

**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 88

Held at :

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

Thursday, February 01, 2007

Tenue à:

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

Jeudi, le 1 février 2007

ERRATA

January 30, 2007

Volume 86

TRANSCRIPT

Page 201, line 16

MR. ENGELMANN: Okay.

The first time you were interviewed by
Children's Aid, that was with Mr. Bough and Ms. DeBellis?

Should have read:

MR. ENGELMANN: Okay.

The first time you were interviewed by
Children's Aid, that was with Mr. **Bell** and Ms. DeBellis?

Page 202, Line 18

MR. ENGELMANN: All right.

The other individuals you dealt with from
Children's Aid, Mr. Bough, Ms. DeBellis?

Should have read:

MR. ENGELMANN: All right.

The other individuals you dealt with from
Children's Aid, Mr. **Bell**, Ms. DeBellis?

Page 203, line 3

MR. ENGELMANN: There we some letters that were
signed by Mr. Bough, Ms. DeBellis and Mr. Carriere who I
think was their supervisor.

Should have read:

MR. ENGELMANN: There we some letters that were
signed by Mr. **Bell**, Ms. DeBellis and Mr. Carriere who I
think was their supervisor.

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Louise Mongeon	Registrar
Mr. John E. Callaghan Mr. Mark Crane	Cornwall Police Service Board
Mr. Neil Kozloff Ms. Diane Lahaie	Ontario Provincial Police
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Tilton Donihee	The Children's Aid Society of the United Counties
Mr. Peter Wardle Mr. Steven Canto	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Dominic Lamb	The Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Ms. Jennifer Birrell	Catholic District School Board
Mr. Clint Culic	Mr. David Silmser

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1 --- Upon commencing at 9:38 a.m./

2 L'audience débute à 9h38

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 **DAVID SILMSER, Resumed/Sous affirmation solennelle:**

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

11 **MR. SILMSER:** Good morning.

12 **THE COMMISSIONER:** Good morning, sir.

13 How are you doing today?

14 **MR. SILMSER:** Good.

15 Thank you.

16 **THE COMMISSIONER:** Good.

17 You understand you are still under oath?

18 **MR. SILMSER:** Yes, I do.

19 **THE COMMISSIONER:** All right.

20 Mr. Engelmann?

21 **MR. ENGELMANN:** Mr. Commissioner, I just
22 wanted a minute before Mr. Lee continues with his cross-
23 examination. Yesterday, we discussed the issue of errata
24 with our ---

25 **THE COMMISSIONER:** Right.

1 **MR. ENGELMANN:** --- court reporters, and the
2 inside cover of the January 31st transcript now has errata
3 from the January 30th transcript. There have been some
4 changes made to the January 30th transcript, page 15, line
5 7. I am not going to do this every day but I just want to
6 give the example.

7 **THE COMMISSIONER:** Yes.

8 **MR. ENGELMANN:** I had asked a question and
9 it was written:

10 "Can you describe the 'beating'
11 generally and, in particular, I am
12 interested in: Was there someone
13 leading the discussion at the meeting?"

14 And it should have read:

15 "Can you describe the 'meeting'..."

16 **THE COMMISSIONER:** Okay.

17 **MR. ENGELMANN:** Okay.

18 And then, as well, the comment we talked
19 about yesterday as to whether it was your comment or Mr.
20 Silmser's comment, it was in fact Mr. Silmser's comment.

21 **THE COMMISSIONER:** All right.

22 **MR. ENGELMANN:** And that's at page 179,
23 line 17.

24 And there was one other one that was caught
25 at page 193, line 4, and that was just a name that was

1 incorrect. The errata are in the transcript for today; the
2 court reporters have done that and will continue to do
3 that.

4 I am advised by Mr. Carriere, who is our
5 local keener in reading transcript from the CAS, that there
6 were three other mistakes in the transcript where Mr.
7 Silmsers or I had talked about Greg Bell and the transcript
8 had read 'Bough', and, of course, that's the other fellow
9 from the Cornwall police.

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

11 **MR. ENGELMANN:** And that's on page 201, line
12 16, page 202, line 18 and page 203, line 3. All of those
13 records they should say Bell not Bough.

14 **THE COMMISSIONER:** Okay.

15 **MR. ENGELMANN:** Those are just a few errata.

16 **THE COMMISSIONER:** Thank you.

17 **MR. ENGELMANN:** I don't think I introduced
18 someone yesterday, and I apologize to him for that, it's
19 Tilton Donihee who's here and he is the lawyer for the
20 Children's Aid Society.

21 **THE COMMISSIONER:** Good morning, sir.

22 **MR. ENGELMANN:** He is here in place of Mr.
23 Chisholm.

24 **THE COMMISSIONER:** All right.

1 **MR. ENGELMANN:** That's all I had, and I
2 understand Mr. Lee is still asking Mr. Silmsers questions.

3 **THE COMMISSIONER:** Thank you.

4 **MR. ENGELMANN:** Okay.

5 **MR. SILMSER:** Good morning.

6 **THE COMMISSIONER:** Mr. Lee.

7 **MR. LEE:** Good morning, Mr. Commissioner.

8 **THE COMMISSIONER:** Good morning, sir.

9 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. LEE**

10 **(Cont'd/suite):**

11 **MR. LEE:** Good morning, Mr. Silmsers.

12 **MR. SILMSER:** Good morning.

13 **MR. LEE:** I just have a few more questions
14 for you.

15 **MR. SILMSER:** Okay.

16 **MR. LEE:** I think where we left off
17 yesterday, we were discussing the OPP document I had shown
18 you from October of 2000. I have no more questions on
19 that. I'd like to move on.

