

**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 267

Held at :

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

Friday, August 1, 2008

Tenue à:

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

Vendredi, le 1 août 2008

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Brigitte Beaulne	Registrar
Ms. Suzanne Sinnamon	Commission Counsel
Mr. Mark Crane	Cornwall Community Police Service and Cornwall Police Service Board
Ms. Diane Lahaie	Ontario Provincial Police
M ^e Claude Rouleau	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Charmian Leong	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Rob Talach	Victims' Group
Mr. David Sherriff-Scott M ^e Gisèle Levesque	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Ms. Kimberly Ishmael	Upper Canada District School Board
Mr. Ian Paul	Coalition for Action
Monseigneur Eugène LaRocque	Monseigneur Eugène LaRocque

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1 --- Upon commencing at 9:33 a.m./

2 L'audience débute à 9h33

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

5 This hearing of the Cornwall Public Inquiry
6 is now in session. The Honourable Mr. Justice Normand
7 Glaude, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you.

10 Good morning, all. Bonjour Monseigneur.

11 --- **MONSEIGNEUR EUGÈNE LAROCQUE, Resumed/Sous le même**
12 **serment:**

13 **MONS. LAROCQUE:** Bonjour.

14 Monsieur le Commissaire, est-ce que je
15 pourrais avoir seulement une minute au tout début pour
16 faire une apologie pour hier ---

17 **LE COMMISSAIRE:** Oui, oui, allez-y.

18 **MONS. LAROCQUE:** --- si vous le permettez.

19 **LE COMMISSAIRE:** Oui.

20 **MSGR. LAROCQUE:** Thank you for allowing me.

21 I do want to -- in respect to my oath that I took at the
22 beginning of this proceeding, I want to clarify some of the
23 things that I said late in the afternoon yesterday
24 afternoon. I wasn't feeling that well.

25 First of all, I want to apologize to you for

1 the words that I spoke to you and to Mr. Engelmann for the
2 tone of voice that I used with him.

3 The second, I want to take full
4 responsibility for the policy, the protocol, whatever we
5 call it, and its -- and the following of that protocol, and
6 in no way do I want to blame my former Vicar General,
7 Monsignor McDougald, for any of this.

8 I should have realized -- that was the first
9 time that we were using the protocol and I should have
10 monitored it much more closely.

11 And as I want to renew also my gratitude to
12 Father Vaillancourt who followed this whole thing with the
13 protocol all the way through and was very much of great
14 assistance to me.

15 **THE COMMISSIONER:** Thank you, sir. What I
16 want to do, Monsigneur, is to make sure that you remain
17 well rested and that we don't overtax you.

18 So what I'll do is we'll take more frequent
19 breaks and I'm going to count on you too, sir, that if at
20 any time you think you're not feeling that well, just tell
21 me. And it's my pleasure to be able to accommodate you.

22 **MSGR. LAROCQUE:** I think that the
23 accumulation over three days is ---

24 **THE COMMISSIONER:** Yes. All right. Good.
25 Oh well, in any event, this morning is not going to be a

1 full day because people have to get home. But please
2 monitor that for me.

3 **MSGR. LAROCQUE:** Thank you.

4 **THE COMMISSIONER:** All right. Thank you.
5 Mr. Engelmann?

6 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
7 ENGELMANN (Cont'd/suite):

8 **MR. ENGELMANN:** Good morning, sir. Good
9 morning, Monsignor.

10 **MSGR. LAROCQUE:** Good morning.

11 **MR. ENGELMANN:** At the end of the day
12 yesterday, and I know you were tired sir and I'm glad we
13 broke when we did and perhaps we should have broken a bit
14 earlier. And we will count on you to tell us if you do
15 need a break.

16 At the end of the day, sir, we were reviewed
17 the 1992 protocol. And this is the Vaillancourt document,
18 if I can call it that. I'd just like you to have it open
19 in front of you again if you wouldn't mind, sir.

20 It is in the blue Cerlox book, Exhibit 58,
21 Tab 25. And if I remember correctly, it's right at the end
22 of the first volume.

23 **THE COMMISSIONER:** Thank you.

24 **MR. ENGELMANN:** All right. And sir, one of
25 the things you said on several occasions yesterday is you

1 wanted to stay objective. You didn't want to interfere.
2 And is this sir because, at the end of receiving reports,
3 you're going to have to make some kind of a decision?

4 **MSGR. LAROCQUE:** Somewhere along the line, I
5 would have to make the decision, yes.

6 **MR. ENGELMANN:** All right. And the reason I
7 would suggest that to you is the protocol, in several
8 instances, talks about a report to you.

9 **MSGR. LAROCQUE:** M'hm.

10 **MR. ENGELMANN:** For example, in Phase 2,
11 2(a) contemplates the designated person giving you some
12 form of a report on his meeting with the complainants.

13 **MSGR. LAROCQUE:** That's right, yes.

14 **MR. ENGELMANN:** In Phase 3, under (d) which
15 is on the second page, the -- sorry (c) and (d), the
16 designated person, after meeting with the suspected
17 aggressor, is to give you some kind of a report; correct?

18 **MSGR. LAROCQUE:** That's correct, yes.

19 **MR. ENGELMANN:** And then, in Phase 4, it
20 contemplates a meeting of the advisory committee,
21 presumably for them to discuss what they've received and
22 for them, sorry, for the designated person to then give you
23 a report of the meeting of the advisory committee as well.

24 **MSGR. LAROCQUE:** That's what it says, yes.

25 **MR. ENGELMANN:** So and presumably this is

1 because, at some point, you will need to make a decision,
2 whether that's a temporary decision or perhaps a permanent
3 decision.

4 **MSGR. LAROCQUE:** That's right.

5 **MR. ENGELMANN:** And I just want to
6 understand from you some of the options that you thought
7 you had in receiving information from the designated person
8 about what the complainant had said, what the suspected
9 aggressor had said, and perhaps what the advisory committee
10 would say. What did you see as your options?

11 **MSGR. LAROCQUE:** Well first of all, we have
12 to deal with the priest who is accused whether he stays in
13 his position as ministry or not.

14 **MR. ENGELMANN:** In the interim?

15 **MSGR. LAROCQUE:** In the interim and also
16 whether he gets treatment, and because of the victim, that
17 the victim should also be given -- to know that he is able
18 to get help for psychological help if he wishes to have it.

19 **MR. ENGELMANN:** All right. So that's a
20 decision that -- yes, that's one of the decisions you can
21 make is to provide some form of money for treatment for a
22 victim or alleged victim, and perhaps suggest some
23 treatment or therapy for the alleged aggressor.

24 **MSGR. LAROCQUE:** At some point, yes.

25 **MR. ENGELMANN:** Right. I presume another

1 you can do and we saw this in the previous protocol and we
2 see this in the subsequent protocol, is you can decide if
3 you're satisfied that there's any risk to either the
4 complainant, to the alleged aggressor, or to others to
5 temporarily, at least, suspend the faculties of the priest.

6 **MSGR. LAROCQUE:** Yes.

7 **MR. ENGELMANN:** Okay. That is an option?

8 **MSGR. LAROCQUE:** That is an option, yes.

9 **MR. ENGELMANN:** And sir, it doesn't talk
10 about it here but I assume another option would be if civil
11 authorities are dealing with the case, you can -- you may
12 take some temporary measure but any type of final measure,
13 you might want to wait until the matter had been fully
14 investigated or fully adjudicated?

15 **MSGR. LAROCQUE:** Until charges have been
16 laid, at least, you know.

17 **MR. ENGELMANN:** Yes.

18 **MSGR. LAROCQUE:** Because ---

19 **MR. ENGELMANN:** All right. Now, what about
20 after? What about after a police investigation or after a
21 court case? If you haven't had a real internal
22 investigation, did you see that as another option?

23 **MSGR. LAROCQUE:** I don't understand the
24 question, I'm sorry.

25 **MR. ENGELMANN:** All right. Let's assume

1 that either the police stop their investigation or a legal
2 process is stopped for any number of reasons or even a
3 legal process is finished, and there's a finding that the
4 priest was not guilty in a criminal law setting.

5 **MSGR. LAROCQUE:** M'hm.

6 **MR. ENGELMANN:** All right. Either after a
7 full trial or after a Charter argument or a preliminary
8 argument of some sort, did you see any role for an internal
9 investigation by you or members of the Diocese?

10 **MSGR. LAROCQUE:** Well, I would suspect that
11 had already been done if we're following the protocol.

12 **MR. ENGELMANN:** This protocol certainly
13 contemplates a full internal investigation, this one, the
14 '92 one.

15 **MSGR. LAROCQUE:** Yes.

16 **MR. ENGELMANN:** The later protocol in '95
17 really suggests that that should be left to civil
18 authorities.

19 **MSGR. LAROCQUE:** And to the CAS.

20 **MR. ENGELMANN:** Right. And it's not -- by
21 civil authorities, I mean either the police or the -- I
22 mean non-church.

23 **MSGR. LAROCQUE:** Right.

24 **MR. ENGELMANN:** I'm trying to use some of
25 the language that Reverend Morrissey taught me here.

1 **MSGR. LAROCQUE:** Okay.

2 **MR. ENGELMANN:** Civil authorities meant ---

3 **MSGR. LAROCQUE:** Don't tell me you're a
4 student of Frank Morrissey's?

5 **MR. ENGELMANN:** Well, only here at this
6 Inquiry.

7 Sir, so that -- so is what you're saying
8 then that this particular protocol, the '92 protocol we're
9 looking at, it really contemplates that the internal
10 investigation is done first.

11 **MSGR. LAROCQUE:** Yes, the delegate is
12 supposed to interrogate the priest in question.

13 **MR. ENGELMANN:** M'hm.

14 **MSGR. LAROCQUE:** And, if necessary, the
15 committee would do the same thing, I suppose.

16 **MR. ENGELMANN:** M'hm. Now, that didn't
17 happen in this case, right? There was an initial meeting
18 with the priest in question by the designated person but
19 there was no interrogation or interview by a full advisory
20 committee?

21 **MSGR. LAROCQUE:** Not to my knowledge, no.

22 **MR. ENGELMANN:** And, sir, aside from any
23 options you would have by either continuing an
24 investigation or just deciding to terminate matters after
25 perhaps the civil authorities do something, you also have

1 canon law rights that you could pursue?

2 **MSGR. LAROCQUE:** Yes, and that of course has
3 evolved over the years as well.

4 **MR. ENGELMANN:** Yes.

5 **MSGR. LAROCQUE:** It used to be a tribunal
6 situation within the Code of Canon Law. Now, it can be
7 just directed to the Holy Father and he can act on his own.

8 **MR. ENGELMANN:** And this is the Congregation
9 of the Doctrine of the Faith and the new rules from 2001?

10 **MSGR. LAROCQUE:** That's right, 2001.

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

12 Now, sir, I want to go back to a couple of
13 other things if I may from yesterday.

14 One of the things that you were not clear
15 about yesterday was whether Father -- sorry, Monsignor
16 McDougald had spoken to you about what transpired at the
17 February 9th meeting, and the February 9th meeting is a
18 meeting that we've heard Mr. Silmsler had with Father
19 Vaillancourt, Monsignor McDougald and Maître Jacques Leduc.

20 And, sir, I just want to try and refresh
21 your memory -- and it's not your statement, it's a
22 statement or an interview by Monsignor McDougald -- I just
23 want to show it to you, if I may? It's Exhibit 1891 and
24 it's a statement or an interview he had with the OPP in
25 October of 1994.

1 **THE COMMISSIONER:** What page, Mr. Engelmann?

2 **MR. ENGELMANN:** The Bates pages in question
3 are -- the Bates page is 168. It's page 5 at the top of
4 the statement if that helps.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **MR. ENGELMANN:** And, Monsignor, he indicates
7 on that page near the top:

8 "I told -- I made the Bishop aware of
9 what transpired and also told him what
10 the attitude of David was at that
11 particular meeting and that -- and he
12 had stated that he was going to the
13 police, the local Cornwall police. I
14 became aware of the fact that he had
15 done so subsequently through Charlie's
16 lawyer, which would be Malcolm."

17 Malcolm, right?

18 **MSGR. LAROCQUE:** Right.

19 **MR. ENGELMANN:** So he's indicating that he
20 would have ---

21 **MSGR. LAROCQUE:** Contacted ---

22 **MR. ENGELMANN:** --- reported back to you
23 about the meeting.

24 **MSGR. LAROCQUE:** Right.

25 **MR. ENGELMANN:** I don't know if that

1 refreshes your memory, sir. If you still don't remember
2 that's fine.

3 **MSGR. LAROCQUE:** I really can't recall that
4 in particular. I know that he reported back to me and it
5 was mostly by telephone that we talked, but I really don't
6 remember the contents of those conversations.

7 **MR. ENGELMANN:** You certainly did not get a
8 written report from him or from the advisory committee
9 about what took place?

10 **MSGR. LAROCQUE:** No, because you would have
11 it if I had had it because I would have put it in the file.

12 **MR. ENGELMANN:** Now, in light of the
13 allegations against him and the serious nature of those
14 allegations, you had to make a decision at some point-in-
15 time about whether to remove Father MacDonald from his
16 ministry; correct?

17 **MSGR. LAROCQUE:** Yes, I did.

18 **MR. ENGELMANN:** And presumably getting a
19 report back from Monsignor McDougald about -- you had the
20 report from Monsignor Schonenbach about his meeting with
21 David Silmser?

22 **MSGR. LAROCQUE:** Right.

23 **MR. ENGELMANN:** You had some kind of a
24 report back, at least orally, from Monsignor McDougald that
25 Father Charles MacDonald had denied the allegations?

1 **MSGR. LAROCQUE:** Right.

2 **MR. ENGELMANN:** And then you may have had a
3 report back after the meeting on February 9th, 1993, you
4 just can't remember?

