

Bayly's

IN THE MATTER OF AN INQUIRY PURSUANT TO SECTION 13(2) OF THE
TERRITORIAL COURT ACT, S.N.W.T. (1978) c. 16 and amendments
hereto

- and-

IN THE MATTER OF A RECOMMENDATION BY THE JUDICIAL COUNCIL
FOR TERRITORIAL JUDGES MADE PURSUANT TO SECTION 31(1)(c) OF
THE SAID TERRITORIAL COURT ACT

VOLUME XXII

Held in Yellowknife, N.W.T.

June 13, A.D. 1990

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APPEARANCES:

Madame Justice C. Conrad	Chairman
L.W. Scott, Q.C., Esq.	Counsel for Madame Justice Conrad
J.U. Bayly, Q.C., Esq., and J.F. Bishop, Esq.,	Inquiry Counsel
C.D. Evans, Q.C., Esq.,	Counsel for Judge Michel Bourassa
A.H. Lefever, Esq., and C.J. Thomas, Ms.,	Counsel for Miss Laurie Sarkadi and the Edmonton Journal

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1 MR. BAYLY: My Lady there are two witnesses to
2 be called today. They are David Gates and Mary Sillett both
3 of whom have volunteered to come from outside the
4 jurisdiction. We have a summons which Mr. Gates has
5 accepted service of, and I will just provide that to the
6 clerk as the next exhibit.

7 MR. HUNT: Exhibit 108.

8 CHAIRMAN CONRAD: Exhibit 108.

9 EXHIBIT NO. 108: MR. GATES' SUMMONS

10 MR. BAYLY: A similar summons is being prepared
11 for Ms. Sillett and we will provide it to her and then make
12 it part of the record as well.

13 CHAIRMAN CONRAD: Thank you.

14 MR. BAYLY: My Lady, I have nothing further by
15 way of preliminaries, and I think Mr. Evans is going to lead
16 Mr. Gates.

17 MR. EVANS: Mr. Gates, please.

18 EXAMINATION-IN-CHIEF OF MR. DAVID GATES, who having first
19 been duly sworn, examined by Mr. Evans and testified as
20 follows:

21 Q MR. EVANS: Just have a seat, Mr. Gates.

22 A Thank you.

23 Q Your name is David Gates, sir?

24 A Yes.

25 Q You are presently the Director of the Federal Department of
26 Justice Office for the Province of Alberta?

27 A That's correct.

1 Q And as such, you supervise something like 40 Crown
2 prosecutors or also departmental lawyers who do civil and
3 criminal work?

4 A That's correct.

5 Q Prior to that appointment, sir, you were the senior Crown
6 counsel for the Department of Justice in the Northwest
7 Territories?

8 A That is also correct.

9 Q Can you tell Her Ladyship when you were appointed to that
10 position and assumed it and when you left to take up your
11 present duties?

12 A I was in Yellowknife twice, actually, from September of 1980
13 until June of 1985, both in private practice and with the
14 department. And then I was appointed the director of the
15 Yellowknife regional office in June of 1987, and was in
16 Yellowknife as the director from June of 1987 until about
17 the end of September of 1989 last year.

18 Q And previous to your being director in Yellowknife in the
19 Northwest Territories office, were you the director of the
20 Whitehorse, that is, the Yukon Territory Crown office?

21 A Yes, I was from July of 1985 until July of 1987.

22 Q Now, in your capacity as director in the Northwest
23 Territories, you also conducted numerous prosecutions for
24 the Crown?

25 A Yes.

26 Q I understand that you appeared before my client, Judge
27 Michel Bourassa, on many occasions in the Northwest

1 Territories?

2 A Yes, I did.

3 Q I understand you appeared before him on circuit as well as
4 in the more major centers?

5 A Many times.

6 Q Can you advise Her Ladyship from your personal experience in
7 your professional capacity attending before His Honour,
8 whether you ever noted any instance of discrimination on his
9 part towards any group, or persons, or person?

10 A No, I didn't.

11 Q Did you ever notice any suggestion of what is currently
12 called gender bias or discrimination against women?

13 A Certainly not.

14 Q And can you comment, sir, based on your experience as the
15 senior Crown counsel and having appeared before Judge
16 Bourassa, and your experience of conducting cases of the
17 Crown in the Northwest Territories, on my client's
18 reputation as a sentencer generally in criminal cases?

19 A Well, I would say that he has a reputation of being quite a
20 tough sentencer. I think the Defence Bar might suggest that
21 he was quite tough on sentence. That was certainly my
22 perspective, our perspective on his performance in the
23 sentencing function, tough, but fair.

24 Q Would that opinion of yours extend to his judgments
25 generally on sentences in sexual assault cases?

26 A Very much so.

27 Q Mr. Gates, you have been shown by me a document which I can

1 tell you is Exhibit 5, Tab 9 but it is a Wednesday, December
2 20th, 1989 article in the Edmonton Journal, and I believe
3 you have just seen it recently?

4 A I have certainly heard a great deal about it and I could be
5 wrong. I don't believe I'd ever seen it until this morning,
6 no.

7 Q Therein, and I am paraphrasing, it is attributed to Judge
8 Bourassa, and we won't get into what the various evidence is
9 on what was said and how it was reported and so on, but just
10 on the plain face of the article, this statement appears:

11 "The majority of rapes in the Northwest Territories
12 occur when the woman is drunk and passed out, a
13 man comes along and sees a pair of hips and helps
14 himself."

14 And then His Honour drew apparently a contrast with
15 apparently southern Canada.

16 Now, just assume this fact to be true, although,
17 nothing much turns on it, but the statement was many rapes
18 in the Northwest Territories occur when the woman is drunk
19 and passed out. I would like to show you a case which
20 really encapsulates the situation I am going to ask you to
21 comment on, and this is a copy of Exhibit 84, if you would
22 just turn to the second page, and with your leave, My Lady,
23 I know I am leading, I just read it to the witness and ask
24 him about the situation.

25 Mr. Gates, this is a decision of the Honourable Mr.
26 Justice Richard in the case of Kendi, and is Exhibit 84 in
27 these proceedings, but in the second paragraph His Lordship

1 indicates that Kendi has pleaded guilty to the offence of
2 sexual assault. He says:

3 "The facts of this case are not unlike the facts
4 of unfortunately a large number of other cases
5 of sexual assault in these Territories in recent
6 years inasmuch as we have here yet another man who
7 while intoxicated, had for his own sexual
8 gratification, has sexual intercourse with a young
9 woman without her consent while she was passed out
10 from intoxication, the man in those circumstances
11 taking advantage of the intoxicated condition of the
12 female victim."

13 Now, that is a description of the facts in that case by His
14 Lordship, and I simply point that out to you, sir, in
15 juxtaposing or putting it alongside the Journal comment.

16 Mr. Gates, in your experience as Crown counsel in the
17 Northwest Territories, was that scenario as described by Mr.
18 Justice Richard a scenario that you would encounter of a
19 type in a sexual assault case that you had been
20 prosecuting. My friend --

21 MR. BAYLY: -- rises early.

22 MR. EVANS: -- rises early. Well, it is late,
23 I am just about done.

24 MR. BAYLY: My Lady, the objection I make as to
25 whether the answer is to be linked somehow to his opinion
26 with regard to something in the article about which no
27 foundation has been laid as to his knowledge. If the
28 question is merely --

29 MR. EVANS: No, relax, I am not. I just want
30 to ask him if -- it was Your Ladyship's question yesterday
31 to Mr. Regel, is what I am asking him.

1 MR. BAYLY: If the question is simply have you
2 encountered many unfortunate situations where an intoxicated
3 accused person takes advantage of a drunk and/or passed out
4 victim and sexually gratifies himself, I think that is a
5 proper question. But it was linked in the way it
6 appeared --

7 CHAIRMAN CONRAD: I think that is what was intended.

8 MR. BAYLY: -- an opinion was being asked about
9 an opinion a judge had expressed, an opinion about something
10 in an article for which the foundation was not laid, but I
11 may be mistaken.

12 CHAIRMAN CONRAD: Perhaps you could rephrase it, Mr.
13 Evans.

14 Q MR. EVANS: Answer Mr. Bayly's question if you
15 wouldn't mind, Mr. Gates.

16 Have you encountered such a scenario? That's all I was
17 getting at.

18 A Yes.

19 Q If I just might, My Lady, I simply wanted to -- didn't want
20 to do it in a vacuum and show him, remind him of the
21 wording used in the article and then found the section --

22 CHAIRMAN CONRAD: I appreciated the factual question
23 is a proper one.

24 THE WITNESS: Yes, several times in various
25 permutations and combinations of the -- of the scenario that
26 Mr. Justice Richard refers to in Kendi.

27 Q MR. EVANS: And in your experience, sir, and we

1 do have some statistics, I gave you a rough idea of them
2 last night, very rough, indeed, but can you give some idea
3 in your experience of the frequency with which one would
4 encounter in the Northwest Territories during your tenure
5 the type of sexual assault called aggravated assault,
6 involving actual bodily harm, or with a weapon, or threats,
7 confinement, and that type of case?

8 A I would have to say they were very uncommon, very uncommon.

9 Q The final question that I was going to ask you, Mr. Gates,
10 was one that I expect you will not be asked to answer, you
11 won't be allowed to answer, but I will ask it, anyway.

12 Have you, having appeared before Judge Bourassa and
13 knowing that these comments were attributed to him in this
14 article, any concern about him continuing to sit as a judge
15 in the Northwest Territories?

16 CHAIRMAN CONRAD: Don't answer it.

17 MR. EVANS: I tried. Mr. Gates, that was very
18 short for a very long trip, and I am most grateful to you,
19 sir, for assisting Her Ladyship. And could you answer any
20 questions, please, that my learned friend Mr. Bayly may wish
21 to ask or Her Ladyship may wish to ask.

22 CROSS-EXAMINATION BY MR. BAYLY:

23 Q MR. BAYLY: Mr. Gates, just so that I have it
24 clearly, you have only today or perhaps last night seen the
25 December 20th, 1989 article containing comments attributed
26 to Judge Bourassa which was published in the Edmonton
27 Journal; is that correct?

- 1 A I don't believe, and again I -- frankly, I don't think I
2 have ever seen the actual article before, no.
- 3 Q And would it be fair to say that you have no firsthand
4 knowledge of the circumstances surrounding the making of
5 those comments?
- 6 A No, I wasn't present on the Territorial Court circuit when I
7 understand they were alleged to have been made.
- 8 Q You don't even know in fact whether they were made or
9 whether they were accurately reported if they were made?
- 10 A No, I have no idea.
- 11 Q You have travelled, however, on many circuits as you have
12 said in your evidence with Territorial Court Judge Bourassa
13 in your capacity as Crown attorney, perhaps even as a
14 defence counsel, I am not sure?
- 15 A No, I believe Judge Bourassa was appointed and arrived in
16 the Territories after I joined the Department of Justice.
17 So, my experience with him is solely as a prosecutor.
- 18 Q And you have been to a variety of places in the Northwest
19 Territories, I take it, not just to the larger centers, but
20 to many of the smaller centers?
- 21 A No, I believe I have been to almost every community in the
22 north.
- 23 Q Your evidence was that you had observed a large -- sorry, a
24 significant number of cases which were ones in which
25 intoxicated persons took advantage of other intoxicated
26 persons in sexual assaults?
- 27 A I am not -- that is a difficult question. I am not sure I

1 said that. It is a difficult question to answer. First of
2 all, I think it would be a fair comment that the majority,
3 the vast majority of all of the cases that we deal with or
4 dealt with in criminal court involved alcohol abuse to some
5 level, that there was drinking involved both by a victim and
6 an accused person in a sexual assault is very common.

7 I am not sure I would go so far as to say that it is
8 very common that the victim is actually passed out, or
9 rendered unconscious, or sleeping. It certainly isn't
10 uncommon, but I wouldn't say that it was very common.

11 Q You certainly wouldn't then say from your experience that
12 the majority of sexual assaults that you have seen in the
13 north occur when the accused is drunk and the victim is
14 drunk or passed out?

15 A I would say that the majority occur when the accused is
16 under the influence of alcohol. I would say the majority
17 occur when the victim is under the influence of alcohol.
18 That the victim is actually rendered unconscious, I would
19 say that is not the majority, no.

20 Q In fact would you go so far as to say in your experience
21 that it is a small percentage of the cases that you have
22 encountered?

23 A Yes, I would agree with that.

24 Q If I added up your tenure here correctly, it appears that
25 you have been a prosecutor in the Northwest Territories
26 travelling on circuit for the better part of seven years
27 over the period that you described; would that be fair to

1 say?

2 A Give or take a few years, sure.

3 Q Yes.

4 A When I was in the Yukon I did some circuit work over here as
5 well. I have been in the north nearly -- well, nine years,
6 I suppose, so that's about right.

7 Q And can you advise Her Ladyship whether you happened to be
8 the Crown prosecutor or one of them who attended an Arctic
9 Bay circuit in which a case called Naqitarvik came up?

10 A No, I did the appeal on that case, to the Court of Appeal of
11 the Northwest Territories. I was not involved in the trial
12 proceeding.

13 Q So, another member of your staff was involved?

14 A It was actually one of the lawyers from our headquarters in
15 Ottawa, what is known as the Arctic flying squad, relief
16 prosecutors who come up from time to time to help out, it
17 was an individual by the name Graham Pynus who actually
18 conducted the sentencing hearing before Judge Bourassa.

19 Q Did you attend that circuit?

20 A I didn't travel to Arctic Bay with them. I was in Iqaluit
21 or Frobisher Bay, as it then was, doing an inquest, as the
22 court party were assembling to go to Arctic Bay.

23 Q The reason I ask is that I wanted to ask you whether on that
24 circuit, you can't tell us in Arctic Bay perhaps because you
25 were not there, was there a newspaper reporter along?

26 A Yes, there was, and I guess the reason I remember, he was a
27 friend of the Crown, Mr. Pynus, and I met him when we were

1 in Frobisher Bay before they went off to Arctic Bay.

2 Q Would he have been a Steven Bindman or a Steven Bindman from
3 the Ottawa Citizen?

4 A Steven Bindman, that's correct.

5 Q Was he with the circuit in the communities that you
6 attended?

7 A He was in Frobisher Bay at the hotel when I was there. I
8 assume that he went -- I believe he went to Arctic Bay. I
9 saw his story after the circuit.

10 Q I wanted to show you some newspaper clippings that appear to
11 have come from that circuit in which you were mentioned,
12 among others, and I invite you to tell me whether those are
13 the stories that you saw?

14 A Yes, I remember reading it.

15 Q And did you submit on that circuit to any interviews with
16 the reporter Steven Bindman?

17 A I don't know whether I would call it an interview. I
18 certainly spoke to him. I mean, when you are travelling
19 with a court group, as we do, as we did and do, and continue
20 to do here, you obviously talk to the people who are the
21 regular players, if I might use that term, in the process as
22 well as anyone who might be along as a guest such as a
23 reporter.

24 Q The reason I ask that, Mr. Gates, is if you look at the
25 third page of these articles in the first column about
26 halfway down, there is a quote which I suspect may be
27 attributable to you, although, they have called you David

1 Hughes, and that is:

2 "That's when the Courts took to flying," says
3 Federal Prosecutor David Hughes. It's just been a
4 tradition, since then that's been perpetuated over
the years."

