:** So it was not a situation where
4 he came to your office with the signed release and then you
5 handed him the cheque the same moment?

6 **MR. LEDUC:** No. I don't believe so, no. I
7 don't recall how that happened.

8 I have to refer to my statement if I say
9 anything in there about that but I have no independent
10 recollection of that.

11 **MS. JONES:** Now, if we go to -- just a
12 moment, please.

13 If we go, please, to Exhibit 1887 again.

14 **MR. LEDUC:** Yes.

15 **MS. JONES:** Just to confirm, on Bates page
16 2733, the date is September 3rd and I'm just looking at the
17 last couple of sentences in the first paragraph, and it
18 states:

19 "The Bishop was not involved in any of
20 these discussions with respect to the
21 release. This was a matter between
22 Malcolm MacDonald and myself
23 exclusively. I had no other
24 conversations with the Bishop on this
25 matter until the CAS called."

1 Is that a fair assessment of your ---

2 MR. LEDUC: Yes.

3 MS. JONES: --- recollection of that?

4 MR. LEDUC: Yes.

5 MS. JONES: So if I'm to understand this
6 correctly, you never contacted the Bishop to confirm with
7 him, "I've just met with Malcolm MacDonald. We've got the
8 release and I've given him the money" or a conversation of
9 that nature?

10 MR. LEDUC: Not with the Bishop but with
11 Gordon Bryan.

12 MS. JONES: But not with the Bishop.

13 MR. LEDUC: Not with the Bishop. Not that I
14 recall, no.

15 MS. JONES: But the Bishop was your client;
16 correct?

17 MR. LEDUC: Well, the Bishop was my client
18 as was the Diocese of Alexandria-Cornwall and their
19 legitimate representative is also the Bursar, Reverend
20 Gordon Bryan. Yes, and I -- in my dealing with the Diocese
21 professionally, I usually received instructions from Gordon
22 Bryan. In this instance, I called him, advised him that
23 the matter had been resolved and asked him to come and pick
24 up the documents.

25 MS. JONES: But would you agree with me that

1 certainly in the preliminary discussions and in all of the
2 events that transpired that led up to this release even
3 being conceived of, it was the Bishop that you had to
4 convince the settlement is a good idea. It was the Bishop
5 that you had the meetings with.

6 **MR. LEDUC:** He is the person in authority.
7 He is the person who makes the decision, yes.

8 **MS. JONES:** And certainly, all the time
9 leading up to this released document, it was the Bishop
10 that was -- I don't know if you call the driving force,
11 shall we say, behind giving you instructions of what to do.

12 **MR. LEDUC:** As I said before, there were two
13 meetings with the Bishop. And I don't recall any other
14 conversation with the Bishop. Once I had my instructions
15 with respect to terms of settlement, it was time to do the
16 paperwork and engage the process. And once that process
17 was completed, I reported to Gordon Bryan.

18 **MS. JONES:** If I go back to the page we were
19 looking at previously, further down, September 3rd -- I
20 don't think it actually happened on September 3rd but
21 further down, it says:

22 "In any event, once the CAS was
23 involved, the Bishop asked me to
24 assist, his instructions being to
25 cooperate fully with them."

1 **MR. LEDUC:** Very direct instructions.

2 **MS. JONES:** So certainly, from the Bishop's
3 point of view and it would appear from your own point of
4 view as well, your instructions or retainer is continuing
5 on on the same matters continuing on now. I believe that's
6 in October that you're meeting with the CAS.

7 **MR. LEDUC:** Yes.

8 **MS. JONES:** Is it your understanding that
9 the retainer with regards to the Silmsen matter was
10 continuing at that point or was it, like before, where
11 there was a distinct end to your retainer and then you were
12 retained yet again?

13 **MR. LEDUC:** In hindsight, I would tell you
14 that the assignment that I had received was completed when
15 the settlement was concluded. And then when the CAS became
16 involved, the Bishop directed me to provide all assistance
17 required in this process.

18 So is it one retainer with two phases or
19 three phases or is it separate retainers? From my
20 perspective, there's no really -- no real difference.

21 **MS. JONES:** Now, in between September the 3rd
22 and then you say a little while later, you then talked to
23 the Bishop next about this matter when he discussed the CAS
24 had been involved.

25 In September or October, when CAS is

1 involved -- which I will get to in a minute -- was there
2 any discussion between yourself and the Bishop about the
3 possibility of removing Father Charles MacDonald from the
4 parish?

5 MR. LEDUC: Not that I recall. And that
6 would not have been part of my mandate as a lawyer.

7 MS. JONES: Okay.

8 MR. LEDUC: The Bishop would not have
9 discussed any such personnel matters with me, never has.

10 MS. JONES: But you were not providing him
11 any advice in that regard?

12 MR. LEDUC: No.

13 MS. JONES: That's basically what I'm
14 looking for. I'm still looking for your role as a lawyer
15 not as a ---

16 MR. LEDUC: No, I was not asked ---

17 MS. JONES: --- a friend.

18 MR. LEDUC: I was not asked and did not
19 provide any advice in this particular employment matter or
20 personnel matter.

21 MS. JONES: Now, we're going to look at the
22 involvement of the CAS because in the chronology, that's
23 what comes next. And it said here that the Bishop had
24 asked you to cooperate with them fully. What was your
25 understanding of what that actually meant?

1 **MR. LEDUC:** Well, I think practically, it
2 meant if some of the priests who were to be interviewed by
3 the CAS that if they wanted me there, I would attend with
4 them, which I did.

5 **MS. JONES:** Okay. Before you started
6 attending any meetings with the CAS or going with witnesses
7 to the CAS, did the CAS tell you any information about what
8 their investigation was about? Did you know what to
9 expect, in other words?

10 **MR. LEDUC:** Well, we expected that the
11 witnesses were going to be canvassed about their
12 information relating to Father Charles. I don't recall any
13 conversation prior to our attendance. It may have
14 happened. There may have been telephone calls but I've no
15 specific recollection.

16 **MS. JONES:** For example -- Oh, I'm sorry.

17 **MR. LEDUC:** The question was "Was there" --
18 I don't recall any correspondence. There may have been, I
19 don't recall any correspondence. If there was
20 correspondence with the Bishop, I don't recall having been
21 made aware of any such correspondence if there was any.

22 **MS. JONES:** For instance, when -- did you
23 talk to the Bishop about generally what the Diocese's
24 position was going to be with regards with Father Charles
25 MacDonald?

1 **MR. LEDUC:** No.

2 **MS. JONES:** So you had no preconceived
3 instructions of any nature, it was just go and help and be
4 cooperative.

5 **MR. LEDUC:** Those were my instructions. You
6 do what you need to do to cooperate with the CAS.

7 **MS. JONES:** I'm going to go to a document
8 now, it's Document 721672. And just by way of explanation,
9 this is actually a very large document. It's the notes --
10 handwritten notes of Greg Bell who's a CAS worker. I'm
11 actually not entering the entire document as an exhibit.
12 I'm going to be entering excerpts ---

13 **THE COMMISSIONER:** M'hm.

14 **MS. JONES:** --- of the document. I don't
15 know if -- which way you ---

16 **THE COMMISSIONER:** Mr. Lee is getting up.

17 **MR. LEE:** I intend to go to this document in
18 my cross as well. I'm not exactly clear on whether the
19 entire huge document was entered as Exhibit 1854 already or
20 whether it was just an excerpt at 1854 and so we need to
21 keep on excerpts. I'm just not clear on that. It was
22 something I was going to raise when I was up so if we can
23 figure that out now, it would be helpful.

24 **THE COMMISSIONER:** Eighteen fifty-four
25 (1854) is just an excerpt.

1 **MR. LEE:** Okay. Thank you.

2 **MS. JONES:** I can confirm they have not been
3 entered. They will be entered as part of the CAS
4 institutional response. But at this particular junction, I
5 think it's helpful -- more helpful just to enter the
6 excerpts.

7 **THE COMMISSIONER:** Fine.

8 **MS. JONES:** So I'm just looking for
9 directions from you, Mr. Commissioner, on how you wanted
10 the exhibits to be marked. Did you want one exhibit number
11 and then a, b, c or which -- no?

12 **THE COMMISSIONER:** I'm ---

13 **MS. JONES:** Or tabs?

14 **THE COMMISSIONER:** I'm taking ---

15 **MS. JONES:** Or separate exhibits for each?

16 **THE COMMISSIONER:** Let's see what Madam
17 Registrar wants to do.

18 **MS. JONES:** Okay. That's fine then.

19 **THE COMMISSIONER:** There you go.

20 **MS. JONES:** So Document 721672 and the
21 excerpt would be Bates page 7081862.

22 I'm sorry, yes.

23 **THE COMMISSIONER:** Thank you. Exhibit 1896
24 are the handwritten notes of G. Bell. The first date on
25 the document is the 15th of October 1993.

1 **---EXHIBIT NO./PIÈCE NO P-1896:**

2 (721672) 7081862 - Notes of Greg Bell - 15
3 Oct 93

4 **THE COMMISSIONER:** Ah, Mr. Manderville.

5 **MR. MANDERVILLE:** It certainly wouldn't be
6 the first time I've been obtuse but it looks to me like
7 it's already Exhibit 1854.

8 **THE COMMISSIONER:** Isn't that great. One
9 eight five four (1854). No, it's not. Ah, Mr.
10 Manderville.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **MS. JONES:** Just a moment, please.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MS. JONES:** I can't confirm that Mr.
15 Manderville is correct. Eighteen-fifty-four (1854) is
16 actually three pages of Mr. Bell's notes. One of those
17 pages is this particular one, Bates page 1862.

18 **THE COMMISSIONER:** I don't think so. It's
19 not what I have.

20 **MS. JONES:** This is why there seems to be
21 some confusion.

22 **THE COMMISSIONER:** Well, okay, I have ---

23 **MS. JONES:** So, Madam Clerk, is that what
24 you have? Because we -- I would defer to you. It may be -
25 --

1 **THE REGISTRAR:** It's from 1880 to 1882.

2 **THE COMMISSIONER:** That's right. And this
3 is 1862.

4 **MS. JONES:** Okay.

5 **THE COMMISSIONER:** So.

6 **MS. JONES:** So let's keep the exhibit then
7 as it ---

8 **THE COMMISSIONER:** With the greatest of
9 respect for Mr. Manderville, we are going to keep 1896 on
10 the books.

11 **MS. JONES:** Now that we've clarified that,
12 I'm specifically looking at the middle paragraph, Mr.
13 Leduc, which the clerk has on the screen. I personally
14 find it very helpful, by the way, to read handwritten notes
15 on the screen rather than hard copy, but I'll leave that up
16 to you.

17 It would appear that there was a meeting
18 with yourself, or at least a conversation with yourself, on
19 the 15th of October, 1993. And I'll just summarise perhaps
20 what that meeting seems to be in the notes.

21 That on October 15th, 1993 at 3:30 p.m. it
22 would appear, according to Mr. Bell, that Richard Abell
23 informed Mr. Bell that he had spoken with Jacques Leduc,
24 the Diocesan lawyer, and he was told that Monsignor
25 McDougald would not be meeting with the CAS, as planned, on

1 October 18th.

2 Leduc said that the Diocese would give their
3 full cooperation, however. Later that same day, Mr. Bell
4 contacted Leduc at the request of CAS counsel, Elizabeth
5 McLennan and supervisor, Mr. Carriere.

6 And apparently Mr. Leduc told Bell that
7 McDougald in his role as Vicar General was not permitted to
8 discuss priests, however, Leduc would come to the CAS
9 office to answer their questions and provide information.

10 **MR. LEDUC:** I'm sorry, that's not what I'm
11 seeing.

12 **THE COMMISSIONER:** Where did you get all
13 that?

14 **MR. LEDUC:** Yes.

15 **MS. JONES:** Bates -- Oh, I'm sorry, we are
16 going to have to -- this is going to be difficult. I'm
17 going to need another exhibit then. On Bates page 1867.
18 The "Later the same day" continues on another Bates page.

19 So Bates page 1867, please.

20 **THE COMMISSIONER:** Exhibit 1897 is a
21 document which is, I take it, Richard Abell's notes, noted
22 page 13, and the first date on it is the 18th of October,
23 1993.

24 **--- EXHIBIT NO./PIÈCE NO. P-1897:**

25 (721672) 7081867 - Notes of Greg Bell -

1 October 18, 1993

2 **MS. JONES:** And I'm referring to the very
3 top entry.

4 **MR. CHISHOLM:** Sir, Greg Bell's notes not
5 Rick Abell's.

6 **THE COMMISSIONER:** Did I say Rick Abell?
7 Sorry, Greg Bell.

8 **MS. JONES:** And at the top of the next
9 Exhibit, 1897, you have that in front of you there:

10

11 "Jacques Leduc pointed out the course
12 of events."

13 And there's -- I didn't go through all of
14 that. That has to do with the David Silmsler settlement, et
15 cetera.

16 I'm specifically looking down at the bottom
17 of the excerpt -- of the exhibit, I should say now, 1897,
18 where it starts:

19 "W. Carriere indicated..."

20 **MS. HENEIN:** I'm sorry, I'm lost, and I
21 don't know if Mr. Leduc is having the same problem I am.
22 My friend was reading something a few moments ago about a
23 phone call that was received.

24 **THE COMMISSIONER:** Yes.

25 **MS. HENEIN:** And then there was no question

1 that followed it.

2 **THE COMMISSIONER:** M'hm.

3 **MS. HENEIN:** And now my friend is reading
4 another section.

5 So I just -- so that it's fair to the
6 witness, perhaps my friend can go back and just walk
7 through it again because I'm not -- certainly not able to
8 follow along with where we are, what meeting, what day, and
9 what the question is.

10 **MS. JONES:** Actually, I haven't asked the
11 question yet.

12 **THE COMMISSIONER:** Right, I know, but you --

13 -

14 **MS. JONES:** I'm trying to set it up here.
15 I'll start again. That's fine.

16 **THE COMMISSIONER:** Okay.

17 **MS. JONES:** If we go to the first exhibit,
18 1896.

19 **MR. LEDUC:** Yes?

20 **MS. JONES:** The first set of notes, it
21 states here that, according to Mr. Bell, Mr. -- he spoke
22 with Mr. Carriere and apparently Mr. Abell had spoken to
23 yourself as counsel for the Diocese, and you told in this
24 conversation that the CAS will deal with him and that they
25 could not meet with Monsignor McDougald as planned on

1 October 18th and indicated, however, that the Diocese wants
2 to give full cooperation.

3 So that's the first entry that we looked at
4 on 1896.

5 **MR. LEDUC:** I'm sorry. I fail to see the
6 date of October 18th and ---

7 **MS. JONES:** Okay, "18-10-93". It's at the -
8 --

9 **THE COMMISSIONER:** Fifth line.

10 **MS. JONES:** --- fifth line.

11 **MR. LEDUC:** Yes, okay, sorry. Sorry.

12 **MS. JONES:** Okay.

13 And then he indicated, however, that the
14 Diocese wants to give its full cooperation.

15 **MR. LEDUC:** Yes.

16 **MS. JONES:** So then if we go to 1897, and
17 it's October 18th -- actually, I think it might be easier if
18 we go to Exhibit 1441, which is Document 721621.

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **MS. JONES:** Now, just to confirm, it doesn't
21 say so on here as clearly as the other notes do, but these
22 are actually handwritten notes from Rick Abell.

23 **MR. LEDUC:** One-four-four-one (1441), Bates
24 page 0548?

25 **MS. JONES:** That's correct.

1 **MR. LEDUC:** "Handwritten Notes from Mr.
2 Abell."

3 **MS. JONES:** That's correct.

4 That's actually the wrong document. It's
5 Bates page 0641 -- sorry, it's the correct document, it's
6 the wrong Bates page.

7 **MR. LEDUC:** Zero-six-four-one (0641)?

8 **MS. JONES:** It's coming on the screen, yes.

9 **MR. LEDUC:** Thank you.

10 **MS. JONES:** And, again, I'm just trying to
11 set up what the understanding was between the Diocese,
12 yourself and CAS.

13 And these are notes of Rick Abell at the
14 time, and it appears that even though it's a different
15 date, I just want to go to the middle of the page where it
16 start with, "Commitment from Bishop".

17 **MR. LEDUC:** Yes.

18 **MS. JONES:** And essentially, it says,
19 "Commitment" ---

20 **THE COMMISSIONER:** I'm sorry, Ma'am?

21 **MS. JONES:** Sorry.

22 **THE COMMISSIONER:** I don't like the
23 "essentially". If it's there, let's read what's there,
24 please?

25 **MS. JONES:** Okay, fine.

1 **THE COMMISSIONER:** Okay. Thank you.

2 So you're reading ---

3 **MS. JONES:** I just need to have it further
4 down the page, Madam Clerk, "Commitment from."

5 Thank you.

6 "Commitment from Bishop through Jacques
7 L. that we have all the time we need to
8 investigate. Father MacDonald will not
9 be going back into the Parish."

10 And then down at the bottom:

11 "Silmsner to be assured, Jacques L. will
12 assure him or his lawyer that he can
13 speak to us without penalty."

14 So these are just references made to you
15 through CAS.

16 Do you recall having these types of
17 conversations with Mr. Abell?

18 **MR. LEDUC:** With Mr. Abell?

19 **MS. JONES:** With Mr. Abell or Mr. Bell.

20 **MR. LEDUC:** I remember several telephone
21 conversations with members working for the CAS. I remember
22 several. But if you ask me do I remember this one in
23 particular I can't ---

24 **THE COMMISSIONER:** Well, okay, do you recall
25 ever telling the CAS that take all the time you need and

1 that Father MacDonald will not be going back into the
2 Parish?

3 MR. LEDUC: Do I recall saying that?

4 THE COMMISSIONER: Yes.

5 MR. LEDUC: No.

6 THE COMMISSIONER: Do you have any reason to
7 deny?

8 MR. LEDUC: No.

9 THE COMMISSIONER: Okay. And on the second
10 portion, did you ever undertake or was it your
11 understanding at some point that you were supposed to
12 assure Silmsler or his lawyer that he could speak to the CAS
13 without penalty on the agreement?

14 MR. LEDUC: I don't recall doing that but I
15 wouldn't say that I didn't.

16 THE COMMISSIONER: Okay. Thank you.

17 MS. JONES: But generally speaking it
18 appeared that you were saying to the CAS that there was a
19 definite aura of cooperation between yourself and the
20 Diocese?

21 MR. LEDUC: Well, between the CAS -- the
22 Diocese was willing to cooperate with their investigation,
23 absolutely.

24 MS. JONES: Now, if we could go to the same
25 -- I believe it's the same exhibit just a different Bates

1 page, 0645. And, again, these are still the notes of Rick
2 Abell and the date of these notes is October 15th, 1993, and
3 these notes seem to indicate that at 2:40 p.m. there's a
4 phone call from Jacques Leduc:

5 "He wants to talk. I don't have time.
6 Asks if there has been an admission. I
7 say yes to being homosexual, relations
8 with adolescents/adults, not as a
9 teacher, not the last four years (this
10 from the Bishop). I tell him Chief
11 spoke to the Bishop, told me MacDonald
12 had admitted to Silmser. Needs to be
13 clarified. Told him I wanted an
14 investigation to see him first. Gave
15 him Greg and Bill's names."

16 So just on that portion of the phone call
17 conversation, first of all, it would appear -- are you able
18 to confirm that you would have spoken to Mr. Abell around
19 that time period to have such a discussion?

20 **MR. LEDUC:** I've had several conversations,
21 to the best of my recollection, with Mr. Bell and with Mr.
22 Abell during this time, yes.

23 **MS. JONES:** You will agree that just that
24 paragraph alone shows that these are very sensitive and
25 very significant issues being discussed?

1 **MR. LEDUC:** Yes.

2 **MS. JONES:** And did you keep any notes
3 yourself as to the times that you called and the substance
4 of the phone calls, who you spoke to?

5 **MR. LEDUC:** Not that I recall, no.

6 **MS. JONES:** Is that not something that one
7 would normally do as a lawyer representing a client to keep
8 a file of telephone calls and representations made?

9 **THE COMMISSIONER:** Ms. Henein.

10 **MS. HENEIN:** Thank you.

11 My friend in the course of her examination
12 yesterday and is continuing with this line today is putting
13 questions to Mr. Leduc as to what is normal for a lawyer to
14 do. I don't know what rule of professional conduct my
15 friend is referring to. I've certainly looked at them and
16 have not found record keeping rules.

17 **THE COMMISSIONER:** M'hm.

18 **MS. HENEIN:** So I don't know what it is and
19 what is the foundation of my friend's question.

20 **THE COMMISSIONER:** M'hm.

21 **MS. HENEIN:** Different lawyers have
22 different practices. Some are better note takers. Civil
23 lawyers are notoriously better than criminal lawyers but
24 they're not all the same.

25 So I'm not certain what the relevance of it

1 is and I'm not certain what the basis of my friend's
2 assertion in her question as to what it is normal to do and
3 not to do, and what the standard is that she's applying
4 because they're not even in the rules of professional
5 conduct.

6 **THE COMMISSIONER:** M'hm.

7 **MS. JONES:** I'll rephrase my question. Is
8 it normal to practice for you to open up a file and keep
9 notes of telephone conversations with people ---

10 **MR. LEDUC:** No.

11 **MS. JONES:** --- on a file?

12 **MR. LEDUC:** No. Depending on the file, but
13 not in this instance.

14 **THE COMMISSIONER:** Well, depending on the
15 file. That opens it up. What do you mean by depending on
16 a file?

17 **MR. LEDUC:** Well, if I receive a telephone
18 call from a client and he wants some advice I don't take a
19 note and I usually just give advice -- could give advice
20 over the phone if the client is known to me, if I know what
21 he's talking about.

22 If the client is calling me and asking me,
23 for example, about terms of financing relating to specific
24 properties of course then I would take notes because you
25 need specific details as to what the issue is.

1 As I said, it depends on the file, it
2 depends on the question being put and the matter at hand.
3 And in this instance I do not recall taking notes.

4 **THE COMMISSIONER:** Okay, but you've got a
5 fellow telling you that he's got an admission about
6 activities from Father Charles. I would think -- I don't
7 know. Some people might think that that would be the type
8 of file that you'd want to keep notes on.

9 **MR. LEDUC:** It's a very important issue.

10 **THE COMMISSIONER:** M'hm.

11 **MR. LEDUC:** Just because I don't take any
12 notes doesn't mean I take it lightly and not seriously.

13 **THE COMMISSIONER:** No, not ---

14 **MR. LEDUC:** And I don't know -- I don't
15 recall having had any other conversations with the Bishop
16 or anyone else about this particular instance, but clearly
17 it's a serious matter.

18 But if your question is did I take notes, my
19 answer is I don't recall taking notes and I don't believe I
20 did.

21 **MS. HENEIN:** Mr. Commissioner, just picking
22 up on the last question, the note, as I read it, is that
23 the Bishop either provided that information or was given
24 that information by the CAS, and your question to Mr. Leduc
25 was wouldn't he want to effectively alert his client. But

1 it appears in that note, in any event, that the information
2 is either coming from the Bishop or that the CAS is telling
3 Mr. Leduc they've told the Bishop. It's a little murky.
4 I'm sure we'll get clarification on it. But it appears
5 that the Bishop knows.

6 **THE COMMISSIONER:** It's a bit murky ---

7 **MS. HENEIN:** Yes.

8 **THE COMMISSIONER:** --- and that's why it's a
9 good thing to take notes.

10 **MS. HENEIN:** Well, no, the notes of Mr. Bell
11 or Mr. Abell are murky. It does not mean that the
12 conversation, when it occurred, was murky to Mr. Leduc.

13 **THE COMMISSIONER:** Okay.

14 **MS. JONES:** Do you recall at least asking --
15 it's I believe the third line in. Do you at least recall
16 asking Mr. Abell at some point if there had been an
17 admission on the part of Father Charles to anything?

18 **MR. LEDUC:** I don't recall the conversation
19 at all.

20 **MS. JONES:** Now, if I could stay on this
21 same Bates page, it's a little bit further down after the
22 word "Okay." This is still the same phone call. It
23 appears, by his notes, he's still speaking with you on the
24 phone. Sorry, I think I'm incorrect on that. Hang on just
25 a moment. Yes.

1 "Says he will talk to Greg rather than
2 Father McDougald. McDougald is the
3 Vicar-General. Can't betray priestly
4 confidences? I say 'Okay, we'll start
5 there'."

6 Do you recall having that sort of
7 conversation with Mr. Abell regarding Father McDougald?

8 **MR. LEDUC:** I don't recall a specific
9 conversation but I do recall discussions outlining to the
10 CAS, whether it was Mr. Bell or Mr. Abell, that there were
11 some limitations to our -- if you wish, to our
12 conversations, and one of them was the privilege of the
13 sacrament, and as I look at this, also the issue of -- how
14 would I say this -- how the witnesses are going to be
15 treated. And I -- of course with the CAS and I had
16 experience with these people who were all, I thought, very
17 competent and generous and open.

18 I just -- my role I thought was to make sure
19 that our relationship was an open one but still had some
20 limits.

21 That's why I was there to make sure that
22 there were some -- there was some structure to the
23 investigation from the perspective of best interests of my
24 client and those who were going to be giving evidence or
25 statements at any rate.

1 **MS. JONES:** We touched a bit on this
2 yesterday. According to Mr. Abell's notes, you were saying
3 to him that Father McDougald can't betray priestly
4 confidences. Was that your understanding that it was
5 actually impermissible to betray the confidence or was
6 there some sort of discretion there?

7 **MR. LEDUC:** Well, that's what Mr. Abell or
8 Mr. Bell is saying; that is not what I would have said. I
9 would have referred to the sacramental privilege.

10 **MS. JONES:** So what you have said then on
11 that? If Mr. Abell doesn't have that correct, what was
12 your position with regards to priestly confidences and
13 Father McDougald?

14 **MR. LEDUC:** I don't believe -- I don't
15 remember that coming up; all I recall is providing some
16 parameters. In other words, this is where you can try to
17 go, but it's not going to get you anywhere. In other
18 words, if you open the discussion to anything that was
19 received in confession, the priests will not answer.

20 **MS. JONES:** So it wasn't that they won't or
21 they can't answer, it would be that they won't answer?

22 **MR. LEDUC:** That's right. And I want to be
23 very specific here. Dealing with the sacrament of
24 confession, he refers to a priestly privilege. There is no
25 such privilege.

1 **MS. JONES:** So the phrase "Priestly
2 confidences" is not a phrase that you would have used?

3 **MR. LEDUC:** I don't think so. I -- as a
4 matter of fact, I know I would not have.

5 **MS. JONES:** What is it that you -- what is a
6 proper word for it?

7 **MR. LEDUC:** Well, it's sacramental
8 privilege. Also priest and penitent privilege; different
9 words.

10 **MS. JONES:** What's the second phrase,
11 please?

12 **MR. LEDUC:** Priest and penitent.

13 **MS. JONES:** Can you spell that please?

14 **MR. LEDUC:** Penitent, P-E-N-I-T-E-N-T.

15 **MS. JONES:** And what exactly is that?

16 **MR. LEDUC:** It's the occurrence of the
17 sacrament. We call it now the sacrament of reconciliation
18 or of confession where the penitent confesses his or her
19 sins and the priest hears or receives the sin and there's a
20 sacrament including absolution.

21 **THE COMMISSIONER:** Just a minute. You're
22 saying the privilege is on the priest; he is bound not to
23 reveal what was said?

24 **MR. LEDUC:** That's correct.

25 **THE COMMISSIONER:** But with the person who

1 is entering the confessional, no such privilege attaches?

2 MR. LEDUC: The privilege is imposed on the
3 confessor.

4 THE COMMISSIONER: Right. Okay.

5 MS. JONES: And the next paragraph:

6 "He wants to know if we will rush off
7 and interview St. Andrew's altar boys
8 without speaking to the parents first
9 et cetera. I tell him we are
10 professional who are following an
11 extensive protocol."

12 Do you recall having a conversation of that
13 nature, Mr. Abell?

14 MR. LEDUC: No, I'm Mr. Leduc.

15 MS. JONES: No, do you recall ---

16 MR. LEDUC: With Mr. Abell?

17 MS. JONES: --- with Mr. Abell?

18 MR. LEDUC: I thought you were calling me
19 Mr. Abell, sorry.

20 MS. JONES: No.

21 MR. LEDUC: I remember that there was an
22 issue as to my recommendation to -- if they were going to
23 speak with young people that they should first contact the
24 parents. I recall that issue and I think that's probably
25 what has been noted here.

1 **MS. JONES:** Now, if we could please go to --
2 - just a moment, please. Could we please go to Exhibit
3 1897 which are the notes of Greg Bell; the second excerpt.

4 **THE COMMISSIONER:** It's a loose-leaf, sir.
5 It's one of the new ones.

6 **MS. JONES:** Yes, Bates page 1867.

7 **MR. LEDUC:** Thank you.

8 **MS. JONES:** Sorry, just one moment.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **MS. JONES:** I'm just referring to the point
11 that's marked "Point 3" and just by way of background,
12 again, it would appear that you were having a conversation
13 -- it may have been on the phone, but it appears that on
14 the 18th of October, 1993, Greg Bell wrote down:

15 "J. Leduc pointed out the course of
16 events."

17 And that's when you went through a chronology or a summary
18 as to what had happened previously. Can you see that at
19 the top of the Bates page?

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** And you start off by saying how
22 David Silmsler had presented allegations to the Diocese of
23 sexual assault by Father Charles MacDonald.

24 The second point is David Silmsler initially
25 only wanted a letter from Father MacDonald admitting that

1 he had sexually assaulted him so he could show this letter
2 to his mother.

3 And the third point is because D. Silmer
4 felt nothing was being done here, he presented the
5 allegations to the Ottawa Diocese as he was reasonably
6 close to Ottawa and he had heard them and referred back to
7 -- I'm sorry if I'm getting it wrong -- referral back to
8 his Diocese in Cornwall ---

9 **THE COMMISSIONER:** And the report?

10 **MS. JONES:** --- and the report, thank you.
11 And the report was sent to Cornwall Diocese which concluded
12 these allegations appeared to be credible.

13 And then you mention that there's a
14 financial compensation and that there was -- at the Point
15 5, Mr. Silmser signed an agreement indicating he would make
16 no further civil claims.

17 Do you recall highlighting those points in a
18 conversation with Mr. Bell ---

19 **MR. LEDUC:** No.

20 **MS. JONES:** --- as written there ---

21 **MR. LEDUC:** No.

22 **MS. JONES:** --- at all?

23 Now, there seems to be a line drawn there
24 which means it could actually not include you, so I'm just
25 going to put this to you and to see if, in fact, you were

1 included in this conversation or not.

2 It says:

3 "W. Carriere indicated that Bishop
4 Larocque told him Angelo..."

5 -- which would be Angelo Towndale, I think:

6 "...and Rick Abell that this from
7 MacDonald admitted to being a
8 homosexual and to having been sexually
9 involved with teens/adults."

10 And the last line:

11 "J. Leduc indicated that..."

12 I'm sorry:

13 "...that Father MacDonald..."

14 I'm misreading the handwritten notes.

15 And then the last line:

16 "J. Leduc indicated if this is the
17 case, Father MacDonald cannot return to
18 any parish."

19 So even though there's a line drawn above
20 the previous entry, it would appear that you're still part
21 of this conversation. Would you agree that's what the
22 notes indicate?

23 **MR. LEDUC:** No.

24 **MS. JONES:** You would not agree?

25 **MR. LEDUC:** No, that's my interpretation of

1 these notes.

2 **THE COMMISSIONER:** Yes, but I guess the
3 question is, do you recall ever telling them that if that
4 was the case that Father MacDonald could not return to any
5 parish?

6 **MR. LEDUC:** I have no absolute distinct
7 memory of saying that, but ---

8 **MS. JONES:** Do you recall around this time
9 period that someone from the CAS, be it Mr. Abell or Mr.
10 Bell or Mr. Carriere, do you recall that anyone from the
11 CAS told you that Father Charles MacDonald admitted to
12 being an homosexual and to have been sexually involved with
13 teens or adults?

14 **MR. LEDUC:** No, I don't recall being told
15 that.

16 **MS. JONES:** And, again, just to be clear,
17 you don't recall it? Is it possible you were told that?

18 **MR. LEDUC:** It's possible, yes. I just
19 don't recall it.

20 **MS. JONES:** Okay. So the indication down
21 below indicated if that was the case, that if he admitted
22 being homosexual and admitted having sex with teens and
23 adults, indicated if this was the case, then Father
24 MacDonald cannot return to any parish.

25 Now, you say you don't recall saying that.

1 Is it possible that you said that?

2 **MR. LEDUC:** Yes, that would have been my
3 conclusion.

4 **THE COMMISSIONER:** Time for a break.

5 **MS. JONES:** Yes, I think so.

6 **THE COMMISSIONER:** Thank you. Let's have
7 the morning break.

8 **THE REGISTRAR:** Order; all rise. À l'ordre;
9 veuillez vous lever.

10 This hearing will resume at 11:10 a.m.

11 --- Upon recessing at 10:55 a.m. /

12 L'audience est suspendue à 10h55

13 --- Upon resuming at 11:18 a.m. /

14 L'audience est reprise à 11h18

15 **THE REGISTRAR:** Order; all rise. À l'ordre;
16 veuillez vous lever.

17 This hearing is now resumed. Please be
18 seated. Veuillez vous asseoir.

19 **JACQUES LEDUC, Resumed/Sous le même serment:**

20 --- EXAMINATION IN CHIEF BY/INTERROGATOIRE EN CHEF PAR MS.

21 **JONES (Cont'd/suite):**

22 **THE COMMISSIONER:** Thank you.

23 Yes, Ms. Jones?

24 **MS. JONES:** Mr. Commissioner, I wanted to
25 clarify that arose yesterday. I now have the documents

1 here and the parties have been served. The issue was
2 surrounding the handwritten notes that were being
3 attributed to Malcolm MacDonald ---

4 **THE COMMISSIONER:** Yes.

