

DATE: August 21, 2007

BEFORE: The Honourable Justice Lederer

RE: Court File No. 07-CV-337534 PD2

*The Honourable G. Normand Glaude, Commissioner of the Cornwall Public Inquiry v. Perry Dunlop and Helen Dunlop*

COUNSEL: For the Applicant (the Commissioner) - Patricia M. Latimer

For the Respondents (Perry Dunlop and Helen Dunlop) - no one – though served with motion and motion record

### ENDORSEMENT

The Commissioner is conducting an inquiry under the *Public Inquiries Act* examining, among other things, the institutional response of the justice system and other public institutions to allegations of sexual abuse of young people in the Cornwall area.

The Commissioner wishes to hear testimony from the Respondents who now reside in British Columbia. Efforts have been made to have them attend on a voluntary basis but have not been successful. The Commissioner now seeks, from this Court, the issuance of a Certificate pursuant to the *Interprovincial Summonses Act*, section 5. The appropriate Court in British Columbia will, with the Certificate in hand, adopt the accompanying subpoena as its own. (see *Subpoena (Interprovincial) Act – of British Columbia*, section 2). A failure to respond appropriately will then be a contempt of the British Columbia Court.

The Motion Record for to-day was served on both Perry Dunlop and Helen Dunlop. Within the material is the advice that the Commissioner wishes them to appear on September 17, 2007. Accordingly, they are on notice as to his expectation. They did not appear here. Under s. 7 of the *Public Inquiries Act*, the Commissioner can issue a summons. The word summons is defined in the *Interprovincial Summons Act* to include a summons issued by a “Commission”. Section 5 allows for the issuance of a certificate where a summons is to be issued to a party residing in another province. The section refers to “proceedings in a Court”. Is the Commission a Court for this purpose? I find that it is. Both sections 6 and 7 make it clear that such summonses may be directed to parties to testify before, among others, a Commission.

Section 5 puts in place tests to be met before the issuance of the Certificate. The test is whether the evidence is necessary for “the due adjudication of the proceeding” and the second is in relation to the nature and importance of the proceeding, is the evidence “reasonable and essential to the due administration of justice in Ontario.”

It is apparent that the Dunlops were concerned and involved in the events that gave rise to the Commissioner’s mandate. At the outset, Mr. Dunlop was a member of the Cornwall Police Service. He was involved in the criminal investigations, would have been a witness at trial (prepared a “will state”) and delivered material to outside parties. He was disciplined for this latter act. After he left the police he and his wife continued to investigate these matters and delivered material to public officials. This, and more, satisfies the first test.

Public Inquiries are part of the fabric of our system of government. They are used, as here, to learn about mistakes that may have been made and improvements we can make. The substance of this Inquiry is look at the response of public agencies and particularly the justice system to this situation. Hence the second test is met.

Both the Ontario *Interprovincial Summons Act* and the Subpoena (*Interprovincial*) *Act* of British Columbia give discretion to the Court as to the length of notice to be provided but also suggest a 10-day period. Given that counsel advises there is enough time to go the Court in British Columbia and still serve with 10-days notice and given that the Dunlops have been aware that September 17, 2007 is the date for their evidence to commence since service of this motion (August 13, 2007), I see no reason to divert from the suggested 10-day notice period. The Certificate is to be issued with the Seal of the Court. No costs.

**“Lederer J.”**