

**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 161

Held at :

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

Friday, November 16 2007

Tenue à:

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

Vendredi, le 16 novembre 2007

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Raija Pulkkinen	Commission Counsel
Mr. Reena Lalji	Cornwall Police Service Board
Ms. Diane Lahaie	Ontario Provincial Police
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Leslie McIntosh	Attorney General for Ontario
Mr. R. William Duncan	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. Michael Neville	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Mr. Carson Chisholm
Mr. Ronald G. McClelland	Mr. Sean Adams

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1 --- Upon commencing at 9:43 a.m. /

2 L'audience début à 9h43

3 **THE REGISTRAR:** All rise; veuillez vous
4 lever.

5 The hearing of the hearing of the Cornwall
6 Public Inquiry is now in session.

7 The Honourable Mr. Justice Normand Glaude,
8 Commissioner, presiding.

9 Please be seated; veuillez vous asseoir.

10 **THE COMMISSIONER:** Good morning, all.

11 **MR. ENGELMANN:** Good morning, sir.

12 Sir, just one new face today but it's face
13 you've seen before, Bill Duncan ---

14 **THE COMMISSIONER:** Yes.

15 **MR. McCLELLAND:** --- who is here for Peter
16 Chisholm.

17 **THE COMMISSIONER:** Yes. Good morning, sir.

18 **MR. McCLELLAND:** Children's Aid Society.

19 **THE COMMISSIONER:** Yes, thank you.

20 **MR. ENGELMANN:** Mr. Commissioner, I just
21 have a couple of more questions for Mr. Adams, but before
22 doing so I just want to advise you and the public counsel
23 had a brief all-counsel meeting this morning.

24 **THE COMMISSIONER:** Yes.

25 **MR. ENGELMANN:** At that time we discussed,

1 amongst other things, scheduling.

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

3 **MR. ENGELMANN:** And so I just wanted to
4 mention the schedule briefly, publicly.

5 We also discussed and had disclosure of a
6 draft anticipated evidence summary for a proposed witness -
7 --

8 **THE COMMISSIONER:** Right.

9 **MR. ENGELMANN:** --- that there was some
10 discussion about yesterday.

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

12 **MR. ENGELMANN:** And I've advised Mr. Adams'
13 counsel, Mr. McClelland, that I will certainly keep him
14 informed of our hearing schedule.

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

16 **MR. ENGELMANN:** Advise him as to when we
17 intend to call the proposed witness and provide as much
18 information as I can to him ---

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

20 **MR. ENGELMANN:** --- about this person as
21 soon as I have spoken with the person again.

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

23 **MR. ENGELMANN:** In particular, whether I can
24 give a name and other information to him.

25 So I've indicated that I'd get back to him

1 next week, if I could.

2 **THE COMMISSIONER:** All right.

3 **MR. ENGELMANN:** Sir, I just wanted to
4 mention, as well, that the plan for today is I've spoken to
5 counsel about cross-examination of ---

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

7 **MR. ENGELMANN:** --- Mr. Adams. With perhaps
8 one exception, they all said they would be fairly brief.

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

10 **MR. ENGELMANN:** So I anticipate you have
11 about two hours and then that will be finished and then I
12 anticipate we would then go into the overview of
13 documentary evidence for Nelson Barque.

14 **THE COMMISSIONER:** Yes.

15 **MR. ENGELMANN:** Then on Monday, I've advised
16 counsel and we want to confirm with you, sir, that we can
17 start at one o'clock instead of two o'clock?

18 **THE COMMISSIONER:** Yes. Barring any -- it's
19 cutting it short for me ---

20 **MR. ENGELMANN:** Yes.

21 **THE COMMISSIONER:** --- for the flight and
22 things.

23 **MR. ENGELMANN:** Yes.

24 **THE COMMISSIONER:** So as long as we
25 understand that barring any delays, I will be -- make every

1 effort to be here for 1:00 p.m.

2 **MR. ENGELMANN:** We will then have the
3 overview of the documentary evidence for Mr. Ken Seguin.

4 **THE COMMISSIONER:** Yes.

5 **MR. ENGELMANN:** Then we will have Mr. Guzzo
6 on Tuesday and Wednesday.

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

8 **MR. ENGELMANN:** If we finish Mr. Guzzo
9 before the end of the day on Wednesday, we have other
10 overviews of documentary evidence. I anticipate we may be
11 both days, though, with Mr. Guzzo.

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

13 **MR. ENGELMANN:** Thursday of next week, we
14 have the evidence of Doug Seguin.

15 **THE COMMISSIONER:** Yes.

16 **MR. ENGELMANN:** And we may also have
17 overviews of documentary evidence for others.

18 **THE COMMISSIONER:** Right.

19 **MR. ENGELMANN:** So it will be a full week,
20 sir.

21 And, of course, the week of the 26th we
22 start with the Corrections institution response.

23 **THE COMMISSIONER:** Terrific. Good. Thank
24 you.

25 **SEAN ADAMS, Resumed/Sous le même serment:**

1 ---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
2 ENGELMANN(cont'd/suite)

3 MR. ENGELMANN: Excuse me.

4 Mr. Adams, I wanted to clarify a couple of
5 things that transpired at the end of the day. There was
6 some, perhaps, misunderstanding about whether or not you
7 met or attempted to meet with Commission counsel and an
8 investigator; so I just want to make sure that's very clear
9 for the record.

10 Sir, on October 22nd, did you meet with
11 Commission counsel and a Commission investigator at your
12 office?

13 MR. ADAMS: I don't recall the date, but I
14 did meet with you and ---

15 MR. ENGELMANN: Did that seemed to be about
16 the right date, sir?

17 MR. ADAMS: Sure.

18 MR. ENGELMANN: Okay. And at that time, we
19 had scheduled a meeting to prepare for your evidence before
20 this Inquiry?

21 MR. ADAMS: I don't recall if we had
22 scheduled; we had talked about my getting advice from Mr.
23 McClelland. We had called Mr. McClelland's office that
24 day.

25 MR. ENGELMANN: No, no, fair enough.

1 When counsel arrived, you advised that you
2 were in the process of retaining a lawyer?

3 **MR. ADAMS:** That is correct.

4 **MR. ENGELMANN:** And that you had concerns
5 about solicitor-client privilege?

6 **MR. ADAMS:** That is correct.

7 **MR. ENGELMANN:** And that based on that, you
8 wanted to wait before getting into evidence and deal with
9 your lawyer and solicitor-client privilege concerns?

10 **MR. ADAMS:** That is correct.

11 **MR. ENGELMANN:** Is that fair?

12 **MR. ADAMS:** Yes.

13 **MR. ENGELMANN:** And you were, at least
14 shortly thereafter, given some documents and then you were
15 given some more documents just yesterday to review?

16 **MR. ADAMS:** Yeah, those documents came to me
17 through Mr. McClelland, yes.

18 **MR. ENGELMANN:** Yes. Sir ---

19 **THE COMMISSIONER:** Just -- are you moving on
20 to something else?

21 **MR. ENGELMANN:** Yes.

22 **THE COMMISSIONER:** I just want to make
23 absolutely sure, I made some comments yesterday talking
24 about that some folks had refused to meet with counsel and
25 prepare before coming to testify and I did rectify that

1 yesterday to specifically point out that you had a reason
2 for not being able to meet with Commission counsel in the
3 sense that you had protect your client with respect to the
4 solicitor-client privilege and, therefore, you had a
5 legitimate reason for not meeting with counsel for
6 preparation, and I just wanted to make sure that that is
7 well put out on the record.

8 All right? Thank you.

9 **MR. ADAMS:** Yes. Thank you.

10 **THE COMMISSIONER:** All right, Mr. Engelmann?

11 **MR. ENGELMANN:** Sir, this Inquiry has, as
12 you know, been called to examine the institutional response
13 to allegations of historical abuse against young persons.

14 There's also a Phase 2 healing and
15 reconciliation perspective and other aspects of this
16 Inquiry.

17 We've asked our previous witnesses if they
18 have any suggestions or recommendations to leave with the
19 Commission as the Commissioner has to write a report at the
20 end of the day on this issue, not just for the City of
21 Cornwall but for the Province of Ontario.

22 I don't know if this is something you've
23 given any thought, sir, or if you have any views on it
24 because of your involvement in community activities or
25 others, but if you do, this would be the time and the place

1 to give them to us.

2 MR. ADAMS: Yes, unfortunately I haven't
3 given it any thought, so it would be best not to ---

4 MR. ENGELMANN: All right.

5 MR. ADAMS: --- make any comments.

6 MR. ENGELMANN: Fair enough.

7 Well, thank you for coming.

8 I will turn it over to other counsel asking
9 questions.

10 When they ask you questions, they will
11 identify themselves and tell you who they represent.

12 MR. ADAMS: Fair enough, thank you.

13 THE COMMISSIONER: Mr. McClelland?

14 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. McCLELLAND:

15 MR. McCLELLAND: Mr. Commissioner, I know
16 that now is not my time to speak.

17 THE COMMISSIONER: No.

18 MR. McCLELLAND: But I did wish to comment
19 on something my friend said, before other counsel speak.

20 THE COMMISSIONER: Yes.

21 MR. McCLELLAND: And I have received a
22 statement, or a proposed evidence, of this witness that was
23 referred to by my friend yesterday.

24 THE COMMISSIONER: Yes.

25 MR. McCLELLAND: But, again, the difficulty

1 I have is I'm not a person here with standing and my client
2 isn't.

3 **THE COMMISSIONER:** Right.

4 **MR. McCLELLAND:** And so I'm somewhat
5 concerned as to when this witness might or might not be
6 called to testify. Given the information the information
7 I've received today ---

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

9 **MR. McCLELLAND:** --- it appears, at least
10 from the preliminary reading of it, that I'm going to have
11 to conduct certain inquiries so that when I do re-attend
12 for the purpose of that person giving evidence, I'm
13 prepared and able to help the Inquiry hopefully with the
14 questions I'm to ask. However, given the fact that I don't
15 know the identity of the person, my ability to do that is
16 entirely hampered.

17 My friend has indicated there's perhaps a
18 reason why he can't or shouldn't perhaps at the present
19 time, within a week, obtain that information and he's
20 indicated to me that he will give me that information next
21 week if he can.

22 The difficulty I ask (sic), because I don't
23 know the schedule, is -- and I do wish to commence these
24 investigations right away so that we don't hold up anything
25 and for that reason I'm going to ask, Mr. Commissioner, if

1 I can't for some reason or another obtain that information
2 say by next Friday ---

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

4 **MR. McCLELLAND:** --- then I would like an
5 opportunity, because I heard my friend mention something of
6 a moniker or something yesterday ---

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

8 **MR. McCLELLAND:** --- I understand there's a
9 procedure available so that -- at least I've given an
10 undertaking not to disclose, but at least I would want to
11 have that name so that I can conduct the inquiries I need
12 to conduct.

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

14 **MR. McCLELLAND:** And if that procedure's
15 available, I would ask you, sir, if I could somehow avail
16 myself of it so that I could obtain this information that I
17 need to represent my client.

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

19 **MR. McCLELLAND:** So is there some process
20 that then I might follow, say a week Monday, if I don't get
21 the name, so that I commence? Do I bring a motion?

22 I'm not certain how to address this to have
23 a moniker, have in camera hearing, whatever has to be done,
24 so that I can obtain the information and come back properly
25 prepared.

1 **THE COMMISSIONER:** No, I can understand.
2 Mr. Engelmann, what are your comments on
3 that?

4 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER ENGELMANN:

5 **MR. ENGELMANN:** I indicated to my friend I'd
6 make my best efforts to give him information next week.

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

8 **MR. ENGELMANN:** Obviously, if he's not
9 satisfied with what I do, I invite him to come back on the
10 26th.

11 **THE COMMISSIONER:** All right.

12 **MR. ENGELMANN:** But I hope that won't be
13 necessary.

14 **THE COMMISSIONER:** Right. All right.

15 Mr. McClelland, your comments are noted and
16 I would invite you to come back a week Monday if those
17 things aren't dealt with.

18 It's all I can say at the time. I don't --
19 you see, I don't know exactly what all the circumstances
20 are so I'm hesitant to make any comments, but if you have
21 concerns you're welcome to come back on Monday and we'll
22 deal with it.

23 **MR. McCLELLAND:** Thank you very much, sir.

24 **THE COMMISSIONER:** Right.

25 Mr. Manson?

1 **MR. MANSON:** Mr. Commissioner, before I
2 commence my cross-examination ---

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

4 **MR. MANSON:** --- my clients have instructed
5 me to make a comment on the record about some of the events
6 of yesterday.

7 **THE COMMISSIONER:** Sure.

8 **MR. MANSON:** With your indulgence, Mr.
9 Commissioner.

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

11 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:**

12 **MR. MANSON:** I think since Mr. Wardle and
13 Ms. Daley and I have been coming to Cornwall, we've tried
14 hard to make it clear that our role is to assist you and
15 assist counsel in developing a full and fair Inquiry
16 pursuant to your mandate.

17 **THE COMMISSIONER:** Yes.

18 **MR. MANSON:** We believe that all witnesses
19 should be challenged and they should be confronted, but the
20 Citizens for Community Renewal are very concerned about
21 events in Cornwall over the past 10, 13, 14 years and
22 particularly concerned about how rumours, innuendos,
23 gossips and falsehoods have circulated and done damage to
24 the community as a whole and to individuals.

25 We can't support confronting people with

1 undisclosed, anonymous allegations, Mr. Commissioner.

2 **THE COMMISSIONER:** Yes.

3 **MR. MANSON:** I don't intend to say anymore.

4 **THE COMMISSIONER:** Well ---

5 **MR. MANSON:** And I certainly don't intend to
6 pursue any of these issues in my brief cross-examination.

7 **THE COMMISSIONER:** I would tend to agree
8 wholeheartedly with your -- with the -- generically what
9 you say, however, I think that we have to hold our judgment
10 because Mr. Engelmann from what -- if I get it straight --
11 indicated that he was not in a position to disclose that
12 name to you at this time.

13 **MR. MANSON:** I appreciate that, Mr.
14 Commissioner.

15 **THE COMMISSIONER:** All right. So I think
16 that we should withhold judgment until such time as that
17 witness is produced and if that witness is produced and
18 requests anonymity, for example, and that would be a very
19 good reason why he would not tell the witness who that name
20 was, then there may be a logical explanation for why all of
21 those things happened.

22 So I think all in all and in fullness of
23 time, let's hold off and see where we go.

24 **MR. MANSON:** I chose my words carefully, Mr.
25 Commissioner ---

1 **THE COMMISSIONER:** Yes.

2 **MR. MANSON:** --- and I just wanted to make
3 that statement on the record.

4 **THE COMMISSIONER:** That's fair.

5 **MR. MANSON:** Now, if I could just have a
6 second to organize my documents?

7 **THE COMMISSIONER:** Sure. Certainly.

8 **MR. MANSON:** I think I'm going to need two
9 exhibits; 266 and 299.

10 **THE COMMISSIONER:** Two-sixty-six (266) and
11 299. Okay, so 266 is the -- oh, well, go ahead.

12 **MR. MANSON:** If I can just see them quickly.
13 It happened too quickly for me to find them yesterday.

14 **THE COMMISSIONER:** Two-sixty-six (266) is
15 the memo from -- to the Cornwall City Police and to
16 Sergeant Brunet and Constable Sebalj signed by Silmser
17 saying -- and witnessed by this witness -- saying he wants
18 to withdraw the criminal complaint.

19 **MR. MANSON:** Mr. Commissioner, I may not be
20 referring to them, I just ---

21 **THE COMMISSIONER:** Oh, okay. Sorry.

22 **MR. MANSON:** There were too many documents
23 coming too quickly and I can access documents based on
24 their document number ---

25 **THE COMMISSIONER:** Right.

1 MR. MANSON: --- quickly, but not on their
2 exhibit number.

3 THE COMMISSIONER: Okay.

4 MR. MANSON: Two-sixty-six (266) is the
5 direction ---

6 THE COMMISSIONER: Yes.

7 MR. MANSON: --- and 299, please?

8 THE COMMISSIONER: Is the letter to -- from
9 Mr. Malcolm MacDonald to the Cornwall Police dated
10 September 3rd, 1993 confirming conversations saying that,
11 "I'm enclosing a statement prepared by Sean Adams..." ---

12 MR. MANSON: Prepared by Sean Adams.

13 THE COMMISSIONER: --- that kind of thing.

14 MR. MANSON: So that's 299?

15 THE COMMISSIONER: Yes.

16 MR. MANSON: Thank you.

17 **SEAN ADAMS, Resumed/Sous le même serment:**

18 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**
19 **MANSON:**

20 MR. MANSON: Mr. Adams, my name is Allan
21 Manson and I represent the Citizens for Community Renewal
22 which is a group of local citizens who are concerned with
23 issues of institutional reform, particularly in relation to
24 children and young people.

25 I do have a few questions for you and I want

1 to relate my questions in time to three events that I know
2 you'll recall, so let me just go through the three events
3 because I'll come back to them.

4 Event number one, we'll call it early
5 September 1993 signing of the release at the office of
6 Malcolm MacDonald. So you do have that in your mind?

7 **MR. ADAMS:** Yes, I do.

8 **MR. MANSON:** The second event was the flurry
9 of faxes January 13th, '94 about the Diocese press release.
10 You recall that I think?

11 **MR. ADAMS:** I do.

12 **MR. MANSON:** And the third is your meeting
13 with the OPP on September 13th, '94.

14 So I'm going to talk to you briefly about a
15 twelve-month period but I'm going to focus on relating
16 matters to those three events.

17 **MR. ADAMS:** Fair enough.

18 **MR. MANSON:** To start with, can you tell the
19 Commissioner your sense of Malcolm MacDonald's reputation
20 in the legal community at -- in 1993 when the release is
21 being signed?

22 **MR. ADAMS:** I think he was well respected as
23 a criminal lawyer. He had been a Crown attorney for a
24 number of years long before that, I don't know the exact
25 dates, and practiced mostly -- had a criminal law defence

1 practice at that stage of his career. He was a well-read,
2 well-spoken man.

3 MR. MANSON: Was he well-respected?

4 MR. ADAMS: I believe so, yes.

5 MR. MANSON: Now, when we look at the
6 September '93 event, your evidence was that it commenced
7 for you with a phone call from David Silmsler; correct?

8 MR. ADAMS: That is correct.

9 MR. MANSON: And during or around the time
10 of that phone call you consulted with Tom Swabey and got
11 some advice about whether you could have a limited
12 retainer?

13 MR. ADAMS: That is correct.

14 MR. MANSON: And you then agreed on the
15 phone to play that role that's reflected in the
16 acknowledgment 265A; correct?

17 MR. ADAMS: That is correct.

18 MR. MANSON: "I hereby acknowledge that I
19 have retained Sean Adams only to review
20 and explain the nature of the full
21 release and undertaking not to disclose
22 to me and that I have not sought legal
23 advice from Sean Adams with respect to
24 the amount of compensation."

25 And it goes on from there; correct?

1 **MR. ADAMS:** That is correct.

2 **MR. MANSON:** Do you recall when Mr. Silmser
3 signed this? Would he have signed it when he signed the
4 other documents? I'm not concerned about the dates,
5 September 2nd or 3rd, but you only had one meeting with Mr.
6 Silmser?

7 **MR. ADAMS:** I believe that he signed it that
8 same day so I would have discussed that with him during the
9 phone conversation, but when all the documentation was
10 signed I think that's when that would have been signed.

11 **MR. MANSON:** So this would be at Malcolm
12 MacDonald's office?

13 **MR. ADAMS:** Yes.

14 **MR. MANSON:** Between your conversation with
15 Mr. Silmser and your arrival at Malcolm MacDonald's office,
16 did you communicate with Malcolm MacDonald?

17 **MR. ADAMS:** I think I had a 30-second
18 conversation when he called to see if I was on my way. I
19 think David had called and said, "Are you coming?" and then
20 shortly thereafter a call from Malcolm.

21 **MR. MANSON:** Who made the appointment with
22 Mr. MacDonald? Can you recall?

23 **MR. ADAMS:** I don't believe it was me. I
24 assume -- I gather it was David. I think he arrived there
25 to pick up the cheque and he needed the release witnessed,

1 I.L.A. and ---

2 **MR. MANSON:** So you think you were called
3 from Malcolm MacDonald's office that it's time to come
4 over?

5 **MR. ADAMS:** I think David, if my memory
6 serves me right, called me from Malcolm's and then shortly
7 thereafter Malcolm called.

8 **MR. MANSON:** And I take it that prior to
9 arriving at Malcolm MacDonald's office you had not
10 discussed the issue of Mr. Silmsner's allegations against
11 Father MacDonald with either Malcolm MacDonald or Jacques
12 Leduc?

13 **MR. ADAMS:** That is correct.

14 **MR. MANSON:** And can you recall how long you
15 spent with Mr. Silmsner at Malcolm MacDonald's office?

16 **MR. ADAMS:** I can't recall that, but in
17 preparing I remember reading maybe an affidavit or a
18 statement from Malcolm MacDonald that I was with him half-
19 an-hour, 45 minutes, but I don't know if that is accurate
20 or not.

21 **MR. MANSON:** Well, that's Malcolm
22 MacDonald's statement. It's marked as Exhibit 861 and if
23 we can just look at that for one second.

24 **THE COMMISSIONER:** It'll either come up ---

25 **MR. ADAMS:** Is my screen supposed to be on?

1 **THE COMMISSIONER:** It takes a couple of
2 seconds at the most and you'll get a hard copy probably.

3 **MR. MANSON:** Page 2, paragraph 10.

4 **MR. ADAMS:** Thank you. Yes, I've read that
5 paragraph.

6 **MR. MANSON:** Mr. MacDonald, in the statement
7 dated June 20th, 1994, says:

8 "They were probably one-half to three-
9 quarters-of-an-hour talking to each
10 other."

11 Does that sound accurate to you?

12 **MR. ADAMS:** Again, I would -- I apologize,
13 but I don't have any recollection. I mean, I don't have
14 any reason to doubt -- he gave this statement a year later
15 so -- or half-a-year later, but I have no recollection. I
16 have no notes as to how long I spent with David.

17 **MR. MANSON:** Now, you know that Mr. Silmser
18 had said that he didn't read the document that you read it
19 for him?

20 **MR. ADAMS:** M'hm.

21 **MR. MANSON:** Do you disagree with that
22 evidence?

23 **MR. ADAMS:** That I read it for him, that
24 probably makes sense.

25 **MR. MANSON:** Did you read it to him?

1 **MR. ADAMS:** I would think so. I don't have
2 any recollection, but I would not have had him sign it
3 without reading it to him.

4 **MR. MANSON:** So you disagree with his
5 evidence when he says he didn't read it?

6 **MR. ADAMS:** That would be fair to say, yes.

7 **MR. MANSON:** We have, yesterday, a new
8 exhibit, the telephone message from Mr. MacDonald, 850, was
9 in your file?

10 **THE COMMISSIONER:** We have it on the screen,
11 sir.

12 **MR. ADAMS:** My screen isn't working at all.

13 **THE COMMISSIONER:** No, well -- I'm sorry.

14 **MR. ADAMS:** Oh, I see. It will come up.

15 **THE COMMISSIONER:** It will come up.

16 **MR. ADAMS:** Fair enough.

17 **THE COMMISSIONER:** There it should be on.
18 The Clerk will flick it on right there.