5 The reason I think it might be you is if we look right
6 across to the next column it says:

7 "Bourassa and Gates say it is often difficult for
8 Inuit to distinguish between the white Judge,
white Crown, and white lawyer and the roles each
9 play."

10 A I believe he is referring to me. I did tell him that.

11 Q It appears from the second attributed comment in that
12 article as though you and Judge Bourassa may have
13 participated in a conversation with that reporter that led
14 to that statement about lawyers, judges, and so forth?

15 A I don't believe that -- my recollection is that this was a
16 long time ago. My recollection is that I spoke to him, that
17 I wasn't in Judge Bourassa's presence when I spoke to him.

18 Q If you turn two more pages there seems to be an article
19 about the Naqitarvik decision.

20 A Umm hmm.

21 Q And I think as you have indicated in your evidence, that it
22 shows in the first column, third paragraph from the bottom,
23 that the Crown Prosecutor, Graham Pynus made the submissions
24 regarding sentence of Naqitarvik?

25 A That's right.

26 Q However, you appear to be quoted in this article in the
27 section that starts with a comment on Judge Bourassa's

1 sentence by southern standards and it says in the last
2 column, last paragraph:

3 "This wasn't introduced yesterday. We have been
4 at this for a great many years. Of course, there
5 is a cultural gap and there is no way of getting
around that. It is an educational process and it
takes time."

6 I had an indication from reading that, Mr. Gates, you might
7 have been at Arctic Bay, but was that a statement that you
8 made to the reporter at all and if so, somewhere else?

9 A I believe that I -- and again it was a long time ago, and I
10 haven't thought about Steven Bindman for some time. I
11 believe he was on another circuit and I spoke to him at that
12 time as well. I guess the reason I am struggling with my
13 memory is I don't remember seeing him after the case or
14 immediately after because I believe I went south and they
15 were still in Arctic Bay. So that unless the quote was --
16 unless my comment was made in a situation that didn't deal
17 specifically with the result of Arctic Bay, that's all I can
18 conclude because I don't remember having ever discussed the
19 result of the Arctic Bay case with Mr. Bindman or any other
20 reporter.

21 Q That one that I have just referred you to seems to be
22 followed by another piece, "Judges, Lawyers Drawn North By A
23 Search For Adventure", and perhaps you can advise Her
24 Ladyship whether you contributed to that by talking to Mr.
25 Bindman? It seems to suggest that you would still be out of
26 work, for example, if you hadn't got the job with the Crown,
27 and I am sure that is not too flattering.

1 A No, that is accurate, that is how I came to be in the north,
2 I was unemployed.

3 Q Did you then have discussions with the reporter that led to
4 things written in this article?

5 A Yes, yes.

6 Q I understood from your earlier answer that in fact you had
7 seen the articles that Mr. Bindman wrote as a result of that
8 trip, that's what I took your answer to be. Did you form an
9 opinion as to whether he had fairly dealt with the things
10 that he attributed to you or that you actually said that
11 were quoted?

12 A I don't remember what if any opinion I formed, to be honest
13 with you, other than he got my name wrong, I do recall that
14 now that you have drawn it to my attention. I think I would
15 want to read it all again before I commented on that.

16 Q Why don't you just take a minute to do that or more than a
17 minute, it will probably take you five minutes. My Lady, I
18 would like an answer to that and I would like the witness to
19 have had an opportunity, so, perhaps we can take a break for
20 five minutes.

21 MR. EVANS: Sorry, where are we. Are we
22 adjourning for the witness to read this?

23 CHAIRMAN CONRAD: We would like to adjourn so that he
24 can read the statement.

25 MR. EVANS: Well, I am objecting to it all
26 going in, in any event. This is getting to be a trial by
27 ambush. This wasn't led, it wasn't shown to my client, and

1 I never got a copy of it until now. Why wasn't this led?
2 If it is part of this inquiry, why wasn't it led when my
3 friend was putting his case in? It is the same with all of
4 this other material that keeps going in.

5 MR. BAYLY: My Lady, I can say this. This
6 arrived in my hands after my cross-examination was finished
7 and I haven't decided whether I will ask that it be
8 submitted. I am asking whether there was a circuit that he
9 went on in which he gave information to the press and to the
10 public, and I will be asking him whether Judge Bourassa did
11 give information to the press that was publicized as well.

12 MR. EVANS: My client was not cross-examined
13 about that. He is finished, he is not going back. He has
14 had his chance to cross-examine him. This must have been
15 known or at least they must have had some indication of
16 this, but we don't get it until last minute, and I am
17 objecting to it going in. It is not relevant to your terms
18 of reference.

19 CHAIRMAN CONRAD: Right now we are not discussing
20 whether or not this evidence goes in. We are at a question
21 that says would you read this and tell me whether it is fair
22 reporting and I am having difficulty with the relevance of
23 that.

24 MR. BAYLY: My Lady, I will be quite candid. I
25 asked questions of Judge Bourassa whether he had ever given
26 interviews to any reporters other than Ms. Sarkadi, he gave
27 his evidence in chief. He answered those questions in

1 cross-examination. I understood from him that he did not,
2 and I am going to ask this witness, if you don't rule it
3 objectionable, whether he knows whether Judge Bourassa did
4 give interviews to this reporter.

5 CHAIRMAN CONRAD: That doesn't answer my question of
6 what the relevance of whether or not it is a fair report.

7 MR. BAYLY: I beg your pardon?

8 CHAIRMAN CONRAD: The question that we are not being
9 asked to adjourn on is whether or not this witness feels he
10 was fairly reported, and I am saying what relevance has that
11 got to anything?

12 MR. BAYLY: It may go beyond the bounds. I
13 didn't think that was the objection, but --

14 CHAIRMAN CONRAD: That is the stage that we are at
15 now.

16 MR. BAYLY: It seemed to me, My Lady, that if I
17 were to ask the question I have just alerted Your Ladyship I
18 would ask that -- the question to ask to lay the groundwork
19 would be whether or not this appears to fairly report the
20 events of that circuit.

21 CHAIRMAN CONRAD: He can only answer whether it
22 fairly reports what he said, and so far I don't know whether
23 he was present for all of the --

24 MR. BAYLY: No, in fact we have evidence that
25 he was not present for a portion of that. I am not sure
26 that I need to pursue this, My Lady. Sometimes one gets
27 carried away.

1 CHAIRMAN CONRAD: You are saying you want to put it
2 in as evidence that rebuts what the evidence in chief was of
3 Judge Bourassa, though, in the end, that's the next question
4 you are leading to?

5 MR. BAYLY: My Lady, the only evidence that it
6 is relevant for is whether there were other interviews given
7 to press reporters which would show whether or not Judge
8 Bourassa had experienced talking to the press and so forth,
9 and he may not know that.

10 CHAIRMAN CONRAD: He may not.

11 MR. BAYLY: I don't need these documents for
12 that. They were just an indication that there had been a
13 reporter along on a particular circuit which has been the
14 subject of evidence before Your Ladyship, also subject of
15 evidence given by Judge Bourassa that there was an Ottawa
16 Citizen reporter who travelled with the circuit.

17 My understanding, perhaps it is a mistake in my
18 understanding of Judge Bourassa's evidence on those people
19 to whom he gave interviews were somebody from the Reader's
20 Digest, Ms. Sarkadi, but otherwise people had reported what
21 he had done, not what he had said, with the exception of the
22 St. John's conference and the Manchester Guardian reporter.

23 CHAIRMAN CONRAD: Just let me know what I am going to
24 be asked to rule on.

25 MR. BAYLY: Well, I think what Mr. Evans is
26 saying is that he objects to this being put in. I am not
27 pressing that this be put in. I just wanted to remind the

1 witness of whether or not there was a reporter, I have done
2 that. It may be unfair, as Mr. Evans says, and I don't want
3 to press that. I do want to ask him the question of whether
4 to his knowledge Judge Bourassa gave interviews to Mr.
5 Bindman on that circuit.

6 CHAIRMAN CONRAD: So, you are withdrawing your last
7 question. You are going to continue on, okay.

8 THE WITNESS: I can't answer that, I don't know.
9 Not in my presence, he didn't.

10 Q MR. BAYLY: Now, Mr. Gates, I take it that the
11 Northwest Territories has an active Defence and Crown Bar
12 alert to the sentences that judges give and whether or not
13 they should be taken to appeal; is that your experience?

14 A Certainly during my time here as a Crown, I was certainly
15 alive to the kinds of sentences which were being handed out
16 by the Courts generally, yes. I can't comment on the
17 defence.

18 Q And under your direction the Crown office had no hesitation
19 in appealing sentences which you felt were not correct
20 sentences, not within the range which the Appeal Courts had
21 said was acceptable under the circumstances?

22 A That would be a fair comment.

23 Q And would you advise Her Ladyship whether you had ever heard
24 from the Defence Bar with whom you no doubt worked on a
25 regular basis that they would have appealed sentences, but
26 for, for example, the impoverishment of their clients, or
27 the inability to get materials to assist them with the

1 appeal, and that sort of thing?

2 A Legal Aid is a big source of funding for the Defence Bar in
3 this particular jurisdiction because of the economic
4 situation of people. The Legal Aid would occasionally and
5 my experience has been that it is relatively or fairly
6 occasional would deny funding for an appeal that they
7 concluded had no merit.

8 Q Is it your experience, though, that generally you didn't
9 hear complaints that people couldn't appeal because their
10 clients did not have the wherewithal?

11 A I am sorry, can you rephrase that? Could you ask that
12 again.

13 Q You worked with the Defence Bar?

14 A Yes.

15 Q You have given evidence now on where Judge Bourassa's
16 sentences fitted in to the range of sentences?

17 A Yes.

18 Q And what I am asking you about, first of all, I have asked
19 you did the Crown hesitate about appealing when it thought
20 it should appeal; your answer, I think, I am only
21 paraphrasing, was no?

22 A No, that's correct.

23 Q And let me put it this way, did you have any -- did you form
24 any conclusion that the defence was freely appealing things
25 it felt it should appeal, or did you feel that there was a
26 different view taken by defence lawyers because of some
27 disadvantage?

1 A No, I didn't think that there was a different view taken
2 because of some disadvantage. I would have to say that I
3 think we, the Crown, screened our appeals more, perhaps more
4 carefully than they did. But I don't think that is
5 terribly, terribly surprising. The accused's interest is
6 obviously different than the Crown's.

7 Q You said that you would have placed Judge Bourassa in the
8 tough range of Territorial Court judges on sentencing and
9 particularly on sentencing for sexual assault cases?

10 A I would say -- I would perhaps describe it a little bit
11 broader than that. I would say that in terms of situations
12 involving domestic violence and the sexual exploitation of
13 children and women, that Judge Bourassa was a tough -- was
14 tough on sentence, yes.

15 Q But presumably if he was tough beyond the range that the
16 Courts of Appeal have made pronouncements on, you would
17 expect to have to be the Respondent on appeal when you were
18 here on such cases?

19 A That's correct.

20 Q And similarly if you felt that he or any of the other judges
21 were not sufficiently upholding the sentencing principles
22 that have been laid down by the Courts of Appeal, that you
23 would be the Appellant in such appeal?

24 A That's correct.

25 Q And so what you are really saying is that within a certain
26 range beyond which somebody would appeal, your view is that
27 Judge Bourassa was on the sterner end within that range?

1 A As compared to his colleagues on the Territorial Court
2 Bench?

3 Q Presuming that we can't compare him with anybody else in
4 this jurisdiction, in any event? I am just following up
5 with what Mr. Evans has asked you on the same subject.

6 A Well, I mean, it is a relatively small number of judges. He
7 certainly was the lightest in terms of sentencing, but he
8 was not the heaviest either. He was towards the upper end,
9 if I can describe it that way. He was tough.

10 Q But within a range, I take it, or you would have expected
11 appeals?

12 A Yes, and my experience is that there weren't that many
13 appeals from Judge Bourassa's decisions by either side.

14 Q So, your evidence is that he was sentencing within the
15 range?

16 A Yes.

17 Q Now, while you were here, presumably sexual assault cases
18 were dealt with not only in the Territorial Court, but also
19 in the Supreme Court?

20 A That's correct.

21 Q And over that period of time, have you any evidence that you
22 can share with Her Ladyship about the proportion of sexual
23 assault cases that would have been dealt with in the Supreme
24 Court as opposed to the Territorial Court? I am not
25 thinking numbers here.

26 A I am sorry, I don't have any statistics that I can give you,
27 but I think I can fairly say that the Territorial Court

1 dealt with the bulk of the criminal cases. The serious
2 sexual assaults, they probably dealt with fewer, but they
3 certainly dealt with the bulk of the Territorial offences.

4 Q When you came, of course, there were only two categories of
5 offence against adults, sexual offence, they would be rape
6 and indecent assault?

7 A Yes.

8 Q Would it be fair to say that at that time, those which were
9 categorized as rape, by and large were dealt with, resolved,
10 if you like, in the Supreme Court?

11 A Yes, that's correct.

12 Q And those that involved indecent assault, would have been
13 split somehow between the two levels of Court?

14 A That's correct.

15 Q And in the intervening years, the sexual assault type of
16 offence has been re-categorized into a variety of offences?

17 A That's correct.

18 Q And your experience with those that we would have prior to
19 the amendments called rape or serious indecent assault,
20 continued to be dealt with at the Supreme Court level or was
21 there a shift there, in your view of the practice?

22 A It became complicated. I mean, a number of factors came
23 into play. For one thing, there seemed to be a great
24 increase in the incidence of such offences. Now, whether or
25 not that was actually an increase in the incidence or simply
26 an increase in the reporting of those types of offences, so,
27 we saw a great deal more after 1983 when the Criminal Code

1 was changed than before.

2 And because sexual assault simplicitor, became a dual
3 character offence, we at the Department of Justice wrestled
4 for a long time with whether it was best to get the case
5 over with quickly and elect to proceed by summary conviction
6 or to seek the greater penalty range which was available by
7 an indictment proceeding.

8 But I would have to say, notwithstanding those two
9 comments or reservations, that by and large serious sexual
10 offences continue to be dealt with for the most part, and
11 there are many exceptions to my general statement, in the
12 Supreme Court.

13 Q And that would bring us current until really close to the
14 end of 1989 when you left to join the office in Edmonton?

15 A Yes.

16 MR. BAYLY: Those are my questions of this
17 witness, My Lady.

18 CHAIRMAN CONRAD: Thank you. Mr. Evans, do you have
19 any re-examination.

20 MR. EVANS: No. I can't imagine that there is
21 anything left that possibly he could be asked.

22 CHAIRMAN CONRAD: Well, I have a question.

23 MR. EVANS: Subject to Her Ladyship.

24 EXAMINATION BY MADAME JUSTICE CONRAD:

25 Q CHAIRMAN CONRAD: Was it common as a means of
26 communicating to the public for circuit courts to take
27 reporters or at least not uncommon?



1 A It wasn't uncommon. It wasn't uncommon at all.

2 Q They would go along and report?

3 A Yes, they would go along. I mean, I can remember film
4 crews, radio reporters, newspaper reporters accompanying us
5 on circuit. They mixed freely with the court group as it
6 travelled around the Territory. They attended court, report
7 on the court proceeding and obviously were a party to the
8 conversations and discussions that took place across the
9 dinner table and in the airplane.

10 Q Can you tell me about the formality in your dinners, for
11 instance, did people eat together, would all of the court
12 party often to be together or they got together a little
13 more informally than perhaps occurs in the city?

