

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 -

J. ALASTAIR HAIG, MARY HAIG,
15 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

BEFORE THE HONOURABLE JUSTICE J. LEIPER
25 on October 9, 11, 2019, at TORONTO, Ontario

APPEARANCES:

30	L. MERRITT	Counsel for the Plaintiffs
	S. LOMBARDI	Counsel for the Plaintiffs
	G. ADAIR	Counsel for the Defendants
	D. BOGHOSIAN	Counsel for the Defendants
	N. READ-ELLIS	Counsel for the Defendants

SUPERIOR COURT OF JUSTICE

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

5

LIST OF WITNESSES

<u>NAME</u>	<u>PAGE NO</u>
MacNEIL, Ken	
Cross-examination by Ms. Lombardi	2089
POSTLETHWAITE, Lucy	
Examination in-chief by Mr. Boghosian	2124
Cross-examination by Ms. Lombardi	2156
POSTLETHWAITE, Emma	
Examination in-chief by Mr. Boghosian	2200
Cross-examination by Ms. Lombardi	2234
Re-examination by Mr. Boghosian	2271

20

25

30

LIST OF EXHIBITS

NO.	DESCRIPTION	PAGE NO.
50	Grade 12 Averages	2159
51	Girls Official Clothing List	2169
5	52 The Grenville College Christian News - December 1987	2244
53	Excerpts from The Christian College Grenville News - June 1984	2271

10

15

Transcript Ordered:	May 15, 2020
20 Transcript Completed:	May 26, 2020
Ordering Party Notified:	June 6, 2020

25

30

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

WEDNESDAY, OCTOBER 9, 2019

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

THE COURT: Good morning.

MS. LOMBARDI: Good morning. Good morning, Mr. MacNeil. Can you hear us?

THE COURT: Good morning, Mr. MacNeil?

MR. MACNEIL: Hey, Your Honour.

THE COURT: Are you able to hear counsel's voice?

MR. MACNEIL: Yes.

THE COURT: Good.

MR. MACNEIL: I am.

MS. LOMBARDI: Perfect.

MR. MACNEIL: I hear your voice. I hear your voice, I haven't heard counsel yet.

MS. LOMBARDI: I'm counsel, can you hear my voice?

MR. MACNEIL: Yes, I can hear you now, perfect.

MS. LOMBARDI: Perfect. Okay. If you can't hear me, please ask me to speak up, I'll do my best to keep my voice up for you.

MR. MACNEIL: Sure.

KEN MACNEIL: PREVIOUSLY SWORN

CROSS-EXAMINATION BY MS. LOMBARDI:

Q. Mr. MacNeil, your role as principal did not formally include disciplining of students outside of academic issues, is that correct?

A. That is correct.

Q. And you also stated that the disciplining of students was primarily the responsibility of the Deans of Men and Women, and the Head Masters. Is that also correct?

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

A. That's correct.

Q. And the Head Master, the Deans, and the other key administrative persons, like Joan Childs and yourself, as the principal, you were the top administration team at the school? I believe you said that for a short time this team was referred to as the "A-Team" but the team was always in place, regardless of what they were called?

A. That's right.

THE COURT: Ms. Lombardi, would you mind putting the mic a little closer to your - to your voice?

MS. LOMBARDI: Yes, I will.

MR. ADAIR: So, Your Honour, I was informed by our technical people that we should try to avoid using the mic. I'm not sure if it will cause feedback.

THE COURT: Oh, I see.

MR. BOGHOSIAN: I'm not sure if it will cause any issues.

THE COURT: All right.

MS. LOMBARDI: If any issues arise, I guess we'll - we'll deal with it.

THE COURT: That's better. You're more amplified for my ears now, but please let us know if you hear feedback, Mr. MacNeil. Thank you.

MS. LOMBARDI: Q. You also described yesterday that Grenville was a close-knit community, with staff being involved in the lives of students constantly. I think you said something to the effect of there really was no separation between the Grenville community and the kids. Is that correct?

A. That's right.

Q. You also went over for us the rather rigorous schedule that was in place for the students; from the early

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

morning rising, through the chores, breakfast classes, extracurricular activities, study hall, compline, and then lights out maybe around 10:00 p.m. That's correct?

A. Correct.

5 Q. And I believe you made a comment that the students were kept very busy, too busy in fact, and that you hoped -- or had hoped that maybe there would have been even more time for academics. Is that right?

A. Yes, that was constantly an issue.

10 Q. With this schedule that - that you took us through, I think if we added up -- if we look at the short 20 minute break after lunch, and then I think there was a break after the - the final classes of the day before the activities started; students had about maybe an hour or so of free time to themselves in the day. Is that right?

A. Approximately, yes.

15 Q. And you mentioned that all five of your children attended Grenville, and two went on to teach at Grenville, correct?

A. That's right.

20 Q. And two went on to live at the Community of Jesus, correct?

A. That's correct, yes.

25 Q. What did the fifth child do? There was one of the children that neither taught at Grenville and did not go to the Community of Jesus. What did - what did that child do?

30 A. That child, he went into [indiscernible] community of Windsor, into Television Project Management. He's since then joined the military, and he's now stationed at the Canadian Embassy in Washington D.C. as a Canadian Representative there.

Q. Thank you. Are any of your children married?

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

A. Yes.

Q. And did any of them marry Community of Jesus or Grenville Christian College members?

5 A. The oldest one did, in fact the oldest one married Tristan Stewart or [indiscernible], he has since passed away three years ago from cancer. And then our daughter married Gordon Mintz, who became the Head Master later.

10 Q. Thank you. And I'm sorry to hear of their passing. Are - are all of the four children, the two that taught at Grenville and obviously the two at the Community of Jesus, they're all avowed members of the Community of Jesus?

A. That's right.

Q. And are you still an avowed member?

A. Yes.

15 Q. And the leaders, or the mothers of the Community of Jesus, initially Judy Sorensen and Cay Andersen, and then later Betty Pugsley, they were all named Directors of Grenville along with yourself, is that correct?

20 A. Directors, I'm not sure that they were on the Board -- they were not on our Board of Directors, but they certainly were honoured advisors.

Q. Okay. I just want to take you to a document, if I could. It's in Exhibit 1, which is Volume 1 of the Joint Exhibit Book.

25 A. All right. And which tab?

Q. Okay. And it's Tab 12.

A. Okay.

Q. Do you have it up?

A. [Indiscernible].

30 Q. Yes, that's right. The pages aren't numbered, so you have to count on both sides of the page. But, if you could make your way to page 6, Tab 12.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

A. I think I got it.

Q. I believe the title here is "Special Notice by an Ontario Corporation Without Share Capitol." And - and it's -- there's - there's handwriting, and unfortunately the quality of the copy is not fantastic. But if we look at -- if you look at the far-left hand column you'll see numbers and sort of black boxes...

A. Yes.

Q. ...if you look at the number four box...

A. Yes.

Q. ...and I guess really strain your eyes, but I believe the first name is the Reverend Charles Farnsworth, and then I believe Mary Farnsworth, and then Cay Andersen and Judy Sorensen, can - can you make out those names there?

A. Yes, I can, yes.

Q. Okay. And if we can flip now to page -- it's page 10, so we're on 6 and we have to flip to 10.

A. Okay.

Q. This is "Form 1 Ontario Corporation Schedule A."

A. Yes.

Q. And you'll see, much more clearly now, Judy Sorensen is listed as a Director or Officer of the Corporation?

A. Yes.

Q. And just before we get to the next name, there is date of first election noted as 1984, the month is 09, September, the day 08. Do you see that date?

A. Yes.

Q. And then again, before we move on to the next Director, the far right hand side, there's another date. So this is the -- I guess the updated date of when the special notice was put forward, and that's dated 1992, January 6th. Do

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

you see that?

A. Yes, I see it.

Q. Yes. And - and below Judy Sorensen's
information we see similarly Betty Pugsley being noted as a
5 Director?

A. Yes.

Q. And presumably, she took over for Cay
Andersen upon her passing. Is - is that your understanding?

A. That's very much what it is.

10 Q. Yes. And then if we just look at the very
next page beside this, we see your name as well, you're - you're
a named Director of the corporation?

A. Okay, yes.

15 Q. Yes. Also first appointed in 1984, and - and
it looks like you were also named the Treasurer as of 1992, if
we just look one line down.

A. All right, yes.

20 Q. Okay, thank you. As a Community of Jesus
member, was it each individual's responsibility to deny their
sinful nature by aggressively crucifying their sinful nature
daily through confession to others of their sins? Is that
essentially what it was, in so many words?

25 A. In - in so many words, it - it was - it was
keeping up to date hundred percent to the point of making others
aware of feelings and non-feelings, and so on. Yes.

Q. Okay. And these confrontations of other sins
would happen in light groups amongst members, is that right?

A. It might, yes.

30 Q. And at least from time-to-time, if a person
resisted the truth that was coming forward in these like groups,
the heat would be turned up and maybe more people would be
brought in, or there would be multiple meetings addressing his

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

or her sin, is that fair?

A. I think it happened occasionally.

Q. And these "Light groups," they were frequent occurrences amongst the staff at Grenville, correct?

5 A. Yes. Frequent may not be quite the adjective for it, yes from time-to-time.

Q. And they were even scheduled, weren't they?

A. At a few different times they were, yes.

10 Q. And you told us yesterday that you attended retreats at the Community of Jesus as an oblate member frequently?

A. Yes.

Q. How frequently did you - did you retreat to the Community of Jesus?

15 A. Maybe once a year, once every two years.

Q. Did you have occasion to visit that community outside of or in addition to these retreats?

A. Yes.

Q. And how often would you visit?

20 A. In [indiscernible] one or two times a year possibly, since we had family there we paid visits.

Q. Sure. And the purpose of those retreats, in any event, maybe not the visits where you were visiting with family, but the retreats was to obtain the guidelines and disciplines given by the mothers as the Spiritual Directors of the Community of Jesus. Is that correct?

25 A. Yes.

Q. And you also....

A. And encouragement.

30 Q. And encouragement, thank you. You also told us yesterday that Al Haig and Charles Farnsworth were the Spiritual Directors, the designates, if you will, of the mothers

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

at Grenville. And so, you would take direction from Mr. Haig and Mr. Farnsworth, to the extent that they were appointed to do so? Is that correct?

A. Yes, that's correct.

5

Q. These - these "Light sessions" that you participated in as a member, both at Grenville and at the Community of Jesus, these sessions were also conducted with students at Grenville, correct?

A. From time-to-time, yes.

10

Q. And some of these "Light sessions" could occur in the chapel or at mealtimes in the dining room, is that also correct?

A. Yes.

15

Q. And the - the type of "Light session" in the dining room or chapel, that would involve the entire student body, is that correct?

A. Most of the time, yes. Sometimes it would be just boys, sometimes just the girls, but most of the time....

20

Q. Sometimes there were smaller groups?

A. Yes.

Q. But - but often times in the chapel and the dining room, that was where the whole student body would be present?

A. Yeah, most of the time.

25

Q. Okay. And - and these "Light sessions" would sometimes involve standing up, a single or a group of students, and addressing their conduct, their emotional or attitudinal problems publicly before the entire student body, correct?

A. Occasionally, yes.

30

Q. And those emotional or attitudinal problems included I think you mentioned yesterday things like rule breaking, theft was one example you gave us. Would smoking be

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

another one?

A. I suppose, yeah that's [indiscernible].

Q. And being disrespectful?

A. Yes.

5

Q. Argumentative?

A. Yes.

Q. Being haughty? H-A-U-G-H-T-Y?

A. Yes.

10 Q. Yes, I do. Someone described that to me as a
- as a Grenville'ism. Haughty was a - was a big one, wasn't it
at Grenville?

A. Yes, I'd never heard of it much before I got
to Grenville.

Q. Okay.

15

A. But haughty was often used to express a
student's attitude.

20 Q. And in terms of being haughty, did you
understand that to mean being self-important but also failing to
acknowledge authority, is that a fair definition of what haughty
was used -- had -- was used at Grenville?

A. Yeah, rightfully so.

Q. Having that attitude would also be the topic
at these sessions from time-to-time?

A. Yes.

25

Q. Being rebellious?

A. Yes.

30 Q. And rebellious, that meant not just rule
breaking like theft and - and smoking, but it also encompassed
deciding to do things on their own, apart from the - the spirit
of the rules, as well as the letter of the rules, is that a fair
description?

A. I just missed something there, can you repeat

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

the question?

5 Q. Being rebellious, when that would be brought up at these sessions, rebellion included rule breaking, breaking the letter of the rules but it also included breaking the - the spirit of the rules as well?

A. That's correct.

Q. And would these sessions, sometimes at least, become quite emotional for the students involved?

A. It could, yes.

10 Q. Is it fair to say that it was -- at least for some students to your observation, hard for them to endure being confronted about their behaviours and attitudes in that public setting?

A. No doubt.

15 Q. Previously, do you recall writing an affidavit and being cross-examined on it in 2011?

A. Yes, I do.

20 Q. We previously, at that time you described "light sessions" as being intense. Is that - is that still your recollection today?

A. Yes.

25 Q. You described that intensity at that time, back in 2011, as partly being -- as resulting partly because the staff were determined to get to what was motivating the student in question, correct?

A. Yes.

Q. Can you tell us a little bit about how staff members would go about determining that motivation behind the student's behaviour in these public settings?

30 A. Yes. I'm not sure I can generalize every situation, but generally it was questioning why - the questions are to determine what was going on in the student's mind, what

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

the attitudes were, [indiscernible] to describe a pattern of what was going on in the student's mind.

5 Q. Okay. In terms of the tone of that questioning, were there sometimes raised voices used by the staff?

A. Yes, yes.

Q. And would more than one staff member, sometimes at least, be involved in - in rooting out of the issue?

10 A. Yes, occasionally.

Q. And were sometimes other students invited to participate in order to get to the root of the problem?

A. Yes, occasionally.

15 Q. And we mentioned, just as we started talking about this topic, that there was sometimes smaller groups so it wasn't the whole school. You mentioned sometimes it was just the boys, or sometimes just the girls, where there other even smaller "Light sessions" than that? That - that might involve a single student, or - or just a couple of students, that would
20 happen outside of the chapel, or - or the dining room at mealtimes?

A. There - there might have been. But I was not privy to those if they did.

25 Q. Okay, thank you. So, we - we just went over the fact that as - as principal of the school your role was mostly with respect to academic discipline as opposed to that - that other discipline.

A. That's right.

30 Q. So, these other types of discipline, they were imposed -- we - we just reviewed by - by the Deans or Head Master. I believe you also said yesterday that other staff, any staff, could maybe recommend the discipline, but it was really

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

the realm of the Deans and the Head Master to impose it, that's correct?

A. Yes.

5 Q. And to your knowledge there was no policy or code at Grenville respecting implementation of discipline, correct?

A. No, I don't recall.

10 Q. There were common features though to discipline, nonetheless. There were certain techniques used at Grenville, consistently. You would agree with that?

A. [Indiscernible].

15 Q. You explained back in 2011 that discipline might start with confrontation of the student about their behaviour or rule breaking. And you stated if they showed remorse that might be the end of the matter. Is that - is that true?

A. Yes.

Q. Yes.

A. Yes, that's true.

20 Q. So, can you just describe for us, a little bit, how was it that a student could show sufficient remorse to avoid discipline?

25 A. Well, I can't state for every student, but certainly an apologizing student, you're sorry, I didn't mean to do it, something to that effect would be sufficient.

Q. But it would be at the discretion of, I guess, the staff member receiving the apology as to whether or not they thought it was...

A. I believe so.

30 Q. ...yeah, if they thought it was sufficient, or real, or heartfelt.

A. Yes, if they thought it was genuine they -

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

they would accept that.

Q. And so if that staff member maybe was unmoved by the remorsefulness shown by the student, further discipline might - might be imposed?

5 A. Well, certainly the staff member then would have referred the student to the Head Master though to be -- also to the Deans first.

10 Q. Okay. And so, in terms of what was serious enough to warrant that further discipline; rule breaking like smoking and swearing, that - that might cause discipline to ensue beyond simply giving an apology, correct?

A. Yes.

Q. And having a bad attitude? Students were disciplined for having a bad attitude?

15 A. If - if the attitude had persisted and thought to have not acknowledged, yes.

Q. Okay. And being haughty?

A. Yes.

Q. And being rebellious?

20 A. Yes.

Q. And you told us yesterday that when a student was put on discipline that that meant they did wear a uniform, correct?

A. Most of the time, yeah that is correct.

25 Q. And they weren't allowed to talk to their peers while they were on discipline?

A. Yes.

30 Q. And they would be assigned various manual labour jobs, either in the kitchen, or outside doing some kind of maintenance, maybe even cleaning staff apartments, is that right?

A. Yes. I mean I would think that might have

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

been the case, I don't know about cleaning the staff apartments, they never cleaned mine.

5 Q. Okay, fair enough. You - you sort of mentioned -- you didn't sort of, you did mention yesterday that in terms of the - the - the manual labour task that they were assigned to, it kind of depended on "what was needed doing" I think is how you put it. And by "what was needed doing" are you referring to what was needed at the school in terms of cleaning and maintenance?

10 A. Yes.

Q. Another feature of a - of a student on discipline is that they did not attend classes while they were on discipline, is that correct?

A. Most of the time, yes.

15 Q. And so isn't it true then that the students on discipline were isolated from their - their peers in other ways as well? They also weren't generally allowed to eat their meals with other students, is that right?

A. That was often the case.

20 Q. And sometimes they even slept separate from their peers, is that also right?

A. I'm not sure about that, but that could have happened, yes.

Q. Are you familiar with the term "Hotel D?"

25 A. I am, yes.

Q. You are. So is it fair to say that all of this, all these features of the discipline was intended to identify the student being disciplined, separating them from their peers, in order to accomplish the change in behaviour and send a message to other students?

30

A. That's correct.

Q. In your testimony yesterday you said that

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

staff kids were held to higher standards, meaning they had to follow the rules more closely. But I - I just wanted to clarify, they had to follow the same rules as the other students though? There weren't special staff kid rules, is that correct?

5 A. That's correct.

Q. You mentioned that they might be disciplined more quickly or more severely than the non-staff kids though, that's right?

A. That was my own impression, yes.

10 Q. Do you recall a staff kid by the name of David Smith?

A. Yes, he - he wasn't a staff kid, but yes.

15 Q. Okay. Do you - do you recall that he was -- or do you know, I should say, that he was paddled by Don Farnsworth?

A. He was what?

Q. Paddled?

A. I don't know that.

20 Q. Do you know that David Smith ran away from the school?

A. I think I recall something about that [indiscernible].

25 Q. And - and in fact there was a Canada wide and US wide search for him involving the FBI, does that refresh your recollection at all?

A. No, I don't remember that at all.

Q. And so, I take it you don't recall being interviewed by Mike Morales, a reporter who was investigating the story?

30 A. I can't quite remember, but I might have been.

Q. Okay. David Smith wasn't the only child that

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

ran away from Grenville, is that right?

A. True.

Q. Is it also true that some other students were treated differently beyond the staff kids? Such as children whose parents were patrons or financial contributors, or even on the Board of Advisors to Grenville?

A. They were not treated differently intentionally, and because of their parent's influence it had no different -- it had no influence of how they were treated. Sometimes there's a rare reprimand [indiscernible] they weren't [indiscernible] for them.

Q. Do you remember a student by the name of Simon Best?

A. Yes.

Q. And his mother was the school physician, Sandra Best?

A. That's right, yes.

Q. And she - she sat on the Board of Advisors for almost 10 years at Grenville. Isn't that right?

A. Yes.

Q. And - and Simon Bests' father was a - a local lawyer who had done some work for - for Grenville as well, is that right?

A. I believe we had the one personal lawyer, but I think he had done some work.

Q. Okay. And do you recall that there was a policy at Grenville, at least for a time, where by grade nine, I think you mentioned this yesterday, students were expect to start boarding at the school, that was the expectation?

A. That's right.

Q. Do you....

A. If you were in grade nine, that was the

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

expectation.

Q. Right. Do you remember that Simon Best was amongst the first to be a day school student in his high school years?

5 A. I think I do. I [indiscernible] since but I believe - I believe you're correct.

Q. And - and you testified previously, again in - in 2011, that day students, high school students, were subjected to far less in the way of discipline and guidance from the Grenville staff. Isn't that right?

A. That -- I'm just not following your question. Can you - can you repeat again?

Q. That day student -- high school students, like Simon...

15 A. Okay.

A. ...were subjected to far less in the way of discipline and even guidance from - from the Grenville staff, you've said that before, and that's still true today, right?

A. Well, again far less had to [indiscernible] somewhat less.

Q. Okay. Well, in your affidavit of 2011 at paragraph 2 -- sorry, I'm just trying to get a copy. We turn at paragraph 2, the last sentence there, "GCC also began in the early to mid 1990s to accept day students into the high school. That was a significant change..."

THE COURT: Sorry, counsel. I think we're in the wrong place here. Paragraph 2 says, "I was born in Moncton, New Brunswick?"

MS. LOMBARDI: I'm very sorry, paragraph 42.

30 THE COURT: Thank you.

A. What page was this?

MS. LOMBARDI: Q. Do you have a copy, Mr.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

MacNeil?

A. Yes.

Q. It's page 12, paragraph 42.

A. Okay.

5 Q. The second last sentence of that paragraph,
"GCC also began in the early to mid 1990s to accept day students
into the high school, that was...

A. Yes.

10 Q. ...a significant change because the day
students [and then we turn the page] did not live at the school
and were therefore subject to far less in the way of rules,
discipline, and guidance from the GCC staff." It was....

A. Yes, I would stand by that.

15 Q. Okay, thank you. One last question with
respect to the manual labour sort of tasks at Grenville, when
you arrived at Grenville, was Grenville still doing a bit of
farming? Did they have a few crops that they planted?

A. Yes, two garden crops, yes.

Q. Yeah. Did they grow potatoes?

20 A. No animals at that time.

Q. No animals, Okay. Did - did they have a
potato crop that you recall?

A. No.

Q. No. Would...

25 A. Not that I can recall.

Q. ...would students ever, either because of
regular work jobs or discipline jobs, have to assist in sort of
harvesting those crops?

30 A. I can only think of it as that part of their
work -- supervised work jobs Saturday morning.

Q. Okay.

A. That would be part of it.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

5 Q. Okay, thank you. I just want to move on to a new topic now, you stated yesterday that students could make calls on the public phones available at Grenville, and that these phones were not -- they weren't censored. Where were the phones located in the school exactly?

A. Well, there was one that was mainly used on the -- what we call the lower floor, which is the first floor, in the hallway. And then after the new dormitories were built, each floor had its own phone at the end of the hallway.

10 Q. And in terms of what was near the phone, were staff member offices, when we're talking about those first floor phones, near those phones?

A. No.

15 Q. So where exactly in - in this hallway, what else was in the hallway with these phones?

A. Well, right nearby there were - there were two lounges, we called one the red lounge and one the blue lounge, they were nearby, they were general lounges for recreation, and there was a tuck shop in one of the - the
20 lounges.

Q. So these - these lounges, the red and the blue one, they were in the dormitories...

A. No. They were...

Q. ...or near the dormitories, right?

25 A. ...fourth floor main building.

Q. I see. And where the phones -- when you say the phones were moved to the dormitory section?

A. They were in the hallways, at the end of the hallway but still - still in the hallway.

30 Q. Okay. And you say that students who made calls on these phones weren't - weren't monitored?

A. No.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

Q. No. If you can turn up your affidavit at paragraph 29, it's under the heading "Censorship." And I just -- I'm going to start reading from it...

A. Okay.

5

Q. ...from the second sentence in.

10

Students did not have a phone in their rooms, but they were allowed to use the phones in the hallways, and no staff member would ever stand over them and sensor the calls. If, however, staff members walking by the public phones overheard an abusive call by a student to parents, the student would be spoken to.

15

Is that still your recollection?

20

A. It is.

Q. So, can you describe for us what is considered to be an abusive call by a student to their parent?

25

A. Well, if they were shouting at their parents, if they were using inappropriate language, they were being rude to them, they were being confrontational, that type of behaving in an obvious manner, if a staff member happened to overhear that and walk by they would speak to them and tell them that they were out of line [indiscernible] parent, they should apologize.

30

Q. And to your knowledge did that happen at Grenville?

A. Maybe once.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

Q. And how would a student be spoken to about this?

A. Well, it should be drawn aside and - and said that they were very, very inappropriate way to speak to parents, they should show more respect to them.

Q. And could this student be disciplined for making this abusive call?

A. I can't speak for every occasion, but on one occasion I did [indiscernible].

Q. You said you did it on occasion?

A. Yeah.

Q. And so the occasion that you were involved with involved the shouting by the student?

A. That is correct.

Q. But you're not sure about the other times, though you do say that there were more times than just your example. Is that right?

A. I'm just speaking of the one time that I had occasion to do this, that's what - that's what happened [indiscernible], I don't know about the others.

Q. Okay, fair enough. Thank you. You also discussed yesterday a policy that was in place at least for a short time that required students to write a weekly letter home to their parents, correct?

A. [Indiscernible].

Q. And - and you said that this was, I guess policed or monitored because they would have to hand their postmarked letter in and have their name checked off a list?

A. That's right, stamped letter.

Q. Stamped letter, right. Was there a Canada Post mailbox on campus at Grenville?

A. No.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

Q. So how would these letters get posted?

A. They would be put into the regular mail that the college [indiscernible] that would be sent to the post office.

5 Q. And - and it was a staff member's job I take it to - to take all that correspondence and go and - and post it with Canada Post? Or would Canada Post arrive and collect it?

A. It would -- a person on the staff that -- they return things to the post office and pick up things.

10 Q. And - and that person that - whose job it was to - to deal with the mail in that way, that wasn't the same person that collected the letters from the students and checked their name off a list?

A. No.

15 THE COURT: No, it was a different person?

A. It was a different person. The person who checked their name off the list would be attending the breakfast at the dining room table [indiscernible] there.

20 MS. LOMBARDI: Q. And so would each I guess staff head of the table be responsible for collecting up these letters?

A. No, it was more the Head Dean and I, or one person or one table would be resolved [sic]...

25 Q. I see.

A. ...clearing off the tables.

Q. And it was - was that ever your responsibility, did you ever have to do that?

A. No.

30 Q. So you don't have any first hand knowledge anyways with respect to what happened with those letters once they were handed in, do you?

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

A. No.

5 Q. Thank you. Yesterday you -- when you were describing the schedule for us, and - and we were discussing some of the more religious service aspects that were - were folded into that schedule, you mentioned that a few times a week there would be a communion?

A. Yes.

10 Q. And other times there would be sessions consisting of homilies, where a variety of -- you said, Christian things were discussed or put forward?

A. Yes.

15 Q. You described them, I believe, as being religious or of a biblical nature, making students aware of what Christian teaching was on a particular topic. Do I have that right?

A. Yes, and there were bible studies.

Q. And bible studies, okay.

A. Yeah.

20 Q. What was the Christian teaching respecting homosexuality and was it ever discussed at Grenville?

A. Yes. And that often ends up in the earlier days [indiscernible] I was able to very much anti, sad to say it.

25 Q. You say "very much anti" can - can you describe that a little more for us?

A. Well, it was certainly not encouraging, it was discouraging, homosexuality.

Q. In fact, homosexuality was considered to be the greatest of sins, is that fair to say?

30 A. It was inappropriate.

Q. Was the story of Jezebel ever recounted at either bible study or - or these other homily type sessions?

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

A. I don't recall.

Q. Are you familiar with the story of Jezebel in the bible?

A. Yes.

5 Q. And is it fair to say that Jezebel is essentially an impudent, shameless, or morally unrestrained woman?

A. I think that's pretty accurate.

10 Q. You mentioned yesterday and again today that there would be separate talks given to boys and girls of the school, sometimes in their dorms, is that right or - or in those lounges near their dorms?

A. That's right.

15 Q. And that there was no formal sexual education at Grenville that...

A. No, no formal sexual education.

Q. Right. But would - would sexual education like topics be discussed at these separate sessions for boys and girls?

20 A. Periodically.

Q. You never attended any of the girls talks in any event, did you?

A. [Indiscernible].

25 Q. But do you recall a talk by Charles Farnsworth involving the topic of masturbation and trying to discourage it?

A. I don't. Maybe I was there when it happened but I don't recall.

30 Q. Okay. Maybe just to refresh your memory, I'll take you to your transcript of cross-examination from 2011, do you have a copy of that?

A. Yes, cross-examination, yes.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

Q. Yeah. And if you could turn at page 76 and 77.

A. Yes.

5 Q. So, on - on page 76 we're looking at lines 24 and 25, there - there's a bit of an exchange between the counsel involved in terms of how to phrase the question to you, but finally your counsel, Mr. Dare at line 24 puts the question to you like this: Question: Are you aware of any meeting like that ever taking place? [And if we flip over to page 77]....

10 A. You're - you're -- excuse me?

Q. Oh.

A. Are you on page 77, line?

Q. Oh, page 77, line 1, right at the top, it says, "The witness."

15 A. Oh, okay, thanks. I see it.

Q. Yeah. "Not all of those things, I remember him speaking once about masturbation and trying to discourage it." Does - does that refresh your memory at all?

A. Yeah, I guess.

20 Q. Okay. And so - so you recall him having a discussion on that topic with - with some group of students?

A. Yes, at one point he did.

25 Q. Thank you. So I want to move on now to - to another topic, you testified yesterday that you were involved in the perspective student interviews, which would include their parents, correct?

A. Yes.

Q. And you told us that at those meetings you would go over things like the history of the school, correct?

30 A. Yes.

Q. You would discuss the facilities of the school, and the academic expectations, is that right?

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

A. Yes.

Q. Yeah. And involvement with other students, and student life in general, that - that's all correct?

A. Yes.

5 Q. Were you also clear with the parents of the perspective students that Grenville was not an Anglican school, and that they only use the Anglican form of prayer, or the common prayer book?

A. Yes, I often had said that.

10 Q. Okay. Did you ever discuss the Grenville Christian community with the parents and their avowed membership with the Community of Jesus?

A. Not often, but occasionally if it came up I did.

15 Q. So, unless they brought it up you didn't, is that fair?

A. No, I might have talked about the influence of the Community of Jesus or it's worth, but not generally.

20 Q. So, you didn't talk to the parents about the - the obedience that you all owed to the Community of Jesus that went along...

A. No.

Q. ...with your vows?

A. No.

25 Q. And you didn't talk to parents about those vows also including chastisement and admonishment, is that correct?

A. No. But that is your idea.

30 Q. Did - did you discuss the practice of "Light sessions" on students with prospective parents?

A. No, no.

Q. Did you discuss the features and forms of

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

discipline with prospective parents?

A. Yes, and in that context, I might have talked about "Light sessions."

5 Q. You might have? Do you recall talking about "Light sessions?"

A. No. But....

Q. So, with respect to the discipline you talk to parents about the fact that the child would be not wearing their uniform?