5 **MSGR. LAROCQUE:** That's right.

6 **MR. ENGELMANN:** Presumably, even though you
7 didn't have a written report, those oral reports would have
8 been important for you in making a decision about what to
9 do with Father MacDonald?

10 **MSGR. LAROCQUE:** Yes, they were an
11 accumulation of evidence that I needed in order to have
12 moral certitude that he was guilty.

13 **MR. ENGELMANN:** And did you see that as the
14 test, sir, for yourself in deciding whether to remove him
15 from his ministry even on a temporary basis -- moral
16 certitude ---

17 **MSGR. LAROCQUE:** Not at that present time
18 because I didn't have the moral certitude that I needed at
19 that time.

20 **THE COMMISSIONER:** No, but that's the test
21 you were applying, is moral certitude?

22 **MSGR. LAROCQUE:** That's right.

23 I can't act and punish someone who is
24 innocent. I have to know -- have at least the moral
25 certitude that what is being said is true because remember

1 I was dealing also with other accusations that came later
2 but it was the same thing. I mean, if you remove a priest
3 on the mere accusation of someone without having a moral
4 certitude that it's correct, I mean, I would have no
5 priests left in the parishes.

6 **MR. ENGELMANN:** Sir, I want to just
7 challenge you for a minute on that in the sense that I'm
8 not asking you about asking the priest for his resignation.
9 I'm asking you about that initial stage ---

10 **MSGR. LAROCQUE:** Right.

11 **MR. ENGELMANN:** --- after you've received a
12 serious complaint, a complaint of clergy abuse against a
13 youth ---

14 **MSGR. LAROCQUE:** Right.

15 **MR. ENGELMANN:** --- all right, whether
16 prepubescent or not, a serious complaint, suspending the
17 minister or the priest from certain faculties. As I
18 understand your answer, you wouldn't do that unless you had
19 the moral certitude that the priest is guilty?

20 **MSGR. LAROCQUE:** That the accusation was
21 correct.

22 **MR. ENGELMANN:** Sir, what about the risk
23 that might be involved?

24 **MSGR. LAROCQUE:** That would be taken into
25 consideration.

1 **MR. ENGELMANN:** We're not talking about
2 removing the priest forever and a day. We're talking about
3 removing the priest until such time as your internal group,
4 your advisory committee, fully concludes an investigation
5 or alternatively a civil authority does.

6 **MSGR. LAROCQUE:** Right, that the police ---

7 **MR. ENGELMANN:** Yes.

8 **MSGR. LAROCQUE:** --- lay charges.

9 **MR. ENGELMANN:** And, sir ---

10 **MSGR. LAROCQUE:** That was my thinking at
11 that time. You will notice that my thinking evolved over
12 the period of time that I was Bishop.

13 **MR. ENGELMANN:** Okay. We'll talk about a
14 couple of other cases too, but it would be fair to say that
15 throughout late 1992 and right up until October of 1993,
16 you did not remove Father Charles MacDonald from his
17 ministry?

18 **MSGR. LAROCQUE:** No, because actually the
19 whole thing subsided. There was nothing, no action either
20 on the part of the police or Silmsner himself.

21 **MR. ENGELMANN:** But, sir, the allegations
22 were out there.

23 **MSGR. LAROCQUE:** I know they were, yes.

24 **MR. ENGELMANN:** And they had not been ---

25 **MSGR. LAROCQUE:** And I still had the doubt

1 that they were not true.

2 MR. ENGELMANN: But didn't you want those
3 allegations to be investigated and investigated quickly?

4 MSGR. LAROCQUE: Yes, and that's why I
5 thought that the police should be acting and, yet, nothing
6 happened. Nothing happened for eight or nine months.

7 MR. ENGELMANN: Well, you knew that Mr.
8 Silmsler had gone to the Cornwall Police Service. You had
9 been ---

10 MSGR. LAROCQUE: Yes, I was told. Monsignor
11 McDougald is the one who tells me.

12 MR. ENGELMANN: Yes, and you knew during
13 that period of time that Father MacDonald was active in
14 ministry?

15 MSGR. LAROCQUE: Certainly.

16 MR. ENGELMANN: And you knew that part of
17 his active ministry included working with you?

18 MSGR. LAROCQUE: Certainly.

19 MR. ENGELMANN: Did you ever consider
20 removing him from part of his position; in other words,
21 allowing him to be the minister but perhaps having some
22 restrictions on his working with youth?

23 MSGR. LAROCQUE: Not at that time, no.

24 MR. ENGELMANN: Do you have any explanation
25 for that, sir?

1 **MSGR. LAROCQUE:** No.

2 **MR. ENGELMANN:** You did know about concerns
3 that had been raised about Father MacDonald's behaviour as
4 early as the seminary; correct?

5 **MSGR. LAROCQUE:** Well, that was in his
6 record, yes.

7 **MR. ENGELMANN:** Yes. And you knew that he
8 had been very active with youth in both his parish and in
9 the Diocese as a whole?

10 **MSGR. LAROCQUE:** Never had I received a
11 complaint.

12 **MR. ENGELMANN:** And you knew that he had
13 volunteered or asked to be assigned to those positions?

14 **MSGR. LAROCQUE:** Yes. He was very effective
15 in those positions as well.

16 **MR. ENGELMANN:** And we heard that you met
17 with former Chief Shaver in early October 1993, and I want
18 to ask you if anyone from the Cornwall Police Service ever
19 contacted you between December of '92 right up until the
20 time that Chief Shaver met with you in October.

21 **MSGR. LAROCQUE:** Not to my recollection.

22 **MR. ENGELMANN:** Do you know, sir, if anyone
23 from the Cornwall Police ever contacted any member of your
24 staff with respect to Father Charles MacDonald in ---

25 **MSGR. LAROCQUE:** Not to my knowledge, no.

1 **MR. ENGELMANN:** And, sir, I'm talking about
2 the Cornwall police because we know that the OPP would have
3 contacted you and others later ---

4 **MSGR. LAROCQUE:** That's right.

5 **MR. ENGELMANN:** --- in 1994.

6 **MSGR. LAROCQUE:** That's right.

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

8 And, sir, you were aware from Father
9 McDougald that the Cornwall Police Service, whether they
10 were actively investigating or not, at least ---

11 **MSGR. LAROCQUE:** That it had been reported
12 to them, yes.

13 **MR. ENGELMANN:** Right, and they had a file
14 open on this. Did you ever think of contacting them, sir?

15 **MSGR. LAROCQUE:** No, I did not.

16 **MR. ENGELMANN:** Okay, and why not?

17 **MSGR. LAROCQUE:** I suppose it would be
18 because I didn't want to interfere with their process.

19 **MR. ENGELMANN:** Well, do you not think
20 perhaps you could have helped them with their process; you
21 or your colleagues?

22 **MSGR. LAROCQUE:** I think that would be their
23 initiative rather than mine but maybe I was mistaken.

24 **MR. ENGELMANN:** Well, would you have
25 expected the advisory committee members to encourage Mr.

1 Silmsers to go to the police with his complaint?

2 **MSGR. LAROCQUE:** I don't know, I am -- I
3 wasn't there.

4 **MR. ENGELMANN:** Given the difficulties that
5 you'd had with the Deslauriers matter and some of the
6 issues raised about cooperation from yourself or from the
7 Diocese with the local police, did you not think either you
8 or your delegate should have contacted the police in order
9 to see if there was any information they needed in order to
10 properly conduct an investigation into Father Charles
11 MacDonald?

12 **MSGR. LAROCQUE:** At that time I don't think
13 that that was my mindset.

14 **MR. ENGELMANN:** Do you have any sense as to
15 why, sir?

16 **MSGR. LAROCQUE:** No, I don't.

17 **MR. ENGELMANN:** Well, I just want to -- this
18 was a complaint of historical sexual abuse, correct? You
19 knew that?

20 **MSGR. LAROCQUE:** Yes, some 17 years or 20
21 years before.

22 **MR. ENGELMANN:** Yes. The allegations were
23 from early on in Father MacDonald's career when he was an
24 assistant pastor at St. Columban's.

25 **MSGR. LAROCQUE:** That's right.

1 **MR. ENGELMANN:** So they were some, yeah, 20
2 years earlier ---

3 **MSGR. LAROCQUE:** Yeah.

4 **MR. ENGELMANN:** --- or so.

5 **MSGR. LAROCQUE:** And I had no indications --
6 with all his involvement with youth, I had no indications
7 of any problems in that particular regard, so you can
8 imagine why I had a sort of a doubt as to whether this
9 accusation, made so late in history, why it had not been
10 made sooner. It would not have the effect that a -- if it
11 had been sooner, then I think I would have been more
12 convinced.

13 But this man has a whole record of 17 years
14 of, as far as I know, clean living. And so I need to be
15 convinced that the accusation is true before I'm going to
16 deprive him of the exercise of his ministry.

17 **MR. ENGELMANN:** Sir, we're not talking about
18 depriving him right now. We're talking about possibly
19 helping the police so they can do a full and proper
20 investigation to determine whether or not the allegations
21 are true.

22 **MSGR. LAROCQUE:** Yes, well, the police never
23 came to me.

24 **MR. ENGELMANN:** All right. No, I understand
25 that and ---

1 **MSGR. LAROCQUE:** You want me to take the
2 initiative to go to the police. Is that what you're
3 saying?

4 **MR. ENGELMANN:** Well, I'm suggesting that
5 given what happened seven years earlier with the
6 Deslauriers matter, that yes, you might have done that or
7 you might have instructed your designated person to do
8 that.

9 **MSGR. LAROCQUE:** Yeah.

10 **MR. ENGELMANN:** So that they would have ---

11 **MSGR. LAROCQUE:** I might have but I didn't.

12 **MR. ENGELMANN:** Okay. Because there's some
13 information that you could have given them that would have
14 been helpful, I'm sure.

15 **MSGR. LAROCQUE:** What information could I
16 have given them?

17 **MR. ENGELMANN:** Well, sir, you could have
18 confirmed whether or not Mr. Silmsen was even an altar boy
19 ---

20 **MSGR. LAROCQUE:** That I didn't ---

21 **MR. ENGELMANN:** --- at St. Columban's.

22 **MSGR. LAROCQUE:** That I didn't know. I had
23 no knowledge of that myself.

24 **MR. ENGELMANN:** But, sir, surely there were
25 Church records that did.

1 **MSGR. LAROCQUE:** Well, the police eventually
2 -- I don't see that as -- well, I don't see that I am to do
3 the work that the police are supposed to be doing, and I
4 can see now that I should cooperate when the police come to
5 me -- and I did, very much so -- but to take the initiative
6 in order to say to the police how they're going to conduct
7 their investigation is not within my purview.

8 **MR. ENGELMANN:** Sir, I'm not suggesting you
9 tell them how to conduct ---

10 **MSGR. LAROCQUE:** I know, I know. You're
11 trying ---

12 **MR. ENGELMANN:** I'm just saying, you know,
13 you have church bulletins that are available to you that
14 perhaps could show maybe Mr. Silmsler was never an altar boy
15 at St. Columban's; maybe he was an altar boy at another
16 church.

17 **MSGR. LAROCQUE:** Church bulletins would not
18 have that information, I'm sorry; not to my knowledge.

19 **MR. ENGELMANN:** We've looked at some here in
20 this ---

21 **MSGR. LAROCQUE:** Oh, right.

22 **MR. ENGELMANN:** --- this case, sir, that say
23 who's the altar-server and who's serving mass.

24 **MSGR. LAROCQUE:** Yeah, but that's now
25 because there are so few servers. In the days when ---

1 **MR. ENGELMANN:** No, no, no. Sir, I'm
2 talking about records from the time ---

3 **MSGR. LAROCQUE:** Oh, right.

4 **MR. ENGELMANN:** --- that have Mr. Silmser's
5 name on them. We have them in this Inquiry.

6 **MSGR. LAROCQUE:** Okay.

7 **MR. ENGELMANN:** That have some of these
8 other boys' names on them.

9 **MSGR. LAROCQUE:** Okay.

10 **MR. ENGELMANN:** Wouldn't it be important?
11 If we're talking about something that's a long time ago and
12 we're talking about a very serious allegation, wouldn't it
13 be important for you to perhaps provide some information so
14 that they can decide what, if anything, they might want to
15 do with it so that we know even if he was at that church --
16 -

17 **MSGR. LAROCQUE:** Do you think that's the
18 responsibility of the Bishop to take that initiative?

19 **MR. ENGELMANN:** I'm asking you, sir, whether
20 you considered doing that or instructing any of your staff.

21 **MSGR. LAROCQUE:** I told you I did not.

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

23 **THE COMMISSIONER:** I suppose, looking back
24 at it, Monsignor, I don't know about calling the police and
25 saying, "I'm here to help you," but I think maybe what

1 about phoning them up and saying, "Look, what's going on
2 here? I've got a priest that's in limbo and I've got to
3 decide what I'm going to do with him and you guys are
4 taking all this time. What's going on?"

5 **MSGR. LAROCQUE:** I suppose that would have
6 been the wise thing to do but I didn't do it.

7 **THE COMMISSIONER:** No, and we're talking
8 hindsight now.

9 **MSGR. LAROCQUE:** Yeah.

10 **THE COMMISSIONER:** I'm just ---

11 **MR. ENGELMANN:** All right, and you told us
12 yesterday that neither you nor anyone from the Diocese
13 reported to the Children's Aid Society. You told us the
14 reason was some confusion about your reporting obligations
15 because it was an allegation of historical sexual abuse.

16 **MSGR. LAROCQUE:** That's correct, yes.

17 **MR. ENGELMANN:** Did you ever consider that
18 option at the time, sir, can you remember?

19 **MSGR. LAROCQUE:** No, I was not even aware of
20 the fact.

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

22 All right, sir, I want to ask you a few
23 questions about the settlement, if I can call it that ---

24 **MSGR. LAROCQUE:** Yes.