14 A I think that certainly with the exception of the judge or
15 the judge who was presiding, either a Superior Court judge
16 or a Territorial Court judge, and if I can come back to
17 that. The relationship between the Crown, the defence, and
18 perhaps the other people involved, the court reporter, the
19 court clerk, indeed the pilots, the court workers,
20 interpreters, was a fairly close one, and people did have
21 meals together and spent a great deal of time together.

22 As a general proposition the judges, for obvious
23 reasons, had to remain somewhat distant from that. I can't
24 say that I have never had supper with a Territorial Court
25 judge or a Supreme Court judge in a community, but it is
26 relatively infrequent and they tended to stick to themselves
27 and eat with the clerk.

1 Q I saw that you hesitated to a question that Mr. Bayly put to
2 you about whether or not you feel free to exercise your
3 discretion to appeal or not appeal. You took a little while
4 to answer that, and I was wondering, where do your
5 instructions come from in that regard or what was the
6 hesitation?

7 A Well, the hesitation, I suppose, is that we are of course
8 only agents of -- all of us, of the Attorney General, and
9 she is the final authority on whether or not the Crown is
10 going to appeal on anything. I mean, she is the one who is
11 accountable for all of our actions.

12 As a practical matter we have a great deal of freedom
13 or we did have a great deal of freedom when I was in the
14 north, and I guess my hesitation is -- reflects simply the
15 fact that I am mindful that we are not complete free agents,
16 we are accountable.

17 CHAIRMAN CONRAD: Thank you. Anything arising?

18 MR. EVANS: No.

19 MR. BAYLY: No.

20 CHAIRMAN CONRAD: Thank you very much for attending
21 and you are released from your summons.

22 (BRIEF ADJOURNMENT)

23 MR. BAYLY: My Lady, the witness was in here
24 until a couple of minutes before the adjournment and I have
25 not seen her over the course of this adjournment. She is
26 staying in this hotel. She must have miscalculated the
27 length of the last witness.

1 CHAIRMAN CONRAD: Oh, I see, she has not been here?

2 MR. BAYLY: She was here. I saw her here and
3 spoke to her this morning, but I don't know where she is.
4 Oh, here she is. If we could just take a moment while the
5 paperwork gets done.

6 EXAMINATION-IN-CHIEF OF MS. MARY SILLETT, who having first
7 been duly sworn, examined by Mr. Bayly and testified as
8 follows:

9 CHAIRMAN CONRAD: Ms. Sillett, pursuant to Section 5
10 of the Canadian Evidence Act, you are not excused from
11 answering any questions on the grounds that the answer may
12 tend to incriminate you or may tend to establish your
13 liability in a civil proceeding. However, you have the
14 right to object to answer any such question, and any answer
15 given thereafter shall not be used or is not admissible in
16 evidence against you in any criminal trial or proceeding
17 other than a prosecution for perjury. Under the Public
18 Inquiries Ordinance, you are deemed to have objected to
19 answer any such question, and no answer shall be used or
20 receivable against you in any trial or other proceeding
21 other than prosecution for perjury.

22 THE WITNESS: May I have a glass of water,
23 please?

24 CHAIRMAN CONRAD: Yes, certainly.

25 Q MR. BAYLY: Ms. Sillett, I understand that you
26 are the President of Pauktutit, a national women's
27 organization representing Inuit women throughout Canada; is

1 that correct?

2 A Yes, that's correct.

3 Q And could you have a look at a curriculum vitae which you
4 supplied to me and just advise Her Ladyship whether it
5 represents a summary of your experience and your
6 professional qualifications?

7 A Yes, it does.

8 Q And I understand, if I can just take you through some of the
9 highlights of that, that you are from Labrador?

10 A I was born in Hopedale, Labrador, yes.

11 Q Did you spend the better part of your life there or
12 elsewhere?

13 A Yes, I did.

14 Q And I understand that you did leave Hopedale to go to
15 school?

16 A When I was five years old my grandparents moved to Happy
17 Valley Goose Bay, but that is considered an Inuit community,
18 an Inuit community under the Labrador Inuit Association.
19 And I did leave in 1971 to attend Memorial University
20 because there is no other university and where else would
21 you go.

22 Q Hopedale and Happy Valley then are Inuit communities in
23 Labrador, are they?

24 A Well, Happy Valley there is -- it is considered an Inuit
25 community where it is represented by the Labrador Inuit
26 Association. The population there is quite large, and there
27 is -- I don't know exactly the number of Inuit people that

1 live there, but there is an Inuit community within the large
2 community. It is something like Yellowknife, but it is not
3 as big as Yellowknife.

4 Q I understand that even prior to your attending the
5 university and receiving your degree in social work that you
6 have been involved in aboriginal issues which relate
7 generally to native people in Canada, but specifically to
8 the Inuit of the country; is that correct?

9 A Yes, as a summer student I spent -- I began in 1973, and I
10 began to work with Inuit groups, and I worked on various
11 summer student projects relating to Inuit issues, with the
12 Company of Young Canadians, with the National Parole Board,
13 so, those were summer jobs.

14 Q When did you begin to work full time on Inuit issues either
15 regionally in Labrador or nationally?

16 A In 1976 I began work with the Labrador Resources Advisory
17 Council, which was a group of native people, native Labrador
18 people, northern, southern Labrador people, and it was
19 essentially to advise government or to advocate for the
20 people on various developments I worked within Labrador.
21 But in 1976 I was also elected to be a Board member for the
22 Labrador Inuit Association. So, my association with the
23 Labrador Inuit Association, which is the Inuit political
24 representative organization of Labrador began in 1976.

25 Q Did you continue that work at another level, at a national
26 level?

27 A Essentially what happened is that I eventually became the



1 executive assistant to the president of the Labrador Inuit
2 Association, I worked with them, and in that capacity I
3 guess I assisted the president, Bill Edmunds, advocated on
4 behalf of Labrador, we were involved in land claims,
5 primarily at that time. And in 1981, I was offered a job
6 with the Inuit Committee on National Issues, which is the
7 Inuit constitutional spokesperson which was a national
8 spokes organization for Canada of Inuit on constitutional
9 issues.

10 Q Actually what I am going to ask you to do, Ms. Sillett, is
11 if you can speak a little more slowly. I am watching the
12 court reporter as well as you and I think she would probably
13 prefer if you could speak a little more slowly?

14 A Okay.

15 Q You then became involved in national issues. When did you
16 become involved in the Inuit women's organization which I
17 gather later became Pauktuutit?

18 A In 1979 was my earliest involvement, and I was always
19 involved with Inuit women issues at the local level. I was
20 the chairperson of the Annaqattigiit which is the local
21 Inuit women's group in Happy Valley Goose Bay, and I chaired
22 the first Northern Labrador Women's Conference which was in
23 1978 as well. And of course in that capacity we were
24 invited to meetings, the Native Women's Association of
25 Canada which was the National Native Women's Organization
26 did invite us to one of their meetings. And the two Inuit
27 people who from Labrador at that annual general meeting were

1 elected to sit on the Board of the Native Women's
2 Association of Canada, there was Judy Ford and myself. And
3 I think Judy and I during our time with the N.W.A.C., we did
4 have problems with the organization. Essentially we were a
5 minority within that organization. There were clearly
6 linguistic differences, the functional language of the
7 N.W.A.C. was English. The language with the majority of
8 Canada's Inuit is Inuktitut.

9 Q Do you speak the Inuktitut language yourself?

10 A I am not fluent, but I can understand it, and I think that's
11 the case for most Labrador Inuit, and Justice James
12 Igloliorite is in that category as well. And I think the
13 Inuktitut language is also weak in the western Arctic, but
14 besides that, it is the language of the Inuit people in
15 Canada.

16 And as Board members we had serious reservations about
17 our involvement with the N.W.A.C. We had problems with the
18 issues that they raised. They talked about treaties, they
19 talked about reserves. We live in communities. We have
20 never signed treaties. And I think they -- over a long
21 period of time there were real basic differences in our
22 approaches, in our issues. So when we went back to
23 Labrador, we discussed this at the local level. And mind
24 you, we are not talking -- we talked to this with women who
25 are in the community, who are active in women's issue. I
26 mean, not everybody is active. I mean there are women who
27 are not active, so, they were concerned as well. And it was

1 at that time we started talking about the advantages of
2 possibly creating a separate organization for Inuit women.

3 And when I moved to Ottawa in 1981, to work with the
4 Inuit Committee on national issues, I was always very
5 interested in women's issues, and we still had contacts with
6 the N.W.A.C., but I guess, you know, those contacts became
7 strained simply because there were so many differences
8 emerging and at that -- you have to remember that in Ottawa
9 there are very many Inuit organizations, Inuit people from
10 the north, all over, come to work with these organizations.
11 So, there was a large group of Inuit women already in Ottawa
12 during that time working with various organizations, women
13 from, you know, various parts of the N.W.T. primarily, that
14 is where the majority of the women are. And we discussed
15 this for a long time and we felt it was very necessary to
16 for us to take steps to organizing the National Inuit
17 Women's Association.

18 So, in 1981 at the Inuit Tapirisat of Canada Annual
19 General Meeting --

20 Q Could you just slow down a little bit again, just for the
21 sake of the reporter.

22 A -- I made a presentation on behalf of the group, but it was
23 a very informal group of women who were concerned about our
24 participation with the N.W.A.C., made a presentation to the
25 Inuit Tapirisat of Canada Annual General Meeting. And I
26 want you to understand that the annual general meetings of
27 I.T.C. at one point when finances were better, they did have

1 a representative from every Inuit community in Canada. We
2 didn't have to go to the I.T.C. for support, but we felt
3 that it was courteous, that we could tell them that we did
4 have problems with our participation with the N.W.A.C., for
5 the reasons I outlined.

6 We also felt that the Inuit Tapirisat of Canada just by
7 virtue of -- just by nature of its group was concentrating
8 on political and constitutional issues and not really
9 focusing on issues that were important to Inuit women. And
10 we felt that we would like to complement their efforts, we
11 would like to start working on daycare, and education, and
12 health, and social issues to make -- you know, to
13 concentrate on those issues that were important to us.

14 So, we presented that to the I.T.C.H.E.M., and we asked
15 them for a motion to support the creation of a National
16 Inuit Women's Association, that motion was made, that motion
17 was unanimously passed. And after that we went back to the
18 I.C.N.I. and it was I who developed the proposal to the
19 Department of Secretary of State, the Native Citizens
20 Director, requesting funds to hire someone to do the
21 organizational work for this, to make this resolution a
22 reality. We hired Geela Moss-Davies originally of Broughton
23 Island was working in Ottawa as well, and she did extensive
24 consultations with Inuit women all over the Canadian north,
25 and I am talking primarily northern Quebec, Labrador and
26 N.W.T., and talked about, you know, the resolution, asked
27 people how they felt about it, and I think everyone



1 unanimously agreed that there were major advantages in a
2 National Inuit -- a separate Inuit Women's Association.

3 Q Could you advise Her Ladyship why Ottawa, why the
4 organization would center itself in Ottawa?

5 A First of all, I would have to say that in Ottawa right now
6 that is the location of all the national native
7 organizations in Canada. The Inuit organizations are based
8 in Ottawa, the Atii Inuit Management Training Incorporated,
9 the Inuit Broadcasting Corporation, the Inuit Tapirisat of
10 Canada, the Tungavik Federation of Nunavut, and the reason
11 for that is accessibility to the funding sources, and the
12 accessibility to the decision-maker?

13 And when I say that, I think of an example. During the
14 -- before the 1987 constitutional -- the aboriginal
15 constitutional crisis, all Inuit leaders came to Ottawa to
16 discuss strategy for the First Ministers Conference, and
17 these were Inuit people who lived in the communities. And I
18 remember at the end of those negotiations Mark R. Gordon who
19 was from northern Quebec, who is a very outstanding Inuk
20 leader, who is very instrumental, you know, in getting
21 aboriginal rights back into the constitution, I remember him
22 saying at one point, you know, I am tired. I have been here
23 for a month. I haven't seen my kids. I haven't seen my
24 family. And when I think about that, I think to myself that
25 is the amount of time that organizations sometimes had to
26 spend in Ottawa. So, the people who -- the Inuit leaders
27 who lived in Ottawa at least they were able to go home in

1 the evenings and see their wives, so, they weren't, you know
2 -- that amount of separation. So, I think that there is
3 some logic, you know, behind the decisions that the members
4 made that the organizations be based in Ottawa.

5 Q Can you advise Her Ladyship how your organization then
6 keeps in touch with its membership, its Board members if
7 they are not in Ottawa, and its general membership and how
8 it takes instruction and directions from them?

9 A In terms of our communication, we regularly contact our
10 Board by telephone and we ask our Board members in turn, and
11 you have to remember that we have an 11-member Board, but
12 they are a representative of the regions that we represent.
13 We ask them in turn to talk to their local members group, to
14 go on the radio and to tell them what we are doing, to ask
15 them if they have any concerns, so, that is it sort of
16 ongoing. And we also in our own office, we have a CBC
17 northern hook-up radio with CBC North so that the radio is
18 on all day, and so we hear all the news through that way.
19 We have fax equipment. We have contact with Jack Anawak who
20 is the M.P. for Nunatsiq, who also resides in Ottawa, and
21 who has contact with the communities, who let's us be aware
22 of the news.

23 We also have -- you know, like, just because we are
24 based in Ottawa, and the majority of us now in our office
25 are Inuit, we don't forget our ties to our people. We have
26 lots of relatives that we constantly keep in contact with.
27 We visit the communities. In fact we regularly attend the

1 annual general meetings of the regional Inuit Women's Group
2 in Labrador and northern Quebec, and in the N.W.T. we don't
3 have such a regional N.W.T. Inuit Women's Group, so -- but
4 we do travel to communities. Communities when they phone
5 our office and ask us to respond to -- ask me to help them
6 out in getting organized and stuff like that, if we have the
7 finances, we will go. We have -- but if we don't have the
8 finances we find creative means of getting those goals
9 accomplished. Like, we work very closely with the Women's
10 -- now the N.W.T. Advisory Council, they have a budget for
11 going into the communities to do organizational work. So,
12 they have gone into Spence Bay at our request. They have
13 gone into Igloolik at our expense.

14 We were in Gjoa Haven December 5th to 6th meeting with
15 the women's groups, so -- we also have our newsletter,
16 Suvaguuq, which is published three or four times a year, and
17 you have our mailing list, and the majority of the people on
18 our mailing list are Inuit because we are an Inuit
19 organization. All of our information is translated into the
20 two writing systems of the Inuit Roman orthography, and the
21 syllabics which is the greater writing system, and the Roman
22 orthography, if we have the resources. But there is regular
23 contact by telephone, and we have -- we are required by our
24 bylaws to have our Board meetings three times a year. We
25 have our annual general meeting every single year in Inuit
26 communities. Our Board is very strong on it. They say, you
27 know, we want to allow our communities to know what issues



1 you are dealing with. Our A.G.M.s are public. So, anybody
2 in the Inuit -- any Inuit or anybody else who is not Inuit
3 and who is interested in our issues can come to our A.G.M.s
4 and watch the proceedings.

5 Q So, you have your annual general meetings; you do have
6 annual ones, I gather?

7 A Yes.

8 Q In different Inuit communities across the north, the
9 northern part of Quebec and Labrador?

10 A Yes, we also try to have our Board meetings in the north as
11 well, but, you know, resources are -- is a major problem,
12 especially for aboriginal women's groups it is more a
13 problem than any other native groups. So, because of
14 finances, sometimes we are forced to either have them in
15 Ottawa or to have them -- or to have Board meetings by
16 teleconference.

