

SUPERIOR COURT OF JUSTICE

5 B E T W E E N:

LISA CAVANAUGH, ANDREW HALE-BYRNE,
RICHARD VAN DUSEN, TIMOTHY BLACKLOCK
and MARGARET GRANGER

10 Plaintiffs

- and -

15 J. ALASTAIR HAIG, MARY HAIG,
GRENVILLE CHRISTIAN COLLEGE,
THE INCORPORATED SYNOD OF THE DIOCESE OF ONTARIO,
CHARLES FARNSWORTH, BETTY FARNSWORTH
and JUDY HAY

20 Defendants

T R I A L P R O C E E D I N G S

25 BEFORE THE HONOURABLE JUSTICE J. LEIPER
on October 1,2, 2019, at TORONTO, Ontario

APPEARANCES:

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T A B L E O F C O N T E N T S

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F. Lukawecki - in-Ch.
(Ms. Lombardi)

TUESDAY, OCTOBER 1, 2019

U P O N R E S U M I N G:

5

THE COURT: Good morning.

COURT REGISTRAR: Good morning, Your Honour.

10

THE COURT: There's one holdover piece of business from yesterday I wanted to raise with counsel. Mr. Vincent drew a sketch and he referred to it in his evidence, I don't believe it's been made an exhibit. Oh, Madam Registrar has it. What's your view on whether we should mark that as an exhibit?

15

MS. LOMBARDI: I think we're fine with marking it, Your Honour.

THE COURT: All right. Does that make sense to you?

MR. BOGHOSIAN: That's fine.

20

THE COURT: Yeah, okay. So let's make that the next exhibit.

COURT REGISTRAR: So that will be Exhibit 34.

THE COURT: Exhibit 34, sketch.

25

EXHIBIT NUMBER 34: Sketch made by Mr. Vincent -
Produced and marked.

THE COURT: All right. Thank you.

MS. LOMBARDI: Our next witness is Francois Lukawecki.

30

FRANCOIS LUKAWECKI: AFFIRMED

EXAMINATION IN-CHIEF BY MS. LOMBARDI:

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Q. Good morning, Mr. Lukawecki.

A. Good morning.

Q. May I call you Francois?

A. You may.

5 Q. Thank you. Francois, can you tell us where
you live?

A. I live in Montreal.

Q. And what do you do for a living?

10 A. I'm a teacher. I'm an elementary school
teacher. I've been teaching now for 24 years. Four years in
Ontario and the remainder all at the same school in Montreal. I
teach music at the elementary level from pre-K to grade six.

Q. And when did you attend Grenville Christian
College?

15 A. I attended Grenville for four years, from the
start of the school year in 1987, when I was 14, until my
graduation at the end of June in 1991.

Q. And what grades were those for you?

A. Grade 10, 11, 12 and OAC, which is grade 13.

20 Q. Thank you. And how did you attend -- come to
attend Grenville? Where did you attend in grade nine?

A. So in grade nine I attended a public school
in the south shore area of Montreal. And that's when I lived
with my mother, but over the course of the -- of that school
25 year my father decided to take custody of me and that was
granted by mother. So my father lived in Africa, in Guinea,
worked for a company that mined bauxite and my father -- so in
that summer I went to Africa. I had been to Africa before to
visit my father. He moved there before he took custody of me
30 and so my father came to Canada at the end of my grade nine year
to visit Grenville Christian College. It had been recommended
by the other expatriates working at the same company as my

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5 father and so there were other expatriates from that company at Grenville Christian College. It was kind of a formality, the visit. I was interviewed even though my English skills were quite limited at the time. But the reason why it was -- you know, we didn't visit any other boarding schools, is because my father needed a school where boarding would take place on the weekend as well as during the week.

Q. Okay.

10 A. And I don't know that there was any other school that did that in the region.

Q. What were your first impressions of Grenville?

15 A. Ah, so my -- you know, I didn't speak a lot of English so I -- a lot of my impressions were based on body language and observing the other students. I hated it. I hated it from the start. There was something strange about the school. All the students seemed to behave. Nobody misbehaved. I found that really strange for a high school. The staff were all so friendly in the beginning but -- I don't know, when
20 you're a child sometimes you pick up on things that you don't have the vocabulary to -- to -- to not see through kind of a psychic energy, I guess if I could describe it as that. Anyway, it -- there was a bad feeling about this school. There was a bad feeling I got from the staff. I noticed really quickly that
25 all the women had short hair and I remember thinking that that was just such a bizarre thing, that there was not a single staff lady that had long hair.

30 And I learned pretty quickly that they also live on campus and I found that really bizarre, you know, and also that the staff ladies never wore pants, always wore long skirts. So coming from Montreal, maybe, I don't know, coming from where I came from, a public school and the Quebec culture perhaps, I

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was shocked. I felt like I had travelled back in time, maybe. And definitely my first impression regarding the students was that something was off. That -- I couldn't understand why everybody would behave and I -- you know, I'm -- I was a 14 year old boy and I'm a prankster. I'm good humoured. I like to laugh. And very quickly it was established that this was not okay. That this was going to get muffled.

As an example, there was a boy in my class called Dan Shay and at this time Suzanne Vega had a popular song called Luka -- "my name is Luka, I live on the second floor", so I changed to the lyrics to (French) which translates as, "my name is Dan Shay, I live in a gay's room". And I just thought it was funny because it rhymed and -- and I got brought out into the hallway by some prefect who interrogated me. "Are you gay? Why are you saying your room is gay? What did Dan Shay do? Why are you saying he's gay? Do you know gay is evil? Don't -- is this the kind of school you want to have? Do you want to go back home? If you're gay we're not going to put up with it".

And this was like -- at bedtime, so I was exhausted. I was in my pajamas in the hallway. This is just an antidote of how it became clear to me quickly that misbehaving was not an option. No one was misbehaving. And those who did were, as we'll discuss later, very severely punished.

Q. Okay.

A. Continuing along with your question of my first impressions. I found the process of the dining room very odd. We weren't -- we were assigned tables. We weren't allowed to chose where to sit. I thought that was odd for a high school to not be able to sit with your friends and there was a staff member at every table. So once again, could not misbehave. We didn't have options for food. You know we ate what was there. I'll say the food was delicious but we didn't have options. It

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5 just felt -- it felt very constricting. And then there was
Father Farnsworth at the head table who had a little microphone,
a little tripod, right in front of his meal. And he would turn
on that microphone during meals constantly, several times per
meal.

10 And he would call out somebody, "You're elbows
are on the table" or "I can see you chewing with your mouth
open", and I'm sorry for approaching the microphone and doing
this but I want to kind of show the dramatic effect that we're
all chewing and suddenly, "Francois, your elbows are on the
table", or you know, he would bring up -- I'm sorry, did I hurt
anybody's ears? I apologize.

15 So that was shocking to me, to have these
shocking moments at the table and Father Farnsworth, himself, my
first impressions of him again, not being able to understand
what he was saying, he scared me. He scared me from the
beginning, and yet he was very charismatic and he was a man who
smiled and he was a man who joked, but I didn't -- I had bad
feeling about this man. And he was very handsy, you know he --
20 lots of touching. Very huggy, grabbing people, very touchy
feely but you can -- you could see people's demeanour as they
were being touchy feelied [sic] that they didn't like it. At
least that's what I observed and I certainly didn't like it.

25 He had one eye that didn't open quite properly so
it always looked like he was looking at you with this one eye
and he had a sadistic kind of look about it. And I'm using the
word sadistic now as an adult but as a 14 year old I didn't have
that vocabulary so the way I would have described it in those
days was he was just scary. He -- he kind of looked like he
30 came out of a horror movie. He had this -- this smile that was
threatening at the same time.

Q. Thank you. So when you attended Grenville

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you -- you resided there? You boarded there?

A. Four years.

Q. And so can you describe for us your dorm residence?

5 A. Sure. The dorm was in the back of the academic building. It was a new building when I went there. In fact, I believe it was the first year it was -- the first full year that it was occupied. It was very modern. It was very clean, cause we cleaned it. Each room had six students residing
10 in them, set up in three bunk beds. On one side were the four bunk-beds, on the one wall and on the opposite wall was one set of bunk-beds and then our six lockers and a window. And we were not allowed to decorate our room at all. It was forbidden. We could not put anything on our lockers. We could not use our own
15 bedspreads. We had to use the school bedspread. You could have a red one or you could have a blue one and you didn't get to chose, that's the one that was handed to you.

 And, again, as a new student, who came in from a public school, who had like a massive love of pop music, I
20 wanted to put some posters and, you know, I was into French pop music, of course, so to me I wanted to have some -- a little souvenir of home, I guess, you know, like Daniellea, Maxon St. Clair, and another one -- no one has heard of these artists but these are the artists I listened to. I wanted to, you know,
25 maybe put a little poster or something and I was told, "You cannot do that. You can put it on the inside of your locker but when the locker's shut we don't want to see anything of you".

 At the end of the hall there was either an ironing -- there usually was an ironing room. There was the
30 bathroom, which had two stalls, one urinal and four shower stalls with a curtain and a window. And there were three -- two floors like this -- actually, I don't remember if it was two or

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5 three floors. One thing about the dorm is that we changed rooms often. It was a pain in the neck. It was at least three times a year and if they didn't like the combination of students, the you know, the energy let's say then they would move one student or they would redo the entire room assignment, but that happened several times a year and it was, as you can imagine, just very annoying because you -- you built bonds with your roommates but then that bond was gone. You got to learn everybody's routine, who's going to go to the shower first, who's going to try to
10 sleep in, that was gone too.

15 Personally, I -- you know, I've never liked to be nude in public or in my underwear and so after a few weeks I would be a little more comfortable changing in front of my new roommates, but then that was taken away again, and again, and again. So -- that's -- what else can I say about the dorm? We had to clean the dorm ourselves.

20 Every morning there was a period of time before going to the national anthem that we had to -- each room had to clean and then a staff member, during breakfast, would come in and grade our cleaning and give us points based on the quality of our cleaning and then these points were posted outside the bathroom of each floor. You know, there's an area for each room in this sheet. And I remember after breakfast before the rush to the dorm to brush your teeth but also to look at the points
25 they had gotten or not gotten and then drama would ensue or celebration would ensue.

Q. And can you describe for us a typical weekday timetable at Grenville? You mentioned getting up and having to clean the dorms. How did the rest of the day go?

30 A. Okay. So on Sundays we privately had to wake ourselves up because we had some duties in the kitchen usually, breakfast prep. That was not everyday but everybody had some

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breakfast prep. And if that was the case you would, basically, do your breakfast prep until it was time to eat and then the day would continue. But now I'll describe when you didn't have breakfast prep because that was usually the case. So we would
5 be awoken if we hadn't awoken ourselves around -- I want to say six thirty, between six thirty and seven. There was a period of time, maybe 20 minutes that we were given for personal grooming, making our own beds and then there was the room cleanup.

10 So each room had to -- you know, the members of that room had to clean their room but also we had other assignments, like the mudroom, the hallway, the vacuuming, tasks of that nature. Then we went to the area outside the school, which is a circular driveway where we would sing the "God Save the Queen" and the "Oh, Canada". We would then make our way to
15 the dining room where we had breakfast and on a normal day where we went to school right away because often school was delayed because of bible study, on normal days we would have like maybe a 15 minute period, like I said, to go to the dorm to brush our teeth, check out our points, grab our belongings for our class
20 and make our way to class.

As I remember there were -- there were two periods in the morning, a lunch period, and two periods in the afternoon. I may be wrong about the exact setup. There wasn't a recess per se. There was a brief period -- maybe a five
25 minute period between those periods to go from class to class and gather the proper belongings. After school we had to participate in some extracurricular activity. So that could be cross country running, choir, volleyball, basketball -- that -- you know, typical activities except sometimes we were assigned
30 other cleaning duties during that period of time. Then when those activities were over there was another brief period of time, maybe half an hour, let's say where we, you know, could go

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shower after sports and get ready for supper.

5 And supper, then again a brief period of time, maybe half an hour to go to the -- go to our rooms. Actually, no that period of time was a little bit longer because that's the period of time when some TV was allowed. Supervised television watching. Usually, it was Star Trek the Next Generation, but that's when also choir practices would take place, also, right after -- after supper. And then we had to make our way back, still in uniform, still wearing a tie, to the dining room again, for study hall. And study hall would end at 10 for -- for everyone who wanted it to end and for the grades seven and eight, they had to stop at 10.

15 And then we went to our room to tear down our beds and have a snack, which was usually a cookie or two, and then the older students were allowed, if they wanted to, to return to dining room, to study hall in the dining room for another hour until 11:00. Some -- on Wednesdays -- on some days of the week there was a mass which would take place in the morning and so that would kind of shift a little bit, the -- the time line that I've just described. It would shifted it forward and in the evening, two or three times week, there was a compline -- I believe that's what it as called, compline, an evening service that was mandatory which lasted maybe 15 - 20 minutes and so that would have been inserted at the end of the first study hall and before the second study hall.

20 Q. Okay. You mentioned extracurricular activities. Which did you participate in?

30 A. I participated in cross country running, quite unwillingly but you had to pick something. I hated sports at that age. I participated in the choir. I participated in the debating team. I participated in the public speaking team. And I was manager of the senior boy's basketball team one year.

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I participate in the Gilbert and Sullivan operetta productions. And I played French horn so I was in -- in most of the bands or orchestras that were organized.

Q. What kind of a student were you?

5 A. So getting good grades for me has always been extremely easy. In fact, I skipped a grade which is why I was 14 in grade 10 and not 15 as normal. So I had skipped -- I had, actually, not really skipped. I had been selected for a special
10 program in grade seven where we did grade in half a year and we did grade eight in the other of the year, this was at the public school. So academically I was excellent. I was on the honour role all the time, I'd like to say, maybe even most of the time, would be more accurate, I don't know. I'm -- I was a very fun loving boy so like I said I was a prankster. I liked to tease.
15 I was a, you know, mischievous but not -- not a lot. You know, I liked to make the teachers laugh, for example, so I wasn't the kind of mischievous that made the teachers angry in class. I was the kind of mischievous that usually would make the teachers laugh and I found I was often one of the teacher's pets, I can
20 say that but it's -- it's a fact.

Q. Okay. You mentioned when we were going over the time -- the timetable of a typical day, you mentioned there was some atypical events that would happen that would shift the timetable. You mentioned first, that in the -- in the dining
25 room after breakfast there would sometimes be bible study?

A. Right.

Q. How often did that occur?

A. At least once a week. It -- and it was aleatory. It depended on what kind of evils had infected the
30 school. So there were some periods of time when Father Farnsworth declared that, you know, we're going through a rough patch. There's a -- there's this bad spirit about the school.

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That's a bad student among you and we're going to pray it out. And so we were all given -- it was called the one year bible and, basically, the bible had been fractured into relevant versus and themes and then allocated over 365 days. So we
5 didn't do that everyday but Father Farnsworth kind of used that as a starting point, often, to do this bible study but these bible studies could be extended until 11 o'clock. If they went as long as -- as he deemed necessary. Like I remember very frequently saying, "Okay, guys, we're going to go to second
10 period now. So everybody go get your stuff and we're going to second period".

And okay, well, there goes -- I didn't have to do my test. Hallelujah. Or I didn't get to prepare for my test, which also happened, because if you had a study hall first
15 period and that study hall got cancelled, surprise. Now's your test. So that -- you're asking me how often did it happen? It happened at least once a week. At least once a week. How often did it happen that we engulfed our first period? At least twice a month. For sure. This is, actually, why they invented the
20 upside down day. Because we missed first period so often that, I'm assuming the teachers complained, but whatever was the reason they would flip the day upside down.

So they would say, "Okay, today's an upside down day. You're starting with your last period", so that -- well,
25 we're starting with the last period but it's cancelled so you're going to your second last period so that at the end of the afternoon we could have our first period of class, because I imagine that if they never did that at the end of the term we would have lost like, I don't know, 12 classes of the first
30 period.

Q. How many upside down days do you remember?

A. Two or three per term. I could be wrong.

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It's a -- the number is a vague memory.

Q. Okay. Just to go back to keep talking about these bible study sessions.

A. Hm-hmm.

5 Q. What were -- you said bad attitudes. What were some of the other topics of these -- these sessions?

A. Well, Satan. Girls.

MR. ADAIR: Sorry, what was the last one?

10 THE WITNESS: Satan. Girls. Sex. But in a very Grenville way to talk about sex which I can discuss later if you want, cause it was twisted. Other topics for the bible study? Well, homosexuality. You know, look at all the sins. Lying. Coveting other people's objects. I mean.

15 MS. LOMBARDI: Q. And what were those -- those sessions like? How -- can you run us through an example of one session that you -- that you were in that you recall?

A. There's one in particular because it terrorized me because I'm -- I'm gay. And I knew I was gay well
20 before I went to Grenville and you know being gay was a grounds for dismissal. I don't know if it was every explicitly said but it was implicitly said that they better not find out you're gay, if you're gay. And it was, you know, through their hatred and their speech towards homosexuality that the kids pick up on
25 that.

Anyway, there was a boy that was rumoured to be gay. His name Thomas Racine and this was a school-wide rumour. And I remember Father Farnsworth making him stand up in the dining room and going to such and such a page where there were
30 excerpts about how God condemned homosexuality. And I can't quote you those verses but, you know, he made Thomas read those out loud and then he would ask him, "What do you think that

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means? What does that imply? So what do you think about men having sex with men?" and he totally put him on the spot.

5 "Okay, Thomas, you're going to got to page 345 now. Read -- read verse two to seven", and I mean I was shaking. I was petrified that my turn was coming because, I mean I was very effeminate.

10 I was constantly told to butch it up. I was told to not be so feminine. I was called a fag constantly. So I don't know, I think I'm digressing here but that's an example of our bible study. Sometimes the bible study would just be -- it wasn't picking on somebody. Sometimes it would just be whatever verse had caught Father Farnsworth's attention, he would just go on this extended sermon, you know it -- yes, sometimes it was absolutely singling out students. Sometimes there was kind of
15 like ranting, going on and on and telling stories and Jesus in my life and the power of God and it would just -- it would just go on and on.

Q. How did you feel in those sessions where people would be singled out?

20 A. Oh, just mortified. Mortified. It's weird. As teenagers we have a lot of -- as a teenager I had a lot of natural empathy, I think, and a desire to really fight when there was an injustice, and this felt so, so, so unjust and we -- I couldn't do anything. I couldn't speak up so I was
25 mortified for the student. I felt embarrassed but I also felt angry that I couldn't respond. I couldn't stand up for that friend because I -- guaranteed if I did I would become the next target. That's -- anyway, nobody ever did. Not a teacher, not a student. These tirades went on and they were not ever
30 interrupted.

Q. And was it just Father Farnsworth interacting with the students at these sessions?

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5 A. Mostly. And usually it was initiated by him. But he was joined by other members of the staff frequently. Donald Farnsworth, his son; Mrs. Farr; Mrs. Farnsworth, his daughter-in-law; Mrs. Mayberry; Ms. Childs -- Mrs. Childs, sorry. When they felt they had something relevant to contribute to the reprimanding of the particular individual or the group of individuals, because it wasn't always just one, they would just -- they would either come up to the head table and join in or they would talk from their -- from their assigned table. And 10 the students sometimes did that, too.

No, sometimes -- not sometimes, often students would participate in that also. Prefects, leaders. It was -- it was encouraged to participate when somebody was reprimanded because we were helping -- they were helping us get to our sin. 15 They were helping us get to the root of our sin, so because they were helping us, if a student wanted to help then that was encouraged and it's those students that helped the most that were rewarded with pins, student -- leader pins and prefect pins and things of that nature.

20 Q. You mentioned some of the other topics being Satan, girls, lying. Can you give us an example of a sermon or a talk that you remember about Satan?

A. Oh, boy, okay.

Q. Was that a topic often discussed?

25 A. Yes, yes, yes, Satan was a -- was a -- was a -- Satan was all around us. Satan was in the real world out there. They -- and I'm going say "they" now because it's not just Father Farnsworth but the speech that was given by the staff was that we live in a dangerous world and Satan is winning 30 the war and Satan gets into your mind and makes you lie, and makes you crave, and makes you lust, and they were the soldiers protecting us in our little haven of Grenville Christian

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College. But I -- I believe you want something more specific. I remember a speech that Father Farnsworth gave several times about him coming to Toronto to do missionary work.

5 Now, he used the word missionary but it was his own initiative. He would describe coming to Toronto with Dan Ordolani which was kind of like the bouncer of the school, if you will, and going through the streets of Toronto and seeing Satan everywhere and seeing prostitutes, and seeing these women dressed like sluts, and dressed like whores and he talked about
10 how he would, actually, sit down and speak to the homeless or the prostitutes and he would tell us, he would confine in us, that they got there because they let Satan in.

He wasn't telling us a story to say, "You know, I'm such a good man and I brought some -- I brought some good, a
15 little bit of light in these people's life", no, no, no, he -- it felt to me as if he went to Toronto to have a story to tell about how he witnessed people being destroyed by Satan, because that's the way he told the story. That he saw these prostitutes and you know the way -- I remember this because this was
20 shocking. The way they dress, they deserve what they got. And I believe he was implying rape here but he was certainly implying that the horrible life of a prostitute, they deserve it because they dress the way they do.

25 Q. You mentioned -- you said Ordolani was the bouncer of the school, what do you mean by that?

A. I've -- I've seen Dan Ordolani punching
people, elbow -- I was hit by Dan Ordolani. Father Farnsworth told us in one of his sermons that Dan Ordolani had a -- kind of like a criminal past. I don't remember exactly the story but he
30 -- he said that he rescued Dan Ordolani from the streets where he was a thug. And so he -- he dressed well but he's -- he had a foul mouth and he was quick to anger. He was a very

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frightening man. He was a mountain of a man and shoved, grabbed by the arms and hold against a wall. I've seen him do that. I have seen him punch people. I was elbowed in the stomach by him passing by near the dining room. Grabbing someone's chair and shaking it violently in the dining room so you'd see this student kind of like having like a -- something that looks like a convulsion, something frightening anyway. So he used a lot of his physical presence to intimidate and to -- and to -- and to hurt.

10 Q. Okay. I just want to go back to the schedule, if we can, for just one second?

A. Yep.

15 Q. You described a typical day and then some atypical things that would happen in that schedule during the school week.

A. Hm-hmm.

Q. What were the weekends like at Grenville?

20 A. Okay, the weekends. I will preface by saying I have a vaguer memory of the weekends. Maybe just because statistically they happen less frequently than normal school days but I will give you my vague recollection. We were able to sleep in a little bit more but I'm talking like instead of getting up six thirty, seven we got up at maybe seven forty five or eight, which always shocked me. I remember Saturdays and 25 Sundays -- well, maybe not Sunday because we had mass but Saturdays I remember thinking like, "Can't we just sleep in?"

I remember being tired all the time. There was never an opportunity to catch on your sleep. You couldn't nap. The period of time between the periods -- I'm sorry, I'm 30 digressing on your point but the periods of time between the periods were usually like a little 30 minutes so there was no time to nap. Anyway so a little bit of a sleep in. We didn't

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5 have to wear the uniform. We had to wear what they call our casual clothes. So the khakis and the smart shirt tucked in, no T-shirt. Nice dress shoes but not the school uniform. There was a breakfast in the dining room. I just remember vaguely it being a little less structured.

10 So -- like maybe we were allowed to make ourselves toast and there was cereal and we could kind of assemble a breakfast. Maybe the head of the table wasn't there, like the staff head. They got to sleep in. It's vaguess [sic] and then we had blitz, which was a three hour period of -- of chores that were assigned to us and that would rotate. I don't remember the frequency of when it would rotate but you kind of had like, you know, you had like maybe the classroom cleaning; or the bathroom cleaning of the academic building; or you were raking the leaves; or you were cleaning the kitchen, vacuuming the main floor, cleaning the gym.

15 Those are just examples of the tasks that we were given and that was a three week -- a three hour period and we were assigned as -- this was given as teams. So the boys had some teams and the girls had some teams and they organized these teams so that a student leader or a prefect would be in charge of each team, so we weren't supervised by the staff members themselves. And, in fact, this is -- speaking about it now is actually kind of clarifying my memory. Saturday mornings we didn't see the staff a lot. That is what I'm -- as I say it I remember it, because yeah, the breakfast was kind of looser. Not exactly self serve but not led by the staff and the staff weren't there to supervise these cleaning duties. They kind of emerged more around lunch time.

20
25
30 So, there would be a lunch that was the regular structured lunch at your assigned tables. You always had your assigned table. There was never a chance to sit elsewhere,

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never, ever, ever. And then in the afternoon we had options. So you could go into town. You could study. If you were part of the play you would have rehearsal. If you were in the band you had rehearsals. If you were part of the team you had
5 practice. So when I say of choice, you didn't always have a choice. And then there was an organized supper. Again, the same context, but once again not in uniform, and then we had family night on Saturday nights. And this would last two or three hours. It varied from family to family so the heads of
10 each family had to come up with their activity for that family night. Most of the time. Sometimes it was the whole school together but you were congregated around your family. And then we went to bed, I don't know, around ten on Saturdays.

Q. Can you give me an example of one of those
15 family nights? What they were like?

A. Okay. So family night, we were -- well, can I talk about family in general or you just want the....

Q. Just explain what family night is...

A. Okay. So we were...

20 Q. ...and how....

A. ...once again assigned into groups. These were -- regardless of our grade and regardless of our table assignment, because the dining room table assignment changes as often as dorm assignment change, maybe more often. But the
25 family night, that usually stayed -- that was for the whole year. And usually there was a married couple, a staff married couple, and maybe one or two single staff members, and we were assigned to them and then we would go into their townhouse, I guess you would call it, their apartment, the staff apartment,
30 on Saturdays.

There was a tradition of calling the head couple mom and dad, which I always found shocking and I never did that.

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I just found that ridiculous, but the -- the staff kids did it. Their prefects did it. The leaders did it. And by default the senior students did it, so I remember feeling strange about saying, for example, Mrs. Feeling and not saying mom. It was
5 kind of like a betrayal. It put me in the outside of the inner circle just by the fact that I didn't call her mom or him dad, the Fieldings were one year my staff family.

So, examples, to get to your question, I apologize for going around such a long detour. Sometimes there
10 was a movie. We would -- this would be school-wide. They would have gotten school buses and we all went to the movie theatre. That was rare. Sometimes there was a volleyball tournament. That was another school-wide activity and we played as a family against others and then there was frozen chocolate -- frozen ice
15 cream bars for the winning team. Sometimes -- sometimes we would watch a movie in their house. Sometimes we would do a scavenger hunt. Sometimes we worked on a fundraiser.

For example -- and this is a very vague memory but I remember we had to do like a menial task of stuffing gum
20 -- Trident gum packages into other packages, and this was for some kind of fundraiser. I don't remember what it was related to, like maybe the Oktoberfest and these had been like the little -- the welcome gift that everybody gets when they first arrive but I just remember our family was assigned stuffing
25 Trident gums into these bags and that's what we did for those three hours. There's a -- I'm trying to remember specific events.

There was some sports like things that we would do. Like, you know, now I'm getting down to like when each
30 family picked their own thing. Board game night, you know, where you play Twister and these guys they were playing Monopoly and, you know -- square dancing. That was another group --

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5 school-wide group thing and the boys had to dance with the boys
and the girls had to dance with the girls. I remember that
being so odd that, you know, there are these 17, 18 year olds
having to dance with same sex. I mean I was all in favour for
that but -- square dancing. And then there was the yearly Satan
video. I don't know if this is something you want me to talk
about now but it was during family night that it happened.

Q. What was this yearly Satan video?

10 A. Okay. So early in the year, every fall, we
would get brought down to our families and we had to watch this
horrendous video by Geraldo Rivera. Shock journalism, trash
journalism and this was a video about how Satanism is infecting
North America -- well, America, 'cause it, you know, it was
American. I remember being shocked, absolutely terrified by
15 this video and I remember students crying while we watched it.
We were not allowed to not watch it. And I remember young staff
kids, for example, the Feelings had a young boy. Well, when I
was in my first year he probably was seven years younger than
me, so if I was fourteen he was around seven. And I remember
20 this boy being there watching this -- this video and crying.
Like this -- this video was horror -- if you've seen the
exorcist, the exorcist was just one scene of that video. It was
over an hour long. And it was -- there was a -- we were prepped
to see this video.

25 We were prepped in the dining room by Father
Farnsworth about we're going to go into our family night and
we're going to do something very important. It's important that
we see that there is danger outside and that Satan is out there.
I mean this video validated every point he made about demons and
30 Satan. So I -- I remember many specifics but I, actually, dug
it up knowing that I was going to testify and I found this video
on You Tube and wow, the things I remembered were exactly as I

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remembered. And I'm going to give you some examples. I only re-watched half of it. I could not stomach to watch the entire thing but in the first half of this video the things that I remember, animals being killed live. Not a re-enactment.

5 People speaking in tongue when across a cross -- a crucifix made of branches was approached to them. Mutilated cows, mutilated cow head. An eight year old boy speaking about molestation where we were shown a police report where it said "scarred anal fissures". Like you know sometimes on TV shows they do a
10 closeup and they highlight in yellow so I remembered "scarred anal fissures", and then this eight year old boy talked about -- and I will quote it in a moment, he talked about spangs (ph). I don't know what it was but here I quote, "Spangs, they use to stick it up my butt, ow, did it hurt".

15 There were children talking about having to -- having seen children being killed by children. There was a high priest of this church of Satanism who talked about the difference between Christianity and Satanism whereas in Christianity we used bread and wine to represent the body and
20 blood of Christ, but in Satanism we used blood diluted with urine and then we use actual human flesh. What else do I remember from that video? Children saying, "We were molested and we were told if we spoke that they would kill our parents, and they would send us to the devil". Children -- a child
25 saying, "I held a gun to his head and I was made to pull the trigger". Live exorcisms, not a re-enactment.

So, voodoo come Haitian type of procedure. Quite threatening. Well, I don't know. I think I made my point here. It was not appropriate for children to watch. And so I know
30 we're in the context of family night right now but I'm going to continue on this particular topic. So we were just terrorized. I mean people had nightmares. People woke up crying. And this

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5 became the talk of the school for at least a week after we saw the video. It became the thing to talk about. You have to remember we weren't allowed to listen to music. We had very minimal access to TV. So we had to make our own gossip. We had to make our own stories. You know, we were our own journalists. So in the week or weeks after this people -- "Oh, remember when this happened? Oh, my God", and it's as if the video kind of set a boulder off a slight slope and then the boulder just kind of did its own work.

10 And so the video did its own work of we were frightening ourselves. You know, "Oh, my God my aunt talked to me about this, it's true", "No, no, no, when they killed the chicken it must have been fake", "No, my aunt saw it. They do it in that country and they do this", so we just kind of like
15 freaked ourselves out and we just made it worse. And to continue fluffing that fire, you can imagine Father Farnsworth spoke about that video and Satanism for -- for weeks after. It was "The Topic". It was pervasive.

Q. Thank you.

20 A. Hm-hmm.

Q. And what were some of the rules, if we can just shift gears a little bit and talk about some of the rules at Grenville?

25 A. Okay. Well, I mean some rules were just typical rules of a school. No smoking. No swearing. Be on time. Respect everyone. And then there were some rules that were a little more farfetched. If you go out on the lawn for a walk in a group, there must be more girls than boys in your group. You could not be two girls, two boys walking. That you
30 would get in trouble for. You had to be three girls, two boys, or two girls, one boy. But you could not be one girl, one boy. That was a big no no. No music because we were told,

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specifically, that rock music is the product of Satan. And so we were not allowed to have music playing devices, such as Walkman, which was the fashion in the day. Records, CDs, all that -- this was forbidden. You weren't allowed to have a record case.

You weren't allowed to have a cassette and I'll talk to that later because I was severely punished for the fact that I accidentally brought cassettes to school one -- one time but that's one of the rules, no music. No speaking of a foreign language, ever. Not even in the dormitory. And I remember for the Hong Kong students, we had a lot of students from Hong Kong, it was so devastating because I mean it took them a long time to master English. I was lucky I had had a little bit of a base in Quebec public school so I picked it up pretty quickly. I would say by October I was -- navigating quite well on my own.

But these students from Hong Kong, some from Mexico, they were -- they were quite lost and they would find every opportunity to congregate in the staff -- in the dorm rooms and I remember the prefects going "English only. English only", and they would either separate them or reprimand them. And the staff did that too. Like "No -- no Chinese. No Chinese". I remember family night. This was -- this was enforced even at family night because one year I happened to have a lot of students from Hong Kong in my family and again, you know they were just talking to one another and they were told not to do that.

Let's continue along the rules. You had to wear your uniform on the bus or train heading out, when you had a break. You weren't allowed to remove it until you got to your house. And this is a rule that was broken often and it was disciplined for often. People would get on the train and then get out of those clothes. And they -- you know, there was a

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5 huge system of rewarding for tattling so whenever these students
did that they were tattled and then got in trouble when they got
back. No drinking on breaks. So, you know, like the rules
applied at home. No dating on breaks. And I am saying this
because I remember a couple of students that in, I think it was
Jim Graves and Vanessa Dewaille (ph), I may be wrong, had gotten
together on -- on a break in Ottawa, I believe, and -- oh, that
was the scandal of the week when we got back from the break,
that they were put on discipline because they had dated each
10 other.

Okay, continuing with the rules. Going to the
mall we had to wear our uniform and we were assigned groups. We
were usually in groups of four which usually, if they could,
would include a student leader or a prefect and we weren't
15 allowed to break out of our groups and we weren't allowed to go
to the book store. Can I make a tangent on the topic of book
store? Would that be okay? Sorry, I'm like frazzled.

Q. Okay, what would you like to tell us about
book stores?

20 A. I remember one of the assigned reading for a
senior English was one of the classics by Plato maybe and it had
the statue of David on the cover and the staff had glued black
cardboard and they had glued it on all of the covers of the
books to hide the statue of David before giving the kids the
25 book for their English, and I remember that was so odd. And I
do remember inside some books, some black marker because the
books -- we had to purchase our books but they purchased the
books for us so they were given to us when they wanted to.
Sorry, that's my tangent on books because I'm going to forget
30 about it if I don't say it now. More rules.

Q. Were all these rules that you just went over,
were they all sort of written down and known by the students,

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these were the rules of this school?

5 A. I remember a student handbook. It was blue. It was stapled on the side. It must have contained thirtyish pages but I don't have mine anymore. So I couldn't reliably tell you where these rules were but as a teacher I can tell you, I'm sure rules were written somewhere but I think some of these rules were kind of like implicit.

10 For example, the more girls than boys walking rule, I don't think that was written anywhere. That was just kind of like a -- it was passed down from the older generation. So you know, the seniors would kind of let the younger kids know, "Don't, don't, don't. You've got two more -- you've got more boys than girls, you guys. You can't do that", and the students would enforce the rule among themselves to prevent from
15 getting in trouble.

Q. You mentioned when you were talking about the dining room bible sessions...

A. Yes.

20 Q. ...things like bad behaviours would be talked about. So was that another way that the expectations were related to the students?

A. You mean were -- were students who broke some of those implicit rules penalized during the dining room?

Q. Yes.

25 A. Yeah, that was a perfect example of that. For example, Father Farnsworth found out that there was a group of, you know, four boys and two girls, "You girls are sluts. This is what you want? Bitches in heat?" He used that expression frequently. Sorry for the harsh language. You know,
30 I mean part of his spiel is that girls are temptresses and boys are too weak to resist girls and that's why that rule existed. So he would make a -- he would stand him up. "So that's what

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you're doing outside," and I'm putting words in his mouth here but it's along those lines. You know, "That's what you were doing outside? You're four boys with two girls. You guys are wanting or having a gang bang?" another of Father Farnsworth favourite. Yeah. So you know and....

5 Q. You also mentioned when you were talking about the rules applying off campus as well?

A. Yes.

10 Q. And you brought up an example of two students that you said you all learned had been dating and were disciplined for it. Can you walk us through how that came to the student's attention? How did you guys learn that these students had been dating off campus and on discipline?

15 A. I just remember it being discussed but I'm sorry I can't reliably remember the process.

Q. Did you see these individuals on discipline?

20 A. Of course, yes. But that's -- again, because we had no media, you know, the six o'clock news was that when the dining room doors would open who's in their -- who's in their D clothes? And then, of course, everybody's whispering, "Why is Jim Greaves on D? What's going on? Vanessa too. What happened?" and I believe the prefects helped to spread the rumours because it was part of the -- the -- the behavior control. Because if we knew why they were on discipline we were warned not to do the same things they did.

25 Q. And you mentioned also, you said there was a huge system of rewards for tattling?

A. Yes.

30 Q. So how as this, I guess, culture of tattling relayed to the students? How did you know that this was an expectation?

A. So at Grenville, students could earn a

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5 student leader pin or a prefect pin. And that's the order in
which they were awarded and the prefects had almost staff like
authority over the students. You could see the progression
during the course of a year of certain students working closely
with the staff. You know, being goody two shoes, if you want.
And you could know that they had tattled on a particular student
for whatever crime they had committed. And over time you saw
that those were the students that got rewarded. I, myself,
became a leader at one point and so I did experience briefly,
10 thank you, that we were asked, you know, who's misbehaving?
What's going on? Let's us know what's going on, we're here to
support you. We want to help you. Let's us know if there's a
problem in your room. If somebody is having a bad attitude you
let us know, we'll take care of it.

15 So -- and you had to do that if you wanted to
move from leader to prefect because you could lose your student
leader pin, which happened to me, if you didn't continue to
deepen your hole, is I guess what I would call it, by kind of
ostracizing yourself from the rest of the students, but we were
20 such a small student body that you had no choice but to interact
constantly with student leaders and prefects and students that
were working hard to be on their way to become a student
leader/prefect or vice versa, students who were walking away
from that.

25 Q. So how did you lose your leader pin?

A. Okay. So in my third year, in 1989/1990, I
-- at the start of the year was made room leader of a grade
eight room. So grade seven and eight were kind of a -- a
special group at the school. They were treated a little bit
30 differently because they were younger, so they had their own
dorm. Not their own dorm, they had their own room. They
weren't scattered, so you had one older student with five grade

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sevens or grade eights. And maybe they were mixed, I don't remember. So I, actually, found that I loved being a room leader cause these boys were silly and I'm silly and we, you know, I found that I just kind of had a bit of a natural
5 leadership ability that instead of being Napoleonic in making them clean and behave, I was joking around with them all the time and I'd be like, "Okay, you know what guys, that's enough. It's time to go to bed. Let's just turn off the lights", and they respected me for that so I had one of the best rooms.

10 We were always the cleanest room and we were very silly but when it was time to -- to be quiet -- so that's how I got my student leader pin. So there was a -- a group of us, this happened frequently -- well, this happened at least twice a term, let's say, that in the dining room or in a chapel, Father
15 Farnsworth would call some students forward and he would give little spiel about each student and say, "These are your new student leaders", and applause, applause, applause, applause, applause and then -- so that's how I got my student leader pin.

20 And as I said, you know, we had meetings of leaders and prefects and we -- we had our own light sessions I guess you would call them, like sometimes prefects themselves would get picked on by prefects and some staff and you know you're not revealing your sin. You're not going to the root of your sin and you're not confessing and you're not being
25 truthful, but again I digress on this. So we were, in those meetings, also told about you know this is coming up.

30 In October this is coming, we're going to need your help with cleaning. You're going to take these groups to the mall and you're going to do this and as I said we were encouraged, you know, if something's going on you tell us. We want to know. You don't decide if we should know. You tell us. We decide that we should know. So I started doing that. I was

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telling on some students, you know, in class I was like, "Guys, be quiet", and I couldn't -- I just changed. I went from the silly boy that I am, that I was, into like -- I just -- I lost my focus. Like it's as if I became hypnotized by my leader pin.
5 It became important to me that people behave. I was -- I had like a radar for misbehaviour. I was looking for it. I was looking for it in my dorm room. I was looking for it elsewhere in the dorm. And I was looking for it in the dining room.

And then two of my close friends, Meredith
10 Darling and Katherine Noonan took me outside one day and they staged what I would describe as an intervention and they said, "What is wrong with you? You're becoming one of them". And I remember being very defensive, "No, I'm not, no, I'm not, I'm still me. I'm still me. It's just you know I like having
15 responsibility. I like having leadership. I think I'm good at leadership", and they just brought out examples of me ostracizing myself from other students by just doing the staff's job, is one way to describe it.

And I remember this conversation lasting a long
20 time and then I broke down. They, actually, got to me and I kind of -- I realized, like my God, the path I'm on is the path to become a prefect. I'm going to be that guy that yells at the kids and that tells them, "You have a repented sin. You're evil. You're trash. You're going to become homeless. You need
25 to turn your life to Jesus. You're a faggot. You're disabled". All the things that prefects did. And the way I was treated too by the prefects. And so I remember crying. I was very, very upset. So I -- I told Catherine, who was a closer friend to me, I told Catherine, "I want you to watch me at supper because I'm
30 going to do something".

