

**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 87

Held at :

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

Wednesday, January 31, 2007

Tenue à:

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

Mercredi, le 31 janvier 2007

ERRATA

January 30, 2007

APPEARANCE LIST

Mr. Marc Crane Cornwall Police Service Board

Should have read:

Mr. **Mark** Crane Cornwall Police Service Board

TRANSCRIPT

Page 15, line 7

MR. ENGELMANN: Can you describe the beating generally and, in particular, I'm interested in was there someone leading the discussion at the meeting?

Should have read:

MR. ENGELMANN: Can you describe the **meeting** generally and, in particular, I'm interested in was there someone leading the discussion at the meeting?

Page 179, Line 17

THE COMMISSIONER: I think we had a problem with Children's Aid though, at the time, didn't we?

Should have read:

MR. SILMSER: I think we had a problem with Children's Aid though, at the time, didn't we?

Page 193, line 4

---EXHIBIT NO./PIÈCE NO P-281:

Joan Archambault - Note to File - August 21, 1995.

Should have read:

---EXHIBIT NO./PIÈCE NO P-281:

David Silmsler - Note to File - August 21, 1995.

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

Table of Contents / Table des matières

	Page
List of Exhibits :	iv
Opening remarks/Remarques préliminaires	1
DAVID SILMSER, Resumed/Sous le même serment	1
Examination in-Chief by/Interrogatoire en-chef par Mr. Peter Engelmann(cont'd/suite)	1
Cross-Examination by/Contre-interrogatoire par Mr. Peter Wardle	119
Cross-Examination by/Contre-interrogatoire par Mr. Dallas Lee	209

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-283	Letter from Robert Pelletier to Mr. Bryce Geoffrey - March 19, 1996	16
P-284	Letter from Bryce Geoffrey to Robert Pelletier - March 21, 1996	16
P-285	Letter from Robert Pelletier to Mr. Bryce Geoffrey - March 21, 1996	17
P-286	Memo from Mireille to Bob - July 19, 1996	18
P-287	David Silmser - Handwritten and Typed Statement - August 14, 1996	30
P-288	David Silmser - Handwritten Statement - November 30, 1996	47
P-289	David Silmser - Handwritten Statement - February 2, 1997	54
P-290	Transcript - R. vs Charles MacDonald - September 9, 1997	78
P-291	Transcript - R. vs Charles MacDonald - September 10, 1997	78
P-292	Transcript - R. vs Charles MacDonald - September 11, 1997	79
P-293	Internal Correspondence from Sgt. S. Nakic to S/Insp. S. MacDonald - December 9, 1992	134
P-294	Handwritten Officer's Notes - Undated	143
P-295	Handwritten Notes of Heidi Sebalj - January 15, 1993	157
P-296	Supplementary Report - November 4, 1993	169
P-297	Typewritten Notes of Heidi Sebalj - January 13, 1993	173

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-298	Statement of A. M. MacDonald Q.C. - June 20, 1994	189
P-299	Letter from A.M. MacDonald to Det. Sgt. Luc Brunet - September 3, 1993	195
P-300	Letter from Lucien Brunet to Murray MacDonald - September 9, 1993	196
P-301	Letter from Murray MacDonald to Staff Sgt. Lucien Brunet - September 14, 1993	197
P-302	Letter from P.R. Hall to Director - October 5, 2000	221

1 --- upon commencing at 9:39 a.m./

2 L'audience débute à 9h39

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

6 Please be seated. Veuillez vous asseoir.

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

8 Mr. Engelmann, how are you doing today?

9 **MR. ENGELMANN:** Good.

10 Good morning, Mr. Commissioner.

11 **THE COMMISSIONER:** Good morning.

12 **MR. ENGELMANN:** Good morning, Mr. Silmsers.

13 **MR. SILMSER:** Good morning.

14 **MR. ENGELMANN:** How are you doing today?

15 **MR. SILMSER:** Very good.

16 **MR. ENGELMANN:** I heard there were a couple
17 of fire alarms at the Ramada last night. So I hope you had
18 some sleep.

19 **MR. SILMSER:** Some.

20 **MR. ENGELMANN:** Okay.

21 **DAVID SILMSER, Resumed/Sous le même serment:**

22 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
23 ENGELMANN (Cont'd/Suite):

24 **MR. ENGELMANN:** Mr. Silmsers, when we left
25 off, we were in and around the summer of 1995.

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

2 **MR. ENGELMANN:** And we had reviewed the
3 notes of a telephone call that you may well have had with
4 Richard Abell from the Children's Aid Society, and I wanted
5 to ask you if you also had some contact with the Cornwall
6 Police Service that summer. And I want to ask about a
7 couple of officers, if I may.

8 **MR. SILMSER:** Okay.

9 **MR. ENGELMANN:** All right.

10 Do you recall ever receiving a phone call
11 from a female officer by the name of Emma Wilson-King?

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

13 **MR. ENGELMANN:** All right.

14 And if the witness could be shown Exhibit
15 235, and could the witness have a hard copy as well?

16 Oh!

17 Mr. Silmsen, your choice. You can read on
18 this screen or you have a hard copy as well.

19 **MR. SILMSER:** That's fine. As long as the
20 screen isn't gone.

21 **MR. ENGELMANN:** All right.

22 **MR. SILMSER:** Okay.

23 **MR. ENGELMANN:** All right.

24 Have you seen this before?

25 **MR. SILMSER:** No.

1 **MR. ENGELMANN:** All right.

2 Were you aware -- and I just -- I'm looking
3 at the note, that Father Kevin Maloney had retained Sean
4 Adams to provide him with assistance?

5 **MR. SILMSER:** I had no idea.

6 **MR. ENGELMANN:** Okay.

7 And, apparently, he and Mr. Adams asked the
8 Cornwall Police to contact you and Mr. MacDonald about
9 calls that you had made to Father Maloney?

10 **MR. SILMSER:** Okay.

11 **MR. ENGELMANN:** All right.

12 Would you -- do you remember if, when
13 Constable Wilson-King phoned you, did she explain why she
14 was calling?

15 **MR. SILMSER:** She said that if I phoned
16 Father Maloney one more time, that she would have me
17 charged ---

18 **MR. ENGELMANN:** Right.

19 **MR. SILMSER:** --- basically, for harassment.

20 **MR. ENGELMANN:** And this was over the phone,
21 sir?

22 **MR. SILMSER:** Yes.

23 **MR. ENGELMANN:** All right.

24 **MR. SILMSER:** But I believe it's only -- I
25 would say maybe -- if there is two phone calls, that's

1 pushing it to Father Maloney.

2 MR. ENGELMANN: From whom?

3 MR. SILMSER: From myself.

4 MR. ENGELMANN: All right.

5 And you do you know ---

6 MR. SILMSER: I believe it was just one, and
7 the reason I believe Father Maloney was so upset because
8 when we -- my lawyer, Bryce Geoffrey, at the time, had a
9 court order to go into the files in the bottom of the
10 church house where Father Maloney was, and my lawyer had to
11 bring myself and John MacDonald, I believe, to the church
12 to go through the files because there were so many of them,
13 to look for information about us as altar boys, and they
14 weren't very nice about it at all, Father Maloney.

15 MR. ENGELMANN: Right.

16 Well, let me just ask you a couple of
17 questions.

18 Father Maloney was a priest here in the City
19 of Cornwall?

20 MR. SILMSER: Yes.

21 MR. ENGELMANN: All right.

22 And was he at a particular parish to your
23 knowledge?

24 MR. SILMSER: St. Columban's Parish.

25 MR. ENGELMANN: All right.

1 And you had attended that parish with your
2 then lawyer, Mr. Geoffrey?

3 **MR. SILMSER:** Yes.

4 **MR. ENGELMANN:** And Mr. MacDonald?

5 **MR. SILMSER:** Yes.

6 **MR. ENGELMANN:** Mr. Geoffrey, was he acting
7 for both, you and Mr. MacDonald, in a civil suit against
8 the Diocese?

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

10 **MR. ENGELMANN:** All right.

11 So this appears to suggest that both, you
12 and John MacDonald, have phoned Father Maloney?

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

14 **MR. ENGELMANN:** All right.

15 And I'm not sure if you know whether John
16 Macdonald phoned, but had you, in fact, phoned him?

17 **MR. SILMSER:** Phoned John MacDonald?

18 **MR. ENGELMANN:** No.

19 **MR. SILMSER:** Oh! Father Maloney?

20 **MR. ENGELMANN:** Yes.

21 **MR. SILMSER:** Father Maloney, yes.

22 **MR. ENGELMANN:** All right.

23 And you said you phoned him once or twice?

24 **MR. SILMSER:** Twice at the most, I believe.

25 **MR. ENGELMANN:** All right.

1 And then you had this phone call from the
2 officer telling you to stop doing that?

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

4 **MR. ENGELMANN:** So I have the sequence
5 correct?

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

7 **MR. ENGELMANN:** All right.

8 And how did you react when the officer told
9 you what she did?

10 **MR. SILMSER:** I just couldn't believe it.
11 They're telling me I can't phone somebody at the Cornwall
12 Police. I just -- I was stunned. Why would the Cornwall
13 Police even get involved in a phone call to somebody,
14 especially when it wasn't harassment?

15 It was two phone calls at the very, very
16 most.

17 **MR. ENGELMANN:** And this suggests that you
18 got upset, and you started yelling, and that you demanded
19 that the writer attend your residence and show proof of who
20 was calling, and that you hung up.

21 **MR. SILMSER:** That sounds about right.

22 **MR. ENGELMANN:** Okay.

23 So you might have done that?

24 **MR. SILMSER:** Yes.

25 **MR. ENGELMANN:** All right.

1 Did you have any calls with anyone else from
2 the Cornwall Police Service that you can remember either in
3 the summer of 1995 or into the fall?

4 **MR. SILMSER:** It would be a Sergeant David
5 Bough, I believe.

6 **MR. ENGELMANN:** Okay.
7 Do you know how to spell his name?

8 **MR. SILMSER:** B-O-W-E (sic), I believe.

9 **MR. ENGELMANN:** Why would you have called
10 him or did he call you?

11 **MR. SILMSER:** I'm not sure.

12 **MR. ENGELMANN:** All right.

13 Do you know if there was one call or more
14 than one call?

15 **MR. SILMSER:** I don't even remember the
16 call. So that would kind of advise me he called me. I'm
17 not 100 per cent sure on that one.

18 **MR. ENGELMANN:** All right.

19 Would you recall any of the contents of
20 phone calls you would have had with Sergeant Bough either
21 in the summer of 1995 or into the fall of 1995?

22 **MR. SILMSER:** The content?

23 **MR. ENGELMANN:** Yeah, about what was being
24 discussed?

25 **MR. SILMSER:** I believe Dave Bough said if I

1 can help out this case a little bit or if I can do
2 something, actually -- I think, actually, maybe even the
3 Chief gave him the case for a little bit. That's what it
4 sounded like to me. And he wanted to investigate himself
5 on it, and that's, basically, why I think he had phoned me.

6 MR. ENGELMANN: Did you know him?

7 MR. SILMSER: Yes, I did.

8 MR. ENGELMANN: And how did you know him?

9 MR. SILMSER: First he -- when I worked at
10 McDonald's Restaurant, in Cornwall, he was the manager.

11 MR. ENGELMANN: And how old were you then?

12 MR. SILMSER: Fifteen (15) or so, 14, I was
13 very young; 16.

14 MR. ENGELMANN: So he's a little older than
15 you then?

16 MR. SILMSER: Yes, he is.

17 MR. ENGELMANN: Or maybe he was a young
18 manager, I don't know, but he ---

19 MR. SILMSER: He was a young manager, but he
20 was much older than I am but ---

21 MR. ENGELMANN: All right.

22 MR. SILMSER: And then when I was living on
23 the streets, he wasn't a police officer at the time. He
24 used to play pool at night time, from midnight to 7:00 in
25 the morning, when I was living on the streets, and that's

1 where I used to go and get warm and I'd play pool sometimes
2 with him. So that's how I knew him.

3 **MR. ENGELMANN:** All right.

4 So would you call him a friend or an
5 acquaintance?

6 **MR. SILMSER:** Acquaintance.

7 **MR. ENGELMANN:** All right.

8 Do you recall if you might have called him
9 and asked him to investigate now that John MacDonald was on
10 the scene?

11 **MR. SILMSER:** I can't remember 100 per cent,
12 but it's seems to me that he was taking over the
13 investigation somehow on something or another, and he
14 wanted to talk to me.

15 **MR. ENGELMANN:** All right.

16 Do you recall, and I'm thinking now in the
17 fall of 1995, whether you might have called the Diocese or
18 one of the local parishes here, in Cornwall, to say that
19 you were going to picket ---

20 **MR. SILMSER:** Yes.

21 **MR. ENGELMANN:** --- in front of the church?

22 **MR. SILMSER:** Yes, I did.

23 **MR. ENGELMANN:** All right.

24 And do you recall who you might have spoken
25 to about that?

1 **MR. SILMSER:** I believe John MacDonald also.
2 I don't -- as a victim, I think John MacDonald and as a
3 police -- we were -- actually, John and I went into David
4 Bough's office ---

5 **MR. ENGELMANN:** Yes.

6 **MR. SILMSER:** --- and were discussing that
7 at the time.

8 **MR. ENGELMANN:** The issue of picketing in
9 front of a church?

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

11 **MR. ENGELMANN:** All right.

12 Well, let me just start with my first
13 question.

14 Did you ever call one of the local churches
15 and speak to anybody and say that you might picket?

16 **MR. SILMSER:** It's possible. I just can't
17 remember.

18 **MR. ENGELMANN:** And did you ever call either
19 the same phone call or another phone call and say that you
20 might attend at a church service and talk about the fact
21 that you were abused?

22 **MR. SILMSER:** Like I said -- again, I said a
23 lot of things, and I was very angry at the time. So it's
24 possible I did say that.

25 **MR. ENGELMANN:** All right.

1 And you say that Sergeant Bough might have
2 talked to you about one of those incidents about your
3 attendance at the church or about picketing at the church?

4 **MR. SILMSER:** Yes, he did.

5 **MR. ENGELMANN:** And how did that come about?

6 **MR. SILMSER:** The meeting itself?

7 **MR. ENGELMANN:** The meeting with him, yes.

8 **MR. SILMSER:** I'm not really sure. Just
9 John and I dropped in and had a meeting with him.

10 **MR. ENGELMANN:** Did John know him as well,
11 John MacDonald?

12 **MR. SILMSER:** I'm not sure.

13 **MR. ENGELMANN:** All right.

14 **MR. SILMSER:** And we discussed what was
15 going on and then we said that maybe it's time that we did
16 picket in front of the church and try and get some people
17 to at least believe us as victims or get them to take an
18 interest in what was going on.

19 And David Bough said that he would want to
20 go and shoot me, take his gun out and shoot me if I did
21 that. I was caught off guard. I really didn't know what
22 to say to him. I was kind of in shock. And he meant it.
23 He was serious. So that's pretty well when the meeting
24 ended.

25 **MR. ENGELMANN:** Do you think he was just

1 joking around?

2 **MR. SILMSER:** Oh! No. I don't think he'd
3 joke around about telling somebody he was going to shoot
4 them, pull the gun out and shoot them.

5 **MR. ENGELMANN:** Did you or John MacDonald
6 ever picket in front of the church, St. Columban's?

7 **MR. SILMSER:** No. No, we didn't.

8 **MR. ENGELMANN:** Did you ever picket in front
9 of any Catholic Church?

10 **MR. SILMSER:** No, we haven't.

11 **MR. ENGELMANN:** And you said one of the
12 reasons you wanted to do that was with respect to other
13 victims?

14 **MR. SILMSER:** It was not only in respect to
15 other victims. It was the Catholic Church not coming
16 forward and telling the people of Cornwall what was really
17 happening, and it was time that somebody took
18 responsibility in the Catholic Church and told the public
19 the truth and it was just not happening. They were just
20 hiding the truth.

21 **MR. ENGELMANN:** All right.

22 So after your meeting with Sergeant Bough,
23 you didn't picket?

24 **MR. SILMSER:** We didn't picket, no.

25 **MR. ENGELMANN:** All right.

1 **MR. SILMSER:** I guess it was -- he also said
2 it was illegal to picket.

3 **MR. ENGELMANN:** All right.
4 He told you that?

5 **MR. SILMSER:** Yes.

6 **MR. ENGELMANN:** Now, later that fall, did
7 you and Mr. MacDonald and Mr. Geoffrey meet with a third
8 alleged victim of Charles MacDonald?

9 **MR. SILMSER:** Yes, we did.

10 **MR. ENGELMANN:** And this third person, did
11 he also end up suing Father MacDonald and the Diocese?

12 **MR. SILMSER:** Yes, he did.

13 **MR. ENGELMANN:** All right.

14 And was he also a complainant in the
15 criminal case that took place later on?

16 **MR. SILMSER:** Yes, he was.

17 **MR. ENGELMANN:** And when you met, did the
18 three of you discuss the details of the abuse at all?

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

20 **MR. ENGELMANN:** Okay.

21 Just the fact that you had all been abused?

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

23 **MR. ENGELMANN:** Now ---

24 **MR. SILMSER:** And see, as ---

25 **MR. ENGELMANN:** I'm sorry ---

1 **MR. SILMSER:** --- as a victim, we don't need
2 to read other people's statements. It's just not important
3 for some reason. I sure wouldn't want to read John's or
4 that other guy's statement because it's just not -- just
5 being abused, knowing he was abused, that's all that
6 matters. You know, and I'm there to back -- help them or
7 support them as a victim. We can understand the way we
8 feel. But the facts in the case, it's just not important
9 to us.

10 **MR. ENGELMANN:** Now, sometime in or around
11 March in 1996, Father MacDonald is charged with having
12 sexually abused you, Mr. MacDonald and this third person.

13 **MR. SILMSER:** Finally!

14 **MR. ENGELMANN:** Okay.

15 And this is now about three and a half year
16 or so after you first go to the Cornwall police.

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

18 **MR. ENGELMANN:** And you first go to the
19 Diocese as well, December of '92.

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

21 **MR. ENGELMANN:** Do you recall how you found
22 out that the charges had been laid?

23 **MR. SILMSER:** I am not 100 per cent sure.

24 **MR. ENGELMANN:** All right.

25 There was some media attention about it.

1 Is that correct?

2 MR. SILMSER: Yes. Oh! Yes.

3 MR. ENGELMANN: And did you still have a
4 lawyer at that time involved in a civil suit?

5 MR. SILMSER: Yes, it probably be still
6 Bryce Geoffrey at the time I believe.

7 MR. ENGELMANN: But that changed over times
8 I understand it.

9 MR. SILMSER: Yes, it did.

10 MR. ENGELMANN: So do you know if it was
11 through the lawyer, through Mr. MacDonald or through the
12 media that you found out?

13 MR. SILMSER: I probably found out through
14 all three, but there is still no -- where -- which one came
15 first.

16 MR. ENGELMANN: All right.

17 Well, let me ask you this.

18 Did you find out from a police officer or
19 from a Crown Attorney?

20 MR. SILMSER: No.

21 MR. ENGELMANN: Now, do you recall, Mr.
22 Silmsers, having some contact with the Crown Attorney's
23 office in the spring and summer of 1996, the Crown attorney
24 who was responsible for the Father MacDonald's matter, Mr.

25 ---

1 **MR. SILMSER:** Robert Pelletier.

2 **MR. ENGELMANN:** --- Robert Pelletier?

3 **MR. SILMSER:** I remember a phone call, yes.

4 **MR. ENGELMANN:** All right.

5 I just want to show you a few documents sir,
6 if I may, I think it's probably going to be easier that I
7 just enter them all at once and then we will go through
8 them.

9 **THE COMMISSIONER:** All right.

10 **MR. ENGELMANN:** Madam Clerk, document number
11 109333, it's a letter dated March 19th, '96 from Robert
12 Pelletier to Bryce Geoffrey. That could be the next
13 exhibit.

14 **THE COMMISSIONER:** That would be Exhibit
15 number 283.

16 **---EXHIBIT NO./PIÈCE NO P-283:**

17 Letter from Robert Pelletier to Mr. Bryce
18 Geoffrey - March 19, 1996.

19 **MR. ENGELMANN:** I'm just going to give you
20 four documents if I can, Mr. Silmsers. The next one is
21 document number 109336, that's a letter dated March 21st,
22 1996, from Geoffrey to Pelletier. If that could be Exhibit
23 284.

24 **THE COMMISSIONER:** That's Exhibit 284.

25 **---EXHIBIT NO./PIÈCE NO P-284:**

1 Letter from Bryce Geoffrey to Robert
2 Pelletier - March 21, 1996.

3 **MR. ENGELMANN:** Then, sir, document number
4 109335 and that's a letter from Mr. Pelletier to Mr.
5 Geoffrey dated March 21st, 1996. If that could be Exhibit
6 285?

7 **THE COMMISSIONER:** Yes.

8 Thank you.

9 **MR. ENGELMANN:** And Mr. Commissioner, that
10 particular exhibit, 285 ---

11 **THE COMMISSIONER:** Yes.

12 **MR. ENGELMANN:** --- should be a moniker on
13 the name at the end of the second paragraph on the first
14 page.

15 **THE COMMISSIONER:** And what moniker should
16 that be?

17 **MR. ENGELMANN:** C-3.

18 **THE COMMISSIONER:** C-3.

19 Thank you.

20 ---EXHIBIT NO./PIÈCE NO P-285:

21 Letter from Robert Pelletier to Mr. Bryce
22 Geoffrey - March 21, 1996.

23 **MR. ENGELMANN:** And, lastly, document number
24 109254, and that is a memorandum and it is from Mireille to
25 Bob. If that could be Exhibit 286. It's dated July 19th,

1 1996.

2 **THE COMMISSIONER:** Yes, it is.

3 **---EXHIBIT NO./PIÈCE NO P-286:**

4 Memo from Mireille to Bob - July 19, 1996.

5 **MR. ENGELMANN:** Mr. Silmsers, if you could
6 just take a minute and look at those documents. I am not
7 sure if you have seen them before.

8 **MR. SILMSER:** I don't believe so, no.

9 **MR. ENGELMANN:** Okay.

10 Just take a couple of minutes, sir, and just
11 look at them, please.

12 **MR. SILMSER:** I have read them. So.

13 **MR. ENGELMANN:** Okay.

14 Then let's go to the first one; that's
15 Exhibit 283; and that's the letter from Mr. Pelletier to
16 Mr. Geoffrey dated March 19th.

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

18 **MR. ENGELMANN:** Do you have that in front of
19 you?

20 **MR. SILMSER:** Yes.

21 **MR. ENGELMANN:** All right.

22 Now, I don't know, do you recall if Mr.
23 Geoffrey would have shown you this letter or perhaps spoken
24 to you about its contents back at that time?

25 **MR. SILMSER:** I don't think he showed me the

1 letter, but I think he probably told me about it.

2 MR. ENGELMANN: You would have had some
3 discussion about you contacting Mr. Pelletier?

4 MR. SILMSER: That's correct.

5 MR. ENGELMANN: All right.

6 THE COMMISSIONER: Do you have a
7 recollection of that ---

8 MR. SILMSER: Somewhat.

9 THE COMMISSIONER: --- of him calling you
10 and saying "I've got this letter and..."

11 MR. SILMSER: We met so many times in his
12 office ---

13 THE COMMISSIONER: Right.

14 MR. SILMSER: --- Mr. Geoffrey's office, and
15 he pretty well kept me informed of what was transpiring
16 with letters back and forth. And I remember him saying
17 something like the fact that not to phone the Crown
18 Attorney's office.

19 THE COMMISSIONER: Okay.

20 MR. ENGELMANN: I am looking at this letter.
21 What Mr. Pelletier seems to be saying to your lawyer is
22 that, in the first paragraph, that he has had a phone call
23 from you, that you'd expressed considerable
24 dissatisfaction; it was short and abrupt; you were rude and
25 used profanities; and that he told you if you wanted to

1 speak to him again that you should go through your lawyer.

2 So, let me just take you back to the spring
3 of 1996.

4 Do you recall making a phone call to Mr.
5 Pelletier and having a discussion with him?

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

7 **MR. ENGELMANN:** All right.

8 And would you have expressed considerable
9 dissatisfaction with matters or with him?

10 **MR. SILMSER:** Definitely!

11 **MR. ENGELMANN:** All right.

12 And why was that, at that time?

13 **MR. SILMSER:** Because a lot of things I
14 wasn't understanding like Chris McDonell being one of the
15 investigator on the case when he was a cousin of Charles
16 MacDonald. There is lot -- many points I brought up, and
17 Pelletier was just ignoring them, and not giving me any
18 advice on them. He wouldn't talk to me about it.

19 **MR. ENGELMANN:** All right.

20 Let me just stop you for a second, just so I
21 can understand.

22 At the bottom, in that second paragraph,
23 Mireille Legault, that's his secretary?

24 **MR. SILMSER:** Yes.

25 **MR. ENGELMANN:** And had you informed her

1 that one of the investigators is this fellow, Chris
2 McDonell, of the OPP was -- you thought he was a first
3 cousin of Father MacDonald's?

4 **MR. SILMSER:** Yes. That didn't bother me so
5 much, but it was the fact that he was going around to the
6 altar boys interviewing them and saying how bad a person I
7 was to the altar boys. That really upset me.

8 **MR. ENGELMANN:** All right.
9 And bad, in what sense?

10 **MR. SILMSER:** A person that had no
11 credibility; a person that was just a nobody; and that
12 these charges would just end up going away. That's what
13 actually Chris McDonell said to John Maloney.

14 **MR. ENGELMANN:** All right.

15 **MR. SILMSER:** John Maloney had phoned me and
16 told me this.

17 **MR. ENGELMANN:** You know if there was any --
18 were you told at all about talking about criminal record or
19 anything like that or just that you were a bad person then?

20 **MR. SILMSER:** Oh! No. He told John Maloney
21 everything. He told him that I was a person that had a
22 criminal record in my background, the whole thing. Chris
23 McDonell wasn't shy to cut me to pieces in front of others.

24 **MR. ENGELMANN:** Okay.

25 But he never did that to you personally?

1 **THE COMMISSIONER:** Not in front of you ---

2 **MR. SILMSER:** Not in front of me, no.

3 **MR. ENGELMANN:** So, what you're talking
4 about is only what you've heard from this one person, John
5 Maloney?

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

7 **MR. ENGELMANN:** Did you hear it from anybody
8 else?

9 **MR. SILMSER:** No.

10 **MR. ENGELMANN:** All right.

11 In any event, you were upset about that and
12 you're calling the Crown prosecutor?

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

14 **MR. ENGELMANN:** And were you upset about
15 anything else at the time, this being March of 1996? Do
16 you know if the charges had been announced already?

17 **MR. SILMSER:** Just the lack of communication
18 between myself and the Crown. There was no information
19 given to me at all, I was just sitting there in limbo.

20 **MR. ENGELMANN:** All right.

21 I note on the second page -- okay -- again
22 you're expressing the concern about this investigator and
23 again he is telling you that you should be going through
24 your lawyer.

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

1 **MR. ENGELMANN:** And he is talking about your
2 threats to go to the media.

3 Might you have made threats to go to the
4 media?

5 **MR. SILMSER:** I can't remember.

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

7 So, apparently, at this point in time, when
8 he writes this letter, you've called him once and you've
9 called his secretary once.

10 **MR. SILMSER:** Correct.

11 **MR. ENGELMANN:** Might you have called them
12 more than that at that point in time, or do you know?

13 **MR. SILMSER:** There wasn't too many phone
14 calls.

15 **MR. ENGELMANN:** All right.

16 But you do acknowledge having phoned him and
17 having phoned his secretary in/or about March of 1996?

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

19 **MR. ENGELMANN:** All right.

20 Then if we can turn to Exhibit 284, Mr.
21 Geoffrey's writing back, and he indicates, just as you
22 have, that he has spoken to you and requested that you not
23 contact Mr. Pelletier.

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

25 **MR. ENGELMANN:** All right.

1 Now, you didn't take that advice in March or
2 I don't know if that advice had been given to you, but you
3 do call him later as well, do you not, in the summer?

4 **MR. SILMSER:** It's possible. I just don't
5 remember exactly the time period.

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

7 Well, after Mr. Geoffrey's letter, that very
8 same day, and he is asking for particulars of the charges,
9 et cetera, Mr. Pelletier writes back.

10 Correct?

11 **MR. SILMSER:** Yes.

12 **MR. ENGELMANN:** And this is when he advises
13 Mr. Geoffrey and presumably you about the charges that have
14 been laid and who's involved.

15 Is this just a -- I am just worried about
16 the screen, we have a moniker -- is this on the public
17 screen?

18 **THE COMMISSIONER:** Yes, it is.

19 **MR. ENGELMANN:** Can we have it moved up or
20 turned off?

21 **THE COMMISSIONER:** Okay.

22 **MR. ENGELMANN:** So there is some information
23 being provided, at least in this letter, about when Mr.
24 Charles MacDonald, Father Charles MacDonald is going to be
25 in court.

1 Correct?

2 MR. SILMSER: Correct.

3 MR. ENGELMANN: And he is also indicating
4 that, on the second page, that Father MacDonald's lawyer
5 has been appointed as a judge. So he is going to need some
6 time or he doesn't know yet who is going to be representing
7 Father MacDonald.

8 MR. SILMSER: That's correct.

9 MR. ENGELMANN: So he is providing some
10 information in response to your lawyer's letter.

11 MR. SILMSER: That's correct.

12 MR. ENGELMANN: Okay.

13 Then if you could take a look at Exhibit
14 286.

15 We are in the summer of 1996 now, Mr.
16 Silmsers.

17 MR. SILMSER: Okay.

18 MR. ENGELMANN: This is about four months
19 after Mr. Pelletier's letter saying "Please..." -- or the
20 call you had with him saying "Please go through your
21 lawyer," et cetera.

22 And did you call Mr. Pelletier's office
23 sometime in July of 1996?

24 MR. SILMSER: It says this. I just can't
25 remember the phone call.

1 **MR. ENGELMANN:** And is it possible you
2 called more than once on the same day?

3 **MR. SILMSER:** I remember a phone call that
4 the secretary had hung up on me a few times and I had
5 phoned right back.

6 **MR. ENGELMANN:** All right.
7 So you might have phoned two or three times
8 trying to speak to someone.

9 **MR. SILMSER:** Yes.

10 **MR. ENGELMANN:** And why is it you were
11 calling his office at that time?

12 **MR. SILMSER:** I would imagine it was because
13 of the lack of progress on the case and I wasn't getting
14 any information back at all.

15 **MR. ENGELMANN:** Why didn't you do what he
16 asked before and just go through your lawyer to get that
17 information?

18 **MR. SILMSER:** Again, every time I phoned my
19 lawyer, he was charging me by the minute on the phone. So
20 if I had to go through my lawyer, I had to pay him and I
21 know I didn't have any money at the time.

