

Nova Scotia



Attorney General

Memorandum

From Hon. Ronald C. Giffin, Q.C.
Attorney General

To Mr. Martin E. Herschorn
Assistant Director (Criminal)

Subject Retention Schedule-
Donald Marshall File

Our File Reference 09-84-0260-01

Your File Reference

Date February 24, 1984

Assuming that I will be asked some questions during Question Period on Tuesday, February 28th, I would like a short summary of the reason why it was decided in 1982, I believe, to change or update the file retention schedule on certain files from six years to twenty years.

Old appeals files - indefinite — 21 yrs (1981) ^{with ~~over~~ files}

CPM (Police Reports) 6 yrs (currently), as the result of Marshall experience, reason a change to retention for 10 yrs.

Combined with app. ^{To be} - least 21 yrs.

MEDIA POOL COPY

DEPARTMENT OF ATTORNEY GENERAL

MEMORANDUM

Our File No.

09-840255-09

MARSHALL, DONALD

FROM: Martin E. Herschorn
Assistant Director (Criminal)

TO: The Honourable Ronald C. Giffin
Attorney General

Re: Retention Schedule
- Donald Marshall File

ATTORNEY GENERAL

Further to your Memorandum of February 24, 1984, our Central Filing System includes, inter alia, under the heading Criminal Matters, police reports and criminal appeal files. These are the files to which your Memorandum of February 24th relates.

Police report files, both before and after 1982, have been retained for a period of 6 years and then destroyed. In light of our recent experience with the Donald Marshall case, it is now being recommended that police report files be retained for a period of 10 years.

1982 was the first year of operation of our new Central Filing System. Prior to 1982, criminal appeal files were retained indefinitely. However, after a period of 3 years, these appeal files were reviewed and reduced to include just the Appeal Book, Facts and the Decision of the Court. With the introduction of our Central Filing System, the indefinite retention period for appeal files was changed to a 21 year period. Since 1982, the only additional change in filing procedures has been to combine the police report file dealing with a matter which goes on appeal, with the appeal file. This combined file is now retained, in its entirety, for a period of 21 years.

MEH:if
February 24, 1984

M. E. H.

PROVINCIAL RECORDS CENTRE
DEPARTMENT OF THE PROVINCIAL SECRETARY

AG 59

RECORDS DISPOSAL

INSTRUCTIONS
See back of form

FROM The Director of Office Services
TO The Minister,
Department of _____

REFERENCE : Approved Records Schedule Item M.M. Bulletin, 10-57, 5.2.2(I)

The life of the following documents or records has expired.
Subject to your confirmation, the materials described below are scheduled to be
destroyed this month.

May I have your authorization for the disposal of these items.

List of Documents or Records

Date Director

AUTHORIZATION

FROM The Minister
Department of _____

TO The Director of Office Services

Please destroy the records listed as scheduled.

Date Minister

PROVINCIAL RECORDS CENTRE
RECORDS DISPOSAL

INSTRUCTIONS
See back of form

FROM The Minister,
Department of Attorney General

TO The Director of Office Services

REFERENCE : Approved Records Schedule Item M.M. Bulletin, 10-57, 5.2.2

The records listed on the accompanying FORM 237 Records Transmittal
and Shelf List are scheduled

To be Microfilmed and Destroyed
To be Destroyed

This is authorization to proceed with scheduled disposal of the records.

April 11 1955
Date

[Signature]
Minister

RECORD SCHEDULE
of Nova Scotia

ATTORNEY GENERAL

Name of Record (include full description)	Department Retention Period	Protec- tion Code	Total Retention Period
Juries Lord's Day Act	3 years plus current 3 years plus current		6 years plus current 6 years plus current
4. <u>General - Criminal Appeals</u>	indefinite subject to elimination of any portion which upon examination may be approved by department for dis- position		indefinite subject to elimination of any portion which upon examination may be approved by department for disposition
6 B. <u>File for Each Criminal Appeal</u>	indefinite subject to elimination of any portion which upon examination may be approved by department for dis- position		indefinite subject to elimination of any portion which upon examination may be approved by department for disposition
7 A. General File - Intoxicating Liquors	2 years plus current		5 years plus current
- 7 B. File for each County - Intoxicating Liquors	2 years plus current		5 years plus current
- 7 C. Blanket Warrants - Intoxicat- ing Liquors	2 years plus current		5 years plus current
- 7 D. Clubs - Intoxicating Liquors	2 years plus current		5 years plus current
1 - 7 E. Leases - Intoxicating Liquors	2 years plus current		5 years plus current except briefs indefinit
21 - 8 A. General - Intoxicating Liquors - Appeals	2 years plus current		5 years plus current except briefs indefini
21 - 8 B. File for Each Appeal - Intoxicating Liquors	2 years plus current		2 years plus current
- 9 A. General - Intoxicating Liquors - Orders of Prohibition	2 years plus current		2 years plus current
21 - 9 B. File for Each County re Orders of Prohibition - Intoxicating	2 years plus current		

RECORDS DISPOSAL

Section of

REFERENCE: Approved Records Schedule Item M. M. Bulletin 10-S7, 5.2.2 (1)

The total document life of each of the following items has been published, on your authority, in the Management Manual as an Approved Records Schedule.

Subject to your confirmation the material described below is scheduled to be destroyed this month: ... 1972, Retention ... 1982.

May I have your instructions for the disposal of these items.

Destroy as scheduled. []

Date

[Signature] Minister

FROM [x] TO []

A. J. HICKEY Return to O. Moore, Record Centre Director of Office Services Department of Provincial Secretary

PROVINCIAL RECORDS CENTRE RECORDS DISPOSAL

INSTRUCTIONS See back of form

REFERENCE: Approved Records Schedule Item M. M. Bulletin 10-S7, 5.2.2

The records described on the accompanying FORM 237 Records Transmittal and Shelf List are scheduled:

To be microfilmed and destroyed [] To be destroyed []

This is authorization to proceed with scheduled disposal of the records.

Date

Minister

DEPARTMENT OF THE PROVINCIAL SECRETARY
RECORDS DISPOSAL

INSTRUCTIONS
Sheet 1 of 6

Provincial Records Centre

FROM: The Director of Office Services

TO: The Minister, Department of _____

REFERENCE: Approved Records Schedule Item M.M. Bulletin, 10S7, 5.2.2(1)

The life of the following documents or records has expired. Subject to your confirmation, the materials described below are scheduled to be destroyed this month.

May I have your authorization for the disposal of these items:

List of Documents or Records: Records Group No. 21-58: Criminal and Penal Matters to
Rebellion Period 7 yrs.

Pages: 77033-35.

FORM 239
10/11/77E

Date Jan. 16/79

Director S. Hyles Rector

AUTHORIZATION

FROM: The Minister, Department of _____

TO: The Director of Office Services

Please destroy the documents / records listed as scheduled.

Date _____

Minister _____

DEPARTMENT OF THE PROVINCIAL SECRETARY
RECORDS DISPOSAL

Provincial Records Centre

See back of form for
INSTRUCTIONS, pl

FROM: The Minister, Department of _____

TO: The Director of Office Services

REFERENCE: Approved Records Schedule Item M.M. Bulletin, 10-S7, 5.2.2

The items listed on the accompanying FORM 237 -Records Transmittal and
Shelf List are scheduled to be -

Microfilmed and Destroyed

Destroyed

This is authorization to proceed with scheduled disposal of the records

FORM 239
10/11/77E

- (D, 1) Re: letters, dispatches, miscellaneous documents re: Extradition proceedings, 1917-1925.
- (D, 2) Extradition matters, 1918-1921.
- (D, 3) Extradition matters, 1921-1930.
- (D, 4) Extradition proceedings re: "The J. Scott Hankinson" (A British vessel) and Ray Cass, 1924.
- (D, 5) Extradition proceedings re: W. P. Mailman, 1924.
- (D, 6) Extradition from U.S.A. of Joseph Dowie, North Sydney, 1924.
- (D, 7) Extradition of Alexander Ross and Burnley Smith, 1924.
- (D, 8) General and special file: Supreme Court Criminal Docket 1957-70.
- (D, 9) Criminal and penal matters general - Court decisions, 1958-73.
- (D, 10) Supreme Court Docket - Special File, 1971.
- (D, 11) Supreme Court Docket - Special File, Jan. 1, 1972 - Dec. 31, 1972.
- (D, 12) Supreme Court Docket - Special File, Jan. 1, 1973 - Dec. 31, 1973.
- (D, 13) Supreme Court Docket - Special file, Jan. 1, 1974 - Dec. 31, 1974.
- (D, 14) Supreme Court Docket - Special File, Jan. 1, 1975 - Dec. 31, 1975.
- (D, 15) Correspondence with Ottawa re: care of prisoners, mentally ill criminal offenders and integration of Provincial Probation Service with Parole Supervision etc., 1957 - 1967.
- (D, 16) Dominion - Provincial Conference on the Fauteaux Report:- Minutes, Nov. 14-15, 1956. Ottawa.
- (D, 17) Copy of the above.
- (D, 18) Dominion - Provincial Conference on Correctional reform - Draft Agenda, Preliminary Proceedings, Oct. 13 - 14, 1958. Ottawa.
- (D, 19) Dominion - Provincial Conference on Correctional Reform - Minutes, Oct. 13-14 1958. Ottawa.
- (D, 20) Criminal and Penal matters: General Fanteaux report (Minister's File), 1954-59.
- (D, 21) Criminal and Penal matters: General Fanteaux report, 1953-1965.
- (D, 22) Dominion Provincial Conference on Correctional Reform, Draft Agenda. Oct. 1958.

338

AG 56

PROVINCE OF ONTARIO

2000

RECORDS DEPARTMENT

MINISTRY OF THE ATTORNEY GENERAL

DATE: _____

ADDRESS: _____

CITY: _____

PROVINCE: _____

POSTAL CODE: _____

TELEPHONE: _____

TELEFAX: _____

ELECTRICAL

SEAL OF ONTARIO

TO BE KEPT ON FILE NO YES

TO BE DESTROYED NO YES

TRANSCHEMORPHORIZED

CONTAINER NUMBER	RECORDS CENTRE CONTAINER IDENT. NUMBER	DESCRIPTION OF RECORDS (including dates and serial numbers)
L	(D 1) - (D 14)	EXHIBITION 1921-35 and C.P.M. Supreme Court Dockets 100
RE 10		

RECEIVED
1900
NOV 20 1900

RECEIVED by Records Centre Date June 17/1900

Wendy L. Hayes
SUPERVISOR

COMMENTS: Records Centre Restricted Access

COPY DISTRIBUTION : White & Buff - Records Centre (with records). Pink - Dept f...
Buff - Receipted and returned to department

APPROVED RECORD SCHEDULE
 Government of Nova Scotia

*Warrant 1958
 1958 J.P. 6
 1958 J.P. 6
 1958 J.P. 6*

339

Organization Code
 21
 Page
 1 of 14 pages
 Date
 March 5, 1959

ATTORNEY GENERAL

Item Number	Name of Record (include full description)	Department Retention Period	Protection Code	Total Retention Period
21 - 1 A.	Administration of Estates by the Attorney General General Correspondence	3 years		13 years and estate closure
21 - 1 B.	File for each Estate Administered by the Attorney General	3 years		13 years and estate closure
21 - 2 A.	General Correspondence re Audit, Auditing, Loans and Finance	2 years plus current		2 years plus current
21 - 2 B.	Blue Cross Statements	2 years plus current		2 years plus current
21 - 2 C.	Statements of Expenditures	2 years plus current		2 years plus current
21 - 2 D.	Estimates <i>7, 1958</i>	2 years plus current		2 years plus current
21 - 2 E.	Payrolls	2 years plus current		2 years plus current
21 - 3	Card Index File of Correspondence	1945 to date		indefinite original form
21 - 4 A.	General File - R.C.M.P. Constables	2 years plus current		2 years plus current
21 - 4 B.	Confidential and Secret - R.C.M.P. Constables	2 years plus current		2 years plus current
21 - 4 C.	Contract File - R.C.M.P. Constables	indefinite		indefinite
21 - 4 D.	Quarterly and Yearly Reports - R.C.M.P. Constables	2 years plus current		2 years plus current
21 - 5 A.	General File - Criminal and Penal Matters	3 years plus current		6 years plus current
21 - 5 B.	File for Each County - Criminal and Penal Matters	3 years plus current		6 years plus current
21 - 5 C.	File for each Gun Club	3 years plus current		3 years plus current
21 - 5 D.	Criminal Code Revision	indefinite		indefinite
21 - 5 E.	Extradition	indefinite		indefinite

340 HE 12

09-84-0255-09

Hon. Ronald C. Giffin, Q.C.
Attorney General

~~09-83-0638~~

Mr. Martin E. Herschorn
Assistant Director (Criminal)

Donald Marshall Jr.

March 1, 1984

Did Donald Marshall Jr. and Sandy Seale have criminal records prior to the incident of May 1971?



AG 253

Ministry of the
Attorney
General

Policy Development
Division

18 King Street East
15th Floor
Toronto, Ontario
M5C 1C5

March 2, 1984

Mr. Gordon S. Gale,
Director (Criminal),
Department of Attorney General,
P.O. Box 7,
Halifax, Nova Scotia
B3J 2L6

Dear Gordon,

Thank you for your letter of February 27, 1984. I am taking the liberty of sending the material to you by express courier, since I recall some press comments that you are under a considerable degree of urgency to resolve the Marshall matter.

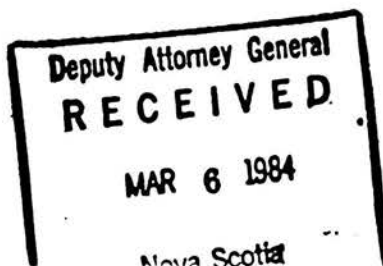
Our studies here were not really directed at persons pardoned after lengthy periods of incarceration. We really are looking at an acquittal at trial.

In any event, I am sending you copies of a 1978 English article called "Compensation for Detention" from the Criminal Law Review, a confidential memorandum from the Commonwealth Law Ministers meeting in Sri Lanka in 1983, Article 9.5 of the International Covenant on Civil and Political Rights, the McRuer Royal Commission Inquiry into Civil Rights recommendations on this, and a working paper from Western Australia on Compensation for Persons Detained in Custody who are Ultimately Pardoned. I should add that I don't think that the Western Australia working paper ever resulted in a final report.

I hope this material may be of some assistance to you. We in turn would be most interested in anything that you can provide us with, either before or after any formal announcement on the Marshall decision.

Best wishes.

Yours truly,



Simon

R.S.G. Chester,
Counsel.

RSGC:mg
Encls.

Nova Scotia



news release

FC 23

STATEMENT BY THE HONOURABLE JOHN M. BUCHANAN, P.C., Q.C.
HOUSE OF ASSEMBLY
MARCH 5, 1984

MR. SPEAKER, I SAID IN THE HOUSE LAST WEDNESDAY THAT I WOULD MAKE A STATEMENT THIS WEEK REGARDING MR. DONALD MARSHALL.

THROUGHOUT THIS MATTER, THE GOVERNMENT OF NOVA SCOTIA HAS BEEN CAREFUL NOT TO SAY OR DO ANYTHING, EVEN INADVERTENTLY, THAT WOULD EITHER PREJUDICE OR APPEAR TO PREJUDICE THE STATUS OF THE EBSARY CRIMINAL PROCEEDINGS NOW BEFORE THE COURTS.

AT THE SAME TIME, THE GOVERNMENT HAS BEEN CONSIDERING THE QUESTION OF COMPENSATION AND LEGAL COSTS FOR DONALD MARSHALL, WHILE RECOGNIZING THAT THIS MATTER REQUIRES THE GREATEST CARE TO AVOID ANY TRESPASS UPON THOSE CRIMINAL PROCEEDINGS. FOR SOME TIME, THE GOVERNMENT HAS EXAMINED A NUMBER OF PROCEDURES TO DETERMINE THE MOST APPROPRIATE WAY OF DEALING WITH THIS CASE. THESE PROCEDURES INCLUDED DISCUSSIONS WITH THE GOVERNMENT OF CANADA REGARDING ITS RESPONSIBILITY IN THE MARSHALL CASE, WHICH IS UNPRECEDENTED IN CANADA.

TONIGHT, I AM ANNOUNCING THAT MR. JUSTICE ALEX CAMPBELL, OF THE SUPREME COURT OF PRINCE EDWARD ISLAND, HAS AGREED TO ACCEPT A COMMISSION TO CARRY OUT AN ASSESSMENT OF COMPENSATION AND LEGAL COSTS FOR MR. MARSHALL AND ADVISE THE GOVERNMENT OF HIS FINDINGS.

MR. JUSTICE CAMPBELL'S MANDATE WILL PROVIDE HIM WITH COMPLETE AUTHORITY TO CARRY OUT THIS ASSESSMENT AS HE SEES FIT.

MR. JUSTICE CAMPBELL IS WELL-KNOWN IN ATLANTIC CANADA AND NATIONALLY, BOTH AS A DISTINGUISHED JURIST AND A FORMER PREMIER OF PRINCE EDWARD ISLAND.