And at supper I walked up to Father Farnsworth table and I asked to sit down, and I sat down. I took off my

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pin and I put my pin on the table and I said, "I don't want to wear this anymore". And I -- like it was very important for me that Catherine and Meredith see that I'm removing my pin. I'm -- I've seen the light. But then as soon as I did that I realized like holy cow, what have I just done? Like how am I going to explain this? You know I hadn't thought beyond the fact that I'm just removing it, I'm going to show my friends I'm removing it.

So Father Farnsworth was like, "What are you doing? Why are you taking this off?" I had never seen anybody giving up a student leader pin. They were too precious, they gave you privileges. They give you power. And I had to like -- I don't know if that's an English expression, *bets snay* (sic), I had to kind of back skate and kind of like, come up with the idea that I have too many impure thoughts. I'm too evil. I'm -- I'm a fake. I don't deserve this pin. I shouldn't be wearing it. And Father Farnsworth said, "You're not taking off this pin. You're going to put it on right now and you're going to pray". And he didn't let me take it off.

But about two weeks later, there was a huge scandal where a girl had been -- had sex in one -- I don't know -- the boiler room or the ironing room on the side of the boy's dorm. Sarah something and I believe the boy was Dan Shay. And huge scandal. There was a bunch of other students who knew about it and they were expelled also and we were brought into the chapel and these kids were already in their D outfit, which means not allowed to wear the uniform, so just like scrubbing clothes and they were up on the balcony and -- and Father Farnsworth -- this was like -- it lasted the whole day. It lasted the whole day. It may even have continued next morning. Like I just remember this was like forever and ever.

This was like the biggest light session I

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remember because they went through all those students and they
light sessioned them. And then they stripped -- they took all
of us and brought us to the front and they stripped all of us of
our pins. Every student leader and every prefect was stripped
5 of their pins. He said, you know there's been an evil spirit in
the school. There's been a bad attitude, no one deserves this
and everybody was scrubbed clean. And then, of course, the next
week he started reassigning student leader pins and prefect pins
but only to those that deserved it. And, fortunately, I was
10 never one of those that was reassigned because I worked at it.

Q. You -- you said in that example of the whole
day, you called it light sessioned?

A. Yeah.

Q. And you said that they went to the kids
15 wearing the D clothes and they light sessioned them. Can you --
can you describe what you mean by light sessioned them?

A. Okay. Okay. I hate the word light sessioned
first of all because I never understood it. Ambushed is a
better word but -- I mean if the intention was to purify, I
20 could see why it was called a light session but to actually
answer your question, it was the singling out of a group or a
individual and, basically, breaking them down by just shot,
after shot, after shot, after shot, after shot of things being
said to them and confessions being required of them without
25 giving a chance to -- to ponder and to reflect and so this could
take many forms.

Sometimes it was like just literally a staff and
prefect picking on one student. Sometimes it was a group of
staff picking on a group. Or sometimes, as in the example we're
30 referring to, it was the whole school present and we were
encouraged, "You know, we're doing this for them. We're saving
them. So if you got something to say about you know Dan -- or

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no, Dan had been expelled at this point -- William -- William Rattleton, if you've got something to say about William speak up. Save your friend. Save your friend. You've got to say. What's going on? We want to know and William you've got Satan
5 in your heart, you're evil. You're acting like trash. You're being defiant. You're being secretive. You're holding back from turning your life to Jesus. You're refusing Jesus in your heart", and -- and it would just go on, and on, and on. It would just break you down completely.

10 Q. So let's talk a little bit then about -- we were talking about rules and you talked about these light sessions so clearly they're students if they're breaking the rules, they're being brought before the whole school. What were the other ways that individuals were disciplined? What did you
15 -- you said wearing D clothes. What were the other aspects...

A. Oh.

Q. ...to discipline?

A. Well, in order of -- from the worse to the least worst, expulsion was the worst. Then suspension. But the
20 most frequent and the next one in that spectrum would have been the process of discipline, being on discipline, is the way the word was used as a noun. Well, it is a noun. Where you were no longer allowed to wear the school uniform. You were not allowed to be spoken to. You were not allowed to speak. You were not
25 allowed to attend school. You were not allowed to sleep in your bed. And to replace this whole time you were -- you just did chores.

You just did chores and you weren't allowed to speak. The only people that would speak to you were people
30 assigning you jobs and those staff members, usually in the kitchen, but not always, they -- they had a method for assigning work. Like they were mean about it. They knew. You were on

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5 discipline, I mean clearly you weren't wearing a uniform because
we wore the uniform from sun up until 10 o'clock at night. So
they -- they would drop things on purpose. They would give you
a tooth brush to clean a huge pan. They would give you a tooth
brush to sweep the floor. They would give you like something
that looked like a little knife to scrape -- to scrub the grease
off -- like a huge -- like lasagna, I'm talking a huge pan.
Like they made the work unpleasant. They were monitoring you.
They didn't want you to look at people. They wanted to see if
10 you were like sharing -- if you dare to share a little smile
with a friend that was somewhere else in the kitchen, oh, that's
it, boom, you got yelled at again.

15 It could turn into a light session or it would
just be a reprimand. You could have a day added and you never
knew how long you were on discipline for so that was the kind of
a mystery, which added to the discomfort, the terror, I will
say, actually, because the shame of it was huge. I think the
worst part of discipline was the shame because they made sure
you were in plain sight of the other students. Like I said, if
20 it was in the kitchen they would have you coming out, coming in,
coming out, coming in and the wearing of civilian clothes during
the week when everybody else is in their uniform was like the
Scarlet Letter, if you've read the book. It was -- it was
absolutely the attire of shame.

25 And you knew you were the talk of the town
because, as I said before, the Grenville Christian College media
was the students gossiping about the students. So -- and -- and
also, your teachers saw you. It was so humiliating because at
Grenville there were some really mean staff members but a lot of
30 the teacher teachers tended to be a little on the kinder side.
And those are the ones -- I will speak for myself at least, I
tended to want my teachers to respect me and I worked hard, I

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5 studied and I tried to, you know, participate in the classes
'cause we had small classes, so if you had a class of three
people that don't speak it was very hard on the teacher so I --
I tried to animate so I really -- it was -- the respect of my
classroom teaches was very important to me. And so to be on
discipline and walking around with the scarlet letter and seeing
them see you was devastating because you knew you'd have to come
back to class and they probably wouldn't ask you about it which
was probably worse than if they did ask you about it and - ah,
10 just so embarrassing.

Q. So you're alluding to the fact that you
experienced this discipline yourself. Can you give us an
example of one of the times that you were disciplined?

15 A. I was disciplined three times. Okay, first
time. Well, I don't know if you want me to say all the times
but anyway here's the first time. So this is during my first
year, sometime in the spring. It was liver for dinner and it
was while I'm at Grenville like it happened once a month let's
say, it was liver and onions. Everybody hated liver and onions,
20 myself included. It was green on the inside. And I refused to
eat the liver.

And the head of my table, I think it was Mr.
Henderson, insisted you have to eat your liver and I dared to
say no, I'm not going to eat it. I'm not even going to take a
25 bite out of it. I've tasted it before and here it is again, and
I will gladly eat the vegetables, I'll have the potatoes but --
I'll have the dessert but I'm not going to eat the liver, it
makes it me want to throw up. So he went to get Jim MacNeil,
who was like one of the supervisors of the boy's dorm, like not
30 the dean but the like -- there were three men usually per year
that were assistant deans.

So, Jim MacNeil came and got me and was very

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aggressive about it and brought me to the room that was adjacent to the -- to the dining room and in came Don Farnsworth and Dan Ordolani or Mr. Mintz -- Ordolani or Mintz, both dark hair, I'm not a 100 percent sure. Anyway, they started -- and Frank Fortolini, who was a -- who was a prefect. And they set me down and they're like, "Who do you think you are? You say no to a teacher? Nobody says no to a teacher. This is for your own good. Who do you think you are?" and I tried to keep my -- my argument like I'm -- you know, I'm -- I'm 14 years old, I know what I don't like.

I'm willing to eat, I'm just not willing to eat this and that just infuriated them, the fact that I was talking back, and that led into -- I guess what you would have call a light session and I remember the other prefects came in, "Oh, yes, yes, yes, I know, he was in my room a month ago and yeah, he displayed a really bad attitude. You don't accept Jesus in your heart. You're totally ungrateful. Look at the way you're behaving. This is trash behaving the way you're behaving. How stupid can you be that you can't see that the head of the table should have authority over you?" Called names, broke down and cried. They told me this is it. You're going to go with Frank to -- to the dorm, you're going to get all your things, you're moving to Hotel D and you're going to put on your -- you're going to put on your regular -- your street clothes.

And, so, put on my street clothes, moved my stuff to Hotel D, which I don't know if I've talked about this, Hotel D was above the gymnasium so it was not part of the dormitory per se but they had built kind of like makeshift rooms. They had bunk-beds also there. There were two rooms and one bathroom which could accommodate up to 12 individuals. Spent the rest of the evening cleaning and when the dishes and the scrubbing was done they set me down in a chair and I asked if I could get my

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homework because by this point we're during study hall and got yelled at for even daring to ask. "You -- you're not allowed to speak. You open your mouth if it's an emergency, otherwise you don't open your mouth. We'll talk to you, we'll tell you what to do. We told you to sit, you stay on that chair", and I sat on that chair for what seemed like an hour, until I believe Frank Fortolini, the prefect, came back to get me and then walked me upstairs to -- to Hotel D.

There were other boys in Hotel D so we, in silence, you know, made our bed with the beddings that we brought -- well, I made my bed with the bedding that I brought. They were already on D from what I remember. Went to bed and then we were awoken in the middle of the night. This time they just turned on the lights and they were like, "Get up, get up, get up, get up, get up, you guys are pieces of shit", pardon me for the language. "You're going -- you're going to run, we're going to make you run Satan out of your mind", and by the way this was not the first time I was made to run at night but it's an aside.

And they took us to the track outside. We -- we -- I remember they had to bring me to my room because I didn't bring my running shoes and sweatpants back up to Hotel D and everybody was sleeping so I don't know the time. I didn't have the way of knowing but it's definitely long after everybody went to sleep, which means, let's say at least midnight because the older students finished the study hall at 11, it probably took them hour to kind of settle down and turn off their flashlights and their books.

So -- and there was not a sound, so it's definitely after midnight and it was before sunrise. And it was freezing and we ran the track. They were -- there were insults being screamed. "Common you lazy ass, you're running like a

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faggot. Don't be a fag. You're so lazy. If you're -- you're so good at your bad attitude how can you be so bad at running? Put the energy of your attitude, put it in your running". You know, something along the lines of you don't pray enough. You know, you're evil. Okay, so that's the first night. And then I was on D for three or four days that time. And so, basically, the day was we got before sunrise, we went to the kitchen, we did breakfast prep, which is at 5:30 in the morning.

We stayed in the kitchen all day except when they came to get us to do any other chores. I mean it could be ground work. It could be again raking leaves. It could be washing a staff member's car. It could be vacuuming in the -- the staff residences, staff apartments. Most of the time it was in the kitchen and there was just breakfast prep, breakfast clean, lunch prep, lunch clean, supper prep, supper clean and then at the end sometimes we were given our notes, you know, our class homework, sometimes we weren't. But we definitely weren't given any kind of instruction. Like it's not like our teacher came to see us to say okay, this is what we did today.

No, no, no, our books would be brought down by another senior student and -- and this was towards the end of study hall so maybe you'd get an hour instead of the two or three hours that the other students would get. And then it would just be day after day, day after day. Sometimes you'd have these light sessions. It could happen in the kitchen, it could happen in Hotel D, it could happen outside. Sometimes they woke you up during the night to do those yelling at. Sometimes they woke you up to pray. Uhhh, then the days just one day after another.

Q. Just to go back to the running.

A. Yeah.

Q. Do you remember how long, approximately, you

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were made to run outside?

A. Forty five minutes to an hour.

MS. LOMBARDI: I think this might a convenient
time to break if that's all right with the court?

5 THE COURT: Sure. We'll take a 20 minute morning
break.

THE WITNESS: Thank you.

R E C E S S

10

U P O N R E S U M I N G:

MS. LOMBARDI: Q. Before the break, Francois, we
were talking a little bit about the running you did for forty
15 five minutes to an hour outside in the middle of the night as
part of -- of your discipline. So before we leave that entirely
I wanted to ask you, how did you feel about having to do this
running and being on this discipline for the liver?

A. Well, as I mentioned, I had run already
20 previously in the year -- in the fall. I mentioned earlier that
I -- I was in a room with Dan Shay and our room was rebellious
and we had a prefect and he had arranged for the staff to make
us run and with a few other rooms. And the reason we were told
that we were running is because we had a bad attitude. And I
25 was furious, because I didn't know what bad attitude meant and I
didn't think I had a bad attitude. I was fun loving, you know
maybe pushed the envelope a little bit in terms of, you know,
reading with a flashlight after lights out or being just being
funny, maybe being a little bit lazy with the cleaning but come
30 on, to me that didn't -- that wasn't worthy of running.

Also my parents never punished me in that manner.
Never. Maybe a time out, maybe getting spoken to, but running

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as punishment, just -- that was not in my vocabulary and I -- at
the -- at that time at least, hated exercise. I was that
typical gay boy who's afraid of balls in gym class and who
doesn't want to go to gym class and I was just -- you know, so
5 to make me run was like -- it was a huge punishment for me so I
remember being really furious about it. That was my -- my main
feeling. And so at the time that it happened again -- it
happened several times but you're asking me about the time when
it happened on D, I was already furious that -- I was furious
10 that I was being punished for not wanting to eat something that
I found unpalatable and I was furious that they had gotten me to
breakdown and cry over it.

I remember like you know after the light session
I was -- I was angry at myself and at them that I didn't deserve
15 this. And I guess a little bit angry at my weakness that I -
that they got me to cry cause I'm not an easy crier, never have
been. And so running just added to that anger. It was just
like adding insult to injury or in my case adding exercise to
injury.

20 Q. And so you mentioned you were disciplined
more than once?

A. Yes.

Q. Can you describe another incident that arose
that led to you being disciplined?

25 A. So you want me to talk about my other two
times?

Q. Sure, yes, please.

A. Okay. So the second time I was on discipline
was in my third year. I had come back from a break and when I
30 got to my room after the break and I unpacked my suitcase I
realized that I had accidently brought home my case of cassette.
So it was one of those hard cases that, you know, has maybe like

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four times four -- four times five cassettes. You know, it's a rigid plastic and it was in a fabric case. And I was mortified. I didn't know what to do. I didn't want to throw them out, that was my first idea, throw them out, just make it disappear,
5 they'll never know -- well, they would have known because it was all French pop.

So, I hid it at the very bottom of my dirty laundry bag, which was in the top shelf inside my locker and I felt pretty safe about that because, I mean it had dirty socks
10 and underwear on top of it, and went to study hall as we did the night that we came back from breaks, and at the end of study hall I was told to hang around and wait. And I was taken to Mr. Poth and Mr. -- definitely Mr. Poth. The other one's a little vague. I want to say Mr. Mintz, it could have been Mr. Bayles.
15 And, basically, they -- they said is there anything you want to tell us, something that happened during your break and I was like, no, no, no. I just figured there's no way -- there's no way. I just thought this was like just a random interrogation. And they pulled out my case and like "What is this? Do you know
20 Satan is the root of popular music? We don't allow this here. You're defiant. We thought you had gotten better but clearly you're still evil, you're still being a defiant boy. You have -- you're ungrateful us. You're making us do this. You brought it as -- on purpose".

25 You know, just went on and on and on and they said you're going on discipline. I knew I was going on discipline anyway. I mean this -- this bringing cassettes would have been suspension or discipline so I knew I was getting one of the two. And so that -- you know, very similar experience as
30 the first time. So you know the -- the Scarlet Letter outfit and no school, no speaking, not spoken to, chores, chores, chores all day long. Sometimes getting a speaking to.

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Sometimes being made to pray. Sometimes having to run. Yeah, I remember the expression, "Run Satan out of your mind". That was said often. "I'm going to make you run Satan out of your mind". Yeah, and that lasted three or four days.

5 Q. Okay. And you said that you brought this box of cassette tapes?

A. Yes.

Q. Did you also have a cassette player?

A. No. There was just my tapes.

10 Q. Just the tapes?

A. No. Yeah. That's a very good point, actually, yeah, that's ridiculous.

Q. And so what was the third time? You said at the beginning there were three times.

15 A. Okay. So the third time. In my last year, this is after my year where I had become a student leader and I had had my intervention and I had been stripped of my student leader pin and that to me, that was a turning point at Grenville because I realized at that moment I didn't want to be one of
20 them and I didn't want to be on discipline and so my strategy was to fly under the radar as much as possible. Which worked except in my final year I auditioned for the school play, thinking that I would get the lead, and I didn't get the lead, I got a smaller part.

25 And I was very upset about this but because I play French horn I decided I'm not going to be in the play, since I can't be the part that I want to be. I'll play French horn in the pit orchestra that accompanies the production on stage. So I went to Mrs. Barr and Ms. Patrick. Ummm, and I
30 told them my decision, they were the directors of the play. I told them I've decided not to take the part after all but I would be in the pit orchestra and this was at the start of a

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meal and at the end of the meal I was again held back, this time in the dining room, like sitting in the dining room itself, so people were cleaning around us while this was happening. So this was Ms. Mayberry, Mr. Ordolani and Don Farnsworth. And so they started the rant with, "You're ungrateful. You were given a part and you're -- you're leaving the part. You have a responsibility. You're so haughty".

Haughty was a -- like one of the big crimes of Grenville Christian College. I was called haughty all the time, H-A-U-G-H-T-Y, to clarify. "You're so haughty, you think you deserve the lead, you don't deserve the lead, you're trash. You're no good. You think you're going to play in the orchestra. You're not going to play in the orchestra. You're going to do nothing with this production". And then they -- they wanted me to practice apologizing. So they started telling me, "You're going to apologize for your haughtiness. Apologize for how haughty you are". And I would say, "I'm sorry for how haughty I am". And then they would like make me apologize for something else. "You're too proud. Apologize for your pride". And then I'd say -- and every time, like, "That's not good enough, that's not how you apologize. You don't mean it. You don't mean it".

And then it -- they started to kind of -- they were laughing about it. They -- it was game. They were playing a game amongst themselves. The game of make the kid apologize. It was kind of like if I can make an analogy, when you steal a kids hat and then there's three kids around him and "Ha ha, you can't catch your hat". They toss it this way, toss it that way, it's always out of reach so my proper was always out of reach and they were just -- they were -- like they were laughing. They were out loud laughing while meanwhile I was furious and I was embarrassed that there were other students and staff,

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remnants of the meal in the room. They were watching this. They were watching me being just humiliated. Intentional humiliation. No other purpose for it.

5 And so then, eventually, Don Farnsworth said,
"Well, clearly since you don't know how to apologize you're going to spend some time on D and you're going to pray and you're going to work and you're going to let Jesus back into your heart". And I don't think I need to describe the routine again, but I went through the whole routine again and I think
10 this time I was on four days. I may be wrong, by the way, if I may say so. I may be wrong in the number of days because honestly, when you're on discipline you were in a fog. I mean the -- the boredom of just day, after day, and not being in school and just, you know, and you had to emotionally protect
15 yourself because you were so attacked. You know, as I said before, by the staff members and so you kind of had to turn off your brain.

So I'm saying three or four days, it could have been longer than that. In fact, I saw regularly students being
20 on for weeks. I saw students for a full week. I saw students for two weeks. And I saw some students who were more on D -- these were staff students, staff kids or community of Jesus kids, who were more on D in a term than they were in school. This is without a shadow of a doubt.

25 Q. When you say you're -- you're a bit foggy on the term, were you ever on discipline for just one day?

A. No. I mean, I certainly wasn't and I'm thinking right now, as you ask the question, did I ever see somebody on discipline one day? I don't think so. It doesn't
30 work like that. You needed to breakdown. I don't think they could accomplish what they wanted to accomplish in one day. And I don't remember anyone every being on discipline one day.

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Q. Okay, thank you. You mentioned haughtiness. You said it was a big crime at GCC. What were some of the other big crimes at GCC?

5 A. Lust. Being a temptress. Good looking girls were picked on. As I said before, long hair was looked down upon. I don't recall any student leaders or prefects having long hair. I don't think -- have I testified to that already? But -- so -- being temptresses, especially the blonde girls. Especially the girls who developed their bosoms early, I
10 remember Jessica Rutledge something and I think in grade eight she was full bosomed and she was absolutely picked on. Absolutely picked on. For that -- I mean it wasn't like they specifically said but she was called a temptress. She was called a Jezebel -- Jezebo -- Jezebel. She said she had a
15 Satanic body or that she had this -- a Satan made body.

Q. And who would say these things to the girls?

A. Father Farnsworth.

Q. And this was in front of the whole school?

20 A. Yes. Or, you know, maybe we're -- it might be a comment as we're entering the dining room or -- these were -- this was not a rare occurrence. She's not the only one that heard that.

Q. Let's just talk a little bit about those kinds of messages. So were you provided any formal sexual
25 education at Grenville?

30 A. Ah, okay. Ummm -- I know that, you know, having taught in Ontario and having taught in Quebec, sexual education is -- is part of the physical education mandate in the curriculum. It's usually a part of health, which is a portion of the physical education curriculum. And I do remember us having health as part of our physical education but sex was never discussed in that context. So there was sex education but

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not where it should have taken place. Can I go on or do you have a....

Q. Yeah, I was just going to say, where did you...

5 A. Okay. Well, I'll....

Q. ...then if it didn't take place in class where....

A. It's going to be a little scabbled but there was this woman, the mother of one of the prefects, Marc Bergeron -- Marc Bergeron, who incidentally at one point claimed he had demons in him and Father Farnsworth did like a weird exorcism. I can talk about that later if you want but anyway, Marc Bergeron's mother came to school to talk about birth control, but the only birth control she talked about was abstinence. And I remember being really weirded out by this because we never talked about sex, you know. She -- she didn't describe the act of sex but she certainly talked about sex. You know the only times that sex was described was kind of like violent and disgusting terms, otherwise. So it was a really, really, hush, hush thing.

10
15
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So, to see a woman that we didn't know talk about, you know, husbands and wives. Talking about boyfriends and girlfriends who should not have sex was already a little bit creepy. The fact that it was a classmate's mother made it more creepy. And the message was ridiculous. I mean maybe this is because I come from Quebec but no sex before marriage, I mean I can't -- I couldn't believe I was hearing this in a school. And I mean there's Father Farnsworth sitting at his table and nodding his head and like yes, yes, yes, I endorse, I endorse, I endorse. And the other staff members are here too. And I remember this example that she gave of how boys need to be careful because if you let your lust begin to build by hanging

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out with a girl you can get out of control. And I remember vividly because the example she gave was if you put a frog in boiling water, the frog will jump out, but if you put a frog in cold water and turn on the heat, you're going to have frog soup.

5 And I think I'm, actually, quoting the exact way she described it and I don't know, that really stuck with me and, in fact, that's actually an example I use but not to describe sex. And I remember this example fitting what Father Farnsworth would tell us a lot. That you know girls are
10 temptresses and boys don't -- you shouldn't be more boys with girls and -- and you know, like I heard the expression "bitches in heat" many times, and you know with the heat of the frog, I don't know. It just -- it just kind of resonated and it was confusing.

15 A lot of the Grenville stuff was confusing because even though I knew better, I was 14, I was 15, I was 16, when we were in this hermetically sealed microcosm and all the adults were saying the same message, and the priest was saying the same message and now an outsider from the outside world was
20 coming and saying the same message, it was extremely hard not to buy into it, you know. And, in fact, I remember a period in my time when I prayed desperately not to be gay. I prayed desperately not to masturbate. I mean I would just like pray to Jesus because I -- I bought into what they were telling us. We
25 had to. It was -- it was so confusing to hear these messages hammered from every direction and constantly.

 Q. And so what were some of -- you said talking about male and female sexuality and temptresses and...

A. Yes.

30 Q. ...boys being too weak. Were there other topics that were discussed in terms of sexuality?

A. Well, rape. Rape -- there were many times

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that Father Farnsworth said that a woman who gets raped asked for it. That she -- she dressed that way, she led the man on. She -- you know so I don't remember the exact wording but the message was when women get raped, they asked for it. And I
5 remember that being very shocking and again, my point about the confusion, that part of my brain knew better that this was ridiculous stuff but then it's coming from the headmaster so maybe there's some truth to it.

10 Q. And so you mentioned that you would -- you would pray to God with respect to you not wanting to masturbate, not wanting to be a homosexual. Why -- why were you saying those prayers?

A. Oh, we were told homosexuality is wrong, as I described earlier, it was brought up in sermons, it was brought
15 up in bible study. It was brought up in groups. I was called fag. Other students that were effeminate were called fag. There were many of us. John Anthony Langdale was called a fag. Oh, little Rob Hunter was called a fag. I mean those of us who were more feminine. Andrew Hale-Byrne was called a fag. And
20 you know, it was not just like, "Ha, ha, you're a fag". It was like, "You're nasty. You're a demonic aberration".

And when I say we were called that, we were called that by Father Farnsworth. We were called that by staff. We were called that by prefects. We were called that by
25 students. And you know, I'll even say it, I called people fag. It's -- I'm ashamed to say this, you know, I use to pick on Andrew Byrne all the time because he was an easy target. He was a target. When the staff decided to pick on someone, it was like a feeding frenzy. The rest of us followed suit. And this
30 is why some students definitely got it worse than others. Well, it's one of the reasons. But you know, that's -- that the disgusting thing about homophobia, is that often when you want

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to hide your homosexuality, you're going to commit acts of homophobia to disguise it. So I -- I also did that. And to this day I'm just disgusted in myself that I participated in this. But it was modeled. It was modeled. It was encouraged. It was rewarded.

Q. And so how were these teachings and messages imparted to the students? Were these done at the public assemblies that you discussed, that would happen in the dining room like they're in bible study or in the chapel? Where and how would these messages come out?

A. Usually dining room, chapel. I remember we -- once in a while we would have like a boy's meeting and this would happen in the boy's lounge which was connected to the male dormitory and this would always happen at night. So this was like after study hall. After -- maybe during our snack or during male time because once in awhile we would hand the male. And Father Farnsworth would come in or Jim MacNeil, Gordon Mintz. Gordon Mintz did it a lot. Mr. Poth did it a lot.

And you know, we were in our bathrobes, we were in our pajamas and everybody sits down and you find a place to sit on the floor or if you're lucking on a chair. And they would talk about boy stuff, such as you need to rotate your deodorant because your body gets use to it and you're going to start to stink even though you were deodorant. I just remember that one vividly because I didn't know that. And they would talk about you know masturbation is evil. It says so in the bible. Homosexuality is evil. You have to be careful with girls. You need to treat girls with respect. You need to not put yourself in a position where you're going to be tempted by a girl. You need to watch yourself. You need to remember that the purpose of sex is procreation.

And they would sometimes share stories a little

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5 bit. Don Farnsworth, I remember him telling the stories, a ridiculous story, of how when he courted his wife, he had been married for awhile, he once wore shorts and how his wife had found his knees very sexy. And I think that's the word she used, sexy. They were -- at this particular time they were sharing the story together, and I just remember like we were so shocked of this story of a girlfriend finding her boyfriend's knees sexy and saying so.

10 Because this is -- let me give you an example. All the celibate staff, the men and women in their 20s, they never, ever married outside of Grenville. They only married other Grenville students. For example, Gordon Mintz married the MacNeil girl. Bill Bayles married a former student who became staff. It goes on and on. Jim MacNeil married another staff member. They only married each other and we never saw 15 courtship. We never -- eventually, when they were engaged they would sit at the same table, not before the engagement and even then we never saw them touching, hugging, there was no affection whatsoever, and this is what was modelled for us.

20 So, maybe this doesn't answer your question about sexual education but it certainly describes relationship education which in a way is sexual education. So they -- for us to hear the story about a girlfriend finding her boyfriend's knees sexy and saying so was shocking and this describes how we were completely disconnected from normal models of 25 relationships.

Q. So you mentioned these sessions would happen in the boy's lounge. How often would these sessions be held?

30 A. Once every two months, maybe. It was random. It could happen more frequently, depending. If there was an -- for example, that -- you know that big light session I talked about where Dan Shay had sex with Sarah something, you know

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after that we had a couple of times that we met and we talked about lust, and we talked about urges and we talked about how you have the urge to masturbate and but you can pray that away. Can I speak about masturbation briefly? I remember boys getting
5 in trouble because, and sorry this is going to be a little bit crude but, some of their dirty laundry, which was de facto inspected by the staff because they did our laundry, were crusty. I apologize for the image I'm bringing up but I do remember these boys being told you're masturbating, you're
10 putting this in your dirty laundry. It's disgusting. Absolutely.

I remember boys who got caught masturbating and they got in trouble for that. They got yelled at. They were made to run. They got -- they were humiliated over it. They
15 became the rumour of the week. It just spread like wildfire. And I remember if it -- people would sleep with their flashlights near their bed and if you heard like kind of rustling noise you would just like shine your flashlight towards the bed of the boy where the noise was coming from to try to
20 catch them in the act. This was -- this was widespread behaviour.

And you know, I'm sorry, I can't help but kind of smiling about it because it was kind of funny but it's not funny at all. It's terrorizing to think that there's a boy
25 masturbating but while he's masturbating he's deathly afraid of making a single sound that will betray what he's doing because he -- he believes or is likely to believe that what he is doing is totally evil and wrong and against Jesus and -- well, anyway, that's -- I made my point.

30 Q. So -- so you mentioned the messages about homosexuality being done in the chapel. You gave the example of I think it was Tom Racini, you said, was stood up and asked to

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read certain passages out of the bible...

A. Hm-hmm.

Q. ...that were referring to those acts.

A. As an example. He's...

5

Q. Yeah.

A. That's not the only time it happened.

Q. Were you ever confronted or made to confess
or discuss even, your homosexuality?

A. Yes. Okay. So I described earlier that in
10 my first week or so at Grenville I had made up this song about
Dan Shay, (French) and I had, you know, this ambush outside by
the prefects. At one point there were two students that got
into my bed and tried to take my clothes off very, very
aggressively and -- and I had to fight them off like so hard
15 because I believed they were trying to expose me as being a
homosexual. They were trying to see if I would get an erection
from having boys in my bed taking off my clothing. So I was
petrified that this would, actually, happen and -- so that's
another example of that.

20

Q. Okay. Thank you.

A. There was another story that I don't know if
this the time to share it?

Q. If there's another example that you want to
give, please do share.

25

A. Oh, God, okay. So -- I've never told this
story to anyone. I have only told it to you when you called me
and I put it in writing in my -- in my statement. So -- okay.
In my first year I participated in the production of *The McCaw*,
this is when I was 14 -- 14 turning 15. And I kind of got a
30 crush on this student called Adrian Morris, who was a senior.
He was in grade in 12, he was graduating. And during the last
performance, you know, when we weren't on stage we had to be in

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like the green room and it was very regimented but in the last performance we kind of broke that rule and everybody would kind of crowd in the wings to see the scene that we never got to see because you know not in costumes anyway.

5 Anyway, so all the boy's chorus gathered to look at the girl's chorus and in pressing everybody together to try to get a little bit of a view, I felt Adrian's hand on my penis and I felt it move. And I absolutely know as an adult that this was just the effect of putting human bodies together, it's
10 inevitable that there will be some contact between hands and there will be some contact with penises. But in my 14 year old mind, or 15, and the fact that Adrian and I had kind of developed a friendship that was very teasing-ish I took that as a sign that he was taking an opportunity to send me a signal, so
15 I -- you know, I just froze. I didn't do anything about it but I was kind of like oh, my God, oh, my God, he's gay too, oh, my God, oh, my God, you know, it's our dirty secret.

 So that summer -- so I got his mailing address at the end -- so you know -- I didn't -- I didn't have the courage
20 to do anything about it for the rest of the year. I mean we remained in a kind of like joking, you know, he -- he didn't -- I was a grade 10 boy, he was in grade 12. We just had the mildest of friendship, I guess you would call it. Not even that, but you know, sometimes we would crack jokes at each
25 other. So that summer I wrote him a love letter and I declared my love to Adrian. And then I wrote -- I composed a song for him which I recorded on a cassette and I sent him the cassette of my composition. And then -- you know, I sent a couple of letters like that.

30 I sent several letters like that and I'm totally embarrassed because it's like stalker behaviour but I don't know can you be a stalker when you're 15? I don't know. I guess I

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was. He definitely never responded to my letters and I was heartbroken because I had built this whole vision of Adrian finally saying yes, it was true and I wanted to touch your penis and I want to be your boyfriend and I don't know, you know, teenage minds, who knows. But that little fantasy never happened.

And -- and so I stopped writing and then years later in my last year, so this happened in my first year, this is my last year, I received a letter from Adrian. I remember like opening the letter and seeing the signature before reading anything like, oh, my heart totally stopping, and basically the letter said, "I've been praying for you. How can I call myself a Christian if I know you're living the sin and I don't do anything about it. So I talked to my priest and I've got a pamphlet here...", which was in the envelope, "...for an organization in Toronto where they can convert you and cure you of your homosexuality. I really recommend you go there and contact them and I wish you all the best. Goodbye".

So -- I don't know, I was shocked. I was insulted actually by that letter, I don't know. By this point I was 17. I don't know. Gay conversion at 17, I knew better. You know, I've known that I'm gay since I was 11. Okay, this is -- and maybe -- again, growing up in Montreal, I had some sisters who were very supportive. It's -- to me it was ridiculous. I was offended by this letter. I was angry at him that he never bothered to write before then. You know, like why'd you wait years to write. Don't bother writing. You know at this point that's the way I felt. Okay. So that was the easy part.

So two weeks later I got called into Father Farnsworth's office. And Father Farnsworth says, "How's it going?" "Fine". "Anything on your mind these days?" "No".

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"Anything you want to talk about?" "No, I'm good". "Are you sure you don't want to confess something?" "No. What did I do?" And then he tells me, "Adrian Morris wrote me a letter. Two weeks ago, I received a letter from Adrian Morris. Do you
5 want to tell me about that?"

And then I was like, oh, my God. I'm about to graduate and I'm going to get expelled. This is it. This is the end of my last year. All that suffering I'm going to have to redo OAC somewhere else. Again, in the Province of Ontario,
10 that I'm not from. I mean like, I was in a panic. Panic, panic, panic. The room turned black. It was like a little tunnel of light. All I could do was like oh, my God and so I'm like okay, "Yeah, he wrote me too". He's like, "So do you want to tell me about this?" And then I was like, listen -- and so I
15 had to think on my feet really fast and you know what, I'm a public speaker.

In those days I participated and won many public speaking competitions so impromptu speaking was not hard for me. I can think on my feet. And I was like there's only one way out
20 of this thing. You're going to have to play Jesus lover big time, that's the only way. So I gave him this huge spiel of like you know Father Farnsworth, this was like a few years ago. I was going through a phase, I had a lot of questions. I thought Adrian touched me but it was in the wings so maybe he
25 didn't touch me but you know, I was just curious but now I'm much older. I've prayed to Jesus about this a lot. I've listened to your sermons.

I've read the scriptures and I know that homosexuality is wrong and I'm not a homosexual, Father
30 Farnsworth, I want you to know I have prayed, I have led the Holy Spirit into my heart and I know that this was just a silly phase and I didn't want to tell you about this, Father

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Farnsworth because I'm embarrassed and I've changed so much and I've accepted Jesus into my heart that I felt like Jesus would agree with me to not dig up this past part of my life which was just a phase and an experiment. So then, you know, long pause, and then he started questioning. "So tell me about Adrian. Did you like him?" "Yes". "You liked his body?" "Yes". "You say his hand touched your penis?" "Yes". "Did you want his hand to touch your penis more? Did your penis get hard when his hand touched your penis? Would you have wanted his hand to go into your pants? Do you think about other boys? Did you ever masturbate thinking about other boys? What kind of things did you masturbate thinking about?"

And it was just -- how can I describe this? It just went from creepy to dangerous. Like clearly he was on a single mind. So he asked me a lot of questions about masturbating. "What do you think about when you masturbate?" "I don't masturbate, Father Farnsworth, I pray". "When you had this phase you were thinking about boys. What part of the boys body did you like? Did you want to put --" I remember him using the work fellatio because I had to ask him what does that mean and he said that's when you put somebody's penis in your mouth.

And I was like no, no, no, never. Never. Never, never, never. So this interrogation just continued and just got more and more graphic. Like there was definitely a crescendo of the lever of graphicness, I don't know what the word is. Okay. So then and my heart is beating out of my head at this point because I'm thinking -- out of my chest, I'm thinking, there's something wrong going on right now, okay. I'll talk about this later but I have been sexually abused when I was 11 and so I was not new to that energy of weird inappropriate initiation.

There are some questions an adult does not ask a child. And I was being asked those questions and that's similar

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to how I was sexually assaulted before.

5 So, he stood up and then he started to pace around, and pacing around the room and I was sitting on a pew, in his office there was a pew and then like maybe a couple of chairs, but he has this huge desk, his photos behind him, a church pew, and some chairs and the other stuff -- plants. He came and he sat down next to me. And then he started saying -- and then he changed his tone completely.

10 Now, he was like super friendly, he was like listen. "I don't want you to feel bad about this. Everybody goes through that phase, every boy has these questions. Every boy has this curiosity. This is not something that you need to be embarrassed about. Everybody has these thoughts and then it --" and then he said, "When I was a boy, I was in a park at one
15 point and I was by myself and a man came and he sat down on the park bench, much like we're sitting right now" and as he said this he put his hand on my knee, and it was kind of like one of those like -- like you know you're a good boy, kind of thing, like a little shaky pressure thing which -- but he left his hand
20 there and then he said, "And you know this man", and he put his hand on my leg, just like this, and then his hand started to climb up and make contact with my genitals. And I was like electrical shock. You know when someone touches your genitals like it's a different kind of touch.

25 So I jumped up. I jumped up, I was like no -- because he was asking me, "Do you want me to show you what happened," that was -- that's the question -- that's the last question he asked me, that's the question he asked as his hand made contact with my genitals.

30 And I just got up and I was extraordinarily forceful and I said, "No, I don't want to know. I don't want to know your story. I pray to Jesus", and I was kind of like at

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this point I was trying to fuel the anger of like I've told you everything you need to hear, leave me alone.

5 So I was like I told you that Jesus got into my heart. This is a part of my past. I'm not going back to that path, I'm not doing this. And I had my hand on the door to leave. And then he just -- his face went through a few motions, okay. The first thing I saw on his face was this impish look. That's the -- his first reaction when I clearly said it was not going to happen because -- okay, was kind of like somebody who
10 gets caught red handed at something, like oops, it was that kind of weird smile, like oh, I shouldn't have done that.

 It was -- it was a devilish but I prefer the word imp because imps are like these little evil creatures that are powerless. And then his face turned to anger. And I'm talking
15 here that this is going through in microseconds but I know this one of these looks because time had slowed down to like slow motion.

 And then he -- he got -- he became kind of like -- he composed himself and he went -- he sat back down behind
20 his desk and he said, "You know I have that letter and it would be very bad if your father got this letter. And it would be very bad if the boys got this letter". And he said that letter that Adrian wrote to you, do you still have it? And I said, "Yes, it's in my locker".

25 He said, "You're going to go get it for me and I'm going to take that letter from you. I'm going to keep it for safekeeping because if anybody sees that letter it will be very bad for you".

30 And I was like, "okay", and he's like listen to me, "You're going to be on your best behaviour 'til end of the year, is that understood?" And I said, "yes", and I went to get the letter and I brought it back. And then I just went and I

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just hid in a bathroom and -- and I cried. I cried. I was like, geez, it almost happened again. Because the first time I was sexually assaulted I was truly sexually assaulted.

5 In fact, I believe if I hadn't had the experience of having been fully sexually abused and you know this happened years before and after my sexual abuse, I mean I'm talking clothes off, fellatio, there was no penetration but he tried. And it happened several times. Over the course of years I always thought the following things which is -- because the
10 other man that abused me he -- he lived in the village across the street and I was on my bike and he asked me to help him rake some leaves.

This is ridiculous -- ridiculous and he set me down and he kind of did -- well, actually, I'm going to use
15 Madam Bergeron's example, the frog and the water. He kind of asked me questions that became more and more personal for me. You know more and more revealing and I never said no, you know, and I never said no, I never said no, I never said no and eventually my clothes were off.

20 And over the years since then I always remember why didn't I say no? Why didn't I say no to a stranger asking for a little bit of help? Why didn't I say no when he said, you know, do you want to know about sex? And you know, do you want to what happens when the penis gets hard? And you know, do you
25 want to see it? What -- do you want to see a penis get hard? If I had said no none of this would have happened and it did and it was traumatic.

30 So sitting on the bench with his hand on my penis, there was this like I had rehearsed this is in my mind a thousand times. I just -- I got up and said "No", I was -- you know. I truly believe if I hadn't had that previous experience I wouldn't have known not to say no. Just like anyway before

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when he was doing the -- all the dirty questions, I wasn't refusing to answer. Like he had already prepped me and now he was physically prepping me, you know. Hand and hand and hand and then poof buttons and boom it's done. So -- yeah.