17 Q Did you have until recently a representative from every
18 community at your Board meetings?

19 A Yes, we did, and it was because of financial reasons that we
20 decided to change to another system. That decision to
21 down-size the annual general meeting was made in 1988 in
22 Kuujuaq.

23 Q So, does that mean that up until 1988 you met with a person
24 from each community who is a member of your organization?

25 A Yes.

26 Q After that, I take it, from your answer, the meetings were
27 not as large?

- 1 A No, we have 43 delegates now to our annual general meetings
2 and they are selected by the Board of Directors in
3 consultation with the local women's groups.
- 4 Q When you say local women's group, are there in each
5 community Inuit women's groups with whom you have any
6 relationships?
- 7 A If you look at our mailing list, there's -- we have a list
8 of every single Inuit women's groups that's been structured
9 and we do have relationships with them. We do have ongoing
10 contact with them, primarily the Board of Directors have
11 contact with the local women's groups and they report to us
12 at the Board meetings of what is happening, and local
13 women's groups have made requests to us to come in and help
14 them on issues of some sort.
- 15 Q Where does the direction come from for your Ottawa office so
16 that you know what to work on, where to place your emphasis
17 and so forth?
- 18 A The membership, and that is at the annual general meetings
19 and at the Board meetings as well. If you look at our
20 resolutions, all of those have been made by our A.G.M.s and
21 our work plan reflects those resolutions.
- 22 Q And on the issues that are relevant to this inquiry which
23 have to do with violence against women and children, where
24 have you sought and found direction in your approach to
25 those social issues?
- 26 A From the membership. Do you want me to refer to some of our
27 proceedings at our annual general meetings?

1 Q I understand that some of those have been filed. Perhaps
2 you could just point to those places in annual meetings
3 where you have received that direction. I think those are
4 before us, My Lady.

5 CHAIRMAN CONRAD: You want the resolutions?

6 Q MR. BAYLY: I believe those are in a package of
7 exhibits. I thought, My Lady, that they could perhaps be
8 just provided to Your Ladyship and Ms. Sillett has a copy of
9 each of two or three that she was going to specifically
10 refer to.

11 A In our 19 -- these are examples. In the 1987 annual report,
12 Page 7 of that.

13 Q Are there resolutions or things of that sort at that
14 reference point?

15 A What I want to talk about, they are not resolutions, but I
16 think, you know, you have to understand that resolutions are
17 just a highlight of the major things that were discussed in
18 the regional groups and throughout the meeting there is a
19 lot of discussion on family violence, and sometimes that is
20 never necessarily recorded in the resolutions.

21 But I would just like to add to information that you
22 already have. I think in terms of family violence, on Page
23 7 it says that family violence is a very broad subject. It
24 includes the abuse of the wives, the children, the youth and
25 the elderly as well as sexual and other forms of abuse. And
26 this has been a priority about Pauktuutit's work plan for
27 1988 and '89.

1 And I would like as well if I could to talk about the
2 actual things that women in the communities have said as to
3 what they think the family violence is.

4 Q Why don't you tell us what they have told you, because I am
5 assuming your answer was that that is -- it was from them
6 that you got your direction on these issues?

7 A At the 1989 A.G.M. which was in Yellowknife, which was
8 originally to be scheduled in Rankin Inlet, our
9 representatives, our community delegates broke down into
10 various groups, and from the community this is what people
11 said -- this is an example of what one group said what's
12 family violence: Child abuse, spousal assault, all the
13 people are affected who are not directly involved, incest,
14 verbal abuse, alcohol and drugs, emotional power, downgrade
15 the spouse, everybody knows, nobody talks about it, people
16 talk about it, nobody does anything, that's the way it is.
17 I told you, so, you can take it, too. She's only a female.
18 Cruel manipulation, pain, normal behavior, passive children,
19 suppressed anger, and there is a lot of this, but, you know,
20 it just talks in a language that, you know, people know, and
21 this is what family violence is to them.

22 I would also like to have an opportunity here to talk
23 about one thing that really, really had an impact on me at
24 the 1987 annual general meeting which was held in Spence
25 Bay. There was a workshop on child sexual abuse. The
26 workshop facilitator was -- on child sexual abuse, gave a
27 presentation, and at the end she said, "The nurse that I was

1 talking to, she said, 'See, child sexual abuse is a part of
2 Inuit culture'." And, you know every single woman at that
3 A.G.M. said child sexual abuse is not a part of Inuit
4 culture. We are mothers of children and we have every
5 responsibility to protect our children, and those who hurt
6 our children to be punished and to be punished severely.
7 And also at that time I think there was a call for a stiffer
8 sentencing of child sexual abuse offenders. But I want to
9 say that because I think people feel very strongly. The
10 women in our communities have demonstrated leadership on
11 this issue, and nowhere -- I have been involved in Inuit
12 political organizations since 1973 part time, 1976 full
13 time, and I have never seen, you know, this kind of
14 discussion going on in political organizations. It is the
15 Inuit women who have taken leadership on these kinds of
16 issues.

17 Q Can you say from your knowledge and experience whether the
18 sexual abuse of children was formerly part of the Inuit
19 culture?

20 A No.

21 Q And you --

22 CHAIRMAN CONRAD: You can't say, or no it was not?
23 It was not part of the culture; is that what your answer
24 is?

25 Q MR. BAYLY: It is just the way I put the
26 question, Ms. Sillett. I said, can you say, your answer was
27 no. I am assuming your answer was no, it wasn't part of the

1 culture; do I understand that correctly?

2 A Well, I believe that and I think from hearing these women
3 talk about it all the time, I am sure that they feel, too.
4 My mother once said to me, "You know, there never used to be
5 stuff like that when I was growing up." And I said to her,
6 I said, "Yes, there was. The only difference now is that we
7 are speaking about it." You know, Inuit didn't talk about
8 those kinds of things, and certainly not in organized form.
9 We have the strength of our organization to voice our
10 opinion about things that we think are wrong.

11 CHAIRMAN CONRAD: But your answer is to the best of
12 your knowledge it was never accepted as part of the culture,
13 it was just not talked about at all?

14 THE WITNESS: Yes.

15 CHAIRMAN CONRAD: It just didn't occur, it was not
16 acceptable?

17 THE WITNESS: Yes, that is my answer.

18 Q MR. BAYLY: Can you advise Her Ladyship if you
19 know what views the Inuit took in former days about sex with
20 young teenage girls after they reached the age of
21 menstruation?

22 A According to the reaction of --

23 MR. EVANS: I am sorry, I appreciate the
24 witness is here to enlighten us on a number of issues and we
25 are all interested in hearing about the position of her
26 organization, but we are starting to talk about Hall Beach,
27 the pros and cons of the evidence that was before the Court

1 and so on. Now, you have got the Hall Beach, you have got
2 the pre-sentence report, and you have got the appeals, and
3 if that is where we are going, I really question the
4 relevance of -- your terms of reference.

5 MR. BAYLY: My Lady, I wouldn't have raised it
6 if Ms. Erasmus had not been brought to give evidence and
7 asked among other things of her views on that, and she left
8 us with what may have been the correct view or maybe some
9 other view that there may be a difference between Inuit and
10 Dene, and she gave evidence that that would not have been
11 accepted among the Dene, and I thought it might be sensible
12 so that you had the view from the other culture in the north
13 that may have been affected by those views, as to whether
14 that is accurate or not.

15 CHAIRMAN CONRAD: I am prepared to allow the
16 question.

17 MR. EVANS: May I speak further on that or
18 should I abide by your ruling?

19 CHAIRMAN CONRAD: Go ahead if you have something
20 further.

21 MR. EVANS: I just want to make it clear for
22 the record that I never raised that with that witness. That
23 was cross-examination by my learned friend. All I went into
24 is simply whether she had seen what was before the court,
25 and not what her personal opinions were about it or perhaps
26 expert view, and the evidence otherwise is a matter of
27 weight. I just want to make that clear, I did not raise it.

1 CHAIRMAN CONRAD: Well, I will allow you to go ahead
2 with the question.

3 MR. BAYLY: My Lady, just for the record it was
4 raised in this fashion. Mr. Evans invited the witness to
5 say whether she had made comments about the Hall Beach case
6 in 1984, and whether as a result of certain things, she had
7 revised her views, and she stated that she had revised her
8 views after reading the pre-sentence report, the full
9 Judgment, the Court of Appeal Judgment, and so forth, and
10 so, I think it was --

11 CHAIRMAN CONRAD: I am prepared to allow this
12 statement as being some of the circumstances of a political
13 nature into which the statements, and the article, and the
14 interview, and everything was made.

15 THE WITNESS: According to the reaction of the
16 people --

17 CHAIRMAN CONRAD: No, I don't want you to tell me
18 from reaction. Would you rephrase your question?

19 Q MR. BAYLY: I am asking you this, Ms. Sillett,
20 from your own knowledge and involvement in these issues, was
21 it a practice that young women were available for -- to have
22 sex upon menstruation in your culture?

23 A To my knowledge, no.

24 CHAIRMAN CONRAD: Do you know whether that was the
25 custom?

26 THE WITNESS: I have never heard of it.

27 Q MR. BAYLY: You have advised that there was a

1 conference in Spence Bay in which issues involving the
2 exploitation of children, violence against children, and I
3 am assuming that includes sexual violence was raised. Have
4 there been other gatherings since of the Inuit women where
5 that has been a topic of debate and discussion?

6 A Oh, yes. In 19 -- if you look up the resolutions, and I
7 read the transcript that Linda gave, she outlined all the
8 resolutions, so, it has been the subject for our
9 organization ever since I was president, that I know of,
10 ever since 1987.

11 Q You have had an opportunity, I take it, to read a transcript
12 of Ms. Archibald's evidence?

13 A Yes.

14 Q And can you advise Her Ladyship whether on the subject that
15 we have been touching on, her evidence fairly represents the
16 history and involvement of Pauktuutit in these issues?

17 A Yes.

18 Q And do you take any -- do you have any major differences of
19 perspective on the evidence that she gave or is it in your
20 view a satisfactory summary of the involvement in these
21 issues of Pauktuutit?

22 A Well, I would like to say, you know, my own understanding of
23 the inquiry was that -- it was to examine the Edmonton
24 Journal and the Bourassa comments surrounding that, and my
25 own -- in our organization, there are only two people who
26 knew the details of that, and when you requested someone to
27 come, I was unavailable, so, I sent her, and I think she is

1 just -- on that particular issue, she is -- you know, she is
2 really -- she knew exactly what the facts were.

3 In terms of the history, Linda has been with the
4 organization since '88. I have been with the organization
5 since -- you know, I have been involved in the Inuit
6 Pauktuutit movements since -- a lot longer. So, I think,
7 you know, like she may not be clear on the history part, but
8 that is understandable.

9 Q Can you advise whether you view -- let me re-ask the
10 question. What do you understand to be the views of the
11 Pauktuutit organization and its members regarding the
12 offences of sexual assault and sexual assault against
13 children and what ought to be done to offenders?

14 A Resolution '88 says it better than anything else; that
15 violence against women and children is totally unacceptable,
16 and all of us have a responsibility to denounce that kind of
17 violence. I think that is the bottom line position, child
18 sexual abuse is unacceptable, sexual assault is
19 unacceptable. The whole broader issue of family violence,
20 spousal assault is unacceptable. I think we are in the
21 business of advocacy. We believe those kinds of things, and
22 I think we have responsibility to inform whoever it is of
23 that position.

24 In terms of -- I think what has happened is that, you
25 know, when people first start discussing the issue, became
26 very, very emotional, you know, it is totally unacceptable,
27 it is wrong. And I think over a long period of time we have

1 had people coming to our A.G.M.s, providing workshops,
2 people who are well known in their field for treatment in
3 their work with -- treatment with child sexual abuse
4 offenders and sexual offenders. And the more information
5 that's come out, I think people recognize that, you know,
6 stiffer sentences is not the only answer, is not the total
7 answer. There has to be some counselling or some treatment
8 for offenders, with their whole families.

9 And I think at our last annual general meeting that was
10 held at Iqaluit in March of 1990 there is a resolution which
11 documents that kind of evolution of things -- evolutionary
12 thinking. They are talking about, you know, sure there
13 should be sentencing, there should be gaol terms, but that's
14 not the only answer. And then in our minutes of our annual
15 general meeting, you see that kind of discussion going on.
16 There is a greater dilemma. You know, like gaol might not
17 be the only answer. And we find that if you put people in
18 gaol, they come out and become worse offenders, so, you have
19 to give them treatment. But on the other hand, we feel that
20 everyone has a responsibility, and the Courts, too, have a
21 responsibility to project the message that this is wrong.

22 Q Would that view, Ms. Sillett, have anything to do with your
23 wanting to find out as the president of the organization
24 about the Michael Angottitauruq sentence?

25 A Yes, it does.

26 Q Were you doing that on your own initiative or had you been
27 requested to do so in some way by members of your

1 organization?

2 A The earliest dates that I can remember, it was probably
3 early in October of last year. The translators,
4 interpreters in our organization are freelance, but the
5 travel extensively and this lady came to me and she said,
6 "You know, my brother read this. Did you hear about Michael
7 Angottitauruq?" So, anyway, it became an issue after that.
8 Everyone started talking about it within the office circles,
9 stuff like that. So, what we decided to do is that we knew
10 that we were having a Board meeting coming up October 19th
11 and 20th. So, I felt that we should probably get a --
12 something on paper about the whole case in order to present
13 to our Board so that we could discuss it further and take
14 action if necessary.

15 CHAIRMAN CONRAD: In answer to his question then, are
16 you saying then it came from your office or it came through
17 your reporter as opposed to coming from the women
18 in outlying areas?

19 MR. BAYLY: I think she said it came through
20 the interpreters who travel extensively in the communities.

21 THE WITNESS: In communities. Actually it was a
22 man who first raised it.

23 CHAIRMAN CONRAD: It was you who formulated it for
24 the meeting, like, your office?

25 THE WITNESS: Yes, it was formally through me,
26 but I guess I have to explain a little bit more about what
27 happened on that one.

1 What we did is we raised it -- we couldn't raise the
2 whole issue on the 19th and 20th, simply because we didn't
3 have the transcript. What happened after that, is that on
4 October 27th, Catherine Peterson, the president of the
5 N.W.T. Advisory Council on the Status of Women, she sent us
6 a carbon copy of a letter that she had written to Don Avison
7 who was with the Federal Justice Department in Yellowknife
8 expressing concerns about the Michael Angottitaurug case.
9 And after we received a copy of the transcript which was on
10 November 3rd, I did talk to our executive, my executive, the
11 vice-president and secretary treasurer, and we discussed
12 what we should do about this. And we felt that, you know,
13 in the absence of a Board meeting, what we could do is
14 express our concern or disapproval of something that shocked
15 us, and also outline our -- what our position was on the
16 whole issue of child sexual abuse, and we referred to a
17 resolution that was passed unanimously by one of our annual
18 general meetings, and after that we did, on November 6th --
19 Q I understand that you have a diary entry which you have
20 looked at; is that correct?
21 A Yes. And after this next time it became a real issue with
22 the whole Edmonton Journal of December 20th, but, see, we
23 didn't have a Board meeting after October 19th and 20th.
24 The next Board meeting we had was before our annual general
25 meeting.
26 Q Can I take you back just a minute, though, to this November
27 the 6th I think you were saying something had happened. You

1 had received a transcript on the 3rd of November. What if
2 anything did you do on the 6th of November?

