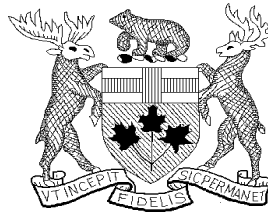


Report of a Judicial Inquiry
Re: His Worship
Rick C. Romain
A Justice of the Peace

The Honourable
Mr. Justice Russell J. Otter
Commissioner



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July 17th, 2003

The Honourable James K. Bartleman
Lieutenant Governor of the Province of Ontario
Legislative Building
Queen's Park, Suite 131
Toronto, Ontario
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May it please Your Honour:

**Re : Report of the Commission of Inquiry into the conduct of His
Worship Rick C. Romain
A Justice of the Peace**

Further to my appointment by Order in Council No. 2226/2002 to inquire into the question of whether there has been misconduct by His Worship Rick C. Romain, a Justice of the Peace, and pursuant to s. 12 of the *Justices of the Peace Act*, R.S.O. 1990, C. J.4 as amended, I have the honour to submit my report.

A handwritten signature in black ink, appearing to read "R. Otter".

Russell J. Otter
Commissioner

Enclosures

**REPORT OF THE COMMISSION OF INQUIRY
INTO THE CONDUCT OF
HIS WORSHIP RICK C. ROMAIN,
A JUSTICE OF THE PEACE**

INTRODUCTION:

On January 25th, 2002 and on September 4th, 2002 (two reports) the Justices of the Peace Review Council recommended to the Attorney General of Ontario that a commission of inquiry be established under s. 12 of the *Justices of the Peace Act*, R.S.O. 1990 c. J. 4. as amended, to inquire into the question of whether there had been misconduct by His Worship Rick Romain, a Justice of the Peace.

On December 18th, 2002, by Order-in-Council No. 2226/2002, this commission of inquiry was appointed to determine whether or not there has been misconduct by His Worship Rick Romain and make recommendations regarding disciplinary action if misconduct is found. This is the commission's report.

BACKGROUND:

Justice of the Peace Romain is presently 50 years of age. He was appointed a Justice of the Peace by order-in-council dated November 26th, 1987. He was initially appointed on a fee-for-service basis and performed various duties. He became a full-time salaried and presiding Justice of the Peace on December 1st, 1994. He had at all times performed a full range of functions required of a Justice of the Peace including presiding in assignment court, bail court, in-take court and *Provincial Offences Act* court. He presided in the Toronto Region until December 1st, 1994. Since that time he has presided in the Central West Region (Brampton and Mississauga).

Previously, Justice of the Peace Romain had been an Employment Standards Officer with the Ministry of Labor, investigating complaints with respect to unlawful termination of employees.

THE STATUTORY FRAMEWORK:

This is only the third public inquiry held pursuant to s. 12 (1) of the *Justices of the Peace Act*. The process for dealing with complaints against Justices of the Peace is set out in the *Justices of the Peace Act*. Section 9 of the act establishes a Justices of the Peace Review Council [Review Council] which amongst its other functions under Section 10(1) (b) is to receive and investigate complaints against justices of the peace.

Pursuant to s. 11 (1), once the Review Council receives a complaint against a justice of the peace, it shall take such action to investigate the complaint including a review of it with the justice of peace, as it considers advisable. In the course of any investigation of any complaint, the Review Council has all the powers of a commission under Part II of the *Public Inquiries Act* (s. 11(5)).

The Review Council may, if it considers appropriate, transmit complaints to the Associate Chief Justice – Co-ordinator Justices of the Peace (s. 11(2)). The proceedings of the Review Council are not public but it may inform the Attorney General that it has undertaken an investigation and the Attorney General may make that fact public (s. 11 (3)). Upon the completion of its investigation, the Review Council may report its opinion regarding the complaint to the Attorney General and may recommend that an inquiry be held under s. 12 (s. 11(7) (a)).

If the Review Council recommends the holding of an inquiry, the Lieutenant Governor in Council may appoint a provincial judge to inquire into the question of whether there has been a misconduct by a justice of the peace. The *Public Inquiries Act* applies to the inquiry (s. 12 (2)).

Upon the completion of the inquiry and in the event that misconduct is found, the report of the inquiry may recommend,

- (a) the Lieutenant Governor in Council remove the justice of the peace from office in accordance with section 8 (s.12 (3)) or
- (b) implement a disposition under s. 12 (3.3).

REMOVAL FROM OFFICE

A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council s. 8 (1). Such an order can only be made if:

- (a) a complaint regarding the justice of the peace has been made to the Review Council and

- (b) the removal is recommended following an inquiry held under s. 12, on the ground that the Justice of the Peace has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of the duties of his or her office, or
 - (iii) having failed to perform the duties of his or her office as assigned.

Where misconduct has been found and the report recommends that the Review Council implement a disposition under s. 12 (3.3) other than removal from office, the Review Council may,

- (a) warn the justice of the peace;
- (b) reprimand the justice of the peace;
- (c) order the justice of the peace to apologize to the complainant or to any other person;
- (d) order the justice of the peace to take specified measures, such as receiving education or treatment as a condition of continuing to sit as a justice of the peace;
- (e) suspend the justice of the peace with pay, for any period; or
- (f) suspend the justice of the peace without pay, but with benefits, for a period up to 30 days.

The report may recommend that the justice of the peace be compensated for all or part of the cost of the legal services incurred in connection with the inquiry s. 12 (3.1). Such an award may be made whether or not there is a finding of misconduct.

THE COMPLAINTS

This Commission of Inquiry was directed to consider two reports. The report of January 25th, 2002 contained one complaint. The report of September 4th, 2002 contained two complaints. Both reports emanated from the Review Council and had been directed to the Attorney General.

There are three issues to be determined by this commission of inquiry as set out in the Notice of Public Hearing and paragraph 9 of the Statement of Agreed Facts:

- (1) Whether Justice of the Peace Romain ordered a law student who informed Justice of the Peace Romain that he had no instructions to act for the defendant at trial, that he must remain for the duration of the trial, and refused to allow the law student to telephone his firm for instructions or to leave the courtroom to use the washroom, in a case involving a defendant charged with being intoxicated in a public place.
- (2) Whether Justice of the Peace Romain made a decision to convict and imposed sentence without hearing evidence or argument in a case in which the defendant was represented by a court agent who was asking that the case be transferred to another court as a result of an order prohibiting the agent from appearing before the Justice of the Peace Romain.
- (3) Whether Justice of the Peace Romain made a decision to convict and imposed sentence without hearing evidence or argument because the defendant, who was charged with a traffic offence, refused to remove his head covering on the ground that it was a religious head covering and that an order that he remove it would be contrary to his rights under the *Charter of Rights and Freedoms*.

The following bullet paragraphs are the factual outline of the three complaints as set out in the Statement of Agreed Facts.

Issue No. 1 - Complaint of Edward L. Greenspan, Q.C.

- On January 31, 2000 at 424 Hensall Circle, Mississauga, Justice of the Peace Romain presided over a pretrial motion for disclosure and a further application for a stay of proceedings pursuant to section 11 (b) of the *Charter of Rights and Freedoms* in the matter of *R. v. Lamb*. Ms. Lamb was charged with being intoxicated in a public place. The date of the alleged offence was September 22, 1998. At the conclusion of his rulings pertaining to the above matters, Justice of the Peace Romain set a trial date of April 19, 2000, marked peremptory to all parties and set aside two 90 minute blocks of time for the matter to be heard. Justice of the Peace Romain informed the parties that he would remain seized of the matter.
- On April 19, 2000, the scheduled trial date, Jonathan Linden, a student-at-law in the office of Greenspan, Henein and White, appeared before Justice of the Peace Romain, who was presiding, and indicated that he was there as a friend of the court on behalf of Mr. Greenspan to confirm that a notice of application for certiorari and prohibition had been issued and filed. The notice had been filed that same day. Justice of the Peace Romain stated that the Notice had been filed at 10:25 a.m., five minutes before trial. The Crown stated that she thought that about 10 police officers were present, ready for trial. Neither Mr. Greenspan nor the defendant was present.

- Extensive discussion ensued about whether the trial should proceed. Justice of the Peace Romain reviewed in detail the circumstances surrounding the matter, as well as the Supreme Court of Canada’s decision in *R. v. Batchelor* (which concerns the jurisdiction to proceed in the face of an application for prerogative relief). He decided to proceed with the trial, having regard to the facts that the matter had been marked preemptory, that considerable trial time had been set aside, that witnesses were in attendance, that considerable time had elapsed since the date of the alleged offence, that the application had not been perfected in accordance with rules (indeed, had been filed only five minutes before court) and having regard also to the nature of the charge. He specifically informed Mr. Linden that he might have agreed with Mr. Linden that he had no choice but not to proceed, had the application been served in a reasonable time. During the discussion concerning this matter, Mr. Linden advised the court that the application could not have been perfected until that morning because his office was advised that the transcripts would only be available to be picked up the day before. The clerk of the court then advised the court that in fact Mr. Greenspan’s office was informed that the transcript was ready to be picked up on April 11.
- During this discussion, Mr. Linden indicated that “Ms. Lamb has retained Mr. Greenspan. I have no authorization from Mr. Greenspan as counsel of record to act for Ms. Lamb, nor is Ms Lamb here.”
- Having decided that the trial should proceed, Justice of the Peace Romain briefly held the matter down to permit Mr. Linden to contact his office. In Mr. Linden’s absence, the Crown indicated to the court that “you will recall that Mr. Linden said at the beginning of the day that he was appearing as agent.” This inadvertent error was repeated by the Justice of the Peace in his further dialogue with Mr. Linden, once Mr. Linden returned to the courtroom.
- Once the trial commenced, Justice of the Peace Romain referred to Mr. Linden as agent of record. Mr. Linden attempted to clarify that he was not agent for the defendant and that the defendant was not attorning to the court’s jurisdiction in light of the certiorari application. Justice of the Peace Romain made a ruling that Mr. Linden was on the record, and that he could not leave until the trial was completed. The following exchange took place between Mr. Linden and Justice of the Peace Romain:

THE COURT: You have come before this court and indicated that you are representing Ms. Lamb so you are agent of record, you are not counsel yet.

