

**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 78

Held at :

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

Wednesday, December 13, 2006

Tenue à:

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

Mercredi, le 13 décembre 2006

Appearances/Comparutions

Mr. John Spice	Lead Investigator
Mr. Peter Engelmann	Lead Commission Counsel
Mr. Pierre R. Dumais	Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Leslie McIntosh	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Geoffrey Bryce	Mr. John MacDonald

Table of Contents / Table des matières

	Page
List of Exhibits :	iv
Preliminary matters/Matières préliminaires	1
JOHN MACDONALD, Affirmed/Sous affirmation solennelle:	1
Examination in-Chief by/Interrogatoire en-chef par Mr. Pierre Dumais	3
Submission on issue of statement being filed/ Représentation relativement au dépôt d'une déclaration Par Mr. Pierre Dumais	60
Ruling on filing of statement by/Décision sur le dépôt De la documentation présentée par Mr. Pierre Dumais	74
Motion re publication ban by/Requête concernant ordonnance de non publication par Mr. Giuseppe Cipriano	75
Ruling re interim publication ban by/Décision sur Ordonnance de non publication par interim par Justice Normand Glaude	101
JOHN MACDONALD, Resumed/Sous le même serment:	104
Examination in-Chief by/Interrogatoire en-chef par Mr. Pierre Dumais (cont'd/suite)	104
Submission re interim publication ban/Représentation Sur ordonnance de non publication intérim par Mr. Peter Engelmann	136
JOHN MACDONALD, Resumed/Sous le même serment:	143
Examination in-Chief by/Interrogatoire en-chef par Mr. Pierre Dumais (cont'd/suite)	143

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-202	(116264) Letter to Father Maloney from John MacDonald - August 11, 1995	11
P-203	(116264) Letter from Kevin Maloney to John MacDonald with Appendix - August 15, 1995	28
P-204	(737944) Handwritten notes by John MacDonald - August 11th	36
P-205	(705831) John MacDonald - Handwritten statement - September 12, 1995	104
P-206	(110390) John MacDonald - Taped Conversation - September 28, 1995	107
P-207	(116264) John MacDonald - Handwritten statement - September 18, 1995	107
P-208	(737943) Letter - John C. Cleary to John MacDonald - November 1, 1995	152
P-209	(737943) Letter - John C. Cleary to The Hon. Charles Harnick - November 1, 1995	154
P-210	(737943) Letter - John MacDonald to Mr. Tony Repa - January 11	155
P-211	(737943) Letter - John C. Cleary to John MacDonald - January 22, 1996	155
P-212	(737943) Letter - Joseph G. St. Denis to John MacDonald - January 24, 1996	155
P-213	(737943) Letter - John MacDonald to Peter Griffiths - January 8, 1999	156
P-214	(737943) Letter - John MacDonald to John Cleary - February 1	156

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-215	(737943) Letter - John MacDonald to Chief A. Repa - February 7, 1996	157
P-216	(737943) Letter - John C. Cleary to John MacDonald - February 20, 1996	157
P-217	(737943) Letter - John C. Cleary to The Hon. Charles Harnick - February 20, 1996	158
P-218	(737943) Letter - Constable J. R. Burnie to John MacDonald - April 26, 1996	158
P-219	(737943) Letter - John C. Cleary to The Hon. Charles Harnick - April 25, 1996	158
P-220	(737943) Letter - John C. Cleary to John MacDonald - April 25, 1996	159

1 ---Upon commencing at 10:06 a.m./

2 L'audience débute à 10h06

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 presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 Good morning. Good morning, Maître Dumais

11 **MR. DUMAIS:** Good morning, Mr. Commissioner.

12 I'm prepared to call the next witness,

13 Commissioner, Mr. John MacDonald.

14 **THE COMMISSIONER:** Thank you.

15 **THE REGISTRAR:** Your name, please?

16 **MR. MacDONALD:** John MacDonald.

17 **THE REGISTRAR:** Can you spell it?

18 **MR. MacDONALD:** The whole thing?

19 **THE REGISTRAR:** The last name.

20 **MR. MacDONALD:** M-A-C-D-O-N-A-L-D.

21 **JOHN DAVID MacDONALD, Affirmed/Sous affirmation solennelle:**

22 **MR. DUMAIS:** Good morning, John.

23 **MR. MacDONALD:** Good morning, Pierre.

24 **MR. DUMAIS:** Commissioner, we do have a new
25 face and I'm going to ask him to introduce himself. It's

1 counsel for Mr. MacDonald, Mr. Bryce Geoffrey.

2 **THE COMMISSIONER:** Thank you.

3 **MR. GEOFFREY:** Good morning, sir.

4 **THE COMMISSIONER:** Good morning. How are
5 you doing today?

6 **MR. GEOFFREY:** Very well, thank you.

7 **THE COMMISSIONER:** Welcome to the Inquiry.

8 **MR. GEOFFREY:** Thank you very much.

9 **THE COMMISSIONER:** Thank you.

10 Mr. MacDonald, how are you doing today?

11 **MR. MacDONALD:** A little tired.

12 **THE COMMISSIONER:** A little tired. All
13 right. A little nervous?

14 **MR. MacDONALD:** A little bit.

15 **THE COMMISSIONER:** All right.

16 As I do with all of the witnesses, I think
17 it's important that we review a few ground rules. The
18 first one, sir, is that I want to make sure that you're
19 comfortable and that you feel comfortable in this setting.
20 All right? So which means that you're going to be asked
21 some questions, and what I'd like you to do is listen to
22 the question and give me your best answer. If you don't
23 understand the question, we'll repeat it. If you don't
24 know the answer, you just don't know the answer.

25 If at any time you feel uncomfortable about

1 something -- well, you have a lawyer here with you, he will
2 certainly represent your interests, but I am here as well
3 to make sure that things go well with you. So if you feel
4 that you need a break or anything like that, you just turn
5 and we can talk about that.

6 **MR. MacDONALD:** Okay.

7 **THE COMMISSIONER:** All right? Do you have
8 any questions about the process?

9 **MR. MacDONALD:** No.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Dumais.

12 **---EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
13 **DUMAIS:**

14 **MR. DUMAIS:** Hi, John.

15 I understand that you were born on December
16 1st, 1958 in the City of Cornwall. Is that correct?

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

18 **MR. DUMAIS:** And you are the sixth of 10
19 children?

20 **MR. MacDONALD:** Indeed.

21 **MR. DUMAIS:** So lots of brothers and
22 sisters.

23 **MR. MacDONALD:** Lots.

24 **MR. DUMAIS:** And I understand that your
25 parents are from Cornwall and presently still reside in

1 Cornwall. Is that correct?

2 **MR. MacDONALD:** Yes, they do.

3 **MR. DUMAIS:** And my understanding is that
4 you lived for a good portion of your life in Cornwall,
5 although at some point in time you did leave to return, and
6 we'll get to that in just a second.

7 I understand as well, John, that you were
8 raised in the Catholic faith. Is that correct?

9 **MR. MacDONALD:** Yes.

10 **MR. DUMAIS:** So what does that mean or what
11 did that mean as a child growing up? Were your parents
12 practising? Were you going to church? Can you just give
13 us an idea?

14 **MR. MacDONALD:** That meant getting big ears
15 from being dragged to church on Sunday morning.

16 **MR. DUMAIS:** I see.

17 **MR. MacDONALD:** I see Mr. Chisholm laughing
18 in the back. Indeed he knows what I'm talking about.

19 **MR. DUMAIS:** So that essentially meant,
20 John, that your family went to church on a weekly basis.
21 Is that correct?

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

23 **MR. DUMAIS:** Right.

24 And I understand you went to school as well,
25 and that would have been in the Catholic school setting.

1 Is that correct?

2 MR. MacDONALD: That's right.

3 MR. DUMAIS: All right.

4 So I understand at one point in time you
5 married and had children. Is that correct?

6 MR. MacDONALD: Plenty, following in my
7 parents' footsteps.

8 MR. DUMAIS: And that you at one point in
9 time as well had separated from your first wife?

10 MR. MacDONALD: Yes.

11 MR. DUMAIS: And then you met your second
12 wife on or about -- previous to 1990 when you married. Is
13 that correct?

14 MR. MacDONALD: Yes. We met in about '87.

15 MR. DUMAIS: All right.

16 So then in 1990 you did leave the Cornwall
17 area?

18 MR. MacDONALD: M'hm.

19 MR. DUMAIS: And where did you move to?

20 MR. MacDONALD: British Columbia.

21 MR. DUMAIS: So you moved there with your
22 wife, and I understand that she had children from a
23 previous marriage as well?

24 MR. MacDONALD: Two children, yes.

25 MR. DUMAIS: And I further understand that

1 you had a child with her as well?

2 **MR. MacDONALD:** We did.

3 **MR. DUMAIS:** All right.

4 So you're living in B.C. with your wife and
5 your three children?

6 **MR. MacDONALD:** That's right.

7 **MR. DUMAIS:** And for how many years did you
8 stay in B.C.?

9 **MR. MacDONALD:** Four years, I believe.

10 **MR. DUMAIS:** Were you moving around over
11 there or did you stay in one particular place?

12 **MR. MacDONALD:** We moved once while out
13 there from Surrey, British Columbia to Nelson, B.C. for
14 about the last year that we were out there.

15 **MR. DUMAIS:** All right.

16 And at one point in time, John, I understand
17 there were many discussions with your wife about moving
18 back to Cornwall, but a decision was made to come back
19 here. Is that correct?

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

21 **MR. DUMAIS:** And that would have been in
22 1995?

23 **MR. MacDONALD:** I believe so.

24 **MR. DUMAIS:** All right.

25 So you guys decided to move back here, and

1 that would have been early during that year. Is that fair?

2 **MR. MacDONALD:** January, February, yes.

3 **MR. DUMAIS:** And you actually moved sometime
4 in the month of June or July of that year?

5 **MR. MacDONALD:** I believe so.

6 **MR. DUMAIS:** All right.

7 And what were your feelings about coming
8 back to Cornwall? I know that that's part of the
9 discussions you were having with your spouse.

10 **MR. MacDONALD:** The last place in the world
11 that I wanted to be.

12 **MR. DUMAIS:** So you had a lot of misgivings
13 about coming back here?

14 **MR. MacDONALD:** Once a decision was made, it
15 was made, but really once I left here in 1990 or '91, my
16 thought was never to return.

17 **MR. DUMAIS:** All right.

18 So you never expected to come back?

19 **MR. MacDONALD:** No.

20 **MR. DUMAIS:** Is it fair to say that it was
21 mostly your wife's idea?

22 **MR. MacDONALD:** Do you know she tried to
23 talk me out of it once the decision was made? It was her
24 urging probably for three or four years to come back, but
25 once I put my foot down, if I want to put it that way, and

1 said "Yes, we are coming back", she tried talking me out of
2 it and had people try to talk me out of it.

3 **MR. DUMAIS:** All right.

4 Now, between 1992 and 1995 a lot of things
5 were happening in Cornwall, and we'll get to that shortly.
6 Can you just give us an idea what kind of contacts or
7 communications you were having with people that were still
8 living here and whether or not you were aware of what was
9 in the news?

10 **MR. MacDONALD:** None. A good portion of
11 that four years that we were out there I went out heavily
12 in debt and most of the time we couldn't afford a phone.
13 All I was doing was working to pay off the debt that I went
14 out carrying. So as far as my family, none. Her family,
15 minimal. You know, very little contact at all with people
16 back here.

17 **MR. DUMAIS:** All right.

18 And during that period of time were you
19 coming back visiting Cornwall, coming back for weddings or
20 Christmas or any other occasions?

21 **MR. MacDONALD:** Not once.

22 **MR. DUMAIS:** So once you moved to B.C. you
23 essentially stayed there?

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

25 **MR. DUMAIS:** All right.

1 Now, what about, John, the name of David
2 Silmsers? Any contact with him during that period of time?

3 **MR. MacDONALD:** None.

4 **MR. DUMAIS:** So then you come back to
5 Cornwall and where do you stay? Do you stay with family?
6 Do you have a place of your own?

7 **MR. MacDONALD:** With my wife's sister.

8 **MR. DUMAIS:** So you stayed there for a
9 certain period of time?

10 **MR. MacDONALD:** Four months or so.

11 **MR. DUMAIS:** And during that period of time
12 there's a lot going on in the media and there was a lot of
13 attention to a gentleman by the name of D.S., and I think
14 the media articles at that time were making reference to
15 him in that fashion.

16 What was your knowledge of that and were you
17 ---

18 **MR. MacDONALD:** Knowledge or reaction?

19 **MR. DUMAIS:** Knowledge and reaction.

20 **MR. MacDONALD:** The reaction was "Oh, my
21 God, what did I walk back into here?"

22 **MR. DUMAIS:** All right.

23 So you knew at that time that these articles
24 were about David Silmsers. Is that right?

25 **MR. MacDONALD:** I can't answer that clearly.

1 I can't -- did I know in my gut? I knew in my gut, but as
2 far as knowledge, no.

3 **MR. DUMAIS:** Is it fair to say, John, that
4 media attention got you thinking about your own situation
5 as you were growing up?

6 **MR. MacDONALD:** Again, I'll say, my reaction
7 was "Oh, my God, what did I walk back into here? Is this
8 what dragged me back?"

9 **MR. DUMAIS:** All right.

10 So to the best of your recollection, John,
11 when did you start thinking about talking about what had
12 occurred to you?

13 **MR. MacDONALD:** Talking about?

14 **MR. DUMAIS:** Well, making a decision as to
15 do something?

16 **MR. MacDONALD:** What sparked that?

17 **MR. DUMAIS:** Yes.

18 **MR. MacDONALD:** An article in the newspaper
19 that said that the priest was suing David for defamation of
20 character.

21 **MR. DUMAIS:** Okay. So in your mind that was
22 the triggering event?

23 **MR. MacDONALD:** That was the one.

24 **MR. DUMAIS:** All right.

25 So following that article, what happened

1 after? What did you do afterwards?

2 **MR. MacDONALD:** I wrote a letter to Father
3 Maloney of the St. Columban's Church.

4 **MR. DUMAIS:** Right.

5 Perhaps we can turn to that letter because
6 we do have a copy, John.

7 Commissioner, that would be document number
8 116264, Bates page number 1098295.

9 So, John, that should come up on the screen
10 for you.

11 **THE COMMISSIONER:** And we'll be filing that
12 as an exhibit, I take it?

13 **MR. DUMAIS:** I'll be filing that as an
14 Exhibit, Commissioner. I'm not sure where we're at with
15 the numbering.

16 **THE REGISTRAR:** At 202.

17 **MR. DUMAIS:** Exhibit 202.

18 **THE COMMISSIONER:** Thank you.

19 **---EXHIBIT NO./ PIÈCE NO P-202:**

20 (116264) Letter to Father Maloney from John
21 MacDonald - August 11, 1995

22 **MR. DUMAIS:** Now, John, do you recognize
23 that handwriting?

24 **MR. MacDONALD:** Indeed I do.

25 **MR. DUMAIS:** And it's a letter ---

1 **THE COMMISSIONER:** Mr. Dumais, I don't want
2 to slow you down ---

3 **MR. DUMAIS:** Sorry.

4 **THE COMMISSIONER:** I think we have to give
5 the Clerk a little more time here to process things.

6 **MR. DUMAIS:** I note that we do have a Clerk
7 in training as well today.

8 **THE COMMISSIONER:** Exactly. Lise Kosloski
9 has joined us.

10 **THE REGISTRAR:** What is the Bates page
11 number?

12 **MR. DUMAIS:** It's 1098295.

13 **THE COMMISSIONER:** All right.

14 So that's Exhibit 202, which is a ---

15 **MR. DUMAIS:** Thank you.

16 **THE COMMISSIONER:** --- document which
17 appears to be a letter to Father Maloney dated August 11th,
18 1995. So 202, Exhibit number.

19 **MR. DUMAIS:** So, John, you should have a
20 paper copy in front of you there and the electronic copy as
21 well. You can follow whatever you're more comfortable
22 with.

23 So that's a letter dated August 11th, 1995,
24 and it is a nine-page -- sorry, a four-page letter, and it
25 is not signed, but if you look at the fourth and last page,

1 John, that is your name at that time -- sorry, the name and
2 the address that you were living at, at that time?

3 MR. MacDONALD: Yes.

4 MR. DUMAIS: So 610 Fraser Avenue?

5 MR. MacDONALD: That's it.

6 MR. DUMAIS: And is that your sister-in-
7 law's place of residence?

8 MR. MacDONALD: No, we had rented a house.

9 MR. DUMAIS: All right.

10 So by that time you guys had your own place;
11 correct?

12 MR. MacDONALD: That's correct.

13 MR. DUMAIS: And I'm looking at the date
14 firstly, John, August 11th, 1995. Is that the actual date
15 that you would have written out this letter or was it ---

16 MR. MacDONALD: That's correct.

17 MR. DUMAIS: And you did it in one shot?

18 MR. MacDONALD: That's correct.

19 MR. DUMAIS: And the letter is addressed to
20 Father Maloney.

21 MR. MacDONALD: That's right.

22 MR. DUMAIS: Who was Father Maloney at that
23 time and why is this letter addressed to him?

24 MR. MacDONALD: Well, what's the proper term
25 for somebody being in charge of the church?

1 **MR. DUMAIS:** He's assigned to ---

2 **MR. MacDONALD:** Whatever he was -- you know,
3 there might have been multiple priests there, but he would
4 have been the ---

5 **MR. DUMAIS:** He was affected to which
6 church, John?

7 **MR. MacDONALD:** St. Columban's Church.

8 **MR. DUMAIS:** Okay. And that's the sole
9 reason why it was being addressed to him?

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

11 **MR. DUMAIS:** Now, I'm going to take you to
12 some of the portions of your letter and I'll just go in
13 order. And I'm looking at the third paragraph, which
14 starts "I too was an altar boy during the time that abuses
15 were taking place". So, what did you mean by "I too"?
16 What did you mean by that?

17 **MR. MacDONALD:** Well, I'm now worried that
18 somebody else had been through the same thing.

19 **MR. DUMAIS:** So is it fair to say that, to a
20 certain extent, correspondence was in support of
21 allegations that Dave Silmsler had made?

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

23 **MR. DUMAIS:** Okay. So when you're saying "I
24 too", you mean well there's this David Silmsler whose in the
25 media and I'm an alleged victim as well.

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

2 **MR. DUMAIS:** You indicate that, in the
3 second paragraph, that you start to write this letter on a
4 number of occasions over the last nine years. Is this
5 something that you were thinking about over a long period
6 of time?

7 **MR. MacDONALD:** It never left my memory.

8 **MR. DUMAIS:** All right. And the actual
9 writing or the actual drafting, did you ever get down to
10 doing anything about it?

11 **MR. MacDONALD:** I think where my mind would
12 have been at that time is when I say "started to write this
13 letter many times", asking for help.

14 **MR. DUMAIS:** All right.

15 **MR. MacDONALD:** Many times I wanted to get
16 help in dealing with what I'd been dealing with for the
17 last 25 years.

18 **MR. DUMAIS:** All right. I'm just looking
19 towards the last paragraph of that page and I'm just going
20 to read this last sentence:

21 "I must say that I do know who the
22 person is that brought this to light
23 and I do applaud his courage and thank
24 him for his anonymity with the media".

25 What did you mean by that, John?

1 MR. MacDONALD: Just the B.S.

2 MR. DUMAIS: That he is making reference to
3 himself, by his initials only?

4 MR. MacDONALD: That's correct.

5 MR. DUMAIS: All right.

6 MR. MacDONALD: It can't be easy for
7 somebody to step ahead, you know, and ---

8 MR. DUMAIS: Now, I'm --

9 MR. MacDONALD: I wasn't finished with that
10 ---

11 MR. DUMAIS: Sorry.

12 MR. MacDONALD: --- but I'm going to leave
13 it at that for now.

14 MR. DUMAIS: Okay. So then, I'm looking at
15 the second page, John, of that letter and just for the
16 record, I'll read in the Bates page number 1098296. Now,
17 and I'm looking at the last paragraph, John, which reads,
18 and I'll just read it in for you, "All the memories are
19 returning, the retreat weekends in St. Andrews at the old
20 nun's residence", and the question I want to ask you is the
21 weekend retreat in St. Andrews which and we're going to get
22 into the allegations that you formally made to the police,
23 a little later on, but the question I want to ask you is
24 about the location "St. Andrews", and I know that in
25 different documents, one of those documents is the

1 statement that actually your mother had made and she was --
2 in reference to a retreat at St. Raphael. Is St. Andrews
3 still the location where you alleged that you were first
4 abused John?

5 **MR. MacDONALD:** That's correct.

6 **MR. DUMAIS:** All right, so that's not
7 changed over the years. You've not said, "Well I made a
8 mistake back then", all right. So that is still correct.

9 Now, you also made reference to a second
10 incident which would have been, and I'm looking at the
11 following page, John, and that's Bates page number 1098297
12 and the first paragraph starts: "The Bishop's place in
13 Alexandria, with its many hidden nooks". Now with Bishop's
14 place were you referring to?

15 **MR. MacDONALD:** Bishop Proulx.

16 **MR. DUMAIS:** All right. And, when you're
17 saying the Bishop's place, do you mean his place of
18 residence or his place of work or the church where he was
19 affected to?

20 **MR. MacDONALD:** There was a, I think they
21 call it the Bishop's Palace, right across from a church in
22 St. Andrews.

23 **MR. DUMAIS:** So that would have been ---

24 **MR. MacDONALD:** I think it was his
25 residence, I don't know.

1 **MR. DUMAIS:** All right. So that would have
2 been in St. Andrews or thereabouts as well?

3 **MR. MacDONALD:** No, that's in Alexandria.

4 **MR. DUMAIS:** Sorry, in Alexandria, all
5 right.

6 Now, the next paragraph is what you would
7 have told your parents at that time and I think that's an
8 important part, and I'll read the paragraph in its
9 entirety. So the paragraph reads as follows:

10 "I tried talking to my parents about
11 what was going on at the time, at about
12 that time they made a complaint to the
13 church. Nothing, not even a reply or
14 an apology came back. And when no
15 reply came back, my parents started
16 believing very little that I said, from
17 that time on. That was the start of my
18 detaching from the rest of my family
19 and my feelings."