19 **MR. ADAMS:** Just trying to move things along
20 ---

21 **THE COMMISSIONER:** No, no. I understand. I
22 understand. It's just I prefer to use the same document in
23 case ---

24 **MR. ADAMS:** Fair enough. I have it in front
25 of me now.

1 **MR. MANSON:** It's got a time "1:40,
2 September 2nd". Can you recall whether you received this
3 message before or after the signing of the release?

4 **MR. ADAMS:** I can't recall, sorry.

5 **MR. MANSON:** At the time the release was
6 signed -- and it's Exhibit 263A -- it was your evidence --
7 if we can just look at that for ---

8 **THE COMMISSIONER:** Madam Clerk, can you ---

9 **MR. MANSON:** Two-sixty-three (263).

10 **THE COMMISSIONER:** Right. Just to see --
11 does the witness have all of the hard copies as well?

12 **MR. MANSON:** Oh, I see at the front. Okay.

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

14 **MR. ADAMS:** Okay.

15 **MR. MANSON:** Please correct me if I'm not
16 putting this to you fairly, but I recall it in your
17 evidence that you must have read paragraph 2 but it didn't
18 occur to you, at the time, that this represented an
19 illegality?

20 **MR. ADAMS:** That's fair.

21 **MR. MANSON:** Correct?

22 **MR. ADAMS:** That is correct.

23 **MR. MANSON:** When you were shown yesterday
24 Exhibit 299, Malcolm MacDonald's letter, you agreed with
25 Mr. Engelmann that you probably prepared the direction to

1 the Cornwall City Police ---

2 MR. ADAMS: Yes.

3 MR. MANSON: --- which we have as Exhibit
4 266A? Could we get that up on the screen, please?

5 MR. ADAMS: Yeah, I -- I -- that wasn't my
6 recollection but in reading Malcolm's letter that seems to
7 be ---

8 THE COMMISSIONER: I -- I had difficulty
9 with that.

10 MR. MANSON: Yes, I understand.

11 THE COMMISSIONER: You know, I mean, he's
12 saying in the letter that you prepared it. He's deceased
13 and so I'm just a little ---

14 MR. ADAMS: I have no recollection, Mr.
15 Commissioner, but in reading this letter I think it would
16 be fair, in my opinion, to say that I must have prepared
17 it, but I can't recall.

18 THE COMMISSIONER: You're assuming that the
19 writer did not either inadvertently make a mistake or
20 advertently make a mistake?

21 MR. ADAMS: That is correct.

22 THE COMMISSIONER: So.

23 MR. MANSON: And it does have your signature
24 as a witness on it?

25 MR. ADAMS: It does, and that is my

1 signature.

2 MR. MANSON: Now, if we just go back to
3 Malcolm MacDonald's office, the signing of the release, did
4 you meet with Mr. Silmser later that day at your office,
5 perhaps, or somewhere else?

6 MR. ADAMS: I don't recall, but I don't
7 believe so.

8 MR. MANSON: Did you receive a communication
9 from Malcolm MacDonald after the signing of the ---

10 MR. ADAMS: I don't believe so other than
11 perhaps with this cheque that Mr. Silmser was having
12 difficulty cashing.

13 MR. MANSON: You don't think this phone call
14 would have occurred after you'd had already signed the
15 documents?

16 MR. ADAMS: It could have, but I don't
17 recall.

18 MR. MANSON: I'll tell you what's concerning
19 me, Mr. Adams, and maybe you can help us.

20 In Exhibit 850, you're -- underneath the box
21 those are your handwritten notes; correct?

22 MR. ADAMS: Those are my handwritten notes,
23 yes.

24 MR. MANSON: And you make reference to
25 Sergeant Brunet?

1 MR. ADAMS: That is correct.

2 MR. MANSON: Did you get that name from
3 Malcolm MacDonald?

4 MR. ADAMS: I would -- again, I would think
5 that I returned that call when I got this information from
6 Malcolm MacDonald?

7 MR. ADAMS: I would -- again, I would think
8 that I returned that call when I got this information from
9 Malcolm MacDonald.

10 MR. MANSON: And then he mentioned Constable
11 Heidi Sebalj; correct?

12 MR. ADAMS: That is correct.

13 MR. MANSON: And on top of the word "away",
14 was that your effort to spell Sebalj?

15 MR. ADAMS: That is correct. I don't know
16 if it was pronounced to me correctly but that, in my
17 opinion, is my effort to spell her last name.

18 MR. MANSON: It's an unusual name; correct?

19 MR. ADAMS: That is correct.

20 MR. MANSON: And I would certainly not be
21 able to get it right if someone mentioned it to me over the
22 phone either so I understand that, but when we look at
23 Exhibit 266A, the direction to the Cornwall City Police ---

24 MR. ADAMS: Sorry, what is that number?

25 MR. MANSON: Two-sixty-six-A (266A). This

1 is the direction referred to in Malcolm MacDonald's letter,
2 Exhibit 299 ---

3 MR. ADAMS: Yes.

4 MR. MANSON: --- that he says you prepared?

5 MR. ADAMS: Okay, yes, it's in front of me
6 now.

7 MR. MANSON: If you look at the top, we see
8 Heidi Sebalj's name spelled accurately; correct?

9 MR. ADAMS: That's correct. I assume that's
10 the correct way of spelling it. I don't know that but ---

11 MR. MANSON: So if you prepared this
12 document, you must have had more communications with Mr.
13 MacDonald about it, at least to get the name right and the
14 spelling right; correct?

15 THE COMMISSIONER: Mr. Engelmann is rising.
16 Thank you.

17 MR. ENGELMANN: Just -- just want to point
18 out to my friend, perhaps, the name is spelled correctly
19 later on in the telephone note. I don't know if he didn't
20 see that or not.

21 THE COMMISSIONER: Okay.

22 MR. MANSON: I didn't see that. Thank you,
23 Mr. Engelmann.

24 So it's probably this one telephone
25 conversation that gives you the information for the

1 direction. I appreciate Mr. Engelmann pointing that out at
2 the bottom. That probably the case?

3 **MR. ADAMS:** Sorry, again, what is the
4 question?

5 **MR. MANSON:** It was the one telephone call
6 from Malcolm MacDonald that gave you the information for
7 the direction?

8 **MR. ADAMS:** For the direction? I think
9 that's probably fair to say because later on in the message
10 it says to the effect that I no longer wish to proceed with
11 criminal -- yes, I think that's fair to say.

12 **MR. MANSON:** Now, if we move from those
13 events to January of 1994, you become involved again
14 because there's about to be a press conference and a press
15 release and you're concerned about the draft of the press
16 release because it gives the impression that you had
17 greater involvement in this matter than you did. Is that a
18 fair summary?

19 **MR. ADAMS:** That is correct.

20 **MR. MANSON:** At that point, did you have any
21 concern that Exhibit 263A encompasses an illegality?

22 **MR. ADAMS:** No. I think my concern would
23 have been that the press release made it look as though
24 David Silmser had received independent legal advice
25 throughout the negotiation period. So I don't -- in my

1 mind, I don't think the illegality came out. I don't
2 believe so.

3 MR. MANSON: That hadn't dawned on you at
4 that point?

5 MR. ADAMS: Oh, it may have dawned on me at
6 that point but it -- I don't recall it being a factor in me
7 being involved in asking that that press release be
8 amended.

9 MR. MANSON: Now, between the first event in
10 September and January, the press release issue, had you met
11 with Malcolm MacDonald and discussed the Silmser claim at
12 all?

13 MR. ADAMS: No, not at all.

14 MR. MANSON: You're quite certain that you
15 had no meetings with Malcolm MacDonald?

16 MR. ADAMS: I don't want to say I'm a 100
17 percent certain, but I don't recall any meetings, no.

18 MR. MANSON: Now, you recall being
19 interviewed by the OPP on September 13th, 1994?

20 MR. ADAMS: I do.

21 MR. MANSON: Did you seek any legal advice
22 before you met with the OPP?

23 MR. ADAMS: Nothing more than once again
24 going up to see Mr. Swabey whose office was on the second
25 floor and explain that I had received a call and he just

1 said, "Go down and answer their questions".

2 MR. MANSON: Did you know at that time that
3 they were investigating possibly laying obstruct justice
4 charges?

5 MR. ADAMS: They had told me that, yes.

6 MR. MANSON: Did you discuss that with Mr.
7 Swabey?

8 MR. ADAMS: Yup.

9 MR. MANSON: Yes, sir?

10 THE COMMISSIONER: I'm sorry, I don't mean -
11 - but did you understand that you might be charged?

12 MR. ADAMS: Yeah, if -- my recollection was
13 Mr. Swabey wasn't concerned because I had not had any
14 discussions with Mr. MacDonald or Mr. Leduc and they were
15 looking at this from a conspiracy to obstruct justice. So,
16 yeah.

17 MR. MANSON: So you did discuss ---

18 MR. ADAMS: So they had to disclose that to
19 me before I went down.

20 MR. MANSON: So you discussed your potential
21 involvement with Mr. Swabey and got advice from Mr. Swabey?

22 MR. ADAMS: Yeah, wasn't in any great
23 detail. It was a sit down at his desk for a few minutes
24 type of thing.

25 MR. MANSON: So at this point, it's clear to

1 you that Exhibit 263A encompasses an illegality; correct?

2 **MR. ADAMS:** Yes. I mean ---

3 **MR. MANSON:** And the -- pardon me?

4 **MR. ADAMS:** It would be fair to say that.

5 **MR. MANSON:** And the illegality is using the
6 payment of money to discourage someone from participating
7 in a ---

8 **MR. ADAMS:** Correct.

9 **MR. MANSON:** --- police investigation;
10 correct?

11 **MR. ADAMS:** That's correct.

12 **MR. MANSON:** Was this the first time that
13 this occurred to you, that this was illegal, when you met
14 with Mr. Swabey?

15 **MR. ADAMS:** I would think so, yes. Perhaps
16 whenever the police called and then, you know, said -- and
17 that probably the lights went on in my mind and I went to
18 speak to Tom. So during that period, yes.

19 **MR. MANSON:** And, in fact, when you met with
20 the OPP one of the first things they did was caution you.
21 They were investigating and they wanted to make it clear
22 that answers that you gave might potentially lead to
23 criminal charges?

24 **MR. ADAMS:** Yes, they did caution me.

25 **MR. MANSON:** And that's in Exhibit 849;

1 correct?

2 MR. ADAMS: M'hm ---

3 MR. MANSON: Your statements to the OPP?

4 MR. ADAMS: Yes, yes, that is correct.

5 THE COMMISSIONER: Would you like to go to
6 it for a minute?

7 MR. ADAMS: Yes, I have it here. That is
8 correct.

9 MR. MANSON: Now, between event number 2,
10 the press release in January, and your meeting with the
11 OPP, had you discussed these matters with Malcolm
12 MacDonald?

13 MR. ADAMS: No.

14 MR. MANSON: Well, that's what I wanted to
15 ask you about. If we could go to page 33 of that
16 statement.

17 MR. ADAMS: I've got the page.

18 MR. MANSON: A long paragraph, starting at
19 the bottom.

20 Question by Kim Smith:

21 "Have you had any discussion with Mr.
22 MacDonald in regard to this since that
23 date, Malcolm MacDonald in particular"
24 And if I could just read your answer.

25 "I've had a -- probably once a year

1 maybe twice a year I have lunch with
2 Mr. MacDonald. I try and do that with
3 the senior counsel, Duncan MacDonald,
4 just to talk about the old days when my
5 father practiced law. So we may have
6 discussed this in very general terms."

7 I'm now on the top of 34.

8 **MR. ADAMS:** M'hm.

9 **MR. MANSON:** "But certainly I've had no
10 discussions and was not aware that you
11 had interviewed him and certainly was
12 not privy to any of that information.
13 And any discussions that I would have
14 had with MacDonald ..."

15 I take it you're talking about Malcolm, now?

16 **MR. ADAMS:** That would be fair to say,
17 yes.

18 **MR. MANSON:** "... would have been of
19 a general -- general nature and
20 probably around when this was a
21 hot topic in the press..."

22 Are you referring to January of '94?

23 **MR. ADAMS:** Again, I'm not sure of that
24 but if -- and I would take this as being more accurate than
25 what I've just said. So I would imagine if there were

1 stories in the paper that generally we may have spoken, but
2 certainly I did never -- I never spoke to him specifically
3 about that case.

4 **MR. MANSON:** And then it goes on:

5 "... and more along the lines of, 'Boy,
6 you're taking a beating'".

7 **MR. MANSON:** Do you recall saying that to
8 the OPP officers?

9 **MR. ADAMS:** I don't recall, but obviously I
10 said it and perhaps that's when he was charged and so maybe
11 I knew about the criminal aspect earlier. So I don't know,
12 date wise, when he was charged. Well, I guess it would
13 have been after this, but I'm not sure of that.

14 **MR. MANSON:** But you'd agree with me that
15 the tone of this comment, "You're taking a beating",
16 suggests that you were very sympathetic to Malcolm
17 MacDonald?

18 **MR. ADAMS:** I guess I was sympathetic, yeah.

19 **MR. MANSON:** But at some point it does
20 become clear to you that he was -- at least a participant
21 in obstructing justice?

22 **MR. ADAMS:** When he was convicted, it was
23 clear.

24 **MR. MANSON:** At this point of this interview
25 it wasn't clear in your mind?

1 **MR. ADAMS:** Again, I don't know what's
2 happening outside of this, so I don't know if he's already
3 been charged or not and if, in fact, he had been charged
4 before, then it probably would have clicked in my mind that
5 there was something wrong with this.

6 **MR. MANSON:** Do you ---

7 **MR. ADAMS:** Do you follow what I'm saying?
8 Yes? Yes?

9 **THE COMMISSIONER:** No, I don't.

10 **MR. MANSON:** Okay. Let me just -- did you
11 show Mr. Swabey the actual release?

12 **MR. ADAMS:** I don't recall. Probably later,
13 but I -- you mean when -- after it was signed by Silmsler?

14 **MR. MANSON:** No, before the -- before the
15 OPP interview.

16 **MR. ADAMS:** I more than likely did. I can't
17 recall, but I would think I would have, yes.

18 **MR. MANSON:** And he would have focussed on
19 paragraph 2, wouldn't he?

20 **MR. ADAMS:** I'm sure.

21 **MR. MANSON:** And can you recall if he told
22 you that's illegal?

23 **MR. ADAMS:** I recall him saying, "Just go
24 down and tell the truth", you know, that's the gist of what
25 I recall. Again, unfortunately, I don't have any notes or

1 anything on that but I did go down to the OPP offices in
2 Long Sault and was interviewed and then didn't hear
3 anything and, you know, for a while wonder what's happening
4 and -- but that's the extent of it.

5 MR. MANSON: Thank you, Mr. ---

6 MR. ADAMS: I may have talked to him after
7 the interview, but I don't have any recollection.

8 MR. MANSON: Thank you, Mr. Adams.

9 MR. ADAMS: Thank you.

10 MR. MANSON: Those are my questions.

11 THE COMMISSIONER: Thank you.

12 Mr. Lee?

13 I see that Mr. Horn or Mr. Paul are not here
14 today, so if they come later we'll see if we fit them in or
15 ---

16 (SHORT PAUSE/CAUTE PAUSE)

17 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE:

18 MR. LEE: Good morning, Mr. Commissioner.

19 THE COMMISSIONER: Good morning, sir.

20 MR. LEE: Good Morning Mr. Adams ---

21 MR. ADAMS: Good morning.

22 MR. LEE: --- my name is Dallas Lee. I act
23 for the Victims Group.

24 MR. ADAMS: Good morning.

25 MR. LEE: I'd like to start if I could by

1 turning you to Exhibit 850, and that's the pink message
2 slip relating to the phone call from Malcolm MacDonald.
3 I'm just hoping that you can help me out a little bit with
4 your handwriting.

5 **MR. ADAMS:** Okay.

6 **MR. LEE:** If you look at the second sheet of
7 this on the right hand side, yesterday when Mr. Engelmann
8 was reading this aloud -- you'll see the last part of this
9 is "Constable Heidi Sebalj". You see that?

10 **MR. ADAMS:** At the very bottom?

11 **MR. LEE:** Yeah, at the very, very bottom.

12 And the paragraph right in front of that,
13 Mr. Engelmann read that aloud as reluctant to get involved
14 now because no contact to date.

15 Is it possible, sir, that that word is not
16 "contact" but is instead "comfort"?

17 **MR. ADAMS:** Can I look at my original notes?

18 **THE COMMISSIONER:** Yes.

19 **MR. ENGELMANN:** Yes, I was just going to
20 suggest that Mr. Adams -- I asked you to bring it with you.

21 **MR. ADAMS:** I did bring it, yes.

22 No, that is contact.

23 **MR. LEE:** That is contact?

24 **MR. ADAMS:** Yes.

25 **MR. LEE:** You're sure that's a "T" not an

1 "F"?

2 MR. ADAMS: Yes, absolutely.

3 MR. LEE: You can put that away.

4 Sir, you told us yesterday that you were
5 born and raised in Cornwall. Is that right?

6 MR. ADAMS: Yes, other than university
7 education ---

8 MR. LEE: Right.

9 MR. ADAMS: --- and practising in Ottawa for
10 a bit.

11 MR. LEE: But during your youth you were
12 living in Cornwall, fair enough?

13 MR. ADAMS: That is correct.

14 MR. LEE: Where did you go to elementary
15 school?

16 MR. ADAMS: I started at Ste Felix, Ste
17 Felix de Valois. I then went to -- and that would have
18 been the early years -- then to Ste Anne; then to Jean
19 Vingt Trois; then to Generale Vanier, and that was my high
20 school.

21 MR. LEE: General Vanier was your high
22 school.

23 MR. ADAMS: That's correct.

24 MR. LEE: Is that a Catholic high school?

25 MR. ADAMS: No.

1 MR. LEE: What about the elementary schools;
2 Ste Felix, Ste Anne and Jean Vingt Trois?

3 MR. ADAMS: They would be Catholic.

4 MR. LEE: All Catholic?

5 MR. ADAMS: Yes, separate school board;
6 French. French separate school board.

7 MR. LEE: French separate school board. You
8 were raised Catholic, sir?

9 MR. ADAMS: I was.

10 MR. LEE: What parish did you attend when
11 you were in ---

12 MR. ADAMS: Always St. Clements Church.

13 MR. LEE: Your entire life up until now it's
14 always St. Clements?

15 MR. ADAMS: Other than when I was in
16 Kingston or Ottawa.

17 MR. LEE: Okay, we'll get to that.
18 Your parents were Catholic, obviously?

19 MR. ADAMS: That is correct.

20 MR. LEE: How often did your family attend
21 church when you were younger?

22 MR. ADAMS: Every Sunday.

23 MR. LEE: Easter and Christmas, things like
24 that?

25 MR. ADAMS: Easter, Christmas, New Year's.

1 MR. LEE: The entire family went?
2 MR. ADAMS: Entire family.
3 MR. LEE: Do you have any siblings?
4 MR. ADAMS: I do.
5 MR. LEE: How many?
6 MR. ADAMS: Three sisters.
7 MR. LEE: And they all went?
8 MR. ADAMS: They all went.
9 MR. LEE: Did you enjoy church when you were
10 young?
11 MR. ADAMS: I enjoyed it when I was young
12 and I enjoy it now, yeah.
13 MR. LEE: Were you ever an alter boy?
14 MR. ADAMS: For one day.
15 MR. LEE: One day? Is there a story behind
16 that?
17 MR. ADAMS: There is a story. I don't know
18 if you want me to bore you but there is a story.
19 MR. LEE: One day anyways.
20 THE COMMISSIONER: You didn't get fired.
21 MR. ADAMS: I wore the priest's vestments.
22 I was late attending and come celebrated mass with him so -
23 --
24 (LAUGHTER/RIRES)
25 MR. ADAMS: --- that was my day as a alter

1 boy.

2 **THE COMMISSIONER:** You were promoted.

3 **MR. ADAMS:** I was promoted quicker.

4 **THE COMMISSIONER:** You were promoted even
5 quicker.

6 **MR. ADAMS:** I was late arriving; went to the
7 vestibule and put on the wrong vestment and then stood next
8 to him the whole mass.

9 (LAUGHTER/RIRES)

10 **MR. LEE:** What about other church activities
11 as a kid? Were you involved in anything else?

12 **MR. ADAMS:** I was involved in Cubs.

13 **MR. LEE:** In, sorry?

14 **MR. ADAMS:** Like Boy Scouts, Cubs.

15 **MR. LEE:** Right. That wasn't church
16 affiliated though, right?

17 **MR. ADAMS:** Well it was -- I guess it wasn't
18 church affiliated but it was at St. Clements Parish Centre.

19 **MR. LEE:** Did they have any youth groups or
20 anything like that at the church that you were involved in?

21 **MR. ADAMS:** I assume they did but I never
22 participated.

23 **MR. LEE:** Weekend retreats or anything like
24 that -- do you remember anything like that?

25 **MR. ADAMS:** I never participated.

1 MR. LEE: What about in high school? Were
2 you still going to church regularly?

3 MR. ADAMS: Oh yes.

4 MR. LEE: St. Clements still?

5 MR. ADAMS: Yes.

6 MR. LEE: So then you go away to university
7 and your undergraduate degree was at Queens. Is that
8 correct?

9 MR. ADAMS: I never obtained a degree but I
10 went for two years. I got into law school after two years.

11 MR. LEE: What program were you in at
12 Queens?

13 MR. ADAMS: History.

14 MR. LEE: History. Were you going to church
15 while you were away in Kingston?

16 MR. ADAMS: Yes.

17 MR. LEE: You just found a new parish down
18 there?

19 MR. ADAMS: I would go to St. Mary's in
20 Kingston but from time to time -- and often I was in
21 Cornwall, I would go to St. Columbus.

22 MR. LEE: It was close enough you could come
23 home on weekends?

24 MR. ADAMS: Yes, and most weekends I did
25 come home.

1 **MR. LEE:** And then the University of Ottawa
2 law school; is that right?

3 **MR. ADAMS:** That is correct.

4 **MR. LEE:** Three years there?

5 **MR. ADAMS:** Three years.

6 **MR. LEE:** And then how long were you
7 practising? Did you article in Ottawa?

8 **MR. ADAMS:** I articulated at Seguin, Landriault
9 and Lamoureux in Ottawa.

10 **MR. LEE:** Was that a year at the time, the
11 articling period?

12 **MR. ADAMS:** It was a year and then back to
13 bar admission course for six months and then started
14 practising after that.

15 **MR. LEE:** The bar admission course in Ottawa
16 as well?

17 **MR. ADAMS:** That's correct.

18 **MR. LEE:** And were you attending a parish in
19 Ottawa while you were in law school?

20 **MR. ADAMS:** Yeah, I would either go to St.
21 Theresa which was down between Elgin and the canal or often
22 I would leave home late on Sunday and, if I hadn't attended
23 mass in Cornwall, I would go to St. Patrick's church on
24 Kent Street because it had a mass at 9 p.m. which was
25 rather late on a Sunday evening, so I would take advantage

1 of that.

2 MR. LEE: And then you told us after working
3 in Ottawa for a few years you're back to Cornwall.

4 MR. ADAMS: Yes.

5 MR. LEE: And you've been here ever since.
6 Is that right?

7 MR. ADAMS: Yes I came back January of 1990.
8 A year to the day before my father passed away so that's
9 how I remember the date.

10 MR. LEE: And you told us just a moment ago
11 that you went back to St. Clements and you're still there
12 today. Is that right?

13 MR. ADAMS: Yes, and the odd time I would go
14 to Blessed Sacrament or St. Francis Assisi depending on the
15 time of day but the vast majority of the time St. Clements
16 was my parish.

