

**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 91

Held at :

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

Wednesday, February 07, 2007

Tenue à:

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

Mercredi, le 7 février 2007

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Raiji Pulkkinen	Commission Counsel
Ms. Lise Kosloski	Registrar
Mr. John E. Callaghan Mr. Mark Crane Mr. Peter Manderville	Cornwall Police Service Board
Mr. Neil Kozloff Ms. Suzanne Costom	Ontario Provincial Police
Mr. David Rose Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Steven Canto	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Ms. Jill Makepeace	Mr. Jacques Leduc
Mr. Mark Wallace	Ontario Provincial Police Association
Ms. Jennifer Birrell	Catholic District School Board
Mr. Clinton H. Culic	Mr. David Silmser

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1 --- Upon commencing at 9:51 a.m./

2 L'audience débute à 9h51

3 **THE REGISTRAR:** This hearing of the Cornwall
4 Public Inquiry is now in session. The Honourable Mr.
5 Justice Normand Glaude, Commissioner, presiding.

6 Please be seated.

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

8 Good morning, Mr. Engelmann.

9 **MR. ENGELMANN:** Good morning, Mr.
10 Commissioner.

11 Before we start this morning, Mr. Culic,
12 counsel for Mr. Silmser, wishes to address you.

13 **THE COMMISSIONER:** Thank you.

14 Mr. Culic.

15 --- SUBMISSION BY/REPRÉSENTATION PAR MR. CULIC:

16 **MR. CULIC:** Good morning, Mr. Commissioner.

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

18 **MR. CULIC:** I wish I had more pleasant news,
19 but I must advise you that my client, David Silmser, is
20 very agitated today, very fragile today.

21 He does not feel that he can properly retake
22 the stand at this time. We've put into place all the
23 support mechanisms that we can. He still is not feeling
24 capable.

25 He is quite concerned, and knowing him as

1 well as I do, I share his concern, that if
2 he returns to the stand today, he will erupt almost
3 instantly, and it would be disruptive, and probably do far
4 more harm than good to the purposes of this Inquiry.

5 I have explored my own calendar and the only
6 day I have available for the rest of this month is February
7 21st. I understand that we may need more than one day, but
8 that's all that I have available, and I can also advise
9 you, Mr. Commissioner, as I said in my very first letter,
10 the likelihood of David retaking the stand without me being
11 present in the courtroom is effectively zero.

12 So we are just going to have to -- with the
13 greatest of respect to you, sir, and to this Commission --
14 attempt to reschedule his return to the witness stand.

15 **MR. ENGELMANN:** Mr. Commissioner, I can
16 advise you that I know that the witness support staff, here
17 at the Inquiry, has met with Mr. Silmsler this morning and
18 concur. I have not seen Mr. Silmsler, but he is in quite an
19 agitated state.

20 Perhaps what we could do, if it's agreeable
21 to counsel that have not had an opportunity to cross-
22 examine Mr. Silmsler to date, perhaps I could ask that they
23 meet with me and Mr. Culic, and we try and find dates that
24 are acceptable to all in the nearest possible future so
25 that we could hope to finish Mr. Silmsler's evidence. That

1 would be, at least, my suggestion.

2 We certainly have witnesses that are
3 available to carry on tomorrow. I don't have them
4 available today, but we have two witnesses that are
5 prepared to proceed tomorrow, and we would have a full day
6 tomorrow.

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

8 And what about scheduling February 21st,
9 setting it aside so that Mr. Culic can attend and then we
10 can reassess his client's situation?

11 **MR. ENGELMANN:** I would just want to confirm
12 with counsel that are earmarked to cross-examine Mr.
13 Silmsler because I realize that -- I believe Mr. Callaghan
14 was next up and, well, perhaps I'll let him speak to that.
15 That is certainly something we could do, but I think he may
16 not be available on that particular date.

17 **THE COMMISSIONER:** Okay.

18 **MR. ENGELMANN:** Maybe I'll just turn the
19 microphone over then to those counsel who have not yet had
20 an opportunity ---

21 **THE COMMISSIONER:** All right.

22 **MR. ENGELMANN:** --- to cross-examine.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Callaghan.

25 --- SUBMISSION BY/REPRÉSENTATION PAR MR. CALLAGHAN:

1 **MR. CALLAGHAN:** Sir, I don't have any
2 position with respect to whether he can or cannot continue.
3 My difficulty is I have scheduled out the month of February
4 because I wasn't anticipating to be here.