20 Now, can you explain that, what you wrote
21 there John, and what you were thinking?

22 **MR. MacDONALD:** Tough spot to go, Pierre.

23 **THE COMMISSIONER:** Maybe we can break it
24 down a little bit. You tried talking to your folks?

25 **MR. MacDONALD:** I convinced myself that I

1 did. Can I just say what we were talking about earlier?

2 **MR. DUMAIS:** Sure, John.

3 **MR. MacDONALD:** I've convinced myself, over
4 the years, for my own protection that I spoke to my parents
5 about this. And I don't know if it's -- that I've since
6 learned everything that I know that something also happened
7 with a brother of mine. And if indeed, something did
8 happen to a brother of mine, and my parents were aware of
9 it, then I would have to question why I was put in harm's
10 way.

11 **MR. DUMAIS:** So, and you couldn't accept
12 that, John?

13 **MR. MacDONALD:** I couldn't accept that. I
14 still can't accept that.

15 **THE COMMISSIONER:** Can you help me out a
16 little bit right here. The complaint that you say they
17 made to the church, ---

18 **MR. MacDONALD:** A complaint was made to the
19 church.

20 **THE COMMISSIONER:** Was that about you or
21 about somebody else?

22 **MR. MacDONALD:** About my brother.

23 **THE COMMISSIONER:** Okay. Okay, I get it
24 now, sorry.

25 **MR. DUMAIS:** And John, the brother that

1 you're referring to would have been an older brother,
2 correct?

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

4 **MR. DUMAIS:** Now, you're saying that you
5 came to know or to believe that. Did you ever have any
6 discussions with your brother about that?

7 **MR. MacDONALD:** No.

8 **MR. DUMAIS:** You have since read the
9 statement that your mother provided to the police. That
10 statement was put to you in different proceedings?

11 **MR. MacDONALD:** No.

12 **MR. DUMAIS:** You have never read that
13 statement?

14 **MR. MacDONALD:** Never.

15 **MR. DUMAIS:** All right. We'll leave that for
16 now.

17 Now, the fact that a -- you've indicated in
18 that paragraph that a complaint had been made to the
19 church. Do you know whether that had been made through a
20 call, through a letter, whether it ---

21 **MR. MacDONALD:** As I understand now, through
22 a phone call to Father Charles MacDonald.

23 **MR. DUMAIS:** So, and you understand that
24 today, John, but you did not necessarily know that, at that
25 time?

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

2 **MR. DUMAIS:** All right. And the phone call
3 would have been made to whom?

4 **MR. MacDONALD:** To whom?

5 **MR. DUMAIS:** Yes.

6 **MR. MacDONALD:** To Father Charles MacDonald.

7 **MR. DUMAIS:** Right. And you're saying that
8 you know that now, because someone has put to you the
9 statement that your mother has made, is that ---

10 **MR. MacDONALD:** My mother said that.

11 **THE COMMISSIONER:** I'm sorry. Did she say
12 that to you?

13 **MR. MacDONALD:** To me.

14 **THE COMMISSIONER:** Okay.

15 **MR. DUMAIS:** Now, this letter which is dated
16 August 11th, 1995, John, was it delivered on that date or
17 was it delivered at a subsequent date?

18 **MR. MacDONALD:** If this was -- if it was a
19 Friday, I delivered it the Monday.

20 **MR. DUMAIS:** All right.

21 **MR. MacDONALD:** And that's what I'm
22 guessing, that this was a Friday and I delivered it the
23 Monday after I finished work.

24 **MR. DUMAIS:** So, and is that John, because
25 that letter was written at night or you aren't sure whether

1 or not you wanted to ---

2 **MR. MacDONALD:** That's correct, I didn't
3 know if I was going to drop it off or not.

4 **MR. DUMAIS:** Okay. And, so then I'm looking
5 at the fourth paragraph, the first sentence John, it goes:

6 "I've had to share with my wife what
7 was happening to me, because she sees
8 the weight loss, the sleepless nights,
9 the nervous twitching".

10 So you did have a discussion with your wife?

11 **MR. MacDONALD:** I had to. I was going out
12 of my mind.

13 **MR. DUMAIS:** And this discussion would have
14 occurred ---

15 **MR. MacDONALD:** After I wrote this letter.

16 **MR. DUMAIS:** All right. And, when you're
17 making reference to nervousness, sleepless nights, are you
18 making reference to how you felt or what was happening to
19 you, from the time that you moved back to Cornwall?

20 **MR. MacDONALD:** Oh my God, I was insane!

21 **MR. DUMAIS:** I'm looking now at the last
22 paragraph in that page. I'm going to ask you to explain
23 that paragraph and I'm still at the same page. I'm going
24 to read it in for you.

25 "I want something done, but I don't

1 want to go through what I can imagine
2 Dave is going through."

3 I'm assuming by Dave, you mean David
4 Silmser?

5 **MR. MacDONALD:** That's correct.

6 **MR. DUMAIS:** "I don't want any of my
7 family, my wife, my children, lawyers,
8 police, CAS, nobody involved."

9 What were you expecting -- let's assume,
10 John, that in your mind you had decided to deliver the
11 letter and you're making this statement. What was it that
12 you were requesting from Father Maloney?

13 **MR. MacDONALD:** Help.

14 **MR. DUMAIS:** What do you mean by that John?

15 **MR. MacDONALD:** Help in dealing with what I
16 was at -- what I was dealing with. When I say I was going
17 out of my mind, I was going completely out of my mind.

18 **MR. DUMAIS:** By help, do you mean
19 counselling, John?

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

21 **MR. DUMAIS:** All right.

22 And were you looking at the counselling to
23 come from the church or were you looking at them paying for
24 the cost of the counselling or arranging those -- making
25 those arrangements?

1 **MR. MacDONALD:** I didn't care. When you're
2 growing up, you're taught that you can turn to the church
3 for help when help is needed, and that's all I was looking
4 for was help.

5 **MR. DUMAIS:** Now, you wrote this letter to
6 Father Maloney, John, were you still practicing at that
7 time, were you still going to church on a regular basis?

8 **MR. MacDONALD:** No.

9 **MR. DUMAIS:** All right.
10 So you had not gone back to that church when
11 you moved back here?

12 **MR. MacDONALD:** No.

13 **MR. DUMAIS:** And were your parents going to
14 this church?

15 **MR. MacDONALD:** My father was going every
16 morning.

17 **MR. DUMAIS:** All right.

18 So when you delivered the -- well, let's
19 deal with the delivery then. You're indicating that you
20 had a discussion with your wife from the time you wrote the
21 letter to the time that you delivered it. Was there any
22 discussion as to what you should do with this and were you
23 weighing whether or not you should deliver the letter or
24 not? What was the discussion about?

25 **MR. MacDONALD:** What do I do now? Now that

1 I'm here, what do I do?

2 MR. DUMAIS: Were you still considering at
3 that time whether or not to deliver the letter?

4 MR. MacDONALD: That's correct.

5 MR. DUMAIS: Anything that made you do it
6 specifically or did you just decide you were going to do
7 it?

8 MR. MacDONALD: There's two ways you can go,
9 right? Step back from it or move ahead. And there was
10 only one way to go if you want to get better and that's to
11 move ahead.

12 MR. DUMAIS: So then you decide to deliver
13 the letter. Is that correct?

14 MR. MacDONALD: That's correct.

15 MR. DUMAIS: All right.

16 And how would you have done so, John? Did
17 you do that yourself personally?

18 MR. MacDONALD: That's correct.

19 MR. DUMAIS: It was hand-delivered by
20 yourself?

21 MR. MacDONALD: That's right.

22 MR. DUMAIS: And where would it have been
23 left?

24 MR. MacDONALD: At the priest's residence
25 across from St. Columban's Church.

1 **MR. DUMAIS:** Okay. Did you deliver that in
2 anyone's hands?

3 **MR. MacDONALD:** The secretary's hands.

4 **MR. DUMAIS:** Okay. So you gave it to her
5 and it was, I'm just assuming, in an envelope?

6 **MR. MacDONALD:** Yes.

7 **MR. DUMAIS:** And Father Maloney's name was
8 on top of the letter as well. Is that right?

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

10 **MR. DUMAIS:** Okay. Did you ask at all
11 whether or not Father Maloney was in that day?

12 **MR. MacDONALD:** I'm not sure. I can't
13 recall.

14 **MR. DUMAIS:** All right.

15 So, essentially you just dropped off the
16 letter and left?

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

18 **MR. DUMAIS:** Now, there's just one last
19 thing I want to touch on, on your letter, John, and that's
20 at the last paragraph. It says:

21 "Please don't make me push this any
22 further than between us. I do not want
23 to go through what Dave is ..."

24 -- and there is a word that's blocked off there --

25 "Father Charlie knows what has taken

1 place and it is time that healing
2 begins for all involved. Again, I
3 expect a reply very soon".

4 So you were expecting Father Maloney to get
5 back to you?

6 **MR. MacDONALD:** That's correct.

7 **MR. DUMAIS:** All right.

8 Were you expecting a phone call or a letter
9 or you weren't sure?

10 **MR. MacDONALD:** Whatever.

11 **MR. DUMAIS:** All right.

12 Do you recall if you went to work that day?

13 **MR. MacDONALD:** Which day?

14 **MR. DUMAIS:** On the day that the letter was
15 delivered?

16 **MR. MacDONALD:** I dropped it off after work.

17 **MR. DUMAIS:** Oh, sorry. So you worked on
18 that day, you dropped it off after work.

19 **MR. MacDONALD:** Not the day it was written.
20 I dropped it off on August 14th.

21 **MR. DUMAIS:** Yes. And then you did get a
22 response back from Father Maloney. Is that correct?

23 **MR. MacDONALD:** That's correct.

24 **MR. DUMAIS:** All right.

25 And I'm just going to refer you to again the

1 same doc number, but Bates page 1098311. And is that the
2 response that you got from Father Maloney?

3 **MR. MacDONALD:** Yes, it is.

4 **THE COMMISSIONER:** Hold on.

5 **MR. DUMAIS:** Sorry.

6 **THE COMMISSIONER:** We need to file it as an
7 exhibit.

8 **MR. DUMAIS:** You're correct Commissioner.

9 **THE COMMISSIONER:** So that will be Exhibit
10 number 203, which is a letter dated August 15th, 1995
11 addressed to Mr. MacDonald.

12 **---EXHIBIT NO./PIÈCE NO P-203:**

13 Letter from Kevin Maloney to John MacDonald
14 with Appendix - August 15, 1995.

15 **MR. DUMAIS:** Sorry Commissioner, I missed
16 the exhibit number.

17 **THE COMMISSIONER:** Two zero three (203).

18 **MR. DUMAIS:** Thank you.

19 **THE COMMISSIONER:** Now, if you would just
20 hold on a minute, we'll get a hard copy over to everyone.
21 Thank you.

22 **MR. DUMAIS:** Thank you.

23 **THE COMMISSIONER:** All right, there we are.

24 **MR. DUMAIS:** So now, John, how was the
25 response delivered to you?

1 **MR. MacDONALD:** I believe in the mail.

2 **MR. DUMAIS:** So do you think it had -- it's
3 dated August 15th, 1995. Do you think you received it on
4 that same date or could it have been at a later date?

5 **MR. MacDONALD:** At this time, I'm going to
6 say I've got my own personal notes and I can't fit the
7 time. In it I've got August 17th, received reply from
8 Father Maloney in mail.

9 **MR. DUMAIS:** Okay. So it does say that you
10 received the response through the mail?

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

12 **MR. DUMAIS:** All right.

13 And is it fair to say that that was the
14 first contact that you had with Father Maloney from the
15 time that you delivered the letter to the time that you
16 received a response?

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

18 **MR. DUMAIS:** All right.

19 And would it be correct as well that you did
20 not attempt to further communicate with Father Maloney
21 between those two events, so the delivery and receipt of
22 that correspondence?

23 **MR. MacDONALD:** That's correct.

24 **MR. DUMAIS:** Now, I'm just going to read the
25 first paragraph of the letter. It says:

1 "I received your letter yesterday, the
2 Diocese's policy. See attached
3 document, ..."

4 We will get into that in a second as well, John.

5 "... requires that I forward your
6 complaint to the police so that they
7 may investigate. Since you spoke of a
8 healing process, I hope that you will
9 cooperate with the authorities".

10 So I gather that Father Maloney then would
11 have taken your letter, delivered it to Cornwall Police
12 Services.

13 When you read the letter from Father
14 Maloney, what was your reaction?

15 **MR. MacDONALD:** It's not what I was looking
16 for but if that's what has to be done, then that's what has
17 to be done.

18 **MR. DUMAIS:** Okay. So it's fair to say
19 you're content with that, the fact that the authorities now
20 had your correspondence?

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

22 **MR. DUMAIS:** All right.

23 Now, I'm just going to go through the --
24 Father Maloney had enclosed the protocol that he is
25 referring to in -- that's enclosed at Bates page number

1 1098312. I'll propose to make that a separate exhibit,
2 Commissioner. I was thinking it should be Collective
3 Exhibit 203 since it was an appendix to the letter.

4 **THE COMMISSIONER:** All right.

5 **MR. DUMAIS:** Now, I'm just going to go
6 through that protocol. Do you remember going through that?

7 **MR. MacDONALD:** Receiving this? Yes, I do.

8 **MR. DUMAIS:** Yes. You didn't go through the
9 protocol when it said at the time as well?

10 **MR. MacDONALD:** Pardon?

11 **MR. DUMAIS:** You did go through it ---

12 **MR. MacDONALD:** Did I read it? Yes, I read
13 it.

14 **MR. DUMAIS:** All right.

15 And that's dated June 21st, 1995, it appears
16 to be signed by the Bishop at the time I believe, Eugene
17 LaRocque. Now, the first paragraph, which is phase one,
18 says the following:

19 "The first person receiving a complaint
20 has to report it immediately to the
21 Children's Aid Society if the victim is
22 under 16 years of age at the time of
23 the offence".

24 **THE COMMISSIONER:** Or to the police.

25 **MR. DUMAIS:** That's correct, Commissioner.

1 Now, were you ever made aware, at that time
2 or shortly afterwards, that Father Maloney had reported
3 this to the Children's Aid Society?

4 **MR. MacDONALD:** No.

5 **MR. DUMAIS:** So as far as you're concerned,
6 you believed that he was following phase one, had the
7 option to report either to the CAS or the police and had
8 done so to the police. Is that fair?

9 **MR. MacDONALD:** M'hm.

10 **MR. DUMAIS:** Now, the second phase involves
11 informing the Bishop. You're not made aware, at any point
12 in time, that the Bishop was aware?

13 **MR. MacDONALD:** No.

14 **MR. DUMAIS:** All right.

15 I understand there was some contact a little
16 later on between Mr. Abell and the Bishop and we'll get to
17 that later on.

18 Other than that letter from Father Maloney,
19 were you ever contacted by anyone either from the church or
20 the Diocese regarding the contents of your letter?

21 **MR. MacDONALD:** No.

22 **MR. DUMAIS:** And then phase five deals with
23 the -- and I am just going to read it in for you:

24 "Depending on the circumstances, help
25 and support is offered to the alleged

1 **MR. MacDONALD:** Again, I am referring to my
2 own personal notes. I have on August 21st that Constable
3 Dave Bough called. That he -- if you're going to get into
4 that, he has the first page of a letter that I wrote, that
5 I left at the post office.

6 **THE COMMISSIONER:** Sorry, I don't quite
7 understand that. Mr. Callaghan is rising too.

8 **MR. CALLAGHAN:** I just wonder is there a way
9 we can get identification of the notes so the rest of us
10 could follow.

11 **THE COMMISSIONER:** Yes.

12 **MR. DUMAIS:** That makes sense Commissioner.
13 The notes form part of the documents identified.

14 Do you have a doc number or a Bates page
15 number?

16 **MR. MacDONALD:** Doc Number 737944, Bates
17 page number 7160680.

18 **THE REGISTRAR:** What was the document number
19 again, please?

20 **MR. MacDONALD:** It's 737944.

21 **MR. DUMAIS:** It's a document that had been
22 identified, I believe, by one of the parties, Commissioner,
23 as they were intending to use it as cross documents. I
24 don't specifically intend to refer to it.

25 **THE REGISTRAR:** We don't have the paper

1 copies here.

2 **THE COMMISSIONER:** We don't have paper
3 copies yet. All right. Just a second now.

4 **MR. DUMAIS:** We're in the process of
5 producing all the paper copies of the cross documents,
6 Commissioner.

7 **THE COMMISSIONER:** Okay. Well, that's fine.
8 We'll need a copy for the exhibit.

9 So what do you want to do?

10 **MR. DUMAIS:** Perhaps -- I'm assuming,
11 Commissioner -- I know that some of these documents were
12 ready this morning. Perhaps we can take just a five-minute
13 break. Mr. MacDonald was indicating that he could benefit
14 from a break.

15 **THE COMMISSIONER:** Okay. Well, we'll take
16 the morning break now and we also have to find a paper copy
17 of the diocesan policy or protocol so it can be attached to
18 Exhibit 203. Let's take the morning break.

19 **MR. DUMAIS:** Okay.

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

22 The hearing will resume in 15 minutes.

23 --- Upon recessing at 10:52 a.m./

24 L'audience est suspendue à 10h52

25 --- Upon resuming at 11:14 a.m./

1 L'audience est reprise à 11h14

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

4 This hearing of the Cornwall Public Inquiry
5 is now in session. Please be seated. Veuillez vous
6 asseoir.

7 **THE COMMISSIONER:** Thank you.

8 **JOHN DAVID MacDONALD, Resumed/Sous affirmation solennelle:**

9 **MR. DUMAIS:** Commissioner, if we can just go
10 back to -- I believe we do have a copy of the notes now.

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

12 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN CHEF PAR MR.**
13 **DUMAIS:**

14 **MR. DUMAIS:** Those are the notes you're
15 referring to, John? They're coming up on the screen.

16 **MR. MacDONALD:** That's correct. Right.

17 **THE COMMISSIONER:** I have copies. And so
18 they are Exhibit 204. They are handwritten notes of John
19 MacDonald.

20 --- **EXHIBIT NO./PIÈCE NO. P-204:**

21 (737944) Handwritten notes by John MacDonald
22 - August 11th

23 **MR. DUMAIS:** And there was some issue --
24 I'll just wait for the Clerk, Commissioner.

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

1 **MR. DUMAIS:** There was some issue, I
2 understand, with the protocol. Did we find a copy of that
3 protocol?

4 **THE REGISTRAR:** I have it.

5 **MR. DUMAIS:** All right.

6 **THE COMMISSIONER:** All right. The wonders
7 of an efficient clerk.

8 Exhibit 203 should show that it contains two
9 documents; one, a letter dated August 15th, 1995 to Mr.
10 MacDonald from Father Maloney and then together with the
11 Diocese of Alexandria-Cornwall, Guidelines on Sexual Abuse
12 by Priests.

13 All right. Thank you.

14 **MR. DUMAIS:** So then, John, just to get you
15 back, I had asked you what you thought was your first
16 contact with the Cornwall Police Services?

17 **MR. MacDONALD:** And again, referencing the
18 notes on August 21st, I have a notation Constable Dave Bough
19 called at about 9:30 a.m., he has the first page of the
20 notes.

21 **MR. DUMAIS:** Do you recall, John, what the
22 conversation was about?

23 **MR. MacDONALD:** Not really.

24 **MR. DUMAIS:** Do you recall whether or not
25 any arrangements had been made to meet with him and review

1 the letter or the correspondence that had been left ---

2 **MR. MacDONALD:** He didn't want to review the
3 correspondence. He wanted to talk at some time, but again
4 -- and I have a notation in there "no pressure". I found
5 him to be an easygoing guy and he just more or less was
6 concerned and wanted to talk at some time.

7 **MR. DUMAIS:** And do you remember how you
8 left it, whether or not you would contact him or he would
9 contact you?

10 **MR. MacDONALD:** No, I'm not sure.

11 **MR. DUMAIS:** Now, I understand there was
12 some talk as well with respect to retrieving a copy of a
13 letter or the original of the letter. What can you tell us
14 about that?

15 **MR. MacDONALD:** I photocopied the letter I
16 was sending Father Maloney and I left the first page on the
17 photocopier at the post office.

18 **MR. DUMAIS:** All right.

19 And I understand -- I take it Cornwall,
20 being a small town, that correspondence actually ---

21 **MR. MacDONALD:** It ended up at Father
22 Maloney's office.

23 **MR. DUMAIS:** All right.

24 So a good Samaritan at the post office found
25 the letter, saw his name and delivered it?

1 **MR. MacDONALD:** That's right.

2 **MR. DUMAIS:** And I understand that that
3 piece of correspondence found itself at the Cornwall Police
4 Office as well?

5 **MR. MacDONALD:** Father Maloney sent it over
6 there, I guess.

7 **MR. DUMAIS:** All right.
8 So did you make arrangements to retrieve
9 that?

10 **MR. MacDONALD:** I did.

11 **MR. DUMAIS:** And do you recall going there
12 and retrieving that?

13 **MR. MacDONALD:** Yes.

14 **MR. DUMAIS:** Okay. Did you go by yourself?

15 **MR. MacDONALD:** Yes.

16 **MR. DUMAIS:** And did you meet up with
17 Constable Bough when you went?

18 **MR. MacDONALD:** I can't remember who. I
19 heard later it was Heidi Sebalj that handed me the letter,
20 but I wouldn't have known Heidi if I tripped over her on
21 the street.

22 **MR. DUMAIS:** All right.

23 So then when you went at the detachment, the
24 sole purpose was just to retrieve the letter. You picked
25 it up and you left. No conversation with anyone?

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

2 **MR. DUMAIS:** All right.

3 **MR. MANSON:** Excuse me, Mr. Commissioner, if
4 Mr. MacDonald is going to continue referring to his notes,
5 we should find out when and how they were made.

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

7 **MR. DUMAIS:** That's a good point,
8 Commissioner. Perhaps if we can then go back to Exhibit
9 203, I believe.

10 **THE REGISTRAR:** Two-zero-four (204).

11 **MR. DUMAIS:** Two-zero-four (204), I
12 apologize.

13 These notes that you're referring to, John,
14 perhaps you can just explain to us exactly by whom they
15 were made and when?

