

**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 310

Held at :

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

Monday, November 24, 2008

Tenue à:

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

Lundi, le 24 novembre 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
Ms. Karen Jones	Commission Counsel
Ms. Kelly Doctor	
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
M ^e Claude Rouleau	Ontario Minister of Communit and Correctional Services and Adult Community Corrections
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Christopher Thompson	
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Peter Wardle	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Michael Neville	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDougald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police
Mr. Mark Wallace	Association
Mr. Frank T. Horn	Coalition for Action
Mr. Ian Paul	

Appearances/Comparutions

Mr. Larry O'Brien

D/Insp. Randy Millar

Insp. Timothy Smith

Mr. Joseph (Joe) Dupuis

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1 --- Upon commencing at 9:04 a.m./

2 L'audience débute à 9h04

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

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

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning.
10 Mr. Thompson, you're going to complete your
11 cross-examination?

12 **MR. THOMPSON:** Good morning.

13 **THE COMMISSIONER:** Sir, you understand
14 you're still under oath?

15 **MR. DUPUIS:** Yes, sir.

16 **THE COMMISSIONER:** Thank you. Go ahead,
17 sir.

18 **JOSEPH (JOE) DUPUIS, Resumed/Sous le même serment:**

19 --- CROSS-EXAMINATIONBT/CONTRE-INTERROGATOIRE PAR MR. C.
20 THOMPSON (cont'd/suite):

21 **MR. THOMPSON:** Good morning, Mr. Dupuis. As
22 you may recall, my name is Christopher Thompson. I'm
23 counsel for the Ministry of the Attorney General and I'd
24 just like to go through a little bit to orient you to where
25 we left off last day.

1 As you may recall, on February 7, 2001,
2 that's when C-16's mother testified in court and revealed
3 the Dunlop contacts?

4 **MR. DUPUIS:** Yes, sir.

5 **MR. THOMPSON:** We went through that
6 yesterday or sorry, last week, and following that there was
7 the meeting with defence counsel with the Crown where a
8 concern was expressed that that material had not been
9 disclosed to the defence counsel.

10 And then we had the meeting with -- just
11 with the Crown where a concern was expressed by Inspector
12 Hall that those Dunlop materials had actually been turned
13 over to the Crown.

14 And then we had the letter from defence
15 counsel to the Crown, Hallett, in respect of making very
16 serious allegations of wilful non-disclosure in respect to
17 the police. Are you with me there?

18 **MR. DUPUIS:** Yes, sir.

19 **MR. THOMPSON:** So now what I'd like to turn
20 to is sort of the next step in the sequence and that's
21 February 14th, 2001, and that's the -- at the trial the
22 first time that defence counsel publicly asked for --
23 informed the court they were going to be asking for a stay.
24 Do you remember that?

25 **THE COMMISSIONER:** A stay based on non-

1 disclosure.

2 MR. THOMPSON: On wilful non-disclosure.

3 MR. DUPUIS: Yes, sir.

4 MR. THOMPSON: And I'm going to be -- I'm
5 going to be introducing that transcript. We can go to your
6 notes if that will help refresh your memory to show that
7 you were there or do you remember being there?

8 MR. DUPUIS: No, I don't.

9 MR. THOMPSON: Okay, perhaps we should go to
10 your notes then first. And that's Exhibit 2614. It's
11 Bates page 974. It's February 14th. Can we go back one
12 page, please? I think this is February 15th.

13 (SHORT PAUSE/COURTE PAUSE)

14 MR. THOMPSON: My apologies. Could we go
15 back one more, please? Okay, so my apologies.

16 It says here:

17 "11:15: 10 to 8 to court re Leduc
18 matter."

19 Do you see that?

20 MR. DUPUIS: Which page are you on, sir,
21 please?

22 MR. THOMPSON: It's 972, I think.

23 MR. DUPUIS: Nine-seven-two (972)?

24 THE COMMISSIONER: Is that the one, sir?

25 MR. THOMPSON: That was the one, yeah. At

1 the bottom of the page there.

2 **MR. DUPUIS:** Yes, sir, okay. I've got you
3 now.

4 **MR. THOMPSON:** Okay, thank you.

5 I'd like to take you to the transcript of
6 that day and there was late notice provided on that and
7 I've got copies and all copies have been handed out.

8 **THE COMMISSIONER:** Thank you.

9 Exhibit Number 2647 is an extract from
10 proceedings at trial re. application for stay of
11 proceedings; February 14th, 2001.

12 **--- EXHIBIT NO./PIÉCE NO. P-2647:**

13 (103609) - Extract from Proceedings at Trial
14 re: Application for Stay of Proceedings re:
15 Jacques Leduc dated February 14, 2001

16 **MR. THOMPSON:** I'm going to ask you to turn
17 to page 1 which is Bates 390 Front. And if you'll see
18 there in the second paragraph, it starts "The basis" about
19 four lines-five lines down?

20 "The basis of our motion will be in
21 brief deliberate non-disclosure by one
22 of the officers in charge of this case,
23 Detective Constable Dupuis, and several
24 senior ranking police officers in the
25 Project Truth investigation. It will

1 be the position of the defence on the
2 motion that these officers colluded and
3 conspired to suppress all information
4 in their possession relating to Perry
5 Dunlop's participation in this case."

6 Do you see that, sir?

7 **MR. DUPUIS:** I'm behind you. I think about
8 several pages ---

9 **MR. THOMPSON:** Sorry, maybe I'm going a
10 little bit fast. It's on page 1 which is Bates 390 Front.

11 **MR. DUPUIS:** Okay, yes, sir.

12 **MR. THOMPSON:** And I'm looking at the second
13 large paragraph and it starts five lines down. There's
14 actually on the copy -- there's an underlined ---

15 **MR. DUPUIS:** Yes, sir. I got that.

16 **MR. THOMPSON:** You see that? Okay.

17 **MR. DUPUIS:** Thanks.

18 **MR. THOMPSON:** And this is essentially a
19 reiteration of what we saw in the February 12th letter from
20 defence counsel to the Crown. Essentially, the allegation
21 is against the police of wilful non-disclosure, right?

22 **MR. DUPUIS:** Yes, sir.

23 **MR. THOMPSON:** Right.

24 And can you please turn to page 12 which is
25 Bates 395; it's 395 Back.

1 **THE COMMISSIONER:** Anyway, what are we --
2 yeah, you're still on the transcripts?

3 **MR. THOMPSON:** Still on the transcript, yes,
4 sir.

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

6 **MR. THOMPSON:** It's 395 Back of page 12 and
7 I'm just looking at three lines down and it says:

8 "Your Honour, in a..."

9 This is Ms. Hallett speaking:

10 "Your Honour, in a mountain of notebook
11 entries and in a mountain of documents
12 created by the officers on Project
13 Truth and handed over to the defence in
14 this case, I would say thousands of
15 pages of both notebook entries and
16 statements and the results of the
17 investigation have been disclosed to
18 the defence. However, one page of five
19 lines with respect to this June 15th
20 contact between C-16's mother and
21 Constable Dunlop was not identified as
22 something that should be handed over
23 and I must say that -- and there will
24 be evidence, I'm sure, called on this
25 next week obviously, that every

1 confidence that that omission was as a
2 result of inadvertence by the
3 investigating officer, Detective
4 Dupuis, that there's no sinister or
5 ulterior motive for not including that
6 in all of the disclosure that has been
7 provided in this case."

8 Do you see that there, sir?

9 **MR. DUPUIS:** Yes, I do.

10 **MR. THOMPSON:** And so Ms. Hallett's really
11 defending the police here, right, saying -- because they're
12 alleging -- the defence is alleging that it's wilful non-
13 disclosure, the representation here by Ms. Hallett is this
14 is something that was just inadvertent, right?

15 **MR. DUPUIS:** That's correct.

16 **MR. THOMPSON:** And please turn the page; its
17 page 13 on the transcript, 396 Front, and I'm just looking
18 at a little bit around line 17 and it says -- this is
19 again, Ms. Hallett speaking:

20 "As I say, I perused these
21 documents..."

22 And she's speaking about the Dunlop materials here:

23 "As I say, I perused these documents in
24 a cursory way to satisfy myself,
25 essentially, that they should be

1 disclosed to defence counsel for Father
2 MacDonald, but because of my
3 unawareness of the connection Constable
4 Dunlop and the witnesses for the Leduc
5 matter, I did not pour over each
6 document to see whether there was
7 anything that would be relevant to Mr.
8 Leduc's defence and I take
9 responsibility for that. However, as I
10 say, by that point-in-time we had had
11 the preliminary inquiry, there'd been
12 two judicial pre-trial conferences,
13 there'd been no suggestions made as to
14 what the defence was going to be.
15 Frankly, I just made a defence
16 completely different than the one that
17 I now have become aware is being..."

18 Please turn the page:

19 "...raised. A defence that was
20 certainly something that I thought
21 might be raised in this case and I
22 obviously was wrong."

23 So she's here taking responsibility,
24 essentially, for having reviewed those Dunlop materials and
25 having not made that disclosure. Do you agree with me,

1 sir?

2 **MR. DUPUIS:** It would appear so.

3 **MR. THOMPSON:** And, finally, I'd ask you to
4 please turn to page 25, which is Bates 402 and it's 402
5 Front if you look at the very bottom, the very last
6 paragraph, it says, "I'd like" and this is defence counsel
7 speaking:

8 "...if I may, Your Honour, simply read
9 into the record and I'll file the
10 letter as an exhibit; the letter that
11 Mr. Campbell and I prepared and
12 presented to the prosecution that's
13 dated February 12th, 2001."

14 Do you see that?

15 **MR. DUPUIS:** Yes, sir.

16 **MR. THOMPSON:** So although you weren't
17 copied on the letter, we can see later that it's read into
18 the record here, so you obviously would have been aware of
19 the letter?

20 **MR. DUPUIS:** I don't recall that but that's

21 ---

22 **MR. THOMPSON:** Well, let me rephrase then.

23 It's read into the record here and you were
24 in court, so obviously you would have been aware, right?

25 **MR. DUPUIS:** Yes, sir.

1 **MR. THOMPSON:** Okay. And so we have here
2 now a public airing of the defence theory that there was
3 wilful nondisclosure by the police?

4 **MR. DUPUIS:** By who, sir?

5 **MR. THOMPSON:** By the police.

6 **MR. DUPUIS:** Who's making the ---

7 **MR. THOMPSON:** Defence counsel is making
8 that allegation.

9 **MR. DUPUIS:** Yes, sir, okay.

10 **MR. THOMPSON:** I do want to be clear on
11 that.

12 **MR. DUPUIS:** Yes, sir.

13 **MR. THOMPSON:** All right, thank you.

14 Do you know if Inspector Hall was there that
15 day or whether you advised him of the Crown's submissions
16 on that day?

17 **MR. DUPUIS:** I don't recall if he was
18 present or not.

19 **MR. THOMPSON:** I'd like to turn now to the
20 meeting on February 20th, 2001 with defence counsel. You
21 may remember that in your testimony in-chief, you talked
22 about how yourself and Inspector Hall and Inspector Smith
23 were going to be called as witnesses in the stay
24 application?

25 **MR. DUPUIS:** That's correct.

1 **MR. THOMPSON:** And Inspector Smith wished to
2 meet with defence counsel with respect to their evidence?

3 **MR. DUPUIS:** Yeah.

4 **MR. THOMPSON:** With respect to the question
5 that they be asked at this stay application?

6 **MR. DUPUIS:** Yes, sir.

7 **MR. THOMPSON:** And yourself and Inspectors
8 Smith and Hall went and met with defence counsel on the
9 20th?

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

11 **MR. THOMPSON:** And I think we looked at your
12 notes and what it had in there is that you were asked
13 several questions by defence counsel. At the time when you
14 testified last week, you couldn't remember, you know, the
15 content of the discussion or the questions.
16 That's fair enough.

17 And what I want to do now is try and refresh
18 your memory a little bit and to do that what I'd like to do
19 is take a look at your testimony at the stay application.

20 So, Madam Clerk, what I'm going to be
21 referring to is Document Number 116151, that's 116151, and
22 it's the February 22nd transcript.

23 **(SHORT PAUSE/COURTE PAUSE)**

24 **MR. THOMPSON:** Do you have that, sir?

25 **THE COMMISSIONER:** Just a second, sir.

1 Exhibit 2648 is the transcripts *Her Majesty*
2 *the Queen v. Jacques Leduc* proceedings on Application for
3 Stay on Proceedings before the Honourable Mr. Justice
4 Chadwick on February 22nd, 2001.

5 **--- EXHIBIT NO./PIÈCE NO. P-2648:**

6 (116151) - Proceedings on Application for
7 Stay of Proceedings re: Jacques Leduc dated
8 February 22, 2001

9 **MR. THOMPSON:** And what I'm going to be
10 referring to is on page 92, or Bates page 035 Back.

11 And we can see at the top of the page, "J.
12 Dupuis", so this is your testimony, and I'm going to look
13 down to about line 12 and this is a question and it says:

14 "So it's quite clear that as of
15 9:00 a.m. on February 21st, 2001, the
16 stay application was to begin, that you
17 were going to be one of the witnesses
18 that the defence had requested;
19 correct, sir?"

20 "Yes, sir."

21 And then a little bit lower down:

22 "Question: And that I'm going
23 to suggest to you if we can just move
24 then to court being adjourned now for
25 the day, that you along with former

1 Inspector Smith and Inspector Hall
2 approached me as counsel, lead counsel
3 on behalf of Mr. Leduc to speak to me;
4 correct, sir?

5 Answer: Yes, sir.

6 Question: All right, and the request
7 was made actually by former Inspector
8 Smith. We've worked on a murder case
9 some years ago and we knew each other
10 very well; that we talked to see if we
11 could discuss what questions I was
12 going to put to you on the stay
13 application, that there was no magic to
14 it."

15 Flip the page, please.

16 "That was the reason for the meeting;
17 correct, sir?"

18 Are you with me?

19 **MR. DUPUIS:** Yes, sir. I'm following along.

20 **MR. THOMPSON:** Okay, great. If you could go
21 down to the bottom of that page. I'm on page 93 now, which
22 is 036 Front, line approximately 23, and within the
23 question it says:

24 "I said to you and Inspector Hall
25 is there any document, correspondence

1 or letter in your possession that
2 indicates that Ms. Hallett, the Crown
3 Attorney in this matter, in review of
4 Exhibit 2B which is the Will State of
5 Constable Perry Dunlop, do you remember
6 me asking that question, sir?

7 Answer: Yes, sir.

8 Question: And, in fact, it was
9 indicated by you and Inspector Hall
10 that there was a document in existence
11 to the effect; correct, sir?

12 Answer: I believe it was Inspector
13 Hall that answered that question.

14 Question: And that you indicated you
15 were aware of it as well; correct, sir?

16 Answer: I don't recall; that's a
17 possibility.

18 Question: And that there was a
19 document and then I became quite
20 interested in getting that document;
21 correct, sir?

22 Answer: Yes, sir.

23 Question: And that was something that
24 you in fairness and Inspector Hall in
25 fairness agreed to provide to me;

1 correct, sir?

2 Answer: Yes, sir."

3 Do you see that?

4 **MR. DUPUIS:** Yes, sir.

5 **MR. THOMPSON:** So now just to make one
6 clarification.

7 The letter that's being referred to here,
8 that's that July 4th, 2000 letter, right, that goes from Ms.
9 Hallett to yourself in respect of her review of the Dunlop
10 materials?

11 **MR. DUPUIS:** I believe that's what they were
12 referring to, yes.

13 **MR. THOMPSON:** And my understanding is that
14 -- first let me just -- it says here that both you and
15 Inspector Hall had agreed to provide that letter at this
16 meeting. Is that right? That's what it says here as I see
17 it.

18 **MR. DUPUIS:** Yes, sir, if that's what it
19 says. I don't recall a 100 percent exactly but obviously
20 it's in transfer -- in testimony.

21 **MR. THOMPSON:** Pardon, sir, I missed that?

22 **MR. DUPUIS:** Well, it says here that I was
23 aware of it, yes.

24 **MR. THOMPSON:** Okay, and do you -- obviously
25 when you testified on this occasion, that was your

1 recollection of events?

2 MR. DUPUIS: That's correct.

3 MR. THOMPSON: And your recollection is no
4 different now?

5 MR. DUPUIS: No.

6 MR. THOMPSON: Okay. And that would have
7 been, I take it, it was a little bit unusual to agree to
8 provide the letter without speaking to the Crown?

9 MR. DUPUIS: I don't know what my thought
10 would have been back there but I would assume Inspector
11 Hall would have been in contact with Ms. Hallett about
12 this, but I don't know what transpired between those two
13 people.

14 MR. THOMPSON: Okay, and so the way I
15 understand it, it's following this meeting you obtained a
16 letter from -- a copy of the letter from Ms. Hallett and
17 then provided it to the defence and, as I understand it,
18 your understanding is in the intervening period between the
19 meeting and the provision of the letter, you would have
20 assumed that Inspector Hall and Ms. Hallett would have
21 spoken about disclosure of that letter?

22 MR. DUPUIS: Yes, sir.

23 MR. THOMPSON: And although it was -- it
24 says here that there was agreement to provide the letter,
25 you never would have followed up with Inspector Hall before

1 providing the letter?

2 **MR. DUPUIS:** That's correct.

3 **MR. THOMPSON:** And you've already testified
4 about this, but I understand that you assume that the
5 letter would have been provided, that Ms. Hallett would
6 have been kept in the loop because -- and the almost
7 universal practice is that disclosure is provided by the
8 police to the Crown and the Crown to the defence?

9 **MR. DUPUIS:** That's correct.

10 **MR. THOMPSON:** And that's because the Crown
11 needs to exercise judgment and make decisions on what
12 materials actually do get disclosed?

13 **MR. DUPUIS:** That's correct.

14 **MR. THOMPSON:** Now, following this meeting,
15 I understand that there was not a specific debriefing
16 between the officers and Ms. Hallett. Is that your
17 recollection?

18 **MR. DUPUIS:** I don't recall a meeting,
19 period.

20 **MR. THOMPSON:** Okay, so when you say you
21 don't recall a meeting, are you saying that you have no
22 recollection or that you don't think that there was a
23 meeting?

24 **MR. DUPUIS:** I don't recall it. There may
25 have been one but I don't recall it.

1 **MR. THOMPSON:** All right. I don't know if
2 this helps tremendously but I'd like to pull up one other
3 document where you made a statement on this issue that
4 perhaps will refresh your memory.

5 **MR. DUPUIS:** Okay, sir.

6 **MR. THOMPSON:** And it's not much different
7 from your answer, but we'll just take a quick look at it.
8 And it's Document Number 123036.

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

10 **THE COMMISSIONER:** Exhibit 2649 is a summary
11 of Joe Dupuis' statement. And I don't know when it was
12 taken.

13 **MR. THOMPSON:** I believe it's May 23rd, 2001;
14 on the front page.

15 **THE COMMISSIONER:** Front page?

16 **MR. THOMPSON:** Sorry, it's on -- it's not on
17 the front page, it's on about the third or fourth page.

18 **THE COMMISSIONER:** In any event, it's a
19 summary of Joe Dupuis' statement. Okay.

20 **--- EXHIBIT NO./PIÈCE NO. P-2649:**

21 (123036) - Summary of Joe Dupuis' Statement
22 - dated May 23, 2001

23 **MR. THOMPSON:** So I think it's easiest
24 actually if you turn -- if we use the page numbers at the
25 bottom of the page, and I'm looking at page 167. There's

1 the summary at the beginning and then after that is the
2 actual interview.

3 **THE COMMISSIONER:** Just a sec. Can you help
4 me out here? Let me just see, m'hm, okay. This is a
5 statement of Joe Dupuis, taken by Detective Torrie and Tim
6 Kelly on May 23rd, 2001.

7 **MR. THOMPSON:** And if you look at the bottom
8 numbers, 167 -- do you have that, sir?

9 **MR. DUPUIS:** Yes, sir.

10 **MR. THOMPSON:** And you were asked -- I'm
11 looking about four or five bullets down and it says:

12 "Was there ever a debriefing with Crown
13 Hallett by the three of you gentlemen
14 after you finished the meeting with
15 defence or...?"

16 And your answer was:

17 "No, to my knowledge."

18 Do you see that?

19 **THE COMMISSIONER:** "No, to my knowledge",
20 right.

21 **MR. DUPUIS:** Yes.

22 **MR. THOMPSON:** All right. So that would
23 have been accurate to the best of your ability at the time
24 that you would have provided this statement?

25 **MR. DUPUIS:** Yes, sir.

1 **THE COMMISSIONER:** So just the next line.
2 You talk about whether or not Ms. Hallett was aware that
3 you were going to a meeting with the defence counsel?

4 **MR. DUPUIS:** I believe that's what I was
5 referring to there.

6 **THE COMMISSIONER:** And what you're saying
7 is:

8 "We told her, she was aware of the
9 meeting, and there was some discussion
10 whether we should or shouldn't go. And
11 they had nothing to hide, so why not
12 ask them what they want."

13 **MR. DUPUIS:** That's correct, sir.

14 **MR. THOMPSON:** And I'd like to turn up
15 another document. This is the decision on the stay
16 application.

17 **THE COMMISSIONER:** Thank you.

18 Exhibit 2650 is a Reasons for Judgment on
19 Application for Stay of Proceedings in the matter of *Her*
20 *Majesty the Queen and Jacques Leduc* before the Honourable
21 Mr. Justice Chadwick on March 1st, 2001.

22 **--- EXHIBIT NO./PIÈCE NO. P-2650:**

23 (116153)- Reasons for Judgment on
24 Application for Stay of Proceedings re:
25 Jacques Leduc dated March 1, 2001

1 **MR. THOMPSON:** And what I'm going to be
2 asking you about is on page 152 Front, which is page 11 of
3 the transcript. And I'm looking at paragraph 35 and these
4 are the judge's reasons. And it says:

5 "The letter clearly shows the Crown had
6 reviewed the Dunlop file in more depth
7 than a cursory review. This is also
8 confirmed by the evidence of Constable
9 Genier who noted the Crown was
10 reviewing the Dunlop material on May 3rd
11 and May 4th, 2000."

12 And down to paragraph 37:

13 "These materials should have been
14 disclosed. I can only conclude that
15 the holding back of the July 4th, 2000
16 letter and the Dunlop notes Will-Say
17 statements, which had been reviewed in
18 depth by the Crown, show that the Crown
19 did not want the portal to open to make
20 Dunlop's evidence relevant to the Leduc
21 case. I..."

22 And please turn the page:

23 "...find the failure to disclose..."

24 And it's scratched out here, but I understand it says,

25 "...by the Crown was wilful."

1 And paragraph 38:

2 "As Inspector Hall has stated, the
3 police provide the materials to the
4 Crown and the Crown decides what to
5 produce."

6 Do you see that, sir?

7 **MR. DUPUIS:** Yes, sir.

8 **MR. THOMPSON:** And so my question for you
9 is, having looked at the history of this matter that the
10 application was based on wilful non-disclosure; that the
11 defence counsel was particularly interested in this letter
12 for some evidence to show that the Crown had reviewed those
13 materials, and I take it more than a cursory fashion;
14 having regard to that backdrop, was it going through your
15 mind when you provided the letter or when the defence
16 counsel asked for the letter, that that was something they
17 were going to use to try and show proof of wilful non-
18 disclosure by the Crown?

19 **MR. DUPUIS:** I don't know what their purpose
20 would have been to have that.

21 **MR. THOMPSON:** So that didn't -- it didn't
22 occur to you for what purpose defence counsel was asking
23 for that letter?

24 **MR. DUPUIS:** Not at that time, no.

25 **MR. THOMPSON:** Now, looking back in

1 hindsight, would you agree with me that it's probably a
2 good idea to always keep the Crown in the loop in respect
3 of dealings with defence counsel?

4 **MR. DUPUIS:** I'm not sure I understand your
5 question, sir.

6 **MR. THOMPSON:** Well, I guess -- you told us
7 that you would have assumed that the Crown was kept in the
8 loop in respect of providing the letter to defence counsel,
9 right?

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

11 **MR. THOMPSON:** And you assumed that because
12 that's just good practice, right?

13 **MR. DUPUIS:** That's normal procedures, yes.

14 **MR. THOMPSON:** And I don't think we need to
15 turn up the letter but that was -- that July 4th letter --
16 that was a letter from Crown Hallett to yourself, right?

17 **MR. DUPUIS:** It got to me through Inspector
18 Hall. All correspondence in the office I believe went to
19 him. I know it was addressed to me, but it goes to him
20 first.

21 **MR. THOMPSON:** Okay. And those sorts of
22 correspondence, sort of between the Crown and the police or
23 the police and the Crown, that's not typically the kinds of
24 materials that are disclosed. Is that fair?

25 **MR. DUPUIS:** I wouldn't think normally, it -

1 --

2 **MR. THOMPSON:** I just want to move on to a
3 new topic; the Dunlop materials.

4 Now, I take it you'd agree with me that the
5 Dunlop materials, the nine boxes of materials, is a massive
6 amount of disclosure?

7 **MR. DUPUIS:** It was nine banker's boxes, so
8 if you gentlemen know what a banker's box's size is, so --
9 and they were full.

10 **MR. THOMPSON:** Right. And you had provided
11 those materials to the Crown in the context of the Father
12 MacDonald prosecution. Is that right?

13 **MR. DUPUIS:** She had access to them when she
14 requested they be taken from Cornwall Police Department to
15 our office, shall we say.

16 **MR. THOMPSON:** Okay. Now, I understand that
17 you hadn't reviewed them -- reviewed it at that time, but
18 it was your understanding certainly that this was being
19 provided for the Father MacDonald prosecution. And not
20 having reviewed them, you wouldn't know necessarily what's
21 in there, but ---

22 **MR. DUPUIS:** I would think any prosecutions
23 that Ms. Hallett was -- she would have used that
24 information contained in those boxes.

25 **MR. THOMPSON:** And I'm not disputing that.

1 Ms. Hallett's already said -- taken responsibility for
2 that, but what I'm suggesting to you is that those
3 materials were provided in the context of the Father
4 MacDonald prosecution. You never said to her, "Listen,
5 these might be relevant to another prosecution?"

6 **MR. DUPUIS:** That's correct. That's
7 correct.

8 **MR. THOMPSON:** And I want to touch very
9 briefly on a meeting that you attended with Ms. Hallett and
10 C-22. That was on November 14th, '98. You testified about
11 this in-chief where C-22 was reluctant to testify?

12 **MR. DUPUIS:** I'm not sure who ---

13 **THE COMMISSIONER:** C-22 is ---

14 **MR. DUPUIS:** --- C-22 is.

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **MR. DUPUIS:** Okay, sir.

17 **MR. THOMPSON:** Okay. So do you remember
18 that meeting that you testified about earlier?

19 **MR. DUPUIS:** Yes.

20 **MR. THOMPSON:** And I think you mentioned
21 that it was -- that was unusual?

22 **MR. DUPUIS:** Yes.

23 **MR. THOMPSON:** Right? And what I'm getting
24 at is that you, not necessarily versed in Crown obligations
25 or responsibilities or the law in this matter and when you

1 say unusual, you're not suggesting that it was improper in
2 any way?

3 **MR. DUPUIS:** No.

4 **MR. THOMPSON:** Okay. That's all. I just
5 wanted to clarify that, sir.

6 And in the end, C-22 did agree to
7 voluntarily provide a statement?

8 **MR. DUPUIS:** That's correct.

9 **MR. THOMPSON:** And obviously you would have
10 thought -- viewed that as a positive outcome?

11 **MR. DUPUIS:** Yes.

12 **MR. THOMPSON:** Before going on to the next,
13 to the MacDonald prosecution, there's a couple of small
14 housekeeping matters I just wanted to address with you.

15 So if we could turn up Exhibit 2621?

16 **THE COMMISSIONER:** You'd have that, I
17 believe.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. THOMPSON:** And just at the top of the
20 page here it has a note:

21 "Joe, as we discussed, please act on
22 highlighted disclosure request.

23 Thanks. Shelley."

24 Do you see that?

25 **MR. DUPUIS:** Yes, sir.

1 **MR. THOMPSON:** With a written -- it's all in
2 writing and there's a date on it, May 30th, '99.

3 **MR. DUPUIS:** Yes.

4 **MR. THOMPSON:** And you can see to the right
5 of that that this is -- this document is an exhibit in the
6 affidavit of an individual. You see that?

7 **MR. DUPUIS:** Yes.

8 **MR. THOMPSON:** And so I just wanted to
9 clarify and ensure there's no confusion on this. I don't
10 know that much turns on it, but that this wasn't a document
11 that was written by Ms. Hallett but it's something that has
12 been forwarded to you with her handwriting at the top of
13 it?

14 **MR. DUPUIS:** I'm not sure who the author of
15 the document was.

16 **MR. THOMPSON:** Okay, that's fine.

17 And the next and last sort of small
18 housekeeping matter is your notes, 2614 Exhibit, and I'm
19 looking at Bates 979, the entry at 1615.

20 **MR. DUPUIS:** Yes, sir.

21 **MR. THOMPSON:** And if you look partway down,
22 it says, "He advised that" -- perhaps you could read this
23 for us. "He advised that..."

24 **MR. DUPUIS:** "...all disclosure"?

25 **MR. THOMPSON:** "... is handled by Crown

1 but in this case he gave the defence
2 copy of memo by telling me to hand same
3 over."

4 **MR. DUPUIS:** Yes. I think that was
5 Ms. Hallett's comment to me.

6 **MR. THOMPSON:** And I guess that's what you
7 sort of talked about in-chief, and I guess what I want to
8 do is suggest to you that's actually -- when it says "he"
9 that is actually reference to Inspector Hall, as opposed to
10 Ms. Hallett:

11 5. Police provide disclosure to the
12 Crown and the Crown provide it to the
13 defence."

14 **MR. DUPUIS:** That's correct.

15 **MR. THOMPSON:** Remember that? And so it
16 makes some sense here if "he" actually is a reference to
17 Inspector Hall.

18 **MR. DUPUIS:** Yes, sir.

19 **MR. THOMPSON:** Yes? Okay. Thank you. I
20 just wanted to clarify that. I don't think anything turns
21 on it but I just wanted to clarify your evidence there.

22 So I'd like to discuss the MacDonald
23 prosecution with you. We looked at the stay decision in
24 the Leduc matter very briefly and that was -- occurred in
25 March 2001. Do you recall that?

1 **MR. DUPUIS:** No, but I'm sure you have your
2 dates right.

3 **MR. THOMPSON:** It's in the record, so I
4 don't know that we need to turn it up.

5 And you testified in your examination in-
6 chief that you were notified on April 25th, 2001 that you
7 received a page from Inspector Smith that the Father
8 MacDonald prosecution had been adjourned. Do you remember
9 testifying about that earlier?

10 **MR. DUPUIS:** No, I don't, but there's been
11 lots of testimony in the last four days, sir.

12 **MR. THOMPSON:** I can certainly appreciate
13 that. There's also an enormous volume of materials that
14 I'm sure you've had to review. Perhaps we can go to your
15 note then to refresh your memory. It's at Exhibit 2614 and
16 it's the entry of April 25th, '01 and it's Bates page 007,
17 and the time is 1338, I believe.

18 So it's Exhibit 2714, Bates 007. It's your
19 note on April 25th, '01 and the time of 1338.

20 **MR. DUPUIS:** Yes, sir, I've got it.

21 **MR. THOMPSON:** Do you see that; that you
22 were paged by Inspector Smith about the adjournment of the
23 trial date?

24 **MR. DUPUIS:** Inspector Hall.

25 **MR. THOMPSON:** Sorry, Inspector Hall.

1 **MR. DUPUIS:** Yes, sir.

2 **MR. THOMPSON:** And it says down here you
3 were asked to contact the victims about the new court date?

4 **MR. DUPUIS:** Yes, sir.

5 **MR. THOMPSON:** Right. And so I think you
6 testified about this in-chief, or I know you did, that
7 following the Leduc stay that's when Ms. Hallett was
8 replaced by Mr. McConnery for the ---

9 **MR. DUPUIS:** Yes, sir.

10 **MR. THOMPSON:** Is it? And that's -- so that
11 would have been around March 2001 and then we have the
12 trial adjournment on April 25th, 2001?

13 **MR. DUPUIS:** Yes, sir.

14 **MR. THOMPSON:** Now, I want to ask you a few
15 questions about what your understanding was of the
16 adjournment and how that came about, and what happened at
17 the court, and I'd going -- like to introduce the
18 transcript of that and I'm not going to laboriously go
19 through it. What I want to do is summarize it and then I
20 can ask you what your knowledge of it is, but I think we
21 should put it into the evidence, and that's Document Number
22 111236.

23 Mr. Commissioner, this may have been one of
24 those -- this came up as one of the documents that was
25 submitted by both the Crown and Father MacDonald's counsel

1 as a cross-examination document. I believe it's relevant
2 to more than that -- more than just that issue that we had
3 discussed earlier with respect to your ruling.

4 **THE COMMISSIONER:** Yes, yes.

5 **MR. THOMPSON:** So to give you a summary,
6 defence counsel here ---

7 **MR. DUPUIS:** Thank you.

8 **MR. THOMPSON:** To give you a summary,
9 defence counsel here has requested an adjournment because
10 of a homicide trial that defence counsel -- that has gone
11 overtime. And the Crown has asked for an 11(b) waiver, so
12 the Crown does not consent to the adjournment. The Crown
13 contests it unless there is an 11(b) waiver, and indicates
14 on multiple occasions that the Crown has a concern with the
15 passage of time.

16 And the Court eventually orders an
17 adjournment without any conditions and does not require the
18 defence to provide an 11(b) waiver. The Crown then
19 requests the earliest possible dates for trial, and this is
20 a five-week trial so it will take some time, and the Court
21 advises that the earliest possible dates that they have are
22 March 18th, 2002.

23 Now, my question to you is when you're going
24 to be going out and talking to the alleged victims about
25 the fact that there's been an adjournment, would you not

1 have asked Inspector Hall what happened that day, why is
2 there an adjournment, so that you can then discuss that
3 with the alleged victims?

4 **MR. DUPUIS:** I don't recall, sir.

5 **MR. THOMPSON:** It would make some sense
6 though, wouldn't it? If the victims -- sorry, alleged
7 victims I presume would want to know why it's being
8 adjourned.

9 **MR. DUPUIS:** That would be a logical thought
10 process, yes.

11 **MR. THOMPSON:** And for you to be able to
12 answer that question I take it you would have had to obtain
13 that information from Inspector Hall, since you weren't
14 there.

15 **MR. DUPUIS:** Yes, sir.

16 **MR. THOMPSON:** Right? And as the lead
17 investigator in the prosecution, I take it you would have
18 wanted to be informed of what happened in court in respect
19 of that prosecution?

20 **MR. DUPUIS:** Again, please, sir?

21 **MR. THOMPSON:** Sure. I take it as the lead
22 investigator you would want to be informed as to the
23 developments in court in respect of the prosecution?

24 **MR. DUPUIS:** Yes, sir.

25 **MR. THOMPSON:** Right. And so it would make

1 sense, both for that reason and because you need to explain
2 to the victims that it was adjourned and why it was
3 adjourned, that you would seek out this information?

4 **MR. DUPUIS:** I'm not sure, sir, that they
5 would understand what that was.

6 **THE COMMISSIONER:** So what did you tell
7 them?

8 **MR. DUPUIS:** I don't recall,
9 Mr. Commissioner.

10 **MR. THOMPSON:** I'm going to move on to --
11 still on the Father MacDonald prosecution but another
12 event.

13 Now, I know that as an experienced
14 investigator you would know, of course, that your memory
15 fades with time, and I would know that that's some
16 difficulty recalling events, dates, conversations that you
17 may have had, such as what you told the victims, for
18 example.