17 MR. LEE: There, that's the question I was
18 going to ask you.

19 Obviously the church has been a big part of
20 your life and remains a big part of your life?

21 MR. ADAMS: That's fair to say.

22 MR. LEE: What church activities are you
23 involved in today?

24 MR. ADAMS: I sit on the board of the St.
25 Clements foundation and its mandate is to raise monies to

1 maintain the church structure -- capital expenditures, if
2 we could call it that; roof, windows.

3 **MR. LEE:** Anything else?

4 We have a -- we have a -- your counsel
5 passed out a biography today. It has on here that you're a
6 member of the St. Clements Parish Centre taskforce since
7 2005.

8 **MR. ADAMS:** Unfortunately the Centre has
9 been sold so that taskforce no longer exists but I gather
10 at one point a number of members of the parish were grouped
11 together with a view of determining whether the church
12 could afford to maintain and keep the parish centre and I
13 was involved in that.

14 **MR. LEE:** And then a member of directors of
15 the Patrons of St. Clements' Foundation?

16 **MR. ADAMS:** That's correct. That's the
17 foundation that raises money for capital expenditures.

18 **MR. LEE:** What about any councils or
19 tribunals or groups or committees within the church?

20 **MR. ADAMS:** No, I've never participated on -
21 --

22 **MR. LEE:** Never had any ---

23 **MR. ADAMS:** --- parish council or finance
24 committees or anything like that. I mean, I've always made
25 myself available for advice but I've never been a member of

1 any committee.

2 MR. LEE: Never sat on a marriage council,
3 you just said that?

4 MR. ADAMS: No.

5 MR. LEE: And I understand you're also a
6 member of the Knights of Columbus. Is that correct?

7 MR. ADAMS: That is correct.

8 MR. LEE: How long has that been sir?

9 MR. ADAMS: I'm going to say early 1980s.
10 I've been a member of Council 5068 in Glenwalter which is
11 just a few miles east of Cornwall.

12 MR. LEE: You told us yesterday that you've
13 done some work for your parish through the years. Is that
14 correct?

15 MR. ADAMS: That is correct.

16 MR. LEE: When did that start?

17 When were you called to the bar? I know you
18 said yesterday ---

19 MR. ADAMS: I was called to the bar in '86 -
20 - 1986.

21 MR. LEE: Did you do any work for the local
22 Diocese, a local parish or local priests while you were in
23 Ottawa?

24 MR. ADAMS: No.

25 MR. LEE: Not at all?

1 MR. ADAMS: No.

2 MR. LEE: Not to help out on a weekend or
3 anything like that?

4 MR. ADAMS: I -- as far as I recall, no, I
5 wouldn't have done any work for the parish.

6 MR. LEE: Then you moved back to Cornwall --
7 -

8 MR. ADAMS: Legal work is what you're ---

9 MR. LEE: Legal work, yeah, I'm asking about
10 legal work.

11 MR. ADAMS: No, I don't believe so.

12 MR. LEE: We know that you were shown a
13 document yesterday showing that you helped with a liquor
14 board application -- or liquor license application in 1992.

15 MR. ADAMS: Yes.

16 MR. LEE: Is that correct?

17 MR. ADAMS: That is correct.

18 MR. LEE: Was that first matter you had ever
19 assisted them with?

20 MR. ADAMS: I don't recall, sorry.

21 MR. LEE: Can you help us out at all on
22 other work you may have done for St. Clements?

23 MR. ADAMS: Yes, and again, based on Mr.
24 McClelland's advice, I spoke to the parish priest who said
25 I could disclose this but, for example, recently they had

1 trouble with the records at their cemetery. They weren't
2 in very good order and the question became what do you do
3 if you go to bury someone and there's a coffin already
4 there.

5 So, I did the necessary work to close that
6 parish cemetery, move any burials that had already been
7 paid for to another cemetery, and I would have done that
8 work. That would have been the most recent.

9 And, I mean, during the course of those
10 years that I've been here anytime anything came up I would
11 offer to help in any way, but to give you specifics ---

12 **MR. LEE:** Did you ever bill the ---

13 **MR. ADAMS:** I've never billed the church for
14 any of that work.

15 **MR. LEE:** What about other parishes other
16 than St. Clements? Have you ever done any work for them
17 specifically?

18 **MR. ADAMS:** I've done work for Council of
19 the Knights of Columbus, you know, that are associated with
20 other parishes but I don't believe I've ever done any work
21 for other parishes per se.

22 **MR. LEE:** We know from yesterday that you've
23 represented at least one priest, Kevin Maloney. In 1995
24 you met with the police with him. He asked you for some
25 help?

1 **MR. ADAMS:** Yeah, I guess it depends how you
2 define represented but, I mean, there was no file or
3 anything.

4 **MR. LEE:** You were there as his lawyer.

5 **MR. ADAMS:** I was there, that's correct.

6 **MR. LEE:** Was that the first time you'd ever
7 worked for an individual priest?

8 **MR. ADAMS:** I -- that I don't know. I mean,
9 I've done -- I've prepared wills for priests; that type of
10 stuff. I wouldn't be able to tell you date-wise when and
11 who but it may have been but I doubt it.

12 **MR. LEE:** You would, at the very least in
13 the past, recall in your role as a solicitor doing some
14 work.

15 **MR. ADAMS:** Yes, and I think other lawyers
16 that attend that parish had done similar work at **St.**
17 **Clements** so I don't think I was the only one, but certainly
18 if any priest -- or if there was any issue that came up, I
19 would gladly offer assistance any way I could.

20 **MR. LEE:** Would you bill for any of that
21 work?

22 **MR. ADAMS:** Pardon me?

23 **MR. LEE:** Would you bill for any of that
24 work?

25 **MR. ADAMS:** No, I would -- as far as I know,

1 I've never billed for any of that work to the Church or the
2 Knights of Columbus or any charitable institutions, you
3 know?

4 **MR. LEE:** What about an individual priest?
5 I mean, that's a little bit different. If somebody comes in
6 seeking a specific legal service, like a will.

7 **MR. ADAMS:** If a priest came in and asked
8 for a will, I would do it pro bono.

9 **MR. LEE:** What about -- my understanding is
10 there would have been two bishops of the Diocese, in the
11 time that you've been a lawyer.

12 Bishop LaRocque would have been first -- he
13 would have retired, and Bishop Desrochers would have come
14 in. Is that right?

15 **THE COMMISSIONER:** No ---

16 **MR. ADAMS:** I think you're correct.

17 Bishop LaRocque -- I mean, I don't know time
18 wise when he became bishop, but certainly, Bishop LaRocque
19 was a bishop while I was a lawyer and certainly Bishop Jean
20 Paul Desrochers, along ---

21 **MR. LEE:** Did you do any work for Bishop
22 LaRocque, at any point?

23 **MR. ADAMS:** No.

24 **MR. LEE:** Nothing at all?

25 **MR. ADAMS:** Nothing at all.

1 **MR. LEE:** You don't ever recall receiving
2 instructions from him, on anything?

3 **MR. ADAMS:** No.

4 **MR. LEE:** Never met with him in your
5 capacity as a lawyer, as far as you can recall?

6 **MR. ADAMS:** No; I met with him, but never in
7 the capacity as a lawyer.

8 **MR. LEE:** And you've told us that -- and I
9 think it's a -- you've said as much today, that some of
10 this work that you've done when you place it
11 chronologically, must have been done before you were
12 contacted by Silmsers.

13 We know at the very least, the liquor
14 license application was done before Silmsers.

15 **MR. ADAMS:** Yeah; we know that.

16 **MR. LEE:** There may have been something else
17 done before that time?

18 **MR. ADAMS:** There could have been, yeah.

19 **MR. LEE:** And you told us yesterday, when
20 Mr. Engelmann asked you that when you were contacted by
21 Silmsers, there was no reason in your mind to declare a
22 conflict because there was no conflict. Is that right?

23 **MR. ADAMS:** In my mind. That's correct.

24 **MR. LEE:** Looking back on it, do you see a
25 conflict, or nothing at all, at this point?

1 **MR. ADAMS:** It doesn't strike me as being a
2 conflict. They were unrelated issues.

3 **MR. LEE:** What about Bishop Desrochers; have
4 you ever done any work for the Diocese since he's been the
5 Bishop?

6 **MR. ADAMS:** No.

7 **MR. LEE:** Nothing at all?

8 **MR. ADAMS:** Well I see Mr. Engelmann had
9 given me some exhibits of affidavits I commissioned, if
10 that's considered work. But no, I haven't been retained or
11 done any work for the Diocese.

12 **MR. LEE:** I think the document you're
13 referring to, for Mr. Commissioner's benefit is -- I've
14 been told by the clerk that the exhibit is referred to as
15 Terms of Reference, E-4.

16 **THE COMMISSIONER:** All right.

17 **MR. ADAMS:** Thank you.

18 **MR. ENGELMANN:** Do you have that, sir?

19 **MR. ADAMS:** M'hm.

20 **MR. LEE:** So this is the -- it's titled
21 "Cornwall Public Inquiry" and the formal name of the
22 Diocese, and it's an affidavit of Paul Andre Desrochers,
23 sworn March 22nd '06.

24 That's the current Bishop?

25 **MR. ADAMS:** That is the current Bishop.

1 **MR. LEE:** And I think what you're referring
2 to, if you look at the page 4 of that document it's sworn
3 by Bishop Desrochers and it's commissioned by EG Sean Adams

4 **MR. ADAMS:** That would be me ---

5 **MR. LEE:** That's you, sir?

6 **MR. ADAMS:** --- and that would be my
7 signature, yes.

8 **MR. LEE:** You didn't mention this yesterday
9 when Mr. Engelmann asked you about some of the work that
10 you've done for the Diocese.

11 Is it possible that you've forgotten about
12 other work you may have done through the years?

13 **MR. ADAMS:** I don't even consider this work
14 that I've done for the Diocese.

15 **MR. LEE:** Well, you were contacted by the
16 bishop because you're a lawyer, to commission an affidavit.
17 I mean, I'd say that's work, wouldn't you?

18 **MR. ADAMS:** I commission affidavits
19 regularly, for contractors, for people. I have an open-
20 door policy so they come in; I would not open a file, I
21 would have no notes. I would not keep a copy. I would not
22 have read this. So he ---

23 **THE COMMISSIONER:** Just a second.

24 I think when he talks about work I think
25 he's talking about your function as a lawyer. Whether or

1 not you've opened the file, but mostly contacts that you --
2 and a relationship that you would have with the Church. I
3 think that's where he's going.

4 So I don't know that we should restrict it
5 generally to open files and things like that but if you do
6 services like swearing affidavits that would be a
7 professional service, done pro bono if you wish, but in a
8 relationship with the Diocese.

9 **MR. ADAMS:** Fair enough.

10 So I guess my answer would be no, I would
11 not have forgotten about this. I knew about this yesterday
12 when he answered the question, I just didn't consider it
13 work for the Diocese.

14 **MR. LEE:** Based on the clarification of the
15 Commissioner, just now, is there anything else you can
16 think of? I mean, I'm asking to wrack your brains, here.
17 Is there anything else you can think of -- work for the
18 Diocese; work for bishop; work for priests?

19 **MR. ADAMS:** Other than commissioning
20 affidavits, no, I can't.

21 **MR. LEE:** Occasional will, things like that;
22 some issues that come up with the parish but nothing
23 specific you can point to?

24 **MR. ADAMS:** No, not that I recall.

25 **MR. LEE:** Can you tell us how you

1 commissioning this specific affidavit came up?

2 MR. ADAMS: Well, I've known the Bishop
3 since he first arrived in Cornwall; I think it was through
4 a Children's treatment centre event. I've golfed with him
5 at a couple of charity events and so I guess he just needed
6 something commissioned and maybe thought of me, and I don't
7 know.

8 MR. LEE: So just gave you a quick call and
9 asked you to commission a ---

10 MR. ADAMS: Call and --- sure.

11 MR. LEE: During the time that you've been a
12 parishioner at St. Columban's, was that ever Malcolm
13 MacDonald's parish?

14 MR. ADAMS: I believe it was, yes.

15 MR. LEE: What about Jacques Leduc, do you
16 know?

17 MR. ADAMS: I would think he would have gone
18 to Precious Blood in Glen Walter.

19 MR. LEE: Is that ---

20 MR. ADAMS: He lives out in the ---

21 MR. LEE: Close to his ---

22 MR. ADAMS: --- county, yeah, so.

23 MR. LEE: Have you ever seen Jacques Leduc
24 at St. Columban's?

25 MR. ADAMS: I have seen him from time to

1 time, yeah. Not regularly but a few times I've seen him
2 there.

3 **THE COMMISSIONER:** So given our new
4 definition of work, have you ever done any work for Bishop
5 LaRocque?

6 **MR. ADAMS:** Other than commissioning, no.

7 **THE COMMISSIONER:** LaRocque, not Desrochers.

8 **MR. ADAMS:** I never -- I don't believe I did
9 any work, ever, for Bishop LaRocque, sorry.

10 **THE COMMISSIONER:** Okay.

11 **MR. LEE:** Can I take you to exhibit 235,
12 please?

13 Do you have that sir?

14 **MR. ADAMS:** I have it -- not in front of me
15 on the screen -- okay; it is now in front of me on the
16 screen.

17 **MR. LEE:** Do you have a hard copy?

18 **MR. ADAMS:** I have a hard copy, as well.

19 **MR. LEE:** As you can see, this is an archive
20 occurrence report from the Cornwall Police Service, and if
21 you look at the second line of the text, it appears that it
22 was filed by an officer on August 24th, 1995. Do you see
23 that?

24 **MR. ADAMS:** Sorry, where are you looking?

25 **MR. LEE:** It reads, "General Occurrence

1 Report" at the first line of the narrative. Do you see
2 that?

3 MR. ADAMS: Oh, yes, I do.

4 MR. LEE: And it says it was filed by 0112
5 Wilson King E. That's an officer, we know that, of the
6 Cornwall Police Service.

7 MR. ADAMS: Okay.

8 MR. LEE: The 24th August, '95. So that's
9 the date of filing. Okay?

10 MR. ADAMS: Yeah.

11 MR. LEE: But if you go down a couple of --
12 or one line, it says that the incident itself is from
13 August 19th '95.

14 Do you see that?

15 MR. ADAMS: I do.

16 MR. LEE: And then it describes what
17 happened.

18 And if I can just read you that first
19 paragraph:

20 "On August 19th, 1995 at approximately
21 14:30 hours, writer attended 36 Fourth
22 Street West, the residence of Father
23 Kevin Maloney. Father Maloney, in the
24 presence of his lawyer Sean Adams,
25 advised writer that he has received two

1 phone calls through his answering
2 service from a David Silmser as well as
3 one from a John MacDonald, due to an
4 investigation being done by our
5 department. Father Maloney, on the
6 advice of his lawyer, wished to have
7 these two advised to stop calling until
8 the investigation is complete."

9 Do you see that?

10 **MR. ADAMS:** I do.

11 **MR. LEE:** So it's pretty clear from that
12 that Kevin Maloney advised the officers that he was getting
13 phone calls and he advised him who they were from. Is that
14 right?

15 **MR. ADAMS:** That is correct.

16 **MR. LEE:** You suggested yesterday that you
17 couldn't be absolutely certain that you knew it was Silmser
18 who was calling, but I take it you would agree with me,
19 based on this document, that you must have known that?

20 **MR. ADAMS:** At the time of the meeting yes,
21 with the officer.

22 **MR. LEE:** And you obviously knew on August
23 19th, '95 that you had represented Silmser on this
24 settlement with the Diocese a couple of years earlier. Is
25 that right?

1 **MR. ADAMS:** Certainly, yes.

2 **MR. LEE:** And you knew that was the same
3 Diocese that Father Maloney was working for? You knew
4 Father Maloney was a priest of this Diocese ---

5 **MR. ADMAS:** Yes.

6 **MR. LEE:** --- and you knew it was the same
7 Diocese involved in the settlement?

8 **MR. ADAMS:** Yes.

9 **MR. LEE:** And would you agree with me that
10 you would have known at the time in -- on August 19th, 1995
11 that the reason that Silmser was calling Father Maloney had
12 something to do with his sexual abuse?

13 **MR. ADAMS:** I guess I can assume that.

14 **MR. LEE:** I mean, we know the -- at that
15 time, Father Maloney certainly would have known and I think
16 you would have known that Silmser and MacDonald were both
17 victims of -- alleged victims of abuse in Cornwall?

18 **MR. ADAMS:** Yes.

19 **MR. LEE:** Surely he would have known the
20 reason they were calling him had something to do with that?

21 **MR. ADAMS:** I suppose.

22 My recollection, again, from looking at
23 this, was there were harassing calls and he just wanted
24 them to stop. So he asked me to attend at his home, which
25 is directly across from St. Columban's Church, and we would

1 have asked the officer to contact them and I think they
2 did, and the calls stopped.

3 **MR. LEE:** Sir, do you see a conflict here in
4 acting for Father Maloney in this matter when it's David
5 Silmser on the other end of the phone dealing with
6 allegations of abuse?

7 **THE COMMISSIONER:** Could we break that down
8 into a legal conflict and a ---

9 **MR. LEE:** A legal conflict. I mean you ---

10 **THE COMMISSIONER:** Or a moral one or ---

11 **MR. LEE:** You have -- you have David Silmser
12 who comes to you in 1993, says, "I've been abused by a
13 priest of the Diocese of Alexandria-Cornwall. Without
14 legal representation, I've gone out on my own and I've
15 negotiated with -- with the priest and with the Diocese and
16 with the bishop and we've come to a number and I need you
17 to help me out on that".

18 You come in and you help him out, you look
19 at documents, he gets the cheque and he's on his way. All
20 of that's fair?

21 **MR. ADAMS:** That's fair.

22 **MR. LEE:** In 1995, you get a call from Kevin
23 Maloney at some point. You go over, you ask him what the
24 problem is and he says, "I'm getting phone calls from these
25 two victims of abuse and I want them to stop".

1 Would a -- would a flag not have gone up in
2 your mind at that point, that you couldn't be possibly by
3 dealing with that issue given that you'd represented
4 Silmser?

5 **MR. ADAMS:** Again, I would have said to
6 David, "David, don't leave harassing phone messages on
7 Father Maloney's answering machine".

8 So no, I -- that's just not the way to
9 behave and so in my mind, no, it was as simple as that and
10 as I said after the officers spoke to them, they quit
11 leaving that type of message on the answering machine.

12 **THE COMMISSIONER:** Yes, but in fairness, if
13 right afterwards you got home and Silmser phones you up and
14 says, "Hey, I need your advice. I just got a call from the
15 cops telling me not to phone Father Maloney". I mean --
16 don't you think?

17 **MR. ADAMS:** I would have said, "I don't
18 think you should be making harassing phone calls".

19 **MR. LEE:** But here you're acting for Father
20 Maloney, like ---

21 **MR. ADAMS:** Again, I guess my mind, I don't
22 interpret it as acting. I was -- he -- and I don't know if
23 he called me or if he just after Mass said, "I'm going to
24 be meeting with the police over this, can you help me out?"
25 And I did. I don't see it as anything more than that.

1 **MR. LEE:** Just to be clear. A moment ago
2 you said had Silmsler called you, you would have told him to
3 stop leaving harassing calls. Did he call -- did you have
4 that conversation with Silmsler? Is that what you are
5 telling us? Or ---

6 **MR. ADAMS:** No, no. I'm just --
7 hypothetically.

8 **MR. LEE:** Had you ever acted for John
9 MacDonald prior to this August 19th, '95 meeting with the
10 Cornwall Police?

11 **MR. ADAMS:** Again, I don't believe so.

12 **MR. LEE:** You knew John MacDonald?

13 **MR. ADAMS:** Sure.

14 **MR. LEE:** You grew up with him, I think. You
15 went to school or something with him?

16 **MR. ADAMS:** No, I never went to school with
17 John. John would be a couple of years older than me, but I
18 certainly knew his parents and his -- they had a large
19 family -- they went to the same church. I would have
20 played lacrosse ---

21 **MR. LEE:** Right.

22 **MR. ADAMS:** --- one or two years. Our ages
23 -- I think he was a couple of years older than me but we
24 would have -- our paths would have crossed more on the
25 lacrosse -- playing lacrosse.

1 **MR. LEE:** You know that John MacDonald
2 testified at this Inquiry?

3 **MR. ADAMS:** I do know that.

4 **MR. LEE:** One of the exhibits that we
5 entered when he was here was Exhibit 204. I'd like you to
6 take a look at those.

7 These are some handwritten notes that we
8 asked Mr. MacDonald some questions about.

9 Do you have that, sir?

10 **MR. ADAMS:** I do have that. Not on my
11 screen, I have the hard copy.

12 **MR. LEE:** Is the very first page that you --
13 yeah, okay, that's the one I'm looking at. If you can look
14 maybe three-quarters the way down the page, there's an
15 entry that begins with "8:45 a.m."?

16 **MR. ADAMS:** Yes, I see it.

17 **MR. LEE:** And to the left of that, it's a
18 little bit cut-off but I believe it says "Monday, August
19 21st". You'll see the next entry is Tuesday, August 22nd?

20 **MR. ADAMS:** I see what you are referring to,
21 yes.

22 **MR. LEE:** So the fourth -- the fourth slash
23 down seems to read:

24 "Met with Sean Adams, his office,
25 around noon. Shared letter with him.

1 He advised me to get a lawyer and my
2 three options to deal with this:
3 criminal charges, civil suit or deal
4 with Diocese."

5 Do you see that there?

6 **MR. ADAMS:** I do see that.

7 **MR. LEE:** Do you recall that meeting? The
8 meeting being referenced there.

9 **MR. ADAMS:** I recall John MacDonald doing
10 work at our office for Twin Oaks and I vaguely recall him
11 talking to me one lunch time as I was coming in. That's --
12 -

13 **MR. LEE:** Talking about issues related ---

14 **MR. ADAMS:** --- about this here, yes.

15 **MR. LEE:** About dealing with the Diocese.

16 Did you -- do you recall whether or not at
17 that time during that meeting you disclosed to him the fact
18 that you were representing Kevin Maloney?

19 **MR. ADAMS:** I don't imagine ---

20 **MR. LEE:** To situate you in time, this is --
21 this meeting with MacDonald is August 21st. That's two days
22 after the August 19th meeting with Maloney and the Cornwall
23 Police.

24 **MR. ADAMS:** I don't recall if I would have
25 or would not have.

1 **MR. LEE:** John MacDonald has testified here
2 -- in his note you said that "Shared letter with him",
3 referring to sharing a letter with you. That's a letter
4 that he had written to Kevin Maloney.

5 That's the evidence that we have here and he
6 told us when he was here that he showed you the letter,
7 that you left the room for about five minutes and that
8 you'd then -- told -- sorry -- you then told him that you
9 couldn't handle the matter because you were, and I quote
10 from Mr. MacDonald:

11 "Wrapped up in the middle of it
12 anyways".

13 Okay, that was his evidence here.

14 And he also told us that you didn't tell him
15 what that meant or how you were wrapped up in the middle of
16 it. You just left it at that. Okay?

17 **MR. ADAMS:** M'hm.

18 **MR. LEE:** Can you tell us why you left the
19 room after being shown the letter?

20 **MR. ADAMS:** I don't even recall meeting with
21 him in a room, so I don't recall that at all.

22 **MR. LEE:** You don't recall the room you met
23 him with (sic) or you don't recall even that it was -- I
24 mean, could it have been outside?