22 **MR. ENGELMANN:** All right.

23 And this would seem to suggest that as a
24 victim of crime you thought you should be able to contact
25 directly with the Crown prosecutor?

1 **MR. SILMSER:** I still do, or at least some
2 way they have in place for that.

3 **MR. ENGELMANN:** I'm sorry.

4 **MR. SILMSER:** Or at least somebody they will
5 have in place for that. It was not directly to the Crown
6 Attorney. It's somebody that has in place at that office.

7 **MR. ENGELMANN:** All right.

8 So that you don't have to pay your lawyer to
9 get the information?

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

11 **(SHORT PAUSE/COURTE PAUSE)**

12 **MR. ENGELMANN:** And, sir, can you give us a
13 sense, and I'm thinking in the summer of 1996, do you
14 recall what was going on in your life at/or about that
15 time?

16 **MR. SILMSER:** It was a really difficult
17 time. The case was starting to break open. There was a
18 lot of frustration, a lot of anger in me. I was under a
19 lot of pressure through the media, through lack of
20 information that was coming from anywhere, except for the
21 media, and the media was portraying this thing as my fault
22 most of the time.

23 There was talk shows on the radios I
24 listened to and people were saying the guy that came
25 forward should be put in jail; stuff like that. It was

1 just -- it was so frustrating and annoying at the time and
2 there was so much pressure put on me that I ended up
3 checking myself into the psychiatric ward in Brockville for
4 four days just to -- actually, just to take a rest from it
5 all. And then I started seeing a counsellor, Dr. Tefari
6 (phonetic), after that.

7 **MR. ENGELMANN:** Started seeing a doctor and
8 a counsellor or just a doctor?

9 **MR. SILMSER:** Just the doctor.

10 **MR. ENGELMANN:** All right.

11 Did you follow up with a social worker as
12 well after that?

13 **MR. SILMSER:** Yes, I did.

14 **MR. ENGELMANN:** And were you diagnosed with
15 a depression or other things at that time?

16 **MR. SILMSER:** Yes, I was.

17 **MR. ENGELMANN:** All right.

18 And did you remain an out patient?

19 **MR. SILMSER:** For five years.

20 **MR. ENGELMANN:** And, sir, is that about when
21 you would have first gone on a disability pension?

22 Was it sometime thereafter?

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

24 Dr. Tefari actually arranged it.

25 **MR. ENGELMANN:** All right.

1 Do you recall if you were having any
2 meetings that summer with either the Crown Prosecutor's
3 Office or any of the police with respect to the upcoming
4 case against Father MacDonald?

5 **MR. SILMSER:** I never had meetings with the
6 Crown about the case with Charles MacDonald that I can
7 remember anyways.

8 **MR. ENGELMANN:** All right.
9 We'll come to some of that in 1997 if we
10 can.

11 **MR. SILMSER:** Okay.

12 **MR. ENGELMANN:** Now, a bit later that
13 summer, in 1996, are you interviewed by a man by the name
14 of Carson Chisholm?

15 **MR. SILMSER:** Yes, I was.

16 **MR. ENGELMANN:** All right.

17 And if the witness -- if Mr. Silmsers could
18 be shown document number 116283?

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **MR. ENGELMANN:** And this is a ---

21 **MR. SILMSER:** Thank you.

22 **MR. ENGELMANN:** --- a handwritten statement
23 dated August 14th, 1996, in Spencerville, that Mr. Silmsers
24 gives to a Mr. Carson Chisholm. It is also followed by a
25 typed version right after.

1 If that could be the next exhibit?

2 **THE COMMISSIONER:** So that's Exhibit 287.

3 --- **EXHIBIT NO./PIÈCE NO P-287:**

4 Handwritten and Typed Statement - August
5 14, 1996

6 **MR. ENGELMANN:** And sir, again, there are
7 two things and it's probably easier to identify on the
8 typed version.

9 **MR. SILMSER:** I'm there already.

10 **MR. ENGELMANN:** We have a moniker 'C-3' at
11 the top of page 2 of the typed version, second line.

12 **THE COMMISSIONER:** Yes.

13 **MR. ENGELMANN:** And as well, we have a
14 publication ban that we're trying to lift, but there is
15 still a publication ban on the name that you see in the
16 last paragraph, on page 1, in the second line. His name is
17 'blank' from Moose Creek.

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

19 **MR. ENGELMANN:** So, obviously, I want this
20 to be a 'P' exhibit but it's under a publication ban.

21 **THE COMMISSIONER:** It is under those
22 provisos, yes.

23 Excuse me.

24 Yes?

25 **MR. ENGELMANN:** Now, you have seen this

1 document before?

2 MR. SILMSER: Yes, I have.

3 MR. ENGELMANN: In fact, you have had a
4 chance to look at it in the recent past?

5 MR. SILMSER: Yes, I have.

6 MR. ENGELMANN: All right.

7 When I say the recent past, within the last
8 two or three months, have you had a chance to see this?

9 MR. SILMSER: Yes.

10 MR. ENGELMANN: Okay.

11 So, Spencerville; are you living in
12 Spencerville in August of 1996?

13 MR. SILMSER: Yes, I am.

14 MR. ENGELMANN: So how was it that this man
15 Carson Chisholm comes to visit you at your home?

16 MR. SILMSER: I don't really know how he got
17 there.

18 MR. ENGELMANN: Did he phone you?

19 What happened?

20 How was this setup?

21 MR. SILMSER: I think he just showed up.

22 MR. ENGELMANN: He just showed up?

23 MR. SILMSER: I believe so.

24 MR. ENGELMANN: Okay.

25 MR. SILMSER: But I'm not 100 percent sure.

1 MR. ENGELMANN: All right.

2 Did you know who he was?

3 MR. SILMSER: No.

4 MR. ENGELMANN: All right.

5 Did he come with someone else?

6 MR. SILMSER: Perry Dunlop.

7 MR. ENGELMANN: All right.

8 And did you know who he was?

9 MR. SILMSER: I don't know if I met Perry
10 before that. I don't think so.

11 MR. ENGELMANN: All right.

12 MR. SILMSER: I think that was the first
13 time.

14 MR. ENGELMANN: You had heard of him,
15 though, by that time?

16 MR. SILMSER: Yes.

17 MR. ENGELMANN: All right.

18 And you knew that he had been or was a
19 constable for the Cornwall Police Service?

20 MR. SILMSER: Yes, I did.

21 MR. ENGELMANN: All right.

22 Did Mr. Dunlop do any of the talking at this
23 interview, to your knowledge?

24 MR. SILMSER: No.

25 MR. ENGELMANN: All right.

1 So he was there accompanying Mr. Chisholm?

2 MR. SILMSER: Yes, he was.

3 MR. ENGELMANN: And did he indicate to you
4 whether he was with the Cornwall Police Service either
5 actively or on leave or did he say anything that you can
6 recall?

7 MR. SILMSER: No, I don't believe he
8 mentioned that, no.

9 MR. ENGELMANN: All right.
10 He did introduce himself?

11 MR. SILMSER: Yes, he did.

12 MR. ENGELMANN: And what was his role at
13 this meeting, do you know?

14 MR. SILMSER: I wasn't 100 percent sure, no.

15 MR. ENGELMANN: All right.

16 Did he take notes, do you know, or did he
17 just sit there and listen as Mr. Chisholm asked you
18 questions?

19 MR. SILMSER: I believe that's what
20 happened. He just ---

21 MR. ENGELMANN: All right.

22 Now, is this document -- I'm looking at the
23 handwritten portion -- is this in your handwriting or in
24 someone else's?

25 MR. SILMSER: It's not in my handwriting,

1 no.

2 MR. ENGELMANN: All right.

3 Is that your signature at the top of the
4 first page?

5 MR. SILMSER: Yes, it is.

6 MR. ENGELMANN: And at the top of every
7 other page?

8 MR. SILMSER: I would believe so, yes.

9 MR. ENGELMANN: And at the end of the
10 statement?

11 MR. SILMSER: Yes.

12 MR. ENGELMANN: All right.

13 And you didn't have this typed, sir?

14 MR. SILMSER: No.

15 MR. ENGELMANN: And did Mr. Chisholm give
16 you a copy of this when he left?

17 MR. SILMSER: No, he didn't.

18 MR. ENGELMANN: Did he ever give you a copy
19 of it?

20 MR. SILMSER: No, he didn't.

21 MR. ENGELMANN: All right.

22 And when he showed up at your house, did he
23 tell you why he wanted to interview you?

24 MR. SILMSER: I don't believe so. I figured
25 it was because they wanted information on what happened.

1 **MR. ENGELMANN:** All right.

2 Well, why did you give him information?

3 Do you remember?

4 **MR. SILMSER:** Yes, I was -- at the time,
5 again, it was a really hard time for me. I was in a
6 depression, and when somebody asked for something that I
7 thought might help, I was going to do it. Nobody else was
8 listening.

9 The media was, again, at the time, they were
10 not being very fair on this whole thing. They weren't
11 investigating it properly enough and reporting it properly.
12 I basically thought if I could help the situation out I
13 would.

14 **MR. ENGELMANN:** Did he tell you what he
15 might do with this information?

16 **MR. SILMSER:** No, he didn't.

17 **MR. ENGELMANN:** All right.

18 So let's just look at the typed version, if
19 we can, for a minute.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MR. ENGELMANN:** So it appears the first
22 thing that is being talked about is the media leak as it's
23 been known.

24 That's what happened in the incident in
25 January of '94?

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

2 **MR. ENGELMANN:** So you are being asked about
3 that, and you say you had no idea about your police
4 statement going to the CAS "...nor did my lawyer, Bryce
5 Geoffrey".

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

7 **MR. ENGELMANN:** And you're saying something
8 that was true back at that time?

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

10 **MR. ENGELMANN:** Then they ask you if there
11 is any issues about the investigation you would like to
12 comment on, and you talk about not feeling comfortable
13 talking to a woman about sexual abuse.

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

15 **MR. ENGELMANN:** And that's what you have
16 told us here about Constable Sebalj?

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

18 **MR. ENGELMANN:** Then you tell us -- or then
19 you talk about John Maloney.

20 He is the other altar boy?

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

22 **MR. ENGELMANN:** And this is what you have
23 just told us about the OPP officer who is a first cousin of
24 Charles MacDonald?

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

1 **MR. ENGELMANN:** That's your understanding?

2 **MR. SILMSER:** Yes.

3 **MR. ENGELMANN:** And you talk about some
4 other possible victims and people who have contacted you?

5 **MR. SILMSER:** That's correct. I think at
6 the beginning of this too I say Heidi Sebalj. I thought
7 Heidi Sebalj had given the statement to the media and, at
8 the time, the only place I knew where my statement was, was
9 with Heidi Sebalj and that's the only reason why I had said
10 that.

11 **MR. ENGELMANN:** Yes, and you told us that
12 yesterday and that's why she was named in the complaint.

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

14 **MR. ENGELMANN:** Yes.

15 But you don't know who did that?

16 **MR. SILMSER:** Absolutely not! No.

17 **MR. ENGELMANN:** All you know is the
18 statement had been in the possession of the Cornwall Police
19 Service?

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

21 **MR. ENGELMANN:** And without getting into any
22 names, and we don't need to have this on the screen, at the
23 top of the second page you talk a little bit about the fact
24 that Ms. Sebalj had told you that they wouldn't be laying
25 charges as you were the only victim that had come forward

1 and apparently by this point in time you had found out that
2 someone else had come forward?

3 MR. SILMSER: That's correct.

4 MR. ENGELMANN: And that's why you say what
5 you do about her here?

6 MR. SILMSER: That's right.

7 MR. ENGELMANN: And sir, at this point in
8 time, in 1996, you don't know under what -- you don't know
9 how he came forward, this other person or what he actually
10 said to Constable Sebalj, just that he had come forward?

11 MR. SILMSER: That's correct.

12 MR. ENGELMANN: All right.

13 Again, you're expressing some concerns about
14 the OPP investigation, although in a general way, in 1994?

15 MR. SILMSER: Okay.

16 That's the Tim Smith one?

17 MR. ENGELMANN: Just you don't seem to
18 mention any names.

19 MR. SILMSER: Okay.

20 MR. ENGELMANN: It's the paragraph, "I feel
21 that for the first year the OPP investigated me."

22 MR. SILMSER: That's right.

23 MR. ENGELMANN: Is that who you're referring
24 to or what you're referring to?

25 MR. SILMSER: I should have said all police

1 departments, but I centered out the OPP.

2 MR. ENGELMANN: All right.

3 You also mention in the statement the
4 difficulty in speaking to the Crown Attorney?

5 MR. SILMSER: That's correct.

6 MR. ENGELMANN: Now, the reference at the
7 bottom of the page, "I don't understand why it took three
8 police forces three" -- it says "tears", I assume that
9 means years -- "to lay seven charges against the priest."

10 I understand the Cornwall police and the
11 OPP. Why do you say "three police forces"?

12 MR. SILMSER: There was the Ottawa police
13 also.

14 MR. ENGELMANN: Okay.

15 Do you know what involvement they really had
16 in this?

17 MR. SILMSER: No, I don't.

18 MR. ENGELMANN: You just know there were
19 some?

20 MR. SILMSER: Yes.

21 MR. ENGELMANN: And then as well you were
22 asked if you have any comments about either Jacques Leduc
23 or Malcolm MacDonald and you don't make a comment about
24 Jacques Leduc.

25 MR. SILMSER: Okay.

1 **MR. ENGELMANN:** You talk a little bit about
2 Malcolm MacDonald.

3 **MR. SILMSER:** Okay.

4 **MR. ENGELMANN:** Is that a fair summary of
5 what you said at the time?

6 **MR. SILMSER:** Yes.

7 **MR. ENGELMANN:** And the only dealing you'd
8 had with Mr. Leduc was the meeting on February 9th in 1993?

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

10 **MR. ENGELMANN:** The only direct dealing?
11 Your lawyer had written some letters to him when he was the
12 lawyer for the Diocese in 1994 but the only direct dealing
13 you had with him was in February of '93?

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

15 **THE COMMISSIONER:** Can we go back, Mr.
16 Englemann, to the comments that he made about the offer of
17 \$25,000.

18 **MR. ENGELMANN:** Yes.

19 **THE COMMISSIONER:** Is that the same as the
20 \$32,000 negotiation?

21 If we go back down -- Madam Clerk, can you
22 put it back on? If you go to the first page -- page 2 ---

23 **MR. ENGELMANN:** About three quarters of the
24 way down.

25 **THE CHAIRPERSON:** Yes, he's got:

1 "I have also been offered \$25,000 in
2 writing for my lawyer, Bryce Geoffrey,
3 through Dennis Power who represents
4 Jacques Leduc, who is legal counsel for
5 the church at the time of the \$32,000
6 settlement."

7 What is that all about?

8 **MR. SILMSER:** At the time the church -- this
9 was when the \$32,000 settlement was considered illegal.

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

11 **MR. SILMSER:** It was an illegal settlement
12 because of what Malcolm MacDonald did.

13 **THE COMMISSIONER:** Yes.

14 **MR. SILMSER:** So we had to go back to the
15 table to re-sue our lawsuit, and this was in discoveries --
16 -

17 **THE COMMISSIONER:** Okay.

18 **MR. SILMSER:** --- with Power, and they all
19 agreed at that time to put so much money into a trust fund
20 until this thing was settled.

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

22 **MR. SILMSER:** They were trying to make a
23 settlement at the time.

24 **THE COMMISSIONER:** Okay, but it says:

25 "The \$25,000 represents \$12,500 each

1 for Malcolm MacDonald and Jacques
2 Leduc, lawyers for the Catholic
3 Diocese."

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

5 **THE COMMISSIONER:** What does that mean?

6 **MR. SILMSER:** That means at that meeting, at
7 the discoveries, they offered to put \$12,500 in each.

8 **THE COMMISSIONER:** Okay.

9 **MR. ENGELMANN:** So I believe at the time Mr.
10 Silmsers's lawyer had sued Father MacDonald and the Diocese
11 and either the Diocese or Father MacDonald had third party
12 -- the lawyers involved.

13 **THE COMMISSIONER:** Okay.

14 **MR. ENGELMANN:** Malcolm MacDonald and
15 Jacques Leduc. And I think Mr. Leduc -- sorry, Mr. Power
16 was acting for Mr. Leduc in that matter.

17 **THE COMMISSIONER:** Okay.

18 **MR. ENGELMANN:** That was never accepted,
19 that sum of money?

20 **MR. SILMSER:** No, it wasn't. Because after
21 I gave back the \$32,000 I'd be in the hole.

22 **MR. ENGELMANN:** I'm sorry?

23 **MR. SILMSER:** I said after I gave back the
24 \$32,000 and they gave me \$25,000 I would have owed them
25 money.

1 **MR. ENGELMANN:** Oh, they were asking you to
2 give the first amount back?

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

4 **MR. ENGELMANN:** Oh, okay.

5 Now, you believe this was the first time
6 that you had met Perry Dunlop ---

7 **MR. SILMSER:** Yes.

8 **MR. ENGELMANN:** --- when Mr. Chisholm took
9 the statement from you?

10 **MR. SILMSER:** I believe so, yes.

11 **MR. ENGELMANN:** And did you ever attend Mr.
12 Dunlop's house later that year in the fall of 1996?

13 **MR. SILMSER:** Yes, I did.

14 **MR. ENGELMANN:** And can you tell us why you
15 would have gone there?

16 **MR. SILMSER:** John MacDonald and I were
17 together in the car. John wanted to drop by and say hi to
18 Perry Dunlop on Third Street here in the city of Cornwall,
19 and I was with John. So we dropped in. We walked into the
20 door, walked in the door; walked in. He answered the door,
21 and John introduced me basically.

22 **MR. ENGELMANN:** But you had met him the one
23 time before?

24 **MR. SILMSER:** Yes, but I mean like we hardly
25 ever talked before.

1 MR. ENGELMANN: Yes.

2 MR. SILMSER: It was nothing before, you
3 know. And we said hello to each other. He had papers
4 strewn all over the living room floor and the kitchen floor
5 and everywhere. He was doing an investigation, I guess. I
6 don't know.

7 MR. ENGELMANN: He had papers all over his
8 house?

9 MR. SILMSER: That's right.

10 MR. ENGELMANN: Okay.

11 MR. SILMSER: And we were approximately
12 there for maybe five minutes. John was talking to him and
13 we left.

14 MR. ENGELMANN: All right.

15 So it wasn't a meeting per se?

16 MR. SILMSER: Absolutely not a meeting.

17 MR. ENGELMANN: And he didn't interview you?

18 MR. SILMSER: Oh, no. No, not at that time.

19 MR. ENGELMANN: Did he ever interview you,
20 to the best of your knowledge?

21 MR. SILMSER: Yes, he did.

22 MR. ENGELMANN: All right. Well, we'll come
23 to that then. That was in Toronto?

24 MR. SILMSER: Yes, it was.

25 MR. ENGELMANN: All right.

1 Did he explain what he was doing with all
2 these papers in his house? Did he explain what he was
3 investigating?

4 **MR. SILMSER:** Not with the papers, no.

5 **MR. ENGELMANN:** All right.

6 **MR. SILMSER:** But I remember him saying that
7 his phone is ringing off the hook because victims were
8 phoning left and right.

9 **MR. ENGELMANN:** Okay.

10 **MR. SILMSER:** I remember that. That's the
11 only thing I can remember about it.

12 **MR. ENGELMANN:** Did he talk to you at all
13 about any of your allegations at that time?

14 **MR. SILMSER:** No.

15 **MR. ENGELMANN:** Now, later that fall did Mr.
16 Dunlop and/or Mrs. Dunlop ask you to attend a meeting in
17 Toronto?

18 **MR. SILMSER:** Mrs. Dunlop did.

19 **MR. ENGELMANN:** And tell us how that came
20 about. And just before you do, this is the same Mrs.
21 Dunlop that was trying to contact you back in the fall of
22 1993?

23 **MR. SILMSER:** When I first came forward,
24 yes.

25 **MR. ENGELMANN:** And did you ever meet with

1 her back then?

2 MR. SILMSER: No, I didn't.

3 MR. ENGELMANN: All right.

4 So when she calls you in the fall of 1996
5 had you ever met her?

6 MR. SILMSER: No.

7 MR. ENGELMANN: All right.

8 So she introduced herself on the phone?

9 MR. SILMSER: That's correct.

10 MR. ENGELMANN: And why does she want you to
11 go to Toronto?

12 MR. SILMSER: She said that Perry is doing
13 an investigation on sexual abuse cases and he wanted to
14 take a statement from me. I refused the first couple of
15 times she phoned. I really didn't want to go. But she
16 kept on insisting and said that they would even pay my
17 train fare down there and my meals and whatever, so I
18 finally agreed to go.

19 MR. ENGELMANN: So she was persistent in
20 having you come?

21 MR. SILMSER: Very persistent.

22 MR. ENGELMANN: Okay. And so was this in
23 the latter part of 1996?

24 MR. SILMSER: I don't know exact ---

25 MR. ENGELMANN: Well, when you went down did

1 you actually give a statement to Mr. Dunlop?

2 MR. SILMSER: Yes, I did.

3 MR. ENGELMANN: All right.

4 And, sir, was this statement about
5 allegations against the third person that you alleged
6 abused you, Marcel Lalonde?

7 MR. SILMSER: Yes, it was, which resulted in
8 Marcel Lalonde being arrested.

9 MR. ENGELMANN: Okay. Well, let's just come
10 to that then. I want you to take a look at a document
11 720040.

12 Mr. Commissioner, although the date is not
13 completely legible it should be 30 November 1996, and it's
14 a statement from David Silmsers signed by Mr. Silmsers and I
15 believe Perry Dunlop, if that could be the next exhibit.

16 THE COMMISSIONER: Exhibit 288.

17 ---EXHIBIT NO./PIÈCE NO P-288:

18 David Silmsers - Handwritten Statement -
19 November 30, 1996

20 MR. ENGELMANN: If you could just have a
21 brief look at this please, Mr. Silmsers.

22 (SHORT PAUSE/COURTE PAUSE)

23 MR. SILMSER: Okay.

24 MR. ENGELMANN: All right.

25 Now, let's just situate ourselves for a

1 minute. This is the fall of 1996.

2 MR. SILMSER: Okay.

3 MR. ENGELMANN: There are charges before the
4 courts against Father Charles MacDonald.

5 MR. SILMSER: Okay.

6 MR. ENGELMANN: Correct?

7 MR. SILMSER: That's correct.

8 MR. ENGELMANN: The preliminary inquiry
9 hasn't started yet but no doubt there's some appearances in
10 court before then. Mr. Seguin is dead and has been dead
11 for approximately three years.

12 MR. SILMSER: Okay.

13 MR. ENGELMANN: So how does this come up
14 about Marcel Lalonde?

15 MR. SILMSER: That's a good question.

16 MR. ENGELMANN: Did Mr. Dunlop ---

17 MR. SILMSER: I don't ---

18 MR. ENGELMANN: --- know something or ---

19 MR. SILMSER: He must have known something
20 because I sure don't remember bringing this up. I believe
21 he brought it up to me and asked me if I would write a
22 statement on the third person that abused me.

23 MR. ENGELMANN: All right.

24 THE COMMISSIONER: Is this in Toronto?

25 MR. SILMSER: Yes, it is.

1 **THE COMMISSIONER:** Is there a reason for
2 going to Toronto or you could ---

3 **MR. ENGELMANN:** Cover it.

4 **THE COMMISSIONER:** All right.

5 **MR. ENGELMANN:** Let's go there right now.

6 **MR. SILMSER:** All right.

7 **MR. ENGELMANN:** What was -- to your
8 knowledge, why Toronto? Why didn't they come and meet you
9 here in Cornwall? Do you know where Mr. Dunlop and Mrs.
10 Dunlop were living then? We know you were living in
11 Spencerville.

12 **MR. SILMSER:** They were living in Cornwall.

13 **MR. ENGELMANN:** Okay. So why did you have
14 to go to Toronto?

15 **MR. SILMSER:** I believe it is because Perry
16 Dunlop's lawyer was in Toronto, Charles Bourgeois.

17 **MR. ENGELMANN:** Okay. Now, did you give
18 this statement to Mr. Dunlop or did you give the statement
19 to Mr. Bourgeois?

20 **MR. SILMSER:** To Mr. Dunlop. Mr. Bourgeois
21 was not present at the time.

22 **MR. ENGELMANN:** All right.

23 So Mr. Dunlop had a lawyer in Toronto?

24 **MR. SILMSER:** Yes, he did.

25 **MR. ENGELMANN:** All right.

1 And did he ask you to meet with that lawyer?

2 **MR. SILMSER:** We met, but I mean, it was not
3 a meeting sort of thing, it was a -- the first night I was
4 there we went to a bar and had a few drinks, and very
5 little words were said between myself and Mr. Bourgeois.

6 **MR. ENGELMANN:** Okay. So you actually did
7 meet Mr. Bourgeois?

8 **MR. SILMSER:** Yes, I did.

9 **MR. ENGELMANN:** And who else was at the bar
10 that night?

11 **MR. SILMSER:** Another lawyer by the name of
12 -- I forget now. It was my lawyer actually. I ended up
13 hiring him.

14 **MR. ENGELMANN:** Was this a fellow by the
15 name of Robichaud?

16 **MR. SILMSER:** Yes, Allan Robichaud.

17 **MR. ENGELMANN:** All right.

18 And you ended up hiring him at some point
19 after you decided not to continue with Mr. Geoffrey?

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

21 **MR. ENGELMANN:** And do you remember when
22 that happened, when you would have switched from Mr.
23 Geoffrey to Mr. Robichaud?

24 **MR. SILMSER:** I think it would have been
25 before that time. I'm not sure though.

1 **MR. ENGELMANN:** Okay.

2 **MR. SILMSER:** Before the Toronto visit, I
3 think it would have been before that. And the reason why I
4 had fired Bryce Geoffrey was because he was in the same
5 office as Michael Neville, who was defending the priest,
6 and they had the same secretary, and for some odd reason
7 Bryce Geoffrey couldn't see the conflict of interest but I
8 saw it very clearly.

9 **MR. ENGELMANN:** Okay. So you wanted to get
10 another lawyer for your civil case?

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

12 **MR. ENGELMANN:** All right.

13 And had you already engaged Mr. Robichaud
14 before that meeting in Toronto in late November of '96 or
15 did you retain him when you went down there, or do you
16 know?

17 **MR. SILMSER:** I can't remember now.

18 **MR. ENGELMANN:** But he was at the meeting
19 with you and -- sorry, meeting. He was at this gathering
20 with you and Mr. Bourgeois at a bar in Toronto?

21 **MR. SILMSER:** I believe so, yes.

22 **MR. ENGELMANN:** And was Mr. Dunlop present?

23 **MR. SILMSER:** Yes, he was.

24 **MR. ENGELMANN:** And was Mrs. Dunlop present?

25 **MR. SILMSER:** No, she wasn't in Toronto.

1 MR. ENGELMANN: Was Carson Chisholm there?

2 MR. SILMSER: No.

3 MR. ENGELMANN: Or anyone else?

4 MR. SILMSER: No.

5 MR. ENGELMANN: All right.

6 So you had a few drinks. Did you get into
7 any details that night?

8 MR. SILMSER: No.

9 MR. ENGELMANN: All right.

10 And did you meet Mr. Bourgeois again, or
11 not?

12 MR. SILMSER: I forget who drove me to the
13 train station. I think he -- one of them drove me to the
14 train station anyways.

15 MR. ENGELMANN: And when you gave the
16 interview, was the interview the next day, the statement?

17 MR. SILMSER: Yes, it was.

18 MR. ENGELMANN: And where did you do that?

19 MR. SILMSER: In Mr. Bourgeois' office.

20 MR. ENGELMANN: All right.

21 But it was just you and Mr. Dunlop in a room
22 at the time?

23 MR. SILMSER: In the office. Yes, that's
24 correct.

25 MR. ENGELMANN: All right.

1 And he knew or suspected that you had been
2 abused by a third person and he wanted to get information
3 from you about that alleged abuse?

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

5 **MR. ENGELMANN:** In this statement, you talk
6 about Mr. Lalonde showing you a suitcase full of pictures.

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

8 **MR. ENGELMANN:** And you have a recollection
9 of that today, sir?

10 **MR. SILMSER:** Yes.

11 **MR. ENGELMANN:** And what happened?

12 I don't want to ask you about any details of
13 the alleged abuse from Mr. Lalonde, but you actually saw
14 pictures in his residence?

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

16 **MR. ENGELMANN:** Of?

17 **MR. SILMSER:** Polaroid shots of young boys
18 being sexually abused.

19 **MR. ENGELMANN:** By Mr. Lalonde?

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

21 **MR. ENGELMANN:** All right.

22 **MR. SILMSER:** I told Perry Dunlop this and I
23 believe Perry Dunlop contacted the Cornwall Police, where
24 they did a raid on Marcel Lalonde's house and found the
25 pictures.

1 **MR. ENGELMANN:** Okay.

2 And I think you told us already that in
3 1997, the Cornwall Police Service wanted to speak to you
4 about Marcel Lalonde, but Detective Inspector Fagan
5 intervened on your behalf and said this isn't the right
6 time.

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

8 **MR. ENGELMANN:** And you are aware that Mr.
9 Lalonde was convicted of abusing several boys?

10 **MR. SILMSER:** Yes, I am.

11 **MR. ENGELMANN:** Now, I would like to show
12 you another document, sir.

13 Madam Clerk, it's document number 716120 and
14 it is a document dated the 2nd of February, 1997.

15 It appears to be signed by yourself, Mr.
16 Dunlop and Mr. Chisholm.

17 **THE COMMISSIONER:** Thank you.

18 That will be Exhibit -- right -- 289.

19 **--- EXHIBIT NO./PIÈCE NO P-289:**

20 David Silmsier - Handwritten Statement - February
21 2, 1997

22 **MR. ENGELMANN:** If you could just have a
23 quick look at that, sir.

24 **MR. SILMSER:** Okay.

25 **MR. ENGELMANN:** All right.

1 So you've told us that you went to Toronto -
2 --

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

4 **MR. ENGELMANN:** --- at the request of Mrs.
5 Dunlop. We know you gave a statement. We know that, as a
6 result of that statement -- or you've been informed that as
7 a result of that statement, the investigation and charges
8 came about as against Marcel Lalonde.

9 Did you have further contact with either Mr.
10 Chisholm or Mr. and Mrs. Dunlop or his counsel between
11 November 30, 1996 and this date, February 2, 1997, to your
12 knowledge?

13 **MR. SILMSER:** I don't believe so.

14 **MR. ENGELMANN:** All right.

15 So how did this release or permission to use
16 information come about?

17 **MR. SILMSER:** I can't -- I thought this was
18 on the same day that I gave him this -- that he wrote out a
19 statement, and I signed it.