19 **MR. DUPUIS:** Yes, sir.

20 **MR. THOMPSON:** And that even when you have a
21 note to help refresh your memory, such as in this case that
22 you had contacted the victims, that you may still have some
23 difficulty recalling what exactly the contents of the
24 conversations you had were.

25 **MR. DUPUIS:** That's correct.

1 **MR. THOMPSON:** Now, I want to talk to you
2 about a discussion you had -- sorry, not a discussion that
3 you had -- a discussion that you witnessed in January of
4 1998, about 10 years ago, and this was a discussion that
5 you testified about between the Crown and the defence
6 counsel in the Father MacDonald prosecution. Do you
7 remember that, about the -- I'll give you a little bit more
8 background which might help you; that there was going to
9 new charges and that the question arose about one or two
10 trials.

11 **THE COMMISSIONER:** I think he's talking
12 about the Pelletier-Neville discussion at the courthouse.

13 **MR. DUPUIS:** The date has got me confused
14 because I think I referred over and over again that I don't
15 recall when that conversation took place.

16 **MR. THOMPSON:** Okay. All I'm trying to do
17 is orient you to the conversation, so I think we're there
18 now.

19 **MR. DUPUIS:** Okay.

20 **MR. THOMPSON:** So we can move on. But I do
21 want to say that conversation was -- I know you don't
22 remember exactly when it took place and you've told us
23 that, but it would have been around that time at least;
24 January '98.

25 **MR. DUPUIS:** Sir, I can't put a date to it

1 because I don't know. Like you're trying to ---

2 **MR. THOMPSON:** I'm not trying ---

3 **MR. DUPUIS:** I don't know how you come to
4 that conclusion.

5 **MR. THOMPSON:** I thought that you had
6 testified about that, but it's not that material, so we can
7 move on.

8 And I do believe you testified that this was
9 something around a 30- to 45-second discussion.

10 **MR. DUPUIS:** Approximately.

11 **MR. THOMPSON:** Approximately, and that it
12 was a sort of chance meeting in the Ottawa courthouse?

13 **MR. DUPUIS:** That's correct.

14 **MR. THOMPSON:** Right. And that following
15 that discussion you didn't then raise it again with Crown
16 Pelletier?

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

18 **MR. THOMPSON:** And when Ms. Hallett took
19 over the prosecution you didn't raise it with her again?

20 **MR. DUPUIS:** That's correct.

21 **MR. THOMPSON:** And when Mr. McConnery took
22 over the prosecution initially you didn't raise it with
23 him?

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

25 **MR. THOMPSON:** And that when the stay

1 application was made by defence counsel, that's when you
2 raised it with Mr. McConnery?

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

4 **MR. THOMPSON:** Now, it's fair to say that
5 given the passage of 10 years, difficulties in recalling
6 some events even when you have a note in respect to those
7 events -- it's fair to say that you're a little bit fuzzy
8 on this sort of chance discussion lasting 30 to 45 seconds?

9 **MR. DUPUIS:** The best that I can recollect
10 is what I already testified before this Inquiry.

11 **MR. THOMPSON:** And when you say the best
12 that you can recollect, is that fair to say that that's
13 your recollection but you aren't sure?

14 **MR. DUPUIS:** I'm sure of what I heard to the
15 best of my recollection, sir.

16 **MR. THOMPSON:** Okay, so you're sure of what
17 you heard in this conversation but not many, many other
18 conversations that you might have had, such as the one with
19 the victims, for example?

20 **MR. DUPUIS:** Because each one of the victims
21 would have been -- like each one would have different
22 questions put to me in regards to this, so each one would
23 be an individual matter, shall we say.

24 **MR. THOMPSON:** One other example would be
25 when you had the meeting with defence counsel and you had

1 the note that you were asked questions, or that officers
2 were asked questions but you couldn't remember the
3 questions they were asked and the answers that you gave.
4 And that was a pretty significant event, wasn't it, that
5 meeting with defence counsel?

6 **MR. DUPUIS:** I think, as I testified, sir,
7 most of the discussion was between Inspector Smith and
8 Inspector Hall with Mr. Campbell and Mr. Skurka at that
9 time.

10 **MR. THOMPSON:** I understand that, but I
11 think the way I understood your evidence is that you had a
12 note that you had been asked those questions but you
13 couldn't remember what the content of the discussion was,
14 and then that's why we went to the transcript today; to
15 help you remember that.

16 **MR. DUPUIS:** Yes, sir.

17 **MR. THOMPSON:** Right. And that was a
18 reasonably significant event, that meeting, wasn't it? A
19 rather unusual event?

20 **MR. DUPUIS:** Yes, sir.

21 **MR. THOMPSON:** My question to you; might it
22 explain the fact and might it make sense that nothing was
23 done in respect to that discussion because there was
24 perhaps discussion of waiver but not a representation of
25 waiver?

1 **MR. DUPUIS:** That's logical, yes, sir.

2 **MR. THOMPSON:** And in any case, in terms of
3 your recollection, certainly my understanding is you never
4 thought that this was a formal and -- even if there was,
5 you never thought that there was some sort of formal and
6 binding waiver.

7 **MR. DUPUIS:** That's correct.

8 **MR. THOMPSON:** Final area, and I'll be brief
9 on this, is your conspiracy to obstruct justice
10 investigation. Do you remember that?

11 **MR. DUPUIS:** Yes, sir.

12 **MR. THOMPSON:** And you had prepared, I
13 believe it was, nine volumes of a Crown brief for that
14 investigation.

15 **MR. DUPUIS:** I believe it was nine volumes,
16 yes.

17 **MR. THOMPSON:** And that's more than an
18 ordinary investigation, isn't it, that amount of material?

19 **MR. DUPUIS:** I believe there was even more
20 material than that.

21 **MR. THOMPSON:** Okay.

22 **MR. DUPUIS:** I think if you check the
23 correspondence with Mr. McConnery to probably Inspector
24 Hall, I think it's listed in there in a more voluminous ---

25 **MR. THOMPSON:** I have reviewed that letter

1 and you're absolutely correct that there is -- a greater
2 amount was taken into consideration than those nine
3 volumes, and it's my understanding there was -- that was at
4 least the original disclosure was the nine volumes.

5 MR. DUPUIS: Yes.

6 MR. THOMPSON: I'm sorry, I shouldn't say
7 "disclosure," the Crown brief.

8 Now, I take it you'd agree with me that your
9 investigation of that matter was thorough and extensive.

10 MR. DUPUIS: I thought it was, yes, sir.

11 MR. THOMPSON: And after having conducted
12 that investigation you never formed subjective reasonable
13 and probable grounds?

14 MR. DUPUIS: That's correct.

15 MR. THOMPSON: And you know you can't lay
16 charges if you don't have reasonable and probable grounds?

17 MR. DUPUIS: That's correct, sir.

18 MR. THOMPSON: All right. Thank you,
19 Mr. Dupuis. Those are all my questions.

20 THE COMMISSIONER: Thank you.

21 Ms. Robitaille.

22 MS. ROBITAILLE: Good morning,
23 Mr. Commissioner.

24 THE COMMISSIONER: Good morning.

25 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

1 **MS. ROBITAILLE:**

2 **MS. ROBITAILLE:** Good morning, Detective
3 Dupuis. My name is Danielle Robitaille and I'm counsel
4 here for Jacques Leduc.

5 **MR. DUPUIS:** Yes, ma'am.

6 **MS. ROBITAILLE:** Last week you answered
7 questions about a woman whose moniker here at the Inquiry
8 is C-69. Do you recall her name?

9 **THE COMMISSIONER:** The clerk will bring the
10 -- just to make sure.

11 **MR. DUPUIS:** Okay, thank you.

12 **MS. ROBITAILLE:** You'll recall Detective
13 Dupuis that Mr. Lee asked you some questions regarding this
14 woman and you'd expressed your concerns regarding her
15 mental fragility. Do you recall answering those questions?

16 **MR. DUPUIS:** Yes.

17 **MS. ROBITAILLE:** You interviewed this woman
18 in respect of her allegations against Father Major. Is
19 that right?

20 **MR. DUPUIS:** There was an interview, yes.

21 **MS. ROBITAILLE:** She also told you at that
22 time, when you spoke to her, that she had entered into a
23 settlement with the assistance of my client, Mr. Leduc?

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

25 **MS. ROBITAILLE:** If we could turn up

1 Document 103411 -- it's a cross document.

2 **THE COMMISSIONER:** Thank you. Exhibit 2651
3 is a document entitled "Project Truth: Conspiracy to
4 Obstruct Justice. Allegations of Constable Perry Dunlop,
5 Cornwall Police Service."

6 --- **EXHIBIT NO./PIÈCE NO. P-2651:**

7 (103411) - Conspiracy to Obstruct Justice:
8 Allegations of Constable Perry Dunlop,
9 'Project Truth' dated 26 Jul 01

10 **MS. ROBITAILLE:** Now, Detective Dupuis, this
11 is a portion of your Crown brief for this conspiracy to
12 obstruct justice investigation. Is that right? Does that
13 look right to you?

14 **MR. DUPUIS:** I'd have to go through the
15 document but I'll concede to your advice on this then,
16 shall we say.

17 **MS. ROBITAILLE:** If you flip to page 64 of
18 the document -- actually it's Bates page 683 Front.

19 **THE COMMISSIONER:** It's the third-last page,
20 sir.

21 **MS. ROBITAILLE:** Are you there, sir?

22 **MR. DUPUIS:** I believe I am.

23 **MS. ROBITAILLE:** This is the letter from
24 Jacques Leduc to Mike Seguin, and he's appended a document,
25 or three different copies of the same document. Do you see

1 that?

2 MR. DUPUIS: You lost me.

3 MS. ROBITAILLE: If you could keep flipping
4 through ---

5 MR. DUPUIS: Oh, okay.

6 MS. ROBITAILLE: --- the rest.

7 And if you flip to the very last page, it
8 says "reçu et quittance". Do you see that? And there's an
9 English translation there.

10 MR. DUPUIS: The top is that what the --
11 what you're referring to?

12 MS. ROBITAILLE: Yeah.

13 MR. DUPUIS: "Receipt and discharge"?

14 MS. ROBITAILLE: That's right.

15 MR. DUPUIS: Okay.

16 MS. ROBITAILLE: Are you aware, sir, that
17 this is the release that C-69 signed in respect of her
18 settlement with the Québec Diocese?

19 THE COMMISSIONER: Mr. Lee?

20 MR. LEE: I think that might more properly
21 be put that "according to Mr. Leduc, this is the..."

22 THE COMMISSIONER: M'hm. Do you accept
23 that?

24 MS. ROBITAILLE: Sure.

25 THE COMMISSIONER: Okay.

1 **MR. DUPUIS:** And your question, ma'am, is
2 what?

3 **MS. ROBITAILLE:** Are you aware that this is
4 the release signed by C-69 in respect of her settlement
5 with the Québec Diocese that she spoke to you about?

6 **THE COMMISSIONER:** Well, that's not quite
7 what Mr. Lee's objection was.

8 **MS. ROBITAILLE:** Sorry, you're right. That
9 ---

10 **THE COMMISSIONER:** Have you ever seen these
11 documents?

12 **MR. DUPUIS:** I don't recall them, Your
13 Honour. And I don't speak French so I -- I don't know what
14 they'd contain except for the one that's been translated,
15 and I assume it's been translated properly.

16 **MS. ROBITAILLE:** That's fine. I'll move on.
17 Do you recall last week we also spoke about
18 a woman by the name of Helene Jones, an ex-secretary of
19 Jacques Leduc?

20 **MR. DUPUIS:** Yes.

21 **MS. ROBITAILLE:** Do you recall when you took
22 a statement from her that she couldn't recall who drafted
23 the document -- the settlement document?

24 **MR. DUPUIS:** Yes.

25 **MS. ROBITAILLE:** She couldn't recall one way

1 or another whether she had typed it or not?

2 MR. DUPUIS: That's correct.

3 MS. ROBITAILLE: We talked a bit about the
4 nine volumes that you put together in respect of this
5 conspiracy investigation and you just testified that there
6 was even additional material that was forwarded to the
7 Crown on this matter?

8 MR. DUPUIS: He was -- yes, he had other
9 material in regards to this.

10 MS. ROBITAILLE: And that it was -- it
11 wasn't a passive process in the sense that you were
12 submitting material to Crown McConnery and he was reviewing
13 it passively, it was he reviewed the material and he would
14 submit requests for additional material. Is that right?

15 MR. DUPUIS: That's correct.

16 MS. ROBITAILLE: If you recall, Mr. Dumais -
17 - and this was some time ago -- Mr. Dumais asked you
18 whether the Helene Jones statement was included in the
19 conspiracy brief and you had answered that you believed it
20 had been included?

21 MR. DUPUIS: I believe it was, yes.

22 MS. ROBITAILLE: If we could go to Document
23 116281. I gave late notice of this document and I have
24 copies. I'm told it's Exhibit 2631. My apologies.

25 (SHORT PAUSE/COURTE PAUSE)

1 **MS. ROBITAILLE:** Are you there?

2 **MR. DUPUIS:** Yes.

3 **MS. ROBITAILLE:** If you could flip to the
4 third page which is the Index for volume 3.

5 **MR. DUPUIS:** Yes.

6 **MS. ROBITAILLE:** Do you see a little below
7 the middle of the page there is the name Helene Jones? Do
8 you see that?

9 **MR. DUPUIS:** On ---

10 **THE COMMISSIONER:** You may be on the wrong
11 page. It's on the screen, sir.

12 **MR. DUPUIS:** Yes.

13 **MS. ROBITAILLE:** And do you see it says
14 beside Helene Jones' name, "423(a) to 423(g)"?

15 **MR. DUPUIS:** Yes.

16 **MS. ROBITAILLE:** So it looks as though her
17 statement is slipped into the brief, possibly as the last
18 statement?

19 **MR. DUPUIS:** Yes.

20 **THE COMMISSIONER:** I don't understand what
21 you mean by that, "slipped into the brief"?

22 **MS. ROBITAILLE:** The pagination would
23 indicate that ---

24 **THE COMMISSIONER:** Oh, okay. If it came in
25 a little later and they put it in, right. Okay.

1 **MS. ROBITAILLE:** The next document I'd like
2 to turn to is 702458 and the OPPA gave notice of this
3 document. I have copies. I don't know ---

4 **(SHORT PAUSE/COURTE PAUSE)**

5 **THE COMMISSIONER:** Thank you.

6 Exhibit 2652 is a letter addressed to the
7 Regional Director of Crown Attorneys, Lorne McConnery, July
8 4th, 2001, and from Inspector Hall.

9 **--- EXHIBIT NO./PIÉCE NO. P-2652:**

10 (702458) - Letter from Pat Hall to Lorne
11 McConnery re: Project Truth - dated July 4,
12 2001

13 **MS. ROBITAILLE:** Detective Dupuis, if you
14 could just look under kind of the heading "Volume 7: New
15 Index" and you see that your name is included there, your
16 Will Say and "Notes of Detective Constable Joe Dupuis". Do
17 you see that?

18 **MR. DUPUIS:** That's correct.

19 **MS. ROBITAILLE:** And so it looks like your
20 Will Say in respect of the conspiracy investigation was
21 forwarded to Crown McConnery?

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

23 **MS. ROBITAILLE:** You've been questioned at
24 some length about your R&PG in respect of this
25 investigation and your decision to not lay charges. I

1 believe your evidence to the CCR last week was -- the
2 evidence just wasn't there to lay additional charges?

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

4 **MS. ROBITAILLE:** And after your
5 investigation, the Crown came to a similar conclusion?

6 **MR. DUPUIS:** Yes.

7 **MS. ROBITAILLE:** And so no charges were laid
8 against Jacques Leduc ---

9 **MR. DUPUIS:** That's ---

10 **MS. ROBITAILLE:** --- with respect to this
11 conspiracy?

12 **MR. DUPUIS:** --- that's correct.

13 **MS. ROBITAILLE:** Thank you.

14 **THE COMMISSIONER:** Mr. Sherriff-Scott?

15 **MR. SHERRIFF-SCOTT:** Yes, thank you.

16 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE BY MR. D.
17 SHERRIFF-SCOTT:

18 **MR. SHERRIFF-SCOTT:** There's just so many
19 transcripts, I only need to refer to a few, but there are
20 different briefs and so ---

21 **THE COMMISSIONER:** It's a lot of trees.

22 **MR. SHERRIFF-SCOTT:** That's unfortunate.

23 Anyway, I have some extra documents. I'm
24 just going to give these to the Clerk in the order of which
25 I'm going to present them ---

1 **THE COMMISSIONER:** Thank you.

2 **MR. SHERRIFF-SCOTT:** --- so there are six
3 copies of each of them.

4 Good morning, sir. I'm David Sherriff-
5 Scott. I represent the Diocese in Cornwall.

6 **MR. DUPUIS:** Yes, sir.

7 **MR. SHERRIFF-SCOTT:** Commissioner, good
8 morning, sir.

9 **MR. DUPUIS:** Good morning.

10 **MR. SHERRIFF-SCOTT:** I have a few points I
11 want to cover with you. Some of it relates to exchange of
12 materials between yourself conducting the investigation in
13 the conspiracy matter, and the Father MacDonald matter, and
14 the Diocese's requests for information were made by you,
15 responses were given and we'll just canvass that. And
16 there are as well a couple of other points I want to talk
17 to you about.

18 The first thing I want to talk to you about
19 is C-69 which you've canvassed a bit with a few of the
20 counsel here. Now, you interviewed that person once;
21 correct?

22 **THE COMMISSIONER:** Is it clear in your mind
23 who we're talking about?

24 **MR. DUPUIS:** Yes.

25 **THE COMMISSIONER:** Okay.

1 **MR. SHERRIFF-SCOTT:** And you attempted on a
2 number of subsequent occasions to get a statement from that
3 individual?

4 **MR. DUPUIS:** I know I had more than one
5 contact with that person.

6 **MR. SHERRIFF-SCOTT:** Absolutely. On
7 multiple occasions you endeavoured to get a statement from
8 this person?

9 **MR. DUPUIS:** Yes.

10 **MR. SHERRIFF-SCOTT:** Okay. And you didn't
11 get one then and you never got one?

12 **MR. DUPUIS:** That's correct.

13 **MR. SHERRIFF-SCOTT:** All right. Now, sir,
14 if we can turn up -- which is a document on which I gave
15 notice. It's not in that package. It is a new document,
16 Commissioner; it is Document 712167.

17 **THE COMMISSIONER:** Thank you. Exhibit 2653
18 is a document entitled, "Follow Up." Is it -- yes. The
19 doctor's name is fine, Dr. Norman Lauzon; date of
20 interview, 28th of September 2000.

21 **---EXHIBIT NO./PIÈCE NO P-2653:**

22 (712167) - Follow Up re: C-69 dated
23 28 Sep 00

24 **MR. SHERRIFF-SCOTT:** C-69's name is on the
25 document.

1 **THE COMMISSIONER:** Yes, so a publication
2 stamp.

3 **MR. SHERRIFF-SCOTT:** Thank you, sir. Do you
4 have that, sir?

5 **MR. DUPUIS:** Yes, sir.

6 **MR. SHERRIFF-SCOTT:** Just scan that for a
7 moment?

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **MR. SHERRIFF-SCOTT:** Have you read that?

10 **MR. DUPUIS:** Yes, sir.

11 **MR. SHERRIFF-SCOTT:** And does that help
12 refresh your memory, sir, that this is the information,
13 basically, which terminated the efforts the OPP made to get
14 further information from C-69?

15 **MR. DUPUIS:** That would be logical; yes,
16 sir.

17 **MR. SHERRIFF-SCOTT:** Okay. And when you
18 were questioned by my friend, Mr. Lee, you indicated, in
19 part, that you had concerns about some of the credibility
20 of the allegations and, when he asked you about her fragile
21 state, you said that might have driven your conclusion, at
22 least in part?

23 **MR. DUPUIS:** Yes, sir.

24 **MR. SHERRIFF-SCOTT:** Okay. I suggest there
25 were other reasons as well?

1 **MR. DUPUIS:** There may have been, sir, but I
2 don't recall what.

3 **MR. SHERRIFF-SCOTT:** For example, there were
4 a wide variety of allegations contained in the information
5 you got from this individual?

6 **MR. DUPUIS:** Yes, there was.

7 **MR. SHERRIFF-SCOTT:** All right. And there
8 was a concern about some of the credibility relating to
9 those allegations?

10 **MR. DUPUIS:** Yes, sir, there was.

11 **MR. SHERRIFF-SCOTT:** Okay, thank you. Now,
12 if we can just turn to a few points, sir, about exchanges
13 of information between the Diocese and you, as the lead
14 investigator, particularly in relation to the conspiracy
15 matter, but also Father MacDonald's case?

16 The first thing I want to do, just to give
17 you some context here, is turn up Exhibit 2611, your notes,
18 and, in particular, Bates pages 523, 524. Let's start at
19 524, if you have that? And I'd like to call your
20 attention, sir, to the 1400 time entry.

21 **MR. DUPUIS:** Yes, sir.

22 **MR. SHERRIFF-SCOTT:** And it talks about your
23 meeting Bishop LaRocque.

24 **MR. DUPUIS:** Yes, sir.

25 **MR. SHERRIFF-SCOTT:** Have you read that sir?

1 **MR. DUPUIS:** I'm starting to, sir.

2 **MR. SHERRIFF-SCOTT:** Okay, take your time.

3 **(SHORT PAUSE/COURTE PAUSE)**

4 **MR. DUPUIS:** Yes, sir?

5 **MR. SHERRIFF-SCOTT:** So you were asking the
6 Bishop to disclose a variety of pieces of information that
7 were relevant to your investigation, sir?

8 **MR. DUPUIS:** Yes, sir.

9 **MR. SHERRIFF-SCOTT:** And you refer therein
10 to a memo dated July 22, do you see that, 1999? It's about
11 halfway through your handwritten entries.

12 **MR. DUPUIS:** Yes, sir.

13 **MR. SHERRIFF-SCOTT:** And if we can hand up
14 and mark the first document, 710512, a 22 July '99 letter
15 to the Diocese? The Court Registrar will give you the
16 document in a second.

17 **MR. DUPUIS:** Thank you.

18 **MR. SHERRIFF-SCOTT:** It's the first one on
19 the pile.

20 **THE COMMISSIONER:** Thank you. Exhibit 2654
21 is a letter dated the 22nd of July 1999 addressed to the
22 Diocese of Alexandria-Cornwall, attention Bishop LaRocque,
23 from Detective Inspector Hall.

24 **---EXHIBIT NO./PIÈCE NO P-2654:**

25 (710512) - Letter from Pat Hall to

1 Eugène LaRocque dated 22 Jul 99

2 **MR. SHERRIFF-SCOTT:** Do you see that, sir?

3 **MR. DUPUIS:** Yes, sir.

4 **MR. SHERRIFF-SCOTT:** Just scan that for a
5 moment. And my point, that I just want you to confirm,
6 that these are some of the similar subjects that are raised
7 in your note and this is the memo to which you've referred?

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **MR. DUPUIS:** Yes, sir.

10 **MR. SHERRIFF-SCOTT:** Okay. And this
11 document you present to the Bishop when you met with him, I
12 take it, when you were requesting information? You wanted
13 to formally give him something to take away, to respond to?

14 **MR. DUPUIS:** Sir, I think at this time I was
15 more than likely assisting Inspector Hall ---

16 **MR. SHERRIFF-SCOTT:** Absolutely.

17 **MR. DUPUIS:** --- and Inspector Hall may have
18 been the one -- the author of these questions.

19 **MR. SHERRIFF-SCOTT:** He probably was; he
20 signed the letter, it seems.

21 **MR. DUPUIS:** He signed the letter, so ---

22 **MR. SHERRIFF-SCOTT:** But the date of July
23 22nd is consistent with your meeting date with the Bishop,
24 right?

25 **MR. DUPUIS:** That's correct.

1 **MR. SHERRIFF-SCOTT:** You refer to the memo?

2 **MR. DUPUIS:** It's in my notes, but I -- I
3 believe Inspector Hall was doing the discussion ---

4 **MR. SHERRIFF-SCOTT:** Okay.

5 **MR. DUPUIS:** --- between Bishop LaRocque ---

6 **MR. SHERRIFF-SCOTT:** Nothing turns on that
7 as much as the fact that the memo was in play and you were
8 seeking information and this reflects the requests that
9 were in traffic on that day.

10 **MR. DUPUIS:** Yes, sir.

11 **MR. SHERRIFF-SCOTT:** Is that fair?

12 **MR. DUPUIS:** Yes, sir.

13 **MR. SHERRIFF-SCOTT:** Okay, all right. And
14 these requests were answered by the Diocese, sir?

15 **MR. DUPUIS:** I believe they were, yes.

16 **MR. SHERRIFF-SCOTT:** Okay, fine. Now, your
17 notes also refer to the fact that on a specific day -- this
18 is Exhibit 2611, Bates 526 and 27 -- you picked up a
19 variety of pieces of paper from the Diocese? If we just
20 turn that up, briefly, and it's actually your entry on
21 Bates page 527, at 11:20?

22 **MR. DUPUIS:** Yes, sir.

23 **MR. SHERRIFF-SCOTT:** Just have a peek at
24 that, sir, just to confirm that you were there, picking up
25 materials from the Bishop?

1 **MR. DUPUIS:** Yes, sir.

2 **MR. SHERRIFF-SCOTT:** All right. And we have
3 various envelopes and materials that confirm what you got,
4 and I just want to give you the documents.

5 That's the next document, Madam Clerk, which
6 is already marked as an exhibit, I believe, 2036, but
7 copies are there in the event that it's needed. It is the
8 September 11th minute.

9 **THE COMMISSIONER:** What's the exhibit
10 number?

11 **MR. SHERRIFF-SCOTT:** Two zero three six
12 (2036), Commissioner.

13 **THE COMMISSIONER:** I don't have it. The
14 binder isn't there. We'll use these for the time being,
15 okay.

16 **MR. SHERRIFF-SCOTT:** Now, a lot of water has
17 gone under the bridge, sir, since you got these documents,
18 but what you were looking for at the time, as I apprehend
19 from your notes, were materials relating to the question of
20 September 11th of 1978, because that was the date on which
21 C-8 alleged he was abused by Father MacDonald at a
22 particular event? Does that accord with your recollection,
23 sir?

24 **MR. DUPUIS:** I believe I recall who C-8 is,
25 but could I possibly get confirmation on ---

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

2 **MR. DUPUIS:** --- that, please?

3 **MR. SHERRIFF-SCOTT:** There should be a list
4 there. I have mine, but I don't want to tell C-8.

5 **THE COMMISSIONER:** Oh, yes. Yes, yes, yes.

6 **MR. DUPUIS:** Thank you.

7 **THE COMMISSIONER:** Thank you.

8 **MR. SHERRIFF-SCOTT:** Is that right, sir?

9 **MR. DUPUIS:** Yes.

10 **MR. SHERRIFF-SCOTT:** Okay. So this is one
11 of the documents you picked up from the Diocese? And it
12 relates to the date of the allegation of C-8, correct?

13 **MR. DUPUIS:** I believe so, sir.

14 **MR. SHERRIFF-SCOTT:** Okay. And the next
15 document -- there are three, sir, so I just want to try and
16 get through these as rapidly as we can -- as the next
17 document on the pile, Madam Registrar, 710514 and this is a
18 parish bulletin of the same date.

19 **THE COMMISSIONER:** Thank you.

20 Exhibit 2655 is a parish bulletin, Apple
21 Hill, September 10th, 1978.

22 **--- EXHIBIT NO./PIÈCE NO. P-2655:**

23 (710514) - St-Anthony's - St. Michael
24 Parish Bulletin dated 11 Sep to 17 Sept

25 **MR. SHERRIFF-SCOTT:** Sir, that covers the

1 week of September 11th to the 17th of the relevant year of C-
2 8's allegations.

3 **MR. DUPUIS:** Yes, sir.

4 **MR. SHERRIFF-SCOTT:** Yes. And this is
5 another document you picked up from the Diocese on the same
6 date.

7 **MR. DUPUIS:** That's correct.

8 **MR. SHERRIFF-SCOTT:** Okay. And the last
9 document that was in the piece, in terms of the package you
10 picked up, was 710563, Madam Registrar, which is the next
11 in the pile.

12 **THE COMMISSIONER:** Thank you.

13 Exhibit 2656 -- what do we call these?

14 **MR. SHERRIFF-SCOTT:** We call it the priest
15 card of Charles MacDonald's.

16 **THE COMMISSIONER:** Very good. Thank you.

17 --- EXHIBIT NO./PIÈCE NO. P-2656:

18 (710563) - Priest Card of Charles
19 MacDonald

20 **MR. SHERRIFF-SCOTT:** Do you have that, Mr.
21 Dupuis?

22 **MR. DUPUIS:** Yes, sir.

23 **MR. SHERRIFF-SCOTT:** And that's the third
24 document you picked up?

25 **MR. DUPUIS:** Yes, sir. It looks ---

1 **MR. SHERRIFF-SCOTT:** And some of these
2 documents you later sent to forensics for analysis, didn't
3 you, to determine their authenticity? I'll get to it, but
4 ---

5 **MR. DUPUIS:** Yes, sir. I believe I wanted
6 to see if the ink would fall into those made at this ---

7 **MR. SHERRIFF-SCOTT:** And there was no
8 negative conclusion coming back? In other words, the
9 forensic analysis demonstrated that the documents, to the
10 extent that they were able to say, had not been altered in
11 any way.

12 **MR. DUPUIS:** That's correct, sir.

13 **MR. SHERRIFF-SCOTT:** Okay. And you were
14 looking to make sure these documents were accurate at the
15 directive of the Crown because the date and the place of
16 Father MacDonald's postings were important. Correct?

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

18 **MR. SHERRIFF-SCOTT:** And these documents
19 corroborated, at least in part, his story that he wasn't at
20 the place C-8 said he was?

21 **MR. DUPUIS:** That's correct.

22 **MR. SHERRIFF-SCOTT:** That's correct. And as
23 we now know, C-8's allegation was withdrawn as being a
24 falsehood?

25 **MR. DUPUIS:** That's correct.

1 **MR. SHERRIFF-SCOTT:** Right. So these
2 objective corroborating pieces of information, you obtained
3 and verified?

4 **MR. DUPUIS:** That's correct, sir.

5 **MR. SHERRIFF-SCOTT:** All right.

6 Now the next document, sir, is -- Madam
7 Clerk, it's on a pile, 710364.

8 And Madam Registrar, you might as well give
9 him the next document, 710366.

10 Commissioner, these are one -- it's one
11 document but the sequence in the database differentiates.

12 **THE COMMISSIONER:** Thank you.

13 Exhibit 2657 are photographs of residents
14 located at 36 Fourth Street, Cornwall -- Fourth Street
15 West. Okay.

16 **--- EXHIBIT NO./PIÈCE NO. P-2657:**

17 (710364) - Title Page of Photographs
18 taken by Joe Dupuis dated 09 Aug 99

19 **THE COMMISSIONER:** And 2658 are photographs.

20 **--- EXHIBIT NO./PIÈCE NO. P-2658:**

21 (710366) - Photographs taken by Joe Dupuis

22 **MR. THOMPSON:** Sir, I just want you to look
23 at this, verify that you were -- that you requested access
24 to this location pursuant to the investigation you were
25 conducting.

1 **MR. DUPUIS:** That's correct, sir.

2 **MR. SHERRIFF-SCOTT:** The Diocese cooperated;
3 you got there, you took the photographs?

4 **MR. DUPUIS:** That's correct, sir.

5 **MR. SHERRIFF-SCOTT:** Okay. Thank you.

6 Next document, Madam Registrar, 710238, is
7 an interview report of Sister Jeannine Bissonette, which
8 was conducted by you, so it appears.

9 **THE COMMISSIONER:** Thank you.

10 Exhibit 2659 is an interview report of
11 Sister Jeannine Bissonette. The date of the interview is
12 the 18th of August 1999.

13 **--- EXHIBIT NO./PIÈCE NO. P-2659:**

14 (710238) - Interview Report of Sister
15 Jeannine Bissonette dated 18 Aug 99

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

17 Do you see that, sir?

18 **MR. DUPUIS:** Yes, sir.

19 **MR. SHERRIFF-SCOTT:** And this again, if you
20 look down to about a third of the way through the bullets
21 which summarize the points that you talked to her about,
22 you're seeking information again about September 11th,
23 relating to C-8's allegations. Correct?

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

25 **MR. SHERRIFF-SCOTT:** And as we can see from

1 the next document, Madam Registrar, 710515, she gave you a
2 calendar again corroborating Father MacDonald's position.
3 In any event, she was cooperative with you.

4 **MR. DUPUIS:** That's correct, she was.

5 **MR. SHERRIFF-SCOTT:** Okay. And we'll just
6 mark that document and show it to you, sir.

7 **THE COMMISSIONER:** Thank you.

8 Exhibit 2670 (sic) is a calendar with the
9 month of September, 1978.

10 **--- EXHIBIT NO./PIÈCE NO. P-2660:**

11 (710515) Calendar Page of the month of
12 Sept 78

13 **MR. SHERRIFF-SCOTT:** You have no dispute
14 with the fact, sir, I don't need to layer the record with
15 paper, that you sent some of this material to forensic.
16 The report came back and indicated no alteration. Is that
17 right?

18 **MR. DUPUIS:** If memory serves me right,
19 that's correct.

20 **MR. SHERRIFF-SCOTT:** Okay.

21 **THE COMMISSIONER:** To which document now,
22 the calendar?

23 **MR. SHERRIFF-SCOTT:** I have the forensic
24 reports and so forth, but I don't need to paper the record,
25 sir.

1 **THE COMMISSIONER:** No.

2 **MR. SHERRIFF-SCOTT:** He's got -- he's given
3 me the admission and that's ---

4 **THE COMMISSIONER:** No, but -- forensic of
5 what?

6 **MR. SHERRIFF-SCOTT:** Yes. The forensic
7 centre was sent the curriculum vitae or the priest card and
8 the senate of priest's minute meeting for analysis at the
9 request of the Crown and it came back indicating there were
10 no alterations. There are a number of documents to that
11 effect. The witness has given us the overview.

12 Thank you, sir.

13 The next is an interview, sir, of Verna
14 MacDonald, who was actually Charles MacDonald's secretary.
15 And that is Document Number 710289.

16 That should be next on the pile if you take
17 the forensic centre documents off. That's it. Thank you.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **THE COMMISSIONER:** Thank you.

20 Two-six-seven-one (2671) (sic) is an
21 interview of Verna MacDonald, date of the interview 25th of
22 August, 1999.

23 **--- EXHIBIT NO./PIÈCE NO. P-2661:**

24 (710289) - Interview Report of Verna
25 MacDonald dated 25 Aug 99

1 **MR. SHERRIFF-SCOTT:** And she gave you a
2 statement or you interviewed her and she was cooperative
3 with your request, sir; was she not?

4 **MR. DUPUIS:** Yes.

5 **MR. SHERRIFF-SCOTT:** Okay. Fine.

6 Now the next document, Madam Registrar, is
7 710492, and 493 are the photographs.

8 **(SHORT PAUSE/COURTE PAUSE)**

9 **THE COMMISSIONER:** Exhibit Number 2672 (sic)
10 is a photograph list taken by Officer Dupuis and Exhibit
11 2673 -- 2673 (sic) are the photographs.

12 --- **EXHIBIT NO./PIÈCE NO. P-2662:**

13 (710492) - Photograph List taken by Joe
14 Dupuis of St. Michael's Church

15 --- **EXHIBIT NO./PIÈCE NO. P-2663:**

16 (710493) - Photographs taken by Joe
17 Dupuis of St. Michael's Church

18 **MR. SHERRIFF-SCOTT:** These are photographs
19 you took, sir, and this is the list of them prepared by
20 you?