3 A The 4th and 5th was a weekend, was Saturday and Sunday. And
4 November 6th I contacted the executive. I said, you know --
5 and one that was in Ottawa, so, she could read the
6 transcript, and say, well, what should we do about it, and
7 we said the only thing we can really do about it in the
8 absence of a Board is to convey our dissatisfaction,
9 disapproval, because clearly everyone felt that. I mean,
10 everyone in the office whoever heard about that Michael
11 Angottitaurug was really upset.

12 Q Did you do anything? Did you write to anybody?

13 A Yes, I wrote to him on November 6th and I also sent a copy,
14 a carbon copy of the letter to Catherine Peterson, because
15 as a matter of courtesy as well, she sent me a letter,
16 October 27th, and we had very good relationships with them,
17 so, I didn't see anything wrong with sending her a copy of
18 my letter.

19 Q So you sent Judge Bourassa a letter and a copy to Ms.
20 Peterson?

21 A Yes.

22 Q And following that, I understand from evidence that we have
23 already heard that you received a reply?

24 A Yes.

25 Q And did you reply to the correspondence that you received
26 from Judge Bourassa?

27 A Yes.

1 Q Did you take any advice from your Board members or other
2 before you did so?

3 A No, I didn't. I wrote him a letter, and I had felt that the
4 previous -- you know, there are some things that you can
5 solve with your executives, and some things you can solve
6 with your Board, some things that you can solve with your
7 membership, and I felt like -- what I did is I wrote the
8 letter and I told everyone afterwards.

9 Q Had your been in correspondence with other judges or was
10 this the first time you have been in correspondence with a
11 judge?

12 A We have had previous correspondence with Justice James
13 Igloliorite who is the only Inuk magistrate in Canada, and
14 by reputation he is very, very well known, very well
15 respected, and we felt that any contact with him would be
16 beneficial. I mean, he is involved in court cases, and he
17 has expressed interest on the issues of family violence and
18 child sexual abuse, so, we had an ongoing liaison. I wanted
19 him to address our annual general meeting, come as a guest
20 speaker and talk to us, meet the membership. In 1989,
21 unfortunately he was unable to come because of previous
22 commitments. But we did have correspondence about the
23 resolutions, resolutions are being passed, things that might
24 interest him. And he did agree to come to our annual
25 general meeting as a guest speaker in Iqaluit in 1990, and
26 he did address -- he did prepare a presentation, and he
27 talked about victims of family violence and child sexual

1 abuse.

2 Q Can you tell me with regard to the correspondence that you
3 had with this other judge, was it on similar subjects to the
4 correspondence you had with Judge Bourassa?

5 A Well, with Judge Bourassa it was on a specific sentencing,
6 Mike Angottitaurug. With Justice James Igloliorite, I mean,
7 what sentences has he ever given that are controversial?

8 Q It was a more general one, is that what you are saying?

9 A A more general, yes.

10 Q Was it on the same issues, though, family violence and
11 violence against children?

12 A Yes.

13 Q And did he respond to your letters?

14 A Yes.

15 Q And so like the correspondence you had with Judge Bourassa,
16 it was reciprocated?

17 A Yes.

18 Q Do you know of your own knowledge whether this Judge
19 Igloliorite is a member of the Territorial Court or a deputy
20 judge of the Territorial Court of the Northwest Territories?

21 A That news was made official when he was at our annual
22 general meeting in March 1990, so, I know that.

23 Q So he and Judge Bourassa then are members of the same court?

24 A I don't know, are they?

25 MR. BAYLY: I just wondered if you knew. Now,
26 My Lady, I have that correspondence and that speech that was
27 made. Strictly speaking, they may not be relevant, but I

1 want to let counsel know that, particular Mr. Evans. He may
2 want to look at those and he may choose to ask about them,
3 because I think -- I know I am characterized often by him as
4 being in the role of a prosecutor, but it may be he will
5 find that those are helpful to him and I am quite prepared
6 to make those available.

7 CHAIRMAN CONRAD: Thank you.

8 Q MR. BAYLY: Now, do I understand from your
9 evidence, Ms. Sillett, that the position or reaction, if you
10 like, of the Inuit women has evolved since the Spence Bay
11 meeting from the reaction calling simply for stiffer
12 sentences to something else currently?

13 A Yes, you know, to have counselling for offenders, to have
14 treatment programs. I think the real problem, though, is
15 the lack of facilities in the north, where do people go for
16 treatment, that's a real problem, I think.

17 Q But the position, as I take it, is that you are still keen
18 on sentences, but you have another aspect to the position
19 as an organization?

20 A Yes.

21 Q Tell me, were you made aware at about the time of the
22 publication of the December 20th, 1989 Edmonton Journal
23 article that that was either about to be published or had
24 been published?

25 A I had information through Linda Archibald.

26 Q Can you advise Her Ladyship on what day or approximate day
27 you received that information?

1 A I looked at my calendar and I was in Labrador from December
2 7th to the 14th. I had taken the 15th off, 16th and 17th
3 are a Saturday and Sunday. So, I know it was the week of
4 the 18th to the 22nd, and that I know because, you know, I
5 saw the December 20th article. In fact -- I can't remember
6 exactly what date, and this is true. I was -- Linda phoned
7 me at home, and I was in the middle of cooking dinner, it
8 was around that time. It was around -- between five and six
9 Ottawa time that she phoned me. She had said there was a
10 journalist calling from the Edmonton Journal. I couldn't
11 remember her name. She just -- she mentioned the name.
12 She wants you to call her. It is something to do probably
13 about the Michael Angottitaurug or the Bourassa case. And I
14 said -- well, I said, what am I going to do about it now.
15 We need a copy of the article because, you know, this is the
16 way we work.

17 I am quite careful as a person, I wanted to see what I
18 was responding to, I try to be careful, anyway. And I also
19 felt that if it was an issue that hit a newspaper in the
20 Edmonton Journal and northern issue that we would need the
21 advice of the vice-president, Caroline Niviaxie and Ovilu
22 Goo Doyle, secretary treasurer on the issue. And I do
23 remember that before and -- but we did see the article, it
24 was faxed to me by one of our -- actually it was not faxed
25 to us by Laurie. It was faxed to us by Simona Arnatsiaq
26 Barnes who is the executive director of Atii Inuit
27 Management Incorporated. She phoned me, she said, "Did you

1 see that article?" I said, "No, but I have heard about it",
2 because by this time I did. But it went through the fax in
3 the morning, and then it seems to me that faxes were coming
4 all that day. I mean, we got faxes from -- I can't remember
5 if it was Laurie sending us a fax, but anyway we got the
6 same article three, four times.

7 Q Would you tell Her Ladyship whether that was on a specific
8 day that you remember by reference to anything else?

9 A On December 21st we had our Christmas party, office
10 Christmas party, and I remember that very well, because we
11 invited all the Inuit in Ottawa, and Jack Anawak who is the
12 member of Parliament for Nunatsiaq was also there and we
13 were talking about the Edmonton Journal, and there was a lot
14 of -- okay, there was a lot of talk about it. Our party
15 started around 12 o'clock, but by then, like, everything was
16 breaking loose. We had sent a fax to Caroline. We had sent
17 the article to Ovilu Goo Doyle, and everyone was reacting,
18 and I guess in the middle of all the confusion, there was a
19 lot of things going on. I mean there were a lot of people,
20 there were a lot of things going on. And I remember at that
21 time I had to go to Labrador again on December 23rd for
22 personal reasons, and I wasn't really mentally prepared to
23 do that. So, I said, Linda, you know our position on that.
24 You know, you can talk to whoever you have to talk to.
25 Because one thing I am always careful about is returning
26 phone calls. If I don't return phone calls myself, I ask
27 that they be returned.

1 Q Can you tell Her Ladyship then whether this series of copies
2 of the article came in to you during the day on the 21st?

3 A It probably was.

4 Q The conversation then that you had with Linda Archibald, can
5 you advise Her Ladyship with any certainty whether that was
6 the previous evening or an evening before that?

7 A I can't do that. I know that it was the week of the 18th to
8 the 22nd because that is when everything happened, but I
9 have been trying to think about, is there some way I can
10 remember?

11 CHAIRMAN CONRAD: Well, if you can't, you can't.

12 Q MR. BAYLY: You just know it was within that
13 week, you can't say with any certainty which day; right?

14 A Right.

15 Q Can you advise Her Ladyship whether, this is my last
16 question, My Lady, I don't know whether there is space for
17 it --

18 CHAIRMAN CONRAD: She would just like you to speak up
19 a little if you can.

20 THE WITNESS: Okay.

21 Q MR. BAYLY: Can you advise Her Ladyship whether
22 it is the normal practice of Pauktuutit to send Board
23 members or others to represent it either as witnesses or
24 delegates?

25 A I am very strong on that. Since 1987 when I became actual
26 president, you know, we have instituted a policy where the
27 majority of our staff are Inuit. We have five full-time

1 staff, three are of them are Inuit, three of us are Inuit,
2 there is two translators/interpreters on contract. We have
3 also one Inuk who is very well respected, Rosemarie Kuptana,
4 working on a major child sexual abuse research report for us
5 right now. And the policy and position of our Board is very
6 strong. We send Inuit people to meetings whenever possible,
7 and I think with this inquiry, an inquiry can be
8 intimidating.

9 So, I felt that, you know, I had a choice, either send
10 myself or send Linda, knowing Linda is not Inook. But I
11 made that decision, and I also made it after talking to
12 Martha Flaherty, our secretary treasurer about it. I said,
13 you know, an inquiry can intimidating. We don't want to
14 send someone who doesn't really know the issue because it
15 might be too difficult for them. It might hurt their
16 self-confidence. So, I said, you know, I think we should
17 take the risk and send Linda because she is the most
18 familiar with the issue, and in her work with us, she has
19 proven herself to be very, very competent. This is the only
20 time that I have ever sent someone who wasn't an Inuk.

21 MR. BAYLY: Those are my questions. Ms.
22 Sillett, would you be good enough to answer the questions of
23 Mr. Evans. I will give those documents to Mr. Evans. He
24 may want to look at them before he completes his
25 cross-examination.

26 MR. EVANS: I know my learned friend wears a
27 Greek fisherman's hat, so, I will be aware of gifts, but

1 otherwise I would appreciate a few minutes for the
2 opportunity.

3 CHAIRMAN CONRAD: We will take five minutes, Mr.
4 Evans?

5 MR. EVANS: If you please.

6 (BRIEF ADJOURNMENT)

7 MR. BAYLY: Mr. Evans has agreed that I may ask
8 two or three more questions and deal with these documents
9 which I have provided to him. Ms. Sillett, I am going to
10 show you a --

11 CHAIRMAN CONRAD: Before we do that, did you not want
12 Ms. Sillett's curriculum vitae marked.

13 MR. BAYLY: I do. That is one of the things I
14 have got left undone. Why don't we start with that. I am
15 wondering if we might have the curriculum vitae marked as
16 the next exhibit.

17 MR. HUNT: 109.

18 EXHIBIT NO. 109: MS. SILLETT'S CURRICULUM
19 VITAE

20 MR. BAYLY: And if we could have her summons
21 marked the following exhibit.

22 CHAIRMAN CONRAD: 110.

23 EXHIBIT NO. 110: MS. SILLETT'S SUMMONS

24 MR. BAYLY: Mr. Clerk, if you would hand those
25 two documents to the witness. My Lady, with the consent of
26 Mr. Evans, I am tendering the correspondence with Judge
27 Igloliorite and the speech delivered by him to the

1 Pauktuutit organization in March of 1990 --

2 CHAIRMAN CONRAD: The correspondence will be Exhibit
3 111 and the speech Exhibit 112.

4 Q MR. BAYLY: I will just make that subject, My
5 Lady, to the witness identifying those as that
6 correspondence and as that speech.

7 I was going to ask you, that is the correspondence that
8 you were referring to with Judge Igloliorite?

9 A Yes.

10 Q And the other document is the speech, is it, that he
11 delivered at your March 1990 annual general meeting in
12 Iqaluit?

13 A Yes.

14 Q The only other question I had for you has to do with Exhibit
15 23, if the clerk could give you that.

16 Ms. Sillett, it is an article which appeared in the
17 Edmonton Journal we have been told on the 21st of December
18 1989 in which your organization is quoted on the second
19 page. If you wouldn't mind turning to that page, first
20 column, last paragraph through to the middle of the second
21 column.

22 A Yes.

23 Q Can you advise Her Ladyship whether that statement
24 attributed to your organization through Linda Archibald is
25 an accurate representation of the position that you had
26 taken at that time?

27 A Yes.

1 MR. BAYLY: Those are my questions. Could you
2 answer Mr. Evans' questions.

3 EXHIBIT NO. 111: THE CORRESPONDENCE WITH
4 JUDGE IGLOLIORITE

5
6 EXHIBIT NO. 112: THE SPEECH OF JUDGE
7 IGLOLIORITE

8 CROSS-EXAMINATION BY MR. EVANS:

9 MR. EVANS: Can I see Exhibit 111, please, Mr.
10 Clerk. Thank you. Now, I don't think that there are
11 copies. I may have to refer to it and then sort of run up
12 and let the witness see it.

13 CHAIRMAN CONRAD: That is fine.

14 Q MR. EVANS: That would probably be faster, I
15 think. What I am referring to is a correspondence of
16 January 31st. Do you want to give that one back to the
17 clerk, Exhibit 23 -- January 31st,, 1989, you wrote a
18 letter, to Magistrate Igloliorite?

19 A Igloliorite.

20 Q I apologize for my difficulty in pronunciation; in any
21 event we will call him the judge. And he responded on
22 February 10th, 1989, I am just referring to this document;
23 is that correct?

24 A Yes.

25 Q One thing he says and I will read it to you, then I will
26 make sure you can see it and confirm it. At Page 2, he is
27 making comments on your resolutions, he says at the top on

1 Page 2:

2 "The concept of innocent until proven guilty is
3 still the foundation of our criminal justice
4 system, and I can not see that changing."

4 Do you recall him pointing that out to you?

5 A Yes, I remember that.

6 Q And then he also says here, it talks about Resolution
7 88-10.

8 "I have always felt that the Elders in the
9 community should be given more and more say
10 in what happens to all people in the community.
11 Inuit have always responded to their Elders, and I
12 firmly believe could have more lasting effect
13 on youngsters than a judge or the justice system."

12 If I can just approach you because we have only got the one
13 copy. Can you confirm that that does appear as I have read
14 it to you?

15 A Yes.

16 Q Do you agree with His Honour's observation about essentially
17 the influence of the Elders?

18 A Yes, I agree and I should add, too, that on our Board of
19 Directors I think I am the youngest and at our annual
20 general meetings there are a lot of -- if you look at the
21 pictures, they are elderly ladies.

22 Q Is your association supportive of consultation in
23 appropriate cases by a judge who is sentencing an offender
24 in an Inuit community, consultation with the Elders?

25 A I have heard that discussed many times, yes.

26 Q Are you supportive of it, yourself, in a proper case?

27 A Consultation with Inuit?

1 Q Yes, you are supportive of the concept of a judge, say, when
2 he is hearing submissions on sentencing -- let us go just
3 briefly into your understanding of the system. It is not an
4 examination question, believe me, but the judge is presiding
5 and the Crown prosecutor presents the case against the
6 accused person on behalf of the state, the Queen; do you
7 understand that?