5 Q. So thinking back then to your entire experience at Grenville, how would you describe the general atmosphere there?

A. The general what, sorry?

Q. Atmosphere.

10 A. You know I struggle because I look back at the yearbook and I see all the smiling faces and I think back of the carnival and I think back of the banquets they would throw for us just before we went home for the holidays I'd say. And I -- I remember having good times but just like the yearbook or
15 snapshots that got luckily captured in time, it doesn't negate the fact that the general feeling in that school was a feeling of fear.

I had a mantra. I used to repeat -- when I was walking from class to class this was my mantra. The only place
20 I'm safe is in my head. The only place I'm safe is in my head. The only place I'm safe is in my head. I would just say it over and over and over again, because you couldn't say anything because the students could tattle on you or the staff would capture it.

25 I couldn't walk the way I wanted to walk because it wasn't masculine enough. I couldn't -- I had to be careful how I held my cup of coffee because if I was seen to you know -- the only place your safe is in your head. Imagine that. And, in fact, at one point I think in my last year, I had like this
30 weird epiphany and I know exactly where I was. I was on the ramp on the main floor and I looked out the window and I actually -- I was stopped in my tracks because I was able to

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look at myself from another point of view and I was like, "Oh, my God, there's a teenager going around saying the, 'the only place I'm safe is in my head'", that's -- that's tragic.

5 I had this moment of -- I was crushed. I was so sad for me, that this was my reality. That, you know, yes I had great time at the carnival. Oh, I threw some water balloons and somebody put a pie in their face and oh, yes, we performed -- but in between those times and most of the time the only place I'm safe is in my head. Watch yourself. Watch yourself. Watch
10 yourself. And you know what?

I'm sure most students maybe it was just subconsciously but I know we all had our own version of that mantra. Watch yourself. You're never, ever safe. You're not safe in the chapel. You're not safe in the dining room. You're
15 not safe in class. You're not safe at family night. You're not safe in sports. You're not safe in choir.

Choir was a place where people would get light session all the time. It was like this horrible, and wonderful, place where you were just get humiliated. The choir was brought
20 in for like these kind of weird exorcism things before we started the concert season because the choir needs to represent the spirit of God. We were like -- treated like, not the chosen but extra servants of God because we were going to make the music of God.

25 And so he had this laying of hands and the banishing of demons and just -- so I'm answering your question about the atmosphere. Traumatic. Traumatic. I -- I emerged from Grenville with PTSD. Just constant fear. Incapable of trusting people. Incapable of building relationships. You know
30 I'm 46 now and I have a career but trust me, I went through bloody hell and I'm talking bloody hell. I -- I actually -- I tried to commit suicide.

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Well, I got to the point of plunging a knife in my chest and just because of the experience stayed with us. It's -- you know, I -- everybody was looking forward to -- to graduation, graduation, graduation. I'm going to get out. I'm
5 going to get out. I'm going to get out. And it didn't work that way.

It stayed with you. I don't know the tentacles and the -- the programming they did into our brains, I still have it to this day. I still have these -- this horrible sense
10 of no worth. Of being evil. Being disgusting. But anyway, I'm no longer answering your question.

MS. LOMBARDI: I think those are all my questions for this witness. Thank you.

THE COURT: Cross examination.

15 MR. ADAIR: Yes, thank you, Your Honour.

CROSS-EXAMINATION BY MR. ADAIR:

Q. Mr. Lukawecki, you graduated from -- or sorry, not graduated. You finished grade nine in the Montreal
20 area, I gather in June of 1987?

A. Correct.

Q. And you had good grades?

A. Yes.

Q. And you lived with your mother that school
25 year, grade nine?

A. That's right.

Q. And were your mother and father separated or just apart because....

A. No, they were divorced.

30 Q. Okay. Try to wait 'til I finish my questions.

A. I apologize.

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Q. No, problem. And you went to visit your father in Africa in the summer of 1987?

A. And in -- is your question finished?

Q. You did, I take it?

5 A. And '86, yes.

Q. All right. But we're talking about the summer of '87 now?

A. Yes.

10 Q. And how was it exactly that that visit to your father led to your going to Grenville, rather than going back to Montreal for grade 10?

A. The process had been in the works for awhile. Like I said, in '86 I went to Africa and I had begun to ask my father if he would take the custody and I had brought it up to my mother and so the -- it was a long process.

15 Q. All right. And was your mother in favour of this as well?

A. Hm-hmm.

20 Q. And tell me, I gather that over the course of this long process your father at least had made some inquiries about Grenville?

A. Yes.

Q. And he had received good recommendations from more than one person?

25 A. I don't know what he remembers. It could be implied.

Q. All right. Well, it could what?

A. It could be implied that he had received good recommendation -- I'm not aware of it.

30 Q. Well, I thought you said that he had received recommendations from -- indicating more than one person?

A. Right.

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Q. You did say....

A. My -- yes, my memory is that this was the de facto.

5 Q. All right. But my point is, he apparently, to the best of your knowledge and belief, received recommendations on Grenville from a couple of people?

A. Yes.

Q. How could those people have been so wrong?

10 A. I remember Frank Fortolini was a prefect himself. Not everybody had the same experience. Not everybody told of their experiences.

Q. So one of the people who made the recommendation was a fellow by the name of Frank Fortolini?

A. Frank Fortolini was a student...

15 Q. Yeah.

A. ...at Grenville so I'm assuming his father is one of the people that would have recommended Grenville.

Q. And, apparently, Frank Fortolini had a good experience at Grenville?

20 A. One could assume.

Q. And what about the other person who made the recommendation, did their child go to Grenville?

A. I don't know who those people were.

25 Q. And as you said not everybody had the same experience at Grenville?

A. Yeah.

Q. You're aware that there are a number of people who claimed to have had very positive experiences at Grenville?

30 A. Yes.

Q. This whole business of life at Grenville has been a -- somewhat of a raging debate for about 10 or 12 years,

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hasn't it?

A. Yes.

Q. There have been all kinds of posts on the internet and things like that back and forth, right?

5

A. Hm-hmm.

Q. Sir, you have to -- you do not have to limit your answer to yes or no but if you are saying yes or no, try to say that instead of um-hmm, okay?

A. Oh, I apologize.

10

Q. It's just for the purpose of recording...

A. Right. That makes sense.

Q. ...you're answer. And you were, as I said, aware that that there's a substantial body of people who had a very positive experience at Grenville?

15

A. I can't testify to the size of the body but I know there are individuals who exist with that opinion.

Q. All right. And this -- all that you have related -- everything you've related about Grenville happened in the area of about 30 years ago, right?

20

A. Yes.

Q. And what material did you review, sir, to refresh your memory about things before coming here to testify?

25

A. So most of it was based on the year books. I -- well, and -- just my memory. If I can maybe describe -- would you like me to describe my process of preparation for coming here?

Q. Well, what I'm particularly interested in is what sources did you use to refresh your memory of the events of 30 plus years ago?

30

A. Year books, reflection, meditation.

Q. Well, sir, there's nothing in the year books about all the abusive practices you suffered, is there?

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A. No.

Q. Or say went on at Grenville. So how do you remember all of that stuff?

5 A. Well, I -- I'm a very visual person and I found the year books were very helpful in, you know, like every staff member has their photo there. Every student. And just, you know, I do a lot of meditation and I've been doing this therapy called acceptance and commitment therapy which makes you meditate and face your uncomfortable feelings. And I use that
10 meditation in conjunction with viewing pictures of the staff to allow myself to no longer be in denial and to remember stuff. I mean I just remember, if I see a picture of Don Farnsworth and I think about it long enough, oh, yes, this happened, this happened, so I would write my memories on Post-its.

15 Q. All right.

A. And I just put Post-its everywhere and I categorize things.

Q. So I gather from your answer that you were in denial for quite some time?

20 A. Yes, but that's -- if I could clarify? I was unwilling to process my memories. I wasn't denying the fact that I have those memories, I just -- my coping mechanism for a long time was to ignore, ignore, ignore, don't think about it. Don't think about it. Don't think about it. And I went into
25 some substance abuse. I went into self harmful behaviour. So I don't know what the definition of the word denial is because I think it means that I had forgotten about it. But I didn't forget about it, it was just locked away.

30 Q. Well, I'm not a psychologist so I don't want to get into the inner workings of the mind but at the very least you pushed this out of your mind for years?

A. Yes.

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Q. And I gather that much of it over time was retrieved through this process of meditation and whatnot?

A. Yes.

Q. Have I got it right?

5

A. Yes.

Q. And did you use any other source to refresh your memory other than yearbooks and retrieving from your memory?

10 A. Well, after I went through this process I did get to read Andrew Hale-Byrne's book, Grenville.

Q. Well, I was going to ask you that.

A. Yeah.

Q. And what else did you use to refresh your memory?

15

A. That's about it. I'm not really in contact with Grenville people. I don't see them. I don't -- they're not -- I don't have friends from Grenville anymore so it was basically me, my memories, the yearbooks.

20 Q. Well, basically, that's fine. I understand that. But I don't want just basically, I want to know everything you used to refresh your memory.

A. I used the yearbooks. I used my memory. I used meditation.

Q. Yes? And Andrew Hale-Byrne's book?

25

A. Andrew Hale-Byrne's book I didn't read until maybe three weeks ago.

Q. Yeah.

30 A. So I had already established my -- my Post-its and my lists and my -- so there are things in Andrew's book that I learned, that I never knew and I certainly didn't testify to those here today. There are things that I remembered myself already, so there's nothing -- there wasn't a time in

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Andrew's book that I went like, "Oh, my God, I forgot about this". I had remembered the things that he refers to about me in the book and the things that he describes I can't testify to because they're either from the time when I wasn't there, or they happened to people that I didn't witness.

Q. Okay. Have we now covered everything you used to refresh your memory before testifying today?

A. Yes.

Q. What about your statement to the Ontario Provincial Police?

A. What about it?

Q. Did you use that to refresh....

A. No, I've lost it.

Q. You've lost it?

A. Yes, I have.

MR. ADAIR: Bear with me for a moment please, Your Honour.

THE COURT: Sure. Sure.

MR. ADAIR: Q. Well, you did give a statement to the Ontario Provincial Police, correct?

A. Correct.

Q. And that would have been back in or around 2007?

A. Yes.

Q. And did you -- you understood at that point that the Ontario Provincial Police were in -- to put it broadly, investigating what went on at Grenville?

A. Yes.

Q. And you did your best, I assume, to tell them everything you could then remember about Grenville negative experiences?

A. Yes.

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Q. Abusive experiences?

A. Yes.

Q. The things that....

5 A. Well, I don't -- I don't -- I don't -- I don't recall exactly what was written so the answer is yes, as far as I remember, yes.

10 Q. Yeah. Well, I know you don't recall exactly what was written but what I want to know is simply whether in the process you did your best at that time to tell them about any and every abusive experience that you could recall?

A. Okay. So I'm going to -- I'm going to answer this with not a yes or no question if that's okay with you?

15 Q. You -- let me make something very clear to you.

A. Yes.

Q. You are not limited in any way, shape or form to a yes or no answer.

20 A. All right, perfect. Okay. So when I wrote my statement to the OPP I didn't want to write a statement to the OPP. I felt pressured to write a statement to the OPP because I knew my classmates were doing so. At that time I was absolutely not ready to face a lot of the pain that I've suffered. A lot of the therapy that I've done has happened in the last few years. In fact, the -- the lawyers can tell you
25 here that I only volunteered to testify just a couple of months ago. If this trial had taken place in 2009 I would not have testified because I would not have wanted to do the exercise of thinking back and making a list and gathering my Post-its. So when I wrote to the OPP it was out of a sense of duty and
30 obligation and I just wrote examples. I wrote about Father Farnsworth. I wrote about being on discipline. I wrote about being yelled at. I wrote about light sessions. But I did not

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prepare like I prepared today.

Q. I can appreciate that, sir. But what I want to know as you knew the process was an Ontario Provincial Police investigation into abuse at Grenville...

5 A. Yes.

Q. ...and, however, you felt about going to the Ontario Provincial Police, however you felt about it, did you do your best to tell them about any and every abusive incident you could then recall at Grenville?

10 A. No, I did not do my best.

Q. You did not do your best?

A. Correct.

Q. Why not?

15 A. As I explained, I didn't want to write. I didn't want to think about the abuse. In fact, the Father Farnsworth incident really frightened me because there is a -- I don't know if it's a myth or it's a fact, a belief in the general population that someone who's been abused is likely to abuse also, become an abuser, and I'm a teacher. And I was
20 abused by teachers. And I didn't know what's going to happen with the OPP statement. I didn't know how it was going to be used.

All I knew was that I had to write it. We weren't told about the process of disclosure. We didn't know
25 how our confidentiality was going to be respected. And honestly, there was a part of me that thought, "Oh, God, the parents at my school are going to find out and they're going to trust me less". This is one of the reasons. The other reason is I felt that in the statement which I wrote rather quickly, I
30 had painted a good enough picture of an example of discipline, some really inappropriate behaviour of Father Farnsworth. Some of the behaviour of staff. I felt I did my job sufficiently.

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5 Q. Well, sir, do I -- I get the sense, and you tell me if I'm right or wrong, I get the sense that you withheld from the Ontario Provincial Police your version of Father Farnsworth sexually abusing you by putting his hand up your leg and on your penis? You did not tell them that, am I correct?

A. You are correct.

Q. Now, let me ask you a few other things about the past several years. You indicated, sir, that you left Grenville with Post Traumatic Stress Disorder, correct?

10 A. It was suggested by my therapist when I was 25 that the symptoms and the difficulties I had were most likely or were very - resonated a lot with the symptoms of and so I don't want to mislead the court, I did not go through the steps to get an official diagnosis of PTSD but having read about it and having experienced what I experienced, PTSD like symptoms
15 should have been my full answer.

Q. Well, sir --

A. I withheld some words.

20 Q. ...I'm going to suggest with respect, that you did intend to mislead the court. Your words were that you left Grenville with Post Traumatic Stress Disorder. Not Post Traumatic Stress Disorder like symptoms?

25 A. I disagree. I did not intend to mislead. It was an emotional portion of my testimony and I was trying to get to other points, and so I do apologize if I gave that impression.

30 Q. And over the course of last 30 years since you've left Grenville I don't know why -- or I don't know the details or particulars but I gather from your evidence that you had some form of therapy sessions with a therapist when you were 25 or so?

A. Hm-hmm.

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Q. And who was that?

A. Dr. Potasznik.

Q. How do you spell that?

A. P-O-T-A-S-Z-N-I-K.

5

Q. And where is that doctor?

A. In Toronto.

Q. Man or woman?

A. It's a man.

Q. Specialty?

10

A. I don't know.

Q. Psychiatrist?

A. No.

Q. Psychologist?

A. Yes.

15

Q. Psychologist. And you were in Toronto at that time, were you?

A. I was teaching in Toronto at that time, yes.

Q. And I gather that in addition you have had problems with substance abuse?

20

A. That is true.

Q. And I don't want to unduly belabour this but I do want to know, was it drugs, alcohol or both?

A. It was drugs.

25

Q. And over what period of years did you suffer from substance abuse?

A. During my undergrad, so that would have been....

Q. During your? Sorry, I just didn't hear that.

30

A. Oh, during my undergrad. So that would have been the years, let's say, '92 -- '93, '94.

Q. And was that in Toronto?

A. This was in London, Ontario.

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Q. Western?

A. Correct.

Q. All right. And did you graduate from
Western?

5 A. I did, twice.

Q. Twice?

A. Hm-hmm.

Q. Arts? Science?

10 A. I have a Bachelor of Music and then a
Bachelor of Education.

Q. All right. And the -- did you suffer any
problems with substance abuse after you left Western?

A. Ah, what do you mean by experience problems?

15 Q. Well, you're quite right, it was a poorly put
question. Did you suffer from substance abuse after you left
Western?

20 A. After I left Western? Most of it was,
actually, concentrated in the last year of my under -- well no,
that's not quite true. During my undergrad and the two years
before my Bachelor of Education.

Q. All right. And then did substance abuse
continue to be a problem for you after your Bachelor of
Education?

A. No.

25 Q. All right.

A. But again, if I can clarify?

Q. Right.

30 A. I'm not sure what you mean by problem? I --
I did substance abuse but I wasn't homeless, or I wasn't
dealing, or I wasn't incarcerated or arrested or anything like
that. Those are problems to me. Or addicted. Those are
problems.

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Q. Yes, all right.

A. I just -- you know, I did drugs to -- to quieten the pain.

5 Q. All right. Well, I guess what I'm getting at is I see your point about problems. What I should have asked you is whether after your Bachelor of Education at any time in the years that followed up to the present time, have you suffered from substance abuse?

A. I have consumed substances.

10 Q. All right.

A. I'm -- I think we need to clarify how we want to use the word suffered.

Q. Well, I guess....

A. I suffered the next day.

15 Q. Well, I can relate to that but -- I do want to clarify this.

A. Okay. Sure.

20 Q. I don't have any experience with drugs but if you have a few drinks at a party, maybe you have a hangover, maybe you don't. I don't think many people consider that a problem. If it interferes with your life a little bit, maybe people do.

A. Right.

25 Q. Did you have a problem? You know, personal relationships or employment or things like that?

A. Not employment related to the drugs. Relationships in the sense that I made friends because of the drugs and these were bad friendships and unhealthy relationships so that could be called a problem.

30 Q. All right. Now, you mentioned also that you had, I think had -- I think you said most of your therapy in the last oh, ten years or so.

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A. Well, I started at 25.

Q. Yeah.

A. And I'm 46 now. So I would say over the course of the last 20 years, 19 years.

5 Q. All right. And where -- who else has provided therapy?

A. Okay, so Dr. Potasznik. Uhhh, oh, God.

THE COURT: Can I ask, what's this relevant to?

MR. ADAIR: I beg your pardon?

10 THE COURT: Can I ask what the names of the therapist to...

MR. ADAIR: I'm just about to....

15 THE COURT: ...is relevant to? They sound more like discovery type questions than related to the issues in play.

MR. ADAIR: Yeah, I'm just about -- I'm sorry, I may have misheard Your Honour. Did Your Honour say what are the names of the therapists?

20 THE COURT: It sounded as though you were going to ask about the names, I was just inquiring what it was relevant to on the trial?

MR. ADAIR: What is the relevance of it?

THE COURT: Yes.

25 MR. ADAIR: Well, it's cross examination and it goes to credibility.

THE COURT: How?

30 MR. ADAIR: How? Because if one has had problems with denial of things and some issues with substance abuse and has had emotional problems, a reasonable person, in my opinion, which is the test, would a reasonable person logically consider that to be relevant to credibility? And

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in my respectful submission the answer is yes.

THE COURT: I agree with you. What do the names of the therapists have to do though with that thesis?

5 MR. ADAIR: The names of the therapists give a --
may or may not be relevant to the various
therapies and to the ability of the defendants to
enquire into the testimony of the witness. We
may want to get the medical records. This
10 witness has testified he had PSTD [sic] or PTSD,
like symptoms at the very least.

THE COURT: So you anticipate using this evidence
to potentially continue investigation that may
lead to evidence that you call as part of your
15 case?

MR. ADAIR: It may very well.

THE COURT: All right. Since I raised it, I'll
ask if counsel have any submissions on this
point?

20 MS. LOMBARDI: I guess we don't quite understand
how counsel is able to obtain those records even
with the names of the therapist listed. I don't
quite see how that could ever become part of
counsel's case? It doesn't seem to be something
25 that should be occurring at -- certainly not at
this stage of where we are in this proceeding.
Possibly at discover or some other stage but we
would object to -- to questions along those
lines.

30 MR. ADAIR: All right. I didn't want to
interrupt my friend but if I chose to, and I'm
not saying for one minute that I will, but the

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appropriate procedure would be to serve the physician with a subpoena duces tecum and have the court deposit -- the record deposited with the court under seal.

5 THE COURT: What about the issue about timing and process and why this wasn't done during the discovery phase? Why doing it -- why pursuing it in the trial? Is there an issue with that, you see?

10 MR. ADAIR: We had no right to discover this witness. There was no discovery of this witness.

THE COURT: And no right to documentary production of any therapeutic records that might bear on questions of credibility that that you've raised?

15 MR. ADAIR: There were documentary productions of a great many -- not a great many, numerous former student's medical records. This gentleman's medical records, not among them.

20 THE COURT: Could that have been something you could have asked for at an appropriate time?

MR. ADAIR: I had no right have that. I didn't even know whether he'd ever been to a therapist or not. But we have a will say from him. There is no indication whatsoever that he was ever in therapy in the will say.

25 THE COURT: So you're saying this is the first evidence that you've heard that this witness has had any kind of therapy or had sought therapy for any treatment relating to the time at Grenville?

30 MR. ADAIR: Yes. When I stood up and asked the questions I had no knowledge, suspicion, inkling,

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5 anything. But when I hear that someone has
medical records and they're not among those
produced by various witnesses, one thing that is
potentially very relevant is whether Grenville
was ever discussed with a therapist.

10 MS. LOMBARDI: Your Honour, if I can just make
one point on that? So my friend is correct in
saying that he did receive some medical records
but that was not part of a discovery process or
really part of the litigation proper in terms of
why we're here today. That was in the context of
a mediation for settlement purposes. It was
something that went to speak to damages. This is
15 a common issues trial that isn't speaking to
damages. That's not one of the common issues to
be determined, other than the availability
possibly of punitive damages. So I -- we just
fail to see the relevance of this line of
questioning at this time. It seems overly
20 intrusive on this witness to go further with the
provision of those names.

MR. ADAIR: Well, Your Honour, the problem with
this, if I may say one last thing? There's
suppose to be a way of doing things.

25 Submissions, response and reply. My friend's
getting up and now making new arguments and....

THE COURT: It's true. It's true. But it is
assisting me....

MR. ADAIR: ...this may be....

30 THE COURT: ...it's assisting me with
understanding the question that I've raised and
given that it was a traditional objection I think

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5 it's useful but I take your point that your friend has said it's relevant potentially to punitive damages. You say it's relevant potentially to credibility. I would like to think about this a little more...

MR. ADAIR: Yes.

THE COURT: ...because I'm concerned with a little bit of cost benefit analysis which I mean...

10 MR. ADAIR: Sure.

THE COURT: ...the trial judge has a residual discretion to consider whether or not it will add or whether it will lead us far astray, given the stage we're at, at the trial, so I'm going to think about it some more, over lunch. And we're at the lunch break now as well. Other than this line of questioning do you have an idea of how much longer you will be in cross examination with this witness?

20 MR. ADAIR: Probably 30 minutes.

THE COURT: All right.

MR. ADAIR: Your Honour, I would like to say one thing in response to the new argument my friend raised. She said well we're not dealing with damages. My questions do not go to damages. They go to credibility with respect.

25 THE COURT: All right. That's helpful to know. Thank you.

MR. ADAIR: Yes.

30 THE COURT: All right. Then we will take the lunch break now. Could you please return at 2:30.

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R E C E S S

U P O N R E S U M I N G :

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THE COURT: So in relation to the issue that arose right before lunch -- Mr. Lukawecki, would you mind just stepping out for a minute. It has nothing to do with you...

10

THE WITNESS: Okay.

THE COURT: ...but I want to discuss something with the counsel.

THE WITNESS: Certainly.

THE COURT: Thank you.

15

...WITNESS EXCUSED

20

THE COURT: So just -- if I can recap the purpose of the line of questioning and my understanding of the underlying features to it. As I understood, Mr. Lukawecki's will say did not mention anything about having received therapy or seeing a therapist or suffering from anything that would require therapy, is that fair?

25

MR. ADAIR: That -- yes.

THE COURT: Okay.

MR. ADAIR: Did not.

THE COURT: All right. And when -- when was his will say provided?

30

MR. ADAIR: Uhhh....

THE COURT: Approximately.

MR. ADAIR: Two weeks ago, I'm going to say,

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roughly.

5 THE COURT: Two weeks ago, okay. And that would have been the first time you had the name of this particular class witness? Or would you have had his name before?

MR. ADAIR: No, I would have been aware for three or four years that he was someone who had reported to counsel as having sustained abuse at Grenville.

10 THE COURT: Okay.

MR. ADAIR: There was a list of about, I'm going to say, 250 names, maybe 300, at that time.

THE COURT: But in terms of that much smaller subset of people who were coming to testify, when would you have known that he was coming?

15 MR. BOGHOSIAN: Could I assist my friend?

THE COURT: Yes, of course, please.

MR. BOGHOSIAN: The email that put him -- gave his name as being on the witness list was dated 20 Wednesday, September 11th, so the Wednesday of the week before the trial started.

THE COURT: Okay.

MR. BOGHOSIAN: Sorry, Geoff.

25 THE COURT: All right. That's helpful. Thank you. And as I understand it the line of questioning about therapist which I think the evidence was, goes back about 10 years. Are you going to be seeking to ask every therapist he has seen, the name and location?

30 MR. ADAIR: Now, I am not necessarily going to do anything and I can tell you having had a bit more chance to think about it, I probably will not do

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anything but I am not certain, it has just come up and...

THE COURT: Sure.

MR. ADAIR: ...that's it, I have no intention of going any further with this line of questioning now other than who and when provided you with therapy.

THE COURT: So what -- what I was thinking we might do, because of the concern that I flagged but also because I raised it at a moment that nobody really, I think, expected me to do, was that if there's to be an argument about (a) whether the questions are proper or (b) whether if the intention is to go look from records, potentially bring the witness back and cross examine on prior inconsistent statements, to give counsel a couple of days to make proper argument with case law to assist me with deciding whether that's appropriate. So what I was going to propose we do is have you continue the cross on areas unrelated to this, carve out some time, perhaps Friday morning at 9:30, come in prepared to make the argument. If the witness has to come back, we'll bring him back. I just don't want to do this on the fly.

MR. ADAIR: No. I'm happy to do that, Your Honour, and I think the witness is from out of the province and if it turns out that the witness has to answer, to avoid the witness coming back, I'm prepared to receive the information through my friends and....

THE COURT: Okay. That would also make things

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more efficient.

MR. ADAIR: Yeah, the -- so I'm prepared to do that if that closes out this subject because I have another problem with the witness that I'll address separately...

THE COURT: Okay.

MR. ADAIR: ...but I don't want to mix the two up.

THE COURT: Yeah, well, let's finish the thinking on this. If you're saying I want to ask who and when but I don't plan to do anything more with it, that's one thing. But if I want to ask who and when and I reserve my right to serve a subpoena duces tecum to have records brought, then I think we do have to have an argument about that before that decision's made so....

MR. ADAIR: Yes, it is the latter.

THE COURT: All right. Then....

MR. ADAIR: In other words, I have....

THE COURT: All right.

MR. ADAIR: I just -- it's the kind of thing one likes to think about a bit and I don't want to say I am going to go and subpoena the doctor's records but I definitely don't want to say I'm not going to.

THE COURT: Oh.

MR. ADAIR: I doubt it to be perfectly frank.

THE COURT: All right. But if it's not ruled out then I suppose pending your final landing on that question the help I would want from all counsel are questions of materiality, potential probative nature of the evidence, whether issues of

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5 confidentiality and the *Wigmore* criteria might arise given that these might be counselling records related to childhood sexual abuse, those issues may arise. And, of course, the overriding question of trial fairness. And I think that's something we shouldn't do on the fly.

MR. ADAIR: All right.

10 THE COURT: So -- all right, so let's -- let's do it that way and what's your other issue with this witness?

MR. ADAIR: All right. I'm happy to do it that way and....

MS. LOMBARDI: May I just ask a question?

THE COURT: Yes, of course.

15 MS. LOMBARDI: Sorry....

MR. ADAIR: I was just going to say, perhaps to make it easier all around if I intend to pursue it in any way, i.e. seek the records through the subpoena process, I'll let my friends and the court know in advance because there's no use either my friend or I preparing for an argument that there's no need for...

THE COURT: Exactly.

20 MR. ADAIR: ...and I can -- and the court having to deal with it, so I'm happy to let my friends know, say tomorrow morning and the court.

THE COURT: That's perfect.

MS. LOMBARDI: That's exactly what I was going to ask, thank you.

25 MR. ADAIR: Not that we have to argue it then, I'll just let you know.

30 THE COURT: Okay. That's helpful.

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MR. ADAIR: Because I don't want to get -- to put it in the vernacular, I don't want to get bent out of shape over -- I'm -- upon reflection, I might conclude is a trivial matter.

5 THE COURT: Well, it's a matter that was raised and we need to deal with it if we need to and if we don't it would be appreciated if you'd let us know.

MR. ADAIR: Yeah. I understand, Your Honour.

10 THE COURT: Okay.

MR. ADAIR: The other matter has to do with the OPP statement. I am very concerned about that. It has to come to my attention over lunch, through the -- I was reading, for other reasons, the Hale-Byrne draft, reason to do with this witness but nothing to do with the police statement. And the draft says on page 66 that Francois Lukawecki recalls such an experience in his statement to the Ontario Provincial Police. And then it goes on to deal with a very small part of his evidence on the next page. And my point is that it appears that Hale-Byrne in a copy of this statement I -- I do not in anyway suggest any impropriety or anything else on the part of my friend. I think it's just one of these things, but if a representative plaintiff hasn't, as appears to be the case, it is definitely a document subject to production. And I don't want to -- I consider that very important and I don't want to -- for example, be in a position where this witness leaves the witness box and then I produce a statement where this is

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statements therein or omissions of statements
that I haven't put to the witness.

THE COURT: Wasn't it my understanding you do
have that OPP statement now?

5 MR. ADAIR: No.

THE COURT: Oh, I thought you were making
reference to it, not referring to certain things?

MR. ADAIR: I am. Because....

THE COURT: How do you know what's in it?

10 MR. ADAIR: Because -- beg your pardon?

THE COURT: How do you know what's in it if you
don't have it?

MR. ADAIR: I don't. I have no idea what's in
it. I asked the witness -- I asked the witness
because if you follow the line of questioning in
15 cross examination I was frankly probing over this
and it appeared to me to be pretty sure from the
answers he gave that he had not reported the
inappropriate physical contact. That's --
20 that's....

THE COURT: Oh, I see.

MR. ADAIR: ...all I know.

THE COURT: Oh, I had the impression you had the
statement in hand.

25 MR. ADAIR: No.

THE COURT: All right.

MR. ADAIR: No, not at all.

MS. LOMBARDI: I have something to say about
that.

30 THE COURT: Counsel has something to say about it
and then we'll get to the question because I
haven't heard a question yet but I've got some

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information.

5 MS. LOMBARDI: Okay. We do not have an OPP
statement of Mr. Lukawecki. It's possible that
Andrew Hale-Byrne does, I don't know. We can
certainly find out, hopefully, in fairly short
order and maybe even produce it if it's
available. But the concern that I have and I
think this is something Your Honour may be alive
to and that is, this is actually the third time a
10 matter has been raised in cross examination of a
witness for which counsel has no good faith
basis. This time it was suggested to this
witness before, I believe, he said anything to
that effect, that things -- he had not made full
15 disclosure to the OPP.

And if that's wild speculation I would suggest
it's improper cross examination. I am very
reluctant to interrupt a cross examination for
20 any reason but the second occasion was when my
friend suggested to one of the witnesses that the
term "light sessions", was invented on FactNet or
Facebook in 2007, which not only is there no good
faith basis for that, that's blatantly not true.
25 We've seen the term "light sessions" written in
Marc Vincent's letters from the time
contemporaneous to his parents used that term.
And other witnesses have testified about that
term being used as well. The third occasion was
30 when my friend suggested to a witness that there
were a 150 names on a list of class members, and
that again, there's no good faith basis for that.

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5 In fact, it's absolutely false. I believe the
list that we gave them had 250 or 275,000. Mr.
Adair seems to recall three. It's somewhere in
that range between 250 and 300,000 -- or sorry,
300, not thousand, sorry, three 300. Sorry, I
completely misspoke, there's only 1000 members in
the -- a 1000 in the class, sorry --

THE COURT: Yes, I assumed it was.

10 MS. LOMBARDI: ...yeah, a slip of the tongue. I
guess what I'm saying is, my understanding of the
law of cross examination is if counsel wishes to
put a proposition to a witness they must have
some good faith basis for doing so. And as I've
said, I'm very reluctant to stand up in the
15 middle of a cross examination and make an
objection. It interrupts the flow, unless it's
something that is really unfair to the witness.
But I do want to alert Your Honour to this
because I do see it as an ongoing pattern.

20 THE COURT: I think it's in -- I appreciate what
you say about not interrupting a flow but it is a
judge alone, not a jury trial and it -- it is
easier to deal with an objection at the time, in
real time. It's also I think fairer to your
25 friend...

MS. LOMBARDI: Okay.

THE COURT: ...so it's harder to go back and say
and this happened last week.

MS. LOMBARDI: Right.

30 THE COURT: So I'll stay with just the one
example of today, so I -- whether or not there's
a good faith basis, counsel has some latitude to

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5 put things to witnesses if it's potentially
logical and it might flow and I will -- I would
observe from the answers given it seems that that
bore some fruit because it's clear from the
answers that this witness didn't mention it.
Now, he gave an explanation. He said why he
didn't mention it. And I did assume counsel had
the document in hand but it -- I wouldn't say it
had crossed the line too and I put it to you that
10 you lied to the police and told them X, Y and Z.
That would be a no good faith basis.

MS. LOMBARDI: Right.

15 THE COURT: But to ask did you include it all, I
think counsel's entitled to do that. But let's
come back to the problem at hand. I -- I
anticipate counsel will cross examine on whether
he gave the statement to Mr. Hale-Byrne and why
didn't he say so when he was asked about it? I
assume that line questioning may happen today and
20 you're shaking your head, maybe not. But what --
what is the issue at this moment with this
problem that's now being raised?

MR. ADAIR: All right. May I respond and my
friend hears my response?

25 THE COURT: Sure. Although, you heard what I
said so if....

30 MR. ADAIR: I entirely agree with my friend's
statement of the law on having a good faith cases
-- basis -- cases or facts on the medical counsel
and *R. v. Bencardino* and *DeCarlo* among others.
The first one being an English case. The good
faith basis, in my respectful submission, flowed

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5 directly from the cross examination conducted of
the witness to the point where I said to the
witness, in effect, I forget the precise words,
but it was the impugnation was you did not put
Farnsworth's inappropriate touching of your penis
in the OPP statement? And the good faith basis
for putting that was the questions that proceeded
it, which in my submission were the basis for my
10 asking the question cause it seemed pretty
obvious from his answers. So that was the good
faith basis.

THE COURT: I agree with you.

MR. ADAIR: Yes, thank you.

THE COURT: What's the issue now though?

15 MR. ADAIR: Well, the only issue now is we've got
to have that statement and it is a statement that
-- and I'm not here to complain about my friend
having omitted a statement or something. It,
obviously, isn't done deliberately, but it is a
20 statement that appears to have been in the
possession of Andrew Hale-Byrne and accordingly
my friends are required to produce it. No
privilege attaches to it. And whether they had
it or not, if it's in Hale-Byrne's possession
25 it's got to be produced.

THE COURT: All right. So, pending your decision
on the first question, pending further enquiries
by counsel to locate the document can we have the
witness in to finish the rest of the cross?

30 MR. ADAIR: Yes.

THE COURT: Let's do that.

MR. ADAIR: Yes.

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THE COURT: All right.

MR. ADAIR: That was my plan and my thought was that at the end I would probably ask the court pending the obtaining of the statement to make sure the witness understands, if called upon and Your Honour so orders he must come back.

THE COURT: We'll bind him over. Yes, okay. All right. Let's have the witness back in, Mr. Lukawecki. Thank you.

THE COURT: All right, Mr. Adair.

MR. ADAIR: Q. Mr. Lukawecki, did you lodge a complaint of any kind regarding your experience at Grenville with the Anglican church?

A. No.

Q. All right. I asked that because we know that some people wrote the Bishop. You didn't...

A. I did not.

Q. ...do that? All right. And did you give a statement of your experiences -- a statement in writing to counsel?

A. To....

Q. Yes?

A. Yes.

Q. And did you use that to refresh your memory?

A. Well, that's -- as my memory was refreshed I wrote...

Q. Yeah.

A. ...that.

Q. And before you testified did you go over it?

A. Well, yes, certainly. Yes, I reread myself. I -- yes, I reread it over.

Q. All right. Well, can we have that produced,

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please?

MS. LOMBARDI: Sure.

THE WITNESS: I have a copy in my bag.

MS. LOMBARDI: Oh, he has a copy. Perfect.

5 THE COURT: Is it with you now?

THE WITNESS: It is.

THE COURT: All right. Is it....

THE WITNESS: It's over there.

THE COURT: All right. Why don't you get it now.

10 THE WITNESS: I hope the pages are in order
because they're not numbered.

MR. ADAIR: I'll make sure it doesn't -- I see by
the date here this statement was made on August
16th, 2019?

15 THE WITNESS: That's correct.

MR. ADAIR: Okay.

THE WITNESS: It was very recent.

MR. ADAIR: All right. Well, we'll just put this
aside for a moment.

20 MR. ADAIR: Q. Now, tell me, sir, do you know
Andrew Hale-Byrne?

A. Yes, he was a classmate of mine.

25 Q. And did you communicate with Andrew
Hale-Byrne -- let me ask you this. Did you stay in touch with
him at all in the period between the time you left Grenville
and, approximately, 2006 or '07 when the Grenville story broke
for lack of better words?

30 A. Right. So I did see Andrew in my first year
of university or second year, which would have been '91-'92,
that's the last time I saw Andrew. And then through Facebook
many years later we reconnected and you know we've exchanged
like a few messages a year, a funny gift or a statement about

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5 the British election of something of that nature. And he's the one that contacted me and said, you know, this is -- the -- the OPP is looking for statements and he encouraged me to write a statement to the OPP. And through him I found out about the lawsuit that was emerging.

Q. Right. And so do I take it that you're resumption of communication, if we can call it that, would have started in or around 2006 or '07?

10 A. It sounds fair, although, I'd have to look at my emails and check.

Q. All right. And where did you get the copy of his book you indicated you read?

A. I ordered it from Amazon.

Q. I'm sorry?

15 A. I ordered it from Amazon.

Q. All right. And do you agree with me, sir, that the -- the Marc Bergeron story you briefly touched on in your evidence, I'm speaking about the one where he gave the appearance, if you will, of being possessed by Satan or the devil or something in front of Farnsworth, do you agree, sir, that that was in Hale-Byrne's book?

A. Yes, it is.

Q. And do you agree that Ordolani punching a student was also in Hale-Byrne's book?

25 A. Yes, I believe so.

Q. Yes. And you -- you -- am I correct in understanding that the student Ordolani punched was his own son?

A. That's -- that's not what I said.

30 Q. No, you didn't say that. I'm asking you if that's the case?

A. That Dan Ordolani punched his own son?

Q. Yes.

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A. I don't recall that myself, no.

Q. All right. And do you agree, sir, that Hale-Byrne mentions in his book the frequency and unpleasantness of corrections or light sessions at the choir?

5 A. Yes.

Q. And do you agree with me that Hale-Byrne mentions in his book the continuous name calling of disgusting names like fag and queer and those kinds of things, Hale-Byrne relates that in his book as well?

10 A. Yes, we experienced the same things.

Q. Yes. And do you agree that Hale-Byrne also mentions this business of the shaming of -- public shaming of Robert Hunter who I gather was also gay?

15 A. I don't recall Robert Hunter being in the book, but if you say so, I believe you.

Q. All right. And do you agree that Sara Jones light session is also prominently mentioned in Hale-Byrne's book?

20 A. Is this the Sara Jones with Dan Shay?

Q. Dan Shay.

A. Right. Okay, I didn't remember the name, Sara Jones...

Q. Yes.

25 A. ...but I'm assuming he's referring to the same thing that I was referring to, yes.

Q. Yes, and do you agree that even the analogy of the frog in hot water is in Hale-Byrne's book?

A. It was a vividly memorable saying, yes, it is.

30 Q. Yeah. And do you agree, sir, that the entire general theme, perhaps not every incident or everything that happened at Grenville but the general theme of Hale-Byrne's book

F. Lukawecki - Cr-Ex.
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and the abuses very much mirrors your own experience?

A. Of course.

Q. Yeah. And the entire -- the -- you prepared your -- when is it that you ordered his book from Amazon?

5 A. It was after writing my statement. Uhmm, I could give you a date if I was able to look on my account on my phone, I could give you a specific date.

10 Q. So that you ordered the -- you made your statement of August 16th after -- sorry, before you ordered the book?

A. Yes, but you also have to remember that it took me many, many days to create that statement and then date it and then send it.

15 Q. All right. So what are you telling me? I'm missing the point.

THE COURT: I think you asked the day he ordered the Amazon book?

THE WITNESS: Yes.

20 THE COURT: And you're trying to narrow it down when it was relative to the statement?

THE WITNESS: Right. I'm just -- I'm just trying to establish that there was a longer, even period of time between the statement date that's on the paper there than the purchase of the Amazon book itself.