21 **MR. DUPUIS:** I took a number of photographs.

22 **MR. SHERRIFF-SCOTT:** Let's just look at the
23 list. It has your name attached to it. I assume that
24 therefore you would have prepared it.

25 **MR. DUPUIS:** Oh, okay. Okay, sir. I just

1 didn't know.

2 **MR. SHERRIFF-SCOTT:** And in your files, from
3 which we got this, this is what's attached to it, that is
4 to say, the second document, which are the photographs,
5 Exhibit 2673 (sic).

6 **MR. DUPUIS:** Yes, sir.

7 **MR. SHERRIFF-SCOTT:** And you remember taking
8 photographs and receiving cooperation from Diocesan
9 officials about taking them. Isn't that fair?

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

11 **MR. SHERRIFF-SCOTT:** All right.

12 And then just two more points on documents,
13 sir. There were a number of scale drawings prepared of the
14 Apple Hill location?

15 **MR. DUPUIS:** I believe that was prepared by
16 Long Sault ---

17 **MR. SHERRIFF-SCOTT:** They had an expert out
18 there.

19 **MR. DUPUIS:** --- identification officer, and
20 I can't ---

21 **MR. SHERRIFF-SCOTT:** Yes. Well, let's just
22 look.

23 **MR. DUPUIS:** --- recall his name.

24 **MR. SHERRIFF-SCOTT:** I know the officer's
25 name is in your notes, sir. And your notes indicate you

1 went out there with him and the Diocese facilitated you
2 basically having a surveyor there, to completely analyze
3 the layout and prepare scale drawings.

4 **MR. DUPUIS:** That's correct.

5 **MR. SHERRIFF-SCOTT:** Okay. So let's just
6 mark the drawings, 710541.

7 There, so they should be one or two down.
8 That's the first one there. You can take that. Yes, thank
9 you.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **THE COMMISSIONER:** Thank you.
12 Exhibit 2674 (sic) are diagrams of -- is it
13 Apple Hill?

14 **MR. SHERRIFF-SCOTT:** Yes.

15 **THE COMMISSIONER:** Of Apple Hill Catholic
16 Church.

17 **--- EXHIBIT NO./PIÈCE NO. P-2664:**

18 (710541) - Diagrams of Apple Hill
19 Catholic Church

20 **MR. SHERRIFF-SCOTT:** Those are the scale
21 drawings that were prepared at your request?

22 **MR. DUPUIS:** They appear to be, yes.

23 **MR. SHERRIFF-SCOTT:** Yes.

24 All right. And lastly, in terms of
25 documentation, there were a large number of photographs

1 taken of the parish house at St. Anthony's in Apple Hill.

2 And that, Madam Registrar, if you can just
3 give the officer the photograph package, 710545, towards
4 the end? It's the large one there.

5 (SHORT PAUSE/COURTE PAUSE)

6 THE COMMISSIONER: Thank you.

7 So Exhibit 2665, a number of photographs --
8 of where again?

9 MR. SHERRIFF-SCOTT: St. Anthony's Parish
10 House in Apple Hill.

11 THE COMMISSIONER: Thank you.

12 --- EXHIBIT NO./PIÈCE NO. 2665:

13 Photographs of St. Anthony's Parish House

14 MR. SHERRIFF-SCOTT: Now, your notes
15 indicate, sir, that you arranged appointments with Father
16 Cameron, you went out there and you basically photographed
17 this place inside and out?

18 MR. DUPUIS: I believe the ident officer was
19 the actual author of these photographs.

20 MR. SHERRIFF-SCOTT: But he would have done
21 that under your direction?

22 MR. DUPUIS: I think I was with him when he
23 did this.

24 MR. SHERRIFF-SCOTT: Okay, and these are
25 from your files, sir, so these are the photographs that

1 were taken at the parish house?

2 MR. DUPUIS: That's correct.

3 MR. SHERRIFF-SCOTT: All right. Thank you.

4 Now, so in your interactions with the
5 Diocese, sir, you received cooperation? Your requests were
6 answered?

7 MR. DUPUIS: The request I made they
8 complied with.

9 MR. SHERRIFF-SCOTT: Okay. Thank you. Now,
10 just coming to another subject.

11 You were asked about the timelines and
12 synopsis and materials in the conspiracy investigation
13 which formed part of the Crown brief prepared by the OPP.
14 Do you remember those questions?

15 MR. DUPUIS: Yes, sir.

16 MR. SHERRIFF-SCOTT: And one of the
17 documents was the timeline itself that you indicated you
18 had prepared?

19 MR. DUPUIS: Yes, sir.

20 MR. SHERRIFF-SCOTT: And that's Exhibit
21 2248A, if we could turn that up.

22 So you were tasked with preparing this
23 document?

24 MR. DUPUIS: Yes, sir.

25 MR. SHERRIFF-SCOTT: All right. And Mr.

1 Dumais asked you some questions about it, perhaps why
2 didn't it contain various elements in the timeline. He
3 asked you about that. Do you remember?

4 **MR. DUPUIS:** Yes, sir.

5 **MR. SHERRIFF-SCOTT:** Notwithstanding the
6 fact that it didn't contain everything, I take it that it's
7 one piece of the material put forward to the Crown for its
8 consideration and review?

9 **MR. DUPUIS:** That's correct, sir.

10 **MR. SHERRIFF-SCOTT:** And you were involved,
11 at least in these elements, which may explain why you did
12 this document.

13 **MR. DUPUIS:** Yes, sir.

14 **MR. SHERRIFF-SCOTT:** Is that fair?

15 **MR. DUPUIS:** Yes, sir.

16 **MR. SHERRIFF-SCOTT:** And you would have
17 given this your considered review. In other words, you
18 wouldn't have prepared this casually, would you?

19 **MR. DUPUIS:** No, sir.

20 **MR. SHERRIFF-SCOTT:** You would have given it
21 serious thought and consideration?

22 **MR. DUPUIS:** Yes, sir.

23 **MR. SHERRIFF-SCOTT:** This would have
24 reflected your view of the evidence in a considered way.
25 Is that fair?

1 **MR. DUPUIS:** Part of the evidence.

2 **MR. SHERRIFF-SCOTT:** Okay. The part of the
3 evidence to which it refers. Is that fair?

4 **MR. DUPUIS:** Yes, yes.

5 **MR. SHERRIFF-SCOTT:** All right.

6 You knew this was going to the Crown and
7 that they could make decisions, at least in part, based on
8 the document; fair?

9 **MR. DUPUIS:** That's correct.

10 **MR. SHERRIFF-SCOTT:** You knew that this
11 could be disclosed, at least in part, possibly to defence
12 counsel?

13 **MR. DUPUIS:** Yes, sir.

14 **MR. SHERRIFF-SCOTT:** So you knew you could
15 wind up being cross-examined on the document?

16 **MR. DUPUIS:** Yes, sir.

17 **MR. SHERRIFF-SCOTT:** All right, fair enough.
18 You gave it your serious thought, didn't you?

19 **MR. DUPUIS:** Yes, sir.

20 **MR. SHERRIFF-SCOTT:** All right.

21 Now, some of the information to which you
22 had access when you prepared this timeline is referred to
23 in Exhibit 2631, which is the Index of the conspiracy
24 investigation brief to the Crown. If we can just refer to
25 that for a moment. Do you have that, sir?

1 **MR. DUPUIS:** Yes, sir.

2 **MR. SHERRIFF-SCOTT:** And if you can flip to
3 the second page of that, let's just look at what you would
4 have had when you would have prepared your timeline. First
5 of all, you would have had the evidence of the civilian
6 witness, Richard Abell, and his notes; correct?

7 **MR. DUPUIS:** Yes.

8 **MR. SHERRIFF-SCOTT:** And you knew he was the
9 head of the CAS?

10 **MR. DUPUIS:** Yes.

11 **MR. SHERRIFF-SCOTT:** Next page. You would
12 have had two statements from Bishop LaRocque down at the
13 bottom of the next page?

14 **MR. DUPUIS:** Yes.

15 **MR. SHERRIFF-SCOTT:** And some other
16 materials from the Diocese; correct?

17 **MR. DUPUIS:** Yes.

18 **MR. SHERRIFF-SCOTT:** And then if we can
19 refer to Bates page 406, at the top of that page.

20 I'm sorry, I probably have a different
21 document.

22 **THE COMMISSIONER:** Yes.

23 **MR. SHERRIFF-SCOTT:** It's the civilian
24 witness list with Monsignor McDougald's reference. So if
25 you just go alphabetically, Madam Clerk, you'll find it.

1 **THE COMMISSIONER:** It's page 5.

2 **MR. SHERRIFF-SCOTT:** Page 5. Thank you,
3 Commissioner.

4 **THE COMMISSIONER:** No, on page 6 is where
5 you have Monsignor Donald McDougald's three statements.
6 Bates page 0931. Try that.

7 **MR. DUPUIS:** Yes, I have it. Thank you.

8 **MR. SHERRIFF-SCOTT:** Thank you.

9 You had his evidence as well, a variety of
10 statements from him?

11 **MR. DUPUIS:** The dates are -- his interview
12 dates are beside his name, I believe.

13 **MR. SHERRIFF-SCOTT:** Yes. There were early
14 investigation interviews from him and then later under your
15 watch. You see "Monsignor McDougald", sir?

16 **MR. DUPUIS:** Yes, sir. There appears to be
17 three different statements.

18 **MR. SHERRIFF-SCOTT:** Three statements. One
19 would have been under the auspice of the investigation by
20 Mr. Smith in '94, and two under the auspice of your
21 investigation later?

22 **MR. DUPUIS:** Yes, sir.

23 **MR. SHERRIFF-SCOTT:** Right. Okay. You had
24 that evidence.

25 And then if we can look to the next page,

1 you have extensive material from Officer Brunet, including
2 notes as well as interviews?

3 **MR. DUPUIS:** Yes, sir.

4 **MR. SHERRIFF-SCOTT:** Correct?

5 **MR. DUPUIS:** Yes, sir.

6 **MR. SHERRIFF-SCOTT:** And then finally we
7 have at the last page of the document -- you have various
8 materials from Mr. Shaver; correct?

9 **MR. DUPUIS:** Yes, sir.

10 **MR. SHERRIFF-SCOTT:** And one of those
11 includes the second interview to which you were taken the
12 other day, and in that interview -- I'm not sure if you'll
13 remember or not -- but there were questions of Officer
14 Shaver -- or Chief Shaver, about discussions he had with
15 Bishop LaRocque, and those questions were put to him by
16 you. Does that ring a bell?

17 **MR. DUPUIS:** Sorry, sir, I don't ---

18 **MR. SHERRIFF-SCOTT:** Well, let's just look
19 at the document and it will help you. It's Exhibit 1238 at
20 pages 19 and 20 of the statement.

21 **THE COMMISSIONER:** We'll get that for you.
22 Exhibit 1238, Madam Clerk. Thank you.

23 **MR. SHERRIFF-SCOTT:** Before we get there,
24 sir -- well, she'll hand that up to you, and if you can
25 just flip to those pages -- but just to ask you another

1 question.

2 When you would have prepared the timeline
3 that we just talked about, I assume that would reflect the
4 views of the team or is it just you?

5 **MR. DUPUIS:** Well, first of all, I don't
6 know when I completed that timeline. It may have been
7 prior to some of this information here.

8 **MR. SHERRIFF-SCOTT:** Well, all of this
9 predates it, I believe.

10 **MR. DUPUIS:** This timeline?

11 **MR. SHERRIFF-SCOTT:** Yes. I believe your
12 evidence was you completed the timeline for submission for
13 the Crown brief after you'd finished.

14 **MR. DUPUIS:** I'm not sure when I completed
15 it, to tell you the truth, sir. It did go into the Crown
16 brief, obviously.

17 **MR. SHERRIFF-SCOTT:** And you said you
18 submitted the Crown brief when, sir?

19 **MR. DUPUIS:** I don't recall the date, sir.

20 **MR. SHERRIFF-SCOTT:** Well, I think you
21 suggested -- my recollection of the record is that it was
22 after the dates of the interviews referred to here. That
23 is to say it was sometime in 2000.

24 **MR. DUPUIS:** That's very possible.

25 **MR. SHERRIFF-SCOTT:** Okay. So in 2000 you

1 would have had the interview material from Mr. Shaver ---

2 MR. DUPUIS: That ---

3 MR. SHERRIFF-SCOTT: --- as well as Officer
4 Brunet ---

5 MR. DUPUIS: That ---

6 MR. SHERRIFF-SCOTT: --- Bishop LaRocque and
7 Monsignor McDougald and Richard Abell?

8 MR. DUPUIS: That's correct, sir.

9 MR. SHERRIFF-SCOTT: Okay, fair enough.

10 Now, in 2000, assuming you finished this,
11 would the document of 2000 have expressed the views of the
12 team at that point-in-time? I mean, if there's significant
13 disagreement between you when you file this, is it going to
14 go in or ---

15 MR. DUPUIS: Everything that leaves our
16 office would have went through Inspector Hall. He would
17 have ---

18 MR. SHERRIFF-SCOTT: All right.

19 THE COMMISSIONER: Vetted?

20 MR. DUPUIS: --- vetted that ---

21 THE COMMISSIONER: Vetted. M'hm.

22 MR. DUPUIS: --- document before it left --
23 or those documents.

24 MR. SHERRIFF-SCOTT: So he's the team
25 leader?

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

2 **MR. SHERRIFF-SCOTT:** It gets his seal of
3 approval and he reviews it?

4 **MR. DUPUIS:** That's correct.

5 **MR. SHERRIFF-SCOTT:** So it expressed at
6 least your view; correct?

7 **MR. DUPUIS:** Correct.

8 **MR. SHERRIFF-SCOTT:** And Inspector Hall's
9 view; correct?

10 **MR. DUPUIS:** Correct.

11 **MR. SHERRIFF-SCOTT:** Now, if you had
12 prepared this timeline and the material in it had
13 significantly differed from the conclusions of Tim Smith,
14 would that -- that would have made you be even more
15 cautious in the way you expressed the conclusions in the
16 timeline, surely?

17 **MR. DUPUIS:** I'm not sure I understand your
18 question, sir.

19 **MR. SHERRIFF-SCOTT:** Well, let's say, for
20 example, in the timeline there was something that you wrote
21 down, having identified for us it represented your
22 considered view, that was different from the conclusion of
23 Tim Smith as you knew it to be?

24 **THE COMMISSIONER:** Back in '94.

25 **MR. SHERRIFF-SCOTT:** No, generally at the

1 moment.

2 **THE COMMISSIONER:** Oh, okay.

3 **MR. SHERRIFF-SCOTT:** Based on any matter.
4 For example, if there was some significant point in here
5 that you differed with Mr. Smith about, I suggest to you
6 that would have caused you to even be more considered in
7 your view of what you wrote down; do you understand what
8 I'm saying?

9 **MR. DUPUIS:** No, sir. I don't understand.

10 **MR. SHERRIFF-SCOTT:** It would have caused
11 you to be even more careful and thoughtful about the
12 preparation of a document if there was something in here
13 you knew was a subject on which Mr. Smith disagreed with
14 you?

15 **MR. DUPUIS:** No, sir.

16 **MR. SHERRIFF-SCOTT:** All right, I'm not
17 making myself clear which isn't unusual, but if there was
18 something in here about which Mr. Smith and you disagreed,
19 that would cause you when you wrote this and thought about
20 it to be even more careful in the way you expressed it?

21 **MR. DUPUIS:** No, sir, I don't believe so.

22 **MR. SHERRIFF-SCOTT:** Okay, well let me ask
23 you this. Is there anything in the timeline that you know
24 you disagreed with Mr. Smith about or that he disagreed
25 with you about?

1 **MR. DUPUIS:** No, sir.

2 **MR. SHERRIFF-SCOTT:** Okay, fine. Let's go
3 back to the timeline, and that's Exhibit 2248A, and I'd
4 like you to turn to the 8th of 10 pages at Bates page 692.

5 **THE COMMISSIONER:** Different ---

6 **MR. SHERRIFF-SCOTT:** Okay, sorry, page 8 of
7 10 in my brief.

8 **THE COMMISSIONER:** All right, so 0934.

9 **MR. DUPUIS:** Do I have that?

10 **THE COMMISSIONER:** You've got -- this is
11 still your exhibit. It's Exhibit 2631.

12 **MR. SHERRIFF-SCOTT:** No, I'm sorry,
13 Commissioner. I'm on 2248A.

14 **THE COMMISSIONER:** Oh, I'm sorry.

15 **MR. SHERRIFF-SCOTT:** I'm going back to the
16 timeline.

17 **THE COMMISSIONER:** That is the timeline. Oh
18 no that's not, sorry.

19 **MR. SHERRIFF-SCOTT:** So do you have the
20 exhibit, sir; it's your timeline?

21 **MR. DUPUIS:** I'm having trouble, difficulty.

22 **MR. SHERRIFF-SCOTT:** Okay, just take your
23 time and find it.

24 **THE COMMISSIONER:** Madam Clerk, can you give
25 him a hand.

1 **MR. DUPUIS:** I could possibly go off of the
2 monitor, if that's -- assists anybody.

3 **THE COMMISSIONER:** Oh no, we'll see where it
4 is, first of all.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. DUPUIS:** Yes, sir, sorry.

7 **MR. SHERRIFF-SCOTT:** Okay. So what I'd like
8 you to do is turn to the 8th of 10 ten pages. You see on
9 the right bottom it says page 8 or page 1 of 10, 2 of 10.
10 So turn to page 8 of 10. And there are two references in
11 October, one is October 7th and one is October 8th, 1993.

12 **MR. DUPUIS:** Yes, sir.

13 **MR. SHERRIFF-SCOTT:** And at the bottom of
14 the October 7th record, it says, "Bishop LaRocque tells
15 them," and he's referring here to Brunet and Shaver:

16 "You will speak to Father Charles
17 MacDonald. October 8th Bishop LaRocque
18 calls Chief Shaver and tells him Father
19 Charles MacDonald has admitted
20 having..."

21 And then he refers to what his admission is;
22 do you see that?

23 **MR. DUPUIS:** Yes, sir.

24 **MR. SHERRIFF-SCOTT:** So this, and if you go
25 over to the next page you'll see that completes your point on

1 that exchange. In other words, there is nothing further as
2 evidence between Bishop LaRocque and Chief Shaver; correct?

3 **MR. DUPUIS:** Yes. Yes, sir.

4 **MR. SHERRIFF-SCOTT:** All right, so this
5 represented your view of the evidence, sir, and Detective Hall's
6 view of the evidence?

7 **MR. DUPUIS:** Yes, sir.

8 **MR. SHERRIFF-SCOTT:** And you're not aware of
9 any disagreement on this point by Mr. Smith?

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

11 **MR. SHERRIFF-SCOTT:** Now just finishing up
12 on one last point. There is the issue of Mr. Leroux, and I just
13 want to confirm something quickly with you, and this is Exhibit
14 1864, which is an August 15th, 2001 letter from the Crown to
15 Detective Hall but it refers to you in part.

16 **MR. DUPUIS:** Okay.

17 **THE COMMISSIONER:** Exhibit number again?

18 **MR. SHERRIFF-SCOTT:** Eighteen sixty-four
19 (1864), Commissioner.

20 **THE COMMISSIONER:** Eighteen sixty-four
21 (1864).

22 **MR. SHERRIFF-SCOTT:** It's August 15th, 2001,
23 Mr. Dupuis; do you have that?

24 **MR. DUPUIS:** Yes, sir, I do.

25 **MR. SHERRIFF-SCOTT:** Now this is the letter

1 that refers to the Crown's conclusion -- yes, you're going to
2 drop that.

3 It refers to the Crown's conclusions about
4 decisions with respect to laying charges, okay?

5 **MR. DUPUIS:** Yes, sir.

6 **MR. SHERRIFF-SCOTT:** And the named
7 individuals are one, two, three, four on the first page and five
8 on the second page, are people employed by my client; do you see
9 that?

10 **MR. DUPUIS:** Yes, sir.

11 **MR. SHERRIFF-SCOTT:** And it refers to you
12 over on the third page of the document in the second-last
13 paragraph. And you understand that these allegations that were
14 being investigated relating to those particular people were made
15 by Ron Leroux; correct?

16 **MR. DUPUIS:** And others, I believe.

17 **MR. SHERRIFF-SCOTT:** All right, one other at
18 least.

19 **MR. DUPUIS:** I think so.

20 **MR. SHERRIFF-SCOTT:** Thank you. So down on
21 the second-last paragraph, it says:

22 "I understand from several
23 discussions with yourself and with
24 Detective Constable Joe Dupuis and
25 Genier, et cetera, that the

1 investigating officers..."

2 And that's plural and I take it that means
3 all of you:

4 "...are not personally satisfied
5 that reasonable and probable grounds
6 exist to lay charges in the six briefs
7 provided to me, absence such subjective
8 belief..."

9 Et cetera. Do you see that?

10 **MR. DUPUIS:** Yes, sir.

11 **MR. SHERRIFF-SCOTT:** So none of you on the
12 team that are referred to here had a subjective belief in the
13 credibility of these allegations?

14 **MR. DUPUIS:** That's correct, sir.

15 **MR. SHERRIFF-SCOTT:** And the Crown briefs
16 that I've reviewed all indicate that there was nothing found to
17 corroborate the allegations. So you have an individual making
18 the allegations and you had no objective corroborating evidence
19 of those allegations as well?

20 **MR. DUPUIS:** That's correct, sir.

21 **MR. SHERRIFF-SCOTT:** So you could not form
22 reasonable and probable grounds sufficient for you or any member
23 of the team to lay a charge on these allegations?

24 **MR. DUPUIS:** That's correct, sir.

25 **MR. SHERRIFF-SCOTT:** And you're satisfied

1 that you did a complete and thorough investigation on these
2 points, sir?

3 **MR. DUPUIS:** Yes, sir.

4 **MR. SHERRIFF-SCOTT:** Thank you.

5 Those are my questions. Thank you.

6 **THE COMMISSIONER:** Let's take a break.

7 Thank you.

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

10 This hearing will resume at 11:00 a.m.

11 --- Upon recessing at 10:41 a.m. /

12 L'audience est suspendue à 10h41

13 --- Upon resuming at 11:09 a.m. /

14 L'audience est reprise à 11h09

15 **THE REGISTRAR:** Order all rise. À l'ordre;
16 veuillez vous lever. This hearing has now resumed. Please
17 be seated. Veuillez vous asseoir.

18 **THE COMMISSIONER:** You have a little more
19 space there, sir?

20 **MR. DUPUIS:** A little bit.

21 ---STATEMENT BY/DÉCLARATION PAR MS.JONES:

22 **MS. JONES:** Mr. Commissioner, Good morning.

23 **THE COMMISSIONER:** Yes, Ms. Jones.

24 **MS. JONES:** I just have a small thing that I
25 have to do to correct the record. The wrong exhibit

1 numbers were entered on a few exhibits. If we could just
2 correct them, please.

3 Exhibit 2670 should be 2660; Exhibit 2671
4 should be 2661; Exhibit 2672 should be 2662; Exhibit 2673
5 should be 2663; Exhibit 2674 should be 2664; and last, 2675
6 should be 2665.

7 **THE COMMISSIONER:** Thank you.

8 All right, Mr. Crane.

9 **JOSEPH (JOE) DUPUIS, Resumed/Sous le même serment:**

10 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

11 **CRANE:**

12 **MR. CRANE:** Good morning, Mr. Commissioner.

13 **THE COMMISSIONER:** Good morning, sir.

14 **MR. CRANE:** Good morning, Mr. Dupuis. My
15 name is Mark Crane. I'm counsel representing the Cornwall
16 Community Police Service.

17 **MR. DUPUIS:** Yes, sir.

18 **MR. CRANE:** A few areas to review with you,
19 Mr. Dupuis. At last day you explained to us that in an
20 historical sexual assault investigation you like to
21 substantiate the alleged victims' allegations; do you
22 recall saying that?

23 **MR. DUPUIS:** Yes.

24 **MR. CRANE:** And I take it that's as a result
25 of a potential lack of physical evidence ---

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

2 **MR. CRANE:** --- of fading memories?

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

4 **MR. CRANE:** And you also spoke about your
5 experience of having gone to the Crown attorney during
6 previous sexual assault investigations in order to seek
7 guidance; is that right? And to assist you, I think you
8 said you'd done it on at least two occasions?

9 **MR. DUPUIS:** I'm not sure if it was prior to
10 the project or after the project.

11 **MR. CRANE:** I took your evidence to be it
12 was prior to you, but I stand to be corrected.

13 **MR. DUPUIS:** Regardless, I did go to the
14 Crown to look for guidance.

15 **MR. CRANE:** That's the point I'm making; you
16 did have experience going to the Crown in the past with
17 respect to sexual assault investigations?

18 **MR. DUPUIS:** I don't know if it was in the
19 past, but I did seek Crown's guidance in -- I believe, in
20 at least two other investigations.

21 **MR. CRANE:** Okay. Well, let me ask you
22 this.

23 Given your desire to substantiate and, if
24 you had gone in the past, I take it an historical sexual
25 assault investigation may be a time when you may seek

1 guidance from a Crown Attorney with respect to your
2 investigation?

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

4 **MR. CRANE:** Mr. Dupuis, a few questions
5 relating to the time while you were the lead investigator
6 regarding the conspiracy investigation that you began in
7 1998; okay?

8 And you stated last day that the source of
9 the conspiracy allegations arose from Mr. Dunlop and
10 Mr. Leroux?

11 **MR. DUPUIS:** Yes, sir.

12 **MR. CRANE:** And what I'm going to try and do
13 is pinpoint the nature of these allegations and, Madam
14 Clerk, if we can pull up Exhibit 672, which is the amended
15 statement of claim of Mr. Dunlop?

16 **(SHORT PAUSE/COURTE PAUSE)**

17 **MR. CRANE:** And when you have that handy,
18 Mr. Commissioner and Mr. Dupuis, it's Bates page 001,
19 looking at paragraphs 84 and 85, which carries on into
20 Bates page 002.

21 And what I'd ask you to do, Mr. Dupuis, is
22 read to yourself paragraphs 84 and 85 and let me know when
23 you've had an opportunity to take a look at that?

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

25 **MR. CRANE:** Madam Clerk, are we going to put

1 that -- yes. Bates page 001. It would be page 44 of the
2 amended statement of claim, beginning on page 43, actually.

3 So you can see 84 is on the bottom of
4 page 43, sir, and it carries over onto page 44. Have you
5 had an opportunity to review those two paragraphs?

6 **MR. DUPUIS:** Yes, sir.

7 **MR. CRANE:** And I take it you would agree
8 that these form the substance of the underlying conspiracy
9 allegations?

10 **MR. DUPUIS:** Yes, sir.

11 **MR. CRANE:** Now, you interviewed Mr. Shaver
12 with Detective Inspector Hall in July of '99, and you were
13 asked some questions about the audiotaped report of that
14 exhibit last day, and briefly by Mr. Sherriff-Scott before
15 the break?

16 **MR. DUPUIS:** Yes, sir.

17 **MR. CRANE:** And if we can pull up Exhibit
18 1238, which is that audiotaped interview report for
19 Mr. Shaver?

20 **MR. DUPUIS:** Sir, will you be referring back
21 to this one here?

22 **MR. CRANE:** No, I'm not.

23 If you look on the front page you can
24 confirm it's the July 9th, '99 interview, and on the second
25 page which is Bates page 076 (sic)?

1 **MR. DUPUIS:** Seven-zero-six (706)?

2 **MR. CRANE:** Seven-zero-six (706), which
3 is 2 of 26.

4 **MR. DUPUIS:** Yes, sir.

5 **MR. CRANE:** Oh, wait. Let's wait for it to
6 come up on the screen.

7 You can see the top half of the page,
8 Mr. Shaver is advising you of his address. He's informing
9 you that he's temporarily living in Florida.

10 And I take it he would have cooperated with
11 you and your team in terms of making himself available and
12 travelling up from Florida?

13 **MR. DUPUIS:** That's correct, sir.

14 **MR. CRANE:** And if we can turn to Bates page
15 712, and it's the bottom half of the page, Madam Clerk.

16 Before I go there, last day you were asked
17 some questions about the purpose of the interview with Mr.
18 Shaver. Do you recall?

19 **MR. DUPUIS:** I was reading, sir, I'm sorry.

20 **MR. CRANE:** The last day you were asked some
21 questions about the purpose of your interview with
22 Mr. Shaver?

23 **MR. DUPUIS:** That's correct.

24 **MR. CRANE:** I'm going to read into the
25 record here and just try and clarify the bottom three

1 entries. Question from:

2 "Hall: C-8 states that he saw you at a
3 dinner party, a party at Malcolm
4 MacDonald's cottage on Stanley Island.
5 What are your comments about this
6 statement?

7 Shaver: Never been to Malcolm
8 MacDonald's cottage on Stanley Island.

9 Hall: Were you at this cottage with
10 Bishop LaRocque, Father Charles
11 MacDonald, Ron Wilson and others on a
12 Friday evening in early September,
13 1993?

14 Shaver: Never.

15 Hall: On Sunday of the same weekend,
16 did you accompany Stuart McDonald and
17 Malcolm MacDonald on Malcolm's boat
18 from Ken Seguin's dock to Stanley
19 Island?

20 Answer: "No."

21 And you would agree with me that these
22 questions are consistent with the tenor of the conspiracy
23 allegations outlined in Mr. Dunlop's amended statement of
24 claim that you just reviewed?

25 **MR. DUPUIS:** Yes, sir.

1 **MR. CRANE:** And this interview formed part
2 of the nine volumes that were ultimately forwarded to
3 Mr. McConnery in 2001?

4 **MR. DUPUIS:** Yes, sir.

5 **MR. CRANE:** And I can take you to the Index,
6 but I can -- for the record, Mr. Shaver's interview is
7 contained in volume 8 on Bates page 934 of Exhibit 2631.

8 But you wouldn't oppose the fact that this
9 interview formed part of your brief forwarded to
10 Mr. McConnery with respect to this investigation?

11 **MR. DUPUIS:** That's correct, sir.

12 **MR. CRANE:** And you confirmed for
13 Mr. Thompson, from the Attorney General, this morning that
14 this was a Crown brief of considerable size?

15 **MR. DUPUIS:** Yes, sir.

16 **MR. CRANE:** And it contained statements and
17 interviews from 54 individuals? Were you aware of that?

18 **MR. DUPUIS:** I don't know how many ---

19 **MR. CRANE:** You wouldn't ---

20 **MR. DUPUIS:** I'm not going to dispute it.

21 **MR. CRANE:** You won't dispute it.

22 Last day, Ms. Daley, on behalf of the
23 Citizens for Community Renewal who is not present this
24 morning, asked you some questions about the substance of
25 your conspiracy allegation, with the suggestion that it may

1 have been a re-investigation of Detective Inspector Smith's
2 investigation, plus some additional interviews. I'm going
3 to try and put that proposition into context. All right?

4 MR. DUPUIS: Okay.

5 MR. CRANE: Your investigation beginning in
6 1998 focussed on conspiracy allegations arising from Mr.
7 Dunlop and Mr. Leroux; correct?

8 MR. DUPUIS: Correct.

9 MR. CRANE: We've reviewed the underlying
10 conspiracy allegations in his unamended statement of claim?

11 MR. DUPUIS: Yes, sir.

12 MR. CRANE: We know from other evidence of
13 this Inquiry that this conspiracy allegation first arose in
14 October of 1996. Is that -- were you aware of that?

15 MR. DUPUIS: I don't recall that.

16 MR. CRANE: And 1996, of course, is after
17 the completion of Detective Inspector Smith's 1994
18 investigation, obviously?

19 MR. DUPUIS: Okay.

20 MR. CRANE: And I don't want to take up too
21 much time reviewing the contents of the individual
22 54 statements and interviews but I'm going to suggest to
23 you, you completed a much different investigation from
24 Detective Inspector Smith. Do you agree with that?

25 MR. DUPUIS: I don't recall what each brief

1 contained at this time.

2 MR. CRANE: Well, we know the underlying
3 allegations are different?

4 MR. DUPUIS: That's correct.

5 MR. CRANE: Many of the individuals
6 interviewed are different?

7 MR. DUPUIS: Again, sir, I don't know what
8 was contained in the first -- I can't recall what was
9 contained in the first brief.

10 MR. CRANE: It's logical to draw an
11 inference that given the substance of the allegations, the
12 substance of your questions to those people you interviewed
13 would have been different?

14 MR. DUPUIS: Possibly, yes.

15 MR. CRANE: Thank you, sir. Those are my
16 questions.

17 MR. DUPUIS: Thank you.

18 THE COMMISSIONER: Thank you.

19 Ms. Lahaie?

20 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

21 MS. LAHAIE:

22 THE COMMISSIONER: Good morning.

23 MS. LAHAIE: Good morning, Officer Dupuis.
24 Good morning, Mr. Commissioner.

25 Officer Dupuis, I have four areas I'd like

1 to cover with you. It should be very brief, just four
2 short areas that I'd like to clear up a few notions that
3 have been put out there.

4 The first arises from your examination
5 in-chief by Mr. Dumais involving the Richard Hickerson
6 investigation. Mr. Dumais put a statement to you, which is
7 Exhibit 516, Document 704091, if we could have that
8 document, please? The statement of C-11.

9 **THE COMMISSIONER:** That's me. Sorry.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MR. DUPUIS:** Yes.

12 **MS. LAHAIE:** You have that now?

13 **MR. DUPUIS:** Yes.

14 **MS. LAHAIE:** I would like to direct you to
15 Bates page 7014365. Mr. Dumais asked you about the two
16 names that are mentioned in the bottom paragraph.

17 Mr. Commissioner, I don't know whether you
18 wish to have monikers assigned to these individuals. I
19 will be asking that their statements be entered and that
20 there be publication bans. Should we ---

21 **THE COMMISSIONER:** Yes.

22 **MS. LAHAIE:** --- also assign monikers?

23 **THE COMMISSIONER:** Yes.

24 So this is on page 3 of 4, last paragraph:

25 "There are two people who could

1 Exhibit 2666 is an interview report of C- --
2 -

3 **MS. LAHAIE:** Ninety-three (93).

4 **THE COMMISSIONER:** --- 93 taken on April
5 22nd, 1998.

6 --- **EXHIBIT NO./PIÈCE NO. P-2666:**

7 (713088) - Interview Report of C-93
8 taken on 22 Apr 98

9 **MS. LAHAIE:** Thank you.

10 So you can confirm by looking at this
11 interview report that it appears that that information was
12 followed up on, sir?

13 **MR. DUPUIS:** Yes.

14 **MS. LAHAIE:** The other statement I would
15 like to introduce is at Document 712481. Again, late
16 notice on that document, sir. It is the statement of C-94.

17 **THE COMMISSIONER:** Thank you.

18 Exhibit Number 2667 is the interview report
19 of C-94.

20 **MS. LAHAIE:** And so Officer ---

21 **THE COMMISSIONER:** Whoa, whoa.

22 Date of interview, 22nd of April, 1998.

23 Go ahead.

24 --- **EXHIBIT NO./PIÈCE NO. P-2667:**

25 (712481) - Interview Report of C-94

1 dated 22 Apr 98

2 **MS. LAHAIE:** Thank you.

3 Officer Dupuis, in looking at this statement
4 you can confirm, I take it, that Officer Genier took the
5 statement from C-94 to follow up on the information given
6 by C-11? Is that correct?

7 **MR. DUPUIS:** That's correct.

8 **MS. LAHAIE:** Thank you.

9 Sir, the next document I would like to refer
10 to is Document 702725, the case manager's assignment
11 register, Mr. Commissioner that you've heard -- you've
12 heard this witness refer to an assignment register at
13 times.