March 5/68

9:30 am

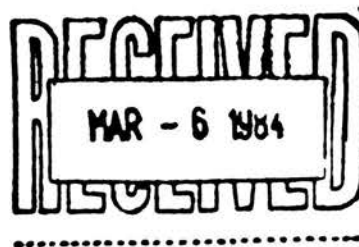
Alec Campbell

- no good rules in place yet
would like to meet in DM & FC

- hasn't seen his terms of reference
would like to submit report before Sept
- proposal very recent to him



Nova Scotia



FC 175

**Attorney General
Province of Nova Scotia**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

902 424-4044
902 424-4020

File Number 09-84-0120-09

March 6, 1984

Mr. Felix A. Cacchione
Lambert & Cacchione
Ste. 903, 1649 Hollis St.
HALIFAX, Nova Scotia
B3J 2R7

Dear Mr. Cacchione:

This letter is the response of the Government of Nova Scotia to the request which you put forward to me in November on behalf of Mr. Donald Marshall with respect to legal costs, compensation and the holding of a public inquiry.

As you know, Premier Buchanan announced in the House of Assembly during the evening of Monday, March 5, 1984, that Mr. Justice Alex Campbell of the Supreme Court of Prince Edward Island has agreed to act as a one-man commission to assess the matters of legal costs and compensation.

I understand that Mr. Justice Campbell has already been in touch with you and that he will be proceeding as expeditiously as possible to familiarize himself with this matter in order to carry out his work as soon as is reasonably possible for him to do so.

It is my intention, as Attorney General, and I have so indicated to my staff, to co-operate in every proper way with Mr. Justice Campbell. This will include making available to him all files, documents and other materials in my Department's possession, including those files to which you had requested access and which access had been denied under the provisions of the Freedom of Information Act. I am sure that you can appreciate the reasons why many files held by my Department are confidential in their nature, however, I am satisfied that it is entirely proper for Mr. Justice Campbell to have access to those files for the purpose of carrying out his work on this matter.

I also want to emphasize that the manner in which Mr. Justice Campbell will discharge his task will be entirely up to him. As I have indicated both in the House of Assembly and in other public statements, I have a genuine concern that nothing must be either said or done which would, even inadvertently, either prejudice or appear to prejudice the status of the criminal proceedings involving Mr. Roy Ebsary and which are, as you know, still before the courts. However, I have complete confidence in the ability of Mr. Justice Campbell to conduct his assessment of the matters of legal costs and compensation for Mr. Marshall without trespassing in any way on the status of the Ebsary case.

With respect to your third request, for a complete public inquiry into the circumstances leading up to Mr. Marshall's original conviction, it is my view that no decision can be made on an inquiry of this magnitude while the Ebsary case is still before the courts. I shall communicate to you the decision of the Government of Nova Scotia on this request only after the criminal proceedings involving Mr. Ebsary are concluded.

As you know, since the re-investigation of this matter began in February of 1982, this Department has, I believe, co-operated fully and properly and has at no time entered into an adversarial relationship with your client. I hope that the Government's appointment of Mr. Justice Campbell to assess the matters of legal costs and compensation will be taken as a further indication of the spirit in which we have attempted to approach this very complex and unprecedented situation.

I have noted recent news reports concerning Mr. Marshall's employment situation and I also understand that there have been intermittent contacts between Mr. Marshall and officials of the Provincial Department of Social Services and the Social Services Department of the City of Halifax in recent months. I do not know the terms of Mr. Marshall's proposed employment with the Union of Nova Scotia Indians and the Federal Department of Indian Affairs, and I thought I should pass on to you information which I have received from the Honourable David Nantes the Minister of Labour and Manpower for the Province of Nova Scotia, which might be of interest to your client, either now or at some time in the future.

I understand that Mr. Marshall has previously completed 1,710 credit hours of training as a plumber apprentice and, if he is interested, it would be possible for him to be enrolled in a Plumbers Apprentice Training Program at the Nova Scotia Institute of Technology in Halifax. I understand that this course would be designed to increase his trade capabilities and the time credit he requires to advance to journeyman status as a plumber.

I understand that the 1,710 hours which he already has would be counted towards completion of the 8,000 credit hours required to complete the criteria for journeyman status. The time he spends on the proposed training program, if he chose to avail himself of it, would also count as journeyman qualifying time.

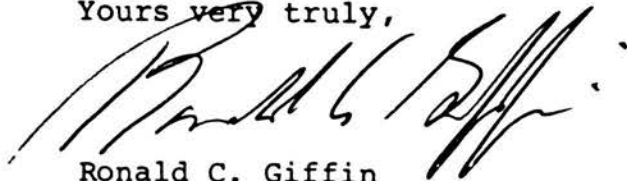
I understand that the training program would be approximately six months in duration and that upon its conclusion, Mr. Marshall's chances for employment as an apprentice plumber would be greatly enhanced.

I have also been advised by Mr. Nantes that during the training period referred to, Mr. Marshall would be eligible for the continuation of Unemployment Insurance benefits plus an additional twenty-five (\$25.00) per week. If your client is interested in this opportunity, Mr. Nantes (whose telephone number is 424-6647) would be pleased to meet personally with him to answer any questions or provide additional information.

I recognize that in the light of your client's proposed new employment, he may not be interested in this possibility, however, I do pass it along for your consideration.

If you have any questions about any of the contents of this letter, please let me know, and if you wish, we can meet to discuss these matters further. I should also mention that when the order-in-council establishing the Inquiry and the terms of reference therefore are finalized, I shall provide you with copies of same.

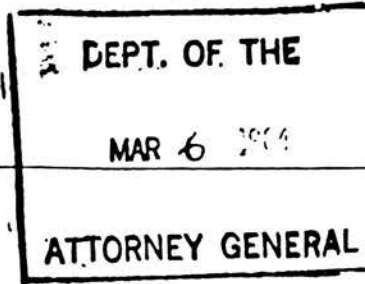
Yours very truly,



Ronald C. Giffin

cc Hon. J. M. Buchanan, Q. C.
Hon. D. Nantes

Nova Scotia



AG 245

Attorney General

Memorandum

From Ronald C. Giffin

Our File Reference 09-84-0256-0,

To Mr. Gordon F. Coles, Q. C.
Deputy Attorney General

Your File Reference

Subject

Date March 6, 1984

Mr. Justice Alex Campbell has asked for a meeting with us to help him initiate his work on the inquiry into costs and compensation in the Donald Marshall matter.

He advised me that he plans to come to Halifax by airplane on Friday, March 16th and I have agreed to meet him at the Airport that morning at about 9:30 and bring him into Halifax with a view to our meeting with him at about 10:00.

I have advised him that we are prepared to make available to him all material in our possession pertaining to this matter and I would appreciate it if that material could be pulled together for that time. I am sure that we shall also have to work out some administrative details e.g. payment of expense accounts, naming a liaison person from the Department, etc. At the same time, I am sure that Mr. Justice Campbell will want to discuss with us his approach to this matter and the role that our Department ought to play.

I do plan to come into the City overnight the night of Wednesday, March 14th and will be in the City the morning of March 15th so if necessary, we could get together then to discuss these matters among ourselves before meeting with Mr. Justice Campbell on the 16th.

cc Gordon S. Gale, Q. C.
Martin Herschorn
S. Myles Rector

March 7, 1984

The Honourable Edmund Morris
Minister of Social Services
P.O. Box 696
Halifax, Nova Scotia
B3J 2T7

Dear Mr. Morris:

RE: DONALD MARSHALL, JR.

I read with interest in this morning's paper the article of a job offer made to Mr. Marshall. I am counsel for Mr. Marshall and have been since May, 1983. I would appreciate any communications with my client be made through this office and in the future I would ask that you do so.

The article in the paper made the point that when Mr. Marshall was called that morning, he was asleep which left the impression that the general public is dealing again with "a lazy Indian". I should point out to you and all concerned that perhaps the reason Mr. Marshall was in bed during the day when he was called was because of the persistent nightmares which he has had since his release from the penitentiary. He has experienced great anguish and an inability to get proper sleep.

I therefore ask you to direct any communications regarding Mr. Marshall to this office.

. . . /2

The Honourable Edmund Morris
March 7, 1984
Page 2

I should also point out to you that Mr. Marshall has no training in small appliance repairs and in fact his training is in the plumbing trade.

On March 6 I received a letter from Mr. Griffin which suggested that Mr. Nantes might be able to arrange employment for Mr. Marshall in his trade. I will communicate this to Mr. Marshall as soon as is possible and in the interim I would ask that no comment be made regarding his acceptance or refusal of this offer.

Thank you for your co-operation in this matter.

Yours very truly,

Felix A. Cacchione

FAC/oh

cc: The Honourable John M. Buchanan
The Honourable Ronald C. Giffin

HOUSE OF ASSEMBLY
NOVA SCOTIAOFFICE OF THE LEADER
NEW DEMOCRATIC PARTYP.O. BOX 1617
HALIFAX, NOVA SCOTIA
B3J 2Y3

March 8, 1984

CONFIDENTIAL

The Honourable Edmund Morris
Minister
Department of Social Services
Province of Nova Scotia
Halifax, Nova Scotia

Dear Mr. Minister,

I am writing to you to express my shock, indeed revulsion at the statement attributed to you in yesterday's press concerning "job offers" you have made to Donald Marshall, Jr. It seems as though you and the Honourable John Munro have decided to enter into a contest over which one of you will gain the greatest public favour on the back of Donald Marshall, Jr. Have you forgotten that it is a human being that is being torn apart in your pursuit of the political spoils?

Donald Marshall Jr. has been through thirteen years of suffering, sufficient to break the human spirit of the strongest willed and most emotionally stable mature adult, never mind a youth in his most important formative years, who is also burdened with the ugly pressures of a racist society. Almost a year ago Junior was determined by the Courts to be innocent of the crime for which he had been punished. Now, public officials in high places, seem intent on prolonging his suffering. He doesn't need your political posturing. What he needs is the time and the space to sort out his life, simple needs which you seem intent on denying him.

Your statements yesterday revealing details of your Department's "rehabilitation" efforts on Junior's behalf, constituted an ugly and unforgiveable breach of established professional ethics concerning client confidentiality. It also revealed an astonishing lack of awareness of the first principles of social rehabilitation.

Heaping further insult upon injury, you went even further. Your statement is very likely to have the effect of inciting a negative backlash and unsympathetic attitude towards Junior Marshall on the part of the public. While not all members of the public would appreciate the long, painful rehabilitative process he has only begun to under-

.../2

Hon. E. Morris

-2-

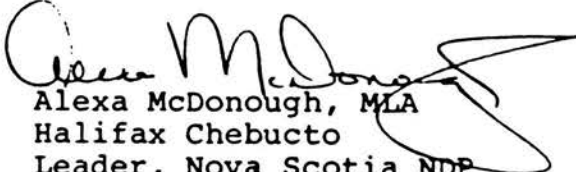
March 8, 1984

take, you surely should. You are also aware of the deep-rooted racism that exists in the hearts of an alarming number of our fellow citizens, exacerbated by increasingly insecure economic conditions:

Your dual role as Minister of Social Services and Minister responsible for Native Affairs makes it doubly incumbent upon you to display an attitude of understanding, concern and sensitivity to Donald Marshall's plight. More fundamentally your reputation as a humanitarian, a Christian, and a supposed champion of human rights demands of you a more decent and responsible approach to Junior's circumstances.

I plead with you to give Junior a fair chance to heal from the cruel and painful wounds he has endured. Back off, and please, urge your colleagues to do the same.

Yours sincerely,



Alexa McDonough, MLA
Halifax Chebucto
Leader, Nova Scotia NDP

cc: Donald Marshall, Jr.



352
RECEIVED
MAR 19 1984

FC 189
MAR 19 1984

**Department of
Social Services**

PO Box 696
Halifax Nova Scotia
B3J 2T7

The Minister

March 12, 1984

COPY

Dear Alexa

I acknowledge receipt of your letter of March 8, which you have copied to Donald Marshall, Jr.

It is both offensive and false but perhaps the appropriate answer is simply to say that I have noted its contents.

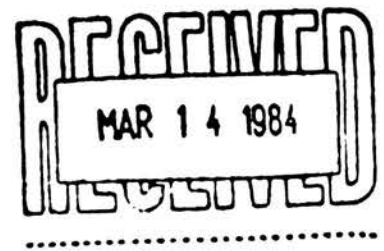
Yours sincerely

Edmund L. Morris
Minister of Social Services

Mrs. Alexa McDonough, M.L.A.
Post Office Box 1617
Halifax, Nova Scotia
B3J 2Y3



Nova Scotia



**Department of
Social Services**

The Minister

PO Box 696
Halifax, Nova Scotia
B3J 2T7

FC 193

March 13, 1984

Dear Mr. Cacchione

I have your letter of March 7, the burden of which, and more, I had also read in the weekend edition of the Globe and Mail, where you were quoted as saying that "Mr. Morris's comment implied that (Mr. Marshall) was 'just another lazy Indian who's asleep in the middle of the day and would rather collect unemployment insurance than take a job'." I used none of those words and intended none of those thoughts. It would be regrettable indeed if their attribution to you, and publication in The Globe, were to give rise to what it is you deplore.

There is nothing in what I said, in answer to and not invitation of a press interview, that is legitimate cause for offense. I asked officers of my Department to contact Mr. Marshall and offer him any help we could. We do that wherever we properly can, all the time. The remark about calling him at home and finding him in bed was the correct explanation of why he had not shown up. Was he going to show up? was what we asked. There were others who would want the job if he did not. There is nothing wrong with Mr. Marshall being in bed and indeed I remarked to the interviewer, though it did not appear in his published report, that it did seem understandable to me that, if he were receiving unemployment insurance and had been encouraged to expect an early new job in plumbing, he might not be much attracted to the job we offered him.

The statement in your letter and the attribution to you in The Globe about Mr. Marshall's preference for plumbing suggests that Honourable John Munro apparently did not communicate with you before offering Mr. Marshall a job. It does seem a little odd and contradictory that you should criticize one who tried to be helpful to Mr. Marshall with no publication sought at all, but have had nothing to say about Mr. Munro's grandstanding which precipitated the press inquiry of me.

-2-

My Department has no role at all in such matters as compensation and legal costs for Mr. Marshall, and nothing in its past contacts with him reflected in the slightest way upon those matters. We were simply trying to help a human being in need of a job. We cannot do everything but we can do something, and because we cannot do everything we do the something we can do. While we have no present or foreseeable intention of communicating with Mr. Marshall, Mr. Marshall always has the right to come to us in several areas of social service, and you will understand that we cannot give absolute undertaking that, even upon our wholly innocent and helpful mandate, we would not ever communicate with Mr. Marshall except through you.

Yours sincerely



Edmund L. Morris
Minister of Social Services

Mr. Felix A. Cacchione
LAMBERT & CACCHIONE
Barristers and Solicitors
1649 Hollis Street, Suite 903
Halifax, Nova Scotia
B3J 2R7



Nova Scotia

355

CAMP 37
AG 85

Executive Council

Office of the Clerk of the
Executive Council

Howe Building
PO Box 2125
Halifax, Nova Scotia
B3J 3B7

902 424-5970
Telex 019-22693

March 7, 1984

Mr. J. H. Clarke
Secretary to the
Executive Council
Province of Nova Scotia
Halifax, N. S.

Dear Mr. ~~Clarke~~ ^{Joe}:

The Honourable Ronald C. Giffin has the attached but has not signed it or returned it to me.

I understand that he wishes to confirm terms of reference with the Premier before Cabinet considers it.

Meanwhile, I believe Mr. Giffin wishes to also confirm terms of reference with the Honourable A. B. Campbell.

Could you please

- 1) find out if the attached is okay;
- 2) find out when the Order should be done;
- 3) phone me if there is any rush to have this done;
- 4) bring back the report and recommendation signed by the Attorney General if it is okay. *

Yours very truly,

H. F. G. Stevens, Q.C.
Clerk of the Executive Council

attach.

(* I think he will be away from Hq. until the 19th?)

356 REPORT AND RECOMMENDATION
TO EXECUTIVE COUNCIL

NUMBLR
DEPT.:
DATE: 7 6 83

SUBJECT: Appointment - Commissioner - Re Donald Marshall, Jr.
SUBMITTED BY: Attorney General
PREPARED BY: H. F. G. Stevens, Q.C., Clerk of the Executive Council
DEPUTY MINISTER:

STAMP	SUMMARY
	<p>The undersigned has the honour to recommend that the Governor in Council be pleased to make an Order in the following form:</p> <p>WHEREAS it is deemed expedient to cause inquiry to be made, pursuant to the Public Inquiries Act, into and concerning the public matters hereinafter mentioned in relation to which the Legislature of Nova Scotia may make laws;</p> <p>NOW THEREFORE, the Lieutenant Governor, by and with the advice of the Executive Council of Nova Scotia, is pleased to appoint the Honourable Alexander Bradshaw Campbell to be a Commissioner under the Public Inquiries Act, to inquire into and ^{report his findings} make recommendations to the Governor in Council respecting ^{including legal costs} ex gratia payments of compensation which should be paid to Donald Marshall, Jr. ^{in recognition of costless losses} in recognition of costless losses of any every kind, including legal costs, sustained by him as the result of his incarceration in jail for a crime of which he ^{was subsequently} found to be not guilty.</p> <p>The Governor in Council is further pleased to:</p> <ol style="list-style-type: none">1. Direct the Commissioner to retain the services of such technical, clerical and other personnel, including actuarial and legal counsel, who in the opinion of the Commissioner are required for the purpose of the inquiry;2. Authorize the payment to the Commissioner, secretary and other personnel required in the work of the Commissioner, for necessary disbursements, travel and reasonable living expenses as are required in the discharge of their duties; <p style="text-align: right;">....2</p>

3. Order that remuneration, costs and expenses payable or incurred in the course of the inquiry shall be paid out of the Consolidated Fund of the Province;
4. Direct the Commissioner to report to the Governor in Council the evidence taken before him, ^{and} his findings, ~~and recommendations~~ as he sees fit.