20 You understand that, eventually, charges
21 were laid against Father MacDonald.

22 **MR. SILMSER:** Yes, they were.

23 **MR. LEE:** In relation to you and then, as
24 matters progressed eventually, other charges followed in
25 relation to other persons.

1 Is that correct?

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

3 **MR. LEE:** And once those charges were laid,
4 you began dealing with the Crown Attorney rather than the
5 police.

6 Is that correct?

7 **MR. SILMSER:** Yes.

8 **MR. LEE:** And we've looked a little bit at
9 the relationship, I suppose, that you had with Mr.
10 Pelletier at the time.

11 And, would you agree with me, I think at
12 times it would be fair to describe that as adversarial?

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

14 **MR. LEE:** I'd like to show you one
15 particular document that I am interested in; it's Document
16 109253. I'll wait for the clerk to get that to you, but I
17 can just tell you that it appears to be a memorandum dated
18 July 19th of '96, to Bob, being Bob Pelletier, from Mireille
19 who, I assume, was his assistant or secretary at the time.

20 **THE COMMISSIONER:** Exhibit number 303 then.

21 **---EXHIBIT NO./PIÈCE NO P-303:**

22 Memo from Mireille to Bob - July 19, 1996 -
23 Re Father MacDonald.

24 **MR. LEE:** Thank you.

1 And it's rather short. I'm just going to
2 read it aloud in the record:

3 "Received a second call from Mr.
4 Silmsers at 11:30 a.m.; wanted to leave
5 the message that another victim has
6 been located by a private investigator.
7 I asked him if the police were made
8 aware of this and he said they did not.
9 I explained that that that was the
10 procedure. I again stated that the
11 private investigator had a four and a
12 half hour statement from this
13 individual. I explained that if he had
14 any other comments, he should go
15 through his lawyer. He became very
16 angry and said that he would not as it
17 costs him money each time and that he
18 would continue to call this office and
19 that if we didn't like it, there would
20 be a public inquiry at the end of the
21 day. I thanked him for these comments
22 and hung up."

23 **THE COMMISSIONER:** And here we are.

24 **(LAUGHTER/RIRES)**

25 **MR. LEE:** Here we are.

1 The first issue I suppose is again you're
2 being told "Stop calling here; go through you lawyer."

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

4 **MR. LEE:** And you explained to us yesterday
5 the problem with that is that every time you call the
6 lawyer, he sends a bill.

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

8 **MR. LEE:** And I think part of your
9 recommendations were that, you know, if you can't call the
10 Crown, the Crown refusing to deal with you, at the very
11 least give me somebody to talk to who is not going to cost
12 me any money.

13 Is that correct?

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

15 **MR. LEE:** As I think, we all realized, as I
16 was reading that, what I am really interested here is your
17 comment that there would be a public inquiry at the end of
18 the day. And the reason I am interested is this is 1996;
19 this is, you know, 10 years ago ---

20 **MR. SILMSER:** That's right.

21 **MR. LEE:** --- and this is -- I mean, and I
22 don't say this lightly at all, but comparatively to what we
23 know now, it's pretty early in the process. It's three
24 years in compared to the 10 years that you ended up dealing
25 with this.

1 **MR. SILMSER:** It's very early for some
2 people, but it wasn't early for me.

3 **MR. LEE:** There was a lot of frustration by
4 this point.

5 **MR. SILMSER:** Not only frustration! There
6 is a lot of agencies; there is a lot of police. There is
7 so much I had gone through to that point, it was
8 unbelievable.

9 This is, you know, you might say it was
10 early, maybe with the information getting out there and
11 what was going on, but I think -- I don't know how many
12 years.

13 Was it four years; four years I was involved
14 with this.

15 **MR. LEE:** Ninety-two ('92) was when your
16 allegations first came on the scene.

17 **MR. SILMSER:** I think it is.

18 So it was four years I was involved with
19 this and in those four years -- there is so much I went
20 through in those four years. This is right in the middle
21 of it for me.

22 **MR. LEE:** And by this time I think the whole
23 of your evidence, would you agree that it's your opinion,
24 at this time, in '96, that things haven't been handled
25 properly?

1 **MR. SILMSER:** Pardon me?

2 **MR. LEE:** Things hadn't been handled
3 properly up until this time.

4 **MR. SILMSER:** That's 100 per cent correct.

5 **MR. LEE:** And part of your reaction to this,
6 it appears from this memorandum, is a recognition that it's
7 gone bad enough that a public inquiry might be in the
8 offing.

9 Is that correct?

10 **MR. SILMSER:** Well I saw the problems back
11 then, that things weren't done right. Period! And I don't
12 know where I came up with the public inquiry. I didn't
13 even think -- but ---

14 Actually, I think in the news at that time,
15 there was a public inquiry about something. And I thought,
16 well, that would be a good idea to have a public inquiry of
17 what I've gone through for the last four years.

18 Because of all the -- I considered a
19 covering up; not laying charges when they should have been
20 laid; how I was treated through the whole process in the
21 four years; how the Catholic Church ignored me in this.

22 There were so many things that went on that
23 I thought the only way, probably, to get the truth out
24 would be through a public inquiry, and here we are.

25 **MR. LEE:** Here we are.

1 I'd like to move to another area. Yesterday
2 -- I believe it was yesterday; it could have been the day
3 before -- during your examination-in-chief by Mr.
4 Engelmann, there was a brief discussion of your dealings
5 with Canada Manpower.

6 Do you recall that?

7 **MR. SILMSER:** Yes.