16 **MR. MacDONALD:** I wrote everything, but it
17 was my wife Lyne at the time that had told me "Maybe you
18 should start keeping notes." And I just started keeping
19 notes.

20 **MR. DUMAIS:** All right.

21 And these notes are all in your handwriting,
22 John?

23 **MR. MacDONALD:** That's correct.

24 **MR. DUMAIS:** And you were writing them down
25 as the events were occurring?

1 **MR. MacDONALD:** I believe so.

2 **MR. DUMAIS:** Right.

3 And since then, have you made any changes to
4 those notes?

5 **MR. MacDONALD:** No.

6 **MR. DUMAIS:** So the notes you're referring
7 to now are originals; is that correct?

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

9 **MR. DUMAIS:** And the originals -- and you've
10 seen the notes that form part of our database of documents?

11 **MR. MacDONALD:** I'm sorry, let me stop you
12 there. The notes I'm referring to are original? No. The
13 notes I'm referring to were part of the documents that you
14 handed me yesterday.

15 **MR. DUMAIS:** Okay. So those, we provided
16 you with cross documents and you found those notes there?

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

18 **MR. DUMAIS:** All right.

19 Because you otherwise did not have ---

20 **MR. MacDONALD:** I don't know where they went
21 to.

22 **MR. DUMAIS:** Thank you.

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

24 The dates -- I just want to go through --
25 there are dates on the side. So when you would write in,

1 would you put in the date there?

2 MR. MacDONALD: That's correct.

3 THE COMMISSIONER: All right.

4 So all of the dates were put in at the time
5 that the writings were made?

6 MR. MacDONALD: I believe so. Like I say,
7 the first few notations might be written bunched together.

8 THE COMMISSIONER: Right.

9 MR. MacDONALD: But they happened in that
10 order.

11 THE COMMISSIONER: Yes.

12 MR. MacDONALD: But after that, as the
13 events happened, notes were made and the date was put
14 beside them.

15 THE COMMISSIONER: All right.

16 Now, I see you're a person that underlines
17 and ---

18 MR. MacDONALD: Well, I don't know if that's
19 me.

20 THE COMMISSIONER: You don't know if that's
21 you?

22 MR. MacDONALD: That's correct.

23 THE COMMISSIONER: Well, that's important to
24 know. All right.

25 And so this finishes and ends in '96.

1 **MR. MacDONALD:** That's right.

2 **THE COMMISSIONER:** Did you keep any notes
3 past that?

4 **MR. MacDONALD:** No.

5 **THE COMMISSIONER:** Okay. All right. Thank
6 you.

7 **MR. DUMAIS:** Now, I'm trying to a certain
8 extent, John, to follow some sort of chronological order.
9 So the phone call from Constable Bough would have been on
10 August 21st of that same year, 1995.

11 I understand that after you received your
12 response from Father Maloney, that you did contact David
13 Silmsner's mother. Is that correct?

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

15 **MR. DUMAIS:** All right.

16 That would have been around August 17th of
17 that year?

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

19 **MR. DUMAIS:** And the purpose of your contact
20 with David's mother was what?

21 **MR. MacDONALD:** To get David's number.

22 **MR. DUMAIS:** All right.

23 So you had not been in touch with David
24 since your move back to Cornwall?

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

1 **MR. DUMAIS:** All right.

2 And she did provide those coordinates for
3 you?

4 **MR. MacDONALD:** No, she called Dave and then
5 Dave called me the next day.

6 **MR. DUMAIS:** All right.

7 So did you have a telephone conversation or
8 did you set up an appointment or a meeting?

9 **MR. MacDONALD:** Yes, we wanted to get
10 together at some time.

11 **MR. DUMAIS:** All right.

12 What was the telephone conversation about?
13 Do you recall what was said at that time?

14 **MR. MacDONALD:** No. He thought I was
15 calling to give him shit for bringing this forward, and
16 then he was greatly relieved to hear that there was
17 somebody else in the same position that he was.

18 **MR. DUMAIS:** All right.

19 And had you ever had a discussion, and I
20 mean before then, as to what the allegations that David
21 brought up -- I mean, had that ever been discussed by him?
22 Had he ever explained to you what had happened to him?

23 **MR. MacDONALD:** We still haven't talked
24 about what happened to each other.

25 **MR. DUMAIS:** Okay. All right.

1 So then you met on August 18th, is it? Or
2 sorry, that would have been the following day, August ---

3 **MR. MacDONALD:** No, Dave called the next
4 day.

5 **MR. DUMAIS:** Dave calls the next day.

6 **MR. MacDONALD:** On August 18th.

7 **MR. DUMAIS:** And then you set up a meeting?

8 **MR. MacDONALD:** Yes, that we'll have to get
9 together sometime.

10 **MR. DUMAIS:** Okay. And did you actually do
11 that, John?

12 **MR. MacDONALD:** The next day, Saturday,
13 August 19th.

14 **MR. DUMAIS:** And where did this happen,
15 John?

16 **MR. MacDONALD:** He came down to my place
17 with his family.

18 **MR. DUMAIS:** Did he spend the day with you?

19 **MR. MacDONALD:** Yes, all day.

20 **MR. DUMAIS:** All right.

21 And was he there for -- was he there for
22 supper, for lunch? Do you recall?

23 **MR. MacDONALD:** Supper, lunch, the whole
24 day.

25 **MR. DUMAIS:** All right.

1 Tell us about what you remember happening
2 that day or what was the conversation about on that day?

3 MR. MacDONALD: Just getting reacquainted.

4 MR. DUMAIS: So ---

5 MR. MacDONALD: Meeting his wife, kids; him
6 meeting my wife, kids.

7 MR. DUMAIS: So did the meeting have
8 anything to do with anything that was happening ---

9 MR. MacDONALD: Nothing.

10 MR. DUMAIS: So nothing about ---

11 MR. MacDONALD: Well, I'm not going to say
12 nothing, you know. He just wondered how I'm feeling,
13 what's going on, what happened so far, but nothing worth
14 talking about anyways.

15 MR. DUMAIS: All right.

16 Did you provide him at that time with a copy
17 of the letter you had sent to ---

18 MR. MacDONALD: I might have let him read
19 the letter. I'm not sure.

20 MR. DUMAIS: All right.

21 But that essentially would have been the
22 extent of it?

23 MR. MacDONALD: That's correct.

24 MR. DUMAIS: All right.

25 Now, did you at any point in time have any

1 contacts with Father Maloney? I mean further contacts
2 after the initial delivery of the letter?

3 **MR. MacDONALD:** Yes. I had went back to the
4 post office at one time to try to get the first page of
5 that letter back, realizing that I had left it there and I
6 was informed "I don't know" -- if somebody at the post
7 office had told me they had brought it to Father Maloney,
8 but I made a call to Father Maloney asking for the return
9 of that page.

10 **MR. DUMAIS:** Okay. So then you gave him a
11 couple of calls. Is that fair?

12 **MR. MacDONALD:** No, only one that I thought
13 of anyways. I had left a message on a phone answering
14 machine over there ---

15 **MR. DUMAIS:** All right.

16 **MR. MacDONALD:** -- asking him to call me
17 back.

18 **MR. DUMAIS:** And did he ever called you back
19 with that ---

20 **MR. MacDONALD:** No.

21 **MR. DUMAIS:** And what was the first that
22 you've heard about the fact that you had called back? Did
23 the Cornwall Police contact you?

24 **MR. MacDONALD:** The Cornwall Police called
25 me.

1 **MR. DUMAIS:** And do you recall who it was
2 that had called you?

3 **MR. MacDONALD:** Emma Wilson.

4 **MR. DUMAIS:** And that was a police officer
5 in the Cornwall Police Services?

6 **MR. MacDONALD:** That's correct.

7 **MR. DUMAIS:** And, what did she tell you or
8 what was --

9 **MR. MacDONALD:** To stop calling Father
10 Maloney. And I was a little shocked over that direction.

11 **MR. DUMAIS:** And did she provide any
12 explanation as to why?

13 **MR. MacDONALD:** She said that there was an
14 ongoing investigation.

15 In my notes again, Thursday August 24th, 8:00
16 p.m., "Emma Wilson called asking me about an August 19th
17 phone call to Father Maloney; told me not to call again
18 because of an ongoing investigation. She took my birth
19 date and address". And I just found the whole thing a
20 little odd.

21 **MR. DUMAIS:** In what sense, John?

22 **MR. MacDONALD:** I didn't do anything wrong.
23 I couldn't understand why I was being ordered, is the way I
24 felt, not to call Father Maloney, when there was nothing
25 sinister in what I was doing. I was only asking to be

1 returned what was rightfully mine.

2 MR. DUMAIS: Any mention by the Officer that
3 Father Maloney thought he was being harassed or --?

4 MR. MacDONALD: Not by me.

5 MR. DUMAIS: Were you made aware by the
6 Officer, that perhaps David had been calling as well?

7 MR. MacDONALD: I heard that.

8 MR. DUMAIS: All right.

9 But you did know that, at that time?

10 MR. MacDONALD: No, I didn't.

11 MR. DUMAIS: And this was just a phone call
12 with Constable Wilson that came, it was not a personal
13 visit?

14 MR. MacDONALD: It wasn't a visit, no.

15 MR. DUMAIS: And did she mention that she
16 had met with Father Maloney on this issue?

17 MR. MacDONALD: I'm not sure.

18 MR. DUMAIS: All right.

19 Do you recall then, John, what would have
20 been your next contact with the Cornwall Police Services?

21 MR. MacDONALD: There was quite a few phone
22 calls with Dave Bough.

23 MR. DUMAIS: Okay. Did you mark down all of
24 them?

25 MR. MacDONALD: Probably. I'd have to look

1 through the notes. The last one we talked about was August
2 21st where Dave Bough called. I see a notation on August
3 23rd that Dave Bough called to inform me that David Silmser
4 has been calling him.

5 **MR. DUMAIS:** Were you aware at that time,
6 and by that I mean the time that Constable Bough called you
7 back on August 23rd, that David would have been calling the
8 Cornwall Police Services?

9 **MR. MacDONALD:** I still wasn't aware of
10 that.

11 **MR. DUMAIS:** And then, do you recall telling
12 Constable Bough that, at that time, you were trying to
13 distance yourself from Dave?

14 **MR. MacDONALD:** If I'd have put it the way I
15 put it for years, I've always said that Dave is Dave and
16 John is John, and if he calls that distancing yourself,
17 then I guess it's distancing myself.

18 **MR. DUMAIS:** At any point in time, did it
19 become a concern of yours that you were being associated
20 with Dave, and then his allegations?

21 **MR. MacDONALD:** No.

22 **MR. DUMAIS:** But you still -- I'm trying to
23 understand the statement that you just made. You still
24 wanted to be treated individually. Is that fair?

25 **MR. MacDONALD:** Sure.

1 **MR. DUMAIS:** All right.

2 Now, in August of 1995, you would have had
3 the occasion to speak to a lawyer as well. Is that
4 correct?

5 **MR. MacDONALD:** That's correct.

6 **MR. DUMAIS:** And can you tell us, who had
7 the first -

8 **MR. MacDONALD:** A multitude of lawyers.

9 **MR. DUMAIS:** Perhaps we can go in order, if
10 we can John, and if you can tell me about ---

11 **MR. MacDONALD:** First of all, that wasn't
12 said with disdain. I'm in the wrong company to say
13 something like that.

14 **MR. DUMAIS:** I didn't take it that way,
15 John.

16 If we can just then, look at the first
17 lawyer you would have contacted.

18 **MR. MacDONALD:** Sean Adams. I was working
19 at his office at the time, doing some work and I spoke to
20 Sean. I grew up with Sean and so I showed him the letter
21 that I had sent to Maloney.

22 **MR. DUMAIS:** And what was the purpose of
23 that John? I mean, by meeting with Sean, what were you --

24 **MR. MacDONALD:** I don't know. First off,
25 the Police are now involved and to me, police and lawyers

1 go hand in hand. So I just got talking to Sean about the
2 situation. His advice was to get a lawyer.

3 **MR. DUMAIS:** Okay. And did you end
4 retaining Mr. Adams?

5 **MR. MacDONALD:** No. Thank God! And, I'll
6 explain that.

7 **MR. DUMAIS:** Go ahead.

8 **MR. MacDONALD:** I've learned since then,
9 that he was Father Maloney's lawyer. So there might have
10 been a little conflict of interest.

11 **MR. DUMAIS:** All right.

12 And is it your understanding that prior to
13 your meeting with Mr. Adams that he may have spoken to
14 Father Maloney about this incident?

15 **MR. MacDONALD:** He did.

16 **MR. DUMAIS:** All right.

17 And that was not disclosed to you?

18 **MR. MacDONALD:** No.

19 **MR. DUMAIS:** So John, when you're saying
20 your meeting with Sean Adams, and you've told us already
21 that you were doing work for him at his house. Is the
22 meeting --

23 **MR. MacDONALD:** At his office.

24 **MR. DUMAIS:** Sorry, it's a formal meeting.
25 You call and you make an appointment.

1 **MR. MacDONALD:** A formal meeting? No. It
2 might have been over lunch.

3 **MR. DUMAIS:** So you're working there at his
4 office. You just ---

5 **MR. MacDONALD:** "Can I talk to you for a
6 minute?"

7 **MR. DUMAIS:** All right.

8 And he does, he listens to you and that's
9 the only conversation that you have with Mr. Adams?

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

11 **MR. DUMAIS:** All right.

12 And did he refer you to anyone else or did
13 he indicate --

14 **MR. MacDONALD:** To get a lawyer. I see in
15 my notes that I have it written here, and that was "Sean
16 Adams, his office around noon, shared letter with him. He
17 advised me to get a lawyer and my three options to deal
18 with this, criminal charges, civil suit or deal with
19 Diocese." and immediately -- I see after that I left a
20 message with Walter MacLean who's a lawyer in town.

21 **MR. DUMAIS:** And you left a message with
22 him?

23 **MR. MacDONALD:** To call me back.

24 **MR. DUMAIS:** Okay. Did you ever end up
25 making an appointment with --

1 **MR. MacDONALD:** Yes I did, on August 22nd or
2 23rd, sorry. In my notes, "Tuesday, August 22nd, Walter
3 called 9:25 a.m., made appointment for Wednesday at 10:00
4 a.m.".

5 **MR. DUMAIS:** And you still had a copy of
6 your letter to Father Maloney with you?

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

8 **MR. DUMAIS:** You provided a copy of that
9 letter to Mr. MacLean?

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

11 **MR. DUMAIS:** And did you provide him with
12 any instructions?

13 **MR. MacDONALD:** He ended up writing a letter
14 -- send a letter to the Bishop asking for help. That
15 should be somewhere in those mounds of documents that --

16 **MR. DUMAIS:** All right.

17 And do you recall giving Mr. MacLean those
18 instructions to send that letter to the Bishop?

19 **MR. MacDONALD:** That's correct.

20 **MR. DUMAIS:** Okay. Did Mr. MacLean ever get
21 back to you with respect to his request or your request
22 through him?

23 **MR. MacDONALD:** I don't think anyone ever
24 replied to that request.

25 **MR. DUMAIS:** Sorry, John, what --

1 **MR. MacDONALD:** I'm not sure anybody ever
2 replied to that request.

3 **MR. DUMAIS:** Okay. So then did you provide
4 him with any other instructions, other than the writing of
5 this letter?

6 **MR. MacDONALD:** No.

7 **MR. DUMAIS:** Did you ever meet up with
8 Walter MacLean again?

9 **MR. MacDONALD:** No.

10 **MR. DUMAIS:** So that's the extent of your
11 involvement with him?

12 **MR. MacDONALD:** That was it.

13 **MR. DUMAIS:** And did you -- who was the next
14 lawyer that you met, John?

15 **MR. MacDONALD:** Pardon?

16 **MR. DUMAIS:** Who was the next lawyer then
17 that you met?

18 **MR. MacDONALD:** Bryce Geoffrey.

19 **MR. DUMAIS:** Okay. And do you recall what
20 that date was?

21 **MR. MacDONALD:** September 11th.

22 **MR. DUMAIS:** All right.

23 And, where did that meeting occur, John, do
24 you know?

25 **MR. MacDONALD:** At my place in Cornwall, I

1 believe.

2 MR. DUMAIS: And do you recall what that
3 first meeting was about? What was being discussed?

4 MR. MacDONALD: A civil action.

5 MR. DUMAIS: And were you just there to get
6 advice from Mr. Geoffrey or were you --

7 MR. MacDONALD: Pardon?

8 MR. DUMAIS: Were you giving him
9 instructions to begin legal action --

10 MR. MacDONALD: No, I was getting advice
11 from Mr. Geoffrey.

12 MR. DUMAIS: And any further discussion with
13 him with respect to the correspondence that MacLean had
14 sent -- that Mr. MacLean had sent to you.

15 MR. MacDONALD: Not sure.

16 MR. DUMAIS: And that meeting with your
17 lawyer preceded your formal complaint at Cornwall Police
18 Services or

19 MR. MacDONALD: That's correct.

20 MR. DUMAIS: --- with any police?

21 Now, do you recall on September 11th, what
22 had been decided or what instructions you had provided, if
23 any, Mr. Geoffrey?

24 MR. MacDONALD: I can't recall.

25 MR. DUMAIS: Now, on the following day,

1 which would have been September 12th, 1995, you did write
2 down a statement. Is that correct?

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

4 **MR. DUMAIS:** That statement is dated
5 September 12th, 1995 and that's found as doc number 705831,
6 Bates page numbers 7022510 through 518.

7 **THE COMMISSIONER:** Mr. Cipriano.

8 **MR. CIPRIANO:** Good morning, Mr.
9 Commissioner.

10 **THE COMMISSIONER:** Yes, sir.

11 **MR. CIPRIANO:** I advised your counsel some
12 time ago that if they were going to lead the details of the
13 allegations that I would object and I would ask that your
14 counsel provide reasons why this is relevant to the work of
15 phase one of the Inquiry. So before I make my objection, I
16 would like your counsel to provide -- since it's ---

17 **THE COMMISSIONER:** Wait a minute. Wait a
18 minute. He's leading the details --

19 **MR. CIPRIANO:** Of the allegations. This
20 statement that we're going to look into will contain
21 details of the allegations.

22 **THE COMMISSIONER:** Right. Well -- okay.
23 Mr. Dumais -- well, the document might contain allegations,
24 but is Mr. Dumais going to refer to those portions of it?

25 **MR. CIPRIANO:** Yes. I was just informed

1 that he was going to file it as an exhibit.

2 **THE COMMISSIONER:** Okay. He's filing it as
3 an exhibit, yes?

4 **MR. CIPRIANO:** Yes.

5 **THE COMMISSIONER:** Are you objecting to it
6 being filed as an exhibit or are you objecting to questions
7 he may make use of that exhibit?

8 **MR. CIPRIANO:** Well, I'm objecting to it
9 going in as a public exhibit, and I'm not objecting to make
10 reference to the fact that the document was made, but if
11 questions are going to be led as to what is contained in
12 the document, with respect to details, I would object to
13 that line of questioning, as well.

14 **THE COMMISSIONER:** All right.

15 Mr. Dumais, so you want the document in?

16 **MR. DUMAIS:** I guess the first issue, as I
17 understand it, is Mr. Cipriano is objecting -- is asking me
18 to provide reasons why this document should go in. So I
19 think that's the first issue. If I can deal with that
20 firstly.

21 And, Commissioner, I'll refer back to our
22 rules, firstly, and the first relevant rule on this issue
23 is Rule 12. And I don't know if we can excuse Mr.
24 MacDonald from the stand or whether he just wants to wait.

25 **THE COMMISSIONER:** It's your choice. Would

1 you like to sit here, sit in the body of the courtroom, go
2 for a walk?

3 **MR. MacDONALD:** I'll go for a walk.

4 **THE COMMISSIONER:** All right.

5 Why don't you come back at about noon.

6 **MR. MacDONALD:** Sounds good.

7 **THE COMMISSIONER:** Thank you.

8 **MR. MacDONALD:** Thank you.

9 **THE COMMISSIONER:** Sir, just out of an
10 abundance of caution ---

11 **MR. MacDONALD:** I've got it. Nothing more
12 needs to be said.

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

14 **MR. MacDONALD:** I'll be with myself.

15 **THE COMMISSIONER:** Oh, yes, yes, it has to
16 be said because there's a record. I must instruct you that
17 you're not to discuss the evidence you're giving here today
18 with anyone, and if someone approaches you to attempt to
19 discuss that, you're to report that to me immediately.

20 **MR. MacDONALD:** I'll do that.

21 **THE COMMISSIONER:** Thank you.

22 **(WITNESS WITHDRAWS/TÉMOIN S'EXCUSE)**

23 **THE COMMISSIONER:** Yes, sir.

24 **MR. DUMAIS:** So then the first issue,
25 Commissioner, is the ---

1 **THE COMMISSIONER:** Well, let's identify the
2 document to start off with. It's a statement that he gave
3 to the police, is it?

4 **MR. DUMAIS:** It's a statement dated
5 September 12th, 1995, and when I put the question to Mr.
6 MacDonald, I don't believe that that actual statement was
7 ever given to the police. It was a draft form and a
8 subsequent statement which is dated September 18th, I
9 believe, was actually the one that was filed.

10 **MR. CIPRIANO:** Well, he was asked to later
11 read the statement in a police interview. So it's
12 contained in both statements.

13 **THE COMMISSIONER:** Okay. Wait a minute.

14 **MR. CIPRIANO:** When he was interviewed by
15 the OPP he was asked to read the statement on video.

16 **THE COMMISSIONER:** Right.

17 **MR. CIPRIANO:** So this statement is then
18 reproduced in another statement ---

19 **THE COMMISSIONER:** Okay.

20 **MR. CIPRIANO:** --- that Commission counsel,
21 I anticipate, will intend to lead.

22 **THE COMMISSIONER:** So I'm just trying to get
23 to square one, guys, and this gentleman. I've got this
24 document that the clerk has given me and in the back
25 there's a letter from the Attorney General's Office, the

1 Regional Director of Crown Attorneys, Peter Griffiths.

2 So is this part of -- is this what you're --
3 I just want to identify what we're talking about.

4 **MR. DUMAIS:** Well, perhaps the easiest way
5 to do it, Commissioner, is just looking at the doc number
6 and Bates page number. So what I'm looking at is doc
7 number 705831.