MR. LINDEN: I don’t believe that is what the transcript reflects.

THE COURT: Well that is what it does reflect and how do you intend to plead on her behalf?

MR. LINDEN: That's all I'm prepared to say this morning Your Worship.

THE COURT: The Court will enter a plea of not guilty on behalf – you are not excused Mr. Linden. You will sit at the table for these proceedings, do you understand? Thank you.

MR. LINDEN: Your Worship. I am not here –

THE COURT: You will sit at that table and you will listen to these proceedings **or I will order one of the officers to keep you there.** Do you understand me? You have come and you have addressed this court as an agent of the court on behalf of Mr. Greenspan [emphasis added].

MR. LINDEN: That's exactly what I indicated myself as friend of the court not an agent. I am – I am not here as an agent.

THE COURT: You put yourself on the record by arguing what you did this morning and therefore I am holding you to ...

MR. LINDEN: I don't believe I have Your Worship. I'm ...

THE COURT: Well, you have.

MR. LINDEN: appearing as a friend of the court and that's it.

THE COURT: Well, I have said you have, so you will be required to remain here for the proceedings.

- Mr. Linden subsequently asked a number of times for the court's permission to be excused. Justice of the Peace Romain repeated that the court would not excuse him, and that an order had been made which required him to remain for the trial as an agent. The following exchange took place:

MR. LINDEN: Your Worship, I'd like a brief indulgence so that I may call my office.

THE COURT: No, please be seated. We are into the trial now. Mr. Linden you are disrupting this court and I am getting a little discouraged by your conduct. Please be seated.

MR. LINDEN: Well – I'm just ...

THE COURT: Please be seated.

MR. LINDEN: I'm just a friend of the Court, Your Honour (sic). I'd like ...

THE COURT: Please be seated, I said.

MR. LINDEN: I'd like some time to step outside.

THE COURT: No, you are not going to step outside. First witness, please.

MR. LINDEN: Just for a moment, Your Worship.

THE COURT: No.

- After the examination of the first witness, Justice of the Peace Romain asked Mr. Linden if he wanted to cross-examine the witness. Mr. Linden repeated that he was just a friend of the court, and again asked to be excused. Justice of the Peace Romain did not excuse him.
- Mr. Linden then asked if he could leave court to go to the bathroom. Justice of the Peace Romain denied this request. Mr. Linden did not ask again to leave the court for that reason. Instead, he asked, immediately thereafter, if he could briefly use the phone, which request was denied. Later on in the trial, Mr. Linden again asked if he could be excused for one minute to call his office. He stated that he felt it was imperative to phone his office and inform them of the status of affairs. Justice of the Peace Romain again did not permit Mr. Linden to leave.
- Justice of the Peace Romain did not allow Mr. Linden to leave the courtroom until the trial was completed and his oral ruling was read.
- Justice of the Peace Romain then imposed the set fine of \$55, with no discretionary increase. He then indicated to Mr. Linden that he appreciated the difficult situation he found himself in, as an articling student under instruction and that he held no ill will towards him.
- No appeal was ultimately pursued by the defendant.

Mr. Linden testified at this hearing that he was very upset with what transpired that day. It was an embarrassment to him. Initially when he was permitted to leave the courtroom, he only had a brief period of time to have a conversation with somebody back in his office. There was only one payphone at Hensall Circle and he had to wait to use it. In his testimony, Justice of the Peace Romain indicated that over 15 minutes had lapsed before he had Mr. Linden paged back into the courtroom.

When Mr. Linden was asked why he just did not leave the courtroom when he recognized that Justice of the Peace Romain could not compel him to remain in the courtroom, he testified that there were a good number of officers in the courtroom and Justice of the Peace Romain was clearly very angry. In his mind it was clear to him that "...if I wanted to leave the courtroom at that time, as I believe I was entitled to do so, that I would have been detained. I believe at that point I was detained, but would have been physically detained by the officers."

Justice of the Peace Romain testified before the commission that his recollection at the time of the hearing was incorrect. He erred in believing that Mr. Linden was appearing as an agent or representative of the defendant and not as a friend of the court. He accepts that he directed Mr. Linden to remain in the courtroom for the conduct of the trial. With the benefit of hindsight, Justice of the Peace Romain characterizes his thought process at the time as well-intended but "I certainly recognize now without question that it was inappropriate for me to require Mr. Linden to remain in the courtroom." Later he stated "I was wrong in doing so." Justice of the Peace Romain acknowledges that there was emotional component to what transpired between him and Mr. Linden that would have been upsetting to Mr. Linden. He now agrees that he should have permitted Mr. Linden to leave and just deal with the matter in his absence as he had no jurisdiction to require Mr. Linden to remain in the court. Justice of the Peace Romain further accepts that he was "...remiss in not allowing him to leave the room to use the facilities if in fact that that is what he had to do."

His Worship did in the course of these proceedings, in the absence of Mr. Linden state, "I would like to sincerely apologize to Mr. Linden for requiring him to remain in the courtroom when there was no authority in law for me to do so. My concern at the time was that Ms. Lamb be represented."

Under cross-examination by commission counsel, when asked if Mr. Linden was courteous at all times, Justice of the Peace Romain responded, "I would say at all times but" He elaborated further: "His continued disruption of the court every two or three minutes asking to call his office. Every time there was a pause in the proceedings, he would jump up with that and request that." He was doing nothing wrong when he repeatedly denied Mr. Linden any further opportunities to call his office.

His Worship denies that he was going through an idle exercise when he permitted Mr. Linden to make submissions on his application for an adjournment of the trial. In his cross-examination, he acknowledges that he considered *R. v. Batchelor* (supra), the late filing of the certiorari and prohibition application, and had extended discussions before he directed that the trial proceed. At this time, he invited Mr. Linden to make submissions on whether or not an adjournment should be granted. Even the Crown submitted to His Worship that the court had no option but to not continue and release the police officers who were present as witnesses. His Worship states "Well we are going to keep them here because we are going to have a trial this morning."

Issue No. 2 - Complaint of Joe Alessandro

- On January 12, 1999, while presiding in the Ontario Court of Justice, Provincial Offences Court, at 424 Hensall Circle, Mississauga, Ontario, Justice of the Peace Romain made an order barring a traffic court agent, the complainant Joe Alessandro, “from appearing in this court in the future.”

- Mr. Alessandro brought an application in the Ontario Superior Court of Justice for:

“(A) an Order in the nature [of] Certiorari, to review the Order of Romain dated January 12, 1999 barring Alessandro from the Court; and

(B) an Order in the nature of prohibition, prohibiting Romain from presiding at any proceeding or matter in which Alessandro appears as an Agent for an accused and requiring Romain to transfer any such matters to another Court presided over by another Justice of the Peace in the same Court House on the same day, or if same failing, to adjourn such proceeding or matter to another date to be heard by another Justice of the Peace.”

- On March 13th, 2000 the application was heard by the Honourable Mr. Justice Pitt.
- On April 20th, 2000 Justice Pitt released an endorsement. Justice Pitt upheld Justice of the Peace Romain’s order barring Mr. Alessandro “from appearing in this court in the future”, but directed that the order be limited to appearances before Justice of the Peace Romain and “that no other Justice of the Peace or Judge is required to observe the alleged “bar.” ‘
- Justice Pitt added as follows:

“Since the applicant does not wish to appear before the respondent in the future, their respective wishes can be accommodated without impairing the effective functioning of the judicial system.... Hopefully, in due course both parties will recognize the need to work together in the proper Administration of Justice.”

- On April 26th, 2000 counsel for Mr. Alessandro and counsel for Justice of the Peace Romain jointly wrote to Justice Pitt to seek clarification of the effect of his endorsement.
- On May 2, 2000 Justice Pitt wrote to both counsel in response to their joint request. Justice Pitt wrote, in part, as follows:

“Pursuant to my decision, His Worship Rick Romain may exercise his right not to hear Mr. Alessandro. Since Mr. Alessandro does not wish to be heard by His

Worship, it seems to me that their respective wishes can be easily accommodated. If His Worship has a change of heart and is prepared to hear Mr. Alessandro, then he will hear Mr. Alessandro. I find that His Worship did not have the right to and did not ban Mr. Alessandro from appearing in any court before any other Justice of the Peace or Judge. Accordingly, if His Worship does not wish in the future to hear Mr. Alessandro, His Worship will have no option but to transmit the case to another Justice of the Peace or Judge, as the case may be.

Accordingly, the certiorari application is moot and the prohibition application is dismissed.”