8 **MR. LEE:** And you had some dealings with
9 that agency while you were on probation.

10 Is that correct?

11 **MR. SILMSER:** The Manpower?

12 **MR. LEE:** Yes.

13 **MR. SILMSER:** I believe I had a meeting with
14 the Manpower, but I can't remember.

15 **MR. LEE:** And I believe you told Mr.
16 Engelmann that, off the top of your head, you don't recall
17 who that meeting would have been with.

18 **MR. SILMSER:** That's right.

19 **MR. LEE:** Does the name Richard Hickerson
20 mean anything to you in relation to Canada Manpower?

21 **MR. SILMSER:** No, it doesn't.

22 **MR. LEE:** You don't recall having a meeting
23 with a man by that name?

24 **MR. SILMSER:** I'm not saying I didn't. It
25 just doesn't ring a bell right now with me.

1 **MR. LEE:** Do you recall how you came to know
2 of Canada Manpower?

3 Were you referred by somebody?

4 **MR. SILMSER:** Ken Seguin.

5 **MR. LEE:** Ken Seguin referred you, as you
6 probation officer?

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

8 **MR. LEE:** Now, one of the important issues
9 that we're dealing with at this Inquiry, and it is
10 important in relation to your evidence, is there have been
11 suggestions before this Inquiry, and there will be
12 suggestions at this Inquiry, that some of the problems with
13 charges being laid and with prosecutions stem from the
14 suggestion that victims in this community met together,
15 conspired together and got their story straight if you
16 will. That victims in this community, at times, made sure
17 they were on the same page before going to the police.

18 You've told us a couple of times now, that
19 you have never met with another victim of abuse and
20 discussed the details of your abuse.

21 Is that correct?

22 **MR. SILMSER:** That's correct. But I don't
23 know who says said that.

24 Has the police agency said that?

1 **MR. LEE:** I can tell you that there will be
2 suggestions at this Inquiry that ---

3 **MR. SILMSER:** If anybody suggests something
4 like that, they better give their head a shake.

5 **MR. LEE:** My question is have you ever met
6 with a victim of abuse and gone into the details of your
7 abuse?

8 **MR. SILMSER:** Absolutely not!

9 **MR. LEE:** Have you ever met with a victim of
10 abuse and gone into the details of his abuse, whoever that
11 victim might have been?

12 **MR. SILMSER:** Absolutely not!

13 **MR. LEE:** At the end of the day, there were
14 criminal charges laid against Father Charles MacDonald in
15 relation to nine complainants, including yourself; you were
16 one of the nine.

17 **MR. SILMSER:** Okay.

18 **MR. LEE:** Did you ever sit down with any of
19 those other eight complainants to, as I say, get your
20 stories straight?

21 **MR. SILMSER:** Never.

22 **MR. LEE:** You have spoken to other victims
23 of abuse though.

24 **MR. SILMSER:** Yes, I have.

1 **MR. LEE:** And we all know now because John
2 MacDonald has been here, that you have a friendship with
3 John MacDonald, and you've spoke with John MacDonald
4 through the years.

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

6 **MR. LEE:** If you're not discussing details
7 of abuse with John MacDonald, what kind of things are you
8 discussing?

9 **MR. SILMSER:** Just the frustrations we have;
10 like day-to-day frustrations. Sometimes we don't discuss
11 anything about what is going on. We discuss maybe news
12 articles that have been out there, back in the past, we --
13 lately, every second night or every third night, my wife
14 and John, we go to Tim Horton's doughnuts, in Prescott and
15 we have a coffee. Once a week or once every two weeks,
16 John and I will play pool, in Brockville, for an hour or
17 so.

18 The friendship is basically a support type
19 of thing. We don't have to discuss what's going on because
20 we know just by the way -- even like the way the person
21 looks. I can tell when John's angry or frustrated because
22 he's nervous, he's on edge. It's hard to explain unless
23 you're a victim of sexual abuse how you understand how
24 other people are feeling when they're in this situation.

1 **MR. LEE:** And there is something to that,
2 isn't there, being with another victim who understands?

3 **MR. SILMSER:** Oh! Definitely!

4 You don't have to talk about it when they
5 understand. You don't have to talk about situations
6 because you know automatically and understand how you're
7 feeling. So that's one of the things about a back-up. You
8 don't have to talk about this thing all the time. You
9 don't have to go into any detail whatsoever.

10 Like John MacDonald went to the Cornwall
11 police the other day because he was angry with Pelletier
12 and Murray MacDonald and Griffith and he figures there was
13 a conflict of interest in that period of time, and that's
14 why charges ended by staying because Mr. Pelletier didn't
15 call a conflict of interest soon enough even though he knew
16 about it back at a later - at an earlier date.

17 **MR. LEE:** Mr. MacDonald explained a lot of
18 that to us while ---

19 **MR. SILMSER:** Yes. I wasn't with him; I
20 didn't discuss it with him. He told me about it. I went
21 to the police station with him for support. We met with
22 Sergeant White, and Sergeant White, at the end of the day,
23 said "I'm sorry".

24 I didn't say hardly anything at the meeting.
25 I don't think I said two words at the meeting. And

1 Sergeant White said to me -- he said "I'm sorry I couldn't
2 help John." And I said "Well, maybe you did just by
3 listening to him." That's the type of support I mean with
4 John. You know, if I need support type of thing, I am
5 there for him. But to discuss the case, and the details,
6 and stuff like that, no. No.

