

COMMISSION OF INQUIRY
INTO MATTERS RELATING TO THE DEATH OF NEIL STONECHILD

INTRODUCTORY REMARKS GIVEN AT THE COMMENCEMENT OF
THE INQUIRY HEARINGS

September 8, 2003

I intend to make some preliminary comments before the inquiry begins formally.

I want to emphasize as I have before how important it is that the proceedings of the inquiry be as fair and balanced as possible, mindful of the interests of the parties. It is also essential that the public have as much information about the proceedings as possible, commensurate with the proper conduct of the hearings and the interests of the parties involved. The role of the media will be very important. In matters of this sort there must be transparency and accountability.

It is helpful, I believe, to refer to the comments made by the Ontario Court of Appeal in *Re The Children's Aid Society of the County of York*. I refer particularly to the following quotations. Firstly to those of Mr. Justice Mulock who said:

. . . in answering the questions submitted it might be advisable to point out the nature of the inquiry in question. It is one to bring to light evidence or information touching matters referred to the Commissioner. . . . The Commissioner *should avail himself of all reasonable sources of information, giving a wide scope to the inquiry*. If, for example, some person were to inform the Commissioner where useful documents or other evidence could be obtained, it would seem reasonable that he avail himself of such a source of information. . . . It is for the Commissioner, from all available sources, to bring to light such evidence as may have a bearing on the matters referred to him.

...

(emphasis added)

And the comments of Mr. Justice Riddell:

. . . A Royal Commission is not for the purpose of trying a case or a charge against any one, any person or any institution—but for the purpose of informing the people concerning the facts of the matter to be inquired into. Information should be sought in every quarter available. . . .

Everyone able to bring relevant facts before the Commission should be encouraged, should be urged, to do so.

Nor are the strict rules of evidence to be enforced; much that could not be admitted on a trial in Court may be of the utmost assistance to the Commission. . . .

(emphasis added)

And finally the comments of Mr. Justice Middleton:

. . . *It is an inquiry not governed by the same rules as are applicable to the trial of an accused person.* The public, for whose service this Society was formed, is entitled to full knowledge of what has been done by it and by those who are its agents and officers and manage its affairs. What has been done in the exercise of its power and in discharge of its duties is that which the Commissioner is to find out; so that any abuse, if abuse exist, may be remedied and misconduct, if misconduct exist, may be put an end to and be punished, not by the Commissioner, but by appropriate proceedings against any offending individual.

This is a matter in which the fullest inquiry should be permitted. All documents should be produced, and all witnesses should be heard, and the fullest right to cross-examine should be permitted. Only in this way can the truth be disclosed.

...

(emphasis added)

Counsel will recognize that these observations are contained in my ruling with respect to the polygraph evidence. They are of sufficient importance however to bear repeating.

I intent to now invite Mr. Hesje to make some preliminary remarks and to outline for us all the course he expects the evidence will take and the order of the witnesses for the inquiry. I should say before he begins that at the conclusion of his remarks I will invite counsel to raise any matter which they think is appropriate at this juncture so you will have an opportunity to speak then.

Mr. Hesje . . .