8 **THE COMMISSIONER:** Yes.

9 **MR. DUMAIS:** And that's Bates page number
10 7022510 ---

11 **THE COMMISSIONER:** Yes.

12 **MR. DUMAIS:** --- through to 7022518.

13 **THE COMMISSIONER:** All right.

14 **MR. DUMAIS:** And that last page is dated
15 September 12th, 1995, and I believe it does contain the
16 signature of Mr. MacDonald at the end, and that's, I guess,
17 a question that we're going to have to put to him.

18 **THE COMMISSIONER:** Okay. So this is a
19 statement that he presumably wrote up and then he read.

20 **MR. DUMAIS:** It's a question that will have
21 to be put to Mr. MacDonald as well, but he either read in
22 that version of the statement or a version that's very
23 similar. But I mean, that's questions I have to put to Mr.
24 MacDonald.

25 **THE COMMISSIONER:** All right.

1 And so Mr. Cipriano wants to know why you
2 want to file this.

3 **MR. DUMAIS:** Well, I guess that's the first
4 issue. So I just ---

5 **THE COMMISSIONER:** No, no, I think he
6 doesn't object to it being filed. I think he objects to it
7 being a public document.

8 **MR. CIPRIANO:** Well, I mean, I don't know
9 why it needs to be filed.

10 **THE COMMISSIONER:** So you're objecting to it
11 being filed?

12 **MR. CIPRIANO:** I am, but before, I would
13 like to know why it is that Commission counsel believes it
14 to be relevant to measure the sufficiency of institutional
15 response.

16 **THE COMMISSIONER:** Well, I take it that this
17 is the first formal complaint.

18 **MR. CIPRIANO:** Well, I don't know why then
19 it would have to be filed when it contains details of the
20 allegations. The details are not in issue.

21 **THE COMMISSIONER:** No, the details aren't in
22 issue.

23 **MR. CIPRIANO:** And as far as I know from the
24 anticipated evidence, there ---

25 **THE COMMISSIONER:** Well, the details are not

1 in issue. The details may be in issue. The truth of the
2 contents are not in issue.

3 **MR. CIPRIANO:** As far as I know from the
4 anticipated evidence, there's no mention of the details.

5 **THE COMMISSIONER:** Yes.

6 **MR. CIPRIANO:** And there's no complaint
7 about the details.

8 And so what I would like to know is how is
9 this document relevant to the institutional response?

10 **THE COMMISSIONER:** Well, I don't know that I
11 can frame it that narrowly. I think the issue should be --
12 your question, I would take it, is how is this document
13 relevant to this Inquiry, because it might not be relevant
14 to the institutional response, but it may be relevant in
15 other areas that are still within the purview of this
16 Inquiry.

17 **MR. CIPRIANO:** Well, I've been repeatedly
18 asking your counsel to provide those reasons, so I'd like
19 to know them.

20 **THE COMMISSIONER:** Well, now is the time and
21 he'll give them to you.

22 **MR. DUMAIS:** As I was saying, Commissioner,
23 I think that's the first issue, and Mr. Cipriano is correct
24 that he has sent correspondence asking me to establish
25 relevance. So I want to address that issue first and I can

1 address the issue of relevance afterwards.

2 I'm just taking you to the rules of our
3 proceedings. The first relevant rule, as I see it, is the
4 Rule 12, which says as follows:

5 "In the ordinary course, Commission
6 counsel will call and question
7 witnesses who testify at the Inquiry.
8 Counsel for a party may apply to the
9 Commissioner for permission to lead a
10 particular witness' evidence-in-chief."

11 I guess the first part is the only relevant
12 part.

13 I did go over one of these sections that, in
14 my view, is relevant as well. It is Section 8 that defines
15 to a certain extent the role of Commission counsel. I'm
16 looking at the second sentence of that Section 8, for the
17 record:

18 "Commission counsel have the primary
19 responsibility for representing the
20 public interests at the Inquiry,
21 including the responsibility to ensure
22 that all interests that bear on the
23 public interests are brought to the
24 Commissioner's attention."

25 Now then, if I can jump back to the next

1 section, which is Section 13:

2 "The Commission is entitled to receive
3 any relevant evidence at the Inquiry
4 which might otherwise be admissible in
5 a court of law and that the strict
6 Rules of Evidence do not apply."

7 Now, paragraph 14 reads as follows:

8 "The Commission may, to the extent it
9 considers advisable, refer to and rely
10 on the materials listed in paragraph 5
11 of the Order in Council establishing
12 the Commission and to such other
13 related materials as the Commission
14 considers relevant to its duties."

15 So I think step one, Commissioner, Mr.
16 Cipriano takes the position that I have the onus of
17 establishing relevance. We determine what's relevant and
18 what's in the public interest. We've made the
19 determination that that September 12th statement is relevant
20 and needs to be put before the Commission. That's step
21 one.

22 Step two, Commissioner, is with respect to -
23 - and rather than sit down and ask Mr. Cipriano to address
24 who has the onus, I'm going to address the issue of
25 relevance as well. The September 12th statement contains

1 detailed allegations of the abuse. The September 12th
2 statement was written in the hand of Mr. John MacDonald and
3 was brought or read into -- and rather than argue as to
4 whether or not it was the September 12th or the September
5 18th, just for the purpose of the argument, I'm prepared to
6 agree that that statement was read into the record when he
7 made the statement to the OPP a little later that month.

8 So why is that statement relevant? I think
9 there are two different things that we have to look at
10 here. One is the questions that I intend to put to Mr.
11 MacDonald and two is the document that I intend to file as
12 an exhibit.

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

14 **MR. DUMAIS:** As we have indicated on
15 numerous occasions, Commissioner, we do not intend to go
16 into the details of the allegations with any of the victims
17 or alleged victims unless it is necessary.

18 And as far as I can see with this specific
19 witness, it will be necessary to a certain extent. It will
20 be necessary to ask him where -- what was the location of
21 some of the allegations that occurred. There are three
22 separate occurrences that he's alleging. So we need to
23 determine what that jurisdiction was to determine whether
24 or not Cornwall Police Services should have been involved
25 or OPP should have been involved.

1 As a matter of fact, Commissioner, you will
2 hear, when we get into the evidence, that that
3 institutional response did happen at one point in time.

4 We need as well, Commissioner, to get into
5 the age that Mr. MacDonald would have been at the time of
6 the allegations, and that is important, Commissioner, to
7 determine whether or not -- well, firstly, the protocol
8 that was adopted by the Diocese was following, and then
9 subsequent to that whether or not that would have triggered
10 the duty to report pursuant to the *Child and Services Act*
11 by any employer or member of the public institutions. So
12 certainly I'm going to have to ask questions about that.

13 You will hear as well -- and I mean, I don't
14 intend to get into any more of the details of the
15 allegation with Mr. MacDonald than that. So that's the
16 viva voce evidence I intend to lead here this afternoon.

17 With respect to the documents that are being
18 filed into evidence, I submit that it is relevant certainly
19 because -- for a number of reasons, Commissioner. I guess
20 the first reason is you've already started to hear that Mr.
21 MacDonald's allegation to a certain extent was linked to
22 Mr. Silmsner's allegations, and the police who investigated
23 the matter did link the two together, and as a matter of
24 fact, did link some other victims to those allegations as
25 well.

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

2 **MR. DUMAIS:** And so it is important for some
3 of the details to be part of the record, because we need to
4 look at what the allegations were and look at what the
5 institutional response was from the OPP, so whether or not
6 it made any sense to link the different charges together.
7 And as well, after the first linkage, Commissioner, there
8 were additional witnesses that were brought into the
9 picture as well, and that was a number of months, if not a
10 number of years, together.

11 So again, we need to know what the specifics
12 of the allegations are for Mr. MacDonald to assess the
13 response of both the investigators and the prosecutors
14 because they are the ones that made decisions to pursue the
15 criminal proceedings together. And as you will hear,
16 Commissioner, these delays ultimately led to the stay of
17 proceedings in this matter.

18 So certainly we need to look at -- we need
19 to keep some of the specifics of the allegations intact for
20 the purpose of the record to permit us to look at the
21 institutional response. I mean, that's at the heart of our
22 mandate.

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

24 Mr. Cipriano. Just a minute. Procedure
25 now. Do you want to -- shall we canvass everyone and then

1 Mr. Cipriano you can back clean up?

2 MR. CIPRIANO: Sure.

3 THE COMMISSIONER: All right.

4 Thank you.

5 MR. MANSON: I was going to support Mr.
6 Dumais, Mr. Commissioner.

7 It seems to me that there is a number of
8 historical trails that have produced certain legal facts.
9 The principal legal fact that is underlying Mr. Cipriano's
10 objection was the stay of all charges against his client.
11 Those cannot be prosecuted again. He is presumed innocent.
12 And this Commission, as you have said a number of times,
13 Mr. Commissioner, cannot undermine that.

14 But the historical trail is still extremely
15 relevant to the mandate because it involves the responses
16 of various police agencies, particular officers. It
17 involves the responses of various Crown Attorneys. That is
18 the mandate of this Commission.

19 Now, it may be that some question that is
20 posed by Mr. Dumais crosses the line, but the documents
21 that form that historical trail need to be part of the
22 Commission's record and I would agree completely with Mr.
23 Dumais that this document, as with other statements made by
24 Mr. MacDonald, are entirely relevant to the mandate of the
25 Commission.

1 **THE COMMISSIONER:** Thank you.

2 Mr. Lee, do you wish to embark or contribute
3 to this discussion?

4 **MR. LEE:** I support what Mr. Dumais and what
5 Mr. Manson said and I don't have anything to add.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Chisholm, any comments?

8 **MR. CHISHOLM:** Nothing to add, sir.

9 **THE COMMISSIONER:** Mr. Neuberger.

10 **MR. NEUBERGER:** Nothing, sir.

11 **THE COMMISSIONER:** Ms. MacIntosh?

12 **MS. MacINTOSH:** No, sir.

13 **THE COMMISSIONER:** Ms. Makepeace?

14 **MS. MAKEPEACE:** Nothing at this time.

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

16 **MR. SHERRIFF-SCOTT:** I think the statement
17 certainly has some relevance, a time, place of events and
18 allegations. Who was there, witnesses and timing of issues
19 certainly are in the document which are germane to some of
20 the issues Mr. Dumais raised. I would submit the details
21 of the allegations or the evidentiary features of the
22 allegations are not and, at a bare minimum, ought to be
23 treated even-handedly with what has come before in the
24 sense of Mr. MacDonald had his charges stayed and those

1 allegations or the evidence of them in the statements
2 therefore ought not to be in the public domain.

3 **THE COMMISSIONER:** That's not the issue
4 right now.

5 Thank you.

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

7 **THE COMMISSIONER:** All right.

8 Mr. Callaghan.

9 **MR. CALLAGHAN:** As I have said on prior
10 occasions, I think that the factual background is relevant
11 to the extent that in some circumstances new facts came to
12 light, facts changed and I think in this particular story
13 you'll hear how difficult it was for the complainant to
14 deal with that relative to it, and it affects the
15 institutional response when things like reasonable and
16 probable grounds aren't taken into consideration.

17 So I think that Mr. Dumais' proposition is
18 correct.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Kozloff?

21 **MR. KOZLOFF:** Good morning, sir.

22 **THE COMMISSIONER:** Good morning.

23 **MR. KOZLOFF:** The Ontario Provincial Police
24 supports Mr. Dumais' position.

25 This statement represents the beginning of a

1 seven-year relationship between the witness and the Ontario
2 Provincial Police which, as you will undoubtedly hear, was
3 at times difficult and disputatious. It informs as to all
4 of the other documents provided by the witness, statements
5 made by the witness, contacts between the witness and
6 various members of the Ontario Provincial Police. It
7 informs as to the institutional response of the Ontario
8 Provincial Police, which is the mandate of this Commission
9 and part of your function.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Wallace.

12 **MR. WALLACE:** Mr. Commissioner, we are as
13 well supporting Commission counsel's position on this issue
14 and, in fact, we see it as being highly relevant in terms
15 of enabling you to measure the institutional response.

16 **THE COMMISSIONER:** Thank you.

17 **MR. WALLACE:** Thank you.

18 **THE COMMISSIONER:** Sir.

19 **MR. CIPRIANO:** It's my submission that if
20 the statement is only being tendered to establish time,
21 place and the fact that allegations were made, that can be
22 done by simply asking the witness and having the witness
23 confirm certain things, but there still hasn't been any
24 reason why we have to get into the details of the
25 allegations. Those cannot be revisited because of the stay

1 of proceedings. The person is innocent at this point and
2 so they cannot be revisited.

3 **THE COMMISSIONER:** No, no ---

4 **MR. CIPRIANO:** Time and place can be
5 established by asking the witness to confirm certain things
6 without getting into the details, and it's my submission
7 that we don't need to get into the details of the
8 allegations in order to establish the time and place. We
9 can still do the work of the Commission without getting
10 into the details.

11 **THE COMMISSIONER:** First of all, no one is
12 going to go into the details of the allegations for the
13 purpose of determining the truth. That's been done.
14 You've got the stay and that's there.

15 But I can see if someone says, "The reason
16 why" -- a police force, for example, "The reason why we
17 acted in a certain way was because of these details." Then
18 would you not argue that they would be relevant to the
19 institutional response?

20 **MR. CIPRIANO:** Well, then it's my submission
21 that as I advised your counsel, if the details do go in, I
22 would be seeking that they be provided under a publication
23 ban.

24 **THE COMMISSIONER:** We're not even there yet.
25 You asked -- we've got to do this fairly.

1 **MR. CIPRIANO:** No, I agree. That's why --

2 -

3 **THE COMMISSIONER:** You say "I don't want
4 this statement in."

5 **MR. CIPRIANO:** Yes.

6 **THE COMMISSIONER:** And I'm saying, well,
7 wait a minute here. Let's look at it. So I want your
8 argument as to why the statement should not go in.

9 **MR. CIPRIANO:** The argument I made, I
10 believe that it can be done in other ways without ---

11 **THE COMMISSIONER:** All right.

12 **MR. CIPRIANO:** But I did advise your counsel
13 that if the statement does go in, then I would want to
14 renew my publication ban application.

15 **THE COMMISSIONER:** Just a minute. Okay.
16 That's fine.

17 Anything else to say on whether or not the
18 statement goes in?

19 **MR. CIPRIANO:** No.

20 --- RULING ON FILING OF STATEMENT BY/DÉCISION SUR LE DÉPOT
21 DE LA DOCUMENTATION PRÉSENTÉE PAR JUSTICE NORMAND GLAUDE:

22 **THE COMMISSIONER:** Fine.

23 Here's my ruling. I find that in the
24 circumstances, the Rules of this Inquiry and all the
25 evidence that I've heard so far lead me to conclude that it

1 would be not only harmful; it would be contrary to the
2 public interest that this document not be filed.

3 The reason for that is simple. I think all
4 of the counsel have indicated that we are now at the point
5 where the evidence of the institutional response of a great
6 number of people and of allegations is coming to the
7 forefront, and so I would think that your argument as to
8 whether or not it can be elicited some other way falls to
9 the wayside. I think it's important that I be apprised of
10 all of the details and, accordingly, I'm going to allow the
11 document to be filed.

12 So that's step number one.

13 **MR. CIPRIANO:** In that case, I did advise
14 your counsel that I would seek to renew the original
15 publication ban.

16 **THE COMMISSIONER:** And now is the time.

17 --- MOTION RE PUBLICATION BAN BY/REPRÉSENTATIONS SUR
18 ORDONNANCE DE NON PUBLICATION PAR MR. CIPRIANO:

19 **MR. CIPRIANO:** So I'm doing that right now.
20 I would -- given that the -- I mean, I could re-make the
21 arguments that were made back on November 24th, I believe,
22 but it would be the same arguments that would apply at this
23 point.

24 **THE COMMISSIONER:** That?

25 **MR. CIPRIANO:** Well, the prejudice that will

1 be caused to an innocent person, the fact that the
2 Applicant is an innocent person, I would submit is more
3 than presumed innocent because the presumption is
4 irrebuttable.

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

6 **MR. CIPRIANO:** Now, there may be some
7 technical distinctions over declarations, but in any event,
8 I would rely on the fact that, like I said, he is an
9 innocent person. The Inquiry is not about looking about
10 the truth of the allegations, and so the truth of the
11 allegations are not relevant to the Inquiry. And so in my
12 submission, it would be overly prejudicial when the work of
13 the Inquiry can still be done.

14 I'm not affecting the work of the Inquiry.
15 You have just received the exhibit, so you can still do
16 your work and so can all the other parties. It's simply
17 that it would -- it's a minimal way to affect the work of
18 the Inquiry that the allegations, which will be also
19 examined as prior inconsistent statements and the
20 allegations that are not even admissible in a court of law
21 not be made as a public exhibit or be entered with a
22 publication ban.

23 And again, I would fall back on the
24 arguments that Mr. Foord made during the publication ban
25 motion. I would adopt the fact that the prejudice and harm

1 that could be caused and that will be caused, there is
2 uncontroverted evidence before you of the harm that was
3 suffered by the Applicant, the harm that will be suffered
4 by the Applicant. That has not been contradicted with
5 anything else, nor has any party asked to cross-examine the
6 Applicant on those issues. It's uncontroverted evidence
7 and, in my respectful submission, ultimately, it's a
8 minimal way to interfere with the Inquiry's work.

9 And I should add that it doesn't interfere
10 with the public interest as well. The public can still
11 come and look at the allegations. They just can't be
12 publicized.

13 **THE COMMISSIONER:** Okay.

14 **MR. CIPRIANO:** So I do adopt all the
15 comments that were made by Mr. Foord on the argument of the
16 publication ban motion and I would rely on the exact same
17 materials and same cases.

18 **THE COMMISSIONER:** All right. Thank you.

19 So now, on the table is a request that there
20 be a ban on publication of what, the whole statement?

21 **MR. CIPRIANO:** Well, I guess there could be
22 one of two ways, the whole statement or simply the parts
23 containing the details of the allegations.

24 And just -- this is an aside -- I did inform
25 counsel for the CBC that I would be doing this.

1 **THE COMMISSIONER:** Yes.

2 **MR. CIPRIANO:** So they are aware.

3 **THE COMMISSIONER:** That's fine.

4 **MR. CIPRIANO:** Just simply, I'm following
5 the rules.

6 **THE COMMISSIONER:** That's fair. That's
7 fair. Thank you very much.

8 I had indicated that there would be these
9 kinds of arguments going on throughout with witnesses and
10 that if the CBC wish to participate, that they would have
11 to make themselves available. And so we will take it as we
12 can.

13 Mr. Manson, do you wish to make any comment
14 with respect to the publication ban?

15 **MR. MANSON:** Mr. Commissioner, I've just
16 been quickly looking through your Ruling of November 17th
17 with respect to identity, and it would be my submission
18 that the same principles apply.

19 When I spoke a minute ago about the
20 historical trail, it's in many ways enormous. There's
21 tonnes of transcripts. They are part of the historical
22 record that you may, at different points, feel compelled to
23 examine, and I think this issue -- Mr. Cipriano could raise
24 this issue a number of times, but those documents are
25 there. They contain the history from the August -- I can't

1 remember whether it's 11th or 12th -- letter to Father
2 Maloney to now. All of that is relevant to this
3 Commission's mandate. You've certainly agreed.

4 And if we go back to the *Dagenais/Mentuck*
5 test, it seems to me that the fact of the stay and the
6 legal implications of the stay are matters that you have
7 very carefully spoken about and very carefully maintained.

8 Your conclusion on November 17th:

9 "Contrary to the criminal proceedings
10 involving Father MacDonald, this
11 Inquiry is not about him, nor is it
12 about his guilt or innocence. Father
13 MacDonald is presumed innocent and I am
14 not going to revisit that. The focus
15 of this Inquiry is the institutional
16 response to allegations of historical
17 abuse made against a number of
18 individuals."

19 My clients are interested in how these
20 matters were dealt with, how they were handled by the
21 various institutions, and this Commission can only look at
22 that material -- can only look at those concerns by
23 examining material exactly like this.

24 The *Dagenais/Mentuck* test requires you to
25 ask what is the administration of justice interest being

1 promoted here? On the one hand, you've got the *Public*
2 *Inquiries Act* and your own mandate, which I would submit is
3 promoted by a public airing of these matters. On the other
4 hand, you've got Father MacDonald's status as an innocent
5 individual, which is not being impaired by the conduct of
6 this Inquiry.

7 So it seems to me the balance is clearly in
8 favour of the openness principle, Mr. Commissioner, and
9 that there ought not to be a publication ban.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Lee, do you wish to add anything?

12 **MR. LEE:** A couple of points. To be
13 absolutely clear, my understanding is that we're only
14 dealing with a request for a publication ban on the details
15 of the statement? You've now ruled that the statement is
16 in, so that's off the table?

17 **THE COMMISSIONER:** Yes, absolutely.

18 **MR. LEE:** My first concern is that Mr.
19 Cipriano has said essentially that -- my understanding was
20 that he would prefer the entire document be subject to a
21 publication ban, but if you're not going to give him that,
22 he at least wants the details out.

23 I have a little bit of concern on exactly
24 what the details are. I don't know. That's going to have
25 to be addressed at some point.

1 My position, obviously, as you know and as
2 it's been throughout is that Father MacDonald is not
3 prejudiced at this Inquiry. He is not going to be
4 prejudiced by the publication of these allegations. My
5 position is that he's not going to be prejudiced.

6 I think the *Dagenais/Mentuck* test in this
7 case isn't even close when it comes to the value of the
8 administration of justice and the openness principle in
9 having these details -- this entire statement and
10 everything, as much as possible, available to the public.

11 My only other point is that, as far as I
12 know, the witness hasn't even asked whether he has any
13 confidentiality issues in concern to this document. My
14 argument may well change, if the witness tells us that he's
15 concerned about the details being made public and he's
16 requesting a publication ban. He has not done that at this
17 point. If he wants the document public and he has no
18 concerns, I say the *Dagenais/Mentuck* test here, it's not
19 even close and the entire document should be made public.
20 That's all I have to say.