14 **THE COMMISSIONER:** Yes, yes, yes. I'm
15 sorry. Yes, yes, yes. Thank you.

16 Exhibit 2668 is the case manager's
17 assignment register.

18 **--- EXHIBIT NO./PIÈCE NO. P-2668:**

19 (702725) - Case Manager's Assignment
20 Register

21 **MS. LAHAIE:** If I could direct you, sir to
22 number 400 and 401 which is at Bates page 6199.

23 **(SHORT PAUSE/COURTE PAUSE)**

24 **MS. LAHAIE:** The two individuals who are
25 named there are, in fact, C-93 and C-94. Is that correct?

1 **MR. DUPUIS:** Correct.

2 **MS. LAHAIE:** And I take it that the case
3 manager's assignment register is a document that Officer
4 Hall maintained. Is that correct? Is this his
5 handwriting?

6 **MR. DUPUIS:** I think everyone of us took
7 part in this document.

8 **MS. LAHAIE:** In terms of the second column,
9 "Assigned To;" who would determine who would -- who a
10 certain assignment would be assigned to?

11 **MR. DUPUIS:** I don't know if at times it was
12 left up to the officer to complete their assignments, but
13 it would more than likely be under the direction of
14 Inspector Hall.

15 **MS. LAHAIE:** All right. And just to make
16 the link between these two individuals being questioned as
17 a result of the statement given by C-11, you'll see the
18 date of the assignment at the 7th of October, 1997. Is that
19 correct?

20 **MR. DUPUIS:** That's correct.

21 **MS. LAHAIE:** And that is in fact the date of
22 C-11's statement at Exhibit 516?

23 **THE COMMISSIONER:** The 22nd of April '98?

24 **MS. LAHAIE:** Date of interview, 7th of
25 October 1997; that was C-11. The first document, Exhibit

1 516 at 704091.

2 THE COMMISSIONER: Okay. M'hm. Let me just
3 see, yes.

4 MS. LAHAIE: Do you see that?

5 MR. DUPUIS: Yes.

6 MS. LAHAIE: And the date completed, shows
7 an entry of the 22nd of April 1998. Is that correct?

8 MR. DUPUIS: Yes.

9 MS. LAHAIE: All right.

10 THE COMMISSIONER: Whoa, whoa; wait a minute
11 now.

12 I'm sorry. You're going at 400 and 401?

13 MS. LAHAIE: Yes.

14 THE COMMISSIONER: They don't refer to the
15 fellow in 516.

16 MS. LAHAIE: No, but they refer to the same
17 date.

18 THE COMMISSIONER: Oh, okay. They were put
19 on the date because they were ---

20 MS. LAHAIE: They were names which came out
21 of the 7th of October ---

22 THE COMMISSIONER: Yes, yes. Thank you.

23 MS. LAHAIE: --- interview with C-11.

24 THE COMMISSIONER: Thank you.

25 MS. LAHAIE: Thank you.

1 I want to get people comfortable with this
2 document because I have -- I have the distinct impression
3 that we're going to be referring to it often when Officer
4 Hall testifies.

5 If we could turn to the second area? It
6 would be in relation to questions which were put to you by
7 Mr. Lee during his cross-examination within the context of
8 the investigation involving Jean-Luc Leblanc. And he
9 specifically questioned you with respect to Ms. Lebrun,
10 Cindy Lebrun. Do you recall those questions?

11 **MR. DUPUIS:** Yes.

12 **MS. LAHAIE:** Okay. And he indicated that it
13 was quite traumatic for her that you and Officer Seguin,
14 out of the blue, ended up on her doorstep without any
15 advance notice. Do you remember that question?

16 **MR. DUPUIS:** Yes, I do.

17 **MS. LAHAIE:** Okay. I just want to put your
18 notes to you, sir, at Exhibit 733622.

19 **THE COMMISSIONER:** Exhibit?

20 **MS. LAHAIE:** Exhibit -- good question. I
21 will need some help with that, Mr. Commissioner.

22 Exhibit 2611; and it would be at Bates page
23 7131395.

24 **MR. DUPUIS:** Could I have the Bates page
25 again, please?

1 **MS. LAHAIE:** Yes, the last four digits,
2 1395.

3 While the officer is locating that, my
4 friend is just reminding me, we should have a publication
5 ban, please, Mr. Commissioner ---

6 **THE COMMISSIONER:** Of course.

7 **MS. LAHAIE:** --- on the case assignment
8 register, at 702725, please.

9 **THE COMMISSIONER:** And also on the
10 statements 2667 and 2666.

11 **MS. LAHAIE:** Thank you, sir.

12 Do you have that entry, sir?

13 **MR. DUPUIS:** One three nine five (1395)?

14 **MS. LAHAIE:** Correct.

15 **MR. DUPUIS:** Okay.

16 **MS. LAHAIE:** You see that on the 9th of
17 February 1999 at the entry at 9:42:

18 "Appointment set for 10 a.m., interview
19 of Cindy Lebrun."

20 And it has her address there, in Prescott,
21 Ontario and her telephone number. You see that?

22 **MR. DUPUIS:** Yes.

23 **MS. LAHAIE:** And that would have been her
24 appointment that you set by telephone, I take it?

25 **MR. DUPUIS:** I believe so.

1 **MS. LAHAIE:** Okay. And if we turn to the
2 10th of February, the next day, which is at Bates page 1401,
3 there should be an entry at 8 a.m. We see that you attend
4 to pick up Constable Seguin?

5 **MR. DUPUIS:** Yes.

6 **MS. LAHAIE:** Do you see that?

7 **MR. DUPUIS:** Yes.

8 **MS. LAHAIE:** And proceed to Prescott?

9 **MR. DUPUIS:** Yes.

10 **MS. LAHAIE:** And that's for the purpose, I
11 take it, of conducting the interview of Ms. Lebrun?

12 **MR. DUPUIS:** Yes.

13 **MS. LAHAIE:** And you arrive at her residence
14 at 9:39 a.m.?

15 **MR. DUPUIS:** Yes.

16 **MS. LAHAIE:** And so she was expecting you, I
17 take it, because you'd arranged the appointment the
18 previous day?

19 **MR. DUPUIS:** Yes.

20 **MS. LAHAIE:** Okay. And then at 9:47 you
21 enter the interview room with her at the Prescott
22 Detachment of the OPP?

23 **MR. DUPUIS:** That's correct.

24 **MS. LAHAIE:** And you conduct an interview of
25 Cindy Lebrun?

1 **MR. DUPUIS:** Yes.

2 **MS. LAHAIE:** And you have an entry there
3 that before the video interview she advised you that she
4 had been sexually assaulted. Is that correct?

5 **MR. DUPUIS:** That's correct.

6 **MS. LAHAIE:** Is this something that was
7 previously known to you, or were you just questioning her
8 in relation to abuse that you believed had been committed
9 on her brothers?

10 **MR. DUPUIS:** I believe she may have been a
11 subject matter in a Cornwall police investigation that had
12 already been completed, but I'm not sure about that.

13 **MS. LAHAIE:** Okay. So you don't recall
14 whether you knew, going into that interview, that she too
15 had been a victim?

16 **MR. DUPUIS:** No, I can't recall.

17 **MS. LAHAIE:** All right. And she consented
18 to the video statement?

19 **MR. DUPUIS:** Yes.

20 **MS. LAHAIE:** Okay. And that statement
21 concluded at 5 to 11. Is that correct?

22 **MR. DUPUIS:** Yes.

23 **MS. LAHAIE:** I'd like to go back to the
24 assignment register, sir, for a moment to cover the third
25 area I'd like to cover with you, which is -- arises from

1 the cross-examination of Ms. Daley.

2 You'll recall on Friday that Ms. Daley
3 questioned you in relation to this assignment book, and in
4 response to her questions you indicated that you did not
5 believe that there were any entries in relation to the
6 conspiracy investigation. Do you remember that?

7 **MR. DUPUIS:** No, I don't.

8 **MS. LAHAIE:** Okay. Well, it has been some
9 time since that investigation has taken place. I just want
10 to take you to that document, which is Exhibit 2668 at 702,
11 725. You have it in front of you now? Okay.

12 And I'd like to refer you to entry at number
13 one.

14 **MR. DUPUIS:** Yes.

15 **MS. LAHAIE:** I'll just ask you -- we'll go
16 through a list and I'll ask you to just look at the names;
17 okay?

18 **MR. DUPUIS:** Yes.

19 **MS. LAHAIE:** One eight (18).

20 **MR. DUPUIS:** Yes.

21 **MS. LAHAIE:** Twenty (20), Claude Shaver; 30,
22 Malcolm MacDonald; 33, Bishop LaRocque; 42, Murray
23 MacDonald.

24 **MR. DUPUIS:** Yes.

25 **MS. LAHAIE:** Forty-three (43), Father Kevin

1 Maloney.

2 MR. DUPUIS: Yes.

3 MS. LAHAIE: Fifty-six (56), Connie
4 Bergeron. That would have been Malcolm MacDonald's
5 secretary.

6 MR. DUPUIS: Yes.

7 MS. LAHAIE: Is that correct?

8 MR. DUPUIS: Yes.

9 MS. LAHAIE: One forty-eight (148), Ron
10 Leroux.

11 MR. DUPUIS: Yes.

12 MS. LAHAIE: And then turn to 216, another
13 reference to another matter involving Murray MacDonald.

14 MR. DUPUIS: Yes.

15 MS. LAHAIE: Two nineteen (219) through 224
16 -- pardon me. Yes, 219 through 224, various titles there.
17 I take it that these are all interviews which were
18 conducted or follow-up to the conspiracy investigation. Is
19 that correct?

20 MR. DUPUIS: Yes, it would appear so.

21 MS. LAHAIE: And so what it appears is that
22 the case manager's assignments register was in fact for the
23 sexual abuse allegations as well as the conspiracy. Is
24 that correct?

25 MR. DUPUIS: That's correct.

1 **MS. LAHAIE:** Okay.

2 The final area I wish to touch on, Officer
3 Dupuis, and very, very briefly; I just want to go back to
4 the matter of Jacques Leduc, that prosecution. And I'm
5 sure the events of February 7th, 2001 when C-16's mother
6 testified are very clear in your mind as being quite a
7 dramatic time for you.

8 **MR. DUPUIS:** Yes.

9 **MS. LAHAIE:** And I take it, sir, that at no
10 time between the 7th of February, 2001 and when this
11 decision on the stay was issued on March 1st did anyone ever
12 explain to you the difference between inadvertent
13 nondisclosure and deliberate nondisclosure. Did anyone
14 explain to you the difference in the treatment of those two
15 concepts by the courts?

16 **MR. DUPUIS:** I don't believe so, or I don't
17 recall.

18 **MS. LAHAIE:** So you don't recall Ms. Hallett
19 sitting you down and saying, "Gentlemen, we have here this
20 application that's based on nondisclosure, and just relax;
21 it's not something that you or I did on purpose"?

22 **MR. DUPUIS:** I don't recall.

23 **MS. LAHAIE:** How many times have you
24 replayed that omission over the years, sir?

25 **MR. DUPUIS:** Numerous.

1 MS. LAHAIE: More than 50?

2 MR. DUPUIS: A few. Lots.

3 MS. LAHAIE: And what's been the impact of
4 that on your life, sir?

5 MR. DUPUIS: Not good.

6 MS. LAHAIE: Okay.

7 MR. DUPUIS: Not good at all.

8 MS. LAHAIE: Can you explain further?

9 MR. DUPUIS: Well, you don't like to feel
10 that you've made a mistake on an investigation of this
11 magnitude.

12 MS. LAHAIE: Right.

13 MR. DUPUIS: So ---

14 MS. LAHAIE: And again, that's not something
15 that you did on purpose, is it?

16 MR. DUPUIS: That's correct.

17 MS. LAHAIE: Okay. Those are all my
18 questions. Thank you.

19 MR. DUPUIS: Thank you.

20 THE COMMISSIONER: Thank you.

21 Mr. Wallace?

22 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

23 MR. WALLACE:

24 MR. WALLACE: Good morning, Mr. Dupuis.

25 MR. DUPUIS: Good morning, Mr. Wallace.

1 **MR. WALLACE:** You were asked a number of
2 questions concerning the fact that in the case of some
3 interviews that you conducted with Inspector Hall, the
4 persons who you were interviewing were provided with a list
5 of questions at the outset of your meeting on that
6 particular day. Do you recall those series of questions?

7 **MR. DUPUIS:** Yes, sir.

8 **MR. WALLACE:** And you made it quite clear
9 that the persons were not provided with the questions days
10 or weeks in advance but, in fact, they were provided them
11 when they presented themselves for the interview.

12 **MR. DUPUIS:** That's correct.

13 **MR. WALLACE:** Now, you also indicated that
14 this was not your usual practice, to provide the person
15 being interviewed with the questions in advance; correct?

16 **MR. DUPUIS:** That's correct.

17 **MR. WALLACE:** Now, firstly, whose decision
18 was it to proceed in this fashion? That is, provide the
19 witnesses with these questions in advance?

20 **MR. DUPUIS:** I don't know who first came up
21 with the idea but obviously it would have been discussed
22 with Inspector Hall.

23 **MR. WALLACE:** Can you explain to
24 Mr. Commissioner what the reasoning was behind that
25 decision? Why was it done?

1 **MR. DUPUIS:** Well, it would also assist us
2 in interviewing these people, to go into an area that --
3 there were so many people we were going to interview; to
4 make sure that we were not going to miss any items to be
5 discussed.

6 **MR. WALLACE:** And I understand you were the
7 person that prepared the questions; correct?

8 **MR. DUPUIS:** Yes, sir.

9 **MR. WALLACE:** Do you recall what materials
10 you used to prepare the questions? I don't mean
11 specifically but in a general sense.

12 **MR. DUPUIS:** Anything that we could -- that
13 was in our possession at that time that may refer to
14 something that would be clarified by that individual. Like
15 possibly Chief Shaver would have had more knowledge of
16 something than, say, a constable at Cornwall Police
17 Department, so his questions would be different than the
18 constable's questions -- if that's ---

19 **MR. WALLACE:** Okay.

20 **MR. DUPUIS:** --- what you're asking me, sir.

21 **MR. WALLACE:** I think you've already
22 explained this last week, but it wasn't a "one size fits
23 all" type of exercise. These questions were tailor-made to
24 the person that you were interviewing?

25 **MR. DUPUIS:** That's correct.

1 **MR. WALLACE:** And in some cases there would
2 be overlap, like there'd be questions that would be
3 relevant to more than one person?

4 **MR. DUPUIS:** That's correct.

5 **MR. WALLACE:** Okay. What I was really
6 asking you, though, was in order to prepare the questions,
7 what were you using?

8 **MR. DUPUIS:** Probably previous statements
9 that may have been contained in the previous investigation
10 by Inspector Smith.

11 **MR. WALLACE:** You were also asked some
12 questions about an interview that you did with C-9, and
13 that's contained in Exhibit Number 1395.

14 **(SHORT PAUSE/COURTE PAUSE)**

15 **MR. WALLACE:** Now, specifically last week,
16 Mr. Lee, on behalf of the Victims' Group, drew your
17 attention to the second page of the typed interview report
18 and the bullets 5 and 6 from the bottom of the page. Do
19 you recall that?

20 **MR. DUPUIS:** Yes, sir.

21 **MR. WALLACE:** And he asked you if you
22 recalled whether or not you had spoken to Inspector Hall
23 about this aspect of the interview and you indicated to him
24 last week that you didn't recall that. Remember?

25 **MR. DUPUIS:** Yes, sir.

1 **MR. WALLACE:** Now, notwithstanding the fact
2 that you don't recall whether you spoke to Inspector Hall,
3 would the interview report itself have been brought to his
4 attention? Would he have seen that in the normal course?

5 **MR. DUPUIS:** If there was an interview
6 report, which there is, I would assume Inspector Hall would
7 read it. I believe he read everything that went through
8 that office.

9 **MR. WALLACE:** Okay.

10 Now, the last issue I want to ask you a
11 couple of questions about will require you to have two
12 documents, the first being the opinion of Crown McConnery;
13 that's Exhibit Number 1864, and the second is a letter from
14 Pat Hall to Lorne McConnery; Exhibit 2652.

15 Now, if you can -- if you can reference
16 firstly, the opinion of Mr. McConnery; first of all in the
17 first page and the top of the second page, he indicates the
18 subject matter of the six briefs that he's been asked to
19 render opinion on; correct?

20 **MR. DUPUIS:** Correct.

21 **MR. WALLACE:** And with respect to the
22 conspiracy investigation at point number six, he indicates
23 that, in fact, the conspiracy brief is nine volumes in
24 length and he's also in this -- what I want to draw your
25 attention to -- pointing out that in addition to the nine

1 volumes, he's also has reference to the Will-Say, four
2 volumes of appendices, and the copy of notes of former
3 Cornwall police Constable, Perry Dunlop; correct?

4 **MR. DUPUIS:** Correct.

5 **MR. WALLACE:** And you've indicated that Mr.
6 McConnery was provided with a great deal of information
7 above and beyond the nine volumes of the brief.

8 **MR. DUPUIS:** That's correct.

9 **MR. WALLACE:** And as I -- as I think you've
10 made it quite clear, the process was that Mr. McConnery
11 received the documentation that you provided or the Truth
12 team provided and then he made requests of Inspector Hall
13 to be provided further information.

14 **MR. DUPUIS:** I believe that's correct.

15 **MR. WALLACE:** And an example of that is, in
16 fact, the Exhibit 2652; the letter of the 4th of July, 2001.

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

18 **MR. WALLACE:** And his -- Inspector Hall
19 opens the response by saying, "As per your request, please
20 find attached the following..." and he outlines a number of
21 items that he's forwarding off to Mr. McConnery.

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

23 **MR. WALLACE:** And as you've noted in point
24 number one is it includes your Will-Say and notes.

25 **MR. DUPUIS:** Yes.

1 **MR. WALLACE:** Okay.

2 But significantly, it also includes, if you
3 look at paragraph or point number three, the nine banker's
4 boxes of the Perry Dunlop materials. Do you see that on
5 the next page?

6 **MR. DUPUIS:** Yes, sir.

7 **MR. WALLACE:** Okay.

8 So -- and if you could just turn back to the
9 opinion letter of Mr. McConnery, if you look at the bottom
10 of page number 2, he indicates -- and the top page number
11 3, 10 additional sources of information that he had that he
12 considered in coming to his conclusion; correct?

13 **MR. DUPUIS:** I ---

14 **MR. WALLACE:** Just have a look at that,
15 please.

16 **MR. DUPUIS:** I can't see it here. Where are
17 you?

18 **MR. WALLACE:** I'm looking at page number 2.

19 **MR. DUPUIS:** Right, okay.

20 **MR. WALLACE:** And you'll see the last full
21 paragraph there says -- it starts with, "During the course
22 of our review..."

23 **MR. DUPUIS:** Yes, sir.

24 **MR. WALLACE:** Okay.

25 And then he outlines that he had received

1 the Cornwall Police investigation of David Silmser -- of
2 the sexual assault allegation of David Silmser in 1993 ---

3 MR. DUPUIS: Yes, sir.

4 MR. WALLACE: --- the Ottawa Police Service
5 review of that investigation in 1994 ---

6 MR. DUPUIS: Yes, sir.

7 MR. WALLACE: --- the reinvestigation by the
8 Ontario Provincial Police, that is Tim Smith investigation
9 in '94.

10 MR. DUPUIS: Yes, sir.

11 MR. WALLACE: The fourth is the
12 investigation into the death of Ken Seguin in 1993, 1994;
13 that was an OPP investigation.

14 MR. DUPUIS: Yes, sir.

15 MR. WALLACE: The investigation of David
16 Silmser re the allegation of extortion; Inspector
17 Hamelink's investigation.

18 MR. DUPUIS: Yes, sir.

19 MR. WALLACE: The Crown brief in the charge
20 of attempt to obstruct justice laid against lawyer, Malcolm
21 MacDonald in -- correct?

22 MR. DUPUIS: Yes, sir.

23 MR. WALLACE: And by this point in time, Mr.
24 MacDonald had actually pled guilty to the charge?

25 THE COMMISSIONER: Malcolm MacDonald.

1 **MR. WALLACE:** Malcolm, sorry.

2 **THE COMMISSIONER:** No, no, just to make it
3 clear.

4 **MR. DUPUIS:** Yes, sir.

5 **MR. WALLACE:** And you'll see that on the --
6 point number seven, he's actually provided with the
7 transcript of the plea of guilty and sentencing.

8 **MR. DUPUIS:** Yes, sir.

9 **MR. WALLACE:** Okay.
10 And number eight is the OPP investigation of
11 Ron Leroux on the firearms' charges; subsequent police
12 reports detailing the findings, seizure, and eventual
13 destruction of a quantity of pornographic materials from
14 the home of Ron Leroux.

15 **MR. DUPUIS:** Yes, sir.

16 **MR. WALLACE:** Okay.

17 And then there's some materials and -- filed
18 with respect to the Criminal Injuries Compensation Board;
19 paragraph number nine.

20 **MR. DUPUIS:** Yes, sir.

21 **MR. WALLACE:** And videotapes of the
22 interviews with Ron Leroux.

23 **MR. DUPUIS:** Yes, sir.

24 **MR. WALLACE:** Okay.

25 And Mr. McConnery, in his opinion, indicates

1 that the persons mentioned, that is, Pat Hall and yourself,
2 Don Genier and Steve Seguin; none were satisfied that --
3 subjectively, that reasonable probable grounds existed.

4 **MR. DUPUIS:** That's correct, sir.

5 **MR. WALLACE:** And in the bottom paragraph od
6 that page, Mr. McConnery indicates that he agrees with that
7 -- in that assessment:

8 "I find that your concerns and
9 conclusions about the lack of
10 reasonable and probable grounds are
11 appropriate and justified."

12 **MR. DUPUIS:** Yes, sir.

13 **MR. WALLACE:** And as well, he concurs in the
14 opinion that -- at the end of that paragraph:

15 "All the allegations of the
16 complainants Leroux and Renshaw have
17 been carefully studied in the context
18 in which those allegations were made
19 and your opinion as to the credibility
20 of the allegations is reasonable and
21 well-founded, in my view."

22 **MR. DUPUIS:** That's correct, sir.

23 **MR. WALLACE:** And as a result, no charges
24 were laid.

25 **MR. DUPUIS:** That's correct, sir.

1 **MR. WALLACE:** Thank you. Those are my
2 questions.

3 **THE COMMISSIONER:** Ms. Jones, do you have
4 any questions?

5 **MS. JONES:** I've got no questions; thank
6 you, sir.

7 **THE COMMISSIONER:** Thank you very much.
8 Thank you very much, sir. You're free to
9 go, and we'll clean up the binders.

10 **MR. DUPUIS:** Thank you very much.

11 **THE COMMISSIONER:** All right. Thank you
12 very much for your cooperation, sir.

13 We'll take five minutes to get the new
14 witness in and then we'll get started.

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

17 This hearing will resume at 11:55 a.m.

18 --- Upon recessing at 11:50 a.m./

19 L'audience est suspendue à 11h50

20 --- Upon resuming at 11:59 a.m./

21 L'audience est reprise à 11h59

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

24 **THE COMMISSIONER:** Thank you.

25 Good morning, sir. Welcome back.

1 **INSP. SMITH:** Good morning, sir.

2 **THE COMMISSIONER:** Yes, it's still morning.

3 Well, close. I think you understand you're still under
4 oath.

5 **INSP. SMITH:** Yes, sir.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Engelmann?

8 **MR. ENGELMANN:** I'll just be one moment,
9 sir.

10 **THE COMMISSIONER:** Oh, no problem.

11 **MR. ENGELMANN:** Good morning, by the way.

12 And ---

13 **THE COMMISSIONER:** Good morning.

14 **MR. ENGELMANN:** Good morning, Mr. Smith.

15 **INSP. SMITH:** Good morning, sir.

16 **TIM SMITH, Resumed/Sous le même serment:**

17 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF BY MR.
18 **ENGELMANN (cont'd/suite):**

19 **MR. ENGELMANN:** When we last left off we
20 were dealing with -- it's Exhibit 1233. It was a statement
21 you took with Mike Fagan in interview report of Murray
22 MacDonald. In counsel it's Document Number 714888.

23 **(SHORT PAUSE/COURTE PAUSE)**

24 **INSP. SMITH:** Yes, sir.

25 **MR. ENGELMANN:** Sir, if you could turn to

1 Bates page 872. It's page 38 of the statement.

2 One of the things you're asking about in the
3 interview, and it's reflected on this page, is his
4 knowledge of the details of this civil settlement. Is that
5 correct?

6 **INSP. SMITH:** I'll just review that for a
7 second, if I may.

8 **MR. ENGELMANN:** Yeah, you might want to look
9 at your question.

10 **INSP. SMITH:** Yes, sir.

11 **MR. ENGELMANN:** All right. And he indicates
12 to you that he never saw the document?

13 **INSP. SMITH:** That's correct.

14 **MR. ENGELMANN:** And then on the following
15 page you show it to him and he has a look at it?

16 **INSP. SMITH:** Yes, sir.

17 **MR. ENGELMANN:** And he indicates, for
18 example, at the bottom of the page:

19 "I've never seen this clause. I never
20 knew about this, this criminal bar on
21 prosecutions."

22 **INSP. SMITH:** Yes, sir.

23 **MR. ENGELMANN:** All right.

24 And, sir, you had not yet interviewed
25 Malcolm MacDonald about this. That was going to place much

1 -- that took place in late October of '94, and we'll come
2 to that, but you're here with Murray MacDonald?

3 **INSP. SMITH:** Yes, sir.

4 **MR. ENGELMANN:** Sir, with respect to
5 knowledge at the time, I want to take you now to page 882.
6 At the top, he's referring -- that's page 48 of the
7 statement -- that he's meeting with Luc Brunet, and it
8 says:

9 "It's now chain of command through Luc
10 to Heidi, any directions."

11 You say:

12 "Luc felt, you know, what do we do with
13 this? Direction now from the
14 complainant who's unequivocally saying,
15 'I don't want to proceed'. I told him
16 that if you have a reluctant
17 complainant and you don't feel you have
18 grounds, part of the reason you don't
19 feel you have grounds is because you
20 have a reluctant complainant. The
21 other part of the reason is the earlier
22 problems with the investigation. Then
23 the answer is simple. No RPG, no
24 charge."

25 Right? So it would appear that what Murray

1 MacDonalld is relating back to you is some of the
2 discussions he would have had with Luc Brunet back in
3 September of '93 and some of the difficulty Luc Brunet and
4 the CPS were having in deciding what to do?

5 **INSP. SMITH:** That's correct.

6 **MR. ENGELMANN:** All right.

7 And at pages 886 and 887, you ask him -- or
8 the topic comes up about dealings with Claude Shaver or
9 Chief Shaver, and you're asking him about a conversation he
10 may have had with Chief Shave right at the end of
11 September. Fair enough?

12 You'd met with Chief Shaver I think just --
13 there'd been some contact with him and you're now asking
14 Murray MacDonalld about contact he might have had with Chief
15 shaver?

16 **INSP. SMITH:** I don't see where I made that
17 question, sir. What page was that on?

18 **MR. ENGELMANN:** Well, on 886, which is page
19 52. You say:

20 "I note that in September, in around
21 the same time that you wrote the
22 memorandum, that you had some
23 conversation with the Chief of Police,
24 who at that time was Chief Shaver."

25 **INSP. SMITH:** Yes, I see that.

1 **MR. ENGELMANN:** You say, "Yes"?

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** And you say -- he's
4 recalling to you that Shaver had called him about the civil
5 settlement reversing the case against Father MacDonald. He
6 thinks it stinks, et cetera. All right?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** And he appears to be even
9 more strongly -- towards the bottom of that page -- saying:

10 "The point is your officers don't even
11 form RPG here. If you don't have RPG,
12 if you have a reluctant complainant,
13 you can't go any further."

14 And there's a reference to malicious
15 prosecution. And this is -- he's repeating to you a
16 conversation he has with Chief Shaver?

17 **INSP. SMITH:** That's correct.

18 **MR. ENGELMANN:** All right.

19 Now, you're aware are you not, sir, that
20 Murray MacDonald never had a Crown brief from the Cornwall
21 Police?

22 **INSP. SMITH:** I was aware that he had not
23 had one at that time. Subsequently, I think there was one
24 prepared in October.

25 **MR. ENGELMANN:** Yeah, but it would have been

1 -- the first one we've had, and we looked at it before, was
2 something that Heidi Sebalj would have prepared in early
3 October?

4 **INSP. SMITH:** Yes.

5 **MR. ENGELMANN:** So at the time he writes the
6 letter in mid-September concerning the Silmsers matter, he
7 does not have a Crown brief?

8 **INSP. SMITH:** Not to my recollection.

9 **MR. ENGELMANN:** Right. And, sir, I believe
10 the only written statement he had was the original
11 handwritten statement by David Silmsers, which was the
12 statement from February 16th, '93. Would you have been
13 aware of that?

14 **INSP. SMITH:** I can't be -- I can't
15 remember, but I know that there was not a Crown brief at
16 that time.

17 **MR. ENGELMANN:** Were you aware that
18 essentially Mr. MacDonald's information about the Silmsers
19 matter was coming, in large part, through hallway
20 discussions with Heidi Sebalj at the courthouse?

21 **INSP. SMITH:** Yes, I was aware of that.

22 **MR. ENGELMANN:** And were you aware that
23 there was an issue about seeking some advice from an
24 external Crown?

25 **INSP. SMITH:** Yes.

1 **MR. ENGELMANN:** All right.

2 There appears to be a bit of a conflict
3 perhaps between Sebalj's notes and what Mr. MacDonald may
4 be saying here, but apparently Mr. MacDonald was waiting
5 for Ms. Sebalj to advise him that she had RP&G before
6 setting up a meeting with an outside Crown, whereas her
7 notes indicate that she's waiting to meet with an outside
8 Crown before finalizing RP&G. Were you aware of that
9 slight distinction, sir?

10 **INSP. SMITH:** Not really. My understanding
11 was that she wanted to review what her evidence was at that
12 point with an outside Crown.

13 **MR. ENGELMANN:** All right. That was your
14 understanding?

15 **INSP. SMITH:** And my understanding was it
16 was going to be Mr. Pelletier.

17 **MR. ENGELMANN:** Okay.

18 **INSP. SMITH:** And I believe that there had
19 even been an appointment made at some point or other.

20 **MR. ENGELMANN:** All right. Were you aware
21 that that never took place?

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** You became aware?

24 **INSP. SMITH:** Later on I was, yes.

25 **MR. ENGELMANN:** Yeah. All right.

1 And would it be fair to say that
2 Mr. MacDonald's views on the case in mid-September -- would
3 you agree that they would be formed in large part, at least
4 the factual views, from conversations he would have either
5 had from Heidi Sebalj or Luc Brunet?

6 **INSP. SMITH:** Yes, sir.

7 **MR. ENGELMANN:** All right.

8 **MR. THOMPSON:** Mr. Commissioner, I'm not
9 sure that this witness can tell us what Mr. MacDonald's
10 views were formed on. Only Mr. MacDonald could tell us
11 that.

12 **MR. ENGELMANN:** Well, assuming -- just
13 assuming he only had the handwritten statement -- original
14 statement from Mr. Silmser ---

15 **THE COMMISSIONER:** Okay, so the objection is
16 that you can't ask this gentleman what the basis was for
17 Mr. Murray MacDonald coming to a conclusion. You're
18 saying, well, at that time it's clear he only had the
19 statement.

20 So what else would he have had,
21 Mr. Thompson?

22 **MR. THOMPSON:** Well, I'm not sure. I'm just
23 not sure this witness would be able to answer that.

24 **THE COMMISSIONER:** Okay.

25 Well, maybe you can rephrase it,

1 Mr. Engelmann.

2 MR. ENGELMANN: Sure.

3 If all Mr. MacDonald had by way of written
4 documentation was the original statement from Mr. Silmsler,
5 would it be fair to say that he would have been reliant on
6 whatever facts he's given by the Cornwall Police Service?

7 INSP. SMITH: He may have had their notes.

8 MR. ENGELMANN: All right.

9 INSP. SMITH: Brunet's notes and Sebalj's
10 notes.

11 MR. ENGELMANN: If he didn't have those
12 notes though, sir, it would be whatever they would have
13 relayed to him orally, presumably?

14 ISNP. SMITH: And the statement, yes.

15 MR. ENGELMANN: All right.

16 Now, sir, you and Officer Fagan took several
17 statements from Diocesan officials. I just want to run
18 through some of those quickly.

19 For example -- and if you want, sir, you can
20 open Exhibit 1803 and you should always have that binder;
21 that's the binder that has your notes.

22 THE COMMISSIONER: So 1803?

23 MR. ENGELMANN: Yes. Exhibit 1803. I'm not
24 sure if you have that binder.

25 INSP. SMITH: I don't have it here.

1 **THE COMMISSIONER:** We'll dig it up.

2 **INSP. SMITH:** Are we going back to this one?

3 **INSP. SMITH:** No, sir.

4 **(SHORT PAUSE/COURTE PAUSE)**

5 **INSP. SMITH:** Yes, sir.

6 **MR. ENGELMANN:** All right.

7 It's my understanding that there were at
8 least five Diocesan officials that either you and you
9 and/or Constable Fagan would have interviewed and, for
10 example, you interviewed Jacques Leduc on August 2nd, 1994?

11 If you want to confirm that, sir, that's in
12 your notes at Bates page 226, there's a reference to it.

13 **INSP. SMITH:** You name to me, sir, and I'll

14 ---

15 **MR. ENGELMANN:** Jacques Leduc you
16 interviewed?

17 **INSP. SMITH:** Yes.

18 **MR. ENGELMANN:** Bishop LaRocque, September
19 12th, '94?

20 **INSP. SMITH:** Yes, I did.

21 **MR. ENGELMANN:** Gordon Bryan, September 13th,
22 '94?

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** And it's not in your notes,
25 but I believe Father Vaillancourt and Monsignor McDougald,

1 and it may be because Constable Fagan did those on his own?

2 INSP. SMITH: I think he did those on his
3 own.

4 MR. ENGELMANN: And that was the end of
5 September of '94?

6 INSP. SMITH: I believe so.

7 MR. ENGELMANN: All right.

8 And, in addition, you also had a meeting
9 with Doug and Nancy Seguin which in part touched upon
10 Diocesan officials?

11 INSP. SMITH: Yes, sir.

12 MR. ENGELMANN: And that interview is set
13 out in your notes and that's Exhibit 1803, starting on
14 Bates page 217.

15 INSP. SMITH: I'm going to have to get new
16 glasses.

17 MR. ENGELMANN: It's about six or seven
18 pages in.

19 INSP. SMITH: Yes, I've got it.

20 MR. ENGELMANN: If it helps, there's a
21 number 2262G near the bottom left. I'm not sure what that
22 means, but ---

23 INSP. SMITH: Yes, sir.

24 MR. ENGELMANN: Okay.

25 So the note would suggest that at 13:15, so

1 at 1:15 in the afternoon, you met with Nancy and Douglas
2 Seguin?

3 **INSP. SMITH:** That's correct.

4 **MR. ENGELMANN:** And would that have been at
5 their address?

6 **INSP. SMITH:** 7 Old Orchard Avenue,
7 Cornwall, yes.

8 **MR. ENGELMANN:** Okay, that's not at your
9 office?

10 **INSP. SMITH:** No, that's their house.

11 **MR. ENGELMANN:** All right, and were you on
12 your own?

13 **INSP. SMITH:** I believe Inspector Hamelink
14 was there to introduce me to them.

15 **MR. ENGELMANN:** Okay, all right.

16 And, sir, is it your understanding that
17 Inspector Hamelink was familiar with the Seguins as a
18 result of the extortion investigation he was conducting?