- On Wednesday, July 4, 2001, Justice of the Peace Romain was presiding in the Ontario Court of Justice, Provincial Offences Court at 424 Hensall Circle, Mississauga, Ontario.
- The complainant Joe Alessandro, a traffic court agent, appeared before Justice of the Peace Romain on behalf of his client, Paulo Tamburro, who was charged with speeding under section 128 of the *Highway Traffic Act*. Mr. Tamburro was not in attendance.
- Mr. Alessandro said as follows:

“Good morning, Your Worship, it’s Alessandro, initial J.: I appear as agent on behalf of the defendant, who is not before the Court. I don’t know if Your Worship wants to deal with this matter or traverse it to another courtroom.”
- Justice of the Peace Romain responded as follows:

“Well, you are not entitled to appear before me, so you should not be in this courtroom. I do not want you in the courtroom. That is a ruling I made, it was upheld by a higher court and you are banned from appearing before me, so I would ask that you leave the courtroom, please.”
- Mr. Alessandro asked whether the matter was being traversed to another courtroom.
- Justice of the Peace Romain responded as followed:

“You can’t speak to the matter, so I’m not entertaining anything from you at this point. You are not entitled to enter a courtroom that I am sitting in ... I would ask that you leave. I’m not entertaining any submissions or any discussions with you this morning.”
- Mr. Alessandro asked, “Couldn’t I just make one submission?” Justice of the Peace Romain said “No.”

- Mr. Alessandro then left the court. Justice of the Peace Romain then stated as follows:

“We will deal with this matter. There is no one appearing for Mr. Tamburro and Mr. Tamburro is not appearing. Mr. Alessandro was quite well aware that he is not entitled to appear before me. That ruling was upheld by the Superior Court on appeal by Mr. Alessandro and he should not have appeared in this court this morning. He is not a competent agent and has been using tactics that are unacceptable. It has been well documented. So this defendant is failing to appear ; he is deemed not to dispute ; \$98.75; five in court costs; \$103.75. Deemed not to dispute at 11:11 in the morning.”

- Mr. Alessandro appealed the conviction on behalf of Mr. Tamburro. The matter was resolved before the appeal was argued.

An issue arises as to what conversation, if any, might have taken place between Mr. Alessandro and the clerk of the court prior to court convening. Mr. Alessandro could not recall if he had inquired who the justice of the peace may have been that day in the courtroom. He further testified that the clerk did not advise him that Mr. Tamburro’s matter was going to be traversed to another courtroom. The evidence of Justice of the Peace Romain is that his clerk had advised him that Mr. Alessandro was in his court that day and that the clerk had advised Mr. Alessandro that pursuant to the direction of Justice of the Peace Romain his matter was being traversed to another courtroom. The clerk informed Justice of the Peace Romain that Mr. Alessandro would not leave the courtroom and wanted to speak to the matter on the record. The clerk was not called to testify. As to what transpired prior to the start of the transcript, I accept the evidence of Justice of the Peace Romain and reject the evidence of Mr. Alessandro. Mr. Alessandro, in my view, was not a credible witness. He did not accept that he had been judicially reprimanded in other appeal proceeding by Justice R. Libman for misleading the court even when confronted with the transcript of that proceeding. He was evasive and less than candid in answering questions about why he had been barred from appearing before His Worship. The evidence of Justice of the Peace Romain was not challenged or disputed on this issue. Accordingly, I find that Mr. Alessandro knew that His Worship was presiding prior to start of the transcribed proceeding and he knew that Mr. Tamburro’s matter was going to be traversed to another court.

The evidence of Mr. Alessandro was that he left the courtroom and went to an adjacent courtroom. When he discovered his client’s case had not been transferred there, he went to the front counter where he was informed that his client had been convicted and fined. Justice of the Peace Romain indicated that he believed that Mr. Alessandro had left the building. He deemed his client not to dispute the matter and made the finding of guilt and imposed a fine. On cross-examination, Justice of the Peace Romain acknowledged that he did not actually see Mr. Alessandro leave the building.

Justice of the Peace Romain acknowledged that he had not seen a copy of Justice Pitt's order nor the later letter of clarification. He had been advised of the contents of both by a solicitor from the Attorney General's office.

Justice of the Peace Romain now agrees that he should have just traversed the matter to another courtroom and that would have been a reasonable interpretation of the order and letter of Mr. Justice Pitt. Furthermore, he accepts that the party directly affected by his decision was Mr. Tamburro who was not present that day and would be totally unaware of what was transpiring in the courtroom.

Justice of the Peace Romain apologized at this inquiry to Mr. Tamburro but admits that he had not made any effort to apologize to him earlier. He took some comfort knowing the matter had been resolved prior to appeal.

Issue No. 3 - Complaint of Michael Ross

On March 21, 2002 Justice of the Peace Romain was presiding in the Ontario Court of Justice, Provincial Offences Court at 424 Hensall Circle, Mississauga, Ontario.

- Mr. Michael Ross was a defendant who appeared before Justice of the Peace Romain on that date on a charge of failing to stop at a red light under Section 144 (18) of the *Highway Traffic Act*.
- Mr. Ross' matter was transferred to the courtroom in which Justice of the Peace Romain was presiding from a courtroom in which Justice of the Peace Scisizzi was presiding. The reason the case was transferred to Justice of the Peace Romain's courtroom is that he offered to assist because his list was completed while Justice of the Peace Scisizzi still had other matters on her list to be dealt with.
- When Mr. Ross' case was called (and before the recording device was turned on) Justice of the Peace Romain asked Mr. Ross to "remove [his] hat."
- Mr. Ross is an adherent of the Rastafari religion, which is a sect of Christianity that adheres to the ancient tradition of Moses. Rastafarians believe that those who honour God should let their locks of hair grow and not cut them and that except when praying (and even when sleeping) they should cover their locks because they represent the glory of God.
- When Justice of the Peace Romain asked Mr. Ross to remove his hat, Mr. Ross responded by saying "this is not a hat, it is a religious covering."
- Justice of the Peace Romain again asked Mr. Ross to remove his hat.
- Mr. Ross again explained that the covering on his head was a religious covering and (as the recording device was turned on) invoked the *Charter of Rights and Freedoms*.
- Justice of the Peace Romain said: "No, that is not a religious, that is a hat, sir, please take it off."
- Mr. Ross said: "No, it's a religious covering, Your Honour (sic)."
- Mr. Ross again invoked the *Charter of Rights and Freedoms*, and said that what he was wearing on his head was a religious covering.
- After the provincial prosecutor told Justice of the Peace Romain that she was ready for trial, and asked Mr. Ross to come forward, Justice of the Peace Romain stated as follows:

“I am not going to deal with the matter given this defendant’s refusal to take that off. In my view that is a hat; it is not a religious covering that I have seen before and the defendant is refusing to remove it. Are you refusing that, sir?”

- Mr. Ross said: “I invoke my *Charter of Rights, sir.*”
- Justice of the Peace Romain stated as follows: “No, no, I am just asking if you are refusing to remove it, sir.”
- Mr. Ross said: “I invoke my *Charter of Rights, sir.*”
- Justice of the Peace Romain, without hearing evidence, then said as follows:

“Thank you. Finding of guilt; conviction; \$155. Thank you.”
- Mr. Ross then said: “Can I have this Judge’s name or this Justice of the Peace?”
- Justice of the Peace Romain responded as follows: “You can get that at the front, sir.”
- Kim Ennis, the court reporter who was on duty in Justice of the Peace Romain’s courtroom on March 21, 2002, and Charlene Perrotta, the provincial prosecutor who was on duty on that date, testified at the hearing before the Justices of the Peace Review Council that resulted in the report dated September 4, 2002. On consent, a copy of the transcripts of Ms. Ennis’ evidence and a copy of the transcript of Ms. Perrotta’s evidence are reproduced under Tabs 12 and 13 respectively in the Book of Agreed Documents, Exhibit Number 2 in this inquiry.
- On March 27, 2002 Mr. Ross wrote to inquire about the identity of the Justice of the Peace who was presiding in the courtroom in question on March 21, 2002, as he did not at that time have Justice of the Peace Romain’s name.
- On April 19, 2002 Carol E. Jadis, Regional Senior Justice of the Peace for the Central West Administration Region wrote to Mr. Ross to inform him that the Justice of the Peace whom Mr. Ross appeared before was His Worship R. Romain. Regional Senior Justice of the Peace Jadis also provided Mr. Ross with the address of the Justices of the Peace Review Council, which she identified as the body responsible for dealing with any disciplinary matters involving Justices of the Peace.

Mr. Ross disagrees with the Agreed Statement of Facts and the filed transcripts. In his view, the facts are incomplete, inaccurate and fabricated. He testified that on his arrival in the courtroom, no one was there. Similarly no one was there when he left the courtroom. Further, he testified that when he asked Justice of the Peace Romain his name, he replied “I don’t have to tell you that.” This does not accord with the transcripts of the evidence of the court reporter, Kim Ennis and the provincial prosecutor, Charlene Perrotta. In my view his disagreement as to certain factual matters is inconsequential to

the central elements of his complaint. Nor is there a shred of evidence to support his theory that this incident is part of a wider conspiracy by unnamed members of the judicial system to persecute and harass him. I accept the facts as outlined in the Agreed Statement of Facts (Exhibit # 1) and the certified transcripts to be an accurate account of what transpired in Justice of the Peace Romain's courtroom on March 21st, 2002.

Prior to his cross-examination of Mr. Ross, Mr. Sandler, counsel for Justice of the Peace Romain asserted, "that it is agreed on behalf of Justice of the Peace Romain that you (Mr. Ross) should have been asked by him what the basis of your religious belief was. You should have been permitted to keep your hat on, and that the case should have been heard with evidence." This is buttressed by the testimony of Justice of the Peace Romain accepting that he should have inquired as to Mr. Ross' religious adherence and should have permitted him to continue to wear the hat. His thinking at the time was that Mr. Ross was refusing to abide by the court's direction and this left him with no alternative but to deem the charge not to be disputed. He did not consider a contempt citation as it was a too serious power to invoke in the circumstances.