The power and authority of the Commissioner shall extend to and include all matters which he considers relevant to the inquiry.

Respectfully submitted,

Ronald C. Giffin, Q.C.
Attorney General

Halifax, Nova Scotia
March 6, 1984

09-84-0256-7

March 9, 1984

The Honourable Mr. Justice Campbell
Supreme Court of Prince Edward Island
330 Beaver Street
SUMMERSIDE, P.E.I.
C1N 2A3

Dear Mr. Justice Campbell:

I have been requested by the Honourable Ronald C. Giffin, Attorney General, to forward to you a copy of a letter, dated March 6, 1984, which he sent to Mr. Felix A. Cacchione, solicitor for Mr. Donald Marshall. I enclose the letter herewith.

Yours truly,

Bruce E. Davidson
Assistant Director (Civil)

Enclosure



**Attorney General
Province of Nova Scotia**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

902 424-4044
902 424-4020

File Number

March 6, 1984

09-89-0256-0

Mr. Felix A. Cacchione
Lambert & Cacchione
Ste. 903, 1649 Hollis St.
HALIFAX, Nova Scotia
B3J 2R7

Dear Mr. Cacchione:

This letter is the response of the Government of Nova Scotia to the request which you put forward to me in November on behalf of Mr. Donald Marshall with respect to legal costs, compensation and the holding of a public inquiry.

As you know, Premier Buchanan announced in the House of Assembly during the evening of Monday, March 5, 1984, that Mr. Justice Alex Campbell of the Supreme Court of Prince Edward Island has agreed to act as a one-man commission to assess the matters of legal costs and compensation.

I understand that Mr. Justice Campbell has already been in touch with you and that he will be proceeding as expeditiously as possible to familiarize himself with this matter in order to carry out his work as soon as is reasonably possible for him to do so.

It is my intention, as Attorney General, and I have so indicated to my staff, to co-operate in every proper way with Mr. Justice Campbell. This will include making available to him all files, documents and other materials in my Department's possession, including those files to which you had requested access and which access had been denied under the provisions of the Freedom of Information Act. I am sure that you can appreciate the reasons why many files held by my Department are confidential in their nature, however, I am satisfied that it is entirely proper for Mr. Justice Campbell to have access to those files for the purpose of carrying out his work on this matter.

I also want to emphasize that the manner in which Mr. Justice Campbell will discharge his task will be entirely up to him. As I have indicated both in the House of Assembly and in other public statements, I have a genuine concern that nothing must be either said or done which would, even inadvertently, either prejudice or appear to prejudice the status of the criminal proceedings involving Mr. Roy Ebsary and which are, as you know, still before the courts. However, I have complete confidence in the ability of Mr. Justice Campbell to conduct his assessment of the matters of legal costs and compensation for Mr. Marshall without trespassing in any way on the status of the Ebsary case.

With respect to your third request, for a complete public inquiry into the circumstances leading up to Mr. Marshall's original conviction, it is my view that no decision can be made on an inquiry of this magnitude while the Ebsary case is still before the courts. I shall communicate to you the decision of the Government of Nova Scotia on this request only after the criminal proceedings involving Mr. Ebsary are concluded.

As you know, since the re-investigation of this matter began in February of 1982, this Department has, I believe, co-operated fully and properly and has at no time entered into an adversarial relationship with your client. I hope that the Government's appointment of Mr. Justice Campbell to assess the matters of legal costs and compensation will be taken as a further indication of the spirit in which we have attempted to approach this very complex and unprecedented situation.

I have noted recent news reports concerning Mr. Marshall's employment situation and I also understand that there have been intermittent contacts between Mr. Marshall and officials of the Provincial Department of Social Services and the Social Services Department of the City of Halifax in recent months. I do not know the terms of Mr. Marshall's proposed employment with the Union of Nova Scotia Indians and the Federal Department of Indian Affairs, and I thought I should pass on to you information which I have received from the Honourable David Nantes the Minister of Labour and Manpower for the Province of Nova Scotia, which might be of interest to your client, either now or at some time in the future.

I understand that Mr. Marshall has previously completed 1,710 credit hours of training as a plumber apprentice and, if he is interested, it would be possible for him to be enrolled in a Plumbers Apprentice Training Program at the Nova Scotia Institute of Technology in Halifax. I understand that this course would be designed to increase his trade capabilities and the time credit he requires to advance to journeyman status as a plumber.

I understand that the 1,710 hours which he already has would be counted towards completion of the 8,000 credit hours required to complete the criteria for journeyman status. The time he spends on the proposed training program, if he chose to avail himself of it, would also count as journeyman qualifying time.

I understand that the training program would be approximately six months in duration and that upon its conclusion, Mr. Marshall's chances for employment as an apprentice plumber would be greatly enhanced.

I have also been advised by Mr. Nantes that during the training period referred to, Mr. Marshall would be eligible for the continuation of Unemployment Insurance benefits plus an additional twenty-five (\$25.00) per week. If your client is interested in this opportunity, Mr. Nantes (whose telephone number is 424-6647) would be pleased to meet personally with him to answer any questions or provide additional information.

I recognize that in the light of your client's proposed new employment, he may not be interested in this possibility, however, I do pass it along for your consideration.

If you have any questions about any of the contents of this letter, please let me know, and if you wish, we can meet to discuss these matters further. I should also mention that when the order-in-council establishing the Inquiry and the terms of reference therefore are finalized, I shall provide you with copies of same.

Yours very truly,

Ronald C. Giffin

cc Hon. J. M. Buchanan, Q. C.
Hon. D. Nantes
Hon. T. Donahoe, Q. C.

March 9, 1984

Donald Marshall, Jr.
5651 Ogilvie Street
Apartment 113
Halifax, Nova Scotia
B3H 1B9

Dear Donald:

This is to confirm that we will meet in my office on Friday, March 16 at 3:00 p.m. At that time we will be meeting with Mr. Justice Campbell, who has been appointed by the Provincial Government to look into the matter of compensation for you.

I have enclosed a copy of a letter that I received from Ron Giffin, the Attorney General, and in this letter he refers to the possibilities of you completing your time as an apprentice with the Nova Scotia Institute of Technology. The telephone number given is 424-6647 and you should contact Mr. Nantes who is the Minister of Manpower and Labour for the Province of Nova Scotia, if you are interested in this opportunity.

Please do not hesitate to contact me should you have any questions.

Yours very truly,

Felix A. Cacchione

FAC/oh
enc.



Nova Scotia

FC 1912

Executive CouncilOffice of the Clerk of the
Executive CouncilHowe Building
PO Box 2125
Halifax, Nova Scotia
B3J 3B7902 424-5970
Telex 019-22693

March 13, 1984

The Honourable Mr. Justice A. B. Campbell, LL.D.,
330 Beaver Street
Summerside
Prince Edward Island
C1N 2A3

Dear Mr. Justice Campbell:

Further to our discussion and my instructions from the Honourable the Attorney General, I am pleased to send you herewith your original Commission and a certified copy of Order in Council 84-295 dated the 13th day of March, A. D., 1984, all respecting your appointment as a Commissioner to examine the matter of compensation to Donald Marshall, Jr.

If I may be of assistance to you in your undertaking as Commissioner, please do not hesitate to let me know.

Yours very truly,

H. F. G. Stevens, Q.C.
Clerk of the Executive Council

Encs.

cc: Honourable Ronald C. Giffin, Q.C.

EXECUTIVE COUNCIL

Lieutenant Governor of Nova Scotia in Council made the



NOVA SCOTIA

13th day of March A. D. 1984

84-295

WHEREAS it is deemed expedient to cause inquiry to be made, pursuant to the Public Inquiries Act, into and concerning the public matters hereinafter mentioned in relation to which the Legislature of Nova Scotia may make laws:

NOW THEREFORE, the Lieutenant Governor, by and with the advice of the Executive Council of Nova Scotia, is pleased to appoint The Honourable Mr. Justice Alexander Bradshaw Campbell to be a Commissioner under the Public Inquiries Act to inquire into and report his findings to the Governor in Council respecting ex gratia payments of compensation, including legal costs, which should be paid to Donald Marshall, Jr., as a result of his incarceration in jail for a crime of which he was subsequently found to be not guilty.

The Governor in Council is further pleased to:

1. Direct the Commissioner to retain the services of such technical, clerical and other personnel, including actuarial and legal counsel, who in the opinion of the Commissioner are required for the purpose of the inquiry;
2. Authorize the payment to the Commissioner, secretary and other personnel required in the work of the Commissioner, for necessary disbursements, travel and reasonable living expenses as are required in the discharge of their duties;
3. Order that remuneration, costs and expenses payable or incurred in the course of the inquiry shall be paid out of the Consolidated Fund of the Province;
4. Direct the Commissioner to report to the Governor in Council the evidence taken before him and his findings as he sees fit.

G. Stevens
G. STEVENS, Q. C.
THE SECRETARY

FC 192

DIRECT the Commissioner to report to the Governor in Council
the evidence taken before him and his findings as he sees fit.

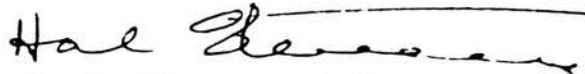
GIVEN under my Hand and Seal at Arms
at the City of Halifax this 13th day
of March in the year of Our Lord
one thousand nine hundred and
eighty-four and in the thirty-third
year of Her Majesty's reign.


DEPUTY PROVINCIAL SECRETARY

Mr. Rector has also mentioned the matter of a budget and budgetary provision for the Commission headed by Mr. Justice Campbell and I have suggested to Mr. Rector that he determine this in consultation with Management Board, after obtaining your approval of a draft budget. Mr. Justice Campbell's requirements may be clear following the meeting which, I understand, you intend to have with him and Mr. Rector on Friday, March 16.

I believe the above comments have covered all the points which you wished me to deal with relating to the Campbell Commission, but if there is anything further you wish me to do, please let me know.

Yours very truly,



H. F. G. Stevens, Q.C.
Clerk of the Executive Council

c.c. Mr. S. M. Rector

March 19/84

Junius Marshall

- would like some percentage of compensation now (2 wks) and rest at some future date

- \$ to buy a house outside the city

- pension - unable to work. $\$90$ visit to psychologist ✓

- would like an amount equal to his lost wages:
- has put up w enough.

wants \$ to buy clothes, pay bills - look for new accommodations -

- wants \$ to help support his immediate family
- \$5 million: - he will pay his own expenses from
- \$100,000 as 1st installment (\$500,000)

→
Mar 20/84

T/C w Campbell - w compensation

→ open hearing in in camera

- will contact us w in next few days

of where we go.

- if inquiry goes public - FC to lay cl's claim before Campbell

- AG notified of our appearance

Hugh
Macintosh
legal counsel

- no idea of AOB's response re interim compensation

- may take some months to tick up case

alternative - formal presentation of claim by PAC

(A) compensation

(B) - how el got there

- late May - early June.

- 4-7 days

Campbell - hopes to leave on Mar 25/04 for vacation



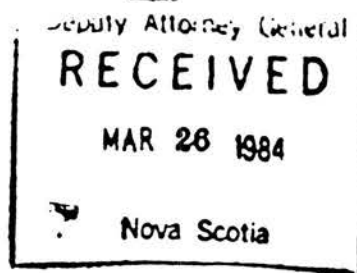
AG 50

AGENT GENERAL

PROVINCE OF NOVA SCOTIA,
14, PALL MALL,
LONDON SW1Y 5LU
Telephone 01-930 6864

19th March, 1984

Mr. Gordon Gale, Q.C.,
Attorney General's Office
3rd Floor
Provincial Building
P.O. Box 7
Halifax, Nova Scotia B3J 2L6.



Dear Gordon,

Under separate cover we have today posted four volumes on the Report of the Official Enquiry by the Hon. Lord Hunter on the Patrick Meehan case. I enclose with this letter the Hansard Report 29th July 1976 columns 328 - 330 covering the procedure followed for assessing the amount of ex gratia payment to persons wrongfully committed or charged.

You asked for the Report made by David Edwards Q.C., but we were advised that this was a confidential report available only to the Secretary of State and Mr. Meehan's solicitor.

I hope the material serves your purpose and enables Mr. Justice Alex Campbell to proceed.

You owe us £47.00 (Forty Seven Pounds Sterling) plus £7.30 (Seven Pounds thirty pence Sterling) for postage equalling £54.30 (Fifty Four Pounds Thirty Pence Sterling). Please make the draft payable to the Province of Nova Scotia, London.

Yours very truly,

DONALD M. SMITH
Agent General

DMS/jlaw

Enc.

years costs have risen more rapidly in retailing than in most other sectors of industry and commerce, and the most recent quarterly report of the Price Commission shows that during the year ended 31st March this year net profit margins for the larger food and drink retailers averaged only about 50 per cent. of the net margins achieved in the period before price controls were introduced, and those of non-food retailers about 60 per cent.

However, costs in retailing are likely to rise more slowly from now on, while it is unavoidable that the cost of imported raw materials will rise as a result of the fall in sterling and a recovery in world commodity markets. This and the upturn in our domestic economy may mean that distributors will in due course be trading in less unfavourable conditions. If in these circumstances some less competitive sectors of distribution maintain gross margins in percentage terms, this may result in an undue increase in retail prices: that is, an increase beyond what is necessary to cover increases in costs and to generate the overall level of profit required to maintain employment and stimulate investment.

This risk is much reduced by the Price Code as it stands. Paragraph 88 of the code ensures that if a distributor's net profits rise above a certain level he must reduce the percentage mark-ups he applies to the goods he sells, in order to keep his overall gross margin within a lower ceiling.

If buying prices in any one sector of distribution rose so fast that the reduced ceiling on gross margins proved excessive, a further reduction in the permitted level might be needed.

I am concerned that increasing raw material costs do not in any sector lead to a situation where retail prices rise faster than is necessary to provide firms with an adequate level of profitability. Accordingly, I am asking the Price Commission to identify those classes of consumer products for which the risk of sharp increases in the retail price seems to be greatest and to keep under review the movements in the gross and net distribution margins of those classes of products so that appropriate action could be taken if the Price Code proved inadequate.

HOME DEPARTMENT

Public Appointments

28. Mr. Ronald Bell asked the Secretary of State for the Home Department what black list of persons deemed unacceptable for public appointments is maintained by his Department; and whether the list and the adverse notations are available for inspection and challenge by persons included on it.

Dr. Summerskill: None.

Suspected Persons (Ex Gratia Payments)

Mrs. Hayman asked the Secretary of State for the Home Department whether he will make a statement on the procedure followed for assessing the amount of ex gratia payments to persons wrongfully convicted or charged.

Mr. Roy Jenkins: When a decision is taken to make an ex gratia payment in these circumstances the practice is to submit the facts to an independent assessor for advice as to the amount to be paid. I have reviewed the procedure followed in the few such cases that arise—there were six in the financial year 1974-75 and four in 1975-76—and have decided that in future the claimant or his solicitor should be informed of the factors which will be taken into account by the assessor, that he should have the opportunity of making personal representations to the assessor and that he should subsequently be given an explanation in broad terms of the basis on which the assessment has been made. The purpose of these changes is to make as much information as possible available to the claimant, to give him the maximum opportunity of providing relevant information for the assessor and to make it clear that the general principles governing the assessment are analogous to those governing the assessment of damages for civil wrongs. The new procedure is explained in the note below, copies of which will be sent to successful claimants.

EX GRATIA PAYMENTS TO PERSONS WRONGFULLY CONVICTED OR CHARGED: PROCEDURE FOR ASSESSING THE AMOUNT OF THE PAYMENT

A decision to make an ex gratia payment from public funds does not imply any admission of legal liability; it is not, indeed,

based on considerations of liability for which there are appropriate remedies at civil law. The payment is offered in recognition of the hardship caused by a wrongful conviction or charge and notwithstanding that the circumstances may give no grounds for a claim for civil damages.

2. Subject to Treasury approval, the amount of the payment to be made is at the discretion of the Home Secretary, but it is his practice before deciding this to seek the advice of an independent assessor experienced in the assessment of damages. An interim payment may be made in the meantime.

3. The independent assessment is made on the basis of written submissions setting out the relevant facts. When the claimant or his solicitor is first informed that an *ex gratia* payment will be offered in due course, he is invited to submit any information or representations which he would like the assessor to take into account in advising on the amount to be paid. Meanwhile, a memorandum is prepared by the Home Office. This will include a full statement of the facts of the case, and any available information on the claimant's circumstances and antecedents, and may call attention to any special features in the case which might be considered relevant to the amount to be paid; any comments or representations received from, or on behalf of, the claimant will be incorporated in, or annexed to, this memorandum. A copy of the completed memorandum will then be sent to the claimant or his solicitor for any further comments he may wish to make. These will be submitted, with the memorandum, for the opinion of the assessor. The assessor may wish to interview the claimant or his solicitor to assist him in preparing his assessment and will be prepared to interview them if they wish. As stated in paragraph 2 above, the final decision as to the amount to be paid is a matter entirely for the Home Secretary.

4. In making his assessment, the assessor will apply principles analogous to those governing the assessment of damages for civil wrongs. The assessment will take account of both pecuniary and non-pecuniary loss arising from the conviction and/or loss of liberty, and any or all the following factors may thus be relevant according to the circumstances:

Pecuniary Loss

Loss of earnings as a result of the charge or conviction.