19 **INSP. SMITH:** Very much so.

20 **MR. ENGELMANN:** All right. That they were
21 in some contact during the course of that investigation?

22 **INSP. SMITH:** A lot of contact, yes.

23 **MR. ENGELMANN:** All right. And, sir, you
24 were aware that Doug Seguin was the brother of Ken Seguin,
25 who was recently deceased?

1 INSP. SMITH: Yes, sir.

2 MR. ENGELMANN: And that Nancy Seguin was
3 his wife?

4 INSP. SMITH: Yes.

5 MR. ENGELMANN: All right. And, sir, at the
6 time of this interview, you would have been aware of the
7 fact that Ken Seguin and Father Charles MacDonald were
8 friends?

9 INSP. SMITH: Yes, sir.

10 MR. ENGELMANN: And, in fact, I think Mr.
11 Silmsler indicated in his very first complaint to the
12 Cornwall Police that they were close friends?

13 INSP. SMITH: Yes.

14 MR. ENGELMANN: The two men that he alleged
15 abused him?

16 INSP. SMITH: Yes, sir.

17 MR. ENGELMANN: And you were aware at the
18 time that certainly his brother, Doug Seguin, was
19 attempting to defend his late brother's reputation?

20 INSP. SMITH: Yes.

21 MR. ENGELMANN: If I can use that term.

22 So you believe it was Inspector Hamelink who
23 would have set up this meeting for you?

24 INSP. SMITH: My recollection was that Nancy
25 Seguin wanted to speak to me in regard to a conversation

1 she had had with the Bishop.

2 **MR. ENGELMANN:** All right.

3 **INSP. SMITH:** And Fred Hamelink could set up
4 the meeting that I could attend the house and I know that
5 he introduced us.

6 **MR. ENGELMANN:** All right. And was he there
7 throughout the time you had this interview, or do you know?

8 **INSP. SMITH:** I can't say that he was there
9 throughout but he was there initially.

10 **MR. ENGELMANN:** Okay. The notes would
11 suggest a fairly long meeting. As I read them, it starts
12 at 1:15 and if you flip over onto not the next page but the
13 page after, which is 1054219, it appears to end at 16:20;
14 near the bottom of that page?

15 **INSP. SMITH:** Yes.

16 **MR. ENGELMANN:** So just over three hours?

17 **INSP. SMITH:** Yes, I recall it was a lengthy
18 meeting, yes.

19 **MR. ENGELMANN:** And among other things and
20 perhaps in large part, Nancy Seguin was recounting a
21 meeting that she'd had with Bishop LaRocque on January 10th,
22 1994? You'll see a reference to that on Bates page 217 in
23 your notes just after the meeting starts.

24 Go down near the bottom of the page, Madam
25 Clerk, about a third of the way from the bottom, on 217.

1 **INSP. SMITH:** I thought it was on the 10th of
2 January '94.

3 **MR. ENGELMANN:** Yes.

4 **INSP. SMITH:** At 10:30 hours.

5 **MR. ENGELMANN:** Yes, oh sorry ---

6 **INSP. SMITH:** That's the official office on
7 Montreal Road upstairs.

8 **MR. ENGELMANN:** Okay.

9 **INSP. SMITH:** It's right after 13:15, so
10 that would be when she first went to see him.

11 **MR. ENGELMANN:** Right, 10th of January '94?

12 **INSP. SMITH:** Yes.

13 **MR. ENGELMANN:** And were you aware that
14 there had been a couple of press conferences in Cornwall
15 involving the Bishop, one before January 10th and one after?

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** The first one where he
18 misstated some facts and then he came back and said that he
19 had been unaware of certain information and came back and
20 apologized for that?

21 **INSP. SMITH:** Yes, sir.

22 **MR. ENGELMANN:** All right, so this is in
23 between those two. And do you know, sir, did you take your
24 notes after that meeting?

25 **INSP. SMITH:** I took them during.

1 **MR. ENGELMANN:** During the meeting?

2 **INSP. SMITH:** As we were speaking, I took
3 the notes, yes.

4 **MR. ENGELMANN:** All right, and do you know
5 if anyone else was taking notes?

6 **INSP. SMITH:** I don't believe so.

7 **MR. ENGELMANN:** And just to look at a couple
8 of things that were told to you. If we're looking at Bates
9 page 218, and she's recounting to you her discussion with
10 the Bishop, about a third of the way down, and I believe
11 this would be what she would have asked him but I'll just
12 ask you that.

13 It said, "Asked why church," yes, about a
14 third of the way down, "Asked why church". Could you just
15 move the arrow down, Madam Clerk. Right there. Can you
16 make that a little larger?

17 **INSP. SMITH:** I can read that for you, sir.

18 **MR. ENGELMANN:** Okay.

19 **INSP. SMITH:** "Asked why church settled
20 out of court".

21 **MR. ENGELMANN:** All right. And just so I'm
22 clear. This isn't you asking her; this is her asking the
23 Bishop and she's recounting it to you?

24 **INSP. SMITH:** This is what she asked the
25 Bishop and it made everything look suspect.

1 **MR. ENGELMANN:** Okay.

2 **INSP. SMITH:** "Asked why church settled
3 out of court. Made everything look
4 suspect."

5 **MR. ENGELMANN:** All right, and this is what
6 she's telling you she said to the Bishop?

7 **INSP. SMITH:** That's what she said to the
8 Bishop, yes.

9 **MR. ENGELMANN:** All right, and then when it
10 said "He said the lawyer"?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** This would be the Bishop's
13 response to Nancy Seguin as recounted to you?

14 **INSP. SMITH:** Yes.

15 "Advised to do this to avoid scandal,
16 avoid Charlie's reputation, and it'd be
17 a lot quicker and cheaper."

18 **MR. ENGELMANN:** All right.
19 Could you just carry on a little bit
20 further, sir?

21 **INSP. SMITH:** I've got a star there.

22 "David Silmser, in return for the
23 money, was to stay quiet and not bring
24 charges against Father Charles. The
25 Bishop said he was against settling

1 this way, that it was not his decision
2 to make but the canon lawyer's
3 decision. That is why they have these
4 lawyers."

5 **MR. ENGELMANN:** Okay.

6 **THE COMMISSIONER:** Yes?

7 **MS. ROBITAILLE:** Mr. Commissioner, I raise
8 my objection again. This was not put to my client in
9 cross-examination. It wasn't put to the Bishop in cross-
10 examination. It's a basic issue of procedural fairness.
11 I'm not sure what to say. I don't know what explanation
12 there was but it was not put to either of those people.
13 Nancy Seguin was not called as a witness either, so here we
14 have a retelling of this conversation, you know, fourth
15 hand, third hand. And that's my objection, for the record.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Engelmann?

18 **MR. ENGELMANN:** I'm not sure if my friend
19 would like us to call Mr. Leduc back, if that's a
20 possibility to remedy that. I mean, I think clearly it was
21 something that was not known to Commission counsel when
22 that evidence was led.

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

24 **MR. ENGELMANN:** So that's a possibility if
25 that's a concern to her. I don't know of any other way to

1 deal with that.

2 **MS. ROBITAILLE:** Mr. Commissioner, I can
3 advise that these notes have been in the database from the
4 inception of the Inquiry. These haven't been recently
5 disclosed notes. Further, if we keep getting into these
6 issues, it may be that we'll have to recall my client,
7 we'll have to recall the Bishop, if we continue to have
8 these situations where allegations are put to witnesses in
9 a third-hand format without an opportunity to respond.

10 **THE COMMISSIONER:** Well, first of all, I
11 think we're just looking at the quality of the OPP
12 investigation at this time. We're not looking at your
13 client. We're looking at what they had and how they
14 responded to it. So how can -- you know, to Officer Smith,
15 he's saying I'm just sitting here; she's telling me these
16 things and now we're going, "Well, what did you do as a
17 result of these things? Did you go back and see Mr. Leduc?
18 Did you do this? Did you do that?" That's called
19 institutional response.

20 So I think your point is made that, you
21 know, no one is going to convict your client based on this
22 evidence, because number one, it's third hand and fourth
23 hand; number two, we're not here to convict or declare your
24 client innocent. We're just here to look at the
25 institutional response.

1 **MS. ROBITAILLE:** In my respectful
2 submission, Mr. Commissioner, you're going to have a very
3 difficult time parsing between evidence that you heard in
4 the Diocese institutional response and evidence that you've
5 heard in the OPP institutional response when they relate to
6 the same events and ---

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

8 **MS. ROBITAILLE:** --- I mean, at the end of
9 the day, that's going to be a difficulty in your hands but,
10 you know if I can be assured that findings aren't going to
11 be made ---

12 **(LAUGHTER/RIRES)**

13 **MS. ROBITAILLE:** --- against my client in
14 respect of this conversation or the Bishop, then I'm happy
15 to go back to my seat.

16 **THE COMMISSIONER:** Oh, yes, yes, yes. Well,
17 you know what I say to that; I'm not going to say anything
18 to that except what I've already said. I have a mandate.
19 I intend to do it properly. And the logical conclusion is
20 there for you to take.

21 **MS. ROBITAILLE:** Thank you, Mr.
22 Commissioner.

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

24 **MR. ENGELMANN:** And thank you, sir. I
25 should have stated very clearly that upon receiving this

1 information I now want to, of course, ask the witness what
2 he did.

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

4 **MR. ENGELMANN:** So to begin with, sir, the
5 asterisk on the side, would that be your own?

6 **INSP. SMITH:** Yes, sir.

7 **MR. ENGELMANN:** All right. So you thought
8 that this comment was of some import?

9 **INSP. SMITH:** Yes, sir.

10 **MR. ENGELMANN:** All right. Now given what's
11 being said here and given what you know about the clause in
12 the release, did you consider taking a formal statement
13 from Mrs. Seguin?

14 **INSP. SMITH:** No, sir.

15 **MR. ENGELMANN:** Why not?

16 **INSP. SMITH:** I can't give any explanation
17 for that but I knew that -- I put the asterisk there
18 because I knew eventually when I was going to speak to the
19 Bishop that I wanted to bring that to his attention.

20 **MR. ENGELMANN:** And it would be important to
21 bring that information to both the Bishop's attention and
22 perhaps to Mr. Leduc's attention. Would it not? Given
23 what was allegedly said to Mrs. Seguin by the Bishop.

24 **INSP. SMITH:** I believe I did.

25 **MR. ENGELMANN:** Okay. Then sir, if we could

1 look at the statement from Mr. Leduc or by Mr. Leduc and
2 that is a statement -- there was an interview on August the
3 2nd, '94. It's Exhibit 1892. It's document Number 110245.

4 **INSP. SMITH:** Yes, sir.

5 **MR. ENGELMANN:** And this is a statement that
6 you and Constable Fagan do together?

7 **INSP. SMITH:** That's correct.

8 **MR. ENGELMANN:** And sir, do you have some
9 discussion with Mr. Leduc before you go on tape; do you
10 remember?

11 **INSP. SMITH:** Generally, I don't, sir.
12 Generally, I just take them right in and start the
13 statement right away.

14 **MR. ENGELMANN:** Okay. I know I've asked you
15 about cautions before but the two other lawyers that are
16 involved in the settlement, at least in some part, Mr.
17 Malcolm MacDonald and Mr. Sean Adams ---

18 **INSP. SMITH:** M'hm.

19 **MR. ENGELMANN:** --- you cautioned both of
20 them right at the start.

21 **INSP. SMITH:** Yes, sir.

22 **MR. ENGELMANN:** You don't do that with Mr.
23 Leduc.

24 **INSP. SMITH:** I didn't see his signature on
25 any document. I saw Malcolm's on a document. I saw Mr.

1 Adam's on a document.

2 MR. ENGELMANN: All right.

3 INSP. SMITH: I'll caution them right off
4 the bat.

5 MR. ENGELMANN: All right.

6 INSP. SMITH: However, if Mr. Leduc in my
7 questions to him anywhere intimidated (sic) himself or gave
8 evidence that I felt could be admissible and would indicate
9 that he'd committed an offence, I would have cautioned him.

10 MR. ENGELMANN: All right. You did have the
11 information from Mrs. Seguin ---

12 INSP. SMITH: Yes.

13 MR. ENGELMANN: --- before this meeting?

14 INSP. SMITH: M'hm. Yes.

15 MR. ENGELMANN: Okay.

16 INSP. SMITH: Third hand.

17 MR. ENGELMANN: No. Fair enough.

18 THE COMMISSIONER: But does it mean to you,
19 sir, that there had to be a signature for him to become
20 part of the conspiracy?

21 INSP. SMITH: No. For as far as cautioning
22 an individual, I've got hard evidence right there that they
23 can't dispute that they didn't know about that document.

24 THE COMMISSIONER: M'hm.

25 INSP. SMITH: Their signatures on it and the

1 contents, I imagine that they've agreed to it. That's what
2 ---

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

4 **INSP. SMITH:** --- what is contained in the
5 content.

6 So therefore at that point, the questions I
7 want to ask, he's a strong suspect so I'll caution him.

8 **MR. ENGELMANN:** All right. So you've got a
9 document that is, if I can use the term, some prima facie
10 evidence of an attempt obstruct justice, given the clause
11 in it.

12 **INSP. SMITH:** I would agree -- I would agree
13 with you on that, yes.

14 **MR. ENGELMANN:** All right. And you've got
15 two lawyers signature but you don't have the third?

16 **INSP. SMITH:** Correct.

17 **MR. ENGELMANN:** All right. And that's a
18 distinction for you?

19 **INSP. SMITH:** For me, yes. At that point.

20 **MR. ENGELMANN:** All right.

21 **INSP. SMITH:** Okay.

22 **MR. ENGELMANN:** But at that point you knew
23 that Mr. Leduc was the lawyer for the Diocese?

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** And that he was the Canon

1 lawyer referred to?

2 INSP. SMITH: Yes.

3 MR. ENGELMANN: All right.

4 INSP. SMITH: I also knew that he was not a
5 criminal lawyer.

6 MR. ENGELMANN: Yes.

7 INSP. SMITH: I also knew that he didn't
8 practice criminal law; Malcolm -- Malcolm did.

9 MR. ENGELMANN: Right.

10 THE COMMISSIONER: And what does that mean?

11 INSP. SMITH: When it comes down to the
12 content of the release or the mention -- part 2, I think
13 was criminal, Mr. Commissioner.

14 THE COMMISSIONER: M'hm.

15 INSP. SMITH: Malcolm MacDonald -- I was
16 satisfied at this point, pretty well in my own mind, that
17 Malcolm MacDonald had drafted that document.

18 MR. ENGELMANN: Before you even ---

19 INSP. SMITH: Well ---

20 MR. ENGELMANN: --- went into this with any
21 of the ---

22 INSP. SMITH: --- I felt pretty strongly --
23 felt very strongly that -- I didn't feel that Mr. Leduc
24 knew enough about criminal law really, at that point, to
25 put in that criminal aspect of it, on part 2.

1 **MR. ENGELMANN:** All right. So you had some
2 preconceived notions given the background of the lawyers as
3 to what likely happened?

4 **INSP. SMITH:** Yes.

5 **MR. ENGELMANN:** All right. But then you
6 went ahead and interviewed all of them?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** All right. And the
9 interview with Jacques Leduc, at least the first part of
10 it, is only nine minutes long.

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** And then you go off tape and
13 you'll see that, it's page 11 of the interview, which is
14 Bates page 439. And you go back on the tape 26 minutes
15 later and I believe that there's a typo at the end and that
16 the concluding time should be 9:44 perhaps, not 10:44.
17 Would that be a fair assumption? Those last three pages
18 don't take an hour ---

19 **INSP. SMITH:** Yes.

20 **MR. ENGELMANN:** --- and three minutes.

21 **INSP. SMITH:** Yes.

22 **MR. ENGELMANN:** It's probably only three
23 minutes.

24 **INSP. SMITH:** I'd agree with that. That's a
25 typo.

1 **MR. ENGELMANN:** All right. All right.

2 And some of the points that you decided to
3 cover with Mr. Leduc -- well, the first couple of pages,
4 he's describing to you how the settlement comes about and
5 his involvement. For example on page 2, he suggests:

6 "My involvement was from the time the
7 solicitor for Charles MacDonald,
8 Malcolm MacDonald indicated he'd come
9 to terms of a settlement for the
10 payment of damages by Father Charles
11 and by the Bishop. I arranged for a
12 meeting with the Bishop."

13 Do you see that?

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** So he's suggesting that what
16 happens is Father Charles MacDonald's lawyer is essentially
17 making the deal for his client and for his own client. And
18 once that's done, that he's going to set up a meeting with
19 his client?

20 **INSP. SMITH:** It appears that way, yes.

21 **MR. ENGELMANN:** Did you think that was at
22 all unusual, sir?

23 **INSP. SMITH:** From what I understood of
24 Malcolm MacDonald's stature in the community, no. And with
25 the church and everything else, that he'd take the bull by

1 the horns, so to speak, and take care of everything. And
2 Leduc would advise the Bishop as far as canon law goes.

3 **MR. ENGELMANN:** Even though his client, the
4 Diocese, would be paying the lion's share of the money or a
5 significant share?

6 **INSP. SMITH:** Well, didn't know at that
7 time.

8 **MR. ENGELMANN:** All right.

9 **THE COMMISSIONER:** This is the first
10 meeting?

11 **INSP. SMITH:** This was with Leduc. It
12 wasn't until I found out what the finances were; I think
13 the Bishop told me more or less what ---

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

15 **MR. ENGELMANN:** But you'd heard from Claude
16 Shaver and you'd had Claude Shaver's statement ---

17 **INSP. SMITH:** M'hm.

18 **MR. ENGELMANN:** --- talking about ten
19 thousand from the priest ---

20 **INSP. SMITH:** M'hm.

21 **MR. ENGELMANN:** --- ten thousand from the
22 Diocese ---

23 **INSP. SMITH:** M'hm.

24 **MR. ENGELMANN:** --- and twelve thousand from
25 a third person?

1 **INSP. SMITH:** I ---

2 **MR. ENGELMANN:** So you knew at least that
3 there was a significant amount of money that was coming
4 from the Diocese?

5 **INSP. SMITH:** I knew there was \$32,000.

6 **MR. ENGELMANN:** Right.

7 **INSP. SMITH:** And where it was coming from,
8 sir, at that time I don't know. There were all kinds of
9 rumours.

10 **MR. ENGELMANN:** All right.

11 **INSP. SMITH:** A thousand here, five thousand
12 there, twelve, twenty, ten. I tend to believe what the
13 Bishop told me at the -- when I interviewed him.

14 **MR. ENGELMANN:** All right.

15 **THE COMMISSIONER:** I know we've just begun,
16 Mr. Engelmann, but it will be lunch time soon, so if you
17 can pick a spot?

18 **MR. ENGELMANN:** Okay.

19 So he describes to you, on the second page,
20 about a first meeting with the Bishop and how the Bishop
21 refused to participate in a settlement and then at the
22 bottom of the page, he says that Malcolm goes back to his
23 client, Father Charles. There's further discussions. That
24 he's contacted and the amount of damages to be paid, 32
25 thousand, part of which was to be paid by the Diocese, part

1 by Father Charles. And he tells you that he's asked to
2 arrange a second meeting with the Bishop, which he does?

3 **INSP. SMITH:** I believe, yes.

4 **MR. ENGELMANN:** All right?

5 And in it, on page 3, he talks to you about
6 the reluctance of the Bishop to enter into a settlement?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** He talks about the fact that
9 he and Malcolm MacDonald have a telephone conversation with
10 respect to the preparation of the documents; correct?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** And he says Malcolm was to
13 prepare it but he says Malcolm had never prepared a
14 document like this?

15 **INSP. SMITH:** That's correct.

16 **MR. ENGELMANN:** All right. So he says that
17 he prepares a draft in his office, has it typed and faxed
18 to Malcolm; correct?

19 **INSP. SMITH:** Yes.

20 **MR. ENGELMANN:** And did you ask him for that
21 document then?

22 **INSP. SMITH:** No.

23 **MR. ENGELMANN:** Because we know something
24 gets faxed later, but just wondering if you would have
25 thought of asking for it at the time?

1 **INSP. SMITH:** No, I didn't ask for it.

2 **MR. ENGELMANN:** All right.

3 Perhaps we could break there, sir.

4 **THE COMMISSIONER:** Thank you. We'll have
5 lunch. Come back at 2:00.

6 **THE REGISTRAR:** Order; all rise. À l'ordre.
7 Veuillez vous lever.

8 This hearing will resume at 2:00 p.m.

9 --- Upon recessing at 12:33 p.m./

10 L'audience est suspendue à 12h33

11 --- Upon resuming at 2:05 p.m./

12 L'audience est reprise à 14h05

13 **THE REGISTRAR:** Order; all rise. Veuillez
14 vous lever.

15 This hearing is now resumed. Please be
16 seated. Veuillez vous asseoir.

17 **THE COMMISSIONER:** Thank you.

18 Just a reminder, we'll have some monikers to
19 -- we've had some monikers this morning, so sometime we'll
20 have to make sure that we identify the monikers with the
21 names in an in camera session sometime?

22 **MR. ENGELMANN:** I'll check with Ms. Jones at
23 the break and ---

24 **THE COMMISSIONER:** Thank you.

25 Now, where were we?

1 **MR. ENGELMANN:** Good afternoon. We'll start
2 there.

3 **THE COMMISSIONER:** All right.

4 **INSP. TIM SMITH, Resumed/Sous le meme serment:**

5 **--- EXAMINATION IN-CHIEF/INTERROGATOIRE EN-CHEF PAR MR.**
6 **ENGELMANN (cont'd/suite):**

7 **MR. ENGELMANN:** Good afternoon, Mr. Smith.

8 **INSP. SMITH:** Good afternoon, sir.

9 **MR. ENGELMANN:** I believe when we left off
10 we were dealing with your interview of the lawyer for the
11 Diocese, a fellow by the name of Mr. Leduc?

12 **INSP. SMITH:** That's correct.

13 **MR. ENGELMANN:** And it's Exhibit 1892 and,
14 sir, I believe we were on Bates page 1048432, which is also
15 page 4 of the document?

16 **INSP. SMITH:** That's correct.

17 **MR. ENGELMANN:** All right. So let's just
18 retrace our steps then.

19 Mr. Leduc is informing you that he would
20 have discussed this matter over the phone with Mr. Malcolm
21 MacDonald -- right from the top of the page?

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** And this is after he's
24 indicated on the page before that Malcolm MacDonald hadn't
25 prepared a document like this before so he had sent him

1 some kind of a precedent?

2 **INSP. SMITH:** That's correct.

3 **MR. ENGELMANN:** Right? And then he makes a
4 comment that, I gather through inadvertence, the document
5 does include a reference to criminal proceedings. All
6 right?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** Now at this point-in-time,
9 that was well known, was it not, that the document had some
10 reference to withdrawing or terminating the criminal
11 action?

12 **INSP. SMITH:** It was well known, yes.

13 **MR. ENGELMANN:** And he indicates that
14 Malcolm prepared the draft and that essentially Malcolm met
15 with Silmsner and also with a lawyer who was going to be
16 there when it was signed and give a certificate of the
17 independent legal advice, a fellow by the name of Sean
18 Adams?

19 **INSP. SMITH:** That's correct.

20 **MR. ENGELMANN:** All right.

21 And he then says that after this is done,
22 Malcolm calls him and he has received funds from the
23 Diocese and, essentially, that he deposited those funds in
24 his trust account and that he wrote up a cheque and had it
25 delivered to Malcolm MacDonald?

1 **INSP. SMITH:** Yes.

2 **MR. ENGELMANN:** All right. And he then says
3 that -- and he says he does this before he even gets the
4 release documents back from Mr. MacDonald?

5 **INSP. SMITH:** That's what he says.

6 **MR. ENGELMANN:** Right. And he tells you
7 that when he gets the documents back, they're in a sealed
8 envelope, and he describes what's in the sealed envelope at
9 this point anyway, containing a release, acknowledgement
10 and certificate of independent legal advice. But he tells
11 you that when he got it back he didn't open it?

12 **INSP. SMITH:** That's correct.

13 **MR. ENGELMANN:** And he says he didn't review
14 it until much later?

15 **INSP. SMITH:** That's right.

16 **MR. ENGELMANN:** And I'm just wondering, sir,
17 at this point you hear that the lawyer for the Diocese has
18 delegated, essentially, the preparation of the final
19 version of a settlement document to the lawyer for the
20 priest; correct?

21 **INSP. SMITH:** Yes.

22 **MR. ENGELMANN:** That he's not present when
23 the lawyer for the priest and a lawyer who's hired to just
24 give independent legal advice are there to sign it?

25 **INSP. SMITH:** Yes.

1 **MR. ENGELMANN:** That he doesn't review the
2 final draft?

3 **INSP. SMITH:** Yes.

4 **MR. ENGELMANN:** Nor does he review the draft
5 after it's signed, and he releases funds?

6 **INSP. SMITH:** Yes.

7 **MR. ENGELMANN:** Did that cause you any
8 concerns at the time?

9 **INSP. SMITH:** No, sir.

10 **MR. ENGELMANN:** Okay. So that didn't make
11 you at all suspicious?

12 **INSP. SMITH:** No, sir.

13 **MR. ENGELMANN:** All right.

14 Now, then there's a break in the interview
15 and after the break in the interview, you say -- and this
16 is the bottom of page 11.

17 **INSP. SMITH:** Yes, sir.

18 **MR. ENGELMANN:** Four-three-nine (439):

19 "It has come to our attention that he
20 has a few things that he wishes to
21 add."

22 **INSP. SMITH:** Yes, that's when I thought the
23 interview was finished at that point. I recall that. And
24 then he wanted to add something more, so we turned the tape
25 back on.

1 **MR. ENGELMANN:** All right. So did you
2 discuss things with him for the 26 minutes or so, or was he
3 just contemplating whether or not he wanted to give you
4 some more information?

5 **INSP. SMITH:** I can't recall, sir, but I
6 know that the gist of it was that he wanted to go on the
7 record to say some more, so we turned the tape on.

8 **MR. ENGELMANN:** All right.

9 **INSP. SMITH:** I had thought that the
10 interview had been completed at 9:15 a.m.

11 **MR. ENGELMANN:** All right. And then on page
12 he indicates -- and this is a clarification, if I can
13 call it that?

14 **INSP. SMITH:** It appears to be, yes.

15 **MR. ENGELMANN:** All right. And he indicates
16 to you that he prepared a draft which he faxed to Malcolm
17 MacDonald?

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** That there was a telephone
20 conversation and then that Malcolm fine-tuned it. And then
21 he says:

22 "He may have sent it back to me. I'm
23 not sure whether he did or not but I
24 suspect he did and I would have made
25 some corrections."

1 All right?

2 **INSP. SMITH:** Yeah, but ---

3 **MR. ENGELMANN:** So on the clarification,
4 he's suggesting to you that he did get it back ---

5 **INSP. SMITH:** Yes.

6 **MR. ENGELMANN:** --- to check before it was
7 finalized?

8 **INSP. SMITH:** May have got it back.

9 **MR. ENGELMANN:** Well, then he says:

10 "I'm not sure whether he did or not but
11 I suspect he did. I would have made
12 some corrections, particularly..."

13 et cetera.

14 "So I would have at the time had an
15 opportunity. Looking at the document
16 that was presented to me by Malcolm, I
17 have no reason to believe that the
18 document that I looked at in draft is
19 not the one and the same document that
20 was signed. I don't know that for a
21 fact. I can indicate to you that the
22 word 'criminal' in paragraph 2 of the
23 document could have been there at the
24 time. I certainly didn't catch it.
25 Had I caught it, I believe I would

1 asked Malcolm to remove any reference
2 to criminal matters."

3 Okay?

4 **INSP. SMITH:** Yes, that's what he said.

5 **MR. ENGELMANN:** All right. So it seems
6 after the clarification, suggesting that he probably
7 reviewed it but that it was inadvertence and he missed it?

8 **INSP. SMITH:** That's what he says, yes.

9 **MR. ENGELMANN:** All right.

10 And, again, it goes further and says -- he's
11 talking about discussions, and presumably those are
12 discussions between him and Malcolm MacDonald:

13 "Both of us were concerned the matter
14 was purely a civil settlement, didn't
15 involve criminal. As I indicated a
16 while ago, I believe it's as a result
17 of inadvertence the word 'criminal' was
18 left in paragraph 2."

19 Correct?

20 **INSP. SMITH:** That's what he says.

21 **MR. ENGELMANN:** All right.

22 And did you go any further, sir, and ask him
23 about the other paragraph, the paragraph that says that
24 you're not allowed to talk about any of the events which
25 led up to this, which was in the very beginning ---

1 **INSP. SMITH:** No, I didn't get into that.

2 **MR. ENGELMANN:** All right.

3 **INSP. SMITH:** I might add I'm not very
4 familiar with civil documents at all.

5 **MR. ENGELMANN:** Fair enough.

6 Did you at any time have any concerns about
7 the competence of these lawyers? Did they seem to know
8 what they were talking about?

9 **INSP. SMITH:** Yes. Leduc knew -- he
10 appeared to know canon law and he represented the Diocese
11 and certainly appeared to know what he was doing. There
12 was no doubt Malcolm MacDonald knew the criminal law.

13 **MR. ENGELMANN:** All right.

14 **THE COMMISSIONER:** How would you form the
15 opinion that -- how did you come to form the opinion that
16 Leduc knew canon law?

17 **INSP. SMITH:** Well, he'd represented the --
18 he had represented the church for some period of time -- or
19 the Diocese for some period of time, and had been involved
20 in these type of things ---

21 **THE COMMISSIONER:** Right.

22 **INSP. SMITH:** --- in the past.

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

24 **INSP. SMITH:** And there was some indication
25 somewhere along the line that he'd been a seminarian and I

1 guess had some understanding of the Catholic Church and the
2 way the Dioceses are run according to canon law.

3 I had a little bit of knowledge of canon law
4 because I'd studied a bit of it prior in St. Joe's and St.
5 John's Training Schools to obtain a search warrant, so I
6 spent a lot of time with canon law.

7 **THE COMMISSIONER:** But did Monsieur Leduc
8 allude to canon law applying to this settlement?

9 **INSP. SMITH:** I think he -- he told me he
10 was a canon lawyer -- canon law lawyer. I recall that.

11 **THE COMMISSIONER:** But did he quote any
12 rules or did he invoke anything of canon law ---

13 **INSP. SMITH:** No.

14 **THE COMMISSIONER:** --- in this thing?

15 **INSP. SMITH:** No, not in the settlement.

16 No, Mr. Commissioner.

17 **THE COMMISSIONER:** Okay, thank you.

18 Mr. Engelmann?

19 **MR. ENGELMANN:** And the reference to having
20 no criminal law background, that's right at the end of the
21 interview is it not, sir? If you look at the last page.

22 **INSP. SMITH:** I'm sorry. What was the
23 question again, sir?

24 **MR. ENGELMANN:** You indicated that you
25 believed he had no expertise or knowledge of criminal law.

1 **INSP. SMITH:** Yes.

2 **MR. ENGELMANN:** And that's essentially what
3 he tells you at the very end of the interview. Is that
4 right? The last page:

5 "My areas of practice..."

6 **INSP. SMITH:** Yes.

7 **MR. ENGELMANN:** "...real estate,
8 commercial and corporate law."

9 **INSP. SMITH:** Yeah.

10 **MR. ENGELMANN:** "I don't do any criminal
11 law at all."

12 **INSP. SMITH:** Yes, yes. And in questioning
13 some of the other police officers in the Cornwall area,
14 they'd never seen him in criminal court.

15 **MR. ENGELMANN:** All right.

16 Were you at all familiar, sir, with lawyers
17 accepting trust funds and what they normally do before
18 releasing trust funds?

19 **INSP. SMITH:** I'm not really familiar with
20 that.

21 **MR. ENGELMANN:** All right.

22 **INSP. SMITH:** No.

23 **MR. ENGELMANN:** Okay.

24 And, sir, both in this interview and an
25 interview you have with Malcolm MacDonald, both of these

1 lawyers tell you that they had spoken to Murray MacDonald,
2 the Crown prosecutor, about the civil settlement?

3 **INSP. SMITH:** That's correct, yes.

4 **MR. ENGELMANN:** All right.

5 Now, did that strike you at all as unusual
6 that these lawyers, who are telling you that all they're
7 doing is putting together a civil settlement, want to have
8 discussions with the Crown prosecutor about it?

9 **INSP. SMITH:** Not in a small town, sir. Not
10 where the lawyers all know each other and they deal with
11 each other on a daily basis. I've witnessed all kinds of
12 deals made between lawyers in restaurants and elevators and
13 places of that nature in small towns while I was passing
14 through.

15 **MR. ENGELMANN:** But Mr. MacDonald would
16 presumably have regular reasons to meet with -- Malcolm
17 MacDonald to meet with the Crown prosecutor, but Mr. Leduc
18 didn't practise criminal law?

19 **INSP. SMITH:** No.

20 **MR. ENGELMANN:** You didn't see that as
21 unusual that they'd both seek out the Crown?

22 **INSP. SMITH:** No.

23 **MR. ENGELMANN:** Okay.

24 And, sir, I asked you earlier about whether
25 you had asked Mr. Leduc for the precedent that he might

1 have sent to Malcolm MacDonald?

2 **INSP. SMITH:** No, I told you no, but we did
3 ask him -- he did say in a statement that he would
4 volunteer to provide us with the wording of some
5 settlements that he'd used in the past, and he did provide
6 us with one. It was in French.

7 **MR. ENGELMANN:** Yes, and that was provided
8 in 1995, correct, in early 1995? A short document in
9 French?

10 **INSP. SMITH:** Yes, yes.

11 **MR. ENGELMANN:** Okay. And that would have
12 been provided to your colleague, Constable Fagan?

13 **INSP. SMITH:** Fagan picked it up at the
14 office, yes.

15 **MR. ENGELMANN:** And did you ever ask either
16 of these lawyers for their files on this matter?

17 **INSP. SMITH:** For their?

18 **MR. ENGELMANN:** For their files.

19 **INSP. SMITH:** For their files, no.

20 **MR. ENGELMANN:** With respect to this ---

21 **INSP. SMITH:** No.

22 **MR. ENGELMANN:** Did you ever consider
23 seeking that information, either through a request or
24 through a search warrant or otherwise?

25 **INSP. SMITH:** No.

1 **MR. ENGELMANN:** Given the wording of the
2 document itself, the final document, did you not think it
3 would be important to examine some of the faxes back and
4 forth or look at what, if any, notes the lawyers had about
5 this to determine who knew what, when?

6 **INSP. SMITH:** No. I was satisfied that I
7 had sufficient information under that clause to send -- to
8 put together a brief and send it to the Regional Director
9 of Crown Attorneys for his advice as to whether a charge
10 should be laid or not.

11 **MR. ENGELMANN:** Okay.

12 **INSP. SMITH:** And that's what I did.

13 **MR. ENGELMANN:** Okay.

14 **INSP. SMITH:** Let me finish this. And,
15 subsequently, Mr. MacDonald pled guilty, and that's the end
16 of it as far as the document goes. It wasn't a proper
17 document and he was found guilty of making that document.

18 **MR. ENGELMANN:** He pled guilty.

19 **INSP. SMITH:** He was found guilty -- yeah,
20 pled guilty and found guilty.

21 **MR. ENGELMANN:** I understood he pled guilty

22 ---

23 **INSP. SMITH:** Yeah.

24 **MR. ENGELMANN:** --- and there was an
25 arrangement where if he pled guilty he would get an

1 absolute discharge.

2 **INSP. SMITH:** Well, I don't know about that,
3 sir. I did my job. I presented the brief. The
4 information came back to me after review of several Crown
5 Attorneys.

6 **MR. ENGELMANN:** All right.