25 **MR. ADAMS:** I don't even -- as I said, I

1 think it -- my recollection and it's hazy so I don't even
2 know if it's accurate, was as I was coming in -- he was
3 working outside scaffolding, working on the soffits and
4 fascia of the office with a bunch of contractors, and my
5 recollection is as I was coming in he may have mentioned --
6 I don't even know if I saw or read a letter.

7 MR. LEE: You don't recall having seen a
8 letter at all?

9 MR. ADAMS: I don't recall.

10 MR. LEE: One way or the other. You can't
11 say for certain that you didn't see it, you just ---

12 MR. ADAMS: That's correct.

13 MR. LEE: --- don't know. Is that right?

14 MR. ADAMS: That's fair.

15 MR. LEE: So you certainly don't recall
16 making a copy of the letter if you did that?

17 MR. ADAMS: No.

18 MR. LEE: Do you recall making a phone call?

19 MR. ADAMS: I do not.

20 MR. LEE: Is it possible that you left that
21 room and made a phone call?

22 MR. ADAMS: I mean anything's possible, but
23 I don't recall.

24 MR. LEE: Do you recall taking any notes?

25 MR. ADAMS: I don't believe -- I don't

1 recall taking notes and I don't think I would have taken
2 notes.

3 MR. LEE: You haven't come across any notes
4 in ---

5 MR. ADAMS: No.

6 MR. LEE: --- preparations for this Inquiry?

7 MR. ADAMS: No.

8 MR. LEE: Can you tell us why you didn't
9 immediately tell John MacDonald that you were acting for
10 Kevin Maloney at that very time?

11 MR. ADAMS: I don't recall discussing this
12 and, no, I can't.

13 MR. LEE: John MacDonald told us here that
14 the first he knew of the conflict -- of what he perceives
15 to be a conflict -- involving Kevin Maloney and you was a
16 result of a letter that he was sent by Constable Burnie of
17 the Cornwall Police on April 26th, 1996. So we're looking
18 at eight months later, about, and the comment that Mr.
19 MacDonald made to us here when he learned that letter very
20 clearly stated the fact that the Cornwall Police had met
21 with Kevin Maloney on August 19th in the company of his
22 lawyer, Sean Adams. So it was very unambiguous. It
23 spelled out the fact that you had been at that meeting with
24 the Cornwall Police.

25 And the word that Mr. MacDonald used here

1 was that he felt "betrayed" by you. Can you appreciate
2 looking back on this why he might have felt that way?

3 **MR. ADAMS:** Sorry -- and -- and this
4 pertains to the letter or the harassing phone calls?

5 **MR. LEE:** Mr. MacDonald's evidence here was
6 that -- no, it -- the letter pertained -- there was quite
7 an issue made with Mr. MacDonald and Mr. Silmsler about what
8 having the police call to tell them they can't contact
9 Kevin Maloney any more. There was a discussion that Mr.
10 MacDonald told us he felt like he had done something wrong;
11 that he was a suspect in a police investigation and he was
12 quite concerned about it and he followed up with that with
13 the Cornwall Police.

14 At some point on April 26th, '96 he gets a
15 letter from Constable Burnie saying, listen, here's the
16 situation, here's what happened. And Constable Burnie
17 outlines for him, we met with Kevin Maloney on that date in
18 the presence of his lawyer, Sean Adams.

19 And Mr. MacDonald testified here that his
20 reaction to that was, "I felt betrayed by Sean Adams. He
21 didn't tell me he was acting at that very time for Kevin
22 Maloney".

23 My question to you is do you understand
24 looking back on it, why he might have felt that way?

25 **MR. ADAMS:** I mean, I can't get into his

1 psyche, but I can understand anyone feeling anything, but I
2 don't see why he would be -- be betrayed if he came to me
3 and said, "What do I do?" and I gave him options; you
4 should get lawyers, you should do this or that. No, I mean
5 it's -- I don't see it.

6 **THE COMMISSIONER:** Well, two -- just excuse
7 me but I ---

8 **MR. LEE:** No, please.

9 **THE COMMISSIONER:** You go to Father
10 Maloney's home or rectory or whatever, you meet with the
11 police, two or three days later, lo and behold, there is
12 John MacDonald in front of you working there and I can't
13 see -- you know, I would have thought that you'd would say,
14 "Oh my God, that's the guy with the harassing phone calls".
15 Then he comes up, supposedly with the letter talking about
16 sexual abuse, and you know you went to -- "Hey, listen John,
17 by the way you know, I was at Maloney's, Father Maloney's
18 home and you know these harassing phone calls; you know it
19 just doesn't help things.

20 **MR. ADAMS:** I may have said that. I mean
21 from the evidence it appears what they're showing me is
22 that I told him he had three options; he should pursue it
23 civilly, criminally, deal with the Diocese. I don't see
24 anything ---

25 **THE COMMISSIONER:** Well, no ---

1 **MR. ADAMS:** --- unbecoming in that, I mean I
2 think ---

3 **THE COMMISSIONER:** Oh, no, no, no, no.
4 Don't get me wrong. That's fine legal advice but, you
5 know, MacDonald would -- might have expected you to say,
6 "I'm acting for Maloney now and so I -- I really can't deal
7 with you and, by the way, don't make any phone calls."
8 There's nothing in there about you relating to MacDonald
9 the fact that you're aware of the phone call situation.

10 **MR. ADAMS:** And it -- I may have and I may
11 not.

12 **THE COMMISSIONER:** Yeah.

13 **MR. ADAMS:** I don't recall the specifics,
14 unfortunately.

15 **THE COMMISSIONER:** Okay.

16 **MR. LEE:** The point is you just don't see
17 the conflict there; separate situations ---

18 **MR. ADAMS:** In that -- no, oh sorry. In
19 that set of circumstances, no. I mean by sending him away,
20 I think I dealt with that.

21 **MR. LEE:** Changing focus, before the Silmser
22 situation came up -- the allegations made by him and the
23 settlement and everything else -- had you ever heard of
24 allegations of sexual abuse against another priest of the
25 Diocese, any other priest of the Diocese? Had you heard

1 any allegations of sexual abuse?

2 MR. ADAMS: I don't believe so.

3 MR. LEE: Let me -- the one that I think
4 you'll agree you must have heard of was in relation to
5 Gilles Deslauriers.

6 MR. ADAMS: Sorry?

7 MR. LEE: Gilles Deslauriers, criminally
8 convicted.

9 MR. ADAMS: Again, it doesn't ---

10 MR. LEE: Doesn't ring a bell?

11 MR. ADAMS: No, no, no ---

12 MR. LEE: You don't remember hearing about
13 that?

14 MR. ADAMS: No.

15 MR. LEE: I would have thought that that
16 would have been quite a big deal at the time.

17 MR. ADAMS: Quite a big deal?

18 MR. LEE: Yes. 1986, I believe, was the
19 conviction.

20 MR. ADAMS: It doesn't ring a -- quite a big
21 deal in what sense?

22 MR. LEE: Well, when a Roman Catholic priest
23 in Cornwall is convicted of sexually abusing young people,
24 I would have thought that would have been the talk of the
25 town, frankly.

1 **MR. ADAMS:** I don't recall it, but I mean
2 it's not right; it's upsetting. My view is always -- I
3 mean, I always have looked at the bigger picture. I know
4 that when priests have been found guilty of abuse, some
5 people stop going to church; some people stop giving in the
6 basket. I've always looked at the broader picture and I
7 believe that there are good priests; there are bad priests,
8 just as there are good lawyers and bad lawyers. We're all
9 human; we're not perfect and people make mistakes. So that
10 type of stuff has never shattered my faith and maybe I'm
11 different; maybe I'm odd, but that's just my psyche.
12 That's the way it works.

13 **THE COMMISSIONER:** No, but the question was
14 were you aware ---

15 **MR. ADAMS:** I wasn't, no. Sorry.

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

17 **MR. ADAMS:** I mean the name doesn't ring a
18 bell, but I don't doubt that it happened and in '86 I would
19 have been -- I wouldn't have been in Cornwall.

20 **MR. LEE:** Well, you were not living in
21 Cornwall. Your parents were living here; is that right?

22 **MR. ADAMS:** Sure.

23 **MR. LEE:** Would be back on weekends
24 occasionally?

25 **MR. ADAMS:** I'm sure. Almost every ---

1 **MR. LEE:** You'd gone to church at St.
2 Columban's occasionally?

3 **MR. ADAMS:** Absolutely, yeah.

4 **MR. LEE:** So when you -- if I situate you in
5 time, the day you learn of the Silmser allegations, at that
6 point in time, you had never heard allegations like that
7 against a priest in this Diocese?

8 **MR. ADAMS:** I may have. I don't -- I mean,
9 I ---

10 **MR. LEE:** You don't recall?

11 **MR. ADAMS:** I don't recall.

12 **MR. LEE:** Your reaction certainly wasn't oh
13 no, here we go again with the Diocese ---

14 **MR. ADAMS:** No, it wouldn't have been that.

15 **MR. LEE:** No, there was nothing like that.
16 And you would remember that if that were your reaction,
17 obviously; right? You don't ---

18 **MR. ADAMS:** I would think so.

19 **MR. LEE:** In 1993, you didn't look at the
20 Diocese of Alexandria-Cornwall and think, we had a real
21 problem with sexual abuse in this Diocese?

22 **MR. ADAMS:** No, I don't ---

23 **MR. LEE:** Certainly not a ---

24 **MR. ADAMS:** No.

25 **MR. LEE:** So your evidence yesterday was

1 that Silmser calls you and he asks you to help him because
2 you're the only lawyer he knows in Cornwall?

3 **MR. ADAMS:** That's correct.

4 **MR. LEE:** He wants you; he doesn't want a
5 referral, he would just prefer you did it.

6 **MR. ADAMS:** That's what he said.

7 **MR. LEE:** And he tells you on the phone that
8 he's reached a financial settlement and that he needs a
9 lawyer to assist with paperwork; he must have told you that
10 much on that phone call?

11 **MR. ADAMS:** Yes.

12 **MR. LEE:** And you told us yesterday that on
13 that call he at very least told you that the settlement
14 related to sexual abuse by "a" priest?

15 **MR. ADAMS:** I think that's fair, yes.

16 **MR. LEE:** And you knew that Silmser was
17 calling from Cornwall? He was calling you as a Cornwall
18 lawyer because he's a Cornwall citizen; is that right?

19 **MR. ADAMS:** No, I don't know if I knew that.

20 **MR. LEE:** Well, he wasn't asking you to come
21 to Toronto to sign ---

22 **MR. ADAMS:** Oh no.

23 **MR. LEE:** --- some of the papers. You knew
24 ---

25 **MR. ADAMS:** No, I knew it was a Cornwall

1 incident, sure.

2 MR. LEE: You knew it was the local Diocese
3 you were dealing with ---

4 MR. ADAMS: Yes.

5 MR. LEE: --- here? And you told us
6 yesterday that you would have known, most likely, the
7 amount of the settlement on that call?

8 MR. ADAMS: I think so, yes.

9 MR. LEE: Thirty-two thousand dollars
10 (\$32,000), right?

11 MR. ADAMS: That's correct.

12 MR. LEE: So you know right off the bat that
13 this is a pretty serious situation you're dealing with;
14 would you agree with that?

15 MR. ADAMS: I would agree with that.

16 MR. LEE: And you knew from that phone call
17 that the Diocese knew about them; they knew about the
18 allegations, they were making a settlement; right?

19 MR. ADAMS: That's correct.

20 MR. LEE: Obviously the Bishop knew about
21 it?

22 MR. ADAMS: Yes.

23 MR. LEE: He -- he's the one at the Diocese
24 who's going to be cutting the cheque; right?

25 And you know that they've agreed to pay this

1 man thousands of dollars to resolve this issue?

2 Is it fair to me -- for me to suggest to
3 you, sir, that at the time of that phone call you must have
4 thought to yourself, well, there must be something to this
5 if they're willing to pay this man \$32,000?

6 **MR. ADAMS:** That would be fair to say.

7 **MR. LEE:** It's an entirely different phone
8 call than a phone call from David Silmser saying, "I've
9 been abused by a priest of the Diocese and I want you to
10 help." That wasn't the call; the call was, "I've already
11 talked to them and they've agreed to pay me some money"?

12 **MR. ADAMS:** That's fair.

13 **MR. LEE:** And this is the very first time
14 that you hear allegations like this against -- against this
15 Diocese.

16 What other information did you ask Silmser
17 for on that call?

18 **MR. ADAMS:** What other information?

19 **MR. LEE:** I mean he -- he lays this on you;
20 you must have been shocked?

21 **MR. ADAMS:** Again, shocked, I don't know.
22 There's not very much that shocks me so I would have said,
23 okay.

24 **MR. LEE:** Well, sir, you're a -- you've been
25 a Roman Catholic your entire life. You go to church on --

1 every Sunday and the major holidays; your entire family
2 goes. You move out of town to go to university and you
3 find another parish; you move to a different town and you
4 find another parish. You're coming back here. It's a huge
5 part of your life and all of a sudden you have a man on the
6 phone telling you that he's been sexually abused by a
7 priest; that he's negotiated a settlement with the Diocese
8 and that they're going to pay him some money. I mean, I
9 would think shock would be a pretty fair word to use.

10 **MR. ADAMS:** I don't believe I was shocked.
11 I mean like I rarely get shocked. My jaw would not have
12 dropped. I would have said -- I wouldn't have said this
13 can't be. I mean, I would have accepted it as a fact and
14 been disappointed, but certainly not shocked.

15 **MR. LEE:** Do you recall whether you asked
16 him for the priest's name?

17 **MR. ADAMS:** I don't recall.

18 **MR. LEE:** About the parish that was
19 involved?

20 **MR. ADAMS:** I don't recall.

21 **MR. LEE:** Whether the priest was still
22 active?

23 **MR. ADAMS:** I don't recall.

24 **MR. LEE:** Do you recall questioning him
25 about the facts of this at all or you just took the

1 information that he gave you?

2 **MR. ADAMS:** I -- I believe I did and he did
3 not want to get into any of that. He had done all the
4 negotiating; he had met with them; he had arrived at that
5 amount. I believe I suggested that he should get a lawyer
6 that could delve into those issues to properly advise him,
7 but he was adamant that he had done all of that; he just
8 needed someone to help him get the \$32,000 so he could get
9 on with the healing process and get on with his life. He
10 had exhausted himself in doing that and trying to proceed
11 criminally so I -- I mean that's my recollection.

12 **MR. LEE:** And you told him that, you know,
13 there might be another lawyer out there who's better
14 suited? You're not a litigator; somebody else ---

15 **MR. ADAMS:** Oh, I would have told him that,
16 absolutely.

17 **MR. LEE:** But you don't -- you don't grill
18 him for details; you're not cross-examining him on the
19 phone or anything like that?

20 **MR. ADAMS:** No.

21 **MR. LEE:** Sir, don't you think that that's a
22 little bit of an odd reaction for you to have had if you'd
23 never heard anything about those allegations before that
24 phone call?

25 **MR. ADAMS:** No.

1 **MR. LEE:** Sir, I don't know what your
2 intentions are with respect to breaks?

3 **THE COMMISSIONER:** I was going to ask you
4 the same question.

5 **MR. LEE:** This is a natural break in --
6 examination.

7 **THE COMMISSIONER:** Thank you. I appreciate
8 that. Let's take the morning break.

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

11 This hearing will resume at 11:15.

12 Upon recessing at 11:01 a.m./L'audience est suspendue à
13 11h01

14 Upon resuming at 11:17 a.m./L'audience est reprise à 11h17

15 **THE REGISTRAR:** This hearing is now resumed.
16 Please be seated. Veuillez vous asseoir.

17 **THE COMMISSIONER:** Mr. Lee?

18 **MR. LEE:** Thank you.

19 I apologize if there's a little bit of
20 repetition here, but I want to make sure that I have the
21 time lines straight.

22 The first you hear of the Silmsers
23 allegation, according to your evidence, is when Silmsers
24 calls you to tell you he needs help?

25 **MR. ADAMS:** That is correct.

1 **MR. LEE:** And your recollection is that is
2 the night before the meeting at Malcolm MacDonald's office?

3 **MR. ADAMS:** That is correct.

4 **MR. LEE:** And was it during that telephone
5 call that you were told that the meeting would be the next
6 day?

7 **MR. ADAMS:** I can't recall.

8 **MR. LEE:** Did you meet with Silmsler that
9 night or the first time you ever met with Silmsler was at
10 Malcolm MacDonald's office?

11 **MR. ADAMS:** I believe the first time I met
12 him was at Malcolm MacDonald's office.

13 **MR. LEE:** There was no meeting in your
14 office the evening before in the morning to discuss things
15 before you went over; you went and you met your client at
16 Malcolm's office and you talked to him for the first time
17 at Malcolm's office?

18 **MR. ADAMS:** That is correct.

19 **MR. LEE:** And we know he was already there
20 because you've told us that he called you from Malcolm's
21 office to say, "Hey, when are you coming?" Is that right?

22 **MR. ADAMS:** That is correct.

23 **MR. LEE:** You were told yesterday by Mr.
24 Engelmann that when Mr. Silmsler testified here, he said
25 that you arrived at Malcolm MacDonald's office, that you

1 went in and met with Malcolm MacDonald alone for a few
2 minutes and then you came out and you reviewed the
3 documents with your client; do you have any specific
4 recollection of that?

5 **MR. ADAMS:** I don't.

6 **MR. LEE:** You certainly don't recall a
7 lengthy meeting between you and Malcolm MacDonald with
8 Silmser in the waiting room?

9 **MR. ADAMS:** I don't.

10 **MR. LEE:** That's not the way it happened?
11 If there was a short meeting with Malcolm MacDonald to go
12 over documents maybe, and then you came out and you met
13 with your client?

14 **MR. ADAMS:** I think that's what I said, yes.

15 **MR. LEE:** But the bulk of that meeting was
16 you and your client?

17 **MR. ADAMS:** That is correct.

18 **MR. LEE:** You going over the documents, him
19 signing documents; things along those lines?

20 **MR. ADAMS:** That is correct.

21 **MR. LEE:** Did you recall, at any point,
22 having to amend or change or alter any of the documents
23 while you were there?

24 **MR. ADAMS:** I don't recall, but obviously
25 there's the dates that we've seen have changed. I recall

1 reading something that David Silmsers's last name was
2 misspelled, but I don't have any recollection of that.

3 MR. LEE: I think Malcolm MacDonald
4 suggested that in one of his police interviews ---

5 MR. ADAMS: I remember reading ---

6 MR. LEE: --- that there was the issue with
7 the "Elwin" Silmsers being ---

8 MR. ADAMS: Yeah, I read that.

9 MR. LEE: --- included or excluded in there.

10 MR. ADAMS: Yeah, I read that.

11 MR. LEE: So there may have been some minor
12 revisions to make; you don't remember that specifically?

13 MR. ADAMS: That -- that's fair to say.

14 MR. LEE: Is there any chance that you
15 created any of the -- you created any of these documents at
16 Malcolm MacDonald's office?

17 MR. ADAMS: No chance of that.

18 MR. LEE: You didn't use a computer or a
19 typewriter or anything like that?

20 MR. ADAMS: I can't use a computer and
21 typewriter today, so no, that didn't ---

22 MR. LEE: You haven't lost that ability?

23 MR. ADAMS: No.

24 MR. LEE: That's just not one you've ever
25 had.

1 You don't remember writing anything out by
2 hand and having Malcolm MacDonald's secretary type it up
3 for you or anything like that?

4 **MR. ADAMS:** I don't -- I don't recall that,
5 no.

6 **MR. LEE:** That would be pretty odd to do
7 that at somebody else's office, wouldn't you think? You --
8 that might stick in your mind.

9 **MR. ADAMS:** I don't know if it would be odd.

10 **MR. LEE:** Out of the ordinary?

11 **MR. ADAMS:** Sure.

12 **MR. LEE:** You agree that something like that
13 would likely stick out in your mind if there was a drafting
14 session in that office?

15 **MR. ADAMS:** If it was drafted there, yeah,
16 that would stick out in my mind.

17 **MR. LEE:** So these documents were obviously
18 prepared in advance, as you've said?

19 **MR. ADAMS:** That is correct.

20 **MR. LEE:** And you've told us that you
21 reviewed several documents with Mr. Silmsler that day; there
22 was the release and the undertaking not to disclose?

23 **MR. ADAMS:** Yes.

24 **MR. LEE:** There was the Independent Legal
25 Advice Certificate?

1 MR. ADAMS: Yes.

2 MR. LEE: There was the direction of the
3 Cornwall Police saying that Silmsers didn't want to proceed
4 with the criminal complaint?

5 MR. ADAMS: Yes.

6 MR. LEE: And you've told us that you think
7 now likely the acknowledgment ---

8 MR. ADAMS: Yes.

9 MR. LEE: --- Silmsers signs it.
10 So those were the four documents. Am I
11 missing anything? I think those are the four, right?

12 MR. ADAMS: I believe those are all the
13 documents.

14 MR. LEE: And you recall that the
15 acknowledgment aside -- because that was a matter between
16 you and Mr. Silmsers and it had nothing to do with any other
17 party, right?

18 MR. ADAMS: That is correct.

19 MR. LEE: So the other three documents that
20 did concern the other parties, your evidence is and your
21 recollection is that those three needed to be executed by
22 Mr. Silmsers before he could get his money?

23 MR. ADAMS: That is correct.

24 MR. LEE: And that was the whole point in
25 bringing you in is ---

1 MR. ADAMS: That is, yes.

2 MR. LEE: --- so that the other side would
3 be satisfied and Mr. Silmsler would be satisfied that they
4 could proceed and that everything was aboveboard; is that
5 right?

6 MR. ADAMS: Well, I don't know if Mr.
7 Silmsler would be satisfied; I'm sure he would have
8 preferred just to go and pick up the cheque.

9 MR. LEE: Right.

10 MR. ADAMS: I think that was a condition of
11 the Diocese.

12 MR. LEE: They wanted to make sure this guy
13 had a lawyer on his team?

14 MR. ADAMS: Right.

15 MR. LEE: So you reviewed the documents with
16 Silmsler; you can't get into the details of that with us,
17 you don't recall exactly but you reviewed them, somehow you
18 discussed them; is that right?

19 MR. ADAMS: That is correct.

20 MR. LEE: And then he signed all three of
21 those documents at that office?

22 MR. ADAMS: That is my recollection, yes.

23 MR. LEE: You witnessed all three of those
24 documents?

25 MR. ADAMS: That is correct.

1 MR. LEE: And Silmsers got the cheque?

2 MR. ADAMS: That is correct.

3 MR. LEE: And we know that he got the cheque
4 because it didn't go through your office?

5 MR. ADAMS: That is correct.

6 MR. LEE: We have a letter that suggests
7 that it might have at some point, but you don't have any
8 record of that?

9 MR. ADAMS: I have no record of the letter
10 or -- and I don't recall ever receiving a cheque.

11 MR. LEE: Right. And that makes further
12 sense because we know that Silmsers had some issue cashing
13 the cheque?

14 MR. ADAMS: That is right.

15 MR. LEE: And that was a cheque from
16 Malcolm's office, not from yours, because Malcolm had to
17 deal with the issue, not you?

18 MR. ADAMS: Yeah, I don't know if it was
19 from Malcolm's office or from the Diocese, but it wasn't
20 from my office.

21 MR. LEE: And as the Commissioner put it
22 yesterday to you, you went back to your office and thought
23 you were done with this thing?