Loss of future earning capacity.

Legal costs incurred.

Additional expense incurred in consequence of detention, including expenses incurred by the family.

Non-Pecuniary loss

Damage to character or reputation.
Hardship, including mental suffering, injury to feelings and inconvenience.

When making his assessment, the assessor will take into account any expenses, legal or otherwise, incurred by the claimant in establishing his innocence or pursuing the claim for compensation. In submitting his observations a solicitor should state, as well as any other

Vol. 916

expenses incurred by the claimant, what his own costs are, to enable them to be included in the assessment.

5. In considering the circumstances leading to the wrongful conviction or charge the assessor will also have regard, where appropriate, to the extent to which the situation might be attributable to any action, or failure to act, by the police or other public authority, or might have been contributed to by the accused person's own conduct. The amount offered will accordingly take account of this factor, but will not include any element analogous to exemplary or punitive damages.

6. Since the payment to be offered is entirely *ex gratia*, and at his discretion, the Home Secretary is not bound to accept the assessor's recommendation, but it is normal for him to do so. The claimant is equally not bound to accept the offer finally made; it is open to him instead to pursue the matter by way of a legal claim for damages, if he considers he has grounds for doing so. But he may not do both. While the offer is made without any admission of liability, payment is subject to the claimant's signing a form of waiver undertaking not to make any other claim whatsoever arising out of the circumstance of his prosecution or conviction, or his detention in either or both of these connections.

Human Rights (Legislation)

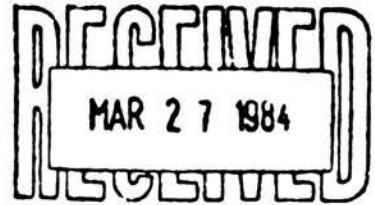
Mr. David Hunt asked the Secretary of State for the Home Department how many copies of the discussion document on Legislation on Human Rights have been distributed; how many groups and/or organisations have been asked for their comments; and if he is satisfied that the wide public discussion he called for in his foreword is taking place.

Mr. Roy Jenkins: About 1,300 copies of the discussion document have so far been distributed. The publication of the document was itself an invitation to interested organisations and individuals to put forward their views. I am satisfied that study and discussion of the issues raised in it is being actively carried on, notably at the symposium held last month under the auspices of the British Institute of Human Rights; in Sir Leslie Scarman's Goodman lecture to the Royal Institute of International Affairs on 13th July; and in the July issue of the *Guardian Gazette*, to be published this week, which is devoted entirely to the subject. I would welcome a still wider exchange of views.

Race Relations

Mr. Dudley Smith asked the Secretary of State for the Home Department what new initiatives he proposes in the interests

2 X 2



March 23, 1984

FC 28

Mr. Felix A. Cacchione, Esq.
 Lambert & Cacchione
 Suite 903
 1649 Hollis Street
 Halifax, N.S.
 B3J 2R7

Dear Mr. Cacchione:

**RE: DONALD MARSHALL, JR.
 ORDER IN COUNCIL MARCH 13, 1984, NO. 84-295**

The Lieutenant Governor in Council of Nova Scotia has appointed me a Commissioner under the Public Inquiries Act for the purpose set forth in the above Order in Council. A copy of this Order accompanies this letter. It is understood that you represent the Donald Marshall, Jr. who is referred to in the Order and this letter is set to you in that capacity.

A Commissioner under the Public Inquiries Act upon appointment does not have the benefit of an existing administrative apparatus or an existing procedure. This results in some delay but allows both to be adapted to the particular needs of the particular inquiry.

It is understood that your client, Donald Marshall, Jr., wishes to appear at a hearing before me and give sworn testimony and other evidence to the inquiry in a manner similar to a hearing before the Supreme Court of Nova Scotia.

This letter seeks your written suggestions at an early date in respect to administrative and procedural methods which would allow your client to follow his preferred course. It is conceived that it will be useful, if that course is followed, that some procedure be in place to enable others who may participate and I as commissioner to know the general nature of the case, the number and identity of witnesses, particularly experts, who may be called, the expected time needed, etc. Undoubtedly, you will expect the converse to apply in respect to any other evidence that others may wish to put in. I as commissioner am concerned that unnecessary duplication should be avoided and that particularly in the matter of expert testimony, if any, some accommodation should be made to keep costs within bounds.

Mr. Felix A. Caccchione, Esq.
Page 2
March 23, 1984

By way of a suggested scenerio only:

1. Are you and your client available to present your case and otherwise attend a hearing in Halifax, N.S., June 18-22, 1984, with a continuation to July 23-August 10, 1984, all inclusive? OK
2. Are you willing to submit an outline of your case, number and names of witnesses, expected duration, etc., not later than May 18, 1984?
3. Are you agreeable in principle to begin on June 18, 1984, and carry to completion all aspects of your client's evidence in respect to "compensation" as referred to in Order in Council No. 84-295? For the purpose of this reference only, "compensation" in this item would exclude item 4.
4. Are you prepared to argue after item 3, whether the word "compensation" in Order in Council No. 84-295 extends to matters where a quantifiable loss to your client cannot be established? It is understood that your client may wish to adduce evidence relative to the police investigation that preceded his prosecution for the "crime of which he was subsequently found to be not guilty" as stated in the Order. The relevance of this to the terms of the Order is intended to be raised under this item.
5. Would it be appropriate in your view, in respect to "legal costs" as referred to in the Order, to simulate the procedure applicable under Civil Procedure Rule 63 and seek the opinion evidence of a taxing master or barrister familiar with the norms for the area where any bill would normally be taxed?

It is appreciated that preparation for the inquiry will entail legal and other expenses. It is hoped that a policy can be developed in respect to such expenses, particularly for professional services. The objective would be to have such expenses absolved as part of the expense of the inquiry so that full information can be given to the inquiry. However, reasonable controls (eg. time records) are essential where public monies are involved. I, as commissioner, invite a proposal from you in respect to anticipated expenses that will allow the

Mr. Felix A. Cacchione, Esq.
Page 3
March 23, 1984

satisfactory presentation of your client's submission to the inquiry. Specific heads and figures would be helpful particularly in relation to legal fees and any expert evidence.

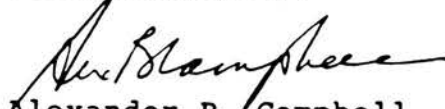
The planning for this inquiry is still in its infancy. The matters raised in this letter are still tentative and will undoubtedly be revised. I request that you and your client treat them as confidential. If I or others trying to accelerate the planning for the inquiry have to respond to numerous inquiries at this stage, it can only be detrimental to progress.

I have retained Mr. Hugh D. MacIntosh of the Prince Edward Island Bar to aid me in P.E.I. from April onward. Mr. MacIntosh is also a member of the Nova Scotia Barristers' Society, and I have asked him to take any necessary steps to eliminate any jurisdictional problem as I would like his help in Nova Scotia as well. His mailing address is P.O. Box 2257, Charlottetown, P.E.I., C1A 8B9.

I will be out of the country from March 28, 1984, to May 10, 1984, but I will keep in touch with Mr. MacIntosh.

I hope that your client will involve himself in the inquiry, and I expect to make a more formal invitation when administrative arrangements are more settled.

Yours sincerely,



Alexander B. Campbell
Commissioner

FC 2^a

March 26, 1984

Mr. Felix Cacchione, Esq.
Lambert & Cacchione
Barristers & Solicitors
Suite 903
1649 Hollis Street
Halifax, NS
B3J 2R7

Dear Mr. Cacchione:

RE: DONALD MARSHALL, JR.

This letter relates to my letter to you of March 23, 1984, wherein I sought your suggestions in respect to procedure that would apply if I were to accept your client's preferred format for the inquiry referred to in Order in Council No. 84-295.


The copy of the Order intended for enclosure with my previous letter accompanies this letter.

It will materially aid the planning for this inquiry if I know at an early date that the week of June 18, 1984, commencement is available and acceptable in principle. Secondly, your client's preferred format appears to have been followed in the Crewe Murders Royal Commission in New Zealand in 1980. Page 12 of the Commission's report refers to the procedures used and page 113 of the report to the English Home Office policy. If you have a copy of the former or an update of the latter, they would be most helpful to me. I have asked Mr. MacIntosh to telephone you next week on these points.

As a matter of record, I would appreciate written indication by Mr. Marshall that you act on his behalf in respect to the inquiry.

Finally, until letterhead can be produced and administrative arrangements in Halifax set up, it is intended that replies to this and the previous letter go to Mr. MacIntosh's Charlottetown P.O. Box No. 2257.

Yours truly,



Hon. Alexander E. Campbell

Enclosure

EXECUTIVE COUNCIL

Lieutenant Governor of Nova Scotia in Council made the



NOVA SCOTIA

13th day of March A. D. 1984

FC 29

84-295

WHEREAS it is deemed expedient to cause inquiry to be made, pursuant to the Public Inquiries Act, into and concerning the public matters hereinafter mentioned in relation to which the Legislature of Nova Scotia may make laws:

NOW THEREFORE, the Lieutenant Governor, by and with the advice of the Executive Council of Nova Scotia, is pleased to appoint The Honourable Mr. Justice Alexander Bradshaw Campbell to be a Commissioner under the Public Inquiries Act to inquire into and report his findings to the Governor in Council respecting ex gratia payments of compensation, including legal costs, which should be paid to Donald Marshall, Jr., as a result of his incarceration in jail for a crime of which he was subsequently found to be not guilty.

The Governor in Council is further pleased to:

1. Direct the Commissioner to retain the services of such technical, clerical and other personnel, including actuarial and legal counsel, who in the opinion of the Commissioner are required for the purpose of the inquiry;
2. Authorize the payment to the Commissioner, secretary and other personnel required in the work of the Commissioner, for necessary disbursements, travel and reasonable living expenses as are required in the discharge of their duties;
3. Order that remuneration, costs and expenses payable or incurred in the course of the inquiry shall be paid out of the Consolidated Fund of the Province;
4. Direct the Commissioner to report to the Governor in Council the evidence taken before him and his findings as he sees fit.

A handwritten signature in dark ink, appearing to read "H. L. ...".

09-84-0256-0
 P.O. Box 2200 (INQUIRY)
 Charlottetown, PEI
 C1A 8B9

AG 46

March 26th, 1984

The Honourable Ronald C. Griffin
 Attorney General of Nova Scotia
 Provincial Buildings
 P.O. Box 7
 Halifax, Nova Scotia
 B3J 2L6

Dear Mr. Attorney General:

Re: Donald Marshall Jr.
 Order-in-Council No.84-295
 March 13, 1984

As you know, I have been appointed a one man commission of inquiry in respect to the subject matter outlined in the order. A copy of the order accompanies this letter.

The Public Inquiries Act and the order do not provide much guidance in respect to procedure. I have made an initial contact with Mr. Felix Cacchione, Barrister, of Halifax, who tells me that he represents Mr. Donald Marshall Jr. for the purpose of the inquiry. Mr. Cacchione has referred me to a 1980 New Zealand Royal Commission Report concerning an A.A. Thomas. A copy of the commission in that case and some other material as extracted from that report accompanies this letter. I understand from Mr. Cacchione that Mr. Marshall would like to proceed in a similar manner and begin the inquiry by setting out his case for compensation as introduced through his own counsel. Before adopting this approach, I have asked Mr. Cacchione to supply further details as to how his preferred format would work procedurally and, in particular, I have asked him if he possesses a copy of the procedures that applied to the New Zealand inquiry. I have also asked Mr. Cacchione whether he was prepared, in the event his course was adopted, to supply an outline of Mr. Marshall's case by May 18, 1984 and present it commencing the week of June 18, 1984, with a continuation to July 23 to August 10, 1984. It is understood that Mr. Marshall's case would assert that the police investigation that led to his prosecution is relevant to the terms of the inquiry.

In the New Zealand inquiry, counsel appeared on behalf of the investigating police, the Justice Department, the applicant for compensation and, apparently, the Crown prosecutor

The Honourable Rqld C. Griffin

A 3 40

- 2 -

on the original case. Counsel also appeared for the commission itself but presumably in an auxiliary role. The presence of counsel who represented distinct and opposed interests presumably allowed the commission and its counsel the public appearance at the investigative stage of a position of neutrality without any fear that all relevant evidence would not be adduced and thoroughly tested.

One purpose of this letter is to determine whether, if such a format is adopted, counsel would appear to represent your office at the inquiry, if invited, and whether the suggested timetable could be accommodated. Also, if you have a copy of the New Zealand procedures and an updated version of the English Home Office policy (page 113 of the Report) or other procedural suggestions, I would find this of great assistance.

Whatever format is adopted for the inquiry, it is assumed that there is a considerable volume of documents in both public and private files that would be relevant to the terms of my commission (e.g. pre-sentence reports). Some of this material may be located beyond the range of my subpoena (e.g. Dorchester). It would be helpful to me if your officials could prepare a list of the locations where material in respect to Mr. Marshall can be found, something by way of an inventory of the general nature of the material and any indication of claims to privilege or privacy in respect to it.

I have asked Mr. Hugh D. MacIntosh, Barrister and Solicitor, of Charlottetown, a member of both the Prince Edward Island and Nova Scotia Bars, to help me with general legal advice and research in respect to the setting up of the inquiry. I will be out of the country between March 28, 1984 and May 10, 1984. Until letterhead can be produced and administrative arrangements in Halifax completed, I have asked Mr. MacIntosh to receive mail at his Charlottetown post office box, which is:-

P.O. Box 2257
Charlottetown, PEI ^{del.} 892-9594
C1A 8B9

I will be in contact with Mr. MacIntosh while I am away and have asked him to follow up these matters.

Yours very truly,


Alexander B. Campbell
Commissioner

ABC:jp
encls.

March 27, 1984

His Honour The Lieutenant Governor
of Nova Scotia in Council
c/o Office of the Speaker
9th Floor
Royal Bank Building
5151 George Street
Halifax, Nova Scotia
B3J 2Y3

Your Excellency:

RE: Donald Marshall, Jr.
Order in Council March 13, 1984, No. 84-294

I am pleased to submit an interim recommendation with respect to the subject matter of the inquiry I have been engaged to conduct.

At this very preliminary stage of my commission it appears to me a certainty that I shall require at least five months in which to carry out the duties of commissioner.

I am equally certain financial compensation in excess of the amount here recommended for advance to Donald Marshall, Jr., will be finally recommended by me.

Donald Marshall, Jr., has waited many years for redress in respect of his conviction and incarceration for the "crime of which he was subsequently found to be not guilty". His legal counsel has persuaded me that Mr. Marshall's present financial plight is a very real one.

No government is bound by the findings and recommendations made pursuant to the Public Inquiries Act. This fact unfortunately, necessarily lends itself to an interim suspense as to the bona fides of the Public Inquiry process.

Admittedly, new ground is being broken and issues tackled for the first time in this jurisdiction. I believe it is in the public interest as well as in Donald Marshall, Jr.'s personal interest that an immediate ex gratia payment of twenty-five thousand dollars be advanced to Donald Marshall, Jr., toward final payment and settlement of his compensation.

My terms of reference contemplate ex gratia payments of compensation. This is, therefore, my interim report and recommendation.

Yours very truly,


Alexander B. Campbell
Commissioner

Nova Scotia



Attorney General

Memorandum

From Hon. Ronald C. Giffin, Q.C.
Attorney General

Our File Reference 09-84-0256-0

To Mr. Gordon F. Coles, Q.C.
Deputy

Your File Reference

Subject Donald Marshall Jr.

Date March 30, 198

Enclosed herewith please find copy of a letter from Mr. Justice Alexander B. Campbell, Commissioner.

It would appear to me that if he takes this approach we would want to have counsel representing the Attorney General's Department.

We will also have to see about getting the material he has asked for, let him know if the suggested dates are okay, and also provide him with the information on locations where material with respect to Mr. Marshall can be found, an inventory and so forth.

Perhaps we should meet so that we can discuss a reply.

09-84-0256-2
 P.O. Box 220 (INQUIRY)
 Charlottetown, PEI
 C1A 8B9

AG 4

March 26th, 1984

The Honourable Ronald C. Griffin
 Attorney General of Nova Scotia
 Provincial Buildings
 P.O. Box 7
 Halifax, Nova Scotia
 B3J 2L6

Dear Mr. Attorney General:

Re: Donald Marshall Jr.
 Order-in-Council No.84-295
 March 13, 1984

As you know, I have been appointed a one man commission of inquiry in respect to the subject matter outlined in the order. A copy of the order accompanies this letter.

The Public Inquiries Act and the order do not provide much guidance in respect to procedure. I have made an initial contact with Mr. Felix Cacchione, Barrister, of Halifax, who tells me that he represents Mr. Donald Marshall Jr. for the purpose of the inquiry. Mr. Cacchione has referred me to a 1980 New Zealand Royal Commission Report concerning an A.A. Thomas. A copy of the commission in that case and some other material as extracted from that report accompanies this letter. I understand from Mr. Cacchione that Mr. Marshall would like to proceed in a similar manner and begin the inquiry by setting out his case for compensation as introduced through his own counsel. Before adopting this approach, I have asked Mr. Cacchione to supply further details as to how his preferred format would work procedurally and, in particular, I have asked him if he possesses a copy of the procedures that applied to the New Zealand inquiry. I have also asked Mr. Cacchione whether he was prepared, in the event his course was adopted, to supply an outline of Mr. Marshall's case by May 18, 1984 and present it commencing the week of June 18, 1984, with a continuation to July 23 to August 10, 1984. It is understood that Mr. Marshall's case would assert that the police investigation that led to his prosecution is relevant to the terms of the inquiry.