7 **INSP. SMITH:** The charge was laid and he
8 pled guilty.

9 **MR. ENGELMANN:** Okay.

10 **THE COMMISSIONER:** Mr. Engelmann?

11 **MR. ENGELMANN:** Oh, I'm sorry.

12 **MS. ROBITAILLE:** Just for clarification.

13 When an accused person pleads guilty there's
14 a finding of guilty. Now, the court makes a finding that -
15 --

16 **THE COMMISSIONER:** Not necessarily. You
17 make a finding of guilt but a conviction isn't registered.

18 **MS. ROBITAILLE:** But there is a finding of
19 guilt.

20 **THE COMMISSIONER:** Yes.

21 **MS. ROBITAILLE:** That was my only point.
22 Thank you.

23 **THE COMMISSIONER:** Well, he pled and he was
24 found guilty but a conviction wasn't registered.

25 **MS. ROBITAILLE:** Thank you.

1 **MR. ENGELMANN:** Now, sir, you conducted an
2 interview of Bishop LaRocque with Detective Constable Fagan
3 on September 12th, 1994, and that is Exhibit 1790.

4 The document number for counsel, 703764.
5 It's a fairly lengthy document, sir, so I'm going to try
6 and just summarize sections of it for you, and hopefully we
7 can ---

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** --- do it that way, but my
10 understanding is the interview takes about an hour and
11 15 minutes, if we're looking at the timing, 1:40 to 2:55,
12 and the Bishop has counsel?

13 **INSP. SMITH:** Yes, he does.

14 **MR. ENGELMANN:** David Scott is ---

15 **INSP. SMITH:** David Scott's present, yes.

16 **MR. ENGELMANN:** All right. And it's you and
17 Constable Fagan?

18 **INSP. SMITH:** Yes, sir.

19 **MR. ENGELMANN:** All right. And I'm going to
20 suggest to you that the interview is, sort of, twofold.

21 The first part of it is to cover his
22 knowledge of the Silmsler complaint, and some of the process
23 that was engaged, and the second part was really to discuss
24 the settlement. And that, just before you start discussing
25 the second part of it, you then caution the Bishop.

1 **INSP. SMITH:** It's been some time since I've
2 read this ---

3 **MR. ENGELMANN:** All right.

4 **INSP. SMITH:** --- document. I ---

5 **MR. ENGELMANN:** All right.

6 **INSP. SMITH:** Actually, I don't remember
7 cautioning him.

8 **MR. ENGELMANN:** Okay, well, let me just show
9 you that. I'll just be a minute.

10 **(SHORT PAUSE/COURTE PAUSE)**

11 **MR. ENGELMANN:** It's Bates page 457.

12 **INSP. SMITH:** Yes, sir. Oh, Fagan cautioned
13 him.

14 **MR. ENGELMANN:** I'm sorry?

15 **INSP. SMITH:** Fagan cautioned him, I guess.

16 **MR. ENGELMANN:** Oh -- sorry.

17 **INSP. SMITH:** Yes. I didn't remember
18 cautioning him.

19 **MR. ENGELMANN:** Okay. when I said "you," I
20 should have been more specific.

21 **THE COMMISSIONER:** It was the royal "you."

22 **MR. ENGELMANN:** Yes.

23 **INSP. SMITH:** Yes. But I couldn't remember
24 myself, no.

25 **MR. ENGELMANN:** All right. So the first

1 part of it is really talking about some of the background
2 on the complaint, and what he knew and, after the caution,
3 you're asking about this document which has a clause in it
4 that concerns you? Fair enough?

5 **INSP. SMITH:** Yes, sir.

6 **MR. ENGELMANN:** All right. And, just to
7 summarize a little bit, if we can, would it be fair to say
8 you would have spent some time preparing for this interview
9 ---

10 **INSP. SMITH:** Yes.

11 **MR. ENGELMANN:** --- to set out ---

12 **INSP. SMITH:** Yes.

13 **MR. ENGELMANN:** --- two areas you want to
14 cover ---

15 **INSP. SMITH:** Yes, sir.

16 **MR. ENGELMANN:** --- his knowledge and then
17 the issue of the settlement? You would have reviewed other
18 statements you'd obtained before? For example, the
19 statements you'd received from Claude Shaver?

20 **INSP. SMITH:** Yes, sir.

21 **MR. ENGELMANN:** And the notes you had of
22 Nancy Seguin, and other things? And you would have also,
23 sir, would you not, have reviewed the Diocesan protocol for
24 how they were to deal with these matters internally?

25 **INSP. SMITH:** To some degree, yes.

1 **MR. ENGELMANN:** Yes. And the reason I say
2 that is, sir, if you look at about page 6, which is Bates
3 page 7011411, right through to about Bates page 423, which
4 is page 18, you're asking about certain steps in the
5 Diocesan protocol that you're suggesting may not have been
6 followed. And the Bishop is acknowledging several
7 occasions that -- that you're right, that certain steps
8 weren't followed.

9 Do you have some recollection of this, sir?
10 Do you want to take a quick look at it?

11 **INSP. SMITH:** I remember I went through it,
12 but I can't be specific, sir. I know that there were -- I
13 asked him about the protocol, and I had some knowledge of a
14 protocol, and we discussed that.

15 **MR. ENGELMANN:** All right. But it was of
16 concern to you, at least at that time, about how they had
17 dealt with this internally, the Silmsler complaint?

18 **INSP. SMITH:** Well, it appeared, from my
19 knowledge, that they didn't follow the protocol.

20 **MR. ENGELMANN:** Right. And so, for example,
21 on Bates page 411 at the top, which is page 6, you're
22 asking about the fact that, "a designated person shall open
23 a file in each case," right?

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** I don't know if you found

1 this out, sir, but essentially there was no file?

2 **INSP. SMITH:** No.

3 **MR. ENGELMANN:** No. And talks about who's
4 responsible, and then the next page, Bates page 412, you're
5 talking about a concern you have that somebody should be
6 notifying the Children's Aid Society. And that's in the
7 first paragraph in your question?

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** And the Bishop says:

10 "Well, that's the committee, okay?"

11 And then he says:

12 "That's not my responsibility?"

13 **INSP. SMITH:** Yes.

14 **MR. ENGELMANN:** Okay. So he's suggesting
15 that -- he's not saying that they notified the CAS, he's
16 saying that essentially that was McDougald or someone
17 else's responsibility? All right.

18 And you go through a number of matters like
19 that, the Vaillancourt report that needs to be
20 reconstructed, at Bates page 415 and 416.

21 Okay, and I don't know if you recall this,
22 but these notes that disappeared ---

23 **INSP. SMITH:** I recall that they -- that
24 they had it on a computer and it was either erased or they
25 lost it.

1 **MR. ENGELMANN:** Okay.

2 **INSP. SMITH:** I recall that.

3 **MR. ENGELMANN:** And at the top of Bates page
4 419, which is page 14, you're asking about the requirement
5 for Father MacDonald to resign? And you're saying, "That
6 didn't happen," and then he says, "Well, it did,
7 eventually"? Correct?

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** And again on that page, the
10 fact that the Bishop is to receive minutes of a meeting and
11 he's telling you, "I never received minutes," a little
12 further down the page?

13 Then on the following page, 420, near the
14 bottom, he's acknowledging that Phase 4 of the protocol
15 wasn't followed? Correct?

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** So you're taking him through
18 some concerns you have about the protocol not being
19 followed?

20 **INSP. SMITH:** That's correct.

21 **MR. ENGELMANN:** All right. Sir, as well, at
22 Bates page 424 and 425, you seem to have -- and this is
23 page 19 and 20, starting near the bottom -- you ask him
24 about Monsignor Schonenbach and his comment that he found
25 Silmsner to be a credible person, onto the next page. And

1 you're suggesting to the Bishop that he made statements in
2 the press, or there were statements attributed to him,
3 where he was questioning Mr. Silmser's credibility?

4 **INSP. SMITH:** Yes.

5 **MR. ENGELMANN:** And at the top of page 21,
6 or Bates page 426, he's essentially saying, no, I wasn't
7 questioning his credibility, in the sense he says:

8 "I don't know how they can say that,
9 if I never even talked to him."

10 **INSP. SMITH:** That's what he ---

11 **MR. ENGELMANN:** Do you see that?

12 **INSP. SMITH:** That's what he says, yes.

13 **MR. ENGELMANN:** Yes, and that's repeated
14 again.

15 Sir, you then question the Bishop about his
16 interactions with Chief Shaver, and that starts on Bates
17 page 418, or page 23 of your note.

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** Where you are questioning
20 him about the October 7th meeting, and then at Bates
21 page 429 and onto 430 -- if I could just have a moment?

22 Well, the bottom of page 430, or page 25, you're
23 telling him about the fact that the Chief noted, not only
24 the meeting with him during the day, but the fact that he
25 had called in the evening of the 7th?

1 **INSP. SMITH:** Yes; correct.

2 **MR. ENGELMANN:** And then you describe, over
3 the next couple of pages -- you ask him whether Father
4 Charlie, Charles, "admitted to you at the time," and he
5 says:

6 "Father Charles never admitted to me
7 that he'd had any sexual contact with
8 young people."

9 Do you see that?

10 And then you go into a discussion with him
11 about the dilemma you're in, and you're asked to explain
12 that? The bottom of page 431 and the top of page 432?

13 **INSP. SMITH:** Well, this is where Mr. Scott
14 came in.

15 **MR. ENGELMANN:** Yes.

16 **INSP. SMITH:** M'hm.

17 **MR. ENGELMANN:** And he asks you what you're
18 referring to, and you're referring to the statement that
19 Chief Shaver had given you, correct?

20 **INSP. SMITH:** Yes.

21 **MR. ENGELMANN:** And you read it to him ---

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** --- at least in part? And,
24 again, the Bishop says:

25 "Well, he couldn't have admitted to

1 the assault because he never has, and,
2 even after his treatment in Southdown,
3 the same thing, he's never admitted to
4 the incident and relations with
5 teenagers."

6 Okay?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** Now, sir, you did challenge
9 him on the inconsistency between that and what Chief Shaver
10 told you he had said; correct?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** And, in fact, you go over
13 onto the next page, 433, and you tell him the Chief is
14 pretty explicit We interviewed him in regard to this and he
15 said he recalls vividly what you had said; okay?

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** So you clearly challenge him
18 on the admission issue. You don't, however, go back to the
19 comment he makes; he's never admitted to relations with
20 teenagers.

21 I'm just wondering, sir, were you aware of,
22 and had you had an opportunity to, read the notes from Rick
23 Abell when the CAS officials had met with the Bishop?
24 There's a reference to an admission of sex with teens.

25 **INSP. SMITH:** I can't remember.

1 **MR. ENGELMANN:** Okay, I just ---

2 **INSP. SMITH:** If I had that information, I
3 would have put it to the Bishop.

4 **MR. ENGELMANN:** All right, because I note
5 you didn't in this interview so I'm just wondering ---

6 **INSP. SMITH:** I think if I had that
7 information, I would have.

8 **MR. ENGELMANN:** All right.

9 **INSP. SMITH:** I was well prepared for this
10 interview I remember. In fact, I was a bit nervous. I'd
11 never gone after a bishop before.

12 **MR. ENGELMANN:** Okay.

13 **INSP. SMITH:** And having Mr. Scott there was
14 also an initial stressor and he gave me free rein for a
15 long time then cut me down when I got into some touchy
16 areas I guess.

17 **MR. ENGELMANN:** Okay, so it was a bit
18 intimidating?

19 **INSP. SMITH:** Well, nobody intimidates me
20 but I was -- I was nervous.

21 **MR. ENGELMANN:** You had a senior cleric, you
22 had a senior lawyer?

23 **INSP. SMITH:** Yeah, yeah.

24 **MR. ENGELMANN:** But you probably had not had
25 an opportunity to review those notes from Rick Abell or you

1 would have used them is what you're saying?

2 **INSP. SMITH:** I don't -- I may have. I
3 can't remember but if I had -- I think if I had I would
4 have put those questions to him.

5 **MR. ENGELMANN:** Sir, at Bates page 434,
6 which is page 29 of your interview, and I think we've
7 covered this before and it comes up again.

8 He's talking to you about other
9 complainants, other issues, and this is where you say, it's
10 your second last comment on the page:

11 "Well, we're in the neighbourhood of
12 five".

13 One of the incidents that purports to take
14 place in the States, purporting to take place in the
15 States?

16 **INSP. SMITH:** That was my best recollection
17 at the time ---

18 **MR. ENGELMANN:** Yes.

19 **INSP. SMITH:** --- of the number of people
20 that reported.

21 **MR. ENGELMANN:** And I think we looked at
22 this earlier about we had C-3, C-56?

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** And then we had the two
25 other monikers?

1 **INSP. SMITH:** Yes.

2 **MR. ENGELMANN:** And we added C-88 and C-89?

3 **INSP. SMITH:** Yeah.

4 **MR. ENGELMANN:** All right.

5 And you do have a discussion with him about
6 what happens at Southdown, and that starts at Bates page
7 440, which is page 35 of your interview?

8 **INSP. SMITH:** Yes, sir.

9 **MR. ENGELMANN:** And you say to him then that
10 a test for pedophilia was not conducted?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** You're advising him of that;
13 that was not something he advised you of, you advised him?

14 **INSP. SMITH:** I told him. I had the report.

15 **MR. ENGELMANN:** Yes.

16 **INSP. SMITH:** I'd seen the report and he's
17 telling me that he's not a pedophile. I said, well how can
18 you say that when they didn't even do that test at
19 Southdown.

20 **MR. ENGELMANN:** All right. And you actually
21 say to him, at the top of Bates page 441, that essentially
22 you didn't find the report that helpful?

23 **INSP. SMITH:** No.

24 **MR. ENGELMANN:** Were you aware of the fact,
25 sir, given your previous dealings with Southdown, that

1 priests or clerics who were treated there can vet the
2 reports that then go out? They don't go out unless they
3 consent?

4 **INSP. SMITH:** No. My understanding of
5 Southdown was that it was an area, sort of a retreat for
6 either burnt-out priests that have had difficulties with
7 alcohol, sex maybe with females, sex with males, and that
8 they would rehabilitate. And I thought that their records
9 were kept pretty quietly and then they weren't released
10 back into the community or into their parishes until their
11 problems had been rectified.

12 I knew that some of the priests had gone
13 there from St. Joseph's and St. John's and I never did see
14 a report.

15 **MR. ENGELMANN:** And so your experience
16 previously would have been priests that had gone there as a
17 result of some form of sexual misconduct or allegation of
18 sexual misconduct?

19 **INSP. SMITH:** Yes.

20 **MR. ENGELMANN:** So then let's shift to the
21 second part of this interview, if I call it this, after you
22 caution the Bishop, and that was at 457.

23 **INSP. SMITH:** Four-five-seven (457), sir?

24 **MR. ENGELMANN:** Four-five-seven. Sorry,
25 when Constable Fagan cautions the Bishop?

1 **INSP. SMITH:** Can you tell me what page?

2 **MR. ENGELMANN:** Yes, page 52.

3 **INSP. SMITH:** Fifty-two (52), okay.

4 **MR. ENGELMANN:** I'm sorry.

5 **INSP. SMITH:** Yes, sir.

6 **MR. ENGELMANN:** All right.

7 And when you discuss the issue of the
8 settlement he tells you, for example, at page 54, which is
9 Bates pages 459, that he's essentially pressured by both
10 these lawyers, Malcolm and his own lawyer, Jacques Leduc?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** He talks about:

13 "First time received them, they urged
14 me to make a settlement. I refused."

15 Next day he goes off to a conference and he
16 says:

17 "After my return September 1, both came
18 back again with a second request. They
19 worked on the fact..."

20 et cetera. Okay?

21 **INSP. SMITH:** That's correct, yes.

22 **MR. ENGELMANN:** So on Bates page 461, which
23 is page 56 -- actually it starts on the page before, they
24 talk about the \$32,000 and he tells you -- you ask:

25 "Can you tell me where the funds

1 came from? Ten-thousand (10,000) come
2 from the priest, 22,000 from the
3 Diocese."

4 **INSP. SMITH:** H'hm.

5 **INSP. SMITH:** And he says:

6 "Since then, I found out the priest
7 had not paid 10,000. I think it was
8 5,000, the rest was made up from
9 Diocesan funds."

10 Do you see that?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** Now, you had received
13 information from Claude Shaver back in October -- sorry,
14 that he had heard from the Bishop back on October 7th of
15 '93, it's in a statement to you early in '94, about 10, 10
16 and 12; 10,000 from the priest, 10,000 from the Diocese ---

17 **INSP. SMITH:** That seems familiar.

18 **MR. ENGELMANN:** --- and 12,000 from an
19 unknown person?

20 **INSP. SMITH:** That seems familiar.

21 **MR. ENGELMANN:** And I'm not sure whether you
22 would have read them but that was also recounted to Rick
23 Abell by Mr. Shaver immediately after the meeting with --
24 that he had with the Bishop.

25 **INSP. SMITH:** I think I've read that since

1 in preparation for here.

2 MR. ENGELMANN: And I'm just wondering, sir,
3 did you -- you had thought that was of some import at the
4 time when you heard it, the 10, 10 and 12, and the fact
5 that there might be a third party involved?

6 INSP. SMITH: Well, yes.

7 MR. ENGELMANN: I'm wondering why you didn't
8 challenge the Bishop on this as you did on some other
9 things?

10 INSP. SMITH: Well, really at the time the
11 money didn't make that much -- I knew that ---

12 MR. ENGELMANN: Maybe I'm confused, maybe I
13 missed it. Is it here?

14 MR. KOZLOFF: It's the next question.

15 MR. ENGELMANN: Oh here, sorry. No.

16 MR. KOZLOFF: At page 56.

17 MR. ENGELMANN: Yes, sorry.

18 Mr. Smith, top of page 56, Bates 461, you
19 say:

20 "We were told that there were three
21 parties to it."

22 INSP. SMITH: M'hm.

23 MR. ENGELMANN: "The Dio", and I presume
24 that means Diocese?

25 INSP. SMITH: Yeah.

1 **MR. ENGELMANN:** "They said there were two
2 parties that donated some and an undisclosed
3 third party that disclosed paid the rest,
4 and then that was given into a trust account
5 of one of the lawyers who drew a cheque on
6 his trust account."

7 Do you see that?

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** All right. So you don't set
10 it out completely ---

11 **INSP. SMITH:** No.

12 **MR. ENGELMANN:** --- as Chief Shaver did, but
13 you set out some of that?

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** I'm just wondering did you
16 have his statement with you at the time? You did because
17 you read from it earlier.

18 **INSP. SMITH:** Chief Shaver's?

19 **MR. ENGELMANN:** Yes.

20 **INSP. SMITH:** Oh, I imagine, yes.

21 **MR. ENGELMANN:** You had read from it earlier
22 when you were challenging him on the admission issue?

23 **INSP. SMITH:** Then I must have had it.

24 **MR. ENGELMANN:** Yeah.

25 **INSP. SMITH:** There was money bouncing all

1 over the place.

2 **MR. ENGELMANN:** All right.

3 **INSP. SMITH:** But the fact of the matter is
4 that the \$32,000 figure came from David Silmser. That's
5 what he wanted. He wanted 20,000 up front for pain and
6 suffering, he wanted 12 for counselling.

7 And I recall in conversation somewhere along
8 with the Bishop that he indicated Father Charlie didn't
9 have that kind of money. He didn't have any money at all
10 so the money would come from Diocese and come from
11 elsewhere. And I strongly believe that Malcolm MacDonald
12 helped him out on that. I have no proof, but I believe
13 that that's the third party.

14 **MR. ENGELMANN:** Okay, but aside from what
15 you did on this page with respect to bringing up that there
16 may have been a third party, you didn't go into the
17 statement you'd received from Chief Shaver, and go at him
18 on that point.

19 **INSP. SMITH:** Well, that's not here in the
20 statement, so I didn't do it

21 **MR. ENGELMANN:** Fair enough.

22 **INSP. SMITH:** No.

23 **MR. ENGELMANN:** Fair enough.

24 And that wasn't as important to you as some
25 of the other matters that you said you were addressing?

1 **INSP. SMITH:** I thought I was doing pretty
2 well on this statement for getting as much as I got.

3 **MR. ENGELMANN:** Yeah.

4 **INSP. SMITH:** So that's what I set out to
5 get and I ---

6 **MR. ENGELMANN:** All right.

7 **INSP. SMITH:** --- was quite pleased with it.
8 And I might add that the Bishop came across as very
9 truthful and very forthright in my answers -- or in my
10 questions, I'm sorry.

11 **MR. ENGELMANN:** And he told you that the
12 first that he became aware of the actual clauses in the
13 settlement agreement -- and that's at Bates page 465
14 towards the bottom -- would have been January the 19th. Do
15 you see that? That's page 60 of your interview, sir.

16 **INSP. SMITH:** January 24th was it, sir, as I
17 see in there?

18 **MR. ENGELMANN:** I'm sorry?

19 **INSP. SMITH:** Oh:

20 "I suppose it should say that, on
21 January the 19th is when I looked at the
22 document for the first time."

23 **MR. ENGELMANN:** Yeah.

24 **INSP. SMITH:** That's what he tells me.

25 **MR. ENGELMANN:** All right.

1 And you then, over the next several pages,
2 put to him some of what you've been told by Malcolm, in an
3 earlier interview by Jacques Leduc, and also the
4 information you received from Nancy Seguin.

5 **INSP. SMITH:** Yes.

6 **MR. ENGELMANN:** And if we can just turn to
7 that very briefly, that's at page 489, which is page 84.

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** And you discuss her
10 interview with you and the interview about the Bishop over
11 those next couple of pages. That's at page 84 and 85. And
12 he says at the bottom of page 85 -- her recollection of
13 that interview:

14 I'm not saying that she's lying or
15 anything but I think that it would be
16 certainly not if kilter, out of
17 balance."

18 Do you see that?

19 **INSP. SMITH:** Yes, I see that.

20 **MR. ENGELMANN:** And on the following page
21 you get into the discussion you had with her about the
22 settlement and you say -- and this is on page 86, Bates
23 page 491:

24 "She asked why the Church would settle
25 out of court and then made everything

1 look suspect. Bishop said the lawyer
2 advised to do this to avoid scandal,
3 avoid Charlie's reputation; it would be
4 a lot quicker and cheaper. Bishop,
5 'Now, that was with the part of the
6 argument that both of -- gave me --
7 from -- gave me.'

8 And then the Bishop at the top of the next
9 page:

10 "There would be a possibility of seeing
11 the priest, letting him continue his
12 work, and that if we went to court it
13 would be a lot more costly than
14 32,000."

15 And again there's no issue with what's being
16 said here. In this issue about reputation it says:

17 "Not to avoid his reputation, to
18 preserve it."

19 Then you say:

20 "And then David Silmser, in return for
21 the money, was to stay..."

22 And I think it should say "quiet" instead of
23 "quite." Do you see that? It's Bates page 492. It's page
24 87 near the bottom.

25 **INSP. SMITH:** Can you tell me what area?

1 **MR. ENGELMANN:** Just right here at the top
2 of the screen. Should that say, "was to stay quiet"?

3 **INSP. SMITH:** It should be, "was to stay
4 quiet," yeah.

5 **MR. ENGELMANN:** Yeah:
6 "...and not bring charges against Bob
7 or Charlie."

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** "This is what she said you
10 said."

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** Now, it's at this point
13 where he takes issue ---

14 **INSP. SMITH:** Yes.

15 **MR. ENGELMANN:** --- with that. He says:
16 "No, that I never -- I deny saying
17 that."

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** And it goes on:
20 "The Bishop said he was against
21 settling this way but it was not his
22 decision to make but the Canon lawyer's
23 decision."

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** And then again he says,

1 "That's not true," and that's on the next page, sir. Okay?

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** So you did challenge him on
4 what you had heard from Nancy Seguin on that issue.

5 **INSP. SMITH:** Yes, sir.

6 **MR. ENGELMANN:** And you got his response.

7 **INSP. SMITH:** Yes, sir.

8 **MR. ENGELMANN:** All right.

9 And he tells you specifically, at Bates page
10 488, if we can look at that for a second ---

11 **INSP. SMITH:** Four eight eight (488)?

12 **MR. ENGELMANN:** Yeah. It's page 83 of your
13 interview. You're describing to him what is said in
14 paragraph 2 about the criminal matter, and it starts on the
15 previous page but he says in the middle of page 83:

16 "I would never have agreed to that
17 clause and that's what I told Chief
18 Johnston when I went in the day after I
19 got it, because that is obstruction of
20 justice and it's more involved."

21 **INSP. SMITH:** That's what he said.

22 **MR. ENGELMANN:** All right. So he's telling
23 you that he wouldn't agree to that clause and that that
24 clause is a criminal offence?

25 **INSP. SMITH:** That's what he's saying, yes,

1 sir.

2 MR. ENGELMANN: Yeah.

3 Now, aside from the Bishop you also spoke to
4 the fellow responsible for the money, the bursar,
5 Mr. Bryant.

6 INSP. SMITH: Yes.

7 MR. ENGELMANN: And you asked about speaking
8 with him at the end of your interview with the Bishop.

9 INSP. SMITH: Can you refer me to that
10 document, sir?

11 MR. ENGELMANN: Yes. It is Exhibit 1790.

12 THE COMMISSIONER: Seventeen ninety (1790)?

13 MR. ENGELMANN: Yeah.

14 THE COMMISSIONER: I don't think so. That's
15 the Bishop's ---

16 INSP. SMITH: That's the Bishop.

17 MR. ENGELMANN: Oh, I'm sorry.

18 THE COMMISSIONER: Seventeen ninety-one
19 (1791)? No.

20 MR. ENGELMANN: Just give me a moment.

21 Yeah, it's Exhibit 1932. It's Document
22 Number 703734.

23 Just to refresh your memory, sir, this is
24 the day after.

25 INSP. SMITH: Yes, I ---

1 **MR. ENGELMANN:** And you may have ---

2 **INSP. SMITH:** I'd like to refer to the
3 document, but I know we attended the bursar's office and
4 spoke to him.

5 **THE COMMISSIONER:** I'd like the document.

6 **MR. ENGELMANN:** All right.

7 Sir, you might also see a reference to it in
8 your notes, the interview itself, at Exhibit 1803.

9 **INSP. SMITH:** I can tell you that we -- Mike
10 Fagan and I -- Constable Fagan and I attended Mr. Bryant's
11 office and he provided us a brown envelope, sealed, that
12 contained the settlement and the other papers pertaining to
13 settlement.

14 **MR. ENGELMANN:** I have a clean copy here.

15 **THE COMMISSIONER:** Are we done with
16 questions or ---

17 **MR. ENGELMANN:** No, I have a couple of
18 questions, sir.

19 **THE COMMISSIONER:** Thank you. Nineteen (19)
20 ---

21 **MR. ENGELMANN:** Thirty-two (32).

22 **THE COMMISSIONER:** Okay.

23 **INSP. SMITH:** Yes, the 13th of September
24 1994.

25 **MR. ENGELMANN:** And you have a brief

1 meeting. It appears from the tape it's about eight
2 minutes.

3 **INSP. SMITH:** Yeah, we weren't in there very
4 long.

5 **MR. ENGELMANN:** All right. And your purpose
6 was to get this envelope from him?

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** And also to ask him about a
9 cheque that he might have drawn on behalf of the Diocese
10 towards the settlement?

11 **INSP. SMITH:** Again I'd have to ---

12 **MR. ENGELMANN:** Okay, let's look at it
13 quickly.

14 **INSP. SMITH:** I know I was in there to get
15 the envelope.

16 **MR. ENGELMANN:** Right. At Bates page 258,
17 which is the third page of your interview ---

18 **INSP. SMITH:** Yes, sir.

19 **MR. ENGELMANN:** --- you ask him whether he
20 issued a cheque and gave it to lawyers, and he tells you
21 that he issued a cheque for \$27,000.

22 **INSP. SMITH:** Yes, I see that here. Yes.

23 **MR. ENGELMANN:** All right. Now, he wasn't
24 asked about ---

25 **INSP. SMITH:** "I think," he said.

1 **MR. ENGELMANN:** I'm sorry?

2 **INSP. SMITH:** He said, "27,000 I think."

3 **MR. ENGELMANN:** Right. And he said the
4 cheque was made payable to Mr. Leduc's firm?

5 **INSP. SMITH:** Yes, their law firm.

6 **MR. ENGELMANN:** Right. And you did not ask
7 him at that time what he knew of the settlement, such as
8 the terms, the amounts ---

9 **INSP. SMITH:** No.

10 **MR. ENGELMANN:** --- the contributors
11 et cetera?

12 **INSP. SMITH:** No, I didn't.

13 **MR. ENGELMANN:** And were you of the belief
14 that he wouldn't have had that knowledge?

15 **INSP. SMITH:** Yes. I thought that he just
16 handled the financial end and he was directed to do the
17 cheques and he kept -- he was the bursar of the Church.

18 **MR. ENGELMANN:** All right.

19 **INSP. SMITH:** I don't think he was in any
20 position to make decisions.

21 **MR. ENGELMANN:** All right.

22 And asking him about the envelope, that's at
23 Bates page 259; page 4.

24 **THE COMMISSIONER:** I don't think he would
25 make a lot of decisions, but he certainly would have his

1 ear to the ground.

2 **INSP. SMITH:** Yes, I imagine he would know
3 what goes on within the church.

4 **THE COMMISSIONER:** So did you ask him
5 whether there was any discussion beforehand? You know,
6 like, was it always \$27,000 or did the number change or
7 anything like that?

8 **INSP. SMITH:** No, Mr. Commissioner, I didn't
9 -- I didn't ask.

10 **MR. ENGELMANN:** Nor would you have asked him
11 about whether after a certain amount of money, they might
12 have to seek external approval or lay-person approval ---

13 **INSP. SMITH:** No ---

14 **MR. ENGELMANN:** --- for amounts?

15 **INSP. SMITH:** No, I didn't ask that. I'm
16 aware afterwards that that's the case, but I ---

17 **THE COMMISSIONER:** All right.

18 **INSP. SMITH:** --- I was not aware.

19 **MR. ENGELMANN:** So at Bates page 259 or page
20 4 of your interview, you're receiving -- you're asking him
21 about the envelope and whether it was sealed and how he
22 received it, et cetera.

23 **INSP. SMITH:** Yes, sir.

24 **MR. ENGELMANN:** Okay.

25 And he confirmed to you that it was sealed

1 when he received it.

2 **INSP. SMITH:** Yes, it was sealed. He put
3 his initials on it and he put it in the safe.

4 **MR. ENGELMANN:** All right.

5 And he actually tells you on page 5, which
6 is Bates page 260 -- and this was an envelope that
7 apparently was addressed from Mr. MacDonald to Mr. Leduc,
8 and he said near the bottom:

9 "That was the envelope. Actually, Mr.
10 Leduc, when he dropped it in, indicated
11 he didn't have a file open on it."

12 "I see."

13 Sir, did that cause you any concern at the
14 time that one of the lawyers, the lawyer for the Diocese,
15 wouldn't have had a file open to deal with this matter?

16 **INSP. SMITH:** No, sir.

17 **MR. ENGELMANN:** Okay. Are you aware at all
18 about lawyers' responsibilities to keep records?

19 **INSP. SMITH:** Yes and no. I don't know if a
20 lawyer has to open a file when they take on a case or not.
21 I don't know.

22 **MR. ENGELMANN:** And when they receive and
23 release money, you weren't ---

24 **INSP. SMITH:** I've -- I worked Anti-Rackets
25 Branch for a number of years but I never had the

1 opportunity to work on a -- on a lawyer so ---

2 MR. ENGELMANN: All right.

3 INSP. SMITH: --- I wouldn't know any of
4 these things.

5 MR. ENGELMANN: So this would have been the
6 first time?

7 INSP. SMITH: But in hindsight, if I'd had
8 the opportunity, I would have jumped at it, sir.

9 MR. ENGELMANN: I'm sorry?

10 (LAUGHTER/RIRES)

11 MR. ENGELMANN: If you had -- just want to
12 make sure I heard that quip. If you had the opportunity --
13 -

14 INSP. SMITH: In hindsight, sir, had I had
15 the opportunity to work on a lawyer file, I would have
16 jumped at it.

17 MR. ENGELMANN: All right.

18 INSP. SMITH: And I would have been better
19 prepared today to answer your questions.

20 MR. ENGELMANN: Fair enough.

21 THE COMMISSIONER: Well, I guess the
22 question I have is, let's assume for a minute that you get
23 into a situation where there are legal documents, there's
24 money flowing in and out; do you have a resource someplace
25 that could answer questions like, "Give me the lowdown on

1 are lawyers supposed to have files, how do the trust
2 account work;" do you have a resource like that?

3 **INSP. SMITH:** Oh, yes; there would be one,
4 yes.

5 **THE COMMISSIONER:** And where would that be?

6 **INSP. SMITH:** Anti-Rackets in Toronto, they
7 deal ---

8 **THE COMMISSIONER:** So did you ---

9 **INSP. SMITH:** --- with lawyers.

10 **THE COMMISSIONER:** --- give any -- I guess
11 you didn't give any thought to phoning them up and getting
12 the lowdown.

13 **INSP. SMITH:** At the time -- at the time, I
14 wanted the original settlement. I was quite pleased that I
15 had it. I didn't have to get a search warrant to get it.

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

17 **INSP. SMITH:** It -- I could follow the paper
18 trail of where it originated right down to where I had
19 possession of it. I was quite pleased to have that, Mr.
20 Commissioner, because that -- there was my case.

21 **MR. ENGELMANN:** Well, fair enough. It's
22 evidence of a crime ---

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** --- in your view.

25 **INSP. SMITH:** Yes.

1 **MR. ENGELMANN:** And -- but if you wanted to
2 know who knew or ought to have known, it might have been
3 helpful to have lawyers' files, precedents, other
4 information; correct?

5 **INSP. SMITH:** For what, sir?

6 **MR. ENGELMANN:** Well, to try and pin down
7 whether only one lawyer knew of something, whether two
8 lawyers knew of something, whether three lawyers knew of
9 something or whether their principals knew. Those were all
10 issues that would be of a concern to you investigating a
11 crime; would they not?

12 **INSP. SMITH:** Well, I would have found that
13 out had there been a trial. I had Malcolm cold.

14 **MR. ENGELMANN:** I'm sorry?

15 **INSP. SMITH:** I had Malcolm cold.

16 **MR. ENGELMANN:** Cold, okay.

17 **INSP. SMITH:** Yeah, so that if he goes
18 trial, then -- then would we go and dig up all these
19 things.

20 **MR. ENGELMANN:** Okay.

21 You were aware, sir, that Constable Fagan
22 would have interviewed Father Vaillancourt ---

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** --- in late September?

25 **INSP. SMITH:** Yes, sir.

1 **MR. ENGELMANN:** And would he have briefed
2 you on that at the time?

3 **INSP. SMITH:** I imagine he would, yes.

4 **MR. ENGELMANN:** All right.

5 And you -- you were aware, of course, that
6 the original report he had prepared had been erased and
7 that he had tried to reconstruct it?

8 **INSP. SMITH:** I believe he told me that.

9 **MR. ENGELMANN:** All right. So you
10 interviewed Father Vaillancourt with Constable Fagan?

11 **INSP. SMITH:** I spoke to him at one point --

12 -

13 **MR. ENGELMANN:** All right.

14 **INSP. SMITH:** --- I know that and ---

15 **MR. ENGELMANN:** Okay.

16 **INSP. SMITH:** --- and he told me that it was
17 on a computer and it had been erased and he was unable to
18 recover it.

19 **MR. ENGELMANN:** Right.

20 And Monsieur -- Monsignor McDougald, did you
21 -- were you involved in interviewing him or would that have
22 been just Detective Constable Fagan?