Mr. Ross did appear with his son before Justice of the Peace Romain in December of 2002 on a motion to reopen a matter in a case involving his son. At that time on the evidence of both Mr. Ross and Justice of the Peace Romain, Mr. Ross and his son were each wearing religious headgear. This was not an issue whatsoever at that time.

Standing to Michael Ross

Michael Ross brought an application for standing before this commission with the attendant right to call evidence, examine and cross-examine witnesses and make submissions on evidence relevant to his interest. As one of the complainants, he clearly had a substantial and direct interest in the subject-matter of this inquiry. He was not represented by counsel. Pursuant to s. 5(1) of *Public Inquiries Act*, R.S.O. 1990 c. p. 41, he was granted standing.

Educative Steps Taken By Justice of the Peace Romain

Since the launching of these complaints and after the hearings before the Review Council, Justice of the Peace Romain has taken several positive steps to educate and rehabilitate himself. He obtained a lengthy document entitled "Guidelines & Procedures for the Accommodation of Religious Requirements, Practices and Observances" (Exhibit # 5) produced by the Toronto District School Board. The document addresses a multitude of religious faiths and affiliations and goes on to outline basic tenets of each of those religions. Details of the Rastafarian faith and head coverings are outlined and explained.

Justice of the Peace Romain participated in a learning session with The Honourable Mr. Justice Fred Kaufman, a former Judge of the Quebec Court of Appeal, and an experienced presiding officer in professional discipline cases, arbitration and mediation to address issues raised by the complaints. Exhibit #6 is a report from Mr. Justice Kaufman indicating that he and Justice of the Peace Romain had a lengthy meeting to discuss judicial conduct in general and the incidents that brought him before this commission of inquiry in particular. Mr. Justice Kaufman and Justice of the Peace Romain discussed and analyzed a series of analogous courtroom scenarios. Justice of the Peace Romain agreed with the principle that the best judicial strategy consistent with judicial independence and maintaining decorum and control of the courtroom would be, wherever possible, to hear a trial of a case on its merits. Mr. Justice Kaufman concluded by characterizing the session as very good and led him “to believe that Justice of the Peace Romain is sincere in his desire to benefit from advice which others can offer and learn better ways of dealing with difficult situations.”

Justice of the Peace Romain also met with retired Justice of the Peace Arthur Downes for three separate sessions of approximately 2.5 hours duration each, which focused primarily on race relations and dealing with individuals of different religious backgrounds.

Lastly, he had thorough discussions about the issues that were the subject matter of these complaints with his counsel Mr. Mark Sandler which included better communication skills and how he could improve on handling such difficult situations.

At the conclusion of his testimony, Justice of the Peace Romain reiterated his apologies to Mr. Linden, Mr. Tamburro and Mr. Ross.

Fourteen letters of commendation were filed on behalf of Justice of the Peace Romain. (Tab 14 of Exhibit # 2). Three of these letters had more than one signatory. Four letters were from fellow justices of the peace. Several letters were from court staff, including court reporters, court monitors, provincial prosecutors and court administration as well as court agents who have appeared before His Worship. Collectively they attest to his constructive assistance to colleagues, his professionalism, fairness and courtesy to court agents, provincial prosecutors, court staff and defendants appearing in his court.

Analysis of the Facts

Neither counsel seriously challenge that all three issues outlined in paragraphs 9(i) to 9(iii) inclusive of the Statement of Agreed Facts should be answered in the affirmative. A full analysis of those facts together with the oral testimony of all witnesses and the filed exhibits supports that conclusion. I conclude that each question should be answered affirmatively.

The rehabilitative steps and educative measures taken by Justice of the Peace Romain, with the advice of his counsel, in my view have had a beneficial effect on him. His careful and thorough review of the Toronto District School Board guidelines, his meetings and discussions with Mr. Justice Kaufman, Justice of the Peace Downes and his counsel, although all undertaken very recently and just prior to the commencement of this commission of inquiry, have been helpful to him. I accept the submission of both counsel that I can be reasonably satisfied that Justice of the Peace Romain will not confine a law student, convict a defendant when he has an issue with the paralegal representing that defendant, or convict an individual appearing before him without trial because he refuses to remove his religious headgear. But the facts and findings give rise to a troubling pattern of conduct that warrants a deeper analysis than just the specific response to these three complaints.

Firstly, this is not an isolated incident but three separate incidents. Arguably, the Ross complaint is a bifurcated one as it encompasses two incidents in one. Justice of the Peace Romain failed to inquire as to the basis of the assertion that Mr. Ross was wearing the headgear for religious reasons and proceeded as a result of his failure to remove his hat to convict him without an arraignment, a plea, the hearing of any evidence, nor submissions. This inquiry dealt with not an isolated incident of poor judgment or misuse of judicial power but rather three and perhaps four incidents.

Secondly, the temporal framework of these incidents is disconcerting. They occurred over a period of approximately two years: April 19th, 2000, July 4th, 2001 and on March 21st, 2002. At the time of the Alessandro complaint, Justice of the Peace Romain was aware there had been a complaint to the Review Council about his conduct, in the incident of April 2000. When the third incident occurred, on March 21, 2002, he already had been required to appear before the Review Council in response to that first incident.

Thirdly, it is clear on the facts that the incidents cannot simply be attributable to inexperience or a lack of knowledge that might be the case of someone newly appointed to office. Justice of the Peace Romain had been a Justice of the Peace for 12.5 years at the time of the incident with the law student, Jonathan Linden and over 14.5 years at the time of the incident with Mr. Ross. He had been a full-time presiding justice of the peace since December 1st, 1994 performing a full range of judicial functions including the conduct of probably hundreds of trials in provincial offences court.

Fourthly, each incident in itself is serious but even more so when all three are considered cumulatively. Underlying each incident is a disturbing pattern of denials of due process: the illegal detention of a student in a courtroom, coupled with the threat to use agents of the state, police officers, to enforce that detention; the denial of a right to a hearing to a defendant following a disagreement with his agent; the refusal to allow an explanation of a religious justification to wear a head covering in court, followed by a denial of a hearing of the trial in response to that assertion of religious freedom by the defendant. Each in itself is troubling, but cumulatively they show a course of conduct of

irrational, arbitrary and vindictive abuses of judicial power, denying defendants fundamental fairness of judicial process.

All three complaints would not have occurred with the exercise of common sense and good judgment. With respect to the Linden matter, Justice of the Peace Romain could have simply stated that the matter was going to proceed to trial and then do so. I am taking no issue with Justice of the Peace Romain deciding to proceed with the trial. This commission of inquiry is not a court of appellate review but only an inquiry into the conduct of the justice of the peace. Justice of the Peace Romain misunderstood that Jonathan Linden was appearing as a friend of the court and not an agent, a representative of the defendant. Mr. Linden's requests to be excused or to go to the washroom should have been accepted in the circumstances at face value. Similarly, the difficulty in the Alessandro case could have been avoided by traversing the matter to another court or adjourning it to another date. Mr. Ross' trial could have been proceeded notwithstanding his head-covering. In these latter two cases, no denial of the right to trial need have occurred.

In both the Alessandro complaint and the Ross complaint Justice of the Peace Romain indicated he was invoking the provisions of the Provincial Offences Act R.S.O. 1990, c. 33. Both charges are considered Part I offences. They commence by way of a Certificate of Offence. He invoked s.9.1(1) and s.9.1(2) set out below:

Section 9.1(1) If a defendant who has given notice of an intention to appear fails to appear at the time and place appointed for the hearing, the defendant shall be deemed not to dispute the charge.

Examination by justice

Section 9.1(2) If subsection (1) applies, section 54 does not apply, and a justice shall examine the certificate of offence and shall without a hearing enter a conviction in the defendant's absence and impose the set fine for the offence if the certificate is complete and regular on its face.

Both Mr. Alessandro as agent for Mr. Tamburro and Mr. Ross representing himself were in court on trial dates seeking an adjudication of their respective charges before an objective and impartial judicial officer. They did not get a hearing on the merits of their cases. It is patently illogical and manifestly unfair to any reasonable litigant or any member of the public that a trial in each case did not occur on that day. The inappropriateness of invoking s.9.1(1) and s.9.1(2) of the *Provincial Offences Act* in these circumstances is obvious.

Justice of the Peace Romain through his counsel and in his own testimony acknowledged that his handling of these incidents was wrong and inappropriate.

Fifthly, despite the rehabilitative and educative steps that Justice of the Peace Romain has taken and the length of time he has had to reflect on his handling of these cases, there remains a troubling tendency on his part to minimize and attempt to rationalize or justify what he did. When it was put to him on cross-examination that the articling student Jonathan Linden was courteous at all times Justice of the Peace Romain responded “I would say at all times but ...” When asked to be specific he responded “his continual disruption of the court every two or three minutes asking to call his office. Every time there was a pause in the proceedings, he would jump up with that and request that.” Later, while agreeing that he denied Mr. Linden further opportunities to call his office, Justice of the Peace Romain stated as follows: “No, I don’t feel I was wrong in doing that...” It is clear on the evidence that Jonathan Linden did nothing improper. He was courteous and respectful throughout in seeking to obtain further instruction from his principal despite the court’s misunderstanding that he was appearing there as a friend of the court and not as an agent or representative of the defendant.