25 MR. ADAIR: Q. Okay. I'm...

A. Let me explain in different words.

Q. ...confused.

30 A. If I ordered the book four days after August 6th -- I guess, is it the 16th?

Q. Sixteenth.

A. Sixteenth.

F. Lukawecki - Cr-Ex.
(Mr. Adair)

Q. This year, yeah.

A. I really started writing my statement, August 1st, let's say.

Q. All right.

5 A. So I'm just establishing a parameter or perspective.

Q. Okay. So your point is -- or the fact is that the book was ordered after your statement was completed?

10 A. I believe so, and I check on my phone I'll be able to tell you...

Q. All right.

A. ...absolutely, definitely.

15 Q. And tell me -- when I hear your story and when we heard Hale-Byrne's evidence, the impression I got and I want you to tell me if this is correct or not, that these events of confrontation, humiliation, inducing fear, name calling, punishing, creating a -- an atmosphere of fear and tension, all these things that were done were really all pervasive? That is you couldn't miss them, if you were a student there, right?

20 A. I'm not sure I understand your question.

Q. Well, look, what I'm putting to you is this. It sounds to me when I hear your evidence that all of the abuse at Grenville was so obvious and widespread that whether effected by it or not, no student could have missed it happening --

25 A. Hm-hmm.

Q. ...do you agree?

A. Yes, I do agree.

Q. All right.

A. Yes.

30 Q. And you also were fair enough to point out in your evidence that there were many good times at Grenville?

A. Yes.

F. Lukawecki - Cr-Ex.
(Mr. Adair)

Q. There were things like an annual Brown's Bay Day in September, I gather?

A. That I can testify to, with respect to a carnival day.

5 Q. Oh, you called that carnival day?

A. That's what I remember.

Q. Yeah. Okay. I don't care. I just want to make sure...

A. Okay.

10 Q. ...we're on the same...

A. I don't know what Brown's Day is so maybe I've forgotten an event.

Q. Brown's Bay is a provincial park. It would be on the St. Lawrence, somewhat east of the school.

15 A. Yes.

Q. Ring a bell?

A. Yes.

Q. All right.

20 A. Yes. But that's not where it always took place. Sometimes they were just on the front lawn of the school.

Q. Oh.

A. And then it was called carnival. It varied from year to year. I was there for four years.

25 Q. All right. And there were things like trips to Blue Jay's games?

A. Hm-hmm, yes.

Q. Trips to Ottawa?

A. Yes, for the choir.

30 Q. And there were skis trips?

A. There were.

Q. And occasions at some cottage of Farnsworth

F. Lukawecki - Cr-Ex.
(Mr. Adair)

that he had?

A. That's right. For the seniors, yes.

Q. Yeah, the seniors for that one and then of course there were a great many activities for students at Grenville?

A. Correct.

Q. So if you didn't run into problems with the authorities, a student could have a rich and varied experience?

A. If I may qualify my answer?

Q. Sure.

A. A student could have a lot more positive experiences and avoid a lot of the harsher punishments but the exposure to some of the preaching and the sermons and the mass light sessions that was inevitable.

Q. Okay. And the -- the business of you being pulled out of bed at night and forced to run on the track, do I understand correctly that that was at the hands of prefects or student leaders?

A. Staff and prefects.

Q. Staff and prefects?

A. Yes.

Q. What staff member was there?

A. Jim MacNeil, Gordon Mintz, Don Farnsworth, Bill Bayles, sometimes Bob Bayles.

Q. And what did you do after that session?

A. After we ran?

Q. Yeah.

A. Went back to bed.

Q. Are you sure?

A. Went back to bed or if it was really early in the morning and it bled into the rising of the other students then, of course, we would shower, et cetera.

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(Mr. Adair)

Q. Yeah. So it may have been a situation where you were gotten out of bed an hour or so early to run?

A. At some occasions, at others not.

Q. Well, you only mentioned one occasion.

5

A. No, I did not.

Q. You said....

A. I mentioned -- I mentioned that it happened early in my first weeks of school with the Dan Shay room and being very rebellious. And I did mention that it had happened at other occasions and I mentioned that it happened while on discipline.

10

Q. All right. How many times did it happen?

A. With being on -- excluding being on discipline I would say three or four times.

15

Q. Now, I'm talking about the running. How often in total?

A. No, but I'm saying while on discipline it happened and it's hard for me to remember how many times in discipline because it kind of felt like it was part of the nature of the punishment.

20

Q. Yes.

A. But while I was not on discipline, then I would say three or four times.

25

Q. All right. Well, what I want to know is how many times did it happen in total, whether you were on discipline...

A. I'd say 10.

Q. ...or not? Ten.

A. Let's say 10.

30

Q. So again, this would be widely known among the small student body?

A. Absolutely.

F. Lukawecki - Cr-Ex.
(Mr. Adair)

Q. And this -- this business of the Geraldo video...

A. Yes, sir.

5 Q. ...that was, I gather, something that came from prime time network television?

A. I believe so, yes. But they were using a video cassette.

Q. Yeah, I didn't say you watched it on TV.

A. Okay.

10 Q. I didn't mean to imply that.

A. Okay.

Q. Tell me one last thing. Did you take considerable pains to conceal your sexual preference?

A. My sexual orientation?

15 Q. Yeah, orientation, a better word, right.

A. Yes. Yes, of course, absolutely.

Q. All right.

20 A. I was reminded to. Well, because I was a effeminate and being a effeminate was associated with being homosexual, I was reminded frequently not to be a effeminate.

Q. All right.

25 A. To butch it up. In fact in one of my yearbooks, in the very front cover, is another student who signed something, remembered to be masculine, because there was such a thing that was said to me frequently.

Q. Yeah. Well, tell me -- so -- so except for the letter to this other chap, I think his name was Adrian, was it?

A. Hm-hmm, yes.

30 Q. Except for that, you did not disclose it to anybody?

A. No.

F. Lukawecki - Cr-Ex.
(Mr. Adair)

Q. Your sexual orientation?

A. No.

Q. And you took great pains to keep it under wraps?

5

A. Yes.

Q. And the letter to Adrian was written in the summer, I think you indicated?

A. Correct.

10 Q. And would that have been the summer before you returned for your last year at Grenville?

A. No. That was the summer of my first year. Therefore, '87 - '88 -- the summer of '88.

15 Q. The summer of '88. And prior -- okay, again I'm a little slow on the uptake here but prior to -- it was the summer than between grade 10 and 11?

A. Correct.

Q. All right. And how long after you wrote that letter was it that Farnsworth made it known that he was aware of the letter?

20

A. Spring of '91. March -- March of '91.

Q. All right. And March of '91 would be just before you left Grenville a couple months...

A. That's right. It was just before...

Q. ...before?

25

A. ...my graduation, yes.

Q. All right. So throughout all that time then, right up until at least March of 1991 nobody was aware of your sexual orientation?

A. No.

30

Q. And what about after March? From April and May and however long you were there in June?

A. Still not.

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(Mr. Adair)

Q. Okay.

A. No.

Q. All right.

MR. ADAIR: Excuse me, Your Honour --

5

THE COURT: Sure.

MR. ADAIR: ...may I just speak to my friend?

THE COURT: Sure.

10

MR. ADAIR: Could you -- excuse me, Your Honour,
could you bear with me for a moment while I just
looked at my notes?

THE COURT: Sure.

MR. ADAIR: Thank you.

MR. ADAIR: Q. Okay, thank you, sir, those are
all the questions I have.

15

A. Thank you.

THE COURT: Re-examination?

MS. LOMBARDI: No, Your Honour.

20

THE COURT: There was one clarification question
I wanted to ask you and I hope you'll remember
this part. I didn't want to interrupt counsel.
Towards the end of your question and answers to
counsel for the plaintiff, you described an event
that happened to you as a child that prepared
you, you said, for saying no to Father
Farnsworth. Do you remember describing that?

25

THE WITNESS: Yes.

30

THE COURT: And when you discussed that you said
if that had not happened to me I would not have
-- I have written down in quotes, "All the dirty
questions, he had prepped me and then hand, hand,
hand". Were you talking about the man when you
were a child when you talked about that? Or were

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you talking about Father Farnsworth in terms
of....

5

THE WITNESS: I was talking about Father
Farnsworth but I was also saying that it mirrored
questions that had led to my sexual abuse
earlier.

THE COURT: Okay. I just wanted to understand if
you'd been thinking back farther in time.

THE WITNESS: Okay.

10

THE COURT: All right. Thank you.

MR. ADAIR: Sorry, Your Honour. I nearly forgot,
the OPP statement.

THE COURT: Right. Do you -- yes, go ahead.

MR. ADAIR: Well, no....

15

THE COURT: Oh, just the -- you don't want to ask
a question...

MR. ADAIR: Yeah.

THE COURT: ...you just want to...

MR. ADAIR: Yeah.

20

THE COURT: ...yes, hold that. All right. So
there's a statement outstanding, I'm not going to
go into any details about it but it's something
that counsel has properly asked for and counsel
for the plaintiff's are going to look for. If
the document is found there may be a need for you
to come back and answer some questions about
that.

25

THE WITNESS: Okay.

30

THE COURT: Okay, so I assume you're here under
subpoena?

THE WITNESS: I am -- well, willingly, I am.

THE COURT: You're here willingly?

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(Mr. Adair)

THE WITNESS: Yeah.

5 THE COURT: All right. So now that you're here and part of the case, I'm going to ask you, and I'll bind you over to -- well, I can't bind you over to a date 'cause we don't know if we'll bring you back, but I'm going to ask you to come back to court...

THE WITNESS: Okay.

10 THE COURT: ...if advised by counsel to complete any further questions.

THE WITNESS: Okay.

THE COURT: All right? And I assume they have all your contact information for the purpose of doing that?

15 THE WITNESS: They do, yes.

THE COURT: All right. So is that sufficient?

MR. ADAIR: Yes, Your Honour.

THE COURT: Then I will thank you for attending today.

20 THE WITNESS: Thank you very much.

THE COURT: Should we take a brief afternoon recess at this point before the next witness? Does that make sense to put it here so we don't interrupt the flow?

25 MS. LOMBARDI: Sure.

THE COURT: All right. We'll just take ten minutes.

R E C E S S

30 U P O N R E S U M I N G:

Paul Axelrod - in-Ch.
(Ms. Merritt)

PAUL AXELROD: AFFIRMED

EXAMINATION IN-CHIEF BY MS. MERRITT:

5 Q. Dr. Axelrod, I understand you're a retired
York University History and Education Professor?

A. Yes.

Q. And you have extensive experience in research
teaching and administration in the fields of educational history
and policy?

10 A. I do.

Q. I understand you graduated from York
University in 1972 with a BA in History and Political Science?

A. Yes.

15 Q. And you obtained your Masters in History from
the University of Toronto in '73?

A. Yes.

Q. And your PhD, you did in 1980 at York
University as well?

A. I did.

20 Q. All right. And from 1980 to '82 you were an
assistant professor of History at Queen's University?

A. Yes.

25 Q. And in 1982 you were hired as an assistant
professor in the Division of Social Science and the Department
of History at York?

A. Yes.

Q. And in 1987 you became tenured and were
promoted to the position of associate professor in Social
Science?

30 A. Correct.

Q. And you chaired the division of Social
Science from '89 to '93; is that right?

Paul Axelrod - in-Ch.
(Ms. Merritt)

A. Yes.

Q. And you became a full professor in 1994?

A. Yes.

5 Q. Between 2001 and 2008 you were the Dean of
the Faculty of Education at York?

A. Yes.

Q. And between 2008 and 2015 you were a
professor in the Faculty of Education and in the graduate
program in History?

10 A. Correct.

Q. And that was when you retired then in '15?

A. Yes.

Q. All right. And you received some academic
honours. In 1992 you received the Distinguished Research Award
15 from the Canadian Society for the study of higher education?

A. Yes.

Q. And in 2007 you received the David C. Smith
Award for significant contributions to scholarship and policy in
higher education from the Council of Ontario Universities?

20 A. Yes.

Q. And in 2016 you received the distinguished
contribution award from the Canadian History of Education
Association?

A. Yes.

25 Q. And you've been listed in Canada's who's who
every year from 2008 onward?

A. Yes.

Q. All right. And I understand you've done some
extensive writing. Doctor, you've authored or co-authored five
30 books and edited or co-edited four books?

A. Yes.

Q. And you've written or co-authored 26 book

Paul Axelrod - in-Ch.
(Ms. Merritt)

chapters?

A. Yes.

Q. And you've written 20 articles in referee journals and you have 6 encyclopedia entries?

5 A. Mm-hmm, yes.

Q. You've written 64 book reviews and 58 either magazine, newspaper, or internet articles?

A. Yes.

10 Q. And you co-edit the Journal Historical Studies in Education from 2006 to 2009 and then went on to edit it from 2009 to 2015?

A. Correct.

15 Q. All right. And can you tell us what issues of relevance to this case are addressed in the publication entitled "No Longer a "Last Resort": The End of Corporal Punishment in the Schools of Toronto" and "Banning the Strap: The End of Corporal Punishment in Canadian Schools" published in 2010?

20 A. Yes. Those pieces explore the history of corporal punishment in 20th century Canada, focusing specifically on the events leading to the abolition of corporal punishment in Toronto. The article looks at the regulations and protocols that were used in the disciplining of students in the administration of corporal punishment. And it looks at the
25 changing perspectives politically, publically, educationally, around the use of corporal punishment in schools.

30 Q. Thank you. I understand you wrote "Continuity and Change, Special Education Policy Development in the Toronto Public Schools 1945 to Present" and that was published in 2016?

A. Yes, that's a co-authored piece with Jason Ellis. And that article is a history of special education

Paul Axelrod - in-Ch.
(Ms. Merritt)

policy in -- in Toronto and Ontario more broadly from the end of the second world war to the early 2000's. It looks at the ways in which policy and practice evolved to deal with students with special needs.

5 Q. All right. And "The Promise of Schooling Education in Canada, 1800 to 1914", published originally in 1997, what's that book about?

10 A. Well, that book -- the timeframe lies outside the -- the time for this case, but it deals with a whole variety of issues that are relevant. It looks at discipline in schools, teacher/student relations, the government schools. There's material on private schools, residential schools. I think most significantly it -- it looks at the ways in which prevailing attitudes and -- and norms outside the school affected what went on in the school in terms of policy and practice and -- and how that changed over time.

15 Q. Thank you. And the book "Beyond the Progressive Education Debate" published in 2005, what's that book about?

20 A. That's an article.

Q. Oh, sorry, article.

A. Yeah.

Q. What's that about?

25 A. So, that looks at the roots of educational reform in Toronto and, again, Ontario more broadly, that occurred through the 1960's and beyond. It looks at progressive education and child centre education and the ways in which those concepts were gradually adopted in the province.

30 Q. All right. And what is "Education in Canada Since 1867" published in 2001?

A. That is a very long survey history of education as an article from 1867 towards the end of the 20th

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5 century. It was prepared for the commission study. And I should point out that the "Promise of Schooling" is also a commissioned book for a series of books in the "History of Canada." And it was prepared primarily for university and college classrooms and it's still used fairly widely in education and history courses. This particular chapter is for what may well be the most elaborate history of Canada text. It was for a CD ROM that had more than 100 contributions from Canadian historians. And as I said, I was asked to do the
10 chapter on the history of -- of education in -- in Canada. It's -- it's a survey of changing policies, educational strategies, and looks again at this relationship between social change and educational change.

15 Q. Thank you. And the publication in 2000, "Opportunity and Uncertainty: Life Course Experiences of the Class of '73" and the chapter you wrote called "Setting the Stage".

20 A. Yes. This is a cohort generational study of a particular group, students, a representative group of students who are in grade 12 in 1973 in Ontario, and it's a life course study. It looks at their transition from secondary to post-secondary education, and has followed them over a series of studies. It's actually continuing today and looking at them at -- towards their retirement years. The chapter I was -- I
25 attributed to the entire book, its conceptualization and -- and writing it. The chapter I was exclusively responsible for looked at the -- the educational and cultural environment that existed in Ontario in the early seventies and sort of tried to situate where students were in the classroom as they entered
30 school in grade 12 in that year, providing context for discussion of their experiences with the focus on educational policy.

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(Ms. Merritt)

Q. And I understand you've taught undergraduate and graduate courses on education history and policy, and youth and adolescence in the History Department, the Social Science Division and the Faculty of Education at York University?

5 A. Yes, I have.

Q. And you've also taught courses including Education and Social Change, Youth in Society, the Adolescent and the Teacher, which was a course for teacher candidates, Aspects of Foundations of Education, which is also a course for
10 teacher candidates, and Education in Childhood in Canada history?

A. Yes, I have.

Q. All right. And you've also done extensive community service, I understand, including participating on the
15 provincial validation committee for the new high school curriculum in 1999?

A. Yes.

Q. Sitting on the Council of Ambassadors for Pathways to Education program in Regent Park, being a member of
20 the Learning to 18 Working Group of the Ministry of Education. You were the interim chair, the vice-chair of the Ontario Association of Deans of Education, and a member of this organization from 2001 to 2008.

MS. MERRITT: And at this point I'd like to ask
25 the Court to qualify Dr. Axelrod as an expert in educational practices and disciplinary practices, including the laws, regulations and policies that governed Ontario schools in the private and public sectors from the 1970's to the 1990's; and
30 the standard of care for Ontario schools, including the obligations of schools and teachers with respect to the health and welfare of

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students from the 1970's to the 1990's. I don't know if my friend's objecting to Dr. Axelrod being qualified as an expert.

MR. ADAIR: No, we have no objection.

MS. MERRITT: Okay. Thank you. Then I would at this time like to ask that Dr. Axelrod's curriculum vitae be marked as the next exhibit.

CLERK REGISTRAR: Exhibit 35, Your Honour.

THE COURT: Exhibit 35.

EXHIBIT NUMBER 35: Curriculum vitae of Dr. Axelrod - produced and marked

MS. MERRITT: We're done with the curriculum vitae for now.

Q. Dr. Axelrod, I understand that you were retained to and did provide an opinion with respect to the applicable standard of care in this case and whether Grenville Christian College breached that standard of care between the 1970's to the 1990's?

A. Yes.

Q. And could you, please, tell the Court what is your opinion.

A. My opinion is that between 1973 and 1997, Grenville Christian College engaged in disciplinary and informal teaching practices that were abusive and that were at odds with the standards practiced in the public and private schools of Ontario at the time.

Q. And would the perpetrators of such practices be held accountable if their actions had been employed in a school setting that was meeting its legal professional and custodial obligations?

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(Ms. Merritt)

A. Yes, it's my opinion that if perpetrators were in the public or private school that -- that was meeting the standards of care at the time, the -- the perpetrators would have been held accountable for their actions.

5 Q. In your opinion, did Grenville provide a normal education milieu from the 1973 to 1997 period?

A. In my opinion it did not. This was a time in which there was increasing attention to human rights, children's rights, and child abuse was certainly on the rise as an issue of concern in society. And Grenville Christian College's disciplinary practices, in my view, arose from unusual and highly anachronistic values that -- that led to the harmful treatment of students over many years.

10 Q. All right. Doctor, I understand that in order to prepare your report and come to your conclusion, you reviewed the documents in the joint exhibit books that I sent to you?

A. Yes, I did.

20 Q. And you consulted educational regulations and Ontario Ministry of Education publications and various secondary sources in education law and the history of education, and related themes, as well as conducting a number of interviews with individuals in senior positions at the time in private schools in Ontario?

25 A. Yes, I did.

MS. MERRITT: All right. And I would, Your Honour, ask at this time that the bibliography to Dr. Axelrod's report be marked as an exhibit?

CLERK REGISTRAR: Exhibit 36.

30 EXHIBIT NUMBER 36: Bibliography to Dr. Axelrod's report - produced and marked

Paul Axelrod - in-Ch.
(Ms. Merritt)

MS. MERRITT: Q. Dr. Axelrod, can you tell us what changes occurred in the Ontario education system in the 1950's and 1960's?

5 A. Well, the change in the -- in the post war period moving through the fifties and sixties was really quite significant, and it was driven in significant measure by the post war baby boom and the size of that -- of that cohort. There were many more students attending school. The
10 participation rates were higher. There were more schools being built. It was compulsory for students to stay in school up to the age of 16 at that time, but by the end of the 1950's the majority of 17 year olds were attending school voluntarily. And so the role of school in Ontario, not only is an agent of
15 education, but as a custodian of children and youth outside the family expanded significantly during that period.

Q. And what were the core values of the education system at that time?

20 A. Well, I would describe the system as one tied to formality, order, tradition. And people of a certain age might recall that every day it was common in the public schools for students to sing "God Save the Queen", or "O Canada" or both. The Lord's Prayer was recited daily. These, I think, were kind of a deference to the British heritage of Ontario and
25 Canada and the, sort of, Christian aura that -- that prevailed even in public schools.

Education was fairly standardized. Heavy emphasis on formal examinations. Students graduating from grade
30 13, for example, all would have been writing the same exam on the same subject, the same day. The exam was marked centrally, not by individual schools. So, education was formal and standardized.

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(Ms. Merritt)

Q. And what can you tell us about the reform of schooling that occurred after this period in the 1960's?

5 A. Well, there was -- was considerable reform in education in the sixties. And Ontario was actually in the leading edge of that -- of that change in Canada. Elementary education became more child centered. And this is a philosophy elaborated in a report of the Provincial Committee on Aims and Objectives of Education in the schools of Ontario known as "The Hall Dennis Report" for short, in the name of its co-chairs.
10 That was published in 1968 and that report suggested that -- that rather than students being all taught in exactly the same way, and they required to take all of the same subjects all of the time, that education be more oriented towards the individual student. His or her abilities, interests and -- and that it was
15 really the role of school to try and cultivate that student educationally using a variety of teaching techniques. The teacher would be not simply an authority figure, but a kind of mentor, facilitator in the classroom. And what's also important is that there would be no corporal punishment or physical
20 discipline, of any kind, that would -- would be part of the -- the pedagogy or the school's practices.

Q. All right. We'll come back to that issue in just a moment. How did the introduction of the credit system relate to these beliefs, if at all?

25 A. Well, the -- the credit system was an example of schools being more oriented towards an individual child's interest and abilities. So, it used to be that if you failed one or two subjects in high school, you'd fail the whole year. The credit system allowed you to take individual courses. They
30 were counted as credits, and then you would graduate when you accumulated sufficient credits, so it wasn't an all or nothing kind of approach to passing through high school.

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(Ms. Merritt)

Q. I understand that you, Doctor, did an analysis of the implementation of this Hall Dennis Report?

A. Yeah, that was a long time ago in 1977. I published an article in a magazine. I think it was called "No
5 Cops in the Classroom: No Response to Hall Dennis." I'm not sure I would have chosen that title myself, but it was -- it was an attempt to do an early evaluation of how educational reform had fared in the -- in the early seventies and what the implications of the Hall Dennis Report were in that process.

10 Q. What significance, if any, did the adoption of the Federal Charter of Rights and Freedoms in 1982 have for education?

A. Well, I think it was yet another example of the growing priority placed on individual rights in Canada. And
15 -- and the Charter of Rights actually informed discussions and it also led to some court cases around such issues as the role of religion in schools, the rights of students with disabilities, and student privacy rights. These issues were grappled with in public and policy, and in some ways in the
20 courts and I think the Charter helped frame those discussions.

Q. And what, if any, is the pertinence of the United Nations Declaration on the Rights of the Child in 1959 and the United Nations Convention on the Rights of the Child?

A. Well, again, it representing signifying the
25 growing attention paid to children rights, and especially in terms of the abuse of children. Canada signed the -- both of these accords, 1959 and again in -- in 1990, and it -- it identified with the -- with the goals of enhancing children's rights and -- and sustaining environments, including schools and
30 other institutions in which children live where they would be free from harm.

Q. Did the UNRC document address the issue of

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child abuse and if so how?

A. It did, and if I can read this? Article 19 asserted that:

5

State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment, or exploitation, including sexual abuse while in the care of parents, legal guardians, or any other person who has the care of the child.

10

15

Q. And what, if any, consequences were there for teachers who treated children abusively?

20

A. There were consequences in Ontario. Teachers accused of mistreating and abusing students could be brought before the Ontario Teachers Federation, which had the power to discipline teachers up to and including the withdrawal of their teaching certificates. And that -- that power was given to them by the *Teaching Profession Act* in the province. That -- that power they had was transferred in 1997 to the new -- newly created Ontario College of Teachers. And over the years, from the seventies to the nineties, there were numerous cases of -- of abuse, including sexual abuse of children that faced teachers and who were held accountable for those actions.

25

30

Q. And what can you tell us about student safety policies?

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5 A. Well, as I mentioned, the concern about student safety was a growing priority in the -- in the eighties and beyond. Ontario passed the Violence Free School policy in 1994, which was designed both to kind of anticipate the conditions that could lead to students being hurt and to deal with those consequences if, in fact, that happened. And that kind of evolved into the *Safe Schools Act*, which was passed in 2000. And this, again, educational institutions were designed to be places that were safe for students, and the policies put in place were intended to enforce that and sustain it.

10 Q. So -- okay, going back to the Violence School -- Free School's policy adopted in 1994, out of what concerns did this policy primarily arise?

15 A. Well, it -- there was certainly concerns about student bullying, student on student violence, and that -- the procedures that all school boards were required to put in place was intended to address that, though, it wasn't just that. Around the same time the government passed the police checks policy for all adults who were regular visitors to schools, or 20 volunteers; all teacher candidates working in schools after this policy was passed were subjected to police checks. And, so, again another example of how this was a high public and educational priority.

25 Q. And turning now to -- for a moment to private schools, to what extent are private schools regulated?

30 A. Private schools are regulated to some degree. They have a considerable amount of autonomy in Ontario. Actually more autonomy than even other -- many other provinces. In the time period we're talking about, s. 15 of the *Ontario Education Act* set the conditions under which private schools could be created. So, if you were an organization and wanted to start a private school, you submitted your intent to the

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5 government, and if certain basic conditions were met you could open your school. Beyond that and one key regulation, which is in the Act, private schools were quite autonomous. The one specification was that if high school offered grad -- Ontario graduation certificates to students, they would have to offer -- they would have to provide the Ontario curriculum. That was in the Act and the schools were held accountable for that.

10 Elementary schools had quite a -- I'd say even more autonomy. I should say about the -- the high schools. Most private schools in Ontario, certainly did offer the Ontario curriculum, because they were interested in having their students graduate, so they -- they fulfilled that obligation.

15 High school -- or elementary schools had even more autonomy in a way. They would tend to offer the Ontario curriculum as well, because they wanted their students to go on to further education, but if they were religiously oriented, or they had unique educational philosophies, they would embed that in their teaching practices and/or offer perhaps supplementary programs in language or religious training, you know, later in the day.

20 And, so, private schools had really a huge amount of autonomy. And I think the significance of this is there was a great deal of trust placed in private schools, not only to teach children, but to care for them as well. And that trust was high. It remains high. It's very much a part of the Ontario tradition as it were.

Q. Are private schools required to hire certified teachers?

30 A. They are not. And they were not in the -- in the period we're talking about. In order to teach in a private school, you did not require a certificate, though you were still obligated as a teacher to -- and as were schools, to be subject

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to the *Criminal Code of Canada* and to the *Ontario Child and Family Services Act*, but teachers were not required to have an Ontario teaching degree.

5 Q. Dr. Axelrod, what can you tell us about teaching qualifications and the professionalization of teachers over time.

10 A. Okay. So, this was an important issue in the 1960's. At the time in public schools, if you wanted to teach elementary school you didn't need a university degree. You needed high school education, plus one year of teacher's college and then you could be hired. The Ontario government established a commission in the mid-1960's called "The McLeod Commission", and asked it to assess whether this was adequate qualification. And the Commission concluded that it was not. In light of the 15 major social changes occurring, the greater complexity and education and other fields, the committee recommended that all elementary school teachers be required to obtain a university degree, Bachelor of Arts, or a Bachelor of Science, or the equivalent, and in addition to that, one year course or a one 20 year program that would lead to the Bachelor of Education. So, teacher's colleges were shut down all over the province, and faculties of education were established within universities.

25 And high school teachers in Ontario already were required to have university degrees. The change affected them in that they no longer had to go just to one place, the Ontario College of Education to get their qualification to teach high school. The high school teaching qualification was now provided in faculties of education as well.

30 So, these were the major changes that occurred and remain. From the early seventies on, every elementary school teacher would be required to have a Bachelor's degree and a Bachelor of Education degree.

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THE COURT: Before you go on, I'm very sorry to interrupt. But our last witness is in the body of the Court and he may not appreciate the fact that he may be called back to testify.

5 FRANCOIS LUKAWECKI: I can't be here?

THE COURT: No, you should not be here.

FRANCOIS LUKAWECKI: I'm so sorry.

THE COURT: ...because there's an order excluding witnesses and...

10 FRANCOIS LUKAWECKI: Right.

THE COURT: ...you're still potentially under cross-examination.

FRANCOIS LUKAWECKI: Sorry. I'm just going to get my bag.

15 THE COURT: Yes, thank you very much.

FRANCOIS LUKAWECKI: I apologize, sorry.

MS. MERRITT: Q. I think you were saying, Doctor, that educational facilities were created in the universities and the teachers were required to have a Bachelor of Education degree in addition to some other Bachelor of Arts or Science?

20 A. Well, they needed a basic Bachelor of Arts or Science degree, plus one year of Bachelor of Education program.

25 Q. Right. And did that apply to private schools?

A. It did not. They were exempted from that requirement. Though, voluntarily private schools did increase the qualifications of their teachers, because they had a strong interest in ensuring the academic creditability and reputations of their -- of their institutions. The trend was this by 1980 approximately, private schools in Ontario would normally be hiring teachers with university degrees, but not necessarily

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with the Bachelor of Education degree. And Grenville was an example of that. And that the -- the majority of teachers had a Bachelor of Arts or Science or equivalent degree. A small minority of them had a Bachelor of Education degree.

5 Q. And what would the absence of a Bachelor of Education degree mean? What would be the significance of that?

A. Well, it could mean that if you taught in a school without having had the benefit of a Bachelor of Education, you might never have had practiced teaching that was mentored, overseen, evaluated by an experienced teacher. That was built into the Bachelor of Education program. It might have meant that you had no university based course instruction on child development, or adolescent development unless you were a student in sociology or psychology in that -- and those courses dealt with those themes. You might have had no instruction in educational law and the legal obligations of teachers. That was also built into the Bachelor of Education program. So, those are some examples.

20 Q. Would subjects related to -- or would instruction related to discipline in classroom management practices be included in a Bachelor of Ed program?

A. Yes, yes, they would be and that might be another gap in a teacher's knowledge.

25 Q. All right. Doctor, what can you tell us about the broader educational and cultural environment at the time when Grenville Christian College was created in 1973?

A. I think I would use the term "pluralistic." Ontario was an increasingly pluralistic society, and I would apply that both to institutions and individuals. The pluralism of Ontario at the time made it possible for private schools to have -- to exist, to have the kind of autonomy that they did have, and to fashion their own educational programs.

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As it applies to individuals, it was a time when there was an increasing acknowledgment of differences among students in terms of their abilities, their interests, their orientation and their rights. And that, as I mentioned earlier, was part of the emerging culture and standards of school.

So, private schools did have the right to be alternative educational venues. They had no right to abuse students physically, or in any other way.

Q. All right. I'd like to ask you some questions now about the mission of Grenville Christian College. I don't know if it -- it helps Your Honour, but this is at page 5 of Dr. Axelrod's report. What can you tell us about Grenville Christian College's educational philosophy?

A. Well, I think that there's actually less about the educational philosophy of Grenville than there is about its moral, religious, values. There's an awful lot of stress on those aspects, and less on a, kind of, well thought out, well rounded kind of educational philosophy that one might expect to find, and one could find in other school statements.

Q. All right. I'd like to if I can turn your attention to the joint exhibit book, Volume 3. This is Exhibit 9.

A. Yes.

Q. Could you turn, Doctor, to Tab 135. This is a document dated March 27th, 1981 and it's entitled "How Do We Here at Grenville Nurture Christian Values." I'm going to read you a passage and then ask you if you can provide some comment. The first passage is approximately the middle of the page, just above the area marked with an asterisk on my copy and it says:

We structure schedules so
teenagers are not forced into

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5 situations where they would be
tempted. Students are allowed
to express their feelings and
let off steam so things don't
build to the explosion point and
the point of discouragement and
depression. The rules are not
rigid in the sense that there is
care behind them.

10 Can you comment on these philosophies?

15 A. I read that several times. I find these
comments to be vague and, kind of, confusing, and very unclear
as to how the goals expressed in each of those statements would
be realized.

Q. All right. Well, let's -- let's move along,
then. Moving down to the second highlighted portion, which is
sort of the third paragraph from the bottom. It says:

20 We start with the basics and
start at the inside and work
out. We start with an absolute
and every aspect of life is
molded by that standard. Social
25 pressure used to keep people
from doing things that were
wrong. Now, it encourages and
forces people to go against what
they morally believe is right.

30 Can you comment on that passage?

A. Well, the last sentence especially, it's a

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5 mere assertion. It's a -- it's a kind of vast unproven,
unsophisticated generalization about human behaviour. And the
degree of control indicated by the frequent use of the term
"absolute" throughout this document suggests, in my view, a
repressive environment in which individuality is contained by
the assertive authority of the school.

Q. All right. Turning over the page now. About
six paragraphs down on page two it says:

10 We not only state rules, we also
enforce them and follow through.
There is commitment and concern
to enforce standards,
15 consistency. Nothing is hidden
or swept under the rug or
overlooked. These things are
brought into the open.

Can you comment on that passage?

20 A. It looks to me based on other things that
I've read that this is a kind of euphemistic rationalization for
light sessions.

Q. All right. And moving down a little bit,
just the next passage.

25 Most of these things parents
want to enforce, but they aren't
always with the teenagers
(weekends) when they're with
30 their friends at school, et
cetera. Parents are also
adulterous, threatened and lack

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authority.

Can you comment on that?

5 A. Well, I'd have say that these generalizations
about parents are eccentric and, I think, unproven, and as an
educator, I would have said a worrisome basis for structuring
school policy and practice.

Q. All right. And...

10 MR. ADAIR: Sorry, I just didn't hear that last
comment. You would say as an educator?

THE WITNESS: That this would be a worrisome
basis for structuring school policy and practice.

15 MS. MERRITT: Q. The next passage says or --
yes, moving on.

Absolutes are stressed here.

20 There is good music and bad
music. There is good literature
and bad literature. There is
good art and bad art. It is not
an anything goes philosophy.
There is a right and wrong.

Can you comment on that?

25 A. Well, I would say that no quality educational
program in that era would -- that is interested in cultivating
student's individuality and creativity would assert such extreme
views, let alone embed them in educational practice.

30 Q. And moving on down. It's -- the next passage
is:

Students are challenged to face

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--

Oh sorry. It's -- it's the second one down.

5

Students are challenged to face their reactions that are adverse to standard sets and to express both positive and negative feelings.

10

What does that sound like?

15

A. Well, that looks to me like another rationalization for these light sessions that are in the evidence, and that the public condemnation of students who are said to have gone astray.

Q. And the next passage:

20

We don't gradually introduce students to standards, they are introduced cold turkey.

What do you take from that?

25

A. I read from that indoctrination not education.

30

Q. And then if we skip down to the second...
MR. ADAIR: What's troublesome about this with respect, I have to object. Is the doctor giving professional opinions or speculating on what he thinks something means? It sounds to me very much like the latter, with respect.

THE COURT: Well, I suppose it could be explored in cross-examination. It seems to me he's been

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5 -- he's been qualified as an expert. He's being asked to comment on the values, and it seems that a foundation has been laid in the documents before the court, whether or not his opinions are accepted is another matter.

10 MR. ADAIR: Well, I agree with respect, Your Honour, but I must say there's a threshold before we get to that. The threshold is relevant and admissible evidence and speculation as to what he thinks a document says or doesn't say is not admissible. It's just not admissible.

THE COURT: So, you're saying none...

MS. MERRITT: It's either fact evidence or professional opinions.

15 THE COURT: Ms. Merritt, what do you say?

20 MS. MERRITT: Well, I'm asking this expert witness for his opinion on how we here at Grenville nurture public values as it relates to an educational institution. I don't think there's anything improper with him commenting on this document. My friend, of course, is certainly able to explore and -- and if there's assumptions being made that he doesn't feel that are -- have a proper foundation, he can certainly explore that in cross-examination.

25 MS. MERRITT: It's -- it is an educational values. It is, has Grenville nurture Christian values.

30 THE COURT: Well, I think it all began with the proposition that the Grenville educational philosophy is less about education than moral and religious values, and it -- I note that some of

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the answers referred to the trends at the time,
in terms of curriculum. So, subject to
cross-examination, I will allow it to continue.

5 MS. MERRITT: I only have a couple more
questions.

Q. The -- on the bottom there of page 2, just
above the generation gap, it says:

10 The world treats teenagers as
adults, as if they already know
everything and don't have to
learn anything. We treat them
as teenagers who need to learn
respect and mature into adults.

15 How does that compare with the literature on
adolescent development?

20 A. The literature on adolescent development at
the time, and I think I -- yeah, but it -- it -- throughout the
twentieth century the literature treated adolescence, the stage
of adolescence as a separate stage from childhood and adulthood
with its own particular qualities, biological determinates,
psychology, and this -- this -- it doesn't appear to me that
25 this is recognized in this statement. The world really doesn't
-- didn't treat all teenagers as adults.

High schools were institutions, like youth
organizations and other organizations for young people that were
designed to deal with young people at the age they were. Not as
children; not as adults.

30 So, I guess I would underline my point that the,
sort of, black and white view of youth, of music, and literature
and art is very, very unusual. I haven't seen that in other

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private school, or other educational documents of the time. And that's the basis for my observations.

Q. And my final question on this point is, it says:

5

Democracy, because teens are in the majority, they think they can dictate to the world.

10

Was there any basis in their literature for that?

A. Well, I think that a very extreme over -- over statement as well.

Q. All right.

A. Is there -- may I add to the point?

15

Q. Sure.

20

A. That the line that -- that says "Don't compare with others, respect people as individuals". I think that is a promising statement about Grenville's approach, but it -- it does seem to me to be contradicted by almost everything else in this -- in this document, in which students were not being treated as individuals with their unique aspirations. They were subjected to the -- the will of school authorities. And, again, I would use that example of music and literature and art. If a -- if a student had an interest in what the school deemed to be bad music, or bad art, or bad literature, they would be called to account and punished. And this -- this is not respecting the individuality of students.

25

30

Q. So, what is your overall impression of the values of Grenville Christian College as set out in this document?

A. Well, I find them to unusual, harsh, based on very categorical statements. It strikes me as somewhat almost

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doctrinaire. And it promises in this document to be very severe with students, more than one would find in similar kinds of statements about a school's philosophy and approach in other places. That would be my conclusion.

5 Q. Yeah, let's move on to a different topic.
Was Grenville Christian College co-educational?

A. Yes, it was co-educational.

Q. And what about their policies on relationships between boys and girls?

10 A. Boyfriend/girlfriend relationships were prohibited, and here I'm reading from one of their documents. I have a footnote in my report. I can cite it directly if you like.

15 Most activities are co-educational, but students are not permitted to form "special" relationships which foster a competitive and exclusive spirit
20 and are often a hindrance to academic progress.

Q. And, so, how would that fit in with the prevailing standards of the day?

25 A. Well, I think it -- it's possible that other private schools had similar -- a similar rule about boyfriend/girlfriend relationships. Most of the schools in Ontario were gender specific, so there's not -- I don't -- I don't have the information that would allow me to compare that across the
30 board. So, the rule itself may not have been distinguished from others. The response to it and the punishments, and et cetera, the penalties were, I think, unique.

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Q. All right. We'll get -- we'll get to that more and I -- just to clarify something. When you said most of the schools were gender specific, you're talking about private...

5 A. Private schools, yes.

Q. Yes.

A. Yes.

10 Q. Okay. All right. And to what extent was Grenville Christian College controlled or inspected by the Ministry of Education?

A. The Ministry of Education, as I mentioned earlier, had in the Act the requirement the schools at the secondary level offer the Ontario curriculum if they were intending to graduate students from -- from high school. And that's the -- that's what they were inspected on annually. The Ministry did a one day inspection. It was, I think fairly *pro forma*. It was focused on curriculum. The elementary schools, even though it was attached to high schools in private sector, may not have been inspected at all. Schools could request an inspection and they would pay for it. Some did because they wanted the credibility that went along with being approved by the -- by the Ministry. But the -- but the inspection was very focused on curriculum only. And this is underlined, actually, by -- if you were to go onto the Ministry of Education website today and look under private schools, you will find the following sentence.

15
20
25

The Ministry does not inspect or approve items such as the condition of the premises, health and safety practices, or matters relating to staffing.