20 Is it the same date, this paper?

21 **MR. ENGELMANN:** No. The statement was
22 November 30th, 1996 and this appears to be the 2nd of
23 February, 1997.

24 **MR. SILMSER:** I don't remember where this
25 even took place.

1 MR. ENGELMANN: All right.

2 So you don't know if this was in Cornwall or
3 in Spencerville or where this was?

4 MR. SILMSER: No.

5 MR. ENGELMANN: All right.

6 Do you remember ---

7 MR. SILMSER: Doing it?

8 MR. ENGELMANN: Yes.

9 MR. SILMSER: I remember him wanting me to
10 sign a piece of paper somewhat to this effect. At the
11 time, I didn't really know how much effect it had ---

12 MR. ENGELMANN: All right.

13 MR. SILMSER: --- or what it all meant, but,
14 again, if I could help them out, I would.

15 MR. ENGELMANN: All right.

16 MR. SILMSER: And I did.

17 MR. ENGELMANN: Did he write this out or did
18 you or do you know who did?

19 MR. SILMSER: No, I didn't write it out. He
20 did.

21 MR. ENGELMANN: All right.

22 MR. SILMSER: Actually, he even wrote my
23 name in the bottom where I was supposed to sign it.

24 MR. ENGELMANN: So I'm just -- you were
25 concerned back in January of '94 ---

1 MR. SILMSER: Right.

2 MR. ENGELMANN: --- about the media leak,
3 and you certainly were concerned about what you've said was
4 unfavourable or press coverage that you didn't think was
5 fair.

6 MR. SILMSER: That's correct.

7 MR. ENGELMANN: Right through into '96.

8 MR. SILMSER: That's correct.

9 MR. ENGELMANN: Why would you be signing
10 something that talks about possibly releasing information
11 to the press, in 1997?

12 MR. SILMSER: I believed that this case was
13 going nowhere. I was frustrated at the time. And if
14 something could help the situation out, let it help the
15 situation all type of things.

16 MR. ENGELMANN: Okay.

17 But, at this point in time, sir, there were
18 charges outstanding against Father MacDonald. And, in
19 fact, just to situate you -- I realize you don't remember
20 signing this ---

21 MR. SILMSER: No, I don't remember. No.

22 MR. ENGELMANN: --- and the date, but ---

23 MR. SILMSER: No.

24 MR. ENGELMANN: --- I believe the
25 preliminary inquiry against Father MacDonald starts in late

1 February ---

2 MR. SILMSER: I see.

3 MR. ENGELMANN: --- of 1997.

4 MR. SILMSER: Right.

5 MR. ENGELMANN: So that was proceeding.

6 MR. SILMSER: Right.

7 MR. ENGELMANN: And I don't know if by this
8 time you had been informed by somebody that an
9 investigation was happening against Marcel Lalonde.

10 MR. SILMSER: Right.

11 MR. ENGELMANN: So something was happening.

12 MR. SILMSER: This is another document,
13 probably, where he had written up, threw it in front of me
14 and asked me to sign it, and it helps him out, and
15 sometimes these documents I didn't read very closely. Or
16 if I did read it, it didn't mean as much to me then because
17 I had other things on my mind. I don't honestly remember
18 this statement, this, or whatever it was.

19 MR. ENGELMANN: All right.

20 Well, it appears to be he's interested in
21 the settlement that we've talked about in some detail from
22 September of '93.

23 MR. SILMSER: I see.

24 MR. ENGELMANN: Is that a fair statement?

25 MR. SILMSER: Okay.

1 **MR. ENGELMANN:** Do you see the reference to
2 the deal?

3 **MR. SILMSER:** Yes.

4 **MR. ENGELMANN:** Did you know what he was
5 going to try and do about that deal?

6 **MR. SILMSER:** No.

7 **MR. ENGELMANN:** All right.

8 And you did have some outstanding
9 litigation. I'm not sure if you knew where it was at, at
10 that time, but this civil litigation with Father MacDonald
11 and the Church?

12 **MR. SILMSER:** Yes.

13 **MR. ENGELMANN:** All right.

14 In any event, this doesn't ring a bell, is
15 what you are saying?

16 **MR. SILMSER:** No. No.

17 **MR. ENGELMANN:** Okay.

18 Now, sir, I understand -- I don't know if
19 this is the next time you see Mr. Dunlop -- but sometime
20 during the summer of 1997, you speak with Mr. Dunlop and he
21 talks to you about some threats?

22 **MR. SILMSER:** Yes.

23 **MR. ENGELMANN:** Do I have my dates about
24 right; sometime in the summer; sometime in July of '97?

25 **MR. SILMSER:** I'm not 100 per cent sure on

1 the dates.

2 MR. ENGELMANN: All right.

3 Just to situate you, I believe at/or about
4 August 1st of 1997, you actually tell an OPP officer or
5 perhaps two OPP officers about what Mr. Dunlop tells you.

6 MR. SILMSER: Okay.

7 MR. ENGELMANN: So it would be fair to say
8 that he would have told you this sometime shortly before
9 that?

10 MR. SILMSER: That would be correct. Yes.

11 MR. ENGELMANN: All right.

12 So how was it that you came to meet Mr.
13 Dunlop in/or around July of '97?

14 MR. SILMSER: I don't remember, no.

15 MR. ENGELMANN: All right.

16 Did you seek him out or did he seek you out?
17 Are you able to tell us that?

18 MR. SILMSER: The only time I ever went to
19 his place or even -- I wasn't even seeking him, I was just
20 going for the drive -- was that one time with John.

21 MR. ENGELMANN: Okay.

22 MR. SILMSER: So that was the only time you
23 ever visited his home?

24 MR. SILMSER: That's correct.

25 MR. ENGELMANN: All right.

1 So you, obviously, met with Mr. Dunlop
2 somewhere and he told you something about threats?

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

4 **MR. ENGELMANN:** What did he tell you, to the
5 best of your recollection?

6 **MR. SILMSER:** Basically, about Malcolm
7 MacDonald, Murray MacDonald, Chief Shaver, there's a pile
8 of names that -- that went on a boat and when they crossed
9 to Stanley Island, and they were trying to figure out what
10 they were going to do with Perry Dunlop; what they were
11 going to do with him. And I don't know how about the death
12 threats came, I don't know too much about it, but that's
13 just hearsay. That's just what Perry has told him.

14 **MR. ENGELMANN:** All right.

15 So no one else told you about this at that
16 time?

17 **MR. SILMSER:** No.

18 **MR. ENGELMANN:** Anybody talked to you about
19 it at another time, to your knowledge?

20 **MR. SILMSER:** At a later date, yes.

21 **MR. ENGELMANN:** Okay.

22 But this is Mr. Dunlop telling you -- is
23 this something he knows personally or something he's heard
24 from someone else or do you know?

25 **MR. SILMSER:** I don't know.

1 MR. ENGELMANN: All right.

2 Did he seem to be worried about it?

3 MR. SILMSER: Yes.

4 MR. ENGELMANN: All right.

5 And did he suggest you should be worried
6 about it in any way or do you remember?

7 MR. SILMSER: Yes. He asked me if I had any
8 death threats.

9 MR. ENGELMANN: And had you, sir?

10 MR. SILMSER: No.

11 MR. ENGELMANN: All right.

12 MR. SILMSER: But I was worried about it.
13 If somebody's getting death threats, now, I'm going to be
14 worried because I'm stuck right in the middle of this thing
15 too.

16 MR. ENGELMANN: All right.

17 So, why did you go see the OPP?

18 Or do you acknowledge actually seeing the
19 OPP and talking to them about it?

20 MR. SILMSER: Yes, I do.

21 MR. ENGELMANN: Why did you do that?

22 MR. SILMSER: I thought it was the right
23 move to make at the time just in case anything ever did
24 happen ---

25 MR. ENGELMANN: All right.

1 **MR. SILMSER:** --- we were somewhat
2 protected.

3 **MR. ENGELMANN:** So you weren't sure if it
4 was serious or not, but you thought you should tell the
5 police about it?

6 **MR. SILMSER:** It was serious enough to tell
7 the police about it, yes.

8 **MR. ENGELMANN:** All right.

9 Do you know why you would have spoken to the
10 OPP and not the Cornwall Police Service?

11 **MR. SILMSER:** Because I was living in
12 Spencerville at the time or Prescott. I'm not sure which
13 one it was. It would be Spencerville and the detachment
14 was the OPP detachment there.

15 **MR. ENGELMANN:** All right.

16 Do you know if you had any further contact
17 with Mr. Dunlop after that; any that you can recall?

18 **MR. SILMSER:** Not that I recall offhand, but
19 I've seen him many times in the courtrooms.

20 **MR. ENGELMANN:** Okay.

21 So you've bumped into him in the courtroom,
22 in the hallways?

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

24 **MR. ENGELMANN:** All right.

25 **MR. SILMSER:** He was not -- Mr. Dunlop and

1 myself really never saw eye-to-eye. After I sued him with
2 the police statement hitting the media, I think he kind of
3 -- I wasn't his best friend, put it that way.

4 **THE COMMISSIONER:** He might have taken that
5 personally.

6 **MR. SILMSER:** Yes.

7 **MR. ENGELMANN:** But despite the fact that he
8 probably didn't like that, you still met with him in '96?

9 **MR. SILMSER:** I didn't say I didn't really
10 like him. I just said that we really didn't know each
11 other.

12 **MR. ENGELMANN:** All right.

13 **MR. SILMSER:** I don't think he liked me.

14 **MR. ENGELMANN:** All right.

15 Okay.

16 You didn't have much to do with him, is what
17 you're saying?

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

19 **MR. ENGELMANN:** And what you have had to do
20 with him, you've told us about it.

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

22 **MR. ENGELMANN:** All right.

23 And did you have any further contact with
24 his wife or Mr. Chisholm?

25 **MR. SILMSER:** I still see Mr. Chisholm

1 around, even in the Inquiry here, and I say hello to him.
2 I see him in the hallways, I say hello to him.

3 **MR. ENGELMANN:** All right.

4 Is he an acquaintance or friend?

5 **MR. SILMSER:** He's an acquaintance.

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

7 **MR. SILMSER:** I have no hard feelings
8 against Mr. Chisholm whatsoever.

9 **MR. ENGELMANN:** All right.

10 **MR. SILMSER:** In fact, probably quite the
11 opposite.

12 **MR. ENGELMANN:** All right.

13 Has he asked you questions about your
14 evidence in any way ---

15 **MR. SILMSER:** No.

16 **MR. ENGELMANN:** --- or the details of your
17 allegations?

18 **MR. SILMSER:** I wouldn't tell anybody
19 anyways.

20 **MR. ENGELMANN:** All right.

21 So aside from the one interview you had with
22 him, when you gave him a statement, you haven't gone into
23 any detail with him about this?

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

1 **MR. ENGELMANN:** And what about that fellow
2 you met in Toronto, Mr. Dunlop's lawyer, Mr. Bourgeois,
3 aside from the drink in the bar, did you have anything to
4 do with him after that, that you know of?

5 **MR. SILMSER:** The only time I ever had
6 anything to do with him is after the Doug Seguin thing in
7 the courtroom. He came down into the jail cells and he was
8 just being an idiot.

9 Do you want me to go into that?

10 **MR. ENGELMANN:** Well, we'll come to that.

11 **MR. SILMSER:** Yeah.

12 **MR. ENGELMANN:** We'll come to that, yes.

13 So that's later, right?

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

15 **MR. ENGELMANN:** All right.

16 That's during the prosecution of Father
17 Charles MacDonald?

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

19 **MR. ENGELMANN:** Where Mr. Seguin -- Doug
20 Seguin is following that case intently?

21 **MR. SILMSER:** Yes, he is.

22 **MR. ENGELMANN:** And has -- a number of
23 occasions where he sits next to you or does things like
24 that?

25 **MR. SILMSER:** A number of occasions?

1 Every occasion that I was in a hallway or in
2 a courtroom. Not just occasional. Every occasion.

3 And the hallway in the Ottawa Courts, where
4 you sit down, it's probably from here -- double the size of
5 this room, and there's seats all over on both sides, and it
6 could be completely empty, once even, and I could be
7 sitting way down that end, and he can walk in and he'll sit
8 right beside me.

9 **THE COMMISSIONER:** Who is Doug Seguin?

10 **MR. ENGELMANN:** Ken Seguin's brother.

11 **THE COMMISSIONER:** Okay.

12 **MR. SILMSER:** And this happened every time.

13 **MR. ENGELMANN:** Well, let's just go there.

14 I think we're there already. So this isn't a case
15 involving Ken Seguin.

16 This is the prosecution of Charles
17 MacDonald?

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

19 **MR. ENGELMANN:** And Ken Seguin's brother
20 shows up at just about every court appearance?

21 **MR. SILMSER:** Every court appearance that I
22 was ever there, Doug Seguin was there.

23 **MR. ENGELMANN:** Was he there on his own?

24 **MR. SILMSER:** If he wasn't there on his own
25 he was with his wife.

1 **MR. ENGELMANN:** All right.

2 And you say that -- were you in the
3 courtroom or out of the courtroom typically for Father
4 MacDonald's court appearances?

5 **MR. SILMSER:** I was always outside the
6 courtroom because I was not told to go into the courtroom
7 when the proceedings were going on.

8 **MR. ENGELMANN:** Were you excluded because
9 you were a witness that was going to testify?

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

11 **MR. ENGELMANN:** And do you know if Mr.
12 Seguin was also excluded because he was a witness that was
13 going to testify?

14 **MR. SILMSER:** No, he was always allowed into
15 the courtroom.

16 **MR. ENGELMANN:** So he went in and out?

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

18 **MR. ENGELMANN:** And when he came out he sat
19 next to you?

20 **MR. SILMSER:** Every time.

21 **MR. ENGELMANN:** Did he talk to you?

22 **MR. SILMSER:** No. He just sat -- sat next
23 to me.

24 **MR. ENGELMANN:** And it didn't matter where
25 you were sitting?

1 **MR. SILMSER:** Doesn't matter. One (1) day I
2 went into the courtroom and I was, like I said, I was right
3 at -- there was nobody else there. I sat right at the
4 every end. He came in and sat right next to me. I mean,
5 there must be 50 seats or 100 seats.

6 **MR. ENGELMANN:** Was that a day in the
7 courtroom or was that a day in the hallway or both?

8 **MR. SILMSER:** That was a day in the hallway,
9 and I became very upset with the situation. I told him,
10 finally, after this has been going on for now for two,
11 three years, whatever how long the court case had been
12 going on -- I finally told him to move, not to sit beside
13 me. And he said some comment and he said some comment and
14 I started to yell at him.

15 He went to the security guard in the court
16 building. They came, the two men, and they lifted me off
17 my feet and they dragged me down to the cells. They locked
18 me up.

19 **MR. ENGELMANN:** And this is which cells?

20 **MR. SILMSER:** The cells in the bottom of the
21 courthouse.

22 **MR. ENGELMANN:** Which courthouse?

23 **MR. SILMSER:** In Ottawa.

24 **MR. ENGELMANN:** Okay.

25 **MR. SILMSER:** They then proceeded, around an

1 hour later, to put leg shackles on me and handcuffs and
2 shipped me in a paddy wagon to the Ottawa Police detachment
3 where they charged me for yelling in a public place. I was
4 found guilty of yelling in a public place later on, but it
5 was just a year's worth of probation and Doug Seguin had
6 his say in the courtroom when this went on and, finally,
7 the judge had to tell him to be quiet, that she didn't want
8 to hear anymore.

9 MR. ENGELMANN: Now, I ---

10 MR. SILMSER: Bryce Geoffrey wouldn't let me
11 speak. I would have.

12 MR. ENGELMANN: Were you charged criminally
13 or do you know if this was a provincial offence or do you
14 know?

15 MR. SILMSER: All I know is it was a
16 probation with the courts for a year.

17 MR. ENGELMANN: All right.

18 MR. SILMSER: And at the end they said it
19 wouldn't even be on a record.

20 It wasn't the idea of being charged. It was
21 just being through all of that as a victim and I had to go
22 through all that. There was nobody there to help me except
23 that Bourgeois guy and he went down to the cells when I was
24 down there. He says "I hope you have a good job because it
25 really goes good with the courts if you have a good job."

1 And I told him just to get out of my face.

2 MR. ENGELMANN: Do you know why he was in
3 court?

4 MR. SILMSER: No idea.

5 MR. ENGELMANN: And do you know why he came
6 to see you?

7 MR. SILMSER: No idea. I think he was with
8 Perry Dunlop.

9 MR. ENGELMANN: All right.

10 Did he try and act for you as a lawyer?

11 MR. SILMSER: I don't know what he was doing
12 down in the cells because he wasn't my lawyer.

13 MR. ENGELMANN: Okay.

14 And that would have been one of the days
15 that Mr. MacDonald's case was before the criminal courts?

16 MR. SILMSER: That's correct.

17 MR. ENGELMANN: When you actually testified
18 at the preliminary inquiry, was Mr. Seguin there?

19 MR. SILMSER: Yes, he was.

20 MR. ENGELMANN: And how did that make you
21 feel when he was there, and when he was sitting next to
22 you, and things like that?

23 MR. SILMSER: I just wanted no part of him.
24 At first it -- the first while, you know, he sat beside me
25 I didn't even know who he was. When I found out who he

1 was, it still didn't bother me, but I would move. I would
2 go and sit somewhere else, and he would follow, and sit
3 right beside me again. He just was continuously harassing,
4 as far as I'm concerned, that way.

5 **MR. ENGELMANN:** Did you complain to anybody
6 about this?

7 Did you speak to the Crown prosecutor or to
8 a police officer?

9 **MR. SILMSER:** I told even the officers who
10 arrested me in the courthouse what had happened and they
11 weren't listening.

12 **THE COMMISSIONER:** No, but what he is saying
13 is, before you were arrested, did you complain to any
14 security guard, police officer, Crown, judge, anyone like
15 that?

16 **MR. ENGELMANN:** You said this had happened a
17 number of times.

18 **MR. SILMSER:** Yes. I know I complained
19 about it, but to who I'm not really sure.

20 **MR. ENGELMANN:** All right.

21 Did he ever tell you why he was doing this?

22 **MR. SILMSER:** No.

23 **MR. ENGELMANN:** Did it have any effect on
24 you?

25 **MR. SILMSER:** Yes, it did. As a victim you

1 -- it's hard enough to deal with the situation on hand and
2 then have a brother of somebody who abused me sitting
3 beside me the whole time. It just wasn't right and I
4 wanted no part of it.

5 **MR. ENGELMANN:** I'm just going to just check
6 my notes for a minute.

7 **THE COMMISSIONER:** Sure. It's almost break.
8 It is break time.

9 **MR. ENGELMANN:** Okay.

10 **THE COMMISSIONER:** Why don't we take the
11 morning recess? Thank you.

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

14 The hearing will resume at 11:15.

15 --- Upon recessing at 11:00 a.m. /

16 L'audience est suspendue à 11h00

17 --- Upon resuming at 11:27 a.m. /

18 L'audience est reprise à 11h27

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

21 This hearing of the Cornwall Public Inquiry
22 is now in session. Please be seated. Veuillez vous
23 asseoir.

24 **THE COMMISSIONER:** My apologies for the long
25 break. Sometimes you often wonder, I shouldn't have gone

1 back to the office, you know, I shouldn't have gone back to
2 the office, you know. And I'll try to make sure that we
3 keep the breaks to a reasonable minimum.

4 **MR. ENGELMANN:** The office is a little close
5 here for some.

6 **DAVID SILMSER, Resumed/Sous le même serment:**

7 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
8 **ENGELMANN, (cont'd/suite):**

9 **MR. ENGELMANN:** Mr. Silmsers, I want to just
10 take you back -- I noticed something and I should have
11 pointed this out to you.

12 Do you have Exhibits 287 and 288?

13 I don't know.

14 Are the documents you have, are they marked?

15 Do they have the exhibit number on them?

16 **THE COMMISSIONER:** Yes, they do.

17 **MR. SILMSER:** Yes, they do.

18 **MR. ENGELMANN:** Great!

19 So 287 was the statement given to Carson
20 Chisholm and then 288 was the statement you gave to Perry
21 Dunlop?

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

23 **MR. ENGELMANN:** All right.

24 **MR. SILMSER:** Two-eighty-six (286) -- you're
25 saying 287?

1 **MR. ENGELMANN:** Yes.

2 Do I have my numbers wrong?

3 **THE COMMISSIONER:** No, 287 is the statement
4 that you gave to Mr. Dunlop. There is a typed portion in
5 the back.

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

7 **THE COMMISSIONER:** All right.

8 **MR. SILMSER:** What's the other one?

9 **MR. ENGELMANN:** Two-eighty-eight (288).

10 **THE COMMISSIONER:** Two-eighty-eight (288) is
11 the one ---

12 **MR. ENGELMANN:** December ---

13 **THE COMMISSIONER:** --- the statement you
14 gave to Mr. Dunlop of Toronto.

15 **MR. SILMSER:** I have both.

16 **THE COMMISSIONER:** Okay.

17 **MR. ENGELMANN:** Sir, I don't know if you
18 remember, I had asked you how would Mr. Dunlop know about
19 Marcel Lalonde and how he would know to ask you questions
20 in November?

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

22 **MR. ENGELMANN:** You weren't sure.

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

24 **MR. ENGELMANN:** Mr. Dunlop was present when
25 Mr. Chisholm took the statement from you in August.

1 Right?

2 MR. SILMSER: That's correct.

3 MR. ENGELMANN: And in that statement,
4 Exhibit 287, you mentioned, do you not, and I'm looking at
5 the first typewritten page?

6 MR. SILMSER: M'hm.

7 MR. ENGELMANN: You say "I told..." -- just
8 the bottom part of your first answer:

9 "I told them everything that happened
10 to me about Ken Seguin, Father Charles
11 MacDonald and Marcel Lalonde."

12 MR. SILMSER: Okay.

13 MR. ENGELMANN: So if Mr. Dunlop was present
14 he would have known that Marcel Lalonde was an alleged
15 abuser of yours?

16 MR. SILMSER: That's correct.

17 MR. ENGELMANN: All right.

18 And just while we are on that statement, Mr.
19 Commissioner, I forgot to mention on the second page in the
20 first paragraph -- and I don't want it up on the screen --
21 I already mentioned the moniker for the one name 'C-3' and
22 there is another name there that is a subject of a
23 publication ban.

24 THE COMMISSIONER: Right.

25 But my understanding ---

1 **MR. ENGELMANN:** Oh! Just clear the document
2 then and then ---

3 **THE COMMISSIONER:** It doesn't matter if it
4 goes on the public screen.

5 Does it?

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

7 **THE COMMISSIONER:** Thank you.

8 **MR. ENGELMANN:** I just wanted to explain
9 that there is -- that exists as well.

10 **THE COMMISSIONER:** Exactly!

11 Thank you.

12 **MR. ENGELMANN:** All right.

13 Okay.

14 Now, you had told us about Mr. Seguin and
15 this is Ken Seguin's brother's attendances in court and
16 things of that nature. So I just want to go back to the
17 beginning of that process.

18 Do you recall that the preliminary inquiry
19 dealing with Father Charles MacDonald would have started
20 in/or around February of '97?

21 **MR. SILMSER:** I'm not sure of the exact
22 date.

23 **MR. ENGELMANN:** All right.

24 You testified at the preliminary inquiry in
25 September of '97.

1 **MR. SILMSER:** Okay.

2 **MR. ENGELMANN:** All right.

3 And I just want you to confirm that.

4 So, Madam Clerk, if -- I believe you should
5 have documents 738201, 738202 and 738203.

6 And Mr. Commissioner, those are in order.
7 The preliminary inquiry transcript from September 9th, 1997,
8 before the Honourable Judge D.W. Dempsey. This was heard
9 in Ottawa. And that would be the first document 738201,
10 the second one being 738202 would be the preliminary
11 inquiry transcript from Wednesday, September 10th, 1997; and
12 then, lastly, 738203, a preliminary inquiry transcript from
13 Thursday, September 11th, 1997.

14 If those could be the next three exhibits?

15 **THE COMMISSIONER:** All right. Just take a
16 moment.

17 **(SHORT PAUSE/COURTE PAUSE)**

18 **THE COMMISSIONER:** All right.

19 Thank you.

20 So Exhibit 290 is the September 9th
21 transcript; the 291 exhibit is the September 10th; and 292
22 is the September 11th.

23 --- **EXHIBIT NO./PIÈCE NO. P-290:**

24 R. vs Charles MacDonald - September 9, 1997

25 --- **EXHIBIT NO./PIÈCE NO. P-291:**

1 Transcript - R. vs Charles MacDonald -
2 September 10, 1997

3 --- EXHIBIT NO./PIÈCE NO. P-292:

4 Transcript - R. vs Charles MacDonald -
5 September 11, 1997

6 **THE COMMISSIONER:** So are we going to these
7 right now?

8 **MR. ENGELMANN:** We will touch them very
9 superficially.

10 **THE COMMISSIONER:** Okay.

11 Thank you.

12 **MR. ENGELMANN:** Mr. Silmsers, Exhibit 290 has
13 the date "Tuesday, September 9th, 1997."

14 **MR. SILMSER:** Yes.

15 **MR. ENGELMANN:** And you'll note at the first
16 page of the actual transcript -- and incidentally, Your
17 Honour, these are still subject of a publication ban, these
18 transcripts.

19 **THE COMMISSIONER:** All right.

20 **MR. ENGELMANN:** If that could be noted for
21 the record.

22 **THE COMMISSIONER:** It's noted for the record
23 and for the information of the media.

24 **MR. ENGELMANN:** Yes.

25 Sir, it appears that your examination in-

1 chief starts on that day. If you just see that first page
2 "Examination In-Chief by Mr. Pelletier"?

3 MR. SILMSER: Yes.

4 MR. ENGELMANN: All right.

5 So, sir, do you recall whether or not some
6 of the other witnesses had given their evidence before you
7 in the preliminary inquiry?

8 MR. SILMSER: I believe so.

9 MR. ENGELMANN: All right.

10 And there were other complainants in these
11 charges against Father MacDonald at this time?

12 MR. SILMSER: Yes, there was.

13 MR. ENGELMANN: There was John MacDonald
14 that we know about?

15 MR. SILMSER: Yes.

16 MR. ENGELMANN: And do you know if he had
17 already given his evidence?

18 MR. SILMSER: I believe so; he did.

19 MR. ENGELMANN: Yes.

20 And there was another individual we are not
21 naming?

22 MR. SILMSER: That's correct.

23 MR. ENGELMANN: He had already given his
24 evidence.

25 MR. SILMSER: That's correct.

1 **MR. ENGELMANN:** So at least two other
2 witnesses had already testified. So it was fair to say
3 that this preliminary inquiry had started sometime before
4 September 9th of 1997?

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

6 **MR. ENGELMANN:** And you may well have been
7 there for those days, but you would have been excluded?

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

9 **MR. ENGELMANN:** Would you likely have been
10 there?

11 **MR. SILMSER:** More than likely I would have
12 been there, yes.

13 **MR. ENGELMANN:** And at this point in time,
14 in 1997, you are not gainfully employed.

15 Correct?

16 **MR. SILMSER:** Yes.

17 **MR. ENGELMANN:** You are on a disability
18 pension?

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

20 **MR. ENGELMANN:** And you are receiving out
21 patient medical attention from the Brockville Psychiatric
22 Hospital?

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

24 **MR. ENGELMANN:** Now, we talked a little
25 earlier about your preparation for the preliminary inquiry

1 and I just want to go through this again.

2 Robert Pelletier is the Crown prosecutor?

3 **MR. SILMSER:** Yes.

4 **MR. ENGELMANN:** All right.

5 And can you give us a sense as to how many
6 times you would have met with him prior to being called as
7 a witness, on September 9th, 1997?

8 **MR. SILMSER:** I can't remember really any
9 time I ever met with him. If we did it would be in the
10 hallway or he would call me off to a side room. I think
11 once he called me off to a side room in the court hallway
12 and, basically, it was just to find out how I was feeling,
13 how I was doing. It was never to do with any of the
14 information in the courts or my testimony or anything else.

15 **MR. ENGELMANN:** All right.

16 Well, by this point in time, you had given a
17 number of statements to a number of people?

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

19 **MR. ENGELMANN:** Starting with you would have
20 given statements to Cornwall Police Service, the OPP ---

21 **MR. SILMSER:** CAS.

22 **MR. ENGELMANN:** --- CAS, Carson Chisholm,
23 you were also examined at an Examination for Discovery?

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

25 **MR. ENGELMANN:** Were those documents - were

1 a stack of documents given to you to review?

2 MR. SILMSER: No, they weren't.

3 MR. ENGELMANN: All right.

4 Was your initial statement, the statement
5 that you handed in at the Cornwall Police Service, the
6 eight-page document ---

7 MR. SILMSER: Yes.

8 MR. ENGELMANN: --- was that given to you to
9 review?

10 MR. SILMSER: I remember having that
11 statement. I don't know who gave it to me, but I remember
12 having that statement. Yes.

13 MR. ENGELMANN: All right.

14 What about the other statements?

15 MR. SILMSER: No.

16 MR. ENGELMANN: What about any notes of
17 conversations -- telephone conversations or other things
18 that you might have been involved in?

19 MR. SILMSER: No.

20 MR. ENGELMANN: All right.

21 Were you advised that documents like that
22 could be used to cross-examine you at the preliminary
23 inquiry?

24 MR. SILMSER: No, I was not.

25 MR. ENGELMANN: And what about on the day of

1 September 9th, do you recall if you would have met with Mr.
2 Pelletier that day?

3 **MR. SILMSER:** I don't remember, but, like I
4 said, we very rarely ever met; if we met somewhere, it
5 would be in the hallway of the courtroom.

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

7 Now we know that ---

8 **MR. SILMSER:** And most time we'd just say
9 "Good morning."

10 **MR. ENGELMANN:** All right.

11 There had been a call or two in early '96,
12 and perhaps the summer of '96, where there was some tension
13 between you and Mr. Pelletier or you and someone from his
14 office.

15 Was that an issue for you, in 1997?

16 **MR. SILMSER:** No.

17 **MR. ENGELMANN:** Okay.

18 Did it appear to be for him, to your
19 knowledge?

20 **MR. SILMSER:** No.

21 **MR. ENGELMANN:** Were you living in the same
22 place throughout that period of time, 1996-1997?

23 **MR. SILMSER:** We had moved from one house to
24 another in Spencerville.

25 **MR. ENGELMANN:** Okay.

1 **MR. SILMSER:** But it was only a block away.

2 So.

3 **MR. ENGELMANN:** All right.

4 And did you notify -- did people know where
5 you were living; in other words, people like the Crown
6 Attorney's office or the police?

7 **MR. SILMSER:** Well, yes, everybody knew
8 where I was living.