24 MR. ADAMS: I think that's fair to say.

25 MR. LEE: You had -- there were no further

1 appointments scheduled with Silmsers or no further
2 appointments with Malcolm MacDonald?

3 MR. ADAMS: No.

4 MR. LEE: He had the cheque, so it's done?

5 MR. ADAMS: Yeah.

6 MR. LEE: We looked at a couple of documents
7 yesterday and one of them was the direction of the Cornwall
8 Police; you're familiar with that one.

9 And the other one that we looked at was the
10 letter from Malcolm MacDonald to Luc Brunet, at the
11 Cornwall Police, stating that you prepared that direction.
12 And you've said that you don't take any issue with that
13 because Malcolm would have had no reason to say it
14 otherwise and it must be true; is that right?

15 MR. ADAMS: Well, I mean, that's common
16 sense, in my view.

17 MR. LEE: Sir, so we have it then that
18 you've told us that all three documents were signed during
19 the meeting at Malcolm's office, that you didn't meet with
20 Silmsers at any time before that meeting, that was your
21 first meeting with him; is that correct?

22 MR. ADAMS: That is correct.

23 MR. LEE: You didn't meet with him again
24 after that meeting; he didn't come to your office that
25 night?

1 **MR. ADAMS:** I don't believe so, no.

2 **MR. LEE:** And you've told us that you didn't
3 draft the document at Malcolm's office but that you are the
4 one who drafted the document. So when we take all those
5 facts together, sir, I think you have to agree with me that
6 the only reasonable explanation is that you must have
7 created the direction to the Cornwall Police before you
8 attended at Malcolm MacDonald's office.

9 **MR. ADAMS:** That's probably a fair
10 assumption.

11 **MR. LEE:** Now, the problem I have with that
12 is you've told us that you didn't have a conversation with
13 Malcolm MacDonald or with Jacques Leduc before that
14 meeting, so how would you have had any clue that you needed
15 a direction, who to address it to, what the content should
16 be? Do you see the point I'm getting at, sir?

17 **MR. ADAMS:** I do.

18 **MR. LEE:** You had to have dealt with
19 MacDonald or Leduc before that meeting because otherwise
20 there was no way you could have drafted that release -- or
21 the direction, rather.

22 **MR. ADAMS:** Well, I never had any dealings
23 with Leduc.

24 I had that call. We have the pink slip from
25 Malcolm MacDonald where it appears that he's saying that is

1 required, so it could be that whenever he called, he said,
2 "Look, we're going to need this, as well."

3 MR. LEE: But, sir, my understanding of your
4 evidence is that the only call you had with Malcolm
5 MacDonald before that meeting was the one on that day to
6 confirm the time. You confirmed the time of day; it was a
7 30-second call.

8 MR. ADAMS: I'm sorry, it was?

9 MR. LEE: Thirty-second call, I think was
10 ---

11 MR. ADAMS: That was my recollection, yes.

12 MR. LEE: So can you help me understand? I
13 mean, clearly you had a call -- you say you never spoke to
14 Leduc, so it had to be with MacDonald -- and you discussed
15 these details and there tasks assigned; you know, "I'm
16 going to prepare these documents and, Mr. Adams, you're
17 going to prepare this direction."

18 MR. ADAMS: M'hm.

19 MR. LEE: Would you agree with me that that
20 conversation must have taken place before you had ever met
21 with your client to discuss any of these matters?

22 MR. ADAMS: No.

23 The discussion with Malcolm before I ever
24 met with the client?

25 MR. LEE: My suggestion to you, sir, is that

1 you learned the details of this entire settlement, you
2 learned the details of what was going to happen and you
3 learned the details of what your role in it was going to be
4 from Malcolm MacDonald, not from David Silmser.

5 **MR. ADAMS:** No, that's not correct.

6 **MR. LEE:** Well, what am I missing here, sir?

7 **MR. ADAMS:** I don't know what you're
8 missing.

9 I -- my recollection is that I received a
10 call from Malcolm that -- asking me if I was going to go
11 down and -- and meet with David.

12 I could have had a call after the fact,
13 saying, "We need this." I could have met with David after,
14 I just don't recall it.

15 But what I can tell you is that that
16 direction is witnessed by me. I don't recall preparing it.
17 I don't know when it was prepared. From reviewing Malcolm
18 MacDonald's letter, it appears that I prepared it, but I
19 can't tell you exactly when.

20 In my mind, we had the one meeting. But my
21 recollection isn't ---

22 **MR. LEE:** You had ---

23 **MR. ADAMS:** And I didn't have a video camera
24 that I can replay.

25 **MR. LEE:** You had the one meeting with who?

1 MR. ADAMS: With David.

2 MR. LEE: With David. Well, that's exactly
3 my point.

4 So every document you both signed at the
5 same time had to be at that meeting.

6 MR. ADAMS: You would think so, yes.

7 MR. LEE: So the document had to have been
8 prepared in advance of that meeting, because it wasn't done
9 at the meeting; you've told us that.

10 MR. ADAMS: That's correct.

11 MR. LEE: And you can't explain that?

12 MR. ADAMS: No.

13 MR. LEE: Can you tell us when you first met
14 Jacques Leduc?

15 MR. ADAMS: When I first met Jacques Leduc?

16 MR. LEE: Not in relation to this matter,
17 period.

18 When did you first meet him?

19 MR. ADAMS: I would have met Jacques Leduc
20 when he started working at my father's office.

21 MR. LEE: Not before that; you didn't know
22 him when you were ---

23 MR. ADAMS: No, I would never -- no.

24 MR. LEE: And what you told us was that he
25 articulated with your father and then he worked for the firm

1 for a couple of years?

2 MR. ADAMS: I think he articulated and -- and
3 he certainly worked and I believe he articulated, but I'm not
4 sure on that.

5 MR. LEE: He was no longer with the firm by
6 the time you went ---

7 MR. ADAMS: No.

8 MR. LEE: --- to law school? There was no
9 ---

10 MR. ADAMS: No.

11 MR. LEE: --- overlap there?

12 You've never been a ---

13 MR. ADAMS: Well, I don't -- I don't want to
14 say that, but I don't think so.

15 He was there for a number of years. Again,
16 I don't recall when he was called to the bar and I don't
17 know what the year was.

18 MR. LEE: At your father's firm, you mean,
19 he was there?

20 MR. ADAMS: That's correct.

21 MR. LEE: And so I take it when -- in that
22 period that he was at your father's firm you must have seen
23 him occasionally at the firm events, Christmas parties,
24 things like that?

25 MR. ADAMS: Sure.

1 MR. LEE: You would have been around?

2 MR. ADAMS: He would have been around or I
3 would have been around?

4 MR. LEE: After the -- after he left the
5 firm did you stay in touch with Mr. Leduc?

6 MR. ADAMS: In what capacity?

7 MR. LEE: In any capacity.

8 MR. ADAMS: I stayed in touch in the sense
9 that we would have real estate transactions where we were
10 acting for opposite parties. I would see him from time to
11 time at social gatherings. I might have seen him at lunch
12 from time to time that lawyers -- a group of the local
13 lawyers would meet at Jade Garden and I would go from --
14 not regularly like all of them but once or twice a year, so
15 I would have seen him there.

16 MR. LEE: You've ---

17 MR. ADAMS: I may have seen him at a barber
18 shop in Glen Walter that Bourgon owned that I would go to
19 once in a blue moon.

20 MR. LEE: Sorry, but who?

21 MR. ADAMS: Pardon?

22 MR. LEE: I just didn't hear you.

23 MR. ADAMS: A barber shop.

24 MR. LEE: That who owned?

25 MR. ADAMS: Bourgon was the fellow's name.

1 **MR. LEE:** Okay.

2 **MR. ADAMS:** Gilles Bourgon.

3 So just a barber shop. But, I mean, our
4 paths crossed but we weren't friends. We didn't socialize.
5 I wouldn't go and visit him at his home.

6 Although I did go to his home once. His
7 home was our family's ancestral home -- the Durocher's --
8 until about the 1950s when his uncle bought, it and when my
9 grandmother was getting old and had Alzheimer's I asked him
10 if I could go and bring her there and have some photos
11 taken with my infant son. So he was kind enough to allow
12 us to take a walk through the home and that brought back
13 memories for her. I was amazed at -- I remember her saying
14 that everything looks the same except that fireplace that
15 used to be on that wall -- and I was agreeing with her just
16 not to upset her, and Jacques said "Yeah, that's the only
17 thing we changed". So her long -- she talked about parties
18 she had when she was a kid.

19 So, I mean, I knew Jacques well enough to
20 call him and ask for that favour but I think I would call
21 and ask any lawyer in the community for that type of thing.
22 You know, I didn't know him any better than that.

23 **MR. LEE:** It was a small legal community you
24 ---

25 **MR. ADAMS:** It is, yeah.

1 **MR. LEE:** What about groups and clubs and
2 committees and organizations; you obviously do a lot of
3 work and have done a lot of work and are involved in a lot
4 of things; what about Mr. Leduc, have you ever ---

5 **MR. ADAMS:** I don't -- I do know that he was
6 a member of the Knights of Columbus and I think the same
7 council, 5068.

8 **MR. LEE:** Sorry, can I cut you off there?

9 **MR. ADAMS:** Sure.

10 **MR. LEE:** I'm not terribly familiar with the
11 Knights of Columbus. What's a council? I mean, why is
12 that relevant?

13 **MR. ADAMS:** It's -- a council is made up of
14 members in a certain area.

15 **MR. LEE:** Okay.

16 **MR. ADAMS:** For years Cornwall had one
17 council which was the oldest council. Back in the early
18 '60s the council in Glen Walter was formed. During Bishop
19 Larocque's period he decided that each parish should have
20 their council so we saw many councils emerge.

21 **MR. LEE:** Any guess on how many; ballpark?

22 **MR. ADAMS:** I'm going to say 15.

23 **MR. LEE:** In Cornwall?

24 **MR. ADAMS:** In Cornwall. The one at St.
25 Columban's was named after my father, Ronald Joseph Adams,

1 after he passed away.

2 So there were a number of councils. Glen
3 Walter is one of the older councils. It's -- was always
4 one of the larger councils in the number of members it had,
5 and I recall Jacques being a member there but I don't think
6 Jacques attended regularly. I mean I can't recall seeing
7 him at very many meetings.

8 So the Knights of Columbus would have
9 regular meetings, you know, once a month, twice a month and
10 they would hope the majority of the members would attend so
11 they could discuss what charitable works they would do.

12 So that's basically -- I know he was a
13 member there. I don't know if he's still a member there
14 and I don't recall seeing him at a lot of meetings that I
15 attended but other than that I don't know.

16 Certainly our paths did not cross in other
17 charitable endeavours.

18 **MR. LEE:** You can't think of anything else?

19 **MR. ADAMS:** No.

20 **MR. LEE:** I'm not missing anything here?

21 What about Malcolm MacDonald? When did you
22 first meet him?

23 **MR. ADAMS:** I would think I met Malcolm when
24 I first came back to Cornwall, so as a practicing lawyer
25 when I joined my father's firm.

1 MR. LEE: You had known him ---

2 MR. ADAMS: I don't know ---

3 MR. LEE: I mean, he was an older gentleman,
4 right?

5 MR. ADAMS: He was, yes, he was much older
6 than I.

7 MR. LEE: Similar to your father's age?
8 Would he have been ---

9 MR. ADAMS: No, he would have been older
10 than my -- maybe 15 years older than my father.

11 MR. LEE: So your father certainly would
12 have known him from the legal community.

13 MR. ADAMS: Yes, and that's where I would
14 have -- where our paths would have crossed.

15 MR. LEE: You don't remember him being
16 around in your childhood or anything like that?

17 MR. ADAMS: No, never.

18 MR. LEE: Close friends with your father?

19 MR. ADAMS: No.

20 MR. LEE: I'm sorry; I've asked you this and
21 I've forgotten your answer. Did you tell us that Malcolm
22 MacDonald was also a member of St. Columban's Parish?

23 MR. ADAMS: He was.

24 MR. LEE: And what about community
25 involvement with him; did you share any interests there?

1 Were you members of any boards or anything like that?

2 **MR. ADAMS:** No, I would not -- our paths
3 wouldn't have crossed in any of that type of work.

4 **MR. LEE:** What about groups or affiliations
5 or anything like that?

6 **MR. ADAMS:** Again, I ---

7 **MR. LEE:** Was he a member of the Knights of
8 Columbus?

9 **MR. ADAMS:** I believe he was a member of the
10 Knights of Columbus. I believe he was a member of the
11 Order of the Knights of Malta, which I have no ---

12 **MR. LEE:** Sorry, can you spell that?

13 **MR. ADAMS:** M-A-L-T-A.

14 **MR. LEE:** Malta, yes.

15 **MR. ADAMS:** I have no affiliation with that.

16 **MR. LEE:** Do you have any clue what that is?
17 That's not -- I'm not -- is it a religious organization?

18 **MR. ADAMS:** It's -- I believe it's a
19 religious order or papal order.

20 **MR. LEE:** And you'd obviously see him at
21 legal functions, again, small legal community ---

22 **MR. ADAMS:** Sure.

23 **MR. LEE:** --- you'd see him around?

24 **MR. ADAMS:** Yeah.

25 **MR. LEE:** And you told us you go to lunch

1 with him once or twice a year; is that right?

2 MR. ADAMS: Yeah, that's fair.

3 MR. LEE: Did you ever have dinner with him
4 -- ever over at the house or anything like that?

5 MR. ADAMS: No, I've never been to his home.
6 I would have liked to have gone to his home because he'd
7 talk about his library and his book collection that he'd
8 inherited. He lived in the same home that was his parents,
9 his grandparents, his great-grandparents, and there was
10 some very old books and I appreciate old books, and to be
11 honest, I would have liked to have been invited to take a
12 peek in his library but I never had the chance. I was
13 never invited.

14 MR. LEE: You knew him rather well despite
15 never having been at his home, didn't you?

16 MR. ADAMS: Oh sure.

17 MR. LEE: Am I right, sir, that you handled
18 the affairs for his estate after he died?

19 MR. ADAMS: That is correct.

20 MR. LEE: And, Mr. Commissioner, if I can
21 ask Madame Clerk to pull up document number 720241.

22 THE COMMISSIONER: Exhibit 862 is a notice
23 to creditors dated the 5th day of January 2000 which would
24 have appeared in the Standard Freeholder, it seems.

25 ---EXHIBIT NO./PIÈCE No. P-862:

1 (720241) Notice to Creditors dated the
2 5th day of January 2000

3 **MR. LEE:** Do you have that sir?

4 **MR. ADAMS:** I do.

5 **MR. LEE:** It looks like the handwritten note
6 written on there is "Standard Freeholder, 11 January 2000"?

7 **MR. ADAMS:** That's correct -- 00, yeah.

8 **MR. LEE:** Yes. And it notes that you and
9 Ronald Johnson are the executors for the estate of Malcolm
10 MacDonald?

11 **MR. ADAMS:** That is correct.

12 **MR. LEE:** Can you help us out with when Mr.
13 MacDonald stopped practicing law?

14 **MR. ADAMS:** I can't. I don't know the date.

15 **MR. LEE:** Do you recall him retiring at any
16 point? Was there a ---

17 **MR. ADAMS:** I recall we ---

18 **MR. LEE:** The question is did he retire or
19 did he die and that's when he stopped practicing law? I
20 mean, I'm not sure.

21 **MR. ADAMS:** No, he retired. Our law firm,
22 Adam, Sherwood, Swabey & Follon, purchased his practice.
23 So he would have retired and we would have bought his
24 practice.

25 **MR. LEE:** Who -- do you recall the size of

1 your firm when that happened; how many lawyers you would
2 have had?

3 MR. ADAMS: I don't even recall the date but
4 it was a larger size firm.

5 MR. LEE: More than five lawyers, let's say?

6 MR. ADAMS: Yeah, Mr. -- a number of lawyers
7 -- five, six, seven.

8 MR. LEE: I just have one last area I want
9 to canvass with you, sir.

10 You told us that in 1993 you were doing
11 solicitors work only. Is that right?

12 MR. ADAMS: That's correct.

13 MR. LEE: No litigation work?

14 MR. ADAMS: As far as I recall. If I did --
15 I mean, I may have done the odd small claim court matter
16 for a client -- something like that.

17 MR. LEE: Nothing substantial?

18 MR. ADAMS: No.

19 MR. LEE: You've told us that you had acted
20 for at least one parish within the Diocese by that time.

21 MR. ADAMS: St. Columban's, yes.

22 MR. LEE: St. Columban's.

23 You're not sure whether there may have been
24 another one; it's possible?

25 MR. ADAMS: I don't believe -- I guess it's

1 possible but I don't believe so.

2 MR. LEE: Is it fair to say that you would
3 likely acted for priests of the Diocese by that point?

4 MR. ADAMS: Yeah, that's fair.

5 MR. LEE: You had known Malcolm MacDonald
6 for many years and Leduc for many years. That's fair by
7 then -- by 1993?

8 MR. ADAMS: I'd known Leduc for more years
9 than Malcolm. I would have known Malcolm since I came back
10 in 1990, so for a few years.

11 MR. LEE: You certainly knew him by the time
12 you went to his office?

13 MR. ADAMS: Oh, absolutely.

14 MR. LEE: That was your introduction to him.

15 And you knew when Silmser put the call in to
16 you that Malcolm MacDonald, in this settlement that Silmser
17 was talking about, was on for Father Charlie MacDonald.

18 Is that right?

19 MR. ADAMS: Yes.

20 MR. LEE: And you knew that Leduc was on for
21 the Diocese and the Bishop.

22 MR. ADAMS: I don't know if I knew it during
23 that call, but I certainly know it now. And I would have
24 known shortly after that time, but I don't know if when he
25 called I knew.

1 **MR. LEE:** You know now that was the case.

2 **MR. ADAMS:** I do; absolutely.

3 **MR. LEE:** And then, your evidence as I
4 understand it, is that essentially, out of the blue, David
5 Silmser ends up picking up the phone and calling you to
6 represent him on this matter.

7 **MR. ADAMS:** That's my understanding, yes.

8 Well, not out of the blue. As I told you,
9 he told me that I was the only lawyer he knew in Cornwall,
10 I having acted for him when he purchased a home.

11 **MR. LEE:** And you don't believe that to be
12 true, the part about purchasing a home.

13 You don't think you acted for him?

14 **MR. ADAMS:** I didn't recall it; I've never
15 checked into it, but in reviewing this stuff, I think the
16 better answer is that I had acted for his employer when he
17 was a caretaker or a property manager at a mobile home
18 park.

19 **MR. LEE:** You don't recall meeting Silmser
20 at that time.

21 **MR. ADAMS:** I don't, no.

22 **MR. LEE:** That's your best guess.

23 If I can take you to exhibit 861 please,
24 this -- you looked at it earlier today, it was a statement
25 of Malcolm MacDonald made on June 20th, 1994.

1 MR. ADAMS: Okay.

2 MR. LEE: If I can take you to paragraph 7
3 at the bottom of the first page.

4 MR. ADAMS: M'hm.

5 MR. LEE: And it reads:

6 "I then contacted Silmser and told him
7 the Diocese was willing to pay."

8 This is MacDonald, saying this.

9 MR. ADAMS: Right.

10 MR. LEE: "I told him he would have to
11 sign a release form and have
12 independent legal advice. Since he did
13 not have a lawyer acting for him, and I
14 knew he had contacted Sean Adams, a
15 Cornwall lawyer, earlier concerning
16 this matter. I asked Sean Adams to
17 give him independent legal advice and
18 both he and Adams agree."

19 Okay? So that's the first document. I now
20 want to take you to a later statement that MacDonald gave
21 on October 28th, '94. And that is document 714897.

22 You won't have that yet, Mr. Adams.

23 **--- EXHIBIT NO./PIÈCE No. P-863:**

24 Sean Adams - Interview Report - Malcolm
25 MacDonald with Det. Insp. Tim Smith -

1 28 Oct, '94.

2 **THE COMMISSIONER:** Thank you.

3 **MR. ADAMS:** Thank you.

4 **THE COMMISSIONER:** Exhibit 863 is an
5 interview report of Malcolm MacDonald, taken on October
6 28th, 1994 at the Long Sault detachment.

7 **MR. LEE:** And sir, if I can get you to turn
8 to page 29 of that report, please.

9 **MR. ADAMS:** Okay.

10 **MR. LEE:** Mr. MacDonald, in the long
11 paragraph on that page, is talking about his contacts with
12 Jacques Leduc and hammering out the details of this thing.
13 And a little more than half way down, at the end of the
14 sentence, there are the words "So I -- I ..."

15 You see that?

16 **MR. ADAMS:** I do.

17 **MR. LEE:** It reads:

18 "So I -- I told him that they'd have to
19 get independent legal advice for
20 Silmser."

21 This is what he's telling Leduc.

22 "And I heard that he had talked to Sean
23 Adams earlier in the year, in January,
24 or something like (inaudible) a civil
25 action or a criminal action..."

1 And on the next page, the officer interrupts
2 him and they move onto something else.

3 So we have, in June of '94, Malcolm
4 MacDonald saying that he knew that Silmsers had contacted
5 you earlier in that year and then he says, again, four
6 months later that he knew that he had contacted you and
7 adds the fact that he believes it was in January.

8 So I mean, it sounds to me like in these two
9 statements, Malcolm MacDonald is suggesting that he was the
10 one who suggested that Silmsers contact you.

11 Do you agree with that, based on these
12 statements?

13 **MR. ADAMS:** yeah.

14 **MR. LEE:** And am I right from your evidence
15 that you have no idea what Malcolm MacDonald was talking
16 about, here? When he ---

17 **MR. ADAMS:** I do not. I mean, that's --
18 it's news to me. It's the first I've heard.

19 **MR. LEE:** You have no recollection of having
20 dealt with Silmsers earlier that year?

21 **MR. ADAMS:** No, I don't.

22 **MR. LEE:** You certainly weren't on him --
23 dealing with him in relation to a civil action?

24 **MR. ADAMS:** No.

25 **MR. LEE:** And I can assume you wouldn't have

1 been advising him on a criminal matter?

2 **MR. ADAMS:** No.

3 **MR. LEE:** That wasn't your work.

4 So that just didn't happen.

5 **MR. ADAMS:** I don't believe that happened,
6 no.

7 **MR. LEE:** Can you help us out at all with
8 your thoughts on why Malcolm MacDonald might have twice
9 told the police something that just wasn't true?

10 **MR. ADAMS:** I don't know how I can help you,
11 in that regard.

12 **MR. LEE:** These documents read, based on
13 your evidence, sir, like Malcolm MacDonald is admitting
14 that he referred Silmsler to you, but is making up the
15 reason that he did it.

16 Do you have any explanation for that, at
17 all?

18 **MR. ADAMS:** I mean, he -- I guess he could
19 have referred Silmsler to me, but that's the first I've
20 heard of that.

21 Silmsler never told me that.

22 **MR. LEE:** Those are my questions; thank you.

23 **THE COMMISSIONER:** Thank you.

24 Before we go to the next person, I have
25 three areas I want to cover.

1 When you give independent legal advice on a
2 real estate deal, do you do that normally in your office,
3 or do you go over to the other office?

4 **MR. ADAMS:** No, that would always be in my
5 office.

6 **THE COMMISSIONER:** Okay; and why is that?

7 **MR. ADAMS:** I guess it's easier for the
8 client to come to me, than me to go there.