30

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That policy has not changed since the 1970's. So, anything other than looking at the curriculum would not likely come up in -- in a school inspection.

5 Q. Would you expect these Ministry of Education inspections to undercover abuse of students?

A. No, they would not. The questions wouldn't be asked. The information, I don't think would be volunteered. There wouldn't be any real opportunity for that to become
10 evidence.

Q. All right. If I can, then, turn to the issues of corporal punishment and physical discipline. Your Honour these are covered in page 6 of the report. Can you tell us, Doctor, was corporal punishment legal in Canadian schools during the Class period from 1973 to 1997?
15

A. Corporal Punishment was legal in Canadian schools, apart from those places where it had already been abolished, and by 2000 it was abolished formally in most parts of the country. But in 2004 in the case *Canadian Foundation for Children, Youth and the Law v. Canada Attorney General*, the
20 Court no longer allowed corporal punishment to be used in schools. And, well, yes, that's the answer to the question.

Q. So, what -- so what was the situation before 2004?

A. So, before 2004 the -- the *Criminal Code* would have -- I think it was s. 43 -- would protect teachers and other school authorities from criminal prosecution for assaulting students through the following prescription and I'm
25 reading this.

30

Every school teacher, parent, or person standing in the place of

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5 a parent is justified in using
force by way of correction
toward a pupil or a child, as
the case may be, who is under
his care if the force does not
exceed what is reasonable under
the circumstances.

10 Q. So, in what circumstances were teachers
subject to criminal liability for corporal punishment?

15 A. Teachers could be found criminally liable if
the disciplinary action resulted in the permanent injury of a
student, or was too severe for the offence, or was inflicted
with malice, thereby rendering such punishment to be not in good
faith. And...

Q. And what type of -- what type of physical
discipline was prohibited, if any, during the Class period?

20 A. There were a number of legal cases during
this period, and I have the full citations of them here. And
I'll just go through them briefly. There was a 1979 -- this is
in cases in which the teachers were convicted of assault. A
1979 case in which a vice-principle was convicted of assault for
slapping a student in the face and pushing his face onto the
desk.

25 A 1981 case in which a teacher grabbed a student
by the hair and banged his head against the doorway while
dragging him into an office.

A 1981 case in which a teacher struck the pupil
an uppercut blow with his closed fist to the pupil's face.

30 A 1992 case in which a teacher forced a female
student through the doorway, by pushing at the back of her neck
and by holding her right arm. He was angry and upset when he

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did this.

And a 1997 case, in which a teacher kicked a student from behind at a drinking fountain. The student was then seen limping into the classroom.

5 And a 1992 case, in which a teacher was disciplined by the school board for violently handling a student. This was the *Avalon Consolidated School Board* in Newfoundland.

10 And I found the -- the statement by the presiding judge to be interesting. It read:

15 Physical force may have been acceptable in the past, but no longer. The teacher has not faced the modern reality that kids in today's world are capable of just about any kind of behaviour. Yet one cannot use force to deal with them.
20 Teachers like healthcare or childcare workers, to cite the two examples, are expected to be able to cope effectively with disruptive or provocational
25 behaviour by the persons under their supervision, care or tutelage.

30 Q. And just going back, I understand that in your report you cite information from Jeffrey Wilson, whose a child advocate...

A. Oh yes.

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Q. ...lawyer. And what does he have to say about where the line is in terms of reasonable and unreasonable?

5 A. That's right, yes. Yes, Jeffrey Wilson as you mentioned is a child advocate lawyer and author. And he, his opinion punishment having looked at the law and various cases of child abuse.

10 Punishment would be held to be unreasonable where (1) Punishment is administered to the wrong part of the anatomy. (2) There is a clear risk of permanent injury. (3) There is no evidence of defiance and 15 force is unnecessary to promote obedience. (4) Punishment is excessive and negligently administered.

20 Q. All right. And would a teacher's motivation be a factor to be considered in determining whether or not punishment is appropriate?

25 A. Yes. Any punishment motivated "by arbitrariness, caprice, anger, or bad humour constitutes an offence punishable like ordinary offences." And I'm quoting there, *Ogmoss v. The Queen* and this in 1984, and this is cited in "Marvin A. Zuker, *The Legal Context of Education*", which was published in 1988 and the page reference is '76, '77.

30 Q. Is corporal punishment, specifically, provided for in the *Education Act*?

A. No, corporal punishment is not mentioned in the *Education Act* in Ontario, it wasn't at the time. The language on discipline was delivered this way, that it -- it

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said that it was kind of an idealist expression of in *loco parentis*, which is a construct that signed authority to the teacher to "stand in the place of the parent". And in the words of the *Act*:

5

To practice such discipline as would be exercised by a kind, firm, and judicious parent.

10

And the *Act* gave boards of education the responsibility for developing disciplinary practices for the schools in their jurisdictions on the understanding that such practices would be permissible in the context of the *Canadian Criminal Code* and consistent with the provincial education regulations.

15

Q. And did schools typically have guidelines concerning the administration of corporal punishment?

20

A. Yes, they did. Schools had protocols that were in -- used in the administration of corporal punishment in terms of who would do the administration of the -- of the discipline. Some argued that it should be only a means of discipline as a last resort. And in Toronto, in particular, and I've -- I've looked at that case in detail.

25

The Toronto Board of Education had a whole list of specific requirements that had to be followed when corporal punishment was administered. It could only be administered on the open hand of the student by -- and the -- the only instrument that could be used was a strap approved by the -- by the Board; and it could only be done in the presence of another teacher or the principal. There had to be two adults present. Usually it was the principal, but it could be -- it could be a designated teacher.

30

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5 Significantly, every incident of corporal
punishment was logged in a record of corporal punishment book
and the -- the archives of the Toronto District School Board has
copies of all of these books. They were prepared on an annual
basis, and they were a detailed record of corporal punishment
10 incidents. So, the information provided was the name of the
student, the date of the strapping, the number of slaps that
were given on the hand, and the reason for the strapping being
done. And, so these records provided an account of the
disciplinary practices.

Q. And what -- why do you think the -- or -- or
not why you think. Why do you know the records were kept like
that with the names...

A. Well, the...

15 Q. ...the date and the reason?

A. ...the records were kept to provide a basis
of accountability. You know, to have a student to strapped
there could be questions raised, allegations made about being
treated inappropriately. So, the school actually, in its own
20 interest, would -- as well as having this -- this record of --
of accountability, would have data to say well this is what
happened on this day and this -- in this place, in this way, and
so it was -- it was really for accountability purposes.

25 Q. All right. And what can you tell us about
the prevalence of the use of corporal punishment in Canadian
schools before the 2000's?

A. Corporal punishment diminished in frequency
form the 1970's on, even before it was formally abolished by the
Supreme Court.

30 Q. And what was the view taken by leading
educational and political authorities towards corporal
punishment? In the -- in the -- before it was abolished...

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A. Right.

Q. ...formally...

A. So, in...

Q. ...so in the seventies through the nineties?

5

A. ...in -- in 1968 the Hall Dennis report, which I mentioned before, called for the abolition of corporal punishment on the grounds that there was no educational advantage in pain, failure, threats of punishment, or appeals to fear. And Recommendation 29, in particular, called for the end of corporal punishment and "other degrading forms of punishment as a means of discipline in the school."

10

Q. And that was what year?

A. That was 1968.

Q. All right.

15

A. And that was followed by a statement by the Minister of Education, William Davis at the time, in the legislative assembly of Ontario in which he supported this recommendation to abolish corporal punishment, called upon schools to refrain from using corporal punishment and to use alternative means. The Department of Education then followed this up with a letter that went to -- this in 1969 -- that went to every school board and the principals of all private schools in Ontario reiterating the Minister's position.

20

25

So, it encouraged educators to interpret the longstanding regulation that students would submit to such -- or -- or schools would deliver such discipline as would be exercised by a kind, firm and judicious parent in such a way as to foster "an atmosphere of respect and trust between students and teachers with the cultivation of individual responsibility as a major goal." That was the government's position in Ontario.

30

MS. MERRITT: Your Honour, I notice it's now

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5 4:30. I do have a little bit more time with this
witness. My only concern as to whether I should
keep going now, is what's going to happen
tomorrow with Dr. Best coming and whether or not
I'm going to be able to finish this witness, my
friend do the cross-examination and still get Dr.
Best over and done in his one day that he's
available. I'm wondering would you rather go a
10 little bit longer now or perhaps start a little
earlier tomorrow, or if my friend can tell me how
long he's going to cross-examine maybe we can
determine that this won't be an issue.

15 MR. ADAIR: Should we know approximately how much
longer you think you'll be with Dr. Axelrod
in-chief?

MS. MERRITT: I'm more than two thirds of the way
through.

MR. ADAIR: All right.

MS. MERRITT: So, maybe 30 minutes max.

20 MR. ADAIR: We do not anticipate being any more
than 90 minutes, so it's hard for me to think
that Dr. Axelrod won't be done tomorrow.

MS. MERRITT: And, but also time for Dr. Best by
the afternoon it sounds like?

25 MR. ADAIR: Yeah, Dr. Best it'll be about an hour
in-chief.

MS. MERRITT: Well...

MR. ADAIR: And hour and 15 minutes.

30 MS. MERRITT: ...it sounds like it'll be all
right if we have to. May be we'll take some time
from our normal break times...

MR. ADAIR: Sure.

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MS. MERRITT: ...we'll just gauge it tomorrow.
You feel that probably a long enough day as it
is?

5

THE COURT: All right. Thank you. Then this
will be a convenient place to stop.

MS. MERRITT: So, we'll do that then Dr. Axelrod.
Thank you, we'll see you tomorrow at 10:00 a.m.

THE WITNESS: Okay.

MS. MERRITT: Thank you.

10

...Whereupon court adjourned

15

20

WEDNESDAY, OCTOBER 2, 2019

...EXCERPT OF PROCEEDINGS

25

PAUL AXELROD: PREVIOUSLY AFFIRMED

EXAMINATION IN-CHIEF BY MS. MERRITT: Continued

Q. Good morning, Dr. Axelrod.

A. Good morning.

30

Q. When we left off yesterday, you were just
reviewing the fact that the Ministry of Education supported the
recommendations and called upon William Davis, or sorry and Bill

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5 Davis called upon the principals and teachers to refrain from using corporal punishment in, in the schools, and the Department of Education then sent out a letter including the principals of the private schools, reiterating the Minister's position; and that all happened in 1969. When was corporal punishment banned by the Toronto Board of Education?

A. That was 1972.

Q. All right. And do you know when corporal punishment was banned in private schools?

10 A. It was banned in Upper Canada College in 1972, and most private schools in Ontario ended the use of corporal punishment by 1980. Grenville was an exception.

Q. What about the Jewish schools?

15 A. According to former director of the Jewish Board of Education, they Jewish day schools had never used corporal punishment.

Q. And, and moving on then, what alternative approaches to corporal punishment were being offered, once it was abolished in, in those various places?

20 A. Well, by the early 80's educators and, and psychologists in, in the main were promoting approaching to behavioral correction and classroom management that were entirely free of physical discipline. Teacher candidates in faculties of education were now learning effective instructional and corrective strategies drawn from, you know, a growing
25 professional literature.

30 The Ontario Ministry of Education published a behavioral, a behavior resource guide in 1986, which outlined a variety of techniques designed both to prevent disruptive behavior and facilitate effective learning. The Ministry published another book called, Adolescence Development, which explored the psychological and social development of youth and

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the complexity of the stage of adolescence and how young people might be understood, interacted with by, by parents and, and educator. And in 1986, the Ministry published a resource guide on discipline for intermediate and senior divisions in which it reiterated its opposition to, to corporal punishment, and it outlined the principles and practices of behavioral management, which was based on, on, on current theory.

Q. And, and what, doctor, were the principles of these police and practices on behavioral management?

A. Well, I, I'm going to read this:

"Disciplinary policies and practices should be..." This is drawn from the book "...should be consistent with the basic assumptions underlying a democratic society. They should reflect:

(a) reflect respect for the students' worth and dignity and the worth and dignity of others so that both students' rights and their responsibilities are equally emphasized;

(b) should ensure that student potential is developed within bounds that respect the needs and rights of others;

(c) reflect the legal principles of just cause, due process, including avenues of appeal."

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And they - and there is a section on disruptive behavior as well.

Q. What did they provide with respect to disruptive behavior?

5

A. There, again, I am quoting:

"Prescribe the following school procedures:

10

"Using an office referral form when sending a student out of class. This will give the student an opportunity to state his or her case. It will also provide feedback to the teacher, and it can be used for further reference during follow up and further referrals.

15

Secondly, phoning and interviewing the parents of or guardians or disruptive student. Thirdly, removing a student temporarily from class.

20

Fourthly, making use of an after-school detention room. Fifth, [competing] [sic] completing a weekly or daily report card for a specific student.

25

Sixth, involving students in peer counselling.

30

Seventh, using pep talks and

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spirit assemblies; and
Eight, taking advantage of the
support or backup provided by
prefects or student council
members.

5

Q. What, if anything, did the guide recommend in cases where the disruptive behavior was very severe?

A. The guide recommended the sanctions that were the ultimate ones, suspension or, or expulsion from the schools.

10

Q. And what role, if any did corporal punishment have, according to the guide?

15

A. Corporal punishment played no role at any stage of the disciplinary process. And from, you know, really from the 1970s to the 90s, this was the emerging standard in Ontario schools.

20

Q. All right. Dr. Axelrod, I'm, I'm going to summarize some of the evidence we've heard in this case for you, and then ask your opinion. So, we've heard that between 1973 and 1980, Grenville student were beaten with a wooden paddle, sometimes up to 10, 10 to 20 strokes with their pants down. At least one student was paddled until he bled, and another until he could no longer stand up. A couple of them said they had welts or bruises for about one to two weeks. And we heard one evidence from one student that after he was hit the first time, the headmaster said to the teacher paddling him words to the effect, common, Bob, you've got a bigger arm than that.

25

Suggesting he hit the student harder. He got another six to eight paddles after that, and the headmaster was looking directly into his face and smiling, and appeared to be happy.

30

The student said that that teacher hitting him certainly didn't hold back. He had limping pain for the rest of the day and bruises for a week or so after that.

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5 He also saw another student limping and inquired about what had happened, and the student lowered his pants and, and showed him yellow, purple, and dark blue bruises across his buttocks. In your opinion, in those instances, did Grenville meet the standard of care with respect to corporal punishment?

10 A. I don't think it did. The, the act of simply using a paddle would, would have been allowed. The act of using a paddle and leading to the kinds of results that you've described would be below the standard, given in light of, of other, other experiences.

Q. All right. What if anything do Grenville's publications say about corporal punishment?

15 A. I did not find any reference to corporal punishment specifically. The code of behavior contended, "Grenville College is not a school for young people who need many rules backed by harsh sanctions." And in numerous documents such as school handbooks related to rules, codes of honour, behavioral regulations, there is no reference at all specifically to the type of misconduct that lead to the use of
20 physical discipline for punishment.

Q. As far as you could see, doctor, were there any formal administrative records kept about the administration of corporal punishment?

A. Not that I could find.

25 Q. All right. And why is record keeping important with respect to corporal punishment?

30 A. Well, as I think I noted earlier, the normal practice was for schools that used corporal punishment to keep record books and it was about accountability in case questions were raised, accusations were made about what actually happened, the schools would at least be able to point to the incidents and the punishments that students received. So, I, it was primarily

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about accountability.

Q. All right. And what if students were slapped or dragged out of bed or dragged into a room for a light session or pushed up against a wall?

5 A. Well, these are forms of physical discipline that could be categorized as assault, in, in, in my view, or at least those kinds of questions and concerns could be raised, and in a public sector, that could lead to either charges or, or discipline the Ontario Teachers Federation.

10 Q. So leaving aside for a moment the question of whether the conduct is criminal in nature and whether charges could be laid, if teachers at Grenville dragged a child out of bed or dragged him into a room physically or pushed him against a wall or slapped them, would those various actions be meet the
15 standard of care?

A. No.

Q. All right. And I'm, I'm just - this is a little bit off topic here, but I wanted to ask you, we've heard some evidence or we'll hear some evidence in this case about
20 students being disciplined for conduct that occurred when they were not at the school. In, in one case, a student had a relationship with a girl in, in Europe while he was on a leave of absence from the school, he had taken a semester off to live with his parents abroad, and, and he was, he was disciplined for
25 his relationship with the girl during that time. What can you tell us about the practice or whether that was a, a something that you've seen before in terms of students being disciplined for things that did not happen at school?

A. It's conceivable if a student were in the
30 community and being really disruptive and engaging in, you know, violent activities, they might well be called to account in schools. But the kind of incident you've described certainly

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would have exceeded the, the school's authority, and it would be considered and intervention, and illegitimate intervention into the private life of a, of a student.

5 Q. All right. And, and we've heard some evidence about the practice of Father Charles Farnsworth taking children to the boiler room to show them the boiler flames and, and some reference to them going to hell. Would, would that meet the standard of care?

A. No, it would not.

10 Q. All right. Overall, doctor, what can you tell us with respect to your opinion with regard to the disciplinary practices that I have described so far?

15 A. Well, it's, it's my opinion that even in the context when corporal punishment was still legal in Ontario, the, the manner in which paddling and other forms of physical punishment were alleged meted out, would, would not have been acceptable in, in normal educational venues. And in many cases, would have been led to disciplinary treatment of teachers by the discipline committee of the Ontario Teachers Federation. Even
20 if they were not ultimately found responsible, they, they, they would likely have been called to account for those practices.

25 Q. All right. And I'd like to turn your attention now, if I may, to manual work assignments. In, in Exhibit 8, if we could have that, this is the 1994, 1995 information booklet. Do you have that?

A. Yes.

30 Q. All right. And if I could turn your attention to - oh, I haven't got my page number, I apologize, just a moment. Yes, page 5, the work program, would you just read the first two paragraphs there.

A. Yes.

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5 Participation in the work
program is an integral part of
student life at Grenville. It
provides an opportunity for the
development of a many practical
skills, as well as an attitude
of respect and responsibility
for the physical upkeep of the
school. It is expected that
10 students will willingly accept
the challenge to perform each
task to the best of their
ability. Approximately six
hours a week are allotted to the
work program. Work assignments
15 include kitchen and dining room
duties, such as serving, dish
crew, and food put away, as well
as housekeeping and maintenance
20 jobs.

Q. All right. I take it, doctor, that, that we,
we don't have an issue with regards to schools assigning work
jobs to student, is that fair?

A. I think that's correct, yes.

25 Q. All right. So, we've heard evidence in this
case, though, that work assignments were also used as a form of
punishment, and sometimes they went on for extended periods of
time, a whole day or several days. Sometimes in, in what could
be described as brutal conditions like pounding a rebar for a
30 fence in a snowstorm all day, or scrubbing bins with
toothbrushes, or cutting a lawn with scissors, or picking rocks
out of the ground in winter until the fingers bled. Do these

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sorts of work assignments meet the standard of care?

5 A. No, they do not. Other private schools and boarding schools, as, as you suggested may well have assigned work duties to student, even as a, as a form of, of discipline. But, but Grenville's apparent practice of using student for work assignments in over extreme period of times under unsafe conditions was, in my reading, unique, and this would not have met the standard of care.

10 Q. And what about the practice of when they were put on discipline - and, and just so I can clarify what that entail, the evidence - actually I'm going to come back to that, I'm gonna come back to that in, in a moment, the, the circumstances of science -- I want to turn first to healthcare.

A. All right.

15 Q. What was the obligation of schools with respect to the physical health and emotional health and well-being of students during the class period?

20 A. Well, to answer that question, I want to read bit of a paper, a presentation delivered in 1990 by Professor W.F. Foster, who defined child abuse, and this, this paper is cited in a book by Wayne McKay and Lyle I. Sutherland called, *Teachers and the Law, a Practical Guide for Educators*, published in 1992, pages 107 to 108. And, and you can find similar descriptions in other, other places. Child abuse fell into four
25 major categories:

30 First, physical abuse [and I am quoting] which included any physical force or action which results in or may potentially result in a non-accidental injury to a child and which

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5 exceeds that which could be
considered reasonable
discipline. Emotional
maltreatment which included
constantly chastising,
belittling, ridiculing,
humiliating or rejection of a
child. Sexual abuse which
10 included any sexual touching,
sexual intercourse, or sexual
exploitation of a child. And
neglect, physical or emotional,
which included failure on the
part of those responsible for
15 the care of the child to provide
for the physical emotional or
medical needs of a child to the
extent that the child's health,
development or safety is
20 endangered.

Q. So, what, what obligation was there at that
time to report child abuse?

25 A. Well, in here, I am citing the Ontario Child
and Family Services Act, 1990. Educational authorities had the
duty to report when first, quoting:

30 The child has suffered physical
harm inflicted by the person
having charge of the child or
caused by or resulting from that
person's

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(i) failure to adequately care for, provide for, supervise or protect the child, or

(ii) pattern of neglect in caring for, providing for, supervising or protecting the child. Secondly, their duty to report when there is a risk that the child is likely to suffer physical harm inflicted by the person having care of the child or caused by or resulting from that person's

(i) failure to adequately care for provide for, supervise, or protect the child, or

(ii) pattern of neglect in caring for, providing for, supervising, or protecting the child.

Q. Now, let me ask you a question there, Dr.

A. Okay.

Q. Would Grenville Christian College's staff, administrators qualify as a person having care of the child?

A. Yes. The, they, the, they would. As, as the Act pointed out, they would be in the place of parents, and especially those living in, in boarding schools. So, the, the teacher would be the guardian for these, for these purposes.

Q. All right. And I would like to go over, if I may, some of the evidence that we've heard in this case, and

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then ask your opinion. We've heard evidence that a Father Farnsworth taught that illness was a form of spiritual weakness or that people needed to pray when they were ill, and I expect we're going to hear some evidence of one student who had a cold and was told to pray and not go to the infirmary, and I expect that we're going to hear some evidence from another student who had an asthmatic reaction to chemical used in cleaning in the kitchen and was told to, to wear a mask, and, and a fan was brought in, but basically told to soldier on. What is your opinion with respect to whether these teachings and approaches regarding healthcare meet the standard of care?

A. I don't - I think that they did not meet the standard of, of care. It appears from the evidence students physical and other health needs in many cases were not only unreported and untreated, their injuries were compounded by the actions or inactions of, of school authorities, who, who appeared to follow a code that made a virtue out of pain and, and suffering. And you know, responsible teachers and administrator in other private and public schools would not have permitted such extreme practices and would have called to account any staff responsible for such treatment. So, in my opinion, Grenville's standards of care for the children in its custody were outside the norms of Ontario and other places.

Q. All right. And I'd like now, if I can, turn your attention to evidence we've heard, of, of what I would call sexual harassment. We've heard evidence from former students that they were teachings to the effect that boys were innocent in, in sexual relations with girls, that girls were the temptresses going back to the scar of Eve in the Garden of Eden, and, and, and either referred to or told not to act like whores, jezebels, bitches in heat. There, there were, there were sessions, sermons in, in the girls dormitory in the lounge where

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they were made to chant chastity and maybe chastity abstinence or AIDS over and over, and teachings that, that if girls were sexually assaulted after dressing provocatively, they would have themselves to blame.

5 We've also heard of incidents of Father Farnsworth questioning a student in detail about their prior history of sexual abuse or their sexual activity, fantasies or masturbation, and as well sermons about homosexuality being the worst of all sins, and homosexuals being damned to hell, and, and the use of, of, of homophobic slurs and one student said he was told that was gay because he was sexually abuse as a child, that God could not hear his prayers and that satan had taken him over. Do these teachings with respect to these matters meet the standard of care?

15 A. No, they do not.

Q. Was it okay for religious schools in the 70s and 80s, and, and maybe beyond, but we're concerned with, with, you know, 70s, 80s, 90s, to teach that homosexuality is wrong?

20 A. I would, I would say no. Well, I could, I, I think I could answer the question better by referring to the Education on Sex and Health that was provided in Ontario schools.

Q. Thank you. That would be helpful.

25 A. Okay. So, two texts were, were used in Ontario classrooms for students in grades 7, 8, and 9 in, in the 1980s, and these gave illustrated the approach to sex and health education. It was being used in the, in the public schools. They stressed the importance of, of biological knowledge, health promotion, and respect for individual autonomy, gender stereotyping of the kinds of things that you've mentioned was considered, "damaging" to both men and women, boys and girls. And I can give you the specific references of the books, if you,

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if you need that.

5 Masturbation and homosexuality were described in,
in these books, but without moral judgment. So that is more
specific answer to the question, in terms of what, what would be
discussed in the public schools. And you know, I think it was
possible for other religious schools to have particular views on
homosexuality that might have been similar to those at, at
Grenville, but what's different, I think is the, the hostile in
10 which the student were alleged homosexual were, were, were
treated. From what I've read in the evidence, the, the, the
abusive language that was used frequently, the vilification of
people and let, let alone, the, the explanation, as you pointed
out for what caused homosexuality. This, this was, this was out
of the ordinary, no matter what your own private or religious
15 views were on the topic.

 Q. All right. Thank you. We've also in this
case heard that there were some evidence that Father Farnsworth
taught that AIDS was a plague that had been released on the
earth to cleanse the earth of sin and also that all homosexual
20 men will contract AIDS and die, and it was Gods weapon to
eradicate homosexuals to, to rid the world of his plague, as a
result of this sin. Would that teaching meet the standard of
care?

 A. No, it would. Not. There was concern about
25 AIDS in Ontario and elsewhere the end of the 1980s, and the
Ministry of Education responded with a resource document as to
how schools should address this subject. They recommended using
a health promotion focus. And....

 Q. What's that, what's the...

30 A. What they meant by that was focusing on
education, information, equipping students with knowledge about
HIV AIDS, and, and encouraging them to be responsible in terms

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of seeking out information in their association with their peers like a kind of sort of social action approach to this, to this subject, and this was all done in the context of in these document, accepting the both acceptance and joy of sexuality as
5 a positive part of life. And so, this was a very different kind of approach to discussing the topic and would be the common approach within the public schools.

Q. All right. And in 1987, we understand that Grenville required all students from grade 7 to 13 to be tested
10 for AIDS before being allowed to enter the school. And we have some documents in the exhibits, I won't take you to them. But are you aware of any other public or private school in Ontario that adopted such a practice?

A. There is no record of that, no other public
15 or private school did that.

Q. All right.

A. And, and two former private school administrators who I, I spoke to said that this would have been perceived in a private school as a violation of privacy rights.

Q. All right. Thank you. I'd like to now move
20 on and ask you some questions about light sessions, and, and what went on there and, and the punishments that were affiliated with them. So, we've heard evidence in the trial so far that there were public light sessions or full school assemblies where
25 students were singled out for wrongdoing, and publicly chastised in front of the whole school, or it could be a group of students that were singled out and chastised, and this could go on for an hour or more.

There were private light sessions where there
30 would be two or three staff members with a student confronting them after which they would be punished. The discipline was an actual set of punishments that was imposed, when, when a student

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5 was put on discipline or "D" we've heard that they were put on
silence. They were not to be spoken to or speak unless it was
somebody giving them instructions about what to do; their,
their, the teacher or prefect supervising them. They were not
allowed to wear the school uniform, which was unusual because
everybody else would be in the uniform.

10 They would be doing work duties all day and not
allowed to go to class. Sometimes they'd be separated from
their peers at meals or compelled sleep in a, in a different
area of the school, sometimes referred to as "Hotel D," the
annex above the gym. And there was also an incident which has
been referred to as "cold grits," where a whole group of
15 students were deemed to have bad attitudes or be sinning in
their minds and were subjected to these public light sessions
and put on discipline for weeks or even longer doing not only
the work assignments, but also extreme exercise. Do these light
sessions, first of all, the light sessions, as I've described
them, meet the standard of care?

20 A. No, they do not. The, the, the practice of
public humiliating students in the ways that you've described
for behavioral transgressions, let alone for what seem to be
simple attitudinal issues with which the school took issue, this
was unheard of in other educational venues, and, and would've, I
believe, constituted emotional maltreatment, which I referred to
25 earlier. It's one of the elements of abuse.

Q. All right. And does he punishment of being
put on discipline with that whole list of things that separated
no school, no uniforms, sleeping apart, et cetera, silence,
would that meet the standard of care?

30 A. I don't believe it would. I mean, silence,
for example, you know, in classes, students are expected to be
silent, you know, when, when class is being conducted or in

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5 detentions, they are expected to be silent and for 30 or 45 minutes or whenever detentions were held usually at the end of the day. The, the Grenville approach of, of students being silent, forcibly silent for hours, days, weeks, just unheard of, and the, the shunning that went along with that. And I also believe that, that their absence from classes was extremely questionable. Students are supposed to by law be in school. They are not supposed to be out of school for that long a period of time, unless they are good reasons, and these weren't.

10 Q. And doctor, can you tell us, what, if anything is the problem with discipline that is arbitrary or random, for example, you know, you've sinned in your mind or you have a bad attitude or, or things like that?

15 A. Well, if, if you look at the standards that I cited before in this environment in which I, I also referred to, in which, you know, there is greater sensitivity to how children should be treated and, and disciplined, the, the approach, it, it wasn't called that at the time, but it became known as progressive discipline. And that was really what I had read out
20 before, it's that that kind of approach where, where you, you certainly aren't random in, in the way in which you treat students, if there are problems, you address them. Students need to know what they are being disciplined for, they, they need to be able to have the right to respond, and the
25 punishments have to be reasonable. And I think what, what you've described are punishments that were excessive and certainly not reasonable.

30 Q. All right. If we can then, doctor, turn to the issue of privacy rights. We've heard some evidence of, of either some kind of censorship or opening of private mail of students, would that meet the standard of care?

A. No, it, it wouldn't. The, there, this issue

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had been addressed. There were cases even in the, in a, in a post-Charter of Freedom Rights and Freedoms era. So schools did and do have the right to search student lockers, for example, without student permission, if there is good reason to believe that illegal substances are being hidden or if some, something criminal has, has happened, lockers can be searched, and, and the contents can be investigated. But have been referred to as fishing expeditions dragnet searches were not allowed. And in terms of correspondence, private schools did not sensor students' correspondence, that was not the standard, and so, I would say that those standards fell below the standard of care.

Q. And what about dorm searches for things like cassette tapes, records, or bikini underwear, or things like that?

A. That would violate students' privacy rights.

Q. All right. So overall then, doctor, what is your opinion regarding the disciplinary and informal teaching practices that, that we've talked about that Grenville engaged in between the class period of 1973 to 1997?

A. I would conclude that the disciplinary and, and informal teaching practices were abusive and at odds with those practiced in public and private schools in Ontario. These practices apparently were permitted by Grenville School authorities, who themselves were accused of being active participants in these, in these practices. And the perpetrators were evidently not held accountable for their actions, though, they most certainly would have been in school systems that were meeting their legal, professional, and custodial obligations, particularly in a period when attention to human rights, children's rights, child abuse was ascended. Grenville appears not to have been a, a normal educational milieu from the 1970s to the 1990s, and its, its disciplinary practices arising from a

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very unusual, and I would say anachronistic values were harmful and, and hurt students over many years.

MS. MERRITT: Thank you. Those are all my questions.

5

CROSS-EXAMINATION BY MR. READ-ELLIS:

Q. Good morning, Dr. Axelrod.

A. Good morning.

Q. Do you have your report in front of you?

10

A. Yes, I do.

Q. Can you turn to page one of the report, please. So, it says right in the first sentence that in preparing this report, you consulted documents provided to you by Mackenzie, Lake Law Firm. Can you let me know exactly what documents those are?

15

A. Those were affidavits, cross, previous cross-examinations, records of Grenville Christian College, and, and I think that was the, that was the bulk of it.

Q. So, can you let me know specific documents, names of the affiants and cross-examinations. Do you know that sitting here today?

20

A. Could you repeat the questions, sorry?

Q. Whose affidavits did you review?

A. Oh, goodness. I, I don't, I don't have a, the specific list in front of me. I, I looked at whatever was in those packages of information.

25

MS. MERRITT: We can help if, if my friend likes?

MR. READ-ELLIS: Yes. That would be helpful.

MS. MERRITT: Okay. So, we provided Dr. Axelrod with the affidavits filed on certification. Those would have been the affidavits of the represented plaintiffs and the witnesses who

30

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5 filed affidavits on behalf of the defence, and
there were some additional transcripts or witness
that had not filed affidavits on the
certification motion that were examined in aid on
both sides. And as well the discovery
transcripts. Certainly, nothing that my friend
is not aware of or has had for years and years.
And in terms of the documents, we gave Dr.
Axelrod the joint exhibit books, and I think
10 maybe one or two of the loose exhibits that were
filed in the trial after the exhibit books were
done.

15 MR. ADAIR: I'm sorry. I had to step out and
speak to Dr. Best, can I, can you give me that
list again.

THE COURT: I've made note, if you like, maybe
it's faster.

MS. MERRITT: Okay.

20 THE COURT: Counsel has advised that Dr. Axelrod
was provided with the affidavits filed on
certification.

MR. ADAIR: Sorry?

THE COURT: The affidavits filed on
certification.

25 MR. ADAIR: All of them?

THE COURT: That was my understanding.

MR. ADAIR: Every last one on both sides?

MS. MERRITT: Yes.

30 THE COURT: The representative plaintiffs and the
witnesses for the defence, additional transcripts
where affidavits were not filed, but they were
examinations in aid, and discovery transcripts.

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Did I....

MS. MERRITT: The, those are the affidavits in transcripts, but they were also the documents.

5 THE COURT: And the joint exhibit books, and one or two....

MS. MERRITT: Joint exhibit books, and, and at that time, I think even Dr. Axelrod was retained before the joint exhibit books were done, so there might have been some documents from the
10 defendant's productions or the plaintiff's productions in their affidavit of documents that haven't made their way into the joint exhibit books. I can't say that for sure, but it's certainly nothing that my friends haven't seen. And then some loose exhibits that were marked during the course of the trial.

MR. ADAIR: It, it isn't a case of what we haven't seen, it's a case of knowing what the doctor had, and the Rules require that to be in
20 his report. Now, I just want to make sure we have it, rather than raise that issue. What I understand is he's been given every single affidavit in the case.

MS. MERRITT: Yes.

25 MR. ADAIR: On both sides.

MS. MERRITT: Yes.

MR. ADAIR: Every single examination for discovery transcript.

MS. MERRITT: Yes. Yes.

30 MR. ADAIR: Every single cross-examination transcript of everybody. And was he also given will-says?

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MS. MERRITT: No.

MR. ADAIR: No will-says?

MS. MERRITT: Oh....

5

THE COURT: Who's, who is conducting the cross,
both of you?

MR. ADAIR: Beg your pardon?

THE COURT: Are both of you conducting the cross
together?

10

MR. ADAIR: Well, no. But I'd appreciate being
allowed to address this one point.

THE COURT: All right. Mr. Read-Ellis, you may
have a seat, rather than having two of you stand.

MS. MERRITT: And Sabrina actually retained him,
so I am going to have her....

15

MR. ADAIR: Sorry?

MS. MERRITT: Ms. Lombardi actually retained Dr.
Axelrod, so I'm going to ask her to speak to it,
so that she is a hundred percent accurate. I
don't want to say anything that could possibly be
incorrect.

20

MS. LOMBARDI: We, we did provide everything that
my friend laid out; all the information from both
sides that we had. And to be absolutely certain,
I am happy to perhaps at the break, advise my
friend by looking back at our instructing letter
where we would have specified all the documents
put to Dr. Axelrod, I am happy to share that with
my friend.

25

MR. ADAIR: Fair enough. Thank you.

30

THE COURT: Thank you.

MR. READ-ELLIS: Q. So, Dr. Axelrod, as you'll
probably have gathered from that exchange, there were some

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affidavits that you were provided both that the plaintiff's filed an that the defendants filed in connection with the certification motion, as well as some other documents, correct?

A. Yes.

5 Q. And so, the reason I ask the question is because in reviewing your report, I, I saw a lot of references to the defendant's affidavit, but no reference to any of the plaintiff's affidavits.

A. Uh-huh.

10 Q. Do you know anything about that?

A. Well, I've, my task was to look at the, the teaching practices, the informal teaching practices and the disciplinary practices of, of Grenville, and those - I mean, I wasn't, I wasn't focused on its students as individuals as much as I was the descriptions I could find about the teaching practices or the, the informal teaching practices and the disciplinary practices. And the most of those descriptions were indeed in the files of the plaintiffs.

20 THE COURT: I wonder if you misspoke? I think you said you saw references to the defendants and not to the plaintiff.

MR. READ-ELLIS: Sorry.

THE COURT: Did you mean it the other way around?

25 MR. READ-ELLIS: I did, I did misspeak, you're right, Your Honour.

THE COURT: Thank you.

30 MR. READ-ELLIS: Q. And I am going to suggest, Dr. Axelrod, that the reason that you've referred to the defendant's materials almost -- sorry, plaintiff's materials almost exclusively, is because you were actually looking for negative examples of disciplinary and teaching practices?

A. Well, I don't believe that every student who

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attended Grenville had the same experience or, or, or the same memories, but whatever the experiences of those who did not have the experiences of the, of the plaintiffs and others, it, it, it wouldn't diminish from what actually happened. I was, I was, I indeed was focused on what the allegations and that's the reason for, I guess, the emphasis on, on those documents.

Q. So, Dr. Axelrod, do I take it from your answer that you accepted the allegations in the plaintiff's materials as true for the purpose...

A. No.

Q. ...of delivering your opinion?

A. No. It's not my job, and this was made clear to me to, to find anyone guilty or not, it's not my job. I don't, I don't know what went on at, at, at Grenville. It, I believe that's for the court to decide. My report uses the term - it's written in a contingent way. I didn't use it in every sentence, but I, I was careful to say, these are allegations, according to what, what people said happened. My response was that if these things happened, if these things are found to have been true, then they would have fallen below the standards of care. But it wasn't - it's not my, my determination as to what in fact did happen.

Q. Okay, Dr. Axelrod, I'm going to, I'm going to hand you a document. Think you've seen this before.

A. What's this?

MS. MERRITT: This is at tab a of the brief, it's already an exhibit.

MR. READ-ELLIS: Oh, okay, okay, yes, I apologize, this s is tab A of the, the, the expert brief, do you have that in front of you, Dr. Axelrod.

MS. MERRITT: Oh, no, no, I'm sorry, marked it as

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- it, it is there, but I, I also marked it as an exhibit yesterday. Oh, I'm sorry, I'm sorry, I apologize.

A. I'm sorry, I don't know what that is.

5

MS. MERRITT: I am wrong. I thought it was the biography you were doing.

A. Oh, this is my - this is what I submitted in the showing, yeah.

10

THE COURT: You want this made an exhibit, counsel?

MS. MERRITT: No. No, it's in your brief, but we didn't mark it separately.

THE COURT: It's in the brief, but....

MS. MERRITT: But we didn't mark it separately.

15

THE COURT: But it should be an exhibit, since we're about to talk about it.

MS. MERRITT: Sure.

THE COURT: All right. So, let's make this....

COURT REGISTRAR: Be Exhibit Number 37.

20

THE COURT: Thank you.

EXHIBIT NUMBER 37: Document - Produced and marked.

25

MR. READ-ELLIS: Q. Dr. Axelrod, this is - is this your biography?

A. This is a short version of it, yes.

Q. Okay. And you prepared this document?

A. Oh, yes.

30

Q. And I'm interested in that final paragraph on that first page, it says, "The publications I have written that bear directly or indirectly on this case included..." And then

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there is a list of publications.

A. Uh-huh.

Q. Is that right?

A. Uh-huh.

5 Q. Are those all of the publication that bear directly or indirectly on this case?

A. Oh, goodness, that's, that's a hard question. I'd have, I'd have to have my entire CV in front of me, which I, I don't. Okay. These were, I, I think these were the ones I would answer the question this way, these are the ones that bear most directly or most indirectly on this. There maybe other things I have written that one could establish, you know, attentive link. I, I didn't list everything here. But my, my full bibliography, if you want me to go through my full
10 bibliography, I, I could do that.

15 Q. No. That's fine. I, I just wanted to - I, I think your answer is fine.

A. Okay.

Q. So, these are basically the most significant?

20 A. Yes. I, I would think so, yes.

Q. And so, just for the record, if you let me finish my question before you answer then.

A. Sorry.

25 Q. That will great. No problem. And I, I think during your chief yesterday, you went through a brief description of a number or maybe all of these articles, is that right?

A. We did some of them. We didn't do all of them.

30 Q. Okay. But of these articles listed here, am I right that only two of them deal with abuse in any form?

A. The article banning strap, The end of

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Corporal Punishment in Canadian schools and no Longer a Last
Resort, The End of Corporal Punishment in Schools of Toronto,
most definitely deal with that. I do mention school discipline
in the book, The Promise of Schooling, and I did refer to that
5 yesterday. And I think that's accurate. Yes, those are the
two, those, those are the publications that do talk about, about
school discipline.

Q. Okay. So, The Promise of Schooling, that
dealt with discipline, but not abuse, is that right?

10 A. Yes. I think that's correct; it is. It
talked, it dealt, it talked about corporal punishment. I did
not get into the issue of, of abuse specifically in that, in
that publication.