7 MR. LEE: And were you receiving that kind
8 of support from John MacDonald in 1995?

9 MR. SILMSER: Yes, I was.

10 MR. LEE: And you've explained to us that
11 when you learned that he was also a victim of abuse like
12 you, you told us you weren't at all pleased he was a victim
13 of abuse, but you were pretty happy there was somebody else
14 there with you.

15 Is that right?

16 MR. SILMSER: Well, I was really,
17 personally, because I took the blunt of it for two years
18 through the media, people were saying I should be charged
19 for bringing up allegations. I went through a lot of stuff
20 even in the Fifth Estate. I believe in the Fifth Estate
21 documentary, they had women in a circle with a priest
22 talking about Charles MacDonald, and one woman crying about
23 Charles MacDonald babysat her son, and that nothing ever
24 happened and she was crying for Charles MacDonald. And, at
25 a later date, I heard she walked up to Charles MacDonald

1 and slapped him in the face because she found out he did
2 abuse her child.

3 Things like that, you know -- I went through
4 a lot of stuff like that.

5 **MR. LEE:** Mr. Silmsers, those are all the
6 questions I have for you. I would like to thank you very
7 much for being here, and I hope things go well for you in
8 future, sir.

9 Thank you very much.

10 **THE COMMISSIONER:** Thank you.

11 **MR. ENGELMANN:** I don't have my order sheet.

12 **THE COMMISSIONER:** Neither do I.

13 Mr. Lamb?

14 **MR. ENGELMANN:** I don't know if Mr. Bennett
15 is here.

16 **THE REGISTRAR:** He's not here.

17 **MR. ENGELMANN:** The Men's Project.

18 **THE REGISTRAR:** Mr. Lamb.

19 **MR. ENGELMANN:** Mr. Lamb for Father
20 MacDonald.

21 **THE COMMISSIONER:** Thank you.

22 **MR. LAMB:** Good morning, Mr. Commissioner.

23 **THE COMMISSIONER:** Good morning.

24 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE BY MR. LAMB:

25 **MR. LAMB:** Good morning, Mr. Silmsers.

1 **MR. SILMSER:** Good morning.
2 Who are you representing?

3 **MR. LAMB:** As they just stole my thunder,
4 I'm counsel for Mr. MacDonald -- for Father MacDonald ---

5 **MR. SILMSER:** Okay.

6 **MR. LAMB:** --- Father Charles MacDonald.

7 **MR. SILMSER:** Okay.

8 **MR. LAMB:** Mr. Silmsers, before -- the first
9 thing I wanted to address were some comments that you made
10 yesterday towards the end of your examination in-chief.

11 The first comment I would like to ask you
12 about is you stated in your evidence that a lot of the
13 delays in the trial of Father MacDonald were as a result of
14 Michael Neville, and you noted that it was in his character
15 to try and stretch out the case as long as he could be
16 appealing situations and so forth.

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

18 **MR. LAMB:** For the record, that's found at
19 page 95 of the transcript of yesterday's proceedings.

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

21 **MR. LAMB:** Now, Mr. Engelmann did discuss
22 things with you, Mr. Silmsers, and you stated that you never
23 did read the reasons why the proceedings against Father
24 MacDonald were stayed.

25 Correct?

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

2 **MR. LAMB:** So it's fair, and I think it's
3 fair for me, to say that you were wrong to even suggest
4 that your understanding for the delays was because of
5 counsel for Father MacDonald.

6 **MR. SILMSER:** No. I think you're wrong by
7 saying that. I was sitting in the courtroom all the way in
8 Ottawa, and Mike Neville was talking to his client, Charles
9 MacDonald, and Mike Neville said right in front of me -- he
10 didn't realize I was sitting in a chair -- that he said
11 with the actions, with my hands, he said, "In cases like
12 this, we have to extend it as far as we can."

13 So I don't think I was wrong.

14 **MR. LAMB:** Did you -- you never read the
15 decision of Justice Chilcott though from the Superior Court
16 of Justice dated May 13, 2002, did you?

17 **MR. CULIC:** That's been answered, if I
18 recall correctly.

19 **THE COMMISSIONER:** Cross-examination though.

20 **MR. CULIC:** Okay.

21 **MR. LAMB:** Thank you.

22 You never read that?

23 **MR. SILMSER:** I repeated that -- I already
24 said I didn't.

25 **MR. LAMB:** Yes. In his written decision, he

1 stats that:

2 "The court found that the actions of
3 the accused did not affect his right to
4 trial within a reasonable time."

5 **MR. SILMSER:** Okay.

6 **MR. LAMB:** So none of the actions of the
7 accused or of his counsel were found to be of any
8 significance in the fact that a stay of proceedings was
9 ordered.

10 **MR. SILMSER:** I don't understand.

11 Can you repeat?

12 **MR. LAMB:** None of the actions of the
13 accused were found to have any effect on the fact that a
14 stay was ordered in the proceedings before the court.

15 **MR. SILMSER:** That's his decision. I'm just
16 saying what I heard by Mike Neville in the courtroom ---

17 **MR. LAMB:** But what you heard from Mr.
18 Neville has nothing to do with the reasons of the court.

19 **MR. SILMSER:** The court makes a decision. I
20 hear what I hear too.

21 **MR. LAMB:** Okay.

22 But when you say your understanding was that
23 the reason for the stay of proceedings was because -- most
24 of the delay was because of Mr. Neville.

25 You're wrong, sir.

1 **MR. SILMSER:** I say I'm right, sir.

2 **MR. LAMB:** Now, so you maintain that the
3 reason the court stayed the criminal proceedings, in May of
4 2002, against Father Charles MacDonald, was because of the
5 actions of his counsel?

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

7 **MR. LAMB:** Okay.