25 **MR. ENGELMANN:** --- with Mr. Silmsler.

1 I understand from your evidence yesterday
2 that from your perspective this issue first arose when you
3 were asked to meet with your counsel, Jacques Leduc,
4 sometime in late August of 1993.

5 **MSGR. LAROCQUE:** Jacques Leduc and Malcolm
6 MacDonald; they were both there.

7 **MR. ENGELMANN:** All right. But presumably -
8 - fair enough, but presumably Mr. Leduc would have set that
9 meeting up with you. He was your lawyer.

10 **MSGR. LAROCQUE:** With my secretary probably,
11 yes.

12 **MR. ENGELMANN:** He would have set it up
13 through your secretary?

14 **MSGR. LAROCQUE:** That's right.

15 **MR. ENGELMANN:** Because you didn't initiate
16 the meeting?

17 **MSGR. LAROCQUE:** No, I did not.

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

19 And prior to that meeting had you instructed
20 Mr. Leduc in any way to assist you in having this matter
21 settled?

22 **MSGR. LAROCQUE:** Not to my recollection, no.

23 **MR. ENGELMANN:** Do you know if your delegate
24 had?

25 **MSGR. LAROCQUE:** That I don't know.

1 **MR. ENGELMANN:** Okay. Well, did your
2 delegate have anything to do with the settlement
3 discussions? Your delegate being Monsignor McDougald.

4 **MSGR. LAROCQUE:** No, he did not.

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

6 **MSGR. LAROCQUE:** To my knowledge at least.

7 **MR. ENGELMANN:** So do you have any idea who
8 would have asked your lawyer to get involved and try and
9 settle this case, if it wasn't you and if it wasn't your
10 designate?

11 **MSGR. LAROCQUE:** I would imagine it would be
12 Malcolm MacDonald.

13 **MR. ENGELMANN:** And, sir, we spoke yesterday
14 just about Malcolm MacDonald. You knew he was counsel for
15 Father Charles MacDonald.

16 **MSGR. LAROCQUE:** I did, yes.

17 **MR. ENGELMANN:** And he had been counsel for
18 Father Charles MacDonald since almost the beginning of the
19 allegations in December of '92.

20 **MSGR. LAROCQUE:** That's true.

21 **MR. ENGELMANN:** And I think you acknowledged
22 yesterday that you probably would have spoken with him in
23 December of '92; we went over that. And I'm going to ask
24 you, sir, if you can recall having further discussions with
25 him, "him" being Malcolm MacDonald, between December of '92

1 and these settlement discussions in August of 1993.

2 **MSGR. LAROCQUE:** Not to my knowledge, no.

3 **MR. ENGELMANN:** For example, sir, I'm
4 wondering if you can recall perhaps meeting with him in
5 February of 1993. You talked to us about a holiday that
6 you had the first couple of weeks but I'm talking about
7 later.

8 **MSGR. LAROCQUE:** Three or two? Ninety-three
9 ('93) you said?

10 **MR. ENGELMANN:** Yes, February of 1993,
11 after the -- Monsignor McDougald and others had met with
12 Mr. Silmser.

13 **MSGR. LAROCQUE:** Not to my knowledge that I
14 met with him, no. I think he telephoned me but I don't
15 remember meeting him.

16 **MR. ENGELMANN:** You think he may have called
17 you in February after that?

18 **MSGR. LAROCQUE:** No, he called me that one
19 call ---

20 **MR. ENGELMANN:** In December?

21 **MSGR. LAROCQUE:** In December. That's all I
22 can remember.

23 **MR. ENGELMANN:** Sir, I just want to show you
24 a document which may or may not refresh your memory. It's
25 Exhibit 1900, Mr. Commissioner.

1 THE COMMISSIONER: Yes.

2 MR. ENGELMANN: These are notes of Malcolm
3 MacDonald.

4 THE COMMISSIONER: It's the very last tab in
5 that book, I believe, sir.

6 MR. ENGELMANN: There's some handwritten
7 notes, sir. They may be a bit difficult to read. I'm
8 looking at the third page and, at the top left, the last
9 three numbers are 634.

10 MSGR. LAROCQUE: M'hm.

11 MR. ENGELMANN: Do you have that page, sir?

12 MSGR. LAROCQUE: I do, yes.

13 MR. ENGELMANN: About halfway down the page
14 there's a date. It's February 22nd. We know this to be
15 1993, sir. It says:

16 "Meeting with Bishop and Jacques Leduc,
17 one-and-a-quarter hours."

18 And it's down for February 22nd.

19 MSGR. LAROCQUE: I don't remember that
20 meeting at all.

21 MR. ENGELMANN: No? All right. Is it
22 possible that you had a meeting with them in February,
23 1993?

24 MSGR. LAROCQUE: If he indicates it, it
25 would mean that they would have met with me immediately

1 after my return from vacations, but I have no recollection
2 of that meeting.

3 MR. ENGELMANN: Now, going back then to the
4 meeting -- and I'm talking about the first meeting in
5 August ---

6 MSGR. LAROCQUE: Yes.

7 MR. ENGELMANN: --- that you would have had
8 with Jacques Leduc. You have told us that Malcolm
9 MacDonald was also present?

10 MSGR. LAROCQUE: That's right.

11 MR. ENGELMANN: And was anyone else present
12 at that meeting?

13 MSGR. LAROCQUE: No, there were only the
14 three of us.

15 MR. ENGELMANN: All right. And do you
16 actually have independent recollection of that meeting,
17 sir?

18 MSGR. LAROCQUE: Oh, very. Yes, I do,
19 because we had a very heated argument.

20 MR. ENGELMANN: Okay.

21 Now, we don't have any notes of that meeting
22 from anyone, unfortunately, but it was you, Mr. Leduc and
23 Mr. MacDonald?

24 MSGR. LAROCQUE: That's right, in my office.

25 MR. ENGELMANN: Do you have some sense as to

1 how long the meeting took?

2 **MSGR. LAROCQUE:** It would have been a good
3 hour at least.

4 **MR. ENGELMANN:** All right. And who was the
5 principal spokesperson at that meeting?

6 **MSGR. LAROCQUE:** As I recall, Jacques
7 started but Malcolm carried the meeting.

8 **MR. ENGELMANN:** Okay.

9 **MSGR. LAROCQUE:** And they were putting the
10 pressure on me to settle a civil settlement outside of ---

11 **MR. ENGELMANN:** Sorry, they were putting
12 pressure on you to do what, sir?

13 **MSGR. LAROCQUE:** To have a civil settlement
14 of the case.

15 **MR. ENGELMANN:** Right. And so that would
16 have commenced with a suggestion from your counsel and then
17 would have been followed through by ---

18 **MSGR. LAROCQUE:** They were both in favour of
19 it, yes, and they were arguing strongly that I should do
20 so, and I absolutely refused.

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

22 And what were some of the reasons these two
23 gentlemen were giving for you to settle a civil case?

24 **MSGR. LAROCQUE:** If I recall, they said that
25 this has been done in other cases in other dioceses; that

1 it has nothing to do with the criminal process, the person
2 is still free to follow the criminal process; and that it
3 would allow Father to continue his ministry.

4 Basically, I think those were the reasons
5 that they gave for following this procedure.

6 MR. ENGELMANN: Were they both eager for you
7 to agree to some form of settlement?

8 MSGR. LAROCQUE: Absolutely.

9 MR. ENGELMANN: At the time were they
10 talking about a form of monetary settlement ---

11 MSGR. LAROCQUE: Yes.

12 MR. ENGELMANN: --- or some other kind of
13 settlement?

14 MSGR. LAROCQUE: No, it was a monetary
15 settlement.

16 MR. ENGELMANN: Did they bring up any actual
17 dollar figure at that time?

18 MSGR. LAROCQUE: Not at that time, no, that
19 I can remember.

20 MR. ENGELMANN: All right.

21 And were they telling you that they thought
22 Mr. Silmsen would agree with this?

23 MSGR. LAROCQUE: They -- yes, that's the
24 reason they were suggesting it.

25 MR. ENGELMANN: Now, at the meeting did Mr.

1 Leduc give you any advice about whether a monetary
2 settlement would be covered by your insurance?

3 **MSGR. LAROCQUE:** No, they did not -- he did
4 not mention insurance at all; to my recollection at least.

5 **MR. ENGELMANN:** Did he ever mention
6 insurance to you?

7 **MSGR. LAROCQUE:** Not to my recollection.

8 **MR. ENGELMANN:** And you said you were
9 opposed to their suggestion?

10 **MSGR. LAROCQUE:** Yes.

11 **MR. ENGELMANN:** Why were you opposed to
12 their suggestion?

13 **MSGR. LAROCQUE:** Because I was afraid that
14 it would be seen as buying off the victim.

15 **MR. ENGELMANN:** Buying off?

16 **MSGR. LAROCQUE:** The victim.

17 **MR. ENGELMANN:** Had you been informed of any
18 discussions that either of these men had had with Mr.
19 Silmsler before the meeting they had with you?

20 **MSGR. LAROCQUE:** I have no recollection
21 whether they did or not.

22 **MR. ENGELMANN:** But they were fairly certain
23 that they could come up with something that he would agree
24 to?

25 **MSGR. LAROCQUE:** Yes, at that time they

1 seemed to be certain because they were trying to convince
2 me.

3 **MR. ENGELMANN:** Okay.

4 Now, you knew as early as December of 1992,
5 from a letter you would have received from Monsignor
6 Schonenbach, that at least at that time Mr. Silmsner was
7 looking for a written apology ---

8 **MSGR. LAROCQUE:** That's right.

9 **MR. ENGELMANN:** --- for his mother ---

10 **MSGR. LAROCQUE:** That's right.

11 **MR. ENGELMANN:** --- to explain some of his
12 behaviour ---

13 **MSGR. LAROCQUE:** Right.

14 **MR. ENGELMANN:** --- subsequent to that.

15 **MSGR. LAROCQUE:** Right, his aged mother. I
16 think she was rather old at that time.

17 **MR. ENGELMANN:** Yeah.

18 Did a discussion about providing that
19 apology enter into the discussion you had about a
20 settlement?

21 **MSGR. LAROCQUE:** Not to my recollection, no.

22 **MR. ENGELMANN:** And do you know, sir,
23 whether there were any steps taken to provide an apology to
24 him at that time or even later?

25 **MSGR. LAROCQUE:** I believe I've read some

1 place that Father McDougald suggested that to Charlie and
2 he refused.

3 MR. ENGELMANN: All right.

4 Now, how did the meeting end? These men
5 were eager for you to enter into this settlement and you
6 said you refused. How did it end?

7 MSGR. LAROCQUE: They were not very happy.

8 MR. ENGELMANN: And did they suggest to you
9 that they were going to pursue this any further or not?
10 How did it end?

11 MSGR. LAROCQUE: Well, it ended with the
12 fact that I said no; that's all and they left.

13 MR. ENGELMANN: Did you tell them that you
14 might reconsider if they came forward with new arguments?

15 MSGR. LAROCQUE: No, I did not invite them
16 to a new meeting, I can assure you of that.

17 MR. ENGELMANN: All right.

18 MSGR. LAROCQUE: Once was enough.

19 MR. ENGELMANN: So you thought that was it?

20 MSGR. LAROCQUE: That's right.

21 MR. ENGELMANN: Did they tell you anything
22 about the criminal process?

23 MSGR. LAROCQUE: No, they did not. Well, I
24 had brought it up and they said that it would have no
25 effect on the criminal process.

1 **MR. ENGELMANN:** Did they tell you anything
2 about a civil process of any sort?

3 **MSGR. LAROCQUE:** Well, it seems to me that
4 that was the reason -- what they were recommending was that
5 in a civil process they would give this amount of money,
6 you know, whether it was a civil process instituted as such
7 or to -- how shall I say? In the manner of a civil
8 settlement - I think that's the word they used, in a civil
9 settlement.

10 **MR. ENGELMANN:** Okay. But, sir, surely Mr.
11 Leduc, who was your counsel, would have told you that there
12 was no lawsuit that had been filed?

13 **MSGR. LAROCQUE:** No, well, that's -- they
14 said it was to -- the civil effects, or something like
15 that, of the accusation; not the criminal effects. I'm not
16 a lawyer, I'm sorry, but ---

17 **MR. ENGELMANN:** No, no. No, no. I just --
18 but your ---

19 **MSGR. LAROCQUE:** That's my recollection of
20 the conversation.

21 **MR. ENGELMANN:** Fair enough, but you're
22 receiving advice from lawyers and then you're deciding
23 whether you act on it or not. I'm just trying to find out
24 what information they gave you.

25 **MSGR. LAROCQUE:** Yeah. Well, that's what I

1 can remember of the conversation.

2 MR. ENGELMANN: All right.

3 MSGR. LAROCQUE: I'm sorry.

4 MR. ENGELMANN: So did you just -- after
5 they left -- and presumably you thought that was that; it
6 wasn't coming back?

7 MSGR. LAROCQUE: Yes.

8 MR. ENGELMANN: And after that discussion,
9 did you discuss what happened with any of your colleagues
10 at the Diocese or elsewhere?

11 MSGR. LAROCQUE: I can't remember that but I
12 did discuss it with the Bishops of Canada because I went to
13 the meeting of the Bishops of Canada immediately after that
14 meeting with the two lawyers.

15 MR. ENGELMANN: All right.

16 So there was some kind of Canadian
17 Conference of Catholic Bishops meeting?

18 MSGR. LAROCQUE: In Ottawa, yes.

19 MR. ENGELMANN: All right.

20 THE COMMISSIONER: Mr. Engelmann, I'm sorry
21 to interrupt. Have you covered -- have you finished with
22 the meeting itself or are you coming to that?

23 MR. ENGELMANN: I'm certainly going to talk
24 about the second meeting later.

25 THE COMMISSIONER: No, what about any issues

1 of confidentiality or anything like that on the first
2 meeting?