23 **INSP. SMITH:** I don't recall doing that
24 interview.

25 **MR. ENGELMANN:** Do you recall if he would

1 have advised you of the presence of the Diocesan lawyer for
2 that interview and how the interview went?

3 **INSP. SMITH:** Do you have a document that
4 shows me anywhere, sir, that may refresh my memory?

5 **MR. ENGELMANN:** There is a document in the
6 record. I don't have a copy of it. It's Exhibit 1891. I
7 believe it was Detective Constable Fagan that did it on ---

8 **INSP. SMITH:** I've got it right here.
9 Eighteen-ninety-one (1891)?

10 **MR. ENGELMANN:** They have to follow on the
11 screen. Exhibit 18 -- I believe it's ---

12 **INSP. SMITH:** No, well, present was --
13 that's an interview of -- by Mike Fagan and Detective Jeff
14 Bahm.

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

16 **INSP. SMITH:** Yeah.

17 **THE COMMISSIONER:** Okay.

18 **MR. ENGELMANN:** I just -- I just ---

19 **THE COMMISSIONER:** No, no, you can ---

20 **MR. ENGELMANN:** We can just pull that up on
21 the screen. Since we're here, I'll ask a couple of
22 questions.

23 All right, who is Detective Constable or
24 it's Detective Sergeant Jeff Bahm?

25 **INSP. SMITH:** He's Detective Inspector now

1 and he's sitting back there, sir.

2 MR. ENGELMANN: Oh, who was he then?

3 INSP. SMITH: He was ---

4 THE COMMISSIONER: It's the same name.

5 INSP. SMITH: --- he's the same guy ---

6 MR. ENGELMANN: Same guy.

7 (LAUGHTER/RIRES)

8 INSP. SMITH: --- but ---

9 MR. ENGELMANN: Who was he in relation to
10 the investigation?

11 INSP. SMITH: He was ---

12 MR. ENGELMANN: Why was he involved?

13 INSP. SMITH: He was out of Ottawa at the
14 time; out of the same office as Detective Fagan. And
15 Detective Fagan, when I asked him to conduct interviews, I
16 always ask him to have another officer come along. I
17 surmise that Detective -- oh, he was a Sergeant then,
18 sorry. Detective Sergeant Bahm was at the office and went
19 along with Fagan to be a second on the interview.

20 MR. ENGELMANN: All right. And would you
21 have been provided a copy of this interview report at or
22 about the time it was transcribed?

23 INSP. SMITH: There was a problem we had in
24 this period of time was -- and I told you before because of
25 resources. When we took tape recorded statements, we

1 didn't always get them back in a timely manner. They were
2 ---

3 **MR. ENGELMANN:** Sure.

4 **INSP. SMITH:** --- thrown in a pile and I
5 know that some of them, it was more than a month before I
6 got them, however, if there was substance to this
7 interview, I'm sure that Constable Fagan would have brought
8 it to my attention.

9 **MR. ENGELMANN:** And you probably would have
10 been told that Mr. Scott was present again.

11 **INSP. SMITH:** I can't recall, but it's
12 likely.

13 **MR. ENGELMANN:** Okay. If we could turn to
14 Bates page 171 ---

15 **INSP. SMITH:** Of this interview?

16 **MR. ENGELMANN:** Yeah.

17 **INSP. SMITH:** Yes, sir, I've got it.

18 **MR. ENGELMANN:** I'll just be a moment.

19 All right. And he -- he's -- this is
20 Monsignor McDougald, he says:

21 "There were minutes, but I think
22 because of the fact it seemed to be
23 settled, I think they were destroyed."

24 Do you see that?

25 **INSP. SMITH:** M'hm, they were in the

1 computer.

2 MR. ENGELMANN: Now, do you know if there
3 was any follow-up on that to task because the settlement
4 was supposed to be a civil matter only.

5 INSP. SMITH: Yes.

6 MR. ENGELMANN: There was no civil suit
7 ongoing.

8 INSP. SMITH: No.

9 MR. ENGELMANN: There was a criminal -- a
10 criminal action which was stopped. Do you know if there
11 was any follow-up to ask why a Diocesan official would have
12 -- well, of course, you'd received information that it was
13 just accidental?

14 INSP. SMITH: Yes.

15 MR. ENGELMANN: The reason for the
16 destruction?

17 INSP. SMITH: Yes.

18 MR. ENGELMANN: Not the fact that the matter
19 was finished?

20 INSP. SMITH: Yes, not -- my understanding
21 was that when they went to look for the minutes they
22 couldn't find them in the computer; that they'd been
23 destroyed or not destroyed but they just couldn't find
24 them. Now, you've got to appreciate, sir, the computers in
25 1992 or '93 ---

1 **MR. ENGELMANN:** Fair enough.

2 **INSP. SMITH:** --- are like the old Commodore
3 45 compared -- pretty hard to retrieve anything out of
4 those.

5 **THE COMMISSIONER:** Mr. Kozloff? Our expert
6 in criminology.

7 **MR. KOZLOFF:** From the deep recesses of my
8 memory, sir, but I seem to recall -- I don't want to give
9 evidence, but just to assist my friend -- I seem to recall
10 that Father Vaillancourt had explained that he was living
11 with a young priest at the time and didn't want that priest
12 to access this information which was quite sensitive, and I
13 don't know that there was anything about the deliberate
14 destruction as opposed to ---

15 **THE COMMISSIONER:** Oh, no, no.

16 **MR. KOZLOFF:** --- as opposed to him having
17 erased it because he didn't want the priest who was living
18 in the same residence to have access to the information.
19 And then, subsequently, when things became public, he
20 attempted to reconstruct his notes.

21 **THE COMMISSIONER:** Yes.

22 **MR. KOZLOFF:** That's my recollection.

23 **THE COMMISSIONER:** I don't remember the
24 whole thing about the young priest coming out. It may be
25 in the documents someplace. We may have to get ---

1 MR. KOZLOFF: I think it's in the documents.

2 THE COMMISSIONER: Yes. Okay.

3 MR. ENGELMANN: In any event, I'll move on
4 if I may.

5 THE COMMISSIONER: M'hm.

6 MR. ENGELMANN: Just a couple more questions
7 about -- since we're here ---

8 MR. KOZLOFF: Mr. Lee, whose memory is far
9 better ---

10 THE COMMISSIONER: He's younger.

11 MR. KOZLOFF: --- because he's way younger,
12 advises that that appears to have been his evidence here as
13 well.

14 MR. ENGELMANN: Then it must be.

15 THE COMMISSIONER: Then it must be.

16 (LAUGHTER/RIRES)

17 THE COMMISSIONER: There's no leeway about
18 it.

19 MR. ENGELMANN: At least for today.

20 Sir, if -- at Bates page 174, Monsignor
21 McDougald's relating -- about the middle of the page:

22 "I'd never heard a complaint in the 8
23 years or the 10 years I was there. If
24 there were any complaints, they were
25 never made to me."

1 Do you see that? That's about Father
2 MacDonald, he's talking.

3 **INSP. SMITH:** Yes.

4 **MR. ENGELMANN:** All right.

5 And then if we could flip to Bates page 180?

6 **INSP. SMITH:** Yes, sir.

7 **MR. ENGELMANN:** He refers to a concern
8 that's expressed to him by someone who's older, right?
9 About the middle of the page down.

10 **INSP. SMITH:** Starting where, "It was about
11 a year previous"?

12 **MR. ENGELMANN:** Yes. Yes.

13 **INSP. SMITH:** Yes.

14 **MR. ENGELMANN:** And had you -- and when I
15 say "you", you and or Detective Constable Fagan -- been
16 advised of that complaint before? He's saying:

17 "Would that be the trip down to
18 Florida?"

19 I'm just wondering if he'd been advised of a
20 complaint similar to that or do you recall?

21 **INSP. SMITH:** I would imagine that was it.
22 We had one that was out of the country and it was a trip to
23 Florida and I guess it was allegedly with an adult.

24 You brought this up earlier. They were
25 wrestling around on the bed and I think he was grabbed by

1 the crotch or something similar to that. And I think
2 that's what Fagan's asking him. And he said, "No". I
3 guess he thought it was on his way to Ireland.

4 **MR. ENGELMANN:** All right.

5 **INSP. SMITH:** But that could be the same
6 one, sir.

7 **MR. ENGELMANN:** All right.

8 Sir, I note the time. Do you want to take
9 the afternoon break?

10 **THE COMMISSIONER:** Sure.

11 **THE REGISTRAR:** Order; all rise. À l'ordre.
12 Veuillez vous lever.

13 This hearing will resume at 3:20 p.m.

14 --- Upon recessing at 3:05 p.m./

15 L'audience est suspendue à 15h05

16 --- Upon resuming at 3:23 p.m./

17 L'audience est reprise à 15h23

18 **THE REGISTRAR:** Order; all rise. À l'ordre.
19 Veuillez vous lever.

20 This hearing is now resumed. Please be
21 seated. Veuillez vous asseoir.

22 **THE COMMISSIONER:** Mr. Kozloff, you're going
23 to have to come and testify.

24 **MR. ENGELMANN:** The witness was just here,
25 sir. He had to leave for just a moment. I'm sure he'll be

1 right back.

2 I just wanted to say, in his absence, that
3 I'm informed by my colleague's doctor who had an
4 opportunity to check the Vaillancourt statement that Mr.
5 Lee is, in fact, correct. And it's found at Bates page 190
6 of that document.

7 So we'll give credit where credit is due.
8 It's Exhibit 317, Bates page 190, talks about the comment
9 about erasing the document on the computer. It's also
10 found in one other place Mr. Kozloff has informed me.

11 **INSP. TIM SMITH, Resumed/Resumed/Sous le même serment:**

12 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
13 **ENGELMANN (cont'd/suite):**

14 Sir, I now wanted to turn to ask you -- as I
15 understand it, you were involved not just in the interviews
16 that we've indicated to date but also you spoke to the
17 other two lawyers who were involved in this document that
18 has the clause in it; the release documents? The lawyers
19 are Sean Adams ---

20 **INSP. SMITH:** Yes.

21 **MR. ENGELMANN:** --- and Malcolm MacDonald.

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** And Sean Adams -- and this
24 will be in your notes at 18:03 if you want to go there --
25 but you met with him on September 13th, '94. This is the

1 day after the meeting with the Bishop and the same day you
2 have the meeting with Gordon Bryan.

3 And, sir, I was only going to refer to it
4 briefly but you've asked for documents before so it's
5 document -- Exhibit 849. I did not give notice on this.
6 The Document Number is 714597. We should probably turn to
7 it though.

8 This is the interview with Sean Adams. And,
9 sir, you're interviewing these lawyers with respect to the
10 obstruction of justice part of your mandate in '94. Is
11 that correct?

12 **INSP. SMITH:** Yes, sir.

13 **MR. ENGELMANN:** All right.

14 **INSP. SMITH:** I don't think I have ---

15 **THE COMMISSIONER:** What's the exhibit?

16 **MR. ENGELMANN:** It's coming; 849, Document
17 Number 714597. I'm sorry, yes, 714957. Thank you. It was
18 five; okay. We don't have it in the room? Okay.

19 **THE COMMISSIONER:** Where -- I'm sorry --
20 where are -- they're in there. Yes, yes, please.

21 **MR. ENGELMANN:** Eight-four-nine (849).

22 **INSP. SMITH:** I could work from the screen,
23 if you wish.

24 **THE COMMISSIONER:** Yes, I know but I ---

25 **MR. ENGELMANN:** The Commissioner would like

1 the document, sir.

2 INSP. SMITH: Okay.

3 THE COMMISSIONER: I'm a stick in the mud.

4 INSP. SMITH: Okay. Well, I'm just trying
5 to expedite things.

6 THE COMMISSIONER: Yes. No, I just ---

7 MR. ENGELMANN: Mr. Smith, you became aware
8 that Sean Adams was involved in this matter at some point?

9 INSP. SMITH: Yes, sir.

10 MR. ENGELMANN: And you were advised that
11 his involvement was essentially around the finalization of
12 the settlement, when ---

13 INSP. SMITH: Independent legal counsel,
14 sir.

15 MR. ENGELMANN: Right.

16 INSP. SMITH: Yes.

17 MR. ENGELMANN: And that would have been at
18 the time that Mr. Silmsen was signing the release
19 documents?

20 INSP. SMITH: I believe that would have been
21 September the 2nd or 3rd or thereabouts.

22 MR. ENGELMANN: All right.

23 THE COMMISSIONER: Thank you. What ---

24 THE REGISTRAR: Eight-four-nine (849).

25 THE COMMISSIONER: Eight-four-nine (849)?

1 **MR. ENGELMANN:** Eight-four-nine (849).

2 **INSP. SMITH:** Yes, sir.

3 **MR. ENGELMANN:** And again, sir, if you flip
4 to about the third page in, Bates page 392, you're
5 cautioning or you're having Constable Fagan caution Mr.
6 Adams. And, again, you've explained to us why perhaps Mr.
7 Adams and Mr. MacDonald get a caution and Mr. Leduc doesn't
8 because their initials or their signatures ---

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** --- appear on the document?

11 **INSP. SMITH:** Yes, sir.

12 **MR. ENGELMANN:** And he would have indicated
13 to you -- and I'm just going to try and find it. Sorry, I
14 wasn't -- you confirm with him where his signature appears
15 on a few of the pages and at page 10 of the document, Bates
16 page 399, he confirms that he did not prepare the documents
17 and says that it's his recollection it was Mr. MacDonald
18 who did. Fair enough? Near the bottom ---

19 **INSP. SMITH:** Okay, yes.

20 **MR. ENGELMANN:** --- of that page?

21 **INSP. SMITH:** Yes, sir.

22 **MR. ENGELMANN:** And then at the top of the
23 next page, he just says:

24 "Well, document was provided to me by
25 Mr. MacDonald, though I can't say

1 whether or not he prepared it."

2 **INSP. SMITH:** That's correct.

3 **MR. ENGELMANN:** All right. And so you
4 confirm with him that he didn't prepare any of these
5 documents?

6 **INSP. SMITH:** Or any parts of them.

7 **MR. ENGELMANN:** Right. I'll just be a
8 moment.

9 I believe he tells you at some point, sir,
10 and I'm looking for a reference, that he's a real estate
11 lawyer, that he ---

12 **INSP. SMITH:** Yes. Yes.

13 **MR. ENGELMANN:** --- this isn't really his
14 area of ---

15 **INSP. SMITH:** Wills. Wills and real estate
16 and ---

17 **MR. ENGELMANN:** Right.

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** This isn't really his area
20 of expertise?

21 **INSP. SMITH:** No, not really.

22 **MR. ENGELMANN:** And, I'm wondering, sir -- I
23 didn't find it in the document -- whether you would have
24 asked him why he would have taken this on if this wasn't
25 his area of expertise?

1 **INSP. SMITH:** No, I didn't ask it. I really
2 think it's sort of like a Commissioner of Oaths, they need
3 somebody else in there to witness a signature or whatever
4 it is, and they sign it and ---

5 **MR. ENGELMANN:** All right.

6 **INSP. SMITH:** --- and away you go.

7 **MR. ENGELMANN:** So, in that sense, a very
8 brief interaction with the client?

9 **INSP. SMITH:** Although, I think he -- he
10 gave Silmser very good advice for -- for somebody. He
11 said -- if I rightly recall, he said don't hurry, wait.
12 You know, there's -- you should get more. You
13 should -- something like the words, don't be hasty on this.

14 **MR. ENGELMANN:** All right.

15 Were you aware, sir, at all of his work at
16 time for a parish or parishes in the Diocese of Alexandria-
17 Cornwall?

18 **INSP. SMITH:** No, sir.

19 **MR. ENGELMANN:** All right. I don't believe
20 you asked him about whether he worked for the church in
21 any ---

22 **INSP. SMITH:** No, sir.

23 **MR. ENGELMANN:** --- capacity?

24 **INSP. SMITH:** I don't think I did.

25 **MR. ENGELMANN:** All right.

1 And, sir, I believe he indicated to you that
2 he really -- he didn't recognize the problem that was
3 associated with the inclusion of the word "criminal" in the
4 release?

5 **INSP. SMITH:** No, he didn't.

6 **MR. ENGELMANN:** That was, essentially, his
7 position? Not that he ---

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** --- that it wasn't there,
10 but just that he didn't realize the consequence?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** All right. Now, at ---

13 **INSP. SMITH:** I might add, too, sir, that it
14 was Silmsers that asked for him not anybody else.

15 **MR. ENGELMANN:** That's what you were told?

16 **INSP. SMITH:** Yes.

17 **THE COMMISSIONER:** But by whom?

18 **INSP. SMITH:** He wasn't -- Mr. Adams wasn't
19 referred to Silmsers by any of the other lawyers; he was
20 told to get an independent lawyer.

21 And my recollection is is that at one time
22 Silmsers was in a trailer park and there was a -- some type
23 of a transaction and that Mr. Adams had acted for the
24 trailer park himself, so, knowing that lawyer, he
25 went -- went to him.

1 So it wasn't a referral to Mr. Adams, it was
2 independent as far as I could see.

3 **MR. ENGELMANN:** There's some reference to
4 what you're saying, sir, at page 23? It's Bates page 412,
5 the bottom half of the page?

6 **INSP. SMITH:** I'm sorry. Oh, okay -- yes.

7 **MR. ENGELMANN:** And then over onto the next
8 page, he says:

9 "Not being a lawyer that practices
10 litigation, being a real estate lawyer,
11 the only thing that came to mind was
12 how do we know -- how do you know that
13 this is a fair settlement?"

14 A big question mark:

15 "The first thing as a lawyer that hit
16 my mind is how you know, without
17 getting proper independent legal
18 advice, whether the settlement's
19 reasonable but, as I recall, he made up
20 his mind he was satisfied with the
21 amount..."

22 et cetera. All right?

23 **INSP. SMITH:** Yes, sir.

24 **MR. ENGELMANN:** Now, sir, on Bates
25 page -- I'll just be a moment.

1 Talking about the issue of the wording, at
2 the bottom of page 30 and onto 31, Bates pages 419 and 420,
3 he says, right at the bottom:

4 "I honestly can't say whether in fact I
5 read that aloud to him and reviewed it
6 with him, but I certainly should have.
7 If I didn't..."

8 It goes on a little further, and you say:

9 "In effect, what you're telling me...

10 The bottom of page 420:

11 "...is that if you did read it and you
12 did go over it, it's an oversight that
13 you missed it?"

14 And he says, "Absolutely".

15 All right?

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** And then on the following
18 page, 421, he's saying:

19 "I'm certainly not familiar with the
20 obstruct justice sections of the
21 *Criminal Code*. I wouldn't want to give
22 an opinion, but that is my signature
23 and I assume this was all done at the
24 same time, the same day."

25 All right?

1 **INSP. SMITH:** Correct.

2 **MR. ENGELMANN:** So he's -- again, I think we
3 talked about this earlier -- suggesting to you that he
4 doesn't recognize the significance of that wording ---

5 **INSP. SMITH:** I ---

6 **MR. ENGELMANN:** --- terminating the
7 "criminal"?

8 **INSP. SMITH:** I would believe that, yes.

9 **MR. ENGELMANN:** Right. You recognized the
10 significance, the first time you looked at it?

11 **INSP. SMITH:** Yes, sir.

12 **MR. ENGELMANN:** Yes. And you ask him about
13 discussions he may have had with others -- on page 33, it's
14 Bates page 422 -- and he says that he's had no discussions
15 with the Bishop; at the middle of the page?

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** And you ask him:

18 "Have you had any discussion with Mr.
19 MacDonald in regard to this since that
20 date, Malcolm Macdonald in particular?"

21 **INSP. SMITH:** M'hm.

22 **MR. ENGELMANN:** Do you see that?

23 **INSP. SMITH:** Yes.

24 **MR. ENGELMANN:** And he says;

25 "Well, I have had -- probably once a

1 year, maybe twice a year, I have lunch
2 with Mr. MacDonald. I try and do that
3 with the senior counsel, Duncan
4 MacDonald, just to talk about the old
5 days when my father practiced law. So
6 we may have discussed this in very
7 general terms, but certainly I've had
8 no discussions, was not aware that you
9 interviewed him, and certainly was not
10 privy to any of that information."

11 All right?

12 **INSP. SMITH:** Yes.

13 **MR. ENGELMANN:** And it goes on.

14 So did you ask him about some of the
15 contents of the discussion he might have had with Malcolm
16 MacDonald or did you leave it there?

17 **INSP. SMITH:** I probably left it there. I
18 thought if he -- he would have volunteered anything if he'd
19 had it.

20 **MR. ENGELMANN:** All right. And did you ask
21 him why he might have discussed this matter with a Mr.
22 Duncan MacDonald? Or try and follow up that at all?

23 **INSP. SMITH:** No, sir.

24 **MR. ENGELMANN:** And at the time, did you try
25 and follow up with any of these lawyers, paralegals or

1 assistants? The time being 1994, when you were
2 investigating ---

3 **INSP. SMITH:** Which lawyers or paralegals?

4 **MR. ENGELMANN:** Well, staff at Mr. Leduc's
5 firm, staff at Mr. ---

6 **INSP. SMITH:** No

7 **MR. ENGELMANN:** --- MacDonald's firm?

8 **INSP. SMITH:** No, I didn't.

9 **MR. ENGELMANN:** And, sir, did you discuss
10 with any of these lawyers -- and by "any of these lawyers"
11 I mean Mr. Leduc, Mr. Adams or Mr. Malcolm
12 MacDonald -- whether or not there was any insurance claim
13 that was filed or any contact with the insurance -- an
14 insurance company of the Diocese with respect to a
15 potential claim?

16 **INSP. SMITH:** No, I didn't ask that, but,
17 subsequently, I learned that the Law Society became
18 involved with the Diocese and the Bishop told me that they
19 recovered a substantial amount of money as a result of the
20 settlement.

21 **MR. ENGELMANN:** That the Diocese had
22 recovered a substantial amount of money?

23 **INSP. SMITH:** M'hm.

24 **MR. ENGELMANN:** From an insurance company or
25 from one of the lawyers?

1 **INSP. SMITH:** No, from the Law Society.

2 **MR. ENGELMANN:** Okay. What about the
3 insurance issue though, sir?

4 **INSP. SMITH:** I never -- I never mentioned
5 that to them.

6 **MR. ENGELMANN:** Did that cross your mind? I
7 know ---

8 **INSP. SMITH:** No.

9 **MR. ENGELMANN:** --- you didn't have a lot of
10 experience at -- despite, perhaps, what you wanted to with
11 investigating lawyers, but did you ever ask any of them, in
12 particular, I guess, Mr. Leduc ---

13 **INSP. SMITH:** No, I ---

14 **MR. ENGELMANN:** --- who's Counsel for the
15 Diocese ---

16 **INSP. SMITH:** I said no, sir ---

17 **MR. ENGELMANN:** Okay. All right.

18 **INSP. SMITH:** Next time.

19 **MR. ENGELMANN:** Okay.

20 **THE COMMISSIONER:** But you understand why
21 though?

22 **INSP. SMITH:** I -- I can see now, yes,
23 Mr. Commissioner, but at the time, it ---

24 **THE COMMISSIONER:** That if there was
25 insurance -- if there was insurance available ---

1 **INSP. SMITH:** M'hm.

2 **THE COMMISSIONER:** --- it would -- why would
3 somebody pay out of their pockets if there was insurance.

4 **INSP. SMITH:** I see that now. I didn't
5 realize that.

6 **THE COMMISSIONER:** Okay, thank you.

7 **MR. ENGELMANN:** And sir, you met with
8 Malcolm MacDonald ---

9 **INSP. SMITH:** Yes, sir.

10 **MR. ENGELMANN:** --- a couple of months later
11 at the end of October, and that is Exhibit 863. I hope
12 that's available to you.

13 Sir, you didn't know Jacques Leduc or Sean
14 Adams before you met them?

15 **INSP. SMITH:** No.

16 **MR. ENGELMANN:** Or did you, in the course of
17 this investigation?

18 **INSP. SMITH:** No, I didn't. No.

19 **MR. ENGELMANN:** What about Malcolm
20 MacDonald?

21 **INSP. SMITH:** No.

22 **MR. ENGELMANN:** Because he practised
23 criminal law.

24 **INSP. SMITH:** No, I never had any dealings
25 with Malcolm down here.

1 **MR. ENGELMANN:** All right. Not as a defence
2 counsel, nor as a Crown?

3 **INSP. SMITH:** No.

4 **MR. ENGELMANN:** All right.

5 Now, you cautioned him at the beginning?

6 **INSP. SMITH:** Yes.

7 **MR. ENGELMANN:** And again, that's because of
8 his involvement in the preparation of the documents?

9 **INSP. SMITH:** And his signature on it.

10 **MR. ENGELMANN:** Sorry?

11 **INSP. SMITH:** And his signature on the
12 document.

13 **MR. ENGELMANN:** Okay. Well, his -- he --
14 I'm just trying to think of the -- anyway, we'll come to
15 the document a bit later.

16 **INSP. SMITH:** Okay.

17 **MR. ENGELMANN:** But he certainly writes to
18 the Cornwall police with a direction to them from Mr. Adams
19 and the complainant, Mr. Silmsen.

20 **INSP. SMITH:** That's after the ---

21 **MR. ENGELMANN:** After the settlement.

22 **INSP. SMITH:** Yes. Yes, sir.

23 **MR. ENGELMANN:** Yeah.

24 **INSP. SMITH:** Yes, sir.

25 **MR. ENGELMANN:** All right.

1 And he told you a number of things in the
2 interview and I just want to touch upon a few if I can. At
3 page 9, which is Bates page 935 and on to the next page
4 he's talking about early on in this. He says:

5 "I indicated to Monsignor McDougald
6 that I would be acting for Father
7 Charlie, that we wanted to make full
8 disclosure, so then I drafted a written
9 statement."

10 Do you know if a written statement was ever
11 provided to you, or if what he meant by that was simply a
12 letter back to the Bishop?

13 **INSP. SMITH:** I'm trying to find that. Is
14 that on page 9, sir?

15 **MR. ENGELMANN:** Yeah, right at the bottom.

16 **INSP. SMITH:** Oh, okay.

17 **MR. ENGELMANN:** If you flip on to the next
18 page it says:

19 "I know -- I'm not sure whether Father
20 Charlie signed that or not, but our
21 position anyway, that was conveyed to
22 Monsignor immediately because he wanted
23 to get back to Ottawa."

24 **INSP. SMITH:** I don't recall a written
25 statement.

1 **MR. ENGELMANN:** Okay. Did you follow up on
2 that at all and ask for ---

3 **INSP. SMITH:** No, sir.

4 **MR. ENGELMANN:** All right.

5 Then later on on that page, on page 10,
6 Bates page 936, he goes on near the bottom:

7 "Don't think he even ever called Father
8 Charlie directly but he called Ken
9 Seguin..."

10 He's talking about David Silmser:

11 "...I know. Some -- probably some
12 other people but any calls were made
13 then, I think it was -- I'll go back to
14 my notes sometime in the early part of
15 the year..."

16 Et cetera. Did he ever offer you his notes?

17 **INSP. SMITH:** No, sir.

18 **MR. ENGELMANN:** Did you ever follow up with
19 him about those?

20 **INSP. SMITH:** No, sir.

21 **MR. ENGELMANN:** All right.

22 **INSP. SMITH:** I never asked a lawyer for his
23 notes ---

24 **MR. ENGELMANN:** Well, he seems to ---

25 **INSP. SMITH:** --- in my whole career. I

1 don't think they would be given to me. Is there nothing --
2 lawyer/client privilege, I guess they could claim. I don't
3 know of any lawyers that would voluntarily give their notes
4 over to a police officer.

5 MR. ENGELMANN: Okay. It's the first time
6 you're investigating one?

7 INSP. SMITH: Well, I've never had ---

8 MR. ENGELMANN: Fair enough.

9 Sir, then you have a discussion with him,
10 starting at Bates page 944, page 18, about his discussions
11 with Murray MacDonald; correct?

12 INSP. SMITH: I'm getting there. Yes.

13 MR. ENGELMANN: You say ---

14 INSP. SMITH: Yes, I ---

15 MR. ENGELMANN: --- did you indicate ---

16 INSP. SMITH: Yeah, I see it. Yes.

17 MR. ENGELMANN: All right.

18 INSP. SMITH: Yes.

19 MR. ENGELMANN: And that carries on over the
20 next couple of pages.

21 INSP. SMITH: Yes, sir.

22 MR. ENGELMANN: But he seems to be
23 suggesting to you that he told Murray MacDonald that the
24 settlement was to cover everything.

25 INSP. SMITH: Yes.

1 **MR. ENGELMANN:** Civil and criminal matters,
2 and you try and pin him down on that.

3 **INSP. SMITH:** Well, he'd be a hard man to
4 pin down. He was slippery as an eel the whole way through
5 this interview.

6 **MR. ENGELMANN:** All right.

7 And Murray MacDonald you would have
8 interviewed, we looked at that, and he told you in effect
9 the opposite, did he not; that both Malcolm MacDonald and
10 Jacques Leduc talked to him about a civil matter only.

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** And I think he might have
13 said in the interview that he in fact told them -- at least
14 one of them, if not both -- that this would not affect the
15 criminal matter, or words to that effect?

16 **INSP. SMITH:** Leduc.

17 **MR. ENGELMANN:** Sorry?

18 **INSP. SMITH:** Leduc said ---

19 **MR. ENGELMANN:** Okay. Well, I mean Murray
20 MacDonald ---

21 **INSP. SMITH:** Yes.

22 **MR. ENGELMANN:** --- back to one of these
23 lawyers ---

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** --- said words to that

1 effect.

2 **INSP. SMITH:** Yes.

3 **MR. ENGELMANN:** And so when you're asking
4 questions of Malcolm MacDonald about this, you say -- for
5 example, on page 19, Bates page 945:

6 "Even on the criminal end?"

7 "Well, he didn't be specific in
8 anything. He just said ---"

9 "Were you specific on the criminal
10 end?"

11 "Well, he didn't see a copy of the --
12 the document hadn't been drawn yet."

13 And he goes on:

14 "Well, it was going to be for
15 everything."

16 And you say again:

17 "Was that made clear to him?"

18 Then it goes on, on to the following ---

19 **INSP. SMITH:** He answers sort of like, "I
20 don't think I said specifically, you know -- civil and
21 criminal, you know."

22 **MR. ENGELMANN:** M'hm. But you say at the
23 middle of the next page:

24 "And your interpretation of it was
25 that the totality of it would be

1 okay."

2 "That's right, that's right."

3 Okay? So there's some conflict that you're
4 hearing right then between his account and the account of
5 Murray MacDonald.

6 **INSP. SMITH:** Oh yes, definitely. Yes.

7 **MR. ENGELMANN:** All right.

8 And then at the bottom of the page he's
9 suggesting to you that he was against the payment of any
10 moneys. Do you see that?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** "I was against any moneys
13 being paid and I told that to the
14 Bishop and the other people."

15 **INSP. SMITH:** Yes.

16 **MR. ENGELMANN:** All right? So again that
17 would be inconsistent with what the Bishop was saying where
18 he's saying both of them ---

19 **INSP. SMITH:** Yes.

20 **MR. ENGELMANN:** --- were trying to talk him
21 into this.

22 **INSP. SMITH:** Yes. And Leduc -- it's
23 against what Leduc said also.

24 **MR. ENGELMANN:** Yes. Leduc said it was both
25 of them as well.

1 **INSP. SMITH:** Yes.

2 **MR. ENGELMANN:** Now, at 954 ---

3 **INSP. SMITH:** Yes, sir.

4 **MR. ENGELMANN:** --- page 28, middle of the
5 page, you're asking about drawing up the agreement and he
6 says he's asked if he would draw it up, and you say:

7 "By -- well, who?"

8 "Well, it would be by the Diocesan
9 group. I don't know which one."

10 "It could have been Leduc?"

11 "I think so."

12 "All right."

13 "I didn't have a precedent. He said,
14 'Well, use the one I have that we use.'
15 So he faxed me over a copy of the
16 document."

17 Okay?

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** So that seems to be somewhat
20 consistent with Mr. Leduc.

21 **INSP. SMITH:** It is, yes.

22 **MR. ENGELMANN:** He faxed over a document.
23 It appears that Malcolm MacDonald was not familiar with
24 doing this work. All right?

25 Well, it's certainly consistent with what

1 Mr. Leduc said to you after -- when he came back on the
2 tape the second time.

3 **INSP. SMITH:** Yes.

4 **MR. ENGELMANN:** At page 955, which is 29, he
5 said:

6 "I shipped it back to him and I know he
7 made a few changes."

8 You see that?

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** And again, this was
11 inconsistent with Mr. Leduc, the first part of the tape,
12 but consistent with what he told you on the second part of
13 the tape; correct?

14 **INSP. SMITH:** I was under the understanding
15 -- I thought that Leduc may have made some minor changes.

16 **MR. ENGELMANN:** Okay. But clearly that
17 second part of the tape, those last three minutes, he says
18 something like this as well.

19 **INSP. SMITH:** I think that's consistent with
20 what Leduc said, yes.

21 **MR. ENGELMANN:** All right.

22 Nine six one (961) -- actually 960, bottom
23 of the page, page 34. Again you're trying to find out
24 who's reviewed this. I don't know if you really get
25 definitive answers on that from any of the lawyers about

1 the reviewing but at page 960:

2 "What can you tell me about the section
3 and if you prepared it from the other
4 one? Did you review it or did you miss
5 it or..."

6 "Well probably I didn't review it."

7 It's Malcolm MacDonald now.

8 **INSP. SMITH:** Yes.

9 **MR. ENGELMANN:** Now you've heard that from
10 the other lawyers ---

11 **INSP. SMITH:** I hear that from everybody.

12 **MR. ENGELMANN:** --- to some extent? Yes.

13 **INSP. SMITH:** Yes, sir.

14 **MR. ENGELMANN:** "Because I was preparing
15 it for them. And somebody else was
16 going to do legal advice. So I thought
17 I wasn't going to be going over it. If
18 I was going over it with my client I
19 certainly would have reviewed it, made
20 some changes. Probably, I don't know.
21 I was just preparing it. I faxed the
22 original over. He wanted some minor
23 changes and they sent it back. They
24 approved the final changes. Then I
25 handed it to..."

1 "That was when he came into your
2 office with Silmser?"

3 "Yeah, yeah."

4 All right? So again you're getting perhaps
5 a bit of a contradiction there.

6 **INSP. SMITH:** Quite a contradiction.

7 **MR. ENGELMANN:** Okay. Well it's somewhat
8 consistent with what Mr. Leduc told you at the second part
9 of his interview?

10 **INSP. SMITH:** Yes.

11 **MR. ENGELMANN:** But there's this issue about
12 who's reviewing and who's not.

13 Then at page 963 he says to you, at least
14 initially on this issue, that his client isn't contributing
15 anything to the settlement.

16 Do you see that? Near the top of the page.

17 **INSP. SMITH:** Well I remember I:

18 "Do you recall the amount?"

19 He said:

20 "Thirty-two thousand (32,000)."

21 And I said:

22 "Are you sure of that? Did your
23 client pay any portion of that?"

24 "No, no, no, no."

25 And:

1 "Are you sure of that?"

2 And then he went on, yeah:

3 "The cheque was only one cheque from
4 the Diocese."

5 **MR. ENGELMANN:** Do you see at the bottom?

6 "Did your client pay any portion of
7 that?"

8 "He said he didn't."

9 **INSP. SMITH:** M'hm.

10 **MR. ENGELMANN:** And then you challenge him
11 again on this on the next page; middle of the page.

12 **INSP. SMITH:** M'hm.

13 **MR. ENGELMANN:** "Indication from the
14 Bishop and Diocese they paid 27, that
15 Father Charles paid 5,000. Would you
16 recall that?"