In the New Zealand inquiry, counsel appeared on behalf of the investigating police, the Justice Department, the applicant for compensation and, apparently, the Crown prosecutor

on the original case. Counsel also appeared for the commission itself but presumably in an auxiliary role. The presence of counsel who represented distinct and opposed interests presumably allowed the commission and its counsel the public appearance at the investigative stage of a position of neutrality without any fear that all relevant evidence would not be adduced and thoroughly tested.

One purpose of this letter is to determine whether, if such a format is adopted, counsel would appear to represent your office at the inquiry, if invited, and whether the suggested timetable could be accommodated. Also, if you have a copy of the New Zealand procedures and an updated version of the English Home Office policy (page 113 of the Report) or other procedural suggestions, I would find this of great assistance.

Whatever format is adopted for the inquiry, it is assumed that there is a considerable volume of documents in both public and private files that would be relevant to the terms of my commission (e.g. pre-sentence reports). Some of this material may be located beyond the range of my subpoena (e.g. Dorchester). It would be helpful to me if your officials could prepare a list of the locations where material in respect to Mr. Marshall can be found, something by way of an inventory of the general nature of the material and any indication of claims to privilege or privacy in respect to it.

I have asked Mr. Hugh D. MacIntosh, Barrister and Solicitor, of Charlottetown, a member of both the Prince Edward Island and Nova Scotia Bars, to help me with general legal advice and research in respect to the setting up of the inquiry. I will be out of the country between March 28, 1984 and May 10, 1984. Until letterhead can be produced and administrative arrangements in Halifax completed, I have asked Mr. MacIntosh to receive mail at his Charlottetown post office box, which is:-

P.O. Box 2257
Charlottetown, PEI ^{del.} 892-9594
C1A 8B9

I will be in contact with Mr. MacIntosh while I am away and have asked him to follow up these matters.

Yours very truly,


Alexander B. Campbell
Commissioner

ABC:jp
encls.

MR. SPEAKER, I RISE TO MAKE A MINISTERIAL STATEMENT CONCERNING THE INQUIRY WHICH IS BEING CARRIED OUT BY MR. JUSTICE ALEX CAMPBELL ON THE QUESTIONS OF LEGAL COSTS AND COMPENSATION FOR MR. DONALD MARSHALL, JR.

MR. JUSTICE CAMPBELL HAS INDICATED THAT HE BELIEVES THAT HE WILL REQUIRE APPROXIMATELY FIVE MONTHS OR UNTIL THE FIRST OF SEPTEMBER OF THIS YEAR TO COMPLETE HIS WORK. MR. JUSTICE CAMPBELL HAS THEREFORE RECOMMENDED TO THE GOVERNMENT OF NOVA SCOTIA THAT IT IS BOTH IN THE PUBLIC INTEREST AND IN MR. MARSHALL'S PERSONAL INTEREST THAT AN IMMEDIATE EX GRATIA PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS BE ADVANCED TO MR. MARSHALL TOWARD FINAL PAYMENT AND SETTLEMENT OF HIS COMPENSATION. THE GOVERNMENT OF NOVA SCOTIA HAS ACCEPTED THIS INTERIM REPORT AND RECOMMENDATION FROM MR. JUSTICE CAMPBELL AND PAYMENT OF THESE FUNDS WILL BE MADE WITHIN THE NEXT FEW DAYS UPON COMPLETION OF THE NECESSARY DOCUMENTATION.

THANK YOU MR. SPEAKER.

April 3, 1984

Mr. Justice Alex B. Campbell
P.O. Box 2257
Charlottetown, P.E.I.
CLA 8B9

Dear Mr. Campbell:

RE: YOUR LETTER OF MARCH 26, 1984

This letter is to indicate on the record that our firm represents Donald Marshall, Jr. in his application for compensation before the inquiry which you head. I have asked Mr. Marshall to sign this letter as well in order to substantiate the above.

With regards to the other points mentioned in your two letters, I will repond at a future date.

I trust this is to your satisfaction.

Yours very truly,

Felix A. Cacchione

DONALD MARSHALL, JR.

F&C/oh

Marshall ^{FC 55}
 D. awarded 25,000 as advance: ^{sp. 3/84. 424}
 on compensation - on recommendation
 of Campbell J.
 - in best interest of public &
 C.

- until Sept 1/84 to complete
 research & report
 - made interim recommendation
 to gov't for compensation.
 - documentation to Cabinet this
 week.

April 3/64

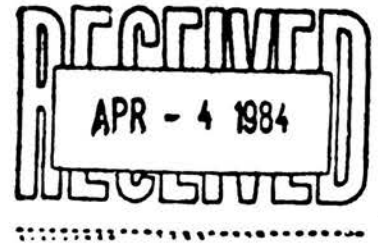
Donald Marshall *

- Starting nature counselling program on
April 9/64

- Through Union of US Indians -
funded. from Northern Indian Affairs

- also beginning correspondence course
re plumbing.

- Dr. ~~Aerawata~~ Marina 5991 Sp. Gdn Rd.
422-3572



**Attorney General
Province of Nova Scotia**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

FL 205

902 424-4044
902 424-4020

File Number 09-84-0164-09

April 4, 1984

Mr. Felix A. Cacchione
Lambert & Cacchione
Ste. 903, 1649 Hollis St.
HALIFAX, Nova Scotia
B3J 2R7

RE: Donald Marshall, Jr.

Dear Mr. Cacchione:

This letter is further to the Ministerial Statement which I made in the House of Assembly on Tuesday, April 3rd, in connection with this matter.

Mr. Justice Alex Campbell has indicated to the Government of Nova Scotia that he believes that he will require approximately five months or until the first of September this year to complete his work. He has therefore recommended to the Government of Nova Scotia that it is both in the public interest and in your client's personal interest that an immediate ex gratia payment of twenty-five thousand dollars (\$25,000.00) be advanced to your client toward final payment and settlement of his compensation. The Government of Nova Scotia has accepted this interim report and recommendation from Mr. Justice Campbell and I shall be forwarding to you a cheque in that amount made payable to your client as soon as the necessary formalities attendant on the issuing of the cheque are completed.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Ronald C. Giffin".

Ronald C. Giffin

April 5/84

Donald Marshall.

- ① Establish vicarization
- length + location.
- ② Dr. Marini - psychologist - present effect
- ③ Loss of income - actuary.
- cost of defence.
- cost of reference.

cl. cl.

Clive Cullane - will be in Boston June 16-17

- available - June 19 - 22.
O.R. in July.

contact if date not appropriate.

June 24/84 →

April 6, 1984

His Lordship Mr. Justice Alexander B. Campbell
Commissioner
P.O. Box 2257
Charlottetown
Prince Edward Island
CIA 8B9

My Lord:

RE: DONALD MARSHALL, JR.
ORDER IN COUNCIL MARCH 13, 1984
NO. 84-295

This is to reply to your letter of March 23, 1984, outlining a suggested scenario for the procedural methods to be adopted for the presentation of evidence to the inquiry in support of Donald Marshall Jr.'s claim for compensation.

I will deal with your numbered paragraphs as follows:-

1. Yes, we will be available to present our case and otherwise attend a hearing in Halifax, Nova Scotia, June 18-22, 1984, with a continuation to July 23-August 10, 1984, all inclusive.

2: Yes, we are willing to submit an outline of our case, number and names of witnesses, expected duration, etc., not later than May 18, 1984.

. . . ./2

His Lordship Mr. Justice Alexander B. Campbell
April 6, 1984
Page 2

It will be difficult to give anything more than a "guesstimate" as to duration without knowing who and how many "others" there may be who will wish to put in evidence. If you, as Commissioner, can give us an indication as to the identities and numbers of these others, it may be that the presentation of some of the evidence can be expedited.

3. Yes, we are agreeable in principle to begin on June 18, 1984, and carry to completion all aspects of our client's evidence in respect to "compensation" as referred to in Order in Council No. 84-295.

4. Yes, we are prepared to argue after item 3, whether the word "compensation" in Order in Council No. 84-295 extends to matters where a quantifiable loss to our client cannot be established but I think we need some early clarification of what is meant by a "quantifiable loss" which "cannot be established".

We expect to be able to present under heading 3 evidence to establish what is usually termed "general damages"; that is, damages for pain, suffering and inconvenience and, in the particular circumstances of this case, such evidence would include evidence as to the affect on Mr. Marshall of his incarceration and as to the incarceration itself. This is obviously broad in scope but it is of the essence and would form a substantial part of our case.

I note the reference in your letter to "the police investigation that preceded his prosecution" and we take it from that that we can present evidence under this heading referring to the conduct of the trial. This is one area where the presentation of evidence may be expedited by the use of documentary evidence provided that others involved would agree but we have not yet made a final decision on how that evidence will be presented.

His Lordship Mr. Justice Alexander B. Campbell
April 6, 1984
Page 3

If the "quantifiable loss" which "cannot be established" refers only to a heading of damages which is related to the investigation prior to the trial, then we are certainly prepared to argue that that is relevant to the terms of the Order and we would seek to adduce evidence in support of this heading of damages which, for the present, we will characterize as "punitive or exemplary" damages.

5. With respect to "legal costs" I think there are four separate bills of costs to be considered. The first three are in the nature of professional fees and disbursements with respect to professional services rendered to Mr. Marshall and they would be as follows:-

- A. For the conduct of his trial and appeal. I believe this account will have been paid already and so it would be a matter simply or reimbursing Mr. Marshall.
- B. For the preparation and conduct of the reference hearing. This is Mr. Aronson's account and I believe he would be prepared to have it taxed on a solicitor-client basis.
- C. For professional services rendered in connection with his claim for compensation up until the appointment of the inquiry. This will include such disbursements as the cost of Mr. Marshall's attendance at the Ebsary Preliminary Inquiry and the two Ebsary trials, all in Sydney.

Because of the nature of the work involved we shall have to give further consideration as to how this heading of costs should be determined.

His Lordship Mr. Justice Alexander B. Campbell
April 6, 1984
Page 4

- D. The final item of costs will be for the preparation and conduct of his claim for compensation before the inquiry, including disbursements. I think we can draft an estimate of our anticipated fees and disbursements. As there is no other "party" to this matter, as such, and we are looking to have Mr. Marshall's own legal costs covered, we shall prepare our estimate on a solicitor-client basis.

Yours very truly,

Felix A. Cacchione

/oh

April 11, 1984

Mr. Hugh D. MacIntosh
P.O. Box 2257
Charlottetown
P.E.I.
CLA 8B9

Dear Mr. MacIntosh:

RE: DONALD MARSHALL, JR.

Please accept my apologies for not returning your phone calls of April 10, 1984 but I was tied up in Court all day.

In regards to a proposed meeting on May 15 and 16, I would indicate that early morning would be my preferred time. If we could meet at 10:00 on both those mornings, it would be greatly appreciated.

If possible, a written agenda would also be appreciated however I understand the situation you find yourself in.

I will be out of the office and the country between the 11th and 23rd of April and I will contact you upon my return to see if there have been any other developments.

Thanking you in advance for your co-operation,
I remain.

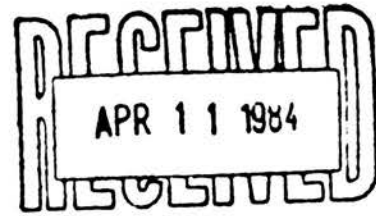
Yours very truly,

Felix A. Cacchione

FAC/oh



MINISTER OF LABOUR AND MANPOWER
PROVINCE OF NOVA SCOTIA
B3J 2T8



FC 212

April 11, 1984

Mr. Felix A. Cacchione
LAMBERT & CACCHIONE
1649 Hollis Street, Suite 903
Halifax, Nova Scotia
B3J 2R7

Dear Mr. Cacchione,

I am writing in regard to the letter you received from Honourable Ron Giffin, Attorney General, dated March 6th, concerning Mr. Donald Marshall.

In this letter, Mr. Giffin indicated that the provincial Department of Labour and Manpower would be able to provide a training opportunity for Mr. Marshall to upgrade his training towards journeyman status as a plumber.

Since we have not heard from you or Mr. Marshall, and the course is scheduled to begin on Monday, April 16th, we are quite anxious to ensure that the position is filled.

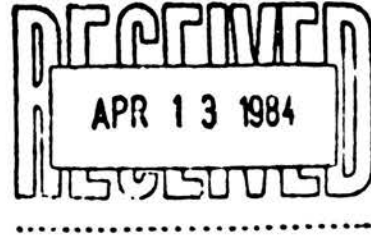
Could you please let me know as soon as possible whether or not Mr. Marshall is interested in taking this course.

I look forward to hearing from you.

Yours very truly,


David Nantes

DN/ak



**Attorney General
Province of Nova Scotia**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

FC 36

902 424-4044
902 424-4020

File Number 09-84-0164-09

April 13, 1984

Mr. Felix A. Cacchione
Lambert & Cacchione
Ste. 903, 1649 Hollis St.
HALIFAX, Nova Scotia
B3J 2R7

Dear Mr. Cacchione:

Further to my letter, of April 4, 1984, I am now enclosing herewith a Government of Nova Scotia cheque in the amount of twenty-five thousand dollars (\$25,000.00) payable to Donald Marshall, Jr., and would appreciate your acknowledging receipt on Mr. Marshall's behalf in due course.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Ronald C. Giffin".

Ronald C. Giffin

Enclosure

CHEQUE NO OUR REFERENCE	PROVINCE OF NOVA SCOTIA Department of Finance, P.O. Box 187, Halifax, N.S. B3J 2N3 DESCRIPTION	AMOUNT
E 078535 13/84	007010 250000 O.I.C. # 84-434	25,000.00
		25,000.00

PROVINCE OF NOVA SCOTIA
DEPARTMENT OF FINANCE
HALIFAX



NOVA SCOTIA
E 078535

TO THE BANK OF NOVA SCOTIA
MAIN BRANCH
HALIFAX N.S.

VENDOR CODE: MAR 60484
PAY TO THE ORDER OF:

CHEQUE NUMBER: E 078535
DAY: 13 / MONTH: 04 / YEAR: 84

AMOUNT: *****\$25,000.00*****

HORFIELD MARSHALL, JR.
649 JOLLIS ST.
PO BOX 908, HALIFAX, NS.
B3J 2R7

[Signature]
MINISTER OF FINANCE

⑆0078535⑆ ⑆70003⑆002⑆ 011114⑆14⑆

DEPUTY MINISTER OF FINANCE
[Signature]

Delivered by hand to
Karen - April 13th
[Signature]

April 13, 1984

HAND DELIVERED

Mr. Donald Marshall, Jr.
c/o Karen Brown
Royal Bank
George Street
Halifax, Nova Scotia

Dear Donald:

Please find enclosed herewith a cheque in the amount of \$25,000 made payable to you from the Government of Nova Scotia together with a copy of the letter from Mr. Giffin dated April 13, 1984.

I am also enclosing a copy of Mr. Nantes' letter dated April 11, 1984.

Yours very truly,

Michael A. Lambert

/oh
enc.

April 27/84

Donald Marshall

930-10⁰⁰
 Tlc to John Coffey - will act as trustee for DM Jr.

- Citizen's Comm - will press for judicial
 inquiry after Elsayy appeal.

- will try to run ad in Cape Breton Post
 & BrS. Daily News

- cross country check up

- writing to Campbell J. re presentation by
 Concerned Citizens in a public forum.

9-4544

Apr 27

402

Meeting in NANTUCKET, PETER COATS.

FC 212

$\left\{ \begin{array}{l} 1700 ?? \\ 2000 \pm \end{array} \right\}$ hours credited = 1710 Actual
8000 - needed.

NEIT - "hands on" training
- credited for hours.

- 8 am \rightarrow 5 pm.
hour for hour credit.

- laid off apprentice

Jim HAWLEY - Apprenticeship Board,
Union.

* EMPLOYER

- another course. Sept. / Oct.

Theory - Block Classes.

Preference for Wk. for classes

It (benefits or) Training Allowance.

Exam to place i.e. see where
should be slotted in.

403

09-84-0256

AG 212;

complete

HUGH MACINTOSH - MARSHALL INQUIRY - CALLED

HE WANTS TO KNOW IF THERE IS ANY UPDATE ON MATERIAL
RE 1976 UK INQUIRY PROCEDURE. ANY MAIL SHOULD BE SENT
TO SPEAKER'S OFFICE, CAMPBELL INQUIRY, c/o JOAN KELLY

Haye



404

AG 215

The Speaker

Administration

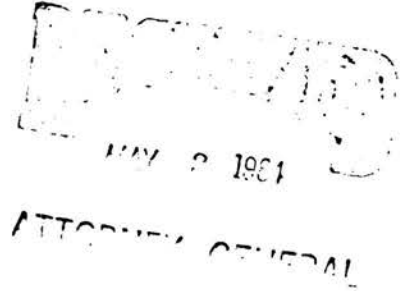
PO Box 1617
Halifax, Nova Scotia
B3J 2Y3

902 424-4478

May 3, 1984

PERSONAL AND CONFIDENTIAL

The Honourable Ronald C. Giffin, Q.C.
Attorney General
Province of Nova Scotia
3rd Floor
Provincial Building
Halifax, N. S.



Dear Mr. Giffin:

Further to our telephone conversation of this morning regarding the Marshall Inquiry of Justice Alexander Campbell, I am enclosing a prepared statement from Mrs. Kelly outlining her involvement to date.