8 And there's nothing I can say -- there's no
9 -- even though you haven't read the reasons of the court,
10 that would convince you otherwise?

11 **MR. SILMSER:** I would like to say there's
12 maybe some other reasons, but I say the biggest one is Mike
13 Neville.

14 **MR. LAMB:** It was found that Perry Dunlop
15 caused the largest part of the delay in that case.

16 **MR. SILMSER:** I have no idea about Perry
17 Dunlop.

18 **MR. LAMB:** It was also found that delays in
19 disclosure before the original trial date, in 2000, were
20 one of the causes of delay.

21 **MR. SILMSER:** I don't understand what you
22 are saying. I'm not a lawyer, sir. You are going to have
23 to explain, break it down in detail.

24 **MR. LAMB:** Well, sir, what I'm doing is I'm
25 simply laying out the fact that ---

1 **MR. SILMSER:** No, I know what you're doing.
2 Just your last comments there ---

3 **MR. LAMB:** Yeah?

4 **MR. SILMSER:** --- can you break it down and
5 tell me exactly what it means?

6 **MR. LAMB:** As you know in a criminal case,
7 disclosure is required to be produced to the person who is
8 accused of offences.

9 **MR. SILMSER:** Okay.

10 **MR. LAMB:** Okay?

11 **MR. SILMSER:** Okay.

12 **MR. LAMB:** And what -- the court, in staying
13 the charges against Father MacDonald, states that there
14 were delays in disclosure with regard to five new charges
15 that were laid in 1998.

16 **MR. SILMSER:** Delays in disclosure on the --
17 -

18 **MR. LAMB:** There was delayed disclosure
19 until just before the trial in 2000.

20 **MR. SILMSER:** On whose part?

21 **MR. LAMB:** The Crown.

22 **MR. SILMSER:** Oh! The Crown. The Crown
23 always advised me that none of the delays were his fault
24 (Mr. Pelletier) through the whole system.

25 **MR. LAMB:** Okay.

1 But Mr. Pelletier wasn't on the case at that
2 time.

3 **MR. SILMSER:** Who was on the case?

4 **MR. LAMB:** Well, it wasn't Mr. Pelletier.

5 **MR. SILMSER:** Who was on the case then?

6 What time period are you talking about?

7 **MR. LAMB:** This was Miss Hannan, I believe.

8 **MR. SILMSER:** I have no idea who you are
9 talking about. There was never a Crown Attorney by that
10 name.

11 **MR. LAMB:** Maybe I'm misspelling the name.

12 **MR. SILMSER:** Well, then you'll have to show
13 me the spelling and show me the person you are talking
14 about because I can't comment if I don't know the person.

15 **MR. LAMB:** Okay.

16 I will come back to it then.

17 The other reasons that the court, when that
18 decision was made, Mr. Silmsers, was that there was a
19 finding of irrebuttable prejudice against the accused that
20 was found because of the 73 months delay going back to
21 1996, 50 court appearances by Father MacDonald, massive
22 publicity locally, nationally and internationally.

23 **MR. SILMSER:** Are you trying to make me
24 feel sorry for him?

25 That also went on my side too, right?

1 **MR. LAMB:** I'm not trying to make you feel
2 sorry for anyone, Mr. Simlser.

3 **MR. SILMSER:** Okay.

4 **MR. LAMB:** All I'm stating to you is that
5 you stated in your evidence yesterday that a lot of the
6 delays were because of Michael Neville.

7 **MR. SILMSER:** And I commented on that
8 already, and you're not going to change my mind on that.

9 **MR. LAMB:** Okay.

10 But the court certainly disagrees with you.

11 **MR. SILMSER:** Maybe -- what court disagrees
12 with me?

13 This court disagrees with me?

14 **MR. LAMB:** Well, this is a public inquiry
15 for the Superior Court of Justice that made the decision --

16 -

17 **MR. SILMSER:** Can you tell me the Judge that
18 disagreed with me? His name?

19 **MR. LAMB:** Justice Chilcott ---

20 **MR. SILMSER:** Okay.

21 **MR. LAMB:** --- the Superior Court Justice.

22 **MR. SILMSER:** Okay.

23 That's one judge that disagreed.

24 **MR. LAMB:** Okay.

25 **MR. SILMSER:** That's why we are having an

1 inquiry today.

2 Right?

3 **MR. LAMB:** I don't know.

4 **MR. SILMSER:** I believe so.

5 **MR. LAMB:** You think it's because of the
6 fact that the matters were stayed?

7 **MR. SILMSER:** I would hope so.

8 **MR. LAMB:** You stated also that none of the
9 delay was your fault.

10 Correct?

11 **MR. SILMSER:** Personally my fault?

12 **MR. LAMB:** Yes.

13 **MR. SILMSER:** Absolutely! Never of my
14 fault. I was always a half-an-hour early in the courtroom.
15 Always there even while I was sick and, again, I can't
16 comment so much on the Crown Attorney, which was Pelletier,
17 and Pelletier was the only Crown Attorney at the time. So
18 your homework hasn't been done properly.

19 **MR. LAMB:** Thank you for that.

20 **MR. SILMSER:** You're welcome.

21 He advised me that it was none of the
22 Crown's fault. Period!

23 **MR. LAMB:** Your original allegation was made
24 in late 1992.

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

1 **MR. LAMB:** And in September 1993, you
2 received the settlement funds, in Cornwall, correct, the
3 \$32,000?

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

5 **MR. LAMB:** Now, at that point, you refused
6 to cooperate with police.