10 A. Yes, I would mention -- I would describe what had happened to students before, and what had taken place.

Q. So, so when you met with parents you would -- and you would describe, you know, what discipline could look like at Grenville, you would - you would walk them through what that looked like including a student would be stripped of their uniform, they'd not attend class, is that right?

15 A. [Indiscernible].

Q. Sorry for that delay, did you specifically talk to parents at those admission interviews about the features of discipline?

20 A. Not - not at a regular interview.

Q. No.

A. Basically, I would -- the - the discussion involved what we review to discipline practices...

25 Q. Right.

A. ...yes, I would describe it.

Q. You - you would describe all of the details like the missing of classes, correct or not correct?

A. I would, yes. I would mention that.

30 Q. And - and that they would be out of class for multiple days?

A. Some, yeah either a day or two.

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

Q. And - and you would tell these perspective parents that the student would be on silence?

A. Yes, but I can't all remember all the...

Q. Mm-hmm.

5

A. ...details of those conversations.

Q. Would ever talk about "Hotel D" with the parents?

A. No.

10 Q. Did you discuss the honour code of Grenville with these perspective parents?

A. Yes.

15 Q. And did you describe that honour code as being a - a requirement of students that they were to inform on other students who were in any way breaking the stated and unwritten rules of Grenville?

A. Yes, that were -- about the student [indiscernible], yes.

20 Q. You've stated that the changes, that there were changes implemented at Grenville in the mid 90s with respect to discipline in particular, correct?

A. Yes.

25 Q. And you also said that these changes essentially corresponded with the retirement of Charles Farnsworth in or about 1997, correct? I believe you said that yesterday? Oh, I think we've frozen.

THE COURT: Oh Yeah, the screen is frozen.

...TECHNICAL DIFFICULTIES WITH VIDEO LINK

30

R E C E S S

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

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

THE COURT: I understand the technical difficulties are being worked on as we speak.

MS. LOMBARDI: They are being worked on.

5 Currently, only Your Honour is - is on camera, and apparently the - the feed was dropped at the court reporting office, but they're working on getting that up and running again.

10 THE COURT: Any idea of how long they will need to repair the problem?

MS. LOMBARDI: I think they said five minutes.

MR. MACNEIL: Hello?

THE COURT: Oh.

MS. LOMBARDI: Hello?

15 THE COURT: Oh, I think he's....

MS. LOMBARDI: Oh, you're back?

THE COURT: We're back?

MS. LOMBARDI: Can you - can you hear me Mr. MacNeil?

20 MR. MACNEIL: Hello?

MS. LOMBARDI: There we go, can you hear me?

MR. MACNEIL: Yes.

MS. LOMBARDI: Great, we're back online.

THE COURT: Okay, great.

25 MS. LOMBARDI: Q. All right. I think right before we were cut-off I was asking you about the - the changes over time to things like discipline. And, one of the changes I'd like to talk about are with respect to "Light sessions." So, if you could turn up -- it's Exhibit 9, which is Volume 3 of
30 the Joint Exhibit Book, it's the very thin one, and its Tab 142.

A. Is it -- Line 3, is it?

Q. That's right. And so this is if you sort of

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

flip through, you'll see it's an email chain between
yourself....

A. What tab - what tab are you at?

Q. Oh, I'm sorry, 1-4-2.

5

A. 1-4-2?

Q. Yes.

A. Yes.

Q. And I'll just ask you to just flip through...

A. Yes.

10

Q. ...just to put your eyes on the pages, it's -
it's an email exchange between yourself and Gary Chang?

A. Yes.

Q. Dated -- at least the top date here is
January 16th, 2001.

15

A. Okay.

A. But if you go to the very last page it looks
like it may have started on January 15th, the day - the day
before. So, it's a series of emails between you and Mr. Chang.
And, in these emails to you, Mr. Chang is commenting on having
received the latest news letter and reminisces about things
including, quote, "The rebellious students on pots" and - and he
asks you if there are still "Light sessions" at Grenville. And
you responded to him, and I'll take you to it, if you turn to
the second page, middle of the page, I guess it would be the
fourth paragraph from the top, it starts, "You asked about
'Light sessions.'" Do you see that?

20

25

A. Yes.

Q. Yeah.

A. Yes, I'm there too.

30

Q. Okay. And it says here:

You asked about "Light

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

5 sessions." No, they have gone.
We have instituted what is
called minor or major "reviews"
for misbehaving students,
depending on the seriousness of
the offence. A teacher, dorm
supervisor, the students advisor
[each student now has one], the
Sean, parents and a prefect all
10 meet to talk about the
discipline and to recommend
consequences. This works well,
is more time consuming but it
prevents anything happening too
15 quickly or without sufficient
thought or discussion.

So what do you mean by "it prevents anything
happening too quickly?"

20 A. Well, I think it just happens so that nothing
that -- nothing happens without all - all that's required for
the incident, [indiscernible] without that talk.

Q. And why were these changes implemented?

25 A. Well, I - I [indiscernible] no longer in the
church at that point, I [indiscernible] I respected that and
answered it [indiscernible]. I think that there was a problem
with the "Light sessions" that [indiscernible] not as productive
as we had hoped, and it was time for something to do, and this
was -- major and minor reviews were instituted or implemented by
30 the new Dean of Students and they seemed to work much better.

Q. Isn't it possible though, Mr. MacNeil, given
that he's writing to you in January 2001, and the apology letter

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

that you co-wrote with Joan Childs was sent out to alumni in December of 2000 -- well one, that would mean you were still in fact on the administration by January '01, is that right?

A. Yes, that's -- yes.

5 Q. Yeah. And two, does the change away from "Light sessions" have anything to do with that apology that you're giving about the methods used by Grenville?

A. No doubt, yes. The - the letter of apology [indiscernible].

10 Q. And so, lets turn up that letter, it's at Exhibit 2, which is Volume 2 of the Joint Exhibit book, and it's at Tab 1-0-5.

A. I have it.

15 Q. And I just want to turn to the very last page, page 3 of the letter.

A. Yes.

Q. And the very top paragraph:

20 To those of you for whom this was the case we want to apologize.

I guess I should go back to page - page 3 of the letter, last paragraph:

25 The regret we spoke about earlier is that we have not made greater attempts to foster an ongoing relationship with you once you left campus. We want to say now, we say with humility and with prayer, that you will

30

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

5 understand the spirit and intent
of our words. We know that many
of you look back at much of your
Grenville experience with
gratitude, but we also know
particularly from conversations
with a number of alumni in the
last few years that some of you
also had negative experiences.
10 To those of you for whom this
was the case we want to
apologize, in reviewing the last
30 years, we recognize that even
though our intentions were good,
15 we may not have always used the
best approach. We are sorry
that we have not made attempts
to resolve these issues long
ago.

20 So, my question for you, and I think you -
you answered it, but, you're apologizing for the approaches used
over those -- that 30-year period. Not a - not a specific event
or an isolated incident, but the general approach that Grenville
25 used, such as these "Light sessions" that you said earlier were
humiliating or could be embarrassing. Isn't that right?

A. Yes, well we were apologizing for at first
that some had felt and there were hurts.

30 Q. Right. And you were apologizing and - and
associating those hurts with not having used the best approach.

A. That's right.

Q. So, good intentioned as you state you may

Ken MacNeil - Cr-Ex.
(Ms. Lombardi)

have been in those approaches, you'll agree with me, that punishment and abuse are not in accordance with the principles and policies of Grenville, correct?

A. Sorry, were you - were you [indiscernible].

5 Q. No, I'm just putting a statement to you, sir. That you've said, and in this letter you say the - the intentions, you know, were one thing, but you acknowledge that despite those intentions there were negative experiences. And so, my question to you...

10 THE COURT: Sorry, go ahead, I wanted to hear the answer. It sounds like you've changed the question....

MS. LOMBARDI: I'm sorry, yeah.

15 THE COURT: So, there were negative experiences and the answer was "I agree?"

THE WITNESS: Yes.

THE COURT: Okay.

20 MS. LOMBARDI: Q. And I put the question to you that - that - that abuse was never something that was in accordance with the - with the principles and policies at Grenville?

A. That's correct.

Q. That may have been what resulted by the approach, is that fair to say?

25 A. I think so, yes.

MS. LOMBARDI: Thank you, those are all my questions.

THE COURT: Any re-examination?

MR. READ-ELLIS: No questions, Your Honour.

30 THE COURT: All right. Mr. MacNeil, I just have one question for you. Earlier this morning you were speaking about the religious services in the

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

chapel, and you mentioned that communion was
taken two times a week, I believe?

THE WITNESS: Yes.

5

THE COURT: Was communion mandatory for all
students?

THE WITNESS: Yes.

THE COURT: And just...

THE WITNESS: I think the intent was that the
service was.

10

THE COURT: Did students have to take communion
if they attended the service, or could they opt
out?

THE WITNESS: They could opt out.

15

THE COURT: Thank you, any questions arising from
my question? All right. Mr. MacNeil, thank you
very much for testifying.

THE WITNESS: Thank you, Your Honour.

20

THE COURT: Thank you. Perhaps we could take the
morning break now, to get ready for the next
witness, does that make sense to everyone?

MR. ELLIS-READ: Sure.

THE COURT: All right.

R E C E S S

25

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

MR. BOGHOSIAN: Our next witness
will be Lucy Maxwell (sic).

30

LUCY POSTLETHWAITE: SWORN

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

EXAMINATION IN-CHIEF BY MR. BOGHOSIAN:

Q. Good morning, Ms. Postlethwaite. Is that the name that you would have gone by when you were a teenager, the last name?

5 A. Yes, that's right.

Q. Okay. And how old are you?

A. I'm 49 years old.

Q. What is your date of birth?

A. October 17th, 1969.

10 Q. Okay. Where do you currently live?

A. I live in Montreal, Quebec.

Q. And where did you live when you were growing up as a teenager?

A. I lived in Haliburton, Ontario...

15 Q. Okay.

A. ...growing up.

Q. And how is it that you ended up in Montreal?

A. My husband's job ended at a school, he's a teacher in Toronto, and he received an offer at a private school in Montreal, and we decided to move there in 2008.

20 Q. How long have you been married?

A. I've been married 17 years.

Q. Do you have children?

A. I have one boy, his name is Aaron and he's 13 years old.

25 Q. Are you currently working?

A. Yes, I am. I work in the federal government in Public Services and Procurement Canada in Material Management in Montreal.

30 Q. And how long have you worked for the federal government?

A. I've worked for the federal government since

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

2004.

Q. Okay, and have you had various positions leading up to the one you currently have?

5 A. Yes, I have. In 2004 I started in Employment and Social Development Canada, and in 2008 I was an acting team leader, and I processed -- basically, we worked on EI claims for people that were not employed. And then I moved to Montreal in 2008, and started work at public services and procurement Canada.

10 Q. Okay. Do you have post secondary education?

A. Yes, I do. I have a Bachelor of Arts in French and English, and I started a Masters of Theology at Wycliffe College in Toronto, and I have two courses, but I did not complete that.

15 Q. Okay. And, growing up what was your home life like?

A. I grew up in a happy family, there were four of us, three girls and a boy, we grew up in Haliburton, we lived on a lake, we went swimming, we had -- we sailed, we had an active family, we were involved in the church, in the community, I was a member of the girl guides, I had a good school and lots of friends, and it was a happy good life.

20 Q. How would you characterize the discipline in your home when you were growing up as a teenager?

25 A. We learnt quickly with four children, and basically our parents would talk to us, or if we'd done something really bad we would perhaps go to our bedroom and I would classify it as a normal, middle class family upbringing and discipline.

30 Q. Did you attend a public high school for part of your high school years?

A. Yes, I did. I attended two elementary

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

schools in Haliburton, and I also attended Haliburton Highland Secondary School for grade 9 and 10.

Q. And how did you do at Haliburton Highlands School in grades nine and ten academically?

5 A. I did really well, my average was over 80, and I enjoyed my teachers and I had a good group of friends and I was involved in track and field, and cross country running, and it was a really good experience.

10 Q. Okay. Did you attend Grenville Christian College at some point?

A. I did. Grade -- I attended Grenville Christian College from 1985 to 1988, and I attended grades 11, 12 and 13.

15 Q. And what ages would you have been during those three years?

A. I would have been starting at 15 in grade 11, and up to -- or sorry turning 16 in grade 11, to 18 in grade 13.

Q. Okay. And why did you go to Grenville?

20 A. I went to Grenville, it was my choice, because my young -- older sister Emma had gone to Grenville in grade 8, and had a good experience, and I -- although I had a good experience at my school in Haliburton, I wanted a more enriched experience and I wanted better education, and I saw that Grenville was the place, and I asked my parents if I could
25 go because my sister had, and they agreed and I went in grade 11.

Q. Okay. Did you visit the school before going there? Had you visited it before you started going to classes there?

30 A. Yes, I did. I went to -- I had an interview there to start the school and to get to know the school, I remember writing a test, eating I think lunch in the dining

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

room, and having a tour, and just seeing how the school worked and entering the campus. It was a beautiful school.

Q. Okay. And after grade 11, did you have a choice whether to go back to Grenville for grade 12?

5 A. Yes, I had a choice, and I chose to go back after grade 11 for 12 and 13, I wanted to do my whole career there.

10 Q. Okay. And did you have a choice once again after finishing grade 12 about whether you would go back for grade 13?

A. Yes, I did.

Q. And why did you choose to keep returning to the school there over those years?

15 A. I made the best of friends at Grenville, I loved the teachers, the education, I loved the variety of activities, I was on the volleyball team, the basketball, I did cross country running, I was very active in the Gilbert and Sullivan plays, I loved singing, there was the choir, I just loved the - the atmosphere and activities, and I excelled there
20 academically. I was kind of shy, and I really wanted to become more confident in public speaking and singing, so it helped me.

Q. And did you -- do you feel that you were helped in overcoming your shyness by going to Grenville?

25 A. For -- I did for sure, because I was able to overcome my shyness because I put myself -- I tried out for the Gilbert and Sullivan plays, and I got the lead role three years in a row, and one year I was the under study but I still had to learn three hours worth of lines, and get up and present in front of hundreds of people because the parents were invited to
30 come see the Gilbert and Sullivan mini operettas, and I don't remember ever missing a line because we were so well rehearsed, I - I got rid of my shyness for sure.

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. And talking about the Gilbert and Sullivan plays, do you recall which ones they were that you were the lead female role in?

5 A. I had the lead in Iolanthe, I was Phyllis. And I had the lead in The Mikado, I was Yum-Yum, and the other play, I can't actually remember what -- which one it was.

Q. Okay. And so you did that over all three years you were at Grenville?

A. Yes, I did, all three years.

10 MR. BOGHOSIAN: Madam registrar, if I could have Exhibit 41 put to the witness?

MR. BOGHOSIAN: Q. I want -- this should be, if we have our notes right, a June 1988 of the Grenville Christian College News, is that what you're looking at?

15 A. Yes.

Q. Okay.

A. I recognize it.

Q. Do you remember reading the Grenville Christian College news when you were a student there?

20 A. Yes, I do. I thought it was -- they were really well laid out, and I could see who had succeeded and -- and what activities were going on, and yes.

Q. Okay. If you can flip to page 2 of the exhibit? There's a box in the top right with the heading, "Head
25 Master's List?"

A. Yes.

Q. Do you see that?

A. Yes, I do.

Q. Do you see your name on that list?

30 A. Yes, I see my name in grade 13.

Q. Where is it located?

A. It's on -- it says Lucy Postlethwaite under

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

Nicky Oberdique (ph)...

Q. Right at the very....

A. ...the first column, last line.

5 Q. And so you were on the Head Master's List,
what did you understand making the Head Master's List meant?

A. Making the....

Q. What did it signify?

10 A. Sorry. Making the Head Master's List would
be someone that is seen as a - a leader in the school, someone
that can be asked questions or help students, somebody that is
doing well academically and somebody that is enjoying themselves
at the school, and somebody that is involved in the school as a
community, promoting it, that is what I would see as somebody on
the Head Master's List.

15 Q. Okay. And if you can flip one further page
in, with the heading at the top, "Commencement Award Winners
1987-88?"

A. Yes, I'm there.

20 Q. Okay. And under the name St. Vincent de Paul
Theatre Award -- was June '88 your graduating -- is that when
you graduated from Grenville?

A. That's correct.

Q. Did you graduate OAC that year?

A. Yes, in 1988.

25 Q. And you are listed as a co-recipient of the
St. Vincent de Paul Theatre Award, what was that reward -- what
did it signify?

30 A. It signified -- St. Vincent de Paul was a --
I believe a hospital, and a foundation that Grenville did a lot
of work in supporting and helping the different charities, or
singing and -- at old folks homes, and things like that. And
St. Vincent de Paul awarded myself and Mark Telemat for our

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

5 performance, they thought it was good, in the various Gilbert and Sullivan plays, and - and the reason that it's significant also is because it was a - a place that Grenville helped and did I believe community work at the St. Vincent de Paul Hospital and Foundation in Brockville.

Q. Were any of the plays that you had a role in played for the community? Like, not just for Grenville but out in the community?

10 A. I remember doing little excerpts, like say for example one of the songs from the Mikado, and just performing it elsewhere like for the old folks home in - in Brockville, or the palliative care centre, I remember doing little short excerpts.

15 Q. And was that something that Grenville arranged for...

A. Mm-hmm, yeah.

Q. ...the people in the play to perform?

A. Right.

20 Q. Okay. You also received an Exceptional Service Award it appears, if you - if you look under Exceptional Service Awards, do you see your name there?

A. Yes, I do, on the second column.

Q. Fifth name down?

A. Yeah, it says Lucy Postlethwaite.

25 Q. And what was the - what was the Exceptional Service Award given to signify?

30 A. That would signify a student that - that was a leader within the school, that upheld the - the rules say for example, or the - the - the spirit of kindness, and also did work outside in the community through maybe singing in the choir, like I said Iolanthe showing the school to the community of Brockville at large, and parents from all over the world

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

basically.

Q. Were you a designated student leader at Grenville during your time there?

5 A. Yes, I was a student leader for the three years that I was there. And I also wanted to become a prefect, but that happened later on in my last year at Grenville.

Q. When you were named a student leader, what -- was there a ceremony, did you get anything? Like, tell us what happened.

10 A. Yes, we were -- we would be acknowledged, I think it was in the dining room -- yeah, in the dining room or the chapel, amongst the student body, and we would receive our pin, there was a pin, and we would be commended for our efforts in helping students, answering questions, working hard, and we --
15 we received a student leader pin, which was just -- was similar to prefect but a little -- but just a little bit not as many responsibilities. So I was very proud of that.

Q. Did you -- you ultimately I think you said became a prefect?

20 A. Yes, at the end. I wanted to -- I was working hard to be a prefect because that was the -- the sort of top position to make as a student leader at the school. And so yeah, I attained to get that, and I did it my last year.

25 Q. And was there also a ceremony and the awarding of a pin when you were named prefect before the student body?

A. Yes, that is correct.

Q. What was your overall impression of the school over the three years you were there?

30 A. My overall impression was I was proud of Grenville, and my teachers, and friends that I made there, I was proud of the fact that I overcame being shy, I could sing three

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

hour mini operettas without forgetting a line, my voice improved by being in the choir, my academics I was able to excel in academics and reach my end goal, which was getting to university, I went to the University of Western Ontario, and I was also proud that my - my siblings went there, and I was happy that my sister Emma was there, it was a really good experience and it made me a better person, and I have my teachers and my friends to thank.

Q. Was - was Grenville generally a happy place to be?

A. Yes, it was generally a happy place. I would not have returned year after year, I had choices, and I was determined to finish there and I was determined to do well for my family and for my -- the people that I met at Grenville, my teachers, and Father Farnsworth and his family as well.

Q. What were the staff like?

A. The staff were amazing, they basically lived at the school, they dedicated their lives to Grenville, they raised their families, and they welcomed us students, we would have family night on Saturday evenings where we would do -- we would make like French onion soup, I think I was part of the - the Gillis family and I think Beth Gillis made French onion soup and put too much cheese in it, and we were laughing, like we had a lot of fun. I loved family night, and I remember one of the families, I think it was the Pot family had a bird and it would fly around and we would laugh, and it was good. I enjoyed my -- the staff, and my families with the staff, and eating with them at the table for dining, and having them teach me in class as well.

Q. And what sorts of things would you do on family night with the staff families?

A. Sometimes we would - we would watch movies,

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

we would make dinners together, and just -- it was just like a normal family setting, like as I grew up in Haliburton, having Saturday night movie, a nice dinner just chilling, and speaking to each other and it was on the school property, and it was fun.

5 Q. Did you feel fear or intimidation at any time that you were at Grenville?

A. I did not feel that.

Q. Did you get the sense that there was a general atmosphere of fear and intimidation at the school?

10 A. No, definitely not.

Q. Did most of the students seem to be genuinely happy to be there?

A. Yes.

15 Q. While you were at Grenville, did you ever have the sense that staff were constantly on the lookout for faults or sins in the students?

A. No, not at all.

Q. Did that word "sin" come up a lot in lectures or sermons given by Father Farnsworth or other staff members?

20 A. No, just like going to church and listening to a sermon, it was - it was appropriately -- the words were appropriate, and there was nothing in my three years there that stands out as being inappropriate for - for wording or sins, et-cetera.

25 Q. And what's your -- what was your opinion of Father Farnsworth and what continues to be your opinion of Father Farnsworth?

30 A. I have a lot of respect for him, he was -- he had an amazing career, he was in the military, he was an Anglican priest, he's a Head Master of a school, he had a great family, he was kind, I always loved hearing him speak in the chapel and in the dining room, and he always used to say, "Feet

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

flat on the floor [and you know] and eyes up here and listen." And he spoke with conviction, and I - I learnt a lot from him, I have a great respect for Charles Farnsworth.

5 Q. Were you ever admonished by any staff for having a bad attitude?

A. No.

Q. Okay. How did you do at school academically?

10 A. I did really well at Grenville. One of the things that -- I ended up going to university, so that's a sign of success to me and doing well academically. But one of the -- when I first started in grade 11, my French was not very good because we didn't have a lot of French in high school in Haliburton, so I was allowed to take grade 10 French and grade 15 11 at the same time, and my French improved significantly, which is very helpful because we ended up moving to Montreal and I have to speak French in the government so I am very thankful for my language and my - my academics.

Q. Okay. Did you have to work hard to achieve good grades?

20 A. Yes, I had to work hard. We had study hall, and I was determined to make it successful, and it was -- sometimes I was homesick, because I was away from home, but I had a lot of family -- friends, sorry, there, and it worked well.

25 Q. And what was your opinion of the calibre of the teaching and academic program at Grenville?

30 A. It was excellent, a high standard, and we were given plenty of time to study, and we were given tutoring as well to have good grades. My -- I loved it, I liked -- I loved Grenville because it had the whole picture, it was tons of activity, there was drama, choir, there was high academics and that was my - my overall summary of it is excellent school, I

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

was proud to go there.

Q. What was the daily schedule like at Grenville?

5 A. Like any normal high school. It was classes, study hall, free time, activities after dinner.

Q. Okay.

A. A type of very normal.

Q. When would you get free time in any given week in that schedule?

10 A. Free time would be after your last class during the afternoon and before dinner, unless you had activities. And also, lots of free time on the weekends. Saturday's and Sunday's, after study hall and chores, and we would go to town or hang out with our friends in the - in the school.

15 Q. Did you feel that you had time to socialize and make and cultivate friendships there?

20 A. Very much so, I spent a lot of time with the students. Being there for three years I got to know a lot of people and staff, and staff families, and students, and - and I met people from all over the world that I still keep in contact with.

Q. Was there opportunities to make and cultivate friends in the dorms?

25 A. Yes, we had lots of fun discussions and with our -- I was a room leader, so I had lots of different roommates, and we had lots of fun discussions about all kinds of subjects. And yeah, it was a very positive experience.

30 Q. Okay. Were there times that the chatter would continue after lights out in the dorm?

A. Always.

Q. And was that sanctioned by prefects, would

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

you get in trouble for that?

A. I don't remember getting in trouble for that, no. We just spoke quietly and we didn't disrupt the - the floor or keep anyone awake. We just had our discussions and when --
5 if it was lights out we still talked.

Q. Was there any effort made to discourage you or others around you from having close friends?

A. Not at all. I was with people all the time for, you know, dinners, class, we got to do activities together,
10 we built lots of strong friendships.

Q. Did you make close friendships that carried on after you left Grenville?

A. Yes, I did. I made really close friends with Karen Rosenberg and her sister Ingrid, and Penina Clark and of
15 course my sister Emma.

Q. Would you -- I'll get to that in a minute. And were you ever moved around in the dorm during the school year?

A. Nothing consequential to mention, usually I
20 was in the same room for the period of time that I was there, like the school year.

Q. Did you get the sense that there was a lot of moving around of students within the dorm during the school year?

A. Not at all.
25

Q. Were there rules against boyfriend girlfriend relationships while you were at Grenville?

A. There -- yes.

Q. All right. Did you have a boyfriend while
30 you were there?

A. Yeah, I did.

Q. Okay. And did other girls that you

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

associated with have boyfriends as well?

A. Yes, they did too.

Q. Okay. And tell me the sorts of things that you would do with...

5 A. Okay, so we would....

Q. ...this boy...

A. Sorry.

Q. ...who was your boyfriend?

A. Pardon me?

10 Q. Tell us just some of the things that you might do with this boy that was your boyfriend?

A. Okay. Well, we can go watch -- if they are on a sport -- my boyfriend was on a sport's team and we -- I was on the - the - the equivalent sports team in basketball, so we would watch each other. He would write notes to me, if I'm walking down the hallway he would toss like a chocolate bar at me, and we could eat lunch or in the -- on the weekends when we didn't have to sit with our families we could sit together and have meals together. That type, seemed pretty natural.

20 Q. Okay. And was any effort made by staff to split the two of you up or discourage this - this relationship?

A. Just one time when I was on the basketball team, and he was in this - in the gym, I think, he was either reffing or he was playing next, and I was distracted and I wasn't paying attention to the basketball team, so I -- on my game that we were playing with the girls basketball team, and I got benched for a period of time.

Q. And who was the coach?

A. Judy James was the coach.

30 Q. And was that all that came of it, you were just benched for the rest of that one game?

A. Mm-hmm. And I....

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. And no -- any other discipline from that?

A. None, none other.

Q. Did you have other male friends?

5 A. Oh definitely, yes. Like, Ricardo Roule and my sister and I went to visit him in the Bahamas after we graduated from Grenville.

Q. Sorry, Ricardo Roule, did he live in the Bahamas?

A. Yes.

10 Q. And you....

A. And he went to Grenville, he was a student at Grenville Christian College as well.

Q. And then you and Emma went to visit him...

A. Yes.

15 Q. ...at what point, after Grenville?

A. After -- when we were in university, we visited him and his family in the Bahamas.

20 Q. Did you ever hear of Father Farnsworth or Judy James or any other staff refer to women generally, or any particular woman female student as a slut, a whore, a jezebel, bitches in heat, or bitch in heat?

A. Never. And if I had heard that, I wouldn't want to go to a school like that. I never heard that come out of any of their mouths in the three years I went there.

25 Q. And what would you have done if you had heard any such language?

A. I would have addressed it right away, I would have called my parents and told them, because this school -- we have -- we would not have accepted that type of speech.

30 Q. Did you ever hear Father Farnsworth or Judy James or any other staff say that women were responsible if they were sexually assaulted or raped?

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

A. No. Never, that's a disgusting statement.

Q. So, did you -- did you ever hear any of that sort of language in - in your presence whether directed to you or not at Grenville?

5 A. Not at all. I would not have returned to a school that did that.

Q. Was -- were you ever in attendance at a meeting in the blue lounge where all the female students in the dorm were in pajamas or bath robes and Father Farnsworth addressed the group to do with chastity and monogamy and made all the girls chant, "Chastity, chastity, chastity," then more speech, then, "Monogamy, monogamy, monogamy," then some more speech, "AIDS, AIDS, AIDS," and then at the end having the girls chant, "Chastity, monogamy, AIDS." Did that ever occur when you were at the school?

15 A. No, that did not happen. Any visitor into the dorm would be announced, and especially if it was the Head Master, if it was Father Farnsworth, we would have been in number one dress, we would -- our rooms, we would have inspected our rooms, there's - there's no way we would have been in our pajama's and had to do something like that.

Q. Okay.

A. Absolutely not.

Q. Do you know what the blue lounge is?

25 A. Yes, there was one on each of the dorm floors, and sometimes we would meet there...

Q. Okay.

A. ...for various activities.

Q. But was there ever a meeting where Charles Farnsworth gave a lecture on monogamy, and chastity and AIDS and there was this chanting going on?

A. No, that did not happen.

30

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. What was the treatment of women like generally at Grenville while you were there?

5 A. Excellent. The females and males were treated equally, we were respected, we were expected to work hard, and it was fun and a challenging atmosphere at the same time.

Q. What was the challenging atmosphere part?

10 A. Being away from home, I was in Brockville and I lived in Haliburton. I was responsible for my academics and studying and doing well and getting into university, and that comes with -- you have to be strong to be able to handle all of those things.

Q. Did you get into your first choice of university?

15 A. Yes, I got my -- I had a choice, and I did get into my choice of universities because of Grenville.

Q. Were there rules about how to dress and wearing makeup?

20 A. There were rules that we were to dress well and - and not to have too short of a skirt, not to overdo the makeup, and we could wear earrings but not lots and lots of earrings...

Q. Okay.

A. ...just in - in good taste.

25 Q. Were you ever chastised or disciplined for the state of your dress or wearing too much makeup?

30 A. Once for one of the graduations, when I first started I had this very puffy pink dress and it was super kind of lowcut, I had to change it to another one. But no, other than that, that was it.

Q. Did you ever hear Father Farnsworth or any other staff refer to students as stupid, worthless, or any other

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

derogatory terms like that?

5 A. I did not hear that ever. His feedback and -- I always found him inspiring and he had high expectations of us, and we did of him as well, and I didn't -- I was never talked to like that.

Q. Did the staff ever swear at students?

A. I did not hear the staff swear at students. They were always sophisticated and they chose their words well, I did not hear that.

10 Q. Were there a lot of rules that you had to follow while you were at Grenville?

A. There were a lot of rules because it was a co-ed school, it's one of the -- that's one of the reasons why I chose Grenville, because there were boys and girls, it was a more normal atmosphere, like my high school I came from. And, the rules would be -- the academic rules, going to study hall, going to bed at a certain time, being respectful to one and other, being kind, there was no drugs, alcohol.

Q. Were there other rules?

20 A. There were other rules, but I can't think of any.

Q. Okay.

A. Sorry.

25 Q. Were you aware before going to Grenville that there were these rules in place that had to be followed?

A. Absolutely.

Q. How did you know that?

30 A. Because I -- I'm capable of choosing a school with my parent's permission and approval, and we did it together, and my parents researched various private schools in Ontario, and then talked to my - my siblings and myself about the schools, and when I went to Grenville for the orientation

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

day or the first day when you get the tour of the school, you write an exam, and I can see -- I could see at that point that the school was very clean, that it had rules, that it was appropriately -- like, there was an element of discipline, because I like that in my life as well, and - and also there - there - there was a letter that you could read that stated that it was Christian or interdenominational and that it followed certain guidelines of respect.