Q. Okay. And then the articles, No Longer a
15 last Resort, the End of Corporal Punishment in the Schools of
Toronto, and Banning the Strap, the End of Corporal Punishment
in Canadian Schools, those dealt exclusively with the issue of
corporal punishment, is that right?

A. Yes. That's correct. There is, there - I, I
20 mean, I, I'm not sure if this satisfies your question, there was
a, a case of paddling in Toronto in 1970 at Brant Street Public
School, and this was - and I do talk about this in the, in the
book or in the article - and that was a kind of catalyst that
led towards the decision to abolish corporal punishment, because
25 the use of the paddle was not allowed in, in Toronto, as I
mentioned, the only thing that you could discipline students
physically was the, the strap. And, and so, there were
allegations of abuse because the, the rules were not being
followed, and the teacher was, I believe the teacher was, was
30 disciplined for that, that, that action. Whether there were
charges beyond that, I am not sure. I don't know what the
ultimate fate of the teacher was. So that was talked about as,

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an, as an abusive incident. So, I think that might be the only time in that article where the term is specifically used.

5 Q. Okay. We'll get into this a little bit later, but I, I am a little bit confused, because I thought during your chief, you said that use of the paddle was an acceptable form of corporal discipline?

10 A. No. It was acceptable in those jurisdictions that allowed it. The, the Boards were permitted to make their own rules about what forms of discipline could be used. In Toronto, the paddle was not allowed, and, and hadn't been for, for the longest period of time. And it's, it's conceivable that there are other Boards in the public sector, I haven't found actually that did, did use the paddle. They, they shared the view of the Toronto Board that the, the strap was the normal
15 tool to be used for disciplinary purposes in Ontario. I am aware that in other - in Private schools, other, other things were used, the paddle, the cane, those were - but those were not used in the public sector, to my knowledge.

20 Q. Okay. But just to be crystal clear, when you said earlier that only the strap was to be used for corporal punishment, you meant only in the Toronto school, is that right?

A. Only in the Toronto School Board, and in other Boards that had that rule. I do - well, I, I'll elaborate if you wanted to.

25 Q. So, I'm going to turn to a different topic now. Am I right that private schools have considerate autonomy in Ontario to fashion their own education programs?

A. They do.

Q. And that was true from 1973 to 1997?

30 A. Yes.

Q. And they are not required to use the same disciplinary practises as public schools, correct?

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A. That is correct.

Q. And that was true from 1973 to 1997?

A. Yes.

5 Q. Private schools were accorded significant latitude in disciplinary methods?

A. Yes, they, they were up to the point of not violating the Criminal Code or falling into the category of, of abuse. And I think I talked about that already.

10 Q. And they were also accorded significant latitude in respect of their teaching methods, correct?

A. Yes.

Q. And their educational programs.

A. Yes.

15 Q. And I think what you said yesterday was that private schools had the right to be alternative educational venues.

A. Yes, they did.

20 Q. And that is one of the reasons that a parent might choose to send their child to a private school, is that not right?

A. I agree, yes.

25 Q. So, when we're considering the applicable standards for educational institutions, it's important to distinguish between public schools on the one hand and private schools on the other, right?

A. I, yes, I agree, I think I have made those distinctions.

30 Q. Right. And when there are important differences, you're being careful to note it both in your report and in your testimony here?

A. Yes.

Q. Now, I take it from your testimony that

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discipline in schools has become more liberal over time, is that right?

A. Depending on how you define that, that term.

Q. Okay.

5

A. It became the use of physical discipline diminished and eventually disappeared.

10

Q. Right. But it doesn't apply just to physical discipline, right, there are other areas that have changed, and, and become more liberal? I'm not, I'm not trying to trick you, but just as a general matter, there are things that were acceptable 30 years ago, that are not acceptable today.

A. Things?

Q. Corporate punishment as an example of it.

15

A. It was technically, yes, still legal in Ontario to use corporal punishment until it was abolished by the, the Supreme Court in 2004, but it was used very little towards the end of that period.

Q. So, the reason I am asking the question is yesterday, you discussed a whole bunch of societal changes.

20

A. Uh-huh.

Q. The, the, the Charter.

A. Uh-huh.

Q. Certain UN resolutions, things like that. And so, it's really that idea that I am trying to capture.

25

A. Uh-huh.

Q. And today, you used the term, "progressive discipline."

30

A. Uh-huh. But I qualified that. I - that term wasn't in the particular document that I cited. It's a term that has since come to be used in, in schools, but in terms of how discipline was to be delivered, it would be consistent with, with progressive discipline. And that concept has been

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elaborated even more since.

Q. Right It's been elaborated on and changed since...

A. Yes. Yeah.

5 Q. ...since, nineteen...

A. Evolved.

Q. ...since 1973, right?

A. Yes.

Q. Wasn't the dominant approach in 1973.

10 A. Well, that's interesting. It, it wouldn't have been - the term wouldn't have been used, but by, you know, in the wake of the Minister's speech and, and the letter that went to the Boards, they were - in fact, I can quote, this maybe a restatement, but I think it's worth, it's worth saying. I
15 have to find it. Yes, in, in the Minister's - in the letter that went out to the Boards including the Boards of the private schools, these educators were "...encouraged to interpret the law in Ontario that which said discipline would be exercised by a kind firm and judicious parent..." and it added, "...in such a
20 way as to foster and atmosphere of respect and trust between students and teachers with the cultivation of individual responsibility as a major goal." And so, the documents that the Ministry subsequently produced, the recommendation that it was giving was designed to develop methods of discipline that, that
25 was consistent with those, with those principles. And that was the emerging standard in the Province as I, as I said earlier.

Q. So, do I understand it then that that letter in those publications that you just referred to were designed to encourage schools to adopt that kind of standard. It wasn't the
30 applicable standard at that time?

A. It, it wasn't the law, but it, it in terms of the ways in which schools behaved. I, I, I am not sure if it's

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appropriate. Since I completed this report, I had access to a document that I didn't have when I prepared the report, and it actually is a, a detailed discussion of the, the use of the strap in Canada, and it talks in, in some detail about the disciplinary practises that were prevalent in the period that you are describing. I brought it with me, I am wondering if, if it would be appropriate. I have two copies, I am wondering if it would be appropriate to cite it....

Q. Well, I was - I was asking...

10 THE COURT: Have counsel seen it?

MR. READ-ELLIS: No.

A. No. No.

Q. And I, I was asking you about letters and, and publications relating to that Minister's letter you were talking about, what year was that?

15 A. The, the Minister's letter was 1969.

Q. So, let's start....

A. And the publications that I cited earlier were in the 80s.

20 Q. Okay. So, let's start with the Minister's letter.

A. Okay.

Q. That was not an expression of the applicable standard at the time of that letter.

25 A. It, it was the, it was a statement that the standard should change, yes.

Q. Right. Okay. Let's turn to a, another topic, yesterday, you were asked your opinion about a number of statements that were contained in a document titled, "How do here at Grenville Nurture Christian Values." Do you remember that?

A. I do.

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5 Q. So, I'd like to get your opinion on another statement, and I'm, I'm just gonna say it, so if you need me to repeat it, please, let me know. All right, I just want to get similarly, I want to get your opinion on it. "The aim of school discipline in a democracy should be to teach student that a degree of obedience and conformity is reasonable and necessary to productive and harmonious interaction with others in any social group."

10 A. Okay. Sorry, what's that statement from?

Q. The context is important, right?

A. I'm - are you reading from a particular document, that statement, and can you show me where?

Q. Well, I just, I just like to get your opinion on the statement.

15 A. Please, repeat it.

MR. READ-ELLIS: "The aim of school discipline in a democracy should be to teach students that a degree of obedience and conformity is reasonable and necessary to productive and harmonious interaction with others in any social group."

20 A. Okay. And you're asking me?

Q. What's your opinion about that statement? Yesterday you went through number of statements in that other document, and gave your opinion, similarly, I just want to get your opinion.

25 A. I don't think it's an exceptional statement one way or the other. And I, I don't think I find anything - if, if that's another statement, it's not one I would take issue with.

30 Q. Okay. So, then the aim of discipline can be to teach students to be obedient?

A. Yes.

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Q. And to conform?

A. Yes, that could be an aim.

Q. Okay.

5 A. Though I think the important issue here is what methods are used to achieve those goals.

Q. Understood.

A. And that document and others speak to methods that I would question in terms of standards of the day.

10 Q. Okay. So, let's talk now about corporal punishment. So, during the relevant period here, 1973 to 1997, corporal punishment in Ontario could include use of strap, correct?

A. Correct.

15 Q. And in schools that hadn't otherwise banned them, it could include other instruments, right?

A. No. In Ontario, no.

Q. The....

20 A. Oh, sorry, I am sorry, in, in Toronto, that's, that's the case.

Q. Right.

A. Yes.

Q. So....

25 A. In other, it's, it's possible in, in other boards that a, a ruler might be used or a yardstick, but the, the, the strap was the common instrument used in Ontario. Boards did, yes, Boards had different policies on various things. The material that I have brought with me does provide additional perspective on that point and shows the common methods that were being used, and they did involve the use of
30 the strap.

Q. And not only different Boards use different instruments, different private schools also.

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A. Yes.

Q. Okay. Again, just let me finish my question. I, I know you know where I am going, but it just works better on the transcript. And the, the instruments could include the use of a paddle, right, in some private schools and boards in Ontario?

A. Yes.

Q. Or some other means of physical reprimand?

A. Yes.

Q. And isn't it true that in 1973, corporal punishment was widely accepted across the Provinces in Canada?

A. The opinion was divided on this issue. I've seen opinion polls at the time, and there, there wasn't a, a public consensus on, on this topic. But I, you know, I, I might stop short of saying it was widely anticipated and I, I would - or widely accepted. It, it's a question of how you would analyze these polls and how good the polls were. But opinions were mixed.

Q. Okay. How about widely implemented?

A. Widely implemented. Well, it, it, it was on the way out. In the 70s, corporal punishment, Toronto would've likely been still an, an exception, but in the wake of the, the Minister's letter, in, in the wake of concerns child abuse, which were emerging, and the, the question on what the limits of a teacher's or schools' rights in the use of physical discipline were, the, the corporal punishment - the, the decline of corporal punishment accelerated in the 1980s. And by the end of that period both in Ontario and, and other Provinces, even, you know, well before the - it was abolished, it, it had disappeared. Even those places that like Ontario that never specifically banned it in the legislation, its use had, had diminished. It was, it was very rarely used.

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Q. Okay. But in 1973, there was in fact only one province that had banded corporal punishment, correct?

A. That had formally banned it, uh-huh.

5 Q. And it was widely implemented in Ontario in 1973, correct?

A. I don't, you know, what we don't have are comprehensive statistics on this question. That research is just not been done. What we, we do have case studies, you know, such as the one that I had done and one that I keep referring
10 to, this mystery document, that has another case showing similar patterns of, of diminished use, even in the early 70s. You know, what's, what's interesting really on this matter is that the private schools were, once, once corporal punishment in Ontario it was abolished in Toronto, the private schools were
15 under the impression that it was likely to be banned and, and so, they voluntarily most of them stopped using it. Because their, their approach to school policy in order to retain their autonomy which they value, they, they were very conscious of what was happening in the public sector. They certainly wanted
20 to match any changes or educational improvements that, that were occurring, and this, this was one of the things that they thought the day, its days were numbered. So, it's perhaps a bit ironic, but in, in the private schools, the abandonment of corporal punishment occurred in terms of the numbers of portions
25 of schools that used it, more quickly than in the, than in the public sector in, in Ontario.

Q. Okay. So, you said in your report, I think, and maybe in your testimony that private schools had largely abandoned corporal punishment by the 1980s, right.

30 A. By nineteen (sic) - not all of them, but, but it was largely done.

Q. Okay. So, my question was about Ontario....

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THE COURT: Sorry, I didn't hear the year, did you say, 1980?

MR. READ-ELLIS: 1980s, yes.

THE COURT: 1980s.

5

A. 1980.

MR. READ-ELLIS: 1980s, I think you said.

A. Well, I said, by 1980.

Q. Okay. So, my question was about 1973.

A. Yeah.

10

Q. Okay.

A. Uh-huh.

Q. You know that corporal punishment was widely used in the province in 1973, correct?

15

A. It, it, it was still being used. I, I'm not prepared to say that I was widely used because we, we, we don't have sufficient statistics. We have case examples. There is a, apart from the Toronto Board that I mentioned, there, there was a corporal punishment record book which a copy of which I've seen for a school in Scarborough, and this was said to be - and Scarborough was not part of the Toronto Board at that time - this was said to be typical by the author, and it showed that by the early 70s, almost no one was being strapped anymore. So, this could well have been the pattern. There was less enthusiasm about using that, particularly, in the wake of the, the Minister's guideline or recommendation. So, I'm not, I am not quite prepared to concede that it was widely used, even though it was legal.

20

25

Q. Okay. So, you just referred to records of the Scarborough School Board.

30

A. Yeah.

Q. Right?

A. Which you haven't seen, and if that's

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improper, I'm sorry, I, I can show you.

No. That's...

THE COURT: Well, I'll let counsel run the case.
They've heard you offer it. You've got it.

5 Counsel may or may not want to look at it. I'll
just await their decision on that.

MR. READ-ELLIS: Q. So, you said that you, you
don't have Province-wide statistics, that's, that's because some
schools didn't keep records, right?

10 A. No. It's not that they didn't keep records,
it's that the research in terms of gathering the information has
not been done. I did that research for Toronto.

Q. Okay.

15 A. And it's, it's, you know, sitting there
waiting to be done, but he historians haven't got around to it
yet.

Q. So, you haven't actually checked to see if
all school in Ontario have records?

20 A. I don't have information on 120 school board
in Ontario at that time.

Q. Now, isn't it true that in 1971, there was
and Ontario-wide survey that found that 87 percent of Ontario
school Boards favoured retention of corporal punishment?

25 A. I think I've seen that, and yes, I've, I, I
think I am familiar with that survey.

Q. Okay. And so, you made reference to this
before, but in 1973, there was only one public school board in
Ontario that had banned corporal punishment.

A. Uh-huh.

30 Q. You have to answer verbally.

A. I'm sorry. Yes, that's true.

Q. And that was the Toronto Board of Education?

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A. That's right.

Q. So fair to say that the Toronto Board was at the forefront of the abolition?

A. Yes, I would.

5 Q. And yesterday, you went through some policies that were implemented in respect of corporal punishment, do you remember that?

A. Yes.

Q. That it had to be on the hand...

10 A. Yes.

Q. ...et cetera.

A. Yes. Uh-huh.

Q. And that was the Toronto School Board's policy, correct?

15 A. That was the Toronto. But it also applied to other school boards that used the strap.

Q. Okay. But those were the policies implemented by the school board that was at the forefront of the abolitionist movement, right?

20 A. When, when they were still using strap, yes.

Q. Okay. And it was implemented in some other school boards, but not, right?

A. I, I can't say for sure in all. It certainly was implemented in, in many. It was, it, it, it was likely the norm, that there would be rules, regulations, protocols around the way in which the should be administered.

25 Q. And you said, "it was likely the norm," that's because you're not sure, right?

A. I'm not a hundred percent sure of the detailed practises in all of those Boards. But I, you know, if I can follow up with, with a comment? I, I've not...

30 Q. Is it responsive to my question?

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5 A. Well, I guess, I'm not sure. I, I, I think it's, it's - I am not taking issue with, with anything you're saying about the legality or use of, of corporal punishment in, in this period. I don't think that's, the, the point. The point about Grenville is, is the way in which corporal punish was, was used.

Q. Right. And I'm not asking about that now.

A. Okay.

Q. I will later.

10 A. All right.

Q. Then we can talk about that.

A. That's fine.

Q. But we're not talking about that now. So, in 19789, corporal punishment had only been banned in British Columbia. It was still legislatively acceptable in all provinces in Canada, isn't that right?

15 A. I believe that is accurate. It's after '89 that the, the number of provinces that abolish it increased significantly. I'm just looking for my notes on that, which I don't seem to have in front of me. But I'll, yes, I'll agree with that.

Q. And the practise of corporal punishment only became illegal in Ontario schools following the 2004 decision of the Supreme Court of Canada that you mentioned yesterday, correct?

25 A. Correct.

Q. And it wasn't until that decision in 2004, that corporal punishment lost its legitimacy in Canadian schools as a corrective behavioral policy of last resort.

30 A. It lost its legal legitimacy. It had lost its legitimacy in practise I think well before that.

Q. So, are you disagreeing with the statement

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that I just read to you, Dr. Axelrod?

A. No.

Q. So, in other words, prior to 2004, use of corporal punishment was still a legitimate corrective behavioural policy in Canadian schools?

A. Technically, yes.

Q. And you are aware that many schools implemented forms of physical discipline in the 1970s?

A. I, I didn't hear the last part.

Q. Many schools implemented forms of physical discipline in the 1970s.

A. Apart from corporal punishment?

Q. Corporal punishment, why don't we call it corporal punishment.

A. Yes.

Q. And the same is true of the 1980s?

A. Yes.

Q. And into the 1990s.

A. Fewer and fewer over time.

Q. But it was happening in the 1990s?

A. I can't answer that question.

MR. READ-ELLIS: Your Honour, now would be a convenient time for the morning break.

THE COURT: All right. And in terms of just looking at our timing and making sure we're on track, do you have a sense of approximate how much longer you will be?

MR. READ-ELLIS: I expect I will be maybe a little bit longer than I have been this morning; not much, no more than an hour, I would think.

THE COURT: All right. Sounds like you'll finish before lunch. That gives us a sense. Thank you

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much. So, we'll take a 15-minute morning break.

R E C E S S

5 U P O N R E S U M I N G:

THE COURT: All right. Let's continue.

MR. READ-ELLIS: Just bear with me for 30
10 seconds. I, I think I can shorten this
considerably.

THE COURT: Okay. You can definitely have a
minute, if you want.

MR. READ-ELLIS: That's very kind.

MR. ADAIR: A penny saved.

MR. READ-ELLIS: Your Honour, could I, please,
15 approach her a question?

THE COURT: Of course.

MR. READ-ELLIS: Q. Dr. Axelrod, do you, do you
20 recall earlier this morning, my friend gave you examples of
physical discipline and asked for your opinion about whether
that met the applicable standard of care, do you remember those
questions?

A. Yes.

Q. And you gave an answer, I didn't write it
25 down verbatim, but I think it tracks pretty closely the opinion
that's set out in your report, so if, if you want to turn that
up. It's on page 13. Sorry, I've got the wrong page reference
here. Yes, sorry, page 13, in the, in the final paragraph
there. You say, "It's my opinion that even in a context in
30 which corporal punishment was still legal in Ontario Schools,
the manner in which it was handed out at Grenville would not
have been acceptable in normal educational venues."

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A. Yes.

Q. Is that right? And that's more or less the opinion you gave in response to my friend's questions, right?

A. Yes.

5 Q. Now, in arriving at this conclusion in your report, you relied on some different facts, and I just want to take you through some of those. So, if you look on page 10, for example in the fourth line, you say, "Students claim that they were slapped force...."

10 A. That's not page 10, I don't think.

Q. Sorry, page 12, you're right, page 12.

A. Yes, I have it.

Q. "Students claim that they were slapped," do you see that?

15 A. Yes.

Q. "...forcibly dragged out of bed in the middle in the night." And about four lines below that, it says, "One student asserted that he was hit in the face by a teacher who broke his nose and continued to punch him."

20 A. Uh-huh.

Q. You see that? And the next line:

"A student says that he was tackled by a teacher who attempted to forcibly remove his ear stud."

Q. Do you see that?

25 A. I do.

Q. And the next paragraph in the third line, you refer to a student being hit with the paddle in his testicles.

A. Yes.

30 Q. Then on the next page in the first paragraph, similar sort of claim. "He was woken up to a punch to the groin area by one of the staff members."

Q. See that?

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A. Yes.

Q. So those are among the facts that you relied on in, in delivering in...

A. Uh-huh.

5 Q. ...in delivering the opinion that's expressed in your report, correct?

A. Uh-huh.

Q. And - sorry, you've got to answer verbally.

10 A. Sorry. Yes. In, in when I wrote this report...

Q. Right.

A. ...18 months ago.

Q. Right. And those examples came from the affidavits of the plaintiffs in this case, correct?

15 A. Yes.

Q. And it's fair to say that if those facts are not accepted, it could impact your conclusion?

20 A. Yes. I, I thought about that, but, I've, I would not change my conclusion based on the facts in evidence that I've heard since. I had not, of course, seen the - they weren't prepared yet - the exhibit books when I wrote this report. This was done quite some time ago. But the, the experiences described this morning, I don't think would lead me to change my opinion at all.

25 Q. Right. But just so you understand, the process, at the end of the day, the court is going to find what facts in evidence...

A. Uh-huh.

30 Q. ...to accept and not. And if those facts are not accepted, then the basis for your opinion falls away, correct?

A. That's not my decision. I, I just would

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defer to the court to decide weight to give my report.

Q. Right. So, if the facts underlying your opinion are found not to exist, you would no longer stand by that opinion, if those facts are true?

5 A. No. The facts that I have heard, the evidence that's been presented involves extreme forms of physical discipline that would not lead me to change my opinion.

10 Q. But just assume, okay, just, just take my word for it that that those things, those facts didn't happen, you would no....

MS. MERRITT: What?

THE COURT: I'm sorry, an objection?

15 MS. MERRITT: I, I am sorry, I have to object when, when counsel is saying, "take my word for it the facts didn't happen," that's outrageous.

MR. READ-ELLIS: Okay. I....

THE COURT: And I think the...

MR. READ-ELLIS: Fair, fair, fair.

THE COURT: ...I think the point is...

20 MR. READ-ELLIS: I can reword the question.

THE COURT: ...the point is the obvious one that if none of what we have heard happened, then there is no opinion, because it's....

MS. MERRITT: We'll concede that.

25 THE COURT: I, I think the evidence was clear, it's a hypothetical, and, and I think the question was asked. But if you're driving at a different point, maybe rephrase it a bit.

MR. READ-ELLIS: No. That's fine.

30 Q. And, so, we've looked at the, the one opinion you've given in respect of corporal punishment, but, but the same is true in respect of your, your other opinion, correct?

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A. My opinion that I gave in my statement this morning stands. I don't, I don't - have not seen any reason, in viewing the evidence that has been presented to change my opinion.

5 Q. Dr. Axelrod, you were asked some questions about Grenville's teachings in respect of homosexuality, do you remember that?

A. Yes.

10 Q. And you referred to a couple of texts that were used for teaching in grade 7, 8, and 9, I think, is that right?

A. Yes.

15 Q. And I - correct me if I am wrong, but are those the text that are referred to in footnote 63 of your report?

A. Yes.

Q. So those are texts dated 1986?

A. Yes.

Q. And 1987.

20 A. That's correct.

Q. And those were texts that were used in public schools, is that right?

25 A. These were texts that were provided as Ministry-approved documents that could be used. Schools didn't necessarily teach sex education at that point. They weren't required to, but those that did, these were the documents, these were the, the source materials that they were drawing from.

30 Q. Okay. I want to ask you some questions about that document you were taken to yesterday. So, it's in Volume III of the joint exhibit book, if you have that in front of you. I believe that's Exhibit 9.

A. I have to find it again. Volume III. And is

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that 130?

Q. Tab 135, that's right.

A. Five. Wait a minute. Oh, yeah, got it.

Yes, I have it.

5 Q. So, just my first question, you're not
trained as a linguist, are you?

A. No.

10 Q. Okay. You don't have any information about
this document, other than what appears on the face of it, is
that correct?

A. I have none, no.

Q. All right. So, you don't know who wrote it?

A. No.

15 Q. Whether it represents the views or thoughts
of an individual or a collective?

20 A. Well, it's, it's in the documents that are
with others that are statements of Grenville's philosophy,
religious values, et cetera. So, I think it has the same - oh,
I don't know, I think it has the same standing as the other
documents that I, I looked at.

Q. Okay. You don't know what purpose it was
written for?

A. I don't, actually.

Q. Whether it was a draft or a final version?

25 A. I don't.

Q. Who it was circulated to?

A. No.

Q. Even if it was circulated?

A. No.

30 Q. You don't know how the ideas set out in the
document were implemented at Grenville?

A. I can infer from the things that happened,

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5 people were punished for listening to the wrong music, and going
through the document, I - I, you know, I read the document in
the context of what I had read in the evidence about what
happened. And I, I think the value to me of this document was
that it, it - because there wasn't much else on education per se
apart from religious goals and values, this is one of the few
things that I've seen that actually talk about the philosophy,
if we can use that word of Grenville around educational and
related matters. And so, it, it, it provided some insight to
10 the pathways of how Grenville approached its treatment of
students, what, what explains what they did. And, there, there
is not full explanation here, but it, it, it kind of make sense
to me, in light of what happened. I do see a link between it
and the other things we've been talking about.

15 Q. But you don't know who wrote it, who it was
circulated to or what its purpose was?

A. I, I don't know specifically the answer to
any of those questions.

20 MR. READ-ELLIS: Those are all my questions, Your
Honour.

THE COURT: Thank you. Any re-examination?
You're on your feet, Mr. Adair?

MR ADAIR: Can we now call Dr. Best?

MS. MERRITT: Oh, no, I have some re-exam.

25 MR ADAIR: Oh, I'm sorry. I forgot. I
apologize.

MS. MERRITT: I, I won't, I won't be, I won't be
long.

MR ADAIR: I am sorry.

30 MS. MERRITT: That's okay.

RE-EXAMINATION BY MS. MERRITT:

P. Axelrod - Re-Ex.
(Ms. Merritt)

Q. Mr. Axelrod, can you explain for us what is meant by the term, "progressive discipline." I think there may have been some confusion arising from the cross, what is "progressive discipline?"

5 A. Well, it, it's a form of discipline in which students are - I mean, a variety of incremental steps are taken in the, in the discipline of student, and if one step doesn't work, then you move onto another step, the probably more severe. And but it's, it's a, it's a, a way of disciplining students
10 that is, is systematic. It's not arbitrary, and it, it makes sure that the student is, is given a voice, and it's, it's hoped in the process of disciplining that this will lead to behavioural correction.

Q. And, and the word, "progressive" means,
15 "step-by-step," as opposed to "modern or hip?"

A. Yes.

Q. All right. I just wanted to clarify that point. And I believe my friend asked you about schools having the option to use corporal punishment. Can you tell us what if
20 that relates, how it relates to schools actually using corporal punishment?

A. The, the school boards had the authority to decide whether corporal punishment would or would not be used, and the conditions under which it would be used. And the, the
25 fact that, the option, interestingly enough, they, many chose not to through, through this period, though some - the arguments made by some school board authorities is that well, we're not going to use it, but we'd like to be able to have the option to use it if we, as a kind of, you know, disciplinary tool in our
30 pocket if the, if the time comes. And, and that, I think, was some of the, those kinds of discussions occurred when Boards debated whether they were going to end corporate punishment.

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(Ms. Merritt)

And I think, is that what you're getting at?

Q. I'm asking, I'm trying to understand what your answer is in, are we saying, like, keep it on the books, but not do it, is that what you're saying?

5 A. That, that was, that was thinking of, of some. And the fact that it was still on the books did not mean that it was used.

Q. Well, and, and maybe that leads into the last and final question is about the Canadian study you've...

10 A. Yes.

Q. ...referred to, what did that reveal about the actual use over the time period from '73 to '97?

A. It, it underlines the point that the, the use of corporal punishment diminished the, the acceleration of - oh, that's a very ironic way of putting it, but the, the - it increasingly was disused from the 1980s on. And this was based, some of this data from the book comes from a survey that the author of the book did with over a hundred teacher, educators who, and principals that taught and, and the majority of them were from Ontario, but they were also from other parts of Canada from the 1960s on. And their testimony was that, in these surveys, that we weren't, we weren't using it much, it really did diminish, and when it was used, they outlined the kind of protocols that, that the Toronto Board itself employed about the, the conditions under which it, it could be delivered; the need for accountability record, and I, I can't remember them all, but that's, that's where some of that evidence comes from. And I think it's, it's, it's interesting because there is, there isn't a lot of other information that looks at the situation as a whole. This, this, this book does base on the evidence from the people that were interviewed.

MS. MERRITT: Your Honour, I wondering, given

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(Ms. Merritt)

that we have heard some about it, are we to mark this document as an exhibit?

THE COURT: Any issue with that?

MR ADAIR: Which document is it?

5 MS. MERRITT: I just referred to this book and just wondering if we should mark it.

10 A. I have two copies, and I, I've actually got a tab, tabs in one of them that refers to the material on which I was speaking. One is the, the except from the corporal punishment book in Scarborough, and the other is, is the results of the survey of the people that I just mentioned, the principals and, and educator. So, I can....

15 THE COURT: It make sense to try to photocopy the extracts, and...

MS. MERRITT: Yeah. I think so.

THE COURT: ...produce them later, and perhaps counsel can confer on that.

MR ADAIR: Okay.

20 MS. MERRITT: We'll make, we'll get some copies made, send them to my friend and we'll see if we can arrange that.

25 MR ADAIR: Well, I mean, I have no problem with the idea getting copies made, it just make things expeditious, but it does seem to me that that is not evidence in and of itself. It's something the doctor relies on in giving his evidence and, frankly I thought his evidence was crystal clear.

30 THE COURT: Well, perhaps the, the best way to deal with it is similar to how his report has been dealt with. It's not filed as an exhibit. His evidence is evidence. If I have the copies,

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then I can make sure I can understand what the evidence was. Maybe we can deal with it like that.

MR ADAIR: My....

5

MS. MERRITT: That, that's fine.

THE COURT: Does that make sense?

MS. MERRITT: Yes. Whatever, whatever is easiest.

10

THE COURT: Well, I think that probably is consistent with the practise.

MR ADAIR: Yeah. My, my only concern is I'm not sure what else is in there.

15

THE COURT: Well, how about this, at the break, make the copies that you think relate to the evidence, and see if you can agree, and if not...

MR ADAIR: Well, okay.

THE COURT: ...we'll deal with it.

MR ADAIR: Thank you.

20

THE COURT: All right. And, and I just have one question for Mr. Axelrod before you go.

Yesterday, you were talking about the Ministry practise in inspecting private schools and it's limited to curriculum only. And, and I wondered, what's the underlying policy behind the Ministry not looking at social, religious context for the delivery of curriculum and for other programming might impinge or overlap, or, or address? I, I'm just curious about...

25

THE WITNESS: Why, why they do a, a limited kind of?

30

THE COURT: Yeah, why so limited and, is, is the thinking still that way that, that it's a more of

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(Ms. Merritt)

hands-off kind of oversight?

5 THE WITNESS: Yes. Yes, it is. It's it is a
good question. Ontario is somewhat unique in
that other provinces do have more regulations
dealing with private schools. I think what one,
one - I, I can't give a definitive answer, but I,
I can offer an opinion, if that's okay? One is
10 the private schools receive no public funding in
Ontario. Private schools in other provinces, in
some other provinces do. And the tendency is
where they receive public funding, there are more
conditions that go along with that. And so, now
they do, they do receive indirect funding by
15 virtue of having charitable status, but they
don't receive direct grants. And I think that's
long been a, a view that says we should, that,
that's followed by the conclusion that well, we,
we will be sort of hands-off.

20 They also, they're treated as non-profit
corporations, and, and it's the, the important
relationship from the government's point of view
is between their clients and the school and the
contracts essentially that are drawn up between
25 parents and private schools, and the parents
think it's okay, well, and as long as they're
meeting curriculum standards, then, then it, then
it's okay.

30 I can give you a historical answer to the
question as well, private schools actually were
created in Ontario before public schools in the

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5 early nineteenth century. And mostly they were
religiously oriented; they're all. And, the, the
public school system took shape in the period
from about 1830 to the 1870s, school became free.
And compulsory in Ontario in 1871 at the
elementary level. And by that time, the, the
role of private schools was pretty small. Every,
all the governments' energies were put to the
funding and the regulating of the public schools.
10 Private schools were sort of almost ignored, and
they weren't very important in terms of numbers
of students being educated right through early
20th century.

15 After 1960, the, the number of schools did
increase in Ontario, and but the, but the, the
legislation didn't; they didn't change. Maybe it
was a situation of, you know, sort of legislative
inertia, I, I don't know. But they, the status
20 quo really does remain. They have a, a
considerable amount of, of autonomy, and they
have, they have retained it.

THE COURT: Thank you for your answer. Does
anyone have any questions arising from mine?

25 MR ADAIR: No, Your Honour.

THE COURT: Thank you very much, Mr. Axelrod.

THE WITNESS: Thank you. What should I do with,
with this?

MS. MERRITT: Leave them both us.

30 THE WITNESS: Okay. So, do you want both copies
of the book, or you can just....

MS. MERRITT: I'll return them.

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THE WITNESS: Maybe just one.

MS. MERRITT: Okay.

THE WITNESS: And the pages are marked.

MS. MERRITT: Thank you.

5

SIMON RODERICK ALFRED BEST: SWORN

EXAMINATION IN-CHIEF BY MR. ADAIR:

10 Q. Dr. Best, I understand, sir, you are a
medical doctor?

A. That is correct.

Q. And that your speciality is that of head and
neck surgery?

A. Otolaryngology and neck surgery, correct.

15 Q. And you are an associate professor at the
John Hopkins School of Medicine and are on staff at the John
Hopkins Hospital in Baltimore, Maryland?

A. Yes, both correct.

20 Q. And where did you obtain your medical degree,
sir?

A. From Yale University, School of Medicine.

Q. And will you briefly describe your education
and training after medical school?

25 A. After I graduated from medical school I
pursued residency in Otolaryngology head and neck surgery at
John Hopkins Hospital, where I was a resident for five years.
After that I went to an additional year of training in a
fellowship in laryngology surgery at Harvard Medical School.
After that I returned back to John Hopkins to join the faculty.

30 Q. Okay. And I understand that you, Dr. Best,
attended Grenville Christian College from 1984 to 1998, a period
of 14 years?

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A. That is correct. I attended Grenville from kindergarten until I graduated from OAC.

Q. Grade 13?

A. Grade 13.

5 Q. Right. And it is my understanding, sir, that you've lived in your family home in Brockville throughout that time until September 1996 when you became a boarding student at Grenville for the last two years of your education there?

10 A. That's correct. For the first 12 years I was a day student.

15 Q. And what I would ask you to do, sir, is to outline to the court your regular daily routine during the weekdays as a day student at Grenville and I'm speaking about when you were in your high school years, before you became a boarding student.

20 A. So, for the years that I was a day student I would be dropped off at the school early in the morning along with my siblings, who also attended the school. Likely after breakfast, I didn't often eat breakfast at the school. And I would be there for classes all day. Some days a week I would leave campus for outside activities away from the school for an hour or two. And then would usually come back to school for dinner and after dinner activities as well as study hall. I left the school probably most days around nine p.m. at the
25 conclusion of study hall.

Q. All right. And so you would have lunch and dinner at the school?

A. Correct.

30 Q. And tell me, did you -- what sort of activities did you engage in other than classes while you were at Grenville in your high school years?

A. I was involved in many activities as a

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5 student. I was involved in some of the sports teams. I did cross country skiing. I played on the soccer team, poorly. I was involved in debate, so I did debating for all four years of high school. I was in the choir. I participated in the cast of some of the musical productions. I was the year book editor my senior year.

Q. Okay. Were you ever a prefect?

A. I was.

Q. And what years were you a prefect?

10 A. I think probably just my last year.

Q. Okay.

A. Although....

15 Q. And I want to ask you about the -- if you can, to describe the general routine during -- we're going to focus all these questions just on your high school years, not your elementary years. Can you tell us about the general routine in the dining hall for lunch?

20 A. So to the best of my recollection, after classes had ended, students would go to the dining hall, it was called, where there were assigned tables, circular tables where there would be a staff member assigned to the table, as well as assigned tables that you were given so you knew where to sit, at which table to sit, although there weren't assigned seats at the table. And these would periodically rotate throughout the year
25 so you had a chance to sit with different students as well as different staff members. And the routine was that students would be assigned different duties. There was some students who were assigned serving duty, so they would pick up the food from the kitchen and deliver it to the tables. There was after
30 dinner responsibilities as well or after lunch responsibilities where some students would be on dish crew, the boys or men would be on that. And then the women or girls would be on food put

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away. So there were assigned responsibilities, I think analogist to chores.

5 Q. And was that -- were those regular assigned responsibilities you're speaking of, dish duty and serving duty, was that any part of discipline or was it separate and apart from discipline?

A. That was separate. These were just the regular assigned duties of the school.

10 Q. Now -- so, lunch, for example, you would be sitting there at lunch. Was there any prayer or anything of that nature before lunch?

A. Yes, there usually was an opening prayer.

15 Q. And -- what would -- what -- what was the atmosphere? What happened during the lunch among the students seated at your table, for example?

A. It was regular lunch conversation, such as you would have with any group of ten or -- people or so at a -- at a table. A mix of students, in terms of ages and genders and some adults. It was a regular lunch conversation.

20 Q. And what about after lunch? Was there any -- did anything go on after the actual meal was finished while you were still at lunch?

25 A. I think there was sometimes opportunities for school announcements before dismissal from lunch and then returning to classes.

Q. And was there -- what about any form of lecture or speech or anything of that nature?

30 A. There may have been occasionally such religious -- small speeches of some sort, perhaps but I wouldn't say that there -- that was the usual activity. It seem much more business like than that.

Q. All right. And tell me what -- if you will,

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what if any emphasis was placed upon manners and comportment?

A. There was an emphasis placed on manners. Certainly if you were -- had your shirt untucked, or your elbows on the table, or using your cutlery in an unrefined manner, shall we call, sometimes that would be brought to attention.

Q. And what about other things like eating with your mouth opened or standing when women joined the table or....

A. Yes, you had to stand when women joined the table. And I think eating with your mouth open is generally frowned upon in society so.

Q. Yeah. And how -- how were -- how were issues of manners or comportment brought to the student's attention sitting in the dining hall?

A. I would say most commonly but the adults at the table, although occasionally Father Farnsworth did make comments from the head table with the microphone.

Q. Okay. And what about the routine in the evening -- for the evening meal?

A. I would say it followed a very similar pattern. It was meals where there were assigned duties. There were students that were assigned food put away and dish crew. There was a prayer at the beginning and announcements at the end before students went off to study hall.

Q. Now, do you have any recollection during your high school years at Grenville of any incidents where students were singled out in the dining hall over some issue or other?

A. I would say if someone walked by the head table with their shirt untucked it's possible that they would be called out by name to tuck in their shirt, or straighten their tie, or some other activity like that.

Q. All right. Do you have any recollection of a, other than that, of a student being called up in front of the

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dining room people to address issues of discipline or attitude or behaviour?

A. No, definitely nothing more serious than what I would regard as table manners in front of the entire school.

5

Q. Okay. And were there occasions when the whole student body would be summons to the chapel, aside from regular prayer or religious services?

A. I don't recall that being a regular activity. I can't eliminate that that happened at some point during the 14 years that I was there but I would say that would be unusual.

10

Q. Okay. Any thought on how often that might have happened in your high school years per year?

A. I mean I don't recall any specific incidents like that at all from my high school career.

15

Q. Okay. Now, what can you tell me about the rules at Grenville?

A. The -- I'm sorry the?

Q. The rules.

A. The rules at Grenville?

20

Q. Aside from comportment and manners that we've talked about, what were the rules?

A. Grenville had rules. There were rules about what you're allowed to wear. About how to comport yourself. About how to dress. There were rules that said that there was no exclusive dating relationships between boys and girls. There were rules about what sort of music you could listen to. Now the internet didn't really exist back then but there were probably rules about the content consumption, one can say, about what was sort of fit to be consumed of popular culture.

25

30

Q. And what about -- rules regarding things like smoking, drinking or drugs?

A. That's true. There were rules against the

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prohibited to smoke or to drink or to use drugs.

Q. And where the rules made known?

A. Yes.

5 Q. And what -- can you help me as to what the system was, if any, regarding addressing breaches of the rules?

A. So I'd say the rules were there and known and not enforced arbitrarily, so if you broke one of the rules then you would probably be -- you know that would be brought to your attention and there would be a potentially escalating level of
10 discipline that would be applied. For example, getting a talking to about -- about what you were or were not supposed to do, to being placed on discipline and I use that as like a formal noun, Discipline with a capital D, to a suspension or expulsion, I suppose.

15 Q. And what -- what did discipline consist of?

A. So discipline was the mechanism where you would -- you know, if you broke a rule, would be taken out of classes and wear casual clothes as opposed to the school uniform, which you would wear, and you would be assigned to some
20 sort of chore, let's call it, for the period of time that you were on discipline.

Q. And what was the -- what if any restrictions were there in terms of who you could speak to when you were on discipline?

25 A. Well, you were -- if you were a boarding student you often slept in a different area, I think, I'm trying to remember that. And so you certainly weren't in contact with the regular student body because you weren't in classes, you ate separately and in some cases I think you slept in a separate
30 area as well.