8 A Umm hmm.

9 Q And then there is a defence lawyer who represents the
10 accused?

11 A Yes.

12 Q And as the judge says in his letter to you "the accused is
13 innocent until proven guilty"?

14 A Yes.

15 Q Or in many cases accused persons plead guilty, sometimes;
16 they come in and say "I did it"?

17 A Yes.

18 Q But then the judge has to sentence that person?

19 A Yes.

20 Q It is the judge's ultimate decision, he is the one that does
21 the sentencing?

22 A That is the way it is.

23 Q That is the way it is. But he can only go, a judge can only
24 go on what is put before him in court as evidence; do you
25 understand that?

26 A Yes.

27 Q Or submissions. So, the lawyers say certain things on one

1 side and the other, that will be before the judge; you
2 understand that that is the process?

3 A Something like what is happening now?

4 Q Exactly, except this is a much more gentle process. And
5 sometimes also there may be a pre-sentence report done by a
6 social worker or a court worker giving some background on an
7 accused person to assist the Court; do you understand that?

8 A Yes.

9 Q And what I am asking you is whether it is your association's
10 position, and it may not be the subject of a resolution that
11 it is appropriate that in addition to that sort of material
12 that goes before the judge, the Crown prosecutor says
13 certain things and what the Crown's position is. The
14 defence counsel says all that he can on behalf of the
15 accused, but the Elders or the community might in
16 appropriate cases have an input and give some evidence
17 before the judge as to things of -- as to community values,
18 or cultural values he might consider taking into account?

19 A Has that happened?

20 Q I am asking you, are you in favor of it happening?

21 A Yes.

22 Q Do you know of any case involving Judge Bourassa where in
23 fact that did happen, called the Arctic Bay case?

24 A No.

25 Q Naqitarvik is the name of the case, you have never heard of
26 it?

27 A I have read about it, but I haven't read the details.

- 1 Q Do you agree with that approach?
- 2 A I agree with you.
- 3 Q Now, I notice in the letter of January 11th, 1990, where
4 your respond to the judge in Exhibit 111, it must be a bit
5 backwards here. I see -- just so that we can get the
6 dates. You see January 31st, you write to the judge?
- 7 A Yes.
- 8 Q And then on February 10th he writes to you, it looks like
9 you get it on February 20th?
- 10 A Okay.
- 11 Q And then there is another letter, January 11th, that doesn't
12 appear to be a response to his letter, it is another one
13 that went out from you to him, I take it?
- 14 A Yes, that's in a different year, yes.
- 15 Q I see. Oh, I got it, '89, okay. The first two letters are
16 1989, January and February, and then there is a letter of
17 January 11th, 1990?
- 18 A Yes.
- 19 Q Okay. Basically because the judge couldn't come the year
20 before, and you are confirming that he is going to speak in
21 March of 1990 and give the speech that has been marked as an
22 exhibit?
- 23 A Yes.
- 24 Q Thank you very much. Sorry, to hover here, I just don't
25 have copies of this. You will see in your letter of January
26 11th, 1990, you say at Page 2, and you are the author of the
27 letter, are you?

1 A Yes.

2 Q "For your information, I have enclosed copies
3 of Judge M. Bourassa's statements on sexual
4 assault which have received wide-spread northern
5 media coverage. This may or may not be an issue
6 in late March depending upon the length and outcome
7 of the inquiry, but just in case it is, you may
8 wish to comment."

6 So, did you send the -- was that the article by Ms. Sarkadi
7 that was sent to this judge?

8 A Yes.

9 Q Did this judge to whom you wrote make any comment?

10 A Not in writing. Well, I have to clarify that.

11 Q Let me put it this way. Did he make any public comment that
12 you know of?

13 A Yes, he did.

14 Q Was it at the meeting?

15 A On March 1990.

16 Q At the March 1990 meeting?

17 A His comment was, I asked him -- you know, I was the one who
18 raised the question. I outlined the details of the Edmonton
19 Journal. I said as a judge in the Labrador jurisdiction who
20 is an Inuk who deals with Inuit people, what -- I said I am
21 placing you in a very difficult situation here, but would
22 you care to comment.

23 Q Before we go further, did the judge indicate that his
24 comments were to be shared only with the members of your
25 organization? Was the press there?

26 A On that particular day, I can't remember.

27 Q But his comments were not published as far as you know by

1 any media?

2 A Well, we have very -- well, when we take minutes, not like
3 these minutes verbatim, they are just very general, and when
4 I looked at the minutes of the Sixth Annual General Meeting,
5 which you can have a copy of, there was no reference to
6 that. Essentially I remember --

7 Q All right. That is fine, no. Is there any reference in the
8 minutes?

9 A No.

10 Q Then I won't go into it.

11 Now, my learned friend Mr. Bayly asked you about what
12 was called the -- he asked you about a scenario that sounds
13 very much like what you would understand to be called the
14 Hall Beach case about the three Inuit men?

15 A Yes.

16 Q He asked you actually to give your comments with respect,
17 that is, your knowledge with respect to cultural practices
18 respecting sex with teenage girls in the Inuit community,
19 and you have told us about that. I just want to make it
20 clear, and I appreciate that you have a very impressive
21 C.V. Do you have any expertise in anthropology?

22 A No.

23 Q Have you any expertise whereby you would give expert opinion
24 in other forms besides coming here, called as an expert to
25 give evidence on aboriginal cultures generally?

26 A Well, I don't know if I could -- I don't really know that
27 because, you know, what we do, we have produced the Inuit

1 Way, The Guide To Inuit Culture, and we give workshops, and
2 recognize ourselves as being experts, and that is Martha
3 Greig from northern Quebec and myself from Labrador, and
4 Inuit women from the N.W.T.

5 Q Sorry, are you one of the authors of that or are you one of
6 the persons who compiles the material to go in it for
7 distribution?

8 A The principal research was David Bault.

9 Q That is another person?

10 A That is another person, but the process, we invited a lot of
11 Inuit women to comment on the drafts that led to the final
12 inclusion of the document. We have distributed that copy to
13 all the people on our mailing list, to all the people at the
14 A.G.M. The only criticism I have heard, and this includes
15 the membership of the Inuit Tapirisat of Canada, includes
16 Elder people and stuff. The only criticism that I have
17 heard is that there are not enough pictures from the N.W.T.

18 Q Can you answer my question? Are you an expert in aboriginal
19 cultures, mores and practices, such that you have, for
20 example, testified before judicial tribunals?

21 A The definition of expertise differs, your definition and my
22 definition of expertise differ and that's what we have said
23 all along.

24 Q Your expertise has to do with consulting other persons in
25 the culture of which you are a member; is that right? As
26 well as your own experience?

27 A Yes.

1 Q Thank you. In any event, I am sure and I would concede, Ms.
2 Sillett, that you expect that you would know more about
3 Inuit culture than a judge unless the judge happened be an
4 Inuit?

5 A I sure would hope so, yes.

6 Q Do you understand and appreciate, and this is not -- I am
7 not asking you to answer questions on the judicial process,
8 but just as a member of the public, do you understand that
9 judges have to rely on what is placed before them in a
10 courtroom?

11 A I understand that.

12 Q That they can't just -- if it is not before them by way of
13 evidence or an agreed upon submission by lawyers, or by say
14 a court worker, or a pre-sentence report, they can't
15 consider matters that are not placed before them, that they
16 may have heard about somewhere else?

17 A Yes, I understand that.

18 Q And then a judge with what he has before him or her, in any
19 particular case, has to make the decision?

20 A Yes, I also understand that.

21 Q And that if people don't agree with the decision, as I
22 believe was pointed out by -- I am sorry, I can't pronounce
23 the judge's name, Igloliorite -- pointed out by him in his
24 speech, judges can be appealed?

25 A Yes.

26 Q The crown or the defence if they don't like his decision,
27 can go to a higher court and ask them to overturn it?

1 A Yes.

2 Q That's the process that he was explaining to some extent in
3 March of 1990?

4 A Yes.

5 Q All right. Now, with respect to the letters,
6 correspondence, that is, you had with Judge Bourassa, on
7 Angottitauruq case, may the witness be shown Exhibit 77.
8 You have that in front of you and here is your letter of
9 November 6th, 1989 to Judge Bourassa; is that correct, on
10 top?

11 A Yes.

12 Q Now, before that, apparently Ms. Archibald had asked for a
13 copy of the decision or the Judgment of the Court, and I
14 don't know whether you had actually received it when you
15 wrote this letter; had you received the decision?

16 A On November 3rd.

17 Q On November 3rd, and you read that?

18 A Yes.

19 Q And then you wrote this letter?

20 A Yes.

21 Q Thanking the judge for providing a copy of the sentence?

22 A Yes.

23 Q And then you go on to say on the first page, down at the
24 bottom, you say to the judge:

25 "Child sexual abuse is viewed as an atrocious
26 crime and those who are offenders should be
dealt with harshly by the Courts --"

27 -- and you draw his attention to Resolution 87-05?

1 A Yes.

2 Q But then at Page 2, if you will look at that, you will see
3 that you said or you actually quote the judge himself from
4 his sentence?

5 A Yes.

6 Q The words that you quote I gather you approved of?

7 A Yes, but the decision didn't reflect that.

8 Q We will get to that. And you quote him in fact twice. So,
9 the principles that he was espousing, you didn't disagree
10 with, as set out in your letter here? The two quotes from
11 his Judgment so far as they espouse principles, I gather,
12 you agreed with on behalf of your organization; is that
13 correct?

14 A I agree with those, but you know, no one says everything
15 that is good or everything that is bad. Those are two
16 things I want you to --

17 Q There is always a "but". What you are saying to Her
18 Ladyship, and I am sure we can all empathize, is that you
19 and your organization didn't agree with the length of the
20 sentence in that case?

21 A Clearly.

22 Q But the principles that he espouses in his judgment you
23 don't take any issue with, they support your resolution?

24 A Right.

25 Q All right. Now, you say in the letter to him on Page 2,
26 among other things:

27 "We feel the Courts have a responsibility to show
any would-be offenders that child sexual abuse is

1 totally unacceptable. Furthermore, if there is
2 any violation of our children, then indeed our
3 courts will have the courage to act on your
4 message which is abusive conduct with respect to
5 small children, results in the harshest of
6 sentences."

7 Would you agree with me, Ms. Sillett, that there is a little
8 bit of lecturing of the judge going on there in your letter?

9 A I have no problem with that, do you?

10 Q Would you agree with me, Ms. Sillett, there is a little bit
11 of lecturing of one of Her Majesty's judges by you in this
12 letter?

13 A I didn't see that as lecturing though. I thought that was,
14 you know, conveying a point.

15 Q Is it fair for us to conclude, Ms. Sillett, that you do not,
16 that is your organization does not, habitually write similar
17 letters to Her Majesty's judges on specific decisions?

18 A When has there been ever such an issue --

19 CHAIRMAN CONRAD: Just try to answer the question.

20 Q MR. EVANS: I think I will ask the questions,
21 Ms. Sillett. You will be given every opportunity by Her
22 Ladyship to explain. Can you tell me whether your
23 organization habitually writes letters of a similar nature
24 to Her Majesty's judges on specific decisions?

25 A When the need arises we -- there is another case right now.
26 It has been after this particular case, where we are
27 actually getting a transcript of -- we have contacted the
28 office to ask for a transcript of the proceedings this time,
29 instead of a transcript of the Reasons of the judge.

1 Q Are you going to, in due course, write to that judge, too?

2 A If the executive or the membership deems it fit.

3 Q So, can you think of any other case that -- one you are
4 thinking of doing, you are getting a transcript. You did
5 that here, so, you are going to try this new one. What
6 other -- on what other occasions, and I appreciate the
7 correspondence, Exhibit 111 which is not a similar case, I
8 am sure we can agree on that, but what other occasion has
9 your organization written a similar letter on a specific
10 case to the judge who gave the decision?

11 A Since 1987?

12 Q At any time.

13 A And I say -- and that's all I can speak for, the records at
14 that time before that were a bit vague; to my knowledge,
15 no.

16 Q Would you agree with me that this type of letter puts a
17 judge, a Canadian judge in a tough position?

18 A No.

19 Q First of all, just hear my question, and then I will ask you
20 whether you agree or not, and I am sure that you will have a
21 response, and I know that you have read Ms. Archibald's
22 testimony, I asked her the same thing. The tough position
23 is that if he doesn't reply, you consider him at least, at
24 the very least to be rude and unresponsive, but if he does
25 reply, he really can't say anything about the case by virtue
26 of his office; do you agree with me? That in those two
27 sentences it puts him in a tough position?

1 A No, he wrote to me on -- very rudely, anyway, what was it,
2 what date?

3 Q Yes, I think you can accept that the judge's testimony, and
4 you weren't here for it, that he was somewhat irritated by
5 your letter and he did write to you.

6 My question to you is, this type of letter going to a
7 judge, would you expect would put a judge in a tough
8 position?

9 A I never thought about it, to be honest with you.

10 Q All right. That is fine. Now, would you agree with me that
11 it would be more appropriate that you address such
12 correspondence setting out passages from a Judgment, indeed,
13 setting out passages with which you did not agree, and
14 setting out the sentence with which you did not agree to the
15 Minister of Justice for Canada, if you were talking about a
16 sentence in the Northwest Territories?

17 A We also write to the Ministers of Justice.

18 Q I appreciate that. Isn't it more appropriate that this type
19 of letter of November 6th go to a politician whose
20 responsibility is the prosecution of cases in Her Majesty's
21 Court?

22 A No. The question that I raised with Linda before October
23 19th and 20th was to find out the appropriate person to talk
24 to in order to get this information and the person that she
25 was passed to was Justice Michel Bourassa.

26 Q Ms. Archibald wrote for -- that is Linda, I take it, she
27 phoned the office and spoke to the judge, apparently, and

1 asked for his reasons or asked for whatever he had to do
2 with the Judgment, right?

3 A Whatever he had.

4 Q And that was faxed to you by him; your letter acknowledges
5 receipt of that; right?

6 A Yes.

7 Q Now, that was your object, and you got that. Having
8 received that, then is it not more appropriate, and it may
9 be quite appropriate for you rather than writing the judge,
10 writing to the Minister responsible for the conduct of
11 criminal prosecutions in the Territorial jurisdiction in
12 which the judge presides?

13 A We write to whoever we have to.

14 Q Did you write --

15 A We have no restrictions on who we write to. We have also
16 sent the Minister of Justice, Michael Ballantyne a copy of
17 our resolutions.

18 Q I am sure that you can write to anybody. You can write to
19 me. I am just asking whether you consider it more
20 appropriate to write to the politician than to a judge in
21 this type of incident?

22 A Obviously we didn't, we contacted the judge.

23 Q By the way, did you write to the Minister of Justice for
24 Canada with respect to the Angottitauruq decision at any
25 time?

26 A No.

27 Q Did you write to the Minister of Justice for the Northwest

1 Territories with respect to the Angottitauruq decision of
2 Judge Bourassa at any time?

3 A I don't think so.

4 Q The only person as far as you recall as the president of the
5 organization who you corresponded with in this fashion was
6 was Judge Bourassa?

7 A Yes, because we felt he was the most appropriate person to
8 write to.

9 Q But you did know that Catherine Peterson had written to the
10 chief crown prosecutor of the Northwest Territories, and
11 copied you with her letter which is why you copied her with
12 your letter?