5 **MR. LEDUC:** --- and there were some issues
6 surrounding that. So I wanted to make it very clear on the
7 record what caused the Inquiry to assume, shall we say,
8 that these were handwritten notes of Malcolm MacDonald.

9 So there are a few documents that I'd like
10 entered to verify that, so the parties are alerted as to
11 what these documents are.

12 And the first document is a letter from the
13 law firm of Neville & Selkirk. It's actually signed by Mr.
14 Neville. And the document is 109621.

15 I have a few numbers of documents to go in
16 on this particular issue; did you wish it separate exhibit
17 numbers for each documents, Madam Clerk?

18 **THE COMMISSIONER:** Oh, yes, yes, yes.

19 All right. So Exhibit Number 1898 is a
20 letter delivered by hand to Mr. Lorne McConnery and Mr.
21 Kevin Phillips signed by Michael Neville and dated April
22 23rd, 2002.

23 **---EXHIBIT NO./PIÈCE NO. P-1898:**

24 (109621) Letter from Michael Neville to
25 Lorne McConnery and Kevin Phillips - 23 Apr

1 02

2 **MS. JONES:** The salient point is in the
3 singular paragraph, the full paragraph, and essentially
4 this is dealing with the civil lawsuit and -- a civil
5 lawsuit and the material that's been referred to here are
6 materials by the late Malcolm MacDonald.

7 And there is a reference made to the
8 relevant tabs for Malcolm MacDonald's notes are the
9 following and they list a series of numbers. The relevant
10 number here is actually Tab 19.

11 So it's making reference to civil law
12 materials. And it would appear, certainly from Mr.
13 Neville's letter here that he certainly seems to be
14 accepting that there are the notes of the late Malcolm
15 MacDonald.

16 To verify what he is referring to when he
17 says Tab 19, the next document I would like entered please
18 is 109622.

19 **THE COMMISSIONER:** Thank you. Exhibit
20 Number 1899 is a court document called "Affidavit of
21 Documents". It's Court File 90597-95.

22 So it's a draft and it -- there's a document
23 -- it says Malcolm MacDonald, Q.C. where he would have
24 signed the affidavit, but it's unsigned.

25 ---EXHIBIT NO./PIÈCE NO. P-1899:

1 (109622) Affidavit of Documents

2 **MS. JONES:** It is unsigned, sir.

3 **THE COMMISSIONER:** Okay.

4 **MS. JONES:** We actually don't have a signed
5 version to provide. However, the significance of this is
6 that the Affidavit of Documents here lists what the tabs
7 are.

8 And if one looks then to the Bates page
9 4890, it's read there Tab 19 is copies of notes of Malcolm
10 MacDonald, December 16th, 1992 to August 24th, 1993. The
11 notes at issue yesterday are dated February in 1993 so they
12 would fall within that date parameter.

13 So that's confirming what Tab 19 is actually
14 meaning in Mr. Neville's letter.

15 **THE COMMISSIONER:** Okay.

16 **MS. JONES:** And the last document is
17 Document 738224.

18 **THE COMMISSIONER:** Thank you. Here is an --
19 Exhibit 1900 is document -- front page has Tab 19 on it.

20 **---EXHIBIT NO./PIÈCE NO. P-1900:**

21 (738224) 7163632-44 Tab 19

22 **MS. JONES:** Correct. Though this would
23 appear to be what Tab 19 is about, again this is made
24 reference to the Affidavit of Documents and particularized
25 in the correspondence with Mr. Neville.

1 The Bates page in Exhibit 1900 is Bates page
2 3634. And this is the same document as the exhibit that
3 was entered yesterday.

4 **THE COMMISSIONER:** Okay. Thank you.

5 **MS. JONES:** The other part I wish to clarify
6 as well for the record was just to confirm that, at the
7 time, that Bates page 3634 was entered on its own as an
8 exhibit.

9 Just to confirm, there was not an objection
10 from Cornwall police or anyone else for that matter as to
11 whether or not these could be attributed to Malcolm
12 MacDonald. That was accepted for the purposes of cross-
13 examination of Kevin Malloy.

14 I can also confirm that they were further
15 substantiated through the witness, Kevin Malloy, because he
16 had his police notes with identical dates, particularly
17 December 28th and February 1st in which, in his police notes,
18 they were -- the first reference was, I believe, "Received
19 a message from Malcolm MacDonald on December 28th." And the
20 February 1st was, "Spoke to Malcolm MacDonald about a
21 certain situation."

22 So to verify that these appear to be Malcolm
23 MacDonald's handwritten notes was substantiated as well by
24 the police notes of Kevin Malloy on those two particular
25 issues.

1 **THE COMMISSIONER:** Thank you.

2 **MS. JONES:** Now, going back to the matter at
3 hand here, we were at Exhibit 1897. And we're just dealing
4 with the last two paragraphs there on that particular page.

5 Would you agree with me that if, in fact,
6 Mr. Carrière had said what is indicated in Mr. Bell's notes
7 about the alleged admission by Father Charles MacDonald in
8 the activities ---

9 **THE COMMISSIONER:** The alleged admission ---

10 **MS. JONES:** Alleged admission.

11 **THE COMMISSIONER:** --- of Father MacDonald
12 to Bishop Larocque as reported to the Children's Aid
13 Society.

14 **MS. JONES:** Correct. If, in fact, you heard
15 these words on that day in a conversation, is this
16 something that you would have reported to the Bishop; that
17 you'd heard these allegations had been made, that such a
18 statement had been made?

19 Did you report back to the Bishop that you'd
20 had this conversation if, in fact, you had it? Is that
21 something you would do?

22 **MR. LEDUC:** No, I don't recall reporting
23 that to the Bishop. But if I was receiving what the Bishop
24 had allegedly told these individuals, why would I report it
25 back to the Bishop? That I knew about it now? Is that

1 what you're asking?

2 MS. JONES: That you knew about it. What
3 was happening ---

4 MR. LEDUC: I don't recall any such
5 conversation. I don't recall this either.

6 THE COMMISSIONER: Well, there is not just
7 that. There might be another valid reason, just phoning up
8 and say "I just want to confirm with you that this is what
9 the Children's Aid is attributing to you; is that correct?"

10 MR. LEDUC: I've had some conversations with
11 the Bishop during this time of the investigation. I can't
12 tell you that I've had that specific conversation.

13 If your question is if this indeed was
14 relayed to me during a conversation, would I have brought
15 it up to the Bishop? I believe so.

16 MS. JONES: Do you have any independent
17 recollection of discussing this issue with the Bishop and
18 asking him "Did you, in fact, say that this admission had
19 taken place?"

20 MR. LEDUC: I have no such recollection.

21 MS. JONES: Is it possible that you had that
22 conversation with the Bishop?

23 MR. LEDUC: Yes.

24 MS. JONES: I'd like to go, please, to

25 Document 727727.

1 **THE REGISTRAR:** Is that an excerpt?

2 **THE COMMISSIONER:** The question was, "Is
3 that an excerpt?"

4 **MS. JONES:** I'm sorry. Yes, it is. The
5 excerpt is 67106446.

6 Thank you. Exhibit 1100.

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **THE COMMISSIONER:** Okay. So what page?

9 **MS. JONES:** Yes. Bates page 6446.

10 **MR. LEDUC:** Eleven hundred (1100).

11 **MS. JONES:** Yes.

12 **MR. LEDUC:** At 6446?

13 **MS. JONES:** Yes.

14 **THE COMMISSIONER:** No.

15 **MR. LEDUC:** Mine begins at 6459.

16 **THE COMMISSIONER:** That's right.

17 **MS. JONES:** Six four five nine (6459)?

18 **MR. LEDUC:** Five nine (59). That's the
19 first page I have.

20 **MS. JONES:** You could try 1194, please.

21 **THE COMMISSIONER:** Exhibit 1194?

22 **MS. JONES:** Exhibit 1194.

23 I don't have it as an exhibit.

24 **(SHORT PAUSE/COURTE PAUSE)**

25 **MS. JONES:** The Document Number is 727727,

1 Bates page 6446.

2 That's the one, yes.

3 **THE REGISTRAR:** Is that the one?

4 **MS. JONES:** That's the one.

5 **THE COMMISSIONER:** So ---

6 **THE REGISTRAR:** Can we just give it an
7 exhibit number for now?

8 **THE COMMISSIONER:** Okay. So it will an
9 exhibit and what's the number, Madam Clerk?

10 **THE REGISTRAR:** Eighteen ninety-nine (1899).

11 **THE COMMISSIONER:** Eighteen ninety-nine
12 (1899) and ---

13 **MS. JONES:** I'm sorry. No, no. We've had
14 1900. I think it's ---

15 **THE REGISTRAR:** Nineteen zero one (1901).

16 **THE COMMISSIONER:** Nineteen zero one (1901).

17 --- **EXHIBIT NO./PIÈCE No. P-1901:**

18 (727727) 7106446 Notes of Genier - 08 Feb 94

19 **MS. JONES:** I can identify it. These are
20 notes of Officer Genier.

21 **THE COMMISSIONER:** All right. And the first
22 date is Tuesday, the 8th day of February 1994.

23 **MS. JONES:** That's right.

24 **THE COMMISSIONER:** Okay. So now what's
25 Bates page you want to go to?

1 **MS. JONES:** Yeah. It's only one page
2 excerpt that I want as an exhibit.

3 **THE COMMISSIONER:** Okay.

4 **MS. JONES:** If we could please scroll down
5 halfway down, the date not in the margin is 19th October
6 '93. You've got it towards the bottom of the screen there,
7 Madam Clerk. A little bit up further. Correct.

8 **THE COMMISSIONER:** Okay. So these are
9 Officer Genier's notes.

10 **MS. JONES:** Correct.

11 **THE COMMISSIONER:** Police officer; okay.

12 **MS. JONES:** Just by way of background, he is
13 talking to Gregory Bell at CAS and interviewing him in
14 1994, but this is a reference in Mr. Genier's -- Officer
15 Genier's notes about a conversation he had with Gregory
16 Bell and Gregory Bell is recounting his recollection anyway
17 of what happened on the 19th of October 1993, which is the
18 time period that we're discussing earlier.

19 The phrase that I'm most interested in here
20 occurs just at the bottom of the exchange. It appears --
21 it says:

22 "19th October, '93, CAS had meeting with
23 Jacques Leduc, attorney for the
24 Diocese. Leduc stated that at first
25 Silmsler wanted a letter of apology from

1 Father MacDonald as he could show his
2 mother, show why he had screwed up --
3 he's screwed up."

4 Then the next entry:

5 "They had the meeting to show there's
6 children at risk and Father Charles
7 should be removed."

8 So that seems to be a supplementary note
9 essentially to the contact that you had at that time period
10 with Mr. Bell and the CAS, and other CAS workers.

11 Do you recall at that time period, firstly,
12 that there was a discussion about children being at risk,
13 and, secondly, that there was a discussion about Father
14 Charles being removed from the parish?

15 **MR. LEDUC:** Yes.

16 **MS. HENEIN:** The interpretation that my
17 friend makes of they have the meeting to show there's
18 children at risk and Father C should be removed assumes
19 that "they" refers to the Diocese or the committee and not
20 to the CAS. And it's not clear in reading the entirety of
21 that note who the "they" refers to.

22 **THE COMMISSIONER:** M'hm. So okay, do you
23 recall -- I think it's fair, do you recall ever having a
24 meeting with the Children's Aid Society and talking about
25 Father Charlie being -- he should be removed?

1 **MR. LEDUC:** I don't recall any specific
2 meeting. As I've said, there were several meetings. The
3 issue was, of course, Father Charles and dealing with the
4 CAS, obviously our interest was in relation to the
5 children. That's the extent of how I can answer that
6 question with some precision.

7 **THE COMMISSIONER:** Okay.

8 **MS. JONES:** Would it be fair to classify --
9 basically you answered the question perhaps yourself
10 already. Would it be fair to classify though that the
11 children at risk and whether Father Charles should be
12 removed from the parish was an important issue to the CAS
13 at that particular time period? That's what I'm trying to
14 clarify here.

15 **MR. LEDUC:** Yes, and to the Bishop I would
16 think.

17 **MS. JONES:** And to the Bishop?

18 **MR. LEDUC:** Yes.

19 **MS. JONES:** So you, as counsel for the
20 Bishop and the Diocese, presumably would have been made
21 aware that the CAS was very concerned about this?

22 **MR. LEDUC:** Yes.

23 **MS. JONES:** Now, the time period here is
24 mid-Novem -- or sorry, mid-October 1993. Knowing that CAS
25 was very concerned, it would appear, for possible children

1 at risk, you confirmed that they wanted to have Father
2 Charles removed from the parish.

3 Was this something that you communicated to
4 the Bishop?

5 **MR. LEDUC:** I recall some -- I recall the
6 issue as to whether or not Father Charles should be removed
7 and when he should be removed but I can't -- and it's
8 obviously sometime in October/November and I don't have any
9 actual memory of when that took place or when indeed he did
10 leave.

11 **MS. JONES:** Is it true that excepting you
12 had discussions with the Bishop around this time period
13 around those issues, there doesn't seem to be any
14 documentation to show that discussions had taken place
15 about that topic earlier than when CAS brought it up.

16 Is it true that you and the Bishop did not
17 have a conversation on this topic until the CAS brought it
18 up?

19 **MR. LEDUC:** I don't recall when I would have
20 had this conversation with the Bishop or such a
21 conversation with the Bishop. You're asking me whether it
22 was before the CAS was con -- contacted us or after; I
23 can't answer that. I don't know.

24 **MS. JONES:** If we could please go to
25 Document 721672; those are Greg Bell's notes and this time

1 I'm looking at an excerpt from Bates page 1873, 1874 and
2 1875.

3 **THE COMMISSIONER:** Thank you. Exhibit 1902
4 is a Children's Aid Society case documentation system
5 service record, page number 19, and the first date is the
6 21st of October 1993.

7 --- **EXHIBIT NO./PIÈCE No. P-1902:**

8 (721672) 7081873-75 Notes of Greg Bell - 21
9 Oct 93 to 22 Oct 93

10 **MS. JONES:** So the next entry is actually
11 the one I'm interested in, the one dated 22nd of October
12 1993. And the heading there appears, "Meeting at CAS with
13 E. McKinnon, W. Carriere and Jacques Leduc."

14 Do you see where I am?

15 **MR. LEDUC:** That would be McLennan.

16 **MS. JONES:** McLennan?

17 **MR. LEDUC:** Elizabeth McLennan.

18 **MS. JONES:** Okay. I apologize to Ms.
19 McLennan. And Jacques Leduc; do you see that?

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** And the purpose of the meeting,
22 according to Mr. Bell, was for you to provide materials
23 that the CAS had requested that you provide?

24 **THE COMMISSIONER:** I think it says:

25 "As agreed, Jacques Leduc for him to..."

1 **MS. JONES:** I think it's:

2 "At request of Jacques Leduc, for him
3 to provide material we have requested."

4 That's how I read it.

5 **THE COMMISSIONER:** Yeah, and:

6 "Jacques Leduc gave us copies of the
7 following four pieces of
8 correspondence."

9 **MS. JONES:** Do you see that Mr. Leduc?

10 **MR. LEDUC:** Yes.

11 **MS. JONES:** Now, these are documents that
12 we've already referred to in some of the exhibits.

13 This has to do with correspondence from
14 Monsignor Schonenbach to Monsignor McDougald. There's a
15 copy of the letter from Monsignor McDougald from -- to
16 Monsignor McDougald from Malcolm MacDonald. There's a copy
17 of the letter to Heidi Sebalj and another copy of the
18 letter to Heidi Sebalj.

19 What I'm most interested in is actually what
20 follows at the bottom of the page. Mr. Bell writes, I
21 believe:

22 "Jacques Leduc indicated the
23 following:"

24 And according to ---

25 **THE COMMISSIONER:** Scroll down, Madam Clerk.

1 **MS. JONES:** That is actually the bottom.

2 Thank you, Madam Clerk.

3 It states here:

4 "Father MacDonald has been active in a
5 young people's group in St. Andrew's
6 Parish called the Core Group."

7 -- I believe.

8 "And he believes they are -- the age
9 range of members is 17 y.o. to the
10 early 20s. At our request, he will
11 check the exact ages and let us know."

12 Do you recall having that conversation?

13 **MR. LEDUC:** I recall the meeting at which I
14 brought those documents and provided information, which I
15 believe was as a result of information they had requested.
16 So I think these are responses to some information they may
17 have requested. That's my vague recollection.

18 **MS. JONES:** Okay. And about the young
19 people's group there, that had not been checked out ahead
20 of time? It seems as if the CAS is asking you to check it
21 out.

22 **MR. LEDUC:** I'm not sure what these notes
23 refer to, whether or not it was, "This is the information
24 that Jacques Leduc is providing us after we've asked" or
25 "This is information that is being volunteered by Jacques

1 Leduc for the Diocese". I'm not sure ---

2 MS. JONES: No ---

3 MR. LEDUC: --- how that went.

4 MS. JONES: I'm not talking about the
5 documents. I'm talking about the last part actually.

6 MR. LEDUC: I would include the information
7 as well.

8 MS. JONES: It seems the very last sentence:

9 "At our request, he will check the
10 exact ages and let us know."

11 So it would appear from this note that you
12 actually didn't know at the time of the meeting what the
13 exact ages were of the group.

14 MR. LEDUC: Fair assumption.

15 MS. JONES: This of course is happening on
16 the 22nd of October which is after the meeting that we've
17 already described, the 15th and the 18th of October, where
18 there was alleged an admission on the part of Father
19 MacDonald.

20 By your response, as attributed to you here,
21 would it not have been prudent perhaps for you to have
22 advised your client to find out any child contact of Father
23 MacDonald to report back to the CAS?

24 MR. LEDUC: Well, I'm not sure whether
25 Father MacDonald is still in function at this time. Is he?

1 **MS. JONES:** Is that not something you looked
2 into as counsel for your client?

3 **MR. LEDUC:** I can't tell you now what I
4 would have done then or what I did do then.

5 **THE COMMISSIONER:** Well, I think paragraph 7
6 helps out, does it not?

7 **MR. LEDUC:** I don't know. Could I read it,
8 please?

9 **THE COMMISSIONER:** Yeah, it says:

10 "Father MacDonald won't be back in
11 the parishes now in his summer..."

12 -- whatever ---

13 **MS. JONES:** "House."

14 **THE COMMISSIONER:** "...house and will leave
15 28-11-93 for four-to-six months of
16 treatment at Southdown due to stress."

17 **MS. JONES:** I'm just asking you, did you
18 have discussions with the Bishop -- were you having
19 discussions with the Bishop at this time about what was
20 going to be happening with Father Charles?

21 This is what I'm trying to determine from
22 you.

23 **MR. LEDUC:** I have no distinct recollection
24 of what would have been said, but I can certainly tell you
25 that I had several conversations with the Bishop about that

1 issue.

2 **MS. JONES:** The next part that I actually
3 want to draw your attention to is Point 3 on the page and
4 there seems -- as I say, there seems to be a list
5 attributed here. If you go to the previous page, it starts
6 off:

7 "Jacques Leduc indicated the
8 following:"

9 There's a colon and there's a list of things
10 and this is item three, so it would appear that this is
11 being attributed to you sharing the information with CAS;
12 okay?

13 And Point 3 is states the following:

14 "That he and Diocese doesn't know about
15 any other alleged victims i.e. doesn't
16 know of the others known to the
17 police."

18 Do you see that?

19 **MR. LEDUC:** Yes.

20 **MS. JONES:** Now, yesterday when we were
21 going over your testimony, you may recall in your statement
22 that you're preparing that we spent some considerable time
23 at, Exhibit 1887, in the months between March and August
24 1993, you stated that you were aware of other complaints of
25 sexual misconduct against Father Charles MacDonald?

1 **MR. LEDUC:** Of one other complaint, I
2 believe, as told to me by Monsignor McDougald. Was it one
3 complaint or two? I don't recall.

4 **MS. JONES:** I'll just refresh your memory.
5 It stated:

6 "During the course of the summer and at
7 least prior to the second meeting with
8 Mr. MacDonald and the Bishop, I learned
9 from Monsignor McDougald that there had
10 been previous complaints made against
11 Father Charles of a homosexual advance
12 made by him. This is the first time I
13 had any knowledge of other complaints
14 being made against Father Charles."

15 **THE COMMISSIONER:** Mr. Sherriff-Scott is ---

16 **MR. SHERRIFF-SCOTT:** Thank you, sir.

17 **THE COMMISSIONER:** Yes.

18 **MR. SHERRIFF-SCOTT:** I wonder if you might
19 excuse the witness for one moment.

20 **THE COMMISSIONER:** Sure.

21 Sir, could you be excused? Thank you.

22 ---**SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SHERRIFF-SCOTT:**

23 **MR. SHERRIFF-SCOTT:** It's true that it's in
24 his statement, the portion my friend just alluded to. What
25 Father McDougald told him specifically wasn't canvassed.

1 This is all in Father McDougald's statement, which ought
2 to be put to him, particularly in view of this portion that
3 is being read to him now.

4 **THE COMMISSIONER:** M'hm.

5 **MR. SHERRIFF-SCOTT:** And because the
6 characterization of it, complaints, victims, et cetera, is
7 very important when you look at Father McDougald's
8 statement.

9 **THE COMMISSIONER:** M'hm.

10 **MR. SHERRIFF-SCOTT:** In the statement, there
11 is one allegation about which he contends he knew of a 29-
12 year old person, "An homosexual advance which was rebuffed"
13 and an anonymous phone call.

14 So that's the source of information which
15 hasn't been put to him. It is sitting there in the
16 statement which is now on the record and assuming that
17 Father McDougald told him anything, perhaps that ought to
18 be clarified, particularly since it's being relayed second-
19 or third-hand. And the characterization of victimization,
20 complaints, et cetera, I think is a concern here because
21 I'm not sure that's an appropriate characterization in the
22 circumstances.

23 Whether he used the word "complaints" or the
24 information he got from Father McDougald, if you talk about
25 victims you talk about allegations, you talk about

1 complaints of sexual misconduct. I think we ought to look
2 at the statement and put it to him so he can clarify what
3 his knowledge really was, so that we can understand the
4 context of this note.

5 **MS. JONES:** My response to that is that the
6 statement of this particular witness would appear to be the
7 best evidence of what this particular witness thought at
8 the time.

9 Mr. Leduc has stated on numerous occasions
10 he has no independent recollection of that. He is very
11 clear in his statement, as Exhibit 1887, what his version
12 of events is according to Monsignor McDougald.

13 If Monsignor McDougald says, "That's not
14 what I said", so be it, but this particular witness is very
15 clear in what he says in his statement; what he was told by
16 Monsignor McDougald. And the fact that repeatedly Mr.
17 Leduc has said he has no independent recollection ---

18 **THE COMMISSIONER:** Can I -- what exhibit is
19 Mr. Leduc's statement?

20 **MS. JONES:** It's 1887.

21 **THE COMMISSIONER:** Okay, 1887)

22 **MS. JONES:** I'm specifically looking at
23 Bates page 2729.

24 **THE COMMISSIONER:** Okay. All right.

25 So in the end, he does say that it is one of

1 a homosexual advance made by Father Charles so ---

2 **MR. SHERRIFF-SCOTT:** It is entirely
3 dependent on what Mr. McDougald tells us. It appears to be
4 his evidence is entirely dependent on what he hears from
5 this other witness, Father McDougald.

6 Moreover, the document which we are alluding
7 to here, the CAS document, it may well refer -- and
8 probably does if it's read properly in context -- to the
9 other complainants that the police contended that they had
10 ---

11 **THE COMMISSIONER:** No, well, okay, go ahead.

12 **MR. SHERRIFF-SCOTT:** If you look at the last
13 line of the entry of that day on the CAS note ---

14 **THE COMMISSIONER:** Where are we now?

15 **MR. SHERRIFF-SCOTT:** Thank you. It's item
16 number 3:

17 "Asked and Diocese doesn't know about
18 any other alleged victim, i.e., doesn't
19 know of the others known to the
20 police."

21 **THE COMMISSIONER:** Yes.

22 **MR. SHERRIFF-SCOTT:** And you'll recall the
23 evidence of Chief Shaver, which was he came to the Bishop
24 with two individuals ---

25 **THE COMMISSIONER:** M'hm.

1 **MR. SHERRIFF-SCOTT:** --- although I don't
2 know whether he identified them and I think the evidence
3 was that he didn't to the Bishop, but advised him of the
4 existence of two other people the police knew about. In
5 other words, this may be a completely different issue.

6 Shaver comes to the Bishop on October 7th and
7 advises him of the two other people that are known to the
8 police and ---

9 **THE COMMISSIONER:** So the question would
10 have been to Leduc, "Hey, do you know anything about this?"
11 and he says he and the Diocese doesn't know about any other
12 alleged victims.

13 **MR. SHERRIFF-SCOTT:** "i.e. ..."

14 **THE COMMISSIONER:** Referring to ---

15 **MR. SHERRIFF-SCOTT:** "...doesn't know of
16 the others known to the police."

17 So the assumption, and my friend's question
18 is, that this is referring specifically to what McDougald
19 told him, which is what McDougald told him, and his
20 understanding is based on McDougald's evidence presumably.
21 And this looks like it is in relation to what, for example,
22 Chief Shaver may have told the Bishop.

23 **THE COMMISSIONER:** True, true, but from what
24 I gather, there was a discussion about, do you know about
25 any other alleged victims. It might have been open like

1 that and more specifically about the two alleged victims
2 that -- or the alleged victims that the police seemed to
3 know about.

4 **MR. SHERRIFF-SCOTT:** Yes, well, we won't
5 know that until Mr. Bell testifies.

6 **THE COMMISSIONER:** Yes, but ---

7 **MR. SHERRIFF-SCOTT:** In any event though,
8 his version of evidence, Jacques Leduc's in his statement,
9 is entirely predicated on what he says McDougald told him.

10 **THE COMMISSIONER:** Right, but -- and I don't
11 see the problem because he talks only of an homosexual
12 advance.

13 **MR. SHERRIFF-SCOTT:** Right, the other one is
14 an anonymous phone call but my friend is characterizing
15 these as complaints of sexual misconduct ---

16 **THE COMMISSIONER:** M'hm.

17 **MR. SHERRIFF-SCOTT:** --- and/or abuse or ---

18 **THE COMMISSIONER:** All right.

19 **MR. SHERRIFF-SCOTT:** --- other
20 improprieties. I'm not sure that they fit that description
21 if the evidence is properly analyzed.

22 **THE COMMISSIONER:** Well, no. I think it's -
23 - let's just -- leave the first point about it's referable
24 to what Chief Shaver said; okay? Let's leave that for a
25 minute.

1 **MR. SHERRIFF-SCOTT:** Right.

2 **THE COMMISSIONER:** If he's asked, if the
3 conversation was, "Do you know of any other?" His answer
4 is the Diocese doesn't know about any other alleged
5 victims. Let's assume that that's what the statement -- it
6 stopped there.

7 Well then, there would be a right to examine
8 him in any event on, "Well, wait a minute now. You knew
9 from McDougald that there had been something and ---

10 **MR. SHERRIFF-SCOTT:** Something, which is in
11 McDougald's statement.

12 **THE COMMISSIONER:** Right, right, but it's
13 already there. It's a homosexual advance made by him.

14 **MR. SHERRIFF-SCOTT:** And the other one,
15 which my friend refers to in more than one instance,
16 complaints, is an anonymous phone if Father McDougald's
17 statement is read.

18 **THE COMMISSIONER:** Okay.

19 **MR. SHERRIFF-SCOTT:** So I'm not sure these
20 are classified as complaints of sexual misconduct.

21 **THE COMMISSIONER:** Well, no, but in essence
22 it's like, look at, they're asking Mr. Leduc, "Look, do you
23 know of anything else?" and the answer is "No".

24 Well, he would have known of something else.
25 He would have known that there was an homosexual -- that

1 McDougald told him that there had been a sexual advance and
2 there was an anonymous phone call.

3 So if the question was left general like
4 that, I think it's open to question him about, "Well, what
5 about these two things?" and get his explanation as to why
6 that wouldn't have been included in that.

7 **MR. SHERRIFF-SCOTT:** Well, fair enough,
8 assuming you characterize them properly and consistently
9 with what they are ---

10 **THE COMMISSIONER:** Right.

11 **MR. SHERRIFF-SCOTT:** --- which is based on
12 Father McDougald's statement and I'm not hearing that but,
13 secondly, assuming also that that's what it refers to as
14 opposed to the two others that were identified ---

15 **THE COMMISSIONER:** Right, so how do you
16 propose you deal with it if we haven't heard from Father
17 McDougald, right? I'm sorry, we haven't heard from the
18 note-taker as to what was meant by that?

19 **MR. SHERRIFF-SCOTT:** Well, you can ask the
20 witness what he understood ---

21 **THE COMMISSIONER:** M'hm.

22 **MR. SHERRIFF-SCOTT:** --- if anything and to
23 whom the i.e. these people referred to police -- I mean,
24 you can ask him all about that ---

25 **THE COMMISSIONER:** M'hm.

1 **MR. SHERRIFF-SCOTT:** --- but you can't
2 assume -- I'm sorry, you can't put it to him that this is
3 inconsistent with your statement when it's -- on its face
4 it's potentially not inconsistent ---

5 **THE COMMISSIONER:** Well, yes, but that's
6 something she can explore.

7 **MR. SHERRIFF-SCOTT:** Sure.

8 **THE COMMISSIONER:** All right.

9 **MR. SHERRIFF-SCOTT:** I just want it to be
10 done fairly and openly, consistent with the evidence.
11 That's all I'm ---

12 **THE COMMISSIONER:** All right, so thank you.

13 Let's put it on the table then. Ms. Jones,
14 do you know of anything else -- from McDougald's statement
15 and from Leduc's statement, it seems to me that the prior
16 complaints we could be talking about is what McDougald told
17 Leduc, and what Leduc says in his statement is that Father
18 Charles MacDonald had made a homosexual advance to an
19 homosexual person, and there's an anonymous phone call
20 which isn't in Leduc's statement. Is that what you're
21 referring to?

22 **MS. JONES:** Well, I'm assuming that that's
23 what Mr. Leduc is referring to, but as I say, that's not in
24 his statement. So I can ask him about it, but as I say, I
25 believe I asked him at the time, but he just has no

1 independent recollection of any sort of details. All we
2 have is what he's written in his statement.

3 **THE COMMISSIONER:** Okay.

4 Yes, Ms. Henein?

5 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. HENEIN :

6 **MS. HENEIN:** In fairness to Mr. Leduc, you
7 should bring him back then to what McDougald said and ask
8 whether he recalls if that's what he was told.

9 **THE COMMISSIONER:** Fine, fine.

10 **MS. HENEIN:** And then take him to his
11 statement, "In your statement you're told this, do you
12 recall what that refers to?" and take him to -- I mean,
13 there's a proper sequence so it unfolds fairly to the
14 witness and it's helpful to the Commission. But to make
15 the suggestion that's been made is unfair. It's not
16 putting the whole context.

17 **THE COMMISSIONER:** What suggestion?

18 **MS. HENEIN:** That he knew. That there were
19 young people out there -- he knew of other complaints and
20 he did not tell the CAS. That's the implication that's
21 being -- so take him through what he knew, establish what
22 he knew and then ask the question as to why he gives the
23 answer that he gives to the CAS.

24 **THE COMMISSIONER:** Fine, but we do know, we
25 do know, that in his statement in any event that he was

1 aware of Father Charles making -- an allegation of Father
2 Charles making an homosexual advance to another person.

3 **MS. HENEIN:** Yes, okay. That was 29 years
4 old, yes.

5 **THE COMMISSIONER:** That's fine. That's
6 fine, but -- okay, never mind.

7 Bring the witness back and we'll see what --
8 -

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **THE COMMISSIONER:** As you know, we sometimes
11 take -- ask witnesses to leave to discuss technical matters
12 and so we've reviewed the issue about what type of
13 questions will be put to you and I think we've arranged
14 some consensus, so I'll leave Ms. Jones to lead you
15 through it.

16 **JACQUES LEDUC:** Resumed/Sous le même serment

17 **--- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MS. JONES:**

18 **MS. JONES:** Okay, just to bring you back in
19 line then, what we were talking about.

20 Exhibit 1902, which are the notes of Greg
21 Bell, in phrase three, it states -- a statement that's
22 basically attributed to you because it says on the previous
23 page, "Jacques Leduc indicated the following" and one of
24 the phrases is:

25 "That he and Diocese don't know about

1 any other alleged victims, i.e.,
2 doesn't know of the others known to the
3 police."

4 What I'm trying to glean from you is your
5 explanation then if you refer back to your statement, which
6 is in Exhibit 1887, which I just read out -- I'll read it
7 again, if you wish:

8 "During the course of the summer, I
9 learned from Monsignor McDougald that
10 there had been previous complaints made
11 against Father Charles of an homosexual
12 advance made by him. This was the
13 first time I had any knowledge of other
14 complaints being made against Father
15 Charles."

16 Were you in any way referring to what
17 Monsignor McDougald had told you back between March and
18 August, 1993? Were you referring to that, in any way, to
19 the point that seems to be attributed to you here that:

20 "He and Diocese don't know about any
21 other alleged victims, i.e. doesn't
22 know of the others known to the
23 police."

24 Is there a nexus or a connection there?

25 **MR. HENEIN:** I thought, Mr. Commissioner,

1 that my friend was going to, in fairness, put the McDougald
2 statement to him.

3 **THE COMMISSIONER:** Sure. Let's put the
4 McDougald statement.

5 So bottom line is, in McDougald's statement
6 it seems to say that he was aware that Father Charles -- an
7 allegation of Father Charles making an homosexual advance
8 to a 29-year old and that he had received an anonymous
9 phone call about other matters complaining against Father
10 Charles MacDonald.