My concern regarding this Inquiry is budgetary and it would appear from the initial stages that a substantial budget will be necessary. I have enclosed a preliminary budget from Justice Campbell but it fails to include some major expenditures which will be required. I submitted to Management Board a budget of \$160,000. based on information made available, however, this will fall short of the funds required if the present practice is to be continued.

Would you please review the enclosed and advise me of the direction that should be followed.

Yours very truly,

S. Myves Rector,
Director of Administration

SMR/jmk

ENCLOSURES

uj-84-0256-01

May 7, 1984

Mr. Hugh MacIntosh
Speaker's Office
Campbell Inquiry, c/o Joan Kelly
Toronto-Dominion Bank Bldg.
Halifax, Nova Scotia

Dear Mr. MacIntosh:

Pursuant to your recent inquiry I wish to advise that there is no updated material in regard to the 1976 UK Inquiry procedure.

Yours very truly,

Gordon S. Gale
Director (Criminal)

GSG:jd

Chairman fee 1000
 Jan 513.00 1500
 Hotel 5 x 60 300

Courses
 Sec'y 11 x 10 40,000
 Exp fee 1,000
 Travel 10 x 300 3,000
 Hotel 10 x 60 6,000

Sec 5000
 Copies 2000
 League 10,000

92,300

MARSHALL'S League 4 x 10

40,000
132,300

Part 2

Ch - 15 x 100 1500
 Exp - 5 x 300 1500
 Comm 2 x 10 20000
 - Exp 3000
 Sec 2000
 Prof 20,000
 Misc 5,000

53,000

Marshall's Comm 2 x 10

20,000
200,000

Witness - 210,000

210,000

This sheet was presented to Mr. Rector by Mr. MacIntosh. Mr. MacIntosh referred to it as Justice Campbell's preliminary budget.



**Department of
Attorney General**

Deputy Attorney General

Gordon F. Coles O.C.

PO Box 7
Halifax, Nova Scotia
B3J 2L6

902 424-4223

File Number

09-84-0256-01

May 8, 1984

Mr. Hugh D. MacIntosh
Legal Counsel
Commission of Inquiry on
Compensation for Donald Marshall, Jr.
P. O. Box 1617
Halifax, Nova Scotia

Dear Mr. MacIntosh:

Re: Order in Council #84-297
Appointment of Honourable Mr. Justice A. B.
Campbell a Commissioner under the Public
Inquiries Act

The Attorney General has discussed with me the Commissioner's letter of March 26th and the Commissioner's budget estimates of \$210,000.00 and has asked me to reply to you in these matters. Before dealing with the budget submission, I shall reply to the Commissioner's letter of March 26th.

The Public Inquiries Act is the authority for the Governor in Council to appoint a person to inquire into and consider any public matter in relation to which the Legislature of Nova Scotia may make laws. The subject matter of the Inquiry is as set out in the Order in Council and in this particular matter the Commissioner is asked to "inquire into and report his findings to the Governor in Council respecting ex gratia payments of compensation, including legal costs, which should be paid to Donald Marshall, Jr., as a result of his incarceration in jail for a crime of which he was subsequently found to be not guilty". (underlining mine)

In my opinion the purpose and scope of this Inquiry is limited to the matter of compensation, including legal

costs, and is confined to a consideration of ex gratia payments eliminating the necessity of any consideration of negligence or wrongdoing. The starting point is with the subsequent Court of Appeal judgment which directed the "not guilty" verdict and the resultant decision of the Governor in Council to determine whether in the absence of any tort action by or on behalf of Mr. Marshall that the public nevertheless ought to make ex gratia payments of compensation and if so, the rationale for doing so and the amount and form which such compensation might take. I think it important for me to express this opinion and my interpretation of the Order in Council since I do not think the mandate to the Commissioner extends to an inquiry into the processes whereby Mr. Marshall had been found guilty of the crime for which he was subsequently found not guilty. Once it is determined that it is in the public interest as well as that of Mr. Marshall that he be compensated in a financial way for the period of incarceration, then the procedure of the Inquiry need not be too unlike an application for an assessment of damages. It would appear from the Commissioner's interim recommendation that an ex gratia payment of \$25,000.00 be advanced to Mr. Marshall that he has satisfied himself on the question whether an ex gratia payment of compensation should be made in the circumstances, although his interim recommendation did not set forth any findings or rationale for such a recommendation which he presumably intends to set forth in his final report to the Governor in Council. It would follow, therefore, from what I have expressed that the procedure which needs now to be considered is a determination of the factors on which a recommendation for compensation can be made and the amount and form of such compensation.

Following the analogy of an application for an assessment of damages and the Commissioner's invitation for our comments in his letter of March 26th, I would suggest the following:

1. That persons having a direct interest in the matter be invited to participate and make submissions;
2. A time and place be set affording Mr. Marshall the opportunity to give testimony in respect to relevant matters to be considered in the determination of compensation;
3. That the interested parties who are invited to participate and/or make submissions be given a time frame in which to make any such written submission;

4. Consideration might be given to a further meeting to enable the interested parties to make further oral submissions which they may think appropriate in response to the submissions by the other parties.

To elaborate briefly on the foregoing, I think it important initially to identify the interested parties and limit participation to them. In my opinion parties having a direct interest and whose interests are relevant to the subject of the Inquiry are:

Mr. Donald Marshall, Jr.

Possibly Mr. Donald Marshall, Jr.'s parents because of his age at the time of his conviction; and

The Attorney General representing the public interest rather than the Crown in its prosecutorial capacity.

Because Mr. Ebsary's appeal of his conviction in this matter has yet to be heard and it is possible should he succeed on his appeal that a new trial may be ordered, it is most imperative that in proceeding with this Inquiry at this time that it not in any way affect either Ebsary's appeal hearing or any subsequent proceedings arising out of the death of Mr. Seale. This is a very sensitive and important consideration which must be paramount in the conduct of this Inquiry pending the disposition of Mr. Ebsary's appeal. Because of this and the nature and scope of the Inquiry, we are of the opinion that there is no need for either public hearings or for the limited testimony contemplated in step 2 to be given in an open hearing.

In respect to the foregoing step 2, it will be necessary for the Commissioner to have testimony from Mr. Marshall as to his school standing at the time when he was initially charged with the offence and testimony as to the effect the period of incarceration had on him and the effect which it had on his employment or other opportunities to be gainfully employed since his release from incarceration and subsequent to the reversal of his conviction. Documentary evidence, or if necessary testimony, of the educational and/or training opportunities available to him in prison and his record of response and achievement related thereto should also be available to the Commissioner so that he has before him a profile of Mr. Marshall during the eleven years of incarceration covering the age period of approximately 16 - 27 years

that will enable the Commissioner to make a proper assessment of the factors which he thinks appropriate to be taken into account in such a determination. Mr. Marshall may also wish to have testimony presented by his parents and others who might be able to attest to any potential talents and skills which he manifested and the development of which were interfered with by reason of his incarceration. If Mr. Marshall's pre-sentence reports and subsequent penitentiary reports and records can be received by the Commission in documentary form, there would not seem to be any need to call persons as witnesses for the purpose of introducing such records. If counsel for Mr. Marshall is desirous of making an opening statement before examining Mr. Marshall on the matters alluded to for the purpose of assisting the Commissioner on the factors which he ought to take into account in determining the matter of compensation, I would think counsel ought to be able to do so at this time and the Commissioner take such opening statements under advisement as he should see fit. I would not envisage the Attorney General assuming any kind of adversarial role in such a hearing other than to make certain that relevant factors concerning Mr. Marshall's educational background and standing up to and including the time of his arrest and the opportunities available and those which he availed himself of during his incarceration are known to the Commissioner.

In respect to the conduct of this hearing, I would think that Mr. Marshall's counsel would lead and examine his client and others whom he thinks have relevant testimony to offer in support of his claim for compensation. Counsel for the Commission and counsel for the Attorney General should have the right to question Mr. Marshall and any other witnesses for the purpose of adducing additional evidence for the assistance of the Commissioner. Of course if evidence should be led by or on behalf of Mr. Marshall which may be questionable, the Commission's counsel or counsel for the Attorney General should have the right to cross-examine on such evidence and if need be, permitted to introduce rebuttal evidence.

In respect to compensation for legal costs, I would not think any testimony would need to be given. The Commissioner will need to be aware of the statutory provisions of this Province providing for legal aid and will need to consider whether Mr. Marshall is entitled to be provided with legal aid at public expense over and above the provisions of the Legal Aid Act. If he should come to such a conclusion then it seems to me

that he would need to determine whether such legal aid should be on a party to party basis or solicitor and client basis and include in his recommendations any such finding and if there be such a finding he presumably would suggest that the bill submitted be taxed before the Taxing Master. If, on the other hand, he concludes that Mr. Marshall is not entitled to be reimbursed his legal expenses by the public other than in accordance with the provisions of the Legal Aid Act, then presumably he will recommend that Mr. Marshall's legal bill be submitted to the Legal Aid authorities for appropriate taxation.

In respect to step 3, all the parties having had the benefit of hearing the testimony adduced in step 2 would then be in a position to make written submissions as to the appropriate weight and consideration that might be given to the factors that may be alluded to by counsel for Mr. Marshall, the amount of compensation and the form which it might take. Presumably the Commissioner may also wish to refer such testimony to an actuary for the purpose of an actuarial analysis and opinion taking into account the testimony relating to Mr. Marshall's educational standing, age, employment prospects, etc., during the period of incarceration.

My purpose in suggesting the fourth step is to afford the interested parties, either personally or by their counsel, an opportunity to make further oral submissions in response to the written submissions of the other parties for the further assistance of the Commissioner.

To comment briefly on the other points raised in Mr. Justice Campbell's letter, I have considerable difficulty in understanding how the police investigation would be relevant to the mandate of this Inquiry, particularly since the Commissioner, by his interim recommendation, must be understood to have concluded that Mr. Marshall is entitled to ex gratia payments of compensation by reason of his incarceration. As I have stated earlier, the remaining question is the amount and form which the Commissioner recommends it take.

I understand that you have available the reports and other material that is available to us from the New Zealand Inquiry and the English Home Office Inquiry. In respect to the former, I do not think it is particularly helpful since you will note that the matter of compensation was only one of six terms of reference referred to the Inquiry which was much more investigative in the matter than the scope of the above captioned.

To turn now to the budget submission, I restate what I

communicating verbally, namely that the projected budget and its cost implications are much greater than what might reasonably be anticipated or justified for such a limited Inquiry.

Specifically we have great difficulty appreciating counsel fees of \$10,000.00 per month, apart from expenses, for a period of six months having regard to what we consider the limited scope of this Inquiry, the required research and the role of the Commission counsel in assisting the Commissioner in the discharge of his mandate. Similarly we think the amount estimated for travel to be on the high side.

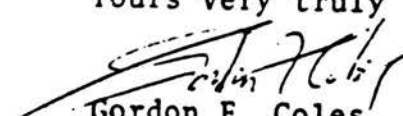
The estimated fees for Mr. Marshall's lawyer at the rate of \$10,000.00 per month for six months is totally unacceptable and seems to me to be at variance with the practice in such matters. We are not authorized to retain Mr. Marshall's lawyer nor to guarantee him costs. In recognizing this Inquiry is specifically concerned with the compensation of Mr. Marshall, it is not unreasonable to expect him in his submission to ask that consideration be given to the payment of his legal fees in attending upon and making submissions to the Commission. It seems to me that this may be one of his submissions which the Commissioner will have to consider and, if he is favourably disposed to such submission, include it in his recommendations to the Governor in Council setting out whether such payment ought to be on a solicitor/client or other basis and an amount fixed or subject to taxation.

Apart from the budget estimates, I understand from Mr. Rector that you have requirements for quite an extensive list of services, facilities and supplies. It seems to me that these budget estimates, services, facilities and supplies need to be reconsidered in the context of what if necessary and reasonable and discussed with the Attorney General before being acted upon.

As I stated in our recent telephone conversation, the budget estimates and their implications are matters of very serious concern to the Attorney General and he is most desirous of meeting with Mr. Justice Campbell at the earliest in respect to these matters.

I understood that you would be communicating these concerns to the Commissioner and hopefully he will agree that everything be "put on hold" until he has an opportunity to speak to the Attorney General in respect to these matters.

Yours very truly



Gordon F. Coles

c.c. Honourable Ronald C. Giffin, Q. C.

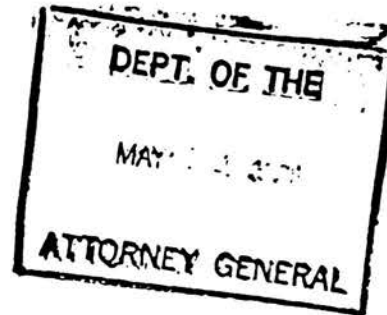
**The Speaker**

Administration

PO Box 1617
Halifax, Nova Scotia
B3J 2Y3

902 424-4478

May 10, 1984



Mr. Gordon Coles
Deputy Attorney General
Provincial Building
Halifax, N.S.

Dear Mr. Coles:

It is my understanding that you and Justice Campbell may be having a meeting and one of the items to be discussed is budgets.

The estimate submitted to Management Board was only a guide based on the limited information available and with some knowledge gained from other inquiries, and was meant to obtain interim funding only in order for me to meet some commitments that were already in place. It was my understanding that discussions with Justice Campbell would take place upon his return to formulate a more concrete budget.

If there is any other information required please advise.

Yours very truly,

S. Myles Rector
Director of Administration

SMR



AG 101

COMMISSION OF INQUIRY
ON
COMPENSATION FOR
DONALD MARSHALL, JR.

JUSTICE ALEXANDER B. CAMPBELL
COMMISSIONER

P O BOX 1617
HALIFAX, NOVA SCOTIA
B3J 2Y3

May 15, 1984

Mr. Gordon Coles, Q. C.
Deputy Attorney General
3rd Floor
Provincial Building
Halifax, N. S.

Dear Mr. Coles:

Re: Wed. May 16, 1984
10:00 to 12:00
Suite 203B
1649 Hollis Street

Dear Mr. Coles:

A proposed Agenda accompanies this note. I have fleshed out this document more than might normally occur to expose the areas for discussion as fully as possible. In doing so, I have put down anything that came to mind without evaluation of its importance or probable utility. The objective is to identify both those matters upon which there may be agreement and those upon which the Commissioner will have to rule and to give advance warning on those.

The agenda is a point of departure only. I invite suggestions for inclusion or deletion. A telephone call to me in advance would be helpful.

Yours truly,

A handwritten signature in dark ink, appearing to read "Hugh D. MacIntosh", is written over a light-colored background.

Hugh D. MacIntosh

HDM/jmk

ENCLOSURE

Agenda

Wednesday, May 16, 1984, 10:00 a.m.

- Summary:
1. Facilities for Oral Testimony
 2. Documentary Evidence
 3. Expert Reports and Testimony
 4. Presentation of Evidence and Submissions

1. Facilities:

- (a) Venues other than Halifax desired?
- (b) Halifax: Public Archives/Law School/Law Courts?
- (c) Degree of Publicity what desired as closed?
television?
- (d) Official transcript Hansard?
Court Reporter?
Custody and Identification?
Frequency of transcript?
- (e) Technical Arrangements
seating?
microphones and sound system?
administration of oath - form?
by whom? clerk? (who)
audiovisual or other aids needed?
- (f) Sitting Dates - June July
Times 10:00 12:00 1:30 4:30?
Off Days
- (g) Opening Day

2. Documentary Evidence

- (a) Exchange?
- (b) Marking and Identification
in advance?
copies in place of originals?
- (c) Commission appointment?
Ad of Hearing?
- (d) Proof of period of "Incarceration"? and locations?
Previous and Subsequent Residence? (Affidavit?)
- (e) Identity of "crime" and N.S.C.A. Order Acquittal.
- (f) Legal Accounts of D.M. (Affadavit?)
- (g) Public Records?: Trial Transcripts? How Much?
: Newspaper accounts before/after?
: Stats Can?
- (h) Records for which subpoena requests?

A E C I

- (i) D. M. Records (Affidavit?)
 - Vital Statistics?
 - Education (transcripts)?
 - Medical? (Remands?, Dorchester? Subsequent?)
 - Tax?
 - Payroll?
 - Social Services and Unemploy.?
 - Dorchester - discipline? visitations?
 - Parole Reports?
 - Presentence report? Prior Conviction?
 - letters?
- (j) Membertou "Community Profile":? 1971? Present?
D. M.'s brother?
- (k) Trust Fund constituting documents and statements?
- (l) Canada Pension Plan effect?
- (m) Veteran's Affairs/Royal Can. Legion - P.O.W. compensation?
- (n) Social Services benefit levels.
- (o) Interest rates

3. Experts

- (a) - Medical? Identities? Other Exam of D.M.?
- Actuarial? Identity?
- Economic, Statistical or Accounting? - Identities?
- Legal Costs "Taxation Officer"? Sol./Client or other basis?
- Other?
- (b) Written Reports
 - prior submission? When?
 - sufficient alone? Notice?

4. Presentations and Submissions

- (a) What paper prior to June 18?
- (b) Written Submission on: Scope? Oral? When? *punitive damages*
: Other Jurisdictional Points?
- (c) Outline of Case and list witnesses - Deadline?
- Amendment and Additions?
- (d) Scheduling of Witnesses? In Camera Sessions?
- (e) Travel Expenses and Other Disbursements, fees of witnesses?
D. M. expenses?