9 **MR. ENGELMANN:** And you were attending court
10 even if you weren't testifying, I mean prior to September
11 '97?

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

13 **MR. ENGELMANN:** Who was letting you know
14 about court appearance dates?

15 **MR. SILMSER:** Usually my lawyer at the time.

16 **MR. ENGELMANN:** All right.

17 But you didn't have -- can it be your lawyer
18 from the civil matter?

19 I am thinking '96 and '97, sir, dates for
20 Father Charles MacDonald.

21 **MR. SILMSER:** Okay.

22 **MR. ENGELMANN:** Could it have been the
23 police or perhaps someone from the Crown Attorney's office
24 or Mr. MacDonald?

25 **MR. SILMSER:** I believe I was subpoenaed for

1 those cases and I would get the subpoena.

2 MR. ENGELMANN: All right.

3 And what about court appearances of Father
4 MacDonald before you had to give evidence, you said you
5 attended some of those, or you would have entered a plea.

6 MR. SILMSER: Well, John MacDonald also knew
7 what the dates were.

8 MR. ENGELMANN: All right.

9 MR. SILMSER: And if we were trying to be
10 together, we'd go down at the same time.

11 But everybody knew where I was living. I
12 didn't have a phone for approximately seven years because
13 of the media phoning me every day, and so we finally got a
14 cell phone, and we were in Brockville and the media got a
15 hold of me on my cell phone. I had no idea how they did
16 that, but people always could get a hold of me somehow or
17 another.

18 MR. ENGELMANN: So you just didn't have a
19 phone.

20 MR. SILMSER: That's right.

21 MR. ENGELMANN: Now those brief meetings or
22 meetings you would have had with Mr. Pelletier in the
23 hallway, would he have reviewed some documents with you or
24 do you recall?

25 MR. SILMSER: I don't remember me reviewing

1 anything with Mr. Pelletier.

2 **MR. ENGELMANN:** All right.

3 Did he ever give you a sense of the
4 questions he'd be asking you when you gave your evidence at
5 the preliminary inquiry?

6 **MR. SILMSER:** Absolutely not! No.

7 **MR. ENGELMANN:** All right.

8 So, you were there for three days for the
9 preliminary inquiry?

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

11 **MR. ENGELMANN:** I've just given you three
12 rather sizeable transcripts from those days.

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

14 **MR. ENGELMANN:** What do you remember about
15 the preliminary inquiry?

16 What sticks out in your mind?

17 **MR. SILMSER:** It was a long three days. I
18 was asked numerous questions, as you can see by the size of
19 this document.

20 I remember Mike Neville asking me the same
21 question countless times, over, and over, and over again.
22 And I just remember getting beat up real bad by Mr.
23 Neville, and there was never, ever, ever an objection from
24 the Crown or anybody. The only time there was ever an
25 objection, in that case I can remember, is when I caught

1 Mike Neville in a lie, and I made him go back to another
2 document. And he turned beet red, and asked if he could
3 have a recess, and the judge said "You don't get a recess;
4 the victim gets a recess."

5 **MR. ENGELMANN:** Do you recall for what
6 period of the three days you were asked questions in
7 examination-in-chief, by that I mean questions from the
8 Crown prosecutor?

9 **MR. SILMSER:** Can you repeat that again?

10 **MR. ENGELMANN:** Do you recall what portion
11 of the three days you would have been asked questions by
12 the Crown prosecutor?

13 **MR. SILMSER:** It was such a short time, I
14 would imagine maybe an hour or so.

15 **MR. ENGELMANN:** Just right at the beginning?

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

17 **MR. ENGELMANN:** The rest of the three days
18 was cross-examination?

19 **MR. SILMSER:** Yes, it was.

20 **MR. ENGELMANN:** All right.

21 And you say that, on occasions, you were
22 asked the same questions on several -- several times?

23 **MR. SILMSER:** On occasions, I was asked the
24 same question many, many times.

25 **MR. ENGELMANN:** Okay.

1 I don't want to get in the details, but do -
2 - were those questions about specific details or were they
3 about dates or do you have ---

4 MR. SILMSER: I think he asked me what year
5 I became an altar boy at least 15 times and I gave him my
6 answer the first time. He just kept it up, and up, and up,
7 and nobody ever objected to that line of questioning.

8 MR. ENGELMANN: Was Mr. Seguin there, the
9 fellow that you've mentioned?

10 MR. SILMSER: Doug Seguin was always there.

11 MR. ENGELMANN: Were there many people
12 there?

13 Do you recall?

14 MR. SILMSER: There was Charles MacDonald,
15 and I believe his boyfriend was there sitting with him the
16 whole time; very few people.

17 MR. ENGELMANN: There were just the two
18 lawyers; Mr. Pelletier and Mr. Neville.

19 MR. SILMSER: That's correct.

20 MR. ENGELMANN: There weren't other lawyers
21 that you knew of?

22 MR. SILMSER: That I knew of, no.

23 MR. ENGELMANN: All right.

24 And you said that -- did you expect Mr.
25 Pelletier to object from time-to-time or you said he

1 didn't?

2 Did you know what to expect?

3 **MR. SILMSER:** This was the first time I
4 think I'd ever been to a such a lengthy -- this was the
5 first time I ever was a victim in something like this. And
6 I really didn't know what to expect. All I knew I was
7 getting beat up like crazy and nobody was doing anything
8 about it, not even the judge.

9 **MR. ENGELMANN:** Now, you had been asked a
10 lot of questions over two or three days in an Examination
11 for Discovery back in '95.

12 Correct?

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

14 **MR. ENGELMANN:** Did you have a sense that it
15 would be similar to that in the criminal process?

16 **MR. SILMSER:** I wasn't 100 per cent sure.
17 The discovery, at least, if they were asking the wrong
18 questions, Bryce Geoffrey got up and said something.

19 **MR. ENGELMANN:** Okay.

20 So there was some intervention from time to
21 time at the discovery by your counsel?

22 **MR. SILMSER:** Yes, there was.

23 **MR. ENGELMANN:** Okay.

24 Did you have any witness or victim support
25 during the discovery -- sorry -- during the preliminary

1 inquiry?

2 MR. SILMSER: No, I didn't.

3 MR. ENGELMANN: Do you know what I mean by
4 that?

5 MR. SILMSER: I couldn't even find support
6 on the street when I went looking for victims of sexual
7 abuse, male victims of sexual abuser, there is nothing out
8 there.

9 MR. ENGELMANN: But we've heard now that --
10 we know that in many places in Ontario, there are programs
11 available in courthouses where assistance is provided ---

12 MR. SILMSER: Right.

13 MR. ENGELMANN: --- for victims or alleged
14 victims of a crime ---

15 THE COMMISSIONER: Well, there is witnesses.
16 Are you looking at this witness support?

17 MR. ENGELMANN: That's right, witnesses.

18 THE COMMISSIONER: So witness support in the
19 sense that if you are a witness, they'll arrange to meet
20 with you, find you a place to sit, escort you around, that
21 kind of thing.

22 MR. SILMSER: But they didn't have that back
23 when I was ---

24 THE COMMISSIONER: Okay.

25 That's what Mr. Engelmann was getting at.

1 So the answer was they didn't have that when
2 you were ---

3 **MR. SILMSER:** No.

4 **THE COMMISSIONER:** All right.

5 **MR. ENGELMANN:** And this was taking place in
6 Ottawa, was it not?

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

8 **MR. ENGELMANN:** And, do you know why it was
9 taking place in Ottawa as opposed to here in Cornwall?

10 **MR. SILMSER:** No, I didn't.

11 **MR. ENGELMANN:** Now, did you -- you say you
12 had very limited communication with Mr. Pelletier before
13 the preliminary inquiry.

14 By the way, at the end of these three days,
15 was Father MacDonald committed to stand trial up to your
16 allegations?

17 **MR. SILMSER:** Yes, he was.

18 **MR. ENGELMANN:** All right.

19 And that was true as well for the
20 allegations that were made by John MacDonald.

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

22 **MR. ENGELMANN:** And as I understand it, the
23 other fellow that was put off for argument and then later
24 Father MacDonald was committed to stand trial on those
25 charges as well.

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

2 **MR. ENGELMANN:** Did you have an discussions
3 with Mr. Pelletier or his colleagues shortly after the
4 preliminary inquiry?

5 **MR. SILMSER:** No, I don't believe so.

6 **MR. ENGELMANN:** All right.
7 Did you ever have any discussion about how
8 it went or how you might expect it to go at a trial?

9 **MR. SILMSER:** No.

10 **MR. ENGELMANN:** All right.
11 Did Mr. Pelletier continue to act as the
12 Crown prosecutor in your case after the committal for
13 trial?

14 **MR. SILMSER:** Yes, he did.

15 **MR. ENGELMANN:** All right.
16 And did that change at some point in time?

17 **MR. SILMSER:** Yes, it did.

18 **MR. ENGELMANN:** All right.
19 And were you informed as to why it changed?

20 **MR. SILMSER:** I wasn't informed, but I found
21 out because there was a conflict of interest.

22 **MR. ENGELMANN:** All right.
23 And who would have told you that?

24 Would Mr. Pelletier have told you that?

25 **MR. SILMSER:** No.

1 **MR. ENGELMANN:** Okay.

2 Do you recall how you found out?

3 **MR. SILMSER:** I found out through ---

4 **MR. ENGELMANN:** Would it have been through
5 another complainant or by the police?

6 **MR. SILMSER:** I am not really sure who the
7 first person to tell me who the ---

8 **MR. ENGELMANN:** All right.

9 But you found out that he could no longer be
10 the Crown prosecutor?

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

12 **MR. ENGELMANN:** And that was the following
13 year or do you know when?

14 **MR. SILMSER:** I thought it was right at
15 that, it was a year - see, there were so many delays in the
16 court.

17 **MR. ENGELMANN:** All right.

18 So let's talk about that.

19 After the preliminary inquiry and the
20 committal to stand trial, we know that this matter was
21 disposed of in, I believe, it was May of 2002 ---

22 **MR. SILMSER:** Okay.

23 **MR. ENGELMANN:** --- when Mr. Neville argued
24 successfully for a stay of the proceedings because of
25 unreasonable delay.

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

2 **MR. ENGELMANN:** And you say there were a
3 number of delays that took place between the preliminary
4 inquiry and five years later; that's 2002?

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

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

7 And were you informed as to the reasons for
8 the delays when they occurred?

9 **MR. SILMSER:** My understanding for a lot of
10 the delays was because of Mike Neville. It was his
11 character to try and stretch this case out as long as he
12 could by appealing situations and so forth. I don't
13 believe ---

14 **MR. ENGELMANN:** Wait!
15 Someone told you that, right?

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

17 **MR. ENGELMANN:** Okay.

18 So do you know the real reasons for some of
19 those delays?

20 Did a Crown prosecutor or anybody from the
21 Crown Attorney's office tell you about reasons for delay?

22 **MR. SILMSER:** No. I know some of the delays
23 were very lengthy, like three months, four months, five
24 months, I couldn't understand it.

25 **MR. ENGELMANN:** All right.

1 And were you aware, sir, that sometimes
2 there were delays because there were additional
3 complainants added and then the case was going to be heard
4 with more complainants.

5 **MR. SILMSER:** See, I didn't know that at the
6 time.

7 **MR. ENGELMANN:** All right.
8 Were you ever told that doing something like
9 that might cause a delay and might lead to an argument?

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

11 **MR. ENGELMANN:** Were any of the delays as a
12 result of anything you did?

13 **MR. SILMSER:** No. I was usually in the
14 court around a half an hour or an hour before it even
15 started.

16 **MR. ENGELMANN:** Were there times when you
17 couldn't go to court because you were ill?

18 **MR. SILMSER:** Never. I was ill in the
19 courtroom sometimes where I could hardly even hold my head
20 up and I was ill sitting in there.

21 **MR. ENGELMANN:** Now, at some point you say
22 Mr. Pelletier stopped working on the case. Do you know who
23 took over from him?

24 **MR. SILMSER:** A Crown Attorney by the name
25 of Shelley Hallett.

1 **MR. ENGELMANN:** And before Mr. Pelletier got
2 off the case, after the preliminary inquiry, did you have
3 any meetings with him for any length of time?

4 **MR. SILMSER:** We never had any meetings.

5 **MR. ENGELMANN:** All right.

6 What about Ms. Hallett, did she meet with
7 you?

8 **MR. SILMSER:** Yes, she did.

9 **MR. ENGELMANN:** All right.

10 And do you recall when that was and for what
11 purpose?

12 **MR. SILMSER:** It was just at the beginning
13 when she took over. We met at the OPP station in Long
14 Sault, in the basement of the OPP station. I believe it
15 was just to get acquainted with myself. They were more
16 discussing about Perry Dunlop's involvement, which had
17 nothing to do with me, and I never answered them. There
18 was two lawyers or three lawyers there and they were
19 talking amongst themselves most of the time.

20 **MR. ENGELMANN:** And Ms. Hallett was present?

21 **MR. SILMSER:** Yes.

22 **MR. ENGELMANN:** And one or two other Crown
23 Attorneys?

24 **MR. SILMSER:** Or her advisors or people who
25 helped her out. I don't know.

1 **MR. ENGELMANN:** And did you have an occasion
2 to meet with her again?

3 **MR. SILMSER:** I don't believe so, no.

4 **MR. ENGELMANN:** All right.

5 Now, did she end up actually arguing for the
6 Crown at the stay application by Mr. Neville? Did she
7 continue to be the prosecutor?

8 **MR. SILMSER:** I believe so but I don't
9 really know.

10 **MR. ENGELMANN:** I understand that there was
11 another prosecutor that was involved towards the end. I
12 believe a fellow by the name of McConnery.

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

14 **MR. ENGELMANN:** Do you remember that?

15 **MR. SILMSER:** Yes.

16 **MR. ENGELMANN:** Do you know why Ms. Hallett
17 didn't stay on the case after she got on the case?

18 **MR. SILMSER:** No idea.

19 **MR. ENGELMANN:** You weren't told that there
20 was any conflict of interest or anything like that for her?

21 **MR. SILMSER:** I still don't know today.

22 **MR. ENGELMANN:** Now, were you in court in
23 May of 2002 when the stay was granted?

24 **MR. SILMSER:** No, I wasn't.

25 **MR. ENGELMANN:** And how did you find out

1 that the case was effectively over?

2 **MR. SILMSER:** I believe through the news
3 media, watching on CJOH TV.

4 **MR. ENGELMANN:** And how did you react at the
5 end when you found that out, that this wasn't going to go
6 to trial?

7 **MR. SILMSER:** It was a long road up till
8 then and, you know, in one way I was happy because maybe I
9 can get on with my life, and in another way I was angry
10 because justice wasn't served. I went through a lot of
11 emotions back then.

12 Charles MacDonald, as far as I'm concerned,
13 he's a criminal. I mean, not a convicted criminal but he's
14 a criminal. And for the charges to be stayed means there's
15 a failure in the system, but it does not only fail me. It
16 fails every family that has young kids in the community
17 because he's still walking the streets and there are
18 children at risk. And that's basically how I felt.

19 **MR. ENGELMANN:** There were eight other
20 complainants at that time. Did you get together and talk
21 about this as a group at all about how you felt?

22 **MR. SILMSER:** No. Basically the only person
23 I've ever talked to on matters, and it's never about
24 details, is just how we felt, was John MacDonald because he
25 was a friend of mine, and my wife; number one, my wife.

1 **MR. ENGELMANN:** Okay. Mr. Silmser, when we
2 started out you told us about alleged abuse from three
3 individuals.

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

5 **MR. ENGELMANN:** And in every case -- well,
6 with Father MacDonald, as you know, there were eight other
7 alleged victims where charges were laid and proceeded
8 against for some time against Father MacDonald. In the
9 case of Ken Séguin there were no charges laid. You were
10 aware of that?

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

12 **MR. ENGELMANN:** Are you aware of lawsuits
13 that were filed against the Ministry of Corrections?

14 **MR. SILMSER:** The only lawsuit I was aware
15 of was my own.

16 **MR. ENGELMANN:** All right.

17 So you weren't aware of other lawsuits filed
18 by other alleged victims of Ken Séguin?

19 **MR. SILMSER:** No, I'm not aware of this.

20 **MR. ENGELMANN:** All right.

21 And you are aware of Marcel Lalonde, the
22 third individual you allege abused you also, in his case
23 being convicted of abusing several boys?

24 **MR. SILMSER:** Yes, I am aware of that.

25 **MR. ENGELMANN:** Now, with some of these

1 other complainants they allege abuse by more than one of
2 these three individuals. You've told us that you thought
3 Father MacDonald and Mr. Séguin were close friends or good
4 friends.

5 MR. SILMSER: That's correct.

6 MR. ENGELMANN: Do you know if there was any
7 relationship between the two of them and the school
8 teacher, Marcel Lalonde, to your knowledge?

9 MR. SILMSER: To my knowledge I believe
10 there was.

11 MR. ENGELMANN: Why do you think that?

12 MR. SILMSER: The St. Columban's Parish, St.
13 Columban's Sacristy had a youth group which Marcel Lalonde
14 was involved with which would also involve Charles
15 MacDonald.

16 MR. ENGELMANN: So he was involved in a
17 youth group at the same parish?

18 MR. SILMSER: Yes, he was.

19 MR. ENGELMANN: And do you know what his
20 involvement was, sir?

21 MR. SILMSER: No.

22 MR. ENGELMANN: And he was a teacher at the
23 Catholic middle school, Bishop McDonell?

24 MR. SILMSER: That's correct.

25 MR. ENGELMANN: And did that school have

1 some interaction with St. Columbians?

2 MR. SILMSER: That I'm not sure.

3 MR. ENGELMANN: And do you know of any
4 connection between him and Ken Séguin?

5 MR. SILMSER: No, I don't.

6 MR. ENGELMANN: Just that Mr. Séguin and Mr.
7 MacDonald -- Father MacDonald were close friends?

8 MR. SILMSER: That's correct.

9 MR. ENGELMANN: And none of these people
10 that came forward with respect to these three individuals -
11 - you weren't aware of any of those other victims or
12 alleged victims when you first came forward to the Cornwall
13 police or to the Diocese in December of 1992?

14 MR. SILMSER: No, I wasn't.

15 MR. ENGELMANN: And during the course of the
16 several months before the Cornwall Police Service closed
17 their file in late September of '93 were you ever told
18 about any other complainants by the Cornwall Police
19 Service?

20 MR. SILMSER: No, I wasn't.

21 MR. ENGELMANN: What about in 1994 when the
22 OPP was investigating this matter again?

23 MR. SILMSER: I don't believe so either.

24 MR. ENGELMANN: And you told us in the case
25 of Marcel Lalonde you became aware of the existence of

1 other complainants sometime in 1997 after you'd given that
2 statement to Perry Dunlop?

3 MR. SILMSER: I was aware he was charged.

4 MR. ENGELMANN: Yes. But the Cornwall
5 police had acted on information from Mr. Dunlop?

6 MR. SILMSER: But I was never aware of the
7 victims. I didn't know any of them.

8 MR. ENGELMANN: Okay. You didn't know ---

9 MR. SILMSER: I just didn't know their
10 names.

11 MR. ENGELMANN: Okay.

12 MR. SILMSER: I don't even know who they are
13 today.

14 MR. ENGELMANN: You've told us, sir, a
15 little bit about the effects of the abuse and some of the
16 effects and the fact that you've received medical treatment
17 for depression -- sorry, the alleged abuse, for depression
18 and post-traumatic stress disorder.

19 I wanted just to ask you a little bit about
20 the institutional response. You said a few times you
21 thought you were being investigated. I'd just like to have
22 it from you now, just thinking back, effects of alleged
23 abuse and/or the institutional response and how that's
24 affected you.

25 MR. SILMSER: The institutional response, on

1 my behalf anyways, failed numerous times. You can see that
2 through what I've said the last day and a half. I don't
3 know the reason for the failure sometimes and hopefully the
4 Inquiry will find out the reason for the failure. I just
5 know that, like I said earlier, when you stay charges
6 there's a failure and it puts a community at risk for
7 having these people walking on the streets, and that was my
8 main concern today, is when the system fails like that it
9 not only fails me but it fails everybody.

10 It was a tough road. I basically wouldn't
11 want anybody -- see anybody go through what I went through
12 with the system failures. I believed right from the
13 beginning that Murray MacDonald had enough evidence to
14 charge Charles MacDonald. He had a statement that was
15 professionally analyzed that came out 100 per cent
16 truthful. Now, I know he had other victims that had come
17 forward and were coming forward.

18 **MR. ENGELMANN:** Well, you don't know he knew
19 that, do you, sir?

20 **MR. SILMSER:** I think that's been discussed
21 here a little bit, to some extent.

22 I think that if Murray MacDonald -- Mr.
23 Pelletier, which was his best man at his wedding, wouldn't
24 have had the cases there's a possibility that the system
25 wouldn't have failed. I'm not sure. There were good

1 people involved in the system. Heidi Sebalj was one of
2 them with the Cornwall police, and she's a victim of this
3 thing as much as I am.

4 He has ruined a lot of peoples' lives and a
5 lot of victims' lives, and hopefully at the end of this
6 Inquiry that the children in this community will be a lot
7 safer, and that's what I wish for.

8 **MR. ENGELMANN:** After 10 years involvement
9 with a number of institutions here from late '92 until May
10 of 2002, and you've talked about some of the failures and
11 some of the concerns -- we've been asking victims and
12 alleged victims who have come to testify if they have
13 recommendations or suggestions, or if they had to go
14 through this again if there would be a way that it could be
15 done better.

16 The reason we're doing that, sir, is a
17 report will be written at the end of this Inquiry with
18 recommendations, not just for the City of Cornwall but for
19 the province of Ontario on how to deal with allegations of
20 child sexual abuse.

21 I wonder if you've had an opportunity to
22 give some thought as to how this could be done better. Is
23 that something that you'd like the lunch hour to think
24 about or would you like to let us know now?

25 **MR. SILMSER:** Again, I have to say, there is

1 always something that can be done better. We're all human.
2 We all make mistakes. And I'm not going to go around and
3 point fingers and say this was your fault, this was your
4 fault; that was your fault. I expect the Inquiry to do
5 that, not myself.

6 And again, if these men in this city
7 wouldn't have been in power the way they were in power,
8 Police Chief Shaver; again, Murray MacDonald, Ken Séguin,
9 which were all friends; Malcolm MacDonald, I think maybe
10 the system would have worked.

11 **MR. ENGELMANN:** You think or you know that
12 some of these individuals were friends?

13 **MR. SILMSER:** They were all friends.

14 If you went down to the Jade Garden at lunch
15 hour you would see them all sitting together at lunch. I
16 think Murray MacDonald himself, his father was a pedophile
17 and convicted three times. Murray MacDonald is very strong
18 in the Catholic religion. I don't think he was going to
19 push these charges on his friends. In fact, he was going
20 to hand it over to Pelletier, his best man at his wedding
21 so he could take the flack for it. I don't think Pelletier
22 did a good job either.

23 **MR. ENGELMANN:** Sir, you just told us you
24 don't want to point blame. I'm just asking you for some
25 suggestions. You told us that perhaps friendship didn't

1 help. Are there ways -- again, I'm not ---

2 MR. SILMSER: Again, I'm not pointing blame
3 at the institutions such as the OPP, Cornwall Police and
4 places like that. I'm putting the blame at a few handful
5 of men in this community, that were in this community, that
6 don't even have the nerve to come back and confront this
7 Inquiry, like Shaver.

8 MR. ENGELMANN: Well, sir, we ---

9 MR. SILMSER: As far as I know ---

10 MR. ENGELMANN: No, he has offered to come
11 back.

12 MR. SILMSER: He has offered to come back?

13 MR. ENGELMANN: Absolutely!

14 MR. SILMSER: That's good!

15 MR. ENGELMANN: He is going to be
16 interviewed.

17 MR. SILMSER: That's excellent!

18 MR. ENGELMANN: I understand he is eager to
19 come and tell his side of things.

20 MR. SILMSER: That's excellent.

21 MR. ENGELMANN: And we are certainly going
22 to be talking to other people from the institutions at/or
23 about that time.

24 MR. SILMSER: That's good!

25 MR. ENGELMANN: We have every indication

1 that they are eager to come back here and tell the story as
2 well. I'm sure Mr. MacDonald, Murray MacDonald, will want
3 to tell his side of it as well too.

4 **MR. SILMSER:** That's good!

5 **MR. ENGELMANN:** They will get an
6 opportunity.

7 **MR. SILMSER:** That's excellent!

8 **MR. ENGELMANN:** We are trying to -- we are
9 trying to have this discussed here and make sure that this
10 examined and examined thoroughly. So you can rest assured,
11 sir, that some of these individuals will be here and will
12 be talking about it.

13 **MR. SILMSER:** That's excellent!

14 **MR. ENGELMANN:** Okay.

15 **THE COMMISSIONER:** I think what we're
16 looking for is some recommendations. For example, you kept
17 saying throughout your testimony that you didn't know what
18 was going on with your case.

19 So I would think that one recommendation
20 might be that there be regular communication with victims
21 so that they know what's going on in their case, that
22 people answer their questions, that kind of thing, that
23 there be a witness support person when people come to
24 court.

25 So those are the -- amongst other

1 recommendations and you might come up with some that I
2 haven't thought of.

3 But are there any things like that that you
4 would like to see that we haven't mentioned already?

5 **MR. SILMSER:** I haven't put any thought
6 through for that.

7 **THE COMMISSIONER:** I'm sorry?

8 **MR. SILMSER:** I haven't thought about it.

9 **THE COMMISSIONER:** All right.

10 Well, maybe we can -- you can think about
11 that during the lunch break before the cross-examination.

12 **MR. SILMSER:** Okay.

13 **THE COMMISSIONER:** There is an area that I
14 want to cover and that's this. You allege that you were
15 abused by three people.

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

17 **THE COMMISSIONER:** In sequential, the first
18 abuse you allege was from Father MacDonald.

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

20 **THE COMMISSIONER:** And then Ken Seguin and
21 then the Lalonde fellow?

22 **MR. SILMSER:** No. That would be Charles
23 MacDonald, Marcel Lalonde and then Ken Seguin.

24 **THE COMMISSIONER:** All right.

25 And just so I'm clear in this, you are not

1 alleging that the three of them you allege abused you at
2 the same time in the same room?

3 **MR. SILMSER:** No.

4 **THE COMMISSIONER:** All right.

5 And is there any -- do you see a link
6 between your abuse at the -- your alleged abuse at the
7 hands of Father MacDonald and that at the hands of Mr.
8 Lalonde, for example?

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

10 **MR. SILMSER:** No.

11 **THE COMMISSIONER:** So ---

12 **MR. SILMSER:** It could be, but I can't say -
13 --

14 **THE COMMISSIONER:** No, but I'm looking at
15 your knowledge. It's is your knowledge.

16 **MR. SILMSER:** To my knowledge, no.

17 **THE COMMISSIONER:** So, for example, M.
18 Lalonde didn't say "Oh! Well, Father MacDonald told me
19 that I could abuse you."

20 There was no link like that?

21 **MR. SILMSER:** I don't think they'd say that
22 anyways and I wouldn't hear of that.

23 **THE COMMISSIONER:** Okay.

24 But in your conversations with M. Lalonde,
25 was there anything that gave you an indication that there

1 was a link there?

2 MR. SILMSER: No, just that they knew each
3 other.

4 THE COMMISSIONER: All right.

5 And so in the same way with respect to Mr.
6 Seguin, you allege that he abused you.

7 Is there anything in your conversations with
8 him that would have led you to believe that someone had
9 told them that it was okay to abuse you?

10 MR. SILMSER: I don't think they would come
11 out and say it like that.

12 THE COMMISSIONER: No.

13 MR. SILMSER: But they did come out and say
14 a few other things.

15 THE COMMISSIONER: Such as?

16 MR. SILMSER: I don't really want to go into
17 that. It's too personal.

18 THE COMMISSIONER: All right.

19 Well, we'll think about that one for a
20 little bit at the lunch break and when we come back after
21 lunch we may want to revisit that. You may want to canvass
22 that, Mr. Engelmann.

23 All right.

24 Anything else then, Mr. Engelmann, before we
25 go for lunch?

1 **MR. ENGELMANN:** No.

2 **THE COMMISSIONER:** All right.

3 So we're breaking early so I would like to
4 be back at 1:45.

5 **MR. ENGELMANN:** All right.

6 **THE COMMISSIONER:** Thank you.

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

9 The hearing will resume at 1:45.

10 --- Upon recessing at 12:12 p.m. /

11 L'audience est suspendue à 12h12

12 --- Upon resuming at 1:50 p.m. /

13 L'audience est reprise à 13h50

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

16 This hearing of the Cornwall Public Inquiry
17 is now in session. Please be seated. Veuillez vous
18 asseoir.

19 **DAVID SILMSER, Resumed/Sous le même serment:**

20 **THE COMMISSIONER:** Good afternoon, all.

21 Mr. Silmser, how are you doing?

22 **MR. SILMSER:** Good.

23 Thank you.

24 **THE COMMISSIONER:** A couple of things before
25 we continue.

1 The first one is I had asked you a couple of
2 questions about linkages or that kind, and you had wanted
3 to take some time to think about that.

4 And so are you in a position to answer,
5 provide me with an answer to my question at this point?

6 **MR. SILMSER:** Yes, I am.

7 **THE COMMISSIONER:** All right.

8 **MR. SILMSER:** Ken Seguin had informed me
9 that he knew about Charles MacDonald sexually abusing me.

10 **THE COMMISSIONER:** Okay.

11 **MR. SILMSER:** But maybe he didn't say it in
12 those words.

13 **THE COMMISSIONER:** Pardon me?

14 **MR. SILMSER:** He didn't say it in those
15 words.

16 **THE COMMISSIONER:** All right.

17 In what words did he say it?

18 **MR. SILMSER:** He knew what Charles MacDonald
19 was doing, type of thing. I don't -- that's as far as I
20 can go with that.

21 **THE COMMISSIONER:** You can't remember the
22 words?

23 **MR. SILMSER:** Exact words, no.

24 **THE COMMISSIONER:** All right.

25 The other thing I have to say is that in

1 your comments which, you know, you were quite correct or
2 able to say, you feel that Father Charles MacDonald is a
3 criminal, and I just have to point out to the public that
4 he has not been found guilty of any crime.

5 **MR. SILMSER:** But he has not been found not
6 guilty of any crime either.

7 **THE COMMISSIONER:** That's a matter of
8 discussion for ourselves, except I think I am duty-bound to
9 indicate to the people who are watching that those are your
10 comments, and I respect your position on that ---

11 **MR. SILMSER:** Okay.

12 **THE COMMISSIONER:** --- and all the while I
13 have to ensure that we keep it on an even keel, and so
14 that's why I point out that.

15 All right.

16 **MR. SILMSER:** Okay.