21 **THE COMMISSIONER:** Thank you.

22 Mr. Chisholm?

23 **MR. CHISHOLM:** Good afternoon, sir. I
24 would, like my friend's comments, that the *Dagenais/Mentuck*
25 test is what has to be applied here in respect to the --

1 the first point would be the moving party as the onus of
2 establishing that he meets that test, with respect to the
3 first prong of the *Dagenais/Mentuck* test. I would submit
4 that it is not met and that the motion ought to be
5 dismissed. Thank you.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Neuberger?

8 **MR. NEUBERGER:** No submissions,
9 Commissioner.

10 **THE COMMISSIONER:** Ms. McIntosh?

11 **MS. McINTOSH:** No submissions, sir.

12 **THE COMMISSIONER:** Ms. Makepeace?

13 **MS. MAKEPEACE:** Thank you, Mr. Commissioner.
14 Just very briefly, I just want to indicate that we do feel
15 that a publication ban is appropriate, in this case. And
16 this is particularly given that we don't yet know how
17 relevant those details are going to be, so that will unfold
18 over time. Thank you, those are my submissions.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Sherriff-Scott?

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

22 I am just trying to summarize my points like
23 this, Commissioner.

24 In support of details or the evidence, as
25 opposed to the statement at large, Section 7 prohibits the

1 findings of misconduct by the Commission, in terms of
2 jurisdictional limitations.

3 Second, as you have said, through your
4 counsel and in your January directive, the allegations or
5 the evidence, to the extent it has to go in, is for context
6 only as opposed to truth of contents.

7 Third, since the Commission can't inquire
8 into the truth of the evidence, the presence of the
9 evidence on the record is not linked to the mandate beyond
10 context.

11 Fourth, I submit therefore that impairment
12 is minimal and does not prevent the examination of the
13 history of matters, as Mr. Manson put it. Only evidence,
14 as opposed to allegations in terms of limited publication
15 ban, is a minimal restriction.

16 I'd submit, you ruled during the week of the
17 27th in response to a number of objections that I made for a
18 different witness, that there should not be a necessity to
19 revisit the evidence during testimony. And, at my request
20 during that week, you issued a ban on details of evidence
21 concerned, which is similar to the circumstances here.

22 I would say the phrase "What is the
23 administration of justice interest" used by Mr. Manson
24 being promoted, is the institutional response of the
25 Commission, as opposed to an inquiry into the evidence as

1 of the allegations. And in the circumstances, there's no
2 deleterious effect which outweighs the salutary effects of
3 a limited ban.

4 I submit a limited ban will

5 1) promote consistency in the treatment of the evidence and
6 testimony of victims as we've established, insofar as the
7 last round;

8 2) promote adherence to the mandate of Commission;

9 3) preserve the presumptive feature of innocence, in view
10 of the state of charges referred to, by my friend;

11 4) allow the media to fully report on all matters germane
12 to your jurisdiction, without restrictions, since only
13 contextual reasons are supported for the educing into the
14 public record of the details.

15 And therefore, I submit this would allow you
16 to deal with all matters, without any restriction on your
17 part. Those are my submissions, sir. Thank you.

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

19 Mr. Callaghan?

20 **MR. CALLAGHAN:** I think that, what is
21 attempting to be done is to unscramble an egg. I think
22 that when you rule that it's relevant, and elements are
23 relevant, I don't see, and particularly when it's been
24 through the public domain, I don't see why a publication or
25 a ban is necessary. And, I think that it will cause

1 mischief insofar, as the public's understanding of what
2 actually occurred.

3 **THE COMMISSIONER:** Thank you. Mr. Kozloff?

4 **MR. KOZLOFF:** I support the position taken
5 by Mr. Manson, Mr. Chisholm, Mr. Callaghan, that there
6 ought to be no ban on the publication.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Wallace, anything to add?

9 **MR. WALLACE:** We're opposed to the
10 publication ban and I have nothing further; nothing to add
11 that you've already heard.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Cipriano.

14 **MR. CIPRIANO:** Yes, just briefly. The issue
15 of, you can't unscramble an egg, I think we have to put
16 that in context. In May 2002, the charges were stayed.
17 That ended over close to a decade of the applicant having
18 to deal with the media, the stress, the medical effects of
19 the allegations and has since then attempted to patch up
20 the harm, the severe harm that Justice Chillcot found at
21 paragraph 47 of the ruling.

22 And so, while you cannot undo what has
23 already happened, you can prevent the further tearing away
24 of the "bandaid" that could be put on the egg. We're not
25 keeping anything from the Inquiry; we're allowing the

1 Inquiry to do its work.

2 In Vickery, they recognized that the person,
3 just because he is charged, does not give up his privacy at
4 large, for time immemorial. In Vickery, the Supreme Court
5 of Canada found that, at some point, the person is entitled
6 to put the bandaid on the broken egg.

7 And so, I disagree completely with the fact
8 that this would not allow this Inquiry to do its work or
9 not serve the public interest. The public, under
10 publication ban, under traditional publication ban, is
11 allowed to see the items; the media is refrained from
12 reporting on it, for the very purpose of causing that harm
13 that Justice Chillcot found in paragraph 47 of his reasons,
14 in which he found that the applicant suffered the most
15 severest type of prejudice.

16 The Supreme Court of Canada stated about the
17 *Dagenais/Mentuck* test, that it is not to be applied in a
18 mechanical way, but flexibly in the context in which it's
19 being considered. We have to understand that the
20 jurisdiction of this Inquiry, that the innocence of the
21 applicant, that there is no possibility of the charges
22 being revived, the applicant's privacy rights, the
23 alternative that the Inquiry is not being asked to not have
24 information before it, and so, there is a limited, limited
25 harm that's being caused by having a publication ban.

1 And so, it's my submission that you've seen
2 the affidavit of the applicant. That's uncontraverted
3 evidence. There has been suffering and there is currently
4 more suffering because of the process of the Inquiry.

5 If the parties who oppose me wanted medical
6 evidence, they could have -- I'm more than happy to provide
7 medical evidence. I'm more than happy to provide it, we
8 can adjourn the application and I can -- more than happy to
9 provide the medical evidence.

10 I'll just leave off -- the rights of -- this
11 Inquiry has to balance both the rights of alleged
12 complainants and the rights of those who are innocent. And
13 so, a limited publication ban that doesn't affect the
14 ability of all the parties here, Mr. Manson and everyone
15 else to do the work, that doesn't affect you, Mr.
16 Commissioner, to do your work is, in my submission, a fair
17 and an appropriate balance, when considering the balance
18 that has to be done between an innocent person and the
19 ability of a witness to give evidence. Thank you.

20 **THE COMMISSIONER:** Thank you. Motion is
21 denied. There will not be a publication ban, in any way,
22 on this document. The reason is as follows.

23 In my view, a publication ban or other
24 discretionary order that limits the freedom of expression
25 and freedom of the press, in relation to legal proceedings,

1 should be ordered only when the party, who has the burden
2 requesting a publication ban, has shown that such an order
3 is necessary to prevent a serious risk to the proper
4 administration of justice or to an important interest,
5 because reasonably alternative measures will not prevent
6 the risk; and b) the salutary effects of the order outweigh
7 the deleterious effects on the rights and interest of the
8 parties and the public, including the effects on the right
9 of free expression, the rights of the accused to a fair and
10 public trial and the efficacy of the administration of
11 justice.

12 In my view, you require convincing
13 evidentiary basis to issue that order. That, what I have
14 done and as I've outlined in my decision of November 17th
15 which I adopt the legal principles outlined there, is a
16 balancing of interests.

17 Unlike Mr. Sherriff-Scott's application
18 where, with respect to his moving party whose name -- the
19 issue of whether that name can be published, is on its way
20 to a Court of Appeal, it's my understanding, is completely
21 different. In that case, I struck the -- I edited the
22 document, because there was absolutely no argument that
23 there was any relevance whatsoever, with respect to those
24 allegations of specific graphic details.

25 With respect to this matter, I've reviewed

1 the affidavit and -- not the affidavit, the exhibit which
2 is now going to be Exhibit Number 205. And, I find that
3 there is an articulable cause or reason why those
4 allegations may well be relevant and will be relevant, in
5 the exercise of my mandate, dealing with the institutional
6 response.

7 I am very mindful and I have repeated on
8 many occasions, and I will continue to flag that Father
9 Charles MacDonald is entitled to his presumption of
10 innocence, as a matter of the law. Unfortunately, he is
11 wrapped into matters which are the nucleus of this mandate,
12 of this Inquiry. And, while I have the greatest -- and I
13 can tell you that I have a lot of difficulty in balancing
14 the interests of Father MacDonald, with the need for this
15 full and frank inquiry.

16 And it's after considerable thought, with
17 respect to those issues, that I must come and find that the
18 applicant has not satisfied me, on the balance of
19 probabilities that the order should go. I will take
20 measures to ensure that, if and when these matters come
21 forward, that the matter of his innocence is always
22 underlined.

23 However I find that, on balance, that it is
24 important, more important, that these details be available
25 to the public, so that an open court principle be

1 maintained, that the public not presume that matters are
2 being hidden and that this matter sees the full light of
3 day.

4 As I've indicated before, and I think it
5 applies to Father MacDonald as well, there may be some
6 wounds, Mr. Cipriano says putting a bandaid on the broken
7 egg or the scrambled egg; I say "No". I say that, in the
8 long run, and for Father MacDonald's benefit, it may be
9 that the light of day will help heal most wounds and all
10 wounds, including those of Father MacDonald's and
11 accordingly, for those reasons and again, for the
12 principles that I've outlined in my decision of November
13 17th, the motion is denied.

14 Now, I understand that we're a little late
15 and so, we're going to be breaking for lunch, so that we
16 can -- I understand that my Policy Director, Ms. Colleen
17 Parrish, is having a media briefing and I want to permit
18 those of the media to attend that briefing.

19 Yes, sir?

20 **MR. CIPRIANO:** Given your decision, I would
21 ask if in the interim the document could be marked as an
22 interim publication ban to seek instructions for a review
23 of the decision?

24 **THE COMMISSIONER:** You're going to have to
25 do better than that. I think there are certain reasons or

1 other legal principles I should deal with.

2 So what I will do is I will give you -- we
3 will resume at two o'clock and we can resume that debate at
4 that time.

5 **MR. CIPRIANO:** Thank you.

6 **THE COMMISSIONER:** Thank you.

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

9 --- Upon recessing at 12:28 p.m./

10 L'audience est suspendue à 12h28

11 --- Upon resuming at 2:04 p.m./

12 L'audience est reprise à 14h04

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

15 This hearing of the Cornwall Public Inquiry
16 is now in session.

17 Please be seated. Veuillez vous asseoir.

18 **THE COMMISSIONER:** Yes, sir.

19 **MR. CIPRIANO:** Good afternoon, Mr.
20 Commissioner.

21 I just wanted to return on the issue of an
22 interim stay for a publication ban pending instructions for
23 a review, and the legal principles that I want to apply are
24 taken from the *R.J.R. MacDonald* case which is at 1994
25 Carswell, Q.U.E. 120 Supreme Court of Canada, and it's

1 essentially a three-step test: whether there is an arguable
2 case; whether there will be irreparable harm suffered and
3 whether it's in the balance of convenience to issue an
4 interim stay.

5 Firstly, with respect to an arguable case,
6 the threshold interpreted by the Supreme Court is quite
7 low. It's simply whether the issue is either vexatious or
8 frivolous. If it's found that the issue is neither
9 vexatious or frivolous, then you should go on to the second
10 and third grounds.

11 In my submission, this is, I feel, an
12 important issue that has to be determined. We are dealing,
13 obviously, with rights -- balancing of rights of an
14 innocent person and the work of the Inquiry, and it's, in a
15 sense, a novel issue. There is not much judicial
16 consideration of issues such as this, particularly issues
17 of someone who has had charges and gone through a process
18 but then has the charges judicially stayed.

19 Secondly, moving on to irreparable harm, in
20 my submission, if the stay is not granted, the information
21 which is highly prejudicial and harmful to my client will
22 be released and it could have the effect of making any sort
23 of review academic and the harm that I had argued will be
24 caused.

25 So in my submission, there is no other

1 remedy to preserve the process of the review.

2 Then moving along, because this brings me to
3 the third point, which is the balance of convenience, the
4 Commission is not stopped from doing its work. As I
5 indicated earlier, it still has access to the document and
6 so does the public. It's a minimal impairment on the
7 ability of the media to publish it, but in any event, the
8 parties, the public and the public interest can still be
9 served even with a limited interim order of a publication
10 ban.

11 **THE COMMISSIONER:** Well, there's one other
12 question though. Did you canvass your client beforehand as
13 to getting instructions in the event that he lost the
14 motion? I would have thought that that would have been a
15 reasonable thing to do.

16 **MR. CIPRIANO:** I did, but there is obviously
17 a lot of issues to consider and there's other things going
18 on at the same time. And so ---

19 **THE COMMISSIONER:** I'm sorry?

20 **MR. CIPRIANO:** There are a lot of issues
21 that have to be considered at the same time, and so it's
22 not an easy decision that one can make over a lunch hour.

23 **THE COMMISSIONER:** Well, Mr. Sherriff-Scott
24 put it in his affidavit saying, "And if I lose, I want to
25 appeal."

1 So you haven't canvassed him about that.

2 Okay. Thank you.

3 Anybody else want to comment on the issue?

4 Mr. Callaghan.

5 **MR. CALLAGHAN:** My thoughts are that if an
6 appeal is being sought, and I take the Commissioner's view,
7 that there should be an attempt to join this with the
8 appeal by the Diocese, I think this is a serious ---

9 **THE COMMISSIONER:** What do you mean appeal
10 by -- the appeal is going to the Court of Appeal. Who is
11 going to Divisional Court?

12 **MR. CALLAGHAN:** Well, there's a provision in
13 the Rules that would permit them to join.

14 **THE COMMISSIONER:** Oh.

15 **MR. CALLAGHAN:** And my point is this, that
16 this is a serious issue. We have spent a considerable
17 amount of time on this issue and a level of direction from
18 the Court of Appeal to everybody here would be of
19 assistance, including myself. The more examples that the
20 Court of Appeal could have might assist us going forward
21 because we cannot continue to have appeals after appeals.

22 So absent the issue of the appeal, I would
23 be in favour of the stay so we could finally get this
24 matter -- or the interim request -- finally get this matter
25 put to bed so we can get on with the rest of this Inquiry.

1 **THE COMMISSIONER:** Mr. Manson.

2 **MR. MANSON:** I have to take issue with Mr.
3 Callaghan mostly because I see the two matters, the
4 Diocese's appeal and this matter, as being very, very
5 different.

6 The Diocese's appeal is about identity; end
7 of story. This is now about the substance of allegations,
8 and notwithstanding Mr. Cipriano's effort to say "Why can't
9 we just have date, time, place," for example, it's the CCR
10 position that we need to look at how these historical
11 elements evolved over time and how institutions reacted
12 with Mr. MacDonald over time because it's the role of those
13 institutions and their responses that are your mandate.

14 I'm not saying that this is an easy issue or
15 that it's easy for people in the position of Mr. Cipriano's
16 client, but this is a public inquiry and it has a clear
17 mandate to look at how this situation came about, and I
18 would just urge you, Mr. Commissioner, to say no and let
19 the chips fall with the other case. They are separate
20 matters.

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

22 But what about giving an interim ban on
23 publication on something, which Mr. Cipriano never did
24 identify, but ---

25 **MR. MANSON:** Well, again, Mr. Commissioner,

1 until Mr. Dumais asks the questions, we don't know whether
2 we need to get there. I may not need to get there with Mr.
3 MacDonald. I may be more interested in someone from the
4 Cornwall Police or the OPP when I set out a series of
5 documents and how they were produced. I don't know. But I
6 don't think we're there yet. Mr. Cipriano is saying, "Take
7 out all the elements of the allegations."

8 **THE COMMISSIONER:** Well, for publication.

9 **MR. MANSON:** For publication, that's right.

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

11 **MR. MANSON:** But I don't think they're
12 necessarily going to be raised in any intimate or harmful
13 way.

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

15 Mr. Lee, do you wish to join the ---

16 **MR. LEE:** Nothing to add.

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

18 **MR. CHISHOLM:** Good afternoon, Mr.

19 Commissioner.

20 I would submit that Mr. Cipriano has set out
21 the test that has to be established to consider the
22 granting of a stay and I would focus on the second part,
23 the irreparable harm that would result if a stay is not
24 granted, and I would submit that would be probably the main
25 focus of your consideration, assuming that everyone is in

1 agreement that this is a serious issue.

2 Again, I would take you back to a couple of
3 weeks ago when I was at this podium requesting a stay of
4 your order. I suppose if the parties who opposed the
5 motion and, Mr. Commissioner, you are wrong with respect to
6 the position with respect to Mr. Cipriano's motion, then it
7 will be too late once that information is disclosed.

8 Those would be my only submissions.

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

10 Mr. Neuberger?

11 **MR. NEUBERGER:** Thank you. No comments.

12 **THE COMMISSIONER:** Ms. McIntosh?

13 **MS. McINTOSH:** No submissions.

14 **THE COMMISSIONER:** Ms. Makepeace?

15 **MS. MAKEPEACE:** Nothing to add. Thank you.

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

17 **MR. SHERRIFF-SCOTT:** I would support Mr.

18 Callaghan's submissions.

19 On the subject of a serious issue and the
20 irreparable harm and balance of convenience analysis, I
21 believe the authorities state, that have been put before
22 you, that part of the analysis of either the balance of
23 convenience assessment or the question of irreparable harm,
24 assuming it's a serious issue, is the loss of a juridical
25 opportunity to put the matter before the Court of Appeal.

1 So the courts have characterized that as a factor either in
2 the balance of convenience in the administration of justice
3 or as part of irreparable harm. I would add that to the
4 list of considerations.

5 My only other comment is to express some
6 anxiety about how might this play out in terms of the issue
7 that I have to discuss with you later today on an interim,
8 interim basis until possibly tomorrow before the Court of
9 Appeal, but I can address that at a later time if there's a
10 distinction in our your mind between these issues.

11 **THE COMMISSIONER:** There is. Thank you.

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

13 **THE COMMISSIONER:** Mr. Kozloff?

14 **MR. KOZLOFF:** I'm not opposed, sir.

15 **THE COMMISSIONER:** Mr. Wallace?

16 **MR. WALLACE:** I'm not opposed as well.

17 **THE COMMISSIONER:** Thank you.

18 Mr. Dumais, do you wish to make any
19 comments?

20 **MR. DUMAIS:** Just briefly, Commissioner.
21 Parties have addressed mostly the irreparable harm or the
22 second step of the test, and just with respect to the
23 comments that Mr. Chisholm made with respect to the CAS,
24 sympathizing with Mr. Cipriano, having had to make the same
25 argument a couple of weeks in and requesting a stay,

1 clearly there is a distinction between the documents we're
2 dealing with way back when and those which are before you
3 today.

4 The documents that Mr. Chisholm dealt with
5 back then were not in the public domain. So they were
6 documents that have never been outed and, I mean, the
7 effect of not granting the stay at that time would have led
8 to irreparable harm.

9 I think the distinction with the documents
10 that are before you today is we're talking about a
11 statement that Mr. MacDonald read into a recording at the
12 police station, which then became his statement for court
13 purposes.

14 We have to understand that these allegations
15 have already been addressed in a public domain. There was
16 a publication ban. A preliminary inquiry publication ban
17 was issued when the matter was heard, but obviously that
18 lapsed when the matter was stayed.

19 So the information is already out there.
20 Commissioner, you will hear evidence later on, through this
21 witness, that some of these statements were copied and
22 leaked to the media. And I mean, there's been nothing
23 presented before you with any indication that the specific
24 details of some of the allegations were previously
25 published.

1 I mean, up to the time that you grant or not
2 an order this afternoon, there is nothing that would
3 prevent any medium from disclosing any of this information.
4 And I think everyone has filed a number of media clippings
5 dealing with this -- some of these specific facts or
6 collateral facts with respect to Mr. Silmsler or Mr.
7 MacDonald.

8 And I mean, there's nothing that's been
9 filed previously on these motions that indicate that any of
10 the details of the allegation. And that's all we're
11 talking about here, because we've already had the argument
12 as to whether or not there should be a name on Father -- a
13 ban on Father MacDonald's name, and that's been resolved,
14 and we know that that matter is not proceeding to a
15 judicial review.

16 In theory, respect of the order that you may
17 or may not grant this afternoon, that information can
18 already come out, the fact that Father MacDonald was
19 charged or Father MacDonald went through a preliminary
20 inquiry and there was a judicial stay of all charges.

21 So I mean, in considering the irreparable
22 harm, I think, Commissioner, you have to consider the
23 document and the information that we're dealing with today,
24 and clearly it can be distinguished from other stays that
25 you've granted.

1 --- RULING RE INTERIM PUBLICATION BAN BY/DECISION SUR
2 ORDONNANCE DE NON PUBLICATION PAR INTERIM PAR JUSTICE
3 NORMAND GLAUDE

4 **THE COMMISSIONER:** Thank you very much.

5 Well, let's begin by looking at exactly
6 what's going on here. The first thing is that Father
7 MacDonald's lawyer brought an application to have the
8 document, a statement, not entered as an exhibit, and that
9 was denied. Then he brought an application to have the
10 contents, or portions thereof, subject of a publication
11 ban, which was denied.

12 It is clear, in my view, that Mr. Cipriano's
13 client has a right and should be afforded an opportunity to
14 go for judicial review and that we should not, unless it's
15 abundantly clear that the matter is frivolous, vexatious
16 and ought not to be afforded that time, to give him that
17 time to prepare the appeal.

18 However, this isn't that I'm going to
19 prepare the appeal, this is I'm going to go get
20 instructions. I find that with respect to an arguable
21 case, that I have, I think, pronounced on different
22 occasions what the legal principles were, and that Father
23 Charles MacDonald continues to want to promote his legal
24 argument, which is his choice, and which I respect. I do
25 not, however, have to agree in the manner in which it is

1 presented. I find that in this case Father Charles
2 MacDonald could and should have given instructions to his
3 lawyer so that we don't have to deal with this extra delay.