During cross-examination in the Alessandro matter, Justice of the Peace Romain was asked by commission counsel if he could simply have stated that he was traversing the matter to another courtroom. He responded: ... “I would have done that had the clerk not gone out, asked him to go to the next court and his refusal. If that didn’t transpire then I would have said to him, Mr. Alessandro, I am not going to hear your matter. It’s being traversed.” But when the clerk of the court, who I have faith in and trust, comes back and tells me that he’s refusing to leave, he wants to go on the record, my view is that he wants to either grandstand or engage me in a conversation that I don’t think should happen.”

It is noteworthy that the apology to Mr. Alessandro arises at the absolute end of Justice of the Peace Romain’s testimony in chief, despite many opportunities to do so before this Inquiry. At no time did he apologize directly to Mr. Tamburro. He maintained that he never had an opportunity to do so. Regarding the Linden and the Ross complaints, when asked by commission counsel if he misused the powers of his judicial office, Justice of the Peace Romain bluntly responded in the negative.

Finally, all these incidents occurred in public courtroom while in session. A judicial officer in the exercise of the powers of judicial office is always in a position power vis-à-vis all others in a courtroom, including law students, paralegals, unrepresented defendants and court staff. All three complainants were justifiably upset by their mistreatment in Justice of the Peace Romain’s courtroom. Mr. Linden attested to the fact that he was very upset and embarrassed with what was transpiring in court. Mr. Alessandro indicated that he was disturbed because his client had nothing to do with it. Mr. Ross said “I was in shock. I was dumbfounded.” Mr. Ross probably sums it up best when he states “I’ve been wrongly convicted, but I’ve never been convicted without a trial.” These comments reflect the view of the aggrieved parties but would also likely be similar to those of a dispassionate observer.

A characteristic of all these incidents is the obvious display of strong emotion and lack of judgment by Justice of the Peace Romain to what happened in his court. He accepts that he reacted inappropriately in each case. In each case he acted in response to circumstances that he personally disapproved of. Might he respond with a similar emotional reaction and lack of good judgment in the courtroom in the future?

The conviction of Ms. Lamb in respect to the complaint from Mr. Greenspan was not pursued any further. The conviction of Mr. Tamburro resolved prior to argument on appeal. The role of this inquiry is not to determine whether or not there were errors in fact or law that could be remedied on appeal. Indeed misconduct may lead to appealable errors of law. The sole purpose of this inquiry is to ascertain whether or not there has been misconduct in regards to these particular complaints and if so, what disposition should follow. Mistakes can be made by judicial officers and indeed are made, and they are not necessarily matters of discipline. The harm to the administration of justice occasioned by judicial misconduct may not be adequately remedied by the appellate process.

Standard of Conduct

In the Report of a Judicial Inquiry re His Worship Leonard R. Blackburn, a Justice of the Peace, The Honourable Judge Mary Hogan, Commissioner (Ontario, January 21, 1996) noted that for a great number of citizens the human face of justice and the judiciary are indeed the justices of the peace. Few people ever appear in the Superior Courts of Justice or the appellate courts but many will appear in traffic court or Provincial Offences Court. Justice of the Peace Romain attested to the large volume of people who appear in his Provincial Offences Court on a daily basis. Of an average of one hundred cases on a particular day, 30 to 35 of these could be contested cases. Logically, the conduct of the judicial officer (normally a justice of the peace) in the Provincial Offences Court and traffic court will be the view held by a large number of our citizens of the judiciary in particular and judicial system in general. It is vitally important for a justice of the peace to conduct himself or herself in a manner that ensures the public has and retains confidence in the administration of justice.

No submissions were made as to whether there are or should be different standards of conduct for justices of the peace and judges. The authorities do not address this point with the exception of the Blackburn inquiry (*supra*) which found it irrelevant to the facts of that case. The jurisprudence does not adumbrate different standards of conduct for judges of different levels of court, whether provincial or federal, trial or appellate. Justices of the peace in Ontario are not required to be members of the provincial bar with a minimum of ten years experience prior to appointment. They do receive legal training sufficient for them to discharge the duties and responsibilities of their judicial office. Given the critically important role of justice of the peace at the gateway to our judicial system, I am of the view that there is no reason that a justice of the peace should not be held to the same high standard of conduct as all other judicial officers.

While there were many authorities presented to this commission dealing with the conduct of judges who were removed from office for misconduct out of court, there were only two cases dealing with in-court conduct. The first of these cases was the report of the Canadian Judicial Council by the Inquiry Committee appointed under subsection 63(1) of *The Judges Act* to conduct a public inquiry into the conduct of Mr. Justice Jean Bienvenue of the Superior Court of Quebec in *R. v. T. Théberge*. (June 1996). In this case, Justice Bienvenue's removal from office was recommended as a result of several statements made in the context of a single trial. That report starts with the premise:

The security of tenure of judges is "...the first of the essential conditions of judicial independence..." (**Valente v. The Queen**, [1985] 2 S.C.R. 673, at p. 694)." This essential principle underlines the high standard that must be addressed before there can be an order removing a judge or other judicial officer from office.

The report goes on:

Thus, British judges hold office during good behaviour in accordance with a custom that dates back to 1688 and acquired force of law in 1701 with the passage of the *Act of Settlement*. Only one judge has been removed by the Parliament of the United Kingdom since 1701.

In the Bienvenue case (supra) the test employed by that committee of inquiry at page 42 was:

Is the conduct alleged so manifestly and profoundly destructive of the concept of the impartiality, integrity and independence of the judicial role, that public confidence would be sufficiently undermined to render the judge incapable of executing the judicial office?

That hearing committee went on to quote with approval from Professor H. Patrick Glenn's article (page 56):

The concepts of judicial independence and ethics are interdependent. Without ethics, there is no justification for independence. Without independence, ethics is now not enough. They are both essential and mutually reinforcing.

In applying the above standard the majority of the committee concluded that Justice Bienvenue had breached the duty of good behaviour under s. 99 of the Constitution Act, 1867, and had become incapacitated or disabled from the due execution of his office.

The second case of in-court conduct was Judge Moreau-Bérubé (Moreau-Bérubé v. New Brunswick (Judicial Council) (2001), 209 D.L.R. (4TH) 1 (S.C.C.) where the judge was removed from office as a result of a single incident involving sweeping generalizations and inappropriate statements that impugned the integrity of residents of a particular area of the province. The decision recommending removal was ultimately upheld by the Supreme Court of Canada.

The same test was utilized in the Moreau-Bérubé case with a similar result. No issue was taken by counsel to this being the operative and applicable test. I am of the view that it would be appropriate to adopt the same criterion to this case.

In dealing with the aspect of the cumulative effect of more than one complaint, reference was made to the Judicial Inquiry into the behaviour of Provincial Judge Lloyd Henriksen, by the Honourable Mr. Justice Houlden, Commissioner (Ontario, 1985). In that inquiry, Mr. Justice Houlden agreed that it was appropriate to consider the cumulative effect of three complaints. He quoted from the Supreme Court of California:

The number of wrongful acts is relevant to determining whether they were merely isolated occurrences or, instead, part of a course of conduct establishing lack of temperament and ability to perform judicial functions in an even-handed manner.

I am of the view that the cumulative effect of the three complaints in this case is a significant factor to be considered.

In the Blackburn inquiry (supra) at page 4 Judge Hogan writes:

However, justices of the peace are very important judicial officers. Among other duties, they make decisions that affect a person's liberty such as bail, they determine whether process will issue, they decide whether or not to issue search warrants, and they preside in court. In fact, for many people their only contact with a judicial decision maker is with a justice of the peace. It is the justices of the peace who preside in court on matters such as parking tags, speeding tickets, by-law infractions, and provincial offences. These are the day to day type of "judicial" issues that confront most people. It is therefore quite probable that a great number of the public will form judgments of our justice system based on their experiences with a justice of the peace."

In dealing with the role of judicial officer from the public perspective, Judge Hogan notes the comments of the Honourable Mr. Justice Robins in his decision on the Commission of Inquiry re Provincial Judge Harry Williams at page 17:

The confidence of the public in the administration of justice is of paramount importance. That confidence is vital to our democratic system of government. And public confidence in the judiciary – in its integrity, its impartiality, its independence, its moral authority – is indispensable to the administration of justice. In the ultimate analysis the authority of our courts rests on public acceptance of judicial decisions – and that acceptance in turn depends on public confidence in our judges.

Every judge in his judicial and non-judicial activity has a responsibility to preserve and enhance public confidence in the administration of justice. He serves as an exemplar of justice, to much of the public its personification, and confidence in our system of justice in large measure depends on him. When he engages in misconduct, the magnitude of the misconduct may be measured by the extent to which he has impaired the confidence of the public in himself as a judge and in the administration of justice.

In reviewing the three complaints before this commission individually and cumulatively, I have no difficulty concluding that in each of the incidents Justice of the Peace Romain's behaviour constituted misconduct. His conduct as evidenced in these three complaints is destructive of the impartiality, integrity and independence of the judicial role and would undermine public confidence in the administration of justice.

RECOMMENDATION

Once misconduct is found, the question of appropriate sanction arises. The matter may be referred back to the Review Council for implementation of a disposition under s. 12(3.3). Alternatively there can be a recommendation for removal from office under s. 8.1 of the *Justices of the Peace Act*. Such a recommendation can only be made on the ground that the justice of the peace has become incapacitated or disabled from the due execution of his or her office by reason of conduct that is incompatible with the execution of his duties or his office. The grounds of infirmity or having failed to perform the duties of his or her office as assigned, are not applicable in this case. Has Justice of the Peace Romain however become disabled from the due execution of his office due to his conduct?