5 I'm free on the 28th of February and may well
6 be free on the 27th on the matter results.

7 I think what we need to do is caucus and
8 figure out a date. I mean, I'm prepared to go now,
9 obviously, but I've obviously invested a lot of time and I
10 would like to be the one that does the examination.

11 **THE COMMISSIONER:** Fair enough.

12 Anyone else wish to comment?

13 --- **SUBMISSION BY/REPRÉSENTATION PAR MR. NEUBERGER:**

14 **MR. NEUBERGER:** Thank you, Mr. Commissioner.

15 I guess to state the obvious, it's important
16 that we have Mr. Silmsler in a position where he feels he
17 can properly give testimony.

18 I am available the week of the 19th and the
19 21st. Because of Mr. Rose's illness the other week, we've
20 certainly played off so we could accommodate dates.

21 It may be, if we caucus, that if we know
22 there is one date secure, the 21st when we're sitting, we
23 might want to book it for who can cross-examine ---

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

25 **MR. NEUBERGER:** --- and then see if we can

1 pick an alternate date, because maybe
2 shortened days for Mr. Silmsler is also a good idea.

3 **THE COMMISSIONER:** Yes.

4 **MR. NEUBERGER:** Thank you.

5 **THE COMMISSIONER:** Yes.

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

7 **THE COMMISSIONER:** Good morning.

8 --- SUBMISSION BY/REPRÉSENTATION PAR MR. KOZLOFF:

9 **MR. KOZLOFF:** Unlike Mr. Callaghan and Mr.
10 Neuberger, this matter is my life. I will make myself
11 available at any time to accommodate you, Mr. Commissioner,
12 and the Inquiry.

13 **THE COMMISSIONER:** Thank you.

14 **MR. KOZLOFF:** But I support what Mr.
15 Callaghan said about accommodating all counsel.

16 **THE COMMISSIONER:** All right.

17 Thank you.

18 --- SUBMISSION BY/REPRÉSENTATION PAR MR. WALLACE :

19 **MR. WALLACE:** I had intended to be here the
20 next two-week block. So I'll make myself available for
21 whenever that is appropriate.

22 **THE COMMISSIONER:** Thank you.

23 Any other comments?

24 No?

25 Thank you.

1 Yes, sir.

2 **MR. CULIC:** My only comment now that it's
3 raised is I think perhaps shortened days might not be a bad
4 idea.

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

6 Well, could you pass on, Mr. Culic, the
7 following?

8 I am deeply, deeply saddened that Mr.
9 Silmsler is finding it difficult. As much as I can
10 understand and appreciate the courage that it takes to come
11 here and to deal with this, I would like you to extend to
12 him my wish, my heartfelt wish, that he, first of all, gets
13 well as best as he can as soon as he can; that I will be as
14 innovative and creative as I can to ensure that -- when he
15 comes back that we can accommodate the situation as best we
16 can.

17 I think that's the best I can say at this
18 point.

19 All right.

20 So I take we'll adjourn for the day, meet
21 with counsel, and what I'd like to do tomorrow morning is
22 address the issue of dates, and then we can fix some kind
23 of calendar, and then see how we go.

24 Also, if there is anything we, as an
25 Inquiry, can do for this gentleman, either through

1 counseling or whatever, please, pass that on to him as
2 well.

3 Thank you.

4 **MR. CULIC:** I should comment again, perhaps
5 on the record, everything -- I'm most impressed with the
6 support staff and they're absolutely excellent.

7 **THE COMMISSIONER:** Thank you.

8 All right.

9 **MR. ENGELMANN:** Mr. Commissioner, then for
10 tomorrow, we'll address the rescheduling of Mr. Silmsen's
11 continuing cross-examination ---

12 **THE COMMISSIONER:** Yes.

13 **MR. ENGELMANN:** --- we will then have Mr.
14 Petepiece here as our first witness, and then we have
15 another witness ---

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

17 **MR. ENGELMANN:** --- who will be testifying
18 in camera.

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

20 **MR. ENGELMANN:** So it should be a full day.

21 **THE COMMISSIONER:** Terrific!

22 Thank you.

23 **THE REGISTRAR:** All rise. This hearing is
24 now adjourned.

25 --- Upon adjourning at 10:00 a.m./

1 L'audience est ajournée à 10h00.

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

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



Sean Prouse, CVR-CM