17 **THE COMMISSIONER:** Thank you very much.
18 Mr. Engelmann.

19 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
20 **ENGELMANN, (cont'd/suite):**

21 **MR. ENGELMANN:** I had neglected to ask you a
22 couple of questions, Mr. Silmsers. So I do have just a
23 couple more questions for you, if you don't mind.

24 **MR. SILMSER:** Okay.

25 **MR. ENGELMANN:** One of the questions I

1 wanted to ask you was whether or not you ever filed a claim
2 with the Criminal Injuries Compensation Board for any of
3 the alleged abuse you have spoken about from any of those
4 three individuals?

5 **MR. SILMSER:** I asked for an application but
6 I didn't follow through with it because I was waiting for
7 John MacDonald to finish with his and see how he would be
8 treated. And when I found out how he was treated through
9 the criminal board, I wanted no part of it.

10 They had the priest and Mike Neville sitting
11 in the boardroom with John MacDonald peppering him with
12 questions.

13 **MR. ENGELMANN:** This is something you know
14 from?

15 **MR. SILMSER:** John MacDonald.

16 **MR. ENGELMANN:** From Mr. MacDonald?

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

18 **MR. ENGELMANN:** You weren't there?

19 **MR. SILMSER:** No, I wasn't.

20 **MR. ENGELMANN:** Okay.

21 With respect to -- and we talked about a few
22 lawsuits, and I just -- you did end up filing a lawsuit
23 against the Ministry of Corrections?

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

25 **MR. ENGELMANN:** And that was as a result of

1 the alleged abuse by Ken Seguin?

2 MR. SILMSER: That's correct.

3 MR. ENGELMANN: And has that case now been
4 resolved?

5 MR. SILMSER: Yes, it has.

6 MR. ENGELMANN: And was it settled?

7 MR. SILMSER: Yes, it was.

8 MR. ENGELMANN: All right.

9 And that's been done to your satisfaction?

10 MR. SILMSER: Yes, it has.

11 MR. ENGELMANN: Okay.

12 Mr. Silmser, lastly, we had had a brief
13 discussion before lunch about possible recommendations.
14 I'm not sure if there is anything you want to leave with us
15 on that issue or not.

16 MR. SILMSER: I wrote down nine of them.

17 MR. ENGELMANN: All right.

18 MR. SILMSER: The first one, I think there
19 should be longer and harsher sentences for people that
20 sexually abuse children.

21 Number two, when a victim of sexual abuse is
22 being interviewed by the police, they should have a
23 counsellor present at the same time.

24 MR. ENGELMANN: A counsellor?

25 MR. SILMSER: Yes.

1 Number three, there should be a panel of
2 Crown attorneys to make decisions on -- decisions on cases
3 that have involved sexual abuse. There shouldn't just be
4 one Crown attorney. There should be a panel of Crown
5 attorneys.

6 If a Crown attorney doesn't want to contact
7 the victim -- this is number four -- he should have a
8 person to relate information to that victim.

9 Number five, institutions such as the CAS
10 should not ask direction from the Catholic Church involving
11 sexual abuse cases that are ongoing.

12 Priests that are sexually -- have been
13 charged with sexual abuse charges shouldn't get special
14 treatment such as making appointments with the Cornwall
15 Police to go down and get charges laid and fingerprinted.

16 Number seven, juvenile probation officers
17 should be accompanied by a parent of the child and the
18 child, just not the child and the juvenile probation
19 officer.

20 And, number eight, any priest convicted of
21 sexual abuse towards minors should have orders through the
22 Court to restrict them to have access to the altar boys --
23 any access to altar boys. I feel that they shouldn't even
24 be priests. They are not men of God. So I don't even
25 believe they should be priests. But that won't happen.

1 And I also think that if a person is in the
2 courtroom, it doesn't matter, in the hallway, and he is
3 testifying that he was sexually abused and you have
4 somebody harassing him, there should be charges laid on
5 that person who harasses those victims, such as Doug
6 Seguin.

7 And that's all.

8 **THE COMMISSIONER:** Thank you.

9 **MR. ENGELMANN:** Mr. Silmsers, thank you very
10 much ---

11 **MR. SILMSER:** Thank you.

12 **MR. ENGELMANN:** --- for your comments and
13 for being here to give this evidence. There are a number
14 of parties to this Inquiry who are represented by counsel
15 and they will have some questions for you. There are a
16 number of documents that they may be referring to, perhaps
17 too many, but we'll see when that comes.

18 I'm just concerned, and I mentioned this to
19 a couple of the counsel, that I think there is 350 or so
20 odd documents from the day-to-day that have been selected,
21 and sometimes it appears that some of us think documents
22 are more appropriately entered in the institutional
23 response section than with the victim or alleged victim.
24 But we'll cross that bridge when and if that arises, today
25 or tomorrow.

1 But what will happen, sir, is you will be
2 asked some questions, and counsel will identify themselves,
3 and they'll let you know who they represent. Just answer
4 the questions to the best of your ability.

5 **MR. SILMSER:** Okay.

6 Thank you.

7 **MR. ENGELMANN:** Thank you.

8 **THE COMMISSIONER:** Do we have an order?

9 **MR. ENGELMANN:** Mr. Commissioner, I think
10 the order is the usual order. I have spoken to Mr. Rose
11 who is unfortunately quite ill and he has gone back to
12 Toronto. I understand that he spoke to some of the other
13 lawyers and confirmed that it was okay, that he could go
14 last. And we are anticipating that he will then be the
15 last person to cross-examine Mr. Silmsers and that would be
16 on Monday afternoon.

17 **THE COMMISSIONER:** All right.

18 Can we hear from Mr. Wardle then?

19 **DAVID SILMSER, Resumed**

20 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

21 **WARDLE:**

22 **MR. WARDLE:** Good afternoon, Mr.

23 Commissioner.

24 Good afternoon, Mr. Silmsers.

25 **MR. SILMSER:** Hello.

1 **MR. WARDLE:** My name is Peter Wardle. I am
2 here for Citizens for Community Renewal, which is a
3 citizens' group from the Cornwall area that has standing at
4 the Inquiry, and I'm assuming you probably know a little
5 bit about the group just from watching the work of the
6 Inquiry?

7 **MR. SILMSER:** Actually, I don't.

8 **MR. WARDLE:** All right.

9 But I will have a few questions for you and
10 we'll start with some general things and then I will go
11 into a couple of very specific areas.

12 **MR. SILMSER:** That's fine.

13 **MR. WARDLE:** Can I just take you back, if I
14 can, to start right to the very beginning, and I'm just
15 going, sir, to try to place us in December of 1992, which,
16 as I understand it, is when you first had communications
17 with the Cornwall Police Service.

18 **MR. SILMSER:** Okay.

19 **MR. WARDLE:** Am I right that at that time
20 you were 34 years old?

21 **MR. SILMSER:** I don't know. Born in ---

22 **MR. WARDLE:** You were born in 1958.

23 **MR. SILMSER:** --- 1958.

24 **THE COMMISSIONER:** And this is '92.

25 **MR. WARDLE:** So, hopefully, I've done the

1 math correctly. Roughly 34 years old.

2 MR. SILMSER: Okay.

3 All right.

4 MR. WARDLE: And is it fair to say that up
5 to that point in time, you had had a pretty difficult life?

6 MR. SILMSER: Yes.

7 MR. ENGELMANN: And as I understand it, you
8 had dropped out of school at a pretty early age?

9 MR. SILMSER: Grade 11.

10 MR. WARDLE: You had lived on the street for
11 a while?

12 MR. SILMSER: Yes.

13 MR. WARDLE: And you'd had ongoing substance
14 abuse problems?

15 MR. SILMSER: Not ---

16 MR. WARDLE: From time-to-time?

17 MR. SILMSER: Not anymore than anybody else
18 I don't believe.

19 MR. WARDLE: Okay.

20 But you had had some problems with alcohol,
21 as I understand it?

22 MR. SILMSER: Again, I don't know where
23 that's coming from because I really -- I don't have any
24 more problems, I believe, than anybody else would.

25 MR. WARDLE: Fair enough.

1 And you had, as you told us, spent some time
2 in jail.

3 Correct?

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

5 **MR. WARDLE:** And you've said a number of
6 times yesterday and today that you were a very angry
7 person.

8 Is that fair to say?

9 **MR. SILMSER:** Today, I am?

10 **MR. WARDLE:** No, not today. I'm going back
11 to -- just let's place ourselves when you start dealing
12 with the police and the Diocese, and all the events that
13 you spoke about to Mr. Engelmann. We start that process.
14 You were a fairly frustration, and angry person.

15 Is that correct?

16 **MR. SILMSER:** I would think that through the
17 process, the frustration made me angry. I had problems,
18 sure. But I don't think it was anger all the time. Don't
19 forget, I had a family life too. I had two children.

20 **MR. WARDLE:** No, I understand that, and I
21 understand that your marriage and your family life was one
22 of the things that gave you some stability as you started
23 to come forward.

24 Is that fair?

25 **MR. SILMSER:** And it gave me stability

1 before that too.

2 MR. WARDLE: Yes, and it gave you some
3 support. Your wife, in particular, gave you a lot of
4 support.

5 MR. SILMSER: That's correct.

6 MR. WARDLE: Okay.

7 And you described this process as you came
8 forward and began to deal with the Diocese and the police
9 as a step-by-step process. Do you recall saying that to
10 Mr. Engelmann?

11 MR. SILMSER: Yes.

12 MR. WARDLE: And what I understood you to
13 mean by that was that memories were coming back ---

14 MR. SILMSER: That's right.

15 MR. WARDLE: --- gradually.

16 MR. SILMSER: At the time I came forward?

17 MR. WARDLE: Yes.

18 MR. SILMSER: Yeah, but the basics were
19 there.

20 MR. WARDLE: Okay.

21 And you described it as a difficult and
22 painful process.

23 MR. SILMSER: That's correct.

24 MR. WARDLE: Okay.

25 And one of the things, I think, you

1 described as being very painful was the process of being
2 interviewed.

3 MR. SILMSER: That's correct.

4 MR. WARDLE: Is it fair to say that in the
5 interview process because -- first of all, you were
6 interviewed a number of times.

7 Correct?

8 MR. SILMSER: That's right.

9 MR. WARDLE: And I'm just thinking now about
10 the allegations involving Father MacDonald, you were
11 interviewed a large number of times by various police
12 forces.

13 Correct?

14 MR. SILMSER: That's correct.

15 MR. WARDLE: And each of those events was a
16 painful experience for you?

17 MR. SILMSER: Yes, it was.

18 MR. WARDLE: And is it also fair to say that
19 one of the things that you found difficult in dealing with
20 the police was recalling all of the details that they
21 wanted to ask you about?

22 MR. SILMSER: Well, I think anybody would
23 have a hard time back then because, you know, there was
24 details like did you turn right or did you turn left; what
25 colour was the wall, the walls. That was like 15, 20 years

1 ago. You know, like ---

2 MR. WARDLE: Yes.

3 MR. SILMSER: --- sure, I had problems with
4 those questions, but there's questions I didn't have
5 problems with.

6 MR. WARDLE: Yes, and I'm not, by the way,
7 trying to be critical. I'm just trying to -- we are going
8 to talk in general terms and then I'll get a little more
9 specific, but when I look at your interviews, for example,
10 you know, the officers are always asking for tiny details.

11 Right?

12 MR. SILMSER: That's correct.

13 MR. WARDLE: And some of those details, you
14 couldn't recall.

15 MR. SILMSER: That's correct.

16 MR. WARDLE: And some of the dates you
17 couldn't recall.

18 MR. SILMSER: That's correct.

19 MR. WARDLE: And, you know, it's not
20 uncommon. We've heard this from a number of people who
21 have come forward to this Inquiry, that somebody who comes
22 forward with these kinds of allegations, often doesn't
23 remember all of these details.

24 MR. SILMSER: Would you remember something
25 20 years ago?

1 **MR. WARDLE:** No, I probably wouldn't and
2 that's ---

3 **MR. SILMSER:** Then it's just not the
4 victims. It's all people. They don't remember things 20
5 years ago. What colour the walls were or what date -- a
6 certain day it fell on or what kind of month it was or if
7 it was night or day.

8 **MR. WARDLE:** Yes.

9 **MR. SILMSER:** You know what I mean?
10 You couldn't remember things 20 years ago
11 like that; would you?

12 **MR. WARDLE:** No, I couldn't and, Mr. Silmsers
13 ---

14 **MR. SILMSER:** Well, then again, it's not
15 just victims that can't remember these things. It's also
16 all human beings.

17 **MR. WARDLE:** I'm not disagreeing with you,
18 sir.

19 **MR. SILMSER:** Okay.
20 Then just don't say 'victims'.

21 **MR. WARDLE:** I think we're on the same page,
22 sir.

23 **MR. SILMSER:** No, no, we're not on the same
24 page. Either explain yourself properly, and I'll answer
25 the questions properly or if you don't, I'll tell you

1 exactly the way I feel. Then, we'll be on the same page.

2 MR. WARDLE: All right.

3 Let me back up a little bit. I think what
4 you were just trying to say to us was that anybody, not
5 just a victim, is going to have difficulty recalling things
6 that took place 15 or 20 years ago.

7 MR. SILMSER: Anybody would have a hard time
8 recalling that.

9 MR. WARDLE: Have I got it correctly now?
10 I think so.

11 MR. SILMSER: You should know you have it
12 correctly. I'd be telling you if you didn't.

13 MR. WARDLE: All right.

14 Now, let me just focus on one detail for a
15 minute. The date when you became an altar boy, because you
16 mentioned that this morning, you remember, you mentioned
17 that Mr. Neville asked you about that over and over and
18 over at the preliminary inquiry.

19 Correct?

20 MR. SILMSER: That's correct.

21 MR. WARDLE: And one of the details that you
22 couldn't remember 15 or 20 years later with absolute
23 precision was exactly when you became an altar boy.

24 Correct?

25 MR. SILMSER: It was close. Between grade 5

1 or 6.

2 MR. WARDLE: But that became one of the
3 issues, one of the many issues in your case involving
4 Father MacDonald.

5 Correct?

6 Because Mr. Neville needed ---

7 MR. SILMSER: It became Mr. Neville's issue;
8 not mine.

9 MR. WARDLE: Right.

10 Mr. Neville made it an issue.

11 MR. SILMSER: That's right.

12 MR. WARDLE: Okay.

13 MR. SILMSER: For himself, not for me. I
14 was still a child.

15 MR. WARDLE: And is it fair to say, Mr.
16 Silmsers, that when you come forward, in 1993, and you give
17 that first interview, you're not, at that point, getting
18 any real help of any kind.

19 You're not getting any counseling?

20 MR. SILMSER: That's correct.

21 MR. WARDLE: Okay.

22 Nobody has given you any advance warning as
23 to what's going to happen during the interview process.

24 Correct?

25 MR. SILMSER: That's correct.

1 **MR. WARDLE:** And you would have had to be a
2 mind reader to figure out what was going to happen to you
3 over the next five years.

4 Right?

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

6 **MR. WARDLE:** Okay.

7 So you're on your own at that point. You
8 don't have anybody, except your family, to help you through
9 this?

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

11 **MR. WARDLE:** And is it fair to say that, as
12 we go through the process and we go through the interviews
13 in 1993 and we go into 1994, and you deal with more and
14 more police officers, that you find it a very frustrating
15 process, and one of the things you find frustrating is the
16 repeated interviews and the repeated attempts to get these
17 details?

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

19 **MR. WARDLE:** Okay.

20 And when John MacDonald comes along, that's
21 a very important event, I sense, for you because for the
22 first time you are not alone.

23 Is that right?

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

25 **MR. WARDLE:** Okay.

1 And you now have somebody else who went
2 through something very similar and is going through the
3 same process that you're going through with the police and
4 all the various institutions.

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

6 **MR. WARDLE:** Okay.

7 And is that really part of the reason
8 besides the fact that you, you know, may just get along,
9 you and he forged a bond and that's the bond that you are
10 together through this process.

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

12 **MR. WARDLE:** Okay.

13 And, in fact, I think we heard that you were
14 -- at least one of the officers says to you that, you know,
15 you shouldn't be talking to other victims at one point in
16 time. I think Mr. Engelmann went through that with you.

17 Correct?

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

19 **MR. WARDLE:** So one of the issues for you
20 was your communications and your dealings with John
21 MacDonald ended up also being an issue in the proceedings.

22 Isn't that fair?

23 **MR. SILMSER:** It became an issue where?

24 **MR. WARDLE:** In some of the legal
25 proceedings.

1 MR. SILMSER: You mean in the courts?

2 MR. WARDLE: Yes.

3 MR. SILMSER: I don't believe so.

4 MR. WARDLE: Okay.

5 And let me just talk about Mr. Dunlop and
6 Mr. Chisholm. At the time you first had your
7 communications with Mr. Chisholm, that was at a time, as I
8 understand it, when you were very frustrated with where the
9 criminal process was at, at that point in time.

10 MR. SILMSER: I was frustrated right through
11 the whole procedure.

12 MR. WARDLE: This would have been -- I think
13 we heard this evidence this morning -- in the summer of
14 1996, and this is the time when Mr. Chisholm interviews you
15 and gets a statement from you.

16 Do you recall that?

17 MR. SILMSER: Yes.

18 MR. WARDLE: Okay.

19 And by that time, you had been dealing with
20 these matters for over three years.

21 MR. SILMSER: Okay.

22 MR. WARDLE: Right.

23 Because you had first come forward to the
24 police in December 1992 and, now, we are in the summer of
25 1996.

1 **MR. SILMSER:** Okay.

2 **MR. WARDLE:** And you were frustrated, and
3 Mr. Chisholm and Mr. Dunlop, at that point, appeared to be
4 people who were taking some steps to try and solve some of
5 these issues.

6 Is that fair?

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

8 **MR. WARDLE:** Okay.

9 And I'm sure you kept, you probably read
10 some of the newspaper coverage, not only of your own case,
11 but all the other things that were going on in Cornwall.

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

13 **MR. WARDLE:** Okay.

14 So you would have known that much of that
15 newspaper coverage was portraying Mr. Dunlop as one of the
16 only people who was doing anything about what was
17 happening.

18 **MR. SILMSER:** At times.

19 **MR. WARDLE:** At times. Not everybody had
20 the same view of Mr. Dunlop.

21 Right?

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

23 **MR. WARDLE:** But there were some people in
24 the media who thought he was one of the people, the only
25 people who was trying to take steps to solve the problems.

1 MR. SILMSER: Okay.

2 MR. WARDLE: Okay.

3 You remember some of that newspaper
4 coverage.

5 MR. SILMSER: Yes, I do.

6 MR. WARDLE: Okay.

7 And so is it fair to say that for you, given
8 what you'd gone through and the lengthy period of time you
9 had been dealing with this, it made some sense to try to
10 cooperate a little bit with Mr. Dunlop and Mr. Chisholm
11 because they appeared to be going in the right direction.

12 MR. SILMSER: Okay.

13 That's fair.

14 MR. WARDLE: Okay.

15 Now, I am going to look at a specific
16 document, if I can, and I'm just going to ask that this be
17 turned up. It's document 719994.

18 (SHORT PAUSE / COURTE PAUSE)

19 MR. WARDLE: Now, have you got that in front
20 of you?

21 THE COMMISSIONER: Not quite yet.

22 MR. WARDLE: Okay.

23 THE CLERK: It's 714001.

24 MR. WARDLE: Thanks.

25 THE COMMISSIONER: Exhibit 293 is an

1 internal correspondence dated December 9th, 1992.

2 ---EXHIBIT NO./ PIÈCE NO P-293:

3 Internal Correspondence from
4 Sgt. S. Nakic to S/Insp. S. MacDonald - Dec
5 9, 1992

6 **MR. WARDLE:** So, Mr. Silmsers, just -- first
7 of all, if you look at the date of this document -- it's an
8 internal Cornwall police document.

9 So you've never seen it before?

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

11 **MR. WARDLE:** Okay.

12 And if you look on it you'll see there's a
13 date, December 9, 1992.

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

15 **MR. WARDLE:** And you'll see it says:

16 "Re: Sexual assault. Victim: David
17 Silmsers."

18 And then a date of birth.

19 Do you see that?

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

21 **MR. WARDLE:** And an address which I assume
22 was your then address.

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

24 **MR. WARDLE:** Okay.

25 And then you'll see it documents the first

1 call from you, in that first paragraph, and this is a
2 Sergeant Nakic, N-A-K-I-C.

3 Do you remember dealing with him briefly?

4 **MR. SILMSER:** No, I don't.

5 **MR. WARDLE:** Okay.

6 But you'll see it says here -- and I'm just
7 going to read the first three lines.

8 **MR. SILMSER:** Is this in his handwriting, or
9 is this in his notes, or is this his ---

10 **MR. WARDLE:** This appears to be a typed memo
11 from the police.

12 **MR. SILMSER:** But where do you get this
13 from?

14 **MR. WARDLE:** Where did I get it from?

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

16 Where -- is this just out of his memory he's
17 written this?

18 **MR. WARDLE:** It looks to be something that
19 was done that day.

20 **MR. SILMSER:** Okay.

21 But out of his memory; not on a tape?

22 **MR. WARDLE:** No, no. It's not a tape.

23 **MR. SILMSER:** Okay.

24 **MR. SILMSER:** So it's just a memo that he's
25 done at the time.

1 **MR. SILMSER:** Okay.

2 **MR. WARDLE:** And then somebody's written
3 some notes at the bottom, and I'm not interested in the
4 notes. Somebody else may ask you about them but ---

5 **MR. SILMSER:** Okay.

6 **MR. WARDLE:** So you'll see it starts:

7 "On December 9, 1992 at approximately
8 11:55 hours I was the officer in charge
9 at the police station. I received a
10 call from David Silmsen."

11 I'm just stopping there. That's consistent
12 with what you've told us already, that at about this time
13 December 1992 you first placed a call to the Cornwall
14 police.

15 Do you remember giving that evidence
16 yesterday or the day before to Mr. Engelmann?

17 **MR. SILMSER:** I think I said to Mr.
18 Engelmann I didn't know who approached who at that time.

19 **MR. WARDLE:** Right.

20 And I'm not going to -- you know, you're not
21 going to remember obviously who this officer was. He comes
22 in and disappears and we never see him again. But I want
23 to just focus on the next couple of lines:

24 "Silmsen stated that when he was an
25 alter boy at St. Columban's Church 20

1 years ago he was sexually assaulted by
2 a priest, Father Charles MacDonald, who
3 he believes is now in Williamstown."

4 Now, again, just stopping here. That's
5 consistent with what you've told us over the last couple of
6 days.

7 Correct?

8 **MR. SILMSER:** I suppose, yes.

9 **MR. WARDLE:** Okay.

10 And then it says:

11 "Silmser also stated the probation
12 officer Ken Seguin, a friend of the
13 priest, also sexually assaulted him."

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

15 **MR. WARDLE:** Do you see that?

16 And what I'm interested in is it seems from
17 this document that from the beginning, when you came in,
18 you were linking these two individuals together.

19 **MR. SILMSER:** Okay.

20 **MR. WARDLE:** And that would be consistent
21 with I think what you just said in the answers to the
22 Commissioner's question. In other words, you know, when
23 you first go way, way back in 1992, when you first come to
24 the police, you're saying, number one, there's two people,
25 right, there's Father Charles MacDonald and there's Ken

1 Seguin; correct?

2 MR. SILMSER: Correct.

3 MR. WARDLE: And secondly, according to this
4 anyway, you're saying that they're friends; that they have
5 a relationship with each other.

6 MR. SILMSER: That's correct.

7 MR. WARDLE: Okay.

8 And as I understand it, you knew that
9 because when Ken Seguin was your probation officer he told
10 you things about his relationship with Father MacDonald.

11 Right?

12 MR. SILMSER: That's correct.

13 MR. WARDLE: Okay.

14 And that's how you knew about the connection
15 between the two of them?

16 MR. SILMSER: That's one of the reasons,
17 yes.

18 MR. WARDLE: Okay.

19 One of the things you didn't say to -- we
20 didn't talk about, and I want to ask you about now, is you
21 knew that Ken Seguin worked at the same office building as
22 the offices of the Cornwall police.

23 MR. SILMSER: I knew that. I think I said
24 that.

25 MR. WARDLE: So when you come in to make

1 your first complaint, you make the phone call and then you
2 come in and you meet with the officers, you're meeting with
3 them in the same building, as I understand it, where one of
4 your abusers works -- one of your alleged abusers works?

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

6 **MR. WARDLE:** And I'm assuming that that's
7 something that would have been discomfoting for you.

8 **MR. SILMSER:** I don't know. I can't
9 remember at the time.

10 **MR. WARDLE:** Okay.

11 But in any event, from your relations, from
12 your relationship with Mr. Seguin you knew that he had been
13 a probation officer and he was still a probation officer.

14 Correct?

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

16 **MR. WARDLE:** And I may be just picking this
17 up from other things you've said, but these were people
18 that you thought were people with some authority and
19 reputation, these two individuals?

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

21 **MR. WARDLE:** Okay.

22 One was connected with the church, and the
23 church was an important institution in Cornwall.

24 Correct?

25 **MR. SILMSER:** Yes.

1 **MR. WARDLE:** And the other one was connected
2 with the justice system.

3 Correct?

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

5 **MR. WARDLE:** Okay.

6 Now, as I understand it, after some sort of
7 back and forth and some false starts, you eventually have a
8 meeting with some officers, including Heidi Sebalj, at the
9 Cornwall police station at the end of January 1993.

10 Correct?

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

12 **MR. WARDLE:** And you told Mr. Engelmann
13 already about the fact that you were uncomfortable about a
14 female officer being involved.

15 Right?

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

17 **MR. WARDLE:** Okay.

18 Now, do you remember that at that interview
19 there were actually three officers present?

20 Do you remember that now all these many
21 years ago?

22 **MR. SILMSER:** I have a feeling there was
23 three at the beginning, but I think one left. That's why I
24 always said there was just two. I don't think that all
25 three stayed in the room the whole time the interview was

1 going on.

2 MR. WARDLE: And you remember now that Heidi
3 was one of those three, but you're not sure about the names
4 of the other two?

5 MR. SILMSER: Kevin Malloy was one.

6 MR. WARDLE: Kevin Malloy was one.

7 Do you remember the other?

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

9 MR. WARDLE: Okay.

10 Does the name Lefebvre mean anything to you?

11 MR. SILMSER: I've heard the name before but
12 if -- I don't know.

13 MR. WARDLE: And were you a little surprised
14 that there were three officers attending at this interview?

15 MR. SILMSER: I didn't know the process when
16 you came forward in something like this. So, no, I wasn't
17 surprised because I didn't know what to be surprised about.

18 MR. WARDLE: But certainly having three
19 people present you would have assumed they were taking it
20 seriously, at least at that point.

21 Correct?

22 MR. SILMSER: That's correct.

23 MR. WARDLE: Okay.

24 And as I understand it, that first interview
25 you're not -- there's no videotape or anything like that;

1 the officers simply take notes, and you're not even sure if
2 they took notes.

3 **MR. SILMSER:** Heidi Sebalj always took notes
4 basically. I believe there was never something that was
5 videotaped or audiotaped with the Cornwall police.

6 **MR. WARDLE:** And this was the first time you
7 had told the story of your abuse to anyone in detail;
8 correct, except possibly your wife?

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

10 **MR. WARDLE:** Okay.

11 So this was a big event for you and you were
12 nervous I assume.

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

14 **MR. WARDLE:** And I think you've told us that
15 you felt like you were the suspect.

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

17 **MR. WARDLE:** And you'd had other dealings
18 with the law in the past where you hadn't been in this
19 situation; now for the first time you were coming in as the
20 victim.

21 Correct?

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

23 **MR. WARDLE:** Okay.

24 Now, I want to ask about that first
25 interview, because one of the things you said to us the

1 other day was that in the first interview they only asked
2 about Father MacDonald. You mentioned Ken Seguin and they
3 didn't really elaborate or press you on it.

4 Do you remember saying that?

5 **MR. SILMSER:** Yes.

6 **MR. WARDLE:** Okay.

7 I want to just show you some notes of the
8 first interview, and I'm going to ask to pull up 729679.

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

10 **THE CLERK:** Actually the document number is
11 721901.

12 **THE COMMISSIONER:** All right.

13 And those are notes, the police officer's
14 notes, Exhibit 294.

15 **MR. WARDLE:** I'm sorry, Mr. Commissioner, I
16 missed the exhibit number.

17 **THE COMMISSIONER:** Exhibit 294.

18 **--- EXHIBIT NO./PIÈCE NO P-294:**

19 Handwritten Officer's Notes - Undated

20 **MR. WARDLE:** Now, Mr. Silmser, these are, as
21 I understand, Heidi Sebalj's notes. And I just want to
22 start by looking at the first page, and you can see there's
23 some information, your name and then some information that
24 follows.

25 Does that appear to be consistent with what

1 you know about yourself, that this would have been
2 information you provided Heidi?

3 **MR. CALLAGHAN:** Those are Ron Lefebvre's
4 notes.

5 **MR. WARDLE:** I'm sorry.

6 **MR. SILMSER:** I believe so, yes.

7 **MR. WARDLE:** All right.

8 My colleague Mr. Callaghan is telling me
9 that these are actually Mr. Lefebvre's notes. So I'll just
10 make that ---

11 **THE COMMISSIONER:** Okay.

12 **MR. WARDLE:** --- correction for the record.

13 **THE COMMISSIONER:** I'm sorry, what are we --
14 -

15 **MR. WARDLE:** I think there's just a slight
16 disagreement as to whose notes they are, but for my
17 purposes it really doesn't matter. It's one of the three
18 officers at the first interview, Mr. Silmsers.

19 **MR. SILMSER:** Okay.

20 **MR. WARDLE:** And if you look at these notes
21 you'll see they're eight pages.

22 **MR. SILMSER:** Okay.

23 **MR. WARDLE:** And they're actually numbered 1
24 to 8, and there's one last page in my copy which is
25 something different. I'm just interested in the eight

1 pages, but you'll see it starts out with some identifying
2 information about you, and then going over the page you'll
3 see it starts around the middle of the page with "Incidents
4 stated in grade 5."

5 Do you see that?

6 **MR. SILMSER:** Okay.

7 **MR. WARDLE:** And then there's four or five
8 pages of information over to the end of page 5, and if you
9 just flip through it you'll see it's all about your
10 allegations against Father MacDonald.

11 Do you see that?

12 **MR. SILMSER:** Okay.

13 What was the question?

14 **MR. WARDLE:** You need to just ---

15 **THE COMMISSIONER:** What's the question?

16 **MR. SILMSER:** Yes. You know, like ---

17 **THE COMMISSIONER:** Just a minute. He's
18 getting there.

19 **MR. WARDLE:** Yes, I'm just -- we just have
20 to -- I just want to get you oriented.