7 Isn't that correct also?

8 **MR. SILMSER:** Absolutely not! I cooperated
9 with the police all the way through the investigation with
10 Heidi Sebalj. I went to every meeting she had, she called
11 me for. I sat there for hours upon hours discussing things
12 with her. We -- I was patient through the whole process,
13 even when there were delays, like three months delays, with
14 Heidi Sebalj coming back to me.

15 And I was 100 per cent cooperative with the
16 Cornwall Police. They are the ones who didn't want to lay
17 charges. They are the ones who said the case was finished.
18 Not myself.

19 **MR. LAMB:** So you never got upset from the
20 calls coming from Constable Sebalj?

21 **MR. SILMSER:** Pardon me.

22 **MR. LAMB:** When she called and left messages
23 with you, that never upset you?

24 **MR. SILMSER:** Oh! Definitely! Sometimes it
25 upset me.

1 **MR. LAMB:** And you never stated that you
2 didn't want to deal with the matters anymore, criminally?

3 **MR. SILMSER:** When the police said that they
4 were not going to go further with the charges, they were
5 dropping the case, the only option I had was to take the
6 settlement, the \$32,000, because nothing else was being
7 done.

8 That was my only option, to keep trying to
9 find some justice in this situation, and the agreements
10 that were put in front of me. I did not read some of them.
11 That's ignorance, I believe, my ignorance. I should have
12 read them. But, at the time, I was very frustrated, wanted
13 this thing to end because I was so mad at the Cornwall
14 Police for not doing a proper investigation and not
15 following through with it. And so these -- that's when it
16 ended for me; I thought it had ended for me.

17 **MR. LAMB:** Okay.

18 **MR. SILMSER:** Because it had ended for the
19 Cornwall Police.

20 Do you have another question or ---

21 **MR. LAMB:** Yes, I do.

22 Another area that you addressed late
23 yesterday during the examination in-chief, Mr. Silmsler, was
24 going back to the preliminary inquiry. You were talking
25 about the fact that the Crown, Mr. Pelletier at the time --

1 -

2 MR. SILMSER: Now, you agree it was Mr.
3 Pelletier?

4 MR. LAMB: This is in 1997 at the
5 preliminary inquiry.

6 MR. SILMSER: And now you know the dates of
7 the Crown Attorneys?

8 I'm just asking because you were mixed up
9 before about dates and Crown Attorneys at the time. So I'm
10 just asking and now you know the dates and the Crown
11 Attorneys who did it.

12 THE COMMISSIONER: Okay.

13 Hold on now!

14 You are quite correct in the sense that
15 first of all, he doesn't recall who the Crown Attorney was
16 that replaced Mr. Pelletier.

17 Okay?

18 So now, he's going back and he's talking
19 about in the Pelletier era.

20 MR. SILMSER: But he didn't give me a date
21 when the Crown replaced Mr. Pelletier.

22 THE COMMISSIONER: Yes, well ---

23 MR. SILMSER: And I asked him for that time
24 period, and he didn't know what time period.

25 So how am I supposed to know what Crown

1 Attorney took place at the time?

2 **THE COMMISSIONER:** Okay.

3 Well, first of all, we are going to go back
4 to basics.

5 Okay?

6 This gentleman is asking you questions.

7 All right.

8 And you have a lawyer here, and I'm here.

9 Mr. Engelmann is here to make sure that he asks proper
10 questions.

11 All right.

12 And, so far, other than the fact that he may
13 have repeated a question a couple of times, and I'm giving
14 him a little bit of leeway, he has been fair.

15 Okay?

16 In asking you questions.

17 So what I am going to ask you is just sit
18 back and answer the questions the best you can. So I ---

19 **MR. SILMSER:** I disagree with that.

20 **THE COMMISSIONER:** Why is that?

21 **MR. SILMSER:** Because if I don't answer the
22 questions exactly, the truthful of the questions ---

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

24 **MR. SILMSER:** --- and precisely the
25 questions, people put a spin on it.

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

2 **MR. SILMSER:** The newspaper puts a spin on
3 it.

4 **THE COMMISSIONER:** Right.

5 **MR. SILMSER:** The media puts a spin on it.
6 And that's what I don't want to happen.

7 **THE COMMISSIONER:** Okay.

8 Well, there's one problem with that.

9 **MR. SILMSER:** Okay.

10 **THE COMMISSIONER:** All right.

11 I don't care what the media says.

12 **MR. SILMSER:** I do care.

13 **THE COMMISSIONER:** Ah! Except that there's
14 one thing. This is on the web cast.

15 Right?

16 It's on COGECO. People can see what you're
17 saying. And what I told people was that if people want to
18 come to this Inquiry to listen to facts. So all I'm
19 interested in is what you're telling me here today.

20 All right?

21 Not what spin is going to be put on it,
22 because I'm the one who is writing the report.

23 **MR. SILMSER:** But, again, I do care. I'm a
24 victim here ---

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

1 **MR. SILMSER:** --- sitting here on my --
2 supposedly on my own free will, giving testimony.

3 **THE COMMISSIONER:** Yes.

4 **MR. SILMSER:** And I do care ---

5 **THE COMMISSIONER:** Right.

6 **MR. SILMSER:** --- the spin that these
7 lawyers are trying to put on things.

8 **THE COMMISSIONER:** Well, first of all, the
9 spin -- he's asking questions and so far your lawyer and
10 Mr. Engelmann have not objected. So that should be an
11 indication to you that ---

12 **MR. SILMSER:** But I have objected to a few
13 things.

14 **THE COMMISSIONER:** All right.