11 Is that what you understood Father McDougald
12 telling you?

13 **MR. LEDUC:** Yes, but more specifically, the
14 first part, yes. The second part was that there had been
15 an anonymous call in relation to Williamstown. I recall it
16 had something to do with Williamstown.

17 **THE COMMISSIONER:** All right.

18 **MR. LEDUC:** And other than that, that is the
19 information I had.

20 **THE COMMISSIONER:** Right.

21 **MR. LEDUC:** Now, to this end, I don't know
22 what conversation I would have had or what information I
23 would have proposed before these to bring -- is it Mr.
24 Abell? -- to bring this person to make these notes, but
25 these notes refer to complainants. And the way I read this

1 today is that we knew of no complainants.

2 **THE COMMISSIONER:** Well, they're talking
3 about alleged victim.

4 **MR. LEDUC:** Or alleged victims.
5 So that's my answer.

6 **MS. JONES:** Okay.

7 **THE COMMISSIONER:** I don't quite understand.
8 You're saying the reason why you didn't tell
9 the Children's Aid Society about this conversation -- with
10 what you knew about allegations to the Children's Aid
11 Society is because ---

12 **MR. LEDUC:** I'm not sure that I did not tell
13 them ---

14 **THE COMMISSIONER:** Okay.

15 **MR. LEDUC:** --- because that was something I
16 knew, and I don't believe I would have misled them. And
17 then obviously that would have been -- I remember giving
18 them some letters, so the letters from two individuals I
19 believe. I think that's part of the list.

20 **THE COMMISSIONER:** You gave them a copy of a
21 letter from Peter Schonenbach?

22 **MR. LEDUC:** Yes.

23 **THE COMMISSIONER:** A letter from Donald
24 MacDonald?

25 **MR. LEDUC:** Yes.

1 **THE COMMISSIONER:** A copy of a letter to
2 Heidi Sebalj from Alan (phonetic) somebody?

3 **MR. LEDUC:** Yes.

4 **THE COMMISSIONER:** A copy of a letter to
5 Heidi Sebalj from -- I don't know if I should mention that
6 name.

7 **MR. LEDUC:** Okay.

8 **THE COMMISSIONER:** So are those in any way
9 letters ---

10 **MR. LEDUC:** They, I believe, were letters
11 provided to me or to the Bishop by Malcolm MacDonald, and
12 if my recollection is correct, they were letters saying
13 positive things about Father MacDonald -- well, Father
14 Charles.

15 And what I can tell you, that's my
16 recollection about this instance, and all I knew in that
17 particular time period from February to the settlement with
18 Mr. Silmsen was that there had been, as Father McDougald
19 had told me and I'm sure when he told me this, that there
20 had been two other issues that seem to have surfaced and
21 not reappeared or either -- I'm not sure what happened.

22 **MS. JONES:** Okay. And if I could then go on
23 to Bates page 1875, which is the next page of Exhibit 1902.
24 I'm looking at the third paragraph specifically.

25 **THE COMMISSIONER:** And?

1 **MS. JONES:** And it states here:
2 "W. Carriere indicated, as did E.
3 McLennan, that we are even more
4 concerned having met yesterday with the
5 police yesterday, that children have
6 been at risk and would continue to be
7 if Father MacDonald returned to active
8 duties in any setting involving
9 children or young people."

10 **(SHORT PAUSE/COURTE)**

11 **THE COMMISSIONER:** Yes?

12 **MR. HENEIN:** My friend has put the notes of
13 October 22nd, 1993 in respect of this conversation and you
14 just asked some questions to Mr. Leduc on that, and I just
15 advised my friend that in fact this issue of the anonymous
16 call is disclosed by Mr. Leduc to the CAS on October 26th.

17 So I said to my friend that that should be
18 put in fairness to the witness and because we're on that
19 topic and you've just asked questions and it's relevant.
20 So that's why I rise now, in fairness to the witness, it
21 should be put to him.

22 **MS. JONES:** And it will be put to him when
23 I'm looking at what happened on the 26th of October. I'm
24 just looking what happened on the 22nd. And I will be
25 asking him questions on the 26th.

1 **THE COMMISSIONER:** Mr. Sherriff-Scott.

2 **MR. SHERRIFF-SCOTT:** I'm sorry to interrupt,
3 sir. I just -- in fairness, I appreciate my friend's point
4 and I appreciate Commission counsel's point.

5 There is an Elizabeth McLennan note which I
6 gave notice of. It is in the Project Blue file of the CAS.
7 It was October 22nd, 1993. It talks about a phone call with
8 the witness in which the subjects at hand are discussed.

9 So I don't want to taint the witness by
10 talking about it, but the document is 721638 and it's right
11 there, it's the same day, and it is -- I remember when I
12 was first trying cases attempting to impeach witnesses and
13 being told by judges unless it's clear don't try and
14 impeach the witness.

15 **THE COMMISSIONER:** M'hm.

16 **MR. SHERRIFF-SCOTT:** And I suggest the file
17 does not support the proposition. In other words, the
18 witness is being challenged that there is something that
19 wasn't disclosed in the circumstances ---

20 **THE COMMISSIONER:** M'hm.

21 **MR. SHERRIFF-SCOTT:** --- based on that note.
22 And the note of Ms. McLennan right here is right on point -
23 --

24 **THE COMMISSIONER:** Okay.

25 **MR. SHERRIFF-SCOTT:** --- of the same day.

1 **MS. JONES:** Just to clarify, I will be going
2 actually to that document but, again, that is not dealing
3 with the same situation because -- I will refer to this
4 document if you wish now, Mr. Commissioner.

5 **THE COMMISSIONER:** Let's ---

6 **MS. JONES:** It's a different circumstance.

7 **THE COMMISSIONER:** That's up to you. That's
8 up to you.

9 **MS. JONES:** Then I will be dealing with
10 that.

11 **THE COMMISSIONER:** Okay. So on that basis,
12 let's continue.

13 **MS. JONES:** Can we please return then to
14 Exhibit 1902, and again I'm looking at the paragraph on
15 Bates page 1875. I just read that paragraph out to you,
16 and it has to do with the concern CAS is continuing to have
17 with regards to Father MacDonald returning to active duties
18 in any setting involving children or young people.

19 Do you see that?

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** Okay. Now, in that particular -
22 - just a moment please. In that particular setting, it
23 would appear that the next line again attributed to you
24 seems to be in some respects a response, and I'll just read
25 that out:

1 "Jacques Leduc attempted from this
2 meeting to reach Bishop Larocque to
3 negotiate that Father MacDonald
4 must..."

5 **THE COMMISSIONER:** I don't know if that's
6 "negotiate".

7 **MS. JONES:** I'm sorry.

8 **MR. HENEIN:** "Reiterate".

9 **THE COMMISSIONER:** Reiterate, yes.

10 **MS. JONES:** Reiterate. Sorry.

11 "...reiterate that Father MacDonald
12 must not be put back in a parish. He
13 didn't succeed in reaching him but
14 arranged to meet him today for this
15 purpose. As indicated, he will be
16 wanting a letter confirming this advice
17 of Bishop Larocque."

18 I apologize. I don't have my glasses with
19 me here today. That's my problem. I could use a screen.

20 So the concern was raised then by Mr.
21 Carriere at this meeting that you had on this date and it
22 would appear that when the meeting ended, you said, "I will
23 contact the Bishop and I'll get back to you on that".

24 **MR. LEDUC:** I think the notes say I
25 attempted during the meeting to contact him and that was

1 not possible but that I would arrange to meet with him
2 later. I think that's what it -- is that what it says?

3 **MS. JONES:** That there would be a follow-up
4 for that.

5 **MR. LEDUC:** Yeah. I did not succeed in
6 reaching him but arranged to meet him today for this
7 purpose, yeah.

8 **MS. JONES:** Okay. Now, we can go to
9 Document 721638 and it's an excerpt and the excerpt is
10 1091.

11 **THE COMMISSIONER:** Thank you.

12 Exhibit Number 1903 is a document entitled
13 "Project Blue" dated October 22nd, 1993.

14 **--- EXHIBIT NO./PIÈCE NO. P-1903:**

15 (721638) 7081091 Notes of Elizabeth McLennan
16 - October 22, 1993 --tentative--

17 **MS. JONES:** The "E" at the bottom seems to
18 indicate this is Elizabeth McLennan's notes and the date is
19 October 22nd, 1993 and it says at the top:

20 "Jacques called. He spoke to the
21 Bishop."

22 So it would appear that you did do the
23 follow-up that you said you were going to do and spoke to
24 the Bishop and now you were calling back CAS to confirm
25 that you had spoken to the Bishop?

1 **MR. LEDUC:** Okay.

2 **MS. JONES:** It would appear that anyway.

3 It appears that Ms. McLennan has been taking
4 notes of the conversation.

5 "Bishop wants to give full cooperation
6 to the CAS. Has instructed Monsignor
7 McDougald to talk to us and advised us
8 we can have as long as we needed to do
9 the investigation."

10 And then:

11 "Bishop says was a complaint in
12 Williamstown. McDougald knows about
13 it. Told Jacques there was nothing in
14 Williamstown but no specifics."

15 **THE COMMISSIONER:** "Something".

16 **MS. JONES:** "Something". Sorry.

17 "...something in Williamstown but no
18 specifics."

19 The last entry:

20 "Jacques spoke to Malcolm. Malcolm
21 says he didn't have any info from
22 police other than David Silmsers's
23 statement and the two letters
24 supporting Father Charles."

25 So that seemed to be your follow-up to the

1 conversation that you had with CAS in which you have now
2 told them about the information shared with Father
3 McDougald?

4 **MR. LEDUC:** Yes.

5 **MS. JONES:** Okay.

6 **THE COMMISSIONER:** Well, some of the ---

7 **MS. JONES:** Some of the information from
8 McDougald.

9 Would you agree it looks as if the phone
10 call conversation of October 22nd with Elizabeth McLennan
11 seems to be the moment when you do talk about the
12 conversation you'd had with Monsignor McDougald back -- or
13 the information you learned back in March to August, 1993,
14 that is the same information?

15 Can you at least confirm that, that what you
16 were talking about in March to August 1993 is what you were
17 talking about when you talked to Elizabeth McLennan?

18 **MR. LEDUC:** I can confirm that because
19 that's the only information I ever had.

20 **MS. JONES:** Now, on the next document, which
21 is again Greg Bell's notes, 721672, looking to enter in the
22 excerpt 1876.

23 **THE COMMISSIONER:** Okay.

24 Exhibit Number 1904 again is Children's Aid
25 Society's case documentation system service record, notes

1 of Mr. Bell, page number 22, and the first date is the 22nd
2 of October 1993.

3 --- EXHIBIT NO./PIÈCE NO. P-1904:

4 (721672) 7081876 Notes of Greg Bell -
5 October 22, 1993

6 MS. JONES: And this seems to be dated the
7 22nd of October, 1993 as well and it seems that Mr. Bell was
8 discussing briefly with Mr. Abell about the situation and
9 the discussion went as follows:

10 "He indicated Jacques Leduc has met
11 with Bishop Larocque today and
12 indicated to him that CAS will be
13 asking if there were ever any other
14 allegations against Father MacDonald."

15 So this was again something on that
16 particular day that you were following up on and that you
17 did report back on eventually.

18 And if I could go please to Document 721672,
19 and the -- I'm sorry. The excerpt is -- I'm sorry -- is
20 1880.

21 (SHORT PAUSE/COURTE PAUSE)

22 THE REGISTRAR: That would be Exhibit 1854.

23 THE COMMISSIONER: No; 1854, Madam Clerk?

24 Five-four?

25 THE REGISTRAR: Yes.

1 **THE COMMISSIONER:** No. They're notes from
2 Bell but they're Bates pages further down. We're looking
3 at Bates page 876 and Exhibit 1854 starts at 1880.

4 **THE REGISTRAR:** And which one do you need?

5 **MS. JONES:** One-eight-eight-zero (1880).

6 **THE COMMISSIONER:** Oh, I'm sorry, wait a
7 minute now.

8 What exhibit are you looking? Oh, I'm not
9 looking at the right page, sorry.

10 **THE REGISTRAR:** Eighteen-fifty-four (1854).

11 **THE COMMISSIONER:** Eighteen-fifty-four
12 (1854)? Even further away.

13 So can we put it up on the screen? Is this
14 what you're looking for?

15 **MS. JONES:** That's correct.

16 **THE COMMISSIONER:** Okay. So ---

17 **MS. JONES:** I'm just -- yeah. Again, these
18 are Greg Bell's notes. I'm looking at the entry the 26th of
19 October, 1993.

20 **THE COMMISSIONER:** M'hm.

21 **MS. JONES:** And again there's a CAS meeting.

22 **THE COMMISSIONER:** Just a minute.

23 **MS. JONES:** I'm sorry.

24 **THE COMMISSIONER:** Is this an exhibit?

25 **MS. JONES:** I thought it was Exhibit 1854.

1 **THE COMMISSIONER:** Okay, good. Good, okay.
2 Sorry, go ahead.

3 **MS. JONES:** Madam Clerk, is that the whole
4 exhibit or just -- and again there on the 26th of October,
5 there's another meeting with CAS and, in this case, it
6 appears that you attended with Father Vaillancourt and the
7 purpose of the meeting was to address information received
8 as per his involvement in this matter.

9 And in this particular meeting, you're
10 giving the CAS the sequence of events as to how the
11 complaint had reached you and that involves the letters
12 from Monsignor Schonenbach?

13 **MR. LEDUC:** I believe that I was attending
14 with Father Vaillancourt.

15 **MS. JONES:** Yes.

16 **MR. LEDUC:** He was being asked questions.

17 **MS. JONES:** And he was being asked questions

18 ---

19 **MR. LEDUC:** I believe so, yes.

20 **MS. JONES:** --- of his version of events.

21 Okay.

22 And what was your understanding when you
23 were accompanying any witnesses or any people being
24 interviewed by the CAS? What sort of assistance were you
25 supposed to be giving these witnesses?

1 **MR. LEDUC:** To provide -- to assist in
2 providing any -- to complete their information, I would
3 think, and to provide them with legal advice, to provide
4 the CAS with documents flowing from the interview. My
5 instructions were to cooperate and if that included
6 attending, I did.

7 **MS. JONES:** And were you asked by the
8 specific people for your assistance or were you to
9 accompany anyone who went to CAS?

10 **MR. LEDUC:** No, just those individuals who
11 wanted me to be there; I was to make myself available.

12 **MS. JONES:** And I understand you also
13 accompanied Monsignor McDougald on the 26th of October,
14 1993?

15 **MR. LEDUC:** Yes.

16 **MS. JONES:** And I don't know if this is
17 still the exhibit but I'm not -- I don't think it is.

18 Document 721672. I'm looking at Bates pages
19 1882 through to 1888.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **THE COMMISSIONER:** Exhibit 1905 is an
22 excerpt of the Document 721672 which is "Children's Aid
23 Society Case Documentation System Service Record - Notes of
24 Mr. Bell", first date is the 26th of October, 1993. And
25 yes, the last page -- Bates page 7081882 is an overlap with

1 Exhibit Number 1854.

2 ---EXHIBIT NO./PIÈCE NO. P-1905:

3 (721672) 7081882-88 Notes of Greg Bell -
4 October 26, 1993

5 MS. JONES: Thank you.

6 Could I please go to Bates page 1885? And
7 I'm looking halfway down the page that starts with your
8 name, Jacques Leduc, and I don't know what that symbol
9 means, maybe "relayed the following"? I'm not sure. I
10 think it means relayed. It makes sense if it does.

11 The very first point, Bishop Larocque
12 indicates:

13 "CAS can take all the time it wants to
14 complete the investigation."

15 So it sound like something you would say to
16 them, confirming what the Bishop's instructions were to
17 you.

18 It's the second paragraph I'm wondering
19 about here. It talks about, "On the Friday," it is hard to
20 read from here.

21 "Thus on the Friday, the day that
22 Silmsers was to withdraw his complaint,
23 Detective Brunet indicated to Malcolm
24 MacDonald that D. Silmsers had to come
25 to police station and make withdrawal

1 in writing.
2 At this time, Malcolm MacDonald and the
3 Diocese (through Malcolm MacDonald) was
4 only aware of D. Silmser and two other
5 potential victims. At that time,
6 Detective Brunet didn't mention any
7 other victims. Jacques Leduc called
8 Malcolm MacDonald and indicated there
9 are two more alleged victims and
10 Jacques indicated Malcolm MacDonald was
11 shocked to learn there was more
12 information there other than the two
13 letters from individuals indicating no
14 abuse of themselves."

15 The first question I have on this occurs
16 halfway through the paragraph.

17 "At this time, Malcolm MacDonald and
18 the Diocese (through Malcolm MacDonald)
19 was only aware of D. Silmser and two
20 other potential victims."

21 It would seem by this note that you're
22 relaying that information to Mr. Bell? Are you able to
23 illuminate on that?

24 **MR. LEDUC:** I don't recall this at all. No,
25 I have no recollection of this at all.

1 **MS. JONES:** Was there ever a time that you
2 had delegated Malcolm MacDonald to speak on behalf of the
3 Diocese in any way whatsoever?

4 **MR. LEDUC:** Never.

5 **MS. JONES:** Do you recall the conversation
6 that seems to be referred to where you informed Malcolm
7 MacDonald about the possibility of more alleged victims and
8 that it says "Jacques indicated Malcolm MacDonald was
9 shocked to learn" about this information?

10 **MR. LEDUC:** I don't recall the conversation
11 at all, no.

12 **MS. JONES:** Is it possible it happened?

13 **MR. LEDUC:** Well, I trust it would have as
14 it's reported in these notes.

15 **THE COMMISSIONER:** No. But okay, there's
16 that issue.

17 Do you recall ever calling Malcolm MacDonald
18 and having a discussion with him?

19 **MR. LEDUC:** No. No.

20 **THE COMMISSIONER:** Okay.

21 **MS. JONES:** But is it possible that you did
22 call Malcolm MacDonald and tell him of this?

23 **MR. LEDUC:** Yes.

24 **MS. JONES:** Okay. And just to confirm and
25 tie-up this issue.

1 On Bates page 1887 of the same exhibit --
2 and again this is the same date, 26th of October '93 -- it
3 appears that they're having a conversation with Monsignor
4 McDougald, and the topic is "Other allegations against
5 MacDonald". And it would appear to say Monsignor McDougald
6 relayed -- again it's that symbol, we'll have to ask Mr.
7 Bell what that means; I think it means relayed -- and it
8 relays the allegations that we've been talking about
9 earlier, that being in the fall:

10 "An anonymous person called the
11 Diocesan Centre and made an allegation
12 that Father Charles MacDonald had
13 committed an impropriety of a sexual
14 nature to... that he and the Diocese do
15 not know who called or who actually
16 received the call."

17 And so this seems to be a discussion at that
18 point with the CAS about what Father McDougald recalled.

19 And were you present for that conversation?

20 **MR. LEDUC:** I was present when Monsignor
21 McDougald was interviewed, yes.

22 **MS. JONES:** And do you recall him relaying
23 his version of what he had been told about any sort of
24 impropriety with Father Charles MacDonald?

25 **MR. LEDUC:** No. I don't recall any of those

1 meetings.

2 **MS. JONES:** If I could please go to Document
3 721672? Again, they are notes of Greg Bell. This time,
4 Bates page 1907 and the excerpt would end on 1908.

5 **THE COMMISSIONER:** Thank you.

6 Exhibit Number 1906 is page 47 of Mr. Bell's
7 notes and the first date is the 4th of November, 1993.

8 **---EXHIBIT NO./PIÈCE NO. P-1906:**

9 (721672) 7081907-08 Notes of Greg Bell -
10 November 4, 1993

11 **MS. JONES:** It would also include page 48
12 which is the other side of that as well, Mr. Commissioner.

13 **THE COMMISSIONER:** No, no, I understand, but
14 just to identify the exhibit, I'm saying what's on the
15 first page.

16 **MS. JONES:** I'm referring to a phone call
17 that's made on the 4th of the 11th month, which is November,
18 1993. Can you see that? It appears that Mr. Bell ---

19 **THE COMMISSIONER:** Which one?

20 **MS. JONES:** On Bates page 1907.

21 **THE COMMISSIONER:** Yes.

22 **MS. JONES:** At 13:26.

23 **THE COMMISSIONER:** Yes.

24 **MS. JONES:** "Called D. Silmser."

25 **THE COMMISSIONER:** Yes.

1 **MS. JONES:** Do you see that, Mr. Leduc?

2 **MR. LEDUC:** Yes.

3 **MS. JONES:** Okay. It appears he has a
4 conversation. He has several conversations actually that
5 day with him, but the point I actually want to draw to you
6 is on the next page, 1908. And the Point number 4 that's
7 put there, that:

8 "Jacques Leduc, the lawyer for the
9 Diocese, 'put the screws to him' and
10 that Mr. Leduc can't be trusted. 'He
11 can be very nice then stab you in the
12 back'."

13 I'm just pointing that out because there had
14 been something said by Malcolm MacDonald earlier in the
15 settlement that there may have been some sort of discourse
16 between yourself and Mr. Silmser; that perhaps he didn't
17 like you as a result of the meeting that you had, that
18 initial meeting, on February 9th, 1993.

19 **THE COMMISSIONER:** So the question is?

20 **MS. JONES:** Did you feel -- you know the
21 meeting I'm talking about on February 9th, 1993? The
22 relationship between you and Mr. Silmser; did you have a
23 relationship where he didn't like you? Were you aware of
24 that?

25 **MR. LEDUC:** It was not my impression that

1 the only time that I met Mr. Silmsler that there was any
2 kind of animosity towards me personally. I thought it was
3 a relatively cordial and polite meeting. I didn't have a
4 relationship with him.

5 As I've indicated, the only other time I
6 spoke with him was in a telephone conversation when he
7 called my office. And I indicated to him that I could not
8 speak with him and that he should have his lawyer call me.

9 **MS. JONES:** So from your perspective then,
10 it was a cordial relationship?

11 **MR. LEDUC:** My meeting with Mr. Silmsler was,
12 I thought, quite polite and cordial.

13 **MS. JONES:** Just a moment, please.

14 **THE COMMISSIONER:** So before we go for
15 lunch, can I know how long you're going to be to complete
16 your chief -- ballpark?

17 **MS. JONES:** My estimate, Mr. Commissioner, I
18 just have actually two brief areas to canvass. If I finish
19 the CAS, which I'm almost finished here, there would just
20 be a couple of areas.

21 So my estimate would be, depending on the
22 number of objections that are raised, I would like to be
23 conservative and say one hour please.

24 **THE COMMISSIONER:** All right. Why don't we
25 take the lunch break and canvass the others to find out how

1 long we're going to be in cross-examination. Then we can
2 plan how long we are going to sit today and tomorrow.

3 All right. Thank you. Let's take the lunch
4 break.

5 **THE REGISTRAR:** Order; all rise. À l'ordre;
6 veuillez vous lever.

7 This hearing will resume at 2:00 p.m.

8 --- Upon recessing at 12:29 p.m./

9 L'audience est suspendue à 12h29

10 --- Upon resuming at 2:04 p.m./

11 L'audience est reprise à 14h04

12 **THE REGISTRAR:** Order; all rise.

13 l'ordre; veuillez vous lever.

14 This hearing is now resumed. Please be
15 seated. Veuillez vous asseoir.

16 **JACQUES LEDUC:** Resumed/Sous le même serment

17 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MS.

18 **JONES (Cont'd/Suite):**

19 **THE COMMISSIONER:** Mr. Leduc, I trust you
20 ate well?

21 **MR. LEDUC:** Not quite.

22 **THE COMMISSIONER:** All right.

23 **MR. LEDUC:** Thank you for your concern, Mr.
24 Commissioner.

25 **THE COMMISSIONER:** Well, counsel usually

1 pays for your lunch. I mean, I would hope that your
2 counsel would have taken good care of you.

3 **MS. HENEIN:** But I hadn't told him that.

4 **MR. LEDUC:** When I was in ---

5 **MS. HENEIN:** We had a great lunch.

6 **MR. LEDUC:** Without me.

7 **THE COMMISSIONER:** Without you. Well,
8 that's something.

9 Ms. Jones, how are you this afternoon?

10 **MS. JONES:** Fine, thank you, Mr.

11 Commissioner. Thank you.

12 **THE COMMISSIONER:** Rearing to go?

13 **MS. JONES:** I am.

14 **THE COMMISSIONER:** Good.

15 **MS. JONES:** Just before the break for lunch,
16 I had referred you to some notations by Mr. Bell stating
17 when he had had a conversation on the telephone with Mr.
18 Silmser, Mr. Silmser had some negative comments about his
19 thoughts about you, and I was asking you about what you
20 felt the relationship was like between you and Mr. Silmser
21 when you were having a meeting on February 9th, 1993. So
22 that's where we left it.

23 And it was your understanding, I understand,
24 that you felt the relationship was fine; that it was
25 cordial, professional and that was how it was left at the

1 end of that meeting.

2 Is that your understanding?

3 **MR. LEDUC:** Yes.

4 **MS. JONES:** I don't know if you recall,
5 yesterday I had put a document to you, specifically Malcolm
6 MacDonald's statement to the OPP. I can refer you back to
7 that. It's Exhibit 863.

8 **MR. LEDUC:** Yes.

9 **MS. JONES:** And I'm looking specifically at
10 Bates page 5943.

11 **MR. LEDUC:** Yes.

12 **MS. JONES:** I'm just waiting for it to go on
13 the screen.

14 And that's actually a good spot, I suppose,
15 but you'll agree that on the previous page as well, and
16 this page essentially, Malcolm MacDonald -- you may recall
17 I went through this yesterday and read the passages --
18 there was a perception, certainly by Malcolm MacDonald,
19 that one of the reasons why he was dialoguing with Mr.
20 Silmsen was because he understood Mr. Silmsen didn't like
21 you?

22 **MR. LEDUC:** I understand that to be the case
23 in Mr. MacDonald's statement, yes.

24 **MS. JONES:** Right. So do you still maintain
25 that from your perspective it was still a cordial

1 relationship with yourself and Mr. Silmser, from your
2 perspective?

3 **MR. LEDUC:** From what I've told you, the
4 only time I've actually met him was at that meeting on
5 February 9th, and although it certainly was a -- was not a
6 comfortable meeting, we dealt with each other courteously
7 and I had no observations or indications that he felt
8 untowards or that he was -- he had, as is reflected in
9 these remarks, any other sentiment in relation to me. And
10 other than that, and the one phone call that I told you
11 about, I had no contact with the person.

12 **MS. JONES:** All right. Now, if we look at
13 Document 104364 please.

14 **THE COMMISSIONER:** Thank you. Exhibit 1907
15 is a letter to Reverend Charles MacDonald from Bishop
16 Larocque and Denis Vaillancourt dated November 1st, 1993.

17 **--- EXHIBIT NO./PIÈCE No P-1907:**

18 (104364) Letter from Eugene LaRocque-Denis
19 Vaillancourt to Charles MacDonald - 01 Nov,
20 93

21 **MS. JONES:** Do you have that in front of
22 you, sir?

23 **MR. LEDUC:** Yes, I do. Thank you.

24 **MS. JONES:** This would appear to be the
25 letter, as I say, dated November 1st, 1993 in which Bishop

1 Larocque and Father Vaillancourt -- I think it's Father
2 Vaillancourt; it's not Monsignor?

3 **MR. LEDUC:** Not yet.

4 **MS. JONES:** Not yet. Okay.

5 To basically thank Father Charles for his
6 work and also thank him for his resignation as pastor of
7 the parish and also, too, that he has well wishes at his
8 stay in Southdown and any sort of future ministry that he
9 may be involved in.

10 As I say, the date of that is November 1st,
11 1993. So it appears that is the date then of the effective
12 resignation of Father Charles MacDonald.

13 **MR. LEDUC:** I would not be prepared to say
14 that. This is the Bishop's letter accepting Father
15 Charles' resignation.

16 **MS. JONES:** M'hm. Did you have any
17 conversations with Bishop Larocque, leading up to this
18 November 1st letter, in discussions with him about Father
19 Charles' resignation?

20 **MR. LEDUC:** Other than what we spoke about
21 this morning when I was involved with the CAS and our
22 telephone conversations and the meeting -- the meeting or
23 the meetings I would have had with the Bishop at that time,
24 no.

25 **MS. JONES:** And the next Greg Bell excerpt

1 that I wish to refer you to is again Document 721672, and
2 the Bates page excerpt would be from 1941 to 1943.

3 **THE COMMISSIONER:** Thank you. Exhibit
4 number 1908 is an excerpt of Mr. Bell's notes to the
5 Children's Aid Society, with the first date being the 18th
6 of November 1993.

7 --- **EXHIBIT NO./PIÈCE No P-1908:**

8 (721672) 7081941-1943 Notes of Greg Bell -
9 18 Nov, 93

10 **MS. JONES:** Thank you.

11 Now, I want to refer you please to 1941,
12 which is the first page of the excerpt. Down at the
13 bottom, the date is the 18th of November 1993 at 11:39 and
14 it states there's a call from Malcolm MacDonald.

15 Can you see that, sir?

16 **MR. LEDUC:** Yes.

17 **MS. JONES:** And then it states:

18 "He indicated the following:"

19 And there's a colon, and then if you turn to
20 the next page there's a list of things that apparently he
21 indicated to Greg Bell.

22 The portion I want to direct your attention
23 to actually comes under the fourth bullet point, and this
24 bullet point is concerned with the cheque that was made
25 payable to Mr. Silmsler, and I'll just read Greg Bell's

1 version of that conversation. This is Greg Bell speaking.
2 When he says "I" it's Greg Bell.

3 "I asked why the Diocese sent the
4 cheque for D. Silmsler to the lawyer for
5 Father Charles and he indicated it came
6 to him in trust because the Church
7 doesn't want questions asked about a
8 cheque of such size to an individual
9 from the Diocese."

10 Now, earlier today I had asked you about the
11 cheque and the reasons why the cheque was made payable to
12 Mr. MacDonald in trust. If, in fact, this is what Malcolm
13 MacDonald told Greg Bell on that day, what is your comment
14 on that? Do you agree with that statement? Is that the
15 reason why the cheque came from Mr. MacDonald's trust
16 account?

17 **MR. LEDUC:** Absolutely not. I can't tell you
18 why the cheque to Mr. Silmsler came from Mr. MacDonald's
19 account, except what I can tell you is that my trust cheque
20 went to Malcolm MacDonald on the basis of which I discussed
21 with you this morning.

22 **MS. JONES:** So, in other words, you're -- I
23 just want to be clear on your evidence. It is the reason
24 why you gave Malcolm MacDonald the cheque to put in his
25 trust account, rather than writing a cheque directly from

1 the Diocese, is not for the reason given by Malcolm
2 MacDonald in his notes?

3 **MR. LEDUC:** Definitely not. It's not -- not
4 from my perspective and not from my understanding of our --
5 the process that we had agreed to at that time. There was
6 never any conversation about something like this.

7 **MS. JONES:** I also would like you to go to
8 the next Bates page; Bates page 1943. And it's the very
9 top entry. It's point 8 of the list that is attributed to
10 Malcolm MacDonald, indicating various things to Greg Bell.
11 And I'll read from the document then. Are you with me on
12 that?

13 **MR. LEDUC:** I can hardly read it. I'll wait
14 for it to come up on the screen.

15 **MS. JONES:** Okay.

16 **MR. LEDUC:** Here we go. Thank you.

17 **MS. JONES:** And the entry is the same date.
18 As I say, I'll just -- by way of background, remember in
19 the very first reference to this, there's a call from
20 Malcolm MacDonald. He indicates the following and there is
21 a list. This is item number 8 now of that list. And item
22 number 8 states:

23 "I believe that Jacques told him this
24 was a small settlement and that they
25 usually pay a lot more, even in cases

1 they could easily defend against."

2 And just to be clear who the "he" is,
3 they're talking about that Jacques told him, Malcolm
4 MacDonald, that this was a small settlement and he's
5 referring to the Silmsler settlement.

6 So what is your comment about that? Do you
7 remember having such a conversation with Malcolm MacDonald?

8 **MR. LEDUC:** If what he's referring to when
9 he says "they", meaning my client, if that's what it means,
10 then this conversation never happened.

11 If it was Malcolm relaying a conversation I
12 had with him about the question of damages, and there was a
13 discussion as to damages, I'm not sure what he's referring
14 to, but clearly, I have never had a conversation with
15 Malcolm MacDonald where I would have said that my client,
16 the Diocese, considered this to be a small settlement and
17 that they, meaning the Diocese, would pay a lot more. That
18 is not true.

19 **MS. JONES:** Let me just try to understand.
20 I'm not sure I understand your answer 100 percent. Malcolm
21 MacDonald is attributing the statement to you in the sense
22 he's saying that Jacques, which would be you -- but there
23 is a question mark after that, and I can see Leduc is
24 actually crossed out and then there's a question mark.

25 "... that Jacques ? ~~Leduc~~ told him this

1 notes from Mr. Bell to the Children's Aid Society with
2 first date on the document being the 2nd day of December
3 1993.

4 ---EXHIBIT NO./PIÈCE NO P-1909:

5 (721672) 7082002-2003 Notes of Greg Bell -
6 02 Dec, 93

7 **MS. JONES:** I think there's an issue as to
8 what Mr. Manderville had for lunch today.

9 (LAUGHTER/RIRES)

10 **THE COMMISSIONER:** I thought Mr. Manderville
11 was throwing elastics at Mr. Kozloff or something.

12 Well, you know, it's like people sitting at
13 the back of the class. Sometimes you have to ask them to
14 come and sit in front. Mr. Manderville had his turn. Mr
15 Kozloff's turn will come soon.

16 All right. So here we have the document
17 Exhibit 1909.

18 **MS. JONES:** I'm sorry, what was the exhibit
19 number?

20 **THE COMMISSIONER:** One nine zero nine
21 (1909).