The ultimate consequence for misconduct is a recommendation for removal from office. Counsel for Justice of the Peace Romain submits that such a consequence is far too severe and does not properly reflect the magnitude of Justice of the Peace Romain's misconduct in this case. One of the purposes of judicial discipline is to rectify misconduct and restore public confidence in the administration of justice. The discipline structure set out in the *Justices of the Peace Act*, invites consideration of the range of dispositions from a warning to the justice of the peace to suspension without pay, but with benefits, for a period up to 30 days (s.12(3.3)). In light of the remedial and educative steps taken by Justice of the Peace Romain, including public apologies for his conduct and many letters of commendation his counsel has submitted that this commission should refer the matter back to the Review Council for it to consider administering a reprimand. This is a sanction that is more serious than a warning.

In my view, despite the letters of commendation and his rehabilitative steps, a reprimand does not adequately reflect the gravity and extent of the misconduct. Given the pattern of these three complaints, over a period of almost two years by an experienced justice of the peace, in the face of complaints pending, the individual and collective seriousness of the incidents and a continuing reluctance by Justice of the Peace Romain to fully accept responsibility for his conduct, I am of the view that a reprimand is insufficient. Justice of the Peace Romain's misconduct evidenced by these complaints has undermined confidence in him in his judicial role and strongly contributed to damaging public confidence in the judicial system. I believe that a reasonable and informed person reviewing the subject matter of these complaints, rationally and objectively, would reasonably doubt whether or not Justice of the Peace Romain could execute the duties of his judicial office with impartiality and integrity in his role as a justice of the peace. His remedial steps are insufficient and come too late to restore public confidence in him as a judicial officer.

For the reasons given, I find that Justice of the Peace Romain has become incapacitated or disabled from the due execution of his office by reason of conduct that is incompatible with the execution of the duties of his office and I recommend that he be removed from office by order of the Lieutenant Governor in Council.

Costs

Pursuant to s.12(3.1) of the *Justices of the Peace Act*, I recommend that Justice of the Peace Rick Romain be compensated for all of his legal costs incurred in connection with this inquiry. By proceeding with a statement of agreed facts, these proceedings were considerably shortened. His actions in apologizing publicly and taking remedial steps are to be commended. Costs in the proceeding are not contingent on success. For these reasons, I make the above recommendation regarding costs.

Dated at Toronto this 17th day of July 2003.

Russell J. Otter
Commissioner

INDEX OF APPENDICES

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APPENDIX 1

Order in Council
Décret



On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit :

WHEREAS pursuant to subsection 12(1) of the *Justices of the Peace Act*, R.S.O. 1990, c. J.A, as amended, the Lieutenant Governor in Council may appoint a provincial judge to inquire into the question whether there has been misconduct by a justice of the peace;

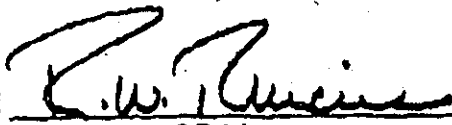
AND WHEREAS the Justices of the Peace Review Council has, pursuant to subsection 11(7) of the *Justices of the Peace Act*, made a report dated January 25, 2002 and two reports dated September 4, 2002 to the Attorney General on complaints regarding His Worship Rick C. Romain, a Justice of the Peace, in which the Justices of the Peace Review Council recommended that an inquiry regarding His Worship Rick C. Romain be held under section 12 of the *Act*;

NOW THEREFORE, pursuant to subsection 12(1) of the *Justices of the Peace Act*, the Honourable Mr. Justice Russell James Otter of the Ontario Court of Justice be appointed to inquire into the question of whether there has been misconduct by His Worship Rick C. Romain and to prepare a report in accordance with section 12 of the *Act*.

Recommended


Attorney General

Concurred


Chair of Cabinet

Approved and Ordered

DEC 18 2002

Date


Lieutenant Governor

O.C./Décret 2226/2002



COMMISSION OF INQUIRY INTO THE CONDUCT OF
HIS WORSHIP RICHARD C. ROMAIN, A JUSTICE OF THE PEACE
NOTICE OF PUBLIC HEARING

Pursuant to subsection 12(1) of the *Justices of the Peace Act*, R.S.O. 1990, c.J.4, as amended, the Honourable Justice Russell J. Otter of the Ontario Court of Justice has been appointed to inquire into the question whether a recommendation should be made that the Lieutenant-Governor in Council should remove His Worship Richard C. Romain, a Justice of the Peace, from office, or whether a recommendation should be made that the Justices of the Peace Review Council implement a decision to:

- (a) warn the Justice of the Peace;
- (b) reprimand the Justice of the Peace;
- (c) order the Justice of the Peace to apologize to the complainant or to any other person;
- (d) order the Justice of the Peace to take specified measures, such as receiving education or treatment as a condition of continuing to sit as a Justice of the Peace;
- (e) suspend the Justice of the Peace with pay for any period; or
- (f) suspend the Justice of the Peace without pay, but with benefits for a period up to thirty days.

The inquiry will consider:

1. Whether Justice of the Peace Romain ordered a law student who informed Justice of the Peace Romain that he had no instructions to act for the defendant at trial, that he must remain for the duration of the trial, and refused to allow the law student to telephone his firm for instructions or to leave the courtroom to use the washroom, in a case involving a defendant charged with being intoxicated in a public place.
2. Whether Justice of the Peace Romain made a decision to convict and imposed sentence without hearing evidence or argument in a case in which the defendant was represented by a court agent who was asking that the case be transferred to another court as a result of an order prohibiting the agent from appearing before Justice of the Peace Romain.
3. Whether Justice of the Peace Romain made a decision to convict and imposed sentence without hearing evidence or argument because the defendant, who was charged with a traffic offence, refused to remove his head covering on the ground that it was a religious head covering and that an order that he remove it would be contrary to his rights under the *Charter of Rights and Freedoms*.

The public hearing will commence on Wednesday, March 26 2003 at 10:00 a.m. in the Toronto Ballroom of the Metropolitan Hotel, 108 Chestnut Street, Toronto, Ontario, M5G 1R3, and will continue daily at the same time and place until completed.

Any person who wishes to give evidence at the inquiry or who has information he or she believes will be of interest to the inquiry or who wishes to bring a preliminary motion is requested to contact Gavin MacKenzie, Commission Counsel, no later than Friday, March 21 2003 at the address below.

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The Honourable Mr. Justice Russell J. Otter
Commissioner
Ontario Court of Justice
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APPENDIX 3

COMMISSION OF INQUIRY INTO THE CONDUCT OF HIS WORSHIP RICK ROMAIN, A JUSTICE OF THE PEACE

STATEMENT OF AGREED FACTS

I. APPOINTMENT OF COMMISSION OF INQUIRY

1. By Order in Council dated December 18 2002, The Honourable Mr. Justice Russell James Otter of the Ontario Court of Justice was appointed pursuant to Section 12 of the *Justices of the Peace Act*, R.S.O. 1990, c.J. 4, as amended, to inquire into the question of whether, based on the complaints investigated by the Justices of the Peace Review Council in its reports dated January 25 2002 and September 4 2002 (two reports) there has been misconduct by His Worship Rick Romain, a Justice of the Peace, and to recommend whether the Lieutenant-Governor in Council should remove the Justice of the Peace from office, or to recommend that the Justices of the Peace Review Council implement a disposition to:
 - (a) warn the Justice of the Peace;
 - (b) reprimand the Justice of the Peace;
 - (c) order the Justice of the Peace to apologize to the complainant or to any other person;
 - (d) order the Justice of the Peace to take specified measures, such as receiving education or treatment as a condition of continuing to sit as a Justice of the Peace;
 - (e) suspend the Justice of the Peace with pay for any period; or
 - (f) suspend the Justice of the Peace without pay, but with benefits for a period up to thirty days.

The Commission of Inquiry was appointed on the recommendation of the Justices of the Peace Review Council upon the completion of investigations into complaints of Edward L. Greenspan, Q.C., Michael Ross, and Joe Alessandro.

The Order in Council dated December 18 2002 is under Tab 1 of the Book of Agreed Documents.

The Report of the Opinion of the Justices of the Peace Review Council respecting its investigation into the complaint of Edward L. Greenspan, Q.C., is under Tab 2 of the Book of Agreed Documents.

The Report of the Opinion of the Justices of the Peace Review Council respecting its investigation into the complaint of Michael Ross, dated September 4 2002, is under Tab 3 of the Book of Agreed Documents.

6. The Report of the Opinion of the Justices of the Peace Review Council respecting its investigation into the complaint of Joe Alessandro, also dated September 4 2002, is under Tab 4 of the Book of Agreed Documents.
7. A Notice of Public Hearing was published in the Ontario Reports (February 7 2003), the Brampton Guardian (February 7 2003), and the Mississauga News (February 14 2003). A copy of the Notice of Public Hearing is under Tab 5 of the Book of Agreed Documents.

II. BACKGROUND INFORMATION CONCERNING JUSTICE OF THE PEACE ROMAIN

8. Rick Romain was appointed a Justice of the Peace by order-in-council dated November 26 1987. He performed various duties on a fee-for-service basis, and performed weddings, until he was appointed as a full-time, salaried Justice of the Peace on December 1 1994. He has held a designation as a presiding Justice of the Peace since then. At all times Justice of the Peace Romain has performed the full range of functions required of a Justice of the Peace, including presiding in assignment court, bail court, intake court, and *Provincial Offences Act* court. He presided in the Toronto Region until ~~March 31 1995~~, and has presided in the Central West Region (Brampton and Mississauga) since then. Justice of the Peace Romain is 50 years old.