- (f) Extent to which Evidence Act and Law of Evidence apply?
(eg. direct exam. limitations)
recall of witnesses.
- (g) What rulings on Procedure desired?
- (h) Subpoenas needed?
- (i) Counsel for D. Marshall Jr. to lead evidence off with
presentation of case for compensation? including D. M. testimony?
- (j) Commission Counsel outline?
- (k) Order of Examination and who last?
- (l) Exclusion of Witnesses while not testifying?
- (m) D. M. Sr.? D. M. Sr.'s (company) financial (bus.) statements?
- (n) Aronson?
5. Miscellaneous Relevant caselaw to read?
Other R. Comm. Inquiries?
- D. M. Contacts
- John Howard Society rep.?
 - Minister?
 - Band Chief or other Membertou rep.?
 - Dept. of Indian Affairs?
 - Inmate acquaintances
 - former teachers, school or sport acquaintances?
 - parole officers?
 - Correctional Services personnel?
 - Subpoenas needed?



COMMISSION OF INQUIRY
ON
COMPENSATION FOR
DONALD MARSHALL, JR.



FC 38

JUSTICE ALEXANDER B. CAMPBELL
COMMISSIONER

P.O. BOX 1617
HALIFAX, NOVA SCOTIA
B3J 2Y3

May 11, 1984

M/s Lambert & Cacchione
Barristers & Solicitors
1649 Hollis Street Ste. 903
P.O. Box 547
Halifax, N.S.
B3J 2R7

Attention: Felix A. Cacchione, Esq.

Dear Mr. Cacchione:

Re: Donald Marshall, Jr.
Order-in-Council No.84-295

This letter continues my exploration of possible appropriate procedures raised by my letters to you of March 23 and March 26 and your replies of April 3 and April 6, 1984. I appreciate your patience in the delay in replying that my absence from the country made unavoidable.

Final decisions on at least some procedures will be made after Mr. MacIntosh reports to me on his meetings slated for May 16. You indicated in your letter of April 6 that some possibility exists that would allow the presentation of some evidence to be expedited. One objective of Mr. MacIntosh's meeting will be to seek agreement to the admission of documentary evidence and submissions in advance of legal argument on the scope of the inquiry's authority.

In connection with the scope of the inquiry, you will appreciate that I am governed by the terms of my appointment as Commissioner. I do not desire to make decisions unilaterally on this subject without input from those who wish to make representations. I understood from our discussion in Halifax that you believed that the police investigation that preceded the prosecution was relevant to the terms of my appointment and that

Felix A. Cacchione
May 11, 1984

419

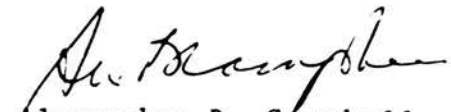
FC 38

Page 2

"compensation" could extend to the equivalent of exemplary damages. My letter of March 23 was not a decision that evidence of the police investigation or original trial could be submitted. The letter was exploratory and directed to when oral argument in support of a written submission might be entertained.

Mr. MacIntosh will take up the subject of legal costs with you and, in particular, how an "expert" opinion on this could be obtained. Mr. MacIntosh has expressed to me concern that the Ebsary hearings referred to in Item C on page 3 of your April 6 letter might not fall under the words "result from incarceration, etc.". Again, this indicates that these and other matters that arise will need a formal submission in advance of the public hearing.

Yours very truly,


Alexander B. Campbell
Commissioner

:jp

420



FC 39

COMMISSION OF INQUIRY
ON
COMPENSATION FOR
DONALD MARSHALL, JR.

JUSTICE ALEXANDER B. CAMPBELL
COMMISSIONER

P.O. BOX 1617
HALIFAX, NOVA SCOTIA
B3J 2Y3

424-5317

May 15, 1984

Mr. Felix Cacchione, Esq.
Lambert & Cacchione
1649 Hollis Street
Halifax, N. S.

Re: Wed. May 16, 1984
10:00 - 12:00
Suite 203B
1649 Hollis Street

Dear Mr. Cacchione:

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Yours truly,

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Hugh D. MacIntosh

HDM/jmk

ENCLOSURE

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 2. Documentary Evidence
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 - Dorchester - discipline? visitations?
 - Parole Reports?
 - Presentence report? Prior Conviction?
 - letters?
- (j) Membertou "Community Profile":? 1971? Present?
D. M.'s brother?

(k) Trust Fund constituting documents and statements?

(l) Canada Pension Plan effect?

(m) Veteran's Affairs/Royal Can. Legion - P.O.W. compensation?

(n) Social Services benefit levels.

(o) Interest rates

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D. M. expenses?

*Print all cases
023
for judge's use*

- (f) Extent to which Evidence Act and Law of Evidence apply?
(eg. direct exam. limitations)
recall of witnesses.
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- former teachers, school or sport acquaintances?
- parole officers?
- Correctional Services personnel?
- Subpoenas needed?

May 16/54

Meeting in Cotes., Ender & MacIntosh

Cotes-

Commission - should decide what is necessary
who should be called

ass. of damage

- evid to be lead by Comm. court.

∴ Comm is different because it applies to one person

- DM should lead evid.

MacIntosh

- A.C. in omnium

Cote

- starting point is incarceration
interpretation of terms of reference.

- Comm should indicate where his starting point is
so that counsel can argue for broadening or
narrowing of scope.

June 18 - to advise Comm re progress of negotiations

AG 278

09-84-0256-01

May 16, 84, 10⁰⁰ amMeeting, Hall's Bldg.
w/ Hugs, MacIntosh, J. Coles, Felix, myself.

- Gordon:
- ① an effort to offer Comm. our views.
 - ② Meeting should be considered confidential.
 - ③ we are talking about an inquiry, not an ordinary adversarial hearing.
 - ④ Comm. has say as to what he wants to hear + from whom.
 - ⑤ Normally Comm. would do this through his own counsel.
 - ⑥ But, this is unique; we are talking about one persons claim only, not a general inquiry. So in fairness to the other side his counsel should lead evidence. Comm. counsel should then cross ex. + A.G.'s lawyer would protect public interest.

MacIntosh: I know the Comm. better than you. He tries to accommodate people as far as possible, i.e. let people have their say.

Felix: agrees \bar{c} Coles, proposing that Commission bring before it the evidence it wants to hear; the Burden should not rest \bar{c} Marshall, but Comm.
 But Marshall should be allowed to lead such evid. as he feels is relevant.

How can we look at this as an "assessment of damages" unless we go into the police investigation, the charges, etc.

MacIntosh: seems sympathetic to Felix's proposal on the scope of the inquiry.

He feels that Comm. would like to have submission on scope of inquiry.

Gordon: reads from O.I.C. say: that starting point is with the incarceration - we cannot agree that Comm. may consider police involvement + matter of conviction;

Felix: I don't agree that quantity of loss begins \bar{c} incarceration; the evidence was stacked

- the man was innocent
when arrested + put on re-
mand;

R. said don't you agree that the
matter of the police action
goes to primitive damages
only; Felix agrees

Gordon: if there is any difficulty
in understanding the
terms of reference that
is a matter of concern
to the Comm. We
make submission + he decides
how far he can go.

Note
Can we
clarify terms of
reference
by D.I.C.

Gordon: We have right to hear from
Comm. what his starting
point is - incarceration,
before, or what.
We must know from him
where he starts.

MacIntosh: - moves away from scope of
inquiry.
- goes into question of
information that is available
+ how it is to be gathered.
i.e. Prison Records
Certif. of conviction, etc.

- Gordon: we would make available whatever we can i.e. prison records;
- Felix: there won't be much especially if you start at incarceration.
- I can make available psycholog. reports from the institution which we want to challenge & our own psychologists.
 - internat. covenants,
 - med. reports of an unbroken wrist which went untreated for 8 years.

Gordon: we don't see view involvement of A.G. as essentially adversary. I would expect Comm. to tell us who the witnesses are + what documentary 'evidence' it requires.

Commission should require 'parties' to make expert reports available before hand;

Felix: Commission Council should draft a shopping list + we can then check-off what we have.

Felix: we can't decide on what is relevant until we know what the ~~scope~~^{scope} is;

Mac S.: some sort of written statement should be provided on scope; i.e. where do we start.

Gordon: I see no issue O.I.C. is clear; but if Comm. sees an issue then he should let us know + give us a chance to respond - I have no reason to think that he feels that the starting point is \bar{c} incarceration or before

Felix: Why spend all this money \bar{c} the inquiry - why not settle the amount we can all agree on - and close the Book.

Gordon: I don't reject this but rationale for the inquiry was to distinguish Marshall from the ordinary case of ~~an~~ a person acquitted by C.A. for ~~ex~~ example.

Felix: doesn't accept rationale. feels the inquiry is going to drag on "look at Grange".

Felix: why not make us an offer + put the matter behind us; avoid paying \$200,000., say, for the inquiry.

Campbell could look at some of the material and help us to arrive at a settlement.

* to
make
recommendation;

Turn this rather into an arbitration say - (that is to have broader power than merely * suggested that a special act could be passed, to make this unique.

Jordan: I am not adverse to this + can take this to my man.

MacD: Whether you need the Comm. to do anything like this?

Felix: the government may not accept the Report + Recomm. of the Commissioner.

Felix: If we go ahead Atkinson wants to be there.

Q. Can you better quantify your case, claim.

Felix: N.Z. 1.3 million
Zimmerman 1 million
Refinancial figures are short of \$400,000.00, but then there are all these nebulous areas.

Gordon:

Re Aronson fees, why shouldn't his be taxed on legal aid scale. Especially when he was told to apply for legal aid. That is a problem for the politician.

Felix:

- Marsh. now in need of psychological assistance,
- it may be advantageous for him to settle now;
- His figure off the top of his head is \$1,000,000.00 inclusive of everything.
- He would be able to give some support for this figure pain + suff., loss to family etc.

R.:

I suggested that he should be able to think of any no. of reasons why a structured settlement would be in his favour, and thus give him a reason to come forward w a reasonable figure.

Note with a structured settlement we could keep this whole thing private!

Note: Mac J. - The Archives have been booked;
 - Hansard has been committed; that may have to be reversed.
 - Public release was to go out this Friday, that June 18th was date Inquiry would commence hearings.

Gordon + Felix: both, June is too early;

Mac J.: 13 July O.K.?

Felix: - prepared to make a private settlement - no disclosure of the terms -
 - when could we hear from him on some figures.

Felix: * suggests June 18th date for advising Comm. whether we are making progress on settlement.

if we make none July 23rd would be date for commencement of hearings.

Mac J.: in meantime he can go ahead w preliminary of gathering documents etc.

Gordon: still feels that Comm.
should let us know
what the scope of the
inquiry is, before we
start:

R. I have problems \bar{c} that.

Gordon: was concerned about
Comm's position should
be indicate, e.g. that
'parties' are negotiating.

Mac's: I see no need to make
any statement;

May 16, 84, 3³⁰

Meeting = Hon. R. Joffin, G. Coles + self:

Gordon informed Min. of proposal to get together to see if we can agree on a figure -

He was agreeable + to Co
Gordon to go ahead; to negotiate
in confidence + without prejudice
towards a settlement.

We have no part. mandate, no figures were mentioned.

We should probably see whether we can come to terms in general and then advise Min. of money required to settle.

Gordon said he would wait til Friday (after Cabinet meeting) ~~before~~ before advising Felix of our general agreement to commence communication to determine if a settlement is possible.

Department of
Attorney General

Deputy Attorney General

George F. Coles O.C.

PO Box 7
Halifax, Nova Scotia
B3J 2L6

902 424-4223

May 17, 1984

File Number

09-84-0256-01

Mr. Hugh D. MacIntosh
Legal Counsel
Commission of Inquiry on
Compensation for Donald Marshall, Jr.
Room 203B, Hollis Building
Halifax, Nova Scotia

Dear Mr. MacIntosh:

Re: The Mandate of Mr. Justice Campbell's
Inquiry in the matter of Compensation
of Donald Marshall, Jr.

Following our meeting of yesterday and our subsequent telephone conversation, I continue to be concerned with your difficulty with what you have referred to as the "scope" of the Inquiry.

Without intending to be repetitive of the views which I have expressed, the terms of reference are those set out in the Order in Council. If these terms are uncertain, ambiguous or otherwise not sufficiently clear for the Commissioner to understand the intent, purpose or nature intended of the Inquiry, then it seems to me incumbent on him to request clarification and, if necessary, an amendment to the Order in Council so as to make the intent and purpose or if you wish the "scope" of his mandate sufficiently explicit.

It is my understanding when the matter was discussed

with Mr. Justice Campbell it was understood there was no intention nor expectation that his Inquiry would extend into any consideration of events affecting Donald Marshall, Jr., prior to "his incarceration in jail for a crime of which he was subsequently found to be not guilty". The "starting point" therefore, for the purpose of determining the amount and form of compensation which the Commissioner may find and recommend is with Mr. Marshall's "incarceration".

Mr. Marshall may have a cause of action for damages as a result of events prior to being sentenced to jail, however, I respectfully submit that the Order appointing Mr. Justice Campbell does not direct him to inquire into such events nor to consider compensation in respect to Mr. Marshall other than as a result of and consequential upon his incarceration. It seems to me the Government has expressed itself on possible ex gratia compensation to Mr. Marshall in respect to his incarceration and has appointed Mr. Justice Campbell to inquire into and make recommendations as to what he may find appropriate by way of compensation to Mr. Marshall in respect to his incarceration.

Accordingly, in my opinion, the mandate of the Commissioner ought not to and need not be a matter of uncertainty or debate among us. If there is any doubt or ambiguity as to the purpose intended or "scope", to use your terminology, then I suggest the Commissioner should seek clarification and an amendment of the Order if it is thought necessary to make the purpose of the Inquiry more explicit.

Yours very truly

Gordon F. Coles

AG 228

May 17, 84

Deputy:

Min. spoke to his colleagues and advised to go ahead to determine if a negotiated settlement is feasible.

> > >

I should contact Felix C. ask that he give us his position in writing and tell him that we are prepared to try and negotiate a settlement by way of ex gratia payment.

Understood that all communication to be private and confidential, without prejudice. Settlement to be all inclusive, no punitive "damages" claim, and to cover period starting with date of incarceration following conviction.

The final figure is to take account of the interim ex gratia payment of \$25,000.00.

We should require a complete final release, if payment can be agreed upon.

AG 228

May 18, 1984

Called Felix C. 12³⁰ not in,
4³⁰ called again.

-Spoke to Felix:

Told him that we are prepared to entertain his submission for a possible ex gratia payment on an agreed to amount.

That all "negotiations" are to be in confidence, without prejudice. ~~He~~ that claim is to start from date of imprisonment + to exclude punitive "damages".

Final figure is to take into account advance of \$25,000.00.

He is to provide us with a proposal in writing, i.e. damage claims set out under "headings"; I asked him when, he didn't know, but soon.

May 23, 1984

Mr. Hugh D. MacIntosh
P.O. Box 2257
Charlottetown
P.E.I.
CIA 8B9

Dear Mr. MacIntosh:

RE: DONALD MARSHALL, JR.

Further to our telephone conversation of May 18, 1984, I am pleased to enclose a packet of information relating to Mr. Donald Marshall's case. Included in this packet is an actuarial table prepared by Mr. Brian Burnell of the Wyatt Company showing the estimated loss of wages for Mr. Marshall during his period of incarceration.

I trust this is to your satisfaction. Due to the volume of materials that we have, it is not feasible for us to photostat them at this point. Should you when you are in Halifax wish to review these matters, please feel free to come up to our office any time.

Yours very truly,

Felix A. Cacchione

FAC/oh
enc.

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FC 1

THE *Wyatt* COMPANY

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AND
PRINCIPAL CITIES
AROUND THE WORLD

July 28, 1983

Mr. Felix A. Cacchione
Barrister & Solicitor
5194 Blowers Street
Halifax, Nova Scotia
B3J 1J4

Dear Mr. Cacchione:

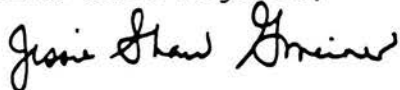
RE: DONALD MARSHALL

Further to your letter of July 5, 1983 and our recent telephone conversation, I am pleased to enclose our preliminary report pertaining to the above.

While the report is essentially self-explanatory, one point deserves further clarification. We are in receipt from you of Labour Agreements dated October 9, 1973, November 20, 1978 and April 30, 1980. The first agreement covers minimum wage rates* from October 9, 1973 to November 1, 1975 while the second covers minimum wage rates* from November 20, 1978 to May 1, 1979, and it occurs to me that there could possibly be an agreement for the interim period to cover the years 1976, 1977 and 1978. In our report we have employed minimum wage rates* effective November 1, 1975 for these latter years, and in any event, our resulting values are on the conservative side if indeed, a new agreement during these years raised the November 1, 1975 minimum wage rate*. If the latter is indeed the case, it is a simple matter for us to modify the values for that period.

Should you have any questions, or if you require further detail, please do not hesitate to contact either Mr. Burnell or myself.

With best regards,



Jessie Shaw Gmeiner, M.Sc.
Actuarial Assistant

JSG/cw

P.S.: I have enclosed a copy of Mr. Burnell's Curriculum Vitae.

* Minimum guaranteed wage rates for journeyman plumbers.