22 **MS. JONES:** Thank you. And in this exhibit
23 number there is a call from Jacques Leduc, it says up at
24 the top. The date of that is December 2nd, 1993 at 8:30.
25 And the portion that I wish to draw your attention to is

1 actually just a little bit further down, Madam Clerk,
2 starting with "He ..." -- whoops, not that far -- "He asked
3 ..." -- just a little bit further up. "He asked if I ..." --
4 thank you very much. And I'll just quote from that:

5 "He asked if I was getting near the end
6 of the investigation and I indicated I
7 couldn't comment. He said that,
8 speaking for the Diocese, he would urge
9 that we complete the investigation
10 without ---"

11 **THE COMMISSIONER:** "Rushing".

12 **MS. JONES:** "--- rushing anything as ---"

13 **THE COMMISSIONER:** "Soon as possible."

14 **MS. JONES:** "--- soon as possible. This
15 because ---"

16 **THE COMMISSIONER:** "It is causing".

17 **MS. JONES:** "--- it is causing ---"

18 **THE COMMISSIONER:** "Serious".

19 **MS. JONES:** "--- serious problems in the
20 Diocese. People feeling hurt."

21 **THE COMMISSIONER:** "Feeling hurt".

22 **MS. JONES:** That's what I'm having here.
23 "He indicated ---"

24 **THE COMMISSIONER:** "Hearing".

25 **MS. JONES:** "--- hearing we were having

1 difficulty getting some people's
2 cooperation and I indicated our ---"

3 **THE COMMISSIONER:** "Not able to -- not ---"

4 **MS. JONES:** "--- not able to comment."

5 I think that's what that means there.

6 **THE COMMISSIONER:** Well, not ---

7 **MS. JONES:** I apologize again. I seem not
8 to have not brought my glasses once again.

9 **THE COMMISSIONER:** "Not being able to
10 comment."

11 **MS. JONES:** "Not being able to comment."

12 Trying to summarize this, were you
13 encouraging the CAS to sort of complete their investigation
14 as soon as possible because of the impact it was having on
15 your client in the Diocese?

16 **MR. LEDUC:** I'd been asked in this instance,
17 I recall, by the Bishop, who had some concerns as to the
18 time from October to the beginning of December - had some
19 concerns about the time lapsing and that could I please ask
20 the CAS if they were completing their investigation and how
21 long more would it take? Because he was, or may have
22 been, receiving some information indicating that some
23 people were being hurt.

24 So I was expressing to the CAS the Diocese's
25 concern about the time it was taking. Yes, I recall that.

1 **MS. JONES:** I'm pleased to report that is
2 the end of the CAS segment; no more documents.

3 I'm now going to move on to the issue
4 surrounding the press releases. And I first of all would
5 like, please, to draw you to Exhibit 58.

6 **THE COMMISSIONER:** Oh, right, right, yes.
7 Which volume and which tab?

8 **MS. JONES:** Exhibit 58.

9 **THE COMMISSIONER:** Yes, I know and it ---

10 **MS. JONES:** Sorry.

11 **THE COMMISSIONER:** Yes. What tab or ---

12 **MS. JONES:** It's Tab 28.

13 **THE COMMISSIONER:** So that would be Volume
14 2?

15 **MS. JONES:** Yes. Do you have it in front of
16 you, sir?

17 **MR. LEDUC:** Yes, thank you.

18 **MS. JONES:** Okay. We already know that on
19 January 6th, 1994, this story broke in the media. It would
20 appear that the Bishop issued this first press release --
21 they call it the first press release because there will be
22 three in total -- the first press release on January 7th,
23 1994.

24 Now, did you have any consultation with the
25 Bishop about this press release at this time?

1 **MR. LEDUC:** The evening before he released
2 it, he phoned me at home and he read it to me over the
3 phone.

4 **MS. JONES:** And was there obviously a
5 discussion of some sort afterwards? What sorts of issues
6 were being discussed then about that?

7 **MR. LEDUC:** I recall advising him to hold
8 off; that we could discuss it further, but he thought it
9 was best to come forward immediately and to proceed with
10 it.

11 **MS. JONES:** And in the very first paragraph
12 -- we've actually gone to this document earlier, I believe
13 we went to it yesterday if not the day before -- but
14 essentially, in the first paragraph, the Bishop is stating
15 that there were guidelines; we followed the guidelines and
16 here I've attached the protocol -- what we are calling the
17 protocol -- to this media release and that's the document
18 that we had seen earlier ---

19 **MR. LEDUC:** It is.

20 **MS. JONES:** --- in your testimony.

21 And in this first line, it states -- the
22 Bishop stated:

23 "The Diocese had acted in accordance
24 with the guidelines."

25 Now, when you talked about this press

1 release the night before it was actually released,
2 obviously if he read it to you, that statement was made to
3 you, is that true that they had acted within the
4 guidelines?

5 **MR. LEDUC:** No.

6 **MS. JONES:** In what respect?

7 **MR. LEDUC:** Well, I think we discussed that
8 yesterday in looking over the guidelines as to what the
9 designated person should do and I think the facts speak for
10 themselves.

11 **MS. JONES:** If you could just highlight that
12 for today's purpose?

13 **MR. LEDUC:** Well, I'm uncomfortable in doing
14 that because I understand that because the Diocese was my
15 client, I should not nor am I in a position to comment
16 negatively on what they did or did not do, so I'm somewhat
17 uncomfortable in doing that.

18 **THE COMMISSIONER:** Well, I don't see Mr.
19 Sherriff-Scott objecting nor do I think -- they've waived
20 privilege so I want ---

21 **MR. LEDUC:** I will take your direction, Mr.
22 Commissioner. I understand privilege is one thing which
23 has been waived ---

24 **THE COMMISSIONER:** M'hm.

25 **MR. LEDUC:** --- but my conduct as a member

1 of the Bar and subject to the rules of professional conduct
2 is another guideline which I must follow and I believe -- I
3 stand to be corrected -- that one of those guidelines is I
4 cannot comment negatively on my client's conduct.

5 **THE COMMISSIONER:** Ms. Henein?

6 **MS. HENEIN:** Mr. Sherriff-Scott is here and
7 if he's content with this question and to have Mr. Leduc
8 answer it, as long as it is clear that that is being
9 authorized by the former client, that's fine.

10 **THE COMMISSIONER:** Well, number one, there
11 is no real objection.

12 Second of all, I would direct him to answer
13 the questions.

14 **MR. LEDUC:** Thank you.

15 If we -- the first thing that comes to mind
16 now is that there was no written report which is required;
17 that to the best of my knowledge, the steps to be taken by
18 the designate which I think was Monsignor McDougald were
19 not taken; and other than going through the guidelines,
20 those are my two -- the two issues that I know about.

21 As to meeting with Father Charles and the
22 rest of it with respect to notification, I can't help you.

23 **MS. JONES:** When you -- I understand about
24 the written report, but you did mention Father McDougald
25 didn't do what he was supposed to. Can you just be a bit

1 more specific?

2 **MR. LEDUC:** No, well, I'm saying that if you
3 look at the guidelines and you talk about what the
4 designated person should be doing, I don't know whether
5 he's done that or not, except that I think one of the --
6 under Phase 5, the designated person notifies the CAS of
7 the case and I understand that was not done.

8 So those are the two matters set out in
9 these guidelines that I knew about and that I can point out
10 to you that were within my knowledge at that time.

11 **THE COMMISSIONER:** Mr. Leduc, I've got to go
12 back to your comments about not saying adverse things about
13 your client.

14 Has that principle that you maintain affect
15 any of the answers that you have given since you began your
16 testimony?

17 **MR. LEDUC:** I don't believe I've given any
18 answer that would be seen as a negative comment on my ---

19 **THE COMMISSIONER:** Oh, no, you haven't.

20 **MR. LEDUC:** Well, you -- someone else may,
21 but ---

22 **THE COMMISSIONER:** No, no, no, but did you
23 not give some comments, some testimony, that you would have
24 given but for this principle that ---

25 **MR. LEDUC:** Absolutely not, Mr.

1 Commissioner. My testimony was truthful and very direct.

2 **THE COMMISSIONER:** First of all, I'm not
3 accusing you of being untruthful. I'm just asking whether
4 or not this principle that you had -- that you have been
5 liberated from in any event affected the way you gave any
6 of your evidence?

7 **MR. LEDUC:** Absolutely not, Mr.
8 Commissioner.

9 **THE COMMISSIONER:** All right.

10 **MR. LEDUC:** I did not shade by answers in
11 any way.

12 **THE COMMISSIONER:** Okay.

13 **MS. JONES:** Now, was this the situation on
14 that particular day that -- was this the time that you also
15 gave a national media speech when this media release was
16 made?

17 **MR. LEDUC:** I think sequentially the Bishop
18 issued this media release, and I'm trying to remember what
19 prompted -- yes, there were some reports in the media that
20 needed to be answered which prompted the second media press
21 release, press meeting that I drafted.

22 **MS. JONES:** But did you speak to the media
23 about this particular press release at this time or was it
24 just on the second one?

25 **MR. LEDUC:** No, I don't -- no, there was no

1 press conference; that's the word I was looking for.

2 MS. JONES: That's the word I'm looking for
3 too.

4 MR. LEDUC: To the best of my -- there was
5 no press conference. The first one was to issue the press
6 release at the press conference where I attended together
7 with others.

8 MS. JONES: Okay.

9 Now, what we'll do then is move on to the
10 issue of what happened next.

11 After this media release was made, what sort
12 of reaction was there to this? Do you recall?

13 MR. LEDUC: My recollection was it was
14 something in the press that prompted the Bishop to want to
15 make some clarification, I believe. If you could point me
16 to that press release, my recollection is the first
17 paragraph says something why we're here.

18 MS. JONES: Okay. What I will do, actually,
19 is refer you to the actual press release, the second one,
20 and then I'm going to go back to another document, but
21 maybe that'll help you answer that question.

22 I'm looking at Document 104365.

23 (SHORT PAUSE/COURTE PAUSE)

24 THE COMMISSIONER: Exhibit 1910 is a
25 document entitled "Bishop's statement, press conference,

1 January 14th, 1994".

2 --- EXHIBIT NO./PIÈCE NO. P-1910:

3 (104365) Draft version of the Bishop's
4 Statement - Press Conference - January 14,
5 1994

6 **MS. JONES:** And you're correct, the very
7 first paragraph states:

8 "Our legal counsel for the Diocese has
9 explained how I 'reluctantly' agreed to
10 the settlement of a civil dispute to
11 which the priest in question and the
12 Diocese both contributed. Although it
13 was altogether legal, I can now see by
14 the confusion and misinterpretation
15 caused that it was not the prudent way.
16 I should have maintained my original
17 position."

18 So it would appear that something had
19 happened between January 7th and the second press release
20 which is January 14th. Do you recall what happened between
21 there; what events transpired?

22 **MR. LEDUC:** Well, firstly, I want to be
23 clear that this is not the press release I crafted. This
24 is a statement that was, I believe, read by the Bishop at
25 the press conference.

1 **MS. JONES:** Right, I understand that.

2 Just going by what the Bishop's words were,
3 it seems that something happened in between the 7th and the
4 14th?

5 **MR. LEDUC:** I -- I thought it was something
6 in the newspaper, in the Freeholder and in the press that -
7 --

8 **THE COMMISSIONER:** No, but, I guess -- at
9 the press conference, did you speak first? Were you there
10 at the second ---

11 **MR. LEDUC:** Oh, yes.

12 **THE COMMISSIONER:** And did you speak first?

13 **MR. LEDUC:** I don't believe so. I believe -
14 - well, it's on tape somewhere, but my recollection is that
15 I believe the Bishop spoke first.

16 **THE COMMISSIONER:** Okay.

17 **MR. LEDUC:** Maybe I -- was there a person in
18 charge of public relations for the Diocese then who would
19 have introduced everyone? I'm not sure but ---

20 **THE COMMISSIONER:** No, it just says:

21 "Our legal counsel for the Diocese has
22 explained to him..."

23 **MR. LEDUC:** Okay. So he may have commented
24 after I read the press release. I'm not sure of the order.

25 **THE COMMISSIONER:** Okay.

1 **MS. JONES:** So -- but there certainly wasn't
2 another press conference in between the 7th and the 14th that
3 he's referring to?

4 **MR. LEDUC:** No. No.

5 **MS. JONES:** Okay. I just want to be clear
6 on that.

7 So if we could please go to Exhibit 857 and
8 it would appear that this is a five-page fax that was
9 generated from your office, and is "Sean" Sean Adams? Is
10 that ---

11 **MR. LEDUC:** Yes, but I don't have that
12 exhibit. I'm sorry.

13 **MS. JONES:** Okay.

14 **MR. LEDUC:** Eight five seven (857)?

15 **MS. JONES:** Eight five seven (857), yes.

16 **MR. LEDUC:** Yes.

17 **MS. JONES:** So this appears to -- I'm sorry.
18 Sean Adams -- is it Sean Adams who is "Sean"?

19 **MR. LEDUC:** Yes.

20 **MS. JONES:** And it's the same Sean Adams
21 that was the independent legal advisor for Mr. Silmsen?

22 **MR. LEDUC:** Yes.

23 **MS. JONES:** Now, it would appear from Bates
24 page 9023 on to 9027 that this is a draft, as it were, of
25 what you are going to give as a press release; you

1 personally as lawyer for the Diocese?

2 MR. LEDUC: There are no Bates pages on my -
3 - but my document here, which is Exhibit 857 -- but yes.
4 Yes, that's what I would have faxed to Sean.

5 MS. JONES: Okay. And there's -- presumably
6 this is a response to a fax, and I'm presuming again on the
7 second page of your press release, which is our Bates page
8 9024, and it's 2 dot, dot, dot. There's four times "okay,
9 okay" written in the margin.

10 Is that your writing saying that those
11 paragraphs ---

12 MR. LEDUC: I don't have that.

13 MS. JONES: If you look on the screen, sir.

14 MR. LEDUC: Oh, sorry. On page 3?

15 THE COMMISSIONER: Yes.

16 MS. JONES: Yes.

17 MR. LEDUC: Yes, yes. Okay. Yes, sir.

18 Yes.

19 MS. JONES: Yeah. It's also on the screen,
20 Mr. Leduc, if you're confused.

21 MR. LEDUC: Yes.

22 MS. JONES: But the okays seem to be
23 handwritten. Would they have been written by yourself
24 saying that you're okay with those paragraphs, as this fax
25 seems to be coming from you to Mr. Adams?

1 **MR. LEDUC:** I can't tell if those okays are
2 mine or not.

3 **MS. JONES:** So I wonder if you could
4 explain; what was the role of Mr. Adams in this process?
5 Was he still representing Mr. Silmsner?

6 **MR. LEDUC:** At that time, I understood that
7 Sean Adams was still representing Mr. Silmsner and it's for
8 that reason that I forwarded to him the draft of the press
9 release that was to be issued.

10 **MS. JONES:** And what would be the reason for
11 you forwarding on that?

12 **MR. LEDUC:** Well, as I also said yesterday,
13 I think there were a couple of reasons. One was the fact
14 that we had a non-disclosure provision in the settlement
15 which I thought was important to respect. And secondly, as
16 a matter of courtesy, if you're going to do something with
17 respect to someone else's client, I think it's courteous --
18 I think it's professional courtesy to advise that counsel.

19 **MS. JONES:** So when you sent this off to
20 him, it wasn't necessarily for his input into it or his
21 comments, or even his amendments, changes. It appeared to
22 be as a professional courtesy being extended to him.

23 **MR. LEDUC:** No. No, it would have been
24 submitted to him to give him a heads up, "This is what
25 we're going to say. Have you got anything to say about

1 it?" I was open to receiving his comments, of course,
2 which I did.

3 **MS. JONES:** Now, if I could please go to
4 Exhibit 274.

5 **MR. LEDUC:** Yes.

6 **MS. JONES:** This is a letter from Mr.
7 Geoffrey. By the way, is it pronounced Jeffrey (phonetic)
8 or Joffrey (phonetic)?

9 **MR. LEDUC:** I think it's Joffrey.

10 **MS. JONES:** That's what I thought. I've
11 heard both, but for Mr. Geoffrey, in any event, and the
12 date of the letter is January 13th, 1994, which appears to
13 be the same day you sent the fax to Sean Adams, if we
14 believe the fax report typing anyway.

15 And in the very first paragraph it states:

16 "This will confirm our telephone
17 conversation of earlier today wherein I
18 confirmed that I acted for David
19 Silmser and acknowledge that you have
20 forwarded to me a copy of a draft of a
21 press release which the Bishop plans on
22 reading to the media tomorrow, being
23 January 14th, 1994 at 9:30 a.m. in
24 Cornwall."

25 How did you learn that Mr. Geoffrey was

1 actually counsel for Mr. Silmser?

2 **MR. LEDUC:** It would have come from -- I
3 don't recall but it would have come from two sources;
4 either Mr. Adams would have told me or Bryce Geoffrey would
5 have called me directly and said maybe Sean sent something
6 to him or called him. I don't know how that happened but
7 clearly it's Mr. Geoffrey who advised me.

8 **MS. JONES:** And in this letter there are
9 four areas, and they're marked A, B, C, D, of changes that
10 he wanted to have made to the press release. And I'm
11 wondering if perhaps we can keep this letter on the screen
12 and if you could just go back to the hard copy of Exhibit
13 0857, which is the faxed press release to Sean Adams.

14 **MR. LEDUC:** What was the number? Was it 28?

15 **MS. JONES:** It was Exhibit 0857.

16 **MR. LEDUC:** Sorry. Eight five seven (857)?

17 **MS. JONES:** Yes.

18 **MR. LEDUC:** Yes.

19 **MS. JONES:** On the first area in A, it says
20 on the second paragraph of the first page:

21 "There is an allegation that there was
22 a decision reached 'in conjunction with
23 and in collaboration with the solicitor
24 for the priest in question and the
25 solicitor for the complainant in

1 question.' "

2 And Mr. Geoffrey is saying:

3 "The decision to come forth to the
4 media has not been reached in
5 conjunction with the solicitor for the
6 complainant, the undersigned."

7 And he goes on to say that:

8 "This statement should be deleted. As
9 you're aware, Mr. Adams' retainer with
10 respect to this matter was confined to
11 providing independent legal advice on
12 the September 3rd, 1993 agreement."

13 Do you see that?

14 **MR. LEDUC:** Yes.

15 **MS. JONES:** Okay. And was that actually
16 changed at some point?

17 **MR. LEDUC:** I would have to look at the
18 final draft of the press release.

19 **MS. JONES:** Okay. And the other next
20 concern of Mr. Geoffrey, on page 3 in the fourth paragraph,
21 there's an allegation that:

22 "Subsequently the complainant,
23 represented by counsel Sean Adams,
24 agreed to accept compensation. During
25 these negotiations, all parties were

1 represented by counsel."

2 And Mr. Geoffrey states:

3 "This is not true. As stated above,
4 Mr. Adams had an extremely limited
5 retainer."

6 And do you know where that is? Is that --
7 was that agreed to by you?

8 **MR. LEDUC:** Absolutely not. That was a very
9 contentious point and I disagreed with Mr. Geoffrey
10 completely.

11 **MS. JONES:** Just a moment, please.

12 **THE COMMISSIONER:** You disagreed what, that
13 during the negotiations all parties were represented by
14 counsel?

15 **MR. LEDUC:** That's right. He says they
16 weren't. I said they were.

17 **MS. JONES:** So it's your impression that Mr.
18 Adams actually did not just have a limited retainer?

19 **MR. LEDUC:** No. What I'm saying is that Mr.
20 Geoffrey is saying:

21 "As stated above, Mr. Adams had an
22 extremely limited retainer."

23 I was never advised, nor did I ever know,
24 that Mr. Adams had a limited or restricted retainer. He
25 provided independent legal advice.

1 **THE COMMISSIONER:** Yes, but what I don't
2 understand is this: is that you meet with MacDonald --
3 Malcolm MacDonald phones you and says, "Look, after the
4 first meeting with the Bishop, the Bishop says, 'No deal. I
5 don't want to settle.'"

6 Then Malcolm comes back and says, "Well, it
7 could be settled for \$32,000".

8 You go back and see the Bishop. You
9 convince him of that. On your way out, you say, "Oh, yeah,
10 but we're going to need independent legal advice".

11 So that would presume that he wasn't
12 represented at that time.

13 **MR. LEDUC:** Well, if the understanding is
14 that Mr. Silmser was not represented by counsel during the
15 negotiations, you're correct.

16 **THE COMMISSIONER:** Right.

17 **MR. LEDUC:** It's my understanding that he
18 made his position and view to Mr. MacDonald who transmitted
19 it to us. But at the end of the day, at the end of the
20 day, when he is presented with legal documents to be
21 signed, he is represented by counsel.

22 **THE COMMISSIONER:** Right, except that what
23 he -- what Mr. Geoffrey is saying, is taking issue with
24 you, is that during these negotiations, all parties were
25 represented by counsel. It seems the negotiations have

1 finished before Adams comes on. So are you not a little --
2 -

3 **MR. LEDUC:** In hindsight, yes. He's right
4 in hindsight, but at that time it was my position that
5 negotiations included the ---

6 **THE COMMISSIONER:** Okay.

7 **MR. LEDUC:** --- tenets at the execution of
8 the documents.

9 **THE COMMISSIONER:** M'hm.

10 **MS. JONES:** The third change, shall we say,
11 that Mr. Geoffrey was suggesting:

12 "The third paragraph on page 4 requires
13 some alteration as well. I believe it
14 is proper to state, 'The complainant
15 did so having obtained independent
16 legal advice'. However, I believe that
17 the second portion of that sentence
18 being 'Having retained a solicitor to
19 represent him in this matter' is
20 misleading and should be deleted."

21 And that sounds like it's very similar to
22 what we have just said a moment ago?

23 **MR. LEDUC:** Well, I think there is a bit of
24 a difference.

25 **MS. JONES:** M'hm.

1 **MR. LEDUC:** And it is my understanding that
2 when a client comes to -- when a client -- when someone
3 comes to see me for independent legal advice, I am retained
4 for the purpose of giving independent legal advice upon
5 which some third party will rely.

6 Now, to state after the fact that there was
7 a limited retainer and to bring some restrictions to that,
8 I don't think is the way -- is proper.

9 **MS. JONES:** And the last change that's being
10 suggested here:

11 "The final paragraph on page 4 is also
12 misleading. I would suggest that the
13 words 'Were all parties represented by
14 independent legal counsel' be deleted
15 in their entirety."

16 **MR. LEDUC:** I'm sorry, I'm trying to find
17 the paragraph that you're referring to.

18 **THE COMMISSIONER:** Yeah, me too. Can you
19 find it in the settlement, Ms. Jones?

20 **MS. JONES:** The final paragraph on page 4,
21 which should be Bates page 9026.

22 **THE COMMISSIONER:** We don't have Bates
23 pages.

24 **MS. JONES:** No.

25 **THE COMMISSIONER:** So where on page 4?

1 **MS. JONES:** "The Diocese by this decision
2 settles a civil dispute where all
3 parties were represented independently
4 by legal counsel."

5 **THE COMMISSIONER:** Okay, and it goes on to
6 page 5.

7 **MS. JONES:** And it goes on to page 5.

8 **MR. LEDUC:** Yes.

9 **THE COMMISSIONER:** I guess it's been taken
10 off.

11 **MS. JONES:** The reference may actually refer
12 to halfway up page 4, where it actually has the quote:

13 "The complainant did so having obtained
14 legal advice."

15 Perhaps that's what he's actually referring
16 to in addition, but essentially he -- it would appear Mr.
17 Geoffrey is trying to maintain the fact that Mr. Silmsner
18 was not represented by a solicitor all the way through the
19 process; that it was only at the end of the settlement
20 situation where he was asked to get independent legal
21 advice.

22 I think that confirms or conforms with what
23 you had testified yesterday, that independent legal advice
24 was considered towards the end of the settlement agreement
25 not at the beginning of the settlement negotiation?

1 **MR. LEDUC:** No. You would have to put a
2 point-in-time as to the beginning of the negotiations and
3 the end of the negotiations.

4 **MS. JONES:** Well ---

5 **MR. LEDUC:** If we talk about negotiations,
6 they were very -- there was no negotiation in a sense that
7 Malcolm came to the Bishop and said this is what Mr.
8 Silmsler is prepared to accept. The Bishop instructed us to
9 proceed with that settlement. We did not go back and say,
10 "We're only going to pay 20 or we're going to pay 25".

11 So if that's what is understood by the
12 negotiation, that never happened.

13 If what is understood by the negotiation
14 means the exchange of information and facts by the parties
15 to arrive at the terms of the settlement, then yes, and
16 then I would concede that Mr. Silmsler, during that time,
17 was not represented by counsel.

18 But I have said before that it was an
19 absolute condition that Mr. Silmsler retain counsel and
20 receive independent legal advice upon the signature of
21 these documents in relation to the settlement.

22 **THE COMMISSIONER:** So but having said that
23 then, would you agree with me that what you put in this
24 press conference, you know, that the complainant was
25 represented at all times wasn't true? Or wasn't quite

1 accurate?

2 **MR. LEDUC:** Wasn't accurate. I'll give you
3 that.

4 **THE COMMISSIONER:** Oh, I'm not asking you to
5 give me anything.

6 **MR. LEDUC:** No, it's -- I think it would be
7 a more accurate statement had it been changed, yes.

8 **THE COMMISSIONER:** And so my question to you
9 is this.

10 You want to get this all straightened, get
11 it out of the way and put it in the public. You write to
12 all of the lawyers and here comes Geoffrey, and Geoffrey
13 says, "Wait a minute, I am telling you that this is the way
14 it is", and you don't change it?

15 **MR. LEDUC:** Well, I'd have to look at the
16 final draft. We're looking at my first draft.

17 **MS. JONES:** Just a minute.

18 **THE COMMISSIONER:** Oh, okay.

19 **MS. JONES:** If I could ---

20 **THE COMMISSIONER:** Okay.

21 **MS. JONES:** If I could continue?

22 **THE COMMISSIONER:** Sure, sure.

23 **MS. JONES:** Yes. So ---

24 **THE COMMISSIONER:** Sorry about that. Sorry,
25 I just don't -- I'm looking at his document.

1 **MS. JONES:** Yes. I'll continue on to the
2 final version. I just wanted to bring up the comparatives,
3 shall we say, at that particular stage.

4 **THE COMMISSIONER:** Ms. Henein?

5 **MS. HENEIN:** The concern I have in the way
6 that my friend is doing this, it does leave the impression
7 that this is it and this is the final draft.

8 **THE COMMISSIONER:** Well, yeah, I know, and I
9 think what it goes to show is my impatience, I guess, in
10 the sense that I want to get to the facts, and I think we
11 have to leave Commission counsel go through it all and at
12 the end of the day, when she changes subjects, if she
13 hasn't done that, then I think we have to let Commission
14 counsel go through. I think she's prepared it. She knows
15 what she wants to do with it. So I'll just stay quiet and
16 not interfere.

17 **MS. JONES:** Thank you very much.

18 What I wanted to do is highlight the four
19 changes that were being suggested by Mr. Geoffrey, looking
20 at the draft.

21 Now, let's look at what appears to be the
22 final version.

23 **THE COMMISSIONER:** Okay, but may I say this
24 though. In the future, all right, when we are doing this,
25 if you can just tell me this is just a draft. I'll get to

1 the -- you know.

2 It's just like this morning with the
3 objections, I didn't know where we were going and in the
4 end we were all wrong in the sense that you had the very
5 next time the paper that they were objecting to, and you
6 were going to put it to him.

7 So I guess we'll just wait, keep an open
8 mind until you're finished.

9 **MS. JONES:** Thank you, Mr. Commissioner.
10 I'm looking at Document 118947.

11 Perhaps, Madam Clerk, it would be useful to
12 put the new document on the screen and then we can use the
13 hard copy of the other document that I'm going to be
14 referring to to compare.

15 So if we can put this newest document ---

16 **THE COMMISSIONER:** Thank you.

17 Exhibit 1911 is a document dated January
18 14th, 1994 from Eugene Larocque and who is this to?

19 **MS. JONES:** This -- it's a good question.

20 **THE COMMISSIONER:** It goes, "Dear members of
21 the Presbyterian..."

22 **MS. JONES:** It seems to be the final version
23 of the press release. I can ---

24 **THE COMMISSIONER:** Okay, so is this the
25 final version?

1 **MS. JONES:** It appears to be the final
2 version.

3 **THE COMMISSIONER:** Okay.

4 **--- EXHIBIT NO./PIÈCE No P-1911:**

5 (118947) Final version of the Bishop's
6 Statement - Press Conference - January 14,
7 1994

8 **MS. JONES:** As Bishop Larocque is sharing
9 this outside of the Diocese.

10 And if you could just keep Exhibit 857 as
11 the hard copy; that's the draft version.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **MR. LEDUC:** Yes.

14 **MS. JONES:** Now, if I could please go to
15 page 3 of both versions, and I'm looking at Exhibit 857;
16 I'm looking at Bates page 9024, and in Exhibit 1911 I'm
17 looking at Bates page 6577.

18 **MR. LEDUC:** Yes.

19 **MS. JONES:** I'm sorry; I misstated on
20 Exhibit 857. I'm looking at Bates page 9025.

21 **THE COMMISSIONER:** Okay. We don't have
22 Bates pages on that exhibit.

23 **MS. JONES:** I understand. I'm just doing
24 this for the record.

25 **THE COMMISSIONER:** Okay, but how are you

1 going to help us out?

2 MS. JONES: Because they're both pages 3 ---

3 THE COMMISSIONER: Okay.

4 MS. JONES: --- in both versions.

5 THE COMMISSIONER: Okay.

6 MS. JONES: And one of the items highlighted
7 by Mr. Geoffrey's letter, if you look at the draft version,
8 which is 857, one of the issues was:

9 "Subsequently the complainant,
10 represented by counsel, Sean Adams,
11 agreed to accept compensation."

12 Do you see that in the draft?

13 MR. LEDUC: Yes.

14 MS. JONES: And it was changed in the final
15 version:

16 "Subsequently the complainant agreed to
17 accept compensation."

18 MR. LEDUC: Yes.

19 MS. JONES: So the reference to Sean Adams
20 was ---

21 MR. LEDUC: It was deleted.

22 MS. JONES: --- deleted.

23 MR. LEDUC: Yes.

24 MS. JONES: The next sentence, which was
25 another problem that Mr. Geoffrey had, "During these

1 negotiations all parties are represented by counsel"
2 actually does not appear in the final version.

3 **MR. LEDUC:** Yes.

4 **MS. JONES:** Now, if we go to page 4 of both
5 versions, for the record, in 857 that's Bates page 9026,
6 and on Exhibit 1911 it's Bates page 6578, again the
7 complainant -- the item that Mr. Geoffrey had a problem
8 with:

9 "The complainant did so, having
10 obtained independent legal advice;
11 having retained a solicitor to
12 represent him in this matter."

13 Was changed to:

14 "The complainant did so, having
15 obtained independent legal advice."

16 **MR. LEDUC:** Yes.

17 **MS. JONES:** So it appears that you did
18 change it in response to Mr. Geoffrey's beckoning, shall we
19 say?

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** And the last reference at the
22 bottom of that same page in the draft version, it was:

23 "The Diocese, by this decision, settles
24 its civil dispute where all parties are
25 represented independently by legal

1 counsel."

2 And on the final version it said:

3 "The Diocese, by this decision, settles
4 its civil dispute and does not, as has
5 been implied, pay the complainants to
6 withdraw criminal complaints."

7 So that portion of "where all parties are
8 represented by independent legal counsel" is deleted.

9 **MR. LEDUC:** Yes.

10 **THE COMMISSIONER:** So, Monsieur Leduc, I
11 apologize for jumping the gun on you -- on that one.

12 **MR. LEDUC:** Apology accepted, Mr.
13 Commissioner.

14 **THE COMMISSIONER:** Thank you.

15 **MS. JONES:** I apologize for not getting to
16 it faster, Mr. Commissioner.

17 **THE COMMISSIONER:** M'hm.

18 **MS. JONES:** Now, on -- sorry, just a moment
19 please. If I could please go to your statement; it's
20 Exhibit 1887, and the final page of your statement, 2734.

21 **MR. LEDUC:** Which page please?

22 **MS. JONES:** Twenty-seven thirty-four (2734).
23 It's the last page.

24 **MR. LEDUC:** Yes.

25 **MS. JONES:** On the paragraph starting "I was

1 of course". Just reading that:

2 "I was of course involved in the second
3 press conference wherein I stated
4 publicly on the national media that the
5 settlement was not intended to affect
6 any criminal proceedings. Both the
7 complainants were, and Malcolm
8 MacDonald, were aware of this press
9 release before it was sent out. In
10 particular..."

11 And you have an asterisk, then it goes to
12 the margin in the left-hand side. Madam Clerk, if you
13 could just move over. Yes, please.

14 "In particular I had the press release
15 corrected by Bryce Geoffrey on the eve
16 of the press conference and sent copies
17 by fax to Adams."

18 **MR. LEDUC:** That's correct.

19 **MS. JONES:** And then it continues:

20 "In addition, Malcolm MacDonald was in
21 attendance..."

22 And I presume that means at the press conference.

23 "...and he knew what we were saying and
24 heard me say as much before the
25 national media. I would never have

1 made such statements had I known that
2 the release actually contained terms
3 referring the criminal actions. I
4 relied on Malcolm MacDonald. He of
5 course, as experienced counsel and as a
6 past Crown Attorney, should have known
7 what was required of him in these
8 circumstances. This is no excuse,
9 however, for my own failure to review
10 the release to ensure that it was
11 appropriate under the circumstances."

12 And then you mentioned about Sean Adams
13 giving legal advice at the bottom.

14 The only point that I'm looking at here is
15 that just to confirm that even at the press conference,
16 where the issue concerning the release and undertaking,
17 which is obviously a very contentious point, even at that
18 stage when you were at the press conference on January 14th
19 you still had not read what was in that brown envelope that
20 was delivered to you by Malcolm MacDonald?