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

10 So then, the question would be, why would
11 you go over to do independent legal advice at another
12 lawyer's place?

13 **MR. ADAMS:** Well again, I think it's just to
14 accommodate David; David was there, the cheque was there,
15 he was looking for me to come down and I went down.

16 My recollection, as I said, is I think I got
17 the call. They wanted me to come now, I couldn't come now
18 and I went as soon as I could.

19 **THE COMMISSIONER:** Yeah.

20 Okay; and then the second area is with
21 respect to cheques. I mean, being a real estate lawyer --
22 and from my memory, the cheques flow through to you to make
23 sure that the money is good, to make sure that your fees
24 are paid before you release the cheque to someone else.

25 **MR. ADAMS:** M'hm.

1 **THE COMMISSIONER:** And so, that was out of
2 practice as well then, in this case ---

3 **MR. ADAMS:** Yeah.

4 **THE COMMISSIONER:** --- you did the cheque --
5 why would you do that?

6 **MR. ADAMS:** I think, probably the cheque was
7 -- I don't know, but I think the cheque was made out to
8 David from the Diocese and perhaps at that time, they
9 didn't know who the lawyer was going to be, you know, so
10 they couldn't make the -- I'm just surmising; I don't know.
11 But ---

12 **THE COMMISSIONER:** And, finally, do you --
13 Malcolm MacDonald, was he -- he was a criminal lawyer?

14 **MR. ADAMS:** I believe he was Crown Attorney
15 for a number of years ---

16 **THE COMMISSIONER:** Right.

17 **MR. ADAMS:** --- and then a defence counsel.

18 **THE COMMISSIONER:** Okay.

19 Do you know if he did any other -- did he do
20 any real estate?

21 **MR. ADAMS:** I think he did a little bit of
22 real estate, not very much.

23 We -- our firm ended up buying his practice
24 for his estate work and he had -- I'm going to say between
25 three and 400 wills.

1 **THE COMMISSIONER:** Right.

2 **MR. ADAMS:** So in the course of his
3 practice, he had acquired that and that's the only reason
4 we would have purchased. We were in the habit of
5 purchasing every lawyer who retired, who was appointed to
6 the bench, historically, our firm would practice -- or
7 would purchase their practices, just for the wills.

8 **THE COMMISSIONER:** Right.

9 **MR. ADAMS:** And so, I do know that he had
10 three or 400 wills in his vault.

11 **THE COMMISSIONER:** What about civil
12 litigation?

13 **MR. ADAMS:** Again, I don't ---

14 **THE COMMISSIONER:** Well, you bought the
15 practice.

16 **MR. ADAMS:** I don't recall; certainly, I
17 wouldn't -- I don't -- I think we would have had his files
18 for a period of time ---

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

20 **MR. ADAMS:** But not practising in that area,
21 I don't know if there were any civil litigation files, or -
22 --

23 **THE COMMISSIONER:** But -- okay, so when you
24 get these phone calls and so you're going over to an
25 office, you know, to accommodate people, and -- wouldn't

1 you be careful that when you give independent legal advice,
2 you want the client in your home turf, you want him to have
3 the chance to read the documents and you get to explain
4 things ---

5 **MR. ADAMS:** Again, in my mind not
6 necessarily. As long as I have time with him alone and
7 explain it, that's all that I require.

8 **THE COMMISSIONER:** So other than this one
9 time, where you -- have you ever given independent legal
10 advice to anybody in another lawyer's office?

11 **MR. ADAMS:** I may have. I know it's
12 happened at our office, where I've had lawyers come and
13 give ILA at our office on several occasions.

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

15 **MR. ADAMS:** Again, just because -- as a
16 matter of convenience for the client.

17 **THE COMMISSIONER:** Right.

18 **MR. ADAMS:** And I probably have done the
19 same, but I don't want to say I have.

20 **THE COMMISSIONER:** Okay.

21 So did -- and to you, there is nothing
22 untoward of you going -- that Malcolm MacDonald will be --
23 would be handling a settlement of a civil matter, I guess,
24 that wasn't unusual for you? That was not something that
25 you'd say, "Oh, my, what's Malcolm MacDonald doing settling

1 civil actions?"

2 MR. ADAMS: No, it wouldn't have crossed my
3 mind.

4 THE COMMISSIONER: No. All right; thank
5 you.

6 MR. ADAMS: Thank you.

7 THE COMMISSIONER: Mr. Bennett's not here;
8 Mr. Neville?

9 MR. NEVILLE: Good morning Mr. Commissioner.

10 THE COMMISSIONER: Good morning, sir.

11 MR. NEVILLE: Good morning, Mr. Adams.

12 MR. ADAMS: Good morning.

13 MR. NEVILLE: My name is Michael Neville and
14 I represent Father Charles MacDonald.

15 May I ask of you, Mr. Commissioner, if you
16 have seen or provided a copy of the draft AE for this new -
17 --

18 THE COMMISSIONER: No.

19 MR. NEVILLE: --- person?

20 THE COMMISSIONER: No.

21 MR. NEVILLE: No; fine.

22 I would otherwise today, Mr. Commissioner,
23 have no questions of Mr. Adams but would like to reserve
24 the opportunity to question him, if and when it becomes
25 necessary, as this issue is fully fleshed out.

1 **THE COMMISSIONER:** Sure; that's fine.

2 **MR. NEVILLE:** Otherwise than that, I have no
3 questions. Thank you, sir.

4 **THE COMMISSIONER:** That's fine; think you.

5 **MR. NEVILLE:** You're welcome.

6 **THE COMMISSIONER:** Mr. Engelmann?

7 **MR. ENGELMANN:** I am not sure what Mr.
8 Neville knows or doesn't know about the practice here with
9 respect to the use of Anticipated Evidence summaries.

10 I'll speak to him afterwards, sir, and just
11 make sure.

12 They don't go into evidence; they're not ---

13 **THE COMMISSIONER:** No, no, no. I don't
14 think -- I think what he's trying to do is reserve his
15 right to cross-examine this gentleman on that one issue,
16 all right, when -- if and when that -- well, when that
17 person testifies.

18 **MR. ENGELMANN:** Fair enough.

19 **THE COMMISSIONER:** All right? No that's
20 fine; thank you.

21 Mr. Duncan?

22 **MR. DUNCAN:** I don't have any questions for
23 Mr. Adams.

24 **THE COMMISSIONER:** Thank you.

25 Maître Rouleau?

1 MR. ROULEAU: Good morning, sir.

2 MR. ADAMS: Good morning.

3 MR. ROULEAU: Mr. Commissioner.

4 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
5 ROULEAU:

6 MR. ROULEAU: My name is Claude Rouleau and
7 I represent Probation and Corrections.

8 I have two aspects. One I want to confirm
9 and one I want to clarify from your evidence from
10 yesterday.

11 The first aspect I want to confirm, and if I
12 may bring you to your transcript of yesterday, which is
13 Volume 160 at page 160.

14 (SHORT PAUSE/COURTE PAUSE)

15 MR. ROULEAU: And I'm referring to lines 15
16 to 21.

17 MR. ADAMS: Great. Thank you.

18 Okay, I have that. I have that in front of
19 me now.

20 MR. ROULEAU: All right.

21 MR. ADAMS: Which line, sorry?

22 THE COMMISSIONER: Fifteen (15).

23 MR. ADAMS: Fifteen (15).

24 MR. ROULEAU: Fifteen (15); 21.

25 It's the part where Mr. Engelmann asks you

1 about what you knew or if you knew anything about
2 allegations from David Silmser against Ken Seguin and you
3 did confirm that you knew nothing about that ---

4 **MR. ADAMS:** That's correct.

5 **MR. ROULEAU:** --- is that correct?

6 And am I to assume that throughout your
7 dealings with Mr. Silmser, you were never aware he had made
8 allegations against Ken Seguin? He never passed that
9 information to you?

10 **MR. ADAMS:** No, that's correct.

11 **MR. ROULEAU:** That's correct, okay.

12 The second aspect I want to clarify in your
13 evidence is the answer you provided on page 1.6 to a
14 question again asked by Mr. Engelmann; that's page 126,
15 lines 6 to 11.

16 **THE COMMISSIONER:** Sir, that relates to a
17 conversation you would have made of that or would have had
18 with Heidi Sebalj or Sergeant Brunet back in September of
19 1993.

20 **MR. ADAMS:** And where is that?

21 **THE COMMISSIONER:** I'm sorry?

22 Yes, why don't we switch, Madam Clerk? Why
23 don't we give him this -- the witness that and I can --
24 what you're dealing is there are four pages on one.

25 **MR. ADAMS:** Okay.

1 **THE COMMISSIONER:** So it's ---

2 **MR. ADAMS:** I'm sorry, what page was it?

3 **MR. ROULEAU:** It's page 126, lines 8 to 11.

4 **MR. ADAMS:** Okay. I have it now, yes.

5 **MR. ROULEAU:** And I understand that Mr.
6 Engelmann later on refreshed your memory regarding that
7 answer with two documents and those two documents would
8 have been Exhibit 849 and Exhibit 269.

9 Do you remember giving evidence about that
10 part, saying that the Cornwall Police had called you ---

11 **MR. ADAMS:** Yes.

12 **MR. ROULEAU:** --- trying to track down Mr.
13 Silmser relating to Ken Seguin?

14 Then you did refresh your memory and this is
15 what I want to clarify because when I read the transcript
16 this morning, it didn't come across clearly enough to me.

17 Am I to understand that you refreshed your
18 memory and now you say it was not about Ken Seguin, it was
19 about Father MacDonald?

20 **MR. ADAMS:** I'd like to look at the
21 documents that I ---

22 **MR. ROULEAU:** Okay, so let's ---

23 **MR. ADAMS:** --- looked at, to refresh my
24 memory.

25 **MR. ROULEAU:** --- let's put the documents on

1 the screen.

2 Maybe we can start with document 269.

3 **THE COMMISSIONER:** You would have those
4 documents in one of the binders ---

5 **MR. ROULEAU:** Exhibit 269.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MR. ADAMS:** I complain as a real estate
8 lawyer about paper.

9 I have 269 in front of me.

10 **MR. ROULEAU:** And 269 would be the note that
11 the OPP police officer showed you in your interview with
12 them, which is Exhibit 849, on page 12. That note was
13 shown to you by the OPP during the interview, 849, page 12.
14 So if you may go to 849, page 12 you'll see what I have.

15 **MR. ADAMS:** Okay.

16 **MR. ROULEAU:** Exhibit 849.

17 **MR. ADAMS:** Is someone going to bring that
18 to me or do you want me to look on the screen?

19 **THE COMMISSIONER:** Eight forty-nine (849)?

20 **MR. ROULEAU:** Eight forty-nine (849) is the
21 OPP interview.

22 **MR. ADAMS:** Okay.

23 **MR. ROULEAU:** And it's on page 12 of the
24 document.

25 **(SHORT PAUSE/COURTE PAUSE)**

1 MR. ADAMS: Sorry, which page?

2 MR. ROULEAU: Twelve (12).

3 THE COMMISSIONER: Twelve (12).

4 MR. ADAMS: Okay, I'm on page 12.

5 Would you like me to read this?

6 MR. ROULEAU: It starts with, "Again, from
7 recollection" ---

8 MR. ADAMS: Okay.

9 MR. ROULEAU: --- and one, two three, four,
10 five, six lines.

11 MR. ADAMS: Yes, I'm reading that.

12 MR. ROULEAU: And this is where the OPP
13 police officer shows you -- which is the paper that is now
14 Exhibit 269 -- to refresh your memory in terms of the
15 conversation you had when they were trying to track down
16 David Silmser. Is that fair?

17 MR. ADAMS: Okay. That's fair.

18 MR. ROULEAU: Now, my question and what I
19 want to clarify is that when they call, it has nothing to
20 do with Ken Seguin because if you look at Exhibit 269 ---

21 MR. ADAMS: You're looking at these ---

22 MR. ROULEAU: --- it talks about Father
23 Charlie MacDonald ---

24 MR. ADAMS: That is correct, so that is
25 fair.

1 **MR. ROULEAU:** Okay. And one step further,
2 you don't recall even today anybody giving you information
3 that David Silmser made allegations to Ken Seguin?

4 **THE COMMISSIONER:** Well, not to Ken Seguin.

5 **MR. ROULEAU:** Well ---

6 **THE COMMISSIONER:** About Ken Seguin ---

7 **MR. ROULEAU:** About Ken Seguin.

8 **THE COMMISSIONER:** --- being an abuser.

9 **MR. ROULEAU:** Sorry.

10 **MR. ADAMS:** Not at that time. I mean what
11 has come after, yes.

12 But no, I think it's fair to say at that
13 time I did not.

14 **MR. ROULEAU:** Okay. Later being through the
15 media or other sources ---

16 **MR. ADAMS:** That's correct.

17 **MR. ROULEAU:** --- but not when you were
18 involved?

19 **MR. ADAMS:** That's correct.

20 **MR. ROULEAU:** Thank you, sir.

21 **MR. ADAMS:** Thank you.

22 **THE COMMISSIONER:** Thank you.

23 Ms. McIntosh.

24 **MS. McINTOSH:** The Ministry of the Attorney
25 General has no questions of him.

1 **THE COMMISSIONER:** Thank you.

2 Ms. Robitaille.

3 **MS. ROBITAILLE:** Mr. Commissioner, I don't -

4 --

5 **THE COMMISSIONER:** No, no, no, no.

6 **MS. ROBITAILLE:** I was just going to
7 suggest, I don't know if my friend, Mr. Horn, has any
8 questions, but my preference would be if he went ahead of
9 me, if he does.

10 **THE COMMISSIONER:** Sure.

11 Mr. Horn?

12 **MR. HORN:** Yes.

13 **THE COMMISSIONER:** Will you be cross-
14 examining this witness?

15 **MR. HORN:** I'd like to.

16 **THE COMMISSIONER:** Okay.

17 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

18 **HORN:**

19 **MR. HORN:** Good morning.

20 **MR. ADAMS:** Good morning, Frank.

21 **THE COMMISSIONER:** Well, Mr. Horn, could you
22 -- I guess you don't need an introduction, but maybe advise
23 who you're acting for?

24 **MR. HORN:** Oh yes, Frank Horn.

25 I'm acting for the Coalition for Action,

1 which is a citizen's group that helped bring this Inquiry
2 into being.

3 **MR. ADAMS:** Okay.

4 **MR. HORN:** And the first question I would
5 like to ask is in regards to the release and undertaking
6 not to disclose.

7 Now, I see that the only names that are at
8 the bottom are David Silmser and Sean Adams.

9 **MR. ENGELMANN:** Sir, just a reminder, if you
10 could refer to the exhibit number and I believe it's 263 or
11 263A, so the witness has ---

12 **MR. HORN:** Yeah, 263.

13 **MR. ADAMS:** Sorry. Okay. Okay, I have it
14 in front of me on the screen.

15 **MR. HORN:** Okay. Now I understand that this
16 document is really a document that contains some kind of an
17 agreement. Now, the only party that's involved is David
18 Silmser. What other parties are involved?

19 **MR. ADAMS:** Well, it was directed to Father
20 Charles MacDonald, the Most Reverend Eugene LaRocque, the
21 Bishop, and his successors assigned to the Roman Catholic
22 Episcopal Corporation of the Diocese of Alexandria-
23 Cornwall, in Ontario. So it would have also involved those
24 parties.

25 **MR. HORN:** Okay, but there's only one

1 signature, so it's a one-sided agreement, isn't it?

2 **THE COMMISSIONER:** Well, no; come on now.

3 In fairness, I think that if you look at
4 paragraph 1, "In consideration of the payment of \$32,000"
5 and the contract is an agreement written-oral between two
6 people having the capacity to contract, which gives rise
7 to.

8 So they're giving the \$32,000, so that's
9 their contribution to the agreement and then the other
10 person agrees.

11 And as far as I'm concerned, I used to do a
12 little bit of litigation, they're always like that.

13 **MR. HORN:** Okay. And I understand that but
14 I'm interested in some of the wording that's in the
15 agreement.

16 **THE COMMISSIONER:** Okay. All right. Good.

17 **MR. HORN:** Now, as you indicated, you do a
18 lot of real estate?

19 **MR. ADAMS:** I do.

20 **MR. HORN:** Most predominantly real estate?

21 **MR. ADAMS:** I don't want to say
22 predominantly but a good portion of my practice is real
23 estate work.

24 **MR. HORN:** Okay. So you deal a lot with
25 real estate agents?

1 **MR. ADAMS:** That would be fair to say, yes.

2 **MR. HORN:** Okay. And real estate agents act
3 for the vendors or the purchasers?

4 **MR. LEE:** They can both have their own
5 agent, yes.

6 **MR. HORN:** And so they would be -- they
7 could act and bind their -- the principle?

8 **MR. ADAMS:** I ---

9 **MR. HORN:** On behalf of the principle.

10 **MR. ADAMS:** Well, I know their solicitors
11 can bind them and the clients can bind but typically a real
12 estate agent will help them in locating and drafting and
13 preparing and often witnessing a signed agreement, but I
14 don't know if they can bind them without authority under
15 power of attorney or some other document.

16 **THE COMMISSIONER:** Other than maybe general
17 agency law.

18 **MR. ADAMS:** Sure.

19 **MR. HORN:** Okay. Under -- so that there
20 would be -- is there any power that exists in an individual
21 to bind a third party who's not part of the agreement?

22 **MR. ADAMS:** Are you looking for a legal
23 opinion?

24 **MR. HORN:** No, I'm just saying in this
25 situation was Mr. Silmsen an agent for the Crown Attorney's

1 office of the police department?

2 MR. ADAMS: No I don't believe so.

3 MR. HORN: Pardon?

4 MR. ADAMS: No.

5 MR. HORN: And yet you were expecting him to
6 forgo any criminal actions?

7 MR. ADAMS: I don't know if I was expecting
8 but that's what the full release and undertaking says.

9 MR. HORN: Can he bind the Crown and the
10 police?

11 MR. ADAMS: Well, I guess it's a question of
12 whether that section is severable or not.

13 MR. ENGELMANN: I think Mr. Horn is asking
14 questions that require a legal opinion. Mr. Adams is --
15 although he's a lawyer he's not here to give us opinion
16 evidence on the law. So I don't think these questions are
17 helpful.

18 THE COMMISSIONER: Thank you.

19 MR. HORN: Well, he gave legal --
20 independent legal advice so obviously he had to know what
21 he was doing. He was a lawyer and he was giving
22 independent legal advice. So in giving that advice he
23 would have to know what the document meant and what it
24 contained.

25 MR. ADAMS: Not have to, perhaps should have

1 is a better ---

2 MR. HORN: Oh, so you're saying you didn't
3 really know what you were ---

4 MR. ADAMS: As I said, that paragraph
5 pertaining to criminal prosecution, no, it did not -- the
6 light did not -- the light bulb did not light up, so to
7 speak.

8 MR. HORN: So you didn't realize that Mr.
9 Silmsler could not bind the police or the crown. Did you
10 know that or did you not?

11 MR. ADAMS: That would be fair to say.

12 THE COMMISSIONER: Well, it's not only that,
13 Mr. Horn, it's we now know that it's illegal ---

14 MR. HORN: Okay.

15 THE COMMISSIONER: --- to putting in the
16 word "criminal" and to promise not to pursue criminal
17 proceedings or participate in criminal proceedings in
18 exchange for money is an illegal act.

19 MR. HORN: I understand that, but I wanted
20 to know if he knew that.

21 THE COMMISSIONER: And he said no.

22 MR. ADAMS: No.

23 MR. HORN: So you didn't know it at all?

24 MR. ADAMS: That is correct.

25 MR. HORN: So you were getting Mr. Silmsler

1 to sign a document that you didn't even know what he was
2 signing?

3 **MR. ADAMS:** Well, at that time ---

4 **THE COMMISSIONER:** Just a second.
5 Mr. McClelland?

6 **MR. McCLELLAND:** Mr. Commissioner, I
7 understand my friend has great latitude in cross-
8 examination but in fairness I believe if he's going to
9 state facts that are the foundation for his question I'd
10 ask them to be accurate. That, at least, is fair to the
11 witness.

12 **THE COMMISSIONER:** Right.

13 Mr. Horn, you were saying that he knows
14 nothing about the document. Well, you know, I mean ---

15 **MR. HORN:** Okay. I'll ---

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

17 **MR. HORN:** Let's get right down to the nitty
18 gritty, okay.

19 **THE COMMISSIONER:** Exactly.

20 **MR. HORN:** In the document it says:

21 "I hereby undertake not to take any legal proceedings,
22 civil or criminal, against any of the parties hereto and
23 will immediately terminate any action that may now be in
24 process."

25 **MR. ADAMS:** Yeah, I don't see all of that on

1 the screen but I'm sure ---

2 THE COMMISSIONER: Madame Clerk, could you
3 scroll it -- there we go, paragraph 2.

4 MR. ADAMS: Yes, that is correct.

5 MR. HORN: Okay. Now, that paragraph, did
6 you draft that?

7 MR. ADAMS: No, I did not.

8 MR. HORN: Who drafted it?

9 MR. ADAMS: I don't know who drafted it. I
10 assume Malcolm MacDonald but I don't know that for a fact.

11 MR. HORN: Were you involved in giving
12 advice regarding the drafting of this?

13 MR. ADAMS: Not at all, no.

14 MR. HORN: So there was a document that was
15 handed to you and you met with Mr. Silmsler alone?

16 MR. ADAMS: That is correct.

17 MR. HORN: And the document was given to you
18 by who?

19 MR. ADAMS: Malcolm MacDonald, I assume.
20 Maybe his secretary. I'm not sure.

21 MR. HORN: And as you understand it, he was
22 representing the Catholic Diocese?

23 MR. ADAMS: I believe he was representing
24 Father Charles MacDonald.

25 MR. HORN: Okay. Who was representing the

1 Roman Catholic Episcopal Corporation?

2 MR. ADAMS: I believe Jacques Leduc.

3 MR. HORN: Okay. Do you know if Mr. Leduc
4 was involved in drafting this document?

5 MR. ADAMS: At that time I don't know if I
6 knew. Now, just from reading the stuff, it appears he had
7 prepared the original draft from a French precedent that he
8 had which he translated to English. I read that somewhere
9 -- but that's just from preparing for today that I have
10 that knowledge -- and he had faxed it to Malcolm.

11 MR. HORN: So the two of them came -- it was
12 Malcolm that came to you but now you find out that Mr.
13 Leduc was also involved in drafting it?

14 THE COMMISSIONER: Well, just a minute, just
15 a minute.

16 He's read something somewhere that says
17 that.

18 MR. HORN: Yeah, since.

19 THE COMMISSIONER: Since.

20 MR. HORN: Since, yes.

21 MR. ADAMS: Just in the last day or so.

22 THE COMMISSIONER: From material that is in
23 -- produced to you through this inquiry?

24 MR. ADAMS: That's my understanding.

25 MR. HORN: Now, as a real estate lawyer you

1 have a lot of experience in dealing with agencies and the
2 ability of an individual to bind somebody else as an agent
3 for somebody else. You have a lot of experience in that
4 area, don't you?

5 **MR. ADAMS:** I don't know what you're getting
6 at. I have a lot of experience in real estate law, yes.

7 **MR. HORN:** Okay. But that entails dealing
8 with real estate agents, people signing documents on behalf
9 of somebody else, and binding third parties?

10 **MR. ADAMS:** That's not typical but I'll say
11 okay just to see where this is going.

12 **(LAUGHTER/RIRES)**

13 **MR. HORN:** Okay. Well, okay, let's say
14 somebody is in -- out of the country and they're not able
15 to come to Canada ---

16 **MR. ADAMS:** Yes.