15 **MR. SILMSER:** Number one was when Mike
16 Neville -- when you try to tell me that Mike Neville made
17 no delays on this thing ---

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

19 **MR. SILMSER:** --- and I knew for a fact he
20 did. He was trying to put a spin on a few things and I'm
21 just trying to tell him exactly what went wrong.

22 **THE COMMISSIONER:** All right.

23 And what he's done is he stopped asking
24 those questions.

1 **MR. SILMSER:** But he will ask more like
2 that.

3 **THE COMMISSIONER:** Well ---

4 **MR. SILMSER:** I guarantee you.

5 **THE COMMISSIONER:** I am the gatekeeper here.
6 All right?

7 And I will determine what questions are
8 relevant or not, with the assistance of the lawyers that
9 are here.

10 **MR. SILMSER:** And I will answer where I
11 think the truth will come out the best.

12 **THE COMMISSIONER:** And I will direct you to
13 answer the questions that I think are important for me to
14 hear the answers to.

15 **MR. SILMSER:** Okay.

16 **THE COMMISSIONER:** All right.

17 So good!

18 So now we're back to the preliminary
19 inquiry.

20 All right?

21 Mr. Silmsen?

22 We're back -- he's going back to the
23 preliminary inquiry.

24 **MR. SILMSER:** Okay.

1 **THE COMMISSIONER:** And we know for a fact
2 that Mr. Pelletier was the prosecutor or the Crown Attorney
3 at that time.

4 Right?

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

6 **THE COMMISSIONER:** Okay.

7 What's your question?

8 **MR. LAMB:** Thank you, Mr. Commissioner.

9 When you were giving your evidence, Mr.
10 Silmsers, with regard to the preliminary inquiry yesterday,
11 you stated that:

12 "The only objection was when I caught
13 Neville in a lie and I made him go back
14 to another document and he turned beet
15 red and he asked if he could have a
16 recess and the judge said 'You don't
17 get a recess. The victim gets a
18 recess'."

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

20 **MR. LAMB:** Okay.

21 Now, I'm going to ask you to look at a
22 document, and it's one of the transcripts from the
23 preliminary inquiry. It's -- 738202 is the document number
24 that ---

1 **THE COMMISSIONER:** What's the exhibit
2 number?
3 **MR. LAMB:** Sorry, Mr. Commissioner.
4 **THE REGISTRAR:** Seven three eight two zero
5 two (738202)?
6 **MR. LAMB:** Yes.
7 **THE REGISTRAR:** Exhibit 291.
8 **THE COMMISSIONER:** Two-ninety-one (291).
9 **MR. LAMB:** Exhibit 291.
10 **THE COMMISSIONER:** Okay.
11 What page?
12 **MR. LAMB:** I'm sorry, Mr. Commissioner.
13 **THE COMMISSIONER:** What page of the
14 transcript?
15 **MR. LAMB:** Yes, it's page 33.
16 And is that the -- forgive me, Mr.
17 Commissioner.
18 Is it the Bates number?
19 **THE REGISTRAR:** Bates number.
20 **MR. LAMB:** Is that the number carried in the
21 top left-hand corner of these documents?
22 So it's Bates number 7164541 -- no, sorry,
23 7164542.
24 **THE COMMISSIONER:** So 32 and 33, Mr.
25 Silmsers.

1 **MR. SILMSER:** Pardon me.

2 **THE COMMISSIONER:** I think he's at page 32
3 and 33 ---

4 **MR. SILMSER:** Okay.

5 **THE COMMISSIONER:** --- of the preliminary
6 inquiry.

7 **THE REGISTRAR:** Just 33.

8 **THE COMMISSIONER:** Just 33.

9 All right.

10 **MR. LAMB:** I just wanted to direct you here,
11 Mr. Silmsers. This is a break in the proceedings. At line
12 22 Mr. Neville states:

13 "Can we take five minutes, please, Your
14 Honour?"

15 And the Court says:

16 "Mr. Neville, perhaps we could continue
17 until the normal lunch recess at
18 12:30."

19 Mr. Neville states:

20 "I can't. I'd like five minutes."

21 And, of course, this is a personal request.

22 Mr. Neville answers:

23 "Yes. Of course, it's all right.

24 We'll take five minutes."

25 And there's a five minute recess.

1 But in reviewing that transcript, Mr.
2 Silmsers, I see nothing of lies.

3 **MR. SILMSER:** You haven't read the whole
4 transcript then. And that's not the recess that I was
5 talking about.

6 **MR. LAMB:** Can you tell me which recess it
7 was so that ---

8 **MR. SILMSER:** I'd have to go through the
9 whole file and that would probably take me approximately a
10 day.

11 **MR. LAMB:** Well, I've gone through all those
12 transcripts, Mr. Silmsers.

13 **MR. SILMSER:** Yes, but I'm not going to take
14 your word for it.

15 **THE COMMISSIONER:** Just a minute! Just a
16 minute!

17 Wait until he asks the question and then you
18 can answer.

19 Mr. Lamb.

20 **MR. LAMB:** I've gone through the transcripts
21 and I find nothing.

22 **MR. SILMSER:** Then you're not a very good
23 lawyer.

24 **THE COMMISSIONER:** No, no. No, no, sir.

25 **MR. SILMSER:** No. No, no.

1 **THE COMMISSIONER:** No, no. In fairness ---

2 **MR. SILMSER:** It was there and if he hasn't
3 found nothing, he hasn't done his job properly.

4 **THE COMMISSIONER:** Well, the answer to that
5 is instead of saying inflammatory things like that is say
6 "Then you're in error."