21 **MR. LEDUC:** That's correct, because I was
22 certain that it was going to be correct.

23 **THE COMMISSIONER:** Let's take the afternoon
24 break.

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 This hearing will resume at 3:15.

3 --- Upon recessing at 3:00 p.m./

4 L'audience est suspendue à 15h00

5 --- Upon resuming at 3:20 p.m./

6 L'audience est reprise à 15h20

7 **THE REGISTRAR:** Order; all rise. À l'ordre;
8 veuillez vous lever.

9 This hearing is now resumed. Please be
10 seated. Veuillez vous asseoir.

11 **THE COMMISSIONER:** Thank you.

12 **JACQUES LEDUC, Resumed/Sous le même serment:**

13 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.**

14 **JONES (Con't/Suite):**

15 **MS. JONES:** Mr. Leduc, just one more
16 question on this second press release.

17 **MR. LEDUC:** Excuse me, but ---

18 **MS. JONES:** I'm sorry.

19 **MR. LEDUC:** I'm just wondering if I may ---

20 **THE COMMISSIONER:** I'm sorry?

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MS. JONES:** Just a final follow-up question
23 to the second press release. Is it fair to say that if you
24 had not gotten those comments about those four portions in
25 Mr. Geoffrey's letter highlighting his concerns about what

1 he felt should be changed in that press release, which you
2 did change -- but for that letter from Mr. Geoffrey, would
3 that press release have been released in the fashion that
4 it had been initially suggested by you when you sent that
5 draft to Mr. Geoffrey?

6 **THE COMMISSIONER:** Ms. Henein.

7 **MR. HENEIN:** In my respectful submission,
8 that's an unfair question in light of the fact that he sent
9 it for commentary, something that we lawyers normally do.
10 So I don't think that's a fair question to put.

11 **THE COMMISSIONER:** Well, I don't know if
12 it's unfair but it's not very relevant, unless you want to
13 push the issue.

14 **MS. JONES:** No.

15 Now, to follow along chronologically with
16 things, if I could please go to document 715864.

17 **THE REGISTRAR:** Can you repeat that please?

18 **MS. JONES:** Seven one five eight six four
19 (715864).

20 **THE COMMISSIONER:** Thank you.

21 Exhibit 1912 is a letter dated January 19th,
22 1994 to Monsignor Larocque from Mr. Leduc.

23 **--- EXHIBIT NO./PIÈCE NO. P-1912:**

24 (715864) Letter from Jacques Leduc to Eugene
25 LaRocque - January 19, 1994

1 **MS. JONES:** Thank you.

2 It would appear that this is a letter that
3 you sent to Bishop Larocque. I believe that's your
4 signature on the second page?

5 **MR. LEDUC:** Yes.

6 **MS. JONES:** Now, in between the press
7 release of January 14th and the press conference and this
8 particular letter, would it be fair to summarize that you
9 and the Bishop had talked about whether you could continue
10 acting for the Diocese?

11 **MR. LEDUC:** I agree.

12 **MS. JONES:** And this letter that's just been
13 entered as Exhibit 1912 could be classified as a
14 resignation letter on your behalf; that you felt that you
15 could no longer represent the Diocese?

16 **MR. LEDUC:** It's a recommendation that other
17 counsel be retained, yes.

18 **MS. JONES:** Did that suggestion come from
19 you or was that initiated by the Bishop, your client?

20 **MR. LEDUC:** No, that suggestion came from
21 me.

22 **MS. JONES:** And for the sake of
23 completeness, I'll just go to the third press release,
24 Document 101481.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 **THE COMMISSIONER:** Thank you.

2 Exhibit Number 1913 is a document dated
3 January 23rd, 1994, a press statement from Eugene Larocque.

4 **--- EXHIBIT NO./PIÈCE NO. P-1913:**

5 (101481) Press Conference Statement by
6 Eugene Larocque - January 23, 1994

7 **MS. JONES:** May I just clarify just for the
8 record that the Document, 101481, be entered in its
9 entirety which includes Bates page 107032 front?

10 **THE COMMISSIONER:** M'hm.

11 **MS. JONES:** And 107033 front?

12 **THE COMMISSIONER:** Yes, it is.

13 **MS. JONES:** Is that you've got ---

14 **THE COMMISSIONER:** M'hm.

15 **MS. JONES:** --- Madam Clerk? Okay, thank
16 you.

17 There was just a bit of confusion if there
18 was one page or two pages, Mr. Commissioner.

19 **THE COMMISSIONER:** M'hm.

20 **MS. JONES:** Looking at the first page, 7032,
21 this would appear to be the third press release, January
22 23rd, 1994, the third and last of the series, shall we say?

23 **MR. LEDUC:** No, I think it's a statement
24 made by the Bishop at the third -- at the second press
25 conference.

1 **MS. JONES:** Second press conference? Okay,
2 media release, I suppose ---

3 **MR. LEDUC:** Yes.

4 **MS. JONES:** --- maybe is a better way for me
5 to say it; Media statement.

6 **MR. LEDUC:** I just understand that press
7 conferences were if the press is actually present, whereas
8 a press release is a document you send to the press.

9 The first document prepared by the Bishop
10 was, I think, a press release.

11 The second one, where we were present, was a
12 press conference at which documents were given.

13 And the third one, I believe, I recall this
14 would have been the statement read by the Bishop and
15 calling -- calling to mind that we are holding a press
16 conference.

17 **MS. JONES:** I believe at the bottom it
18 actually states ---

19 **MR. LEDUC:** Yes, yes.

20 **MS. JONES:** --- press conference to be held
21 ---

22 **MR. LEDUC:** Yeah, right ---

23 **MS. JONES:** --- at 10:00 a.m. ---

24 **MR. LEDUC:** --- the day before ---

25 **MS. JONES:** --- on the 24th, okay. On the

1 day after, the 24th of January?

2 MR. LEDUC: Yes.

3 MS. JONES: So in this particular statement
4 though, or press conference statement, the middle paragraph
5 states:

6 "I have instructed our newly engaged
7 Diocesan legal counsel to advise the
8 alleged victim that the Diocese did not
9 wish to interfere with his right to
10 proceed criminally and we consider him
11 free to do so in order that we may know
12 the truth of the present situation."

13 MR. LEDUC: That's correct.

14 MS. JONES: So that was basically releasing
15 you of any sort of formal retainer on this issue as of this
16 date?

17 MR. LEDUC: I think so.

18 MS. JONES: Okay.

19 Now, we've spent quite a bit of time on
20 document -- Exhibit Number 1887 and that is the item we
21 call "Statement of Jacques Leduc", the final version being
22 1888, and the typed statement is 10 pages long.

23 Now, at the beginning of my questioning on
24 the whole Silmsier situation, you were asked if you'd opened
25 up a file on this matter and I believe your answer was that

1 you had not opened up a file?

2 **MR. LEDUC:** That I didn't recall having
3 opened one up. Yes, that's right.

4 **MS. JONES:** Is it fair to say there's an
5 awful lot of detail in your statement, be it Exhibit 1887
6 or 1888, with regards to dates, details of what happened on
7 dates, people that you met on those particular dates, the
8 substance of meetings on those dates, that one would
9 postulate that perhaps you had actually kept some notes of
10 some sort?

11 **MR. LEDUC:** I think that's a reasonable
12 assumption, but I'm telling you I don't recall having taken
13 any notes or having kept any notes or having opened a file.

14 **MS. JONES:** So are you saying that it's
15 possible that you had made notes?

16 **MR. LEDUC:** Yes.

17 **MS. JONES:** And if you had made notes, what
18 would you have done with them?

19 **MR. LEDUC:** I would have put them in the
20 file if I had made notes, yes.

21 **MS. JONES:** If you had your notes?

22 **THE COMMISSIONER:** If he had made notes, he
23 said.

24 **MS. JONES:** And if I could please refer to
25 Document 738135.

1 (SHORT PAUSE/COURTE PAUSE)

2 THE COMMISSIONER: Thank you.

3 Exhibit Number 1914 is an Affidavit of
4 Documents in an Ontario court, general division, civil
5 action, Court File Number 90597/95A.

6 --- EXHIBIT NO./PIÈCE NO. P-1914:

7 (738135) Jacques Leduc's Affidavit of
8 Documents

9 MS. JONES: Thank you.

10 It would appear that on the face of this
11 document -- on the first page -- this appears to be an
12 Affidavit of Documents of yourself. Is that a fair
13 assessment?

14 MR. LEDUC: Yes.

15 MS. JONES: And there are two documents in
16 particular I'd like to refer you to. The first document is
17 on Bates page 7165219.

18 (SHORT PAUSE/COURTE PAUSE)

19 MR. LEDUC: Yes.

20 MS. JONES: And it would appear that the
21 date on this particular document is January 31st, 1994, and
22 it would appear that this is a bill to the local Diocese
23 from yourself, or certainly from your firm, and the re:
24 line is "Settlement".

25 Is it fair to say that this is the bill or

1 invoice that you sent the Diocese with regards to your fees
2 accumulated in dealing with the David Silmser settlement?

3 MR. LEDUC: I have no reason to believe it
4 is not. It's certainly my account. Yes, I would agree.

5 MS. JONES: Yes?

6 MR. LEDUC: That's my account ---

7 MS. JONES: Thank you.

8 MR. LEDUC: --- yes.

9 MS. JONES: And here you have "To all
10 professional services rendered" and you've stated here, "45
11 hours times \$150 per hour" and there's another sum there as
12 well, but the total amount owing is \$6,860.84 The 45 hours
13 times 150 is \$6,750.

14 Now, if I could please refer you to Document
15 -- I'm sorry, Bates page 5253 of the same ---

16 MR. LEDUC: I don't have it. It ends I
17 believe at 5241.

18 THE COMMISSIONER: Yes.

19 MS. JONES: I want Bates page 5235.

20 THE COMMISSIONER: Five-two-three-five
21 (5235)?

22 MR. LEDUC: Three-five (35), okay.

23 MS. JONES: Yes, please.

24 THE COMMISSIONER: Okay.

25 MS. JONES: I'm sorry, I misstated.

1 **MR. LEDUC:** Yes.

2 **MS. JONES:** Now, again, this is contained
3 within your Affidavit of Documents. Are you able to
4 identify this document, sir?

5 **MR. LEDUC:** Yes, these are my notes with
6 respect to the account.

7 **MS. JONES:** When you say "the account",
8 which account do you mean?

9 **MR. LEDUC:** Well, the account you have just
10 referred to that was submitted to the Diocese.

11 **MS. JONES:** Okay. And it seems to be the
12 same account because at the very bottom it says "45 hours -
13 6,750 plus GST", and that seems to be the exact amount
14 that's on this bill that we just ---

15 **MR. LEDUC:** Yes.

16 **MS. JONES:** --- just looked at.

17 **MR. LEDUC:** Yes.

18 **MS. JONES:** And looking at the items listed
19 here, it seems to be on the Silmsler settlement as well.

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** Now, the very first words, and
22 this is your handwriting, so hopefully you can help me out
23 here. The very first line is:

24 "No specific account in file."

25 **MR. LEDUC:** That's correct.

1 **MS. JONES:** Can one conclude from that that
2 there actually was a file?

3 **MR. LEDUC:** There may have been a file
4 folder, if you refer -- yes. There may have been, yes.

5 **MS. JONES:** So there may have been a file
6 then.

7 **MR. LEDUC:** Yes.

8 **MS. JONES:** And the first entry is December
9 1992 and then you have, "Advised about the complainant
10 procedure" - I think - "to follow." I'm not sure about
11 that. Then it says "reference to CAS".

12 **MR. LEDUC:** Well, it says, "Advised re
13 complaint," then it says "insurance".

14 **MS. JONES:** Insurance, okay.

15 **MR. LEDUC:** And then it says "procedure to
16 follow" and then ---

17 **THE COMMISSIONER:** What are the numbers?

18 **MR. LEDUC:** The numbers are probably the
19 hours that I'm involved (inaudible) the hours. The
20 reference to CAS is next. Would you like me to go on or --
21 -

22 **MS. JONES:** So -- no, no, just stopping
23 there then.

24 In December 1992, there had been a reference
25 then to CAS?

1 **MR. LEDUC:** I don't recall it. Those are my
2 notes that were made probably in January of '94, so I --
3 maybe it dealt -- it referred to the CAS investigation in
4 October/November.

5 **MS. JONES:** Ninety-three ('93)?

6 **MR. LEDUC:** Ninety-three ('93).

7 **MS. JONES:** Is it possible there actually
8 was some sort of reference to CAS then in December of 1992?

9 **MR. LEDUC:** I can't -- I don't remember.

10 **MS. JONES:** The reason I ask that is because
11 a little later down on the same bill, there actually is CAS
12 and there is a number 6 beside it. So that would ---

13 **MR. LEDUC:** Yes.

14 **MS. JONES:** --- probably be what we talked
15 about at length today.

16 **MR. LEDUC:** Yes.

17 **MS. JONES:** So there seems to be a separate
18 entry on CAS and it seems to be very clearly under December
19 of 1992.

20 **MR. LEDUC:** I agree with you that that's
21 what it says. I can't explain to you what it means but
22 that's clearly what it says.

23 **MS. JONES:** And then in February of 1992,
24 you may recall -- it actually should likely be '93, not
25 '92.

1 MR. LEDUC: Yes.

2 MS. JONES: You may recall the meeting with
3 Mr. Silmsler is February 9th, 1993 and you talked about at
4 one point, "Prepare for interview, one hour". It's likely
5 the Silmsler interview?

6 MR. LEDUC: I would think so.

7 MS. JONES: And then you have, I believe,
8 "Interview - Report for Bishop".

9 MR. LEDUC: Or "to Bishop", I would think.

10 MS. JONES: And the number 4.

11 MR. LEDUC: Yes.

12 MS. JONES: So would you judge the interview
13 with Mr. Silmsler to be about half an hour? That's what
14 Monsignor McDougald had said.

15 MR. LEDUC: I think that's a fair
16 assessment.

17 MS. JONES: A fair assessment. So if it's
18 about half an hour then, it would appear that you spent
19 another three and a half hours after the interview either
20 in dialogue with the committee or in dialogue with the
21 Bishop. Is that a fair assessment?

22 MR. LEDUC: No. You should not be misled by
23 the fact that I put numbers referring to hours next to
24 these various tasks. What I have often done is said, "This
25 is probably worth \$5,000." At 150 I probably put in so

1 many hours and then I attribute the hours to the bill. I
2 would not want to mislead you by thinking that because
3 there is 10 or 3 that that's the amount of time I spent.
4 It would be a -- it could be a guesstimate or it could be a
5 way of calculating my account.

6 So I don't want to mislead you to think that
7 just because there's a number there that that represents
8 the amount of time I spent. It could be a guesstimate.

9 **MS. JONES:** Is it your evidence that you
10 believe that you got this bill organized in January 1994
11 just before billing it out on January 31st?

12 **MR. LEDUC:** I think so, because that would
13 have been when I transferred the file to the law firm of
14 Scott & Aylen, I believe, yes.

15 **MS. JONES:** The very next entry is March to
16 August and there's a few things listed there under March to
17 August. Do you see that, sir?

18 **MR. LEDUC:** Yes.

19 **MS. JONES:** Now, one of those items, four
20 down in fact, says "Malcolm MacDonald 3".

21 **MR. LEDUC:** M'hm.

22 **MS. JONES:** Which looks like Malcolm
23 MacDonald three hours. Is that fair?

24 **MR. LEDUC:** Yes, but as I said, it's not
25 necessarily three and in August there would have been some

1 time spent with Malcolm MacDonald.

2 MS. JONES: Okay. If I remember your
3 testimony correctly, it was your evidence that you hadn't
4 actually had any contact with Mr. MacDonald between March
5 and August.

6 MR. LEDUC: In August I did, at the end of
7 August.

8 MS. JONES: In August you did?

9 MR. LEDUC: Of course, yes.

10 MS. JONES: Just a moment, please.

11 THE COMMISSIONER: Can you tell me what that
12 last sentence is after "Malcolm MacDonald 3"? Could you
13 read that for me?

14 MR. LEDUC: "Settlement discussions with
15 Malcolm, Bishop, McDougald, CAS, Denis
16 and..."

17 I'm not sure what the next one would be. It
18 would be Denis ---

19 THE COMMISSIONER: It's okay. Probably "V"
20 for Vaillancourt?

21 MR. LEDUC: Yes, but I can't read -- I can't
22 make out the rest of it.

23 THE COMMISSIONER: M'hm.

24 MS. JONES: And the very last entry there,
25 settlement -- I think it's "Settlement Diocese".

1 **MR. LEDUC:** No, it's "Settlement
2 discussion".

3 **MS. JONES:** Discussion; okay.

4 **MR. LEDUC:** "...discussion with Malcolm,
5 Bishop, McDougald..."

6 **MS. JONES:** McDougald; okay.

7 **MR. LEDUC:** Yes.

8 **MS. JONES:** And that's 10 hours it looks
9 like. Again, I know it's an estimate.

10 **MR. LEDUC:** Ten is there. Ten is there,
11 yes.

12 **MS. JONES:** Okay. Is that your normal
13 practice, sir, to determine your billing hours just before
14 you send an invoice rather than as you're progressing along
15 with the file?

16 **MR. LEDUC:** The answer to that is no, but I
17 am sure you've also heard it said often that the art --
18 that billing clients is an art. And I will tell you
19 clearly again not to believe that these numbers referring
20 to hours relate to actual time spent. That would be not
21 correct and that I had different ways of looking at a file
22 and deciding how much to submit to the client. And one of
23 my previous mentors would say, "Look at the thickness of
24 the file and weigh it and come up with a number".

25 I mean, it's sometimes an art, not as much

1 today; certainly not as much today but in -- in the last
2 century, yes. Now, we are talking about the last century.

3 **THE COMMISSIONER:** Well, I don't know that
4 your knowledge extends to a century.

5 **MR. LEDUC:** Nineteen ninety-three (1993) was
6 the last century.

7 **THE COMMISSIONER:** Ah, okay.

8 **MS. JONES:** Now, the last -- there's just
9 one more area of questioning that I wish to explore with
10 you and you're aware of this area of questioning. And I
11 just want to summarize the criminal charges that were
12 levied against you and I'm going to go very briefly through
13 the chronology as we know it as facts. And please, if I
14 misstate any facts, please correct me.

15 **MS. HENEIN:** My understanding in
16 correspondence, and if I need to ask for a break in respect
17 of this master indulgence that Mr. Leduc was being called
18 as part of the institutional response.

19 **THE COMMISSIONER:** Yes.

20 **MS. HENEIN:** That was going to be the limit
21 of the questions and that was going to be the focus. We've
22 had extensive discussions and there's been correspondence
23 amongst counsel about this issue. So I'm not sure where my
24 friend is going but I want to rise now and if we need to
25 take a break to address this, I'm going to ask your

1 indulgence to do so.

2 **THE COMMISSIONER:** Okay.

3 **MS. JONES:** Essentially, as you are aware,
4 I'm going to canvass the facts of your experience with the
5 criminal justice system as a defendant, not as a lawyer.
6 And then the only questions I have at the end of it was
7 what your experience with respect to various aspects of the
8 criminal justice system. It is not to ask you anything
9 direct about the facts of the case or about facts of the
10 actual allegations against you.

11 Are you understanding that, sir?

12 **MR. LEDUC:** I understand your question.

13 **MS. JONES:** Okay.

14 **MS. HENEIN:** I'm going to ask your
15 indulgence. It's certainly not consistent with what my
16 understanding is and I need to have a discussion with my
17 friend.

18 **THE COMMISSIONER:** Okay. I'll leave it.
19 We'll take a break but at the end of all of the witnesses,
20 we have asked them questions about -- and whether they
21 wished to comment or not as to how all of this has impacted
22 on them and their family and that kind of thing.

23 So if that's what you're referring to, let
24 me just say we have asked that of every single witness.

25 **MS. HENEIN:** And if my friend wants to ask

1 that question, ask that question. We don't need a 30-
2 minute lead up recounting everything that occurred to ask
3 Mr. Leduc the question that you asked, Mr. Commissioner, in
4 about 30 seconds.

5 So if that's where my friend is going, then
6 ask that question and invite him to comment on it, but I
7 don't perceive that as what my friend is doing.

8 So perhaps the best thing to do is to allow
9 me a few moments to have a discussion with her.

10 **THE COMMISSIONER:** All right. Thank you.

11 **THE REGISTRAR:** Order; all rise. À l'ordre;
12 veuillez vous lever.

13 This hearing will resume at 3:55 p.m.

14 --- Upon recessing at 3:44 p.m. /

15 L'audience est suspendue à 15h44

16 --- Upon resuming at 3:57 p.m. /

17 L'audience est reprise à 15h57

18 **THE REGISTRAR:** Order; all rise. À l'ordre;
19 veuillez vous lever.

20 This hearing is now resumed. Please be
21 seated. Veuillez vous asseoir.

22 **JACQUES LEDUC, Resumed/Sous le même serment:**

23 --- **EXAMINATION IN CHIEF BY/INTERROGATOIRE EN CHEF PAR MS.**

24 **JONES (cont'd/suite):**

25 **THE COMMISSIONER:** Thank you.

1 So we've resolved issues or do you wish me
2 to hear argument on the questions?

3 **MS. JONES:** It's resolved as far as I'm
4 concerned. I'll refer to Ms. Henein.

5 **MS. HENEIN:** I think it's resolved, if not -
6 --

7 **THE COMMISSIONER:** All right. I'll hear
8 from you, sure. Okay.

9 **MS. JONES:** I'm going to spend an extremely
10 brief period of time just getting the factual context and
11 overview of your experience in the criminal justice system
12 as a defendant rather than as a lawyer in other
13 proceedings.

14 And I understand that on June 22nd, 1998 and
15 July 17th, 1998, between those two dates, you were arrested
16 and charged with four counts of sexual assault, four counts
17 of sexual exploitation, two counts of obtaining sexual
18 services for consideration, one count of sexual
19 interference and one count of invitation to sexual
20 touching.

21 There were three male complainants and these
22 complaints would be considered historical sexual assaults
23 on them when they were below the age of consent.

24 On December 2nd, 1999, there was a
25 preliminary inquiry on these matters and there was a

1 committal to trial on 13 counts and a discharge on three
2 counts.

3 On January 22nd, 2001, a jury trial commenced
4 before Justice McKinnon.

5 On March 1st, 2001, Justice McKinnon was
6 recused and Justice Chadwick ordered a stay of proceedings
7 due to a breach of Section 7 rights under the Charter of
8 Rights and Freedoms.

9 On July 24th, 2003, the Ontario Court of
10 Appeal overturned the stay of proceedings decision and
11 ordered a new trial to be held as soon as possible.

12 On October 4th, 2004, the trial was scheduled
13 to begin and it began with pre-trial motions on that day.

14 On October 18th, 2004, Justice Plantana
15 ordered that all of the charges be stayed as your 11(b)
16 rights under the Charter, which is the delay provision, had
17 been breached.

18 So my next few questions deal solely of your
19 experience as a defendant within the criminal justice
20 system.

21 **THE COMMISSIONER:** And Mr. Kozloff is
22 rising.

23 **MR. KOZLOFF:** That may not be the last time,
24 Commissioner.

25 **THE COMMISSIONER:** Yes.

1 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. KOZLOFF:

2 MR. KOZLOFF: Good afternoon, sir.

3 THE COMMISSIONER: Good afternoon, sir.

4 MR. KOZLOFF: One fact which was put to Mr.
5 Leduc in that lead-up is incorrect. It was not a jury
6 trial.

7 THE COMMISSIONER: Okay.

8 MR. KOZLOFF: It was a non-jury trial in
9 front of Justice McKinnon.

10 THE COMMISSIONER: Thank you.

11 MS. JONES: It was initially elected a jury
12 trial, but my friend is correct.

13 THE COMMISSIONER: Okay.

14 MS. JONES: Now, during your time in the
15 criminal justice system as a defendant, you had contact
16 with various institutions, and I'm just going to name each
17 one individually and I'm going to be asking you if you
18 would comment or if you have any comments with your
19 treatment by these institutions.

20 THE COMMISSIONER: Just a second.

21 MR. KOZLOFF: Now that I know where my
22 friend is going, I will state my objection.

23 THE COMMISSIONER: Yes.

24 MR. KOZLOFF: You may as well sit because
25 I'm going to be a while.

1 Sir, during the course of this Inquiry ---

2 **THE COMMISSIONER:** M'hm.

3 **MR. KOZLOFF:** --- there have been
4 discussions with respect to the calling of various forms of
5 evidence.

6 **THE COMMISSIONER:** M'hm.

7 **MR. KOZLOFF:** One being with respect to the
8 calling of evidence in relation to alleged perpetrators.

9 **THE COMMISSIONER:** M'hm.

10 **MR. KOZLOFF:** It was my understanding, sir,
11 that -- and it had been indicated to us, I thought quite
12 clearly, that no alleged perpetrators were going to be
13 called as witnesses *qua* alleged perpetrators.

14 There were some discussions about dealing
15 with alleged perpetrators through overviews of documentary
16 evidence.

17 **THE COMMISSIONER:** M'hm.

18 **MR. KOZLOFF:** In fact, one alleged
19 perpetrator has been the subject of a number of efforts at
20 arriving at an acceptable overview of documentary evidence.

21 As far as I am aware, we have not been
22 provided with an overview of documentary evidence in
23 relation to Mr. Leduc.

24 Until last week, it was our understanding
25 that Mr. Leduc was being called in his capacity as a

1 Diocese institutional response witness.

2 **THE COMMISSIONER:** M'hm.

3 **MR. KOZLOFF:** We were provided with an AE;
4 that is, his Anticipated Evidence.

5 **THE COMMISSIONER:** M'hm.

6 **MR. KOZLOFF:** There is nothing in his AE
7 which reflects in any way, shape or form an intention on
8 the part of Commission counsel or any other party to
9 address this area. It has to do -- the AE has to do with
10 Mr. Leduc in his capacity as a counsel to the Diocese in
11 various circumstances, most particularly Deslauriers and
12 Silmser.

13 Last week, for the first time, we were
14 advised that Commission counsel would address questions to
15 Mr. Leduc in this regard.

16 Mr. Wallace, on behalf of the Ontario
17 Provincial Police Association, wrote an email to Mr.
18 Engelmann asking for clarification. I joined and wrote my
19 own email supporting Mr. Wallace's position, indicating
20 that this was an area which is inappropriate to address
21 with Mr. Leduc because he is being called in his capacity,
22 as we were led to believe, as a Diocese institutional
23 response witness.

24 **THE COMMISSIONER:** M'hm.

25 **MR. KOZLOFF:** We have never had an

1 opportunity to address this issue by way of Section 38
2 Notice, nor were we given an opportunity to turn our minds
3 to that.

4 In my respectful submission, this is opening
5 the wrong door.

6 **THE COMMISSIONER:** M'hm.

7 **MR. KOZLOFF:** I've had discussions with Ms.
8 Robitaille, who is one of the counsel for Mr. Leduc.

9 **THE COMMISSIONER:** M'hm.

10 **MR. KOZLOFF:** I have some idea of what he's
11 going to say if he's asked the question. I still don't
12 think it's appropriate to go there or to open it up to any
13 other counsel for any other party to address the area with
14 Mr. Leduc.

15 Those are my respectful submissions.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Wallace, do you want to --- whoa, whoa.

18 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. WALLACE

19 **MR. WALLACE:** Just to simply state it, I
20 support that position 100 percent.

21 **THE COMMISSIONER:** Okay.

22 Anybody else? Mr. Horn?

23 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. HORN

24 **MR. HORN:** The position of the Coalition for
25 Action has always been that the perpetrators are the ones

1 that should be brought forth and that our position has been
2 that it was the victims who have been the ones that have
3 been put into the position where they're the ones that have
4 been cross-examined, have been the ones that have been put
5 on the spot.

6 And the whole purpose of the Inquiry, as far
7 as we're concerned, was for the purposes of getting down to
8 the real cause of what has happened and their perpetrators.
9 Not only Mr. Leduc but all the perpetrators should have
10 been brought here.

11 And that has always been our position and we
12 have never changed that.

13 **THE COMMISSIONER:** Well, I'll be guided by
14 the mandate, Mr. Horn. If you think that you're going to
15 cross-examine this witness about his -- the allegations or
16 anything like that, well, you're -- you'll have to take
17 that to another court.

18 Anybody else?

19 ---**SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE**

20 **MR. LEE:** Mr. Commissioner, responding to
21 Mr. Kozloff, it's been, in my mind anyways, clear from the
22 start of this Inquiry that we may hear evidence from
23 alleged perpetrators. They've been very publicly invited
24 on many occasions to attend.

25 We've had -- Kevin Maloney recently

1 testified, who is the subject of allegations, and he
2 discussed the effects on him.

3 We've had an Overview of Documentary
4 Evidence filed relating to Malcolm MacDonald who had
5 allegations made against him.

6 We've had witnesses here testify about
7 allegations they made in the past about Malcolm MacDonald.

8 There are obvious limits to what Mr. Leduc
9 can be asked, very obvious limits to what he can be asked.
10 Those limits do not include, however, whether -- what Ms.
11 Jones proposes to ask him, and it's my position that ---

12 **THE COMMISSIONER:** Just a minute.

13 **MR. LEE:** Let me rephrase that.

14 What she wants to ask him is well within the
15 jurisdiction here ---

16 **THE COMMISSIONER:** Okay.

17 **MR. LEE:** --- and the mandate of this
18 Inquiry. It seems to me that it's rather important that
19 Mr. Leduc be asked the questions that Ms. Jones wants to
20 put to him, and he may well refuse comment.

21 **THE COMMISSIONER:** M'hm.

22 **MR. LEE:** He may well take the opportunity
23 and say that he does have issues of institutional
24 responses, but I think he needs to be publicly given the
25 opportunity in this forum to make that decision and to

1 communicate it to you, and I suppose if he declines comment
2 and tells us that he does not want to answer those
3 questions, then you have a decision to make on whether or
4 not you are going to allow further questions to be put to
5 him.

6 As an example, he obviously had dealings
7 with the Ministry of the Attorney General and Crown
8 Attorneys. He may say he's not interested in making
9 comment on whether or not he has any concerns about how he
10 was treated, at which point you'll need to decide if a
11 party goes back at that in cross and says, "Well, you know,
12 I understand you don't wish to make a comment, but I have
13 specific questions on that prosecution that I want to put
14 to you". You then may be in a position to make a decision
15 on whether or not he must answer those questions or whether
16 or not he'll be permitted to stick with the "no comment".

17 But I don't think we are at that point yet.
18 We are at the point now where we are deciding whether or
19 not Ms. Jones can put the question and whether or not Mr.
20 Leduc is going to be given an public opportunity to take
21 the opportunity or not. And I say he needs to be asked
22 that question.

23 **THE COMMISSIONER:** Thank you.

24 Anyone else?

25 Ms. Jones -- sorry, Ms. Henein.

1 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. HENEIN:

2 MS. HENEIN: Only this. I'll raise it at
3 the appropriate time, but I don't want you to take my
4 silence as agreement with Mr. Mack's (sic) comments and
5 what he is ---

6 THE COMMISSIONER: With Mr. who?

7 MS. HENEIN: Dallas' comments.

8 THE COMMISSIONER: Yes, Mr. Lee.

9 MR. HENEIN: And his anticipated cross-
10 examination.

11 So I have now spoken to my friend about what
12 questions she proposes to put. You did not see me rise,
13 but I don't want you to take my silence as agreement with
14 the comments of my friend a moment ago.

15 THE COMMISSIONER: Oh, no. You can ask Mr.
16 Manderville. He's got this disclaimer he can send you that
17 I'm quite familiar with.

18 Ms. Jones, can you tell me what the
19 questions are going to be and then I'll rule on this.

20 MS. JONES: Yes.

21 THE COMMISSIONER: I hope they're short.

22 MS. JONES: The questions would apply
23 equally to the Cornwall Police Service, to the OPP, and to
24 the Ministry of the Attorney General as far as Crown
25 Attorneys are concerned.

1 And, essentially, the questions would be,
2 "During your time with the criminal justice system with
3 these institutions, do you have any criticisms or comments
4 about the way you were treated. Were you treated fairly by
5 this institution during the process?"

6 And those are basically the questions I
7 would be asking about each of the three institutions.

8 **THE COMMISSIONER:** Okay.
9 Mr. Manderville?

10 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANDERVILLE:**

11 **MR. MANDERVILLE:** No big surprise and this
12 is not for a disclaimer purpose.

13 **THE COMMISSIONER:** No.

14 **MR. MANDERVILLE:** I'm surprised to hear Ms.
15 Jones make reference to Mr. Leduc's dealings with my client
16 beyond those to which he's testified in the past couple of
17 days.

18 **THE COMMISSIONER:** M'hm.

19 **MR. MANDERVILLE:** Mr. Kozloff did not
20 mention this, but I also weighed-in with a letter to Mr.
21 Engelmann last week outlining some of our concerns,
22 foremost among them being the provisions that this
23 Commission has adhered to from the outset concerning Rule
24 38.

25 **THE COMMISSIONER:** M'hm.

1 **MR. MANDERVILLE:** And if my friend is going
2 to put questions to Mr. Leduc that elicits evidence from
3 him concerning his dealings with my client outside the
4 Deslauriers and the Silmsler matters ---

5 **THE COMMISSIONER:** Yes?

6 **MR. MANDERVILLE:** Then I will be saying,
7 "Gee, I wish I had known this because I might have a host
8 of documents to give notice on that deal with these
9 issues". And I think we should be cognizant of that. That
10 opens, in my mind, a potential can of worms that need not
11 be opened.

12 **THE COMMISSIONER:** M'hm. Okay.

13 And what about the question about the impact
14 that all of this has had on him and his family. Is that
15 something that you object to?

16 **MR. MANDERVILLE:** As a general principle?
17 No.

18 **THE COMMISSIONER:** Right.