Q. Okay. And how would you characterize the enforcement of the rules at Grenville while you were there?

A. I would characterize it as appropriate, you were allowed to be a normal teenager and with expected rules because it was co-ed, because you were -- you didn't have your family there, you were expected to go to bed at a certain time. It was appropriate in my eyes, the - the discipline that I saw.

Q. What was the system discipline at Grenville?

A. I would say it was tiered, like if you had done something wrong you - you would be talked to, and that -- if that was sufficient then that -- it was stopped at that. If someone had -- there was a student that stole my cheerleading outfit, and she had to do work in the kitchen for a period of time, scrubbing pots and pans, and then she said sorry to me after, and I said that's fine, no problem, and I got my cheerleading outfit back, and that was that.

Q. Do you know how long she was on discipline for?

A. I'm not sure, but I believe it was about a day.

Q. Okay. And was scrubbing pots something that you could be made to do if you had done something wrong?

A. That's correct.

Q. Were there other work jobs that you would be

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

put on if you were on "D?"

5 A. I remember a very funny incident with two students Ricardo Roule from the Bahamas and Alec Halletson, they had done something wrong and they had to rake leaves, but they didn't want to rake the leaves and put it in the wheelbarrow, so Ricardo would step on the rake and hit his head, but while he was doing that Father Farnsworth and his wife were having a sophisticated dinner at their house, and they were faking an incident of stepping on the rake, hitting their head, Ricardo 10 would fall down and Alec would pick him up, put him in the wheelbarrow, and this would keep on going. And so, that -- they would have chores where they work outside if they had discipline.

15 Q. Okay. Was there a demerit point system in place at Grenville?

A. I've heard that there is, but it did -- I did not -- it did not -- I did not follow it, or I did not receive any demerit points, I don't remember that at all.

20 Q. As a prefect, when you were a prefect, were you instructed to give out demerit points?

A. No.

25 Q. Okay. So, what other jobs might you be put on if you were on discipline? You'd mentioned pots, raking leaves, were they -- I take it they were given a rake and a wheelbarrow, they weren't....

30 A. Yeah, they were given appropriate tools. The whole school knew about it. There was also an incident where some older prefects that were well respected in the school, had been I think on a basketball team, and they had gone into the kitchen one night, they were hungry after they came back from the trip, and they went in and took -- stole the food out of the kitchen, and made all this -- these sub sandwiches, so they were

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

reprimanded in front of the school and they had to stand up for about I think a week at the sideboard in the dining room in front of all the student body and eat their meals that way, to show that they weren't above the - the rules.

5 Q. Okay. Okay. Now, if you were on discipline, would you get to keep wearing the uniform?

A. Yes.

Q. And do you know if you were able to go to school while you were on discipline?

10 A. Yes, my -- I remember my brother, even though I wasn't at Grenville at the time, he was put on discipline....

Q. Then I don't think you can mention it, because you must have heard it from him.

A. Right. Oh okay, that's true.

15 Q. So....

A. Yeah, sorry. No, so the answer -- I can't answer that, it's....

Q. Were you ever personally put on discipline?

A. No, but I was disciplined.

20 Q. Without getting into the details for a moment, you were disciplined in what manner?

A. For an incident with....

Q. I'm -- just how were you disciplined? So you don't....

25 A. Oh, just spoken to.

Q. Okay. Were you ever given corporal punishment at Grenville?

A. No.

Q. Paddling, spanking, strap?

30 A. Not at all, no.

Q. To your knowledge was anyone else during your time at Grenville given corporal punishment?

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Not at all, no.

Q. Let's talk about the time that you were reprimanded verbally. Tell us - tell us how it all began.

5 A. Okay. So I was in the choir, and we were performing at Massey Hall in Toronto. And, I had this hair -- I'd done my hair, but not quite very well at the back, and I was in the bathroom just before we performed -- the public washroom, and Mrs. Ordolani came up behind me with a brush to fix the back of my hair, and I was annoyed and I just put my hand and said,
10 "Don't do that," like that. And so I....

Q. Did you strike her?

A. I struck the brush, and her hand I pushed it away like that from behind my head.

15 Q. And did you know who it was that you were pushing away?

A. Yes.

Q. Okay. And then what happened?

A. And then I had a meeting with the -- Judy James, the two lady Deans, student Deans, and Mrs. Ordolani, and
20 my sister Emma wanted to come to support me in the conference room off of the dining room, and I was spoken to about how that kind of behaviour was embarrassment to the school.

Q. Why was it an embarrassment to the school?

A. Because other people had seen from the
25 public, because it was a public washroom.

Q. Okay. And how long did this discussion go on, did they - did they allow Emma to be present throughout this meeting you had?

A. Yes, they did.

30 Q. Okay. And how long did the meeting go on for?

A. Twenty minutes.

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. Did you apologize?

A. Yes.

Q. Did any further discipline come from that -
from that event?

5 A. No, it stopped there.

Q. Was there anything that went by the name by
"Light session" as referred to by either staff or students
during any of the time that you were at Grenville?

A. No.

10 Q. Would there be meetings when one or more
staff would meet a group of students to discuss an issue?

A. Yes.

Q. Were you ever involved in any session like
that where you were spoken to by staff, other than the Massey
Hall incident?

15 A. No, not that I can -- no.

Q. Okay.

A. There was an incident when my roommate ran
away, and I went to the student -- the two Ladies Deans
apartment and talked to them, but that was the end of it.

20 Q. Okay. Were you a prefect at that time?

A. Yes, yep.

Q. And did you receive any discipline for the
fact that one of your charges left the school?

25 A. No.

Q. Did you ever see anyone cutting the grass
around the campus with scissors?

A. No.

Q. Did you ever see anyone pulling rocks out of
the ground with their bare hands?

30 A. No.

Q. In the - in the middle of the winter during a

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

snowstorm?

A. No.

Q. Did you ever see anyone cleaning a floor with
a toothbrush?

5

A. Never.

Q. Did you ever witness an exorcism at
Grenville?

A. Never.

10 Q. Did you ever witness something that could be
described like this where people spoke in tongues, ran around
praising Jesus, rolled in the isles of the chapel looking like
they were having an epileptic seizure, and Charles Farnsworth
proclaiming that he had healed people?

A. Never.

15

Q. Okay. Did you ever see any one of those
things happening?

A. I did not.

Q. Did you ever see anyone at Grenville speaking
in tongues?

20

A. No.

Q. Did you ever see staff -- did you ever
observe staff directing students to speak in tongues?

A. No.

25

Q. Were there ever sessions involving the entire
student body overseeing by Father Farnsworth?

A. I can just think of sermons in the chapel.

Q. Okay. Were there any other sessions where he
would give lectures or speak on a particular topic?

A. Yes.

30

Q. Okay. And what sorts of topics would be
spoken on?

A. The -- let me think. Sometimes big events,

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

5 like the space shuttle when it crashed, around the time when I was at Grenville, we would speak about events that might be traumatic for people and he would come into the dining room, we had a TV there, we could turn it on, and he would talk to us that way.

Q. Okay. Did you ever observe students being stood up in front of the entire student body and chastised or belittled for bad behaviour?

A. No, I did not.

10 Q. Or for having a bad attitude?

A. No.

Q. Okay. Do you think you would remember if that had happened?

15 A. I would remember, and my roommates would have complained about that in the dorm.

Q. What do you remember about the school wide assemblies, other than dealing with traumatic - traumatic outside events?

20 A. Can you repeat that? Sorry, I can't hear you.

Q. What do you remember about the school wide assemblies, aside from dealing with traumatic events?

25 A. They were usually inspirational. We would go to the chapel and Father Farnsworth would talk to us about life in general, or career goals, or being a better person. I remember always leaving feeling good and inspired, and I went about my day.

30 Q. Were you ever present for a lecture or a sermon by Father Farnsworth where he would condemn homosexuality and call it the worst sin in the bible?

A. No.

Q. Would that have disturbed you if you had

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

heard that?

A. Yes. He spoke about the ten commandments, but I don't -- that is not how he would speak.

5 Q. Did you ever hear him say that AIDS was put on this earth to rid the world of homosexuality?

A. No, definitely not.

Q. Were you required to write your parents weekly?

A. No.

10 Q. Did you write your parents weekly?

A. No. But I wrote them letters, but not weekly. No one said, "Did you write a letter this week?" I wrote them periodically every couple of weeks.

15 Q. Did you receive letters while you were at Grenville?

A. I did, from family, from friends, I received gift packages, I received huge lengthy page letters from a friend of mine in British Columbia, Heather Wallace, and she would write pretty bad things in it.

20 Q. Bad in what sense?

A. She used to have -- to draw lots of pictures and say stuff like, "I don't give a flying fuck in a rolling donut," she would write that on her letters every week.

25 Q. Okay. And did any staff ever talk to you about the content of the letters you were receiving?

A. No.

Q. Did you get the sense that your letters were being censored, either incoming or outgoing?

30 A. No, absolutely not. I would have gotten in trouble for that one probably, but....

Q. Did you make phone calls while you were at Grenville?

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Oh, yes. We had payphones.

Q. Where were they located?

A. Just before the stairwell in the main lobby,
and you could use the phones as you wished on the weekends.

5 Q. And who would you call?

A. I would call my family, my parents, speak to
my siblings.

Q. Did you need permission to use the - the
phones?

10 A. Yes.

Q. Okay. Did you ever feel that your phone
calls were being monitored in any way?

A. No, that would be stupid because the -- it's
a bell payphone.

15 Q. Mm-hmm.

A. It can't be monitored.

Q. Okay. Did you ever have staff hovering
around you that made you think they were trying to listen in on
your conversation?

20 A. Absolutely not.

Q. To your knowledge, were your possessions ever
searched while you were at Grenville?

A. No.

25 Q. Did you ever have the sense that there were
searches going on in your absence?

A. Nope. And we would have noticed, our drawer
contents would have been moved around, and my roommates would
have told me as well if they had noticed something like that.

30 Q. Okay. And did you ever notice your drawer
contents disrupted or moved around?

A. No, I did not.

Q. Did you ever witness anything that you would

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

describe as abusive going on in your three years at Grenville?

A. I did not.

Q. Were you recently contacted by a Grenville alumni person?

5 A. Yes, I was. I was at work two to three weeks ago, and Karen Rosenberg called me on my work cellphone, which -- pardon?

10 THE COURT: There's an objection. Is this an attempt to illicit hearsay or something else, the fact that the call was made?

MR. BOGHOSIAN: It's not hearsay, I'm not - this is not for the truth of the contents.

THE COURT: All right, I'm just asking.

MR. BOGHOSIAN: No.

15 THE COURT: What are you eliciting it for?

MR. BOGHOSIAN: The fact that this conversation happened.

THE COURT: Okay, anything further?

20 MR. BOGHOSIAN: I don't know why my friend is standing up when I haven't even asked a question.

MS. MERRITT: You're not cross-examining her.

MR. BOGHOSIAN: I'm sorry, I'm in - I'm in -- I haven't even asked the question.

25 THE COURT: Well, hang on. They're entitled to object, and I just need to understand the nature of the objection, it sounded as if it was going to be a report of what someone said, you've said it's not for a hearsay purpose, do you want the witness out while we hear the rest of the
30 objection, or would you like her to stay? Does anyone want that, or do you want to just continue?

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

MS. LOMBARDI: Perhaps - perhaps that would be best, Your Honour.

THE COURT: All right. So, would you mind, Ms. Postlethwaite, just stepping out for a minute, sometimes we have to do this during a trial.

THE WITNESS: Okay.

THE COURT: So we can hear a full objection, and it's better for everyone if...

THE WITNESS: Just leave my things here?

THE COURT: Sure, you can leave everything there.

THE WITNESS: Okay.

THE COURT: You'll be coming back shortly, if you could just wait outside the courtroom door, that would be great.

...WITNESS EXITS THE STAND

THE COURT: All right, so the - the question was you were recently contacted by an alumni, and the witness was beginning to answer that she was at work two to three weeks ago, received a call on her work cellphone, and I believe she said the name, that's as far as we got, there's an objection that perhaps the evidence of the phone call is about to be tendered, and you have said it's not for hearsay purpose.

MR. BOGHOSIAN: No.

THE COURT: Now, do you want to say anything else about the line of questioning, now that the witness is out?

MR. BOGHOSIAN: It's to show that there was an attempt to intimate her not to testify here.

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

MS. MERRITT: So it is for the truth of it.

MS. LOMBARDI: Yeah.

MR. BOGHOSIAN: That isn't for the truth, that's
for the fact that these words were spoken to her.
That is not hearsay.

MS. MERRITT: That is the truth of the words.

MS. LOMBARDI: Right. If -- unless they're
planning on calling I guess the person that made
the phone call and questioning them with respect
to whether or not they were trying to intimate, I
do not see how this conversation can come into
evidence.

THE COURT: Well, it's for the fact of the words.
So, if the words were, "If you continue to
testify you're not going to be able to watch
cable TV for a week." The truth would be
watching cable TV, but the fact that it was said,
i.e. The intention behind it to prevent someone
from testimony would not normally be a hearsay
use. I don't know what the answer is going to
be, unlikely what I suggested, but it does not
sound like hearsay to me, so unless there's
anything further I will allow it. Okay, lets
have the witness back in.

...WITNESS RETURNS TO THE STAND

THE COURT: Thank You, Ms. Postlethwaite.

THE WITNESS: You're welcome.

THE COURT: We'll continue.

THE WITNESS: Okay, thank you.

MR. BOGHOSIAN: Q. Ms. Postlethwaite, we were

Lucy Postlethwaite - in-Ch.
(Mr. Boghosian)

about to talk about you getting a call. Who was the call from?

A. The call was from a good friend of mine,
Karen Rosenberg, it came in on my work cellphone.

Q. Continue.

5 A. And she would have had to look it up, because
I didn't give her my work cellphone. And....

Q. How would she look it up?

A. In the federal government directory.

Q. Does she work for the federal government?

10 A. Yeah, she works for Canada Revenue Agency.

Q. Okay. So, what was the conversation?

A. So, her and I are great friends, I've known
her for a long-time, and we were chit chatting just as friends,
but I was thinking, "Well, how did she get my work cellphone
15 number?" And then she said she couldn't believe that I was
going to testify today, and I hadn't released any information
that I was. And she said that I would be crucified in court
today, and then she changed it to cross-section, and I said,
"Karen, did you say that I was going to be crucified in court?"
20 And at that point, I felt like she was dissuading me from
testifying today and....

Q. Did she say anything else?

A. Yeah, she said that she had a bad experience
at Grenville, that - that Ms. James called her a bitch and a
25 whore, and I stopped talking because I completely was never told
by Karen about that incident, and I disagree with what was said,
and I didn't want it to ruin our friendship, but I considered it
a threat.

Q. All right. Did she indicate that the media
30 were going to be here?

A. Yes.

Q. Now, how well did you know Ms. Rosenberg?

Lucy Postlethwaite - in-Ch.
Lucy Postlethwaite - Cr-Ex.

Give us a bit of the background on how well.

5 A. I knew Karen really well, we went to Grenville, we were great friends, she's a very smart girl, she did very well at Grenville, had great marks, was involved in the study body. Her sister went there as well. We -- after Grenville, we moved in together with another Grenville student, Penina Clark, and we lived in Richmond Hill for a few years before we all went our separate ways and got married. And, we kept in contact year after year.

10 Q. And had Ms. Rosenberg ever complained to you about the statement alleged made by Judy James at any time to you in the past...

A. No.

15 Q. ...prior to that call? How long did the call last in total?

A. It lasted an hour.

Q. Why are you here?

20 A. I'm here today because I had a good school experience at Grenville, I benefited from academics from the Christian teaching, my teachers, I made great friends like Karen and Penina, and I succeeded at Grenville. It's a great place, it was fun, happy, I'm proud of my time and I have a better life because of it, and I'm a better person because of Grenville.

25 MR. BOGHOSIAN: Thank you, those are my questions.

30 THE COURT: Some of the response to the last question might have entrenched on a potential hearsay purpose. We obviously haven't heard submissions yet, but I'm going to instruct myself not to consider what Ms. Rosenberg said happened for the truth. So, at some point if you want to make submissions on that you can, but I'm just

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

advising counsel I've made a note of it that that sounds like a hearsay purpose to me.

MR. BOGHOSIAN: I certainly wasn't intending to introduce...

5 THE COURT: It just came out.

MR. BOGHOSIAN: ...evidence against our case, but....

10 THE COURT: No, I assumed you wouldn't be tendering it for that purpose but I'm letting you all know that I'm making a note not to use it for that purpose. So -- all right, cross-examination?

CROSS-EXAMINATION BY MS. LOMBARDI:

15 Q. Ms. Postlethwaite, you mentioned that you were married?

A. Yes.

Q. Yes. And is Postlethwaite your married name?

20 A. That's my maiden name, I didn't change my name.

Q. You didn't?

A. No.

Q. So, it's still your legal name then?

A. That's correct.

25 Q. Okay, thank you. Can I ask you what you did to prepare for testifying here today?

A. I met with my lawyers and just thought about my school experience myself.

Q. Sorry, who are your lawyers?

30 A. David Boghosian and Nate...

Q. Okay.

A. ...Nathaniel Read-Ellis.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. The lawyers in this case, but they're not your personal lawyers or are they?

A. They're lawyers in this case.

Q. Okay. And did you review any documents?

5

A. Just my student handbook.

Q. Okay. We'll - we'll get there in - in a while. You said that you attended another school prior to Grenville, that was a public school in Haliburton?

A. Yes.

10

Q. And you - you told us that you did well academically there, you had an 80 average.

A. That's right.

Q. And then you also told us though many times now that you did well academically at Grenville?

15

A. Correct.

Q. Did you do as well at Grenville as you did in that public high school?

A. Yes.

20

Q. Did you? Did you get an 80 average at Grenville?

A. Seventy-nine.

Q. In what year did you get a 79 average, do you remember?

25

A. In my last year, grade 13.

Q. And in grade 12 it was less than that?

A. I don't remember my grade 12.

Q. Okay. I'll show you.

A. Okay.

30

Q. So this is date June 1986/87. It's a type written document, it says, "Grade Twelve Averages," it has a starred line at the top under which there are 15 names, and then another starred line representing people who made the honour

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

roll. It was your understanding that to make the honour roll you had to have an 80 average, right?

A. That's right.

Q. Yeah.

5

A. Yeah.

Q. You never made the honour roll, did you at Grenville?

A. I can -- some of my classes were over 80.

10

Q. But you didn't make the honour roll. You didn't have an overall average of over 80?

A. Yeah, that's right.

Q. Yeah. And, as you can see here, you're number 23 on this list. This is grade 12, you had a 76 average.

A. Average, okay.

15

Q. Yeah, so this is - this is slightly less good than your public school days, is that fair to say?

A. No. Because I did well in French at Grenville...

Q. Mm-hmm.

20

A. ...and I did well in certain subjects, so maybe this is my average but I still considered I did very well academically.

Q. Right.

25

A. And just as well as -- I didn't go to Grenville to -- because I was having academic issues say, at Haliburton High School.

Q. Right, no. In fact, the opposite. You told us you had an 80 average at that Haliburton High School, right?

A. I had 80's, yes.

30

Q. You said you had an 80 average.

A. Okay.

Q. Okay. And you didn't have an 80 average

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

here, at Grenville, true?

A. True.

Q. Okay, thank you.

5 MS. LOMBARDI: Can we mark this as the next
exhibit?

CLERK REGISTRAR: Exhibit 50.

THE COURT: Exhibit 50.

10 EXHIBIT NUMBER 50: Grade 12 Averages - produced
and marked.

MS. LOMBARDI: Q. You also described for us how
you made the choice to attend Grenville amongst the many
choices...

15 A. Mm-hmm.

Q. ...presented to you that you discussed with
your parents. What were some of the other schools that you were
discussing with your parents?

A. There were other schools in Toronto.

20 Q. Which ones?

A. Say for example there's Bishop Strachan,
there's Lakefield College in Peterborough.

Q. Okay. Did you discuss those specifically
with your parents, those were options for you?

25 A. Yeah, we discussed everything as to which
school.

Q. But your sister had attended Grenville in
grade eight, that's right?

A. Exactly.

30 Q. Right. You recalled when you attended
Grenville for the interview...

A. Mm-hmm.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. ...that was with your parents?

A. Yes.

5 Q. Do you recall them being involved possibly with a staff member in terms of filling out a student interview form?

A. I don't remember specifically a form. I remember taking an exam...

Q. Okay.

A. ...like an English exam.

10 Q. And that was -- your parents were in the room for that exam or they were elsewhere?

A. No, they were outside.

Q. Okay. So do you know if they were meeting with staff while you were taking the exam?

15 A. I don't know what they were doing...

Q. You don't know.

A. ...while they were -- just waiting, perhaps talking to staff?

20 Q. Would it surprise you to learn that there's a comment in your student interview form to the effect of "Lucy walks in Emma's shadow somewhat?" Is that how your family perceived you? As walking in your sister's shadow?

A. I don't remember them specifically saying that.

25 Q. Is that how you felt?

A. No.

Q. Is that how they felt?

A. No.

Q. Then why would they say that?

30 A. Because that was their opinion at the time.

Q. I see.

A. But it never affected me as a person.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

5 Q. Okay. You discussed being very proud of becoming a student leader and working really hard to be a prefect. And you said that there -- the duties between student leader and prefect were somewhat different. Can you just walk us through the differences between student leader and prefect?

10 A. Well, in my understanding the student leader had less responsibility, and the -- you would be in charge of say helping the students, or being a room leader, showing good value -- good example at school, good values, and the prefect would be able to make more decisions, and it was just regarded as a higher role than the student leader...

Q. Mm-hmm.

15 A. ...very similar roles, but a higher position, more reward, more activities.

Q. Why did it take you so long to become a prefect?

A. Good question, I don't know. I worked hard at it, and tried to get there.

20 Q. Isn't it true that you were a bit of a rule breaker?

A. Sometimes.

Q. Can you give me some examples, because you didn't with our friend earlier? When did you break the rules?

25 A. Oh sure, we went to the kitchen and helped ourselves to some cake and stuff, and we ate that after school with tea. I would consider that breaking the rules.

Q. Did you get in trouble for that?

A. No.

Q. Did you get caught?

30 A. No.

Q. They just let you off scots-free for that one?

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. Yeah.

Q. And what else?

A. I don't have any other -- except for my hair incident that I discussed earlier.

5 Q. That was it? Those were the only two rules that you broke?

A. That I can remember today, yes. I'm sure I broke other ones, but I - I can't answer your question, sorry.

10 Q. Okay. Do you know that your sister, Emma, refers to you as a rule breaker?

A. No.

Q. No. You don't know that she said that to counsel about you? That she was a good student, but her siblings, they were rule breakers?

15 A. Okay.

Q. Do you feel you were a rule breaker?

A. At times.

20 Q. At times. And that "Light session" that you described, it's just a little bit confusing because in the will say statement we got from counsel there's a "Light session" with Mr. Ordolani and the Dean of Women about being confronted about being an embarrassment to the school, as being something that Emma went through, but not you, so it's - it's kind of confusing. Was that -- were you in that "Light session" because
25 that happened to Emma or because it happened to you? It's not clear to me.

A. No, I -- it happened to me, I was in the - the room, that was what I considered being disciplined. I did not say "Light session."

30 Q. No, and that's fair...

A. And it's me -- it's a story about myself.

Q. ...your - your sister said, "Light session."

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Yeah. But your sister attributes it to herself, that it happened to her, not you.

A. No, that's incorrect.

5 Q. Okay. Did you ever get in trouble for flirting with boys?

A. Yeah, I discussed that, the basketball game.

Q. You said that you were distracted, but you were flirting?

A. Maybe.

10 Q. Do you know?

A. No.

Q. No. You said that you attended the school of your choice? The post secondary school of your choice, you went to Western, is that right?

15 A. Yes, that's right.

Q. How did you do at Western?

A. I did well in some courses and not very well in others. I got my degree and I improved my French.

20 Q. Sorry, pardon me. I'm just trying to find something here. Sorry, you said -- what did you do well in at Western?

A. I said I did well in some subjects and not well in others.

Q. Mm-hmm.

25 A. But what's Western got to do with Grenville Christian College?

Q. No, that - that's a good point. So, I'm looking at....

30 A. And I - I liked my Western experience and I achieved my degrees, so there's nothing to discuss.

Q. How -- so how did you do at French at Grenville? Can you tell us that again? You said you got like

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

80s in that?

A. At Grenville?

Q. Yeah.

5 A. I got 80s in -- I don't -- I think science,
biology, I had a good mark in biology for sure.

Q. In biology for sure. I'm just looking at....

A. Are you looking at Grenville Christian
College?

10 Q. I'm looking at what they submitted to Western
for your transcripts. So in '88 you took biology and you got a
51, you got a D?

A. For biology?

Q. Yeah. Do you...

A. No.

15 Q. ...do you recall that?

A. I don't recall that.

Q. You don't recall that? I'm sorry, I don't
have a copy, but I can show you this and I'm happy to make
copies on the break.

20 MR. BOGHOSIAN: Well, I'd like to see it before
it's put to the witness, Your Honour?

MS. LOMBARDI: Sure thing, yeah.

THE COURT: Counsel hasn't seen it?

25 MR. BOGHOSIAN: I have no idea what this document
is.

MS. LOMBARDI: Very sorry.

Q. We'll just - we'll just leave that aside for
now, we'll come back to it when my friends had a chance to
consider it.

30 MR. BOGHOSIAN: No, Your Honour. This -- these
are marks from Western, not from Grenville. My -
my friend is completely mistaken.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

THE COURT: The Western transcript?

MS. LOMBARDI: I don't think so, it says session...

MR. BOGHOSIAN: Yes.

5 MS. LOMBARDI: ...W-88 and..

MR. BOGHOSIAN: If you look....

MS. LOMBARDI: ...89, that's when she was at Grenville.

MR. BOGHOSIAN: No, winter --

10 THE COURT: Let's not argue over the document, I'll have you both consider it over lunch.

MR. BOGHOSIAN: She graduated...

THE WITNESS: That's not right.

15 MR. BOGHOSIAN: ...she graduated in June of 1988, if you...

THE WITNESS: Yeah.

MR. BOGHOSIAN: ...we had been listening to the - to the evidence. June of '88, she started at Western of September '88, this is her first year at Western 88-89. This is a Western transcript.

20 THE COURT: All right. I can't see it, I don't have it.

MR. BOGHOSIAN: And I -- I'm not sure how my -- how they have a Western transcript from - from Ms. Postlethwaite?

25 MS. LOMBARDI: You gave it to us. But in any event, I'll just leave that aside, it's not important.

30 THE COURT: I think you can probably sort out the document and whether it needs to be used over lunch. So I'll leave it to you.

MS. LOMBARDI: Sure.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. So, you mentioned having difficulty becoming prefect, although you had been made student leader.

A. Yeah, that's right.

5 Q. You admitted to being a bit of a rule breaker, though only on those two occasions, were they both in one year or was that spread over the three years, those two rule breaking incidents?

A. Spread over -- yeah, spread over a couple of years.

10 Q. Okay. What were your responsibilities in the dorm as a student leader?

A. You were responsible for keeping -- making sure your roommates were there, that the room was tidy, if they had a problem to help them, just to guide, like a big sister
15 basically.

Q. Okay. And at lights out, to get them to stop talking, stop the chatter? Was that also one of the things you were supposed to do?

A. Yeah.

20 Q. Yeah.

A. And it worked well in that we would chat, we could still whisper if someone wanted to.

Q. Because that was allowed or because you could get away with it?

25 A. It was just a common thing that - that you would do as a normal person.

Q. But - but as a student leader, you weren't a normal person, you had a pin, right? You were differentiated.

A. Yeah, at times I would do that, sure. If
30 someone was homesick or crying...

Q. Sure.

A. ...or -- I would keep talking, yes. But, I

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

also respected the other girls in the room.

Q. So, there was only chatter when someone was crying? Or was -- you - you said before that this was like a common thing?

5 A. Depends on the situation.

Q. But it was a common thing? There would be chatter after lights out?

A. Respectfully, quiet, yes. Because otherwise you would keep the dorm awake.

10 Q. Right. But that wasn't allowed, strictly speaking, correct?

A. It wasn't an enforced rule.

Q. Well, you were the student leader in the dorm, you were supposed to enforce it and you didn't, correct?

15 A. No, I did. I was a good student leader.

Q. But not good enough to become prefect right away?

A. Yeah, I knew I was good enough to become a prefect, and I kept working at it.

20 Q. Until you finally got there a couple of years later?

A. Eventually, yeah.

Q. Right. You said you reviewed the student handbook before you came here today?

25 A. Mm-hmm.

Q. Did you review the rules with respect to dress-code in particular?

A. Somewhat, yes.

30 Q. I'm going to first take you to an exhibit. It's Exhibit 2, Tab 71, please. In your testimony you sort of described the - the girls dress regulations as not being anything too different from the boys, you know, everything in

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

5 good taste, not too much makeup, no jewelry. I'm going to read
you the seventh paragraph, which is the second last one from the
bottom. And these are the dress regulations for 1989-90, which
I guess was the year after you graduated, but I can show you the
one from your year in a minute. "A full slip or camisole and
half slip must be worn with dresses and skirts. Briefs must be
regular waist style with no hip-hugger or bikini types." By
briefs, do you understand that to mean underwear?

A. Mm-hmm. Yes.

10 Q. Mm-hmm. You were aware that your underwear
was prescribed when you came to Grenville?

A. No.

MR. BOGHOSIAN: Your Honour, this is not from her
year, this is actually two years later.

15 MS. LOMBARDI: That - that's fine. We can put
that aside.

MR. BOGHOSIAN: There is a handbook in the - in
the - in the material for her...

MS. LOMBARDI: There is.

20 MR. BOGHOSIAN: ...her last year.

MS. LOMBARDI: My friend, '86 and '87, these are
-- this is the "Girls Official Clothing List for
Grenville Christian College 1986/87." I don't
think it's all that different but let's look
25 through.

THE COURT: Is this already an exhibit?

MR. BOGHOSIAN: It's not, Your Honour.

THE COURT: Okay.

30 MS. LOMBARDI: Q. So, if we flip to I guess the
second page, it says "Girls Clothing List 86/87." And we look
under -- are you on the second page? Under the other clothing
requirements heading, continues into the right hand column, I'd

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

like you look at "Lingerie and nightwear." Number one, bathrobe and a pair of slippers. Number 2, pairs of pajamas or nighties, knee length or longer. Another number 2, full length slips -- or 2 full length slips, rather, minimum. Modest bras and
5 panties, and then in brackets it says, "waist briefs only." It's essentially the same as what I read, do you recall that your underwear was specifically prescribed to attend Grenville, is that right?