December
1st, 1994

III. ISSUES

9. The following issues, as set forth in the Notice of Public Hearing under Tab 5 of the Book of Agreed Documents, are raised for determination by this Commission of Inquiry:
 - (i) Whether Justice of the Peace Romain ordered a law student who informed Justice of the Peace Romain that he had no instructions to act for the defendant at trial, that he must remain for the duration of the trial, and refused to allow the law student to telephone his firm for instructions or to leave the courtroom to use the washroom, in a case involving a defendant charged with being intoxicated in a public place.
 - (ii) Whether Justice of the Peace Romain made a decision to convict and imposed sentence without hearing evidence or argument in a case in which the defendant was represented by a court agent who was asking that the case be transferred to another court as a result of an order prohibiting the agent from appearing before Justice of the Peace Romain.
 - (iii) Whether Justice of the Peace Romain made a decision to convict and imposed sentence without hearing evidence or argument because the defendant, who was charged with a traffic offence, refused to remove his head covering on the ground that it was a religious head covering and that an order that he remove it would be contrary to his rights under the *Charter of Rights and Freedoms*.

10. In the event that any of these questions are answered affirmatively, the Commission of Inquiry will be called upon to decide whether such conduct constitutes misconduct, and if so whether a recommendation should be made that the Lieutenant-Governor in Council should remove Justice of the Peace Romain from office, or whether a recommendation should be made that the Justices of the Peace Review Council implement a decision to:
- (a) warn the Justice of the Peace;
 - (b) reprimand the Justice of the Peace;
 - (c) order the Justice of the Peace to apologize to the complainant or to any other person;
 - (d) order the Justice of the Peace to take specified measures, such as receiving education or treatment as a condition of continuing to sit as a Justice of the Peace;
 - (e) suspend the Justice of the Peace with pay for any period; or
 - (f) suspend the Justice of the Peace without pay, but with benefits for a period up to thirty days.

IV. ISSUE NUMBER ONE:

Complaint of Edward L. Greenspan, O.C.

11. On January 31 2000 at 424 Hensall Circle, Mississauga, Justice of the Peace Romain presided over a pretrial motion for disclosure and a further application for a stay of proceedings pursuant to section 11 (b) of the *Charter of Rights and Freedoms* in the matter of *R. v. Lamb*. A transcript of the proceedings on January 31 2000 is under Tab 6 of the Book of Agreed Documents. Ms Lamb was charged with being intoxicated in a public place. The date of the alleged offence was September 22 1998. At the conclusion of his rulings pertaining to the above matters, Justice of the Peace Romain set a trial date of April 19 2000, marked peremptory to all parties and set aside two 90 minute blocks of time for the matter to be heard. Justice of the Peace Romain informed the parties that he would remain seized of the matter.
12. On April 19 2000, the scheduled trial date, Jonathan Linden, a student-at-law in the office of Greenspan, Henein and White, appeared before Justice of the Peace Romain, who was presiding, and indicated that he was there as a friend of the court on behalf of Mr. Greenspan to confirm that a Notice of Application for Certiorari and Prohibition had been issued and filed. The Notice had been filed that same day. Justice of the Peace Romain stated that the notice had been filed at 10:25 a.m., five minutes before trial. The Crown stated that she thought that about 10 police officers were present, ready for trial. Neither Mr. Greenspan nor the defendant was present.
13. Extensive discussion ensued about whether the trial should proceed. Justice of the Peace Romain reviewed in detail the circumstances surrounding the matter, as well as the Supreme Court of Canada's decision in *R. v. Batchelor* (which concerns the jurisdiction to proceed in the face of an application for prerogative relief). He decided to proceed

with the trial, having regard to the facts that the matter had been marked peremptory, that considerable trial time had been set aside, that witnesses were in attendance, that considerable time had elapsed since the date of the alleged offence, that the application had not been perfected in accordance with the rules (indeed, had been filed only five minutes before court) and having regard also to the nature of the charge. He specifically informed Mr. Linden that he might have agreed with Mr. Linden that he had no choice but not to proceed, had the application been served in a reasonable time. During the discussion concerning this matter, Mr. Linden advised the Court that the application could not have been perfected until that morning because his office was advised that the transcripts would only be available to be picked up the day before. The clerk of the court then advised the Court that in fact Mr. Greenspan's office was informed that the transcript was ready to be picked up on April 11.

14. During this discussion, Mr. Linden indicated that: "Ms Lamb has retained Mr. Greenspan. I have no authorization from Mr. Greenspan as counsel of record to act for Ms Lamb, nor is Ms Lamb here."
15. Having decided that the trial should proceed, Justice of the Peace Romain briefly held the matter down to permit Mr. Linden to contact his office. In Mr. Linden's absence, the Crown indicated to the Court that "you will recall that Mr. Linden said at the beginning of the day that he was appearing as agent." This inadvertent error was repeated by the Justice of the Peace in his further dialogue with Mr. Linden, once Mr. Linden returned to the courtroom.
16. Once the trial commenced, Justice of the Peace Romain referred to Mr. Linden as agent of record. Mr. Linden attempted to clarify that he was not agent for the defendant and that the defendant was not attorning to the court's jurisdiction in light of the certiorari application. Justice of the Peace Romain made a ruling that Mr. Linden was on the record, and that he could not leave until the trial was completed. The following exchange took place between Mr. Linden and Justice of the Peace Romain:

THE COURT: You have come before this court and indicated that you are representing Ms Lamb so you are agent of record, you are not counsel yet.

MR. LINDEN: I don't believe that is what the transcript reflects.

THE COURT: Well that is what it does reflect and how do you intend to plead on her behalf?

MR. LINDEN: That's all I'm prepared to say this morning Your Worship.

*

*

*

THE COURT: The Court will enter a plea of not guilty on behalf – you are not excused Mr. Linden. You will sit at that table for these proceedings, do you understand? Thank you.

MR. LINDEN: Your Worship. I am not here --

THE COURT: You will sit at that table and you will listen to these proceedings or I will order one of the officers to keep you there. Do you understand me? You have come and you have addressed this court as an agent of the court on behalf of Mr. Greenspan.

* * *

MR. LINDEN: That's exactly what I indicated myself as friend of the court not an agent. I am -- I am not here as an agent.

THE COURT: You put yourself on the record by arguing what you did this morning and therefore I am holding you to ...

MR. LINDEN: I don't believe I have Your Worship. I'm ...

THE COURT: Well, you have.

MR. LINDEN: ... appearing as a friend of the court and that's it.

THE COURT: Well, I have said you have, so you will be required to remain here for the proceedings.

17. Mr. Linden subsequently asked a number of times for the court's permission to be excused. Justice of the Peace Romain repeated that the court would not excuse him, and that an order had been made which required him to remain for the trial as an agent. The following exchange took place:

MR. LINDEN: Your Worship, I'd like a brief indulgence so that I may call my office.

THE COURT: No, please be seated. We are into the trial now. Mr. Linden you are disrupting this court and I am getting a little discouraged by your conduct. Please be seated.

MR. LINDEN: Well -- I'm just ...

THE COURT: Please be seated.

MR. LINDEN: I'm just a friend of the Court, Your Honour (sic). I'd like ...

THE COURT: Please be seated, I said.

MR. LINDEN: I'd like some time to step outside.

THE COURT: No, you are not going to step outside. First witness, please.

MR. LINDEN: Just for a moment, Your Worship.

THE COURT: No.

18. After the examination of the first witness, Justice of the Peace Romain asked Mr. Linden if he wanted to cross-examine the witness. Mr. Linden repeated that he was just a friend of the court, and again asked to be excused. Justice of the Peace Romain did not excuse him.
19. Mr. Linden then asked if he could leave court to go to the bathroom. Justice of the Peace Romain denied this request. Mr. Linden did not ask again to leave the court for that reason. Instead, he asked, immediately thereafter, if he could briefly use the phone, which request was denied. Later on in the trial, Mr. Linden again asked if he could be excused for one minute to call his office. He stated that he felt it was imperative to phone his office and inform them of the status of affairs. Justice of the Peace Romain again did not permit Mr. Linden to leave.
20. Justice of the Peace Romain did not allow Mr. Linden to leave the courtroom until the trial was completed and his oral ruling was read.
21. Justice of the Peace Romain then imposed the set fine of \$55, with no discretionary increase. He then indicated to Mr. Linden that he appreciated the difficult situation he found himself in, as an articling student under instruction and that he held no ill will towards him.
22. No appeal was ultimately pursued by the defendant.
23. A copy of the transcript of the proceedings before Justice of the Peace Romain on April 19 2000 is under Tab 7 of the Book of Agreed Documents.

Complaint of Joe Alessandro

24. On January 12 1999, while presiding in the Ontario Court of Justice, Provincial Offences Court, at 424 Hensall Circle, Mississauga, Ontario, Justice of the Peace Romain made an order barring a traffic court agent, the complainant Joe Alessandro, "from appearing in this court in the future."
25. Mr. Alessandro brought an application in the Ontario Superior Court of Justice for:
 - " (A) an Order in the nature [of] Certiorari, to review the Order of Romain dated January 12 1999 barring Alessandro from the Court; and
 - (B) an Order in the nature of prohibition, prohibiting Romain from presiding at any proceeding or matter in which Alessandro appears as an Agent for an accused and requiring Romain to transfer any such matters to another Court presided over by another Justice of the Peace in the same Court House on the same day, or if same failing, to adjourn such proceeding or matter to another date to be heard by another Justice of the Peace."
26. On March 13 2000 the application was heard by the Honourable Justice Pitt.