19 **MR. MANDERVILLE:** We have done that with ---

20 **THE COMMISSIONER:** Yes.

21 **MR. MANDERVILLE:** --- virtually every
22 witness and my time to cross-examine hasn't come yet.

23 **THE COMMISSIONER:** M'hm. Nobody has had
24 time to cross-examine yet. Any last comment?

25 **MS. JONES:** No, only to add to what's

1 already been said, that these are similar comments that
2 were put to victims and alleged victims earlier in the
3 Inquiry. And so these questions are something that has
4 been a natural consequence of some sort of victims, and
5 they are quite closely related possibly to the impact
6 situation.

7 **THE COMMISSIONER:** And so I guess people are
8 basically saying, "Look, we don't know what he's going to
9 say and this might open a can of worms". So is there a
10 reason why this wasn't canvassed with the witness before or
11 was it?

12 **MS. JONES:** Just a moment, please.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MS. JONES:** I just wanted to confirm because
15 I actually was not present during the interview.

16 **THE COMMISSIONER:** M'hm.

17 **MS. JONES:** But I confirmed with my learned
18 colleague to my left and Ms. Henein to my right, and these
19 questions were put to him in the interview and he declined
20 to comment at the interview.

21 So there was nothing to alert the parties to
22 at this time when the anticipated evidence was disclosed.

23 **THE COMMISSIONER:** Ms. Henein, you know
24 generally speaking what he's going to say about any
25 comments with respect to institutions?

1 MS. HENEIN: Yes.

2 THE COMMISSIONER: Okay. And ---

3 MS. HENEIN: Can I anticipate just so we
4 could cut to it, please?

5 THE COMMISSIONER: Let's go for it, yes.

6 MS. HENEIN: Great -- is that he will
7 decline to comment on anything. So ---

8 THE COMMISSIONER: Thank you very much.

9 MS. HENEIN: --- that satisfies everybody in
10 the room and my friends ---

11 THE COMMISSIONER: Thank you.

12 MS. HENEIN: And we can short-circuit the
13 questions and get to cross-examinations.

14 THE COMMISSIONER: Thank you very much.

15 JACQUES LEDUC, Resumed/Sous le même serment :

16 ---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.
17 JONES (CONT'D/SUITE)

18 MS. JONES: So during the time that you had
19 as a defendant in the criminal justice system, you had
20 contact with the Cornwall Police Service, and I'm wondering
21 first of all, do you have any criticisms about the way you
22 were treated during this process by Cornwall Police? And
23 the second question is were you treated fairly by the
24 Cornwall Police?

25 MR. LEDUC: As indicated to your colleague

1 during my interview, I have decided not to make any
2 comments or recommendations in relations to these matters.

3 It is my -- well, it is my understanding
4 that there may be another opportunity in Phase 2, in a more
5 appropriate forum, to discuss other matters or issues that
6 may -- not matters or issues, but the way I have -- what I
7 would like to say in that forum.

8 **THE COMMISSIONER:** Well, let's just be very
9 careful now.

10 With respect to Phase 2, the non-evidentiary
11 proceedings, you are going to be -- people who want to go
12 there will not be going there to reveal new allegations or
13 make accusations, but more to the point, to speak about
14 their experience and how it has affected them.

15 **MR. LEDUC:** That's exactly my understanding
16 is that my family and I who have been through this ---

17 **THE COMMISSIONER:** Right.

18 **MR. LEDUC:** --- will be given the
19 opportunity to make those ---

20 **THE COMMISSIONER:** If you so wish,
21 suggestions.

22 Okay, so, bottom line, sir, just to -- and
23 I'm sorry, but just -- is it your position that you don't
24 want to comment about the response of any institution in
25 your case as you went through as a defendant in this

1 matter?

2 MR. LEDUC: That's correct.

3 THE COMMISSIONER: All right. That's fine.

4 Now, my next question is and you're free --
5 it's an invitation -- do you wish to make any comments on
6 how you and your family have been affected by your
7 involvement in all of this?

8 MR. LEDUC: Not -- no.

9 THE COMMISSIONER: Thank you.

10 MS. JONES: Thank you very much.

11 I just want to be clear though, the
12 institutions we're referring to, in addition to the
13 Cornwall Police Society (sic), is the Ontario Provincial
14 Police and the Ministry of the Attorney General?

15 THE COMMISSIONER: Any institutions that
16 were involved here. You're declining comment. Is that
17 right?

18 MR. LEDUC: That's correct.

19 THE COMMISSIONER: Thank you.

20 MS. JONES: Thank you. Those are my
21 questions.

22 THE COMMISSIONER: Thank you.

23 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

24 DALEY:

25 MS. DALEY: Good afternoon, sir.

1 **MR. LEDUC:** Good afternoon.

2 **THE COMMISSIONER:** Yes?

3 **MS. HENEIN:** Can I just address timing, and
4 I know you are very cognizant of it.

5 We had -- I had anticipated in discussions
6 with my friend that we would have been completed as of
7 today. I have scheduling limitations. I have cleared all
8 of tomorrow, but I just wanted to bring that to your
9 attention and see whether or not you would entertain at all
10 sitting either a little bit later or commencing a little
11 bit earlier tomorrow just to ensure that we complete Mr.
12 Leduc by tomorrow.

13 **THE COMMISSIONER:** Well, I can tell you
14 we're sitting later and that's why I'm going to ask Ms.
15 Daley how long she's going to be so we can plan some
16 breaks.

17 **MR. HENEIN:** Thank you.

18 **THE COMMISSIONER:** And then -- so I plan to
19 sit later, but I'm not coming in earlier than 9:30 tomorrow
20 morning.

21 **MR. HENEIN:** Yes, thank you.

22 **THE COMMISSIONER:** Any idea? Just a
23 ballpark.

24 **MS. DALEY:** I may be up to two hours.

25 **THE COMMISSIONER:** Okay. So what I propose

1 to do is we'll go for another hour, take a break, and then
2 we'll maybe go for another hour. We'll see how we do.

3 **MS. DALEY:** That's fine.

4 **THE COMMISSIONER:** Subject to, of course,
5 are you content that we go on a little bit?

6 **MR. LEDUC:** Absolutely.

7 **THE COMMISSIONER:** M'hm.

8 **MS. DALEY:** Do you have plenty of water,
9 sir? You have everything you need there?

10 **MR. LEDUC:** I'm fine, thank you.

11 **MS. DALEY:** All right.

12 Mr. Leduc, my name is Helen Daley. I'm
13 counsel to the Citizens for Community Renewal, and that is
14 a local group of citizens who have standing at the Inquiry,
15 their principal interest being in the reform of
16 institutions.

17 I have a number of areas that I'd like to
18 canvass, and the first one is your professional
19 relationship with the Church and the Bishop. All right?

20 And, sir, I take from your testimony that
21 you acted for the Church here from time to time over a 15-
22 year period, and those would be the years 1978 up to 1994?

23 **MR. LEDUC:** No, I've also acted for the
24 Diocese up to and including June of 2007.

25 **MS. DALEY:** All right.

1 But I must have misunderstood because I
2 thought that you ceased acting for them in 1994, but you
3 continued to act after '94?

4 **MR. LEDUC:** On some matters, yes.

5 **MS. DALEY:** All right.

6 So your professional relationship then
7 continues?

8 **MR. LEDUC:** It did, yes.

9 **MS. DALEY:** Until you left private practice

10 ---

11 **MR. LEDUC:** That's correct.

12 **MS. DALEY:** --- for your present employment?

13 **MR. LEDUC:** That's correct.

14 **MS. DALEY:** Thank you.

15 And you made it very clear that you did not
16 function as a general counsel; you functioned on a specific
17 retainer basis.

18 To your knowledge, sir, did the Diocese in
19 fact have a general counsel or anyone who performed that
20 service?

21 **MR. LEDUC:** Not to my knowledge.

22 **MS. DALEY:** And you also told us that it was
23 not your role, as you saw it, to ensure that the Diocese
24 complied with its own regulations or with the law of the
25 land generally.

1 To your knowledge, sir, did the Diocese have
2 a compliance officer or someone who did perform that
3 function?

4 **MR. LEDUC:** I don't know.

5 **MS. DALEY:** And just to help us better
6 appreciate the nature of your work for the Diocese up to
7 1994, because that's the timeframe that interests us, can
8 you tell us how many -- how often on an annual basis you
9 would be retained by the Diocese to do work for them?

10 **MR. LEDUC:** I couldn't answer that question.

11 **MS. DALEY:** And would it vary over the
12 years? Was it many times per year?

13 **MR. LEDUC:** It would depend on whether or
14 not they were buying or selling property, whether there was
15 financing to be done, whether there were employment issues,
16 construction issues. Like any other client, it depended on
17 their need.

18 **MS. DALEY:** All right. Understood.

19 Are you able to help us understand at all,
20 on a ballpark basis, what percentage of your professional
21 income this client would represent?

22 **MR. LEDUC:** It would depend on the year.

23 **MS. DALEY:** Well, is it possible there were
24 years in which this client represented a substantial
25 percentage of your income?

1 **MR. LEDUC:** No. No.

2 **MS. DALEY:** No?

3 **MR. LEDUC:** A lot of my work for the Diocese
4 was done on a *pro bono* basis and I would suggest to you
5 that the majority of my work for the Diocese was done on a
6 *pro bono* basis.

7 **MS. DALEY:** That's very helpful.

8 So did you work *pro bono* for them when you
9 were involved in transactions also?

10 **MR. LEDUC:** Well, if you look at the quantum
11 of the fee I was charging, there was a substantial
12 reduction, yes.

13 **MS. DALEY:** All right.

14 So in some instances I guess what that
15 suggests is that you did charge a fee, but it was not your
16 customary fee; it was reduced in consideration for that
17 client?

18 **MR. LEDUC:** That and which would have been
19 the same consideration for other frequent clients or larger
20 clients that I had, yes.

21 **MS. DALEY:** All right.

22 Now, when you were retained by the Diocese,
23 were there any special or extra obligations that were
24 imposed upon you?

25 And let me tell you what I mean by that.

1 There was some conversation -- some testimony you gave
2 Monday to my friend about an oath of secrecy, if you
3 recollect that.

4 I'm just wondering whether when you were
5 retained by the Diocese, in addition to your obligations to
6 maintain confidence because you are a solicitor and they're
7 a client, did they ever impose additional constraints?

8 **MR. LEDUC:** No, never. And I would add to
9 that, that it is my understanding that I am constrained as
10 a lawyer by the rule of privilege, the rule of
11 confidentiality and the rules of professional conduct, and
12 those are essentially the -- my lines of conduct.

13 **MS. DALEY:** All right.

14 I guess what I'm trying to understand from
15 you, the evidence you've given about, in some instances,
16 not keeping a paper file, not retaining copies of documents
17 -- and I'll come back to that in more detail -- but am I
18 correct, sir, that in instances where you did not keep a
19 paper file or did not retain documents, it occurred --
20 sorry, let me rephrase. In instances where you did not
21 retain a paper file or documents, was that because the
22 Diocese directed you to do it that way?

23 **MR. LEDUC:** Never. Absolutely never.

24 **MS. DALEY:** And, sir, was your retainer
25 always directly by the Bishop?

1 **MR. LEDUC:** No, it was seldom by the Bishop.

2 **MS. DALEY:** Was the Bishop -- throughout the
3 years '78 to '94 that was Bishop Larocque the entire time?

4 **MR. LEDUC:** That's correct.

5 **MS. DALEY:** And was it his bursar who
6 retained you?

7 **MR. LEDUC:** Gordon Bryan, yes, or he would
8 ask a pastor of a parish to call me and say "I need this."

9 **MS. DALEY:** I see.

10 So a priest in the parish could contact you
11 directly if the Bishop asked them to do that?

12 **MR. LEDUC:** They wouldn't always ask the
13 Bishop.

14 **MS. DALEY:** Is that right? Okay.

15 I'm trying to -- that's -- I'm trying to
16 understand the Bishop's authority and how that would
17 contrast with other priests. So would I be right; is the
18 Bishop the only person in the Diocese who had authority to
19 retain you, or no?

20 **MR. LEDUC:** No, I think the Bishop either
21 directly or indirectly or by implication would have let it
22 known to the parish priests that if they needed some
23 services, they could call me and they also called others.

24 **MS. DALEY:** All right.

25 But in instances such as that, it was your

1 understanding that the priest had the discretion and the
2 authority to retain you if he saw fit. He didn't
3 necessarily have to have the Bishop's say so?

4 **MR. LEDUC:** No, that's right.

5 **MS. DALEY:** Okay. Did you consider yourself
6 also to be acting for the Bishop in his personal capacity?

7 **MR. LEDUC:** No. Well, let's be careful.

8 **MS. DALEY:** Were there some instances when
9 you did.

10 **MR. LEDUC:** Well, no, never in his personal
11 capacity as a private citizen. Let me explain. The Roman
12 Catholic Episcopal Corporation of the Diocese of Ontario is
13 a creature created by the Legislative Assembly of Ontario.
14 That legal entity is composed of the corporation and the
15 Bishop personally in his capacity as Bishop.

16 **MS. DALEY:** Yes.

17 **MR. LEDUC:** So I acted for the corporation
18 and I also acted for the Bishop in his capacity as such for
19 the corporation but never for the Bishop as a ---

20 **MS. DALEY:** Private citizen.

21 **MR. LEDUC:** --- private citizen.

22 **MS. DALEY:** All right.

23 So to an extent, the Bishop, in his capacity
24 as such, is co-extensive with the Diocese?

25 **MR. LEDUC:** It is. He is. The office is.

1 Yes.

2 MS. DALEY: All right.

3 You told us earlier that you didn't feel you
4 had a professional or sorry, a social relationship with the
5 Bishop, but did you feel you came to know him well as a
6 client? Did you know the temper of the man and his
7 thinking on things?

8 MR. LEDUC: Not necessarily.

9 MS. DALEY: Now, let me just shift slightly
10 to a related topic, and that is, you did give evidence
11 about keeping files and documentation and things of that
12 nature. I just wanted to ask you some further questions
13 there.

14 Sir, if you were engaged in a real estate
15 transaction or a financing for the Diocese, I take it you
16 would have maintained a file ---

17 MR. LEDUC: Yes.

18 MS. DALEY: --- for that engagement?

19 MR. LEDUC: Yes.

20 MS. DALEY: And you would have reported in
21 writing to the Bishop, I presume?

22 MR. LEDUC: Yes.

23 MS. DALEY: And you would have corresponded
24 with other parties and maintained copies of your
25 correspondence in your file?

1 MR. LEDUC: Yes.

2 MS. DALEY: And did you ever act for the
3 Diocese in relation to any liability claims that were not
4 of a sexual assault nature?

5 MR. LEDUC: That were not?

6 MS. DALEY: Yes.

7 MR. LEDUC: A slip and fall?

8 MS. DALEY: Yes, that type of ---

9 MR. LEDUC: Yes.

10 MS. DALEY: All right.

11 So in a slip and fall type of claim, for
12 instance, I take it you would maintain a file, would you?

13 MR. LEDUC: Yes.

14 MS. DALEY: And you would keep
15 correspondence and correspond in writing with the Bishop or
16 whatever priest was instructing you?

17 MR. LEDUC: I think it would have been with
18 Gordon Bryan.

19 MS. DALEY: All right.

20 MR. LEDUC: If it was an insurance matter or
21 that type of liability issue, yes.

22 MS. DALEY: All right.

23 But in any event, unlike the Silmsner matter,
24 which we can contrast it with, there would have been a
25 file; there would have been correspondence; you wouldn't

1 have hesitated to keep that file in your office?

2 MR. LEDUC: That's right.

3 MS. DALEY: You made a point of telling us
4 that you're fairly close friends with he's now Monsignor
5 Vaillancourt?

6 MR. LEDUC: No, he's Father Vaillancourt.

7 MS. DALEY: He's Father Vaillancourt?

8 MR. LEDUC: Yes.

9 MS. DALEY: Were you also on a close
10 friendship basis with other priests in the Diocese?

11 MR. LEDUC: In what way, as acquaintances or

12 ---

13 MS. DALEY: As social friends.

14 MR. LEDUC: No. I mean, I want to be clear,
15 I did have other priests invited -- my wife and I would
16 occasionally invite other priests to have dinner with us
17 but not on a regular basis.

18 MS. DALEY: All right.

19 Just to -- sorry -- go back momentarily to
20 the file conversation that we were having, would I be right
21 to take from your testimony that when you were engaged as
22 counsel you kept files for all of the church legal work
23 except for the alleged sexual abuse matters?

24 MR. LEDUC: There were no matters. There
25 was one matter dealing with this -- well, the Deslauriers -

1 - let's use ---

2 MS. DALEY: Yes.

3 MR. LEDUC: --- both of them; the
4 Deslauriers and the Silmsler matter.

5 MS. DALEY: Yes.

6 MR. LEDUC: My evidence was that I may have
7 had a file. I may have had notes, but I don't recall.

8 MS. DALEY: You don't recall. All right.

9 MR. LEDUC: And with respect to other sexual
10 assault matters, which were from the Province of Quebec, I
11 did not keep files nor notes.

12 MS. DALEY: Was that intentional on your
13 part? In other words, sir, did you intend, for whatever
14 reason, to conduct those retainers in that way, such that
15 they were not documented or papered?

16 MR. LEDUC: I'm not sure where I say so, but
17 yes, I did not want such information to be in my office or
18 in my home.

19 MS. DALEY: Can you explain why?

20 MR. LEDUC: I felt that there was no
21 guarantee of the keeping these matters anonymous, whether
22 it was cleaning staff or other people in the office or even
23 in my home. I mean, my home was burglarized once so I'm
24 still today very careful about keeping files that are
25 closed in my home.

1 **MS. DALEY:** Would it be an option to keep
2 these files under -- in a locked file cabinet?

3 **MR. LEDUC:** It would be an option, yes.

4 **MS. DALEY:** But it's not one that you ---

5 **MR. LEDUC:** It's not one that I
6 contemplated.

7 **MS. DALEY:** --- that you chose to use?

8 **MR. LEDUC:** Or that I chose. That's
9 correct.

10 **MS. DALEY:** All right.
11 Was your client aware that this was your
12 practice?

13 **MR. LEDUC:** I don't think so.

14 **MS. DALEY:** A few questions that are
15 specific to the Gilles Deslauriers matter, sir. Did you
16 have an awareness or an understanding of the nature of the
17 Bishop's relationship with Father Deslauriers?

18 **MR. LEDUC:** No.

19 **MS. DALEY:** Did you know how Father
20 Deslauriers regarded -- sorry, how the Bishop regarded
21 Father Deslauriers?

22 **MR. LEDUC:** No.

23 **MS. DALEY:** There was a comment in the ad
24 hoc committee report, Exhibit 72, Bates page 7095, I wanted
25 just to discuss with you briefly.

1 **MR. LEDUC:** Could you please repeat that
2 reference?

3 **MS. DALEY:** Yes. The Bates number is ---

4 **THE COMMISSIONER:** Well, let's go to the
5 Exhibit.

6 **MR. LEDUC:** Which tab?

7 **THE COMMISSIONER:** Seventy-two (72) I think.

8 **MR. LEDUC:** Thank you.

9 **MS. DALEY:** Seven zero nine five (7095).

10 **MR. LEDUC:** Thank you.

11 **MS. DALEY:** And if I could help you, if you
12 look one prior page you'll see that you have posed a
13 question. This is the interview of Father Vaillancourt.

14 **MR. LEDUC:** Yes, I have it.

15 **MS. DALEY:** So you posed a question to him.
16 He starts -- he responds to your question on Bates page
17 095, and my French is very far from perfect, but in the
18 third long passage he's giving an example of some conduct
19 of Father Deslauriers and he's reporting some information
20 that other members of the church gave him, and that would
21 be Father Loney and Sister Cormier.

22 And the passage that caught my attention, I
23 just wonder if you can help me with this, sir. If you look
24 within that paragraph just past the midpoint of the
25 paragraph, you'll see a sentence that commences "Et elle

1 lui avait dit tu ne vois pas qu'il te critique..." -- it goes
2 on?

3 **MR. LEDUC:** Yes.

4 **MS. DALEY:** And then there's a phrase that
5 says:

6 "...que l'Évêque avait beaucoup confiance
7 au Père Deslauriers. C'est devenu son
8 bras droit si vous voulez."

9 I took that to mean that there was a
10 perception that the Bishop had a great deal of confidence
11 in Father Deslauriers, considered him almost a right arm.

12 Did you -- did that accord with your
13 knowledge of the situation?

14 **MR. LEDUC:** No, I was not aware of any
15 particular esteem or relationship between the Bishop and
16 Father Deslauriers because I never spoke with Father
17 Deslauriers actually.

18 **MS. DALEY:** All right.

19 So apart from this comment made by
20 Vaillancourt, you're not aware of any special relationship
21 between the two?

22 **MR. LEDUC:** No.

23 **MS. DALEY:** I wondered about that because I
24 recall you gave testimony to Ms. Jones about telling Madame
25 Brisson that you were afraid that perhaps the

1 recommendations wouldn't be followed by the Bishop.

2 But there's no relationship between those
3 two things?

4 **MR. LEDUC:** That comment had no relationship
5 to your question about Father Deslauriers.

6 **MS. DALEY:** That's fine, sir.

7 And maybe I can ask you this then. More
8 broadly, Deslauriers matter but on a more broad basis as
9 well, I take it, was it your experience, sir, that the
10 Bishop was very much his own person and he often did not
11 follow advice?

12 **MR. LEDUC:** I would agree with the fact that
13 he was very much his own person, yes.

14 **MS. DALEY:** Does it follow that he often did
15 not follow advice?

16 **MR. LEDUC:** I would agree with that, yes.

17 **MS. DALEY:** And I take it that includes your
18 advice?

19 **MR. LEDUC:** I'm trying to think of an
20 instance where he didn't follow my advice.

21 **MS. DALEY:** Maybe we touched on one this
22 afternoon in relation to the protocol?

23 **MR. LEDUC:** To the?

24 **MS. DALEY:** The following of the protocol
25 for Mr. Silmser?

1 **MR. LEDUC:** Well, yes, okay.

2 **THE COMMISSIONER:** Or your first meeting
3 with him with respect to the settlement?

4 **MR. LEDUC:** That's correct.

5 **THE COMMISSIONER:** But other than that, any
6 other?

7 **MR. LEDUC:** None that comes to mind.

8 **MS. DALEY:** Is it the case, sir, that
9 sometimes you would give advice and really not know the
10 outcome, whether it had been followed or not?

11 **MR. LEDUC:** That's correct.

12 **MS. DALEY:** And on the insurance matter just
13 for a second, I remember you told us in relation to Mr.
14 Silmsler, one of your first pieces of advice conveyed
15 through the bursar was to notify the insurers. Do you know
16 if that occurred?

17 **MR. LEDUC:** I don't know if that occurred.
18 It may have, and I've been questioning myself about what I
19 would remember about that, and I remember nothing, which is
20 a little unusual because it's a significant -- it's a
21 significant issue as to whether or not a claim was made
22 against the insurer, if there was one, whether there was
23 coverage or not. But certainly, my advice to Gordon was,
24 "Put your insurers on notice".

25 **MS. DALEY:** Can I suggest this to you, sir,

1 feel free to disagree if you do, but given that the
2 insurance would be a matter that you would need to manage
3 with the bursar making the claim, et cetera, et cetera, had
4 in fact the insurer been notified isn't it more likely than
5 not you would have known about it and you would have
6 recollected it and incorporated it in the account that you
7 eventually signed?

8 **MR. LEDUC:** You know, in all fairness, I
9 think that's a question that possibly should be put to
10 Gordon Bryan as to, if a proof of claim was made, if he had
11 a response from the insurance. I was not involved in that.

12 **MS. DALEY:** You simply don't know?

13 **MR. LEDUC:** I don't know.

14 **MS. DALEY:** That's fine.

15 Would I be right to say that within his
16 Diocese, the Bishop has authority to do pretty much
17 whatever he wishes?

18 **MR. LEDUC:** Within the guidelines set by
19 canon law, yes.

20 **MS. DALEY:** Yes. And within those
21 guidelines there are no constraints on his decision-making
22 ability and his power to make decisions?

23 **MR. LEDUC:** Oh, no there are some
24 constraints. He must, in some instances, consult. In
25 other instances he must obtain the consent, but -- and

1 there are various rules pertaining to the exercise of his
2 power in certain instances.

3 **MS. DALEY:** I take it you never saw a
4 circumstance where you were concerned he was exceeding his
5 power?

6 **MR. LEDUC:** No.

7 **MS. DALEY:** I ---

8 **THE COMMISSIONER:** I'm sorry. What about
9 this cheque amount; there's some issue about he would have
10 needed -- you know, the cheque was for more than \$10,000,
11 so do you know of a ---

12 **MR. LEDUC:** I don't know the internal
13 protocol of the Diocese on those cheques. All I know is
14 that, for example, if there is a -- what is referred to as
15 an alienation which is basically the purchase and sale of
16 property, that at certain values, he must go and get
17 permission from higher authorities.

18 **THE COMMISSIONER:** Okay.

19 **MR. LEDUC:** But with respect to that cheque,
20 I'm not aware of any restriction.

21 **MS. DALEY:** Sir, I'm going to do my best not
22 to skip around topics but unfortunately, I want to ask you
23 -- I want to go back to Deslauriers just for a few moments.
24 All right?

25 Can you help me with this? To your

1 knowledge, was it accepted by the Bishop that Father
2 Deslauriers was in fact responsible for sexual
3 improprieties? Did he accept that as a true fact?

4 **MR. LEDUC:** I've never had a discussion with
5 the Bishop on that issue but Father Gilles Deslauriers
6 pleaded guilty.

7 **MS. DALEY:** Before Father Deslauriers
8 pleaded guilty, and the question relates to the timeframe
9 when he was charged, because you gave testimony about
10 advising the Bishop about his responsibilities.

11 In that timeframe, back in I guess it was
12 June of '86 when he was being -- an interview was sought of
13 him with the police, at that point in time, do you know if
14 the Bishop accepted that in fact Gilles Deslauriers was
15 responsible for the sexual improprieties that your
16 committee had been told about?

17 **MR. LEDUC:** I don't know that.

18 **MS. DALEY:** You had no discussion with him?

19 **MR. LEDUC:** Not with the Bishop, no.

20 **MS. DALEY:** With anyone else in authority at
21 the church?

22 **MR. LEDUC:** No, other than the members of
23 the committee, and I don't believe that was a topic that we
24 discussed.

25 **MS. DALEY:** Whether he was ---

1 **MR. LEDUC:** Whether the Bishop was accepting
2 it.

3 **MS. DALEY:** Knew about it, okay. Or sorry,
4 whether the Bishop himself accepted it as a matter of fact
5 that this priest was responsible for this behaviour.

6 **MR. LEDUC:** Yes.

7 **MS. DALEY:** I want to speak to you about the
8 instance that you described in your testimony in-chief when
9 you were with the Bishop, Constable -- an officer from the
10 CPS Lefebvre was seeking an interview of him and the
11 Bishop's response to that situation, if you remember that
12 occurrence.

13 **MR. LEDUC:** Yes.

14 **MS. DALEY:** I take it that was a situation
15 where you laid out options but you did not give the Bishop
16 positive advice about what course he should follow.

17 **MR. LEDUC:** Please explain your question.
18 I'm somewhat confused.

19 **MS. DALEY:** I had understood your testimony
20 to be that you -- you told him about what the options were,
21 what would happen if he was summoned and refused to
22 testify, that he needn't speak to the police if he chose
23 not to. You laid out the realm of possibilities there.

24 **MR. LEDUC:** Yes.

25 **MS. DALEY:** But that you did not say

1 affirmatively to the Bishop, "It's my advice to you that
2 you do speak with the police" or "It's my advice to you
3 that if summoned, you do testify."

4 **MR. LEDUC:** No.

5 **MS. DALEY:** So he understood the options
6 based on the information you gave him but you didn't see
7 fit to tell him specifically what you think should be done.

8 **MR. LEDUC:** What should be done that was not
9 my role nor was I asked by him as to what should be done.

10 **MS. DALEY:** So in instances like that, would
11 I be right to think that unless the Bishop specifically
12 asked for guidance as to "What should I do?" you didn't see
13 -- you didn't see that it was your role to give him that
14 guidance?

15 **MR. LEDUC:** I don't give advice unless it's
16 requested or solicited.

17 **MS. DALEY:** Okay. So coming back then to
18 the police officers' desire to speak to the Bishop, was it
19 understood by the Bishop that he had relevant information
20 to offer to the police had he chosen to respond to their
21 questions?

22 **MR. LEDUC:** I believe so.

23 **MS. DALEY:** And it was understood by the
24 Bishop that the ad hoc committee's report which had been
25 prepared the prior month was certainly relevant to the

1 subject of the police inquiry.

2 MR. LEDUC: Yes.

3 MS. DALEY: The Bishop understood that.

4 MR. LEDUC: Yes.

5 MS. DALEY: And amongst other things, apart
6 form the statements that other priests gave your committee,
7 your committee had interviewed victims; correct?

8 MR. LEDUC: Yes.

9 MS. DALEY: And the Bishop would have
10 understood that the statements that those victims gave to
11 you would be relevant to the police investigation of Father
12 Deslauriers.

13 MR. LEDUC: I am not sure how he understood
14 that. You're asking me if he understood.

15 MS. DALEY: Yes.

16 MR. LEDUC: I don't know that.

17 MS. DALEY: Is it your best belief that he
18 would have understood that?

19 MR. LEDUC: I don't know how to answer the
20 question. I have no idea what his state of mind was in
21 relation to what this internal report, whether it was how
22 he viewed it.

23 THE COMMISSIONER: Well, wouldn't you have
24 advised him to say, "Look it, the police are coming.
25 They're probably going to want to see the report. And the

1 reason why they want to see the report is because if
2 there's any statements in there by the complainants, that
3 would be important to them."

4 **MR. LEDUC:** I don't recall the police --
5 it's a long time ago. I don't recall the police asking at
6 that time for any documents or report. They were -- they
7 wanted to interview the Bishop as to what he knew and
8 particularly as to what conversations he had with Gilles
9 Deslauriers. I don't recall at that time there being any
10 issues of documents or ---

11 **THE COMMISSIONER:** Well, no, but my
12 impression from the meeting was they weren't given that
13 much time to answer the questions. They were shown the
14 door.

15 **MR. LEDUC:** It's pretty close to the truth.

16 **THE COMMISSIONER:** Well, ---

17 **MR. LEDUC:** Yes. They were -- they were
18 well received but ---

19 **THE COMMISSIONER:** No, no, of course, of
20 course, but ---

21 **MR. LEDUC:** --- he was not about to answer
22 any questions and made it very clear.

23 **THE COMMISSIONER:** There you go.

24 **MS. DALEY:** He made it clear at the very
25 outset of the meeting and I gather he said, "I will not

1 tell you anything that's not on the public record" or
2 something to that effect?

3 **MR. LEDUC:** That's correct.

4 **MS. DALEY:** But there was nothing on the
5 public record?

6 **MR. LEDUC:** Well, I don't know what was on
7 the public record then.

8 **MS. DALEY:** Did the Bishop know what was on
9 the public record then?

10 **MR. LEDUC:** Well, I don't know. You'd have
11 to ask that question to the Bishop.

12 **MS. DALEY:** Fair enough. All right.

13 But in any event, just to follow up on a
14 thought that I thought the Commissioner was expressing, in
15 your meeting with the Bishop before the officers arrived,
16 did you have a conversation with him about the fact that at
17 least part of Exhibit 72, the committee's report, might
18 well be relevant to their investigation, whether they --
19 whether they knew to ask for it or not?

20 **MR. LEDUC:** I don't recall that -- I don't
21 recall that being part of the conversation. The focus was
22 not on the report, the documents. The focus was on the
23 Bishop giving a statement to the police and answering their
24 questions.

25 **MS. DALEY:** In fairness, sir, though, the

1 police officers did they know that the ad hoc report
2 existed when they came to visit the Bishop?

3 **MR. LEDUC:** I don't know that.

4 **THE COMMISSIONER:** Mr. Sherriff-Scott?

5 **MR. SHERRIFF-SCOTT:** The evidence is in the
6 record.

7 **THE COMMISSIONER:** I'm sorry?

8 **MR. SHERRIFF-SCOTT:** The evidence is in the
9 record. There is a will state of the Officer Lefebvre.
10 They interviewed the Bishop in advance of the second
11 interview in which he told them fairly significant
12 information which may or may not have been on the public
13 record about the behaviour of Gilles Deslauriers.

14 And Officer Shaver or the former chief
15 testified that the import of the discussion was about the
16 actual improprieties. And then there were discussions
17 about the ad hoc committee report in detail which he
18 described right down to the page length and told them where
19 it was.

20 That's why I asked Chief Shaver what he did
21 or what his officers did thereafter.

22 **THE COMMISSIONER:** Okay.

23 **MR. SHERRIFF-SCOTT:** So that's the evidence
24 and it shouldn't be put to the witness as if it doesn't
25 exist I submit.

1 **THE COMMISSIONER:** Okay.

2 **MS. DALEY:** But I am dealing with the
3 meeting that you testified about here in-chief which
4 occurred in June of 1986 and that was the first point of
5 contact between Cornwall police and the Bishop; correct?

6 **MR. LEDUC:** I believe so.

7 **MS. DALEY:** As far as you're aware.

8 **MR. LEDUC:** That's correct.

9 **MS. DALEY:** My friend may well be right; at
10 a later time, the Bishop gave more information.

11 **MR. SHERRIFF-SCOTT:** Excuse me.

12 **THE COMMISSIONER:** No, no. Mr. Sherriff-
13 Scott, what -- I know you express a certain frustration
14 but, you know, it's just that -- you know, the evidence
15 goes on for a while now. And so you can come up and just
16 refresh everybody's mind.

17 **MR. SHERRIFF-SCOTT:** No, no. I'm trying to
18 -- my friend is not -- she's misstating the evidence
19 inadvertently, I know. But the evidence is that several
20 weeks earlier that Ron Lefebvre and Herb Lefebvre
21 interviewed the Bishop and had discussions.