Q. And the uniform, would the -- would the uniform be worn at any time when you were on D or was it all

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casual?

A. I don't -- yeah, I don't think so. I think it was always casual clothes so you were wearing a different uniform than the rest of the student body.

5 Q. Okay. And was there -- well, you've mentioned suspension and expulsion and an initial speaking to about a discipline issue and then being put on discipline.

A. Hm-hmm.

10 Q. Was there any other punishments, that don't fall into those categories, that you observed?

A. No, I would say that would be the escalating series of -- of punishments that I observed.

Q. And how long would -- if a student was put on discipline, generally speaking, how long would it last for?

15 A. I would say probably a few days. I was put on discipline once in high school and I think I was on discipline for about four days.

20 Q. And how -- tell me how would you know, yourself for instance, when you're going to school at Grenville, in your high school years, whether someone else was on discipline?

A. Well, it was fairly obvious since it was classmate who was no longer in classes.

25 Q. All right. Now, changing the subject a little, what if any comment can you make about the quality of teaching at Grenville as you experienced it?

A. And we're speaking here of classroom teaching only?

Q. Yes.

30 A. Well, I thought the classroom teaching at Grenville was excellent. I mean I was very well prepared academically for my subsequent academic career, after I left

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Grenville. I went from Grenville and attended Yale College and I felt I was very well prepared relevant to my peers at that school.

5 Q. Okay. Now, I want to ask about some specific things. While you were at Grenville, in your high school years, did you observe any behaviour on the part of the administration or staff that you considered abusive either to an individual or to the student body as a whole?

A. No.

10 Q. And did you observe anyone suffering demeaning or degrading punishment like having to pull out rocks out of the ground with their bare fingers, or cut the lawn with scissors, or things like that?

A. No.

15 Q. And what, if any, attitudes towards female students, young women, or girls as the case may have been, did you observe from the staff and administration? What did you observe about the staff and administration's treatment of the female students?

20 A. I would say they were treated exactly the same as the men or boys.

Q. And during your time when you were a boarding student, the last two years, did you ever experience or see anyone being hauled out of bed at night to....

25 A. No.

Q. And during all your high school years at Grenville did you observe or hear any staff or administration directing terms that students like filth or faggot or queer or gay?

30 A. No, I never heard those terms.

Q. Now, tell me did you make friends at Grenville?

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A. Yes. I attended the school for 14 years. I have lots of friends from Grenville.

Q. And was the making of friends discouraged by the staff or administration in any way?

5 A. No.

Q. And another subject. Homosexuality, what was the prevailing -- what attitude or prevailing attitude did you discern on the part of the staff and administration towards homosexuality?

10 A. I would say that the staff and administration took a literal interpretation of the new testament on it's prohibition or let's say moral condemnation of homosexual activity.

15 Q. All right. And it's my understanding that you're mother is a physician?

A. That's correct.

Q. Family practitioner?

A. That's correct.

20 Q. And was she the doctor for Grenville, students if you will?

A. Yes, she would come and have a clinic at Grenville on Wednesday mornings for probably an hour or two, I think. And, therefore, at the school see patients -- patients student, staff members who some medical issues.

25 Q. And what do you have to say as to whether you received any special treatment given the relationship your mother had with the school?

30 A. Well, I would say I was almost certainly held to a higher standard as a result of my mother's involvement with the school, as well, as my long term attendance to the school. Which is to say, I had been there for my entire childhood, my entire life. I was expected to be an example for other students

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from a social and academic point of view and held to what I think is a quite high standard because I was expected to be a leader amongst my peers.

5 Q. And can you give us any insight into the Grenville expectations when you were a high school student there regarding behaviour and attitudes?

A. Generally speaking?

Q. Yes.

10 A. Yeah, Grenville was a place that, I think, demanded the best from each student and wanted genuinely and truly wanted each student to succeed and whether that was in an academics or whether that was in sporting activities or whether it was in artistic endeavours or spiritually as well, I would say, actually. I think the staff genuinely wanted people to be
15 the best that they could be and being the best that you can be means holding yourself to a high standard.

Q. And the -- the -- in terms of students who were able to excel at something, what was the Grenville attitude when you were there or what did you see as the Grenville
20 attitude when you were there, towards students who did achieve positive things?

A. Yeah, we -- you actually mentioned, you know, at meal times there would be announcements after the conclusion of meals and I very distinctly remember that that was a time
25 where excellence in all domains would be honoured in front of the student body actually. So whether or not it was the choir winning the regional competition or someone succeeding at a debate tournament or someone winning, you know, some sort of athletic event, they would be honoured in front of the whole
30 school. Everybody would applaud, everybody would clap for them. It was like a community recognition of accomplishment, I think you could say.

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Q. Okay. Dr. Best, how would you rate or describe your overall experience at Grenville, sir?

5 A. Well, thank you for the question. You know I rescheduled my clinical schedule and surgical schedule to come here from Baltimore, you know, because I feel so very strongly, actually, about the experience that I had at Grenville. You know, I spent 14 years there. It was a massive part of my upbringing and my childhood, my young adulthood and certainly formed me to be in some ways the person that I am today. I think Grenville was intellectually a very demanding school. I think it prepared me very well for life in academic pursuits. I think they modeled the humility of Christian life for students and more importantly I think it prepared you for life.

10 You know the -- the idea -- I've always loved the expression when I read in some parenting books somewhere that, you know, the goal of raising a child is to raise a self regulating adult, which is to say someone who can take the various trials and tribulations of life and react to them in emotionally and spiritually and intellectually mature way. Which is to say integrate the things that are happening to them in life and to their short term and long term goals into what's good for them now and in the future towards what's best for them and their family and their community. And I think that's what Grenville taught me. It was a -- it was a demanding place that made you a better person.

20 Q. And were there students there who struggled, and I don't mean academically and in socially inability to get along, were there students there who struggled to your observation?

30 A. Yeah, sure. There were students that struggled against....

Q. And what did you see is the issue or problem

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there?

5 A. Well, I don't want to make, you know, moral claims here, of course, but you know, when there are rules and lines drawn in the sand about behaviours, there are some people that react against those. I mean it's the -- the way of normal human life to see the rules that are in front of you and to find ways to bend or to break them if you can. I did that, of course as well, as a student at Grenville and there were some people that, yeah for whom the rules at Grenville, you know presented
10 more of a challenge than others.

Q. And doctor, finally, did you have any sense in your years in high school in Grenville, did you have any sense as to whether there was any sort of prevailing or pervasive fear among students of being at Grenville?

15 A. No, I would not characterize the attitude as one of fear.

Q. Okay, those are all the questions I have. Thank you, doctor. My friend with have some questions for you.

20 THE COURT: Thank you. Cross examination?

CROSS-EXAMINATION BY MS. LOMBARDI:

Q. So just now you told us that you spent most of your life at Grenville as a day student?

25 A. That's correct.

Q. And we went over a little bit what that day student schedule was like for you in your high school years. Was that similar to when you were an elementary student or a junior student?

30 A. Well, I didn't stay at the school until nine o'clock at night as a kindergartener...

Q. Okay, sorry.

A. ...but I would say I did for grade seven and

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eight.

Q. Okay. But that is kind of -- the seven and eight years are more like the high school years, cause that's when kids started boarding at Grenville, right?

5 A. Exactly, I had friends who were boarding.

Q. So what about up to grade six? So if we can just draw that line between grade six and grade seven, were there some differences in terms of your day school schedule?

10 A. Sure. I left school probably when classes finished up until -- from kindergarten until grade six. I didn't stay at the school much later than that for after school activities.

Q. And what about when you would arrive at the school? Was it at the same time throughout all those 14 years?

15 A. Yes.

Q. Yeah? And when you would arrive at the school where would you go?

A. I would be dropped off by my parents and go to classes.

20 Q. Directly to classes? So you didn't go to the dining room for announcements or anything like that?

A. In grade school we're talking about?

Q. In grade school, yeah.

25 A. Ah, man, I mean it's possible that I went to some sort of activities.

Q. But that's not....

A. I mean there was flag raising outside.

Q. Okay.

A. There were some other -- yeah.

30 Q. And did you go to flag raising as a little kid?

A. I think sometimes we did, actually.

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Q. Sometimes?

A. Yeah.

Q. But that's -- your memory though is mostly you kind of scooted off to class as soon as you go there?

5 A. It would be difficult for me to recall one way or the other but...

Q. Okay.

A. ...it's certainly possible.

10 Q. That's fair. And so then in grade sort of seven to eleven, as a day student, but in those more senior grades, you'd be dropped off in the morning and was it the same -- same routine? You kind of get yourself to class as soon as possible?

15 A. Now, I think if there were school -- if there were morning assemblies then I would be attending those.

Q. If there was a morning assembly but it wasn't a regular routine that you'd go to the dining room and then wait to be dismissed from the dining room even though you're not eating with the students to then go off to class?

20 A. It's possible that I did often go to the dining hall, actually.

Q. It's possible that you often went or occasionally?

25 A. Yeah. I can't -- I mean this is very difficult for me to remember.

Q. It's a long time ago, I know.

A. Yeah. And so I can't say that it was -- yeah, I can't say one way or the other honestly.

30 Q. You don't recall eating breakfast though with the students on a regular basis?

A. No, I don't think I ate breakfast.

Q. Okay. But you did -- you said to my friend

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you ate lunch and dinner there?

A. Well, from grade seven onwards, correct.

Q. Before grade seven....

5 A. No, I wouldn't have ate dinner there before
grade seven.

Q. Okay. Would you eat lunch there?

A. Yeah.

Q. Or would you bring your lunch from home?

10 A. No, we ate lunch. I think the elementary
students ate lunch.

Q. And so you started eating dinner when you
started boarding or in grade seven, sorry?

A. No, in grade seven.

Q. Grade seven.

15 A. Hm-hmm.

Q. And in grade seven and eight it's my
understanding that the study hall period was a little different
in terms of the time so you would have been dismissed not quite
at -- you know, nine or ten, it would have been sometime earlier
20 than that, is that right?

A. I -- I seem to recall that it went the full
length. That would be my sort of impression. I don't recall
that grade seven and grade eight did anything dramatically
different than the older students.

25 Q. They were kept up just as late as the older
students?

A. Well, you said nine or ten. Definitely not
ten.

Q. Not ten, okay.

30 A. I believe -- yeah, it as probably eight
thirty of something.

Q. And at the end of the study hall, whether

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it's nine or ten and whether it's grade seven or grade eleven....

A. Oh, it wasn't ten. It wasn't ten.

5 Q. Fair enough. Was it ever ten when you were an older student or no?

A. Yeah.

Q. It was always like nine o'clock.

A. Yeah.

10 Q. And so your parents presumably would come and pick you up at the end of study hall and take you home?

A. Yes.

Q. And so you said, again with my friend, that you boarded those last two years of school, in grade twelve and OAC?

15 A. Correct.

Q. And was that your choice, to board? You had gone so long as a day student, I'm just curious as to why you started boarding just the last two years?

20 A. Yeah, I -- I think it was partly my choice and partly my parents choice, of course.

Q. What made you want to board? What were you, eighteen, I think in grade twelve?

A. Yeah, probably seventeen, eighteen.

Q. Okay.

25 A. Yeah.

Q. What made you want to board after all those years of not boarding there?

A. I think I wanted to.

Q. Just because or there was no....

30 A. No, because it was a -- because it was with your friends. It was to be part of the school, as to be part of the community. It was -- I loved boarding actually. I wish I'd

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done it sooner.

Q. And why didn't you do it sooner?

A. Uhmm, that would have been the decision of my parents.

5 Q. In those earlier grades, but you just said that grade twelve...

A. Yeah.

Q. ...it was a joint decision between you and your parents?

10 A. Hm-hmm, yeah, I think over time as the high school -- as my time in the high school progressed I think I saw the -- the value of being part of the boarding student. I think it was an opportunity from a -- you know, a demonstration of leadership point of view, let's say. You know that it was --
15 you should be part of a school. You should be part of the student body. You should be participating in the daily life of the school like every other student.

Q. Sure. And so you became a student leader only in those boarding years that you were at Grenville? You weren't....

20 A. I definitely became a prefect...

Q. Okay.

A. ...when I was a boarding student. I may have been a student leader. You know there's leader pins. I would
25 have possibly had my leader pin before I became a boarding student.

Q. But you're not sure?

A. I don't exactly recall.

Q. Okay. And so those boarding years were 1996
30 to '98, is that right?

A. Correct.

Q. And so Charles Farnsworth, retired somewhere

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between 1996 and 1997, so when you started boarding, he wouldn't have been the headmaster long, in your -- in your time as a boarding student, is that correct?

5 A. If that's when he retired than that is correct.

Q. And as a boarding student in those last couple of years, I mean, obviously, you lived nearby because you were a day student for so long --

A. Hm-hmm.

10 Q. ...how close did you live to the school?

A. Probably about a twenty minute drive.

Q. Okay. And so given it was really close by did you go home often even as a boarding student?

15 A. I did not really, actually. No, I stayed there most weekends.

Q. How often would you say you would head home?

20 A. Oh, maybe -- maybe once a month or so. But I would sometimes leave campus though, you know, for activities like in that after -- or the after classes ended before dinner period, I sometimes did that.

Q. So even when you were boarding you still have private activities that you were -- you were doing outside of the school?

25 A. Yeah, I played squash, so I would -- I would sometimes go play squash maybe two -- two times a week but I would say as -- as high school progressed, you know, from grade -- say grade seven until I graduated, I would leave the school less and less. Like I was more, and more involved in the activities on campus as opposed to pursuing activities away from
30 campus.

Q. Sure but specific to those two years that you were boarding, you would still leave in that time period to play

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squash and do outside activities as well?

A. Perhaps a couple times a week, yes.

Q. Okay. And you -- would you go home for March break, most of the holidays?

5 A. Uhmm, yes.

Q. Yes, okay. And you said your siblings also attended Grenville? How many siblings do you have?

A. I'm the oldest of four.

10 Q. And did they all attend Grenville -- were you all at Grenville together? Did you overlap? Or how many siblings were you at Grenville with?

A. All of them.

Q. All of them.

A. The whole time.

15 Q. The whole -- okay.

A. All of them went to Grenville from kindergarten until they graduated from high school.

Q. So you were -- you were the big brother on campus then?

20 A. Allegedly.

Q. And you looked out for them?

A. So, so, yes.

25 Q. Showed them the ropes? Gave them the inside scoop in terms of what to do and not to do and how to be a leader like you were exemplifying with your leader pin?

A. Unsolicited advice is rarely welcomed so I have a feeling they did their own thing.

Q. I'm sure they did but you still gave the advice, I'm sure, correct?

30 A. Perhaps, yes.

Q. Okay. Did your siblings board?

A. Yes.

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Q. All of them?

A. I think for about the same period that I did.
Usually for their last one or two years.

5 Q. I see. So you weren't boarding with any of
them?

A. Uhmm, well, Adrian, my younger sister is only
one year younger than me.

Q. Oh, I see.

10 A. So she would have been a boarding student at
the same time I was. Like when I was in OAC, she would have
been in grade twelve...

Q. I see.

A. ...so she would have been boarding.

Q. Thank you.

15 A. You're welcome.

Q. And so we talked a little bit about your --
your mom. Your mom is Dr. Sandra Best, correct?

A. Correct.

20 Q. Yes. And you said that she ran a Wednesday
morning clinic at GCC and would see students?

A. Yes.

Q. And she had some other involvement with
Grenville, that's also correct?

A. In what sense?

25 Q. She sat on the board of advisors, for
example, for many, many years, is that correct?

A. Could be. I mean I was not really privy to
that information as a student.

30 Q. Right. You said you were on the year book
committee?

A. I was the year book editor.

Q. Editor? What year?

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A. I think it was the year I graduated, 1998.

Q. I don't know if I have that year book but --

A. Yes, it was the first year where the cover was different so if you don't have that, then you don't have it.

5 Q. I don't. The latest one I have is '89 to '90 but in any event you....

A. Eighty nine to ninety? Wow.

Q. I think that's my latest one, yeah.

A. Okay, sure.

10 Q. You were familiar though with the layout of the yearbooks?

A. Yes, I'm familiar with them.

Q. Right, and all the different things that it would contain?

15 A. Yes.

Q. There's an autographs page, right? And then there would be a listing of the board of patrons and board of advisors? And -- well, would it surprise you to know that your mom was listed for multiple years on this board of advisors' listing?

20 A. I don't think that would surprise me, no.

Q. No? Okay. And, in fact, the board of advisors, they had their pictures up at Grenville, all of them, on the wall that led to the dining room. I think there was also the picture of the Queen on that wall, is that correct?

25 A. Really? I don't -- I don't know that I recall that. The hallway to the dining room had the pictures of all the -- you know the formal photo that you would take at the end of the school year, you know, like on the steps to the school. That seems to be what I recall being in that hallway.

30 Q. You don't recall individual photos of anyone?

A. I don't....

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Q. I guess, specifically, your mom, was she up on that wall with the other board of advisors, her picture?

A. That's a good question, actually. I don't -- yeah, I don't know.

5 Q. Okay. And your dad, was he one of the board of advisors, too?

A. I do not know.

Q. You don't know? And what did your dad do for a living?

10 A. My father's a lawyer.

Q. And he as a lawyer in Brockville?

A. Yeah, he's a family -- he mainly does family law in Brockville.

Q. And has he always just done family law?

15 A. He also did some real estate law, I think.

Q. And to your knowledge did he ever do some work for Grenville?

A. In a formal capacity or with staff members?

20 Q. As a lawyer? As a lawyer for either staff members or the school?

A. I mean I -- I don't entirely know all his business dealings, obviously...

Q. Hm-hmm.

25 A. ...but I think it's possible that he did some legal work for some staff members, yeah. Actually -- actually, I do know one instance where he told me that he did. It was -- Malcolm Gillis...

Q. Okay.

30 A. ...is a staff member there, had a method for teaching grammar that he wished to patent.

Q. So your dad did some patent law too then?

A. I believe he mentioned that that -- that was

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happening so I feel like I -- it seem like a bit of a singular detail so I somehow remember that.

Q. Okay. But it wouldn't be a stretch that he may have done other work?

5 A. I don't think he was -- like a formal lawyer for Grenville or anything like that.

Q. Okay. I do just want to show you a document.

MR. ADAIR: I just want to make sure we've both got the same thing. Okay.

10 MS. LOMBARDI: Q. So I've just showed you here it's a letter dated January 23rd, 1997. It appears to be written by a lawyer in the US, in Orleans, Massachusetts, Christopher Kinga and he's writing to Gregory Best Esquire of Fraser and Best. Is that your dad and your dad's firm?

15 A. Yes.

Q. And they appeared -- they mention Father Farnsworth and Al Haig so it at least appears on its face to be dealing with Grenville. This isn't a shock to you, given what you just said about him, you know, helping Mr. Gillis with
20 stuff?

A. Yeah, this doesn't come as a shock to me.

Q. Okay. Thanks.

MS. LOMBARDI: I think this might be a good place to break for lunch?

25 THE COURT: All right. Do you want to make this an exhibit?

MS. LOMBARDI: Yes, please, Your Honour.

CLERK OF THE COURT: Exhibit 38.

THE COURT: Exhibit 38.

30 EXHIBIT NUMBER 38: Letter dated January 23rd, 1997 - produced and marked.

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5 THE COURT: All right. We'll take the lunch
break. Now, Dr. Best, you're under cross
examination so please don't discuss your evidence
with anyone on the break.

THE WITNESS: Okay.

THE COURT: And if you could come back at 2:15,
please.

THE WITNESS: Okay.

10 THE COURT: Thank you.

R E C E S S

U P O N R E S U M I N G:

15 MR. ADAIR: Your Honour, before my friend
resumes, if you'll permit me, if you see me with
my phone out I'm not looking at stuff in the
middle of court. The statement is on there and I
20 can't find the original so I hope you'll
understand.

THE COURT: I think it fits within the protocols
for counsel's use of cell phones during court.

MR. ADAIR: Well --

25 THE COURT: But thanks for telling me.

MR. ADAIR: Maybe time has passed me by but I
sure don't think it's right to do it in court.

30 THE COURT: I think the phrase is as long as it's
-- in the practice directions it says something
about unobtrusive use by counsel is legit.

MR. ADAIR: Yeah.

THE COURT: So -- but thanks for telling me.

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5 MS. LOMBARDI: Your Honour, we apologize for being late in coming back. There was something that has just come to our attention over the lunch that we feel we need to bring to Your Honour's attention and it might make sense to do so in the absence of the witness.

10 THE COURT: All right. Could you just step out just for one minute please, Dr. Best, counsel wants to raise a matter.

15 ...WITNESS EXCUSED

20 MS. LOMBARDI: So, unfortunately, Your Honour, it came to our attention that Mr. Best and one of our witnesses were chatting about Grenville at the lunch break, obviously, in violation of the order that they not speak to each other so I'm in the court's hands. I don't really know how to deal with this situation like this. I certainly, for my part, if it's fair to strike both witness's evidence, I'm fine with that. I won't call that witness but otherwise I just wanted to bring it to the court's attention.

25 THE COURT: Was it a plaintiff's witness who's already testified?

MS. LOMBARDI: No.

THE COURT: Oh, it's a witness who is yet to testify?

MS. LOMBARDI: Unfortunately, yes, Your Honour.

30 THE COURT: Hmmm.

MS. LOMBARDI: And it was -- it was specifically they were discussing the school and some of the

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staff at the school and looking at year books and things like that together.

THE COURT: And this happened, obviously, out of counsel's eyes when you were on lunch?

5

MS. LOMBARDI: It did. We came back and learned of this situation and we were taking time to discuss with our witness who was here, supposed to testify maybe later this afternoon, and she confirmed that they did talk about the school and looked at a year book so.

10

THE COURT: And do you know how long they spoke for?

MS. LOMBARDI: I -- I don't know how long.

15

THE COURT: All right. Do you have any submissions on this matter, Mr. Adair?

20

MR. ADAIR: Well, one would rather these situations did not arise but the rule is that the witness is not to discuss the evidence with anybody else and it sounds to me to like a casual conversation rather than anything discussing the evidence and if my friend wishes to pursue it than I think she should be cross examining Dr. Best, who of course I haven't spoken to and -- and if she's going to make an issue of it, put the Grenville witness in the witness stand. Dr. -- this is far too important for Dr. Best's evidence to be scrubbed, if you will, without a proper exploration of the facts.

25

30

THE COURT: I'm not, at this moment, aware of any authority that would say would be the right thing to do. My intuition would be you would cross examine on it. It may be a matter that goes to

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5 weight. The same thing may happen when your
witness testifies and I think the third thing
that should happen is that I should again
underline to the witness it's really safer not to
talk about anything to do with the case with
anybody, and it may be that it was taken to the
letter of what was said before lunch but not to
the spirit of it if it was casual conversation
but not here's what I said and here's what I will
10 say. Do you have any difficulty with approaching
it in that way?

15 MS. LOMBARDI: I don't, Your Honour. Maybe it
makes sense though for us to explore what was
said and I don't know if Your Honour's in a
better position to do that than me through my
cross? Again, I'm in your hands as to how this
might work.

20 THE COURT: All right. Well, let's have the
witness back in and we'll have a small inquiry
into it and won't try to sidetrack the case.
I'll ask a few questions and then counsel can
cross examine on it. Let's deal with it like
that. And if you have more submissions to make
-- can you have Dr. Best come back in -- then
25 we'll deal with it one step at a time.

...WITNESS RESUMES

30 THE COURT: So, Dr. Best, counsel have raised a
matter with me concerning some conversation that
happened over the lunch break that you had with
someone who was, I understand potentially a

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witness at this case, and as you recall I asked you not to discuss your evidence with anyone, just before lunch. So I just have few questions for you and counsel may have questions for you afterwards. Can you -- what can you tell me about the conversation that you had over the lunch break?

5

THE WITNESS: I saw Kathy Smart in the lobby right there and we discussed just -- she had a yearbook with me and she showed me some photos from -- from the yearbook. And do you remember what was said?

10

THE WITNESS: Ummm, she -- we were just looking at photos and asking if you remember this person? Do you remember this person? Do you remember that person? Sort of reminiscing I would say.

15

THE COURT: Do you remember what you said to her?

THE WITNESS: Ummm, in particular, no, not really anything in particular about what I said other than, "Was this person -- do you remember Donald? Do you remember Amber? Do you remember...", students that we -- we were contemporaneous for a year, I believe, at Grenville.

20

THE COURT: Did she ask you any questions about your evidence?

25

THE WITNESS: No.

THE COURT: Did you volunteer any answers about what you'd said in court?

THE WITNESS: No.

30

THE COURT: How long was your conversation, please?

THE WITNESS: Five minutes.

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THE COURT: All right. All right, do counsel have any questions as a result of my questions?

MS. LOMBARDI: I just have one. Can you tell us how did Judy James come up in your conversation?

5

THE WITNESS: She asked me if I remembered Judy James.

MS. LOMBARDI: And did you?

THE WITNESS: I remembered the name but I couldn't put a face to it. She showed me the picture in the yearbook.

10

MS. LOMBARDI: And did you discuss Judy James at any length?

THE WITNESS: I said my memory of Judy James was that she slouched. And she said, "You have a good memory".

15

MS. LOMBARDI: Thank you.

THE COURT: Mr. Adair, do you have any questions for your witness?

MR. ADAIR: No, Your Honour.

20

THE COURT: All right. So, counsel, I propose we continue with the cross examination. Is that acceptable?

MS. LOMBARDI: It is, Your Honour. Thank you.

THE COURT: All right. Thank you for answering my questions.

25

THE WITNESS: Yes, it's all right.

30

MS. LOMBARDI: Q. So before the break, Dr. Best, we were discussing your parents a little bit and their connection with Grenville. Your parents were regular donors to the school, is that correct?

A. I don't know that, actually.

Q. Okay. Why don't I show you a few documents

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then?

A. Sure.

Q. So the first document before you is entitled,
"The Grenville Christian College News", June 1986.

5

A. Hm-hmm.

Q. And if you can turn to page five of that
newsletter...

A. Hm-hmm.

10

Q. ...it titled, "We acknowledge our recent
donors..." and under the subheading between 100 and 499, six
lines down from that subheading you'll see Mr. Gregory and Dr.
Sandra Best, those are your parents, is that correct?

A. Correct.

15

MS. LOMBARDI: I'd like to mark this as the next
exhibit.

CLERK OF THE COURT: Exhibit 39.

THE COURT: Exhibit 39.

20

EXHIBIT NUMBER 39: Grenville Newsletter dated
June 1986 - produced and marked.

25

MS. LOMBARDI: Q. And I have another newsletter.
This one is the Grenville Christian College News, June 1987.
And if we turn to page 10 of that newsletter we see a title
"Auction donors, 1986".

A. Hm-hmm.

Q. And under the subheading between 500 and 999,
five rows down are Mr. Gregory and Dr. Sandra Best, those are
your parents, correct?

30

A. Correct.

MS. LOMBARDI: I'd like to mark that as the next
exhibit please.

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CLERK OF THE COURT: Exhibit 40.

EXHIBIT NUMBER 40: Grenville Newsletter, Auction donors 1986 - produced and marked.

5

MS. LOMBARDI: Q. And I have another, Grenville Christian College News. This one is The Grenville Christian College News, June 1988. And if we, actually, if we first turn to page four, there is a picture of a person in the far right hand column, Dr. Sandra Best, M.D., is that a picture of your mom?

10

A. It is.

Q. It is. And the article is advisory board.

15

"We are very pleased to announce that Dr. Sandra Best, Brockville, Physician and parent to three Grenville students has graciously agreed to serve as a member of the Board of Advisors".

20

So that's that. And on page nine of this same newsletter, we have 1987 Auction Donors. And again under the subheading between 500 and 999, third line down, Mr. Gregory and Dr. Sandra Best, those are parents, correct?

A. Correct.

MS. LOMBARDI: I'd like to mark that as the next exhibit.

25

CLERK OF THE COURT: Exhibit 41.

EXHIBIT NUMBER 41: Grenville Newsletter, 1987 - produced and marked.

30

MS. LOMBARDI: Q. And just one final document. This one is the Grenville Christian College News, December 1988. And if we turn to page three of that newsletter, once again,

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under the subheading between 500 and \$999, third row down, Mr. Gregory and Dr. Sandra Best. Those are parents, correct?

A. Correct.

Q. Okay. Thank you.

5 MS. LOMBARDI: I'd like to mark that as the next exhibit.

CLERK OF THE COURT: Exhibit 43.

10 EXHIBIT NUMBER 43: Grenville Newsletter 1988 - produced and marked.

MS. LOMBARDI: Q. In addition to being donors then, your parents were also involved closely with the staff and staff kids of Grenville, is that correct?

15 A. What do you mean by "involved closely"?

Q. They would host Christmas parties where you'd invite the staff and the staff gets to come to your home. Sometimes you'd have parties in the summer where the staff and staff kids of Grenville will come to your home, is that correct?

20 A. Yes, they had Christmas parties.

Q. And in the summer as well?

25 A. Uhhh -- I don't know about that. They would -- I think -- do you mean a party or I think on an individual basis, sometimes staff or staff kids would come to our house, yes.

Q. You would never have the whole group of staff and staff kids at your house in the summer?

30 A. I don't know about that. I don't recall that specifically in the same way that I obviously recall, like a Christmas party for example.

Q. Okay. And that happened almost every year, those Christmas parties?

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A. There was period of time where they happened annually, correct.

Q. And how long was that period of time?

5 A. I would be having to guess but I would say, maybe somewhere around the order of ten years.

Q. Ten years. And it was common for you and your siblings to be babysat by staff kids at Grenville, is that correct?

A. At our house or while we were there?

10 Q. Both, I think?

A. Yeah, I -- I think we probably did have some babysitters from Grenville.

Q. In fact Beth Gillis was maybe one of your babysitters, wasn't she?

15 A. Yeah.

Q. Yeah.

A. Yeah, Beth Gillis was, yeah.

20 Q. And as result of your parents extensive involvement with Grenville, you enjoyed some special privileges at Grenville, is that fair?

A. What do you mean by special privileges?

Q. One example, you were permitted to use the Grenville tennis courts for your own private lessons, is that correct?

25 A. Yeah, during the summer, so when school was not in session...

Q. Hm-hmm.

A. ...we would have tennis lessons on the Grenville's court, correct.

30 Q. And by we do you mean you and your siblings?

A. Yes.

Q. Okay. And your tuition was also at a reduced

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rate, are you aware of that?

A. I was a child. I'm not aware of the financial details of my parent's transactions with Grenville.

Q. Okay.

5 MS. LOMBARDI: If I could please have Exhibit 1, tab 39 put before the witness?

MS. LOMBARDI: Q. So this is the Grenville Christian College, 1986/87 reservation agreement enrollment contract.

10 A. I'm sorry, I think I missed the number.

Q. Oh.

A. It's -- it's Volume one, number?

Q. Thirty nine. Tab 39.

A. Okay.

15 Q. And if you look maybe two inches down you'll see a subheading called option one, single payment, tuition, room and board, less discount. And on the far left hand side we have the term boarder and \$10,100 associated with that. And then day, is \$4,100 and day (meals) \$5,225.

20 A. Hm-hmm.

Q. Do you -- do you see that on the page?

A. I do.

25 Q. So I'd like to hand you up another document now, if I may? This here is a letter dated August 18th, 1992, addressed to Mr. Allen H. Morgan, Ward Mallett Chartered Accountants, signed by Donald G. Farnsworth, Bursar. Do you know who Mr. Allen H. Morgan of Ward Mallett Charter Accountants is?

A. No, I do not.

30 Q. No. The letter states here that it's to certify that Simon Best, son of Mr. Gregory and Dr. Sandra Best attended Grenville Christian College as an elementary day

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student and paid the school fees as stated below. And just look at the line, September 1986 to June 1987 and you'll see that the amount prescribed there is \$3,400. Do you see that?

A. Yes, I do.

5 Q. Yeah. And that is less than what we just looked at tab 39?

A. It appears to be.

10 MS. LOMBARDI: If I could just have this exhibit marked for identification persons only. I believe we had the author of the document, who will be a witness later on?

THE COURT: Any issue with this?

MR. ADAIR: No, Your Honour.

15 THE COURT: So we'll make it Exhibit A.

EXHIBIT NUMBER A: Letter September 1986 to June 1987 - produced and marked.

20 MS. LOMBARDI: Q. You said in your testimony earlier today that Grenville was a school of strict rules and behaviour, correct?

A. I would say it was more strict than the average school, correct.

Q. Did you attend any other school?

25 A. I did attend another school for a few months in grade nine.

Q. And what school was that?

A. B.C.C. Like probably Brockville -- I don't know -- Collegiate, High School. I'm not sure what....

30 Q. And so you said for a few months? Was it for a full semester or....

A. No, it wasn't even for a full semester. It

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was on the order of about a month.

Q. A month. And why did you attend B.C.C.I.?

A. It was because -- I think at the time there was controversy about whether or not it would be possible to be
5 a day student, versus a boarding student.

Q. In grade nine?

A. Right. Right.

Q. And then that presumably got worked out after a month and you went back to Grenville as a day student for many
10 more years before you boarded?

A. For, I think three more years because I boarded.

Q. Right. Okay.

A. Yeah.

Q. And so compared to those, I guess, few weeks that you had at B.C.C.I. did Grenville seem like it was more
15 strict than B.C.C.I.? Is that fair?

A. I didn't wear a uniform and there appeared to be less restrictions on interactions between boys and girls,
20 yes.

Q. Less interactions between boys and girls?

A. Less restrictions on interactions.

Q. Less restrictions, I see. And that was -- that was definitely something that was restricted at Grenville.
25 Boys and girls were not allowed....

A. Exclusive dating relationships, correct.

Q. Were they allowed unexclusive dating relationship?

A. You were allowed to be friends with girls, of
30 course.

Q. But were you allowed to date girls?

A. No, no, you weren't allowed to date girls,

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that's correct.

5 Q. No dating at all? Right. And you talked a little bit about discipline about the fact that students were removed from class. They wouldn't be wearing their school uniform, pardon me, for the time that they were on D?

A. Correct, D with a -- discipline with a capital D, correct.

10 Q. Discipline with a capital D, exactly. And they'd be assigned various work duties around the school?

A. Yes. That did happen to me.

Q. And we'll get to that in a minute but in terms of what happened to others, would you sometimes see as you're walking from class to class or walking through campus, some fellow student on discipline maybe doing something outside?

15 A. Yes, definitely.

Q. Yes. And you wouldn't go up and approach that individual to strike up a conversation?

A. No.

20 Q. It was -- it was a rule, you left those kids on D alone?

A. Yeah, I think -- I don't -- I can't -- I don't know it's like if you say it was an explicit rule or just that it was the general practice but it seemed to be that everybody understood that you didn't interact with the kids who were on D.

25 Q. It wasn't a written rule, it was just, as you said, something that everyone understood to be the case?

A. Yeah, I'm not sure if it was in the handbook or not but I think people understood it.

30 Q. Okay. And there were more rules than just those that were in a handbook, that's fair to say as well, isn't it?

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A. I'm sorry? The question was?

Q. There were more rules or restrictions on students than those that list that we said are in the handbook? I mean you just gave me that example now with respect to this, no talking to a kid on D?

5

A. Yeah. That's a bit of leading question, it seems because I would have a hard time articulating them.

Q. I didn't ask you to articulate them. Only that they did exist? This being one. We just articulate one just now between us.

10

A. Right.

Q. Right.

A. Although that -- okay.

15

Q. And you also said that that discipline would go on for somewhere between three and four days, or many days?

A. Well, again, to be -- to clarify, I would say three to four days, and I'm not sure why the extra many days.

Q. I think you didn't say three to four days, in fairness to you, in your chief today. It was something you laid out in an affidavit previously.

20

A. Yeah.

Q. Do you recall writing an affidavit in 2011?

A. I do.

25

Q. You do? And I can show you that affidavit but in that affidavit you said that based on your recollections it was three to four days that the discipline would last for.

A. Right. But I believe you just said three to four day or many more?

30

Q. You never saw anyone on discipline for more than three or four days?

A. I would say three to four days, to the best of my recollection.

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Q. And just to confirm, the student on discipline for those three to four days, they didn't attend classes?

A. Yeah, I don't believe they attended classes.

5

Q. And the students on discipline, you told us earlier, they were separated from the rest of the student body, not just because they weren't in class and on work duty but you mentioned Hotel D?

A. Yeah.

10

Q. They slept away from the students as well?

A. Yes, there was a section in the boy's dorm that was I think two rooms, that were like -- I don't know that I, specifically, recall the term Hotel D but I do remember that those were rooms that patients [sic] who were on disciplined slept in, correct.

15

Q. Okay. So because of the no uniform, the Hotel D living, it was clear to all the students which kids were on D at any given time?

A. Yes, it was clear.

20

Q. In terms of the written rules, no smoking was a big rule at Grenville, is that correct?

A. Yes.

Q. And you mentioned that you were disciplined, you said one time?

25

A. I was disciplined twice. Although the first time...

Q. What was....

A. ...I don't know that I was actually put on D. I think I -- it may have been somewhat short of that.

30

Q. Okay. Well, what did you do the first time that didn't quite land you on D?

A. So as I -- as I mentioned before I would play

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squash, sometimes -- like I would leave school in order to go to the squash courts which were at the Hotel Royal Brock, in Brockville.

Q. Okay.

5

A. And just to show how different of a time it was then there's a cigarette machine that was outside the squash courts that you could buy cigarettes just by putting some change into the machine and pull the lever and get a pack of cigarettes.

10

Q. Okay.

A. So I brought a couple of packages of cigarettes to a friend of mine, Eric LeClair I think is his name, and gave him those cigarettes because he wanted to smoke them.

15

Q. So you say that you didn't quite get on D for this but something happened. So what happened? How'd you get find -- found out?

A. It's -- I believe because he was caught with the cigarettes.

20

Q. I see.

A. And then the source of the cigarettes was me and so I was also drawn into the net of the investigation.

Q. Sorry, the -- the investigation?

A. I'm saying that as a turn a phrase.

25

Q. What was that like? How did they investigate and find out that you were -- you were the one red handed that brought the smokes to school?

A. They asked if it did it.

Q. They just asked you and you...

30

A. Correct.

Q. ...confessed right away?

A. I believe I did.

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Q. Okay.

A. I was -- I was -- I was the responsible party so I did, in fact, confess to the crime.

5 Q. Did you -- do you remember who -- who you confessed this to?

A. Uhhh, that's a good question. I don't specifically remember that, actually.

Q. Okay. What happened after you confessed?

10 A. I was -- see the -- I don't specifically recall if I was put on discipline that time and I suspect not in my memory because I do remember the other time well.

Q. Okay.

15 A. So it must have been -- I was probably assigned additional chores if I -- if I had to guess, I probably did additional dish crew. I did additional, you know, these sort of things.

Q. For this incident?

A. Correct.

Q. So were you on D or weren't you on D?

20 A. I don't think that I explicitly was on D that time. Just -- this is to the best of my recollection. I remember getting talked to about it. I remember getting told, obviously, that this was just something that was not appropriate. I remember getting assigned extra duties. I don't
25 know if I got assigned extra homework or some other sort of....

Q. But not full D, in any event?

A. I don't....

Q. You weren't stripped of your uniform or anything?

30 A. I don't believe so, yeah, I don't believe so.

Q. Do you know what happened to Eric? Did you see him in his work clothes around the school because he got

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caught smoking?

A. Yeah. I -- he -- I mean I again I would be -- I can't recall his specific punishment.

5 Q. You -- you don't know what his punishment was?

A. No, I -- I don't, I'm sorry. I don't, specifically, recall his punishment in that incident.

10 Q. But -- but you assume, at least that he would have been punished if you were as the culprit for bringing them there?

A. Yes, I would assume that he was.

Q. And do you know how the teachers knew to come and question you specifically with respect to possibly being the person that supplied the cigarettes?

15 A. I don't -- I don't know. I assume that he told that I was the one that supplied them.

Q. Okay. Thank you.

A. But that would be an assumption, honestly.

20 Q. As a -- you said you became a prefect or you were just a student leader?

A. I, eventually, became a prefect.

25 Q. You eventually did. And as a prefect did you have any duties with respect to the discipline? Did you have to kind of supervise any kids on D? Sleep in Hotel D with kids on D sometimes? Anything like that?

A. No, I don't remember ever doing that.

Q. No. Do you remember other prefects having to do those kinds of things?

30 A. No, I don't think so. That doesn't -- that's not my recollection about being a prefect was.

Q. And you said that there was another time that you were disciplined that sticks out in your mind more. Can you

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talk about that one a little bit?