21 **MR. SILMSER:** Okay.

22 **MR. WARDLE:** So just bear with me.

23 The first -- from pages 2 to page 5, if you
24 look at, it's all about the allegations you made involving
25 Father MacDonald.

1 **MR. SILMSER:** Okay.

2 **MR. WARDLE:** And then I just want to take
3 you to the top of page 6, and you'll see this officer,
4 whoever it is, has got the name Ken Seguin, and then
5 there's a page of handwriting.

6 And does that appear to be consistent with
7 what you've already told us about the allegations ---

8 **MR. SILMSER:** Do you want me to read this
9 whole page?

10 **MR. WARDLE:** You don't need to read all of
11 it, if you have a look at it, you can skim it, whatever you
12 like.

13 **MR. SILMSER:** So, in other words, you want
14 me to read the whole page.

15 **MR. WARDLE:** If you want, that's fine.

16 **MR. SILMSER:** No, no. I'm asking you.
17 What do you want me from me from this?

18 **MR. WARDLE:** Well, maybe you can just read
19 the first paragraph to yourself.

20 **MR. SILMSER:** Okay.

21 **MR. WARDLE:** And if you just follow on, I am
22 not asking you to read the whole page, does this appear to
23 be consistent with what you've told us already; that you've
24 told these officers about Ken Seguin?

25 **MR. SILMSER:** Yes.

1 **MR. WARDLE:** And if we look over, you'll see
2 at pages 6, and 7, and over to 8, there is quite a lot of
3 information.

4 **MR. SILMSER:** Okay.

5 **MR. WARDLE:** And even if we go over to page
6 8, you'll see this officer has actually drawn a diagram of
7 where Mr. Seguin lived.

8 **MR. SILMSER:** One of the places.

9 **MR. WARDLE:** Yes.

10 **MR. SILMSER:** Yeah.

11 **MR. WARDLE:** And that's obviously based on
12 what you were telling them during the interview.

13 **MR. SILMSER:** Okay.

14 **MR. WARDLE:** Does that make sense where I am
15 so far?

16 **MR. SILMSER:** Okay.

17 **MR. WARDLE:** So does that help your
18 recollection a little bit that at the first interview with
19 the three officers, you gave them quite a bit of
20 information about Ken Seguin?

21 **MR. SILMSER:** Yes.

22 **MR. WARDLE:** Okay.

23 And do you remember whether the officers
24 were interested in the information you were providing about
25 him?

1 **MR. SILMSER:** I don't remember, but I don't
2 think there was ever much conversation about Ken Seguin,
3 about what they were going to do, how they were going to do
4 it or if there was going to be an investigation on him,
5 they never mentioned an investigation. They were more or
6 less interested in investigation Charles MacDonald.

7 **MR. WARDLE:** Well, one of the things I
8 understand from what you've said previously, is that you
9 wanted to proceed first with Father Charles Macdonald.

10 Is that right, at that time?

11 **MR. SILMSER:** I don't know if I said it at
12 that time. No. I don't know if I remember saying it at
13 that time.

14 **MR. WARDLE:** Do you know roughly when you
15 said that to any of the officers?

16 **MR. SILMSER:** I don't even remember saying
17 "Don't investigate Ken Seguin". I never once ever said
18 that, I don't believe. But, in the middle -- I remember
19 saying it in the middle of the preliminary.

20 Actually, I didn't say it, it was Mike Fagan
21 that said that "I can only handle one case at the time
22 right now, I have too much on my plate". I remember saying
23 about Marcel Lalonde because, again, I had too much on my
24 plate at the time. But never once did I ever say "Don't
25 investigate Ken Seguin".

1 **MR. WARDLE:** Okay.

2 I think what I am going to do, if I may, is
3 I am going to take you to some of Heidi Sebalj's notes
4 because she kept notes of her communications with you.

5 **MR. SILMSER:** Okay.

6 **MR. WARDLE:** Okay.

7 And if we could just turn those up now,
8 there will be some issues about these notes. The document
9 I have is number 717428.

10 Now the difficulty, Mr. Commissioner, as I
11 understand it, there is approximately 110 pages of notes --
12 -

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

14 **MR. WARDLE:** --- and there are many names in
15 these notes -- I am only interested in one or two discrete
16 sections of the notes that don't refer to anyone else
17 except Mr. Silmsers and Ms. Sebalj.

18 **THE COMMISSIONER:** Right.

19 **MR. WARDLE:** But I do understand that some
20 of my friends, in particular Mr. Callaghan, and others will
21 want to go to other sections of these notes, and that there
22 seems to be a view that all of the notes should be put in
23 as one exhibit.

24 So if that's going to happen, there should
25 be some order made with respect to confidentiality. And

1 Mr. Callaghan is the one who's probably the most familiar
2 with them. So I will let him speak to that if I may.

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

4 May I see the document?

5 **MR. CALLAGHAN:** I think Mr. Wardle is quite
6 correct, there are portions of the notes which would not
7 require confidentiality order, but the totality of the
8 notes, as you can imagine, involve people -- some would be
9 monikers, other people who, we understand, there was an
10 intention of publication bans.

11 **THE COMMISSIONER:** Are there publication
12 bans?

13 **MR. CALLAGHAN:** We understood there are as a
14 problem from the other trials, but I may be mistaken That
15 was what I had been told. Her name -- they obviously
16 contain -- there are at least 27 people she has interviewed
17 plus names of others. So that would be our preference.

18 You can take Mr. Wardle's piecemeal, but
19 just the understanding I will probably be looking at the
20 wider notes, and I don't want you to get annoyed with the
21 fact that you are getting it twice. So I thought I'd bring
22 it to your attention.

23 I would also bring to the Commissioner's
24 attention this set of notes, which is the one that I think
25 everybody seems to have been given notice on. At the right

1 inside, it's not entirely always legible and it may be,
2 later on, that another set has to be referred to, but this
3 is the one everybody seems to have.

4 But, in any event, I have no objection with
5 either process so long as you understand I'll likely put
6 all the notes in to ask more details to the progress of the
7 investigation.

8 **THE COMMISSIONER:** Okay.

9 I don't have a problem for putting all the
10 notes in, but what confidentiality measures, if any, do you
11 want me to take?

12 **MR. CALLAGHAN:** Well, I understood, I think
13 it was an understanding that these would go on as a 'C'
14 exhibit because of various documents. But I'll leave --
15 Mr. Engelmann is probably familiar with the notes as well.

16 **MR. ENGELMANN:** I certainly was not
17 approached about making these notes a 'C' exhibit. Maybe
18 that was just an oversight but -- these are some of Heidi
19 Sebalj's notes and these are a collection of notes that are
20 also typed. In places, they will have names that a
21 moniker's appropriate for. And there may be a couple of
22 references to publication bans.

23 I was hoping that counsel would be referring
24 to excerpts, and then they could just say whether there was
25 a moniker or a publication ban that was appropriate.

1 I can -- if Mr. Wardle can do that, and
2 before Mr. Callaghan's cross, we can have a discussion
3 about it or if that's going to be too difficult because
4 then you're going to have the notes piecemeal, you might
5 have to do something on an interim basis until there is
6 notification.

7 **THE COMMISSIONER:** Notification?

8 **MR. ENGELMANN:** By counsel as to where
9 monikers should be placed. We have monikers for about nine
10 individuals.

11 **THE COMMISSIONER:** Right.

12 But the monikers are used -- what we're
13 talking about is whether or not there is a publication ban
14 on these documents.

15 Is that correct?

16 **MR. ENGELMANN:** The publication ban would
17 only be with respect to certain individuals where a
18 publication ban may have been ordered ---

19 **THE COMMISSIONER:** Right.

20 **MR. ENGELMANN:** --- by a court.

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

22 **MR. ENGELMANN:** We have had many publication
23 bans lifted.

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

25 **MR. ENGELMANN:** Some are still outstanding.

1 And, therefore, I mentioned a couple of times this morning,
2 we had documents that had reference to publication bans.

3 I mean, we can deal with it that way if
4 that's satisfactory to counsel, that simply a publication
5 ban on the full note and in the interim, if it's
6 appropriate to have monikers, we can have a discussion
7 about that this evening or before we start tomorrow.

8 **THE COMMISSIONER:** That's all right.

9 **MR. ENGELMANN:** Perhaps the document could
10 go in, the notice that there may be one or more names that
11 a publication ban is still appropriate on, and we can have
12 a discussion before we get going in the morning, tomorrow.

13 **THE COMMISSIONER:** Well, my concern is that
14 if it's only with respect to the names, why should we make
15 it, the whole thing as 'C'?

16 **MR. ENGELMANN:** I agree. I don't think it
17 should be a 'C' exhibit. This is first time that that
18 approach has been made. So I wasn't expecting that.

19 **THE COMMISSIONER:** so if we're talking about
20 a publication ban, right, if there are outstanding
21 publication bans, it's up to the media to satisfy ---

22 **MR. ENGELMANN:** That's right.

23 **THE COMMISSIONER:** --- themselves of that.

24 So if we say that "Okay, wait a minute now,
25 the media who's here..." and it should be a rule throughout

1 this Inquiry, given all the confidentiality issues, is that
2 anybody who's going to publish or replicate a name either
3 on the web or in the media, that they only -- so then
4 satisfy themselves. So that would take care of that part
5 of it.

6 So what else do we have to take care of?

7 **MR. ENGELMANN:** Well there are I believe 8
8 or 9 names where there are monikers, and those monikers
9 were set up on a day that I wasn't here. It was a day
10 involving the evidence of John MacDonald.

11 I certainly have those names. I am
12 understanding, at least from my colleagues, Maître Dumais
13 and a brief discussion I've had with Dallas Lee, that some
14 of those monikers can be lifted and should be lifted.

15 So we're going to have a shrinking number of
16 names that might require monikers.

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

18 **MR. ENGELMANN:** But if, the time being, the
19 exhibit goes in as a public exhibit with just a
20 caution, that there may be publication ban issues.

21 **THE COMMISSIONER:** Would that cover all of
22 the situations?

23 **MR. ENGELMANN:** All ---

24 **THE COMMISSIONER:** You say the monikers.
25 Monikers are for what?

1 For people who have indicated they wanted
2 their privacy interests protected?

3 **MR. ENGELMANN:** That was my understanding.
4 And my understanding is, some of those individuals hadn't
5 made a decision yet. So that the monikers were a temporary
6 status, and my colleague, Maître Dumais was to follow up on
7 that. And I know he has and I know there are some that can
8 be lifted. I've spoken to Mr. Lee and I can give you a
9 couple of names now. Those names may be in those notes,
10 but I think that should do.

11 We're trying to do this in a public way;
12 we're trying not to have confidentiality measures that are
13 really not necessary. And you know, we're talking about
14 100 pages of notes dealing with this case, and I would
15 certainly want this to be done in a public fashion.

16 **THE COMMISSIONER:** All right.

17 Okay.

18 So Mr. Callaghan can ---

19 **MR. CALLAGHAN:** Mr. Commissioner, I raise
20 the concern that would satisfy me. The only two points I
21 would make is -- one is a caution to hopefully the media
22 there are, as one would expect, when people are
23 interviewed, names, addresses and phone numbers and I hope
24 they would not be republished even if the documents are
25 there. Those people are not expecting to get calls, so to

1 speak.

2 And the other thing is just to let you know,
3 there is a typewritten set of those notes which may make it
4 easier. There are some issues with the transcription.
5 They were done by the OPP but I am not sure whether Mr.
6 Wardle ---

7 **THE COMMISSIONER:** Are the issues because it
8 was done by the OPP or ---

9 **MR. CALLAGHAN:** I'm not saying that!

10 (LAUGHTER / RIRES)

11 **THE COMMISSIONER:** No, no, I am just trying
12 to ---

13 **MR. CALLAGHAN:** I'm not saying that! But
14 having said that ---

15 (LAUGHTER / RIRES)

16 **THE COMMISSIONER:** No, no, I just ---

17 **MR. CALLAGHAN:** Maybe I should look this way
18 when saying "Having said that". Or "Having not said that",
19 exactly.

20 But, for your benefit, because the notes get
21 a little difficult to read.

22 **THE COMMISSIONER:** All right.

23 Thank you.

24 Mr. Sherriff-Scott?

25 **MR. SHERRIFF-SCOTT:** Just the typeset,

1 Commissioner, some of us gave notice on the typeset for our
2 examination plans and you might want just to make them back
3 to back exhibits as we go through.

4 **THE COMMISSIONER:** Good idea.

5 **MR. SHERRIFF-SCOTT:** Some are already
6 marked. The document number of the typeset is 713846.

7 **THE COMMISSIONER:** Thank you.

8 So while we are waiting for the typed
9 document, I think what I want to do is simply put Exhibit
10 295 subject to any final comments by the parties, in as a
11 public document with the, again, the warning or the caution
12 to those who wish to look at this document that there are
13 issues with respect to publication bans. And so anyone
14 wishing to publish those documents or any information
15 therein, must satisfy themselves that they are respecting
16 the law.

17 Now, Madam Clerk is going to come up with
18 the typed version very shortly.

19 **---EXHIBIT NO./PIÈCE NO P-295:**

20 Handwritten Notes of Heidi Sebalj -January
21 15, 1993.

22 **THE COMMISSIONER:** Mr. Silmsers, I think
23 through this cross-examination, the documents are over
24 there, we've got to bring them over here. So it will be
25 disjunctive a little bit, again, and if I make some smart

1 comment to defense counsel, it's not out of disrespect.
2 We're just -- some days that are longer than others and
3 sometimes a little chuckle every once in a while, but it
4 certainly does not mean any disrespect to you.

5 All right.

6 So do we have the typed version, Madam
7 Clerk?

8 **THE REGISTRAR:** Not -- you're going to have
9 three of them.

10 **THE COMMISSIONER:** Okay.

11 So it'll come in shortly. So carry on.

12 **MR. WARDLE:** Thank you, sir.

13 So in Exhibit 295, I'd like to refer to
14 Bates page number 7063735.

15 **THE REGISTRAR:** Seven zero six (706)?

16 **MR. WARDLE:** Seven zero six three seven
17 three five (7063735).

18 **THE COMMISSIONER:** So, sir, if you look at
19 it, it's these document numbers right here.

20 **MR. SILMSER:** Right.

21 **THE COMMISSIONER:** That'll help you with --
22 actually, we might be able to get -- actually, it's page
23 31.

24 **MR. SILMSER:** Thirty-one (31).

25 **THE COMMISSIONER:** Well, there is a bunch of

1 31s. If you look at the bottom here it's 01 227. See the
2 bottom right here.

3 Is that correct?

4 Is the date 09 February of '92.

5 **MR. WARDLE:** That's correct, Mr.
6 Commissioner.

7 **THE COMMISSIONER:** All right.

8 So 01 227, then, Mr. Silmsers. It'll be ---

9 **MR. SHERRIFF-SCOTT:** Thirty-one (31), it'll
10 be Donna Jodoin.

11 That one?

12 **THE COMMISSIONER:** Jodoin?

13 **MR. SILMSER:** At the top.

14 **THE COMMISSIONER:** No, 09 February.

15 Madam Clerk, could be of assistance.

16 **MR. SILMSER:** Zero one (01) 227, yes, I have
17 it here. I have it here.

18 **MR. WARDLE:** So, Mr. Silmsers, the reason I'm
19 putting these to you is just to see if we can help your
20 recollection, and if you can't recall anything then I want
21 you just to tell me that. But we're looking at a page of
22 Ms. Sebalj's notes and she is just recording various
23 entries on various dates.

24 Do you see that?

25 She has got some dates down the right-hand

1 side; 09 February is the first entry, then 10 February and
2 then 16 February.

3 Do you see that?

4 **MR. SILMSER:** And 17th February.

5 **MR. WARDLE:** Yes.

6 So I'm going to just direct your attention
7 to 10 February, 1993, and I'm just going to read this to
8 you. What it says is:

9 "10:39 t/c" [which I'm going to assume
10 means telephone call] from "V" [and "V"
11 is her shorthand for "victim]: advises
12 he called Seguin who is 'running
13 scared'. Advised him he's..."

14 And then part of this is cutoff, but I'm
15 advised that the word is "only":

16 "Advised him he's only laying charges
17 on MacDonald, stated he's getting very
18 mad."

19 **MR. SHERRIFF-SCOTT:** Where are you reading
20 that?

21 **MR. WARDLE:** Right underneath 10 February,
22 1993.

23 **MR. SILMSER:** Yes, but you read -- you read
24 ---

25 Okay.

1 **MR. WARDLE:** And I'm really just focusing on
2 the words

3 "...advised him he's only laying charges
4 on MacDonald."

5 **MR. SILMSER:** That's her words, though.
6 That's ---

7 **MR. WARDLE:** Yes.

8 **MR. SILMSER:** I don't know.

9 **MR. WARDLE:** These are not your notes.

10 **MR. SILMSER:** No.

11 **MR. WARDLE:** These are her notes.

12 **MR. SILMSER:** That's right. I don't
13 remember saying that.

14 **MR. WARDLE:** All right.

15 And what I'm asking about is do you recall?

16 You have the meeting at the end of January,
17 okay, with the three officers and I just showed you some of
18 the notes from that meeting.

19 **MR. SILMSER:** Okay.

20 **MR. WARDLE:** And now you're -- you know, you
21 told us yesterday you kept in touch with Heidi.

22 Correct?

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

24 **MR. WARDLE:** And she obviously -- and other
25 people are going to take you through these notes -- she

1 records a number of conversations with you over the next
2 couple of months.

3 MR. SILMSER: Okay.

4 MR. WARDLE: All right.

5 And I'm just taking you to this specific one
6 and it appears to indicate, at this point, that you had
7 said to Mr. Seguin that you were only laying charges on
8 MacDonald.

9 Do you remember that at all?

10 MR. SILMSER: No.

11 MR. WARDLE: Okay.

12 MR. SILMSER: Again, that's her notes.

13 Right?

14 MR. WARDLE: Yes.

15 MR. SILMSER: Okay.

16 MR. WARDLE: And then I'd like to take you
17 to a second page in her notes and this is on -- I'm going
18 to give both the date and the page number because it might
19 be easier for the witness.

20 The page is a page that has on the right-
21 hand side at the top '10 March '93' and the Bates number is
22 7063802.

23 (OFF RECORD DISCUSSION/DISCUSSION CONFIDENTIELLE)

24 THE COMMISSIONER: You know, at the bottom
25 here, sir, there are numbers at the bottom of the page

1 here, Mr. Wardle.

2 MR. SILMSER: Yes. Yes, there is.

3 THE COMMISSIONER: Okay.

4 What page is ---

5 MR. SILMSER: It's 01291.

6 THE COMMISSIONER: Nine one (91).

7 Okay.

8 MR. SILMSER: I think.

9 THE COMMISSIONER: And it says the 10th of
10 March?

11 MR. SILMSER: That's right.

12 THE COMMISSIONER: And 38 on top

13 Okay.

14 (SHORT PAUSE/COURTE PAUSE)

15 MR. WARDLE: The Bates page number was
16 7063802.

17 THE COMMISSIONER: M'hm.

18 MR. WARDLE: And you told us yesterday about
19 the officers coming to your house to have your statement
20 signed.

21 Do you recall that?

22 MR. SILMSER: Yes.

23 MR. WARDLE: Do you remember after the first
24 meeting they gave you a form to take away and they asked
25 you to fill out a statement and you told us, you know, that

1 it was difficult for you and then they came out to your
2 house, right?

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

4 **MR. WARDLE:** Okay.

5 And I think, if I'm putting this together
6 correctly, these notes refer to that meeting at your house?

7 **MR. SILMSER:** I can't read them. They're
8 pretty ---

9 **THE COMMISSIONER:** Yes, me too.

10 So what part did you want to direct him to?

11 **MR. WARDLE:** I want to just start at the top
12 of the page. There's a couple of lines, and I'm just going
13 to read a little bit to you just to orient you. It starts:

14 "...was talking to me. I remember his
15 laugh. He always had this laugh."

16 And I take it without getting into the
17 details that that's a reference to Charles MacDonald?

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

19 **MR. WARDLE:** Okay.

20 And then going down a little bit further,
21 just towards the end of the notes, you'll see a reference
22 to a car, a square, small car?

23 **MR. SILMSER:** Okay.

24 **MR. WARDLE:** And then right at the end, at
25 1400 you'll see that there is a note on the left-hand side.

1 There is just '1400'.

2 Do you see that?

3 **MR. SILMSER:** Yes.

4 **MR. WARDLE:** And it says:

5 "I don't think I can deal with that too
6 right now, re Seguin."

7 **MR. SILMSER:** I don't remember saying that.

8 **MR. WARDLE:** Okay.

9 These are the only notes I was able to find
10 in Ms. Sebalj's notes for this period dealing with this
11 Seguin topic.

12 **MR. SILMSER:** Okay.

13 **MR. WARDLE:** And that's why I wanted to put
14 them to you.

15 And what I'm trying to get at is you come
16 into the Cornwall Police. You know, we have gone back. We
17 have looked at that first typed document. You go and have
18 the interview. You say to them very clearly "There is two
19 people I want to make allegations about." Those two people
20 are Charles MacDonald and Ken Seguin.

21 Right?

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

23 **MR. WARDLE:** Okay.

24 And you have the interview. You have the
25 three officers with you and at that interview you give them

1 quite a bit of information about the allegations against
2 Ken Seguin.

3 Right?

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

5 **MR. WARDLE:** Okay.

6 And at some point something changes and it
7 appears that the police only investigate Charles MacDonald.
8 And what I'm trying to find out is whether that's because
9 of a decision you made or whether it's a decision they made
10 and what you remember about it.

11 **MR. SILMSER:** It definitely wasn't a
12 decision I made because I have no control over an
13 investigation anyways.

14 Like I said, again, I never said not to
15 investigate Ken Seguin. But they never asked any questions
16 or they never thought that they were investigating Ken
17 Seguin to me or did they for Charles MacDonald, for that
18 matter.

19 **MR. WARDLE:** Well, is it possible that you
20 said to them "I can only handle this one at a time. Let's
21 deal with Father MacDonald first," something like that?

22 **MR. SILMSER:** No, not at that time.

23 **MR. WARDLE:** Okay.

24 And do you remember anybody from the
25 Cornwall Police at this early period ever saying to you,

1 you know "We want to investigate all of it?"

2 **MR. SILMSER:** I don't remember if they did
3 say that.

4 **MR. WARDLE:** Okay.

5 And I asked you this once already but I'm
6 going to ask you again.

7 Do you recall whether the officers you met
8 with were interested in what you had to say about Ken
9 Seguin?

10 **MR. SILMSER:** I think Heidi Sebalj was
11 interested in everything I had to say. That's about all I
12 can say. It's such a long time ago I can't remember
13 exactly how her interest was.

14 **MR. WARDLE:** And if it turns out, from other
15 things we hear at the Inquiry, that there was no
16 investigation done of Ken Seguin at that time, do you have
17 any explanation as to why that might have happened?

18 **MR. SILMSER:** I would like to know why there
19 was no investigation into Charles MacDonald at that time.

20 **MR. WARDLE:** But to be fair, sir, you don't
21 know what Heidi did. You weren't there. You don't know
22 what phone calls she made and what things she did.

23 **MR. SILMSER:** I believe that she told me
24 that Charles Macdonald was never phoned or investigated.

25 **MR. WARDLE:** Okay.

1 And let me ask you this.

2 Was she your primary contact after that
3 meeting in January?

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

5 **MR. WARDLE:** Okay.

6 Do you know how senior she was within the
7 police force?

8 **MR. SILMSER:** No.

9 **MR. WARDLE:** Do you know what kind of
10 experience she had?

11 Did she ever tell you?

12 **MR. SILMSER:** No.

13 I just know she dealt with me with quite --
14 with a lot of concern and she was quite nice to me.

15 **MR. WARDLE:** Then, you told my friend, I
16 think yesterday, that going forward a few months after the
17 settlement ---

18 **MR. SILMSER:** Okay.

19 **MR. WARDLE:** --- and after the release, that
20 there was some contact between you and the Cornwall Police
21 about the Ken Seguin investigation.

22 Do you recall that?

23 **MR. SILMSER:** No, I don't.

24 **MR. WARDLE:** Okay.

25 Let me see if I can help you with the

1 document; and this is 725242.

2 MR. SILMSER: Is it a document I have here?

3 THE COMMISSIONER: No, just a second.

4 MR. WARDLE: We are just going to get it for
5 you, sir.

6 (SHORT PAUSE/COURTE PAUSE)

7 MR. WARDLE: Sir, it's a supplementary
8 report dated November 4th, 1993.

9 THE COMMISSIONER: Exhibit 296 is
10 supplementary report dated the 4th of November, 1993 from
11 Officers Sebalj.

12 --- EXHIBIT NO./PIÈCE NO P-296:

13 Supplementary Report - November 4, 1993

14 (SHORT PAUSE/COURTE PAUSE)

15 MR. SILMSER: Okay.

16 MR. WARDLE: So again, this is not a
17 document that you've seen before?

18 MR. SILMSER: That's correct.

19 MR. WARDLE: But you'll see that there's a
20 date. It's pretty hard to read, but I'm comfortable that
21 the date is on the left at the top under "Report Date" is
22 04 November '93. Okay?

23 MR. SILMSER: Okay.

24 MR. WARDLE: And you'll see at the bottom it
25 has Officer Sebalj's name.

1 **MR. SILMSER:** Correct.

2 **MR. WARDLE:** And this appears to be a
3 document that she created on that date, November 4th, 1993.
4 So just, you know, a lot of things happened in 1993. This
5 is after the settlement that you told us about yesterday.

6
7 **MR. SILMSER:** Okay.

8 **MR. WARDLE:** It's after the signing of the
9 release. It's after the contact you have with the CAS.

10 **MR. SILMSER:** Okay.

11 **MR. WARDLE:** And it's about three weeks
12 before Mr. Seguin dies. Okay?

13 **MR. SILMSER:** Okay.

14 **MR. WARDLE:** And you'll see that it starts
15 off by saying:

16 "On the above noted date and time
17 Constable H.M. Sebalj received a
18 telephone call from David Silmsers, the
19 victim in the incident."

20 **MR. SILMSER:** Correct.

21 **MR. WARDLE:** And then there's a couple of
22 paragraphs I'm just going to skip. Roughly in the middle
23 it says:

24 "Silmsers once again reiterated to
25 Constable Sebalj that he didn't want to

1 talk to anyone about this, confirming
2 he had dealt with it and now wanted to
3 bury the issue."

4 Okay. Do you see that?

5 **MR. SILMSER:** I see it.

6 **MR. WARDLE:** And then it says:

7 "Silmser further advised that his
8 lawyer had contacted him on behalf of
9 the 'police' to inquire as to his
10 intentions with Ken Seguin. At this,
11 Constable Sebalj asked Silmser if he
12 wished to pursue that matter and as
13 before Silmser declined. Silmser made
14 himself very clear he no longer wanted
15 to talk about all of this."

16 Now, do you have any recollection today of
17 having that conversation with Officer Sebalj?

18 **MR. SILMSER:** No, I don't, but there was a
19 lot of conversations back then. Like I said, I just don't
20 remember this one, and if I did -- most of my -- I didn't
21 do much talking at that time, my lawyer did a lot of the
22 work, the foot work.

23 **MR. WARDLE:** Yes.

24 **MR. SILMSER:** So if he had told me not to
25 talk to anybody, I wasn't supposed to talk to anybody, and

1 that could very well be what this means.

2 MR. WARDLE: Okay.

3 Do you have any recollection, you know, you
4 go to them in January and say "I want you to investigate
5 these two people." We know what happens with Father
6 Charles. We know about the settlement, and I'm going to
7 come back to that in a few minutes. But do you have any
8 recollection about later what you wanted them to do about
9 Ken Seguin?

10 MR. SILMSER: Well, I wanted them to do the
11 same thing they should have done with Father MacDonald, was
12 lay charges and go forward.

13 MR. WARDLE: Okay.

14 MR. SILMSER: And they never did.

15 MR. WARDLE: Now, can I take you to a
16 different topic, if I might, and that is the meeting with
17 the Diocese "committee".

18 MR. SILMSER: Is that what it's called?

19 MR. WARDLE: Well, I'm going to use the word
20 in quotes.

21 MR. SILMSER: Okay.

22 MR. WARDLE: The people from the Diocese.
23 How about that?

24 MR. SILMSER: Okay.

25 MR. WARDLE: As I recall it, you started

1 dealing first with this Father in Ottawa. Is that Father
2 Schonenbach?

3 MR. SILMSER: That's correct.

4 MR. WARDLE: And then you were referred to
5 Father MacDougald?

6 MR. SILMSER: That's correct.

7 MR. WARDLE: And you had some discussions
8 with him very early on; correct?

9 MR. SILMSER: Correct.

10 MR. WARDLE: And then at some point you were
11 asked by him to attend a meeting?

12 MR. SILMSER: That's right.

13 MR. WARDLE: And I don't know that you
14 recall the exact date but we have documents that suggest
15 that the date was February the 9th, 1993. Does that seem
16 about right?

17 MR. SILMSER: The meeting did take place. I
18 just don't know the exact date.

19 MR. WARDLE: Okay. And in Ms. Sebalj's
20 notes, the notes we've already marked ---

21 THE COMMISSIONER: And for the record, we
22 also have the typed notes now and they will be entered as
23 Exhibit 297.

24 ---EXHIBIT NO./PIÈCE NO P-297:

25 Typewritten Notes of Heidi Sebalj -

1 January 13, 1993 (713846)

2 **MR. WARDLE:** Thank you, sir.

3 **THE COMMISSIONER:** So if you want to go to
4 the notes?

5 **MR. WARDLE:** The handwritten notes. And I'm
6 just going to make sure I've got the right ---

7 **MR. ENGELMANN:** I think we should just
8 indicate the document number again. Mr. Sherriff-Scott
9 gave it earlier, 713846 for 297. Is that correct?

10 **THE COMMISSIONER:** Yes, 713846 is the
11 document number, yes.

12 So now, Mr. Wardle, you want to direct the
13 witness's attention to what part of the handwritten notes?

14 **MR. WARDLE:** It's Exhibit 295 and it's Bates
15 page 7063733. The page starts "The 28th, January 1993."
16 And I'm sorry, sir, my copy of these notes doesn't have
17 those ---

18 **THE COMMISSIONER:** The bottom ones?

19 **MR. WARDLE:** Yes.

20 **THE COMMISSIONER:** Okay. So it's the third
21 or fourth page in, Mr. Wardle? The 28th of January, Mr.
22 Wardle, is that what you're ---

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

24 **THE COMMISSIONER:** So look at the bottom at
25 01225.