17 **MR. HORN:** --- and they get an agent to act
18 for them here in Canada.

19 **MR. ADAMS:** Yes.

20 **MR. HORN:** Right? And so that individual
21 will be given certain latitude in signing on behalf of the
22 person outside of the country?

23 **MR. ADAMS:** Again, I'm doing -- I have files
24 right now that I'm doing that and I've prepared power of
25 attorneys for them to sign naming someone who is here to

1 sign on their behalf.

2 MR. HORN: Okay. So you then have a lot of
3 experience in that regard -- regarding one individual
4 binding somebody else?

5 MR. ADAMS: By way of power of attorney,
6 yes, I would say I have a lot of experience in that.

7 MR. HORN: So in this situation, in
8 paragraph 2, you -- because of the nature of the work you
9 do, you would have an understanding of what it meant?

10 MR. ADAMS: Meant to?

11 MR. HORN: Meant in terms of Mr. Silmsler is
12 binding somebody else. He's binding the police and the
13 Crown attorney.

14 MR. ADAMS: Again, certainly I would have
15 read that and that would have been my understanding that he
16 was, by signing this, saying he would not take any further
17 criminal action.

18 MR. HORN: You didn't know that that was
19 illegal?

20 MR. ADAMS: I did not. I probably would not
21 know that today if it wasn't for this and the
22 circumstances, in all honesty.

23 MR. HORN: And yet you still participated in
24 this even though you didn't understand the nature of what
25 you were involved in?

1 **MR. ADAMS:** I didn't know. I didn't
2 understand I guess is the way of putting it.

3 **MR. HORN:** Okay. Because you didn't
4 understand, why didn't you go and ask somebody to explain
5 it to you?

6 **THE COMMISSIONER:** No, he just said he
7 didn't know that he didn't understand.

8 **MR. HORN:** Oh, you didn't know you didn't
9 understand. You thought you understood.

10 **MR. ADAMS:** I guess you could put it that
11 way.

12 **MR. HORN:** So you thought that everything
13 was okay?

14 **MR. ADAMS:** I don't know if I thought
15 everything was okay. I know that Mr. Silmser wanted to
16 accept thirty-thousand, \$32,000, in settlement of his
17 claim, so I knew that part was okay.

18 **MR. HORN:** Now, were you also involved in --
19 in dealing with the police department in arranging the
20 release that was to the Cornwall Police Department to
21 Sergeant Brunet?

22 **MR. ADAMS:** Yes.

23 **MR. HORN:** Did you draft that document?

24 **MR. ADAMS:** Again, it appears that I may
25 have but I don't have any recollection. I thought I had

1 not, but in reading Malcolm MacDonald's letter to the
2 police, it appears I may have. But I still don't know.

3 MR. HORN: Okay. So you may have but you
4 don't know for sure?

5 MR. ADAMS: Yes.

6 MR. HORN: Okay. And so -- but in this
7 situation the only person -- the only people that were --
8 that have signed is yourself and Mr. Silmsers?

9 MR. ADAMS: That document?

10 MR. HORN: Yes.

11 MR. ADAMS: Yes. That's true.

12 MR. HORN: Now, was that also a release that
13 was on his part given to the police department?

14 MR. ADAMS: If I could see it again, but I
15 believe ---

16 MR. HORN: It's number 266.

17 THE COMMISSIONER: Okay, 266 you should have
18 -- the Clerk will bring it up. It's on the -- so what's
19 your question again, I'm sorry?

20 MR. HORN: I'm saying, is this also a
21 release on his part to the Cornwall Police Department?

22 MR. ADAMS: Well, it's -- it's advising them
23 that he does not want to proceed any further with any
24 criminal charges; asking them to close their file.

25 MR. HORN: But it's in the form of an

1 undertaking. He's signing it, isn't he?

2 **MR. ADAMS:** He has signed it, yes.

3 **MR. COMMISSIONER:** It's in the form of an
4 undertaking. I don't know that that's -- that's -- I don't
5 know where you are going with the word "undertaking".

6 Mr. McClelland would you ---

7 **MR. McCLELLAND:** I'm sorry, Your Honor, but
8 to characterize a document different than the wording
9 that's in the document -- I don't see anything here that's
10 suggestive of that and certainly not described that, it's
11 not labelled that way. So this was -- my objection is a
12 continuing one in that if we are going to state facts make
13 sense to the witness, it has to be an accurate one.

14 **THE COMMISSIONER:** Okay. So I don't that it
15 -- if you want to question him as to whether the word
16 undertaking is relevant here Mr. Horn, that's fine, but I
17 don't see where you get that right now, so if you want to
18 lay the groundwork, please go ahead.

19 **MR. HORN:** Okay. In the statement -- these:
20 "Now, I do not wish to proceed further
21 with any criminal charges. You may
22 take this statement as a direction to
23 you, to close your file and stop
24 further proceedings as far as I'm
25 concerned."

1 **THE COMMISSIONER:** Okay, just a minute.

2 Madam Clerk we need that document back on,
3 the one -- the undertaking.

4 **MR. ADAMS:** I'm just waiting for the
5 document to come up.

6 **THE COMMISSIONER:** There.

7 **MR. ADAMS:** So you just read the last
8 paragraph?

9 **MR. HORN:** Yes.

10 So it sounds like he's giving a direction to
11 the Police Department to do certain things?

12 **MR. ADAMS:** That's fair to say, yes.

13 **MR. HORN:** And so -- you -- you drafted --
14 you likely who drafted that?

15 **MR. ADAMS:** Again, I'm not clear. I ---

16 **MR. ENGELMANN:** I'm sorry to keep rising,
17 but I think Mr. Horn perhaps wasn't here for part of this
18 so maybe he doesn't know, but one of the things that
19 counsel are supposed to do in cross-examination is try not
20 to repeat areas that have been covered and covered and
21 covered.

22 So areas that have been covered by
23 Commission counsel and they're covered by perhaps one
24 counsel or perhaps one more, but this one has been covered
25 by several counsel. I don't know if Mr. Horn was not here,

1 but the witness has been asked all of these questions.

2 **THE COMMISSIONER:** So Mr. Horn ---

3 **MR. HORN:** Sorry, sorry. I was in a trial
4 yesterday, but Mr. -- Paul was here I think for some of the
5 time.

6 **THE COMMISSIONER:** So the bottom line as far
7 as I've heard at least three, four, five times is that this
8 gentlemen does not have any independent recollection of
9 preparing this document.

10 The only indication he has as to who may
11 have prepared the document comes from a letter that is sent
12 to the police by Malcolm MacDonald saying here is this
13 document prepared by Mr. Adams.

14 That's your evidence. Is that correct, Mr.
15 Adams?

16 **MR. ADAMS:** That is correct.

17 **THE COMMISSIONER:** All right.

18 **MR. HORN:** Now, you were retained to give
19 independent legal advice; right?

20 **MR. ADAMS:** That is correct.

21 **MR. HORN:** Now, that would be to review
22 documents?

23 **MR. ADAMS:** It was a very limited retainer.
24 David signed the retainer and it was to, I guess, to review
25 these documents before he signed them and explain them to

1 him.

2 MR. HORN: And did that include you going
3 further than just simply looking at the documents and
4 explaining them to your -- to the individual?

5 MR. ADAMS: As I said yesterday, I mean, in
6 my mind I don't think as retainers as being in a box. I
7 mean, the client can come back and ask and I'll answer. So
8 I don't just view it as being -- even though it was
9 limited, certainly if he had called the next day or a week
10 or two later, I would have taken his call and answered his
11 questions.

12 MR. HORN: So you would have then gone basic
13 -- beyond the usual independent legal advice?

14 MR. ADAMS: I'm sure that is fair to say,
15 yes.

16 MR. HORN: Okay. So was that to benefit Mr.
17 Silmsers or to benefit the other parties -- the Father
18 Charlie and the Diocese and ---

19 MR. ADAMS: No, that would be to serve David
20 Silmsers.

21 MR. HORN: Pardon?

22 MR. ADAMS: That would be to serve the
23 client, David Silmsers.

24 MR. HORN: He was your client?

25 MR. ADAMS: Yes.

1 **MR. HORN:** So he was not -- he -- when you
2 went and spoke to Sergeant Brunet -- did you speak to
3 Sergeant Brunet?

4 **MR. ADAMS:** I don't recall.

5 **THE COMMISSIONER:** When he went ---

6 **MR. HORN:** He didn't? Pardon?

7 **THE COMMISSIONER:** When you're saying when
8 this gentlemen went ---

9 **MR. HORN:** Did you speak to Sergeant Brunet?

10 **MR. ADAMS:** Again, I don't even recall
11 speaking to Sergeant Brunet. If you have something that
12 may refresh my memory, but I don't recall going to see
13 Sergeant Brunet or speaking to Sergeant Brunet.

14 I believe that I read something that said I
15 did in preparing for this, so I may have. I just don't
16 recall right now.

17 **MR. HORN:** Sir, do you think you drafted
18 this document in a vacuum?

19 **THE COMMISSIONER:** Drafted which document?

20 **MR. HORN:** The document -- I'm talking about
21 the -- number 266.

22 **MR. ADAMS:** No.

23 **THE COMMISSIONER:** Sir, the one -- the one -
24 - I'm sorry, is this ---

25 **MR. ADAMS:** I don't know what 266 ---

1 **MR. HORN:** That was the Cornwall Police --
2 the note to the Cornwall Police -- City Police.

3 **THE COMMISSIONER:** The one he's already
4 indicated ---

5 **MR. HORN:** Yes.

6 **THE COMMISSIONER:** --- five time that he
7 doesn't know if he ever did that?

8 **MR. HORN:** Okay. But I'm just saying the
9 document, if you did -- it's possible that you did ---

10 **MR. ADAMS:** Hypothetically, if I prepared a
11 document it would never be in a vacuum, I would have to get
12 the facts from somewhere in order to draft it.

13 **MR. HORN:** Do you remember being the one
14 negotiating with the Sergeant Brunet at all?

15 **MR. ADAMS:** I would not have negotiated with
16 Sergeant Brunet, no.

17 **MR. HORN:** Did you take over Malcolm
18 MacDonald's practice after ---

19 **MR. ADAMS:** I didn't take it over, we
20 purchased his practice. I mean, I didn't take over any
21 ongoing files. I acquired his wills and I guess his Power
22 of Attorney's and we would have put notices in the paper
23 advising clients of that.

24 **MR. HORN:** Okay. And ---

25 **MR. ADAMS:** We purchased it. I didn't

1 acquire it.

2 MR. HORN: You purchased it from his estate?

3 MR. ADAMS: No, from him while he was
4 living. When he retired.

5 MR. HORN: Okay, after he retired?

6 MR. ADAMS: Yes.

7 MR. HORN: Now, was that part of the -- part
8 of this whole thing -- the process of the getting the
9 release and signing it ---

10 MR. ADAMS: No, that -- that -- this would
11 have happened long after that. I don't recall the year but
12 it had nothing to do with this at all.

13 MR. HORN: There was no connection with
14 doing a favour for him on this?

15 MR. ADAMS: No, I wasn't doing a favour at
16 all, no.

17 MR. HORN: Now, the acknowledgement, did you
18 draft that? I'm talking -- 265.

19 MR. ENGELMANN: Mr. Horn, I think that Mr.
20 Adam's has told us, I think, four times that he has ---

21 THE COMMISSIONER: It's on the screen, Mr.
22 Adams ---

23 MR. ADAMS: Yes, I did draft that.

24 MR. HORN: Okay. So you've already done all
25 of that?

1 MR. ENGELMANN: Yes.

2 MR. HORN: Okay. That's all the questions I
3 have then.

4 Thank you.

5 THE COMMISSIONER: Thank you.

6 Ms. Robitaille?

7 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

8 ROBITAILLE :

9 MS. ROBITAILLE: Good Afternoon, Mr.
10 Commissioner.

11 Good Afternoon, Mr. Adams

12 My name is Danielle Robitaille and I'm
13 Jacques Leduc's lawyer here at the Inquiry.

14 MR. ADAMS: Good afternoon or morning -- or
15 no, it's afternoon.

16 MS. ROBITAILLE: Mr. Commissioner, I'm going
17 to have a similar request to that of Mr. Neville's. I'd
18 like to reserve the right to cross-examine Mr. Adams on
19 issues pertaining to the -- the new potential witness that
20 we received an A.E. about earlier this morning.

21 THE COMMISSIONER: That's fine.

22 MS. ROBITAILLE: I just have a couple of
23 questions. I won't be too long, Mr. Adams.

24 MR. ADAMS: Okay.

25 MS. ROBITAILLE: Just to be absolutely clear

1 about your evidence yesterday and today. You never at any
2 point before the witnessing of the full release and
3 undertaking had any contact with Jacques Leduc regarding
4 the Silmsers settlement. Is that true?

5 **MR. ADAMS:** That is correct.

6 **MS. ROBITAILLE:** And, in fact, you don't
7 speak to Mr. Leduc at all about anything surrounding the
8 settlement until in or around January 13th, '94 when there
9 was that flurry of faxes going back and forth regarding a
10 press release.

11 **MR. ADAMS:** That is correct.

12 **MS. ROBITAILLE:** And it wasn't Mr. Leduc who
13 asked you to provide independent legal advice to Mr.
14 Silmsers, was it?

15 **MR. ADAMS:** No, he did not.

16 **MS. ROBITAILLE:** It wasn't Mr. Leduc who was
17 involved in or arranged a meeting between you and Mr.
18 Silmsers and Malcolm MacDonald on September 2nd or 3rd, '94 --
19 '93?

20 **MR. ADAMS:** No, he did not.

21 **MS. ROBITAILLE:** And, Mr. Adams, could you
22 briefly describe your relationship with Duncan MacDonald
23 for us?

24 **MR. ADAMS:** Duncan was a senior member of
25 the bar who I probably would have met the first time after

1 I had joined my father's practice. I wouldn't have known
2 him before.

3 I would have lunch with him from time to
4 time and we would have real estate transactions and I
5 think, as I said yesterday, I considered him a fine
6 gentleman who I considered a friend and had great pleasure
7 in talking to and dealing with and having lunch with but we
8 never socialized other than these luncheon meetings.

9 I mean I would not go out with him. I would
10 not go to his home to visit. He would not come to my home.
11 It was a professional relationship and he was the type of
12 guy that you didn't have to get an undertaking in writing.
13 If he told you he was going to do something and visa versa,
14 he would accept that from me. Just a fine, fine man.

15 **MS. ROBITAILLE:** And so, Mr. Adams, you
16 never had a falling out with Duncan MacDonald, did you?

17 **MR. ADAMS:** No.

18 **MS. ROBITAILLE:** Thank you.

19 **MR. ADAMS:** I -- it upset me yesterday when
20 I heard that.

21 **MS. ROBITAILLE:** Those are my questions,
22 thank you.

23 **THE COMMISSIONER:** Thank you.

24 Diocese is not here. Ms. Lalji?

25 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

1 LALJI

2 MS. LALJI: Good afternoon, Mr.
3 Commissioner. Good afternoon, Mr. Adams. My name is Reena
4 Lalji and I'm counsel for the Cornwall Police Service.

5 MR. ADAMS: Hi.

6 MS. LALJI: I just have one area that I
7 wanted to cover off with you, and I'm going to use some
8 documents to hopefully assist you with your recollection.

9 MR. ADAMS: That's fine.

10 MS. LALJI: Okay. I'd first like to have
11 shown to you Exhibit 269. Do you have that before you, Mr.
12 Adams?

13 MR. ADAMS: I do.

14 MS. LALJI: Okay. And, again, I know we've
15 gone over it but I just want to orient you to something.
16 This is the handwritten note that David Silmsler sent to the
17 Cornwall Police and as you see at the top it's dated
18 September 29th, 1993.

19 MR. ADAMS: I see that, yes.

20 MS. LALJI: And if you see below in the note
21 he does indicate that further inquiries and questions are
22 to be going through his lawyer, which is you. Do you see
23 that?

24 MR. ADAMS: I do.

25 MS. LALJI: Okay, so based on that it would

1 not be surprising to you that Cst. Heidi Sebalj or Sgt. Luc
2 Brunet would have contacted you after that about any
3 questions dealing with Mr. Silmser based on that note.

4 **MR. ADAMS:** No. No, he's clearly giving
5 them authority to do that.

6 **MS. LALJI:** Right. Now there's a -- there's
7 another document and, Mr. Commissioner, I have to apologize
8 upfront. I hadn't given notice on this. I do have copies
9 here. I wasn't expecting to use it so I just had to get it
10 this morning.

11 They were included in the list of documents
12 that we did receive from Commission counsel so that all
13 counsel did receive, okay? So I'll just pass this out.

14 **THE COMMISSIONER:** Mr. Engelmann, you don't
15 have any objections to that, do you?

16 **MR. ENGELMANN:** No, if it was on the list I
17 just need a document number.

18 **MS. LALJI:** Absolutely, and I'll just give
19 the document number. It's 712122 and there's only two
20 pages and I'll give the Bates pages for that, 7045500 and
21 01.

22 We'll just wait for a copy to -- do you have
23 that yet, or not yet?

24 **MR. ADAMS:** Not in front of me. I still
25 have the David Silmser September 29th note.

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

2 **MR. ADAMS:** Thank you.

3 **THE COMMISSIONER:** So Exhibit 864 is what
4 now? This is the interview ---

5 **MS. LALJI:** I can assist, Mr. Commissioner.
6 It's an excerpt of Sgt. Luc Brunet's
7 interview dated January 21st, 2000 that was done by the OPP.

8 **THE COMMISSIONER:** Okay.

9 **--- EXHIBIT NO./PIÈCE No. P-864:**

10 (712122) Excerpt of Sgt. Luc Brunet
11 interview done by OPP dated January 21,
12 2000.

13 **MS. LALJI:** Mr. Adams, do you have excerpt
14 in front of you now?

15 **MR. ADAMS:** I do.

16 **MS. LALJI:** Okay. I just wanted to take
17 your attention to the bottom of that first page where it
18 says "Brunet" on the bottom.

19 **MR. ADAMS:** Yes.

20 **MS. LALJI:** This is Sgt. Brunet's interview
21 that was done by the OPP, and I'm just going to read out a
22 portion towards the bottom and it'll continue to the next
23 page. And just before that, Pat Hall asks you -- or,
24 sorry, not you, asks Sgt. Brunet:

25 "To your knowledge did anyone from the

1 Cornwall Police contact Sean Adams
2 concerning the settlement?"

3 And Brunet's answer:

4 "I remember calling Sean Adams to speak
5 -- so that he could speak to Dave
6 Silmser in reference to getting the --
7 like, we wanted to reinitiate the
8 investigation the allegations against
9 Ken Seguin because Silmser was very
10 adamant that he didn't want to deal
11 with both accused at the same time so
12 we had initially done the investigation
13 with Father Charlie.

14 When this was all done then I contacted
15 Sean Adams to try and get him to come
16 and see us and get going with the
17 investigation with Ken Seguin and it
18 took a long time for them to get back
19 to me.

20 I think I had to do a follow-up call to
21 it."

22 Do you see that?

23 **MR. ADAMS:** I do.

24 **MS. LALJI:** Okay. Now, I'm suggesting to
25 you that based on that excerpt, as Sgt. Brunet has

1 indicated he was contacting you regarding the Ken Seguin
2 allegations to continue on with that and he wanted you to
3 contact Dave Silmser. Does that help you with your
4 recollection?

5 **MR. ADAMS:** Well, there was something in the
6 back of my mind, as I said yesterday, about this call but I
7 don't know if it came from reading this. I don't know if
8 this was part of the package I received or I had seen it so
9 I can't recall whether it's in my memory from remembering
10 the call or having read it.

11 **MS. LALJI:** Okay, and that's fair enough.
12 Well then let me ask you this. Do you --
13 you wouldn't have any reason to dispute what Sgt. Brunet is
14 telling the OPP with respect to the call he had with you
15 and specifically ---

16 **MR. ADAMS:** No, I know Sgt. Luc Brunet. Our
17 paths have crossed on a number of charitable organizations
18 and I know him to be a very honourable man.

19 **MS. LALJI:** Right, so if he has indicated
20 that he called you to speak to you about pursuing the Ken
21 Seguin allegation then you would have no reason to dispute
22 that.

23 **MR. ADAMS:** No.

24 **MS. LALJI:** Okay, and just to give you
25 perspective or actually some context around this time -- so

1 this would have been in September, towards late September
2 of '93 and you may recall that Ken Seguin did commit
3 suicide on November 25th, 1993 so with that timeline ---

4 **THE COMMISSIONER:** Do you recall that?

5 **MR. ADAMS:** I don't -- I knew he had
6 committed suicide. I don't recall the date or the
7 timeframe, no.

8 **MS. LALJI:** Okay, it was November 25th, 1993,
9 so a couple of months after all of this was happening so
10 just -- if that helps you with some of the context.

11 Did you contact Mr. Silmser after you spoke
12 to Luc Brunet with respect to reinvestigating the Ken
13 Seguin allegations? Do you recall that?

14 **MR. ADAMS:** I don't recall unfortunately.

15 **MS. LALJI:** Okay. I have no further
16 questions, thank you.

17 **MR. ADAMS:** You're welcome.

18 **THE COMMISSIONER:** Thank you. Ms. Lahaie?

19 **MS. LAHAIE:** Good afternoon, Mr. Adams.

20 Thank you for coming. The Ontario Provincial Police has no
21 questions for you.

22 **MR. ADAMS:** Thank you.

23 **THE COMMISSIONER:** Thank you. Mr. Carroll?

24 **MR. CARROLL:** Good afternoon. My name is
25 Bill Carroll. I'm counsel for the Ontario Provincial

1 Police Association and I have no questions for you, sir.
2 thank you.

3 MR. ADAMS: You're welcome. Thank you.

4 THE COMMISSIONER: Mr. Adam's, thank you
5 very much -- oh, sorry. I'm sorry; Mr. McClelland, do you
6 wish to ask any questions?

7 MR. McCLELLAND: If I may.

8 THE COMMISSIONER: Sure.

9 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
10 McCLELLAND:

11 MR. McCLELLAND: Mr. Adams, in the
12 preliminary questioning by my friend Mr. Engelmann there
13 was some mention made of the charity work you do, and I
14 believe today you provided a biographical note. Is that
15 right?

16 MR. ADAMS: You had asked me for it so I
17 provided it.

18 MR. McCLELLAND: I don't know if that's been
19 made an exhibit.

20 THE COMMISSIONER: No.

21 MR. McCLELLAND: Would four be enough?

22 THE COMMISSIONER: I don't know.

23 MR. McCLELLAND: Firstly, with respect to
24 this ---

25 MR. ADAMS: Thank you.

1 **MR. McCLELLAND:** --- biography, I don't know
2 if it has an exhibit number.

3 **THE COMMISSIONER:** I'm sorry; 865. Thank
4 you. Biography of Sean Adams.

5 **---EXHIBIT NO./ PIÈCE NO P-865:**

6 Sean Adams - Biography of Sean Adams

7 **MR. McCLELLAND:** And the number would be
8 sir?

9 **THE COMMISSIONER:** It's 865.

10 **MR. McCLELLAND:** Sorry. Thank you.

11 Mr. Adams, can you tell me when you prepared
12 this?

13 **MR. ADAMS:** I think my staff prepared this
14 when the Kinsmen wanted me to come to a meeting and they
15 asked for some biographically information, I believe.

16 **MR. McCLELLAND:** So can you give me a rough
17 approximation of what timeframe we're talking that this was
18 created?