22 Several weeks after that in later June, they
23 came back at his personal residence in the attendance of
24 Mr. Leduc. It's right in their will state document. So
25 this is not the first point of contact with the police and

1 the Bishop.

2 **THE COMMISSIONER:** Just calm down. Calm
3 down.

4 **MR. SHERRIFF-SCOTT:** I'm fine. I just want
5 to make sure that the record is reflective of the facts and
6 the facts aren't misstated or put to the witness
7 incorrectly. Thank you.

8 **MS. DALEY:** Sorry, I don't mean to misstate
9 anything.

10 Were you aware of any prior contact between
11 the Bishop and the police prior to the June meeting that
12 you gave evidence about, sir?

13 **MR. LEDUC:** Today, I can't tell you if I was
14 aware at that time, no.

15 **MS. DALEY:** All right. Now, certainly the
16 statement that was made to the police by the Bishop in your
17 presence was that if he were to be test -- sorry, if he
18 were to be subpoenaed, he would decline to testify.

19 **MR. LEDUC:** No, he would attend. He would
20 answer some basic questions and he would not answer any
21 other questions dealing with his information received from
22 his priest because that's what he wanted to protect; the
23 bishop/priest relationship.

24 **MS. DALEY:** All right.

25 **THE COMMISSIONER:** Did you explain to him

1 that the bishop/priest relationship wouldn't quite wash
2 into court?

3 **MR. LEDUC:** Yes.

4 **MS. DALEY:** All right.

5 **MR. LEDUC:** And the consequence of contempt
6 and the rest of it.

7 **MS. DALEY:** Now, would that be another
8 instance in which he, no doubt, heard what you had to say,
9 but he chose to take a different course?

10 **MR. LEDUC:** Well, that's the way it is with
11 all clients. You give them the information and their
12 options and they make a decision.

13 **MS. DALEY:** Sir, did you receive
14 compensation professionally for your role in the
15 Deslauriers matter?

16 **MR. LEDUC:** I think so, yes.

17 **MS. DALEY:** And did you keep a copy of the
18 report?

19 **MR. LEDUC:** Which report?

20 **MS. DALEY:** The ad hoc committee report of
21 the Exhibit 72 we've been looking at?

22 **MR. LEDUC:** Did I keep a copy personally?

23 **MS. DALEY:** Yes.

24 **MR. LEDUC:** I don't believe so, no.

25 **MS. DALEY:** In your capacity as a lawyer,

1 you didn't have a copy of this report in your possession or
2 in your law office?

3 **MR. LEDUC:** I may have, at one point in time
4 to read it, but ---

5 **MS. DALEY:** All right.

6 Did you ever discuss with the Bishop that at
7 least at the June meeting that you can recall and that
8 we've talked about that his approach to the police might
9 have been hindering their investigation?

10 **MR. LEDUC:** What do you mean by "his
11 approach to the police"?

12 **MS. DALEY:** His decision not to speak to
13 them and answer their questions.

14 **MR. LEDUC:** You mean if he was being
15 obstructionist? Is that what you're asking me?

16 **MS. DALEY:** That his actions, inadvertently
17 or otherwise, might have hindered their investigations.

18 **MR. LEDUC:** No, I explained to the Bishop
19 that he had a right not to make a statement to the police
20 which was his right.

21 **MS. DALEY:** Sir, you were aware, I take it,
22 that Father Deslauriers had, I believe, a paid position at
23 La Citadelle High School?

24 **MR. LEDUC:** Yes.

25 **MS. DALEY:** And that he connected with his

1 victims or at least some of them at the school in a
2 counselling role that he was playing?

3 MR. LEDUC: I believe he was the chaplain of
4 the school.

5 MS. DALEY: And that that's what put him in
6 contact with people whom he later misconducted himself
7 with; correct?

8 MR. LEDUC: Yes.

9 MS. DALEY: And can you tell me, sir,
10 obviously La Citadelle was administered by the Catholic
11 School Board?

12 MR. LEDUC: I don't know at that time. I
13 believe it may have still been -- I'm not sure when it
14 became a Catholic or a separate school as opposed to when
15 it was still a public school.

16 MS. DALEY: Fair enough, but in either
17 events, it was under the umbrella of a board of education?

18 MR. LEDUC: Yes, whether the separate board
19 or the public board, I don't recall ---

20 MS. DALEY: Right.

21 MR. LEDUC: --- at that time.

22 MS. DALEY: Sir, did you personally give any
23 thought to suggesting that the Diocese should inform
24 whatever the board of education was that administered La
25 Citadelle concerning the allegations about Father

1 Deslauriers?

2 MR. LEDUC: I don't recall.

3 MS. DALEY: Do you know whether or not any
4 such step occurred? In other words, did the Diocese ever
5 contact the relevant school board and inform them of what
6 was being learned about Father Deslauriers?

7 MR. LEDUC: I don't know that.

8 MS. DALEY: One other question about your
9 report or the report that was prepared that I wondered if
10 you could clarify; it's Exhibit 72.

11 MR. LEDUC: Yes.

12 MS. DALEY: And it's Bates 7113. In the
13 centre of the page, sir, you remember this because you
14 testified about this, I think, on Monday with Ms. Jones.
15 It's the comment that's being made concerning age of
16 majority, et cetera, ---

17 MR. LEDUC: Yes.

18 MS. DALEY: --- those matters.

19 Does your comment include the thought that
20 there's a limitation for bringing a complaint or a charge
21 in these circumstances and the limitation would be one
22 year?

23 MR. LEDUC: You mean, does this -- does this
24 paragraph include that?

25 MS. DALEY: Yes. Is that what's stated

1 here?

2 MR. LEDUC: That's what it says, yes.

3 MS. DALEY: All right. And ---

4 MR. LEDUC: Just a second; is it there?

5 THE COMMISSIONER: Yes, it is.

6 MR. LEDUC: Yes, sorry.

7 MS. DALEY: All right.

8 Now, I'm just curious; I take it that was
9 your belief at the time?

10 MR. LEDUC: I don't -- I don't recall. I
11 don't recall what brought me to say this. If you're asking
12 me today what I believed then, as I said, I have no
13 recollection except I'm -- I mean I see what I've said, but
14 if you're asking me do I recall why I said it, my answer is
15 no, I don't recall.

16 MS. DALEY: As you sit here today, do you
17 think that statement is correct or not?

18 MR. LEDUC: Today?

19 MS. DALEY: Yes.

20 MR. LEDUC: As opposed to today as opposed
21 to then?

22 MS. DALEY: Well, sitting here today and
23 reflecting that these were events that occurred in the mid-
24 eighties, do you think it's correct that there was a one-
25 year limitation or do you know?

1 **MR. LEDUC:** No. No, there was no
2 limitation.

3 **THE COMMISSIONER:** Well, ---

4 **MR. LEDUC:** Not that I -- limitation
5 criminally, you mean?

6 **MS. DALEY:** I'm just trying to ---

7 **MR. LEDUC:** Well, there's was no ---

8 **MS. DALEY:** --- understand what you've said.

9 **MR. LEDUC:** --- there was no limitation
10 criminally to the best of my recollection now.

11 **THE COMMISSIONER:** Well, there was ---

12 **MR. LEDUC:** We're talking about assault,
13 sorry.

14 **THE COMMISSIONER:** No. No, no, no. I --
15 and I don't know -- there is -- there was, at that time, a
16 limitation of one year on certain criminal offences,
17 unbeknownst to me, but ---

18 **MR. LEDUC:** Unbeknownst to me today.

19 **(LAUGHTER/RIRES)**

20 **THE COMMISSIONER:** Yes, but you were
21 discussing about -- in the document, I think it says it's
22 like a broad thing that it's one-year limitation period on
23 all criminal matters is what I think you said there, which
24 wasn't correct, but there are certain offences and it's a
25 matter of law. People can look it up, but and so just to

1 let you know that there was ---

2 MR. LEDUC: I may have been right. Is this
3 what you're telling me?

4 THE COMMISSIONER: You may have been right
5 on one or two like indecent exposure or some of those.
6 There was a one-year limitation and that's not dealing with
7 summary conviction offences or anything like that. And I
8 stand to be corrected, but I'm sure that -- let's see; Mr.
9 Manderville will look that up today and tomorrow and let us
10 know.

11 MS. DALEY: I don't know if this helps you
12 at all, sir, because I appreciate from your testimony you
13 didn't practice criminal law. Do you think that when you
14 were doing this task for the committee you tried to look up
15 this information or ---

16 MR. LEDUC: Well, ---

17 MS. DALEY: --- can you help us any further?

18 MR. LEDUC: --- I'm thinking about your
19 question and if I can look at what I've said:

20 "Il faut faire attention. Pour une
21 personne majeure en Ontario, c'est 18."

22 Now, does that mean that the age of majority
23 in Ontario is 18?

24 THE COMMISSIONER: M'hm.

25 MR. LEDUC: I don't know.

1 "Mais pour consentir à une relation
2 sexuelle, c'est 21 au Canada."

3 **THE COMMISSIONER:** M'hm.

4 **MR. LEDUC:** Now, was that the law then? I'm
5 not ---

6 **MS. DALEY:** We had some discussion that some
7 of the homosexual-related offences at that time pertained
8 to 21 and under.

9 **MR. LEDUC:** Okay.

10 **MS. DALEY:** Yes.

11 **MR. LEDUC:** "Au point de vue criminel, ce
12 sont toutes des allégations qui portent
13 une accusation criminelle, sauf une
14 limitation de temps..."

15 And then I'm enumerating.

16 "La prescription de temps c'est un an."

17 And I can't tell you today what I meant by
18 that, but if I was referring to something I would have read
19 then with respect to this limitation period, that's what it
20 is and this is not my understanding today.

21 **MS. DALEY:** That's fair enough. Maybe the
22 appropriate question is this.

23 As far as you're aware, did this ad hoc
24 committee draw any conclusion or come to a view that
25 because more than a year had passed, there was nothing that

1 should be done?

2 MR. LEDUC: No, absolutely not.

3 MS. DALEY: All right.

4 I'm going to move to a slightly different
5 but related area and this has to do with your involvement,
6 if you had any, in your professional capacity with any
7 other settlements or payments of money to alleged victims
8 in relation to the church. And I'm going to take this in
9 two pieces because you did give some evidence about
10 dealings in Québec.

11 I'm going to set that aside for the moment
12 and first of all talk about the Diocese of Alexandria-
13 Cornwall; all right? And, sir, if you feel constrained by
14 solicitor-client privilege in responding to what I'm going
15 to ask you, will you indicate that?

16 MR. LEDUC: Yes.

17 MS. DALEY: All right.

18 We've heard about your involvement in the
19 Deslauriers matter. Do you recall ever being retained by
20 the Diocese of Alexandria-Cornwall in relation to an
21 alleged abuse by a priest prior to the Deslauriers matter?

22 MR. LEDUC: No.

23 MS. DALEY: And apart from that matter and
24 the Silmsler matter, were you ever retained by this Diocese
25 in relation to an allegation of sexual abuse or misconduct

1 by a priest?

2 MR. LEDUC: No.

3 MS. DALEY: All right.

4 Now, I would -- the document I want you to
5 look at -- and Madam Registrar, it is ---

6 THE COMMISSIONER: So just while we're
7 clear, retained, were you consulted, were you approached by
8 members of the Diocese in any way to discuss a matter of
9 sexual improprieties by a priest?

10 MR. LEDUC: No, I don't recall of any such
11 instance.

12 THE COMMISSIONER: Okay. No, I'm just
13 curious.

14 MR. LEDUC: Not -- no, not as a lawyer.

15 THE COMMISSIONER: Okay.

16 MR. LEDUC: Not as a lawyer for the Diocese.

17 MS. DALEY: In some other capacity?

18 MR. LEDUC: Well, are you talking about
19 information I would have received or in relation to my
20 professional relationship with the Diocese?

21 THE COMMISSIONER: Did you have any
22 knowledge, whether professional or personal, of any
23 allegations of sexual improprieties by a priest in the
24 Diocese?

25 MR. LEDUC: Yes.

1 **MS. DALEY:** Can you share that with us?

2 **MR. LEDUC:** From clients who have privilege.

3 **MS. DALEY:** From alleged victims who
4 consulted you?

5 **MR. LEDUC:** Yes.

6 **MS. DALEY:** And their allegations pertained
7 to priests in this Diocese?

8 **MR. LEDUC:** Yes.

9 **MS. DALEY:** And did you act for such
10 victims?

11 **MR. LEDUC:** No.

12 **MS. DALEY:** What did you do when they
13 consulted you?

14 **MR. LEDUC:** I received their information and
15 suggested they see other counsel.

16 **MS. DALEY:** To whom did you refer them?

17 **MR. LEDUC:** I just suggested they see other
18 counsel. And in two instances that I recall, it was just -
19 - it was the need of this person to tell me what had
20 happened and not wanting me to do anything about it or to -
21 - they just -- your question, Mr. Commissioner, was have I
22 received such information? Yes, I have.

23 **MS. DALEY:** On how many occasions?

24 **MS. HENEIN:** My concern is this is crossing
25 the line in terms of privilege. The number of times

1 someone has communicated something to you as a client ---

2 **THE COMMISSIONER:** No, no, no, no, not the
3 number of times that client communicated with you. How
4 many people have come for consultation?

5 **MS. HENEIN:** It's -- you're bound by
6 principles of privilege. How many people have come to you
7 to consult you about allegations of sexual abuse?

8 If you were to ask me how many clients have
9 come to you to ask you about murder charges, I would not be
10 able to tell you how many clients have come to me. That is
11 touching upon a matter of privilege.

12 **THE COMMISSIONER:** I don't think so.

13 **MS. HENEIN:** In my respectful submission, it
14 is.

15 **THE COMMISSIONER:** M'hm.

16 **MS. HENEIN:** And he -- if he's going to be
17 directed to answer that question, then my only concern is
18 that he's being directed by the Commission to do so so that
19 he is protected in terms of ---

20 **THE COMMISSIONER:** Sure. Okay.

21 **MS. HENEIN:** --- any type of suggestion.

22 **THE COMMISSIONER:** Okay. Let's make sure
23 that we're clear on the question first and then we'll see
24 where we go.

25 And the reason why -- well, I think that

1 it's relevant. We have to see if it's relevant. We are
2 talking about an institutional response now and we have a
3 person who is a lawyer -- well, is sometimes a lawyer for
4 the Diocese and whether or not, after he had those
5 consultations and sent them away, whether or not he
6 reported -- he talked to the Diocese and said "By the way,
7 you know I've got -- there may be some allegations out
8 there about priest A."

9 So I think we can ask him that.

10 **MS. HENEIN:** That would be a breach of
11 privilege to disclose the fact that somebody had come to
12 you and made an allegation against priest A even on a no-
13 names basis.

14 **THE COMMISSIONER:** Well, just a second now.
15 It would even be -- well, the witness is here in any event.
16 Whether it's a breach or not, we can ask him whether he
17 did. He's told us he's seen some clients and sent them
18 away.

19 **MS. HENEIN:** Right.

20 **THE COMMISSIONER:** Okay. So query whether
21 or not there was a solicitor/client basis to start off
22 with.

23 Second of all, he just testified that "One
24 person came in, didn't really want to do anything but just
25 talk to me."

1 **MS. HENEIN:** I'm sorry. The
2 solicitor/client privilege is very, very broad. You need
3 not be paid.

4 **THE COMMISSIONER:** No.

5 **MS. HENEIN:** You need not give advice.

6 **THE COMMISSIONER:** M'hm.

7 **MS. HENEIN:** It just means that someone is
8 coming to you in your capacity as counsel. So it is
9 different from a dinner conversation. So if someone is
10 coming in his office to unburden themselves ---

11 **THE COMMISSIONER:** M'hm.

12 **MS. HENEIN:** --- and say, "Gee, I don't know
13 what to do," that is a solicitor/client privilege that
14 cannot be disclosed.

15 **THE COMMISSIONER:** M'hm.

16 **MS. HENEIN:** So I'm very concerned about
17 that.

18 And secondly, I'm not really sure I
19 understand the relevance of it in terms of the
20 institutional response at all.

21 **THE COMMISSIONER:** Well ---

22 **MS. HENEIN:** So it's just crossing the line.
23 I notice that you may not agree with me, Commissioner, as
24 to the relevance, but it's not clear to me how if he's
25 consulted with other people, that would impact on the

1 response of the Diocese ---

2 **THE COMMISSIONER:** Well, there's that ---

3 **MS. HENEIN:** --- as counsel.

4 **THE COMMISSIONER:** There's also the
5 conspiracy theory that is out there that the OPP have to
6 look at and how this person reacted to situations -- well,
7 situations now, what we have to do, and I got ahead of
8 myself, is we've got to lay the groundwork for the
9 question. I mean, if this was some conversations he had
10 with some people 50 years ago that has nothing to do with
11 the Diocese, it's a different thing.

12 **MS. HENEIN:** Well ---

13 **THE COMMISSIONER:** I've heard you.

14 **MS. HENEIN:** You have my objection and in
15 terms of the conspiracy theory, there are many conspiracy
16 theories that are ---

17 **THE COMMISSIONER:** M'hm.

18 **MS. HENEIN:** --- floating around.

19 **THE COMMISSIONER:** M'hm. Thank you.

20 **MS. DALEY:** Let me just explore with you,
21 sir. Certainly by virtue of your relationship --
22 professional relationship with the Diocese, you would never
23 have accepted a retainer by a person who alleged abuse by a
24 priest; correct?

25 **MR. LEDUC:** A priest in this Diocese.

1 **MS. DALEY:** A priest of this Diocese;
2 correct?

3 **MR. LEDUC:** That's correct.

4 **MS. DALEY:** And you would have made that
5 clear to anyone who'd want to raise the subject with you,
6 I've got to imagine; correct?

7 **MR. LEDUC:** Which I did in one instance,
8 asked him to see other counsel, and with all due respect,
9 Mr. Commissioner, I just didn't send them away ---

10 **THE COMMISSIONER:** Oh, no, no. no.

11 **MR. LEDUC:** --- and I would never have
12 reported any such conversation to the Diocese.

13 **THE COMMISSIONER:** That was easy.

14 **MS. DALEY:** Why not?

15 **MS. HENEIN:** It's privileged.

16 **THE COMMISSIONER:** You don't have to answer
17 that question; he can answer it. He's quite ready to
18 answer it.

19 **MS. HENEIN:** But with the greatest of
20 respect, this is counsel asking why you're not reporting
21 conversations of client to another client. It's utterly
22 irrelevant, but it's improper. It's privileged.

23 **THE COMMISSIONER:** There may have been
24 another reason. He may have had another reason.

25 **MS. HENEIN:** You could have a million

1 reasons. He can't disclose it; it's privileged.

2 **THE COMMISSIONER:** M'hm.

3 **MS. HENEIN:** So what is the point of the
4 question to ask him if he's reported a privileged
5 conversation to another client?

6 **THE COMMISSIONER:** Because the answer might
7 be yes.

8 **MS. HENEIN:** He just indicated he never did.

9 **THE COMMISSIONER:** No, but -- just -- excuse
10 me.

11 **MS. HENEIN:** He just indicated,
12 Commissioner, that he did not do that. And then there was
13 a follow-up question on why not ---

14 **THE COMMISSIONER:** M'hm.

15 **MS. HENEIN:** --- which is what caused me to
16 rise. It is privileged.

17 **THE COMMISSIONER:** Right. Well, he can
18 answer that question. Thank you very much.

19 **MS. DALEY:** Without -- and I do want to hear
20 your answer, but I just want to remind you and all of us
21 here that he was very clear that he had no retainer by any
22 of these folks. He would never have accepted one.

23 In any event, my question to you, sir, is if
24 you received information by someone who alleged abuse by a
25 priest in the Diocese, would you -- why would you not bring

1 that to the attention of someone in authority?

2 **MR. LEDUC:** Because I'm bound by the
3 privilege.

4 **MS. DALEY:** What privilege is that?

5 **MR. LEDUC:** Solicitor/client relationship.

6 **MS. DALEY:** With the person who came to see
7 you?

8 **MR. LEDUC:** Well, with anyone who would see
9 me in my capacity as a lawyer and even at a cocktail party.
10 That privilege extends to a very wide area of contact. So
11 I would never have done that because of privilege.

12 **MS. DALEY:** M'hm. Did it concern you that
13 there were allegations against priests in the Diocese that
14 the Bishop wasn't aware of?

15 **MR. LEDUC:** I'm going to try and answer this
16 question by telling -- by using an analogy. Then, if
17 someone came to see me and told me that they were a mass
18 murderer, would I be obligated to divulge that to the
19 authorities?

20 **THE COMMISSIONER:** That's a question, not an
21 answer.

22 **MR. LEDUC:** Well, it's part of my answer, if
23 you wish, that I was bound and still continue to be bound
24 by privilege.

25 **THE COMMISSIONER:** All right.

1 **MS. DALEY:** Did you consider seeking consent
2 from the people who had consulted you to tell the Bishop
3 that there could be a problem with a specific priest? Did
4 you consider that?

5 **MR. LEDUC:** Well, first of all, what you
6 failed to ask me was if I knew or I was told the identity
7 of the priests. And my answer to that question which I'm
8 posing myself is no, I was never told the identity of the
9 priests.

10 **MS. DALEY:** And is that because you
11 instructed this person not to tell you?

12 **MR. LEDUC:** My recollection is the person
13 never volunteered the information.

14 **MS. DALEY:** Can you help me with this? How
15 many people are we talking about?

16 **MR. LEDUC:** Three.

17 **MS. DALEY:** And ---

18 **MR. LEDUC:** One, an elderly, elderly person.

19 **MS. DALEY:** Right.

20 **MR. LEDUC:** So -- I mean and I can't discuss
21 this one.

22 **MS. HENEIN:** No, sorry. If this is going to
23 continue, then in fairness, these individuals need to be
24 notified. He cannot start giving descriptions of the
25 people who have come to see you. You can't give their

1 names. You can't even confirm if they've come to see you.
2 That is how broad the principle of confidentiality and
3 privilege is.

4 So if my friend is going to go down this
5 road, then he needs to get instructions from these
6 individuals.

7 **THE COMMISSIONER:** Well, first of all, I
8 thought he went a little too far there about describing the
9 gentleman.

10 **MR. LEDUC:** I didn't say gentleman. I said
11 person.

12 **THE COMMISSIONER:** Elderly person, sorry.
13 Elderly person. Well, you know, so now we're getting
14 close.

15 **MS. DALEY:** Okay.

16 **THE COMMISSIONER:** So what do you want to do
17 now?

18 **MS. DALEY:** Do you know what, if anything,
19 became of these allegations of the people who had initially
20 contacted you?

21 **MR. LEDUC:** No.

22 **MS. DALEY:** To the best of your knowledge,
23 did those people ever come forward at a later time through
24 independent counsel to the Diocese?

25 **MR. LEDUC:** Not that I know of.

1 **MS. DALEY:** I'd like you to look at Document
2 722167, please.

3 **THE COMMISSIONER:** Is this a new document?

4 **MS. DALEY:** Yes. Seven two two one six
5 seven (722167).

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **THE COMMISSIONER:** Thank you. Exhibit
8 Number 1915 is a newspaper clipping dated Saturday, January
9 15th, 1994.

10 **--- EXHIBIT NO./PIÈCE No. P-1915:**

11 (722167) Newspaper article "Bishop was
12 reluctant to make deal" - 15 Jan, 94

13 **MS. DALEY:** Sir, I want you to take a moment
14 to read this. Before you do, I just want to let you know
15 that this is an article that was published following the
16 press release of January 14th that you gave a fair bit of
17 testimony about this afternoon; that being Exhibit 1911.
18 So do you want to take a moment and review
19 this, sir?

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. LEDUC:** Yes.

22 **MS. DALEY:** And I have a question about a
23 statement that the Bishop made but before I ask you my
24 question, I want you just -- if you don't mind, could you
25 turn up Exhibit 1911 for a moment as well? And that is the

1 ---

2 MR. LEDUC: Ninety?

3 MS. DALEY: One nine one one (1911).

4 MR. LEDUC: One nine one one (1911)?

5 MS. DALEY: Correct. That should ---

6 MR. LEDUC: I have nothing.

7 MS. DALEY: Do you have that?

8 MR. LEDUC: No, there's nothing.

9 THE COMMISSIONER: It's a new one.

10 MR. LEDUC: Okay. I'm sorry. Yes, sorry;

11 1911.

12 MS. DALEY: That should be the final press
13 release, sir.

14 MR. LEDUC: Okay.

15 MS. DALEY: Do you have that?

16 MR. LEDUC: Yes.

17 MS. DALEY: And just if you would please
18 look at page 3 of that press release. The 3 is up on the
19 left-hand corner.

20 MR. LEDUC: Yes.

21 MS. DALEY: And if you look at the
22 penultimate paragraph, the Bishop's press release states:

23 "As is often done in similar
24 circumstances, without admitting
25 liability on behalf of the Diocese or

1 the priest, the Diocese and the priest
2 contributed to compensate the
3 complainant."

4 So my focus is his statement to the effect
5 "As is often in similar circumstances".

6 And then if you look at Exhibit 1915, that's
7 the Standard Freeholder article. In the far left-hand
8 column, I guess about seven paragraphs down, although I may
9 have miscounted because the print is small, the Bishop is
10 quoted as saying:

11 "I gave in because this young man had a
12 considerable with counselling",
13 Larocque said, adding, "The Diocese has
14 in the past agreed to similar
15 settlements involving alleged victims
16 of child molesting priests."

17 And, sir, you were present at that press
18 conference. I'm sure you can confirm that the Bishop in
19 fact made that statement. It's in his press release.
20 Correct?

21 **MR. LEDUC:** Yes.

22 **MS. DALEY:** All right. And this is the
23 information that the public had, my clients being members
24 of the public. This is what people read in the press.
25 They would have read the Bishop -- the Bishop saying that

1 there have been similar settlements agreed to in the past.
2 Correct?

3 **MR. LEDUC:** That's what is said here, yes.

4 **MS. DALEY:** To your knowledge, do you -- can
5 you confirm if that is true or not, or do you know?

6 **MR. LEDUC:** I -- as I said a while ago, I
7 was never involved in any such settlements with the
8 Diocese.

9 **MS. DALEY:** All right. So if that is
10 correct and it was done through a lawyer, obviously it
11 wasn't -- it wasn't you.

12 **MR. LEDUC:** That's correct.

13 **MS. DALEY:** Now, did you have some knowledge
14 about how the public reacted to that statement?

15 **MR. LEDUC:** Not really.

16 **MS. DALEY:** No? You did see the other news
17 articles on that point that were commenting on it, were
18 expressing concerns about it?

19 **MR. LEDUC:** I remember there was quite a bit
20 of coverage, yes.

21 **MS. DALEY:** The thrust of which was to be
22 concerned about the statement that there were other unknown
23 settlements with child molesting priests?

24 **MR. LEDUC:** I don't have any particular
25 knowledge of that but if that's what you're saying.

1 **MS. DALEY:** Which is -- do me a quick
2 favour. If you look at Exhibit 1914, that was your
3 Affidavit of documents.

4 **MR. LEDUC:** Yes.

5 **MS. DALEY:** You produced a document; your
6 production number 2 at Bates page 5145 is a copy of a news
7 article.

8 **MR. LEDUC:** Yes.

9 **MS. DALEY:** "Priest abuse case filled with
10 contradictions."

11 **MR. LEDUC:** Yes.

12 **MS. DALEY:** And this is an article dated
13 January 24, 1993; so within ---

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** --- about 10 days of the first
16 one. And I take it you produced this in the lawsuit
17 because you had kept a copy of this. It seemed to be
18 relevant to the matter and so you produced it; right?

19 **MR. LEDUC:** That's correct. Well, I
20 produced it because that's what is required under the rules
21 of -- the civil rules.

22 **MS. DALEY:** That's right. And ---

23 **MR. LEDUC:** If it was in my possession, I
24 had to produce it, yes.

25 **MS. DALEY:** It was your possession and so

1 you produced it. Fair enough.

2 And if I could direct you to the very last
3 column, the far-right column of the document -- a little
4 bit -- a little bit more than a third of the way down the
5 page.

6 Madam Clerk, it's actually at two -- there's
7 two pieces to this. Do you have Bates 5146?

8 **THE COMMISSIONER:** Yeah, there it is.

9 **MS. DALEY:** That's it.

10 **MR. LEDUC:** Unfortunately, I do not have it
11 but I can look at it on the screen.

12 **THE COMMISSIONER:** It's not on the flip
13 side?

14 **MR. LEDUC:** Four six (46); oh, flip side.
15 Sorry.

16 **MS. DALEY:** Yeah. There should be a second
17 sheet there, sir.

18 **MR. LEDUC:** Yes, yes.

19 **MS. DALEY:** And Madam Clerk, the paragraph
20 I'm interested in is the one that says:

21 "Even more disturbing is a comment made
22 by the Bishop paraphrasing the Jan. 15th
23 Freeholder that the Diocese has in the
24 past agreed to similar settlements
25 involving alleged victims of child

1 molesting priests."

2 And he goes on to pose a number of
3 rhetorical questions and to express concerns about that;
4 correct?

5 MR. LEDUC: Yes.

6 MS. DALEY: So I take it, sir, you were
7 familiar that -- with the fact that the Bishop's statement
8 to the public that there had been other settlements caused
9 a bit of a furor in the community.

10 MR. LEDUC: Well, that's a very kind of
11 general statement you're making. Was I aware of this
12 article?

13 MS. DALEY: Yes.

14 MR. LEDUC: Yes, I read it. Did I produce
15 it? Yes, I did.

16 MS. DALEY: You live in this town as well?

17 MR. LEDUC: Yes.

18 MS. DALEY: Were you aware that there was a
19 significant concern about the Bishop's statement?

20 MR. LEDUC: Not particularly, no.

21 MS. DALEY: All right.

22 Would you agree with me that the Bishop's
23 statement might leave some people in the community thinking
24 that there are child molesting priests amongst us but we
25 don't know who they are because there's been settlements

1 with them?

2 MR. LEDUC: Yes.

3 MS. DALEY: You can understand how if that's
4 how a person was reasoning, be they a catholic churchgoer
5 or otherwise, they'd be worried about that?

6 MR. LEDUC: Yes.

7 MS. DALEY: Now, were you still in an
8 advisory relationship with the Bishop at this time?

9 MR. LEDUC: What do you mean "advisory
10 relationship"?

11 MS. DALEY: Well, were you still the
12 Bishop's counsel ---

13 MR. LEDUC: Legal counsel?

14 MS. DALEY: --- in January -- yes. In
15 January of '94?

16 MR. LEDUC: Well, let's be more precise. As
17 I said, these -- are we talking about the Silmsler file in
18 '94?

19 MS. DALEY: Yes.

20 MR. LEDUC: Yes. Well, after the end of
21 January, the file was transferred to Scott & Aylen.

22 MS. DALEY: Understood.

23 MR. LEDUC: Yes.

24 MS. DALEY: Did you remain in touch with the
25 Bishop about the Silmsler matter after that event, sir?

1 MR. LEDUC: No.

2 MS. DALEY: Did you ever consider speaking
3 to the Bishop about the public concern that his statement
4 had generated?

5 MR. LEDUC: Did I ever consider it?

6 MS. DALEY: Yes.

7 MR. LEDUC: No.

8 MS. DALEY: Did you speak to Father
9 Vaillancourt or any other priest, with, you know, with whom
10 you dealt about that issue?

11 MR. LEDUC: I don't recall specifically any
12 conversation on that issue but I would not say that it was
13 not a topic that was discussed with priests who were
14 friends of mine.

15 MS. DALEY: That was a bit of a double
16 negative. So does it follow ---

17 MR. LEDUC: Well, ---

18 MS. DALEY: --- that it's something that you
19 likely did discuss with priests ---

20 MR. LEDUC: Yes.

21 MS. DALEY: --- who you were friendly with?

22 MR. LEDUC: Yes.

23 MS. DALEY: And what was their perception?

24 MR. LEDUC: I don't recall.

25 MS. DALEY: All right.

1 I told you when I opened this topic that I
2 was going to speak about two scenarios, one was inside the
3 Diocese of Alexandria-Cornwall and the other is outside the
4 Diocese, and you did give testimony I thought of being
5 consulted on three instances that occurred in the Province
6 of Quebec.

7 MR. LEDUC: Two -- three in the Province of
8 Quebec, yes.

9 MS. DALEY: Three in Quebec?

10 MR. LEDUC: Yes.

11 MS. DALEY: Did any of those involve priests
12 who also practiced in the Diocese of Alexandria-Cornwall?

13 MR. LEDUC: No.

14 MS. DALEY: And did any of those cases
15 involve payments of money to alleged victims of sexual
16 misconduct?

17 MR. LEDUC: One.

18 MS. DALEY: And in that instance, was a
19 release involved?

20 MR. LEDUC: Yes.

21 MS. DALEY: And did that release contain
22 confidentiality provisions?

23 MR. LEDUC: No.

24 MS. DALEY: All right.

25 You'd indicated a break sir.

1 **THE COMMISSIONER:** Let's take a break.

2 Thank you.

3 **THE REGISTRAR:** Order; all rise. À l'ordre;
4 veuillez vous lever.

5 This hearing will resume at 5:35 p.m.

6 ---Upon recessing at 5:19 p.m./

7 L'audience est suspendue à 17h19

8 ---Upon resuming at 5:33 p.m./

9 L'audience est reprise à 17h33

10 **THE REGISTRAR:** This hearing is now resumed.

11 Please be seated. Veuillez vous asseoir.

12 **JACQUES LEDUC, Resumed/Sous le même serment:**

13 **THE COMMISSIONER:** Ms. Daley, another half
14 hour, 45 minutes, all right?

15 **MS. DALEY:** That's perfectly fine. I'll get
16 as much done as I possibly can.