1 MR. SILMSER: At 01225.

2 THE COMMISSIONER: It's the fourth page in.

3 MR. SILMSER: Yes, I've got it. I believe I
4 have it. Okay.

5 THE COMMISSIONER: So February 28th, 1993.

6 MR. SILMSER: Yes.

7 MR. WARDLE: So if you look at this page,
8 and again these are Constable Sebalj's notes, you can see
9 on the top entry for the 28th of January she's making some
10 notes. She's got your brother's name and your sister's
11 name there. Do you see that?

12 MR. SILMSER: Yes.

13 MR. WARDLE: And then just going down a
14 little further you'll see a note that starts 03, February
15 1993.

16 MR. SILMSER: Yes.

17 MR. WARDLE: And it starts with -- Ms.
18 Sebalj always puts the time. So she's got what looks to be
19 11:15. Do you see that?

20 MR. SILMSER: Not offhand.

21 THE COMMISSIONER: So we're looking at the
22 entry just below February 3rd.

23 MR. SILMSER: Okay. Yes, yes, 11:15.

24 THE COMMISSIONER: And 11:15. Yes, okay.

25 MR. SILMSER: Except there's like ---

1 **THE COMMISSIONER:** H'm?

2 **MR. SILMSER:** There's three ones there and a
3 five so that's why I ---

4 **THE COMMISSIONER:** Okay.

5 **MR. WARDLE:** So she starts with -- you'll
6 see it says:

7 "Telephone call to the victim. Request
8 he contact school board and obtain
9 school records to facilitate year in
10 which offence took place."

11 **MR. SILMSER:** Can you reread that again?

12 **MR. WARDLE:** Okay. So "11:15 t/c", which is
13 telephone call to "V", the victim.

14 **MR. SILMSER:** Okay.

15 **MR. WARDLE:**

16 "Request he contact school board and
17 obtain school records to facilitate
18 year in which offence took place."

19 **MR. SILMSER:** Okay.

20 **MR. WARDLE:** And then right after that it
21 says:

22 "V advised that he had been contacted
23 by the Diocese. They want to have a
24 meeting with the victim."

25 **MR. SILMSER:** Okay.

1 **MR. WARDLE:**
2 "Stated he wasn't sure if he was going,
3 though they should know 'that way it's
4 out'."

5 **MR. SILMSER:** That he should go it says?

6 **MR. WARDLE:** Yes.

7 **MR. SILMSER:** Okay.

8 **MR. WARDLE:** Stated he wasn't sure if he
9 was going, thought they should know "that way it's out".

10 **MR. SILMSER:** Okay.

11 **MR. WARDLE:** And then it says:

12 "Stated he wanted to see what they'll
13 do. Advises the meeting is on Tuesday
14 9, February at 10:00."

15 And then there's an address. Do you see
16 that?

17 **MR. SILMSER:** Yes.

18 **MR. WARDLE:** And I take it from this that,
19 you know, as you told us yesterday, you kept in touch with
20 Heidi and you told her that the Diocese had asked her to
21 come to this meeting.

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

23 **MR. WARDLE:** And then you'll see she says:

24 "Asked him to drop by before going and
25 giving me his statement so I can go

1 over it and we can discuss it when he
2 gets back from his meeting."

3 So she's, I guess, trying to get you to
4 follow-up on the statement, right?

5 **MR. SILMSER:** Okay.

6 **MR. WARDLE:** So then what appears is in her
7 notes the next day, February 9, 1993, she has a meeting
8 with you. And you'll see it says:

9 "10:46, meet with victim in youth
10 office. Victim has no statement and
11 advises he has not completed it yet."

12 Which would be basically what you told us,
13 you hadn't yet done it?

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

15 **MR. WARDLE:** And then it says:

16 "Asked him about names of people
17 present at the meeting. Could only
18 name MacDougald and knows a lawyer was
19 present."

20 And that's consistent with what you told us
21 yesterday; correct?

22 **MR. SILMSER:** Correct.

23 **MR. WARDLE:**

24 "Advises they (?) wanted victim to
25 provide details of the assault. States

1 `They believe me'."

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

3 **MR. WARDLE:** And then the last bullet says:

4 "Was offered psychological help."

5 Do you recall that?

6 **MR. SILMSER:** I don't remember that.

7 **MR. WARDLE:** It may have happened?

8 **MR. SILMSER:** It might have happened.

9 **MR. WARDLE:**

10 "Advised that the meeting lasted..."

11 And then it looks to me like it's 40

12 minutes.

13 **MR. SILMSER:** I said approximately an hour
14 yesterday. So that's pretty close.

15 **MR. WARDLE:** Okay.

16 Now, just on the subject of the meeting --
17 and the reason we're interested in the meeting, Mr.
18 Silmsers, is we're interested in what the Diocese did and
19 what it didn't do.

20 **MR. SILMSER:** Okay.

21 **MR. WARDLE:** And we're not as interested, to
22 be fair and to be honest, we're not as interested in you at
23 this point as we're interested in what the Diocese did and
24 what they didn't do.

25 **MR. SILMSER:** Okay.

1 **MR. WARDLE:** So you told us yesterday Father
2 MacDougald's at the meeting. There's some other priests
3 there but you don't think you got their names, right?

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

5 **MR. WARDLE:** There was a lawyer who you now
6 know was Mr. Leduc.

7 **MR. SILMSER:** He might have introduced
8 himself then too.

9 **MR. WARDLE:** Okay.

10 **MR. SILMSER:** But when I met with Heidi
11 Sebalj I might have forgot his name.

12 **MR. WARDLE:** Okay.

13 **MR. SILMSER:** I'm sure he introduced
14 himself.

15 **MR. WARDLE:** All right.

16 And you knew he was the lawyer for the
17 Diocese?

18 **MR. SILMSER:** No, I don't believe I did.

19 **MR. WARDLE:** Okay. So you just knew his
20 name at that point?

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

22 **MR. WARDLE:** Okay. And ---

23 **MR. SILMSER:** Unless he introduced himself
24 as a lawyer. Now, this is going back a long time ago, you
25 know. I just -- I don't think so. I don't remember him

1 ever doing that.

2 MR. WARDLE: And this individual, Mr. Leduc
3 asked, as I understand it, all the questions?

4 MR. SILMSER: That's correct.

5 MR. WARDLE: And he seemed sympathetic?

6 MR. SILMSER: Yes, he was.

7 MR. WARDLE: Okay. And we've already
8 learned it was a short meeting; correct?

9 MR. SILMSER: That's correct. Short for
10 some.

11 MR. WARDLE: And you've never seen any notes
12 of this meeting?

13 MR. SILMSER: No.

14 MR. WARDLE: You've never been given any
15 report of this meeting?

16 MR. SILMSER: That's correct.

17 MR. WARDLE: Nobody wrote you a letter after
18 this meeting?

19 MR. SILMSER: No, not that I can remember.

20 MR. WARDLE: And ---

21 MR. SILMSER: If a note would have went it
22 would have went to Heidi probably.

23 MR. WARDLE: And we have a mountain of
24 material about you, Mr. Silmsers, but I haven't seen any
25 letter after this meeting. So I think one of us here would

1 have found it if it existed.

2 And as I understood it, yesterday you told
3 us that nobody got back to you from the Diocese after this
4 meeting?

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

6 **MR. WARDLE:** And nothing takes place between
7 you and the church, as I understand it, from the date of
8 that meeting in February to some time in August when you
9 get a call from Malcolm MacDonald. Isn't that right?

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

11 **MR. WARDLE:** And you keep in touch with
12 Heidi, as you've told us, right?

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

14 **MR. WARDLE:** But after a certain point in
15 time you don't hear very much from her either, do you?

16 **MR. SILMSER:** No, I don't. I figured there
17 was an investigation going on.

18 **MR. WARDLE:** And at some point she tells
19 you, as I understand it, that they're concerned that with
20 just you alone they're not going to be able to go forward?

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

22 **MR. WARDLE:** And she's getting an opinion
23 from a Crown?

24 **MR. SILMSER:** She's getting her opinion from
25 the Crown?

1 **MR. WARDLE:** She's going to a Crown, a Crown
2 attorney for an opinion?

3 **MR. SILMSER:** Which would be Murray
4 MacDonald you're saying?

5 **MR. WARDLE:** I'm not sure.

6 **MR. SILMSER:** I don't know either.

7 **MR. WARDLE:** Okay. But do you remember her
8 telling you that she was going to get an opinion from a
9 Crown attorney?

10 **MR. SILMSER:** No.

11 **MR. WARDLE:** Okay.

12 **THE COMMISSIONER:** Well, in fairness,
13 yesterday I believe, or sometime in your testimony, you
14 said "she was telling me that there wasn't anything we can"
15 -- that the investigation was going to stop but that she
16 was going to get an opinion from a Crown, and you said
17 well, you know -- yesterday or today you saidm "Well, I
18 wondered about that. Why would she go and get an opinion
19 from a Crown if she was" -- "if the investigation wasn't
20 going anywhere."

21 Do you remember that part of your testimony?

22 **MR. SILMSER:** Something like that, yes.

23 **THE COMMISSIONER:** Okay.

24 **MR. WARDLE:** Let me -- because I think this
25 is important. I think what you told us yesterday was you

1 had the impression from her that they wouldn't be going
2 forward?

3 MR. SILMSER: That's correct.

4 MR. WARDLE: Okay. But you were also told
5 by her at some point that she was waiting for an opinion?

6 MR. SILMSER: There's something to do with a
7 Crown but I know already she had said that she had stopped.
8 She said two or three times that this investigation is
9 ended.

10 So it was ended with me.

11 MR. WARDLE: So as far as you were
12 concerned, this wasn't going anywhere.

13 MR. SILMSER: That's correct.

14 MR. WARDLE: And you hadn't heard anything
15 from the church?

16 MR. SILMSER: No.

17 MR. WARDLE: And then you get this phone
18 call as I understand it, from Malcolm MacDonald?

19 MR. SILMSER: That's correct.

20 MR. WARDLE: Had you heard the name, Malcolm
21 MacDonald, before that call?

22 MR. SILMSER: I don't believe so.

23 MR. WARDLE: Okay. Did you know he was a
24 lawyer in Cornwall?

25 MR. SILMSER: At the time did I know? I

1 might have. I'm not sure.

2 **THE COMMISSIONER:** Mr. Wardle, whenever you
3 find a convenient place for a break, let me know.

4 **MR. WARDLE:** This might be a convenient
5 time, actually, Mr. Commissioner. Thank you.

6 **THE COMMISSIONER:** Thank you. Let's have a
7 short break.

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

10 The hearing will resume at 3:35 p.m.

11 --- Upon recessing at 3:16 p.m./

12 L'audience est suspendue à 15h16

13 --- Upon resuming at 3:41 p.m./

14 L'audience est reprise à 15h41

15 **DAVID SILMSER, Resumed/Sous le même serment:**

16 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

17 **WARDLE (Cont'd/Suite):**

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

20 Please be seated. Veuillez vous asseoir.

21 **THE COMMISSIONER:** Good afternoon. Please
22 Mr. Wardle.

23 **MR. WARDLE:** Mr. Silmsers, just before the
24 break, we were just starting to talk about your dealings
25 with Malcolm MacDonald.

1 **MR. SILMSER:** Okay.

2 **MR. WARDLE:** And I think what we had
3 established so far is that you don't think you had known of
4 him before?

5 **MR. SILMSER:** I don't believe so, no.

6 **MR. WARDLE:** Okay. I take it that when he
7 first contacted you, he introduced himself as a lawyer?

8 **MR. SILMSER:** I would imagine, yes.

9 **MR. WARDLE:** Okay. And did you know that at
10 that time -- I'm sure you've found out things since -- but
11 did you know at that time that he had been a Crown Attorney
12 in Cornwall?

13 **MR. SILMSER:** I heard that, but I don't know
14 if it was before or after the ---

15 **MR. WARDLE:** One of the things I know you
16 have heard a lot since ---

17 **MR. SILMSER:** Yes.

18 **MR. WARDLE:** --- over the last, you know, 10
19 or so years. So I'm really focusing on what you can
20 remember at the time.

21 **MR. SILMSER:** That's correct, but I don't
22 believe I knew he was a Crown Attorney at the time.

23 **MR. WARDLE:** Did you know that he had done
24 work for the Diocese of Alexandria-Cornwall in the past?

25 **MR. SILMSER:** No.

1 **MR. WARDLE:** Did you know that he was a
2 friend of Ken Seguin's?

3 **MR. SILMSER:** I found that out later, but I
4 don't think I did at the time, no.

5 **MR. WARDLE:** And did you know that he was a
6 close personal friend of Father Charles MacDonald?

7 **MR. SILMSER:** No.

8 **MR. WARDLE:** Would that have surprised you
9 had you learned any of that information at the time?

10 **MR. SILMSER:** Back then, I don't think
11 anything would have surprised me.

12 **MR. WARDLE:** And you knew, I take it, that
13 he was acting for Father Charles MacDonald when he called
14 you. Is that right?

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

16 **MR. WARDLE:** And you thought that he had
17 some role for the church as well?

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

19 **MR. WARDLE:** Okay. Did you appreciate that
20 he was acting as a sort of a middleman between you and the
21 church?

22 **MR. SILMSER:** A middleman or a lawyer?

23 **MR. WARDLE:** A middleman.

24 Do you know what the word "middleman" means?

25 **MR. SILMSER:** I would think so, yes.

1 **MR. WARDLE:** Okay. And just coming forward,
2 we know that, you know, there's a deal arranged, and
3 there's money that changes hands, right?

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

5 **MR. WARDLE:** And most of that money, we now
6 know came from the Diocese, not from Father Charles.
7 Correct?

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

9 **MR. WARDLE:** And you only dealt with one
10 lawyer in these negotiations, and that was Malcolm, right?

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

12 **MR. WARDLE:** You never dealt with anybody on
13 behalf of the Diocese?

14 **MR. SILMSER:** No, I didn't.

15 **MR. WARDLE:** Aside from Malcolm, right?

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

17 **MR. WARDLE:** Okay.

18 And I just want to take you briefly to a
19 document, and this is a statement given by Mr. MacDonald in
20 connection with an investigation, and it's document 714899.

21 **(SHORT PAUSE / COURTE PAUSE)**

22 **THE COMMISSIONER:** All right.

23 That's Exhibit 298, which is a statement of
24 A.M. MacDonald Q.C., Solicitor for Father Charles
25 MacDonald.

1 **MR. WARDLE:** That's correct. And you will
2 see the date, Mr. Commissioner, if you go to the second
3 page.

4 **THE COMMISSIONER:** Okay, good, 20th of June
5 1994.

6 **MR. WARDLE:** Correct, if we could have that
7 marked as the next exhibit?

8 **THE COMMISSIONER:** Exhibit 298, so down.

9 **MR. WARDLE:** Thank you.

10 **--- EXHIBIT NO./PIÈCE NO P-298:**

11 Statement of A.M. MacDonald Q.C. -
12 June 20, 1994

13 **MR. ENGELMANN:** Mr. Silmsers, I am interested
14 in one line in this document. This is not something you
15 wrote. This is something Malcolm MacDonald wrote later in
16 connection with a police investigation. So I am not asking
17 you to accept it or adopt it, but I just want to take your
18 attention to the first page, paragraph 3. It says:

19 "At this time, I was asked to contact
20 Silmsers to see what he was looking for
21 in the way of compensation. In effect,
22 I was to be the middleman between the
23 Diocese and the complainant."

24 Do you see that?

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

1 **MR. WARDLE:** And that's really consistent
2 with what you are saying; that you saw him as having a role
3 on behalf of the church, not just for Father Charles but
4 for the church, right?

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

6 **MR. WARDLE:** And then, as I understand it,
7 he contacts you. There's some discussion back and forth,
8 and you agree on a number, and the number is \$32,000.
9 Correct?

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

11 **MR. WARDLE:** And that's partly what lawyers
12 would call, you know, damages, pain and suffering and part
13 of it is for counselling, right?

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

15 **MR. WARDLE:** From your perspective, Mr.
16 Silmsers, at that time, you had basically given up on the
17 Cornwall Police, right?

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

19 **MR. WARDLE:** And you probably needed money;
20 right?

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

22 **MR. WARDLE:** And you could certainly have
23 used some money for counselling at that time, right?

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

25 **MR. WARDLE:** Okay. For the Diocese and for

1 Father MacDonald, the deal they were going to do with you
2 was going to make sure there were no criminal proceedings
3 involving Father Charles, right?

4 MR. SILMSER: That's correct.

5 MR. WARDLE: And you were going to have to
6 sign a confidentiality clause, so to put it in layman's
7 terms, you would have to keep your mouth shut, right?

8 MR. SILMSER: That's right. And you would
9 have to give a release, right?

10 MR. SILMSER: That's right.

11 MR. WARDLE: And then, as I understand it,
12 you told my friend there's a meeting on September the 2nd
13 or 3rd at Malcolm MacDonald's office.

14 MR. SILMSER: Okay.

15 MR. WARDLE: And that's a meeting that you
16 remember very clearly, even now, all these years later,
17 right?

18 MR. SILMSER: Yes, it is.

19 MR. WARDLE: That's the meeting where you
20 told us that you come in, you wait in the waiting room, and
21 you see Father MacDonald sort of slip by and into Malcolm's
22 office, right?

23 MR. SILMSER: That's correct.

24 MR. WARDLE: Now, there are four documents
25 signed at that meeting, as I understand it. Four documents

1 prepared. There is -- and they were marked as Exhibits 263
2 through 266. One is the Release.

3 MR. SILMSER: That's right.

4 MR. WARDLE: And Mr. Engelmann took you
5 through that, and I won't take you through it again; and
6 there's a Certificate of ILA. That was Exhibit 264.

7 MR. SILMSER: Right.

8 MR. WARDLE: Right. And then do I have it
9 right that you said when Mr. Engelmann was asking you
10 questions that at some point you sat in the waiting room
11 again and there were a couple more documents prepared?

12 MR. SILMSER: That's correct.

13 MR. WARDLE: Okay. And those documents are
14 Exhibits 265 and 266. One is the document you signed with
15 respect to Mr. Adams, right?

16 MR. SILMSER: Right.

17 MR. WARDLE: And the other document is
18 addressed to the Cornwall Police.

19 MR. SILMSER: That's correct.

20 MR. WARDLE: Okay. Did you ever think to
21 yourself in all these years since why it was necessary that
22 you sign that last document?

23 MR. SILMSER: Oh, you mean to the police?

24 MR. WARDLE: The document to the police.
25 Have you ever sat down and thought, you know, why did I

1 have to sign that last document given that I had signed a
2 release?

3 **MR. SILMSER:** Well, now, I know, because
4 they didn't want the investigation to go forward on Charles
5 MacDonald.

6 **MR. WARDLE:** I think it's a little bit more
7 than that, Mr. Silmsers. Do you know what eventually was
8 sent to the police?

9 **MR. SILMSER:** No.

10 **MR. WARDLE:** Would it surprise you to learn
11 that the Release wasn't sent to the police, but this last
12 document was?

13 **MR. SILMSER:** Right.

14 **MR. WARDLE:** I'm not sure you still
15 understand, sir. If I can put it this way, you had a bit
16 of a trick played on you. Do you understand that now?

17 **MR. SILMSER:** I just don't understand where
18 you're going with that.

19 **MR. WARDLE:** Okay. You know now that the
20 Release and the clause in the Release ---

21 **MR. SILMSER:** Yes.

22 **MR. WARDLE:** --- was a clause that, had you
23 been properly advised, you probably shouldn't have signed,
24 right?

25 **MR. SILMSER:** Yes.

1 **MR. WARDLE:** And you know now that Malcolm
2 MacDonald was doing something very inappropriate in having
3 you sign that document, right?

4 **MR. SILMSER:** Right.

5 **MR. WARDLE:** Did you ever think about why
6 there was a direction signed just to the police?

7 **MR. SILMSER:** My idea was it's to stop the
8 investigation.

9 **MR. WARDLE:** Okay.
10 Well, let's have a look at Exhibit 268, if
11 we might.

12 **MR. SILMSER:** Do I have the document?

13 **THE COMMISSIONER:** Hang on a second.

14 **MR. WARDLE:** Sir, I think it must be ---

15 **THE COMMISSIONER:** Yes, you do. It's
16 probably in the binder. Do you have the binder, sir?

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

18 **THE COMMISSIONER:** Look under Exhibit 268.

19 **MR. SILMSER:** Okay.

20 **MR. WARDLE:** Sorry, I'm getting a little
21 lost. I'm sorry, Mr. Silmsers.

22 **THE COMMISSIONER:** Is this the letter to the
23 lawyer?

24 **MR. WARDLE:** No, this is a letter from
25 Malcolm MacDonald to the Cornwall Police.

1 You didn't put it in? Okay, so we'll have
2 to find it by document number.

3 **THE COMMISSIONER:** It is not an exhibit yet.

4 **MR. WARDLE:** I am sorry, Mr. Commissioner,
5 the document is 714762.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MR. WARDLE:** I think this document has been
8 reproduced multiple times, so we have several document
9 numbers. I think the correct document number is 713858.
10 This is a letter from Malcolm MacDonald to Detective
11 Sergeant Luc Brunet at the Cornwall City Police.

12 If we could have that marked as the next
13 exhibit?

14 **THE COMMISSIONER:** Exhibit No. 299, a letter
15 from Mr. MacDonald, Malcolm MacDonald to the Cornwall City
16 Police, dated September 3rd, 1993.

17 **--- EXHIBIT NO./PIÈCE NO P-299:**

18 Letter from A.M. MacDonald to Det. Sgt. Luc
19 Brunet - September 3, 1993

20 **MR. WARDLE:** Now, Mr. Silmsers, this is a
21 letter you and your lawyer probably never saw.

22 **MR. SILMSER:** No, I didn't see this letter.

23 **MR. WARDLE:** And you'll see that what is
24 being sent to the Cornwall Police by Malcolm MacDonald is
25 the statement that you had signed or the direction. In

1 other words, he's not sending them the release. He's
2 sending them the second document that you signed when you
3 went back in.

4 **MR. SILMSER:** I understand.

5 **MR. WARDLE:** And the reason he's doing that,
6 sir, is because if someone like the police got the release
7 they might start to ask some questions of Mr. MacDonald.

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

9 **MR. WARDLE:** Now, I want to just go quickly
10 through the end of this sort of set of events. You told us
11 yesterday, I think, that you ended up being called back in
12 by Heidi and you signed another document. Do you recall
13 that? You went down to the police ---

14 **MR. SILMSER:** Yes, down to the police
15 station, yes.

16 **MR. WARDLE:** Yes. And I just wanted to take
17 you through how that happened. There's a couple more
18 documents that I'd like to just show you. The first one is
19 72 -- I'll just make sure I've got this right -- 719999.

20 **THE COMMISSIONER:** Thank you.

21 Letter dated September 9th, 1993 from Lucien
22 Brunet, Staff Sergeant to Mr. Murray MacDonald, Crown
23 Attorney, dated September 9th, 1993.

24 **---EXHIBIT NO./PIÈCE NO P-300:**

25 Letter from Lucien Brunet to Murray

1 MacDonalld - September 9, 1993

2 MR. WARDLE: So you'll see from this, sir,
3 that what happens at this point is that the police get Mr.
4 MacDonalld's letter and they then go to the Crown and ask
5 for advice.

6 MR. SILMSER: That's correct.

7 MR. WARDLE: And there's then a second
8 letter which comes back from Mr. MacDonalld, and this is a
9 letter that you may have seen. My copy of it is 720000.

10 THE COMMISSIONER: Exhibit 301 is a letter
11 from Murray MacDonalld, Crown attorney to Staff Sergeant
12 Lucien Brunet dated September 14th, 1993.

13 ---EXHIBIT NO./PIÈCE NO P-301:

14 Letter from Murray MacDonalld to Staff
15 Sgt. Lucien Brunet - September 14, 1993

16 MR. WARDLE: You can see, Mr. Silmsers, from
17 this letter that Mr. MacDonalld, the Crown, seems to think
18 that you had actually been using the criminal process to
19 try to get a civil settlement. And I think what you've
20 been telling us today and yesterday that it was actually
21 the reverse. You had started out going to the police
22 interested in criminal charges and it was only after the
23 criminal investigation was going nowhere and you got the
24 phone call from Malcolm MacDonalld that you decided to go
25 forward with a civil settlement.

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

2 **MR. WARDLE:** And then if I could take you
3 lastly on the subject to Heidi Sebalj's notes again?

4 **THE COMMISSIONER:** That's Exhibit 295?

5 **MR. WARDLE:** Correct.

6 And I'm going to start, Mr. Commissioner,
7 with -- it's Bates page 7063836. It would be towards the
8 end. The first date on it is the 7th of September, 1993.

9 **THE COMMISSIONER:** If you want to look at
10 the bottom numbers, Mr. Silmsers, it's 01326.

11 **MR. SILMSER:** It's Exhibit 295 you said?

12 **THE COMMISSIONER:** Yes, the big thick one.

13 **MR. SILMSER:** I don't have it or I just
14 can't find it.

15 **THE COMMISSIONER:** Yes, well, join the
16 crowd.

17 What date is it again?

18 **MR. WARDLE:** The 7th of September 1993.

19 **THE COMMISSIONER:** So it's at the bottom.

20 **MR. SILMSER:** Maybe I didn't look properly.

21 **THE COMMISSIONER:** So Madam Clerk, 01326 at
22 the bottom. It's near the end. It's probably the third
23 last from the end.

24 **MR. SILMSER:** Thank you.

25 **MR. WARDLE:** So, sir, I'm starting with the

1 entry on the 7th of September.

2 MR. SILMSER: Okay.

3 MR. WARDLE: So it starts:

4 "RFD, met by Staff Sergeant Brunet.

5 Handed a letter from Malcolm

6 MacDonald's office in which is enclosed

7 a 'direction sign by Silmsers on 03 Sep,

8 1993 to stop any further proceedings!"

9 Do you see that?

10 MR. SILMSER: For some odd reason I don't.

11 I'm sorry.

12 MR. WARDLE: Okay.

13 MR. SILMSER: I probably am on the wrong
14 page here. Am I on the right page?

15 MR. WARDLE: I think the witness's copy is
16 actually quite a bit smaller than my copy and that's making
17 it a little more difficult for him to read it.

18 MR. SILMSER: Actually, I can read it off
19 the screen now.

20 THE COMMISSIONER: That's fine.

21 MR. WARDLE: If you don't mind looking at
22 the screen.

23 So you'll see the entry at the top. You'll
24 see:

25 "RFD, met my Staff Sergeant Brunet.

1 Handed a letter from Malcolm
2 MacDonald's office in which is endorsed
3 a 'direction signed by Silmsers on 03
4 Sep, 1993 to stop any further
5 proceedings!'"

6 So Heidi's recording in her notes, you know,
7 the direction coming in with the letter that I showed you a
8 few minutes ago from Malcolm's office. Do you see that?

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

10 **MR. WARDLE:** And then you'll see the next
11 couple of entries she tries to get in touch with you:

12 "8th September, telephone call to
13 Silmsers, no answer".

14 And then over the page to an entry for 10th
15 September.

16 **MR. SILMSER:** Okay.

17 **MR. WARDLE:** You'll see it says:

18 "Telephone call to Silmsers. Request to
19 see him in person."

20 **MR. SILMSER:** Okay.

21 **MR. WARDLE:** And then the very next entry
22 13, September 1993 ---

23 **THE COMMISSIONER:** Madam Clerk.

24 **MR. WARDLE:** --- at 08:50 it starts:

25 "Meet with Crown MacDonald."

1 And then there's some words. It looks like:

2 "Advise of 10:00 appointment. Suggest
3 satisfied that Silmsers acted of his own
4 free will."

5 And then again she tries to contact you.

6 So it appears from this that Heidi is being
7 told by the Crown that she should have a discussion with
8 you to make sure that you weren't being coerced into doing
9 this.

10 **MR. SILMSER:** Okay.

11 **MR. WARDLE:** And then the last -- the next
12 page in the notes there's a long note on September 29th.

13 **MR. SILMSER:** The problem I have with that
14 is, well, didn't Murray MacDonald say he wasn't going to
15 further up on the charges; he wasn't doing anything with
16 the charges.

17 **MR. WARDLE:** I think that's right. I think
18 that's right, and I think there are some problems here,
19 sir, but you know, at the end of the day it's going to be
20 for the Commissioner to deal with what the fallout is from
21 all of this.

22 **MR. SILMSER:** Okay.

23 **MR. WARDLE:** I'm not suggesting that all of
24 this is, you know, being done properly or improperly. I'm
25 just taking you through what happened.

1 **MR. SILMSER:** I see.

2 **MR. WARDLE:** So now we're at the next page
3 and you'll see this is your meeting with her.

4 **MR. SILMSER:** Okay.

5 **MR. WARDLE:** On the 29th. And remember Mr.
6 Engelmann took you to that last document that you signed,
7 the handwritten one.

8 **MR. SILMSER:** Yes.

9 **MR. WARDLE:** And I think it's actually
10 appended to these notes if we go to the next page.

11 **THE COMMISSIONER:** It's been made an exhibit
12 in any event.

13 **MR. SILMSER:** I've read it.

14 **MR. WARDLE:** Okay. So just looking at the
15 note you'll see that it starts by saying:

16 "In office with David Silmsers. Advised
17 that a Helen Dunlop called yesterday,
18 wants to come and talk to him."

19 And that of course is the -- Mr. Engelmann went through
20 that with you, I think, yesterday.

21 **MR. SILMSER:** Yes.

22 **MR. WARDLE:** And then it goes on to say:

23 "Says he was standing alone. At least
24 I can do some good with what I got.

25 It states:

1 "He signed off and that's that. Didn't
2 know how it would go in court and
3 therefore took the given."

4 I'm not sure given that -- I'm not sure I
5 can completely read it but it looks like "the given".

6 **MR. SILMSER:** Okay.

7 **MR. WARDLE:** And then it goes on to say:

8 "Given a look at paper he signed and
9 handed him my pen and a sheet of
10 notebook paper to put it all in his own
11 words. 9:39 received signoff from
12 Silmsers. Appeared a little
13 uncomfortable. Anxious to leave.
14 Apologized for amount of work entailed
15 and stated he was concerned about how
16 court would go. Stated he waived the
17 options and chose the sure thing."

18 **MR. SILMSER:** I don't remember saying that.

19 **MR. WARDLE:** So just taking you back and
20 sort of, you know, stepping away from all of the paper, you
21 had become convinced back in the summer that the criminal
22 investigation was going nowhere, right?

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

24 **MR. WARDLE:** You'd received a telephone call
25 out of the blue from Malcolm MacDonald, right?

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

2 **MR. WARDLE:** You had had some discussions
3 with him and negotiations about a sum of money to be paid?

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

5 **MR. WARDLE:** And ultimately you had gone in
6 to his office and you had signed the papers that we've
7 taken you through?

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

9 **MR. WARDLE:** And nowhere in that process did
10 anyone ever say to you, you can settle civilly and still
11 continue the option of proceeding with the criminal
12 complaint? Nobody ever said that to you?