A. I don't remember that.

10 Q. You don't -- but you reviewed the - the handbook before coming here, you don't remember that?

A. Not that part, no.

Q. No?

15 MS. LOMBARDI: Can I mark that as the next exhibit, please?

CLERK REGISTRAR: Exhibit 51.

EXHIBIT NUMBER 51: Girls Official Clothing List
- produced and marked.

20 MS. LOMBARDI: Q. But it was a rule in any event, because it's set out there. How were the clothing rules, such as panties, how were those rules about clothes enforced at Grenville?

25 A. I would say by the students understanding of what they are told through the handbook, and also through our friends that we made, like what we're to wear at school, and also our -- perhaps our teachers, or the student - Student Dean. The Ladies Dean.

30 Q. And how would they go about enforcing the rule about the panties, or briefs rather?

A. I never saw that, so I can't answer it.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. You don't....

A. I didn't hear that.

Q. You never recall a dorm search happening
ever?

5 A. I don't recall that at all.

Q. If something was stolen, would they search -
search the dorms?

A. I don't recall that rule, or that happening.

10 Q. Okay. I'm going to move onto something else,
I don't know if this is a convenient time to break?

THE COURT: All right. We're going to take the
lunch break now, Ms. Postlethwaite.

THE WITNESS: Okay.

15 THE COURT: So, because you're under
cross-examination, I'm going to ask you please
not to discuss your evidence with anyone on the
break?

THE WITNESS: Okay.

20 THE COURT: And could you please come back at
2:30?

THE WITNESS: Yes.

THE COURT: All right. So we will adjourn.

R E C E S S

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

MS. LOMBARDI: Q. Good afternoon, Ms.
Postlethwaite.

30 A. Good afternoon.

Q. Who did you have lunch with this afternoon?

A. My friend Don.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Don who?

A. Don Farnsworth.

Q. And what did you and Mr. Farnsworth talk
about at lunch?

5 A. Our families.

Q. And you were talking with Mr. Farnsworth in
the court room just before we commenced here as well, is that
right?

A. Yes.

10 Q. And were you talking to him about how you and
your sister were always trying to be good at the school, and he
said you guys were always great, and then he told you some
anecdote about what his father always said? Something about
thou shall not be a smart -- and I don't want to say the last
15 word.

A. Yeah, that's correct.

Q. Yeah. Did your conversation at lunch cross
over into your evidence?

A. No, it did not.

20 Q. Did it discuss his?

A. No.

Q. Okay. Your parents have homes other than in
Haliburton, is that right?

A. No.

25 Q. No, you've lived in Haliburton your whole
life?

A. That's right.

Q. Your sister wasn't born in Ontario though, is
that correct? Emma?

30 A. That's right.

Q. She was born in Tripoli?

A. That's correct.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Did your parents travel a lot?

A. When we were young, yes.

Q. What ages when you were young did you do a lot travelling with your parents?

5 A. Yes, I did.

Q. What ages were you?

A. Oh, which ages? Four years old until university age, like before 18 maybe?

Q. So, while you were in high school?

10 A. That's right.

Q. Lots of travelling?

A. Mm-hmm.

Q. Yeah. Were they living in Ontario while you attended Grenville?

15 A. Yes.

Q. And you - you told us a little bit before about having a choice about attending Grenville, and about having a choice in going back year after year?

A. Yes, that's correct.

20 Q. And you'll recall we spoke about the - the student interview that was had, your sister would have had one as well when she re-entered Grenville. Are you aware that your parents were contemplating which one of you was going to go to Grenville, for how long, something about you guys not being able to overlap for very long, but one of you would go for three years, maybe one for just one or two, were you aware of any of that?

A. No.

Q. Your parents didn't discuss that with you?

30 A. Possibly, but I'm - I'm not remembering that conversation life that.

Q. Okay. And so, at Grenville, you would agree

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

with me that it was a place of strict rules and discipline, is that - is that right?

A. No.

5 Q. There were rules at Grenville, you'll agree with that?

A. Yes. I agree with that.

Q. Right. And one of those rules was no special or exclusive relationships between boys and girls, right?

A. Yes, that's right.

10 Q. You weren't allowed to date in fact, that was the rule, right?

A. At the school, you weren't allowed to date, yes.

15 Q. But you mentioned having a boyfriend at the school?

A. That's correct.

Q. Right. So you were breaking the rules, we've already gone over that -- so you were breaking the rules by having a boyfriend?

20 A. Yes.

Q. And you mentioned that you would sometimes watch your boyfriend's sports games, and he would watch yours. Did you guys hold hands?

A. No.

25 Q. No. You didn't hold hands because there was something called the six-inch rule, isn't that right?

A. Yeah.

Q. What was the six-inch rule?

30 A. You were supposed to sit six-inches apart from a boy.

Q. And there was also a rule about boys and girls in terms of how they congregated, that there was always to

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

be an - an odd number, more girls than boys in any given group.
Is that your recollection as well?

A. No.

Q. No?

5

A. That didn't happen when I was there.

Q. No? You and your boyfriend could go off
together one on one?

A. For walks, yeah sure, up the driveway on
Sundays, or....

10

Q. So, the six-inch rule wasn't enforced on you
then?

A. While when you're walking you're not sitting
down.

Q. It was just six-inches was...

15

A. It was just sitting down.

Q. ...just for sitting down?

A. That's how I understood it, yeah.

Q. How did you learn about the six-inch rule,
because it wasn't in the handbook?

20

A. Through the student body.

Q. How did you learn it through the student
body?

A. I don't remember like who told me, but it was
just discussed as that being a rule amongst the students.

25

Q. Were some of these, sort of, unwritten rules
made known to students through school wide assemblies for
example? Is that one place you might have learnt it?

A. No.

30

Q. You didn't learn about any rules at the - at
the assemblies?

A. You would learn about some rules, yes.

Q. So which ones did you learn at the

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

assemblies?

A. More or less rules of life, like how to live a good life, work hard at school, and how to be successful say at Grenville.

5 Q. Okay. And how were you taught to be successful at Grenville?

A. Being kind, being respectful to one and other, our teachers doing the work they're expected to do academically. Helping others, like if you're a student leader or even just if you're not a student leader, having a common
10 kindness towards one and other, respect...

Q. Okay.

A. ...is what -- how I would term it.

15 Q. Okay. And so that respect, was it sometimes taught to you by way of example of bad behaviour? Bad behaviour of other students made examples of at those public assemblies?

A. No.

Q. So you - you mentioned a friend from the Bahamas, can you remind me of his name? It was Ricardo?

20 A. Ricardo Roule.

Q. Ricardo Roule.

A. Mm-hmm.

25 Q. So you don't recall Ricardo being stood up in a public assembly, along with -- it wasn't just him, it was a few students, they all went to the front, I think it was of the dining room?

A. No, I don't remember that.

30 Q. You don't remember that? You don't remember yourself standing up at the end of it and speaking out against one of the other girls that was standing up with Ricardo, telling her if only she could be nicer you might be better friends. You don't recall that?

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. No.

Q. No. So in your recollection, these public assemblies, no student was ever stood up or singled out?

A. Right, yes.

5 Q. Okay. You're aware generally, because it sort of happened to you, that when a student broke the rules at Grenville, discipline could result?

A. Correct.

10 Q. You said you were never put on discipline though, right?

A. Right.

Q. But what do you understand those kids on discipline having to endure? What did they have to do?

15 A. My comprehension of discipline is doing -- washing pots and pans in the kitchen for a period of time.

Q. And they would be out....

A. Maybe suspension of a student? And that -- I don't know of any other -- or the one I already explained about...

20 Q. Mm-hmm.

A. ...standing up.

Q. And sorry, I can't remember if you said you recalled students wearing uniforms or not when they were washing the pots and pans on "D?"

25 A. I don't recall what they were wearing.

Q. I think you said earlier to our friend that they were always in uniform, is that still your evidence?

30 A. Well, I don't -- I -- yes, I don't recall what they're wearing, so they would be wearing their uniform if I....

Q. You're just assuming that?

A. Yeah. I don't know what they were wearing

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

when disciplined.

Q. You said, "Absolutely they were wearing their uniform" earlier, now it's not absolute anymore?

5 A. Right. It's -- no, I don't remember what they were wearing.

Q. And would you talk to any of these kids on "D?"

A. No.

10 Q. It was understood that you weren't to talk to the kids on discipline, you knew that as a student?

A. That sounds right.

Q. And you wouldn't eat with these kids either, right? They would eat separately from the rest of you guys?

A. I don't know.

15 Q. You don't recall...

A. No.

Q. ...or you don't know?

A. No, I don't recall.

20 Q. Okay. And as a student leader with some responsibilities in the dorm, were you ever aware of students on "D" having to sleep somewhere other than the dorm?

A. No.

Q. No. But you aware of "Hotel D?"

A. No, I'm not aware that.

25 Q. You're not aware of that? Earlier you said you were aware of "Hotel D?"

A. No, I didn't. If I did...

Q. Okay.

A. ...that's not correct.

30 Q. Okay. Was it clear to you as a student which kids were on discipline?

A. Only ones that were in the kitchen, no it was

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

not clear.

5 Q. So I just - I just want to understand this a little bit more. To your recollection, you don't remember anyone wearing anything but the uniform. Part of work duties also included working in the kitchen, is that right?

A. That's true, yes.

Q. Yeah. So, you'd just see someone working in the kitchen and you would assume it was "D?" Or was it work duties?

10 A. No.

Q. Would you know?

A. I wouldn't know.

Q. You wouldn't know.

15 A. It's just -- it's such a -- I don't honestly remember that, it's such a long time ago. But I knew that students were -- could be in the kitchen...

Q. Mm-hmm.

A. ...on "D" and I don't know what they were wearing.

20 Q. And they could be....

A. It's just a long time ago, I don't remember.

Q. It is a long time ago. So let's talk a little bit about you being a prefect. What extra duties to you gain in becoming a prefect from the student leader?

25 A. From my -- what I remember is the - the extra responsibilities would be making more decisions about the student body in regards to perhaps -- I'm trying to think of the right words, I don't know -- how to help -- helping the other students, I think...

30 Q. But that's what you did....

A. ...if there was a difficulty though, as a student leader...

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Mm-hmm.

A. ...and a decision -- and I don't really have an example, then the - the -- you could ask a prefect and they might have more experience because they perhaps being student leader or being at the school longer, usually the other person -- the prefect had more experience, more....

Q. But you as a prefect, did you do anything differently as a prefect than you do as a student leader?

A. Not -- actually not really.

Q. No.

A. It was just kind of awarded because you had done well as a student and student leader, and good person, and we were looked up to by other people.

Q. You were exemplifying the rules, in fact?

A. The school -- yeah, the whole school environment.

Q. Right.

A. Not just rules, just like academic, you were kind...

Q. Right.

A. You were looked at as somebody that was respectful.

Q. And upholding the rules? You wouldn't be considered respectful...

A. Yes.

Q. ...if you were a rule breaker, right?

A. But the thing is, the school isn't all about the rules, the school was -- encompassed many different variety of things...

Q. Sure.

A. ...like the singing aspect, the activities. I rarely -- I didn't go about my day at school thinking about

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

the rules...

Q. Mm-hmm.

A. ...it was just -- we understood what we did,
and we got by. We did well.

5 Q. So, are you saying you were awarded prefect
because you sang in the choir?

A. It's the overall character of a person.

Q. So, it was a character appointment?

A. Yeah, it's a bit of everything.

10 Q. But, surely character would mean someone who
is upholding the rules of the school?

A. Yeah, I would agree with that.

Q. Okay.

15 A. And a portion of that, yeah, but not the
whole thing.

Q. I understand.

A. Yeah.

Q. But a portion...

A. But yes.

20 Q. ...would be that?

A. Yeah, you would be somebody that could teach
other people how to have a good day at school, at Grenville.

Q. You were leading by example, is that fair?

A. That's true.

25 Q. When you were a prefect, is that when you had
a boyfriend?

A. I think so, yes. Yeah.

Q. So, there's a rule about no dating...

A. Mm-hmm.

30 Q. ...and you have a boyfriend when you're made
prefect?

A. But remember it was a normal high school,

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

like any other high school and it was a co-ed private school, which is unusual as well at that time, and we - and we were allowed to be normal people, and normal people end up liking other people and boys, girls, whatever. And that was allowed.

5

Q. It was allowed to date now?

A. Yeah. That's correct.

Q. Yeah. It wasn't a rule that there was no dating, you just said it was before, but now you're saying it's not.

10

A. Yeah, but we went ahead with it anyways.

Q. Right. Nobody enforced that rule...

A. All of us.

Q. ...at Grenville?

A. Nope.

15

Q. No. You say on the one hand it was like a normal school but it was unique because it was a boarding school that was co-ed, which...

A. Mm-hmm.

20

Q. ...which is it? Is it unique or is it the same?

A. It's - it's both.

Q. It's both.

A. Mm-hmm.

25

Q. Was there an honour code at Grenville? Do you know what the honour code was? As a prefect surely you would know what the honour code of Grenville was, right?

A. No.

Q. You have no idea?

A. I don't know what that means.

30

Q. Okay, if I...

A. We never discussed that.

Q. ...if I told you that the honour code

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

involved telling on the other students that had broken a rule,
does that refresh your memory?

A. No.

5 Q. No. Do you recall as a regular student or
student leader or prefect that it was your duty that if another
student was breaking the rules you had an obligation to bring it
to the attention of the staff?

A. Sure, and we would do our best but we weren't
perfect.

10 Q. That's fine, but you did do that didn't you?

A. I can't remember an instance, so I wouldn't
say yes to that.

Q. You don't recall doing but you recall being
required to do it, if needed.

15 A. Yeah, understood.

Q. And that reporting was more than just
reporting on someone who was caught smoking, if they were having
a bad attitude that was something you needed to bring to the
attention of the staff, correct?

20 A. No, I did not do that.

Q. You didn't, but you understood that it meant
telling on other students when they were offside. The rules of
Grenville, those unwritten rules like the six-inch rule, the
ones that were in the handbook, that was your job as a student,
25 but particularly as a student leader and then prefect above
that, right?

A. No.

Q. No.

30 A. That's not how I was a leader, I was kind to
a detriment.

Q. You were....

A. But I - I am able to motivate and lead people

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

by my character...

Q. I see.

A. ...and that worked. But I did not follow a book and incriminate and put people...

5

Q. Mm-hmm.

A. ...under strict rule, that's not the kind of leader that I was.

Q. So you broke the rules, but were still made a prefect?

10

A. Yeah.

Q. You didn't enforce the honour code, which was required of you as a student, but you still became a prefect?

A. Yeah.

15

Q. What did you do exactly to earn that position, first as student leader and then as prefect?

A. I just tried to do the best each day with treating people well, and doing my school work, and being involved in the school community. I wouldn't say -- I didn't do anything extra, I just was myself.

20

Q. So why wasn't yourself good enough to be prefect for all three years, was that ever explained to you?

A. Not that I remember.

Q. No.

25

A. Because that's life, you don't always get everything that you want, and I had lots to learn, I wasn't a perfect person.

Q. So what did you learn that year that you became prefect?

30

A. I pushed for it, and I just told people. Like when you want a job, and sometimes you have to ask for it.

Q. So you asked to prefect...

A. Mm-hmm.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. ...and they made you prefect. But you didn't ask any other year to be prefect, just that last year?

A. No, I'm sure I asked other years, because that was my end goal, was to become one.

5 Q. Right.

A. I just -- I don't remember that.

Q. You don't remember.

A. But I remember wanting it.

10 Q. As a prefect, were part of your duties to collect up the student letters that they were writing either to their parents or friends or what have you?

A. I have a vague memory, I think before breakfast, of taking letters I think to the dining room.

15 Q. And these letters, can you describe these letters that you're collecting? Are they on full sheets of paper, are they in an envelope?

A. No, I only remember envelopes.

Q. And - and what did you do with them after you collected them?

20 A. I think I gave them to somebody in the dining room.

Q. A staff person in the dining room?

A. I don't remember.

Q. You don't remember who you gave them to?

25 A. No.

Q. No. And you have no idea how they actually made their way into the Canada Post box so they could actually make their way to where they were going, do you?

A. Sure, it's logical.

30 Q. Is it?

A. But I - I don't know, I didn't see anybody do it, I just trusted it happened.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. You just trusted it, right.

A. And my parents got my - my letters, so....

5 Q. Sure. Yeah. You don't know what happened though in-between handing it in and it making its way into your parent's hands though, you have no idea? You can't possibly -- you said you just handed them off, so you don't know, do you?

A. I know how the letters got to my parents house.

10 Q. I think you think you know, but I'm asking you you don't know because you weren't part of the process....

A. Did I watch every step?

Q. Can you....

THE WITNESS: THE COURT: Wait, one at a time.

Let's repeat the question and then the answer.

15 MS. LOMBARDI: Q. You don't know because you were not part of the process, I think that's fair, isn't it?

A. Yes.

20 Q. Okay. So, you don't recall, and we just spoke about it, public assemblies where students were singled out and made examples of either because they broke the rules or had misbehaved in some way?

A. No.

25 Q. No. But you yourself were subject to -- it's not quite one on one, but a session like that with some staff, right?

A. Correct, yeah.

Q. So you're aware that you weren't the only one in the school that would be subjected to that kind of situation?

A. Yeah, for sure.

30 MR. ADAIR: Your Honour, I'm confused. I don't -- there's been some movement from a giant public assembly to this, what I'm assuming is a small

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

meeting...

MS. LOMBARDI: I thought I said.

MR. ADAIR: ...after the hair incident. I just
-- I don't know if that's clear.

5

THE COURT: I think it was to me, and I think the
witness understood and answered it, it sounded
like a session like that but not a large assembly
is what it sounded like to me. I didn't hear the
witness troubled by it. Let's see where the line
of questioning goes.

10

MS. LOMBARDI: Q. Do you recall being rebellious
as something that wasn't acceptable at Grenville?

A. Well, it -- every kid was rebellious in some
way, we're teenagers.

15

Q. Sure. But was that acceptable....

A. You mean at the school, the compartment that
comes with rebellious, no that wouldn't be acceptable.

20

Q. Not acceptable, thank you. What about being
haughty? H-A-U-G-H-T-Y, was that a term you heard around
Grenville?

A. Mm-hmm. I've heard that?

Q. Was it ever said about you?

A. Yeah.

Q. When?

25

A. When I was not listening at -- doing some
acting. But it wasn't used singularly, there was a whole bunch
of different feedback.

Q. What other feedback did you get?

30

A. Just listening better. Because in acting you
can kind of go on your own role...

Q. Mm-hmm.

A. ...and ignore other people.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Was this a one on one acting and staff session or were you acting with other students?

5 A. No, it's just generally -- it's just -- to me, it's more of an American term, like I don't use that, I would call it being arrogant, haughty.

10 Q. Okay. Leaving the term aside for a second, we're now talking about I guess this rehearsal where it was used with you, and you said it wasn't the only thing said to you, other things were said, and it had to do with I guess getting you to improve your acting ability or something to that effect?

A. Yeah, exactly.

15 Q. Okay. And I was asking, what other things were said to you?

A. Good -- I - I don't quite remember everything...

20 Q. Uh-huh.

A. ... but it was good feedback, and then things to work on, and - and it helped.

Q. And being haughty?

20 A. Mm-hmm.

Q. Yeah. And this was done in front of other students?

A. No. I don't remember being singled out.

Q. So, who were you rehearsing with?

25 A. Other actors, but they weren't privy to that conversation.

Q. You....

A. I just remember getting feedback.

30 Q. So, I'm asking, I'm just trying to dig a little bit here...

A. Uh-huh.

Q. ...where did this feedback happen?

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. Well, the stage is in the chapel, so I remember just getting feedback on doing a good job but...

Q. But also being called haughty?

A. Yeah, cause I wasn't...

5

Q. Yeah.

A. ...listening.

Q. Okay.

A. That's all I remember.

Q. Who else is in the room?

10

A. I don't know. I don't remember. But that's -- you asked me when the word was used, and I remember that word.

Q. But now I'm asking you who else was in the room? Who said it to you?

15

A. A staff member.

Q. Which staff member?

A. I think it was Father Farnsworth.

Q. And was he the director of the play?

20

A. No, but he was responsible for feedback on students -- whatever, like that.

Q. So, he's not the director of this rehearsal that you're in, he shows up and gives you feedback on your acting, including calling you "haughty," is that right?

25

A. Yes. But it -- I didn't find it -- the way it was said to me wasn't in a derogatory remark.

Q. I didn't ask you how you felt, ma'am.

THE COURT: Hold on. Just wait for the witness to finish her answer and then go to the next question, without commenting.

30

THE WITNESS: You just asked me if I heard the word, and I did, and I'm telling you of the context that I heard it. But that's all, I don't

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

have any other details because it didn't impact me, and frankly...

MS. LOMBARDI: Q. Okay.

A. ...I didn't care.

5 Q. Okay. The next question I have for you, was it just you and Father Farnsworth in the chapel? Was...

A. No.

Q. ...it just the two of you?

A. No, there were other people. It was....

10 Q. Was there another staff person, say the person directing the show?

A. Probably, on the stage.

Q. Who was the director of that rehearsal?

A. I think it was Mr. Gillis, the music teacher.

15 Q. And did he have any feedback for you after Charles Farnsworth said that your performance was "haughty" or that you were "haughty?"

A. No.

20 Q. And again, was it just you, Mr. Gillis and Mr. Farnsworth, or were there other students present?

A. No, it's just -- all I remember is Father Farnsworth.

Q. You don't remember any -- and Mr. Gillis, we just established that.

25 A. Yeah.

Q. There was nobody else in the room?

A. Just other actors on the stage.

Q. And those other actors, were they professional actors or just students?

30 A. Students.

Q. Students, thank you. Did you receive any sexual education at Grenville?

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. Not -- no, not that I remember.

Q. Was sex or sexuality ever discussed with students, high school students, at Grenville?

5 A. Amongst students, yeah. But I don't remember being taught it.

Q. Not taught it in a formal classroom, but messages or was the topic discussed with the students by the staff?

10 A. I have a vague memory of watching a movie perhaps, but that's it, in a -- in one of the conference rooms.

Q. Do you remember what the movie was?

A. Not really, but I thought it was on -- like, health issues or health -- not health issues, but....

Q. How to make babies?

15 A. No.

Q. No.

A. Something -- anyways, sorry I don't have enough information to fully explain it.

20 Q. You - you - you vaguely remember a movie, but you have no idea what it was about?

A. No, I don't actually remember. But I thought it was something on that line.

Q. But it could have been something else?

25 A. Sorry. It's not good -- I'm not answering your question well enough so I'll just say no, because I don't remember the details.

Q. It could - it could have been something else? It could have been anything, right?

A. Yeah.

30 Q. Yeah. Was homosexuality ever discussed at Grenville in any way?

A. No.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. There were never any sermons or bible verses that were part of chapel services or these other sessions where religious things were discussed with students on the topic of homosexuality?

5 A. Not that I remember.

Q. Was it imparted to you as a student -- and this is a religious school, specifically a Christian school, that homosexuality was considered sinful?

A. No, I didn't get that message.

10 Q. You didn't get that message?

A. And when I went there was interdenominational, it wasn't strictly Christian.

Q. Can you define what you mean by interdenominational?

15 A. That people of various religious backgrounds can attend the school.

Q. And is it your understanding that Grenville Christian College sold itself as a religious school that went beyond Christianity?

20 A. It dealt with Christianity...

Q. Uh-huh.

A. ...but other - other denominations were welcome, because my -- one of my friends was Jewish...

Q. Okay.

25 A. ...so that's what I mean.

Q. Yeah, they were welcome to attend. But the school itself, everybody for example had to attend the chapel services, right?

A. True.

30 Q. Yeah. And those chapel services weren't ever -- one day it was Jewish, one day it was Christian, one day it was something else, it was....

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. No, it was not that -- like that.

Q. No.

A. Christian based.

5 Q. Christian based. And at this Christian based school there was no discussion about homosexuality with the students?

A. That's my recollection.

10 Q. Okay. You were involved in performances. We -- we talked about Father Farnsworth giving you a critique on your -- one of your practice sessions, was that for the Mikado or a different performance, do you remember?

A. No, I don't remember.

15 Q. And you -- you travelled with the Mikado you said, I think you said something to my friend about going to nursing homes and things, and putting on performances sometimes?

A. We -- yeah, the choir would sing, or we would sing.

20 Q. Yeah. And did you travel with this -- or with a production of the Mikado to the Community of Jesus?

A. No.

Q. You -- you weren't in that performance?

A. No.

Q. You never attended the Community of Jesus?

A. Yes, I've attended.

25 Q. Oh, you have. When did you attend the Community of Jesus?

A. I'm not sure what grade, maybe grade 12 or 13.

Q. And why?

30 A. As a -- like a trip. Like a fun school trip, and we did singing, and that's -- and I met people, and that was about it. That's all I remember.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. So you call it a school trip, was it a mandatory trip? Everybody went to the COJ?

A. No. No, it was just like a school day -- well, it takes longer than a day, a couple of days.

5 Q. Did you have to sign up for this trip?

A. Probably you had to stress interest, I don't know, I can't remember.

Q. You don't know?

10 A. But I remember going there, and I remember singing.

Q. But - but nothing from the Mikado?

A. Right. I don't remember what we sang.

Q. Okay. And how long were you there?

A. I believe a couple of days, not that long.

15 Q. And where did you stay while you were there?

A. In one of the homes I believe.

Q. All the kids that went together, or were you guys split up?

20 A. No, I think that we were billeted between the different homes.

Q. How many of you went on that trip?

A. I don't recall, but it - it was a good experience, that's all. I don't remember any -- anything momentous, but just it was a nice area.

25 Q. Mm-hmm. Did you take a big yellow school bus to get down there?

A. I'm not sure what kind of bus we took.

Q. You don't know if it....

A. I know we took a bus.

30 Q. Mm-hmm. Was it a big bus or a little bus?

A. Big bus...

Q. A big bus.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. ...as far as I remember.

Q. Was the big bus full?

A. I don't know.

Q. You don't remember?

5

A. I don't recall.

Q. You have testified that you had a positive experience at Grenville...

A. Yes.

10

Q. ...but is it fair to say that not all students, other than yourself, would have faired as well as you at the school?

A. That's possible, just like any high school.

15

Q. Sure. And not all students at a boarding school, away from home as you said, have the - the luck of having a sibling there with them either, right?

A. That's true, yeah that's very true. I loved having my sister there.

Q. Your siblings were a real comfort to you at Grenville, weren't they?

20

A. Yes, definitely.

Q. Was it just your sister?

A. Listen, I'd been - I'd been there two years before my sister came, and I'd been doing fine. But I did miss -- I missed all my brothers -- my brother and sisters.

25

Q. Did you give your sister kind of the - the layout of what GCC was - was all about when she came to join you?

A. No.

Q. No?

30

A. She had already been there before me.

Q. In grade 8, and now she's coming back in grade 13, that's big-time difference. You didn't...

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. No.

Q. ...give her any hints or tips or tricks?

A. Well, I'm sure I did, but nothing that I remember, just good - just what had happened to like all my different experiences...

5

Q. Mm-hmm.

A. ...say, she would know, being a sibling.

Q. Mm-hmm. Did you tell her if she wanted a boyfriend she could have one?

10

A. No, because I don't tell people that.

Q. Not even your sister? You don't talk about boys with your sister?

A. Oh yeah, sure. But I'm not -- I don't speak with that kind of command. If she wants a boyfriend, she can have one.

15

Q. Sure. But given it was in the rule book, that you weren't allowed to have boy girl relations, did you kind of give her a heads up that that's not a rule that they're going to enforce here, go ahead if you want?

20

A. No, because it sounds vindictive. I didn't do that.

Q. I'm sorry, how does that sound vindictive? The - the rule was stated in the book, correct? No boy girl...

A. True.

25

Q. ...relations? No dating, we already established this. We established you had a boyfriend...

A. Mm-hmm.

Q. ...yes?

A. Yes.

30

Q. And did you ever give your sister the thumbs up or heads up to say, "It's a-ok if you want to have a boyfriend here."

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. Not at all, it's up to her. We - we didn't - we didn't talk that way, in that manner.

Q. What did you talk about?

5 A. Oh gosh, what sisters and students would talk about, anything and everything.

Q. And sisters and students don't talk about boyfriends?

A. Sure. We talked about everything.

10 Q. Uh-huh. But not that you could have one at a school that expressly said that you're not allowed...

A. Mm-hmm.

Q. ...that topic never came up?

A. Yeah, we didn't care. It wasn't -- we didn't care about that rule.

15 Q. You didn't care about that rule?

A. No.

Q. You didn't?

A. No, nobody really did.

20 Q. No -- but you're speaking on behalf of everybody now?

THE COURT: Wait - wait. Let - let the witness answer.

THE WITNESS: I'm just saying it didn't impact -- it was not an impact when I was there.

25 MS. LOMBARDI: Q. It wasn't an impact....

A. It wasn't on my mind, oh my gosh...

Q. I'm sorry.

30 A. ...like in that regards, I was trying to work on getting to university, and trying to succeed and memorize three hours of plays, and I was super busy.

Q. Except you got super distracted at a -- what was it, volleyball game? Looking at your boyfriend in the

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

crowd?

A. No, not super distracted.

Q. You were benched?

A. Yeah, so?

5 Q. Yeah. Okay. Lastly, you mentioned a phone
call that you received not too long ago on your work cellphone
number?

A. Yeah.

10 Q. From a friend named -- well, from a friend,
you said?

A. Right.

Q. She was a good friend of yours? But you
haven't spoken in a while?

A. No, we talked. We -- we're friends.

15 Q. Did you send her an email wishing her a happy
birthday?

A. Of course.

Q. Did you send it from your work email?

A. Possibly.

20 Q. Yeah. Is your work -- is your cell
number....

A. But she never talked to me by cell.

Q. Oh, I'm sorry. I get to...

A. Oh, sorry.

25 Q. ...if you could just wait for my question?

A. Okay.

Q. Thanks. Is your work email, your cell number
that you say she called you on, is that part of your work email?

A. Mm-hmm.

30 Q. Yeah. So it would be visible on an email if
it came from your work email?

A. Yeah, that's true.

Lucy Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Yeah.

A. But it wasn't our form of communication.

Q. Did you send her a happy birthday email?

A. Yeah, and usually we correspond by email...

5

Q. Okay.

A. ...so it was out of character for her to call me.

Q. Right.

10 A. At work, and then when I said I'm busy, to not get off the phone.

Q. Okay. But she would have gotten that work email number from your email signature, right?

A. Possibly.

15 MR. BOGHOSIAN: Your Honour, how can she possibly know? How - how can this - this witness what -- where somebody else got - got a number from?

MS. LOMBARDI: She - she said in her chief that this friend who works for Revenue Canada had to look it up. So, she is now testifying that maybe 20 she didn't have to look it up. We don't know either way.