27. On April 20 2000 Justice Pitt released an endorsement, which is under Tab 8 of the Book of Agreed Documents. Justice Pitt upheld Justice of the Peace Romain's order barring Mr. Alessandro "from appearing in this court in the future", but directed that the order be limited to appearances before Justice of the Peace Romain, and "that no other Justice of the Peace or Judge is required to observe the alleged 'bar'".

28. Justice Pitt added as follows:

" Since the applicant does not wish to appear before the respondent in the future, their respective wishes can be accommodated without impairing the effective functioning of the judicial system Hopefully, in due course both parties will recognize the need to work together in the proper Administration of Justice."

29. On April 26 2000 counsel for Mr. Alessandro and counsel for Justice of the Peace Romain jointly wrote to Justice Pitt to seek clarification of the effect of his endorsement.

30. On May 2 2000 Justice Pitt wrote to both counsel in response to their joint request. Justice Pitt wrote, in part, as follows:

" Pursuant to my decision, His Worship Rick Romain may exercise his right not to hear Mr. Alessandro. Since Mr. Alessandro does not wish to be heard by His Worship, it seems to me that their respective wishes can be easily accommodated. If His Worship has a change of heart and is prepared to hear Mr. Alessandro, then he will hear Mr. Alessandro. I find that His Worship did not have the right to and did not ban Mr. Alessandro from appearing in any court before any other Justice of the Peace or Judge. Accordingly, if His Worship does not wish in the future to hear Mr. Alessandro, His Worship will have no option but to transmit the case to another Justice of the Peace or Judge, as the case may be.

Accordingly, the certiorari application is moot and the prohibition application is dismissed."

Justice Pitt's letter dated May 2 2000 is under Tab 9 of the Book of Agreed Documents.

31. On Wednesday July 4 2001, Justice of the Peace Romain was presiding in the Ontario Court of Justice, Provincial Offences Court at 424 Hensall Circle, Mississauga, Ontario.

32. The complainant Joe Alessandro, a traffic court agent, appeared before Justice of the Peace Romain on behalf of his client, Paulo Tamburro, who was charged with speeding under section 128 of the *Highway Traffic Act*. Mr. Tamburro was not in attendance.

33. Mr. Alessandro said as follows:

" Good morning, Your Worship, it's Alessandro, initial J.; I appear as agent on behalf the defendant, who is not before the Court. I don't know if Your Worship wants to deal with this matter or traverse it to another courtroom."

34. Justice of the Peace Romain responded as follows:

“ Well, you are not entitled to appear before me, so you should not be in this courtroom. I do not want you in the courtroom. That is a ruling I made, it was upheld by a higher court and you are banned from appearing before me, so I would ask that you leave the courtroom, please.”

35. Mr. Alessandro asked whether the matter was being traversed to another courtroom.

36. Justice of the Peace Romain responded as followed:

“ You can't speak to the matter, so I'm not entertaining anything from you at this point. You are not entitled to enter a courtroom that I'm sitting in I would ask that you leave. I'm not entertaining any submissions or any discussions with you this morning.”

37. Mr. Alessandro asked, “Couldn't I just make one submission?” Justice of the Peace Romain said “No”.

38. Mr. Alessandro then left the court. Justice of the Peace Romain then stated as follows:

“ We will deal with this matter. There is no one appearing for Mr. Tamburro and Mr. Tamburro is not appearing. Mr. Alessandro was quite well aware that he is not entitled to appear before me. That ruling was upheld by the Superior Court on appeal by Mr. Alessandro and he should not have appeared in this court this morning. He is not a competent agent and has been using tactics that are unacceptable. It has been well documented. So this defendant is failing to appear; he is deemed not to dispute; \$98.75; five in court costs; \$103.75. Deemed not to dispute at 11:11 in the morning.”

39. A transcript of the proceedings on July 4 2001 is under Tab 10 of the Book of Agreed Documents.

40. Mr. Alessandro appealed the conviction on behalf of Mr. Tamburro. The matter was resolved before the appeal was argued.

Complaint of Michael Ross:

41. On March 21 2002 Justice of the Peace Romain was presiding in the Ontario Court of Justice, Provincial Offences Court, at 424 Hensall Circle, Mississauga, Ontario.

42. Mr. Michael Ross was a defendant who appeared before Justice of the Peace Romain on that date on a charge of failing to stop at a red light under section 144 (18) of the *Highway Traffic Act*.

43. Mr. Ross' matter was transferred to the courtroom in which Justice of the Peace Romain was presiding from a courtroom in which a Justice of the Peace Scisizzi was presiding. The reason the case was transferred to Justice of the Peace Romain's courtroom is that he offered to assist because his list was completed while Justice of the Peace Scisizzi still had other matters on her list to be dealt with.

44. When Mr. Ross' case was called (and before the recording device was turned on) Justice of the Peace Romain asked Mr. Ross to "remove [his] hat".
45. Mr. Ross is an adherent of the Rastafari religion, which is a sect of Christianity that adheres to the ancient tradition of Moses. Rastafarians believe that those who honour God should let their locks of hair grow and not cut them, and that except when praying (and even when sleeping) they should cover their locks because they represent the glory of God.
46. When Justice of the Peace Romain asked Mr. Ross to remove his hat, Mr. Ross responded by saying "this is not a hat, it is a religious covering."
47. Justice of the Peace Romain again asked Mr. Ross to remove his hat.
48. Mr. Ross again explained that the covering on his head was a religious covering and (as the recording device was turned on) invoked the *Charter of Rights and Freedoms*.
49. Justice of the Peace Romain said: "No, that is not a religious, that is a hat, sir, please take it off."
50. Mr. Ross said: "No, it's a religious covering, Your Honour (sic)."
51. Justice of the Peace Romain said: "It is a hat, sir, and please, take it off."
52. Mr. Ross again invoked the *Charter of Rights and Freedoms*, and said that what he was wearing on his head was a religious covering.
53. After the provincial prosecutor told Justice of the Peace Romain that she was ready for trial, and asked Mr. Ross to come forward, Justice of the Peace Romain stated as follows:
- " I am not going to deal with the matter given this defendant's refusal to take that off. In my view that is a hat; it is not a religious covering that I have seen before and the defendant is refusing to remove it. Are you refusing that, sir?"
54. Mr. Ross said: "I invoke my *Charter of Rights*, sir."
55. Justice of the Peace Romain stated as follows: "No, no, I am just asking if you are refusing to remove it, sir."
56. Mr. Ross again said: "I invoke my *Charter of Rights*, sir."
57. Justice of the Peace Romain, without hearing evidence, then said as follows:
- " Thank you. Finding of guilt; conviction; \$155. Thank you."
58. Mr. Ross then said: "Can I have this Judge's name or this Justice of the Peace?"
59. Justice of the Peace responded as follows: "You can get that at the front, sir."

60. The transcript of the proceedings on March 21 2002 is under Tab 11 of the Book of Agreed Documents.
61. Kim Ennis, the court reporter who was on duty in Justice of the Peace Romain's courtroom on March 21 2002, and Charlene Perrotta, the provincial prosecutor who was on duty on that date, testified at the hearing before the Justices of the Peace Review Council that resulted in the Report under Tab 3 of the Book of Agreed Documents. On consent, a copy of the transcript of Ms Ennis's evidence is reproduced under Tab 12 of the Book of Agreed Documents, and a copy of the transcript of Ms Perrotta's evidence is reproduced under Tab 13 of the Book of Agreed Documents.
62. On March 27 2002 Mr. Ross wrote to inquire about the identity of the Justice of the Peace who was presiding in the courtroom in question on March 21 2002, as he did not at that time have Justice of the Peace Romain's name.
63. On April 19 2002 Carol E. Jadis, Regional Senior Justice of the Peace for the Central West Administration Region wrote to Mr. Ross to inform him that the Justice of the Peace whom Mr. Ross appeared before was His Worship R. Romain. Regional Senior Justice of the Peace Jadis also provided Mr. Ross with the address of the Justices of the Peace Review Council, which she identified as the body responsible for dealing with any disciplinary matters involving Justices of the Peace.

V. LETTERS IN SUPPORT OF JUSTICE OF THE PEACE ROMAIN

64. Commission Counsel has received a number of letters commending Justice of the Peace Romain for his work. Copies of these letters are collected under Tab 14 of the Book of Agreed Documents.

VI. ACKNOWLEDGEMENT

65. Justice of the Peace Romain acknowledges that before signing this statement of agreed facts he reviewed it carefully and obtained the advice of his counsel, Mark Sandler.

DATED at Toronto this 26th day of March 2003.

Gavin MacKenzie

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R. Romain

Justice of the Peace Romain

APPENDIX 4

Witness List

1. Jonathan Linden
2. Joe Alessandro
3. Michael Ross
4. Justice of the Peace Rick C. Romain

APPENDIX 5

Exhibit List

- Exhibit # 1 - Statement of Agreed Facts
- Exhibit # 2 - Book of Agreed Documents
- Exhibit # 3 - Notice of Trial for Judy L. Lamb
- Exhibit # 4 - Documents received by Justice of the Peace Romain re R. v. Lamb
- Exhibit # 5 - Guidelines for Religious Observances for the Toronto District School Board
- Exhibit # 6 - Letter from the Honourable Mr. Justice Fred Kaufman dated March 24th, 2003
- Exhibit # 7 - Letter from Alessandro . Gambino to Justices of the Peace Review Council dated October 12th, 2001