4 And I say that, and why is that? Well, it's
5 very simple. The public sees these orders as bogging down
6 this Inquiry. Well, I know, and the lawyers here know that
7 we're going to continue on. It shakes public confidence in
8 the Commission's ability to get to the bottom of a matter
9 of public concern, and without the confidence of the public
10 maybe we should all go home.

11 And so what is presumably public
12 information, in my mind, is going to be subject to a delay.

13 Now, whether it is an arguable case, I'll
14 say no more on that. Balance of convenience; Father
15 MacDonald should have had his instructions given to his
16 lawyer today. Irreparable harm; to date, from the media
17 reports that I have read, they have all been with taste,
18 with dignity, and delivered in a manner that left no one in
19 any doubt that any person who had been charged and found
20 not guilty were in fact not guilty.

21 And so what it boils down to is fairness. I
22 think it would be unfair to Father Charles MacDonald to not
23 grant an interim publication ban on those portions which I
24 will outline at the break until tomorrow morning at 9:30.

25 I want to say that I will respect the fact

1 that people can and will bring applications for judicial
2 review. I welcome them. It shows that this inquiry
3 process is open to review. However, and this is the
4 however, my patience has run short on what some people
5 might see as attempts to slow down the work, the important
6 work that we have set out to do and to accomplish.

7 Accordingly, 9:30 tomorrow morning, Mr.
8 Cipriano, if I do not have any comments from you with
9 respect to whether or not there is an appeal or a judicial
10 review. The interim publication ban will be removed.

11 I say that because in another matter what
12 started off as an interim ban has gone on for 17 or 18 days
13 now and frankly I don't know where that is and I think
14 that's a shame.

15 In any event, there we go. You've got your
16 time until 9:30, Mr. Cipriano.

17 Let's go.

18 So for the record, Exhibit 205 should be
19 indicated that there's an interim ban on publication and I
20 will advise at the break which portions I will make it
21 subject to.

22 Mr. MacDonald, I apologize for the delay but
23 there are certain matters that have to be taken into
24 consideration. It is not, of course, a reflection on you
25 or the evidence that you're about to give and you shouldn't

1 take it like that. All right?

2 MR. MacDONALD: I understand.

3 JOHN DAVID MacDONALD, Resumed:

4 ---EXAMINATION-IN-CHIEF BY/INTERROGATOIRE-EN-CHEF PAR MR.
5 DUMAIS (cont'd/suite):

6 MR. DUMAIS: John, when we left off this
7 morning, I was about to ask you some questions.

8 Sorry, Commissioner, was that statement ever
9 filed this morning?

10 THE COMMISSIONER: Exhibit 205.

11 ---EXHIBIT NO./PIÈCE NO P-205:

12 (705831) John MacDonald - Handwritten
13 statement - September 12, 1995

14 MR. DUMAIS: Okay. Thank you.

15 I was about to ask you some questions on a
16 statement that is found -- which is identified as doc
17 number 705831, Bates page numbers 7022510 through 7022518.
18 It appears to be a nine-page document, John. I'd just like
19 for you to look at the last page. It is dated September
20 12th, 1995, and there's a signature there. Is that your
21 signature?

22 MR. MacDONALD: Yes, it is.

23 MR. DUMAIS: And is that a statement that
24 you wrote out on that day, John?

25 MR. MacDONALD: Yes, it is.

1 **MR. DUMAIS:** All right.

2 And I guess we can start firstly with what
3 prompted you to write this statement. Was it requested by
4 anyone or was it your own ---

5 **MR. MacDONALD:** I was talking with Bryce the
6 day before and he suggested it might be a good idea to put
7 things down on paper.

8 **MR. DUMAIS:** And was the statement prepared
9 for your lawyer or was it prepared in anticipation of you
10 attending the Cornwall Police Services to give your
11 statement?

12 **MR. MacDONALD:** I'm not sure.

13 **MR. DUMAIS:** All right.

14 Now, so is it fair to say that this
15 September 12th, statement is a draft of what initially
16 became the actual statement that you read in?

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

18 **MR. DUMAIS:** And the other statement that
19 you prepared -- I'm going to refer you to this -- I'm
20 actually going to be referring you back to doc number
21 110390, Bates page number 1049582.

22 This is a -- the first page of that
23 statement indicates a taped conversation of John David
24 MacDonald identifies people that were there, Tim Smith,
25 Mike Fagan, Bryce Geoffrey and John David MacDonald, and

1 the date of the statement appears to have been taken is
2 September 28th of 1995.

3 Is this a recording of the statement that
4 you gave when you met with Inspector Smith and Constable
5 Fagan?

6 **MR. MacDONALD:** Yes, it is.

7 **MR. DUMAIS:** All right.

8 Now, the statement -- and that's a
9 discussion that we previously had earlier today -- makes
10 reference on the second page of the statement, which would
11 be Bates page number 1049583. About a little higher than
12 mid-page, and I'll read it in for you:

13 "John -- okay. Pause. The date is
14 here. Tim. I'm sorry. Okay. It was
15 written on the 18th day of September
16 1995."

17 And that is the statement that you read into
18 the record. Is that correct?

19 **MR. MacDONALD:** That's correct.

20 **MR. DUMAIS:** Now, why on September -- what
21 prompted you on September 18th to tape the September 12th
22 version, John, and do a second draft, or do you recall?

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

24 **THE COMMISSIONER:** So this would be Exhibit
25 206 then.

1 **MR. DUMAIS:** Yes. Thank you, Commissioner.

2 **---EXHIBIT NO./ PIÈCE NO P-206:**

3 John MacDonald - Taped Conversation -
4 September 28, 1995 (110390)

5 **MR. DUMAIS:** You don't recall, John, why you
6 did a second draft?

7 **MR. MacDONALD:** No, I don't.

8 **MR. DUMAIS:** All right.

9 Now, I'm going to refer you to the actual
10 September 18th, statement as well, and that is doc number
11 116264, Bates page number 1098299.

12 That will be the next exhibit once it's
13 identified.

14 **THE COMMISSIONER:** Thank you.

15 Exhibit 207. Yes.

16 **---EXHIBIT NO./ PIÈCE NO P-207:**

17 John MacDonald - Handwritten Statement -
18 September 18, 1995 (116264)

19 **MR. DUMAIS:** John, if you can just have a
20 look at that statement and perhaps you can tell us firstly,
21 is that the statement that you wrote out on September 18th,
22 1995?

23 **MR. MacDONALD:** It looks like it.

24 **MR. DUMAIS:** And if you look at the last
25 page, it's an 11-page statement, where the date appears and

1 your name and signature appears.

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

3 **MR. DUMAIS:** And if we can just then go
4 through some of the elements of the statement you wrote
5 out, John. And I'm going to start out by taking you to the
6 second page of that statement, which is Bates page 1098300.

7 Now, you make reference to a first
8 allegation of abuse, so if we can call that the first
9 incident. And I did ask you that question earlier this
10 morning, and that incident would have occurred at a retreat
11 in St. Andrews. So that would have been the location of
12 the ---

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

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

15 Now, that -- and I'm looking at paragraph 2
16 -- makes reference to a year, John, and I'll just read in
17 the first sentence:

18 "During the summer of 1970, Father
19 Charlie invited myself and some other
20 altar boys to a retreat weekend in St.
21 Andrews."

22 So that, as I understand, the year became an
23 issue both in the civil and criminal proceedings. Is that
24 year, as far as you can remember, the correct year that the
25 incident would have occurred?

1 **MR. MacDONALD:** I don't know. I think I was
2 12 at the time, you know what I mean? And how I came up
3 and I explained this to Mr. Neville at the time, during the
4 pre-trial, if I was 12 and if you take my birth date of
5 1958 and you add 12 years, you get 1970. Is it right? I
6 don't know. Without checking into it, I don't know if it's
7 right.

8 **MR. DUMAIS:** All right.
9 Is it clearer for you if you make reference
10 to the grades that you would have been in?

11 **MR. MacDONALD:** It was between grade 7 and
12 8.

13 **MR. DUMAIS:** All right.
14 Now, I'm going to take you to the next page,
15 which is 1098301. I'm looking at the second paragraph,
16 John, and that's something that we touched on this morning
17 as well a bit. The second part of that paragraph reads:

18 "I could not recall being able to share
19 with my parents what had happened that
20 weekend, but I do know that at one time
21 my parents wrote a letter to the church
22 complaining of some things that Father
23 Charlie was doing. The church was
24 never sent a reply back."

25 **THE COMMISSIONER:** The church never sent a

1 reply back. You said "was".

2 MR. DUMAIS: Sorry, Commissioner.

3 THE COMMISSIONER: The church never replied?

4 MR. DUMAIS: "The church never sent a reply
5 back."

6 Now, you've addressed this a bit this
7 morning, John, and you've qualified that statement a bit.
8 So at the time of the writing of this statement, is that
9 what your belief was?

10 MR. MacDONALD: That's correct.

11 MR. DUMAIS: All right.

12 And has that changed any today?

13 MR. MacDONALD: Oh boy, you like to hit
14 soft spots. I hope not.

15 MR. DUMAIS: All right.

16 MR. MacDONALD: And I don't know if you
17 understand what I'm saying by that.

18 It's still my protection factor for me.
19 It's a safe place for me to go that I told my parents and
20 that something was done about it and I hope you understand
21 that.

22 MR. DUMAIS: Now, do you accept today, John,
23 that perhaps the letter -- it was not a letter that was
24 sent but, rather, it was a call that was made?

25 MR. MacDONALD: Do I accept that? I'll

1 accept that.

2 **MR. DUMAIS:** All right.

3 Now, looking at, I believe it's the fourth
4 page of your statement, John, and that's Bates page number
5 1098302, and you described a second incident and I'm
6 looking at the last paragraph of that page. And again, as
7 I've indicated previously, I'm just trying to establish the
8 dates and the locations, John, and I'm reading the first
9 page, the first line of that third paragraph:

10 "Sometime in the fall of 1971, Father
11 Charlie asked me if I wanted to do some
12 work at Bishop Proulx's house in
13 Alexandria."

14 So the year that you reference here is 1971.
15 Do you still believe that the second incident --

16 **MR. MacDONALD:** That's the year after the
17 first incident? That's correct.

18 **MR. DUMAIS:** All right.

19 And by that you mean if we accept that the
20 first incident would have occurred in 1970, then the second
21 one would have followed a year later?

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

23 **MR. DUMAIS:** And the jurisdiction or the
24 location of the second allegation would have been in
25 Alexandria. Is that correct?

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

2 **MR. DUMAIS:** Now, there is third incident
3 that's referenced and that's the next page, page 5 of your
4 statement, and that's Bates page number 1098303. And I'm
5 looking at the second paragraph of that page and it reads
6 as follows:

7 "The third incident is the toughest one
8 for me to deal with because it was the
9 most frightening. It was about a month
10 or so after the second incident."

11 So following your logic, John, so that
12 incident would have followed the other one by about a month
13 or so?

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

15 **MR. DUMAIS:** All right.

16 And this third allegation would have
17 occurred in the City of Cornwall. Is that correct?

18 **MR. MacDONALD:** I don't know. What's
19 Boundary Road considered?

20 **THE COMMISSIONER:** All right. So ---

21 **MR. MacDONALD:** The boundary?

22 **THE COMMISSIONER:** It depends what side of
23 the road you're on.

24 **MR. MacDONALD:** Exactly.

25 **MR. DUMAIS:** So then this third incident

1 would have occurred on Boundary Road; is that correct?

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

3 **MR. DUMAIS:** As to whether or not Boundary
4 Road is within the City limits. All right. Thank you.

5 I am now looking at page 9 of your
6 statement, John, top of the page, Bates page number
7 1098307, and that -- the first paragraph reads as follows:

8 "On September 2nd, 1986, I entered Mount
9 Carmel House Treatment Centre because
10 of my alcoholism. Every door had been
11 closed in my face. I couldn't keep
12 running anymore."

13 So this September 2nd, 1986 date, as I
14 understand, became an issue in both the criminal and civil
15 proceedings as well. Do you wish to qualify that date,
16 John?

17 **MR. MacDONALD:** It was September 2nd, '85.
18 Some people find that a little odd. How can you not
19 remember your sobriety date? Dates don't mean much to me,
20 obviously.

21 **MR. DUMAIS:** And whether or not they find it
22 odd, John, the actual date was 1985?

23 **MR. MacDONALD:** That's correct.

24 **MR. DUMAIS:** There's also a reference in
25 there to your sponsor, Mac Derrig. Perhaps if you can just

1 explain to us who Mac Derrig was and what his involvement
2 was concerning these allegations, John?

3 **MR. MacDONALD:** Mac Derrig was my counselor
4 at Mount Carmel House, when I first entered in there. So
5 what are you asking me to qualify?

6 **MR. DUMAIS:** Well ---

7 **MR. MacDONALD:** Who he was at the time, what
8 he became, or just who he was?

9 **MR. DUMAIS:** Well, if we can start firstly
10 with how long were you at Mount Carmel?

11 **MR. MacDONALD:** Six weeks.

12 **MR. DUMAIS:** Six weeks? You got to know him
13 during that period of time?

14 **MR. MacDONALD:** Got to know him?

15 **MR. DUMAIS:** Yes.

16 **MR. MacDONALD:** Yes, and he go to know me.

17 **MR. DUMAIS:** Okay. So was there any -- did
18 he have any follow-up with you after the six-week period
19 had ended?

20 **MR. MacDONALD:** There was always the follow-
21 up course, plus the AA program itself. Mac was a very
22 active member in AA. When you get into AA, they recommend
23 getting a sponsor or a buddy, or somebody you can call that
24 you can connect with. So Mac became my sponsor in AA, not
25 just my counselor, but outside the Counseling Program,

1 became my sponsor in AA, and ultimately became one of the
2 best friends that I ever could have asked for.

3 **MR. DUMAIS:** All right.

4 Now, you speak in this paragraph or the
5 following paragraph, of the fifth step of the program. Can
6 you explain to us what that is, John?

7 **MR. MacDONALD:** Where you share with another
8 person who you are or what you became and call it the
9 demons, if you will, that caused you to drink and the
10 things that you may have done, almost like a confession,
11 you know, and it's supposed to stay between you and that
12 person that you're telling.

13 **MR. DUMAIS:** And that fifth step, John,
14 would that have occurred during your six-week stay?

15 **MR. MacDONALD:** No.

16 **MR. DUMAIS:** That occurred afterwards?

17 **MR. MacDONALD:** About a year afterwards.

18 **MR. DUMAIS:** All right.

19 So somewhere around September of 1986?

20 **MR. MacDONALD:** Correct.

21 **MR. DUMAIS:** And as you were completing this
22 fifth step, John, you did reveal to him the allegations?

23 **MR. MacDONALD:** That's correct.

24 **MR. DUMAIS:** All right.

25 But of course, he would have -- he had died

1 prior to you coming back to the Cornwall area in 1995?

2 MR. MacDONALD: Somewhere around that time,
3 before I got back anyways, yes.

4 MR. DUMAIS: Yes. He had died at that time?

5 MR. MacDONALD: He had died while I was out
6 west.

7 MR. DUMAIS: All right.

8 Now, the last paragraph of your
9 correspondence, John, I'm just going to ask you to explain
10 that, so I'll read it in first.

11 "So again, the bottom line is help for
12 everyone involved in this, help in
13 whatever form it comes, is the need to
14 deal with the living problems that
15 still face today. I've since heard
16 that there were others involved, I pray
17 for them to come forward with their
18 experiences so that life can start to
19 be lived again."

20 What did you mean by that, that the bottom
21 line is help for everyone, John?

22 MR. MacDONALD: I think it's pretty self-
23 explanatory. Everybody needs help to deal with problems
24 like this. You can't carry this forever. It's impossible.

25 MR. DUMAIS: So you're not specifically

1 making reference to something. You're not asking for help
2 to -- in bringing those charges or help with counseling or
3 help with -- there's no distinction for you there when you
4 wrote that down?

5 **MR. MacDONALD:** That's correct. Whatever
6 type of help is needed to set free that burden that they've
7 been carrying around. Believe me, I know. That's all I
8 wanted from the start of this was help.

9 **MR. DUMAIS:** All right.

10 Then, John, I'm just going to -- I'd like to
11 take you back just a bit. So we've gone through now three
12 writings, if I can put it that way. The first one was the
13 correspondence to Father Maloney. The second was the
14 statement which is dated September 12th, 1995, and the third
15 is the statement which is dated September 18th, 1995, which
16 you ultimately gave to the Police Detachment.

17 If I could just take you back to September
18 12 and the first draft or first statement that you wrote.
19 I understand that on that same day you had been contacted
20 by someone by the name of Carson Chisholm.

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

22 **MR. DUMAIS:** And can you tell us whether or
23 not this was his first involvement with you? Is that the
24 first time you met him?

25 **MR. MacDONALD:** Met him? Yes, it would be.

1 Yes, that was the first time that I met him.

2 MR. DUMAIS: What did you know of him at
3 that time, if anything?

4 MR. MacDONALD: Not a whole lot.

5 MR. DUMAIS: Had you had some telephone
6 conversations with him?

7 MR. MacDONALD: I have a note in my own
8 notes on Saturday, September 2nd, that Dave called and asked
9 me to call Carson Chisholm, and at 7:45 I called Carson
10 Chisholm.

11 MR. DUMAIS: Did he indicate to you at that
12 time who this gentleman was?

13 MR. MacDONALD: I'm not sure.

14 MR. DUMAIS: All right.

15 Did he indicate what he could do for you or
16 why it was a good idea to call him?

17 MR. MacDONALD: I can't even remember that
18 phone call.

19 MR. DUMAIS: All right.

20 So you know that you put a note down that
21 you called him, but you don't remember the conversation?

22 MR. MacDONALD: No.

23 MR. DUMAIS: All right.

24 Do you remember him showing up at your place
25 of residence on September 12th?

1 MR. MacDONALD: Yes.

2 MR. DUMAIS: Tell us about that. What
3 arrangements had been made for him to ---

4 MR. MacDONALD: I don't know.

5 MR. DUMAIS: So you don't recall whether or
6 not any arrangements had been made or calls ---

7 MR. MacDONALD: No.

8 MR. DUMAIS: All right.

9 Do you remember him showing up?

10 MR. MacDONALD: Yes.

11 MR. DUMAIS: Tell us if you remember that?

12 MR. MacDONALD: That, I remember.

13 MR. DUMAIS: Okay. So he shows ---

14 MR. MacDONALD: I was down in the basement
15 writing out my statement. I had a workshop down in the
16 basement and I remember Carson coming in and down the
17 stairs.

18 MR. DUMAIS: Do you remember any of the
19 conversation or ---

20 MR. MacDONALD: No, he just stood there for
21 a while, while I finished up the statement.

22 MR. DUMAIS: All right.

23 And did he know prior to him arriving that
24 you were in the process of writing a statement?

25 MR. MacDONALD: I don't know.

1 **MR. DUMAIS:** Okay. Did he assist you in the
2 writing of this statement?

3 **MR. MacDONALD:** No.

4 **MR. DUMAIS:** Did you at any point on that
5 day have any discussions with respect to a gentleman by the
6 name of Perry Dunlop?

7 **MR. MacDONALD:** I don't know.

8 **MR. DUMAIS:** Did you know at that time that
9 Carson Chisholm would have been the brother-in-law of Perry
10 Dunlop?

11 **MR. MacDONALD:** I don't know.

12 **MR. DUMAIS:** Do you recall if on September
13 12th, 1995, whether or not you had shared the contents of
14 your statement with Carson Chisholm?

15 **MR. MacDONALD:** Can you repeat that?

16 **MR. DUMAIS:** Did he read your statement?

17 **MR. MacDONALD:** I think he picked up the
18 first page of the statement ---

19 **MR. DUMAIS:** All right.

20 **MR. MacDONALD:** --- and started reading it.

21 **MR. DUMAIS:** All right.

22 Now, was part of the reason for him being
23 there driving you to the police detachment? Was that ---

24 **MR. MacDONALD:** I think so.

25 **MR. DUMAIS:** And do you actually remember

1 him driving you there?

2 MR. MacDONALD: Yes.

3 MR. DUMAIS: All right.

4 So what else do you recall about that drive?

5 MR. MacDONALD: He stopped and made a
6 photocopy of my statement.

7 MR. DUMAIS: Okay. And did he ask you
8 whether or not he could make a copy?

9 MR. MacDONALD: I'm not sure.

10 MR. DUMAIS: Did he tell you why he was
11 making a copy?

12 MR. MacDONALD: No.

13 MR. DUMAIS: Did you object at that time to
14 him making a copy?

15 MR. MacDONALD: I was not a very strong
16 person at that point. So did I object? No.

17 THE COMMISSIONER: Well, did you object,
18 vocalizing it to him? Do you remember in your mind whether
19 you objected?

20 MR. MacDONALD: No.

21 THE COMMISSIONER: No, you don't remember?

22 MR. MacDONALD: No, I didn't object.

23 THE COMMISSIONER: Okay. That's fine.

24 Thank you.

25 MR. DUMAIS: So then you get to the police

1 detachment. Do you recall whether or not arrangements had
2 been made with anyone for you to attend there?

3 **MR. MacDONALD:** No.

4 **MR. DUMAIS:** No, that ---

5 **MR. MacDONALD:** I don't remember
6 arrangements being made.

7 **MR. DUMAIS:** Okay. So you get to the police
8 detachment. Tell me what you remember happening on that
9 day.

10 **MR. MacDONALD:** I can't remember a thing
11 about that day.

12 **MR. DUMAIS:** All right.

13 So you could not ---

14 **MR. MacDONALD:** Really nothing.

15 **MR. DUMAIS:** So you can't tell us who you
16 spoke to, what was said?

17 **MR. MacDONALD:** I remember -- no, I can't
18 recall what was said. I remember going in. That's about
19 it. That's -- and nothing else, really.

20 **MR. DUMAIS:** All right.

21 Do you remember -- could you tell me whether
22 or not you or Mr. Chisholm had made a scene on that day?

23 **MR. MacDONALD:** It's almost a guarantee that
24 I did not make a scene.

25 **MR. DUMAIS:** All right.

1 Do you recall Mr. Chisholm raising his voice
2 or getting mad?

3 **MR. MacDONALD:** Carson may be a little
4 abrasive. I'll leave it at that.