THE COURT: I think - I think you've received the answer, the witness did say it was true, it's visible at the bottom of her work email, so we 25 can move along.

MS. LOMBARDI: Q. And you also said, in speaking about this phone call, that she commented something to the effect of you'll be crucified if you - if you testify at the trial. Did you take that literally? Like a cross and nails?

30

A. No. I'm not stupid like that.

Q. Well, how did you take it then?

A. It's a threat, and there's no other way about

Lucy Postlethwaite - Cr-Ex.
Emma Postlethwaite - in-Ch.

it.

Q. A threat from whom?

A. A threat -- those words are a threat from whoever says it.

5 Q. So you thought she was saying she was going to crucify you if you testify?

A. No, she said, "You are going to be crucified in court, I mean cross-sectioned." That is a good friend of mine that never spoke to me that way.

10 Q. Is it possible that she was meaning you're going to have a hard time giving your evidence at court?

A. No.

Q. That's not even possible?

15 A. No, it's out of her character. Especially the words that came after too. So, I think she was trying to persuade me from not testifying, because she knew I was testifying. She'd gotten a list from somebody.

Q. Is it possible that she was trying to persuade you from not lying?

20 A. I don't lie.

MS. LOMBARDI: Okay. Thank you very much, those are all my questions.

THE COURT: Any re-examination?

MR. BOGHOSIAN: I have no re-examination.

25 THE COURT: All right. Thank you, Ms. Postlethwaite, for coming.

A. Thank you.

THE COURT: You're free to go. Thank you.

30 MR. BOGHOSIAN: Our next witness, Your Honour, is going to be Emma Postlethwaite.

EMMA KATRINA POSTLETHWAITE: SWORN

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

EXAMINATION IN-CHIEF BY MR. BOGHOSIAN:

5 Q. Good afternoon, Ms. Postlethwaite. Is it
okay if I call you Emma?

A. Yes, it is.

Q. Okay. What is your age?

A. Fifty-one.

Q. And what is your date of your birth?

A. January 10th, 1968.

10 Q. Where do you currently live?

A. Perth, Ontario.

Q. Are you married?

A. Yes.

Q. For how long have you been married?

15 A. Twenty-four years.

Q. Do you have children?

A. Yes.

Q. How many kids?

A. Four.

20 Q. And what are -- what's the age range?

A. Ten-year-old boy, twelve-year-old girl,
seventeen-year-old boy, eighteen-year-old girl.

Q. Okay. And what do you currently do for a
living?

25 A. I teach senior fitness classes in Perth. I'm
a member on the board for the Community Food Centre. I'm a
manager on my daughter's hockey team. So, I'm volunteering
right now.

Q. Where did you live before you moved to Perth?

30 A. Ottawa.

Q. And when you were living in Ottawa, what were
you -- were you working?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Yes, I worked for Environment Canada in the Commercial Chemical Evaluation Branch as a Risk Assessor.

Q. Okay.

A. And I worked there for 12 years.

5 Q. And did you obtain any post secondary education?

A. Yes, I have a Master of Science from McMaster University.

Q. Did you get a Bachelor of Science?

10 A. Yes, I did. I have a Bachelor of Science from University of Western, Ontario.

Q. Okay. Did you attend Grenville Christian College?

A. Yes, I did.

15 Q. Okay. And what years did you attend Grenville?

A. I was there for grade eight, I believe it was '81 '82, I was there for grade thirteen, '86 '87.

20 Q. Okay. And while you were going to Grenville, where did your family reside?

A. They lived in Haliburton, Ontario.

Q. And did you have siblings?

A. Yes.

Q. Who - who were your siblings?

25 A. I have a brother, Andrew, who is 12 years younger than me, he attended Grenville. I have a sister Amy, who is 8 years younger than me, she did not attend Grenville. I have a sister, Lucy, who is almost 2 years younger than me and she attend Grenville.

30 Q. Okay. When you were in grade eight at Grenville were you the only Postlethwaite from your family that was there at the time?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Yes.

Q. Okay. And why did you go to Grenville for grade eight?

5 A. In Haliburton, it's a small little town, my class was small, and the students were doing lots of partying, there were drugs available, I was struggling with being happy, finding and making good friendships. I did have a couple of close girlfriends, but my parents thought that going away to school might be a good option for me with the limits of living
10 in a little town.

Q. Okay. So how - how was it that you came to be at Grenville for grade eight?

A. I had interviews at Bishop Strachan, Branksome Hall and Grenville, and I was accepted at all three,
15 and my parents and I decided that Grenville was the best option.

Q. And why was that decision made? Why was it felt to be the best option?

A. We liked the staff, people that showed us around the school and talked with us, we liked the way the
20 interview was conducted, I was able to join in on a lunch with the student body, the school looked beautiful, students looked happy, and my parents had had good reports from other people about the school.

Q. Okay. So, you did your grade 8 there, and we're going to get back into a little more detail a bit later, but you then left the school and went somewhere else for grades
25 9, 10, 11 and 12?

A. Yes, I went back to Haliburton High School, because being away in grade eight was hard, I had a brother who
30 was a year old, and when I came back after six-weeks of being away, he didn't recognize me. And....

Q. When - when did you go back? Is this in your

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

grade eight year?

5 A. This is my grade eight year. So, I ended up starting grade nine at the high school because it's a compilation of many schools coming together, so my parents thought I might be happier in the environment, and if I wasn't I would go back to Grenville for grade ten.

Q. Okay. And did you go back to Grenville for grade 10?

A. I did not.

10 Q. Why?

A. I was happy in high school, doing well, driving, lots of friends, no problems at all, so I stayed there.

15 Q. Was the atmosphere or the way things were done at Grenville when you were in grade eight and factor at all why you didn't go back for grade nine?

A. Absolutely not. I had a great grade eight year, they advanced my knowledge of French especially, it helped me be more confident, I was a better person after grade eight. And I knew that, but it's a long way to be away and a long time to go for all of high school.

20 Q. Okay. So, you went -- did you go back for grade 13?

A. I did. I went back for grade 13 because my grade 13 class in Haliburton was limited in what courses were being optioned -- offered, due to small class size. My parents had contacted Grenville, the class was I think 67 or 68 people from all -- many different places, and they thought that would be a fun opportunity for me to back, and I agreed.

30 Q. Okay. So, you went back for grade 13?

A. Yes.

Q. And did you have a choice? If you had said, "No, I really don't want to go back there, would...?"

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Yes, I - I could have stayed in Haliburton,
yes.

Q. Okay. Would you have been able to go to some
alternative private school?

5 A. I could have gone to another school, yes.

Q. Okay. Now, who was the Head Master when you
were in grade eight?

A. In grade 8 it was shared by Father Farnsworth
and Father Haig, and in grade 13 it was just Father Farnsworth.

10 Q. Okay. And did you notice any change in the
atmosphere of the school or the operation of the school between
your grade 8 year and your grade 13 year, five years later?

A. I did not.

15 Q. Now, I understand that you did obtain your
OAC -- you graduated with your OAC in June 1987 from Grenville?

A. Yes.

Q. And I'm going to hand up a document, and I
apologize, I only -- I'm one short of [indiscernible].

MR. BOGHOSIAN: But you guys have it.

20 MS. MERRITT: Do we?

MR. BOGHOSIAN: Yes. It's in -- yeah, 'cause
it's in the -- it's in your productions, Tab 18
of the -- your affidavit documents.

MS. LOMBARDI: Oh.

25 MR. BOGHOSIAN: Q. So, if we flip to page five
in the bottom right hand corner. Do you recognize what this is
a photocopy of?

A. The picture or the?

Q. No, the whole document as a whole.

30 A. Yes, it's a news letter.

Q. And had you seen these news letters when you
were at Grenville?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Yes, I have.

Q. Were they commonly read by the students?

A. Yes. They were written by students, and yes.

5 Q. And were they widely read by the students
when they came out?

A. Yes.

Q. Okay. If you go to page five, there's a
heading at the top, "Second Semester Honour Roll?"

A. Yes.

10 Q. Is that you listed in the -- on that honour
roll grade...

A. Yes, it is.

Q. ...for grade 13?

A. Yes.

15 Q. And does -- what did that mean in terms of
what your - your marks were?

A. I have a over 80 average.

Q. Were you a student leader while you were at
Grenville?

20 A. Yes, I was.

Q. When were you awarded that distinction?

A. October -- late October, November.

Q. Of which year?

A. Of my grade 13 year.

25 Q. Okay. And was there some kind of ceremony or
special...?

A. I - I believe I -- it was awarded to me in
front of people, yes.

30 Q. Okay. And did you get some memento or
signification that you were....

A. I believe I had a little pin.

Q. And were you subsequently named a prefect?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. I was named a prefect I believe in the next year, in January is my guess.

Q. January of your grade 13 year?

A. Yes.

5 Q. And what were your duties as a prefect?

A. Being the head at a table with another prefect, leading some of the student jobs on Saturday mornings, or a team of students to do work jobs, I also was in charge of the Junior Dorm, which was a separate apartment with approximately 8 seven-and-eight -- grade seven and eight girls in it.

Q. How many?

A. About eight is my guess.

15 Q. Okay. And in terms of being in charge, what were your duties and responsibilities toward the Junior Dorm?

A. We were in charge of taking them at the end of their study hall each day with a snack back to the dormitory, and we would sit in a circle, share the snack, talk about the day, see if anybody had anything they needed to discuss, and then we were in charge of getting them into bed at an appropriate time -- I -- there must have been -- say 9:00. And then we were in charge of getting them up in the morning and getting -- making sure they had their beds made and that everything was in order to head to breakfast.

25 Q. Okay. And was there a ceremony where you were awarded the prefect title?

A. I - I don't remember, but I would think so, yes.

30 Q. Okay. What was your overall impression of Grenville based on the two years you were there?

A. My impression was that it was a well run, happy school with happy students and a - a staff that worked

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

well together to run a great school.

Q. Okay. What were the staff like there?

A. They were -- some were efficient and did their jobs well, and some were more loving and kind and caring.

5 But I - I was not mistreated by any staff.

Q. Okay. Did you see anyone being mistreated by any staff?

A. No, I did not.

10 Q. Did -- are you able to give some examples of kindness or...

A. Yeah.

Q. ...examples of kindness by staff?

A. Mr. Ken MacNeil was especially kind to me in grade 8 and grade 13. In grade 8 he taught me maybe math, and I
15 remember I broke my cross country ski late at -- in -- before dinner, we were very late getting back, and I was in study hall and still upset, and he asked me if I wanted to be excused and go call my parents, and I did - I did that, I went and talked to my parents to feel better. In grade 13 he was my math teacher
20 for relations and functions, algebra and calculus I believe, and he was always very kind, he provided extra study halls for those who needed it, he would ask me how I had done after tests, so he was very caring and concerned and wanted me to do well. That's one example. Father Farnsworth was also somebody that touched
25 my life in a very positive way. He provided lots of wisdom and guidance, and helped me become a more confident, strong individual to be successful in life.

Q. And what's your opinion of Father Farnsworth?

A. I thought he was a great person. I -- my
30 experience with him was of only kindness and care, I -- he would talk with me, we had several conversations through grade 13 that helped me get through troubles and be a strong person. And, I

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

went back to talk to him after third year university on my
parents....

Q. If I can just stop you there...

A. Yeah.

5

Q. ...I just want to stick with the time you...

A. Just....

Q. ...were at school.

A. Okay. Sure he - he was....

10

Q. When you were in grade 13, were there times
that you were alone with Father - Father Farnsworth in a room
somewhere?

A. Yes.

Q. Where would that be?

15

A. In his office off the main entrance into the
school?

Q. Would the door be closed?

A. I believe so.

Q. How many times would this have occurred?

A. About five times.

20

Q. Okay. And at any of these occasions that you
were alone with him in a closed room, did he ever do or say
anything inappropriate to you?

A. Nothing.

25

Q. You said you went back and spoke with him at
some point after...

A. Mm-hmm.

Q. ...you completed Grenville?

30

A. So after third year university, I was
struggling with what direction to go with my studies, my parents
suggested I go talk to him, so I arranged a meeting with him.
He listened to me, he told me to follow my heart, and not just
be focused on one path in life, and there might be other

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

options, and to open up those options as possibilities and that led to me changing my career path and I went on into doing something that I loved in working at Environment Canada in my environmental work.

5 Q. Okay.

A. I met with Father Farnsworth in the -- at the chapel too. In -- I can't remember if he invited me to come in, but I went into a back room, it was the old chapel, so it was in -- behind the back, he had his robes on for a Sunday service, and we just had a talk about - about the Shroud of Turin, and I believe there was a picture of something in that back room, and we had a discussion about it, and there was nothing worrisome about that conversation either, in any way.

10 Q. Okay. Did you feel or have the sense that others felt that you were -- sorry, did you ever have a sense of fear or intimidation at any time that you were at Grenville?

A. No, I did not.

15 Q. Did you ever have the sense that there was a atmosphere of fear and intimidation...

20 A. No.

Q. ...around the school?

A. No.

Q. Did most of the students seem genuinely happy to be there?

25 A. Very happy, yes.

Q. Did you ever feel during a time at Grenville that staff were constantly looking to find faults or sins on the students?

A. No.

30 Q. Did the term sin come up frequently during your times at Grenville?

A. Not to my memory, no.

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. Did they come up in lectures or sermons that Father Farnsworth and other staff would give on any sort of regular basis?

A. No.

5 Q. Would you be admonished by staff if they thought you weren't displaying a good enough attitude?

A. No.

Q. Were you ever sanctioned, or spoken to or reprimanded for having a bad attitude?

10 A. No.

Q. What about for being haughty?

A. No.

Q. How did you do academically during your time at Grenville?

15 A. I improved and did well in the end.

Q. Did you have to work hard to make good grades?

A. Yes, I did.

20 Q. What was your opinion of the calibre of the teaching and the academic program at Grenville?

A. I thought it was very good, my parents thought it was very good.

Q. Did -- were you involved in extracurricular activities when you were at Grenville?

25 A. Yes, I was.

Q. What sorts of things were you involved in?

A. I played soccer, I was on the basketball team, I was on the debating team, the track and field team, I played in the orchestra. That's what I remember.

30 Q. Did you go on any school trips while you were at Grenville?

A. The debating team travelled to Montreal for a

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

debate. We went to Brown's Bay, we went skating on the river, we went skiing at Packingham in the evenings -- like every week in the winter for a section of time. That's all I remember.

5 Q. Okay. We've heard a lot about the schedule at Grenville, and I just want your impression of the schedule. Was there -- did you feel like you had adequate free time during the weekdays?

A. Yes.

10 Q. All right. And did you feel that you had adequate free time on the weekends?

A. Yes.

Q. When would you get free time, firstly during the week and then during the weekends?

15 A. Well, free time I'm thinking where you're not in classes or in study hall, so Friday nights we -- there were usually organized activities going on, but we had -- it was fun, we did fun activities. Saturday afternoons were free to go to the mall, or just hang out in your room, or read, or be outside. Sunday afternoons I remember being the same thing. I know I had
20 time in the - in the afternoons after school, because I used to get together with friends and we would sit and eat snacks or we'd - we'd get -- mail would be distributed, so we'd get care packages and sit and eat them.

25 Q. Okay. What -- you mentioned Friday nights, what - what happened on Friday nights?

A. Well, I remember having -- we didn't have to wear our uniform, so you could wear regular clothing. I - I remember a square dance, I -- I don't know, movie nights. Game nights.

30 Q. Do you remember the families -- the staff that you spent time with, the staff families?

A. That was on -- I think that was Saturday

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

nights we did that.

Q. Oh, okay.

A. Yes, I remember being part of the families.

Q. And how was that experience?

5

A. It was fun, we baked cookies, we went skating, that's when we went skating on the river, we'd go outside and have snowball fights and different -- they were -- they were fun things, you did them with a smaller group of students and got to know them better.

10

Q. Okay. Did you feel like you had time to socialize and make and cultivate friendships?

A. Yes.

Q. And did you in fact make friends at Grenville?

15

A. Yes, I feel like I had great friends at Grenville.

Q. Did you make close friends that you continue to keep in touch with after you left Grenville?

20

A. Yes. I have one friend I still keep in touch with regularly, I've been to her wedding, we get together to catch up, have meals together. I have another friend who's in acting that I've been to see his Broadway performance.

Q. Who is that?

A. Bob Creighton.

25

Q. Okay. And he -- what do you mean you saw his Broadway performance?

30

A. We went to New York City to see his Broadway performance and then he went out for dinner with us after. He's also come back to Brockville for a fundraiser that I attended because I knew he was going.

Q. Okay.

A. I've also been to the Bahamas to visit with

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

Bohemian friends.

Q. And who -- what were their names, if you remember?

A. Ricardo Roule, Deanne McDean, the McSweenies.

5 Q. Did you go on that trip with your sister, Lucy?

A. I did.

Q. Okay. Anyone else that went on that trip?

A. Andrea Schwartz, a friend from university.

10 Q. Okay. And were there other male friends that you made when you were at Grenville?

A. Yes, lots.

Q. Are there friends -- male friends that you made at Grenville that you saw after you left Grenville?

15 A. Yes, there were.

Q. Was there a rule against boyfriend girlfriend relationships?

A. There was a rule, yes.

Q. Okay.

20 A. It was discouraged.

Q. All right. Did you have a boyfriend when you were there?

A. I had friends that were boys...

Q. Okay.

25 A. ...but, yes.

Q. How -- was there - was there -- in your circle of friends, were there - were there girls that had boyfriends while - while you were at Grenville?

A. Yes.

30 Q. Okay. What would you say about the enforcement of the rule against boyfriends at the times you were there?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Well, my friends didn't get in trouble.

Q. Did you ever hear Father Farnsworth or Judy James or any other staff at Grenville refer to women in general, or to particular women as sluts, whores, jezebels, bitches in heat?

5

A. Never.

Q. Or any other similarly offensive words?

A. No.

Q. What was the attitude that you saw was shown towards women when you were at Grenville?

10

A. Respect, being treated equally, I did not feel discriminated against in any way. Father Farnsworth talked about not objectifying women, not to refer to them as chick or babe, we had a conversation in the dining room about that, and that that was disrespectful and we were to treat them with respect and equally, women.

15

Q. All right. Did you ever hear Father Farnsworth, Judy James or any other staff say that women were responsible if they were sexually assaulted or raped because they had tempted the man?

20

A. Never.

Q. Did you ever attend a meeting -- and this is a bit of a long winded question, a meeting in -- do you know what the blue lounge is?

25

A. Yes.

Q. What is the blue lounge?

A. To me the blue lounge is a second-floor room in Murray Hall, the girl's dormitory. And it was -- well, if you went in the main entrance, it was on the left end, away from -- towards the boys dormitory.

30

Q. Okay. Was there ever a meeting in the blue lounge of all the girls that were in the dorm at the time where

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

Father Farnsworth addressed the girls who were in their pajamas or bathrobes, and gave speeches on chastity and monogamy and AIDS and at the end of each of the segments of the speech he had the girls all chant, "Chastity, chastity, chastity." And then
5 after the monogamy speech, "Monogamy, monogamy, monogamy." And then after the AIDS speech, "AIDS, AIDS, AIDS." And then putting them all together, "Chastity, chastity, chastity, monogamy, AIDS, chastity, monogamy, AIDS." Were you there when anything like that happened?

10 A. No, I was not.

Q. Are you certain?

A. Yes.

Q. Were there rules about how both sexes had to dress, but in particular women had to dress and - and - and with
15 respect to makeup?

A. Yes.

Q. And what were those rules?

A. Modesty with your clothing, and minimal
makeup.

20 Q. All right. Did you wear makeup when you were at Grenville?

A. Yes, I did.

Q. What kind of makeup were you able to wear?

25 A. Mascara, eyeliner, lip gloss, sometimes blush.

Q. Did you ever get in trouble for wearing make
up?

A. I never got in trouble.

Q. Or for the way you were dressed?

30 A. Maybe for a hem falling out, or -- yeah, no, not that I remember.

Q. Okay. Did you ever hear Father Farnsworth or

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

any other staff refer to students as stupid, worthless, or any other derogatory terms of that nature?

A. No, I don't.

5 Q. And do you remember staff swearing at any of the students of the school?

A. No, I don't.

Q. In your view, was there a lot of rules at Grenville?

A. There were rules, expected rules.

10 Q. What do you mean expected rules?

A. Well, it's a co-ed school where students are away from home, so there have to be rules for your safety and well being. But I don't think there were any more than there needed to be.

15 MR. BOGHOSIAN: Your Honour, I realize we're probably around a break time, I just want to say that I'm going to try -- I would like to try to get Ms. Postlethwaite out today if possible, because we don't sit tomorrow. She has to go
20 back for something tomorrow, and would then have to drive all the way back, so if -- I'm in your hands, but I - I -- my hope is that we can sit later if need be?

25 THE COURT: How much longer do you think you'll be in-chief?

MR. BOGHOSIAN: Twenty minutes.

THE COURT: So that gets us to four. I wonder if I can hear from counsel about expected length of cross?

30 MS. LOMBARDI: I can't say that I'm only going to be half an hour, I might be up to an hour.

THE COURT: I have an appointment at 4:45, so

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

we....

MR. BOGHOSIAN: We won't get done then, it's all right.

THE COURT: We won't get done.

5

MR. BOGHOSIAN: Yeah.

THE COURT: Unless we -- well....

MR. BOGHOSIAN: It's impossible.

THE COURT: What do you propose?

10

MR. BOGHOSIAN: Nothing. In light of your appointment then I - I think we'll have to go as far as we can today, and then come back.

THE COURT: Are you able to come back on Friday?

THE WITNESS: It -- yes, if that's what I have to do, then yes.

15

THE COURT: Okay.

THE WITNESS: I'm not quite sure how I'm going to make it work, but I can -- I'll have to make it work.

20

THE COURT: Is next week better for you if you had to come back? We may be able to finish, we'll see. Counsel may be able to reorganize themselves a little bit. I don't want to push them. Are you proposing we not take the afternoon break and keep on going and see if we can finish?

25

MR. BOGHOSIAN: Well, because I don't think it's going to make a difference, I'm not going to rush myself...

THE COURT: Okay.

30

MR. BOGHOSIAN: ...this is important evidence.

THE COURT: Okay.

MR. BOGHOSIAN: And neither would I expect my

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

friend.

THE COURT: Okay.

MR. BOGHOSIAN: So, we might as well follow the usual routine.

5 THE COURT: Okay. All right, then we will take the afternoon break for 10 minutes.

R E C E S S

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

MR. BOGHOSIAN: Q. Emma, before the break we were talking about the rules, and you had said there was expected rules, and then I asked you to elaborate and you gave an answer, did you complete your thoughts on that point?

15

A. I can't remember where I left it.

Q. That "it was a co-ed school where students were away from home, so there has to be rules for safety and well-being."

20 A. Okay.

Q. Did that complete your thought?

A. So I - I - I don't think there were any unnecessary rules.

25 Q. Okay. And how would you characterize the enforcement of the rules at the school while you were there, and if there was a difference between grade 8 and grade 13 that you saw?

30 A. I don't remember much about the rules in grade 8, or enforcement of the rules. I don't remember friends getting in trouble or anybody being disciplined even, in grade 8. In grade 13 if rules were broken, there were consequences.

Q. And what - what was the system of discipline

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

then at Grenville?

5 A. I -- in grade 13 I remember demerit points, so if you for example were late for a meal, maybe -- I'm not sure if it was the first time or not, but you may be given a demerit point.

Q. How many demerit points would you need to get before there was some discipline?

10 A. I believe it was three demerit points, and then you had an hour of a work job. That work job could be working in the kitchen, the dining room, the library...

Q. Okay.

A. ...you'd be doing -- yeah.

Q. Did you ever accumulate three or more demerit points?

15 A. I believe I had one demerit point but -- and I think it was for lateness to the dining room. I do not remember being given an hour of work.

Q. Okay. Was there further discipline that might be warranted in - in more serious cases?

20 A. So you could be talked to. You could be put on pots in the kitchen, doing -- cleaning out pots and pans, I guess.

Q. When you say pots, what sorts of infractions would cause you to be put on pots?

25 A. Rudeness to staff. If you -- my brother shaved his head, so he had -- he was put on pots, or he had pots to do. During my time there I remember people being on pots in the kitchen working, I believe it was a conflict with doing what was expected of them or being rude to staff people or I'm not
30 sure what else.

Q. Okay.

A. I'm not aware of....

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. Was pots the only work job that you might be put on as a form of discipline?

5 A. It was a - a common job given to students. I -- another form of discipline might be to lose your student leader or prefect pin.

Q. Do you know if someone...

A. You could be sent home, I guess.

10 Q. ...do you know of any who lost their prefect pin as a form of discipline?

A. Yes, I do.

Q. Do you want to tell us about it?

15 A. My friend came to collect me, we returned for orchestra practice at school, and she was -- I was to stay with her, it was during a break and the -- not -- the student body wasn't back to school yet, so she came to collect me, and had --I cannot remember if she told people she had been drinking, or if she had been drinking and people noticed, but she was not allowed to take me with her, and her parents came and collected her, and she lost her prefect pin.

20 Q. Okay. Did -- was this on a break from school?

A. Yes.

Q. Do you remember which break?

25 A. My best guess is Thanksgiving weekend.

Q. And who was the friend?

A. Jill Brockoff.

Q. Where did she live?

A. Brockville.

30 Q. And where were you -- why was she coming to pick you up?

A. Because I had permission to stay with her.

Q. Over that long weekend?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. For that evening, that one night.

Q. And she drove to...

A. The school.

5 Q. ...the school. And the thought had been that she had been drinking?

A. Yes.

Q. And you weren't allowed to drive back with her?

A. No.

10 Q. And she was picked up by her parents...

A. Yes.

Q. ...and taken home and...

A. Yes.

Q. ...lost her prefect pin?

15 A. Yes. There was also a staff -- a meeting with her.

Q. How long would a student typically be on pots, as you called it.

20 A. It could be one day, it could be a couple of days. I don't remember ever seeing anybody doing the same job for longer than maybe two or three days, to the best of my memory.

Q. Okay. Would you know if someone was on discipline?

25 A. Yes.

Q. How would you know?

A. They would be in regular clothing and working in the kitchen during school time.

30 Q. Were you ever given corporal punishment at Grenville?

A. No, I was not.

Q. To your knowledge, was anyone else ever given

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

corporal punishment like paddling, while you were at the school?

A. No.

Q. Was there an occasion where students were made to eat their meals standing up?

5

A. Yes.

Q. Do you know what led to that discipline?

A. A group of mostly grade 13 prefects used their keys because we had -- students were in charge of starting the breakfast early in the morning sometimes, so I believe they had keys to fridges and freezers to access the food, and the group of boys either had been studying late or something but decided to go prepare a meal, I think around midnight.

10

Q. And what was the result of that?

15

A. Somebody discovered it or heard them, and they were disciplined for that.

Q. And that discipline was?

A. That discipline was to stand at the back of the dining room eating their meals.

Q. How long did that go on for?

20

A. I don't exactly remember, it could have been a week, like five days, it could have been one day, two days, but I do remember them standing at the back of the dining room eating.

25

Q. And - and what the attitude of staff toward that - that discipline?

30

A. I - I remember it being funny, I - I remember students thinking it was funny. I don't -- they had to be disciplined because they had done -- they'd taken advantage of their privilege and the trust that had been given to them, so they were being -- they understood why, they knew it was wrong, and they accepted their punishment and did it.

Q. All right. Did - did you get a sense of what

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

the staff thought about the punishment?

A. I - I remember Mr. Ordolani laughing about it, I don't know if it was actually at the time, or a little while after.

5 Q. Was Grenville generally a happy place for the students?

A. Yes.

Q. Did you attend at some point a meeting with staff with your sister Lucy?

10 A. Yes, I did.

Q. Can you tell us the background to that? Not - not what you were told by Lucy, but....

A. Oh, okay. So I - a meeting was arranged with my sister, and I heard about it and asked the staff people if I was able to attend.

15 Q. And why did you want to attend?

A. Because I heard it was my sister and a group of staff people, and I thought as a perfect sister I should be there. So, I asked them if I was able to come and they said yes.

20 Q. Okay. And so, what happened at the meeting?

A. They discussed an incident that -- where she had shown disrespect and embarrassed the school, and they discussed that with her.

25 Q. Okay. Was there any yelling and screaming by the staff at your sister?

A. No, there was not.

Q. Do you remember who the staff people were who were there?

30 A. I -- to the best of my memory, it was all women. I believe it was Ms. Mayberry, Ms. James, Ms. Stewart, Ms. Files, my -- I don't remember.

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. Was Ms. Ordolani there?

A. Oh, probably, yes.

Q. And was she a teacher at the school? Or, have some staff position?

5 A. She was a staff member, I did not have her as a teacher, she sang in the choir, she probably taught music. I - I can't remember.

Q. Okay. And was - was -- did they ask anything of your sister at the meeting?

10 A. They reviewed what had happened, and discussed it as being embarrassing because it was to my recollection in - in a bathroom where other people could see, and it wasn't -- you know, it wasn't showing the good -- the school in a good light.

15 Q. Okay. And was she placed on any discipline after that meeting?

A. That I don't remember, if it was -- if she was given discipline it must have been okay, or warranted, or thought to be acceptable because I do not remember.

20 Q. All right. Well, did you feel the -- their approach in the meeting was fair?

A. Yes.

Q. Did you feel that the talking to was warranted?

25 A. Yes.

Q. Was there anything called "Light sessions" by either staff or students where you -- when you were at Grenville?

A. No.

30 Q. Would there be meetings when one or more staff would meet with the -- one or more students to discuss an issue?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Yes.

5 Q. Were you -- we've heard -- you just talked about the Massey Hall incident I'll call it, were there any other sessions that you were involved in either as the target of the meeting or - or the -- an observer?

A. I just remember the one, and I believe it was in a dormitory room with Ms. James, Ms. Stewart or somebody discussing I think her name was Chris, who I think had been meeting with somebody at night.

10 Q. Okay. So, tell me what was the subject matter of this meeting in the dorm?

A. It was discussing whether we thought she should be integrated back into the student body, or if we thought that was going to be disruptive or viewed as a negative impact on the student body. So, they just asked a group of upper year students how we thought -- what we thought about the issue.

20 Q. Okay. And what - what was the issue? Because I think we kind of glossed over it. What was the -- what led to this meeting?

A. Us -- I believe a staff person was meeting with a student at night?

Q. For what purpose?

A. Because they were interested in each other.

25 Q. Okay. And this was discovered?

A. I suppose, yes.

Q. And how did the meeting involving you come out of that -- what was happening with these two people?

30 A. I -- I'm not sure how we had it -- we -- there was a -- I just remember a meeting and discussing it. So....

Q. Was the female a student?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. Yes.

Q. Was the male a staff member?

A. Yes.

Q. And what ended up coming out of that meeting?

5

A. The staff member -- to the best of my knowledge the staff member was dismissed and the girl did not come back to school.