13 A We are not lawyers. Catherine Peterson is. She probably
14 knew the system better than we did.

15 Q And if she knew the system better than you did, you would
16 see that she wrote to the chief crown prosecutor expressing
17 concern?

18 A Yes, but we never thought about it.

19 Q Yes, but she sent you a copy of it, didn't she?

20 A So Catherine followed proper policies and we didn't?

21 Q Can you answer my question? Before you wrote to Judge
22 Bourassa, did you understand that Catherine Peterson,
23 President, Northwest Territories Advisory Council on the
24 Status of Women, she is writing in a capacity that is
25 somewhat analogous to you, she is the president of an
26 organization?

27 A Yes.

- 1 Q That she wrote -- she sent you a copy of a letter that she
2 wrote to the Minister of Justice?
- 3 A Yes.
- 4 Q All right. And you --
- 5 MR. BAYLY: My Lady, I think the evidence is
6 she wrote to the crown prosecutor.
- 7 Q MR. EVANS: I am sorry, I take it back, I got
8 it mixed up. She wrote to the chief crown prosecutor, Mr.
9 Avison?
- 10 A Umm hmm.
- 11 Q You knew that before you wrote this letter to the judge?
- 12 A Yes, because our letter was written on October 27th.
- 13 Q Exactly. And that is why you sent her a copy of your letter
14 because she had the courtesy to copy you with her letter?
- 15 A Yes.
- 16 Q Why didn't you do what she did and write to the chief crown
17 prosecutor, the person who would authorize presumably an
18 appeal of the Angottitauruq decision?
- 19 A Maybe out of ignorance, I don't know.
- 20 Q Did it occur to you to do so and you decided instead to
21 write to the judge?
- 22 A No, I think it was just -- it wasn't such a big issue. We
23 didn't think we did anything wrong.
- 24 Q I am not suggesting that you did anything wrong. I am just
25 asking you who is the right person to write to. You thought
26 it was the judge?
- 27 A We thought it was, yes.

1 Q But you knew that the judge would have nothing to do with
2 whether a decision would be made to appeal the decision?

3 A I don't think we knew that the case was under appeal at that
4 time, I must admit.

5 Q No, but the whole object of writing was to presumably say
6 this should be appealed, and we don't think it is adequate,
7 so, somebody has got to do something about it because our
8 organization doesn't like it; right?

9 A Well, what we were saying is we didn't agree with the
10 sentencing.

11 Q All right. Now one thing you say before you entered into
12 correspondence with Judge Bourassa, that you would decide at
13 some point to take action if necessary, and I wrote that
14 down. What kind of action would you take, assuming that you
15 were not satisfied with what you could obtain from
16 corresponding with the judge?

17 A That is really up to the Board of Directors. I mean, you
18 know, at the A.G.M. this whole issue was discussed, and I
19 think a resolution was passed in March of 1990 calling for a
20 broader inquiry, looking at the very many issues, one was
21 the appointment of judicial judges, the Victims Services.

22 Q So a general resolution was passed with the wording roughly
23 that you have given us, that was the action?

24 A Yes.

25 Q Any other action that you would have contemplated taking at
26 all?

27 A In the meantime, though, you know, you have to -- from

1 October until -- five months had passed from the time that
2 we wrote this letter until that resolution was passed, and
3 in the meantime I think you are quite aware of our actions.

4 We did write to Chief Justice Halifax and Michael
5 Ballantyne on January 8th. We were in constant
6 communication with the N.W.T. Advisory Council on the Status
7 of Women. We had sessions on this whole issue to determine
8 what should be done.

9 There was a call for an inquiry and this is one of the
10 results of the action that the N.W. -- that the women took.

11 Q But that was about the Journal article. That was about the
12 Journal article. You are asking about Angottitauruq?

13 A But aren't the two related?

14 Q Did you get the impression from reading the Journal article
15 that the two were related?

16 A Well, I think they were. Well, we saw them as being
17 somewhat related, Michael Angottitauruq received a light
18 sentencing, and, you know, this statement was given by a
19 certain judge. That same judge made certain comments which
20 were offensive to us in the Edmonton Journal on December
21 20th.

22 Q So, you and I are in agreement for a change. You agree that
23 that article in the Edmonton Journal in your mind related
24 his comments apparently that are attributed to him, the
25 Angottitauruq case and the Hall Beach case; right?

26 CHAIRMAN CONRAD: Maybe somebody should show her a
27 copy, she hasn't seen it recently.

- 1 Q MR. EVANS: Oh, by all means. You are, I am
2 sure, familiar with that article, you will see it refers to
3 Angottitauruq and also at the end you will see a reference
4 to Hall Beach.
- 5 MR. BAYLY: Perhaps the witness can just be
6 given a minute.
- 7 CHAIRMAN CONRAD: Yes, I think she should read it
8 quickly.
- 9 Q MR. EVANS: It goes over to Page 2, sorry.
10 A The common element in this article is Bourassa.
11 Q It refers to three cases?
12 A Yes.
13 Q No, it refers to comments, the Angottitauruq case that
14 concerned your organization and the Hall Beach case that
15 concerned your organization?
16 A It concerned our organization. At that time I was not
17 president.
18 Q Whatever. I don't really care what your position was with
19 the organization. I am just saying you are speaking at the
20 president now; and when you saw the article -- in fact
21 before you wanted to comment on the article, you said I've
22 got to see this and we've got to have a meeting about this;
23 right?
24 A Yes.
25 Q So, you got the article. I bet you read it very carefully,
26 a number of times?
27 A Yes.

1 Q I bet it was discussed a number of times with your Board
2 members and other members?

3 A Everyone felt very strongly about that article.

4 Q One of the things that made you feel strongly about it is
5 you say, hey, this is the judge who made these comments,
6 this is the judge who gave the Angottitauruq decision that I
7 had the correspondence with, and this the judge that gave
8 the Hall Beach decision; is that one of the reasons you felt
9 strongly?

10 A If I can remember correctly on that morning, we got that
11 article, we faxed it -- we photocopied it. We had a chance
12 to show it around the office, our office is very small, and
13 I think that with respect to the article the thing that
14 stood out was that the whole statement about the sexual
15 assaults in the north are less violent than they are in the
16 south. A woman is passed out and she is drunk, a man sees a
17 pair of hips and helps himself to them. I think that is
18 what people felt very strongly about.

19 Q You would have felt differently if the article had said the
20 judge found this sort of behavior intolerable and
21 reprehensible, that would have put a different light on it,
22 other than just seeing the statements there?

23 A Yes, but that wasn't the way it was.

24 Q I know. I know. Yes, it wasn't written that way, was it?

25 A No, it wasn't.

26 Q No. But it also concerned you, you say, okay, this article
27 also points out this was the judge who gave the

1 Angottitauruq decision and this is the judge who gave the
2 Hall Beach decision; was that some cause for comment at the
3 time?

4 A I guess the question was putting the three things together,
5 could he best represent the interests of the Inuit women in
6 the north.

7 Q Of course, putting those three things, but not knowing
8 anything else about this judge, it didn't paint a very good
9 picture of this judge from your organization's point of
10 view?

11 A To say that we didn't have anything to do with him is
12 incorrect because by December 20th I had already had
13 correspondence with him. On Angottitauruq?

14 A Yes.

15 Q Can I ask you this: Did you read the article by Robertson
16 Doob that the judge sent to you?

17 A No.

18 Q Thank you. Finally, just going back to the time that you
19 received the phone call from Linda Archibald stating that
20 she had -- she had been contacted, your recollection is that
21 she said she had been contacted by the Edmonton Journal
22 reporter who had written a story or words to that effect?

23 A I can't remember the exact wording, but there was something
24 like that, some journalist wanting -- I don't know, I can't
25 remember.

26 Q I don't want you to guess at it. Does it refresh your
27 memory that she said anything like the journalist had a

- 1 deadline and needed a comment?
- 2 A Yes, but I don't feel like I should be pressured in
3 deadlines. I mean, that is the way I work.
- 4 Q I agree with you. All I am trying to find out is whether
5 Ms. Archibald said any words to you to this effect, "the
6 journalist has got a deadline and wants a comment"?
- 7 A I do remember that Linda phoned me at home.
- 8 Q Ms. Sillett, please, my question is very simple, I know she
9 phoned you at home. Do you have any recollection --
- 10 A What I am trying to say is it must have been important, you
11 know. So, I guess --
- 12 Q No, don't guess, it doesn't help Her Ladyship. I am not
13 asking you to guess.
- 14 CHAIRMAN CONRAD: He just wants to know if you
15 remember.
- 16 Q MR. EVANS: And I am not trying to put any
17 words in your mouth. I am simply trying to ask you whether
18 you recall any reference to the fact that the journalist who
19 contacted Linda had some sort of a deadline. If you can't
20 remember, no problem?
- 21 A I can't say for sure.
- 22 Q Thank you very much. Did she say anything to you about the
23 journalist was seeking a reaction of your organization to
24 Judge Bourassa's comments?
- 25 A She wanted me to phone her.
- 26 Q My question was -- well, let me put it this way. Did you
27 understand the journalist wanted you to phone with some

1 comments to give a reaction of your organization to the
2 comment?

3 A That was the general understanding, yes.

4 MR. EVANS: Thank you. Thank you very much for
5 your courtesy, Ms. Sillett.

6 CHAIRMAN CONRAD: Is there any re-examination, Mr.
7 Bayly?

8 RE-EXAMINATION IN CHIEF BY MR. BAYLY:

9 Q MR. BAYLY: Ms. Sillett, just on those last
10 points. What, if anything, do you recall Linda Archibald
11 saying to you that night, whichever night it was, when you
12 were at home at about suppertime and she called you about an
13 Edmonton Journal reporter, as much as you can recall of that
14 conversation?

15 A Someone phoned me, they wanted me to phone back, and they
16 wanted me to get back to them as quickly as possible. I
17 said something like, no, I can't. Let's just get the
18 article and see what we are talking about. Let us talk to
19 Caroline and Ovilu Goo Doyle at that time.

20 Q Ms. Sillett, in your conversation with Ms. Archibald, do you
21 recall her saying anything about the subject matter that the
22 reporter was allegedly interested in?

23 A You know, I don't know if I can remember -- if I am
24 remembering what I actually remember or if I am remembering
25 what I read, you know.

26 Q I understand that. If that is as much as you can do, then
27 that should be your answer. I understand that sometimes

1 memory is like that. Is that your best recollection?

2 A Yes, I know that it was someone from a newspaper, the
3 Edmonton Journal and obviously they wanted some comment to
4 an issue.

5 CHAIRMAN CONRAD: I think what he is asking you, in
6 that conversation, did you know anything about what the
7 newspaper reporter had said Judge Bourassa said?

8 THE WITNESS: I didn't know the details. I knew
9 generally, the general issue.

10 Q MR. BAYLY: Did Linda Archibald, you have
11 mentioned the name Michael Angottitauruq, did Linda
12 Archibald say Michael Angottitauruq's case in that -- that
13 name in that conversation while you were at home?

14 A She may, she may not have, but I knew, somehow I knew
15 generally what the issue was. It must have been because she
16 phoned me.

17 MR. BAYLY: I understand. Those are the only
18 questions I have, My Lady. I just wanted to say because I
19 have had a chance to think about it since Mr. Evans went to
20 the brink of asking a question about somebody else's opinion
21 given at the Pauktuutit annual meeting in March of 1990,
22 that we have objected, of course, to opinions. I have not
23 asked it. I just wanted to alert Your Ladyship that I would
24 take the position if anybody else wanted to ask, that I
25 would want to be heard on that, in other words, about what
26 Judge Igloliorite may have said.

27 CHAIRMAN CONRAD: Nobody has asked her that.

1 MR. BAYLY: No, but it might have come up in
2 one of Your Ladyship's questions, and if you were going to
3 ask it, I would want to be heard before.

4 CHAIRMAN CONRAD: No, I have no intention of asking
5 it.

6 MR. BAYLY: Those are my questions. Thank you,
7 Ms. Sillett.

8 CHAIRMAN CONRAD: I do have a few questions.

9 EXAMINATION MADAME JUSTICE CONRAD:

10 Q CHAIRMAN CONRAD: Firstly, I want you to understand
11 that there is no criticism at all of you for sending Ms.
12 Archibald to this inquiry. She was a good witness in the
13 area that she could speak which was with regard to the
14 reporter, she was clearly the best witness. There was no
15 criticism of you at all. I felt like maybe you thought
16 there was and you were apologizing for not coming yourself,
17 but there was not.

18 I was interested in hearing you because I was
19 interested in learning a little bit more about the political
20 background of the north into which the comments were made,
21 and it seemed like you might be better qualified to explain
22 the representative nature of your organization, and I think
23 you have been able to do that.

24 I was going to ask you a couple of questions in that
25 area, one of them was you mentioned the communities have
26 women's groups; do all of the communities have women's
27 groups?

1 A Not all of them.

2 Q What is a women's group?

3 A In most communities it is very informal, they are not
4 incorporated. That's what I mean when I say informal. They
5 get together. Some of them are organized through the
6 churches, they may do sewing. They may get together to talk
7 about issues which are important to them. They might do
8 local fund raising. They may help out do community
9 activities, like help Elders in the communities organize an
10 Elder night, organize a youth night.

11 Q And if there is such a group in the community, is there
12 usually one recognized informal group that everybody there
13 would identify as a women's group?

14 A In some communities yes.

15 Q And in others you might just know people?

16 A Individuals, yes, who are very active.

17 Q You had mentioned to Mr. Evans that you thought it very
18 offensive, the remarks on rape being less violent in the
19 south than it is in the north.

20 Did you understand that article to say that rape itself
21 is less violent in the south than in the north, the act of
22 rape itself, is that what you understood?

23 A I think generally we understood that, yes, because of the
24 circumstances. I mean, they say that -- you know, it
25 usually happens when we are drunk or passed out.

26 Q Did you understand -- would it be your understanding that he
27 said there was less violence in addition to the rape in the

1 north? In other words, when somebody is raped, that
2 obviously is violent, violent no matter where you are or who
3 you are, but there also can be violence apart from the rape,
4 they could be beaten, injured, stabbed, hospitalized, that
5 type of thing, in addition to the rape; did you not
6 understand that from the article?

7 A I think our immediate reaction was that -- we talked -- our
8 immediate reaction was that -- our immediate understanding
9 of that was that -- we are talking about rapes generally.
10 We feel that rape is a violent act, but I guess we never
11 considered the other part of getting beaten up.

12 Q That is what I was trying to ask. And when you mentioned
13 the remark about the -- being drunk and the hips remark, the
14 way you said it I got the feeling that you understood that
15 to be that the judge thought that was okay, or that that is
16 less because that happened that way, it was less
17 significant?

18 A I guess you can understand why it's -- what kind of
19 mentality would allow someone to say something like that in
20 any kind of comment.

21 Q Because the --

22 A The way they described it.

23 Q Explain to me what you are saying?

24 A Someone sees a pair of hips, I mean, who talks like that. I
25 mean that's very derogatory. I mean, women are women. They
26 are people.

27 Q That the judge would use that language, you mean?

1 A Yes. I mean, what kind of mentality lends someone to talk
2 like that. They don't see us as people? They see us --

3 Q Did you think the judge thinks that's an okay way to see
4 women? Did you get that feeling from reading -- is that
5 your understanding, that he thought that's okay just to
6 think of women that way?