3 **MR. ENGELMANN:** Did you get so far, sir, in
4 the first meeting? Did you ever get to any discussion
5 about whether or not the settlement would be confidential?

6 **MSGR. LAROCQUE:** I believe that was
7 discussed, yes.

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

9 Because you were concerned -- and I recall
10 you just telling me this -- that it looked like you were
11 buying off the victims.

12 **MSGR. LAROCQUE:** That's right.

13 **MR. ENGELMANN:** So were you concerned that
14 what they were proposing was the payment of some money to
15 really hush something up and that ---

16 **MSGR. LAROCQUE:** That it would appear that
17 way at least. That's not what they were saying but my
18 thought process was that it would appear that the Diocese
19 was giving this money in order to buy off and to shut up
20 the victim.

21 **MR. ENGELMANN:** But was one of the reasons
22 they were giving for you to agree to this that it could be
23 kept quiet, that there wouldn't be any scandal for the
24 Diocese and there wouldn't be any stain on Father
25 MacDonald's reputation?

1 **MSGR. LAROCQUE:** I believe that was
2 discussed, yes.

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

4 So presumably they were telling you that
5 there would be some kind of confidentiality provision so
6 that this would not get out into the public.

7 **MSGR. LAROCQUE:** I can't recall that exactly
8 but it might have been in the conversation, yes.

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

10 So shortly after this meeting then you
11 attend a meeting of the Canadian Conference of Catholic
12 Bishops.

13 **MSGR. LAROCQUE:** The yearly meeting of the
14 Canadian Bishops.

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

16 And how did -- how did a discussion of this
17 matter come up?

18 **MSGR. LAROCQUE:** Well, at that time things
19 were happening all over Ontario and Newfoundland. So there
20 was a closed session. By that I mean the media and the
21 visitors were not allowed to be present. It was just the
22 bishops. And in that closed session we had a discussion
23 about priests and child abuse and bishops'
24 responsibilities.

25 So I stood up and I said, without mentioning

1 names, that I had a case where I was -- a priest was
2 accused by one person of abuse that had taken place some 20
3 years ago and that I was being urged by the two lawyers,
4 the diocesan lawyer as well as the lawyer for the priest,
5 to settle out of court. And if I remember correctly, the
6 general consensus was "Don't do it."

7 MR. ENGELMANN: Now, this was just after ---

8 MSGR. LAROCQUE: It would have been two days
9 after, I think, after the meeting.

10 MR. ENGELMANN: Sir, this is shortly after
11 From Pain to Hope is released. There is a lot of
12 discussion ---

13 MSGR. LAROCQUE: Had From Pain to Hope been
14 released at that time?

15 MR. ENGELMANN: June of '92.

16 MSGR. LAROCQUE: Okay.

17 MR. ENGELMANN: And you're now a year and a
18 bit later.

19 MSGR. LAROCQUE: That's right in August of
20 '93.

21 MR. ENGELMANN: And all ---

22 MSGR. LAROCQUE: August ---

23 MR. ENGELMANN: Yeah.

24 MSGR. LAROCQUE: Late August, beginning of
25 September.

1 **MR. ENGELMANN:** So this was a live issue,
2 very much a live issue.

3 **MSGR. LAROCQUE:** Very much so. Very much
4 so, yes.

5 **MR. ENGELMANN:** And there were a number of
6 other cases that were in the media and that were being
7 talked about.

8 **MSGR. LAROCQUE:** That's right.

9 **MR. ENGELMANN:** And so they are strongly
10 urging you not to do this.

11 **MSGR. LAROCQUE:** That's right.

12 **MR. ENGELMANN:** And for what reason, sir?

13 **MSGR. LAROCQUE:** The same reason that I had,
14 that it would be seen as interfering with the process.

15 **MR. ENGELMANN:** Now, sir, I understand that
16 there was a further meeting with Jacques Leduc and Malcolm
17 MacDonald.

18 **MSGR. LAROCQUE:** Yes, when I came back from
19 the meeting I think it was the very next day, my secretary
20 had a scheduled appointment on my book saying that they
21 were coming back.

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

23 And again, presumably, this meeting was not
24 initiated by yourself?

25 **MSGR. LAROCQUE:** Not at all.

1 **MR. ENGELMANN:** Because you weren't
2 expecting to see them again about this?

3 **MSGR. LAROCQUE:** I did not think that it was
4 an open question at that time, no.

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

6 And can you give us a sense again, sir, you
7 have some independent recollection of that meeting?

8 **MSGR. LAROCQUE:** I do.

9 **MR. ENGELMANN:** Because we again don't have
10 any notes from any of the people there.

11 **MSGR. LAROCQUE:** No.

12 **MR. ENGELMANN:** Was it just the three of you
13 again?

14 **MSGR. LAROCQUE:** It was, yes.

15 **MR. ENGELMANN:** No one else present?

16 **MSGR. LAROCQUE:** No. I should have asked
17 the -- at one point I should have asked the Bursar to come
18 up.

19 **MR. ENGELMANN:** That would be Mr. Bryan?

20 **MSGR. LAROCQUE:** Mr. Bryan, yes.

21 **MR. ENGELMANN:** Because he would have been
22 available to you?

23 **MSGR. LAROCQUE:** Yes, he was downstairs.

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

25 **MSGR. LAROCQUE:** And you know hindsight is

1 very good but the reason that they convinced me, if I
2 recall correctly, was, "You said, Bishop, that you would
3 help the victims with psychological payments and Mr.
4 Silmsier claims that he has some \$20,000 or so of
5 psychological treatment and then therefore if you keep your
6 promise you will pay that."

7 And I had no answer to that because that put
8 me back to the wall and by that time they had a figure of
9 \$32,000 apparently that they had gotten from Silmsier -- Mr.
10 Silmsier. And my recollection is that I had agreed to the
11 \$20,000 that they had mentioned as psychological or
12 psychiatric treatment fees and that they would find the
13 other \$12,000. That was Malcolm MacDonald's statement.

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

15 **MSGR. LAROCQUE:** This was Malcolm that made
16 that statement.

17 **MR. ENGELMANN:** That \$20,000 would come from
18 the Diocese to cover the ---

19 **MSGR. LAROCQUE:** "If you pay 20,000 we'll
20 find the other 12,000."

21 **MR. ENGELMANN:** We being?

22 **MSGR. LAROCQUE:** Myself and Father -- well,
23 didn't say that. It would be just Malcolm MacDonald.

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

25 So his client, Father MacDonald, was going

1 to come up with the 12,000?

2 **MSGR. LAROCQUE:** I don't know where he was
3 going to get it. I'm sorry, he didn't say.

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

5 Now, you said that they were very eager to
6 have you do this the first time, the meeting.

7 **MSGR. LAROCQUE:** Yes.

8 **MR. ENGELMANN:** Were they equally eager in
9 the second meeting?

10 **MSGR. LAROCQUE:** Well, they had charged
11 their cannons.

12 **THE COMMISSIONER:** I'm sorry, they had what?

13 **MSGR. LAROCQUE:** They had charged their
14 cannons.

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

16 And they had gone out and obviously someone
17 had spoken to Mr. Silmser.

18 **MSGR. LAROCQUE:** Obviously, yes.

19 **MR. ENGELMANN:** Because they had come up
20 with a dollar amount.

21 **MSGR. LAROCQUE:** Exactly.

22 **MR. ENGELMANN:** And they had come up with
23 some more information about psychological fees, counselling
24 fees.

25 **MSGR. LAROCQUE:** That's right.

1 **MR. ENGELMANN:** Now, were they making the
2 same arguments or did they have different arguments for you
3 to accept this, can you recall?

4 **MSGR. LAROCQUE:** This is the argument that
5 convinced me that I had to contribute something because I'm
6 to keep my word and we had said that we would help the
7 victims, then I have to give some -- I have to give some --
8 how shall I say? I had to go along with what I had said
9 that I am going to do.

10 **MR. ENGELMANN:** But sir, what I don't
11 understand is surely you could just pay for some
12 psychological counselling without prejudice to any form of
13 a lawsuit?

14 **MSGR. LAROCQUE:** Right.

15 **MR. ENGELMANN:** And in fact, the Diocese did
16 that from time to time, did they not?

17 **MSGR. LAROCQUE:** Yes, we did with some of
18 the victims of Deslauriers, yes.

19 **MR. ENGELMANN:** So isn't that the answer?

20 **MSGR. LAROCQUE:** Well ---

21 **MR. ENGELMANN:** Let's not interfere with
22 that process? Let's just do what we did with some of the
23 Deslauriers victims?

24 **MSGR. LAROCQUE:** From hindsight it would
25 have been the answer but at that time I felt myself back to

1 the wall and I didn't think of it.

2 There are many things that I could have
3 done. I should have brought Mr. Bryan upstairs so that I
4 would have him to back me up and I should have said that
5 anything over \$10,000 in the Diocese has to go to the
6 finance committee. I could have used the finance
7 commission of the Diocese also as a bullwhip but I did not
8 do it and I didn't even think of it at the moment. I'm
9 sorry, but that's ---

10 **MR. ENGELMANN:** So neither you nor your
11 counsel, Mr. Leduc, thought of just paying for these fees
12 on a Without Prejudice basis?

13 **MSGR. LAROCQUE:** That was not mentioned at
14 all.

15 **MR. ENGELMANN:** Because that would have
16 ensured no interference with any process.

17 **MSGR. LAROCQUE:** Exactly.

18 **MS. ROBITAILLE:** I just think we should be
19 careful with the questions. I don't think that this
20 witness can speak to what Mr. Leduc thought. Two questions
21 back that was the question.

22 **THE COMMISSIONER:** That he didn't think of
23 it.

24 **MS. ROBITAILLE:** Right.

25 **THE COMMISSIONER:** Right, okay. So that he

1 didn't ---

2 MR. ENGELMANN: I'll reword the question.

3 THE COMMISSIONER: Yes.

4 MS. ROBITAILLE: Thank you.

5 THE COMMISSIONER: Thank you.

6 MR. ENGELMANN: Your counsel Mr. Leduc never
7 suggested to you that you could make a Without Prejudice
8 payment for the counselling fees and therefore avoid any
9 interference with any other forum or process.

10 MSGR. LAROCQUE: No, he did not.

11 MR. ENGELMANN: And were these men both
12 equally aggressive or eager for you to enter into this
13 settlement?

14 MSGR. LAROCQUE: Yes, they were, but Malcolm
15 was more than Leduc, Mr. Leduc, since he's the one who said
16 he would find the \$12,000.

17 MR. ENGELMANN: Now, these men surely didn't
18 have the same interests, did they, sir? One of them was
19 supposed to be representing you -- in other words, the
20 Diocese -- and one was representing the priest?

21 MSGR. LAROCQUE: That's right, yes.

22 MR. ENGELMANN: Correct?

23 Did you ever say, "Just a minute, I'd like
24 to speak to my lawyer privately"? Did you ever think about
25 ---

1 **MSGR. LAROCQUE:** No, I did not.

2 **MR. ENGELMANN:** Did you ever think about the
3 fact that the Diocese's interest might not be the same as
4 the interests of Father Charles MacDonald?

5 **MSGR. LAROCQUE:** I don't believe that
6 entered my mind, no.

7 **MR. ENGELMANN:** Did you think about what the
8 only real common interest was between your position and
9 that of Father Charles MacDonald?

10 **THE COMMISSIONER:** Which is?

11 **MR. ENGELMANN:** Well, presumably you wanted
12 to avoid scandal for the Diocese if you could?

13 **MSGR. LAROCQUE:** Any bishop would, yes.

14 **MR. ENGELMANN:** Yes. And you'd want to
15 ensure, I guess, in avoiding that scandal, that there's no
16 negative impact on one of your priest's reputation?

17 **MSGR. LAROCQUE:** As much as possible, but
18 also that there is no criminal -- nothing that is against
19 the law of the land as well.

20 **MR. ENGELMANN:** But that was a common
21 interest. If this matter went away and it was quiet,
22 wasn't talked about, that would be in his interest, in his
23 reputational interest, and it would also be in the
24 Diocese's broader reputational interest?

25 **MSGR. LAROCQUE:** I would suppose so, yes.

1 **MR. ENGELMANN:** So the reason that you
2 finally agreed to the idea of the settlement really was the
3 argument about the counselling fees and payouts?

4 **MSGR. LAROCQUE:** Yes, that is very positive
5 in my mind.

6 **MR. ENGELMANN:** I'll just be a moment, sir.

7 **THE COMMISSIONER:** Are you changing pace
8 here or ---

9 **MR. ENGELMANN:** It's the same issue. If I
10 could just be a moment.

11 **THE COMMISSIONER:** Sure, sure.

12 **MR. ENGELMANN:** Sir, to your knowledge, did
13 Mr. Leduc indicate to you in the meeting that the Diocese
14 had paid for counselling and/or therapy in the past for
15 people in a similar situation to that of Mr. Silmsen?

16 **MSGR. LAROCQUE:** They had paid for therapy,
17 yes. I knew that and he didn't have to tell me; I knew it
18 because I had agreed to it.

19 **MR. ENGELMANN:** But did he tell you that
20 when you met with him on that second occasion?

21 **MSGR. LAROCQUE:** They both ---

22 **MR. ENGELMANN:** Was that one of his
23 arguments?

24 **MSGR. LAROCQUE:** They both told me that,
25 that I had done it in the past, why don't you do it now.

1 **MR. ENGELMANN:** Now, do you recall how the
2 issue of money came up at that meeting? Did one of them
3 indicate that there was a sum of money that the complainant
4 would be willing to accept?

5 **MSGR. LAROCQUE:** My recollection was that it
6 was Malcolm MacDonald who brought forth a definite sum of
7 money.