M E M O R A N D U M

TO: Felix A. Cacchione
Barrister & Solicitor

FROM: Brian L. Burnell, F.C.I.A., F.I.A., A.S.A.
THE WYATT COMPANY

DATE: July 28, 1983

SUBJECT: DONALD MARSHALL

In accordance with your instructions we have calculated accumulated values pertaining to Mr. Marshall's anticipated loss of past income and a present value of series of payments pertaining to Mr. Marshall's expected net loss of future income.

BASIC INFORMATION

1. Mr. Marshall's date of birth was September 13, 1953.
2. Mr. Marshall was incarcerated in Dorchester Penitentiary from November, 1971 to March 29, 1982 for a crime of which he was later acquitted.

LIFE EXPECTANCY

In the lack of specific evidence to the contrary, we have no reason to anticipate that Mr. Marshall's life expectancy would be any different to that of any other male of the same age resident in Nova Scotia. Accordingly, we have for the purpose of our calculations used the most recently released Mortality Table in respect of the total population of male lives resident in Nova Scotia. This table was developed by Statistics Canada and is based on mortality during the years 1975-77 inclusive.

On the basis of this table we find that Mr. Marshall's total future life expectancy would be 42.16 years.

AMOUNT OF LOSS OF PAST EARNINGS TO BE VALUED

We have been advised that, while in Dorchester, Mr. Marshall learned the plumbing trade and that he is currently employed in this capacity by the Federal Government (Department of Indian & Northern Affairs) on a term contract at the rate of \$9.00 per hour for a forty hour week.

In the calculation of Mr. Marshall's loss of past anticipated income, had he not been imprisoned, we have assumed that he would

Mr. Felix A. Cacchione
 RE: DONALD MARSHALL
 July 28, 1983

Page 2

have commenced working in November, 1971 at the minimum wage, and then in November, 1973 commenced his apprenticeship as a plumber. We have been advised (Statistics Canada) that the minimum wage from 1971 to 1973 inclusive was as follows:

July 1, 1971: \$1.35 per hour (male rate)
 July 1, 1972: \$1.55 per hour
 July 1, 1973: \$1.65 per hour

Past anticipated loss of income for Mr. Marshall at the minimum wage (forty hours per week, fifty-two weeks per year) from November 1, 1971 to October 31, 1973 has been accumulated with interest (to July 31, 1983) at average annual Chartered Bank 90-day deposit rates, in Table 1, attached. The aforementioned method of calculating prejudgement interest is one of the recommended procedures in Practice Memorandum No. 23. Further, in Table 2, attached, the average annual Chartered Bank 90-day deposit rates we have used in our calculations (Bank of Canada Review) are presented.

The accumulated value of lost of anticipated past earnings for Mr. Marshall for the period from November 1, 1971 to October 31, 1973 is \$17,781. (Table 1).

As mentioned above, we have assumed in our calculations that Mr. Marshall would have commenced as a plumber's apprentice in November, 1973.

According to the Collective Labour Agreements between Construction Association Management Labour Bureau Limited and the Local Unions (Nova Scotia) of the United Association of Journeyman and Apprentices of the Plumbing, Steamfitting and Pipefitting Industry of United States and Canada, October 9, 1973, the minimum wage rates for persons employed under an Apprenticeship Agreement in accordance with the provisions of the Apprenticeship Act were at that time as follows:

1st 6 months: 40% of plumbers' pay exclusive of vacation pay
 2nd 6 months: 45% of plumbers' pay exclusive of vacation pay
 3rd 6 months: 50% of plumbers' pay exclusive of vacation pay
 4th 6 months: 55% of plumbers' pay exclusive of vacation pay
 5th 6 months: 60% of plumbers' pay exclusive of vacation pay
 6th 6 months: 65% of plumbers' pay exclusive of vacation pay
 7th 6 months: 70% of plumbers' pay exclusive of vacation pay
 8th 6 months: 75% of plumbers' pay exclusive of vacation pay
 9th 6 months: 80% of plumbers' pay exclusive of vacation pay
 10th 6 months: 85% of plumbers' pay exclusive of vacation pay

Mr. Felix A. Cacchione

RE: DONALD MARSHALL

July 28, 1983

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We have been further advised (Collective Labour Agreements from 1973 to 1980) that minimum hourly wage rates (exclusive of vacation pay, but including group insurance plan contributions and holiday pay, and as of November 20, 1978, pension plan contributions) were as follows:

October 9, 1973:	\$ 6.33 per hour
November 1, 1973:	\$ 6.58 per hour
May 1, 1974:	\$ 6.85 per hour
November 11, 1974:	\$ 7.10 per hour
May 1, 1975:	\$ 7.41 per hour
November 11, 1975:	\$ 7.70 per hour
November 20, 1978:	\$10.35 per hour
May 1, 1979:	\$11.20 per hour
September 22, 1980:	\$12.50 per hour
May 5, 1981:	\$13.82 per hour
May 5, 1982:	\$15.06 per hour

Based on the above hourly rates and the progressive stages of apprenticeship that Mr. Marshall would have gone through had he commenced as an apprentice plumber in November, 1973 his yearly rates of salary (forty hour week, fifty-two weeks a year) since 1973 would have been as follows:

November 1, 1973:	\$ 5,470.40
May 1, 1974:	\$ 6,406.40
November 1, 1974:	\$ 7,384.00
May 1, 1975:	\$ 8,486.40
November 1, 1975:	\$ 9,609.60
May 1, 1976:	\$10,420.80
November 1, 1976:	\$11,211.20
May 1, 1977:	\$12,022.40
November 1, 1977:	\$12,812.80
May 1, 1978:	\$13,624.00
November 1, 1978:	\$16,016.00 (full rate)
November 20, 1978:	\$21,528.00 (full rate)
May 1, 1979:	\$23,296.00 (full rate)
September 9, 1980:	\$26,000.00 (full rate)
May 1, 1981:	\$28,620.80 (full rate)
May 1, 1982:	\$31,324.80 (full rate)

Past anticipated loss of income for Mr. Marshall from November 1, 1973 to July 31, 1983 employing the above yearly salary rates has been accumulated with interest at average annual Chartered Bank 90-day deposit rates in Table 3, attached. The accumulated value so obtained is \$274,556.

Mr. Felix A. Cacchione

RE: DONALD MARSHALL

July 28, 1983

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AMOUNT OF LOSS OF FUTURE EARNINGS TO BE VALUED

We have been advised that the Local Unions of the United Association of Journeyman and Apprentices of the Plumbing, Steamfitting and Pipefitting Industry of United States and Canada have just recently negotiated a new agreement which will give plumbers an 11% increase in their wage rate this year and additional 11% raises over the next three years. Therefore a journeyman plumber's hourly pay rate (exclusive of vacation pay, but including group insurance plan contributions, pension plan contributions and holiday pay) would be approximately as follows in the future:

Year 1:	\$16.61 per hour
Year 2:	\$18.34 per hour
Year 3:	\$20.25 per hour
Year 4:	\$22.39 per hour

Further in the Collective Labor Agreement, dated September 22, 1980, minimum wage rates for apprentice plumbers were changed to the following:

1st 6 months:	45% of plumbers' rate exclusive of vacation pay
2nd 6 months:	50% of plumbers' rate exclusive of vacation pay
3rd 6 months:	55% of plumbers' rate exclusive of vacation pay
4th 6 months:	60% of plumbers' rate exclusive of vacation pay
5th 6 months:	65% of plumbers' rate exclusive of vacation pay
6th 6 months:	70% of plumbers' rate exclusive of vacation pay
7th 6 months:	75% of plumbers' rate exclusive of vacation pay
8th 6 months:	80% of plumbers' rate exclusive of vacation pay

As mentioned previously in the report, Mr. Marshall is currently earning \$9.00 per hour. This represents approximately 55% of the new journeyman plumbers' wage rate (Year 1). If it is assumed that Mr. Marshall would continue to progress through the various stages of apprenticeship, three years would elapse before he would earn the full journeyman plumber's wage rate. Accordingly, his net loss in the future assuming that he does progress through the apprenticeship given the aforementioned new rates, will be as follows:

1st 6 months:	\$7.61 per hour
2nd 6 months:	\$6.64 per hour
3rd 6 months:	\$6.42 per hour
4th 6 months:	\$5.50 per hour
5th 6 months:	\$5.06 per hour
6th 6 months:	\$4.05 per hour

Mr. Felix A. Cacchione
RE: DONALD MARSHALL
July 28, 1983

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The interest rate we have used in the calculation of a present value pertaining to loss of future income is 11% per annum. We have employed this interest rate since some banks and trust companies are currently selling three year guaranteed investment certificates at this rate.

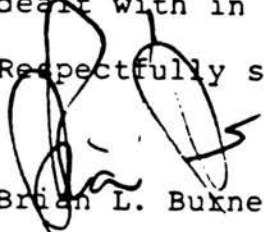
Therefore, the present value of loss of future income for Mr. Marshall over the next three years is \$31,996.

SUMMARY

Loss of income, both past and future for Mr. Marshall has been summarized in Table 4, attached. The total value obtained is \$324,333.

I shall be happy to provide you with any additional explanations or details you may require in connection with any of the matters dealt with in this report.

Respectfully submitted,



Brian L. Buxnell, F.C.I.A., F.I.A., A.S.A.

BLB/cw

Attachment

Mr. Felix A. Cacchione
RE: DONALD MARSHALL
 July 28, 1983

Attachment
 Table 1

LOSS OF PAST INCOME FROM
 NOVEMBER 1, 1971 TO OCTOBER 31, 1973
 AT THE MINIMUM WAGE FOR MR. MARSHALL
 ACCUMULATED WITH INTEREST AT AVERAGE
ANNUAL CHARTERED BANK 90-DAY DEPOSIT RATES TO JULY 31, 1983

<u>TIME PERIOD</u>	<u>AMOUNT</u>	<u>INTEREST</u>	<u>TOTAL</u>
November 1, 1971-December 31, 1971	\$ 234	\$ 511	\$ 745
January 1, 1972-March 31, 1972	702	1,494	2,196
April 1, 1972-June 30, 1972	702	1,456	2,158
July 1, 1972-December 31, 1972	806	1,629	2,435
October 1, 1972-December 31, 1972	806	1,585	2,391
January 1, 1973-March 31, 1973	806	1,543	2,349
April 1, 1973-June 30, 1973	806	1,501	2,307
July 1, 1973-September 30, 1973	858	1,553	2,411
October 1, 1973-October 31, 1973	286	503	789
TOTALS:	<u>\$6,006</u>	<u>\$11,775</u>	<u>\$17,781</u>

Mr. Felix A. Cacchione
RE: DONALD MARSHALL
July 28, 1983

Attachment
Table 2

AVERAGE ANNUAL CHARTERED BANK
90-DAY DEPOSIT RATES

1983	7.63% *
1982	13.74%
1981	18.16%
1980	12.87%
1979	12.98%
1978	8.76%
1977	7.52%
1976	9.34%
1975	9.03% **
1974	8.90% **
1973	7.56% **
1972	7.23% **

* Partial Year

** Estimates

Mr. Felix A. Cacchione
 RE: DONALD MARSHALL
 July 28, 1983

Attachment
 Table 3

LOSS OF PAST PLUMBING INCOME FOR
 MR. MARSHALL FROM NOVEMBER 1, 1973 TO JULY 31, 1983
 ACCUMULATED WITH INTEREST AT AVERAGE
 ANNUAL CHARTERED BANK 90-DAY DEPOSIT RATES

<u>TIME PERIOD</u>	<u>AMOUNT</u>	<u>INTEREST</u>	<u>TOTAL</u>
November 1, 1973-			
December 31, 1973	\$ 912	\$ 1,603	\$ 2,515
First Quarter 1974	1,368	2,328	3,696
Second Quarter 1974	1,524	2,509	4,033
Third Quarter 1974	1,602	2,546	4,148
Fourth Quarter 1974	1,765	2,706	4,471
First Quarter 1975	1,846	2,732	4,578
Second Quarter 1975	2,029	2,897	4,926
Third Quarter 1975	2,122	2,918	5,040
Fourth Quarter 1975	2,309	3,055	5,364
First Quarter 1976	2,402	3,060	5,462
Second Quarter 1976	2,538	3,107	5,645
Third Quarter 1976	2,605	3,061	5,666
Fourth Quarter 1976	2,736	3,078	5,814
First Quarter 1977	2,803	3,047	5,850
Second Quarter 1977	2,938	3,085	6,023
Third Quarter 1977	3,006	3,045	6,051
Fourth Quarter 1977	3,137	3,062	6,199
First Quarter 1978	3,203	2,998	6,201
Second Quarter 1978	3,339	2,995	6,334
Third Quarter 1978	3,406	2,919	6,325
Fourth Quarter 1978	4,446	3,632	8,078
First Quarter 1979	5,382	4,117	9,499
Second Quarter 1979	5,677	4,042	9,719
Third Quarter 1979	5,824	3,844	9,668
Fourth Quarter 1979	5,824	3,541	9,365
First Quarter 1980	5,824	3,279	9,103
Second Quarter 1980	5,824	3,011	8,835
Third Quarter 1980	5,864	2,762	8,626
Fourth Quarter 1980	6,500	2,763	9,263
First Quarter 1981	6,500	2,405	8,905
Second Quarter 1981	6,937	2,185	9,122
Third Quarter 1981	7,155	1,867	9,022
Fourth Quarter 1981	7,155	1,474	8,629
First Quarter 1982	7,155	1,209	8,364
Second Quarter 1982	7,606	1,012	8,618
Third Quarter 1982	7,831	752	8,583
Fourth Quarter 1982	7,831	470	8,301
First Quarter 1983	7,831	196	8,027
Second Quarter 1983	7,831	47	7,878
July 1, 1983-			
July 31, 1983	2,610	-	2,610
TOTALS:	\$175,197	\$99,359	\$274,556

Mr. Felix A. Cacchione
RE: DONALD MARSHALL
July 28, 1983

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Attachment
Table 4

LOSS OF INCOME - PAST AND
FUTURE FOR MR. MARSHALL

Accumulated Loss of Income for
Mr. Marshall from November 1, 1971
to October 31, 1973: \$ 17,781

(Table 1)

Accumulated Loss of Income for
Mr. Marshall from November 1, 1973
to July 31, 1983: 274,556

(Table 3)

Present Value of Loss of Future
Income over the Next Three Years: 31,996

TOTAL LOSS: 324,333

BRIAN L. BURNELLProfessional Qualifications

- 1958 Associate of the Institute of Actuaries
1961 Fellow of the Institute of Actuaries
1961 Associate of the Society of Actuaries
1965 Fellow of the Canadian Institute of Actuaries

General Experience

- 1953 Joined Actuarial Department of Mercantile & General Reinsurance Company in London, England
1959 Transferred to Toronto Office of Mercantile & General
1961 Appointed Assistant Actuary for Canada of Mercantile & General
1962 Appointed Actuary of Maritime Life Assurance Company
1972 Appointed Vice-President and Chief Actuary of Maritime Life Assurance Company
1976 Established own consulting actuarial firm in Halifax under the name of Brian Burnell Actuarial Consulting Limited
1978 Brian Burnell Actuarial Consulting Limited merged with The Wyatt Company, one of the largest independent consulting firms in North America. The combined office for Atlantic Canada (located in Halifax) operates under Mr. Burnell's direction.

DRIAN L. BURNELL

PREVIOUS EXPERIENCE AS EXHIBIT WITNESSIn the Supreme Court of Nova Scotia:

1964 October Murphy vs. MacAdam
 1973 October Bellefontaine vs. Ferron
 1975 December Ginn vs.
 1976 October Macdonald vs.
 1977 April C. Ross Guy vs. Trizec Equities Ltd., Fundy Construction Co. Ltd., and Maritime Form Work Ltd.
 1977 June Lunnon vs. Keach
 1977 October Weaver vs. McCulloch
 1978 October Keating vs. LeBlair
 1979 March Cavanaugh vs. MacQuarrie
 1979 May Smith vs. Avis Transport and Averd Harvie
 1979 July Taltric vs. Bentham
 1979 October Demetre vs. Lockhart
 1980 March Saulnier vs. Leonard
 1980 May Fitzgerald vs. Fitzgerald
 1980 October Shaw vs. Komer and Smith Transport Company Limited
 1980 November Anthony vs. Weare
 1981 February Whitehead vs. F.B. Marine et al
 1981 March Zinck vs. Brake
 1981 April Nogueira vs. Boyd et al
 1981 April Wright vs. Hensler
 1981 April ComEAU vs. Marshman
 1981 May Richards vs. Grant
 1981 October Chisholm vs. Cameron
 1982 February Ramsar vs. Sheppard
 1982 March Nevin vs. Mutch
 1982 June Gould vs. Attorney General of Nova Scotia
 1982 September Power vs. Jacques & Morgan
 1982 September MacEachern vs. Mackenzie
 1982 October Dreer vs. Shane
 1982 November Todd vs. Patterson
 1983 January Burco Insurance Agency & Burgner vs. Mullins
 1983 March Shanks vs. Downing
 1983 April Gunn vs. Matheson
 1983 April Spangale vs. Miller and Keizer Construction Services Limited
 1983 June Callant vs. Oikle
 1983 June Fraser vs. Moss

In the Supreme Court of New Brunswick:

1975 November Dilley vs. Whelby

In the Supreme Court of Prince Edward Island:

1980 February MacLean vs. Canadian National Railways
 1980 May Hutchinsor vs. Pacquet
 1981 October Mountain vs. Hickox

In the Supreme Court of Newfoundland:

1980 June Johnson vs. General Hospital Corporation