Q. Okay. And was that a consensus among the prefects that were at this meeting?

10

A. Yes, it was.

Q. Were the -- these staff member and the student actually present at the meeting?

A. No.

15

Q. All right. Did you ever see anyone cutting grass with scissors while you were at Grenville?

A. I did not.

Q. Did you ever see anyone having to pull rocks out of the ground with their bare hands?

A. I did not.

20

Q. Did you ever see anything like that happening in the middle of the winter?

A. No.

Q. Did you ever see anyone cleaning a floor with a toothbrush?

25

A. No.

Q. Did you ever witness an exorcism?

A. No, I did not.

30

Q. Did you ever witness anything that could be described as where people spoke in tongues, ran around praising Jesus, rolled in the aisles of the chapel looking like they were having an epileptic seizure, and watching Charles Farnsworth proclaim that he had healed people?

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

A. I did not.

Q. All right. Did you ever see any single one of those things happening at Grenville?

A. I did not see any of those things.

5 Q. Did you ever see anyone at Grenville speaking in tongues?

A. I did not.

Q. Did you ever witness staff directing students to speak in tongues?

10 A. No.

Q. Did you ever witness sessions involving the entire student body where students were stood up in front of the entire assembled group and chastised or belittled for bad behaviour?

15 A. No.

Q. Or for a bad attitude?

A. No.

Q. For being haughty?

A. No.

20 Q. Were there public group sessions with all the - the student body and staff where Father Farnsworth, for example, would speak?

A. Yes.

25 Q. And what were the subject matter of those public sessions that you witnessed?

A. I remember being commended as a student body for having done well, or there were times where positive comments from the community were reported back to us. I remember particular students being commended on their success, or doing well in school, and being successful. I remember students being mentioned with that.

30

Q. Was there discussions of sin at any of these

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

public sessions that were officiated by Father Farnsworth?

A. Not that I remember.

Q. Did you ever hear a lecture or sermon by
Father Farnsworth where he would condemn homosexuality and
homosexuals?

A. No.

Q. Did you ever hear him call out a student or
more than one student and accuse them of homosexuality?

A. No.

Q. Did you ever hear him say that homosexuality
was the worst sin in the bible?

A. No.

Q. Did you ever hear him say that AIDS was put
on the earth to rid the world of homosexuals?

A. No.

Q. Did you ever make phone calls...

A. Yes.

Q. ...when you were at Grenville?

A. Yes.

Q. And how would you go about making a phone
call?

A. There were payphones, I believe three, on the
lower level of the girl's dormitory.

Q. Would you need permission to make a phone
call?

A. Yes.

Q. And was the permission ever denied?

A. Not that I remember, no.

Q. Did you ever have a sense that your phone
calls were being monitored?

A. No.

Q. Did you ever become aware of your possessions

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

ever being searched, your locker or other possessions in your dorm room?

A. No.

Q. Was there a locked drawer...

5

A. Yes.

Q. ...in your -- did each student have a locked -- a drawer that could be locked?

A. Yes.

10

Q. Okay. Did you put anything in - in your locked drawer?

A. When I first arrived at Grenville I had medication, all medication was supposed to go to the school nurse, but I was 18 and my parents told me just to keep it in my locked drawer and administer it to myself.

15

Q. And was it ever discovered that you had this medication...

A. No.

Q. ...illicit medication in your locked drawer?

A. No.

20

Q. Is it your opinion -- sorry, based on what you personally experienced and observed at Grenville, is it your opinion that Grenville was an abusive place to go to school?

A. Not at all.

25

MS. LOMBARDI: That's a little bit leading. He's been leading the witness through all of her answers.

MR. BOGHOSIAN: That is not leading.

30

THE COURT: Well, rather than -- the question and answer has been given, and it's best to make any objection at the time. No objection being taken, just allowing him to continue, does it really suggest the answer in the way perhaps Grenville

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

was not an abusive place, was it would be fully leading, but it's not as open ended as what kind of a place would Grenville be? However, it's been answered and the witness has given her answer, so I'm going to let counsel continue.

5

MR. BOGHOSIAN: Did the witness -- I didn't actually hear the answer?

THE COURT: The witness said "no."

MR. BOGHOSIAN: All right.

10

THE COURT: Madam registrar? All right, thank you. Please continue.

MR. BOGHOSIAN: Q. Emma, did you recently attempt to join the Grenville Christian College Facebook group, a private Facebook group?

15

A. Yes, I did.

Q. And when was that?

A. A few weeks ago.

Q. And why did you want to join that group?

20

A. I was struggling to remember some of the staff, names of people. Like Ms. James -- the Judy's I could not remember, I knew there was a Ms. Stewart but I couldn't remember the other Judy's name, and I thought if I went onto a website I might be able to see by members or....

Q. Okay.

25

A. Yeah.

Q. So what -- did you have to apply to get on the site?

30

A. No, it asked - it asked me if I had attended Grenville between '77 and '82 I think, or '97. And I responded I attended Grenville in 1982 and in 1987-88, and I sent it, and then I got a reply back denying my involvement or access to the Facebook page.

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

Q. And who sent you the denial?

A. Andrew Hale-Byrne sent me a message saying
this is a...

MS. MERRITT: Your Honour, this is hearsay.

5 MR. BOGHOSIAN: It's not - it's not hearsay for
her to say what....

10 THE COURT: Just - just make the objection. Just
make the objection. I can hear you're a bit
frustrated, but just....The question was, "Who
sent it back?" The answer was, "Andrew
Hale-Byrne."

THE WITNESS: Yes.

THE COURT: All right. So the next question is
going to be what?

15 MR. BOGHOSIAN: Q. She was -- that....

THE COURT: Well, the witness was about to say
what was said...

MR. BOGHOSIAN: Yes.

20 THE COURT: And I don't know if it's going -- how
it's going to be used, so I'll invite you to
perhaps pose the next question in a way that
doesn't invite a hearsay answer and perhaps that
will assist us all.

25 MR. BOGHOSIAN: There is no hearsay, Your Honour,
in the use to be put to the response. The
response is simply what she was told about why
she couldn't join the website, that's....

30 THE COURT: Except that's for the truth of what
Andrew Hale-Byrne said, so that does sound like a
hearsay use to me.

MR. BOGHOSIAN: It - it is - it is not.

THE COURT: But persuade me otherwise.

Emma Postlethwaite - in-Ch.
(Mr. Boghosian)

MR. BOGHOSIAN: It is not for the factual content of anything that Mr. Hale-Byrne said, that is not hearsay, with all due respect.

5 THE COURT: So - so what's -- what is it relevant to - to know why other than the fact that access was denied and that's the person who denied it. It's being proffered to tell me what the reason is, to be used for some reason, that sounds like a hearsay use.

10 MR. BOGHOSIAN: This witness can say what someone told her as to the reason they were given for a denial, in this case. It's -- the - the -- I'm not -- nothing....

15 THE COURT: You know what? I'm going to ask you to step out for a minute, it will allow us to have a full and frank discussion about this issue, and we'll have you right back in. If you wouldn't mind, Ms. Postlethwaite? Thank you.

20 ...WITNESS LEAVES THE STAND

MR. BOGHOSIAN: And it's - it's difficult to even argue this, because hearsay is where you're -- somebody is repeating what someone else says, asking to accept the truth of what they said. This is not a factual statement that she's going to relate that Andrew Hale-Byrne said he -- the evidence is going to be that this site is for people who view Grenville as a cult.

30 THE COURT: Right. And so....

MR. BOGHOSIAN: That's not helpful to my interest, and I'm certainly not leading it

Emma Postlethwaite - in-Ch.
Emma Postlethwaite - Cr-Ex.

through the truth of it's contents.

5 THE COURT: What are you leading it for? What is it relevant to? What the site is for? I mean is it for me to conclude that a group of the litigants have put themselves behind closed doors to discuss the fact that it's a cult? Is that where it's heading? I mean what's it - what's it - what's it probative of is maybe the better question, what's it probative of?

10 MR. BOGHOSIAN: It could - could be probative of credibility.

THE COURT: In - in what sense, whose credibility though?

MR. BOGHOSIAN: Possibly Andrew Hale-Byrne's.

15 THE COURT: It -- I'm not seeing it, I'm sorry counsel.

MS. MERRITT: *Browne and Dunn*.

THE COURT: I'm not seeing how his...

MR. BOGHOSIAN: Okay. I will - I....

20 THE COURT: Was he cross-examined on this?

MS. MERRITT: No, definitely not.

MR. BOGHOSIAN: We didn't -- we certainly didn't know, and it may not have even happened for all I know at the time...

25 THE COURT: Right.

MR. BOGHOSIAN: ...Mr. Hale-Byrne was...

THE COURT: Right.

MR. BOGHOSIAN: ...cross-examined.

30 THE COURT: Right. In all of the circumstances I am going to ask you to move on and not invite the witness to give more evidence about what was said at this point. So, let's have the witness back

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

in.

...WITNESS RETURNS TO THE STAND

THE COURT: Thank you, Ms. Postlethwaite.

5

MR. BOGHOSIAN: Q. Emma, were you personally the subject of any discipline while you were at Grenville?

A. No, I was not.

MR. BOGHOSIAN: Thank you, those are all my questions.

10

THE COURT: Thank you. Cross-examination?

CROSS-EXAMINATION BY MS. LOMBARDI:

15

Q. I'd like to start off just by asking you what you did to prepare to come here today? Did you - did you have a conversation with your sister for example?

A. To prepare?

Q. Mm-hmm.

A. I looked through some briefing notes, and that was it.

20

Q. Who -- do you have those briefing notes?

A. No.

Q. Who - whose briefing notes were they?

A. They were just things that I had remembered.

Q. Can you provide us a copy of those things?

25

A. No, I don't have a copy. Not with me, here.

Q. Could you bring one for us when you come back?

A. Mm-hmm.

30

Q. Okay, thank you. And did you also speak with counsel about what your evidence would be here today?

A. We went through the questions that he asked me.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Okay. And when he -- did you go over the answers with him as well?

A. Yes.

Q. Did he give you any of the answers or...

5

A. No, he did not.

Q. No. Do you know if he had the same conversation with your sister?

A. Pardon?

10

Q. Do you know if he had the same conversation with your sister?

A. He went through the questions with her...

Q. Okay.

A. ...I assume. I was not present.

15

Q. I'm just asking because we received a very short -- it's called a will say statement, so just a short summary and an outline usually of what a witness is going to essentially hit on in terms of topics. And - and there's more than a few things that wasn't in there, so how many times did you speak to counsel?

20

A. How many times?

Q. Yeah.

A. Twice.

Q. Okay. All right. I want to jump right in to the session with your sister, if I might?

25

A. Sure.

Q. You said that you had heard that she was going to be speaking with a bunch of staff people over an incident that happened in a bathroom somewhere?

A. Mm-hmm.

30

Q. How did you hear that?

A. I assume my sister told me.

Q. Okay. You don't - you don't recall how you

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

came to know that?

A. No.

Q. No. And can you just remind me, how many staff members were at this meeting to meet with your sister?

5 A. My guess is five or six.

Q. Five or six staff members to talk about her -- what - what was her behaviour that was being discussed?

A. She pushed a staff member from touching her.

Q. How did she push them?

10 A. Well, from what I remember in the meeting...

Q. Mm-hmm.

A. ...she had pushed a staff member's hand from touching her head.

Q. From touching her head?

15 A. Yes.

Q. And for that she was put in front of five or six staff members, and you felt the need as a big sister to show up? It was bit unbalanced, you would agree with me? Five or six staff to one student?

20 A. The conversation was normal, it wasn't threatening.

Q. That's not what I asked though. You found out...

A. Yes.

25 Q. ...she was going to be meeting with five or six staff, and your big sister instincts kicked in and said I need to be there, right?

A. Yes.

30 Q. Yeah. And you said that you were aware of other similar conversations taking place with others? Sorry, I just want to find it in my notes. Right. You were saying that there was that friend that you were given permission to I guess

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

have a sleepover with over the Thanksgiving...

A. Mm-hmm.

Q. ...weekend. She got into trouble somehow
maybe because of drinking, you're not really sure, but in any
5 event, you mentioned that you know that they - they also had a
meeting with her. Who's they?

A. Her parents, the student and I'm not -- I do
not know how many staff members.

Q. Which student?

10 A. The person who -- my friend.

Q. Your friend that got in trouble? The student
herself...

A. Yes.

Q. ...or the student that told on her as well?

15 A. No, the student, my friend.

Q. And - and what happened to your friend?

A. She lost her prefect pin.

Q. That was it?

20 A. She was talked to about her behaviour, her
parents were there too.

Q. Her parents were there?

A. Yes.

Q. And you said she lived in Brockville...

A. Yes.

25 Q. ...is that right?

A. Yes.

Q. Do you remember what her parents did for a
living?

A. No, I don't.

30 Q. No?

A. I believe her dad was an Engineer, I think
her mom might have been a nurse?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. They were local in any event?

A. Yes.

Q. Yes. And how often did you go home in your
grade 13 year to visit your parents?

5 A. Every break.

Q. Every break?

A. Yes.

Q. Do you mean like holidays or every weekend
or...

10 A. The school had designated break weekends, and
I went home every weekend.

Q. And so were those designated break weekends
only -- were they only around statutory holidays or were there
extra ones on top?

15 A. There were extra ones too, I think they were
about once a month.

Q. I see. And so you would go home at least
once a month?

A. Yes.

20 Q. Yeah. Before we break for today, I would
like to talk, I guess briefly, about this session that you had
in the dorm...

A. Mm-hmm.

25 Q. ...I believe you said Judy Stewart was there
and it was discussing a girl named maybe Chris who had been
meeting with someone at night?

A. Yes.

Q. Yes. And you said the meeting was with --
was it with all the senior girls or just the prefect girls?

30 A. It was with a group of girls.

Q. Yourself included?

A. Mm-hmm.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Can you say yes or no, sorry, just for the court reporter.

A. Yes.

5 Q. Yes? Okay, thank you. And you said that Judy Stewart at least was discussing with you and some group of other senior girls, whether or not Chris should be allowed to stay at the school, do I have that right?

10 A. It was more of her effect on us, like how -- was it going to impact the student body, people knew of the incident.

Q. And how did you feel it would impact on you, what she did or didn't do?

15 A. I think I'm missing some information to do with it, but to the best of my knowledge there was a meeting just asking the girls -- some students, how she would fit back into the student body having done -- had this incident happened?

Q. Did - did they tell you about what she did at this meeting or did you already know some other way?

A. We already knew.

20 Q. How did you know?

A. I don't remember how, she was a friend of ours.

25 Q. And based on then I guess your friendship with her, which male staff member was she associated with that caused her to be expelled?

A. Andy Sarbeck.

Q. And who was Andy Sarbeck?

A. He was like a staff person...

Q. Mm-hmm.

30 A. ...helping at the school.

Q. He wasn't a teacher?

A. No.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. But he was a staff person?

A. Yes.

Q. Did they have -- you said that they were interested in each other, did they have a sexual relationship?

5 A. I don't know.

Q. What do you know about their relationship?

A. They liked each other.

Q. So because they liked each other, but they hadn't had a sexual relationship, he was fired and she was expelled, do I have that right?

10

MR. BOGHOSIAN: Your Honour, that - that is a mischaracter...

A. I was not present.

15

MR. BOGHOSIAN: ...that was a mischaracterization of the evidence. That she did not say that they did not have a sexual relationship, and now it's being put to her that she did say that.

20

THE COURT: It's a fair objection. The answer was, "I don't know." So, rather than to put a question as if she did know...

MS. LOMBARDI: Fair enough.

THE COURT: ...perhaps you can move on.

MS. LOMBARDI: Fair.

25

MS. LOMBARDI: Q. Assuming that they didn't have a sexual relationship, what did you think about the fact that he was fired, and she was expelled?

A. I think I'm missing some information in my story, because that sounds harsh.

30

Q. It does sound harsh, yes, thank you. Was this the only harsh sort of punishment that you would have been aware of...

A. Yes.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. ...in your grade 13 year, this was it?

A. Yeah.

5 Q. Yeah. Do you recall what the I guess Judy Stewart, and whoever else the staff person was that was speaking to you girls, what their concerns were about this girl reintegrating? What kinds of damage did they talk to you about that they think she might have on the rest of you girls? What was that conversation?

A. I don't remember.

10 Q. You don't remember?

A. I just know that they included us because they needed information from the student body, she was a friend of ours and there was a conversation as to how it was going to impact us...

15 Q. Right.

A. ...and they were concerned about our well-being.

Q. They were concerned about your well-being?

A. Yes, yeah.

20 Q. What were they concerned about? I'm trying to understand what well-being their concerned about with respect to you when she's the one that had this whatever with this staff person. Can you help me understand that?

25 A. Yeah, I - I -- it's 34 years ago, so I am not recalling the information in its entirety.

Q. Okay.

A. It's an example of meeting with staff people...

Q. Mm-hmm.

30 A. ...where they included the student body as a group...

Q. Mm-hmm.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. ...to get their opinions about something, and to see how it was going to affect us, it wasn't a decision entirely made by staff, they involved the students.

5 Q. Do you remember advocating for your friend to stay?

A. No, I don't.

THE COURT: Are you almost finished with this line of questioning...

MS. LOMBARDI: I am done.

10 THE COURT: ...it's almost 4:30.

MS. LOMBARDI: Thank you, Your Honour.

THE COURT: You're done? All right. So, it does appear as though you will have to return.

15 Sometimes that happens in trials, we've been maintaining a certain schedule and people have organized things around it. So -- and tomorrow we're on a down day, so we resume again on Friday. If counsel wants to try to make other arrangements, we have other days next week, I'm
20 sure you can try to work it out in a way that inconveniences Ms. Postlethwaite as little as possible, that would be appreciated. So, if there's nothing further -- Mr. Adair, you're on your feet, is there anything scheduling wise you
25 need to address at this point?

MR. ADAIR: No.

30 THE COURT: No? Okay. So then Friday morning at 10:00 a.m. we will resume. And counsel, to assist us with setting up for tomorrow, if you could put your materials into the jury box, but there will be a motion in her tomorrow, so that would be appreciated. Thank you.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

....COURT IS ADJOURNED UNTIL OCTOBER 11, 2019

5 FRIDAY, OCTOBER 11, 2019

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

THE COURT: Good morning.

MS. LOMBARDI: Good morning.

10 THE COURT: Good morning. Just before we dive
into the cross-examination of this witness, and
we are very cognoscente of the fact that she has
an early train to catch, so I don't want to take
-- or waste too much time; there's just a couple
of little house keeping matters that I think we
15 need to go over. Firstly, unfortunately the
witness list has changed three times since
Wednesday afternoon. So, we have no idea who is
going to be called to testify today after Ms.
Postlethwaite, and we'd like very much to know
20 who that is so that we might have an opportunity
to maybe organize ourselves over the breaks, to
get what we need and be prepared to deal with
them.

25 Secondly, we think it might be helpful if we
could have brief case management conference just
to deal with similar scheduling issues at the end
of today, whenever that end is, just to deal with
those issues and - and my friend forgot to mark
30 something as an exhibit that he had put to Ms.
Postlethwaite, so I believe he would like to deal
with that now, if that's all right?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

THE COURT: All right. So yes, to the case management conference, yes to filing...

MR. BOGHOSIAN: Yes.

5 THE COURT: ...and if you can advise of your next witness as soon as you know, that would be great.

MR. BOGHOSIAN: Okay. Your Honour, it was the December '87 Grenville Christian News...

THE COURT: Right.

10 MR. BOGHOSIAN: That I had put to the witness and I forgot to have it marked, and if we could do that?

THE COURT: All right, then let's mark that as the next...

MR. BOGHOSIAN: I think the registrar...

15 CLERK REGISTRAR: Exhibit 52.

MR. BOGHOSIAN: ...gave back the copies.

THE COURT: Gave? Okay.

MR. BOGHOSIAN: So, that's why you don't have a copy there.

20 THE COURT: So, it will be Exhibit 52, Grenville News.

EXHIBIT NUMBER 52: The Grenville College
Christian News - December 1987 - produced and
25 marked.

MR. BOGHOSIAN: And the references were to pages 5, 8 and 9.

THE COURT: All right, very good.

30 MS. MERRITT: Do you have a copy of that? David, do you have a copy of that for us?

MS. LOMBARDI: Do you have a copy?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

MR. BOGHOSIAN: Can I make one? I'll have it processed [indiscernible].

MS. MERRITT: Okay.

MR. BOGHOSIAN: I don't have an extra copy.

5

MS. LOMBARDI: Could we have that one?

MR. BOGHOSIAN: Then I won't have a copy to make for you.

THE COURT: We can ask madam registrar at the break to make a...

10

MS. LOMBARDI: Okay, thank you. Thank you.

THE COURT: ...copy of the exhibit for the plaintiff's counsel.

MS. MERRITT: Can I look at it just for a moment, if I can just grab it? Thank you.

15

THE COURT: All right, ready to begin?

MS. LOMBARDI: Yes, thank you.

THE COURT: All right, very good. Good morning.

EMMA POSTLETHWAITE: Good morning.

20

EMMA POSTLETHWAITE: PREVIOUSLY SWORN

CROSS-EXAMINATION BY MS. LOMBARDI, Cont'd:

Q. Good morning, Ms. Postlethwaite.

A. Good morning.

25

Q. Thanks for coming back. I don't to belabour this point, but I have to admit that I couldn't stop thinking about it all day yesterday. So, I just briefly want to go back to the incident involving a student named Chris and the staff member named Andy Sarbeck. And so, just to recap -- and please correct me if I'm wrong, my understanding of the situation, Chris was expelled and Andy was fired because they were interested in each other or maybe they had some kind of

30

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

relationship, but you're not entirely sure; that - that's essentially the situation. Am I right about that?

5 A. I don't believe I said that Andy was fired or that Chris was expelled. Chris did not come back to school, and we did not see Andy.

Q. Okay. I'm sure we can check that...

A. Yeah.

10 Q. ...I thought you did that he was - he was fired, but it doesn't matter, they didn't come back. Do you know how old Andy was?

A. He was a young staff member, perhaps a year older than us.

Q. So -- and by us, Chris was around your age too then?

15 A. Yes.

Q. Okay. So they were two people around the same age that had liked each other and I guess disappeared?

A. Yes.

20 Q. Okay. And this is an example, isn't it then, of the rule against special or exclusive relationships at Grenville being enforced, is that fair?

A. I think so.

25 Q. Okay. And I think you said, but you can please correct me if I'm wrong, that you thought that this was a little harsh. Is that fair?

A. I am going on what I remember. I am sure there are more details that I am not remembering or I was not privy to...

Q. Mm-hmm.

30 A. ...that would explain it better. So....

Q. But my question was you felt that it was harsh?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. From what I -- the details I remembered only.

Q. Right, okay. Thank you. I'll move on from this now. You - you said to my friends in - in a little while will say statement that they provided us that "The staff at Grenville pushed students to their potential." How did they push students to their potential? Can you just describe that?

A. I had an interest in music, I played piano. But practicing was a chore, so there was a flute teacher at the school and I switched over to doing lessons with the flute and progressed very quickly. So, they offered me another avenue to go down with the knowledge that I enjoyed music, and I did very well in that, I got Royal Conservatory accredits and...

Q. Okay.

A. ...yeah, so that's a small example. I was a quiet shy person, perhaps not as the eldest in my family, but amongst all these very extroverted, fun students -- or that's how I saw them, so they helped me by giving me ways of being a leader and helping me grow and build confidence in myself.

Q. So that sounds like they gave you some opportunities...

A. Yes.

Q. ...but you said "pushed students to their potential." How did they push you?

A. I would say that's a figure of speech, to push somebody to their fullest potential. They -- I could use guided you in my case, I didn't feel -- the pressure was from me, it wasn't from people around me, I put pressure upon myself to do well. I was at what I thought was an elite school, my parents thought it was an elite school, I -- it was my privilege to attend that school, I felt I needed to be doing my best, I needed to be achieving good marks and that was pressure I put upon myself.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. So then what you said to my friends is not true then, that they didn't push students to their potential?

A. They guided you, they helped you, they gave you an environment that would help you be as good of a person you were capable of being.

Q. Okay. Thank you. Grenville was a place though of strict rules and discipline, correct?

A. There were rules...

Q. Like there were no relationships?

A. ...and there were consequences...

Q. Right.

A. ...for breaking rules.

Q. Like no relationships, we just went over one of those examples, right?

A. There were relationships. There were strong relationships between girls, there were strong relationships between boys, there were relationships between girls and boys.

Q. But when a rule was broken, like no special relationships, like no dating, I think that's what it means, is that correct? No dating was allowed at Grenville?

A. It would be hard to date somebody at Grenville...

Q. Mm-hmm.

A. ...you're in an environment of going to school with boys and girls. I think there weren't many schools that did that at that stage of time.

Q. Mm-hmm.

A. I believe you had to have rules to allow the school to function.

Q. I'm not asking you about your believe, I'm asking you was there a rule at Grenville that boys and girls were not allowed to date?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. There was a rule in the book that said no special relationships.

5 Q. Right. And there was an example that you gave us of a girl and a boy who had something, we don't know what it was, but some interest you said and she disappeared and he disappeared, correct?

A. He was a staff person.

Q. Fair enough. But he disappeared, he didn't come back?

10 A. No.

Q. And they were the same age, correct? Around the same age, maybe a year or two apart, correct?

A. Well, it's like a teacher and a student.

15 Q. That's not what I asked, correct? Were they the same age -- around the same age, yes?

A. Yes.

MR. BOGHOSIAN: Your Honour...

THE COURT: I think...

20 MR. BOGHOSIAN: ...we've belaboured this for so - so many minutes.

THE COURT: You can sit down.

MR. BOGHOSIAN: Sorry.

THE COURT: You've asked the question...

MS. LOMBARDI: I'll move on.

25 THE COURT: ...we've got the...

MS. LOMBARDI: Q. You also described Grenville as a tough school to my friends. How was it tough?

A. The education was very good, so you were challenged. It wasn't easy.

30 Q. You also say that there were high expectations respecting behaviour and attitude, what were some of those attitudinal expectations?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. As a leader you were trusted to set a good example at the school, and to guide younger students to behave in a similar manner.

5 Q. Just to go back to the rules a little bit, you had mentioned just now that there were some rules in a handbook, we went over the relationships which we will move on from, but there are also other specified rules, like boys and girls had to use different stairwells, correct?

10 A. I don't specifically remember that, I believe it does say that in the rule book.

Q. Okay. But you don't -- if it's in the rule book you don't dispute it?

A. Pardon?

15 Q. If it's in the rule book, you don't dispute it, that that was rule, that they use separate stairwells?

A. I think so, yes.

Q. Okay. There were also rules about how to wear, and even when to wear the uniform, is that right?

A. Yes.

20 Q. And it also included rules about what was and wasn't appropriate casual attire, so on weekends when you were allowed to be out of uniform it sort of laid out some rules, like no jeans, for example?

A. Yes, yes.

25 Q. And it even prescribed your underwear, correct?

A. I don't remember that, but it's possible.

Q. I'll just take you to a document, its Exhibit 2, Tab 71.

30 A. Do I have that?

Q. Exhibit 2. It's the Joint Book of Authorities, Volume 2.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

CLERK REGISTRAR: Your Honour, I think she has it.

THE WITNESS: Yeah, it's -- there's a book here.

MS. LOMBARDI: Q. Does it say - does it say
5 "Joint Exhibit Book volume 2?"

A. There's Volume 1, Volume 2.

Q. Volume 2, Tab 71 please. And if we look at
the second last paragraph there, its paragraph 7; I'll just read
it to you. "A full slip or camisole and half-slip must be worn
10 with dresses and skirts. Briefs must be regular waste style
with no hip hugger or bikini types." And then it goes on to
talk about bras, and even nightgowns and pajamas. So, they
prescribed the type of underwear girls could wear at Grenville,
is that correct?

15 A. It sounds like it.

Q. Okay. But there were more rules than just
those written down, for example there was something known as the
six-inch rule, is that correct?

A. I believe that was the length of your hand
20 from the floor, is that....

Q. Was there a rule describing how close boys
and girls could be to each other? Some have referred it as the
six-inch rule; maybe you're not familiar with that term?

A. I'm not familiar with that term.

25 Q. Okay. And was there an unwritten rule about
odd number of pairings between boys and girls, so if boys and
girls were walking up and down the lane, they preferred there to
be more girls than boys, so three girls and two boys, or two
girls and one boy?

30 A. I am not aware of that rule.

Q. Did you ever walk alone with a boy up and
down the lane?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. I do not remember.

Q. How did you come to learn about these unwritten rules, the ones outside of the ones in the handbook?

5 A. I'm not familiar with the unwritten rules, so I don't know.

Q. Well we talked about behaviour and attitude, those things weren't specifically set out in the rule book. So, how would you learn what the right behaviour attitude was to have at Grenville, and how you could exemplify that as a student leader and prefect?

MR. BOGHOSIAN: Your Honour, there was no evidence given by this witness about rules about behaviour and attitude.

15 THE COURT: I think the question was there are increased expectations for behaviour and attitude, what were they, and the witness talked about as a leader you set an example, you guide younger students to behave in a similar matter. But it does not sound as if the question was

20 phrased in the sense about rules. So, maybe to be a little more precise with the question?

MS. LOMBARDI: I'll rephrase, thank you.

Q. The example that you had to set as a student leader and prefect, other than the example of sticking to the rules in the book, how did you learn what the right behaviour or attitude was that you were to model for these other students?

25 A. Sometime it -- sometimes it may have been by mistake. Like....

Q. Can you give me an example?

30 A. Yeah, I can actually. I played flute with somebody else, I was flute 2, they were flute 1, I was upset with the way I was being by her so I went to a staff member, and

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

that staff person went and got the girl, and we had a discussion. So, the rule I learned after that was that if you have a grievance with somebody, you address it with them, to their face, work it out, and then move on.

5 Q. Okay. So there was a situation, a staff member was involved; through that experience I guess she learned a lesson.

A. The staff person? No, I learned the lesson.

10 Q. Well, didn't the student learn a lesson because you were complaining about that student's behaviour towards you?

A. I guess so, yeah.

15 Q. Yeah. Do you have an example of where you were taught a lesson in a similar way, where you were brought before a staff member and something was corrected?

A. I, on the spot, cannot remember something, there may be something that I was corrected about, I don't recall.

20 Q. Were there public assemblies where the whole student body would be present either in the chapel or dining room, where students might be stood up and corrected as a way of teaching a lesson to the whole student body about what was and wasn't acceptable?

A. I do not recall that happening, no.

25 Q. That never happened?

A. I do not recall it happening, no.

Q. Was being rebellious acceptable at Grenville?

A. No.

Q. How do you know that?

30 A. My sister, I guess, as an example, like her hair.

Q. Was being haughty, H-A-U-G-H-T-Y, is that a

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

term that you heard at Grenville?