8 **MR. ENGELMANN:** And the breakdown that
9 you're currently remembering is that he had bills for
10 treatment or counselling of around 20,000?

11 **MSGR. LAROCQUE:** That's what they told me,
12 yes.

13 **MR. ENGELMANN:** And what was the remainder
14 of the money to be for; the other 12,000?

15 **MSGR. LAROCQUE:** I suppose to meet the sum
16 that Mr. Silmsner wanted.

17 **MR. ENGELMANN:** Some kind of compensation
18 for damages or ---

19 **MSGR. LAROCQUE:** I suppose.

20 **MR. ENGELMANN:** And were you told about how
21 that matter was negotiated with Mr. Silmsner?

22 **MSGR. LAROCQUE:** No.

23 **MR. ENGELMANN:** Were you told whether or not
24 Mr. Silmsner had a lawyer when he was talked to about a
25 monetary amount?

1 **MSGR. LAROCQUE:** I was told nothing about
2 how this amount of money was arrived at, I'm sorry.

3 **MR. ENGELMANN:** So you were not told that
4 Malcolm MacDonald did that negotiation with Mr. Silmsner and
5 that Mr. Silmsner was not represented?

6 **MSGR. LAROCQUE:** No, I was not told that.

7 **MR. ENGELMANN:** And you didn't ask either?

8 **MSGR. LAROCQUE:** No, I did not.

9 **MR. ENGELMANN:** And, sir, did you talk --
10 aside from the money at that time, did you talk about any
11 terms for the settlement?

12 **MSGR. LAROCQUE:** I remember emphasising it
13 because of my meeting with the bishops; that this was not
14 to have any effect on the -- any possible criminal action.

15 **MR. ENGELMANN:** Sir, I'm going to be a bit
16 longer on this so maybe this would be a good time.

17 **THE COMMISSIONER:** All right. Let's take
18 our short break for 15.

19 Thank you.

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

22 The hearing will resume at 10:45 a.m.

23 --- Upon recessing at 10:29 a.m./

24 L'audience est suspendue à 10h29

25 --- Upon resuming at 10:48 a.m./

1 L'audience est reprise à 10h48

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

4 The hearing is now resumed. Please be
5 seated. Veuillez vous asseoir.

6 **MONSIGNOR EUGÈNE LAROCQUE:** Resumed/Sous le même serment
7 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
8 **ENGELMANN (cont'd./suite):**

9 **MR. ENGELMANN:** Sir, just before the break
10 we were discussing some of the terms that could be included
11 in the actual settlement documents, and I think you told us
12 that your principal concern -- and if I've misquoted you,
13 please tell me -- was that it not interfere with any other
14 process?

15 **MSGR. LAROCQUE:** With the criminal process.

16 **MR. ENGELMANN:** Sorry, with the criminal
17 process?

18 **MSGR. LAROCQUE:** Yes.

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

20 And you were very explicit in those
21 instructions ---

22 **MSGR. LAROCQUE:** Absolutely.

23 **MR. ENGELMANN:** --- to these two lawyers?

24 **MSGR. LAROCQUE:** Absolutely.

25 **MR. ENGELMANN:** Now, you realise that only

1 one of the lawyers worked for you.

2 **MSGR. LAROCQUE:** That's right.

3 **MR. ENGELMANN:** All right. Did you have any
4 private conversation with him about that issue?

5 **MSGR. LAROCQUE:** Not that I can remember,
6 no.

7 **MR. ENGELMANN:** All right. So what you said
8 to your lawyer you said in front of the priest's lawyer?

9 **MSGR. LAROCQUE:** That's right.

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

11 And at that point-in-time, sir, you were
12 aware that there was only one process that was in play. In
13 other words, there was a criminal investigation that was
14 still with the Cornwall Police Service?

15 **MSGR. LAROCQUE:** I was aware of that, yes.

16 **MR. ENGELMANN:** And you were also aware that
17 there had been no lawsuit filed by Mr. Silmsen?

18 **MSGR. LAROCQUE:** I believe so, yes.

19 **MR. ENGELMANN:** At least, you hadn't been
20 informed of any lawsuit?

21 **MSGR. LAROCQUE:** That's right. No.

22 **MR. ENGELMANN:** So I just -- I want to get a
23 sense, sir, of what exactly was being settled.

24 There's no lawsuit out there but you're
25 concerned and you're being persuaded to enter into some

1 kind of a settlement on the basis that you need to fulfil a
2 promise you've made to others about paying for counselling?
3 That was the major thrust.

4 **MSGR. LAROCQUE:** That was the major thrust
5 of their argumentation, yes.

6 **MR. ENGELMANN:** Sir, I don't believe your
7 promise in other cases was contingent upon providing money
8 for counselling if the individual would guarantee they
9 would not make a claim against the Diocese?

10 **MSGR. LAROCQUE:** I don't believe that that
11 even was brought up.

12 **MR. ENGELMANN:** But in this case that was
13 the ultimate effect, correct, that if he was going to get
14 money for his counselling he was going to have to give up
15 the right to make any claim against the Diocese?

16 **MSGR. LAROCQUE:** A civil claim.

17 **MR. ENGELMANN:** Yes, that's what I meant; a
18 claim against the Diocese.

19 **MSGR. LAROCQUE:** I believe the Diocesan
20 lawyer did say that. I'm not a lawyer so, I mean, I can't
21 ---

22 **MR. ENGELMANN:** No, but he would have told
23 you, "Sir, you're going to be paying some money but I'm
24 going to get you a release so he can't sue you later". He
25 would have told you that.

1 **MSGR. LAROCQUE:** He must have said that. I
2 can't recall.

3 **MR. ENGELMANN:** And he, and/or he and
4 Malcolm MacDonald, must have told you because of your
5 express instruction, that this was not going to in any way
6 interfere with the investigation that the Cornwall Police
7 Service were doing?

8 **MSGR. LAROCQUE:** Or any criminal action
9 possible.

10 **MR. ENGELMANN:** Did they advise you, sir, at
11 all if Mr. Silmsler was contemplating any kind of a civil
12 claim against the Diocese?

13 **MSGR. LAROCQUE:** Not to my knowledge, no.

14 **MR. ENGELMANN:** Now, at this point-in-time
15 by sort of late August -- and this is the second meeting --
16 had you met with Father MacDonald to discuss these
17 allegations?

18 **MSGR. LAROCQUE:** No, I did not.

19 **MR. ENGELMANN:** All right. So you're
20 contemplating paying money for something he may have done
21 but you haven't spoken to him; correct?

22 **MSGR. LAROCQUE:** No. My delegate has.

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

24 **MSGR. LAROCQUE:** My delegate has ---

25 **MR. ENGELMANN:** Yes.

1 **MSGR. LAROCQUE:** --- and has reported back
2 to me.

3 **MR. ENGELMANN:** Yes, back in December of
4 '92.

5 **MSGR. LAROCQUE:** And that is my
6 recollection.

7 **MR. ENGELMANN:** Yeah. Now, sir do you
8 recall whether or not Mr. Leduc or Mr. MacDonald -- Malcolm
9 MacDonald would have told you about the progress or lack of
10 progress in the criminal investigation by the Cornwall
11 Police Service?

12 **MSGR. LAROCQUE:** I can't recall whether they
13 did or not.

14 **MR. ENGELMANN:** Did you, sir, speak to
15 anyone from the Cornwall police at or about that time to
16 make sure that the settlement would not interfere with
17 their work?

18 **MSGR. LAROCQUE:** No, I did not.

19 **MR. ENGELMANN:** Did Mr. Leduc inform you
20 whether he had done so? Whether he had spoken to the
21 Cornwall police or whether he would speak to the Cornwall
22 police to ensure that that would not happen?

23 **MSGR. LAROCQUE:** Not to my recollection.

24 **MR. ENGELMANN:** And sir, I just want to get
25 something out about what you wanted at that point in time,

1 in the summer of 1993. Did you want to see matters
2 involving Father MacDonald fully investigated by civil or
3 other authorities?

4 **MSGR. LAROCQUE:** Absolutely.

5 **MR. ENGELMANN:** And, if necessary, did you
6 want those matters fully adjudicated in a court system?

7 **MSGR. LAROCQUE:** Yes.

8 **MR. ENGELMANN:** So did you take any steps,
9 sir, either personally or through your delegate to ensure
10 that that happened?

11 **MSGR. LAROCQUE:** What steps are you
12 suggesting?

13 **MR. ENGELMANN:** Well, did you speak to the
14 police to see whether or not there was any information or
15 assistance they might require?

16 **MSGR. LAROCQUE:** I've answered that question
17 before.

18 **MR. SHERRIFF-SCOTT:** That was going to be my
19 point. We've been through this before.

20 **THE COMMISSIONER:** Yes, let's go on, Mr.
21 Englemann.

22 **MR. ENGELMANN:** Sir, do you recall what
23 instructions you finally gave to your counsel at the end
24 regarding wording of a settlement?

25 **MSGR. LAROCQUE:** I did not give him any

1 counsel. My counsel advised -- I'm not a lawyer so I'm not
2 going to advise counsel how to draw up a legal document.

3 **MR. ENGELMANN:** All right. But you would
4 have presumably, as the client, told him about certain
5 things that you wanted to include or not include in the
6 settlement.

7 **MSGR. LAROCQUE:** The only thing I said is
8 that I didn't want it to include an exclusion of criminal -
9 - the possibility of continuing with criminal action. That
10 is the only thing that I told him.

11 **MR. ENGELMANN:** All right. Well, did you
12 tell him that you wanted to make sure that if you were
13 paying money that he wasn't going to then sue you again?

14 **MSGR. LAROCQUE:** I can't recall if that was
15 part of the conversation.

16 **MR. ENGELMANN:** Or sue you ever, I mean.
17 Sir, did you tell him that you wanted some kind of
18 confidentiality provision?

19 **MSGR. LAROCQUE:** That was suggested by the
20 lawyers, not by myself.

21 **MR. ENGELMANN:** All right. And you approved
22 that, did you not, sir, as the client?

23 **MSGR. LAROCQUE:** There was -- if it was part
24 of the way of procedures that is usual, then I left that to
25 the lawyer.

1 **MR. ENGELMANN:** But you didn't say "No, I
2 don't want this matter to be confidential because I don't
3 want this to look like it's hushed up." You didn't say
4 that?

5 **MSGR. LAROCQUE:** Not that I can recall, no.

6 **THE COMMISSIONER:** I'm sorry?

7 **MSGR. LAROCQUE:** Not that I can recall.

8 **THE COMMISSIONER:** Okay.

9 **MR. ENGELMANN:** And did you consult with
10 either Monsignor McDougald or anyone else in the Diocese
11 after that second meeting just to check and see whether or
12 not this was a good idea?

13 **MSGR. LAROCQUE:** To my recollection, they
14 left with the idea that it was going to take place right
15 away. And that is where, as I said before, I made my
16 mistake. I should have consulted with Mr. Bryan and the
17 fact -- and I suppose with Monsignor McDougald since he was
18 my delegate. But I did not do so and I left that in the
19 hands of the lawyers.

20 **MR. ENGELMANN:** And after that, they didn't
21 come back to you again?

22 **MSGR. LAROCQUE:** No, they did not.

23 **MR. ENGELMANN:** All right. Let's just talk
24 about the amount for a minute because I just want to make
25 sure I understand it. The total was 32,000?

1 **MSGR. LAROCQUE:** That's right.

2 **MR. ENGELMANN:** And what was proposed to you
3 at that meeting was the \$20,000 for the counselling would
4 come from the Diocese and that Malcolm MacDonald said he
5 would find the other 12,000?

6 **MSGR. LAROCQUE:** That's what I was told at
7 that meeting, in my recollection.

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

9 **MSGR. LAROCQUE:** I know that that does not
10 agree with the final amounts that I found out from the
11 Bursar later.

12 **MR. ENGELMANN:** All right. Well, I
13 understand, at least at or about that time, the Diocese
14 paid out \$27,000 and Father MacDonald contributed \$5,000.

15 **MSGR. LAROCQUE:** I don't know who
16 contributed it but there was a \$5,000 that came in.

17 **MR. ENGELMANN:** You weren't told that that
18 came directly from Father MacDonald?

19 **MSGR. LAROCQUE:** I don't believe so, no.

20 **MR. ENGELMANN:** Okay. And were you told
21 that he later contributed another \$1,000?

22 **MSGR. LAROCQUE:** No, I did not know that.

23 **MR. ENGELMANN:** And sir, you had an issue --

24 -

25 **MSGR. LAROCQUE:** At what time later are you

1 talking about?

2 **MR. ENGELMANN:** I'll come to it. There are
3 some ledgers. But sir, initially you had agreed to only
4 pay \$20,000, now all of a sudden, you were at least
5 initially paying 27, did that concern you as it was
6 Diocesan money?

7 **MSGR. LAROCQUE:** I didn't know about it
8 until I was told by the Bursar that that's what he had
9 given them.

10 **MR. ENGELMANN:** When were you told about
11 that, sir, from the Bursar?

12 **MSGR. LAROCQUE:** I can't recall.

13 **MR. ENGELMANN:** Would it have been that
14 fall?

15 **MSGR. LAROCQUE:** I would suppose it would
16 have been about the time that amounts were being exchanged,
17 but I can't tell. I don't remember.

18 **MR. ENGELMANN:** Because we understand that
19 the amounts were exchanged during the month of September.

20 **MSGR. LAROCQUE:** It could very well be.

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

22 **THE COMMISSIONER:** Well, the evidence from
23 Mr. -- Reverend Bryan was that when Jacques Leduc came over
24 for the cheque or ---

25 **MSGR. LAROCQUE:** M'hm.

1 **THE COMMISSIONER:** --- that he went upstairs
2 to see you and to confirm that all of that was okay.

3 **MSGR. LAROCQUE:** I can't recall that
4 meeting.