13 **MR. SILMSER:** No, they didn't.

14 **MR. WARDLE:** All right.

15 And you thought at the time that you had to
16 settle both of them, didn't you?

17 **MR. SILMSER:** Yes, I did.

18 **MR. WARDLE:** Because that's what Malcolm
19 what presenting to you?

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

21 **MR. WARDLE:** All right.

22 And nobody ever told you anything different?

23 **MR. SILMSER:** No, they didn't.

24 **MR. WARDLE:** And the first time you found
25 out that that wasn't the case was probably when Malcolm

1 MacDonalld was charged with obstruction of justice, right?

2 MR. SILMSER: And when Bryce Geoffrey told
3 me, my lawyer. That's the first time I had ever understood
4 that.

5 MR. WARDLE: And that's not until some time
6 in January 1994 when you begin dealing with Bryce, right?

7 MR. SILMSER: That's correct.

8 MR. WARDLE: Okay. And in all this process
9 that we've just gone through, when you deal with Heidi
10 after the complaint -- sorry, after the settlement, the
11 Cornwall police doesn't ask you for copies of the
12 settlement documentation, right?

13 MR. SILMSER: No, they never did. I never
14 had a copy also.

15 MR. WARDLE: And then, as I understand it,
16 no sooner then all of this is behind you, then you begin to
17 try to communicate with Ken Séguin directly, right?

18 MR. SILMSER: That's correct.

19 MR. WARDLE: And Malcolm MacDonalld pops up,
20 if I can put it that way, acting for him, isn't that right?

21 MR. SILMSER: Yes, he did.

22 MR. WARDLE: And you start having
23 negotiations with him again?

24 MR. SILMSER: That's correct.

25 MR. WARDLE: And all of this whole period of

1 time, you didn't understand the relationship between these
2 three individuals, right?

3 MR. SILMSER: That's correct. At the time.

4 MR. WARDLE: I want to just take you one
5 last time -- I think I'm almost finished Mr. Commissioner -
6 - to Exhibit 271.

7 THE COMMISSIONER: That would be in the
8 binder, Mr. Silmsers.

9 MR. SILMSER: Yes, I have it.

10 THE COMMISSIONER: Okay. So we are looking
11 at the interview report.

12 MR. WARDLE: Now, this is the statement that
13 you give after Mr. Séguin's death, correct?

14 MR. SILMSER: Yes, it is.

15 MR. WARDLE: Okay. And my friend, Mr.
16 Engelmann, took you through it. I just want to -- I really
17 only have one question. If we scroll down to I think it's
18 the second or third page. Keep going. I don't have a
19 hardcopy. Sorry, it's page 4 I'm interested in.

20 About half way down this page, you're really
21 going through the narrative, and you go right back to the
22 beginning. So you can see for example there is a reference
23 to -- just where the arrow is -- to Mr. Bell and the
24 Children's Aid.

25 MR. SILMSER: Okay.

1 **MR. WARDLE:** And then a little further down
2 the page, you'll see "I phoned Malcolm MacDonald and asked
3 if he was representing Ken Séguin, he said 'No, not at this
4 time'".

5 **MR. SILMSER:** Okay.

6 **MR. WARDLE:** Do you see that?

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

8 **MR. WARDLE:** Then it says:

9 "I phoned Ken Séguin around a week or
10 so ago at work, told him I wanted a
11 settlement from him, also for what he
12 had done for me. He told me to talk to
13 Malcolm MacDonald, his lawyer".

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

15 **MR. WARDLE:** And:

16 "I called Malcolm. He asked me if I
17 had a lawyer. I said no".

18 That was correct at the time. You had only used Mr. Adams
19 for the independent legal advice and you hadn't yet hired
20 Mr. Geoffrey, right?

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

22 **MR. WARDLE:** Okay.

23 "He said he would not be involved in
24 the case if I had a lawyer".

25 And I am not sure, sir, if you appreciated

1 the significance of this when you wrote the statement but
2 let me suggest to you that what he was really saying is you
3 shouldn't get a lawyer.

4 **MR. SILMSER:** That's very possible.

5 **MR. WARDLE:** Okay. And you don't know why
6 that was? You don't know why he made that suggestion to
7 you?

8 **MR. SILMSER:** I think they thought they
9 could settle it quietly in the office.

10 **MR. WARDLE:** I think you're probably
11 absolutely right, sir. And of course, I guess that never
12 happened because of Mr. Séguin's suicide.

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

14 **MR. WARDLE:** Okay. Can we agree, Mr.
15 Silmsers, that you weren't well served by the people you
16 were dealing with in 1993 about your allegations against
17 Father MacDonald and Ken Séguin?

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

19 **MR. WARDLE:** You weren't well served by the
20 Cornwall police?

21 **MR. SILMSER:** No, I wasn't.

22 **MR. WARDLE:** And you certainly weren't well
23 served by the people at the Diocese who had the meeting
24 with you in February and never followed up?

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

1 **MR. WARDLE:** And you certainly weren't
2 served by Malcolm MacDonald, the middle man, right?

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

4 **MR. WARDLE:** And a lot of what's taken place
5 since, the charges that were eventually laid, all the
6 events that you told us about in your evidence over the
7 last couple of days, all of that can really be traced back
8 to these decisions and these events that took place at that
9 very early point; isn't that right?

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

11 **MR. WARDLE:** Thank you, sir. Those are all
12 my questions for you.

13 **THE COMMISSIONER:** Thank you.

14 Mr. Lee? What I am proposing is we do about
15 half an hour.

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

17 **MR. LEE:** Good afternoon, Mr. Commissioner.

18 **THE COMMISSIONER:** Good afternoon sir.

19 **MR. LEE:** Good afternoon, Mr. Silmsers.

20 **MR. SILMSER:** Hello.

21 **MR. LEE:** My name is Dallas Lee. I am
22 counsel for the Victims Group here.

23 **MR. SILMSER:** Okay.

24 **MR. LEE:** Just so you understand, the
25 Victims Group is a collection of people who came together

1 to retain my law firm to represent them at this Inquiry.
2 As you know, we don't represent all victims here, we
3 represent those that wanted to hire us.

4 **MR. SILMSER:** I see.

5 **MR. LEE:** At this point, that's about 50
6 people. So I am here -- our party has standing here and so
7 I am here every day and I just have a few questions for
8 you. Okay?

9 **MR. SILMSER:** That's fine.

10 **MR. LEE:** I'd like to start with some of the
11 dealings you had with the Diocese of Alexandria/Cornwall.

12 **MR. SILMSER:** Okay.

13 **MR. LEE:** You've told us that you met with
14 them on February 9th of 1993 and Mr. Wardle took you through
15 that a little bit a moment ago. You know that you met with
16 Jacques Leduc, a lawyer, and you know that Father
17 MacDougald was there. Is that correct?

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

19 **MR. LEE:** And then there was another priest
20 there, he had a collar on but you don't know that was. Is
21 that right?

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

23 **MR. LEE:** At any point, did anybody in that
24 room explain to you why those particular individuals were
25 in that room?

1 **MR. SILMSER:** No, they didn't.

2 **MR. LEE:** Did they explain to you who
3 decided that it would be those individuals that would be
4 there?

5 **MR. SILMSER:** The only person I knew might
6 be there, why he would be there, because I knew from Father
7 Schonenbach was Father MacDougald handled this type of
8 thing, sexual abuse cases inside the church. But that's
9 the only person I knew there. What reason he'd be there --
10 -

11 **MR. LEE:** When you say the church, are you
12 referring to the Diocese of Alexandria/Cornwall?

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

14 **MR. LEE:** Did you understand at that time
15 that the Archdiocese in Ottawa was separate from the
16 Diocese here in Cornwall?

17 **MR. SILMSER:** Well, I thought they were all
18 combined, you know, like ---

19 **MR. LEE:** One big catholic church, as far as
20 you were concerned?

21 **MR. SILMSER:** That's right, that's what I
22 thought.

23 **MR. LEE:** And when you went to Monsignor
24 Schonenbach, he explained to you that there was somebody in
25 Cornwall specifically, being Father MacDougald, and he

1 handled these kind of things?

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

3 **MR. LEE:** And so you weren't surprised that
4 he was there at that meeting?

5 **MR. SILMSER:** Not Father MacDougald, no.

6 **MR. LEE:** When Mr. Wardle got up here, I
7 think he used the word "committee" to describe this group
8 of people and you scoffed at that a little bit and said
9 something along the lines "Oh, is that what you call it".
10 Was a word ever used to describe that, a tribunal, or a
11 committee or a panel or anything along those lines to you?

12 **MR. SILMSER:** No, they just wanted to hear
13 what I had to say. Basically they wanted to hear what had
14 happened to me.

15 **MR. LEE:** And did they explain that to you
16 that that was their purpose?

17 **MR. SILMSER:** Basically, that's -- and then
18 it came from Jacques Leduc, he wanted to hear what had
19 happened to me. So I told him.

20 **MR. LEE:** Did he explain at any point why he
21 wanted to know what was going to happen -- what was going
22 to come out of this meeting you had with them?

23 **MR. SILMSER:** Actually, I was happy to do it
24 so the church would know about it, the details, they would
25 know what happened to me. So I didn't question it.

1 **MR. LEE:** That's what you wanted, was for
2 the church to know what happened?

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

4 **MR. LEE:** You told Mr. Wardle a moment ago
5 that you didn't receive a report, you didn't hear anything
6 about a report at all. After that initial meeting, were
7 you ever asked to participate in any kind of Diocese
8 investigation into your allegations?

9 **MR. SILMSER:** No.

10 **MR. LEE:** You were never brought back in
11 front of a tribunal or a committee or anything like that?

12 **MR. SILMSER:** Never.

13 **MR. LEE:** Do you have any information about
14 such a committee being convened or a tribunal convened?

15 **MR. SILMSER:** No.

16 **MR. LEE:** You've told us, mostly in your
17 examination-in-chief with Mr. Engelmann, that when you
18 originally had contact with the Cornwall police that there
19 came a time when you were contacted by Heidi Sebalj.

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

21 **MR. LEE:** And you had issues with her being
22 a woman, you didn't want a female investigator; is that
23 right?

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

25 **MR. LEE:** And I believe you told us that you

1 told Ms. Sebalj that?

2 MR. SILMSER: I told her numerous times,
3 yes.

4 MR. LEE: And at some point, you told Chief
5 Shaver about that?

6 MR. SILMSER: That's correct.

7 MR. LEE: Did they ever explain to you why
8 they couldn't just assign a male investigator given your
9 concerns?

10 MR. SILMSER: No.

11 MR. LEE: Did they tell you anything about
12 something particular about Ms. Sebalj that made it so she
13 needed to be the investigator?

14 MR. SILMSER: No.

15 MR. LEE: Was there mention of her being the
16 head of a department or having special training, or
17 anything along those lines?

18 MR. SILMSER: No, they just kept her on.

19 MR. LEE: Did you ever learn of any
20 particular reason why it should be her and not a male
21 officer?

22 MR. SILMSER: No.

23 MR. LEE: I'd like you to think back to --
24 you've told us about your meeting with the Children's Aid
25 Society. One of the documents that we've looked at and

1 that's been entered into evidence is a transcript of an
2 interview you did with Greg Bell and Pina DeBellis on
3 November 2nd, 1993. Do you remember that?

4 MR. SILMSER: Yes, I do.

5 MR. LEE: And you remember looking at that
6 document earlier?

7 MR. SILMSER: Yes, I do.

8 MR. LEE: You told us yesterday that this
9 was the first time that you had disclosed abuse to somebody
10 in power, an institution, whatever it will be, about Marcel
11 Lalonde. Is that correct?

12 MR. SILMSER: That's correct.

13 MR. LEE: And do you recall telling them at
14 that time that he was a school teacher?

15 MR. SILMSER: Yes, I believe I did.

16 MR. LEE: Why don't we take a look at that
17 transcript and ---

18 MR. SILMSER: Sure.

19 MR. LEE: --- I'd just like to show you a
20 couple of parts. That's Exhibit 270, Mr. Commissioner.

21 THE COMMISSIONER: Yes.

22 MR. LEE: Mr. Silmsers, that's a bit of a
23 thick document, it's about 44 pages it that helps you to
24 find it.

25 THE COMMISSIONER: It's in the ---

1 **MR. SILMSER:** I have it.

2 **MR. LEE:** And I'd like to take you to page
3 22 of that document. Up on the top of the page they are
4 numbered.

5 **MR. SILMSER:** Okay.

6 **MR. LEE:** You can see on the left hand side
7 that the lines are numbered. If I can take you to line
8 550, it's about two thirds of the way down the page.

9 **MR. SILMSER:** Okay.

10 **THE REGISTRAR:** Can you give me the Bates
11 page number.

12 **MR. LEE:** It's 7081018.

13 **MR. SILMSER:** Yes.

14 **MR. LEE:** And it reads there "There was a
15 school teacher named Marcel Lalonde", I am not going to go
16 into that too much. So at that point, you were told not
17 only you had been abused by Marcel Lalonde but also that he
18 was a school teacher. Would you agree with me on that?

19 **MR. SILMSER:** I agree.

20 **MR. LEE:** And if you turn to the page before
21 that, page 21, you disclosed some abuse by Ken Séguin. And
22 at line 522, it reads:

23 "And ah -- they put me on probation
24 with a man called Ken Séguin and it
25 didn't even take long, it took maybe

1 three appointments and he did the same
2 thing to me in the end".

3 So you've discussed with them the fact that
4 you were put on probation with Ken Séguin and so obviously
5 Ken Séguin was a probation officer. Would you agree with
6 that?

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

8 **MR. LEE:** Do you recall whether or not you
9 advised them whether one or both of these men were still
10 working in those capacities at the time of your complaint
11 to the Children's Aid Society?

12 **MR. SILMSER:** I don't know if I did or not.

13 **MR. LEE:** I'd like to take you to page 36 of
14 that document.

15 Madam Clerk, that's 7081032.

16 If you can look at line -- beginning at line
17 902, this is Greg Bell talking, he has gone on for a bit
18 then he says:

19 "You mention a part from Charlie
20 MacDonald, you mention Ken Seguin and
21 Marcel Lalonde is it. Would you be
22 aware of other victims that any of
23 these people may have abused?"

24 And you reply:

25 "I don't them off-hand, but there must

1 be. It's widespread anyways,
2 especially Seguin or Lalonde or for
3 MacDonald for that matter, you know,
4 too."

5 And if you turn over the page, beginning at
6 line 930, you continue on with that idea, and you
7 say:

8 "These people aren't stupid people.
9 These people are educated people and
10 they're smart, and know what they do.
11 They kept it quiet. They kept it
12 hidden. That's why they're still out
13 in their jobs. That's why they're
14 still working and they're still doing
15 what they're doing because they're good
16 at what they're doing. They're not
17 good, but I mean they got the brains to
18 keep it quiet."

19 So would you agree with me that, at this
20 point, you've told the CAS that you were abused by Ken
21 Seguin and that he was a probation officer?

22 **MR. SILMSER:** Yes.

23 **MR. LEE:** You've told them that you were
24 abused by Marcel Lalonde and that he is a teacher?

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

1 **MR. LEE:** And you've told them that these
2 people are still working in those jobs?

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

4 **MR. LEE:** At that time, did the Children's
5 Aid Society advise you that they would be beginning a child
6 protection investigation in relation to these complaints?

7 **MR. SILMSER:** I believe they said they would
8 have an investigation.

9 **MR. LEE:** Did you understand what that
10 investigation would be about?

11 **MR. SILMSER:** No.

12 **MR. LEE:** And specifically what I'm
13 thinking, it seems to me there are a couple of
14 investigations that could have been launched. One to
15 figure out if these happened to you.

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

17 **MR. LEE:** And another one, given that it's a
18 Children's Aid Society, to figure out where these people
19 are now and if they are a risk to children.

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

21 **MR. LEE:** Did they explain that to you?

22 **MR. SILMSER:** I don't believe they did, no.

23 **MR. LEE:** I need to ask you; yesterday, you
24 were asked by Mr. Engelmann about some of the dealings you
25 had with the Children's Aid Society and about Richard

1 Abell, in particular. You explained to us, I think, -- I
2 think frankly you would agree with me that your story, the
3 gist of your story was that you got off on the wrong foot
4 for him and you didn't like him pretty much right off the
5 bat.

6 Is that correct?

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

8 **MR. LEE:** You also mentioned that you were
9 concerned that he may have information that he hasn't
10 revealed. He may be hiding something.

11 Do you have specific information that you
12 believe he is hiding or do you just have a general feeling
13 that he hasn't been forthright?

14 **MR. SILMSER:** I just have a general feeling
15 he has more information. I think he was in contact with
16 the Catholic Church more times than he is saying, and he
17 was taking direction from the Catholic Church. I had that
18 feeling anyways.

19 But then again, that's just my feeling on
20 this subject. I don't know.

21 **MR. LEE:** Just so I'm perfectly clear, you
22 can't say to us now "I think he has a document, and this is
23 what it is, and he hasn't revealed it," or anything like
24 that. That is just a feeling you have.

25 Is that correct?

1 **MR. SILMSER:** It's just a feeling I have.

2 Yes.

3 **MR. LEE:** Eventually, you dealt with the
4 Ontario Provincial Police. You dealt with the Diocese.
5 You dealt with the Cornwall Police. Eventually, you dealt
6 with the Ontario Provincial Police.

7 Is that correct?

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

9 **MR. LEE:** And you told us you that some
10 issues with Tim Smith.

11 **MR. SILMSER:** Yes, I did.

12 **MR. LEE:** There is another aspect to the
13 story with the OPP that I would like to discuss with you.
14 I would like to take you to a document that I don't believe
15 you would have seen before. It's document 103451.

16 **(SHORT PAUSE/COURTE PAUSE)**

17 **THE COMMISSIONER:** Exhibit No. 302 is what?

18 Okay.

19 It's a letter from Mr. Hall to the Director
20 of Ontario Provincial Police Criminal Investigation Branch
21 dated October 5th, 2000.

22 **MR. LEE:** The document number again, Madam
23 Clerk, is 103451.

24 --- **EXHIBIT NO./PIÈCE NO P-302:**

25 Letter from P.R. Hall to Director - October

1 5, 2000

2 **MR. LEE:** Do you have that now, Mr. Silmsers?

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

4 **MR. LEE:** As the Commissioner just said,
5 this is a -- I suppose it's a letter, it looks a bit like a
6 memo, but it is from Detective Inspector P.R. Hall from the
7 Criminal Investigation Branch of the OPP in the Smiths
8 Falls Unit to the Director of the OPP at that time, and it
9 is dated October 5, 2000.

10 Now, the 're' line on this, on the first
11 page reads:

12 "Bill 103 introduced by Gary Guzzo,
13 MPP, Ottawa West-Nepean; Inquiry into
14 police investigation of sexual abuse
15 against minors in the Cornwall area,
16 Act 2000."

17 Now, I'm not particularly concerned with
18 the nature of that Act or Bill 103 or anything else. I am
19 concerned about the content of this document because I
20 think it provides a nice summary of the OPP position at a
21 certain period of time, and that's I'm bringing you here.
22 I wanted your thoughts on this position.

23 **MR. SILMSER:** Okay.

24 **MR. LEE:** It begins:

25 "The following are responses to the

1 matters that Commission Inquiry is
2 required to look into."

3 If you go down, there are questions listed.
4 Question No. 2 at the bottom of the first page reads:

5 "The circumstances that led to no
6 charges being laid following
7 investigations by a police force before
8 1995 in the complaints of sexual
9 abuse."

10 So you need to keep in mind that that's a
11 very specific question being asked -- in the first go-
12 around, why weren't charges being laid?

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

14 **MR. LEE:** This doesn't apply to later on or
15 delays in charges. This is the first time around, why
16 weren't charges laid?

17 If you go to the end then of page 2, there
18 is some general history that is set out there. On the
19 bottom of page 2, it reads:

20 "On February 2, 1994, the OPP were
21 requested to conduct a thorough and
22 complete investigation in the
23 aforementioned areas of concern."

24 So we turn it over and it reads:

25 "The Silmsers complaint of sexual

1 assault perpetrated by Father Charles
2 MacDonald was completely investigated
3 and the findings were:"

4 The first finding was:

5 "David Silmser was found to be a most
6 difficult victim to deal with. His
7 memory was selective and he continually
8 attempted to direct the investigation
9 and when he could not, threatened to go
10 public."

11 I am going to give you an opportunity to
12 respond to this.

13 The reason I want to go through this is,
14 first, I want to get your thoughts on it and, from my
15 clients' perspective, given that I represent victims of
16 abuse, I am interested in hearing your thoughts on the
17 suggestion that your memory was selective, things along
18 those lines.

19 The other question I want to get out of this
20 in the end is whether or not these concerns of the police
21 were ever brought to your attention, so you could respond
22 to them. For example, in this case, did anybody ever say
23 to you, "You know what, Dave, it seems like your memory is
24 a little selective here, and we have some concerns about
25 what we are hearing."

1 **MR. SILMSER:** That's the first I've ever
2 heard of that.

3 **MR. LEE:** Do you ever recall at any point
4 somebody saying your memory was selective?

5 **MR. SILMSER:** No.

6 **MR. LEE:** I think the easiest way to do this
7 is I'm going to read this list of findings here and we'll
8 go back after that.

9 **MR. SILMSER:** Okay.

10 **MR. LEE:** But I want to give you a -- I want
11 you to have a full idea of what we are dealing with here.

12 **MR. SILMSER:** Okay.

13 **MR. LEE:** The second is:

14 "Silmser had four specific complaints
15 of abuse, each involving Father Charles
16 MacDonald. In each case, Silmser
17 cannot provide specific dates with
18 certainty, which could be verified. In
19 addition, the most serious allegation
20 of buggery was not specific and when
21 pressed for explicit details in what
22 followed, Silmser claimed to have
23 blanked all of this from his memory.
24 Evidence was found, which was not
25 disclosed by Silmser, that his

1 friendship with Father MacDonald
2 continued after the allegation of abuse
3 and into Silmsers' adulthood. The
4 investigators believe there were sexual
5 contact between Silmsers and MacDonald,
6 but cannot with certainty identify
7 specific incidents. Silmsers' request,
8 following news releases, is that he
9 still wishes charges laid despite
10 receiving a monetary settlement is
11 suspect. He pursued a civil action
12 against the Cornwall Police Service
13 relating to the release of a statement
14 to the press. Because of Silmsers'
15 credibility and selective memory, the
16 investigators found it difficult to
17 obtain the necessary reasonable grounds
18 to believe these offences took place as
19 indicated. However, there still
20 remains strong suspicion that Silmsers
21 was sexually assaulted in some manner
22 by Father Charles MacDonald. Part of
23 this suspicion could be supported by
24 the church providing a monetary
25 settlement to Silmsers without the

1 necessity of a court hearing."

2 So those are the findings and then it goes
3 on. I just want to read the next two paragraphs
4 here:

5 "In mid-November 1994, Detective
6 Inspector Tim Smith delivered to Mr.
7 Peter Griffiths, Regional Director of
8 Crown Attorneys East Region, a two-
9 volume brief outlining this
10 investigation. Mr. Griffiths provided
11 a four-page written legal opinion dated
12 21 December 1994. It was his opinion
13 that there was insufficient reasonable
14 and probable grounds to lay a criminal
15 charge against Father Charles
16 MacDonald."

17 So to sum up, the OPP goes in, does a
18 complete investigation, makes some findings. Tim Smith
19 presents all those findings to Peter Griffiths, and Peter
20 Griffiths comes back and says "We don't have reasonable and
21 probable grounds here to lay a charge."

22 So do you understand ---

23 **MR. SILMSER:** This is unbelievable because I
24 was so straightforward with him in my interview. I think
25 you have my tape of the interview. And I wasn't selective

1 thinking or selective -- everything was straightforward and
2 I was -- I told him the whole story. I mean, the pages of
3 it, it's thick.

4 **MR. LEE:** That's what I -- it's part of what
5 I'm interested. We -- my clients have some concerns that -
6 --

7 **MR. SILMSER:** And I know you know where he
8 comes up with, like, as an adult I was friends with
9 MacDonald. That's completely false. I never even met him
10 as an adult. You know, there's so much in here, that's
11 unbelievable. I don't even know where they get it from.

12 **MR. LEE:** I would like to start at the top.

13 **MR. SILMSER:** Sure.

14 **MR. LEE:** "David Silmsers was found to be a
15 most difficult victim to deal with."

16 We know certainly that you had -- you made a
17 lot of phone calls.

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

19 **MR. LEE:** You asked a lot of questions.

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

21 **MR. LEE:** You didn't take no for an answer.
22 We had the memo earlier dealing with, I believe, it was
23 Peter Griffiths -- or Bob Pelletier's, rather, secretary,
24 who said, you know "Don't call back here anymore". And you
25 flatly said "It will cost me money if I have to call my

1 lawyer. So I am going to call back here."

2 MR. SILMSER: That's correct.

3 MR. LEE: What do you think of the idea that
4 you were a most difficult victim to deal with?

5 MR. SILMSER: I might have been difficult,
6 but not to the point where they should have ignored the
7 situation. Difficult to the sense where I wanted the truth
8 to come out, and I was stubborn enough to stay on the path
9 and get the truth out somehow.

10 MR. LEE: How were important were these
11 allegations and what followed to you at that point in your
12 life?

13 MR. SILMSER: My whole life was consumed by
14 this. I had to straighten out what had happened to me.
15 So, you know, this selective, this is unbelievable.

16 MR. LEE: As I began to say, and I kind of
17 trailed off, and you got into it a little bit yesterday.
18 It goes to the next point about how you cannot provide
19 specific dates with certainty, and you certainly canvassed
20 that with Mr. Wardle today about how it's not easy to
21 recall specific events from 20 years ago.

22 Part of the concerns of my client and sort
23 of our theory of the case in part, if you will, is that it
24 seems to us that in a lot of the cases, the people at
25 whatever institution who was dealing with victims of abuse

1 at this time, didn't understand how to deal with victims of
2 abuse. They didn't appreciate the emotions. They didn't
3 appreciate the hurdles that the victim had to go through.
4 They didn't appreciate the impact of what these people were
5 dealing with.

6 So when you see here that your memory was
7 selective and that you couldn't provide specific dates with
8 certainty, is it your feeling that perhaps there was just a
9 fundamental misunderstanding of the capabilities of a
10 victim to recall this kind of evidence and to be specific?

11 **MR. SILMSER:** Actually, I got pretty close
12 to a lot of the dates in the interview. And if I did, it
13 was just like, you know, it was many years ago. I don't
14 know what he's even talking about there.

15 **MR. LEE:** The third point notes that, in
16 relation to the most serious allegation, they pressed you
17 for explicit details, and you claimed to have blanked all
18 this from your memory.

19 **MR. SILMSER:** No. I explained it to them,
20 and I explained what happened and they did not want to
21 charge on that charge, and they never explained why. I
22 told them exactly what happened there.

23 **MR. LEE:** So as far as you are concerned,
24 you didn't blank anything out of your memory.

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

1 **MR. LEE:** You did your best to tell them
2 what you could remember.

3 **MR. SILMSER:** That's right. I mean there
4 was more than just that on that charge. There was other
5 things on that charge that they -- he should have been
6 charged for. And they just blocked that whole thing out,
7 that whole episode out.

8 **MR. LEE:** I'm going to -- there are certain
9 inferences being drawn by the OPP. For example, they seem
10 to be drawing an inference that they were right to be
11 suspicious of Father MacDonald, given that there was a
12 monetary settlement.

13 They also seem -- on the other side of
14 things, they seem to be suspicious of you because you
15 wanted a monetary settlement.

16 **MR. SILMSER:** First, I wanted the criminal
17 charges. First, I wanted an apology. Let's get that
18 straight. And then I wanted criminal charges. And then,
19 that wasn't coming; then the last thing was a settlement.
20 That was the last thing I had.

21 If I wouldn't have taken the settlement at
22 that time, I figured nothing would have happened. And at
23 least if I took the \$32,000, the church might investigate
24 their own priest. That's the only thing I could think of.
25 Money would make them investigate their own priest.

1 Yes, thank you.

2 Mr. Engelmann.

3 **MR. ENGELMANN:** Just a couple of matters,
4 very quickly, if I may. All counsel should have a
5 duplicate list for documents. So that should assist us
6 tomorrow. And I'd ask if you don't have one let me know
7 and we'll make sure you have one. That will assist with
8 documents with the clerk.

9 **THE COMMISSIONER:** Okay.

10 **MR. ENGELMANN:** And I would just remind
11 people, when they're going through longer documents, they
12 could use the page number and the Bates number for the
13 record.

14 And lastly, sir, yesterday in the transcript
15 I believe there's an errata on page 179. It's the January
16 30th transcript at line 17 where something's attributed to
17 you, and I think it was Mr. Silmsers making the comment.

18 **THE COMMISSIONER:** Oh.

19 **MR. ENGELMANN:** I have it with me. If you'd
20 like to see the hard copy that would be of assistance. But
21 I suspect it's just an errata. Perhaps you could pull it
22 up on the screen, Madam Clerk, or do you have it handy?

23 Mr. Carriere was kind enough to point that
24 out to me and I think he's correct.

25 **THE COMMISSIONER:** All right.

1 Okay. It says "I think we had a problem" --
2 the statement that's attributed to me, and it's Mr.
3 Engelmann saying "All right. So at that point in time..."
4 and then what's attributed to me is "I think we had a
5 problem with Children's Aid though at the time, didn't we,
6 with the media leakage with my statement." I didn't make a
7 statement.

8 **MR. ENGELMANN:** I'm not sure. I'll check it
9 and I'll check my notes as well.

10 **THE COMMISSIONER:** All right.
11 It seems it's going through question and
12 answer ---

13 **MR. ENGELMANN:** You may have made an
14 interjection. I'm not sure. Actually just hearing you say
15 it right now -- I'll check my notes, sir.

16 **THE COMMISSIONER:** I don't think I said
17 that.

18 **MR. ENGELMANN:** Yes.

19 **THE COMMISSIONER:** All right.

20 Mr. Callaghan?

21 **MR. CALLAGHAN:** No, no, I suspect you
22 didn't, sir.

23 **THE COMMISSIONER:** Because you remember ---

24 **MR. CALLAGHAN:** I was listening.

25 **THE COMMISSIONER:** You remember everything I

1 say, yes. Well, I will say that we're going to adjourn for
2 the night, sir. We'll come back at 9:30 tomorrow morning.

3 Thank you.

4 **MR. SILMSER:** Thank you.

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

7 The hearing is now adjourned. L'audience
8 est ajournee.

9 --- Upon adjourning at 4:43 p.m./

10 L'audience est ajournee à 16h43

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

I, Marc Demers 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, Marc Demers, 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.



Marc Demers, CR