A. No, it isn't.

Q. You never heard that term at Grenville?

A. Not that I remember.

5 Q. I see. Was having a bad attitude okay at Grenville?

A. About what?

10 Q. Well, I guess if they're not living up to that example that you're setting as a prefect and student leader, was that something that would be addressed with the student to your knowledge, if they weren't essentially behaving like you?

A. I -- it needs to be more specific for me to answer that question.

15 Q. You - you weren't aware of any other student being accused of having a bad attitude, or being in a bad spirit?

20 A. I'm - I'm sure people had -- I -- didn't want to do their homework, weren't giving full effort into a project....

Q. We don't need you to assume, I'm asking you if you know? You don't know is what you're saying?

A. Can you repeat the question, please?

25 Q. To your knowledge...

A. Yes.

30 Q. ...were students ever corrected for having a bad attitude? For not being like you, like the student leader and the prefect, the example you were setting?

A. Corrected -- a teacher going to them and discussing something? Or me going to a student and saying you need to, you know, clean up your room and put things away, or you need to make sure you're in bed at this time, or you need to

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

get up in the morning and get moving because you're going to be late for breakfast? Because I'm sure I did that, if people were late consistently, a younger student to the dining room, or anybody.

5 Q. But you're not aware of any student being stood up in front of the whole student body for having a bad attitude and that needed to change?

A. One person by themselves up in front of the whole school?

10 Q. Maybe not by themselves, maybe a small group of them in front of the whole school, or just one?

A. I have no recollection, and I've thought lots about this question, and I do not remember that happening.

15 Q. Okay. Do you recall your sister being called haughty? Did she tell you about that?

A. No.

Q. She was at a rehearsal, she told us Charles Farnsworth came in and called her haughty. She didn't tell you about that?

20 A. No, she didn't.

Q. Okay. What would happen when a student broke the rules at Grenville?

A. They would be talked to.

Q. That was it?

25 A. They maybe got an hour of doing jobs I guess? Maybe they'd be put on discipline? Perhaps they'd be sent home? There were....

Q. What does being put on discipline mean?

30 A. It's a time I think where you were supposed to work quietly doing something and think about perhaps, I don't know, what you have done and how to be better. I don't....

Q. Did you see anyone on discipline at

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Grenville?

A. Yes, I did.

Q. How would you identify them as being on discipline?

5

A. I don't think they had their uniform on.

Q. Okay. And they were not attending class, is that correct?

A. Yes. I think -- I assume, yes.

10

Q. Okay. And did they eat separately from the rest of the students who were still in uniform?

A. I believe they did.

Q. Did they sometimes sleep somewhere other than the dorm?

A. I don't know.

15

Q. Do -- are you familiar with the term "Hotel D?"

A. No.

Q. Was there an infirmary at the school when you were there?

20

A. Yes.

Q. Did students sometimes sleep there, aside from when they were in need of the infirmary?

A. Not that I know of.

25

Q. And you weren't allowed to talk to kids on discipline, right?

A. I don't think so.

Q. Okay. So you were a prefect in the year that you went to the school...

A. Yes.

30

Q. ...and you told us. Were you and your sister made a prefect in the same year?

A. I don't think so.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. No? What year did you attend with your --
what - what year was your sister in when you were there at
Grenville? You attended grade 13, was she in grade 12 then?

A. Yes.

5 Q. I see. So the first year you show up, you're
made a prefect right away?

A. No, not right away.

Q. When were you made a prefect?

10 A. To the best of my knowledge it was maybe
January of my first year.

Q. Of your only year really? Grade 10 -- you
attended in grade 8, but...

A. Yes.

Q. ...we're just talking about grade 13.

15 A. Yes.

Q. So in four months you were made prefect?

A. Yes.

Q. Yeah. Did you know that your sister had been
working at it for years?

20 A. I'm not sure prefectship was awarded to
people in grade 11 or 12, I don't know. My understanding is
that it was senior students, so -- no, I didn't know that, and
she didn't complain to me about it.

25 Q. I see. Senior students went on a class trip,
is that right?

A. Yes.

Q. Did you go on - on a class trip as a senior
student?

A. I think so, yes.

30 Q. And were there grade 12 and 13 students on
that trip?

A. I believe it was just grade 13.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Your sister wasn't with you?

A. I don't think so, no.

Q. Okay. And you were never on discipline as a prefect?

5 A. No.

Q. No. Your pin -- your prefect pin, it was never taken away from you was it?

A. No.

10 Q. No. How is it awarded to you? How did -- was - was there a presentation when they gave you the pin?

A. Yes, I believe so. I can't remember if it was where it was, but I believe yeah. I....

Q. Okay. Was it in front of the whole school, do you remember that?

15 A. I don't remember. It might have been in the girls dormitory, I - I -- or the dining room, I'm sorry, I don't remember.

20 Q. That's fine. It wasn't though just one on one, it's not like a staff person handed you the pin and said congrats?

A. It was not, no.

Q. Okay. And you had extra responsibilities as a prefect. I think you told us you were in charge of the grade eight girls?

25 A. The -- it was called Junior Dorm, yes.

Q. Junior Dorm.

A. Grade seven and eight girls.

Q. Did the grade seven and eight girls in this Junior Dorm, was it part of your dorm or was it separate?

30 A. It was separate. It was a...

Q. It was....

A. ...converted apartment, so....

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. So it was a separate building?

A. No, it was part of the girl's residence.

Q. I see. Did you sleep with them in their
section of the dorm...

5

A. Yes.

Q. ...or were you with the senior students?

A. No, I -- we had a room within the apartment.

Q. I see. So you weren't with students your age
then?

10

A. I had a roommate who was my age, she was a
year younger.

Q. Was she also a prefect?

A. Probably.

15

Q. Okay. Were you ever given any
responsibilities or duties as a prefect in regards to kids on
discipline?

A. Never.

20

Q. When you attended Grenville, was there a
requirement that you write home to your parents on a regular
basis?

A. Yes.

Q. Were you exempted from that?

A. No.

25

Q. No. Did you have any responsibilities with
respect to those letters?

A. I've thought about that, and I may have
collected the letters, I may have had a list to make sure...

Q. Mm-hmm.

30

A. ...I collected all the letters from the
Junior Dorm girls, it's possible.

Q. Okay. And you would hand those off if you
collected them, to a staff member, is that correct?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. Yes.

Q. You - you wouldn't post them yourself?

A. I don't think so, no.

5 Q. No. And you mentioned, I think also, about needing permission to use the - the public phones at the school, correct?

A. Yes.

Q. To your knowledge, were kids on discipline given permission to use the phones?

10 A. I have no knowledge of that.

Q. I see. You also mentioned that there was a group of prefects with keys, and I guess they - they took advantage of the fact that they had keys and they entered the - the kitchen and they ate when they weren't supposed to eat, or something. Did you have keys as well?

15 A. I never had keys.

Q. You never had keys.

A. I think it was -- my understanding is that if you had kitchen breakfast prep in the morning, you were given the keys the night before.

20 Q. I see. You mentioned having a locked drawer in your room?

A. Yes.

Q. Which was with these younger girls?

25 A. That was actually in the main dormitory.

Q. So you had a drawer something other than where you were sleeping?

MR. BOGHOSIAN: Your Honour, that's not fair. She made it clear that she was in the main dorm for the first half of - of her grade 13 year, and all of grade 8.

30 MS. LOMBARDI: Q. Okay. So the first -- before

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

you were a prefect, you were living in the regular dorms?

A. I -- when I first went to Grenville, in grade 13, I was in the main dormitory, yes.

Q. I see.

5

A. And I had a locked drawer.

Q. Yes.

A. Yes.

Q. And did staff members have a key to all of the drawers of the dormitory?

10

A. I don't know. I don't know.

Q. But given prefects had keys to other areas; does it make sense to you that staff would also have keys to anything with a lock at Grenville?

A. No, it doesn't.

15

Q. It doesn't make sense to you at all?

A. No. The kitchen and that was a specific job, the students were trusted with those keys for that job, and then the keys were returned to the kitchen people.

20

Q. Who gave you the key for that lock on that drawer in the dorm?

A. I think it was a rotating -- it was a spin lock.

Q. You had a spin lock on a drawer?

A. Yes. Like a locker lock.

25

Q. Uh-huh.

A. So that you pull down and open, and you turn it, it's three numbers.

Q. And this was on a locker or a drawer?

30

A. This was on a drawer. It was just a pullout drawer that had like a padlock on it. Where you -- I guess you kept your personal things. Your...

Q. Did you bring....

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. ...valuables.

Q. Sorry.

A. Jewelry. I don't....

Q. Okay. Did you bring the padlock from home?

5 A. I do not remember.

Q. I see. There was an honour code at
Grenville, is that correct?

A. What - what is that?

10 Q. Okay. Exhibit 1 please, Tab 7. I think you
have that in front of you.

A. Tab?

Q. Tab 7. If you turn to page 3 of that
document, and go to Roman numeral 7. It says:

15 Students at Grenville live by an
honour code which requires them
to stand-up for what is right in
their lives and to protect the
overall environment in which
20 they live by being willing to
require others to meet the same
standards and maintain the
school spirit.

25 Does that help you understand a little more
what the honour code was?

A. I have not seen this before; it's not
familiar to me.

30 Q. Fair enough. But that description, does that
describe what the honour code was to your knowledge?

A. No.

Q. No?

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. I - I don't know what the honour code is.

Q. Oh, okay.

A. And this doesn't really help me.

5 Q. That - that's fair. Let's go to another exhibit. Exhibit 2, Tab 131. This is a transcript of a tape recording by Charles Farnsworth, and if I can have you turn up page 10, the numbers of the pages are at the top centre of the page.

A. Mm-hmm.

10 Q. Page 10, the last paragraph, and I'm going to start mid-way, so the last paragraph, the first word is "Dorms," do you see that?

A. Yes.

15 Q. And I'm starting about six lines down with, "The code of honour."

A. Yeah, I see it.

Q. (Reading):

20 The code of honour was if we had done something wrong we should go in and report ourselves. If someone else knew that somebody had done something wrong, they would go to the person and say,
25 "We know you've done this wrong, it hurt the spirit of the school, or it could be dangerous, or hurt somebody else's property or something,"
30 we would tell that person to go and report themselves to the Dean or to the Head Master or

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

5 someone. If they did not do
that, the second person would go
back to them and say, "I will go
with you and we will report
this." And if they did not,
it's just like we would do in
any family with a brother. If
my brother had stolen money from
10 my mother or father I would tell
him to go put it back and
confess it, if not I would go
with him to confess it. If not
that, then I would have to go
and tell on him to keep order in
15 the place.

Does that better describe what the honour code
was at Grenville?

A. I'm not familiar with these rules.

20 Q. I understand that your familiar with the
voice, but this is a transcript...

A. Mm-hmm.

Q. ...of Father Farnsworth explaining the honour
code at Grenville, do you agree or disagree with Father
Farnsworth's explanation of the honour code at Grenville?

25 MR. BOGHOSIAN: Your Honour, she's already
answered the question that she wasn't aware of
it...

THE COURT: I'm not familiar....

30 MR. BOGHOSIAN: ...the - the fact that these -
these words are on a page....

MS. LOMBARDI: She said she's not familiar with
the document.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

THE COURT: I think - I think I heard you say
"I'm not familiar with these rules?"

THE WITNESS: I -- it wasn't in -- it's not in
our book, no, it wasn't -- I don't remember
somebody telling me that this is the way to
behave. No.

THE COURT: Okay, I think that takes...

MS. LOMBARDI: Okay.

THE COURT: ...you to the end of that line, yeah.

MS. LOMBARDI: Sure.

Q. Were there ever sermons or talks that were
given at Grenville, either in the dining room or in the chapel,
outside of sort of the religious services? I think you guys had
communion a few times a week, Sunday services, but aside of
those times, were there ever talks by the Head Master or other
staff to the students?

A. Yes.

Q. Yes. What were some of the topics of those
talks in the dining room and chapel?

A. I remember Father Farnsworth talking about
helping those who are less fortunate, just a conversation about
meeting somebody and talking with them on the street. I - I'm
sure we had....

Q. Do you remember more about that one? Who -
who did he meet on the street? Do you remember?

A. Somebody that asked for money, or something
like that.

Q. Oh.

A. And he went and bought them something to eat.

Q. Did he ever tell you that he spoke to
prostitutes in Toronto?

A. Maybe. No, no, he did not tell me that.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Not you personally, like in one of these talks would that be an example of helping the less fortunate, he had seen...

A. I....

5 Q. ...people in need in Toronto and could it have been a prostitute that he was talking to?

A. People in need he might of talked to, he did not -- I don't remember him saying that.

10 Q. Okay, that's fine, if you don't remember. As part of I guess giving this lesson of helping people in need or...

A. Mm-hmm.

Q. ...or whatever the other lessons might have been, would he sometimes refer to scripture to help explain it?

15 A. Yes.

Q. Read out a passage of the bible, he would do that?

A. I - I would think so; it's a Christian school, so....

20 Q. Right. Do you remember that?

A. I'm -- I don't specifically remember, but we had talks that were religiously based.

Q. Were any of those religiously based talks in and around the topic of homosexuality?

25 A. No.

Q. So you have no idea what the Christian -- or the scriptures say about homosexuality?

MR. BOGHOSIAN: How does that follow her answer?

THE COURT: That's a different question.

30 MS. LOMBARDI: That is a different -- sorry, I'll rephrase, that's not a very good question.

Q. Do you recall scriptures being read out to

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

the student body in the context of these talks in the chapel or dining room, that were pointed to the --homosexuality?

A. I do not.

5 Q. Okay. Was it ever -- was homosexuality ever described to you at one of these talks, that it was a sin?

A. I do not remember.

Q. Were sins ever discussed in these talks, or even the regular Sunday and communion services at Grenville, sins?

10 A. Yes.

Q. Which sins were discussed?

A. I don't remember specifically, but we asked for forgiveness of our sins almost daily through services as Christians, and it was part of the service, the Anglican Church service, to ask for forgiveness of your sins.

15 Q. But it was never -- specific sins were never discussed with the students?

A. Well, stealing or -- those are big sins...

Q. Uh-huh.

20 A. ...with specific subjects, I guess.

Q. Mm-hmm.

A. I'm -- like, it - it was a Christian school. I don't specifically remember....

Q. Which sins were discussed?

25 A. No, I do not.

Q. Okay, fair enough. Did you receive any sexual education at Grenville?

A. Not that I remember.

30 Q. So there was no sex-ed classes or anything like that?

A. I - I don't remember.

Q. Okay.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

A. No, I don't.

Q. Do you remember learning anything at all about sexuality or gender at Grenville?

A. No.

5 Q. You - you testified to having a positive at Grenville overall, that's right?

A. A positive?

Q. Experience at Grenville overall?

A. Yes.

10 Q. Yes. And although you left your first year after grade eight, that was due to being homesick, not because of anything Grenville did or didn't do for you?

A. Correct.

15 Q. Okay. And is it fair to say that your grade 13 year was overall positive, at least partly due to the fact that Lucy was there with you and - and you weren't alone?

A. Correct.

Q. You were each other's consolation at Grenville, is that correct?

20 MR. BOGHOSIAN: Constellation?

MS. LOMBARDI: Consolation.

A. I'm not sure what that -- what does that mean?

25 Q. Well, you wrote it in an article that I'll take you to now. So let's figure that out.

A. I remember writing an article about my sister.

30 Q. Good, yeah. I will get the full copy to my friend, I only have a copy of the - the actual article here, but it appears to have been written in June 1987, that would be your year at Grenville. And you said you recall writing the article?

A. Mm-hmm.

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

Q. Okay. Can you say yes?

A. Yes, sorry.

Q. Yes, thank you. Okay, and if we look under
the photograph of the three individuals in the far right column?

5

A. Yes.

Q. I'm just going to read you that paragraph:

10

I was filled with various
questions which Lucy readily
answered. How do I do this?
Where do I put this? When do I
use this? When everything
seemed to be going incorrectly,
Lucy and I could always go and
spill out our dilemmas to each
other, giving helpful advice and
consolation where needed.

15

What did you mean by consolation?

20

A. To console, so if I was struggling in some
way, my sister was there to help me.

Q. She was a real support?

A. Yes.

25

Q. Is it fair to say that not all students would
have fared as well as you at the school, generally?

A. I can't comment on that.

Q. Okay. But at least in your own experience,
you having a sister there really helped, correct?

30

A. There were friends all around me.

Q. But specifically your sister, she was a
consolation to you, correct?

A. There were other people that I talked with

Emma Postlethwaite - Cr-Ex.
(Ms. Lombardi)

too.

Q. That's great, but she was a consolation to you, correct?

A. Yes.

5 Q. Yes. And not all Grenville students had siblings there, correct?

A. Correct.

MS. LOMBARDI: Those are all my questions.

THE COURT: Thank you. Any re-examination?

10 MR. BOGHOSIAN: I just have a couple. Do you have the article?

MS. LOMBARDI: Sorry, I should make that an exhibit, I'm -- I apologize. Could I make that as the next exhibit?

15 MR. BOGHOSIAN: Well, I'd like a bit of context. Like, what did this come out of? What did this -- where was this published? Is this in the Grenville news?

20 THE COURT: I - I think the witness agreed that it was written in June 1987.

MR. BOGHOSIAN: I just want to know what - what it came out of. Like was it a Grenville news story?

25 MS. LOMBARDI: It - it was. And again, I'll get the -- I can show my friend the more fulsome version that I have. It does appear to look exactly -- like it had the honour roll listed, other student articles, pictures of the boys' basketball team, and it says June 1987 at the bottom.

30 THE COURT: All right, Exhibit 53.

CLERK REGISTRAR: Exhibit 53.

Emma Postlethwaite - Re-Ex.
(Mr. Boghosian)

EXHIBIT NUMBER 53: Excerpts from The Christian
College Grenville News - June 1984 - produced and
marked.

5

MR. BOGHOSIAN: That's fine.

THE COURT: Thank you.

RE-EXAMINATION BY MR. BOGHOSIAN:

10

Q. Ms. Postlethwaite, in - in the article, the
second paragraph, can you just read the first couple of
sentences, starting with "As my younger sister?"

A. (Reading):

15

As my younger sister Lucy
attended Grenville last year,
she came back the day before the
new students arrived, and I came
with her. All the students
recounting their summer
activities were happy and
excited to see each other.

20

25

Okay, thank you. Based on your experience
and observation, was the level of discipline given out at
Grenville dependent on the seriousness of the rule that was
breached?

30

MS. LOMBARDI: Your - Your Honour, this isn't
proper cross. He had an opportunity to talk
about discipline in his chief, that's not really
reply.

THE COURT: I tend to agree, it doesn't sound

Emma Postlethwaite - Re-Ex.
(Mr. Boghosian)

like re-examination.

MR. BOGHOSIAN: Well....

THE COURT: What - what is it respond -- I mean, because we've had a day in-between, I believe you may have covered this in-chief?

5

MR. BOGHOSIAN: I -- it stemmed from the question my friend put this morning, which was, you know, tell us about all the types of discipline there were. And there was no context really given as to what any particular form of discipline would be needed -- given out for. And I was just trying to clarify that.

10

THE COURT: I think though wasn't your question more going to the question of was it proportionate to the - the crime?

15

MR. BOGHOSIAN: Okay.

THE COURT: If I can call it like that, the offence.

MR. BOGHOSIAN: That's -- that was the gist of the question. But it's in the context of just giving a laundry list of attempts of disciplines and - and when one might be evoked over another.

20

THE COURT: It doesn't sound like re-examination in that sense to me; it sounds like a new idea.

25

MR. BOGHOSIAN: Q. Emma, we -- it - it's been dealt with at length, but I just want to ask a couple of questions about this incident involving Andy Sarbeck and Chris?

MS. LOMBARDI: And again, Your Honour, this was brought up in the chief exam. I don't know why he's asking more questions about this?

30

THE COURT: Well, let's - let's give counsel an

Emma Postlethwaite - Re-Ex.
(Mr. Boghosian)

opportunity to tag it to something that - that was raised in cross-examination that was not raised in-chief, and then maybe the objection will evaporate?

5 MR. BOGHOSIAN: Q. Are there a lot more details that you had at the time about the nature of the relationship between this staff member and this student at the time that this meeting was convened when you were in grade 13 than you're now able to remember?

10 A. Correct.

Q. Right. Did the potential discipline of the student Chris seem to make sense to you at the time --

A. Yes.

Q. ...based on what you knew...

15 A. Yes.

Q. ...at that time?

A. Yeah.

MR. BOGHOSIAN: Thank you, those are my questions.

20 THE COURT: Ms. Postlethwaite, I'd - I'd like to first of all thank you for coming back, I know that was probably a very serious inconvenience, it's appreciated and you're free to go.

THE WITNESS: Thank you.

25 THE COURT: Thank you. Shall we take the morning break?

MS. LOMBARDI: I think we - we must, and it would be nice before we take that break whose coming next, because we still haven't been told by our friends who is next up today.

30

MR. BOGHOSIAN: We will deal with that after the break, and the first act after the break will be

Emma Postlethwaite - Re-Ex.
(Mr. Boghosian)

a motion to have Mr. Farnsworth re-attend, to come back, with something for an additional issue?

5

THE COURT: Do you mean to continue to give evidence?

MR. BOGHOSIAN: Yes.

THE COURT: He's been sitting in court. Have you taken that into account?

10

MR. BOGHOSIAN: Well, it's on one discreet point that has nothing to do....

THE COURT: Oh, he's a party, he can't, never mind, he's fine.

MR. BOGHOSIAN: Yeah, he's - he's a...

THE COURT: Yeah, he's fine, sorry.

15

MR. BOGHOSIAN: ...a representative for the party.

THE COURT: Yes.

20

MR. BOGHOSIAN: But in any event it has nothing to do with anything that Ms. Postlethwaite stated on the stand.

THE COURT: So you want to recall him at some point? Or do you want to recall him next?

MR. BOGHOSIAN: Well, we want to recall him next.

25

THE COURT: All right. And have you told your friends what the issue is?

MR. BOGHOSIAN: Yes.

THE COURT: Okay.

MS. MERRITT: And we're objecting [indiscernible].

30

THE COURT: And you object? Okay.

MS. MERRITT: Yeah.

MR. ADAIR: I'm the one that's going to argue the

Emma Postlethwaite - Re-Ex.
(Mr. Boghosian)

motion.

THE COURT: All right.

MR. ADAIR: We want to recall -- a motion to recall Donald Farnsworth on two discrete points of evidence. My friends, can Ms. Postlethwaite be excused? She's....

THE COURT: Yes. Oh, I've said you're free to go, which means you're free to go.

THE WITNESS: Oh okay, I didn't know whether I could just leave.

THE COURT: Yeah, you don't have to - you don't have to sit and listen to counsel.

THE WITNESS: Thank you.

THE COURT: Thanks again.

MR. ADAIR: And the second motion that will be brought, again which my friends object to, is the motion to have the evidence of Robert Creighton heard by video conference. And then the third matter to deal with is the matter of other witnesses and scheduling. And I am happy to deal with all three of those after the break; I think it would be very convenient to do so.

THE COURT: So, just so I have a sense of what to -- we'll be turning our minds to after the break, are there other witnesses here in person today?

MR. ADAIR: None other than Donald Farnsworth, and I want to explain why.

THE COURT: I see. Okay, so that's - that's helpful to know. Okay, all right, well let's take a 20 minute break and perhaps counsel can fill each other in on positions, try to narrow the issues on the motions so that it assists

Cavanaugh v. Haig
October 11, 2019

everybody. Thank you.

R E C E S S

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

THE COURT: Yes?

10 MR. ADAIR: Your Honour, I wonder if we might
proceed this way, if I might bring the motion to
deal with Mr. Farnsworth first? Solely because
I'm informed the last train to Brockville, for
some reason on Thanksgiving weekend leaves at
1:20.

THE COURT: When?

15 MR. ADAIR: 1:20.

THE COURT: 1:20. Okay.

MR. ADAIR: But if we can't get through it, he
can come back Tuesday.

THE COURT: Fine, that makes sense.

20 MR. ADAIR: But if we were able to deal with it
expeditiously and he could testify now, that
would be good.

THE COURT: That timing sounds right.

MR. ADAIR: Okay.

25 THE COURT: Let's do that.

MS. MERRITT: Okay.

30 MR. ADAIR: And the motion to recall Mr.
Farnsworth is brought pursuant to rule 53.03(3),
which says, "The trial judge may at any time
direct that a witness be recalled for further
examination." And the reasons that we ask that
Mr. Farnsworth be recalled, and the limitation to

Cavanaugh v. Haig
October 11, 2019

5 which we will stick to in his further examination
if permitted are number one, you will recall the
examination in-chief of Heather Bakken who at --
near the outset made a - a prominent mention, if
you will, of a banner that said the words to the
effect of "Humiliation is the place of entire
dependents on God." And she was cross-examined
on whether it said humiliation or humility and
she stuck to humiliation. Subsequent to her
10 testifying, Mr. Farnsworth looked for and found
that object and it is, with respect, a matter of
some importance to put him back on the witness
stand, and say was this -- is this the banner you
found? And he'll explain that he found it in a
15 storage place in Brockville.

THE COURT: In his -- my recollection is that
during his evidence he said he thought he might
have it.

MR. ADAIR: Yes.

20 THE COURT: And would look for it?

MR. ADAIR: Yes.

THE COURT: Yes, all right.

MR. ADAIR: And the -- so, we would like to call
him back to do nothing more than introduce the
25 banner and the second thing we would like to --
well, before I finish with the banner, let me say
this, I do not believe, with respect, that there
is any *Browne and Dunn* issue because Ms. Bakken
was cross-examined on humility, humiliation, but
30 if there is, we have no objection to her getting
back in the witness stand to say whatever she has
to say.

Cavanaugh v. Haig
October 11, 2019

MS. MERRITT: If my friend refers to the page and line in the transcript for his cross-examination that would be helpful, because we are unable to find that.

5 MR. ADAIR: Well, I don't have it right now, but I distinctly recall....

MS. MERRITT: Well, I have the transcript.

10 MR. ADAIR: All right. Well, I'll look at it. And the second point is that upon which we wish to recall Mr. Farnsworth is that he advised me without the - the slightest inquiry or prompting on my part, that he wished he had answered -- expanded on his answer to Your Honour's question at the end of the -- his examination regarding
15 the practice of children being placed with different parents, and when I - when I heard that he wanted to expand on that answer because he didn't feel what he said reflected his views, I did not discuss it with him at all, and we wish
20 to have him put -- put him back in the witness stand and give him that opportunity. And our -- the basis with respect to the banner that we -- or the basic law with respect to the banner, and there is very little of it, the single case of
25 any analysis we were able to find was *Griffi v. Lee*, a decision of the Honourable Justice Joseph.

THE COURT: I have it. I've had it as well.

CLERK REGISTRAR: And sir, can you provide me a court's copy.

30 THE COURT: Here's a copy for Madam Reporter actually.

MR. ADAIR: I'm sorry. Okay, good.

Cavanaugh v. Haig
October 11, 2019

THE COURT: I have a copy of it.

MR. ADAIR: And it -- and it was mentioned in one other case, a case called *Tracey*, T-R-A-C-E-Y; v. Moore, however there was really or no analysis in that case, it just seemed to adopt *Griffi* and Lee. And the bottom of line of *Griffi and Lee* is, with respect, that while there are a number of factors in putting why the situation arose, whether there'd be any prejudice, whether it was deliberately not touched on with the appropriate witnesses, being Ms. Bakken, or whether it was some mistake or inadvertence, the bottom line is it is all about balance and fairness of the trial process.

And what would be involved here would be about a two minute examination in-chief, and whatever cross-examination there is on the two points that we ask the court to address. And I should say that the will say of Ms. Bakken, and I'm not being critical of this because will says can't say every word, but we had no idea that this banner would be mentioned, no knowledge of it, or anything of that nature, it is not mentioned in the will say.

So on balance, it's a matter of enough importance, in my submission, to justify a few minutes in a five week trial, with no prejudice at all to the other side. Those are my submissions on that point.

THE COURT: Thank you.

Cavanaugh v. Haig
October 11, 2019

MR. ADAIR: We'll arrange the cross-examination if you want to let me have a copy.

MS. MERRITT: David emailed it to all of us; it was you who ordered it.

5

MR. BOGHOSIAN: I ordered it, and I didn't get it. I ordered it, and I did not receive it.

MS. MERRITT: Whose evidence are we coming here for today?

MR. ADAIR: Including the cross?

10

MS. MERRITT: Yeah. Your Honour, we do object to Mr. Adair recalling Don Farnsworth. As Mr. Adair has correctly identified, leave is required to recall a witness. And ordinarily a witness can only be recalled to address a matter which was newly raised and could not have been addressed in the witness' testimony. That is not the case here, Mr. Adair seeks to recall Don Farnsworth on two issues, the first to file an exhibit, Mr. Farnsworth says he found a banner, in his evidence he said there were two banners, we don't know which one this is, but in any event file a banner, and then to change testimony previously given, and I'd like to address each of these separately.

15

20

25

30

With respect to the exhibit, Heather Bakken -- Bakken, sorry, gave evidence on October 3rd about a banner that hung in the dining room. And to the best of my ability to read the transcript of her cross-examination, Mr. Adair did not cross-examine her on that point. Mr. Farnsworth was sitting in the courtroom during her

Cavanaugh v. Haig
October 11, 2019

5 testimony, and I believe he approached Mr. Adair
and showed him something on his phone and said I
think I may have that banner, but in any event
that wasn't transcribed, that event if it took
place. But certainly, that was the time for Mr.
Farnsworth, as a party to this proceeding, to
speak to his lawyer about how to respond to that
evidence and for his lawyer to make a decision
10 about whether or not to cross-examine her on that
point.

15 In my submission, the appropriate procedure would
have been to cross-examine her on the point, and
then bring the banner to court when Mr.
Farnsworth testified on October 7th. At that
point, it could have been marked as an exhibit
during his evidence in-chief, and I would have
had an opportunity to cross-examine him on that
and who knows where that might have led. But in
20 any event, in my submission that's the way it
ought to have been done.

25 Now we're in a situation, a *Browne and Dunn*
situation, where Heather was not cross-examined
on it, and now my friend is seeking to recall a
witness for absolutely no good reason, there's no
reason why when they knew the banner was an issue
on October 3rd when Heather Bakken raised it,
that banner was not brought to court on October
30 7th when Mr. Farnsworth was in the witness box.
With respect to....

THE COURT: I would like -- I would like to have

Cavanaugh v. Haig
October 11, 2019

my notes, and it's not in this bench book, of Ms. Bakken's evidence unless there's a hard copy of her transcript available.

5

MS. MERRITT: Well there is a - a - an electronic copy of her transcript, unfortunately neither of us have had a chance to print it out, I don't believe.

10

THE COURT: All right. Can I just suggest you two pause for five minutes; I'm going to go back and pick up the book so at least I can look at my own notes?