17 ---**CROSS-EXAMINATION BY/CONTRE INTERROGATOIRE PAR MS. DALEY**
18 **(Cont'd/Suite):**

19 **MS. DALEY:** All right, I want to move into
20 the David Silmsen matter and ask you some questions about
21 the role you played there, sir.

22 And let me start by -- I'm going to kind of
23 start at the end, which is perhaps not that smart, but from
24 the perspective -- from the point of view, from the
25 striking of the deal, if you will, from the time it was

1 learned that Mr. Silmsner would accept \$32,000 that the
2 Diocese was prepared to pay. Okay, so starting at that
3 point. Was it not the intent and wish of your client that
4 that payment would -- the fact of that payment would remain
5 confidential?

6 **MR. LEDUC:** I'm not certain if the
7 confidentiality clause came about in our discussions with
8 myself and Mr. MacDonald, but I don't recall the Bishop
9 having said anything about confidentiality. I don't
10 recall. But the clause is there, yes.

11 **MS. DALEY:** I take it what you're saying is
12 you don't recall a specific discussion or conversation in
13 which the Bishop instructed you to ensure a confidentiality
14 clause was present?

15 **MR. LEDUC:** That's correct.

16 **MS. DALEY:** But would I be right to say that
17 based on your knowledge of the Diocese and what they wished
18 and just your general knowledge of how a settlement would
19 be implemented, that you always understood that they too
20 would have wanted a confidentiality clause?

21 **MR. LEDUC:** I don't agree with that.

22 **MS. DALEY:** Why not?

23 **MR. LEDUC:** Well, that's -- to answer your
24 question, I don't agree with the statement you've made that
25 they would have wanted that clause in. I don't agree with

1 that.

2 **MS. DALEY:** Then why is the clause in the
3 agreement?

4 **MR. LEDUC:** Because, as I've just said, it
5 is there as a result either of Mr. Silmsler asking for it or
6 Mr. MacDonald and I having some discussion about whether it
7 should be there or not. And what I'm telling you is that I
8 don't believe I was instructed by the Bishop to make sure
9 it was included, which is what I understand from your
10 question.

11 **MS. DALEY:** All right.

12 But even absent those instructions, you
13 considered it prudent in your client's interest that there
14 be such a clause and therefore there was?

15 **MR. LEDUC:** Not necessarily.

16 **MS. DALEY:** Why not?

17 **MR. LEDUC:** Well, because not all clients
18 deem it important nor appropriate to have a confidentiality
19 clause in a settlement.

20 **MS. DALEY:** I'm assuming that the Silmsler
21 matter was the very first occasion where you'd ever been
22 involved as a lawyer in settling an alleged sexual abuse
23 matter; correct?

24 **MR. LEDUC:** No, it was the second.

25 **MS. DALEY:** It was the second?

1 **MR. LEDUC:** Yes.

2 **THE COMMISSIONER:** But not one dealing with
3 the Diocese?

4 **MR. LEDUC:** That's right. I had one -- as I
5 stated yesterday or the day before, I had one previous
6 experience.

7 **MS. DALEY:** Fair enough. But with respect
8 to the Diocese of Alexandria-Cornwall, Silmsen was your
9 first experience of settling an alleged sexual assault?

10 **MR. LEDUC:** Yes.

11 **MS. DALEY:** Did you not then consider
12 whether you should ask your client the terms they wanted in
13 the release, whether indeed they wanted a confidentiality
14 clause or were indifferent about it?

15 **MR. LEDUC:** I may have had those
16 conversations but I don't recall.

17 **MS. DALEY:** Is it your best recollection
18 that the insertion of the confidentiality clause satisfied
19 the wishes of both parties, that is to say Silmsen and your
20 clients?

21 **MR. LEDUC:** Yes.

22 **THE COMMISSIONER:** Where is the exhibit for
23 the draft settlement? Can anyone help me?

24 **MS. DALEY:** I'll help you with that.

25 There are some draft documents at 1893, sir.

1 **THE COMMISSIONER:** Eighteen ninety-three
2 (1893).

3 **MS. DALEY:** And in particular, once you find
4 that exhibit, it's Bates 662.

5 **THE COMMISSIONER:** Okay. So -- I'm sorry;
6 but I have to ask. Monsieur Leduc, my understanding of the
7 evidence is that the draft that you prepared contained --
8 you prepared the draft?

9 **MR. LEDUC:** Yes.

10 **THE COMMISSIONER:** You faxed it over to Mr.
11 MacDonald?

12 **MR. LEDUC:** Yes.

13 **THE COMMISSIONER:** All right.
14 And it contains the confidentiality
15 agreement?

16 **MR. LEDUC:** Yes.

17 **THE COMMISSIONER:** All right.
18 So it may not be logical, but you put it in
19 there?

20 **MR. LEDUC:** Yes, remembering that there are
21 discussions between Mr. MacDonald and myself ---

22 **THE COMMISSIONER:** Right.

23 **MR. LEDUC:** --- about this document; he had
24 no experience, and I produced one.

25 **THE COMMISSIONER:** Right.

1 **MR. LEDUC:** Remembering also that this full
2 release and undertaking not to disclose is a document to be
3 put to Mr. Silmsler, the plaintiff if you wish, and it's not
4 one that is signed by the Diocese.

5 **THE COMMISSIONER:** Right.

6 **MR. LEDUC:** So it's actually Mr. Silmsler who
7 is putting forth this document. He is the one who is
8 authorizing this document. He's the one who's saying "I,
9 in consideration of a sum payment to me". So it's Mr.
10 Silmsler's document.

11 **THE COMMISSIONER:** Right. Except that he
12 may not want to have that in there.

13 **MR. LEDUC:** Then he would not have signed
14 it.

15 **THE COMMISSIONER:** Okay.

16 **MS. DALEY:** But just so we are clear, sir,
17 with respect to this draft, it emanated from you and it
18 contained a fairly standard confidentiality provision?

19 **MR. LEDUC:** Absolutely.

20 **MS. DALEY:** And that certainly was not
21 inconsistent with the instructions you had from your
22 client, to the extent you had instructions on the terms of
23 a release; correct?

24 **MR. LEDUC:** That's correct.

25 **MS. DALEY:** All right.

1 Now, earlier we looked at the press article
2 -- one moment please.

3 **(SHORT PAUSE/COURTE PAUSE)**

4 **MS. DALEY:** Exhibit 1915.

5 **MR. LEDUC:** Yes.

6 **MS. DALEY:** And I drew from this article,
7 amongst other things, that the Bishop, at this point in
8 time when he's talking to the press, is very upset. Is
9 that fair?

10 **MR. LEDUC:** My recollection is that he was
11 quite upset, yes.

12 **MS. DALEY:** And did you understand the
13 source of his upset?

14 **MR. LEDUC:** Yes.

15 **MS. DALEY:** How would you describe that or
16 explain that?

17 **MR. LEDUC:** My recollection is that he was
18 upset for a number of reasons: one, in relation to the
19 -- what had been stated in articles and in the newspapers
20 which he thought was inaccurate. He was certainly upset
21 with the fact that the release was not what it should have
22 been.

23 **MS. DALEY:** Sir, this is January 15th. We
24 don't know that yet.

25 **MR. LEDUC:** You're talking about this

1 article?

2 **MS. DALEY:** Yes, I'm talking about ---

3 **MR. LEDUC:** Oh, well.

4 **MS. DALEY:** --- the first time he speaks
5 publicly and he's upset. He says, "It's hurt the Church.
6 People's faith has been shaken." The reporter describes
7 him as being visibly upset and agitated. So this is before
8 he knows that there's a problem with the release. These are
9 his first comments about the matter.

10 **MR. LEDUC:** Yes.

11 **MS. DALEY:** What was upsetting him then, if
12 you know?

13 **MR. LEDUC:** Well, the fact that there were
14 allegations made that the Church had made this payment --
15 not the allegations, but the fact that some negative
16 comments were being made about this payment.

17 **MS. DALEY:** All right.

18 And I take it that's exactly what he feared
19 the first time you and Malcolm presented the notion of a
20 settlement to him?

21 **MR. LEDUC:** Well, you would have to ask him
22 that, but ---

23 **MS. DALEY:** But is that not what he
24 expressed in terms of his reasons ---

25 **MR. LEDUC:** Yes.

1 **MS. DALEY:** --- for not agreeing?

2 **MR. LEDUC:** Yes.

3 **MS. DALEY:** All right.

4 So if I'm right, he had always expressed to
5 you a worry that if it were to be learned that the
6 settlement had been made, perhaps it could cast the Church
7 in a negative light?

8 **MR. LEDUC:** No, I would not say that. I
9 would say that his concern was that this type of settlement
10 would be seen to be hush money. That, I think, was a proper
11 expression of what he felt and what he said.

12 **MS. DALEY:** Just to unpack that, what he
13 meant was it would be money being given to someone in
14 exchange for not making a public complaint about a priest?

15 **MR. LEDUC:** Well, you'd have to ask him what
16 he meant by that.

17 **MS. DALEY:** What did you understand? I
18 mean, you were part of what was happening at this point,
19 sir. When he said hush money, what did you take on it?

20 **MR. LEDUC:** My understanding was that he
21 originally did not agree to the settlement because he
22 viewed it, in part, as being -- to be seen as -- which it
23 would eventually be seen as paying someone to keep quiet,
24 and that was a concern.

25 **MS. DALEY:** Which goes to the point we've

1 just been discussing, and that was the confidentiality
2 provision in the settlement; right?

3 MR. LEDUC: If you wish, yes.

4 MS. DALEY: But is that not, as you
5 understood it, what was in his mind that was troubling him?

6 MR. LEDUC: Well, he said it. It wasn't
7 only in his mind. He said it very clearly ---

8 MS. DALEY: Yes.

9 MR. LEDUC: --- that he feared that this
10 type of settlement would be seen as -- would be seen as
11 paying someone not to go public with their complaint.

12 MS. DALEY: Because it looks as though the
13 *quid pro quo* for the money is Mr. Silmsen's agreement that
14 he's not going to make any public statement?

15 MR. LEDUC: No. You know, I -- please, I
16 just want to say that this document, the release, is Mr.
17 Silmsen's document. So he is saying that the parties --
18 and we've agreed to that -- that the parties will not
19 disclose. That's a typical, standard non-disclosure
20 agreement.

21 Now, if you're asking me, well, what was the
22 reason behind it, well, my answer to you is that my
23 recollection is that the parties had agreed to it, that I
24 had agreed to it and that Malcolm had agreed to it and that
25 Mr. Silmsen, by signing it, had agreed to it.

1 **MS. DALEY:** I'm just trying to see if you
2 can help us at all with the statements that the Bishop has
3 made and the emotion that he's expressing at this time.
4 And you've helped me to this extent. He's worried that the
5 settlement with Silmsler will be seen as hush money. That's
6 the substance of his concern.

7 **MR. LEDUC:** He expressed that concern, yes.

8 **MS. DALEY:** All right.

9 And did you understand that to mean that
10 even though a confidentiality term may be standard in a
11 release, from this gentleman's perspective, the Bishop's
12 perspective, it concerned him?

13 **MR. LEDUC:** Well, I can tell you that the
14 Bishop, as I said a while ago, did not provide me with
15 specific instructions as if to say "Make sure there is a
16 non-disclosure provision." That did not happen.

17 **MS. DALEY:** When you were having your
18 discussions, the first go-round with the Bishop, trying to
19 persuade him in favour of a settlement, did it occur to you
20 you could have said to him, or did you say to him, "Listen,
21 Bishop, we don't have to have a confidentiality clause.
22 Mr. Silmsler can speak about this if he wishes. We don't
23 have to restrict him that way."

24 **MR. LEDUC:** Well, I think that was made
25 clear to him when we told him that Mr. Silmsler was free to

1 proceed with the criminal allegations and the criminal
2 process.

3 MS. DALEY: All right.

4 MR. LEDUC: That's certainly not secret.

5 MS. DALEY: All right.

6 Now, when the second shoe dropped, if you
7 will -- and what I mean by that is the realization dawned
8 that indeed the release contained a purported restriction
9 on a criminal complaint as well, I take it that really
10 upset the Bishop?

11 MR. LEDUC: I would think so.

12 MS. DALEY: And he expressed that directly
13 to you?

14 MR. LEDUC: I'm not sure of any conversation
15 that I had with the Bishop except to say that, you know, we
16 had to get new counsel. I don't recall him -- I don't
17 recall him scolding me, if I can put it in that sense.

18 MS. DALEY: Did someone else on his behalf
19 deliver a message that he was very displeased with you?

20 MR. LEDUC: No.

21 THE COMMISSIONER: Did he ever phone up --
22 did you ever have a conversation where he says, "Hello, I
23 just opened this envelope and there's a clause in here that
24 says..." and asked you for an explanation?

25 MR. LEDUC: I'm not sure if Gordon Bryan,

1 that morning, relayed that message to the Bishop or if the
2 Bishop was there. I don't know.

3 I remember speaking with the Bishop and
4 saying "This is what's happened. I'm sorry, but we have to
5 get other counsel involved." And that was a telephone
6 conversation.

7 **THE COMMISSIONER:** Like, he wouldn't have
8 said, "How could this have happened?"

9 **MR. LEDUC:** I think the Bishop would have
10 understood human error. Notwithstanding what has been
11 said, he's a good Christian fellow.

12 **THE COMMISSIONER:** Well, first of all,
13 notwithstanding everything that's been said, there's not a
14 heck of a lot I've heard so far about him. So ---

15 **MR. LEDUC:** No, he was, I thought, very
16 understanding.

17 **THE COMMISSIONER:** Okay.

18 **MS. DALEY:** Okay. And is that because, to
19 use a phrase, you fell on the sword and said, "This is my
20 fault. I caused this problem" or ---

21 **MR. LEDUC:** Well, that was the case.

22 **MS. DALEY:** Right.

23 But you had an awareness that this
24 circumstance caused him great upset?

25 **MR. LEDUC:** Absolutely.

1 **MS. DALEY:** And did he ever speak to you
2 again about it?

3 **MR. LEDUC:** Not that I recall. You're
4 talking about the Silmsler matter or ---

5 **MS. DALEY:** Yes. Well, the Silmsler matter
6 and the fact that he had inadvertently said something that
7 was not correct in the press?

8 **MR. LEDUC:** Oh no, I never discussed that
9 with him. Certainly after January all of his discussions
10 with respect to the Silmsler matter were with another law
11 firm, and although I've had conversations with him since, I
12 don't recall us ever discussing the Silmsler matter.

13 **MS. DALEY:** All right.

14 So you didn't have kind of a post-mortem
15 conversation in which you discussed ---

16 **MR. LEDUC:** No.

17 **MS. DALEY:** --- the unfortunate events?

18 **MR. LEDUC:** No.

19 **MS. DALEY:** All right.

20 Did he retain you directly as counsel after
21 that, or did your subsequent retainers come through other
22 priests?

23 **MR. LEDUC:** I don't -- I don't remember.

24 **MS. DALEY:** All right. All right.

25 Let me shift to another topic related to the

1 Silmsner matter. Would you be kind enough to have the
2 protocol handy? That should be Exhibit 58 at Tab -- it's
3 either 25 or 28.

4 **THE COMMISSIONER:** Twenty-five (25) is the -
5 --

6 **MR. LEDUC:** Yes.

7 **MS. DALEY:** There's a few aspects of this
8 that I'd like your help with. First of all, there's a
9 phrase that I'm not sure I understand.

10 Under Phase 1, "Receiving a Complaint", Item
11 b), "Objectives of the Designated Person". That the
12 protocol document says:

13 "Ascertain that there are facts which
14 support a 'reasonable motive' for the
15 complainant according to the laws on
16 the protection of youth."

17 I don't understand what "reasonable motive"
18 means. Can you explain that to me?

19 **MR. LEDUC:** I cannot tell you what the
20 author or the authors of this guideline meant.

21 **THE COMMISSIONER:** Well ---

22 **MR. LEDUC:** But my ---

23 **MS. DALEY:** Your understanding?

24 **MR. LEDUC:** My understanding is that the --
25 that there is no hidden agenda.

1 **THE COMMISSIONER:** I think if we go to the
2 French.

3 **MR. LEDUC:** It's always a good thing to do.

4 **THE COMMISSIONER:** And that becomes a "motif
5 raisonable".

6 **MS. DALEY:** Ah, okay.

7 **THE COMMISSIONER:** And for what it's worth -
8 - and I don't know if I asked this of whoever drafted this
9 -- yes, this is the one that came from Quebec, isn't it?
10 Isn't this -- this is Father Vaillancourt who drafted this
11 up.

12 **MS. DALEY:** I think so.

13 **THE COMMISSIONER:** He got a copy from
14 Quebec. So my guess is, reading this, because the English
15 is staccatoed or -- that it started in French. And without
16 being an interpreter, a "motif raisonable" I think is like
17 reasonable grounds. It's to determine whether or not -- I
18 would read it "Ascertain that there are facts, which
19 support a reasonable suspicion or reasonable motive" --
20 well that's what it is -- "for the complainant according to
21 the laws on the protection of youth."

22 So "c'est des motifs raisonnables," and that
23 has a different meaning in French, which would mean --
24 which would make sense in French.

25 Now, Mr. Lee.

1 **MR. LEE:** I am not absolutely certain of
2 this, but my recollection of Father Vaillancourt's evidence
3 is that, as you say, he received a precedent from an
4 Archdiocese in Quebec.

5 My recollection is that his first draft,
6 however, of the guidelines, the original draft of the
7 guidelines were in English, because there were other people
8 he was working with in English and they were then
9 translated into French.

10 **MR. SHERRIFF-SCOTT:** No, that's not (off
11 mic)

12 **MR. LEE:** But I may be wrong, but I thought
13 it was the ---

14 **THE COMMISSIONER:** Okay.

15 **MR. SHERRIFF-SCOTT:** The confusion on that -
16 - excuse me -- if you'll recall, Commissioner, the
17 confusion on that evidence was the June '95 document
18 because there was a difference in the French version and
19 the English version on one particular line.

20 **THE COMMISSIONER:** M'hm.

21 **MR. SHERRIFF-SCOTT:** And he said right then
22 and there, "All the people in the room were Anglophones and
23 so I started off in English," or, "My English isn't so
24 good," or something. He is a Francophone and he was
25 dealing with CAS, police forces, et cetera, and all of them

1 were Anglophones.

2 That's the discussion ---

3 **THE COMMISSIONER:** Right.

4 **MR. SHERRIFF-SCOTT:** --- to situate you on
5 the evidence.

6 **THE COMMISSIONER:** So I guess then I'm wrong
7 then that he did it in French first?

8 **MR. SHERRIFF-SCOTT:** No, no, no. I'm just
9 correcting Mr. Lee's version.

10 **THE COMMISSIONER:** Okay.

11 **MR. SHERRIFF-SCOTT:** I think your version is
12 right. He got it from Quebec and that's where it started.

13 **THE COMMISSIONER:** Okay. Well, in any
14 event, my reading of this, it flows a lot better in French
15 than it does in English.

16 **MS. DALEY:** Okay.

17 **THE COMMISSIONER:** I'll make no further
18 comment. Do what you want.

19 **MS. DALEY:** But, sir, you are obviously
20 fluent in both languages and you did try to work with this
21 document when you were retained. Under Phase 4, which is
22 the part of the document that you have knowledge of, it
23 talks about the advisory committee of which you were a
24 member attempting to assess the value of the reasonable
25 motive.

1 So just help me with what that meant to you.
2 Did that mean to you, you needed to evaluate the
3 complainant and whether he was being sincere or whether he
4 had some ulterior purpose in making a complaint?

5 **MR. LEDUC:** Well, I think all of the above.

6 **MS. DALEY:** All right. And certainly that's
7 how you applied it when you dealt with Mr. Silmser on the
8 committee?

9 **MR. LEDUC:** That's correct.

10 **MS. DALEY:** All right. Now -- and I'll come
11 back to your February 9th meeting with him momentarily, but
12 I just -- you gave some evidence just this afternoon before
13 the completion of your exam in-chief about whether or not
14 the Diocese had complied with all aspects of this, and I
15 just want, for the sake of the record, to step through it
16 phase by phase and ask you to tell me whether you have
17 knowledge of compliance or not. All right?

18 So with respect to the steps identified
19 under Phase 1, do you have any knowledge one way or the
20 other concerning the Diocese compliance with that phase in
21 relation to Mr. Silmser's complaint?

22 **MR. LEDUC:** No. I have no information.

23 **MS. DALEY:** No knowledge. All right. Same
24 question with respect to Phase 2. Do you have knowledge as
25 to whether there was compliance by the Diocese or not with

1 those steps?

2 MR. LEDUC: I believe so, yes. I believe
3 Monsignor McDougald met with the Bishop.

4 MS. DALEY: All right.

5 MR. LEDUC: Or vice versa.

6 MS. DALEY: All right. So to the best of
7 your knowledge, that occurred?

8 MR. LEDUC: Yes.

9 MS. DALEY: What about Phase 3; do you have
10 knowledge as to whether that was followed by the Diocese?

11 MR. LEDUC: No, I was not made aware of any
12 conversation that would have had -- occurred between
13 Monsignor McDougald and Father Charles.

14 MS. DALEY: Can I ask you to clarify
15 something for me? On Bates 697, the second bullet under
16 that phase says "offer him who is the suspected aggressor
17 all the help and close support that he would need,
18 psychological and legal".

19 And again, I don't know if this is a matter
20 of translation or not but I'm not sure what the words "help
21 and close support" mean. Can you help me?

22 MR. LEDUC: Other than comparing with the
23 French, no. Can you be more precise maybe?

24 MS. DALEY: I just -- I can -- I see the
25 words "close support". I'm not sure. Does that have some

1 specific connotation in the Catholic Church in relation to
2 how priests are to be treated?

3 MR. LEDUC: Not that I know of. No.

4 MS. DALEY: All right.

5 MR. LEDUC: Again, it's not even -- it's not
6 in the French version.

7 MS. DALEY: All right. Sir, do you have any
8 knowledge as to whether the Diocese, in fact, provided
9 financial support to Father Charles, as this bullet might
10 suggest? In other words, there'd be an offer of
11 psychological and legal help. I presume that means an
12 offer to assist with retaining counsel.

13 Do you know if any financial support was
14 given to Father Charles in that regard?

15 MR. LEDUC: No. All I know is that he went
16 to a clinic.

17 MS. DALEY: I was thinking of his retainer
18 of Malcolm MacDonald.

19 MR. LEDUC: I don't know that.

20 MS. DALEY: All right. Phase 4 you
21 participated in, so that you can testify here that that was
22 complied with; correct?

23 MR. LEDUC: No. There were no minutes
24 written down.

25 MS. DALEY: Ah, sorry, there's that

1 deficiency. Is that the only deficiency under Phase 4?

2 **MR. LEDUC:** I'm -- I'm also assuming that
3 Monsignor McDougald did report to the Bishop or informed
4 the Bishop.

5 **MS. DALEY:** All right. You personally
6 didn't do that?

7 **MR. LEDUC:** No.

8 **MS. DALEY:** But you believe that Monsignor
9 McDougald did do that?

10 **MR. LEDUC:** Yes.

11 **MS. DALEY:** All right. But not with any
12 written document?

13 **MR. LEDUC:** Not that I know of.

14 **MS. DALEY:** And Phase 5, I think you've
15 testified here already, to your knowledge, that was not in
16 fact complied with?

17 **MR. LEDUC:** That's correct.

18 **MS. DALEY:** Phase 6 obviously pertains to
19 the CAS. What about Phase 7, "Offering to help," and
20 that's a two-part one.

21 One is to offer help to the suspected
22 aggressor; the other, of course, is to offer help to the
23 victim and his family. Do you know from your own knowledge
24 whether or not help was offered to David Silmsler and his
25 family?

1 **MR. LEDUC:** No. Other than the settlement
2 entered into.

3 **MS. DALEY:** All right. So the one aspect of
4 this policy that you do have direct knowledge of is Phase
5 4. The policy wasn't quite followed because there were no
6 minutes. The balance of it either to your knowledge wasn't
7 followed or you have no knowledge; is that correct?

8 **MR. LEDUC:** Correct.

9 **MS. DALEY:** Would I be right to say, sir,
10 that the only written document that we have that reflects
11 what occurred during Phase 4, and that is the meeting with
12 Mr. Silmsler, is the statement that you gave to Scott and
13 Aylen, Exhibit 1888?

14 **MR. LEDUC:** Well, I understand you have
15 other statements as well from Father Vaillancourt,
16 Monsignor McDougald, Mr. Silmsler.

17 **MS. DALEY:** I mean a written document
18 describing what happened at the meeting with Mr. Silmsler.
19 Is there ---

20 **MR. LEDUC:** Was there not subsequently a
21 report that was re-crafted by Father Vaillancourt?

22 **MS. DALEY:** Did you see a report?

23 **MR. LEDUC:** At what point-in-time?

24 **MS. DALEY:** Pardon me?

25 **MR. LEDUC:** When?

1 **MS. DALEY:** At any time? Recently?

2 **MR. LEDUC:** Well, no. Well, I -- my
3 recollection is that Father Vaillancourt had erased the
4 report that he had on his computer and then ---

5 **MS. DALEY:** Rewrote it.

6 **MR. LEDUC:** --- rewrote it, right. Yes.

7 **MS. DALEY:** And that exercise had occurred
8 before you gave your statement to Scott & Aylen in February
9 of 1994?

10 **MR. LEDUC:** I don't -- I couldn't tell you.

11 **MS. DALEY:** Do you know or ---

12 **MR. LEDUC:** --- you. I don't know. Well,
13 no, I guess that we'll have to look at statement.

14 **MS. DALEY:** Did you sit with Father
15 Vaillancourt as he was trying to recreate from memory what
16 had happened?

17 **MR. LEDUC:** No.

18 **MS. DALEY:** Did he consult you as to whether
19 his memory was accurate?

20 **MR. LEDUC:** No.

21 **MS. DALEY:** Did you have any knowledge he
22 was even embarked on that exercise?

23 **MR. LEDUC:** At what point-in-time?

24 **MS. DALEY:** In 1993 when the complaint was
25 alive.

1 **MR. LEDUC:** I have no recollection, and
2 maybe you can help me as to when he was asked to produce
3 that report that he had erased. That's when, possibly, I
4 would have known about it.

5 **MS. DALEY:** My memory could be wrong, but I
6 thought his evidence suggested around the October timeframe
7 when the CAS is involved.

8 **MR. LEDUC:** I would have nothing to say to
9 say anything contrary to that.

10 **MS. DALEY:** No, I understand. But at that
11 point-in-time, I take it you didn't have knowledge that
12 Father Vaillancourt was attempting to recreate notes of
13 what had occurred at the meeting?

14 **MR. LEDUC:** I knew that at one point-in-
15 time, but I can't help you and tell you when I found out.

16 **MS. DALEY:** All right. Now ---

17 **THE COMMISSIONER:** Can we close off whenever
18 you think you're finished a section there?

19 **MS. DALEY:** Yes, no later than ten past. Is
20 that all right?

21 **THE COMMISSIONER:** Sure.

22 **MS. DALEY:** Can I ask you this question,
23 sir, and I understood your testimony to be that
24 principally, principally, what the committee took back to
25 the Bishop or his designate after having met with Silmsen

1 were observations?

2 **MR. LEDUC:** Yes.

3 **MS. DALEY:** And observations as opposed to
4 recommendations in other words?

5 **MR. LEDUC:** That's right.

6 **MS. DALEY:** That's the distinction?

7 And can you tell me in your words what your
8 observations were that were reflected back to the Bishop?

9 **MR. LEDUC:** Well, through Monsignor
10 McDougald because I did not report directly ---

11 **MS. DALEY:** Yes.

12 **MR. LEDUC:** --- to the Bishop, and I think
13 from what I've said in the statement, either Mr. Silmsen
14 was telling the truth or he was a very good actor.

15 **MS. DALEY:** Right. And that's the gist of
16 the observations that were reported back through Monsignor
17 McDougald?

18 **MR. LEDUC:** That's correct.

19 **MS. DALEY:** Was that observation meant to
20 suggest that it was not a credible complaint?

21 **MR. LEDUC:** It says what it says. It's
22 basically inconclusive. Our observations were inconclusive
23 and it was either/or.

24 **MS. DALEY:** And you couldn't make any
25 assessment of the reasonable motive?

1 **MR. LEDUC:** No, in the sense that the
2 conclusion of our assessment was, we don't know.

3 **MS. DALEY:** So let me ask this.

4 Where does that put you in terms of the
5 complainant's reasonable motive? If you can't conclude
6 either positively or negatively, what do you do?

7 **MR. LEDUC:** Well, we make -- we transmit
8 that observation in the report of the committee to the
9 Bishop and he decides.

10 **MS. DALEY:** And are you aware of any
11 decision that he made based upon that observation?

12 **MR. LEDUC:** No.

13 **MS. DALEY:** Is it for that reason that you
14 made no recommendations to them? In other words, you
15 couldn't evaluate the reasonable motive?

16 **MR. LEDUC:** That's right.

17 **MS. DALEY:** Is it for that reason that, as
18 we've heard your testimony, essentially not much occurred
19 between February and August when there was some overtures
20 by Malcolm MacDonald? Is that why nothing occurred in ---

21 **MR. LEDUC:** Nothing that I know of, you're
22 right. As to why, I don't know.

23 **MS. DALEY:** All right.

24 Would we here at the Inquiry be on fair
25 grounds if we were to draw the conclusion that in fact that

1 the reason why the Diocese did nothing in that window of
2 time was because there was no affirmative assessment of Mr.
3 Silmser's reasonable motive? In other words, they didn't
4 accept that he had a reasonable motive.

5 MR. LEDUC: I can't answer that question.

6 THE COMMISSIONER: No, that's good.

7 And, you know, we're going back to this word
8 "motive" and a motive in English -- like a motive to bring
9 forward his claim?

10 MS. DALEY: Motivation?

11 THE COMMISSIONER: It's motivation.

12 MS. DALEY: A reasonable motivation. That
13 he was sincere in making his claim. It was a sincere
14 claim.

15 THE COMMISSIONER: No ---

16 MS. DALEY: Does that not capture it?

17 THE COMMISSIONER: Capture what?

18 MS. DALEY: The sense of the language and
19 the ---

20 THE COMMISSIONER: No, I think that if you
21 look at the whole structure, it was to determine whether
22 you had reasonable suspicion pursuant to the CAS to make a
23 report to the CAS and that's where motif raisonnable came
24 in was there. And then it gets repeated in someplace else
25 and so I don't know that we should be using the word in

1 English of "motive" ---

2 MS. DALEY: Okay.

3 THE COMMISSIONER: --- because motive means
4 were there reasonable grounds.

5 MS. DALEY: Fair enough.

6 And what you've said on that score is, I
7 couldn't say there was because he was either telling the
8 truth or he was the world's best actor and we couldn't
9 tell.

10 MR. LEDUC: That's correct.

11 MS. DALEY: Fair? So you couldn't put
12 anything positive in the balance on that assessment in
13 terms of Mr. Silmser's complaint?

14 MR. LEDUC: That's correct.

15 MS. DALEY: All right.

16 Now, in relation to the interview that you
17 participated in, and by all means turn up your statement if
18 you feel you need to, but my understanding of what the
19 committee concluded was that they were very dubious about
20 the fourth incident. Is that fair?

21 MR. LEDUC: Mr. Silmser's recounting of the
22 fourth incident?

23 MS. DALEY: Yes.

24 MR. LEDUC: I would tell you that Monsignor
25 McDougald had a comment to make about that which I think

1 we've heard yesterday, yes.

2 MS. DALEY: Right. He thought that an
3 allegation of that nature was not remotely in Father
4 Charles' character; correct?

5 MR. LEDUC: That's a fair statement.

6 MS. DALEY: And as a result of that, he
7 concluded that Mr. Silmsers' statement about that incident
8 was erroneous, it wasn't true?

9 MR. LEDUC: I don't think that was his
10 conclusion.

11 MS. DALEY: No?

12 MR. LEDUC: I think he had doubts.

13 MS. DALEY: Serious doubts?

14 MR. LEDUC: Yes.

15 MS. DALEY: Did you share those doubts?

16 MR. LEDUC: I did not know Father Charles so
17 I wasn't in the same position as Monsignor McDougald was.

18 MS. DALEY: I take it you were troubled by
19 the fact that there was a lack of specificity that Mr.
20 Silmsers was prepared to give you about that incident?

21 MR. LEDUC: I think my observations were a
22 mixture of different elements that brought me to the
23 conclusion that we've discussed. It just wasn't one single
24 element or observation. It was all of them together who --
25 which one put together would not convince me either way.

1 **MS. DALEY:** What ---

2 **MR. LEDUC:** Or even give me a reasonable
3 motive either way.

4 **MS. DALEY:** All right. Did it weigh heavily
5 in your balance that this fourth incident didn't seem
6 likely?

7 **MR. LEDUC:** There was nothing that was of
8 any particular importance in what we saw or heard; just
9 when all put together that's the result.

10 **MS. DALEY:** I understand, all right.
11 This is a good time, from my perspective ---

12 **THE COMMISSIONER:** Great ---

13 **MS. DALEY:** --- to stop.

14 **THE COMMISSIONER:** Thank you.

15 Come back at 9:30. Oh, no, sorry. I
16 understand there's a motion at 9:30. You can expect to
17 come back at ten o'clock. It'll probably take half an
18 hour.

19 **MR. LEDUC:** Ten o'clock?

20 **THE COMMISSIONER:** Ten o'clock it is. All
21 right, thank you.

22 **THE REGISTRAR:** Order; all rise. À l'ordre;
23 veuillez vous lever.

24 This hearing is adjourned until tomorrow
25 morning at 9:30 a.m.

1 --- Upon adjourning at 6:09 p.m./
2 L'audience est ajournée à 18:09
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C E R T I F I C A T I O N

I, Marc Demers a certified court reporter inthe Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Marc Demers, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Marc Demers, CM