5 **MR. DUMAIS:** Okay. Do you recall whether or
6 not the statement of September 12th was actually left there
7 with someone?

8 **MR. MacDONALD:** Nobody would touch it. I
9 remember having it in my hand and offering it and nobody
10 would touch it.

11 **MR. DUMAIS:** And do you recall the reason
12 why they would not touch it?

13 **MR. MacDONALD:** No.

14 **MR. DUMAIS:** Do you recall any either
15 subsequent telephone conversations or telephone
16 conversations that occurred prior to that date about
17 whether or not Cornwall Police Services would investigate
18 this matter?

19 **MR. MacDONALD:** Dave Bough always gave me
20 the -- Dave Bough always gave me -- I was under the
21 understanding that Dave Bough wanted to deal with this at
22 its proper time, proper place, whatever that's supposed to
23 mean, and I have it mentioned in my notes a few times. He
24 wants to take his time. I found him to be a nice guy to
25 talk to, easy, no pressure, wanting to deal with it at

1 sometime when I was ready.

2 **MR. DUMAIS:** So in your mind, is the first
3 indication that the Cornwall Police did not want to deal
4 with this matter happened on September 12th?

5 **MR. MacDONALD:** That's correct.

6 **MR. DUMAIS:** Okay. All right.

7 Now, the next chronological event, I guess,
8 if I can call it that way, is a letter, and that's dated
9 September 13th, '95 advising -- from Mr. Geoffrey, advising
10 Father MacDonald, Bishop Proulx and the Diocese -- sorry,
11 it's a letter to their counsel advising them that he had
12 instructions to institute legal proceedings.

13 Do you recall giving those instructions to
14 Bryce?

15 **MR. MacDONALD:** Yes. Yes, I do.

16 **MR. DUMAIS:** Is there anything significant
17 with the date or is that purely coincidental?

18 **MR. MacDONALD:** You would have to ask Bryce.

19 **MR. DUMAIS:** All right.

20 So let me put the question to you another
21 way. So the fact that Cornwall Police did not take your
22 statement on September 12th has no bearing on the fact that
23 there's a letter sent out on September 13th?

24 **MR. MacDONALD:** No.

25 **MR. DUMAIS:** Now, I understand, John, that

1 on September 25th of that same year, you went and met with
2 Richard Abell?

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

4 **MR. DUMAIS:** Thank you.

5 Tell us about that, why you went there and
6 who initiated the contact?

7 **MR. MacDONALD:** You know what? I can't
8 remember. I wish I could.

9 **MR. DUMAIS:** Do you remember the meeting at
10 all?

11 **MR. MacDONALD:** Do I remember meeting with
12 him? Absolutely.

13 **MR. DUMAIS:** All right.

14 Do you remember what was discussed at that
15 meeting?

16 **MR. MacDONALD:** Just where I was at, who I
17 was, none of the details, just "Here's who I am and I want
18 some help."

19 **THE COMMISSIONER:** You gave details that you
20 had been abused?

21 **MR. MacDONALD:** Not specific, just that I
22 had been abused.

23 **THE COMMISSIONER:** Had you named the abuser?

24 **MR. MacDONALD:** Yes.

25 **THE COMMISSIONER:** Okay.

1 **MR. DUMAIS:** And do you recall if Mr. Abell
2 was aware of these allegations?

3 **MR. MacDONALD:** Of my allegations?

4 **MR. DUMAIS:** Yes.

5 **MR. MacDONALD:** No.

6 **MR. DUMAIS:** You're not -- sorry, you're not
7 aware that ---

8 **MR. MacDONALD:** That he was aware?

9 **MR. DUMAIS:** Yes.

10 **MR. MacDONALD:** No.

11 **MR. DUMAIS:** All right.

12 And any discussions with the way he could
13 assist you with giving you help?

14 **MR. MacDONALD:** I don't know if it was at
15 that initial meeting or not, but I know at some point he
16 was very helpful in getting me help, getting me counselling
17 help.

18 **MR. DUMAIS:** All right.

19 And what do you mean by that, helpful? What
20 did he end up doing?

21 **MR. MacDONALD:** One phone call from him put
22 counselling in place within about a week, where I had been
23 fighting another counselling avenue that was going to take
24 up to six to eight weeks.

25 **MR. DUMAIS:** And do you know how that came

1 about, who he contacted and what discussions he had?

2 **MR. MacDONALD:** Bishop LaRocque.

3 **MR. DUMAIS:** Okay. And you got that
4 information from ---

5 **MR. MacDONALD:** There was letters back and
6 forth at some point. I had received a letter. I don't
7 know. Anyways, I ended up with a letter in my hand saying
8 that the Bishop would pay for counselling.

9 **MR. DUMAIS:** Is it fair to say that he was
10 instrumental in making sure that ---

11 **MR. MacDONALD:** Absolutely.

12 **MR. DUMAIS:** All right.

13 Now, were there any specific discussions
14 with Mr. Abell as to the details of the allegations?

15 **MR. MacDONALD:** No.

16 **MR. DUMAIS:** So no questions were ever put
17 to you as to how old you were, where this occurred?

18 **MR. MacDONALD:** No.

19 **MR. DUMAIS:** All right.

20 And it was never admitted to you by Mr.
21 Abell that he had been previously contacted on this issue
22 by someone from Cornwall Police or someone from the
23 Diocese?

24 **MR. MacDONALD:** No.

25 **MR. DUMAIS:** Did you simply have this first

1 meeting with -- this one meeting with Mr. Abell or did you
2 have subsequent meetings?

3 MR. MacDONALD: I had lots of meetings with
4 Mr. Abell.

5 MR. DUMAIS: Okay. So you would go there on
6 a regular basis?

7 MR. MacDONALD: No, on an irregular basis.

8 MR. DUMAIS: Okay. And you would go at the
9 Children's Aid Office?

10 MR. MacDONALD: Yes.

11 MR. DUMAIS: You'd never go to his personal
12 residence?

13 MR. MacDONALD: No, but I could call him at
14 home.

15 MR. DUMAIS: Okay. And is it fair to say
16 that he became a friend of yours?

17 MR. MacDONALD: Absolutely.

18 MR. DUMAIS: Okay. And was he before this
19 first contact, John?

20 MR. MacDONALD: No.

21 MR. DUMAIS: All right.

22 So then at one point in time, do you recall
23 advising Mr. Abell that no one was taking your statement or
24 that was a problem?

25 MR. MacDONALD: I don't remember that. You

1 see, I've got it in my notes here that I mentioned it to
2 him.

3 **MR. DUMAIS:** Yes.

4 So you don't recall whether or not he had
5 any involvement in pushing that matter?

6 **MR. MacDONALD:** No.

7 **MR. DUMAIS:** Okay. Do you recall being
8 contacted by the Ontario Provincial Police then?

9 **MR. MacDONALD:** No. I know it's in my notes
10 again that they contacted me, but do I remember them? No,
11 not without looking at my notes, saying "Yeah, they called
12 this day."

13 **MR. DUMAIS:** Okay. Can you tell us at all
14 how your file was transferred from the Cornwall Police
15 Services to the OPP?

16 **MR. MacDONALD:** Could I tell you? No.

17 **MR. DUMAIS:** All right.

18 If I were to ask you whether or not he had
19 been -- you were made aware that the OPP was taking over
20 the file and ---

21 **MR. MacDONALD:** I was made aware of that
22 fact.

23 **MR. DUMAIS:** Okay. And by whom?

24 **MR. MacDONALD:** Good question. Do you want
25 me to look at my notes?

1 **MR. DUMAIS:** You can look at your notes.

2 **MR. MacDONALD:** I have a notation on
3 September 11th, "Dave Bough called, said OPP Kingston will
4 handle any complaint. They are very familiar with Charlie
5 MacDonald."

6 Then I have a note on September 12th that
7 "Dave Bough called, said lay charges next week." Which is
8 an interesting ---

9 **MR. DUMAIS:** Sorry, can you read the last
10 statement, John?

11 **MR. MacDONALD:** "Tuesday, September 12th -
12 Dave Bough called, said lay charges next week." I don't
13 know what it means, but it's in my notes.

14 **MR. DUMAIS:** And you don't have an
15 independent recollection of making that note, I guess?

16 **MR. MacDONALD:** No.

17 **MR. DUMAIS:** All right.

18 **THE COMMISSIONER:** But it is in your
19 handwriting?

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

21 **THE COMMISSIONER:** Okay.

22 **MR. MacDONALD:** "September 29th - Tim Smith
23 called to receive statements." That was my first contact
24 with the OPP.

25 **MR. DUMAIS:** What is that date, John?

1 **MR. MacDONALD:** September 29th -- sorry, 28th.

2 **MR. DUMAIS:** Okay. Do you recall actually
3 attending at the ---

4 **MR. MacDONALD:** The OPP station?

5 **MR. DUMAIS:** Yes.

6 **MR. MacDONALD:** Yes.

7 **MR. DUMAIS:** So you recall that September
8 28th date?

9 **MR. MacDONALD:** Tim Smith -- September 28th.
10 Do I recall it? Yes.

11 **MR. DUMAIS:** All right.

12 And which detachment would that have been?

13 **MR. MacDONALD:** Long Sault.

14 **MR. DUMAIS:** I'm just going to ask you a few
15 questions on the transcript that was taken. I didn't mark
16 down the exhibit number, but it is doc number 110390.

17 **MR. MacDONALD:** Two-zero-six (206).

18 **MR. DUMAIS:** Thank you.

19 **MR. MacDONALD:** Glad I could help.

20 **MR. DUMAIS:** Now, the two officers that you
21 saw, one appears to be the main detective, Inspector Tim
22 Smith, and the second being Detective Constable Mike Fagan.
23 Do you recall these two gentlemen?

24 **MR. MacDONALD:** Yes.

25 **MR. DUMAIS:** Do you recall the conversation

1 that he had before the statement started?

2 MR. MacDONALD: It almost started
3 immediately.

4 MR. DUMAIS: Okay. Can you explain why they
5 were involved rather than Cornwall Police or ---

6 MR. MacDONALD: No, not that I recall.

7 MR. DUMAIS: Okay. So then they did take a
8 recording of your statement?

9 MR. MacDONALD: That's correct.

10 MR. DUMAIS: And I can see from looking at
11 the transcript that the first thing that you did was that
12 you read in two statements. One would have been the
13 statement that you wrote down on September 18th, 1995; is
14 that correct?

15 MR. MacDONALD: That's correct.

16 MR. DUMAIS: And the second, I believe,
17 would have been the letter that you wrote out to Father
18 Maloney on August 11th, 1995?

19 MR. MacDONALD: That's correct.

20 MR. DUMAIS: Now, is this something that you
21 requested or was this a suggestion that ---

22 MR. MacDONALD: A suggestion by one of --
23 either Tim Smith or Mike Fagan.

24 MR. DUMAIS: Okay. Did they know that you
25 were coming in with these two statements? Was this

1 discussed previously?

2 MR. MacDONALD: No.

3 MR. DUMAIS: So you came in there and you
4 had those two statements with you?

5 MR. MacDONALD: That's correct.

6 MR. DUMAIS: And you don't recall having in
7 your possession the September 12th statement?

8 MR. MacDONALD: No.

9 MR. DUMAIS: Okay. Now, had there been any
10 discussion about their ongoing investigation of Father
11 Charlie?

12 MR. MacDONALD: I can't recall.

13 MR. DUMAIS: Any discussions with respect to
14 their investigation of the David Silmser matter and how
15 that could be linked together?

16 MR. MacDONALD: I think so.

17 MR. DUMAIS: All right.

18 I'm just going to take you now, John, to --
19 the beginning of the statement simply has you reading these
20 two documents which we've gone through already. And I'm
21 looking at Bates page 1049605. And you do, about at mid-
22 page, confirm that the letter to Father Maloney was hand-
23 delivered on the 14th of August 1995.

24 And the next page, there was a -- and that's
25 Bates page number 1049606, and they had asked you a

1 question, whether or not the allegations were strictly
2 against Father Charlie. Is that correct?

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

4 **MR. DUMAIS:** And you had indicated at that
5 time that it was.

6 **MR. MacDONALD:** That's correct.

7 **MR. DUMAIS:** All right.

8 Now, there is -- to take you to page
9 1049611, there's two things I want to ask you from that
10 page. Again, I'm looking at about mid-page. I'll start
11 with a statement that you're making. Sorry, I'm not sure
12 if we have the correct page, 1049611? Now, about mid-page
13 it says something to the effect, "From what I recall, the
14 whole room we were in was open and just as big" and then
15 the detective then cuts in and says, "Would he have slept
16 in that room? Was he sleeping? Do you know where he was
17 sleeping?"

18 I note that at one point in time in the
19 proceedings, John, it became an issue as to whether or not
20 there were dividers in the sleeping area. Do you recall
21 that?

22 **MR. MacDONALD:** Yes, I do.

23 **MR. DUMAIS:** What is your best recollection
24 of that today?

25 **MR. MacDONALD:** Of what today?

1 **MR. DUMAIS:** Pardon me?

2 **MR. MacDONALD:** Of what today?

3 **MR. DUMAIS:** Of whether or not ---

4 **MR. MacDONALD:** When I say it's a big, open
5 room, it would be like saying that this is a big open room.
6 I'm not looking at little dividing walls that are sitting
7 two or three feet off the floor. It's one big, open room.

8 **MR. DUMAIS:** Okay. Now, there's an issue as
9 well, John, at one point in time whether or not the retreat
10 was attended by just boys or boys and girls. Do you recall
11 that question being put to you?

12 **MR. MacDONALD:** Yes, I do.

13 **MR. DUMAIS:** And what's your recollection of
14 that today, whether or not there were boys and girls or
15 just boys?

16 **MR. MacDONALD:** There was girls present too.
17 I remember Dave's sister being -- Dave Silmser's sister
18 being there.

19 **MR. DUMAIS:** But you don't recall David
20 being there?

21 **MR. MacDONALD:** No.

22 **MR. DUMAIS:** But has Dave told you that he
23 believes that he was there during that retreat?

24 **MR. MacDONALD:** You know what? I don't
25 know.

1 **MR. DUMAIS:** You don't know? Fair enough.

2 **THE COMMISSIONER:** We'll be taking the
3 afternoon break soon, so you really want to ---

4 **MR. DUMAIS:** It makes sense, Commissioner.

5 **THE COMMISSIONER:** Now?

6 **MR. DUMAIS:** We can take it now.

7 **THE COMMISSIONER:** Fine. Let's take the
8 afternoon break.

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

11 The hearing will resume at 3:25.

12 --- Upon recessing at 3:11 p.m./

13 L'audience est suspendue à 15h11

14 --- Upon resuming at 3:32 p.m./

15 L'audience est reprise à 15h32

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

18 This hearing of the Cornwall Public Inquiry
19 is now in session.

20 Please be seated. Veuillez vous asseoir.

21 **THE COMMISSIONER:** Mr. Engelmann.

22 --- SUBMISSION RE INTERIM PUBLICATION BAN

23 BY/REPRÉSENTATION SUR ORDONNANCE DE NON PUBLICATION INTÉRIM

24 PAR MR. PETER ENGELMANN :

25 **MR. ENGELMANN:** Good afternoon, Mr.

1 Commissioner, Mr. MacDonald, counsel.

2 I'm just here for a minute, I can assure
3 everyone. And I just wanted to report on the issue of a
4 motion that was brought before you on November 27th by the
5 Diocese of Alexandria-Cornwall, involving a publication ban
6 that they asked you to grant on behalf of one of their
7 employees.

8 I just wanted very briefly to explain
9 background and where we are. As you know, the motion was
10 brought on November 27th. It was dismissed orally at that
11 time with reasons to follow the next day, and reasons were
12 issued on November 28th.

13 Then on Thursday, the matter was before a
14 single judge of the Superior Court sitting as a judge of
15 the Divisional Court, Justice Power. That was on November
16 30th. There was a recusal motion brought by counsel for the
17 Commission at that time and Justice Power recused himself
18 after argument and issued reasons.

19 The matter was then heard by Justice
20 Meranger, a Superior Court Justice sitting as a single
21 judge of the Division Court, and he heard the full judicial
22 review application on Thursday, December 7th. His reasons
23 were issued on Monday, December 11th.

24 During the course of that, Mr. Commissioner,
25 you had issued a temporary publication ban. This dealt

1 with the identity of the employee in question. There were
2 other applications made before you dealing with some of the
3 evidence and a publication ban was, as I understand, issued
4 with respect to some details of portions of exhibits.

5 Sir, on Monday afternoon we were advised by
6 the Diocese that they would be seeking leave or permission
7 of the Court of Appeal to take this yet a step higher.
8 There was some issue as to what Justice Meranger had done
9 with respect to a possible issuance of a temporary ban.

10 In any event, there was a conference call
11 with Justice Meranger this morning, and I'm informed by our
12 counsel, Mr. Gover, that Justice Meranger issued an
13 interim, interim publication ban until tomorrow at 4:00
14 p.m.

15 What had happened was the Diocese had filed
16 their motion for leave with a motion for an interim ban
17 sought as interim relief, and that was to be heard next
18 Tuesday, December 19th.

19 Justice Meranger, as I said, issued an
20 interim, interim ban until tomorrow afternoon at 4:00,
21 suggesting the parties come back before you to argue
22 whether an interim ban should carry on until the 19th.

23 Counsel for the Diocese wrote to the Court
24 of Appeal this morning and asked the Court of Appeal if
25 they could hear their motion for an interim ban before

1 tomorrow at 4:00 and I am informed by our counsel that that
2 has in fact been -- that relief has been granted in the
3 sense that there will now be a conference call at 9:00 a.m.
4 tomorrow morning. Those parties that have been
5 participating or who have participated at one time in this
6 publication ban motion have been notified, and they all
7 know that they have to call in at 8:55 to be ready for a
8 conference call with a Court of Appeal justice tomorrow at
9 9:00.

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

11 **MR. ENGELMANN:** So there is, just for the
12 media, an interim, interim publication ban that was issued
13 by Justice Meranger sitting as a single judge of the
14 Divisional Court until tomorrow at 4:00. That matter will
15 be argued before a Court of Appeal justice by way of a
16 conference call tomorrow.

17 **THE COMMISSIONER:** Great.

18 **MR. ENGELMANN:** And just to finish, I just
19 wanted to advise the parties that the Commission will be
20 taking a position through its counsel and will be opposing
21 a further temporary ban. The request for the temporary ban
22 is until such time as the leave application can be
23 determined or the full appeal can be determined.

24 And I just wanted to advise the parties of
25 all of this at this time. There's no need for you to hear

1 anything, sir, as Justice Meranger has issued an interim,
2 interim ban.

3 **THE COMMISSIONER:** Any idea when the leave
4 to appeal argument will be held?

5 **MR. ENGELMANN:** No. I'm sure that that will
6 be the matter of some discussion before Justice Meranger --
7 sorry, before the Court of Appeal justice on the
8 teleconference tomorrow.

9 **THE COMMISSIONER:** All right. Thank you.
10 Mr. Sherriff-Scott, anything to add?

11 **MR. SHERRIFF-SCOTT:** No, thank you.

12 **THE COMMISSIONER:** Thank you.
13 Mr. Cipriano?

14 **MR. CIPRIANO:** I just wanted to address you
15 with respect to you indicated that you would identify what
16 parts of the document would be ---

17 **THE COMMISSIONER:** Yes.

18 **MR. CIPRIANO:** And my question is will that
19 include details that are transferred into other documents
20 as well?

21 **THE COMMISSIONER:** Mr. Cipriano, you asked
22 and you objected to the introduction of Exhibit 205.

23 **MR. CIPRIANO:** As well as the details of the
24 allegations.

25 **THE COMMISSIONER:** With respect to Exhibit

1 205. You have not brought any -- it is to a point.

2 MR. CIPRIANO: I believe ---

3 THE COMMISSIONER: You sat when Exhibit 206
4 and 207 were introduced. I'm not going to run your case,
5 sir.

6 What do you want with respect to 206 and
7 207?

8 MR. CIPRIANO: I was simply asking whether
9 whatever order you do issue with respect to an interim
10 publication ban was going to follow -- because the details
11 carry over to the other documents as well.

12 THE COMMISSIONER: Nobody asked me. They
13 are public documents, 206 and 207. Nobody got up and said
14 "I object."

15 MR. CIPRIANO: M'hm. And so I'm asking now
16 because you said that you would give your order at the
17 break ---

18 THE COMMISSIONER: M'hm.

19 MR. CIPRIANO: --- as to what details. So
20 I'm asking will they include the details of -- because they
21 get carried over.

22 THE COMMISSIONER: Nobody asked me.

23 MR. CIPRIANO: So I'm asking you now.

24 THE COMMISSIONER: You better be very
25 careful, sir, about the confidentiality relief that you ask

1 for, all right? You only asked me for 205.

2 **MR. CIPRIANO:** Okay.

3 **THE COMMISSIONER:** So you have to be careful
4 and you have to be vigilant. So it would be a simple
5 matter of getting up and saying "Your Honour, you know, 205
6 and 206 are pretty well the same thing. Can I object? And
7 I want my same objections to carry on to those documents."

8 **MR. CIPRIANO:** Okay. No, I apologize for
9 that. I just -- I meant to do that at the beginning
10 because I did say that the allegations were read over into
11 the other documents as well.

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

13 **MR. CIPRIANO:** And so I apologize if I
14 miscommunicated.

15 **THE COMMISSIONER:** No, no, you don't have to
16 apologize to me. But if someone were to call my office at
17 the break and say "Is there a publication ban on anything
18 in Exhibit 207?" I think people would have said "Nope."

19 **MR. CIPRIANO:** Okay.

20 **THE COMMISSIONER:** Then that would have
21 defeated the whole purpose of -- your whole argument,
22 wouldn't it?

23 **MR. CIPRIANO:** No, I agree.

24 **THE COMMISSIONER:** Okay. So what I'm going
25 to do is -- what's more important here is that we get on

1 with the evidence, and so we'll deal with these technical
2 matters at the end of the day when the witnesses are gone
3 and we have the luxury of time.

4 **MR. CIPRIANO:** Okay. Thank you.

5 **THE COMMISSIONER:** Mr. MacDonald.