7 A I don't know. I mean, I think what we were essentially
8 responding to was the way the comments were made. I mean,
9 you know, we just felt it was an unfair assessment.

10 Q I am just trying to understand what your interest was at the
11 time -- by asking the question.

12 The only other area that is not -- an area that you may
13 not even be able to help me in it, but you had made the
14 remark about sex with the young girls being not okay in the
15 Inuit culture. And I know you are aware of the Hall Beach
16 case where the quotation about sexual intercourse once a
17 girl begins to menstruate is okay.

18 I would like you to just look at some of the material
19 that was before the judge, and I am going to show you
20 Exhibit 21, and it is a comment that was in a pre-sentence
21 report, it is two paragraphs in the pre-sentence report. I
22 would like you to read the last two paragraphs.

23 A I have read it.

24 Q What would you say about that?

25 A Well, first of all, I don't understand who Gryziak is, is
26 she an Inuk?

27 Q I don't know.

1 A Because I think clearly from what I have heard and these are
2 Inuit women from all of the communities, and I feel like I
3 have heard them enough and I know what my own opinion is,
4 but I don't agree with this. I don't agree that, you know
5 -- especially these days, sexual -- people become so
6 offended, you know, if you sexually assault young people.

7 Q Thank you. The remarks that are contained in there, in any
8 event, that according to Sandra Gryziak of the regional
9 social services, it was a prevalent attitude. You are
10 saying you don't know anything about that if it was, in any
11 event, it is not your understanding?

12 A It is not my understanding.

13 Q And so this person as far as you are concerned is just
14 wrong, or could it be possible in an area, could it be a
15 carry-over from earlier times? Do you have any idea where
16 somebody would come up with that?

17 A I think in the earlier times women married a lot younger.
18 In my mother's generation she was married at 17 or 18, and
19 by the time you are 21 years old, I mean, you were an old
20 maid. But what was, and what is --

21 Q Are quite different?

22 A -- are different.

23 Q The only other question I had was you had said to Mr. Evans
24 you agree Elders should have a say and you said definitely
25 yes. And so I have to ask you this. Do you agree that
26 Elders should have a say even if the Elders' say was that
27 the man should not go to gaol in a situation that you would

1 normally think he should go to gaol?

2 A Actually, you know, I would have broken that down a bit
3 because I think, you know, Elders must be involved, but the
4 community should be involved, whoever in the community is
5 knowledgeable on certain issues, they should be the people,
6 they should select who is going speak with them.

7 Q Knowledgeable or just the communities' wants, desires, the
8 cultural values of the community at the time?

9 A Yes, they will be Inuit people from the community. I am
10 talking about Inuit people.

11 Q Right, I understand that. My question is the same, if
12 whoever it is that's representing or giving input on
13 cultural values on a particular situation recommends that
14 there be no gaol, in a situation that would normally carry a
15 gaol sentence, you would agree that that position should be
16 listened to?

17 A I think what I am -- I think that is quite difficult,
18 because I think, you know, it depends on who is giving the
19 information and I think also that we all --

20 Q No, nobody can control who it is going to be, but
21 assuming --

22 A If someone who has authority, okay, in that area, someone
23 who has a lot of knowlege about the Inuit cultural values,
24 traditions, that person is respected in that community, that
25 person gives input, it doesn't necessarily mean that they
26 will always agree with it.

27 Q Assuming it is that kind of a person, one that -- the

1 person, the appointment you are happy with, you like the
2 person that has been picked. If that person says to the
3 judge, "I know normally you would send them to gaol, but in
4 this case you should not, and here is why; these are our
5 cultural reasons, this is what the boy would have understood
6 because of our culture, this is what -- whatever it is, he
7 should not go to gaol". You would agree with that type of
8 input, even though it means a lesser sentence than everybody
9 would normally think proper?

10 A I think, yes, definitely that kind of input. I think, you
11 know, we have to recognize, too, that we might not
12 necessarily always agree with the sentencing.

13 Q You don't always agree with the judges?

14 A Right.

15 CHAIRMAN CONRAD: Thank you very much. Are there any
16 questions arising out of anything I have asked.

17 MR. EVANS: No, thank you, My Lady.

18 MR. BAYLY: No.

19 CHAIRMAN CONRAD: Thank you very much for coming. I
20 appreciate your attendance, and you are released from your
21 summons.

22 MR. BAYLY: My Lady, you had asked whether I
23 wanted a ruling on the matters raised yesterday because of
24 course if I were going to call other evidence having made
25 the points I made about the evidence that Mr. Evans brought
26 forward yesterday, that I should probably insist at this
27 point, but I have had an opportunity to consider the



1 evidence. It goes to the opinions of people, and I think
2 whatever your ruling is, that it is my judgment that I would
3 not be calling other evidence for two reasons. One is, I am
4 satisfied that Your Ladyship has taken into account and will
5 at the end the day, the concerns about opinion evidence and
6 where, if anywhere, it belongs in this.

7 And the other reason is this, that I am not satisfied
8 that I any more than Mr. Evans could provide Your Ladyship
9 with a representative sample of opinion even if that were to
10 help you. I don't mean in that way in any sense to speak in
11 a derogatory fashion about the evidence that has been led
12 before you. It is just a very difficult task in my
13 respectful view for us to lead evidence and then say this is
14 a representative sample. This is a series of people who
15 could be the reasonable person fully informed, and I am not
16 prepared to risk doing that, because I don't think if I were
17 to try and make that contribution, Your Ladyship would be
18 any farther ahead.

19 So, if you wish to make your ruling, of course, I know
20 you will do so at this point, but if you wish to reserve
21 until you have heard our final argument on that and other
22 matters, then I would be content.

23 CHAIRMAN CONRAD: I appreciate that, Mr. Bayly,
24 because to make that ruling, I really have to deal with the
25 very essence of the argument and that is what would a
26 reasonable man do, and I would like to go through each piece
27 of evidence very carefully with you if I am going to make

1 the ruling because I think there will be some of it that is
2 clearly relevant, and some of it that is clearly not. So, I
3 appreciate the opportunity of being able to deal with it at
4 the conclusion of argument, and in particular with respect
5 to the Section 13/14, and whether or not some of it is even
6 relevant to 14. I would like to hear full argument before I
7 make the decision on that. So, I will choose to make my
8 ruling at a later date. Thank you.

9 MR. BAYLY: My Lady, I should say then that as
10 far as I am concerned that completes the evidence that I
11 would see being presented to Your Ladyship at this inquiry,
12 subject to anything that my friend Mr. Evans may have to
13 say. I am assuming that Mr. Lefever has not sought at this
14 stage to suggest or he would have done so through me that
15 there would any other --

16 CHAIRMAN CONRAD: Is that your position, Mr.
17 Lefever?

18 MR. LEFEVER: That's correct.

19 CHAIRMAN CONRAD: Thank you. Mr. Evans, do you have
20 any further evidence that you seek to call?

21 MR. EVANS: No thank you.

22 CHAIRMAN CONRAD: There had been some discussion
23 about reviewing, the possibility of using some of the
24 statistics from the complaints, and I don't think that we
25 have ever addressed that. I am not sure we need to. We can
26 perhaps address it in argument, too, or when you get ready
27 to argue. If there is something there that needs to be

1 brought in, we can deal with that at that time as well.

2 MR. BAYLY: I was not proposing, subject to
3 reflection and I think I have had several opportunities to
4 make that reflection, to tender evidence on that. I think I
5 took a position at an earlier stage that once the complaints
6 had been made, they triggered a process, once the process
7 was initiated, you were not to deal with complaints as
8 complaints. You were to deal with the appointment and its
9 terms and what had flowed to Your Ladyship through the
10 Judicial Council, through the commissioner, and to the table
11 of this inquiry, and so for me then to come back and say and
12 here is an analysis of where the complaints came from;
13 again, it is like trying to say whether or not those are
14 representative cross sections, and I can't tell you --

15 CHAIRMAN CONRAD: I agree. I just know that it was
16 an issue that we had left outstanding to discuss and I
17 thought it should be discussed before we close off the
18 evidence.

19 MR. BAYLY: Yes.

20 CHAIRMAN CONRAD: This is no further evidence that I
21 feel that I have to have, and so that would appear to
22 conclude it. And it is my understanding that Mr. Evans
23 would like to address oral argument or make oral
24 representations at some point.

25 MR. EVANS: Yes, My Lady.

26 CHAIRMAN CONRAD: Likewise, Mr. Lefever would like to
27 address the issue orally where his witness is concerned,

1 again, the issue relating to her. It is my understanding
2 from Mr. Bayly that it has been necessary for you to do
3 considerable research in preparing and calling evidence, and
4 that you will have something put together perhaps even in
5 writing, or can I hear from you in that regard. You are not
6 going to advocate a position as much as provide me with the
7 benefit of what research you have done and of course I have
8 done some.

9 MR. BAYLY: We will do that, My Lady. What
10 form it takes, Mr. Bishop is making those kinds of sounds of
11 the person who has to do the bulk of the work that we
12 expected to make, I am not certain. I suspect we would at
13 least have certain things in point form with case references
14 for Your Ladyship so that if that is helpful that would
15 point you to the authorities and learned texts and so forth
16 that may be of assistance to Your Ladyship.

17 And I should just say for the benefit of other counsel
18 that my view of it is this, that we will not as your Inquiry
19 counsel be taking a position on what you should do under
20 either Section 13 or under Section 14. We have not yet
21 determined how we will handle the evidence in the sense of
22 whether we will see it as our role to sum up what is in many
23 ways a case where although you have heard a good deal of
24 evidence, the matters at issue are few and they are clear.

25 I believe as well that we will leave the issues of
26 credibility to Your Ladyship, and I expect we may confine
27 ourselves on the evidence to saying, if these are the

1 issues, then we consider that certain witnesses have given
2 evidence which may be useful to you on those. And we may
3 point to that in some fashion to assist you, but we will try
4 to concentrate to be useful on the issues that we think Your
5 Ladyship will have to deal with and perhaps on the process
6 that we see has to be considered because of the terms of
7 Your Ladyship's appointment and the terms of the statute.
8 And in that way we can avoid doing what has been
9 characterized by some as our role which is to take the
10 prosecutor's summing up position. We don't intend to do
11 that. We don't see that as our role and unless we are
12 directed by Your Ladyship to take that approach, we do not
13 intend to do so.

14 CHAIRMAN CONRAD: Timing, when were you expecting to
15 be ready?

16 MR. BAYLY: I think I know because of Mr.
17 Evans' schedule that if we were to put this off into the
18 week of the 25th, we would create some difficulties. If we
19 put it off any later than that, we create difficulties for a
20 variety of people including Your Ladyship. We seem to
21 virtually have no choice but to come back in a week's time.
22 I would suggest that we consider coming back on Thursday
23 morning of next week, and to start on Thursday morning of
24 next week. I would anticipate that we would have perhaps in
25 total, with the counsel involved, two days of argument, but
26 if I am mistaken, I suppose we could consider concluding on
27 the Saturday if that were necessary or on the Friday night,

1 but I can anticipate that two days will be sufficient.

2 CHAIRMAN CONRAD: Two days should be sufficient.

3 MR. BAYLY: Yes, but I said that because I
4 wanted to know, maybe Mr. Evans is not able to appear on the
5 Saturday and I don't want to suggest that, if it presents
6 those kinds of difficulties.

7 MR. EVANS: Subject to what my friend Mr.
8 Lefever has to say, I would expect that two days surely
9 should contain oral argument, otherwise, it will be like
10 another inquiry. I am a long speaker, so, I shouldn't speak
11 for others, but let's say it takes two days, My Lady, I
12 can't be here Saturday. I am going into a week long jury
13 trial and I have to be in Medicine Hat for Sunday night, and
14 so that is a major undertaking. I don't know what other
15 commitments that others have the following week either, but
16 I guess my problem is I flagged it sometime ago.

17 If, for example, we were to start Wednesday and go into
18 Thursday, it would appear that there might be matters
19 carrying over, understanding that at the conclusion of
20 argument, Your Ladyship I am sure will take time for
21 consideration, in any event, and the matter will have to go
22 over. But Wednesday and Thursday, and I am only speaking
23 for myself, if it meets the convenience of Your Ladyship and
24 my friends that it be Thursday and Friday, then, of course,
25 I will meet that. I am happy to have the extra day, but I
26 can't be here Saturday.

27 MR. LEFEVER: I can be here either

1 Wednesday/Thursday, Thursday/Friday. With respect I would
2 defer to Mr. Evans in terms of the scheduling even if it
3 means working longer time between now and then. When one
4 goes into a week long murder trial, there is a fair amount
5 of preparation that needs to be done.

6 At one point I just want to raise the terms of
7 argument. While I do intend, obviously with oral argument,
8 I would possibly prepare an outline of argument to provide
9 to you for purposes of following the course of the argument.

10 I wouldn't see it as a written argument, but more of a
11 blueprint of where I will be going, and I presume no one
12 would take offence with that.

13 CHAIRMAN CONRAD: It would be very helpful if you all
14 could do it, but I won't insist on it. The following week,
15 Mr. Evans, the 25th, are you in trial the whole week, like
16 the Thursday and Friday of that week?

17 MR. EVANS: Yes, My Lady. I would like to
18 correct Mr. Lefever. It is not murder, it is a charge of
19 sexual assault. It involves a -- well, there is another
20 defence counsel, and the election is jury and is maintained.
21 So, if it were not a jury trial, then I would expect it
22 would be abbreviated, but I reasonably expect it will be the
23 five days.

24 CHAIRMAN CONRAD: So then it would appear next week
25 is the week.

26 MR. BAYLY: My Lady, I think if we knew that we
27 had two days, experienced counsel are involved --

1 CHAIRMAN CONRAD: I don't think it should be longer
2 than two days.

3 MR. BAYLY: Two days or less. If I could
4 suggest that if we had one day longer --

5 CHAIRMAN CONRAD: I mean, I could limit you, I could
6 put time limits and that would soon make it that length --

7 MR. BAYLY: That might be a good idea.

8 CHAIRMAN CONRAD: That might resolve it, and perhaps
9 you might talk about fair time limits to self-impose and
10 agree on. Mr. Lefever obviously would not be entitled to as
11 much time as everybody else.

12 MR. EVANS: My Lady, I would not want to fetter
13 any of my learned friends. I am sure that all of us will
14 work towards hopefully a half day, in that area, including
15 myself.

16 CHAIRMAN CONRAD: Let us set it for Thursday
17 morning. Probably it means we should start early Thursday
18 morning and not --

19 MR. BAYLY: 9 o'clock.

20 CHAIRMAN CONRAD: 9 o'clock?

21 MR. BAYLY: We can start at 9 o'clock and I
22 assume that would mean that Your Ladyship and other outside
23 counsel will have to travel Wednesday evening.

24 MR. EVANS: Yes. That is agreeable if it is
25 agreeable with Your Ladyship.

26 CHAIRMAN CONRAD: That is agreeable with me. And we
27 will adjourn the hearing now until next Thursday morning at


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9 o'clock.

(INQUIRY ADJOURNED TO JUNE 21, A.D. 1990 AT 9:00 A.M.)

I, Carolyn Ouellette, Court Reporter, hereby certify that I attended the above Inquiry and took faithful and accurate shorthand notes and the foregoing is a true and accurate transcript of my shorthand notes to the best of my skill and ability.

Dated at the City of Calgary, Province of Alberta, this 18th day of June, A.D. 1989.


Ms. Carolyn Ouellette,
Court Reporter, C.S.R.(A)