7 All right?

8 You know?

9 **MR. SILMSER:** I say it the way I see it and
10 I say it the way I feel it.

11 I'm sorry.

12 I'm not going to be told what to say and
13 what not to say in this courtroom.

14 **THE COMMISSIONER:** Well, I'll tell you one
15 thing, sir, I have made it a rule here that we treat
16 everybody with dignity and respect.

17 **MR. SILMSER:** And as far as I'm concerned
18 that was as dignified as I could be with that man.

19 **THE COMMISSIONER:** Well, then for the
20 record, I'm going to tell you that while Mr. Lamb is acting
21 for Father MacDonald, and there is obviously a difficulty
22 there, Mr. Lamb is presenting himself in a calm fashion and
23 he's asking polite questions. And so I would ask you
24 simply to be as polite as you can when you're answering
25 your questions.

1 **MR. SILMSER:** I'll try as hard as I can.

2 **THE COMMISSIONER:** Thank you.

3 Okay.

4 **MR. CULIC:** I would like a five minute break
5 to speak to my client.

6 **THE COMMISSIONER:** All right.

7 Mr. Callaghan.

8 **MR. CALLAGHAN:** I thought the rule was --
9 well, I'd like to know the grounds as to why he needs to
10 speak to his client.

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

12 **MR. CALLAGHAN:** But I thought the ground --
13 there weren't ---

14 **MR. SILMSER:** I'm taking a break now.

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

16 **MR. SILMSER:** They can put me in jail. I'm
17 taking a break now.

18 **MR. CULIC:** Well, I should think it's
19 readily obvious why I've asked for a five minute break, Mr.
20 Commissioner.

21 **THE COMMISSIONER:** All right.

22 And that is to speak to your client with
23 respect to how to give evidence and then ---

24 **MR. CULIC:** Correct. Not ---

25 **THE COMMISSIONER:** Not to discuss any ---

1 **MR. CULIC:** Of course not!

2 **THE COMMISSIONER:** Okay.

3 Let's take 15 minutes and then we'll see
4 where it goes.

5 **MR. CULIC:** Thank you.

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

8 The hearing will resume at 10:30 p.m.

9 --- Upon recessing at 10:16 a.m./

10 L'audience est suspendue à 10h16

11 --- Upon resuming at 11:10 a.m./

12 L'audience est reprise à 11h10

13 **THE REGISTRAR:** This hearing of the
14 Cornwall Public Inquiry is now in session.

15 Please be seated. Veuillez vous asseoir.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Engelmann.

18 **MR. ENGELMANN:** Mr. Commissioner, Mr.

19 Silmsers is in our witness support room right now. His
20 counsel wishes to address you.

21 **THE COMMISSIONER:** Thank you.

22 Yes, Mr. Culic.

23 **MR. CULIC:** Thank you.

24 First of all, Mr. Commissioner, I want to
25 get clear on the record that Mr. Lamb did nothing wrong ---

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

2 **MR. CULIC:** --- and that this has nothing to
3 do with him, his demeanor, or the nature of the questions
4 he asked. It's everything to do with who he represents and
5 who Mr. Silmsers really sees standing here.

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

7 **MR. CULIC:** I'm asking for an adjournment
8 until Monday -- Monday afternoon. I'm going to attempt my
9 best, with the resources available to us, to get him some
10 very quick and effective, hopefully, anger management.

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

12 **MR. CULIC:** Otherwise, in frank sincerity,
13 Mr. Commissioner, I don't think he can survive anymore
14 cross-examination without it.

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

16 All right.

17 Thank you.

18 So there's a request for an adjournment.

19 Any comments from any of the parties?

20 All right.

21 What I'd like to say at this point is that
22 when I started out with this Inquiry, and knowing that we
23 would be asking some alleged victims and victims to come
24 and testify, that one of the situations we might run into
25 is something that we've run into today.

1 I think if we've learned something is, if we
2 go back to the context evidence of Dr. Jaffe and Dr. Wolfe,
3 is that we have to be very much alive to situations such as
4 this and to respect peoples' needs for some time.

5 And also we are all in a very difficult
6 inquiry and we'll have to be sensitive to the needs of all
7 parties, all the while understanding that there is work to
8 be done and, hopefully, that Mr. Silmsers will be well
9 enough to come on Monday.

10 I would hope that he would attend on Monday
11 either to testify or to talk about how we're going to
12 handle this thing. So you might want to extend my
13 invitation for him to come here at 2:00 o'clock.

14 **MR. CULIC:** I will do so.

15 **THE COMMISSIONER:** Thank you.

16 So in the meantime, I don't know that
17 anything untoward should be taken by what occurred either
18 by Mr. Silmsers's demeanor or his comments. I think it's a
19 question of, again, being sensitive and understanding the
20 needs of all the parties here in this Inquiry.

21 So that having been said, I think it's wise
22 that we adjourn. I don't know that there are any other
23 items that we can fill the day with.

24 **MR. ENGELMANN:** There are not, sir.

25 Obviously, this was unexpected.

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

2 **MR. ENGELMANN:** Perhaps if counsel has a few
3 minutes -- have a few minutes, we could just meet now for a
4 few minutes privately and we can talk about where we're
5 going.

6 **MR. ENGELMANN:** All right.

7 Thank you.

8 We'll see you at 2:00 on Monday.

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

11 The hearing is now adjourned. L'audience
12 est ajournée.

13 --- Upon adjourning at 11:14 a.m./

14 L'audience est ajournée à 11h14

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C E R T I F I C A T I O N

I, Jamie Savard a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Jamie Savard, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.

Jamie Savard

Jamie Savard, CR