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

6 **MR. ENGELMANN:** All right. Sir, were you
7 aware that during the month of September, the Diocese would
8 have sent a cheque for \$27,000 to Mr. Leduc's law firm?

9 **MSGR. LAROCQUE:** I found out about it later
10 but I did not know at the time, no.

11 **MR. ENGELMANN:** All right. But sir, would
12 it make sense that the Bursar would come to you to make
13 sure that he could cut a cheque for that size and get your
14 approval?

15 **MSGR. LAROCQUE:** He already had my approval
16 to spend the money for -- of \$20,000. I don't know how the
17 amount of 27 came up. I don't remember giving my approval
18 but I must have since he would not have done this without
19 my say so.

20 **MR. ENGELMANN:** Sir, I don't know if you've
21 ever seen this before but if the witness can be shown --
22 sir, I'm not sure if this is an exhibit. I don't believe
23 it is. It's Document Number 738167.

24 **THE COMMISSIONER:** Is that the ledger where
25 the \$27,000 goes out?

1 **MR. ENGELMANN:** This is another ledger. I
2 think this is the ledger from Malcolm MacDonald's office.

3 **THE COMMISSIONER:** Okay.

4 **MR. ENGELMANN:** I think the ledger that we
5 have in evidence is from Jacques Leduc's office.

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

7 Thank you. Exhibit Number 2096 is a
8 clients' ledger entitled "Charles MacDonald."

9 **---EXHIBIT NO./PIÈCE NO P-2096:**

10 (738167) Trust account ledger - Leduc

11 **MR. ENGELMANN:** So that just might help with
12 dates. It shows that his law firm is receiving a cheque
13 from Mr. Leduc's law firm on September 2nd in the amount of
14 27,000. Do you see that?

15 **MSGR. LAROCQUE:** Yes.

16 **MR. ENGELMANN:** And it then shows that his
17 law firm is receiving a cheque from Charles MacDonald in
18 the amount of 5,000.

19 **MSGR. LAROCQUE:** I see that, yes.

20 **MR. ENGELMANN:** And then it shows them
21 paying out \$32,000 to Mr. Silmser ---

22 **MSGR. LAROCQUE:** Yes.

23 **MR. ENGELMANN:** --- the 27 from the Diocese
24 and the five from Charles MacDonald, again on September 2nd.

25 **MSGR. LAROCQUE:** Right.

1 **MR. ENGELMANN:** And then it shows a payment
2 of a further \$1,000 from Father MacDonald on November 18th.
3 And it shows that \$1,000 then being sent to the Diocese
4 that same day.

5 **MSGR. LAROCQUE:** I see.

6 **MR. ENGELMANN:** All right. So what I'm
7 going to suggest, sir, and I don't know if you were
8 familiar with this at the time, was that Father MacDonald
9 was to pay approximately \$10,000 of the settlement. He
10 only paid \$5,000 at the start and then in November, he paid
11 a further 1,000 to make 6,000 towards his portion. ...

12 **MSGR. LAROCQUE:** Right.

13 **MR. ENGELMANN:** Were you ever made aware of
14 that, sir, to your knowledge?

15 **MSGR. LAROCQUE:** Not that I can recall.

16 **MR. ENGELMANN:** My friend is telling me that
17 the \$1,000 was to be paid towards the vocational fund. I -
18 --

19 **THE COMMISSIONER:** Well ---

20 **MR. ENGELMANN:** The evidence of Gordon
21 Bryan, whether ---

22 **THE COMMISSIONER:** He applied it -- Reverend
23 Bryan applied it to the vocation fund.

24 **MR. ENGELMANN:** Sir, I don't know if you
25 would have seen this, Exhibit 1962. It's just a letter

1 from Malcolm MacDonald to the Bursar, Gordon Bryan, sending
2 a cheque of \$1,000.

3 **MSGR. LAROCQUE:** I have no knowledge of
4 that.

5 **MR. ENGELMANN:** All right. You don't have
6 to look at it then, sir. So you don't know why the Diocese
7 would be receiving that cheque from Father MacDonald at
8 that time?

9 **MSGR. LAROCQUE:** I have no idea, no.

10 **MR. ENGELMANN:** And, sir, do you know
11 whether or not the Diocese alone can loan him money in
12 respect of the Silmsler settlement?

13 **MSGR. LAROCQUE:** I have no knowledge of that
14 at all. If it was done, it was without my knowledge.

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

16 **(SHORT PAUSE/COURTE PAUSE)**

17 **MR. ENGELMANN:** So at this time, sir, you
18 don't remember whether or not Father MacDonald was to pay
19 \$10,000 towards the settlement?

20 **MSGR. LAROCQUE:** I don't know who was to
21 pay, but my agreement was that somewhere they would find
22 \$12,000.

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

24 **MSGR. LAROCQUE:** My agreement was that
25 someone somewhere would find \$12,000.

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

2 Well, we did have some evidence of this when
3 the Cornwall Police -- former Cornwall Police Chief, Claude
4 Shaver, was here and I just want to show you a document
5 from his testimony. It's Exhibit 1787 and the page number
6 you're going to want, sir, has the last three digits -- are
7 185 in the top-left corner.

8 It may be somewhat difficult to read, sir,
9 because it's in his handwriting, but what he is referring
10 to are some notes that he took when he and his colleague,
11 Lucien Brunet, met with you on October 7th, 1993.

12 Do you remember having a meeting with Claude
13 Shaver and Lucien Brunet on October 7th, 1993, sir? Or
14 perhaps you don't remember the date but do you remember
15 having a meeting with then Chief Shaver?

16 **MSGR. LAROCQUE:** I remember -- I remember
17 meeting them and they had gone to see the Nuncio in Ottawa
18 and they came ---

19 **MR. ENGELMANN:** Exactly.

20 **MSGR. LAROCQUE:** --- to see me afterwards.

21 **MR. ENGELMANN:** Exactly. And would they
22 have called you as they were driving back asking to meet
23 with you or would the Nuncio have called and someone
24 indicated to you they were coming to see you?

25 **MSGR. LAROCQUE:** I can't recall.

1 **MR. ENGELMANN:** All right. But you do
2 recall meeting with them?

3 **MSGR. LAROCQUE:** Absolutely. I met them in
4 my office.

5 **MR. ENGELMANN:** Right. And, sir, these are
6 -- these are notes that he would have written that day.

7 **MSGR. LAROCQUE:** M'hm.

8 **MR. ENGELMANN:** And you don't have any notes
9 again of the meeting you had with Mr. Shaver and Mr.
10 Brunet?

11 **MSGR. LAROCQUE:** No, I don't.

12 **MR. ENGELMANN:** All right. And what he told
13 us, amongst other things, was that you told him that the
14 Diocese paid \$32,000 to Mr. Silmsner, that \$10,000 was from
15 the Diocese, \$10,000 was from Father Charlie and \$12,000
16 was from an unknown person. Those are his notes from that
17 day.

18 **MSGR. LAROCQUE:** I don't remember that. If
19 I said that, that was wrong.

20 **MR. ENGELMANN:** Okay. Do you have any ---

21 **MSGR. LAROCQUE:** I have never -- I have
22 never seen that breakdown of it before.

23 **MR. ENGELMANN:** All right. Would you have
24 any idea why you would have given -- do you have any --
25 these are his notes from October 7th of 1993 and this is

1 very soon after the settlement.

2 MSGR. LAROCQUE: What was the date again?

3 MR. ENGELMANN: October 7th, 1993, and you
4 would have agreed to this settlement right at the end of
5 August or the beginning of September.

6 MSGR. LAROCQUE: That's right. That's
7 right, yeah.

8 MR. ENGELMANN: So this is only five or six
9 weeks afterwards.

10 MSGR. LAROCQUE: Yeah, okay.

11 MR. ENGELMANN: And he wrote these notes he
12 said the same that he met with you?

13 MSGR. LAROCQUE: I don't remember saying
14 that because that is not true.

15 MR. ENGELMANN: So you can't help us with --

16 -

17 MSGR. LAROCQUE: No.

18 MR. ENGELMANN: --- where he might have
19 gotten that from, why you might have told him that?

20 MSGR. LAROCQUE: I didn't him tell him that,
21 I'm sure.

22 (SHORT PAUSE/COURTE PAUSE)

23 MR. ENGELMANN: All right. I'll come back
24 to that note a bit later.

25 I'd like to show you, sir, a letter. It's

1 Exhibit 1963. There's two letters there, sir. There's a
2 typed letter from you on the one side and there's a
3 handwritten letter on the backside. The handwritten letter
4 is first so perhaps we could go there first.

5 It's a letter that we believe is written by
6 Father Charles MacDonald to you on April 19th, 1995.

7 (SHORT PAUSE/COURTE PAUSE)

8 MR. ENGELMANN: Sir, do you remember
9 receiving a letter from Father Charles MacDonald when he
10 was off at the college that you had sent him to?

11 MSGR. LAROCQUE: I really don't remember the
12 letter, but it's there before me and it's -- it was
13 received on the 27th of April, 1995.

14 MR. ENGELMANN: This comes from the Diocesan
15 records, sir.

16 MSGR. LAROCQUE: Yes, and it's written from
17 Toronto probably while he was studying at Regis College.

18 MR. ENGELMANN: All right. The reference,
19 sir, is:

20 "I and family have already spent
21 15,000, including 6,000 of the amount
22 the Diocese asked me to pay towards my
23 defence."

24 MSGR. LAROCQUE: The Diocese did not ask
25 him. It would be his lawyer actually that ---

1 MR. ENGELMANN: I'm sorry?

2 MSGR. LAROCQUE: It would be Malcolm
3 MacDonald who would have asked him, I'm quite sure.

4 MR. ENGELMANN: All right, but, sir, he was
5 to pay a portion of the \$32,000 was he not?

6 MSGR. LAROCQUE: I didn't know where it was
7 but the discussion with the lawyer says that he would find
8 it. He didn't tell me where he would get it.

9 MR. ENGELMANN: And the amount that you
10 remember the lawyer saying would be found was 12,000.

11 MSGR. LAROCQUE: That's what I remember,
12 yes.

13 MR. ENGELMANN: So let's look at your letter
14 back to ---

15 MSGR. LAROCQUE: Okay.

16 MR. ENGELMANN: --- Father MacDonald.

17 (SHORT PAUSE/COURTE PAUSE)

18 MSGR. LAROCQUE: I can only tell you that
19 that's what I wrote so it must have been ---

20 MR. ENGELMANN: All right.

21 MSGR. LAROCQUE: But that's not my
22 recollection of the meeting but ---

23 MR. ENGELMANN: So again I'm trying to
24 refresh your memory. I've shown you a note from Claude
25 Shaver that he wrote the same day he met with you, and now

1 I'm showing you a couple of letters.

2 This letter certainly suggests what you're
3 saying, and this is now May of '95 ---

4 **MSGR. LAROCQUE:** Right.

5 **MR. ENGELMANN:** --- that:

6 "I wish to make quite clear that it was
7 not the Diocese that asked you to pay.
8 Rather, your lawyer and the Diocesan
9 lawyer assured me that you were ready
10 to pay \$10,000 of the \$32,000 that was
11 being proposed."

12 **MSGR. LAROCQUE:** Okay.

13 **MR. ENGELMANN:** Correct?

14 **MSGR. LAROCQUE:** Right.

15 **MR. ENGELMANN:** So it appears very clear, at
16 least on that time, that you recall that Father Charles was
17 to pay 10,000 of the 32,000.

18 **MSGR. LAROCQUE:** Apparently, yes.

19 **MR. ENGELMANN:** Right. And, sir, you
20 suggested at the time of the meeting with Malcolm MacDonald
21 and Jacques Leduc that Malcolm suggested that \$12,000 was
22 going to -- was going to be paid by someone.

23 **MSGR. LAROCQUE:** That was my recollection,
24 yes.

25 **MR. ENGELMANN:** Right. And what I'm going

1 to suggest to you is that's perfectly consistent with what
2 Mr. Shaver has testified to here, and that is that Father
3 Charles was to pay 10,000; 12,000 was going to come from an
4 unknown person; and \$10,000 was going to come from the
5 Diocese.

6 **MSGR. LAROCQUE:** I can't recall that but ---

7 **MR. ENGELMANN:** Well, sir ---

8 **MSGR. LAROCQUE:** --- de facto the 27,000
9 came from the Diocese.

10 **MR. ENGELMANN:** Yes, initially, and there
11 was another \$1,000 that came in from Father MacDonald.

12 **MSGR. LAROCQUE:** I don't know where that
13 \$1,000 went to.

14 **MR. ENGELMANN:** Fair enough. I showed you
15 the letter.

16 **MSGR. LAROCQUE:** Yes.

17 **MR. ENGELMANN:** I'm wondering, sir, if that
18 \$20,000 -- \$27,000 -- if in fact \$12,000 of that 27 didn't
19 come in from a donor ---

20 **MSGR. LAROCQUE:** No.

21 **MR. ENGELMANN:** --- from an individual.

22 **MSGR. LAROCQUE:** Not to my knowledge.

23 **MR. ENGELMANN:** But you don't know that, do
24 you?

25 **MSGR. LAROCQUE:** No. I have no -- and it

1 certainly didn't come from me.

2 **MR. ENGELMANN:** No. I mean, I'm certainly
3 not suggesting it did.

4 But, sir, if Malcolm MacDonald is telling
5 you that the \$12,000 is going to come from someone else,
6 and that person is not named, you're not going to know
7 necessarily who that person is.

8 **MSGR. LAROCQUE:** That's right.

9 **MR. ENGELMANN:** But it might be something
10 that you'd want to question, correct?

11 **MSGR. LAROCQUE:** Had I adverted to the fact
12 at the time.

13 **THE COMMISSIONER:** Can we continue on that
14 phrase? In the third paragraph, sir, it says:

15 "This was one of the reasons that I
16 agreed to this procedure after having
17 turned it down the week before."