MS. MERRITT: Sure.

THE COURT: All right.

MS. MERRITT: Thank you, Your Honour.

15

THE COURT: I'll be back in five.

R E C E S S

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

20

THE COURT: No, I don't see any cross on the banner, but I'll - I'll obviously give Mr. Adair a chance, it could be its missing from my notes, but I don't see the subject coming up in cross. So, all right I'll hear the rest of the submissions and then back to Mr. Adair.

25

MS. MERRITT: Thank you. The second issue is about Mr. Farnsworth being recalled to change his evidence, and that too is inappropriate. As Your Honour will recall, I asked Mr. Farnsworth in cross-examination whether he -- whether it ever -- he'd ever considered, or maybe I said did it

30

Cavanaugh v. Haig
October 11, 2019

5 ever enter your mind that it could be harmful to
children to remove them from their parents. He
did not directly to answer the question, but I
did not pursue it. Mr. Adair had an opportunity,
number one, to re-examine Mr. Farnsworth on this
issue, he chose not to do so. Your Honour then
asked a question at the end -- I can't recall
whether there was any re-examination, but
10 certainly not on that point, but Your Honour did
ask the question again in order to obtain the
answer as to whether Mr. Farnsworth ever thought
about the harm to the children by removing them,
and the answer he provided was quite clear. Your
Honour then invited counsel again -- both
15 counsel, to question the witness further, and
again Mr. Adair chose not to re-examine on the
point. I don't believe any questions were asked.

20 Now Mr. Adair is looking for what amounts to a
third kick at the can, a third opportunity to
rehabilitate his client, and I suggest that is
totally inappropriate. Where - where does this
end? To reopen this door I suggest would
undermine the integrity of the trial process.
25 Are we now to have a *voir dire* about how all this
came to be? Mr. Adair's made some statements
about how it came to be, but how far down this
rabbit hole are we to go? Do we allow other
witnesses to reconsider and revise their
30 testimony? Do we recall Heather Bakken and talk
about the banner? Is this the banner she saw or
is there another banner? Do we call more

Cavanaugh v. Haig
October 11, 2019

witnesses to talk about the various banners that hung in the dining room?

5 I'm not sure how much time we should spend making
a mountain out of a mole hill, and in my
submission I say no time at all. Certainly the
evidence was available October 3rd when Heather
Bakken testified, and October 7th when Don
10 Farnsworth testified, and choices were made and
evidence was given, and just on one point I
thought I heard Mr. Adair say he didn't know he
stopped Don Farnsworth from answering what was
going to be his new evidence, but he sent me an
email yesterday about what that evidence was
15 going to be.

So I'm a little bit confused about whether I
misheard Mr. Adair saying he didn't know what the
evidence was, or whether he misspoke, or whether
20 this is just Mr. Adair's speculation about what
the evidence -- but I have clearly outlined here
in some detail about what that evidence is going
to be in an email sent to me yesterday at 3:09
p.m.

25 So, in my submission there is no new unforeseen
circumstance that has arisen, nothing caused by
evidence called by an opposing party that has
given rise to something new that could not have
30 been dealt with either on one of the two
opportunities Mr. Adair had to re-examine Don
Farnsworth on the issue of his opinion about

Cavanaugh v. Haig
October 11, 2019

5 whether there would be harm to children, or on
the issue of the banner. This is after the fact
for no good reason. In my submission, those
choices have been made, the evidence has been
led, and in my submission that should be the end
of it.

MR. ADAIR: May I just have a brief moment, Your
Honour?

THE COURT: Sure.

10 MR. ADAIR: I'm just looking for something here.
My friend appears to be right about my not having
cross-examined, I had a chance to read the entire
transcript. I thought I had, but I hadn't. To
me, with respect to the matter of the banner,
15 however things developed, whatever happened, it's
a question of whether the court should have the
full picture before it. This came as a --
something that we had no idea of out of Heather
Bakken's testimony.

20 Don Farnsworth I think testified a couple of days
later, and I know there was some back and forth
about this banner but I believe the subject
didn't come up until the day he testified. It's
25 not like we're going over every word that various
witnesses say to see if they're correct or not,
we had no idea about this and - and the question
is this can be dealt with in a simple easy way
without any prejudice whatsoever, the evidence,
30 with respect, should be before the court. As far
as the correction of his evidence, or expansion
on same, he has told me that he made a mistake,

Cavanaugh v. Haig
October 11, 2019

or wished to expand, that was to a question from
Your Honour at the end of the day, it seems to me
that in fairness to the witness he ought to be
able to do that. Those are my submissions.

5

MS. MERRITT: Your Honour, I have the email if
you want to see what Mr. Adair told me Don
Farnsworth is going to say, it wasn't just he
wishes to expand on his evidence, I have all the
details of what he wants to say. I don't know if
you need it.

10

THE COURT: Any potential to me seeing what the
potential evidence will be?

MR. ADAIR: I'm fine.

THE COURT: All right.

15

MR. ADAIR: It's what he told me.

THE COURT: I assume that's the banner behind
you?

MR. ADAIR: I beg your pardon?

20

THE COURT: I assume that's the banner over there
behind you?

MR. ADAIR: Yes it is, Your Honour.

THE COURT: Since I'm seeing this, I might as
well see the banner so I know what's in play.
Could you open it up?

25

MR. ADAIR: I sent my friend a picture of the
banner yesterday.

THE COURT: Oh, there's a picture, okay.

MR. ADAIR: And we have the banner here.

MR. BOGHOSIAN: It's pretty large.

30

THE COURT: Okay, then don't open it.

MR. BOGHOSIAN: It -- the photo would probably
do, I would suggest, if we could forward you the

Cavanaugh v. Haig
October 11, 2019

photo?

THE COURT: Sure.

MR. BOGHOSIAN: Or show it on a phone.

5

MR. ADAIR: Well, the problem is, it's on my
phone.

THE COURT: If you want to just read it to me and
tell me what -- if someone wants to just describe
it from the picture...

MR. ADAIR: Yeah.

10

THE COURT: ...just -- I'll get a sense of what
it is you're seeking to put in.

MR. ADAIR: It...

THE COURT: You don't have to unravel.

15

MR. ADAIR: ...it looks to me like it's about
this size, a foot and a half or two feet wide,
and it looks about three feet long. It's hard to
tell from a picture, but it's on a green
background if I recall, and the words -- oh, here
it is right here; we can show this to Your
Honour.

20

THE COURT: Okay. I don't think you need to open
it, its fine. If you've got a photograph, if you
pass it up I'll just have a look.

25

MR. ADAIR: If you could just hand that up to Her
Honour?

30

THE COURT: So, it - it looks like a bear that
falls from a piece of wood at the top, and it
says "Humility is the place of entire dependence
upon GOD" with God in large letters. And on the
side it's got, it looks like flowers over top,
and to the side that are red and green. All
right, that's - that's helpful, thank you for

Cavanaugh v. Haig
October 11, 2019

that.

5 MR. ADAIR: And I should just say one other thing, it - it - it is not with respect trivial, as my friend suggested, because a good deal of the theme of the case has been humiliation and Ms. Bakken's evidence.

10 THE COURT: And in terms of the fact that it wasn't crossed upon, my options if it does go in in terms of *Browne and Dunn* relief are going to wait or allowing Ms. Bakken to be recalled on the point. That's -- if you have other submissions on that I'll ask both of you to tell me about what you say. The options are given the fact that this is essentially an application to put in 15 evidence on something that was not put to the witness.

20 MR. ADAIR: The options as I understand it, in connection with *Browne and Dunn* are to disallow the evidence, to have it go to wait, or allow the witness, Heather Bakken, to be recalled to address the point if she has any comment to make about it, and I told my friend this yesterday in an email so that she'd be prepared for today, I said that we're -- we will happily consent for 25 that.

30 MS. MERRITT: Ms. Bakken is out of town, and I'm certainly not bringing her back. I can't imagine doing that, but I'll reserve my right. But the plaintiff will have reopen its case, and who knows how many witnesses we'll have on banners, how many banners there were, we'll want maybe further discovery of Mr. Farnsworth as to how

Cavanaugh v. Haig
October 11, 2019

many banners he's got back in Brockville, maybe we need to bring all the banners and have a look at them, and examine a number of witnesses on banners and what they say.

5 THE COURT: In terms of *Browne and Dunn*, anything?

MS. MERRITT: Well that's what I'm saying, that's the *Browne and Dunn* answer. You want to open the banner issue, we've got to be able to reopen our case and call as many witnesses as we need to get to the bottom of the banner mystery.

10 THE COURT: Well, I understand it's not a trial of banners, it -- you've made the point. In terms of Mr. Adair's submission that the options are disallow the evidence, it goes to weight, or reopen and we hear lots of evidence about banners...

15 MS. MERRITT: Right.

THE COURT: ...you agree that those are the options?

20 MS. MERRITT: Right.

THE COURT: All right. Now I will look at this. All right, I'm going to hand the note back. Thank you, it's helpful. All right, what time did you say that that train was?

25 MR. ADAIR: 1:20, but I understand the court has obligations, if we can work around it?

THE COURT: I want to give it adequate thought, but I also don't want to inconvenience...

30 MR. ADAIR: Right.

THE COURT: ...people unnecessarily. So it -- we probably should try to finish this by ten to one

Cavanaugh v. Haig
October 11, 2019

if that train is to be made...

MR. ADAIR: Well...

THE COURT: ...if that's the case.

MR. ADAIR: ...and so that Your Honour isn't
5 feeling rushed, we can get Mr. Farnsworth back
on...

THE COURT: Yeah, he'll be coming back next week.

MR. ADAIR: ...Tuesday or he may very well be
back in any event.

10 THE COURT: Yeah, I would like to think about
this a little more. I think I would prefer not
to try to turn this around in 15 minutes, unless
there's some urgent reason not to?

MR. ADAIR: No.

15 THE COURT: Everyone's been working very hard in
keeping to this schedule, and I think finishing a
bit early before a long weekend is probably
pretty reasonable...

MR. ADAIR: Yeah.

20 THE COURT: ...and given what I've seen all of
you do, which is to really try to move this case
along, so can I suggest then that if Mr.
Farnsworth needs to leave that he leave to catch
his train? I'm going to reserve on this over the
25 weekend, and I'll decide on Tuesday and give you
a ruling then.

MR. ADAIR: All right.

THE COURT: I think that's better.

MR. ADAIR: Might we leave the banner with the
court wrapped?

30 THE COURT: Yes, you can bring it up and -- or in
the jury box.

Cavanaugh v. Haig
October 11, 2019

MR. ADAIR: All right.

THE COURT: Yes, you can leave the banner in case it's to be opened up. So that's that motion. So should we deal with the other motion before lunch?

5

MR. ADAIR: Yes, may I just speak for one second to Mr. Farnsworth?

THE COURT: Yeah, of course, of course.

MR. ADAIR: Thank you.

10

THE COURT: Yes. So, thank you for your submissions on that. That's reserved.

MR. ADAIR: The - the second motion involves the evidence of Mr. Creighton...

15

MS. LOMBARDI: So, I don't want to interrupt my friend, but I think it might make sense to flip the issue. So, before we get into the details of the how a witness might give evidence, I think it would be more helpful for us to understand who the witnesses are going to be, because I think we might end up with a resolution and we don't need to even have this second motion.

20

THE COURT: Shall I give you a few minutes to speak to one and other without question?

25

MS. LOMBARDI: We - we've tried Your Honour, and counsel will -- refuses to speak to us about this, so I think we need to discuss who the witnesses are going to be for next week and sort it out, the....

30

THE COURT: So, are you saying -- sorry to interrupt, Ms. Lombardi, you're saying that if you had a better sense of who's coming, in what order, and who's here in person, you might find

Cavanaugh v. Haig
October 11, 2019

it in your minds to consent to Mr. Creighton
testifying by video?

MS. LOMBARDI: Or - or some other compromise.

THE COURT: Or make a compromise that - that
works for everybody.

MS. LOMBARDI: Right.

THE COURT: Well, that would be nice. Do you
need help with that conversation?

MR. ADAIR: Yes, I'm -- I must say, Your Honour,
I'm getting more than a little weary of being
made to appear the bad guy about witnesses. Your
Honour will recall being in chambers a week ago
Thursday when I outlined -- first of all, my
friends already knew well in advance about
Morrison and Best, when I outlined a week ago
Thursday binding the witnesses to be called and
the dates they were going to be called on right
till the following Thursday, and I believe we
have stuck exactly to that schedule, Friday,
today, has been a problem.

I emailed my friend at 8:14 yesterday morning and
said we would be calling Elizabeth Graham and
David Webb.

I emailed my friend at 11:00 a.m. -- oh and
possibly Wayne Rowe, I emailed my friend at 11:00
a.m. because defense counsel huddled and believed
we didn't need to given the way the trial's gone,
so I said we're not calling Elizabeth Graham or
Wayne Rowe at all, I said our only remaining
witnesses will be Webb, Creighton and Mintz, we

Cavanaugh v. Haig
October 11, 2019

reserve the right to change that and will advise.

5 At 11:20 a.m. I emailed my friend and said the
only witness for Friday will be Webb. At 3:09 I
emailed my friend and said tomorrow will be Emma
and Webb only, Creighton on Tuesday and Mintz on
Wednesday.

10 At 5:37 I emailed my friend and said we're going
to try to move Mintz up to Tuesday because we
might get this finished.

15 And at 8:35 p.m. I said Webb was not available
because he let us know sometime between around
6:00, give or take 30 minutes, that an emergency
had come up tomorrow for -- Mr. Ellis was going
to see him and meet with him, and I said do
everything you can to persuade this guy to get
here and let me know, Mr. Ellis saw him, reported
20 to me, and I immediately told my friends he's not
going to be here. And in the meantime we had
told them we were going to do everything we can
to fill with Jason Price, another witness, who
committed to being in our office at 9:00 a.m.
25 this morning and he emailed me at 10:00 a.m. --
or 10:18, he didn't email me, he emailed Mr.
Read-Ellis, and said he can't be there. So --
which was pretty frustrating, but it's not like
we're not doing our best here. And the witnesses
30 that we intend to call, the remaining witnesses,
are Robert Creighton on Tuesday, contingent on
video conference evidence, and I'll explain.

Cavanaugh v. Haig
October 11, 2019

THE COURT: Where does Mr. Creighton live? Where does he live?

MR. ADAIR: He lives in New York -- near New York City and he's a lead actor in the Frozen play on Broadway, Frozen. And they just can't take a day off whenever they want to or need to. So, there will be Robert Creighton, we've told Mr. Webb that come what may, he had to be available Tuesday or Wednesday, no matter what. And I was able to get Mr. Mintz lined up for Tuesday, the Reverend Mintz.

The only other two witnesses, again which I advised my friend of yesterday again, were Jason Price, we might want him as a witness, although I'm pretty disillusioned about him not showing up, and Annie Glynn, and I have not made that decision yet, both of those witnesses have been on the list for a long time, there's a will say from Mr. Price, and an affidavit from Ms. Glynn, and we are not calling any other witnesses than those people.

THE COURT: That's very helpful, thank you. So, do you think this all can be worked out? Having heard the list, the explanation, the fact that we have a long weekend intervening, people -- I mean I'm not going to -- you can decide what position you take, but it sounds reasonable.

MS. LOMBARDI: It - it - it does, and perhaps -- I mean it has been a bit of a moving target. We've now -- my colleague and I prepared five witnesses that are now off the list based on the

Cavanaugh v. Haig
October 11, 2019

5 information we were given last week, but in any
event, I want to thank my friend for telling me
about Mr. Webb, who was supposed to be here today
and is now for sure coming next week, which is
new information for me, that wasn't communicated
to me earlier. And my friend mentioned a Glynn,
an Annie Glynn, and my friend has been speaking
with me about Ms. Glynn for a while now, and he
asked that we might consider agreeing, allowing
10 her evidence in the form of an affidavit and
cross-examination transcript that were completed
in 2011 to stand as her evidence. We had been
discussing and I'd proposed perhaps the affidavit
could come in and we could do a short cross, my
15 friend wasn't amenable to that and that's
obviously fine.

20 My friend's very experienced opinion when we
discussed this whole issue of video evidence with
regard to Dr. Best, who we interrupted our case
to - to allow to come in person, when it was
suggested to my friend that video be allowed for
Dr. Best, I think he very rightly taught me that,
you know, the gravitas of that testimony, it's
25 important to have them in person, I agree with
that. I - I think Mr. Creighton needs to come in
person to give his evidence. His being in Frozen
and maybe not being able to get a day off is not
new information, my friend mentioned Robert
30 Creighton by name and profession in his opening
statement when we started here, so it's not new
that maybe scheduling him to attend would be an

Cavanaugh v. Haig
October 11, 2019

5 issue. He -- my friend did not ask me about Mr. Creighton possibly having his evidence come through via video, he told me that it would be so, I did not take that approach with my friend when it came to Dr. Best, but in any event...

THE COURT: Are we starting to get into the argument...

MS. LOMBARDI: I'm sorry.

10 THE COURT: I thought you might consider the fact....

MS. LOMBARDI: This is the solution that I'd like to propose and I'll say it in the open and then my friend can consider it. We're fine to allow Ms. Glynn's evidence in by way of simply her affidavit and her transcript, and we would offer the exact same approach for Mr. Creighton, he'd need not attend at all via video or in person, we'll simply let his affidavit and transcript stand.

20 THE COURT: So, do you want to consider that?

MR. ADAIR: I can respond to that promptly. The problem with Ms. Glynn is that she was going through a very nasty divorce, and not only that but her sole business partner died and she made it clear to me that she did not feel in any shape to testify, and the reason I am uncertain about her is because I -- after asking her again during the middle of the trial if she'd changed her mind, and not receiving an answer. I tried one last time to say, well, do you think you'd be able to testify if we did it by video conference, and that was last night -- wait, yesterday

Cavanaugh v. Haig
October 11, 2019

5
afternoon, I should say just before six, and I haven't heard back, and the reason I cannot accept my friend's offer is because I cannot be sure Ms. Glynn will be here, and I have promised this lady I would not subpoena her given her circumstances.

10
So, I can't do that with Ms. Glynn. If we -- if she happens to say yes, I'll advise my friends and we will make a motion to have her evidence by video conference. As far as Mr. Creighton goes, no, his wouldn't need to come to - to testify has been known for a very long time, here has been the problem with Mr. Creighton.

15
He was off on a planned leave of absence from Frozen, from the middle of August until this past week to put on a play on James Cagney that he produced and directed and stars in, in Salt Lake City, with a limited run, and I said fine, when's it over? We'll be able to have you come in on the Monday, I think it's October 13th, it wasn't until we got in the middle of this trial I went oh no, that's Thanksgiving.

25
He starts back in at Frozen on Tuesday, I think at 7:30, it could be 8:00, but to - to fly back up here, or to fly up here, have to testify, have to jump back into a play, is a little much to ask, with respect, and I might point out that my friend's in a neat reversal of circumstance, we're the ones who said oh we can do Simon Best

30

Cavanaugh v. Haig
October 11, 2019

by video conference, repeatedly urged me to do it that way, and the case law -- seeing it looks like we have to argue it, the case law is found -- I - I have the rule....

5 THE COURT: Which would the factors that we consider under the rule...

MR. ADAIR: Right.

THE COURT: ...on points 0-8 of....

10 MR. ADAIR: And the rule that you should be aware of, in addition to one just below eight, I also -- it appears that 1.08 governs, but I - I want to direct your attention to 53 -- sorry, I'm just looking through my notes here, 53.01(1) -
15 53.01(1) says: "Unless these rules otherwise permit, a witness shall be examined orally in court."

20 But of course, 1.08 permits exactly that. And this matter was addressed in the case of *Wright*, *W-R-I-G-H-T*, and *Wazilewski*, where Master Albert permitted the giving of evidence from the United States and he commented on that video conference and witnesses being able to see and hear each other had outlined a number of tests, all of
25 which are found in rule 36. And the only other case I'm aware of....

THE COURT: You've already given me a copy of this.

30 MR. ADAIR: Yes. Oh thank you. The only other case I'm aware of is -- for some reason in the rush this morning it was supposed to be copied, I can't find it, it is a 2017 decision, I believe

Cavanaugh v. Haig
October 11, 2019

it is of Justice Mew who said we'd better get with the times.

5 THE COURT: Is that the one referred to under the -- is that Chandra and Canadian Broadcasting? Court should take a 21st Century approach, is that new?

MR. ADAIR: Yeah, I'm pretty sure it's -- Canadian Broadcast Company was a defendant?

THE COURT: Yes.

10 MR. ADAIR: Only because I remember that, but that's -- his case as well.

THE COURT: Is it the case that Mr. Creighton's evidence would not be capable of being heard if we do not do this by video?

15 MR. ADAIR: Absolutely.

THE COURT: You won't be able to call him?

MR. ADAIR: No.

20 THE COURT: Okay. And what would the nature of his evidence be and why is he important to the litigation?

MR. ADAIR: The nature of his evidence will be similar to other Grenville witnesses, he - he had -- or -- yeah, student witnesses, he has -- actually the best way to do it, I could give you a copy of his affidavit?

25 THE COURT: That may be not necessary. What years was he at Grenville?

MR. ADAIR: 1984 to 1987, grades 11 to 13. And he was president of the alumni association from 2000 to 2007.

30 THE COURT: All right, that's fine.

MR. ADAIR: And we regard him as an important

Cavanaugh v. Haig
October 11, 2019

witness.

MS. LOMBARDI: If I might make...

THE COURT: Yes.

5 MS. LOMBARDI: ...just a few very brief reply
points? I - I - I believe what I suggested, and
perhaps inarticulately earlier, was not to
exclude Mr. Creighton all together, but was to
allow his evidence that he's given in this case
10 by way of his affidavit and also his
cross-examination on that affidavit to allow that
to come forward and be his evidence here at the
court, we - we are amenable to that, I -- unless
my friend has information that his evidence will
be different than what he's already testified to
15 in 2011 with respect to his experiences at
Grenville and those details, I - I think it's
reasonable to put it in that way. The rules
said....

20 THE COURT: But I don't have - I don't have the
power to order that. That would normally -- I
mean there's a clear rule that I can allow video
conference, but absent an agreement what - what
would....

25 MS. LOMBARDI: Well, and I guess fair enough,
Your Honour, that's the agreement that I'm
offering. He didn't really address that, he -
he's just focusing on the video conference, and -
and suggesting that without that there is no way
for that evidence to come forward and there is by
30 agreement I'm telling him, we'll agree to that,
but in any event....

THE COURT: I think Mr. Adair did take it under

Cavanaugh v. Haig
October 11, 2019

advisement and said that he declines the offer.
I think the answer to my question if we don't go
by way of video...

MS. LOMBARDI: Mm-hmm.

5 THE COURT: ...will he attend, and I took his
answer being no he will not, he cannot leave. So
I think that's -- that factors into the balance
of convenience certainly.

10 MS. LOMBARDI: Okay. With respect to the - the
rule, rule 1.8 and the factors to consider, sub
5, I guess I would simply reiterate that I agree
that the evidence and argument should be
15 presented orally in an open court. And sub D,
the importance in the circumstances of the case
of observing the demeanour of a witness I think
are particularly important with respect to Mr.
Creighton who is professional actor, and having
him give his testimony or performance on screen,
I don't think is appropriate in his case in
20 particular.

The other factors are - are dealing with
infirmity and illness, and that was definitely
the case with Mr. MacNeil and we took no issue
25 with that suggestion when it was asked of us.
That's not the case with Mr. Creighton, and again
they were aware of Mr. Creighton's profession and
his schedule for a long time, if we had discussed
this earlier, maybe we could have saved some of
30 our own witnesses having to travel, in one case
over the ocean, you know, to come here and be
here in person. So, I just don't think it's fair

Cavanaugh v. Haig
October 11, 2019

on balance, but in particularly with the case with Mr. Creighton, I think it is important that he be here in person so that we can observe his demeanour.

5

With respect to the case that Mr. Adair referenced, or my friend referenced, at paragraph 5 of that case, some of these considerations, the first one is a) that witnesses residing out of Canada cannot be compelled by summons, there is a process for that. My friends did institute an interprovincial summons for someone outside of this jurisdiction that Your Honour signed off on, so there was a process that they chose not to undertake.

10

15

It's not the case that he can't afford to travel or anything like that, which is sub B. And - and with respect to this necessity point, I'm advised by my friend that at rule 53.02 with leave of the court there is a manner by which an affidavit could be allowed in. So I'll just read it for the court, 53.02(1):

20

25

Before or at the trial of an action the court may make an order allowing the evidence of a witness or proof of a particular fact or document to be given by affidavit, unless an adverse party reasonable requires the attendance of the deponent at trial for cross-examination.

30

And so I guess we're saying because he was

Cavanaugh v. Haig
October 11, 2019

already cross-examined on that affidavit, that it's not necessary, so long as that cross-examination can be included.

5

MR. ADAIR: Oh, I misunderstood my -- I'm sorry, were you done?

MS. LOMBARDI: Yep.

MR. ADAIR: I misunderstood my friend's offer, I thought it was in -- put in his affidavit and have him here for cross-examination.

10

MS. MERRITT: No, transcripts.

MR. ADAIR: I beg your pardon?

MS. MERRITT: Transcripts, just like Annie Glynn.

15

MR. ADAIR: All right. I'm just saying I misunderstood. I would -- our position is I would obviously much prefer to have him give video evidence, but if Your Honour is about to deny that, then my fallback position would be to adopt my friend's offer obviously.

20

THE COURT: Well, it would allow you to get the evidence in.

MR. ADAIR: I'm sorry?

THE COURT: It would allow you to get the evidence in, because otherwise it was an all or nothing proposition, right?

25

MR. ADAIR: Well, I still think, with respect -- I don't think, I respectfully submit, that for the -- for all the reasons stated, he should be allowed to give the video evidence, but Your Honour at least knows our fallback position, and I -- and there is one thing I - I didn't mention, when I said he could come on the Monday and had him scheduled, that was because Monday's a dark

30

Cavanaugh v. Haig
October 11, 2019

day on Broadway, you know? The lights don't go on. And it just turned out to be Thanksgiving, through my error. And he of course lives in the US, so....

5 THE COURT: All right. Well, I thank you for your careful submissions, more?

10 MS. MERRITT: No, I just want to really pin this down, because of the difficulty I've had. It is Thanksgiving, we'd all like to spend some time with our families, and I want to make sure that there are no other witnesses potentially being called in this file other than Mr. Creighton, subject to Your Honour's ruling, Mr. Mintz, and possibly Mr. Price and Ms. Glynn. If that -- if 15 those four are that we have left, I can maybe make a turkey and I would like to know?

20 MR. ADAIR: No, as I told you yesterday, as I told my friend yesterday, the only remaining witnesses we have any intention of calling -- and I specifically specified that if anything changed I would advise her, I do not anticipate it, are Mr. Creighton, Reverend Mintz, Mr. Webb...

MS. MERRITT: All right.

25 MR. ADAIR: ...and possibly Price and Glynn...

MS. MERRITT: Perfect.

MR. ADAIR: ...which I doubt, but...

MS. MERRITT: All right.

MR. ADAIR: ...that's exactly who is left.

MS. MERRITT: All right, perfect.

30 THE COURT: Does that help?

MS. MERRITT: That's very helpful, thank you.

THE COURT: Great.

R U L I N G

LEIPER, J. (Orally):

5

First of all, I would first of all like to thank you for your submissions on this point. I have thought about the factors and 1.08(5) as to when the court may direct a video conference. The first principle is that evidence in argument should be presented orally in open court, that is the highest and best way to hear evidence and to observe a witness in real time give their evidence.

10

15

I am satisfied from Mr. Adair's submissions that this witness is important to the defendant's case and the determination of the issues given the description of the years he was at Grenville and the roles he played on the Alumni Association. The effect of a video conference on the court's ability to make findings, including determinations about the credibility of witnesses, I have had the benefit in this trial of seeing one witness testify by way of video link. The technology was excellent. I could hear and see the witness as if he was right before me, in fact it was as if he was closer to me than the witnesses when they're in the box, for some reason in this court room, in that sense it was equal to or better.

20

25

30

Cavanaugh v. Haig
October 11, 2019

5 The importance in the circumstances of the case
when observing the demeanour of a witness, courts
have moved away from demeanour as being the be
all and end all of determinations of credibility.
Demeanour is important, but courts are often told
to be careful with demeanour evidence, especially
when you have not known the person who is
testifying, so it is a factor but it is not the
only factor.

10 Whether a party witness or a lawyer for a party
is unable to attend because of infirmity,
illness, or any other reason, in this case it is
not infirmity or illness, it is any other reason,
15 which is a legitimate reason being the witness
lives in New York and has a position that
requires him to be at work, on the days when his
time came up in this trial, it sounds from the
submissions as if his schedule would have been
20 fraught no matter what and that attempts were
made to have him here on Monday October 13th, and
through counsel's error that he realized after
the fact that it happened to be a statutory
holiday and he is not able to be here.

25 The balance of convenience, taking everything
into account, I prefer to see the witness rather
than to read a witnesses evidence. The
defendants would be prejudiced if I order that he
30 must be here because -- the submission is he will
not be part of the case. So, on the balance of
convenience I will make the order that he can

Cavanaugh v. Haig
October 11, 2019

testify by video conference.

And those arrangements can be made for Tuesday?
Yes?

5

MR. ADAIR: Yes, Your Honour.

THE COURT: All right. All right, and counsel,
you said you wanted to have a scheduling
conference, if that's the only business left
today, would you like to do that now?

10

MS. MERRITT: I don't think we need it; we've got
the witnesses, that's all we really needed.

THE COURT: All right, any other issues that need
to be addressed?

15

MR. ADAIR: No, the only thing I want to advise
the court so Your Honour knows is it might be a
tight squeeze to get done Tuesday, but we're sure
going to be finished by Wednesday.

20

THE COURT: That would mean that as we had
discussed, we would take Thursday off and then
have some high level submissions, talk about
scheduling for -- receive written submissions on
Friday. Does that still work for everyone?

MR. ADAIR: If that's - if that's satisfactory to
Your Honour, yes.

25

THE COURT: Yes, that - that would work well.
All right, well in that case we will adjourn
until Tuesday morning at 10:00 a.m. And I want
to thank you all for your work this week.

30

...COURT IS ADJOURNED UNTIL OCTOBER 15, 2019

Certificate

FORM 2

Certificate of Transcript

Evidence Act, subsection 5(2)

5

I, Octavia Cumberbatch, certify that this document is a true and accurate transcript of the recording of Lisa Cavanaugh et al. v. Alastair Haig et al. in the Superior Court of Justice, held at Toronto, Ontario, taken from Recording No. 4899_8-2_20191009_092733__10_LEIPERM.dcr, 4899_8-2_20191011_095726__10_LEIPERM.dcr, which has been certified in Form 1.

10

15

July 3/20

Cumberbatch

Octavia Cumberbatch

Octavia@ROCReporting.ca

20

647-907-6282

25

30