A. If -- if you'd like.

Q. I would like to, actually. So what grade were you in when this second disciplinary event happened?

5 A. I knew you were going to ask that question. I was probably in grade eleven. I'm -- I'm -- I'm guessing.

Q. Okay, you're guessing.

A. Ten, eleven, somewhere in that time frame.

10 Q. Okay. And why were you disciplined in grade ten or eleven?

A. So at that time there was a computer system at Grenville and there was a computer lab and some friends of mine and I had managed to, hack is a bit of a strong word. Guess an administrative password is a more parsimonious explanation of accessing the computer system in a way that gave us access to things that students wouldn't normally be able to access, such as big course grades and private documents in the computer network.

15 Q. It sounds like an early successful hack.

20 A. Very low tech, I suppose.

Q. Did you -- did you see some other kid's marks? Were you guys trolling through there looking at your fellow student's marks and things?

25 A. No, this was -- I think -- fright, actually, takes over a little bit once you've realized you've done something that you're not suppose to do so I think we actually managed to successfully guess the password and didn't do much with it.

30 Q. Okay. Fair enough. And so how -- how were you found out?

A. I -- that's another good question. I would assume that it was because log-ins are monitored on a computer

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network.

Q. Pardon?

5 A. I would assume because log-ins are -- like especially administrator log-ins are probably recorded in some sort of computer network. So I think they could tell that someone not the -- you know, the proper user had been able to access that.

10 Q. So how soon after the unauthorized access and you being approached and essentially punished, what's the time span between those two?

A. Oh, pretty soon. Like a couple of days.

Q. Couple days?

A. Yeah. It wasn't like a long term ongoing computer hack.

15 Q. And you said you were with some friends. How many other friends were -- were with you?

A. I believe -- so I'm going to say it was two or three. I can't remember exactly if Brad Sargefield was part of it or not.

20 Q. Okay.

A. But Lucas Billett and Alex Manering definitely were.

Q. Okay. And how -- how were you approached, these two to three days later?

25 A. We got called in to the computer office, I believe with, I think, John Childs was the computer administrator at the time.

Q. Hm-hmm.

30 A. And so we were sort of confronted with a smoking gun.

Q. I see. And then what happened?

A. Then we were told that it was, you know, a

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significant violation of, I don't know, expected behaviour let's call it, and yeah, there would be consequences.

Q. And what were those consequences for you?

A. We were on D.

5

Q. What did you have to do on D?

A. Uhhh, so the incident -- or I should say the discover of the incident occurred just before a long weekend so I -- maybe May -- is there a long weekend in May? There probably is. And so rather than being able to go home, we had to spend the three days of the long weekend cleaning the computer lab.

10

Q. So because it was a weekend you didn't miss any class time?

15

A. Yeah, we may have missed like a Friday but I would say the majority of the punishment took place over the long weekend.

Q. Hm-hmm. Were there many other students around that holiday weekend that you recall?

20

A. Yeah, there were some, because not -- you know students who lived far away didn't go home for, you know, a three day break for example.

Q. Sure.

A. So there would have been some other students around.

25

Q. So were you in your work clothes or your weekend casual clothes?

A. We were in casual clothes.

Q. Okay. And so was pretty much everybody else on campus cause it was a weekend?

30

A. Right, it was a weekend.

Q. So you didn't really stick out in terms of you -- you know, being stripped of your uniform.

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A. No, but we were definitely -- you know, if there were students around we were, you know, sat at our own table in the dining room.

Q. You were separated at the dining room?

5

A. Correct.

Q. But you and your other...

A. My perpetrators.

Q. ...conspirators, or whatever...

A. Co -- co-perpetrators.

10

Q. Co-perpetrators, thank you. You guys were all sat together...

A. Yes.

Q. ...to eat...

A. Yes.

15

Q. And were you guys able to just kind of shoot the breeze and chitchat with each other?

A. Yeah, I think so.

Q. Have some laughs?

20

A. Ah, yeah, I mean I think we were allowed to communicate with each other, yes.

Q. Who was supervising your discipline that weekend?

A. There would have been a staff member.

Q. Was there a student member as well?

25

A. No.

Q. No. I'm sorry, you said part of the punishment was you weren't allowed to go home for the weekend?

A. Correct.

30

Q. But in grade ten and eleven you were a day student?

A. Yeah.

Q. Yes. Did you have to move to the school to

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do....

A. Yeah, like I had to...

Q. You moved in?

5 A. Basically, yeah. I had to -- I had to pack
up a toothbrush and other things like that and stay.

Q. And you moved into the school?

A. I stayed in the dorms, yeah.

Q. Which dorm did you stay in? Did you have....

A. The boys. The boy's dorm.

10 Q. The boy's dorm. Did you have roommates?

A. Ah, I don't -- probably. I think the --
probably the three or four of us probably were together in one
of those rooms.

15 Q. You got to board with your co-conspirators
for the weekend as part of your punishment?

A. I think so. I mean....

Q. And you said you spent the whole weekend
cleaning the lab?

A. Hm-hmm.

20 Q. Was the lab an open area or was it a room in
the school?

A. No, it was a room. Not as big as this room
but a room that had a number of different computer consoles in
it.

25 Q. And were students coming in and out of this
room while you were cleaning it?

A. No...

Q. No.

A. ...it was the holiday weekend.

30 Q. And so when school resumed after the holiday
was your discipline over?

A. Yes.

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Q. And did you get to move back home?

A. Yes.

Q. So besides the buying of cigarettes and that was -- how old were you when you did that?

5 A. I think I was probably like in grade eight.

Q. Grade eight?

A. Yeah.

Q. And then the unauthorized access incident in grade ten or eleven?

10 A. Hm-hmm.

Q. So you had four years of sticking to the rules. You're not getting into any trouble in between there, is that correct?

A. What do you mean, formal discipline?

15 Q. Were you informally disciplined in between, between grade eight and grade ten or eleven?

A. Well, I'm -- I'm sure my behaviour wasn't exemplary at all times.

Q. In what way wouldn't it be?

20 A. Well, I mean you're late for class. You -- you know, you're -- yeah, I mean....

Q. But you were never told that you had a bad -- a bad attitude?

25 A. Uhmm -- I mean I suppose I was not told I had a bad attitude. Is that a specific question?

Q. Were you ever disciplined, maybe that's a better question, for having a bad attitude in between grade eight and this computer lab cleaning discipline?

30 A. I -- I mean I don't think I remember that as an explicit term being told I was being punished for bad attitude.

Q. You don't recall? Okay. Do you recall ever

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being disciplined for lusting after women?

A. Again, so we're talking about discipline with a capital D or what are we talking about just....

5 Q. Well, let's start with discipline with a capital D. Were you ever disciplined with a capital D for the crime of lusting after a woman?

A. No.

Q. Were you ever disciplined with a small cap D for lusting after women?

10 A. No.

Q. No. Were you ever disciplined, we'll say both Ds here, small and large, for being rebellious?

A. Uhmm -- no, I don't think so.

15 Q. We spoke a little bit ago now about the fact that dating wasn't allowed at Grenville.

A. Sure.

Q. So I take it you didn't have a girlfriend while you were at Grenville, is that correct?

A. To my deep regret, I did not.

20 Q. You did not. Did you have any special relationships with girls at Grenville?

A. No.

Q. Do you know an Elizabeth Sheppard?

A. Yes.

25 Q. Was she just a friend of yours at Grenville?

A. She is a friend of mine, yes.

Q. It wasn't a special relationship?

A. No.

30 Q. So there was no discipline that would have resulted to you from that relationship with Elizabeth?

A. No, we were friends but there weren't rules against being friends.

S. Best - Cr-Ex.
(Ms. Lombardi)

Q. How much time would you spend with her at school?

A. Uhmm, I don't know. I mean I would -- she was a friend of mine.

5 Q. Hm-hmm. Did you guys spend a lot of time together?

A. Yeah. This is a -- this is a funny -- you're asking me to go back in time to childhood crushes, let's say.

10 Q. I am. Hm-hmm. We're going back in time for all of this.

A. Yeah. Yeah. I -- let's just say I wished that I spent more time with her alone than I did, perhaps would be a way to phrase it.

Q. Did you spend any time alone with her?

15 A. Well, I would take walks down the driveway with her, yes.

Q. And presumably this was out in the open so people would see you and Elizabeth walking together down the driveway?

20 A. That's -- that's correct, yeah.

Q. Was there every any rumours about the two of you having a special relationship?

A. Well, apparently, there were since you know about it.

25 Q. But you never got in trouble for this?

A. I'm sorry?

Q. You never got in trouble for this relationship?

30 A. No, no, because there were never -- it never was a special relationship.

Q. Okay. You guys never went to the movies outside of school?

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(Ms. Lombardi)

A. No.

Q. Okay. You said, with my friend earlier today, that you believed that you were held to higher standard of behaviour and -- behaviour at Grenville? Do you believe that staff kids were held at a higher standard with respect to expectation of their behaviour?

A. Yeah, I believe so.

Q. And would you, liking yourself, and that expectation as being the same or different than that of the staff kids?

A. I mean I think it was on the same spectrum. I think the staff kids, like myself, had been there for most of their entire lives, you know. Like I was a student there for 14 years. Now that's a long time.

Q. It is.

A. There's a huge part of what it was like to grow up. I mean my whole childhood, my whole adolescence was at Grenville so with that comes like a certain sense that you're supposed to me an example and a leader to others. And I believe staff kids probably also had that same obligation.

Q. But in terms of, I guess, how often or how strictly that expectation was enforced...

A. Yeah.

Q. ...you would agree with me that because you were going home for twelve of those fourteen years, every day, that it would be different as between you and the staff kids?

A. Yeah, I mean, in the sense that there would be less opportunities for me to be observed by staff members, let's call it.

Q. Right.

A. Yeah.

Q. Great.

S. Best - Cr-Ex.
(Ms. Lombardi)

A. Yeah.

Q. Thank you.

A. But I think that the same sort of sense of high standards was there.

5

Q. But it wasn't enforced the same way?

A. Well, what do you mean by enforced the same way?

Q. Well, you just said you weren't under the eye 24/7, you got to go home for twelve of...

10

A. Well, of course, that....

Q. ...those fourteen years. They didn't. They lived there too, they went to school there. They were there 24/7, correct?

15

A. Well, that's a very different question then standards of enforcement. You're talking now about the time I spent on campus versus the standards when I was on campus.

Q. Right.

20

A. I would say I spent less time on campus than staff kids and I would say the enforcement standards were the same when I was on campus.

Q. Did you attend light sessions like the staff kids did?

A. No.

25

Q. You said with my friend earlier that your experience, from your perspective, was a positive one at Grenville?

A. Yes, very much so.

30

Q. But you don't presume to know though what other people thought or felt about their experiences at Grenville, that's not your testimony here today?

A. No, how could I know that?

Q. You particularly wouldn't be able to speak to

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(Ms. Lombardi)

experiences of boarding students in the '70s, '80s or even the early '90s before you yourself were boarding at Grenville, because how would you know, you were a day student, correct?

A. I could not know those things.

5 Q. And you weren't subjected to at least as many work jobs as the students who were boarding for longer than you were? As a day student you would have had some work jobs I imagine?

A. Yeah, I had some work jobs, surely.

10 Q. What were some of your work jobs as a day student?

A. Well, I was on serving duty, and dish crew, and...

Q. Right.

15 A. ...you know, of course, students always cleaned up the classrooms at the end of the school day.

Q. Right.

A. And there was the -- what was it called? Blitz? Some of the other students can help me here but I think it was called Blitz for Thursday morning or one morning of the day -- week -- day. We cleaned the whole school, you know.

20 Q. Right. No early morning breakfast prep or anything like that, though?

A. When I was a day student, no.

25 Q. Right. And to the extent that there was discipline with a capital D or a small d...

A. Hmhm.

30 Q. ...or the singling out of students that occurred after school hours, or after study hall ended, during the middle of the night, or even the very early morning hours before breakfast, you have no knowledge of those occurrences, at least not any prior to 1996?

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A. No, I mean I was a student from there from 1984 to 1998 and I have never heard of people being woken up at the night or other things like that.

5 Q. Yeah, I didn't ask what you heard, I asked what you saw. You ever saw any of that because you weren't there, is that right?

A. I never saw it.

Q. Because you weren't there, right?

A. Because I wasn't there, yes.

10 Q. Right. And it isn't it true, Dr. Best, that by the time you started boarded Grenville in 1996 the rules had changed?

A. I would say that was my general impression, yes, that some of the rules had changed at Grenville over the course of the years, yes.

15 Q. They had in fact, relaxed a bit, is that fair to say?

A. Uhhh, I think if you mean by relax, some of the things like the separate boys and girls stairways or no -- I mean I was there long enough that I remember the separate stairways...

20 Q. Hm-hmm.

A. ...and then at some point a transition to not separate stairways.

25 Q. Right.

A. You know the sort of things like that did seem to change over the course of my experience at Grenville.

Q. Okay.

A. Yes.

30 Q. Those are all my questions. Thank you very much.

THE WITNESS: Thank you.

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(Ms. Lombardi)

THE COURT: Re-examination?

MR. ADAIR: I don't think so, thank you, Your Honour.

5

THE COURT: All right. I just have one clarification for you, Dr. Best.

THE WITNESS: Sure.

THE COURT: You talk about going to Brockville Collegiate for a month?

THE WITNESS: Yeah.

10

THE COURT: And you said there was a controversy about whether you could be a day student. Could you tell me what the controversy was?

15

THE WITNESS: I -- I believe at the time that were very few day students in the high school at the time. I don't think I was the first to be a day student in high school by any stretch but I think it was the overriding sort of, let's call it bias of the school, that once you achieved, you know, high school, that their strong preference was that you become a boarding student. And so again this is to -- these are decision that were taking place beyond me since I was a -- you know, in grade nine but I think it was that, you know, they -- my parents maybe didn't want me to become a boarding student at that age and then there was the question about would I leave or would I be able to be a day student?

20

25

THE COURT: Oh, I see. Okay. That's helpful, thank you.

30

THE WITNESS: Yeah.

THE COURT: Any questions arising from my

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question?

MS. LOMBARDI: No, Your Honour.

THE COURT: Thank you for coming, Dr. Best.

THE WITNESS: Yes, thank you for having me.

5

THE COURT: All right. You're excused. You can just leave that material there though.

THE WITNESS: Okay.

THE COURT: The registrar will look after it.

10

You can leave that's fine. Yes, you don't have to stand there while counsel confer.

MS. LOMBARDI: Could we have a moment, Your Honour?

THE COURT: Sure. Why don't we take the break? Ten minutes?

15

MS. LOMBARDI: Oh, sure, that would be great.

THE COURT: Yes, let's take the break.

R E C E S S

20

U P O N R E S U M I N G

MS. LOMBARDI: Do you want me to call him in?

MR. ADAIR: Yes, please. Thank you.

25

THE COURT: Yes, could you state your name and spell it again for the record.

FRANCOIS LUKAWECKI: RESUMES

30

THE WITNESS: Your Honour, may I address you before we begin? There's an issue that just happened today which is concerning to this court that I really feel the need to report to you.

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(Mr. Adair)

THE COURT: Does it have to do with someone trying to interfere with your evidence?

MS. LOMBARDI: In a way, yes.

THE COURT: All right. Tell me the first part and then I'll see what this is about.

THE WITNESS: Okay. Well, I was told by a CBC journalist, which sat in court all day yesterday, that during one of the breaks before the end of my cross examination, the lawyer with the dark hair here, I apologize, I don't remember his name, spoke in a public place outside the courtroom and referred to me as, "what a freak", when speaking to Mr. Adair. This was confirmed, this journalist put it in writing for me in an email and needless to say, aside from offended and injured I just want to say for the record that I would never act in disrespect to counsel and that I find it extremely injurious that after testifying to suffering acts of homophobia, and having suffered with coming out with my homosexuality, and the close tie between the word freak and the LGBT community and queer words and hate speech, I find it completely -- completely in-acceptable that counsel would speak in a public place in front of a journalist in such a manner.

THE COURT: All right. Before we return to your evidence...

THE WITNESS: Yes.

THE COURT: ...I'm going to -- well, let me ask you a couple of questions about this and then I will ask counsel to consider. You didn't

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personally hear this phrase, it was conveyed to you by somebody else?

THE WITNESS: It was conveyed by the journalist. And then I -- I had him email me so that I knew that if I brought this up to Your Honour I, actually, had written proof of this.

THE COURT: Have you shown the email to anyone?

MS. LOMBARDI: No, I've not.

THE COURT: And is this the first time you've mentioned this to anybody?

THE WITNESS: Ah, well, I texted a friend of mine just to say the words and I -- I spoke to a friend of mine on the phone.

THE COURT: I meant, actually, any counsel here or is this the first all counsel are hearing of this allegation?

THE WITNESS: I did text our counsel and emailed their firm but the response I got was, "This is not something we can help you with". And then I said, "I am so offended that I feel the judge has a right to know that this how her -- her court is being represented and how the Ontario justice system is represented. I travel from another province to come here and to be treated in this manner", and their response was "up to you".

Those are the only words I got from them so I am really, truly doing this of my own accord. They haven't advised me...

THE COURT: Okay.

THE WITNESS: ...to do this but I'm so shocked I cannot keep this in silence.

THE COURT: All right. All right. Would you

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please step out for one minute. I'd like to
address counsel in court.

...WITNESS EXCUSED

5

THE COURT: I would like counsel's help with --
with this. I have, frankly, not encountered a
situation like this before but I want to be fair
to everybody and I could use some assistance.

10

MR. ADAIR: I was having trouble -- a little
trouble hearing you.

15

THE COURT: Sure. I said I could use counsel's
assistance with process, having not encountered a
situation quite like this one before. And -- I
wonder if we should have a short meeting in
chambers before going further in open court? But
I would plan to come back after we discuss, so
could I invite chamber -- counsel to meet with me
in chambers in about five minutes.

20

R E C E S S

U P O N R E S U M I N G

25

THE COURT: So perhaps before we continue I
assume we will continue with the cross
examination now?

MR. ADAIR: Yes, Your Honour.

30

THE COURT: So I think for the sake of the public
record, I would just indicate that counsel met
with me in chambers and we had a short discussion
about counsel's obligations for respect, which I
believe all counsel here acknowledge. The

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jurisdiction of this court ends at that door.
I'm not going to inquire further into the matter
but the one issue that we all agree was this
needs to be a fair trial and if you are ready to
continue with your cross examination today, we
will do that today?

5

THE WITNESS: I am.

THE COURT: All right. Thank you very much.

THE WITNESS: Thank you.

10

THE COURT: All right. Thank you all counsel.

MR. ADAIR: Thank you.

MR. ADAIR: Q. Mr. Lukawecki, a couple of topics
to touch on in brief. Your statement to the police, do you have
a copy in front of you?

15

A. I do not.

Q. Maybe we could put one in front of the
witness. Thank you, Ms. Merritt.

A. I reread that today, just a couple of minutes
ago for the first time in ten years -- or twelve years.

20

Q. All right. And you indicate in the very
first paragraph, last sentence, "My father, who had custody of
me, living in Guyana, West Africa and being estranged from my
mother at the time, I would go to friend's of the families
residence during the weekends off", correct?

25

A. That's what's written, yes.

Q. And that would be every month or two you'd be
spending a weekend with friend's of your family?

A. Correct.

Q. And one of those friends was a Madam Dupont?

30

A. That's right.

Q. And I understand that you wrote Madam Dupont
one or more letters urging her to come and get you from

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(Mr. Adair)

Grenville?

A. That's correct.

Q. Because of your treatment there?

5 A. This was in the early weeks of my time at Grenville and it was more about the atmosphere which I described at the start of my testimony, just felt so off and it seemed to me like just a crazy place and ah -- yeah.

Q. Well, Mr. Lukawecki, it would be at least a few months into the school year, right?

10 A. I would say the letter in question that she's referring to was maybe second, third, maybe fourth week of school.

Q. Well, sir, she's, actually, referring to letters, not letter, according to your statement...

15 A. Yes,...

Q. ...of August 16...

A. ...second, third....

Q. ...2019?

A. Right.

20 Q. So there were a number of letters?

A. Yes.

Q. And these letters, according to her, what she told you later, broke her heart?

A. Correct.

25 Q. So you were sending her letters indicating that things were so bad at Grenville that they were sufficient to cause her to use the words "broke her heart"?

A. Correct.

30 Q. So obviously, sir, at least at that particular, time -- that was considered a bad thing at Grenville, wanting to leave?

A. Yes.

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(Mr. Adair)

Q. And you were not concerned about having put those sentiments in a letter because you had no thought that your letters were being intercepted or read by anyone else, did you, sir?

5 A. At the time I wasn't aware of that system. I became aware of it and knew better than to write such things later, but that's correct, in the first two -- second, third, fourth week of my time at Grenville, I wrote letters and I said,
10 "I hate it here. This is not a place for me. This is a very strange place. Come and get me, please, please, please. Let's find another place", something of that nature.

Q. Well, sir, it isn't just your second, third and fourth week, these were letters to Mrs. -- or Mademoiselle -- Madam Dupont?

15 A. These were letters in the plural, correct.

Q. Yeah, in the plural. And, obviously, you were not concerned, at least at that time, about communications being intercepted?

A. That's right.

20 Q. And, furthermore, it is obvious, I suggest to you, that they weren't being intercepted or the letter would have never gone to Madam Dupont, would it?

A. I've wondered about that a lot.

Q. Yes.

25 A. I wondered if it's because they were written in French? I wondered if it's because they weren't referring to specific acts of abuse because at that time I hadn't witness as many as I did eventually throughout the years. I don't know the answer why those letters made their way to her. I don't know if
30 the system of incepting mail was systematic? I don't know if they intercepted the mail of only certain students who had been repeatedly picked on and abused and put on discipline and as a

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new student perhaps I was immune to this kind of search which I assume would have taken a lot of time from the staff to do.

Q. Well, sir, the fact of the matter is that you continued to write such letters after that, didn't you?

5 A. Not to her.

Q. To others?

A. To my father I did write on occasion that I wanted to find a new school.

10 Q. Okay. Now, let's turn to another topic then. The topic of this business of running in the morning.

A. May I interrupt you just for a second because you quoted the first paragraph and I'm afraid that the first paragraph the way I wrote it could induce a certain interpretation error. It's the last sentence here which says,
15 "My father, who had custody of me living in here, and being estranged from mother at the time". I want to make it clear that I was estranged from my mother at the time...

Q. You were.

20 A. ...not my father being estranged from my mother at the time, because I did testify yesterday that my parents were in agreement...

Q. Yeah.

A. ...with the custody being moved over so I just want to be crystal clear in that matter.

25 Q. Yeah. You didn't want any suggestion that you weren't telling the truth about your parents being in agreement?

A. I'm just getting the sense counsel that -- that's the implication and since you...

30 Q. Yeah.

A. ...haven't brought that up....

Q. Yeah.

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(Mr. Adair)

A. ...I want to be forthcoming about that particular topic because I do find that sentence to be a little problematic.

5 Q. Where -- sir, where do you get this sense in anything I said that I have made any such suggestion?

THE COURT: I think that will lead us into an argument about what was said. I'm going to recommend you move to your next area.

MR. ADAIR: All right.

10 MR. ADAIR: Q. Now, Mr. Lukawecki, let me talk to you a bit about this running. You indicated yesterday...

A. Hm-hmm.

15 Q. ...and correct me if I'm wrong, that you were awoken in the night and I asked you how often this happened where you were awoken in the night and taken outside to run and you said -- your answer was, "Ten times". I just can't remember whether it was about ten or at least ten"?

A. Yes, that's correct.

Q. Which was it? At least ten?

20 A. That is said yesterday?

Q. Yeah.

25 A. I'll preface by saying my answer was prefaced by saying it's very vague and it's very hard to recount how many times this happen while on discipline. So if I wasn't clear yesterday I -- I am not certain of the number.

Q. Well, you're -- you're searching every speck of evidence to make sure you've plugged every little hole that you've perceived, aren't you?

30 A. I'm trying to be as truthful as I am capable of being.

Q. And have you always tried to be as truthful as you're capable of being?

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(Mr. Adair)

A. In this courtroom, yes.

Q. And do you agree with me, sir, that notwithstanding telling us ten times yesterday, you told the police it happened a couple of times?

5 A. Once -- I will disagree with you there, yes.

Q. Yeah. And you were exaggerating yesterday?

A. No, I was not.

Q. I see. And did you also tell us yesterday that on these occasions the staff and other students, prefects, would hurl abuse at you?

A. That's right.

Q. And yet, sir, you agree with me that you told the police the following, this is on page two in the middle paragraph, the last sentence, "The staff supervisors, (Mr. Mintz for sure on one incident) seemed to take pleasure out of seeing me thus punished which made the treatment even more humiliating and infuriating", did you tell that to the police?

15 A. Oh, I'm sorry, you kind of confused me halfway through the long question. Could you....

20 Q. The sentence I just read...

A. Okay.

Q. ...beginning, "The staff supervisors, (Mr. Mintz for sure on one incident), seemed to take pleasure out of seeing me thus punished which made the treatment even more humiliating and infuriating". You told the police that?

25 A. I wrote that, yes.

Q. Yes. And in fact, sir, you never mentioned a thing about the staff hurling abuse at you while you were running. You said they seemed to take pleasure?

30 A. Oh. I'm not sure I understand your question but I can qualify my current answer by saying in my statement I do talk about the insults that were thrown out and if yesterday

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I neglected to mention that, I'm surprised that I did, but I hereby testify that yes, while we were running insults were shouted at us, absolutely.

Q. Yeah.

5

A. Gordon Mintz included, but many others.

Q. I understand what you're saying now.

A. Okay.

Q. But I'm suggesting to you, sir, that what you told the police is different?

10

A. How so?

THE COURT: Is there a copy of this for me to look at?

MR. ADAIR: Yes. My friends are gracious enough to have...

15

THE COURT: Since there seems to be...

MR. ADAIR: ...one.

THE COURT: ...potentially a disagreement about what's in it, I should probably have a look. All right. And where are we, please, Mr. Adair?

20

MR. ADAIR: We're on page two, the middle paragraph, last sentence, Your Honour.

THE COURT: I see.

MR. ADAIR: The one -- the paragraph beginning, "On a couple of occasions".

25

THE COURT: Thank you.

MR. ADAIR: The last sentence is the one I've read. "The staff supervisors..."

THE COURT: Thank you.

30

MR. ADAIR: Q. My point, Mr. Lukawecki, sir, is at no time did you tell the police that staff and students hurled abuse at you while you were running?

A. Oh, I see what you mean. Uhmm, when I wrote

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this statement, as I testified yesterday....

Q. Never mind that. Did you or did you not....

A. But that's a part of my answer. It's important.

5 Q. You'll get a chance to have your story. Answer my question. Did you or did you not tell the police that?

A. In this short version, this is a fact that's not here. That's correct.

10 Q. Thank you. Now, go ahead and make whatever explanation you want.

A. Well, I -- I was saying yesterday that in 2007, I wasn't ready to face a lot of the truth of what happened to me. I was still living with a lot of raw pain, raw pain I didn't want to face and I wrote this -- this statement to the OPP feeling a little bit pressured by -- by the fact that other classmates were doing it and it was happening at the time. But I also wrote this statement fearful of the idea of one day possibly having to testify and possibly having to testify in front of Father Farnsworth, which in my physic is a key source of trauma, and panic, and fear. This is a -- so in 2007, I wrote this and I included somethings. I never signed a contract with the OPP saying this statement contains everything of my story. I did not enter in that contract. I wrote some facts and as you can see in this paragraph I wrote some facts about the running, and if I went past the insults that were thrown at us, I think that's my right. And I'm here to testify today that they did injure us and they did say injurious things and they did insult us.

30 Q. Yes, sir, you said that repeatedly.

A. Okay.

Q. My point is you said something different to

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the police and upon asking you why, I take it your excuse is, that you weren't ready to face things and you were worried about having to testify in front of the Father Farnsworth, is that it?

5 A. But I disagree with you. I don't think what I told in this paragraph is different than what I testified here in court, absolutely not.

Q. Sir --

A. It's lacking fact but it's not different.

10 Q. It certainly is lacking fact when say they hurled abuse at me and on another occasion you say, "Seeing me thus -- it seemed to take pleasure", that's quite a difference.

THE COURT: I think the point is taken.

MR. ADAIR: Sorry?

15 THE COURT: The point, I believe, is taken as it's starting to become a back and forth.

MR. ADAIR: Yeah.

THE COURT: The witness has agreed it's not in there. I think the rest is for submissions.

MR. ADAIR: I -- I -- yes, Your Honour.

20 MR. ADAIR: Q. Mr. Lukawecki, sir, are you telling me that all the negative things you accused Father Farnsworth of in this statement to the police, that somehow you left something out because you're afraid you might have to testify in front of him?

25 A. Absolutely.

Q. Okay. Now, let's do....

30 A. If I may continue this answer? And I'm not proud of this but his death was a great relief to me. And I'm sorry to say that but that's the absolute truth. When I found out he died I'm sorry but a huge weight was lifted off my shoulders and in fact I think it lead to a break through in ability to pursue therapy.

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Q. I see.

A. That's the truth.

5 Q. Now, let's talk about another subject then in your statement to the police. Do you agree, sir, that in your statement to the police you said, you were placed on discipline on three occasions?

A. Which page are you referring to?

Q. Page one...

A. Page....

10 Q. ...bottom paragraph.

A. Yes, that's also what I testified to yesterday.

15 Q. And, sir, on the first occasion you told a story about being placed on D because you refused to eat liver, right?

A. Hm-hmm. Hm-hmm.

Q. And in fact, sir, you were put on discipline, on a second occasion, for having brought music tapes to school?

A. Yes.

20 Q. Right?

A. That's my testimony yesterday and I believe in this report.

Q. And on the third occasion, sir, you were put on discipline because you had a bad attitude, right?

25 A. That's correct.

Q. And you say in your statement to the police at the top of page two, "This charge of bad attitude was a common one at GCC"?

A. Absolutely.

30 Q. And it was never clear of what exactly it consisted nor when it would be corrected?

A. Sadly, yes.

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(Mr. Adair)

Q. And Mr. Lukawecki, isn't it true, sir, that on the very first occasion that you were put on discipline...

A. Hm-hmm.

5 Q. ...it did not have anything to do with liver or eating liver, it was because you were swearing? Isn't that true?

A. It's true that what's written in this report does not mention the refusal of eating.

10 Q. Right. And in fact, sir, I'm asking you that the reason you were put on discipline on the first occasion had nothing to do with liver, it was all about swearing?

A. No, the swearing probably happened after the beginning of the light session regarding the liver.

Q. The swearing happened then?

15 A. I think I testified yesterday to the fact that I was very offended that they would reprimand me for not wanting to eat and I tried to stand up for myself and swearing probably had taken place at this point.

20 Q. Well, sir, do you agree that in your statement of August 16, 2019...

A. Yes.

Q. ...in discussing the occasion of your first discipline you said, "I was definitely defiant but not disrespectful"?

25 A. Yes.

Q. So, in fact, you weren't swearing in connection with the liver incident at all, were you?

A. I don't understand the question?

30 Q. You weren't swearing about the liver incident or what happened after, you were swearing for some other reason and you got put on D, isn't that true?

A. Can I answer this in more than a yes answer?

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Q. I clearly....

THE COURT: Do you best at -- listen to the question -- answer what you're asked. If more information is required counsel will ask another question.

THE WITNESS: Okay. Yes, it's true. But I really would like to explain.

MR. ADAIR: Q. You what?

A. I really would like to explain.

Q. If you have some explanation that is responsive to the question...

A. Yes.

Q. ...you are entitled to give it.

A. Okay. So, as I said a few minutes ago, this is the first time in twelve years that I see this report. And my process for preparing this statement a few months ago to testify here today was quite lengthy and quite in depth. Whereas when I wrote this particular statement in front of us in 2007, I just kind of did my best to remember things. I believe when I wrote this I probably didn't remember that it was related to liver. I just kind of listed -- I kind of thought about how many times was I on D? Okay, three times. I tried to place it in time. Okay, probably that year. Probably that year. Probably -- there were probably -- there were a lot of probablies [sic] and I just got it over with because as I testified it was a very painful process for me. Whereas in preparing for testifying here, I truly spent my time thinking and I really reflected on what really happened?

Q. Right.

A. Now, I can't tell the court for sure that I did swear or that I didn't swear, so I -- I can't be absolutely certain. In 2007, I remember that I swore and in this year it

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seemed to me that I kept my cool.

Q. Well, sir, we were given a will say statement by your counsel.

A. Okay. A what, sorry?

5 Q. A will say indicating what the witness will say.

A. Okay.

10 Q. And that will say statement in discussing discipline says, "Put on D for three days for swearing and having a bad attitude". Do you remember telling that to your lawyers?

A. No.

Q. Well, where would they get that?

15 A. I guess they had a copy of this and it's based on the 2007 statement, but I did not in my statement, I'm sure you have access to it, my statement from 2019, I did not mention swearing.

Q. You did not mention swearing in your statement of August 16th, quite correct.

20 A. Right.

Q. Right. But you did to the police and, apparently, your lawyers got that information somehow.

A. Okay.

25 Q. Now, the other thing you led the police to believe about discipline was that you were put on discipline for five days for having a bad attitude?

A. Hm-hmm.

30 Q. And you, in fact, suggested to them by saying it was never clear of what exactly it consisted, you suggested to them that you didn't know why they were put on discipline for a bad attitude. Is that the impression you intended to leave?

A. Uhmm, I need the question repeated or

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clarified.

Q. All right. Well, you talk about being put on D for a bad attitude.

A. In which statement?

5 Q. The police statement.

A. Okay.

Q. And then the very next paragraph is, "This charge of bad attitude was a common one at GCC and it was never clear what exactly it consisted..."

10 A. Hm-hmm.

Q. "...nor when it would be corrected".

A. Correct.

Q. And I'm suggesting the impression you're leaving there is you really didn't know why you were put on discipline for five days?

A. Which of the three times?

Q. The third time.

A. The third time?

Q. Yeah.

20 A. For -- well, if you remember testify -- my testimony from yesterday, I wasn't apologizing properly to them. I was too sinful. I was too haughty. I had a bad attitude. This is exactly what I testified yesterday. I -- it was a vague charge. I hadn't smoked a cigarette. I hadn't had alcohol. I just got ganged up on after I quit the musical and they played the game of making me apologize and then they said, "Well, you know, you got a bad..."

Q. Yeah.

A. ...it's exactly what I wrote in 2007.

30 Q. Well, it's what you wrote on August 16th. In fact you knew full well why you were being punished that third time, didn't you? Because you had taken the attitude that you

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didn't get a lead in the play so you're going to quit, right?

5 A. Oh, no. If -- if I gave that impression I want to clarify this also. They never told me that that's the reason. This is the implication I made. But when they light sessioned [sic] me and when they played the apology game they didn't say, "You're going on D because you quit the show", and I certain I didn't testify to that. And -- no, I'm certain I didn't testify to that.

10 Q. Well, sir, you said in your August 16th statement...

A. Hm-hmm.

Q. ...about this incident:

15 In my final year, after I had made it clear that I intended to study musical theater at university, and after having held lead roles in previous products, I was denied the lead role in the production of Rutigory (ph), but rather was given a small role. I felt that I should have been given an opportunity to at least share the lead considering my future plans, so I decided to drop out of the production in protest and instead I would play French horn in the pit orchestra for operetta. Right after I announced this to the directors I was ambushed by a few members

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of the staff.

A. That's exactly what I'm saying.

5 Q. Yeah. Well, sir, the fact of the matter is, it isn't exactly what you were saying. You tried to convey the impression you didn't really know why you were on D. You knew full well.

10 A. I wasn't accused of being on D for dropping out of the show. I was accused of having a bad attitude and that is what confused me. That's exactly what I testified to.

Q. Now, tell me, one last topic. The business of Father Farnsworth sexually abusing you.

A. I think it's sexual assault is the proper term in this case.

15 Q. Well, if you prefer that...

A. I do.

Q. ...we'll use that. Okay.

A. Thank you.

20 Q. And tell me, this business of Father Farnsworth is described on the one, two, three, fourth statement -- or fourth page of your statement to the police, right? Really it starts...

A. It begins on page...

Q. ...on the third...

25 A. ...three.

Q. It starts on the third page.

A. Yes, correct.

Q. About the letter to Adrian that led up to things?

30 A. Right.

Q. But when we get to the part about him sexually assaulting you, page four...

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A. Hm-hmm.

5 Q. ...middle paragraph, "FF then went on to tell me that my feelings were very normal", and you go on to indicate, all you wanted to do was get out and then he started telling you this story about sitting on a bench in a park and an older man came and sat beside him and touched his leg, so far are you with me?

A. Absolutely.

10 Q. And then you go on to say, "It became apparent where this was heading and I was panicked. FF asked me if wanted him to show me how the man had touched him and I got up and tried to verbally wiggle my way out of the office". That's what you said, correct?

A. Correct.

15 Q. And in fact, sir, what happened here is it is not just that you did not want to tell about this incident, you really misled the police about it, didn't you?

A. I omitted an important fact.

Q. Yeah.

20 A. I concede to that, absolutely.

Q. It's not that you just -- it's not even that you just omitted things, you said Father Farnsworth asked if you wanted -- if you wanted him to show you how he'd been touched and you indicated...

25 A. Which I testified to yesterday.

Q. ...you jumped up and left?

30 A. Right. That's exactly what I testified to yesterday. In fact, when I reread this, I'm surprised at how identical to my testimony this -- these paragraphs that I wrote twelve years ago and never read since are, except yes, for the fact of Father Farnsworth's hand being on my leg and going up to my genitals, because as I testified before this is not something

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I was ready to -- to face. I had never spoken to a soul about it and I was not ready for the prospect of facing him in a courtroom just -- that just -- there's no way -- no way would I have faced Father Farnsworth and just having him look at me with those eyes, no. When I wrote this, and again, I state that I did not sign a contract that I would tell all the truth as in my statement. I was very decisively decided to omit the part of the sexual assault because that belongs to me, and at the time I was not ready to share that with the police.

10 Q. Yeah. Sir, you've made your argument. Okay.

A. Thank you.

Q. We hear you.

A. Okay.

15 Q. Now, I'm going to suggest to you that that wasn't the reason at all if you left it out -- or it wasn't the reason you left it out at all? The reason you left it out was because for a long time you convinced yourself that since he didn't, actually, touch me under my clothes it wasn't really touching my genitals?

20 A. Yes, that's part of the arguments that I had.

Q. And you convinced yourself of that?

A. Yes, that was part of my method of dealing with the pain.

25 Q. So you convinced yourself that this did not happen?

30 A. I also tried to convince myself that it was my fault that Father Farnsworth touched my leg because I let him question me about all kinds of sexual questions and he became aroused and because I got him aroused because I had written letters to another boy, I got him horny and I was a temptress as a homosexual, I was a bitch in heat, and I got him -- I forced him to touch my genitalia, yes, that's -- I convinced myself of

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that. I'm not proud of it.

Q. All right. And -- so it was both then. You convinced yourself it didn't happen? You convinced yourself that it was your fault?

5 A. I convinced myself that it was my fault. I never convinced myself that it didn't happen.

Q. All right. Well, those are all the questions I have for you, sir.

10 THE COURT: Do you think we should mark the OPP statements for identification so that it's clear on the record? There was a lot of cross about this statement.

MR. ADAIR: Yes.

THE COURT: Does that make sense to you?

15 MR. ADAIR: I'm good with that.

MS. LOMBARDI: We -- perhaps it could be made a proper exhibit since there was so much extensive cross examination on it?

20 THE COURT: Well, I wouldn't want it to be taken as proof of the truth. It was used to cross examine. Parts of it was were adopted. But I suppose if it's clear on the record its use. Do you have any thoughts on that?

25 MR. ADAIR: All right. I have no issue with it being marked as an exhibit for identification only. It will probably assist the court to have it there...

THE COURT: Yes.

30 MR. ADAIR: ...and makes the record very clear but it -- with respect, it ought not, in my respectful submission to be made an exhibit because that is not the customary treatment of

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prior inconsistent statements for obvious reasons.

THE COURT: Yes, I think that makes more sense. I think that this should be Exhibit B.

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CLERK OF THE COURT: Yes, Your Honour.

EXHIBIT NUMBER B: OPP statement - Produced and marked

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THE COURT: Any re-examination?

MS. LOMBARDI: None, Your Honour.

THE COURT: Thank you for coming back today, Mr. Lukawecki, you're excused.

THE WITNESS: Thank you very much.

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THE COURT: All right. I'm in counsel's hands. We've heard a lot of evidence today. I don't know if you want to proceed with the next witness now or would you prefer to start fresh in the morning?

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MS. LOMBARDI: I think fresh in the morning might make more sense, Your Honour, if that is all right with the court.

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THE COURT: All right. And tomorrow after court we'll have our customary scheduling meeting. In the meantime, I will see you all tomorrow at 10 a.m. Thank you.

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...Whereupon court adjourned

Certificate

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Form 2

CERTIFICATE OF TRANSCRIPTION (Subsection 5(2))
Evidence Act

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I, Octavia Cumberbatch, certify that this document is a true and accurate transcript of the recording of Cavanaugh et al. v. Haig et al, held at 330 University Avenue, Toronto, Ontario, taken from recording No.

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