18 **MSGR. LAROCQUE:** That's right.

19 **THE COMMISSIONER:** So what was the week
20 before?

21 **MSGR. LAROCQUE:** That's before I went to the
22 meeting with the Bishops, the first time I met with them.

23 **THE COMMISSIONER:** Okay. So you're saying
24 these two meetings occurred a week apart?

25 **MSGR. LAROCQUE:** That's right, with the

1 meeting of the Bishops in between.

2 **THE COMMISSIONER:** Yep.

3 **MR. ENGELMANN:** And, sir, just so we're
4 clear, at the first meeting you've testified there was no
5 discussion of the amounts of money. It was only at the
6 second meeting?

7 **MSGR. LAROCQUE:** That's right; my
8 recollection.

9 **MR. ENGELMANN:** I'm a little confused from
10 the letter about what's being paid for for Father Charles
11 MacDonald and what's not.

12 In his letter to you he says he spent
13 \$15,000, "including 6,000 of the amount the Diocese asked
14 me to pay" -- and you've corrected him and said, "No, no,
15 that was part of the amount your lawyer said you would be
16 paying" -- "towards my defence."

17 So it would appear from that that he and his
18 family have come up with \$9,000 either for legal or related
19 expenses. At least that's what's being suggested in this
20 letter.

21 **MSGR. LAROCQUE:** It would appear so, yes. I
22 have no knowledge of that.

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

24 And in your letter to him on May 2nd you say:

25 "At the time of the case with Father

1 Gilles Deslauriers the Senate was
2 adamant on the fact that the Diocese
3 must not pay for the lawyer's fee when
4 a priest is charged with sexual
5 demeanours (sic)."

6 Was that the situation or was it that you
7 weren't to pay if the priest was found guilty, as in the
8 case of Father Deslauriers?

9 **MSGR. LAROCQUE:** That was a further
10 development later on, if I recall, when all the priests
11 were being accused and were being investigated by the OPP.
12 I think that's the time -- and myself of course was
13 involved at the same time. I think that that's the time
14 when the Senate of Priests reverted -- changed the policy
15 of the Diocese.

16 **MR. ENGELMANN:** So that's the 1996 policy
17 that we looked at yesterday.

18 **MSGR. LAROCQUE:** I think so.

19 **MR. ENGELMANN:** June 17th '96.

20 **MSGR. LAROCQUE:** Well, no, I -- this is
21 something that would have come up in a Senate meeting, I
22 think.

23 **MR. ENGELMANN:** All right. Well, we looked
24 at that document yesterday that clearly said as at June
25 17th, '96 that priests were to be -- their legal fees were

1 to be covered for either criminal or civil litigation.

2 MSGR. LAROCQUE: And the reason for that was
3 the number of priests who were being accused and
4 investigated at that time ---

5 MR. ENGELMANN: Sir, I ---

6 MSGR. LAROCQUE: --- including myself.

7 MR. ENGELMANN: And you did say that
8 yesterday, sir, but I'm -- we know, sir, that those
9 allegations didn't arise until sometime later, so there
10 must have been some other impetus for that. The Leroux
11 Affidavits, they're not even written until late October and
12 November of 1996 and there's an amended Statement of Claim
13 that does relate to some of that in or around mid-November
14 1996.

15 But in June of 1996 those allegations have
16 not been made, or certainly not publicly.

17 MSGR. LAROCQUE: Then I really don't know.

18 MR. ENGELMANN: Been no allegations made
19 publicly, for example, against you, sir.

20 MSGR. LAROCQUE: M'hm.

21 MR. ENGELMANN: And I know that's the reason
22 you gave yesterday but ---

23 MSGR. LAROCQUE: You're sure of your dates?

24 MR. ENGELMANN: Absolutely.

25 MSGR. LAROCQUE: Then I have no explanation,

1 I'm sorry.

2 MR. ENGELMANN: Now, what was out there at
3 that time was Father MacDonald had been charged then. He'd
4 been charged sometime in the spring of 1996, so just three
5 or four months before this new protocol comes in that says
6 priests' fees will be paid for.

7 MSGR. LAROCQUE: I have no recollection, I'm
8 sorry.

9 (SHORT PAUSE/COURTE PAUSE)

10 MR. ENGELMANN: Sir, do I take it that --
11 just I'm reading your letter again of May 2nd that we're
12 looking at. If Father MacDonald or if Father MacDonald's
13 lawyer had not agreed that he would pay 10,000 of the
14 32,000 would that have been a deal-breaker for you, sir?

15 MSGR. LAROCQUE: Absolutely.

16 MR. ENGELMANN: Sorry?

17 MSGR. LAROCQUE: Yes.

18 MR. ENGELMANN: Okay. So you wanted him ---

19 MSGR. LAROCQUE: I didn't want him -- I just
20 wanted the terms of the agreement that I had made with the
21 lawyers to be followed.

22 MR. ENGELMANN: Okay.

23 MSGR. LAROCQUE: And the reason I gave --
24 they gave me for making the \$20,000 payment which I had
25 thought had come out of the Diocese was that -- to cover

1 the expenses as I said before, and that's what I agreed to.

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

3 But if in fact -- you say here:

4 "I wish to make it quite clear that it
5 was not the Diocese that asked you to
6 pay. Rather, your lawyer and the
7 Diocesan lawyer assured me that you
8 were ready to pay \$10,000 of the
9 \$32,000 that was being proposed. This
10 was one of the reasons that I agreed to
11 this procedure, having turned it down."

12 So if they are saying to you, "He's going to
13 pay \$10,000 of the counselling fees and you, the Diocese,
14 pay the other \$10,000" was it important for you that he be
15 putting up some of his own money towards this settlement?

16 **MSGR. LAROCQUE:** I don't recall -- they're
17 telling me that Father Charles is going to put the money.

18 **MR. ENGELMANN:** Right.

19 **MSGR. LAROCQUE:** They just told me that they
20 would find the extra money someplace.

21 **MR. ENGELMANN:** Right.

22 **MSGR. LAROCQUE:** And they didn't tell me
23 exactly where they were going to find it.

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

25 But in this letter, sir, you're saying or

1 you seem to be implying that it's important that he
2 contribute \$10,000 of the 32.

3 **MSGR. LAROCQUE:** This is a letter post-
4 factum, of course.

5 **MR. ENGELMANN:** Yes, it is, but it's a lot
6 closer to the date than today.

7 **MSGR. LAROCQUE:** Yes, for sure, yes.

8 **MR. ENGELMANN:** So, again, I'm just asking,
9 given what you said in your letter, whether you can confirm
10 it was important for you that Father MacDonald pay
11 approximately a third of the settlement costs?

12 **MSGR. LAROCQUE:** And I answer you again, as
13 I answered before, that I did not know where this money was
14 coming from and that I had agreed to pay what they insisted
15 was victim's rehabilitation or psychological fees. And I
16 did not know that Father MacDonald -- nor in the
17 conversation do I recall that they say where this money was
18 going to come from.

19 **MR. ENGELMANN:** Well, at least allegedly on
20 October 7th of '93 ---

21 **MSGR. LAROCQUE:** By this time then I must
22 have known.

23 **MR. ENGELMANN:** And in May of '95, clearly
24 you seem to have some knowledge that Father MacDonald's
25 going to be paying \$10,000?

1 **MSGR. LAROCQUE:** Apparently I had at that
2 time, yes.

3 **MR. ENGELMANN:** And is it -- was there any
4 significance to a \$10,000 number as far as Diocese money?
5 Did you have some discretion to spend \$10,000 or less
6 without consulting your bursar or others? Were there any
7 rules on that?

8 **MSGR. LAROCQUE:** Those were the rules for
9 the parishes, yes.

10 **MR. ENGELMANN:** What were they, sir? I'm
11 sorry.

12 **MSGR. LAROCQUE:** That the bursar had the
13 discretion to give permission for extraordinary expenses up
14 to \$10,000.

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

16 **MSGR. LAROCQUE:** Anything over that was to
17 go to the finance commission.

18 **MR. ENGELMANN:** And what is the finance
19 commission, sir?

20 **MSGR. LAROCQUE:** It was a group of lay
21 people and priests who advised the bursar on the finances
22 of the diocese.

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

24 So if the settlement breakdown was as
25 indicated in Mr. Shaver's notes ---

1 **MSGR. LAROCQUE:** Right.

2 **MR. ENGELMANN:** --- \$10,000 from the
3 Diocese, \$10,000 from Father MacDonald and \$12,000 from
4 this other source, and that seems to be somewhat consistent
5 with what you're saying, there would be no need for that
6 payment to go to any other kind of finance commission?

7 **MSGR. LAROCQUE:** Apparently, yes.

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

9 Sir, let's talk a little bit about the
10 release and the undertaking.

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

12 **THE COMMISSIONER:** Oh, just a minute, before
13 we leave that area. So are you saying that by issuing a
14 cheque for \$27,000 that it should have gone to the
15 commission?

16 **MSGR. LAROCQUE:** That's a question I really
17 don't know how to answer. I suppose ---

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MSGR. LAROCQUE:** I suppose I should have
20 had, yes, strictly speaking.

21 **THE COMMISSIONER:** So if that's the case,
22 wouldn't the bursar ever come up and say, "Monsignor, this
23 cheque is for \$27,000. Shouldn't we be bringing it to the"
24 ---

25 **MSGR. LAROCQUE:** I wish he had, but I don't

1 have any recollection that that happened.

2 THE COMMISSIONER: Right, and did you give
3 him any instructions and say, "Listen, it's over \$10,000. I
4 don't care."

5 MSGR. LAROCQUE: Not to my recollection, no.
6 And it's not usually my way of proceeding. I usually
7 respect the responsibilities of those -- that ---

8 THE COMMISSIONER: You see, because had it
9 gone to the committee ---

10 MSGR. LAROCQUE: Oh, if it had it would not
11 have gone through, I'm quite sure, and that I thought of
12 quite often since this whole thing has come to ---

13 MR. ENGELMANN: If it had gone to the
14 committee then a number of lay people would have known
15 about what the money was for?

16 MSGR. LAROCQUE: Yes, but that would not
17 have caused that. They knew all our investments and
18 everything else so there's no -- but I think we would have
19 gotten an input about not getting -- not doing this, you
20 see.

21 MR. ENGELMANN: No, but what I'm saying is
22 that if it had gone to the committee there would have been
23 lay people from your Diocese that would have known that
24 this payment was being made.

25 MSGR. LAROCQUE: I suspect there were lay

1 people that already knew, really.

2 **THE COMMISSIONER:** About the payment?

3 **MSGR. LAROCQUE:** Well, Malcolm MacDonald --
4 I really don't know. I'm speculating so I shouldn't
5 speculate. I'm sorry.

6 **MR. ENGELMANN:** Because the matter had only
7 been discussed between you and Messrs. MacDonald --

8 **MSGR. LAROCQUE:** The two lawyers.

9 **MR. ENGELMANN:** --- and Leduc.

10 **MSGR. LAROCQUE:** That's right.

11 **MR. ENGELMANN:** And there was a
12 confidentiality provision that I'm about to talk to you
13 about with respect to Mr. Silmsler.

14 **MSGR. LAROCQUE:** I never gave instructions
15 that it was not though.

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

17 And do you know, sir, if the lawyers, Mr.
18 Leduc, who had been the Diocesan lawyer and/or Mr.
19 MacDonald who was representing the priest, would they have
20 been aware? Do you know if they were aware of the limits
21 on spending and the need to go to a finance committee?

22 **MSGR. LAROCQUE:** I doubt that -- well, they
23 might have because Malcolm MacDonald was on the finance
24 commission of St. Columban's Parish so he may have known.

25 **MR. ENGELMANN:** And what about Mr. Leduc?

1 **MSGR. LAROCQUE:** He may have known as well
2 as Diocesan lawyer. I'm not sure. I'm just speculating
3 there too. I don't know. I have no evidence.

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

5 So, sir, I think you've told us with respect
6 to the release and undertaking you played no role in its
7 preparation?

8 **MSGR. LAROCQUE:** Absolutely not.

9 **MR. ENGELMANN:** And you knew some form of
10 release was being prepared but you didn't know the exact
11 wording. Is that fair?

12 **MSGR. LAROCQUE:** That's true.

13 **MR. ENGELMANN:** And you had given some
14 instruction about what should not be in the release?

15 **MSGR. LAROCQUE:** That one statement about no

16 ---

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

18 **MSGR. LAROCQUE:** The one statement about no
19 criminal activity is to be denied the person involved.

20 **THE COMMISSIONER:** Had there been any
21 conversation during your meeting about this?

22 **MSGR. LAROCQUE:** I had insisted on that. I
23 had insisted on that because that was part of the
24 conversation that we had had with the bishops.

25 **THE COMMISSIONER:** Right.

1 **MSGR. LAROCQUE:** That ---

2 **THE COMMISSIONER:** I understand that, but in
3 your meetings with Mr. MacDonald and Mr. Leduc ---

4 **MSGR. LAROCQUE:** Yes, the second one.

5 **THE COMMISSIONER:** --- the second one, did
6 they talk about, "Well, this way there won't be any
7 criminal proceedings" or was there -- the word "criminal",
8 other than from your mouth, was it ever voiced from those
9 two during the second meeting?

10 **MSGR. LAROCQUE:** I know that I voiced it but
11 I don't know whether they did or not. I'm not sure.

12 **THE COMMISSIONER:** Okay.

13 **MR. ENGELMANN:** Given your concerns about
14 not interfering, did you make that point very clear to your
15 counsel, to Mr. Leduc?

16 **MSGR. LAROCQUE:** Well, they were both there.
17 I made it to both of them at the same time.

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

19 But Mr. MacDonald was not your lawyer.

20 **MSGR. LAROCQUE:** No.

21 **MR. ENGELMANN:** Okay, but they were both in
22 agreement that that would not happen?