6 In fact, I think what we're going to have to
7 do at the end of the day is go into -- well, I'm going to
8 throw it out to people. I think we almost have to go into
9 an in camera session for me to outline what I am prepared
10 to impose the publication ban on, because otherwise -- I'm
11 thinking out loud now. Unless we just disconnect the web
12 because I can say it publicly and it can go on -- no, the
13 transcript -- there would be a problem with the transcript
14 going onto the web then -- to our website.

15 **MR. DUMAIS:** Correct, Commissioner. We
16 should go, out of an abundance of caution, in an in camera
17 session. That way, we'd have an actual record and we have
18 a process for the filing of that transcript.

19 **THE COMMISSIONER:** Okay. We'll do that at -
20 - we'll break at twenty after 4:00 so we can go back into
21 in camera and then I'll render my decision in camera.

22 **JOHN MACDONALD, Resumed/Sous le même serment:**

23 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
24 **PIERRE DUMAIS (cont'd/suite)**

25 **MR. DUMAIS:** All right. Perfect. Thank

1 you.

2 John, I was just going through your
3 statement on September 28th. Taking you to page now
4 1049641, first paragraph towards the end of the page, and
5 that's -- sorry. Just a little higher. All right. Now,
6 I'm looking at the last sentence of this paragraph. I'll
7 read it out for you.

8 "I'd ask you, but I'm not telling you
9 not to speak to the press, but if you
10 do, it does cause us some difficulty in
11 the investigation."

12 So that's Detective Inspector Tim Smith
13 speaking to you.

14 So do you recall that he told you that,
15 John?

16 **MR. MacDONALD:** Yes.

17 **MR. DUMAIS:** All right.

18 And is it fair to say that at that time you
19 had no intention of speaking to the press for any reason?

20 **MR. MacDONALD:** No.

21 **MR. DUMAIS:** And is it fair to say that you
22 did have some involvement with the press following your
23 statement on that day?

24 **MR. MacDONALD:** Yes.

25 **MR. DUMAIS:** So one of those involvements

1 that I want to discuss with you is a gentleman by the name
2 of Charlie Greenwell. Can you tell us how you first became
3 involved with Mr. Greenwell and what was the extent of your
4 involvement?

5 **MR. MacDONALD:** I can't remember.

6 **MR. DUMAIS:** You don't recall ---

7 **MR. MacDONALD:** One phone call anyway.

8 **MR. DUMAIS:** So Mr. Greenwell would have
9 given you a call?

10 **MR. MacDONALD:** I can't recall.

11 **MR. DUMAIS:** All right.

12 And you don't recall any of the
13 conversation, whether or not he was asking you about a
14 statement you had given or details of the allegations or
15 whether or not ---

16 **MR. MacDONALD:** No details of the
17 allegations. It wasn't a long phone call.

18 **MR. DUMAIS:** Do you recall if he had in his
19 possession at that time a copy of either your
20 correspondence to Father Maloney or one of the two
21 statements ---

22 **MR. MacDONALD:** I don't know.

23 **MR. DUMAIS:** And you don't recall either,
24 John, having been advised that anyone would have provided
25 Charlie with a copy of one of those statements?

1 **MR. MacDONALD:** I don't know.

2 **MR. DUMAIS:** Now, the two investigators
3 towards the end of your statement do get into a certain
4 extent the follow-ups that they intended to do, and they do
5 explain that to you to a certain extent. Do you recall how
6 you left that meeting, hat was said, what was to be the
7 follow-up, whether or not you were to come back at a
8 subsequent day?

9 **MR. MacDONALD:** No.

10 **MR. DUMAIS:** Do you recall at all any
11 mention as to whether or not charges would be laid, whether
12 you'd be advised of that, whether they would be contacting
13 you?

14 **MR. MacDONALD:** I don't remember.

15 **MR. DUMAIS:** Do you remember your next
16 involvement with either of those two OPP investigators?

17 **MR. MacDONALD:** Without looking at my notes
18 again?

19 **THE COMMISSIONER:** No, you go ahead and
20 read.

21 Is there a problem with him reviewing his
22 notes?

23 **MR. DUMAIS:** There isn't, Commissioner.

24 **THE COMMISSIONER:** Go ahead, sir.

25 **MR. MacDONALD:** There was a couple of calls.

1 I see one on October 5th that I called Tim Smith and left a
2 message for him to call back. "Heard through Dave and
3 Carson that Father MacDonald was leaving the country and
4 wanted to make Smith aware of the situation. October 11th,
5 called Tim Smith and left another message for him to call
6 back. Later on, on October 11th, Tim Smith called back and
7 said that he can't stop him" -- meaning Charles MacDonald -
8 - "that people always come home. Said that he's waiting
9 for the transcripts of our interview before proceeding."
10 And further on in that same "I told him that I would be
11 speaking with my parents and that it would leave the door
12 open for him to do what he has to do."

13 **MR. DUMAIS:** So just at the beginning of
14 this notation, John, you mentioned David Carson. And I'm
15 not sure if you had meant or wrote down that actual name.

16 **MR. MacDONALD:** I've got the names here.

17 **MR. DUMAIS:** Can you just review that?

18 **MR. MacDONALD:** "On October 5th called Tim
19 smith and left a message for him to call back. Heard
20 through Dave and Carson that Father MacDonald was leaving
21 the country."

22 **MR. DUMAIS:** All right.

23 So you heard it through both?

24 **MR. MacDONALD:** Yes.

25 **MR. DUMAIS:** All right.

1 Now, right at -- shortly after that
2 statement was given, John, I understand that you were
3 introduced to a gentleman by the name of Perry Dunlop. Is
4 that correct?

5 **MR. MacDONALD:** That is correct.

6 **MR. DUMAIS:** And do you recall on what date
7 or did you put that down in your notes?

8 **MR. MacDONALD:** I don't see it in my notes.
9 And this is where a whole other thing is going to be -- I
10 have a booklet of press clippings. It's written in that
11 date -- it's written in that book as to when I met him.

12 **MR. DUMAIS:** What's your best recollection?

13 **MR. MacDONALD:** October 11th.

14 **MR. DUMAIS:** All right.

15 And where did that meeting occur?

16 **MR. MacDONALD:** At Perry's place.

17 **MR. DUMAIS:** So he invited you over, gave
18 you a call?

19 **MR. MacDONALD:** I don't know. Don't know
20 how the -- don't know what the initiation was.

21 **MR. DUMAIS:** Okay.

22 **MR. MacDONALD:** But ended up here.

23 **MR. DUMAIS:** Do you recall who was there?

24 **MR. MacDONALD:** Perry.

25 **MR. DUMAIS:** So you didn't -- Carson wasn't

1 there? He didn't go with you?

2 **MR. MacDONALD:** No.

3 **MR. DUMAIS:** All right.

4 Do you recall the conversation on that day?

5 **MR. MacDONALD:** Not really.

6 **MR. DUMAIS:** Had you spoken to Perry
7 previously?

8 **MR. MacDONALD:** No.

9 **MR. DUMAIS:** Okay. So that was the first
10 meeting and first conversation?

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

12 **MR. DUMAIS:** And did you know Perry from
13 growing up here in Cornwall?

14 **MR. MacDONALD:** No.

15 **MR. DUMAIS:** So first time?

16 **MR. MacDONALD:** Yes.

17 **MR. DUMAIS:** And did you have any subsequent
18 dealings with Perry afterwards?

19 **MR. MacDONALD:** Plenty.

20 **MR. DUMAIS:** All right.

21 So you had a number of conversations with
22 him, a number of meetings?

23 **MR. MacDONALD:** Yes.

24 **MR. DUMAIS:** What were you discussing when
25 you were in a meeting with him? I mean, if we can deal

1 more specifically with your criminal charges, what were the
2 discussions you were having with him with respect to that?

3 **MR. MacDONALD:** When?

4 **MR. DUMAIS:** At some of these subsequent
5 meetings. Anytime from October 11th.

6 **MR. MacDONALD:** More or less just discussing
7 what was going on.

8 **MR. DUMAIS:** And was he providing any advice
9 to you on those criminal proceedings? Just a general
10 discussion between ---

11 **MR. MacDONALD:** That's all. Just what was
12 happening.

13 **MR. DUMAIS:** All right.

14 What about any discussions you would have
15 had with respect to civil proceedings?

16 **MR. MacDONALD:** None.

17 **MR. DUMAIS:** All right.

18 So he is not involved in your civil
19 proceeding?

20 **MR. MacDONALD:** Involved in my civil
21 proceedings?

22 **MR. DUMAIS:** Or involved in the civil
23 proceedings at the time?

24 **MR. MacDONALD:** No.

25 **MR. DUMAIS:** Any civil proceedings that

1 involved you?

2 **MR. MacDONALD:** No.

3 **MR. DUMAIS:** All right. Did he provide any
4 advice, with respect to your civil proceeding?

5 **MR. MacDONALD:** No.

6 **MR. DUMAIS:** What about Mr. Chisholm's
7 involvement in your civil proceeding?

8 **MR. MacDONALD:** None.

9 **MR. DUMAIS:** So, would it be fair to say
10 that you were dealing with that on your own?

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

12 **MR. DUMAIS:** All right. Following this
13 meeting with Mr. Dunlop, presumably on October 11th, 1995,
14 you wrote a number of correspondence John, and I just would
15 like for us to go through some of this correspondence. So,
16 the first one I want to refer to, is one that's dated
17 October 24th, 1995 and that's doc. number 737943.

18 **THE COMMISSIONER:** Just a moment there.

19 **MR. DUMAIS:** And actually Commissioner,
20 that's a larger document that contains various pieces of
21 correspondence so I'm going to refer Madam Clerk to a
22 specific Bates page number ---

23 **THE COMMISSIONER:** First of all, we've got
24 to get the hard copy, marked as an exhibit.

25 **MR. DUMAIS:** All right.

1 (SHORT PAUSE/COURTE PAUSE)

2 MR. DUMAIS: The specific Bates page number
3 I'm referring to is 7160687.

4 (SHORT PAUSE/COURTE PAUSE)

5 THE COMMISSIONER: Mr. Dumais?

6 MR. DUMAIS: I don't know if that helps you,
7 but it would be at Tab 13, so the doc. number is 737943 and
8 the actual page would be 7160687. I'll move to another
9 document, Commissioner, I'm advised that perhaps we have
10 not flagged that document, so I'm just ---

11 THE COMMISSIONER: Okay.

12 MR. DUMAIS: I'll get back to that matter.
13 Then, if we can look at and, again I'm referring to 737943
14 and that's the larger exhibit number, so the Bates page
15 number would be 7160726.

16 THE COMMISSIONER: Okay, so that will be
17 Exhibit Number 208 and that's a letter dated November 1st,
18 1995 from Mr. Cleary, MPP to Mr. John MacDonald.

19 ---EXHIBIT NO./PIÈCE NO P-208:

20 (737943) Letter - John C. Cleary to
21 John MacDonald - November 1, 1995.

22 MR. DUMAIS: Thank you. So, if you can just
23 have a look at that letter, John. It would be a letter
24 that followed your visit to his office on October 20th,
25 1995?

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

2 **MR. DUMAIS:** And what was that meeting
3 about, John?

4 **MR. MacDONALD:** Malcolm MacDonald, walking
5 away with an absolute discharge for obstruction of justice
6 charges.

7 **MR. DUMAIS:** All right. And, what concern
8 did you express to Mr. Cleary, at that meeting?

9 **MR. MacDONALD:** That I didn't think it was
10 right.

11 **MR. DUMAIS:** What was your position on it?

12 **MR. MacDONALD:** That I didn't think it was
13 right.

14 **MR. DUMAIS:** Did you just leave it at that
15 or did you go into further details?

16 **MR. MacDONALD:** Now, we'd have to go back to
17 that letter, right? That you both were trying to find
18 earlier.

19 **MR. DUMAIS:** Right, fair enough. We can get
20 back to that. I'm just trying to be of assistance here.
21 I'm going to be referring to some 14 or 15 letters,
22 Commissioner, I'm wondering whether or not we should just
23 deal with all of them at the same time, enter all of them
24 rather than having Madam Clerk run around.

25 **THE COMMISSIONER:** Are there any issues of

1 confidentiality, in these letters?

2 **MR. DUMAIS:** I don't expect there is,
3 Commissioner, there're essentially correspondence between
4 John and various members of various institutions.

5 **THE COMMISSIONER:** So Madam, have you
6 identified them?

7 **MR. DUMAIS:** So the next one would be
8 7160725.

9 **THE COMMISSIONER:** Exhibit number 207 ---

10 **THE REGISTRAR:** 209.

11 **THE COMMISSIONER:** I am sorry, 209, right,
12 thank you.

13 It's a letter from Mr. Cleary, MPP to the
14 Honourable Charles Harnick.

15 **---EXHIBIT NO./PIÈCE NO P-209:**

16 (737943) Letter - John C. Cleary to The
17 Hon. Charles Harnick - November 1, 1995.

18 **MR. SHERRIFF-SCOTT:** Sorry Commissioner, I
19 didn't hear the Bates page number.

20 **MR. DUMAIS:** 7160725

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

22 **MR. DUMAIS:** And 7160724.

23 **THE COMMISSIONER:** 210 is a letter from John
24 MacDonald addressed to Tony Repa, Cornwall Police Chief,
25 dated January 11th, best we can do about that for the year.

1 **---EXHIBIT NO./PIÈCE NO P-210:**

2 (737943) Letter - John MacDonald to Mr.
3 Tony Repa - January 11th (no year).

4 **MR. DUMAIS:** And the next one would be Bates
5 page number 7160721.

6 **THE COMMISSIONER:** Exhibit number 211 is a
7 letter from John Cleary to Mr. John MacDonald, January 22nd,
8 1996.

9 **---EXHIBIT NO./PIÈCE NO P-211:**

10 (737943) Letter - John C. Cleary to John
11 MacDonald - January 22, 1996.

12 **MR. DUMAIS:** Then 7160719.

13 **THE COMMISSIONER:** Is that Exhibit 212?
14 It's a two-page letter from Deputy Chief St. Denis to Mr.
15 John MacDonald, dated January 24th, 1996.

16 **---EXHIBIT NO./PIÈCE NO P-212:**

17 (737943) Letter - Joseph G. St. Denis to
18 John MacDonald - January 24, 1996.

19 **MR. DUMAIS:** And 7160718.

20 **THE COMMISSIONER:** 213 is a letter from Mr.
21 MacDonald to Peter Griffiths, dated January 8th, 199 -
22 there's no last digit from Mr. MacDonald to Peter
23 Griffiths, Regional Director of Crown Attorneys.

24 **---EXHIBIT NO./PIÈCE NO P-213:**

25 **MR. DUMAIS:** And 7160717.

1 **THE COMMISSIONER:** Great, that will be
2 Exhibit Number 214, it's a letter, I don't know who from,
3 addressed to Mr. Cleary and John MacDonald, dated February
4 1st, and the year is not indicated. So who's that from Mr.
5 -- any idea?

6 **---EXHIBIT NO./PIÈCE NO P-214:**

7 (737943) Letter - John MacDonald to John
8 Cleary - February 1.

9 **MR. DUMAIS:** I believe that's Mr.
10 MacDonald's signature, Commissioner, but I'll certainly put
11 it to him.

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

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

14 **THE COMMISSIONER:** Okay right, thank you.

15 **MR. DUMAIS:** Then 7160715.

16 **THE COMMISSIONER:** Exhibit 215 again is a
17 letter from Mr. MacDonald addressed to Chief Repa and the
18 date, I'm having trouble with the dates, everything either
19 the last digit is cut off or the date is cut off from the
20 top.

21 It looks like February 0-something, 1996, I
22 would guess. No, I don't know the date, but in any event,
23 that's the letter.

24 **---EXHIBIT NO./PIÈCE NO P-215:**

25 (737943) Letter - John MacDonald to Chief A.

1 Repa - February 7, 1996.

2 **MR. CALLAGHAN:** Having your assistance,
3 perhaps I can put that to Mr. MacDonald.

4 **THE COMMISSIONER:** Sorry about that Peter.

5 **MR. CALLAGHAN:** I was just looking at
6 7160715, and we're having difficulty reading the date in
7 the top right hand.

8 **MR. MacDONALD:** And you're asking me to make
9 it out for you? If you're having a difficult time reading
10 it? I don't know.

11 **MR. DUMAIS:** February the 7th, 1996, I'm
12 advised by Mr. Spice. And 7160712 ---

13 **THE COMMISSIONER:** So that's 216? 216 is a
14 letter from MPP Cleary to Mr. John MacDonald, dated
15 February 20th, 1996.

16 **---EXHIBIT NO./PIÈCE NO P-216:**

17 (737943) Letter - John C. Cleary to John
18 MacDonald - February 20, 1996

19 **MR. DUMAIS:** Seven one six zero seven eleven
20 (7160711).

21 **THE COMMISSIONER:** Two-one-seven (217) - a
22 letter from Mr. Cleary, MPP to the Honourable Charles
23 Harnick, dated February 20th, 1996. Again, 217.

24 **---EXHIBIT NO./PIÈCE NO P-217:**

25 (737943) Letter - John C. Cleary to The Hon.

1 Charles Harnick - February 20, 1996

2 **MR. DUMAIS:** Then 7166079.

3 **REGISTRAR:** The number again?

4 **MR. DUMAIS:** Seven one six zero seven nine
5 (716079).

6 **REGISTRAR:** Zero seven nine (079)?

7 **MR. DUMAIS:** Correct, 7160709.

8 **THE COMMISSIONER:** Two eighteen (218), a
9 letter from Constable Burnie to Mr. MacDonald dated April
10 26th, 1986.

11 **---EXHIBIT NO./PIÈCE NO P-218:**

12 (737943) Letter - Constable J.R. Burnie to
13 John MacDonald - April 26, 1996

14 **MR. DUMAIS:** And 7160708, sorry. It's a
15 test Madam Clerk.

16 **(Laughter/Rires)**

17 **THE COMMISSIONER:** Yeah, introduction by
18 fire.

19 Two nineteen (219) is the letter from Mr.
20 Cleary, MPP to the Honourable Charles Harnick, dated April
21 25th, 1996.

22 **---EXHIBIT NO./PIÈCE NO P-219:**

23 (737943) Letter - John C. Cleary to The Hon.
24 Charles Harnick - April 25, 1996

25 **MR. DUMAIS:** And 7160707.

1 **THE COMMISSIONER:** Hold it, hold it there

2 Mr. -

3 **MR. DUMAIS:** Sorry.

4 **THE COMMISSIONER:** Two twenty (220) is a
5 letter dated April 25th, 1996 from Mr. Cleary, MPP to Mr.
6 John MacDonald.

7 **---EXHIBIT NO./PIÈCE NO P-220:**

8 (737943) Letter - John C. Cleary to John
9 MacDonald - April 25, 1996

10 **MR. DUMAIS:** So, if we can start with
11 Exhibit 209, John. And I'm wondering whether or not, he
12 had ever been copied on that correspondence. It's of
13 course, correspondence from Mr. Cleary to The Honourable
14 Charles Harnick.

15 **MR. MacDONALD:** Say that again?

16 **MR. DUMAIS:** Were you ever copied on that
17 correspondence?

18 **MR. MacDONALD:** Copied?

19 **THE COMMISSIONER:** Sent a copy of? Was a
20 copy given to you?

21 **MR. MacDONALD:** I'm sure it was.

22 **MR. DUMAIS:** So whenever Mr. Cleary was
23 having any correspondence with any officials, involving
24 your matters, you were being sent a copy of this?

25 **MR. MacDONALD:** I hope so.

1 **THE COMMISSIONER:** Well, if you look --
2 Exhibit 219 is the letter from Mr. Cleary to The Honourable
3 Charles Harnick and he's got the CC's at the bottom; Mr.
4 Peter Griffiths -- that doesn't mean that Mr. MacDonald
5 would have necessarily received it, but it is an indication
6 that it was happening.

7 **MR. DUMAIS:** And, was that as a result again
8 of the objection you took to the sentencing on the Malcolm
9 MacDonald matter?

10 **MR. MacDONALD:** Yes, that's correct.

11 **MR. DUMAIS:** All right.

12 **THE COMMISSIONER:** I know, Mr. Dumais, that
13 you'd like to pursue the matter further, but we need to
14 close down very shortly, so you might want to wrap up at a
15 convenient time, so that we can go into an in camera
16 session and deal with Father MacDonald's interim ---

17 **MR. DUMAIS:** Actually, this is as a good a
18 time as any, Commissioner.

19 **THE COMMISSIONER:** Thank you. So what we're
20 going to do is close off the web for today and close off
21 your testimony today. Members of the public, of course,
22 are welcome to stay, while I deal with the matter that will
23 be part of an interim publication ban, pending the
24 information we get from Father Charles MacDonald, as to
25 whether or not he wished to appeal my decision of this

1 afternoon and so, we'll close down for 15 minutes. As soon
2 as the web can be closed down, we'll reconvene, I'll deal
3 with the issue and then we can go home. Thank you.

4 **MR. DUMAIS:** Should we advise Mr. MacDonald
5 to return.

6 **THE COMMISSIONER:** Mr. MacDonald, could you
7 return for - we'll start tomorrow morning at 9:30, so if
8 you require him a little earlier, that's up to you.

9 All right, thank you.

10 Thank you Mr. MacDonald.

11 **REGISTRAR:** All rise. This hearing is now
12 adjourned for an in camera session in 15 minutes.

13 --- Upon recessing at 4:13 p.m. to resume
14 in camera/

15 --- L'audience est suspendue à 16h13 pour reprendre
16 à huis-clos

17

18

19

20

21

22

23

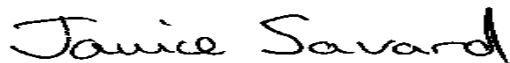
24

25

C E R T I F I C A T I O N

1
2
3 I, Jamie Savard a certified court reporter in the Province
4 of Ontario, hereby certify the foregoing pages to be an
5 accurate transcription of my notes/records to the best of
6 my skill and ability, and I so swear.

7
8 Je, Jamie Savard, un sténographe officiel dans la province
9 de l'Ontario, certifie que les pages ci-hautes sont une
10 transcription conforme de mes notes/enregistrements au
11 meilleur de mes capacités, et je le jure.

12
13 

14 _____
15 Jamie Savard, CR
16
17
18
19
20
21
22
23
24
25