19 **MR. ADAMS:** Early 2006.

20 **MR. McCLELLAND:** And so therefore it's not
21 up to date as of today?

22 **MR. ADAMS:** That is correct.

23 **MR. McCLELLAND:** I'm trying to obtain a
24 degree of magnitude as to the work you do. For example,
25 the boards you sit on; are you able to -- this is

1 presently. Are you able to help us with how many boards
2 you sit on presently?

3 **MR. ADAMS:** A number of boards. I guess the
4 Hospital Foundation Board is the one that takes up an awful
5 lot of time, but a number of charitable boards.

6 **MR. McCLELLAND:** All right.

7 And with respect to any of those boards, are
8 there any fees or remuneration?

9 **MR. ADAMS:** No.

10 **MR. McCLELLAND:** Are you able to estimate in
11 an average month how much time would be taken up, of your
12 time, by sitting on these boards?

13 **MR. ADAMS:** Over 100 hours a month.

14 **MR. McCLELLAND:** Okay. And that's a
15 different work than fundraising, sitting on those boards.
16 Is that correct?

17 **MR. ADAMS:** No, I'm probably calculating
18 volunteer work.

19 **MR. McCLELLAND:** Volunteer work, about 100
20 hours a month.

21 **MR. ADAMS:** I'm going to say I'm
22 guesstimating. I have no way of knowing.

23 **MR. McCLELLAND:** And knowing you it's
24 probably lower -- it's a low estimate.

25 Again, with the fundraising, fundraising has

1 been something -- how long have you been involved in -- and
2 I'm going to say not just little, the fund raising you do
3 on a large scale?

4 **MR. ADAMS:** In this area, since I came back
5 to Cornwall, right from the beginning.

6 **MR. McCLELLAND:** And approximately -- and
7 again these large scale fundraising, about how many of them
8 a year would you be involved in?

9 **MR. ADAMS:** Fundraising events, big ones,
10 seven, eight, nine, 10 a year.

11 **MR. McCLELLAND:** And can you help the
12 Inquiry with the types of numbers or magnitude of the
13 monies raised by these seven, eight, nine big ones a year?

14 **MR. ADAMS:** I couldn't tell you exactly, but
15 we're -- the community is very generous -- a fair bit of
16 money.

17 **MR. McCLELLAND:** Can you tell the Inquiry if
18 one of those organizations that benefit from your work is
19 the Children's Treatment Center?

20 **MR. ADAMS:** Yes, they do benefit.

21 **MR. McCLELLAND:** Do you have any -- other
22 than raising money for that center do you have any official
23 title or designation?

24 **MR. ADAMS:** No.

25 **MR. McCLELLAND:** My understanding is it's a

1 place where abused children receive treatment, counseling
2 and so forth?

3 MR. ADAMS: That is correct. They do
4 wonderful work.

5 MR. McCLELLAND: And it's not government
6 sponsored or supported financially?

7 MR. ADAMS: They rely solely on private
8 money from individuals. No government funding at all.

9 MR. McCLELLAND: And how long has it been in
10 existence?

11 MR. ADAMS: Eleven (11) years. Since 1996.
12 It was created because of government cutbacks.

13 MR. McCLELLAND: And I understand the
14 president of that center is a lawyer?

15 MR. ADAMS: Pierre Guindon is the president,
16 yes.

17 MR. McCLELLAND: And can you tell -- have
18 you been involved in fundraising for this centre for how
19 long?

20 MR. ADAMS: From early on. Right from the
21 early years I've been involved.

22 MR. McCLELLAND: Can you assist the Inquiry
23 by advising whether the lawyers in Cornwall and the area --
24 Cornwall area, play a part in this fundraising for this
25 institution?

1 **MR. ADAMS:** They play a great part. This
2 year lawyers and judges donated \$31,000 just to the
3 breakfast celebrity walk that we had a month ago. So the
4 lawyers have been very generous and the judges in this
5 community and outlying areas right across Canada have been
6 very generous for the Children's Treatment Center.

7 **MR. McCLELLAND:** Is one of the other
8 organizations that you assist the United Way?

9 **MR. ADAMS:** Yes it is.

10 **MR. McCLELLAND:** And how long have you been
11 involved with that organization?

12 **MR. ADAMS:** I think almost as soon as I came
13 to Cornwall. Hugh John Cook was the CO of the city at that
14 time and he came to visit me at the office and asked me if
15 I would join the board, and so from my early days in
16 Cornwall.

17 **MR. McCLELLAND:** And again, do you have a
18 title or position with that organization?

19 **MR. ADAMS:** I was on the Board of Directors
20 for many years and now I'm the Chair of the Professional
21 Division for their Annual Campaign.

22 **MR. McCLELLAND:** Do you recall an event not
23 too long ago that involved -- and I believe it was a
24 charitable event and there was a foreign hockey team or
25 something involved. Can you help us with that?

1 **MR. ADAMS:** That was a "Star Drive Golf
2 Tournament".

3 **MR. McCLELLAND:** Sorry?

4 **MR. ADAMS:** "Star Drive" was the name we
5 gave to it. It was a charitable golf tournament.

6 **MR. McCLELLAND:** Okay. Do you remember what
7 the -- where the proceeds were being directed for that?

8 **MR. ADAMS:** Yeah, the proceeds went to the
9 Children's Treatment Center into a children's hospital in
10 Slovakia. We had the Slovak National Hockey team who were
11 in Canada for the World Cup who donated their time and all
12 the players came down and played golf and we raised a fair
13 bit of money.

14 **MR. McCLELLAND:** And were you the person
15 that arranged for that team to come?

16 **MR. ADAMS:** I was.

17 **MR. McCLELLAND:** What about this building;
18 have you had any connection with this building?

19 **MR. ADAMS:** I was the Chair of the Weave
20 Shed Arts Center and we had many wonderful concerts and
21 theatre and we exhibited the world class art show here as
22 well. So I have fond memories of this building.

23 **MR. McCLELLAND:** If I don't miss my step I
24 understood -- I think I saw in the plaque outside an Adams
25 name there.

1 **MR. ADAMS:** My mother and the firm as well
2 helped donate money to this cause.

3 **MR. McCLELLAND:** Can I ask you, Mr. Adams,
4 if you can recall in 1993 what your custom or habit was as
5 to maintaining records of your appointments in your
6 professional work?

7 I am getting at did you have an agenda; was
8 it in paper, electronic? What was your circumstance? What
9 was your practice back then some 13 - 14 years ago?

10 **MR. ADAMS:** The firm always had a CNIB agenda
11 or diary -- sort of standard daily diary.

12 **MR. McCLELLAND:** It's a hard copy book?

13 **MR. ADAMS:** Soft.

14 **MR. McCLELLAND:** Like in paper?

15 **MR. ADAMS:** Yes.

16 **THE COMMISSIONER:** Hard copy as opposed
17 to --

18 **MR. ADAMS:** Oh, yes.

19 **MR. McCLELLAND:** Sorry, I misspoke.

20 **THE COMMISSIONER:** No, no, no, you didn't
21 really.

22 **MR. McCLELLAND:** By that, I mean it's
23 something you write on not something you type on a screen?

24 **MR. ADAMS:** That is correct.

25 **MR. McCLELLAND:** Okay. And did each lawyer

1 have one of those books?

2 MR. ADAMS: Yes.

3 MR. McCLELLAND: And did the secretaries
4 have a duplicate book or did you each just have one?

5 MR. ADAMS: No, they may have at that time.
6 Now they -- it's just the one book that they use. And I'm
7 sort of antiquated, I don't have a soft copy so they will
8 come and get my book whenever clients are looking to set
9 appointments. So just the one book I believe.

10 MR. McCLELLAND: So presently you still use
11 a hard copy ---

12 MR. ADAMS: The same CNIB, yeah.

13 MR. McCLELLAND: And I take it, you are
14 somewhat distressed that CNIB is discontinuing that
15 practice?

16 MR. ADAMS: Yes.

17 MR. McCLELLAND: Now, I had asked you I
18 believe to locate, if you could, document -- that agenda
19 for 1993; correct?

20 MR. ADAMS: That is correct. This morning
21 you asked me to do that.

22 MR. McCLELLAND: And I take it you have had
23 communication with your office in that regard?

24 MR. ADAMS: Yes, I called one of my
25 secretaries.

1 **MR. McCLELLAND:** And can you help us with
2 what the status is as to such an agenda whether it's
3 available or not.

4 **MR. ADAMS:** It appears we had all diaries
5 from the beginning together in the basement and when the
6 office was renovated several years ago, the majority of
7 just the most recent ones had been kept.

8 They were all shredded with a lot of files
9 that we were cleaning out so I do not have a diary for
10 1993.

11 **MR. McCLELLAND:** Okay.

12 And I understand another record that might
13 have been kept by your office at that time was a record of
14 people that come into the office maintained by your
15 receptionist. Is that correct?

16 **MR. ADAMS:** That is correct.

17 **MR. McCLELLAND:** And are you aware of
18 whether that record for 1993 -- for September of 1993, was
19 that shredded too or do you know if it's still ---

20 **MR. ADAMS:** No, my secretary was able to
21 find those pages.

22 **MR. McCLELLAND:** Just looking around -- I
23 had asked her to bring it over but I see she hasn't arrived
24 yet.

25 Mr. Commissioner, I have a similar request

1 to make as been made before you this morning before I
2 continue with the ---

3 **THE COMMISSIONER:** If this gentleman is
4 recalled, is that what you're talking about? That you want
5 to reserve the right to re-examine?

6 **MR. McCLELLAND:** The circumstances that --
7 that document that we received this morning ---

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

9 **MR. McCLELLAND:** --- the summary of
10 anticipated evidence -- I'm in a difficult point. I can't
11 ask this -- my client about that without knowing more about
12 that document so I would like an opportunity to come back
13 and carry on this examination once I've done that.

14 **THE COMMISSIONER:** Yes, same as the other
15 parties.

16 **MR. McCLELLAND:** Then those would be my
17 questions, thank you.

18 **THE COMMISSIONER:** Thank you. Mr.
19 Engelmann?

20 --- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. PETER
21 ENGELMANN :

22 **MR. ENGELMANN:** Mr. Adams, I just have very
23 few questions.

24 I just want to start with Exhibit 865 which
25 is your biography. You have some personal information

1 listed at the top of the page. We've typically been
2 removing that from exhibits. Would you like us to ensure
3 that the address and phone numbers come off?

4 MR. ADAMS: Sure, that's fine.

5 MR. ENGELMANN: That's typically what we've
6 been doing so we'll just redact that from the exhibit if
7 that's all right.

8 MR. ADAMS: Yes. This was something I just
9 was asked for and I gave it ---

10 MR. ENGELMANN: No, I understand that. And
11 these are public documents though and that's typically what
12 we've been doing.

13 MR. ADAMS: That's fair. Thank you.

14 MR. ENGELMANN: I want to ask you a couple
15 of questions.

16 Mr. Manson, for the CCR, one of the first
17 fellows ---

18 MR. ADAMS: Oh yes.

19 MR. ENGELMANN: --- to ask you some
20 questions?

21 MR. ADAMS: Yes.

22 MR. ENGELMANN: He took you to your
23 statement to the OPP.

24 MR. ADAMS: Okay.

25 MR. LEE: And that's Exhibit 849, and he

1 took you to page -- bottom of page 33 and the top of page
2 34 and he was suggesting to you that either you didn't
3 speak to Malcolm MacDonald between the time of the press
4 release in early 1994 and the time of your statement or
5 that it was unlikely, I believe, that you would have done
6 that. Do you remember that exchange?

7 **MR. ADAMS:** I do.

8 **MR. ENGELMANN:** And you agreed with him
9 after he set that out.

10 **MR. ADAMS:** Yes.

11 **MR. ENGELMANN:** And -- I'm just taking a
12 look at page 34 about that and you're saying at the top,
13 "I've had..."

14 **THE COMMISSIONER:** I'm sorry?

15 **MR. MANSON:** Objection. I think my
16 suggestion was that he did meet with Mr. MacDonald, and we
17 went to this statement.

18 **MR. ENGELMANN:** Oh, I'm sorry.

19 **THE COMMISSIONER:** Yeah.

20 **MR. ENGELMANN:** So you would have had
21 discussions with Mr. MacDonald between ---

22 **MR. ADAMS:** Yes.

23 **MR. ENGELMANN:** Oh, then I misunderstood. I
24 apologize. All right, so this confirmation that you would
25 have had some discussions with him between ---

1 **MR. ADAMS:** Discussions in what respect?

2 **MR. ENGELMANN:** With respect to this matter
3 between the time of the press release in or around January
4 of 1994 and the time of your statement to the OPP in
5 September of '94.

6 **MR. ADAMS:** In general terms, not specifics.

7 **THE COMMISSIONER:** But you're taking a
8 beating on this as it's related to that.

9 **MR. ADAMS:** Yes, exactly.

10 **THE COMMISSIONER:** All right.

11 **MR. ENGELMANN:** And -- all right so when you
12 say I had no -- I've had no discussions -- well, I'm just -
13 -- let's just read it together because I'm a little
14 confused.

15 **MR. ADAMS:** Okay. You're at what statement?

16 **MR. ENGELMANN:** Let's start of the bottom of
17 page 33. You say:

18 "I've had -- probably once a year,
19 maybe twice a year, I have lunch with
20 Mr. MacDonald."

21 **MR. ADAMS:** Yes.

22 **MR. ENGELMANN:** I'm assuming there ---

23 **THE COMMISSIONER:** If we hear that one
24 again, he's having lunch 300 days a year with this
25 gentleman.

1 **MR. ENGELMANN:** There I am. I'm doing it
2 again.

3 **THE COMMISSIONER:** Yeah.

4 **MR. ENGELMANN:** This is Malcolm MacDonald
5 you're referring to there because that's who the discussion
6 is about.

7 **MR. ADAMS:** Yes.

8 **MR. ENGELMANN:** Then you said:

9 "And I try to do that with the senior
10 counsel, Duncan MacDonald..."

11 Do you see that?

12 **MR. ADAMS:** I'm using him as an example,
13 yes.

14 **MR. ENGELMANN:** All right:

15 "...just to talk about the old days
16 when my father practiced law. So we
17 may have discussed this in very general
18 terms but certainly I have had no
19 discussions and was no aware that you
20 had interviewed him and certainly was
21 not privy to any of that information."

22 **MR. ADAMS:** Right.

23 **MR. ENGELMANN:** All right so who would have
24 told you that the OPP had interviewed ---

25 **MR. ADAMS:** The OPP.

1 MR. ENGELMANN: --- Malcolm MacDonald? They
2 had told you that?

3 MR. ADAMS: Yes.

4 MR. ENGELMANN: All right.

5 MR. ADAMS: They would have told me they
6 interviewed Malcolm and Jacques LeDuc and me, with respect
7 to this conspiracy to obstruct justice charge.

8 MR. ENGELMANN: All right. Okay. I know
9 they interviewed him in late October 1994 which ---

10 MR. ADAMS: I have no idea.

11 MR. ENGELMANN: --- would be about six weeks
12 after this.

13 MR. ADAMS: Yeah, I have no idea today.

14 MR. ENGELMANN: All right. But you're
15 saying they told you about having interviewed him earlier?

16 MR. ADAMS: M`hm.

17 MR. ENGELMANN: All right.

18 MR. ADAMS: Well I don't know about
19 interviewing him or going to interview him but my
20 recollection is they had interviewed him. Maybe I'm wrong
21 but that's my recollection.

22 MR. ENGELMANN: All right.

23 And then you say a little later:

24 "And any discussions that I would have
25 had with MacDonald would have been of a

1 general nature and probably around when
2 this was a hot topic in the press more
3 along the lines of 'boy you're taking a
4 beating.' "

5 So there was something in the press about
6 you?

7 **MR. ADAMS:** I assume there must have been.
8 Yeah. I don't -- I can't recall.

9 **MR. ENGELMANN:** All right. He wasn't
10 charged until much later in that year, that's why I'm
11 wondering where that came from.

12 **MR. ADAMS:** Maybe -- I have no idea. I mean
13 I'd be guessing.

14 **MR. ENGELMANN:** All right. Okay.
15 You said in answer to a question from one of
16 my friends -- perhaps two of them that your firm had
17 purchased Mr. MacDonald's practice when he retired.

18 **MR. ADAMS:** That is correct.

19 **MR. ENGELMANN:** Would have inherited his
20 files then?

21 **MR. ADAMS:** I believe so, yes.

22 **MR. ENGELMANN:** All right. So if he had
23 files with settlement documents or documents such as that
24 your firm may have inherited those files?

25 **MR. ADAMS:** Possibly, yes.

1 **MR. ENGELMANN:** All right. And, sir, my
2 friend, Ms. Lalji for the Cornwall Police Service, asked
3 you about some notes of an interview between an officer of
4 the OPP, Pat Hall, and an officer for the Cornwall Police
5 Service by the name of Sgt. Brunet. Just a few ---

6 **MR. ADAMS:** Those handwritten notes?

7 **MR. ENGELMANN:** No I -- typed notes.

8 **MR. ADAMS:** I'd have to see them again.

9 **THE COMMISSIONER:** They were just given to
10 you, I believe, 864.

11 **MR. ENGELMANN:** 864 sir.

12 I'm not actually going to refer you to
13 anything ---

14 **MR. ADAMS:** Okay, I do have them here -- the
15 Sgt. Brunet.

16 **MR. ENGELMANN:** Right.

17 **MR. ADAMS:** Yes.

18 **MR. ENGELMANN:** Right.

19 And what I want to ask you is if you can
20 remember, Mr. Adams, if Sgt. Brunet or any other officer
21 from the Cornwall Police Service ever asked you to look at
22 Exhibit 263?

23 **MR. ADAMS:** Which is?

24 **MR. ENGELMANN:** In Exhibit 263 is the full
25 release and undertaking that you signed probably on

1 September 3rd but possibly on September 2nd.

2 MR. ADAMS: So this after that -- they
3 called and asked me to look at it or they met with me to
4 look at it? Is that what you're asking?

5 MR. ENGELMANN: I'm asking you if at any
6 time after you signed that document on either September 2nd
7 or September 3rd, if Sgt. Brunet or Heidi Sebalj or anyone
8 from the Cornwall Police Service ever asked you to look at
9 the full release and undertaking; the undertaking not to
10 disclose.

11 MR. ADAMS: Yeah. I don't recall that. If
12 they had I wouldn't have provided it to them, I don't
13 imagine, without ---

14 MR. ENGELMANN: If they had you ---

15 MR. ADAMS: I don't imagine I would have
16 provided it to them without Mr. Silmser's okay.

17 MR. ENGELMANN: So if they had you would
18 have asked Mr. Silmser his permission to show it.

19 MR. ADAMS: I would think so, yes.

20 MR. ENGELMANN: Would that also be the same,
21 sir, ---

22 MR. ADAMS: Again, in reviewing this stuff
23 it appears they had it.

24 MR. ENGELMANN: Well, it appears that it's
25 in our materials.

1 MR. ADAMS: Okay.

2 MR. ENGELMANN: And it appears we have
3 documents in our materials that have the dates slightly
4 different than the date in your original document. Is that
5 fair?

6 MR. ADAMS: Yeah, we've gone through that,
7 yes.

8 MR. ENGELMANN: And, likewise, just the same
9 question.

10 Do you know if the OPP, either the fellow --
11 you just had the one interview ---

12 MR. ADAMS: Yes.

13 MR. ENGELMANN: --- with Detective Inspector
14 Smith?

15 MR. ADAMS: There were two officers. I
16 can't remember their names.

17 MR. ENGELMANN: Yes, there was another
18 officer. Did either of them ask you to look at a copy of
19 the original settlement document?

20 MR. ADAMS: For me to provide them with one?

21 MR. ENGELMANN: Yes, or to review it?

22 MR. ADAMS: They may have there(sic) had one
23 there and had me to review it, I don't recall.

24 MR. ENGELMANN: All right. If they did,
25 again, you would have likely asked Mr. Silmsler if that was

1 all right?

2 MR. ADAMS: I would think so, yes.

3 THE COMMISSIONER: Who would -- just a
4 minute now.

5 If they asked him to review it, he wouldn't
6 have to ask Silmsler. It's if you -- if they asked you to -
7 --

8 MR. ADAMS: To provide it.

9 THE COMMISSIONER: --- you would have asked
10 Silmsler?

11 MR. ADAMS: That's fair.

12 MR. ENGELMANN: And aside from that one
13 meeting that you had with them in September of '94.

14 MR. ADAMS: The two OPP officers ---

15 MR. ENGELMANN: Yes.

16 MR. ADAMS: Yes.

17 MR. ENGELMANN: You never met with them at
18 any other time?

19 MR. ADAMS: No.

20 MR. ENGELMANN: Or any other officer from
21 the OPP?

22 MR. ADAMS: No, I don't believe so, no.

23 MR. ENGELMANN: Thank you very much, Mr.
24 Adams. Those are my questions.

25 MR. ADAMS: Thank you.

1 **THE COMMISSIONER:** Mr. Adams, thank you very
2 much for coming. We may have to ask you to come back for a
3 brief encore but ---

4 **MR. ADAMS:** Sure, yeah.

5 **THE COMMISSIONER:** All right?
6 Thank you very much.

7 **MR. ADAMS:** Okay. Thank you.

8 **THE COMMISSIONER:** Thank you.

9 **MR. ADAMS:** What do I take?

10 **THE COMMISSIONER:** Nothing.

11 **MR. ADAMS:** Nothing, okay.

12 **MR. ENGELMANN:** You have your own documents
13 though Mr. Adams that are there.

14 **THE COMMISSIONER:** Oh, yes, but the original
15 file, what are you -- you may want to have some discussion
16 with ---

17 **MR. ENGELMANN:** Maybe I can -- I'll speak to
18 Mr. McClelland before he goes just about the original file.

19 **THE COMMISSIONER:** All right. Thank you.

20 **MR. ENGELMANN:** I made need to ask other
21 parties for original files -- original copies if they still
22 exist. They're clearly differences in some of the
23 signatures, so I'm assuming that there were more than --
24 there was more than one original.

25 **THE COMMISSIONER:** Right. Okay. So ---

1 **MR. ENGELMANN:** Sir, it's ten to one. I'm
2 in your hands. We are prepared to proceed but we wouldn't
3 finish.

4 **THE COMMISSIONER:** It's a dangerous place to
5 be, Mr. Engelmann.

6 **MR. ENGELMANN:** Well, I know that we have a
7 1:30 drop-dead time today, so ---

8 **THE COMMISSIONER:** Yes, and so we are going
9 to drop dead now.

10 **MR. ENGELMANN:** Fair enough.
11 I'm hopeful that we can make this up on
12 Monday afternoon ---

13 **THE COMMISSIONER:** Absolutely.

14 **MR. ENGELMANN:** --- and possibly do both the
15 overview of documentary evidence for Messrs. Barque and
16 Seguin.

17 **THE COMMISSIONER:** We'll try. Thank you.
18 Thanks again.

19 **MR. ENGELMANN:** Thank you.

20 **THE COMMISSIONER:** We'll come back on Monday
21 at one o'clock.

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

24 The hearing will resume in 5 minutes.

25 This hearing is adjourned until November

1 19th, at 1:00 p.m.

2 --- Upon adjourning at 12:51 p.m. /

3 L'audience est ajournée à 12h51

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C E R T I F I C A T I O N

I, Sean Prouse a certified court reporter in the 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, Sean Prouse, 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.



Sean Prouse, CVR-CM