23 **MSGR. LAROCQUE:** That's the instruction that
24 I gave -- the only instruction I gave them.

25 **MR. ENGELMANN:** And did you ask your counsel

1 to prepare the release or did you care who prepared the
2 release?

3 **MSGR. LAROCQUE:** I had no knowledge as to
4 who was going to do it.

5 **MR. ENGELMANN:** Did you ever ask your
6 counsel to see the release before Mr. Silmser was asked to
7 sign it?

8 **MSGR. LAROCQUE:** No, I did not. That is his
9 -- he's hired by the Diocese. That's his job.

10 **MR. ENGELMANN:** All right. It never
11 occurred to you to ask to review the documents, sir?

12 **MSGR. LAROCQUE:** No, sir, no.

13 **MR. ENGELMANN:** So would it be fair to say
14 that you ---

15 **MSGR. LAROCQUE:** That's why we have a lawyer
16 for the Diocese.

17 **MR. ENGELMANN:** Fair enough.

18 Let's take a look at it for just a minute,
19 if we can. It's Exhibit 263.

20 **THE COMMISSIONER:** Two-sixty-three (263)?

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MR. ENGELMANN:** Sir, it's my understanding
23 that, at least you've said in the past, that you didn't see
24 this document until sometime in January of 1994.

25 **MSGR. LAROCQUE:** I know -- yes, and ---

1 **MR. ENGELMANN:** Am I correct?

2 **MSGR. LAROCQUE:** Yeah, that's correct.

3 That's right.

4 **MR. ENGELMANN:** And before that, did you
5 ever see a draft of the document?

6 **MSGR. LAROCQUE:** Not at all, no.

7 **MR. ENGELMANN:** All right. So neither your
8 lawyer nor Malcolm MacDonald would have provided you with a
9 draft of this document?

10 **MSGR. LAROCQUE:** No, they did not.

11 **MR. ENGELMANN:** And sir, in the document, if
12 you look at it for a minute, it does reference you -- it's
13 a full release and undertaking not to disclose from David
14 Silmser to not just Father Charles MacDonald but also to
15 you?

16 **MSGR. LAROCQUE:** Right.

17 **MR. ENGELMANN:** And to the Roman Catholic
18 Episcopal Corporation for the Diocese of Alexandria-
19 Cornwall.

20 **MSGR. LAROCQUE:** Right.

21 **MR. ENGELMANN:** All right. And in the first
22 paragraph, it talks about money to be paid. And it talks
23 about Mr. Silmser releasing all of you from any further
24 actions. In the second paragraph ---

25 **MSGR. LAROCQUE:** Yes, that's the famous one.

1 **MR. ENGELMANN:** Okay. So you've seen this
2 before now in January of '94?

3 **MSGR. LAROCQUE:** That's right. That's what
4 struck me.

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

6 **MSGR. LAROCQUE:** As soon as I read it, it
7 was a bombshell.

8 **MR. ENGELMANN:** Because it says:

9 "In addition to aforesaid release and
10 for the said consideration, I hereby
11 undertake not to take any legal
12 proceedings, civil or criminal ---

13 **MSGR. LAROCQUE:** Exactly.

14 **MR. ENGELMANN:** --- against any of the
15 parties."

16 Right?

17 **MSGR. LAROCQUE:** Right.

18 **MR. ENGELMANN:** And he also says he will:

19 "...immediately terminate any actions
20 that may not be in process."

21 **MSGR. LAROCQUE:** That's right.

22 **MR. ENGELMANN:** And, sir, you would have
23 known or presumably been informed that the only matter that
24 was in process at the time of the settlement was a criminal
25 complaint. There had been no civil action filed.

1 **MSGR. LAROCQUE:** I would have known ---

2 **MR. ENGELMANN:** You would have known ---

3 **MSGR. LAROCQUE:** --- at what point?

4 **MR. ENGELMANN:** At the time of the
5 settlement that there was no civil action that had been
6 filed. The only thing that was in play was a criminal
7 complaint.

8 **MSGR. LAROCQUE:** That's why I made the
9 emphasis about not interfering with the criminal complaint.

10 **MR. ENGELMANN:** And if you had seen this
11 document before it was signed, sir, would you have
12 authorized this provision?

13 **MSGR. LAROCQUE:** Absolutely not.

14 **MR. ENGELMANN:** Sir, let's look at the third
15 paragraph then.

16 **MSGR. LAROCQUE:** All right.

17 **MR. ENGELMANN:** The third paragraph says:

18 "In addition to the aforesaid release
19 and for the said consideration, I
20 further hereby undertake not to
21 disclose or permit disclosure directly
22 or indirectly of any of the terms of
23 this settlement or any of the events
24 alleged to have occurred."

25 Right? So that's a confidentiality

1 provision not just with respect to the terms of the
2 settlement but also about ---

3 **MSGR. LAROCQUE:** The accusations.

4 **MR. ENGELMANN:** --- any of the accusations.

5 And it then goes on to say, in the next paragraph:

6 "Breach of this undertaking will
7 constitute a breach of settlement
8 agreement as evidenced by this release
9 and I will refund all amounts paid to
10 me forthwith."

11 **MSGR. LAROCQUE:** Yeah.

12 **MR. ENGELMANN:** All right. So I don't --
13 again, I know you're not a lawyer, but you understand, do
14 you not, sir, from that provision that Mr. Silmsen would
15 not be able to talk about what allegedly occurred.

16 **MSGR. LAROCQUE:** That's what it says.

17 **MR. ENGELMANN:** And if he did, he would have
18 to pay back the money.

19 **MSGR. LAROCQUE:** That's what it says.

20 **MR. ENGELMANN:** All right. So again, sir,
21 if you had seen that provision, would you have authorized
22 the signing of this document?

23 **MSGR. LAROCQUE:** No, I would not.

24 **MR. ENGELMANN:** And did you instruct your
25 counsel or counsel for the priest to put provisions like

1 those in this document?

2 **MSGR. LAROCQUE:** As I've told you before,
3 the only instruction I gave them was what I told you,
4 nothing else.

5 **MR. ENGELMANN:** And you saw this document
6 only after information about the settlement had already
7 been released to the media; do I have that correct?

8 **MSGR. LAROCQUE:** That's right.

9 **MR. ENGELMANN:** Now, Mr. Leduc has testified
10 here. I don't know if you had an opportunity sir, before
11 your evidence to listen to any of the testimony here or
12 read any of the transcripts; did you?

13 **MSGR. LAROCQUE:** Some of them but not all of
14 them.

15 **MR. ENGELMANN:** Fair enough. And did you
16 happened to listen to Mr. Leduc's evidence or read some of
17 it?

18 **MSGR. LAROCQUE:** I can't recall.

19 **MR. ENGELMANN:** All right. Well, he told us
20 several things. He told us that he never looked at the
21 final draft of this document before it was signed by Mr.
22 Silmser. All right? He also told us that he was not
23 present when Mr. Silmser signed the document.

24 **MSGR. LAROCQUE:** That's quite evident, it
25 was another lawyer.

1 **MR. ENGELMANN:** And thirdly ---

2 **MSGR. LAROCQUE:** It's right on the
3 agreement.

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

5 **MSGR. LAROCQUE:** It's right on the agreement
6 that it was another lawyer that signed when Silmsen signed.

7 **MR. ENGELMANN:** Oh, yes, there was the
8 lawyer that had been engaged to provide independent advice.

9 **MSGR. LAROCQUE:** Yeah.

10 **MR. ENGELMANN:** But this was not done in Mr.
11 Leduc's presence. It was done at Mr. Malcolm MacDonald's
12 office.

13 **MSGR. LAROCQUE:** Okay.

14 **MR. ENGELMANN:** All right. He also
15 testified that when the documents were sent to him after
16 signing them -- after they were signed, in a sealed
17 envelope, that he did not open the envelope to look at the
18 release to see whether it had been signed or what it said.
19 He didn't open the envelope.

20 And he also told us that he then delivered
21 the envelope, unopened, to your Bursar.

22 **MSGR. LAROCQUE:** That's what I was told,
23 yes.

24 **MR. ENGELMANN:** And then we know that he
25 arranged for funds to be paid from the Diocese to him and

1 then on to Malcolm MacDonald to pay to Mr. Silmsner, again
2 without having looked at the document. All right?

3 Now, I'm just wondering, did you instruct --

4 -

5 **THE COMMISSIONER:** Yes?

6 **MS. ROBITAILLE:** Sorry, I think my friend
7 got the timing wrong.

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

9 **MS. ROBITAILLE:** That the cheque was
10 arranged prior to the release being signed. It's just a
11 small point.

12 **THE COMMISSIONER:** Yeah.

13 **MS. ROBITAILLE:** And there was another --
14 yes, my friend said that Mr. Leduc delivered the document
15 to the Bursar. His evidence, if I recall it correctly, was
16 that the Bursar came to him and picked up ---

17 **THE COMMISSIONER:** There's two then -- but
18 the Bursar said he ---

19 **MS. ROBITAILLE:** Yes, yes. But I think
20 we're doing a recount of Mr. Leduc's evidence.

21 **THE COMMISSIONER:** Okay.

22 **MS. ROBITAILLE:** I just wanted to make sure.
23 Thank you.

24 **THE COMMISSIONER:** Mr. Englemann?

25 **MR. ENGELMANN:** I don't think anything turns

1 on it for the purpose of my questions.

2 THE COMMISSIONER: Okay.

3 MR. ENGELMANN: Did you ever instruct your
4 lawyer not to review the final draft of the release before
5 it was signed?

6 MSGR. LAROCQUE: No, I would not do that.
7 It's his responsibility to look at it, to check it.

8 MR. ENGELMANN: Did you ever tell him not to
9 attend at the office when it was to be executed?

10 MSGR. LAROCQUE: I had nothing to do with
11 that.

12 MR. ENGELMANN: Did you ever instruct him
13 not to look at the document after it was signed?

14 MSGR. LAROCQUE: No.

15 MR. ENGELMANN: Did you even instruct him
16 not to look at the document and pay out Diocesan funds?

17 MSGR. LAROCQUE: No.

18 MR. ENGELMANN: When did you first become
19 aware of this statement by Mr. Leduc that he had not
20 reviewed the final draft?

21 MSGR. LAROCQUE: It would be after I had
22 looked at it myself, I think.

23 MR. ENGELMANN: Sir, you've told us on
24 several occasions that it was important for you that there
25 be no interference with a criminal process. I have that

1 right?

2 **MSGR. LAROCQUE:** Absolutely.

3 **MR. ENGELMANN:** And that you were concerned
4 about the settlement being viewed as, I think you used the
5 term, "hush money" at one point.

6 **MSGR. LAROCQUE:** Or a buy-out, one of the
7 two, yes.

8 **MR. ENGELMANN:** Okay. In light of those
9 concerns, in hindsight, sir, do you believe you should have
10 read the settlement documents to be certain those
11 settlement documents would not have affected or interfered
12 with the investigation or adjudication of the Father
13 Charles MacDonald case?

14 **MSGR. LAROCQUE:** I left that in the hands of
15 the lawyer who was responsible to the Diocese; that's why
16 he's hired.

17 **MR. ENGELMANN:** So you were totally reliant
18 then on the word of your lawyer?

19 **MSGR. LAROCQUE:** Exactly. That he would
20 protect the interest of the Diocese.

21 **MR. ENGELMANN:** I'm about to switch topics,
22 sir. I can continue if you'd like.

23 **THE COMMISSIONER:** No, I think it's been an
24 hour and I think we should keep up with that. So let's
25 take a break.

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

3 This hearing will resume at 12:00 noon.

4 --- Upon recessing at 11:42 a.m. /

5 L'audience est suspendue à 11h42

6 --- Upon resuming at 12:00 p.m. /

7 L'audience est reprise à 12h00

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

10 This hearing is now resumed. Please be
11 seated. Veuillez vous asseoir.

12 **MONSIGNOR EUGÈNE LAROCQUE, Resumed/Sous le même serment:**

13 --- **EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.**
14 **ENGELMANN (Cont'd/suite):**

15 **THE COMMISSIONER:** Thank you.

16 Mr. Engelmann?

17 **MR. ENGELMANN:** Mr. Commissioner, during the
18 break, I was spoken by the Witness Support individual on --
19 in here working at the Inquiry, Patrick Lechasseur -- I
20 always have trouble with Patrick's last name, I'm sorry.

21 **THE COMMISSIONER:** Lechasseur.

22 **MR. ENGELMANN:** Lechasseur.

23 **THE COMMISSIONER:** The hunter.

24 **MR. ENGELMANN:** Yes.

25 **(LAUGHTER/RIRES)**

1 **MR. ENGELMANN:** I'm -- it's much easier for
2 me to say that in English.

3 And he advised me that Monsignor LaRocque
4 was quite tired and would prefer that I not go into a new
5 area right now.

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

7 **MR. ENGELMANN:** So with that in mind, sir,
8 perhaps it would be best that we just take our break. The
9 witness has to come back in any event obviously.

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

11 **MR. ENGELMANN:** And as I understand it,
12 we're next here on August 25th, at 9:30 in the morning.

13 If that suits you, sir, that would be my
14 suggestion.

15 **THE COMMISSIONER:** Okay. I think that's a
16 wise decision.

17 Monseigneur, je comprends après trois jours
18 et demi en train de répondre des questions que ça peut être
19 difficile. Donc nous allons remettre l'audience au 25 août
20 à 9h30.

21 **MONS. LAROCQUE:** Merci.

22 **LE COMMISSAIRE:** Bon voyage de retour.

23 Enjoy the break and we'll see you back then.

24 Thank you.

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 This hearing is adjourned until Monday,
3 August 25th at 9:30 a.m.

4 --- Upon adjourning at 12:02 p.m. /

5 --- L'audience est ajournée à 12h02

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

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



Dale Waterman, CM