17 "I know. I know after this was all
18 over he came to see me and he said he
19 had some monies owing to the Diocese."

20 Do you see that?

21 **INSP. SMITH:** Yes.

22 **MR. ENGELMANN:** All right. So again,
23 there's some inconsistencies.

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** Fair enough?

1 **INSP. SMITH:** As far as the money goes, yes,
2 all over the place.

3 **MR. ENGELMANN:** Right.

4 **INSP. SMITH:** At the top, he also said that
5 I think Charlie didn't have -- or Charlie didn't have any
6 money. On the top of 38, the third line down.

7 **MR. ENGELMANN:** Yes.

8 **INSP. SMITH:** He said he didn't have it to
9 start with -- the money to start with.

10 **MR. ENGELMANN:** Then sir, at Bates page
11 980981, and this is page 54 and 55, there's again some
12 discussion about payment. He's talking about -- at the
13 bottom of the page ---

14 **INSP. SMITH:** What page?

15 **MR. ENGELMANN:** It's page 54 of your
16 interview.

17 **INSP. SMITH:** Okay.

18 **MR. ENGELMANN:** Bates page 980. It says:
19 "Jacques Leduc highly recommended the
20 settlement be reached at the amount
21 agreed on, suggested 32 thousand. I
22 know the Bishop was very reluctant to
23 make any payment. At the first time, I
24 was reluctant too. I didn't think that
25 type of blackmail's not the thing to

1 do, no-good people keep coming back.
2 When the money is going to come from
3 the Diocese primarily, I don't know. I
4 understand from events that took place
5 later there was some agreement made
6 between Father Charlie and the Diocese.
7 He paid a portion of it. But I wasn't
8 involved in that aspect of it."

9 All right? So again, it seems to be ---

10 **INSP. SMITH:** M'hm.

11 **MR. ENGELMANN:** --- maybe Father Charles had
12 to pay something but it was later and he wasn't involved.

13 So again, as you say, the money is all over
14 the place.

15 **INSP. SMITH:** Yes, sir.

16 **MR. ENGELMANN:** All right.

17 **INSP. SMITH:** The only thing that I am
18 definitely sure about, it was 32 thousand.

19 **MR. ENGELMANN:** All right.

20 Would it be fair to say that there's some
21 contradictions, certainly in these statements between the
22 positions taken by both Mr. Malcolm MacDonald on the one
23 hand and Mr. Jacques Leduc on the other?

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** And there are also some

1 inconsistencies between, certainly what Malcolm MacDonald
2 says and that of Murray MacDonald?

3 **INSP. SMITH:** Yes, sir.

4 **MR. ENGELMANN:** All right. And ---

5 **INSP. SMITH:** Now, having interviewed all of
6 them, sir, and when you interview somebody there's a
7 certain amount of credibility that you can assess from
8 somebody that you don't see in statements and of all of the
9 three that I interviewed, the least credible in my opinion
10 was Malcolm MacDonald.

11 **MR. ENGELMANN:** All right.

12 **INSP. SMITH:** And that could form some form
13 of suspicion in my mind for further events.

14 **MR. ENGELMANN:** And after interviewing all
15 three of these lawyers, did you have any concern about
16 their competence?

17 **INSP. SMITH:** Well, the only ones that I
18 could make that assessment on would be on the criminal
19 lawyer and that would be Malcolm MacDonald. And I would
20 say that I think that he'd passed his time. I don't think
21 he knew the law as much as he thought he did; the criminal
22 law.

23 As far as the other lawyers were concerned,
24 I couldn't pass judgment on that. I don't know anything
25 about civil law.

1 **MR. ENGELMANN:** And you didn't interview any
2 of their assistants at that time with respect to knowledge
3 or involvement in the settlements?

4 **INSP. SMITH:** No.

5 **MR. ENGELMANN:** And did you obtain trust
6 ledgers at that time or was that something that was done
7 later, during Project Truth? The trust fund ledgers?

8 **INSP. SMITH:** I believe that that was done
9 in the second investigation in this.

10 **MR. ENGELMANN:** Okay.

11 **INSP. SMITH:** I didn't do it in the initial.

12 **MR. ENGELMANN:** Now at the completion of
13 your investigations, and the last interview we saw was
14 October 28th, 1994, you prepared some Crown briefs in
15 November of '94?

16 **INSP. SMITH:** Yes, along with Fagan.

17 **MR. ENGELMANN:** Yes.

18 **INSP. SMITH:** Yes.

19 **MR. ENGELMANN:** Can you just give us a sense
20 as to what your role and Detective Constable Fagan's
21 respective roles were in finalizing the Crown briefs?
22 Would you have done that? Would he have done it?

23 **INSP. SMITH:** We would have done that
24 together.

25 **MR. ENGELMANN:** All right. And would you

1 have then reviewed the Crown briefs in their entirety
2 before they were submitted to the Crown?

3 **INSP. SMITH:** The Crown briefs are made up
4 in rough and then they're sent for typing. The rough
5 version; yes, I would have reviewed. The finished product;
6 in this case, I don't think I saw it because there was a
7 bit of a rush to get it to the Regional Director, I
8 believe.

9 **MR. ENGELMANN:** That was Mr. Griffiths?

10 **INSP. SMITH:** Yes. I wanted to get it there
11 in early November, but I believe it was in the latter part
12 of November or towards the latter part of November that
13 eventually he got it.

14 **MR. ENGELMANN:** Well you have a note, sir.
15 I'm not going to try and find it. I believe ---

16 **INSP. SMITH:** Twenty ---

17 **MR. ENGELMANN:** --- I believe it's --
18 there's two references I have here. On Bates pages 231 and
19 232 of your notes. That's Exhibit 1803.

20 The first one is on October 11th, 12:05.

21 **INSP. SMITH:** The Bates page? I'm sorry.

22 **MR. ENGELMANN:** Two three one (231),
23 1054231.

24 **INSP. SMITH:** Yes, sir.

25 **MR. ENGELMANN:** At 12:05 October 11th.

1 **INSP. SMITH:** September, yes.

2 "Call from Peter Griffiths, re
3 update..."

4 **MR. ENGELMANN:** Right.

5 **INSP. SMITH:** "Request we finish..."

6 **MR. ENGELMANN:** I don't think the right page
7 is on the screen.

8 It's Bates page 231.

9 **INSP. SMITH:** I got 231 and it's ---

10 **MR. ENGELMANN:** Oh, maybe.

11 **INSP. SMITH:** --- the 11th of October. Yes,
12 there it is:

13 "Call from Peter Griffiths..."

14 **MR. ENGELMANN:** Yes.

15 **INSP. SMITH:** "...re update of
16 investigation. Request we finish
17 same."

18 Yes.

19 **MR. ENGELMANN:** All right. And it says:

20 "Advised we will expedite and
21 have..."

22 **INSP. SMITH:** "...same forwarded by the 4th
23 of November."

24 **MR. ENGELMANN:** All right. And then at the
25 top of the next page, sir?

1 **INSP. SMITH:** Yes.

2 **MR. ENGELMANN:** I'm not sure what the date
3 is.

4 **INSP. SMITH:** I think that's the 8th, if I'm
5 not mistaken -- or no, 20 -- move away.

6 **MR. ENGELMANN:** At the top, it's very hard
7 to read.

8 It might be the 1st, because the last --
9 well, I shouldn't say.

10 Zero one (01) November '94, perhaps.

11 **INSP. SMITH:** It could be the 21st.

12 **MR. ENGELMANN:** Okay. Can you tell us what
13 the note says, in any event?

14 **INSP. SMITH:** Yes:

15 "Call Peter Griffiths. Advise him
16 brief is complete and getting further
17 done and hope to have..."

18 **MR. ENGELMANN:** "...final typing..."

19 **INSP. SMITH:** That appears what it is:

20 "...and have it by Friday. If not it
21 will be in his office on the 7th or 8th
22 of November."

23 So yes, that would be the 1st of November
24 then.

25 **MR. ENGELMANN:** Right. He says, "Fine."

1 **INSP. SMITH:** Yes.

2 **MR. ENGELMANN:** "It will take a few weeks
3 to review."

4 **INSP. SMITH:** Yes.

5 **MR. ENGELMANN:** "He will call me."

6 **INSP. SMITH:** "We will meet."

7 **MR. ENGELMANN:** "We will meet, discuss,
8 and finalize."

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** All right. And then the
11 next reference, a bit further down the page. You have
12 something on December 8th?

13 **INSP. SMITH:** Yes, call Mr. Griffiths. The
14 secretary advises he's not in until next Friday. I had
15 some difficulties for the next -- I recall in that period
16 of time that he was tied up with a case in Toronto and we
17 were playing telephone tag back and forth trying to
18 finalize this.

19 **MR. ENGELMANN:** All right. And then there's
20 a reference -- sorry December 8th it says:

21 "Call Mr. Griffiths"?

22 **INSP. SMITH:** Yes, secretary advises not in
23 until next Friday, the 12th of December.

24 **MR. ENGELMANN:** All right, and then there's
25 another call ---

1 **INSP. SMITH:** Thirteenth (13th) I called and
2 secretary says he's not in. Will have him -- give him a
3 message to call me.

4 **MR. ENGELMANN:** And then you get a call from
5 him on the 20th?

6 **INSP. SMITH:** Yes.

7 **MR. ENGELMANN:** All right, so if you could
8 just tell us what it says?

9 **INSP. SMITH:** Well, briefly the telephone
10 call is that with the priest there's R. P. and G.
11 objectively, enough credible evidence, subjective not
12 enough -- not an honest belief. This is what I wrote down.
13 Credibility, Silmsen was a problem. With the Murray
14 MacDonald issue, he had no problem and the obstruct lawyer,
15 he said it's appropriate to contact the Law Society, and
16 the obstruct justice -- I can't read my writing, but I know
17 at that point he wanted another ---

18 **MR. ENGELMANN:** Less than criminal, but
19 unprofessional; is that what it says?

20 **INSP. SMITH:** You're better at reading my
21 writing than I am, I guess.

22 **MR. ENGELMANN:** I'm getting used to it.

23 **INSP. SMITH:** Less than criminal but
24 unprofessional, yes.

25 **MR. ENGELMANN:** All right. Now all of these

1 comments that are listed here ---

2 INSP. SMITH: Yes.

3 MR. ENGELMANN: --- are things he said to
4 you, not things you said to him?

5 INSP. SMITH: Yes, this is our discussion on
6 the telephone.

7 MR. ENGELMANN: Did you ever have the
8 meeting that you were going to hope to have with him to
9 discuss this?

10 INSP. SMITH: No, we didn't get the meeting.
11 It was done by telephone and faxes, I recall.

12 MR. ENGELMANN: All right, but essentially
13 he got the three briefs?

14 INSP. SMITH: Yes.

15 MR. ENGELMANN: They were sent together, as
16 I understand it?

17 INSP. SMITH: Yes, he had those in early
18 November.

19 MR. ENGELMANN: Yes.

20 INSP. SMITH: Yes.

21 MR. ENGELMANN: And you had no meeting
22 afterwards to discuss them?

23 INSP. SMITH: No.

24 MR. ENGELMANN: And he's getting back to you
25 on the 20th because you've had a tough time getting a hold

1 of him?

2 INSP. SMITH: Yeah.

3 MR. ENGELMANN: And he's telling you what
4 his conclusions are?

5 INSP. SMITH: Well, there's more on the next
6 page.

7 MR. ENGELMANN: Okay.

8 INSP. SMITH: There's more on the next two
9 pages. There's a lot of conversation that we had -- maybe
10 the next three pages.

11 MR. ENGELMANN: All right, but just before
12 we go there, sir, he's giving you his views on December
13 20th?

14 INSP. SMITH: Verbal, verbal.

15 MR. ENGELMANN: Right, and he then commits
16 that to writing the next day, December 21st?

17 INSP. SMITH: Um.

18 MR. ENGELMANN: We're going to look at that
19 in a few minutes, but ---

20 INSP. SMITH: Okay, if you say so.

21 MR. ENGELMANN: That's on two of the three
22 briefs?

23 INSP. SMITH: Yes.

24 MR. ENGELMANN: On the third brief, the
25 issue dealing with obstruct, as I understand it that's sent

1 -- forward you by another Crown?

2 **INSP. SMITH:** A few other Crowns he wanted -
3 - one eventually did it but I know he wanted to consult
4 with a few other Crowns on it because there were some
5 Crowns that said that there wasn't a criminal offence.

6 **MR. ENGELMANN:** Okay, but with respect to
7 the three briefs he's received, he's telling you on the 20th
8 his views?

9 **INSP. SMITH:** Yes.

10 **MR. ENGELMANN:** And he hasn't asked you to
11 go back and get more evidence for him?

12 **INSP. SMITH:** No.

13 **MR. ENGELMANN:** Figure more things out; he's
14 giving you his views based on the paper he's received?

15 **INSP. SMITH:** And the conversations we had,
16 yes.

17 **MR. ENGELMANN:** And when did you have a
18 conversation?

19 **INSP. SMITH:** When I was speaking to him on
20 the telephone.

21 **MR. ENGELMANN:** On the 20th?

22 **INSP. SMITH:** Yes.

23 **MR. ENGELMANN:** All right, but any
24 conversation before then? Because it doesn't appear to be
25 noted.

1 **INSP. SMITH:** I can't remember. He was very
2 difficult to get. He was as busy as I was and whenever we
3 could speak to each other, we updated -- or I updated.

4 **MR. ENGELMANN:** All right, but after you
5 sent the briefs in sometime in early November ---

6 **INSP. SMITH:** Yes.

7 **MR. ENGELMANN:** --- your first discussion
8 about them was on December 20th?

9 **INSP. SMITH:** I believe that's correct.

10 **MR. ENGELMANN:** And let's just look briefly
11 if we can at some of those -- what you prepare is a Crown
12 brief synopsis and a Crown brief index, if I'm not
13 mistaken?

14 **INSP. SMITH:** I believe I did.

15 **MR. ENGELMANN:** All right. If we could look
16 at the one dealing with the Father Charles MacDonald re-
17 investigation, that is Exhibit 2566. We took a look at
18 that at least briefly the last time you were here.

19 **INSP. SMITH:** Yes, sir.

20 **MR. ENGELMANN:** We've gone through some of
21 this before; for example, the date issue on the first page.
22 Do you recall, you'd agreed that it probably should have
23 read 70 to 74 instead of 68 to 72?

24 **INSP. SMITH:** Yes.

25 **MR. ENGELMANN:** And we looked at the issue

1 about the R. P. and G. and we talked about that today about
2 the external Crown and where the police were at with
3 respect to R. P. and G. before the letter from Mr.
4 MacDonald.

5 The matter that I wanted to take you to was
6 at page 548, which is page 4.

7 **INSP. SMITH:** Yes, sir.

8 **MR. ENGELMANN:** There were concerns about
9 the dates that are raised in here, at the bottom of the
10 page?

11 **INSP. SMITH:** Yes.

12 **MR. ENGELMANN:** And I think we've talked
13 about that. You had his handwritten statement and other
14 ways to verify could have been through school records or
15 possibly Diocesan records?

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** Just as an objective source.

18 **INSP. SMITH:** On that line though, Silmsen
19 and his lawyer were going to get those for us but they were
20 never forthcoming.

21 **MR. ENGELMANN:** Right.

22 **INSP. SMITH:** Because they had -- there was
23 a civil suit pending at the same time and I was hoping to
24 exchange the information that they had with the civil suit,
25 along with this, as far as the school records went or any

1 other information that was available. I never did get that
2 from Mr. Geoffrey.

3 **MR. ENGELMANN:** Do you know, sir, if at any
4 time you would have asked for a consent form to be signed
5 so that you could do that?

6 **INSP. SMITH:** No, I didn't ask for one
7 because they were going to provide it.

8 **MR. ENGELMANN:** And sir, at page 5, which is
9 Bates page 549, you make reference to -- you say:

10 "Evidence was found which was not
11 disclosed by Silmser, that his
12 friendship with Father MacDonald
13 continued after the allegation of abuse
14 and into Silmser's adulthood."

15 Is this a reference to a letter that he had
16 written from jail?

17 **INSP. SMITH:** Well, in addition to the
18 letter, there was a photograph of him at Christmastime with
19 Father Charlie donating toys to somebody. It was in the
20 newspaper. And I found that -- that unusual if he
21 described these violent acts that Father Charles had
22 committed on him back then, what was he doing now with him
23 giving out Christmas gifts at Christmas?

24 In addition, there was a letter that came
25 that was provided to us when he came out of prison. Mr.

1 Silmsers, I can tell you was, of all the victims that I have
2 ever investigated, is the most troubled individual that I'd
3 ever had as a victim. And he was very selective in what he
4 told us. I believed him. I believe that he was sexually
5 assaulted, but I don't know by who and I had difficulties
6 when and where.

7 And of all the victims that I have dealt
8 with in the past, they bend over backwards to assist the
9 police; Silmsers didn't.

10 **MR. ENGELMANN:** Well, you did tell us
11 earlier in your evidence that on occasion they would
12 continue to have relationships with abusers ---

13 **INSP. SMITH:** Yes.

14 **MR. ENGELMANN:** --- even to adulthood?

15 **INSP. SMITH:** Yes.

16 **MR. ENGELMANN:** That wasn't unusual?

17 **INSP. SMITH:** I said -- I didn't say unusual
18 but I said that I've seen it happen.

19 **MR. ENGELMANN:** All right.

20 **INSP. SMITH:** But then when it does happen
21 in the past, they've told us. When we spoke to them, when
22 they disclosed, they'd tell us yes, I'd go back, he's the
23 only person I knew in my life. Silmsers didn't tell us
24 that.

25 **MR. ENGELMANN:** Did you ask him after you

1 found out?

2 **INSP. SMITH:** I never had a chance to speak
3 to him really again. Any conversations I had with him were
4 adversarial. Any conversation that I -- with the exception
5 of one time.

6 I'm sorry, sir. When I called him shortly -
7 - at Christmas time to tell him that after this was
8 reviewed, that there wouldn't be any charges.

9 Mr. Silmsen was very good to deal with. He
10 was -- he thanked me for the investigation. He apologized.
11 I told him that the investigation would stay open, that if
12 anything further came up that we would reopen it, and he
13 seemed to be content with that. And I believe that was
14 right around the 20th.

15 **MR. ENGELMANN:** Yeah, that's in your notes.

16 **INSP. SMITH:** And no, he -- but I didn't
17 discuss the case per se with him at that time. He was --
18 that's the best conversation I had with Mr. Silmsen in the
19 whole time ---

20 **MR. ENGELMANN:** All right.

21 **INSP. SMITH:** --- that I dealt with him.

22 **MR. ENGELMANN:** That was just before
23 Christmas '94?

24 **INSP. SMITH:** Yes, sir.

25 **MR. ENGELMANN:** Right.

1 Sir, at page 5 again -- Bates page 549 --
2 you set out a comment. It says:

3 "Silmser's recent request following
4 news releases that he still wishes
5 charges laid despite receiving a
6 monetary settlement, is suspect."

7 What do you mean by that? Why is it
8 suspect?

9 **INSP. SMITH:** I questioned his sincerity.
10 You know, okay, that he wants to proceed with charges now
11 at this point and then also that he wouldn't speak to me
12 without a lawyer being present -- that further back -- and
13 that all of a sudden I had a feeling that we're being used
14 for -- to pursue his civil suit now that the -- he's got
15 his \$32,000.

16 **MR. ENGELMANN:** Right.

17 **INSP. SMITH:** That's been found to be null
18 and void but now he's going to go after more, and the
19 information that he'll need on that civil suit could be
20 provided through our investigation.

21 **MR. ENGELMANN:** Okay, but you're not
22 suggesting that an alleged victim shouldn't seek monetary -
23 --

24 **INSP. SMITH:** Not at all, not at all.

25 **MR. ENGELMANN:** --- compensation.

1 **INSP. SMITH:** But if he wants me to
2 investigate, sir, at least cooperate with me; give me the
3 full facts. You know ---

4 **MR. ENGELMANN:** That wouldn't assist him in
5 his civil settlement if he's not cooperative with you
6 though?

7 **INSP. SMITH:** Well, it didn't help him. If
8 he'd -- even with his lawyer, his lawyer couldn't even
9 control him.

10 **MR. ENGELMANN:** I'm just wondering why you
11 used that term "suspect".

12 **INSP. SMITH:** Probably because I was
13 frustrated somewhat in -- this is the first time I'd ever
14 had a victim that I couldn't do anything for. Two victims
15 in my whole career that I couldn't do anything for, and I
16 believe that they were sexually assaulted. One was David
17 Silmser and the other was John MacDonald.

18 **MR. ENGELMANN:** But, sir ---

19 **INSP. SMITH:** And those are the only two
20 victims out of thousands that I've dealt with that I
21 couldn't do anything for.

22 **THE COMMISSIONER:** Thousands? Thousands?

23 **INSP. SMITH:** Thousands of victims of all
24 crimes.

25 **THE COMMISSIONER:** Okay, okay.

1 **MR. ENGELMANN:** But, sir, you later did lay
2 criminal charges?

3 **INSP. SMITH:** Yes.

4 **MR. ENGELMANN:** So did you -- I mean, do you
5 view that as not being of assistance?

6 **INSP. SMITH:** I couldn't do it there in
7 November.

8 **MR. ENGELMANN:** Oh, not then.

9 **INSP. SMITH:** No.

10 **MR. ENGELMANN:** But you did later?

11 **INSP. SMITH:** Yeah. We didn't give up.

12 **MR. ENGELMANN:** Yeah. So I'm just ---

13 **INSP. SMITH:** Yeah.

14 **MR. ENGELMANN:** You made that ---

15 **INSP. SMITH:** Okay, but you asked me why I
16 said that comment there. I made that comment then in
17 December based on -- there was nothing I could do then for
18 that man.

19 **MR. ENGELMANN:** Fair enough, fair enough. I
20 just -- you didn't mean you never did anything for him?

21 **INSP. SMITH:** But I couldn't -- I didn't
22 give up. We went on again.

23 **MR. ENGELMANN:** Fair enough.

24 **INSP. SMITH:** Yeah.

25 **MR. ENGELMANN:** Now, in this synopsis, you

1 don't refer to the other alleged victims at all; the ones
2 that were found by Ms. Sebalj, Constable Sebalj, in her
3 investigation, C-3 and C-56 ---

4 **INSP. SMITH:** He didn't want to testify.
5 The others were -- in my opinion were consensual.

6 **MR. ENGELMANN:** Okay. So C-3 didn't want to
7 testify and you thought that the other three were
8 consensual?

9 **INSP. SMITH:** They were adult were they not?

10 **MR. ENGELMANN:** Sir, whether they were
11 adults or not -- whether they were 18, 17, 20 isn't the
12 issue. I mean, on consent it's not a question of age.
13 It's a question of whether or not it's a consensual sexual
14 act, isn't it?

15 **INSP. SMITH:** Well, I disagree with you on
16 some of those. You say the one in the States ---

17 **MR. ENGELMANN:** No, I'm not forming any
18 opinion.

19 **INSP. SMITH:** Well, that's one of them. You
20 said it was. You said it was a sexual assault back awhile,
21 sir. That's wrestling around and there's one person's word
22 of groping in the crotch and there's denial on the other
23 part. I have great difficulties with that being a sexual
24 assault standing alone by itself with an adult.

25 **MR. ENGELMANN:** Sir, you'll agree with me

1 that the distinction as to whether something is a sexual
2 assault or not has nothing to do with age. It has to do
3 with whether it's consensual.

4 **INSP. SMITH:** No, I -- yeah, I'm fully
5 aware. I agree with you on that, sir.

6 **MR. ENGELMANN:** All right. I'll just be a
7 moment.

8 **INSP. SMITH:** I'd make the analogy, sir,
9 that -- you know, perhaps you play football or hockey or
10 whatever it is and a bunch of guys are out on the football
11 field fooling around, and they pat each other on the
12 buttocks and they grab each other and they do silly things
13 out there, and that's not a sexual assault.

14 **MR. ENGELMANN:** But grabbing someone in the
15 crotch or the groin without their consent could be a sexual
16 assault?

17 **INSP. SMITH:** Well, the fellows that I saw
18 when I played football and that happened, they weren't
19 consenting to it but they didn't complain. It was part of
20 the game.

21 **MR. ENGELMANN:** Sir, I'm not talking about
22 on a football field.

23 **INSP. SMITH:** Well, they're wrestling and
24 fooling around, having a good time.

25 Or the hand on the knee when somebody is

1 driving. That's not a sexual assault in my opinion. Were
2 there any words that accompanied it? I didn't have words
3 that accompanied what was happening. If there were, that
4 could make it a sexual assault.

5 **MR. ENGELMANN:** Well, you'll agree with me
6 in any event that you didn't refer to any other alleged
7 victims in your synopsis?

8 **INSP. SMITH:** If it's not there, I didn't.
9 And I haven't -- again, it's been 14 years probably since I
10 read this.

11 **MR. ENGELMANN:** All right. Just be a
12 moment.

13 And you express the concern -- on Bates page
14 549, page 5:

15 "The investigators believe there was
16 sexual contact between Silmser and
17 MacDonald but cannot with certainty
18 identify specific incidents."

19 **INSP. SMITH:** I agree with that.

20 **MR. ENGELMANN:** All right.

21 And the reason I made the comment about the
22 others and perhaps wondered why they weren't in the
23 synopsis was when you interviewed the Bishop -- and if we
24 could just turn back there for a minute. It's Exhibit
25 1790; one-seven-nine-zero.

1 **INSP. SMITH:** I'd like to just go back. You
2 sort of leave me hanging as if I wrote Mr. Silmser off and
3 I didn't in '94, and I want to refer to the very last
4 paragraph that I have on page 6, and it's 7055550, and it
5 states:

6 "Should on review of all the evidence
7 by the prosecutors indicate the
8 investigators have misinterpreted the
9 evidence obtained and there exist
10 probable grounds, charges may still be
11 preferred."

12 So I'm not writing him ---

13 **MR. ENGELMANN:** No, no.

14 **INSP. SMITH:** --- writing him off.

15 **MR. ENGELMANN:** I'm not saying -- I'm just
16 asking about certain things you've included and certain
17 things you haven't.

18 When we talked about other possible alleged
19 victims, if you look at your interview of the Bishop, what
20 you say then -- and of course that's in September so it's a
21 couple of months earlier -- but if you look at Bates page
22 444, which is page 39 of the transcript ---

23 **INSP. SMITH:** And which ---

24 **MR. ENGELMANN:** Sorry, it's Exhibit 1790.

25 **THE COMMISSIONER:** Seventeen-ninety (1790).

1 I don't know if the witness has that.

2 **INSP. SMITH:** I've got it here, yes.

3 **THE COMMISSIONER:** Oh, you do? Good.

4 **INSP. SMITH:** It's in one of these binders;
5 1790)?

6 **MR. ENGELMANN:** Yeah.

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** You're saying on that
9 page -- it's all talking about -- well, if we go back to
10 page 37, which is Bates page 442, at the bottom you say,
11 "Everything is":

12 "Everything we have obtained is
13 reviewed by the..."

14 In this case it will be Peter Griffiths
15 ---

16 **INSP. SMITH:** Yes.

17 **MR. ENGELMANN:** --- "the Regional Director,"
18 et cetera.

19 And on Bates page 7011444, which is page 39,
20 you're -- it's still going on about this. You say:

21 "You have copies of them, don't you, at
22 this point?"

23 "I can tell you where our investigation
24 has gone with Father Charles, still
25 incomplete, and we -- I don't think

1 we'll find any more people that will
2 come forward with allegations, other
3 than the five we've indicated."

4 And you say:

5 "And that evidence will be reviewed
6 with Mr. Griffiths at the completion of
7 our entire investigation."

8 Okay? So my question is this -- I took
9 it from that comment that you might have put this issue of
10 the alleged victims into your Crown brief synopsis.

11 **INSP. SMITH:** I believe that those
12 statements of those other people were in the -- in the
13 Crown brief.

14 **MR. ENGELMANN:** Okay. Well, that was my
15 next question.

16 **INSP. SMITH:** So it ---

17 **MR. ENGELMANN:** If they weren't in the
18 synopsis, did you attach all of the statements with the
19 Crown brief, so that he could make sure ---

20 **INSP. SMITH:** Well, they should have been.

21 **MR. ENGELMANN:** Okay. And did you have any
22 discussion with him about the allegations of the other
23 alleged victims?

24 **INSP. SMITH:** Not that I recall.

25 **MR. ENGELMANN:** All right.

1 **INSP. SMITH:** But I'm sure those statements
2 were there for his review and, if he reviewed them, he
3 would have ---

4 **MR. ENGELMANN:** Well, we looked at the
5 document earlier, sir, and I believe when we did the
6 monikers ---

7 **INSP. SMITH:** Yes.

8 **MR. ENGELMANN:** --- it was clear that those
9 four statements would have been in -- they were in the
10 Crown brief index.

11 **INSP. SMITH:** Okay, okay.

12 **MR. ENGELMANN:** So they should have been in
13 the pile that he received; is that fair? If they were in
14 the index?

15 **INSP. SMITH:** I would -- I would hope so.

16 **MR. ENGELMANN:** Yes. And I believe the
17 Exhibit was 2562, but that's just off the top of my head.
18 It's an exhibit, so ---

19 **THE COMMISSIONER:** Twenty-five ---

20 **MR. ENGELMANN:** Twenty-five sixty-two
21 (2562).

22 **INSP. SMITH:** Yes, m'hm -- twenty-five
23 sixty-two (2562)? Yes.

24 **THE COMMISSIONER:** Twenty-five sixty-two
25 (2562) is the index of the synopsis, right.

1 **MR. ENGELMANN:** Yes, here we go. So this
2 would indicate that the statements of -- if you look at the
3 front page that's on the screen now, sir, the statements
4 of ---

5 **INSP. SMITH:** Yes.

6 **MR. ENGELMANN:** --- C-3, C-56, C-88 and C-89
7 would have been in the package?

8 **INSP. SMITH:** It appears so, yes.

9 **MR. ENGELMANN:** Right. But you just -- you
10 don't recall any conversation with Mr. Griffiths about
11 them?

12 **INSP. SMITH:** No, but I'm not the lead
13 investigator in the sexual assault.

14 **MR. ENGELMANN:** Fair enough.

15 **INSP. SMITH:** Fagan may have had some
16 conversation; I don't know.

17 **MR. ENGELMANN:** All right.

18 **THE COMMISSIONER:** So Mr. Engelmann, I'd
19 like to wrap it up at 4:30 this afternoon. We can sit late
20 Tuesday and Wednesday, if you wish, and Thursday will be at
21 4:30 as well.

22 **MR. ENGELMANN:** Okay.

23 **THE COMMISSIONER:** I take it you want to
24 start at 9:00 tomorrow morning, sir?

25 **INSP. SMITH:** I could. I would, yes, sir.

1 **MR. ENGELMANN:** Now, sir, I just wanted
2 to -- I'll just be a moment. You say at -- it's
3 Bates -- we're still on the synopsis, which is Exhibit
4 2566, the bottom of page 549.

5 **INSP. SMITH:** Where ---

6 **MR. ENGELMANN:** You say:

7 "Because of Silmsers's credibility and
8 selective memory, the investigators
9 find it difficult to obtain the
10 necessary reasonable grounds to believe
11 these offences took place as
12 indicated."

13 Then you talk about:

14 "There remains a strong suspicion."

15 So -- and I'm just a little confused,
16 because of the note, as well in your notes, 1803, where Mr.
17 Griffiths said:

18 "Objectively, enough credible evidence;
19 subjectively, not honest belief."

20 **INSP. SMITH:** Okay. If I can break it down
21 into the areas? The difficulties I had with Mr. Silmsers, I
22 had -- there were two -- two events that I had no
23 difficulty believing him, and those were the events, I
24 think one was in the rectory and one was at the -- the
25 overnight stay that they had, or the ---

1 **MR. ENGELMANN:** There were two incidents, I
2 think, in the -- in the sacristy or an office?

3 **THE COMMISSIONER:** No, one was -- one was a
4 retreat?

5 **MR. ENGELMANN:** One was a retreat?

6 **INSP. SMITH:** The retreat, yes. I had no
7 difficult with that, and I had no difficulty with another
8 one, I think -- was it in the sacristy, in the church, I
9 believe?

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

11 **INSP. SMITH:** The one I had difficulty with
12 was the one on the road ---

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

14 **INSP. SMITH:** --- and in the car, and I
15 just -- I had difficulty with that all the way through,
16 and -- for a number of reasons, and, even as time went on I
17 had difficulty, because that was not the character of
18 Father Charlie.

19 **MR. ENGELMANN:** It was quite different than
20 the other ---

21 **INSP. SMITH:** It was.

22 **MR. ENGELMANN:** --- allegations? Yes.

23 **INSP. SMITH:** And nowhere, in anybody that
24 we ever spoke to, was there every any violence with Father
25 Charlie.

1 **MR. ENGELMANN:** Right.

2 **INSP. SMITH:** So I had -- that's the one I
3 referred to, mainly, with the -- with Mr Griffiths.

4 **MR. ENGELMANN:** And, sir, the Crown, at
5 least in the call, talks about objective beliefs. Is it
6 fair to say that the subjective belief on your part wasn't
7 quite there, that there were reasonable and probable
8 grounds? It's a two part, subjective-objective?

9 **INSP. SMITH:** I had difficulty, yes.
10 I -- it was very close, let me tell you, very, very close,
11 but, again, in my experience, is that in dealing with
12 victims of sexual assault, historical, was that if I was to
13 wait and I -- and I wasn't surprised that sometime later
14 down the line that more would come forward, and they did.

15 And that strengthened the case of those two
16 issues that we had with Silmsler, and as a result I was able
17 to form R. P. and G. without any difficulty in laying those
18 charges.

19 **MR. ENGELMANN:** All right. So was part of
20 your concern at the time, in '94, just having the one
21 victim, as you've identified? The one alleged victim ---

22 **INSP. SMITH:** Well ---

23 **MR. ENGELMANN:** --- not having the two that
24 came forward in '95 ---

25 **INSP. SMITH:** Yes.

1 **MR. ENGELMANN:** --- that you had concerns
2 about whether, if you had proceeded, the case could have
3 been successful as a prosecution?

4 **INSP. SMITH:** Well, I could have laid the
5 charges, but I'll tell you that, from my experience, a
6 Crown attorney would have no reasonable prospect of a
7 conviction and he wouldn't proceed. And once that's done,
8 then I could never revisit it.

9 **MR. ENGELMANN:** All right. And at this
10 point in time, to your knowledge, you weren't asked to go
11 back and do any re-investigation by Mr. Griffiths?

12 **INSP. SMITH:** Not at that point.

13 **MR. ENGELMANN:** Right, okay. Sir, I was just
14 going to turn to the conspiracy brief. Do you want me to
15 start or should I ---

16 **THE COMMISSIONER:** Well, no, let's wait
17 until tomorrow then.

18 **MR. ENGELMANN:** All right.

19 **THE COMMISSIONER:** It's 4:30.

20 **MR. ENGELMANN:** Okay. Just for the record,
21 that's Exhibit 2584.

22 **THE COMMISSIONER:** We'll have it ready for
23 tomorrow.

24 **MR. ENGELMANN:** All right.

25 **THE COMMISSIONER:** So until then, have a

1 nice evening.

2 **INSP. SMITH:** Thank you.

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

5 This hearing is adjourned until tomorrow
6 morning at 9:00 a.m.

7 --- Upon adjourning at 4:27 a.m. /

8 --- L'audience est ajournée à 16h27

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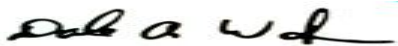
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C E R T I F I C A T I O N

I, Dale Waterman 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, Dale Waterman, 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.



Dale Waterman, CVR-CM