

MEMORANDUM OF AGREEMENT MADE THE 2nd DAY OF *January* A.D. 1980

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
(hereinafter referred to as "Canada")

of the First Part

- AND -

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF NOVA SCOTIA (hereinafter
referred to as "Nova Scotia")

of the Second Part

WHEREAS the Parties to this agreement are desirous of assisting in the establishment of a Native Courtworker Programme in Nova Scotia;

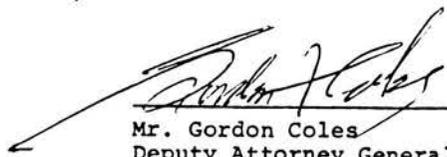
AND WHEREAS funding is needed to provide training for courtworkers and in general to make proper arrangements for the introduction of a Native Courtworker Programme in Nova Scotia;

NOW THEREFORE this agreement witnesseth that the Parties have agreed to the following:

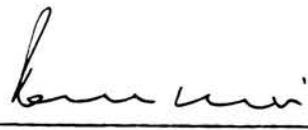
1. For the purposes of this agreement, Canada shall be represented by the Deputy Minister of Justice of Canada and Nova Scotia shall be represented by the Deputy Attorney General of Nova Scotia.
2. A budget covering the costs to be incurred pursuant to this agreement is attached to and forms part of this agreement.
3. The training of Native courtworkers and the arrangements to be made for the introduction of a Native Courtworker Programme shall be carried out by the Union of Nova Scotia Indians as per the attached budget.
4. Nova Scotia shall make available to the Union of Nova Scotia Indians the sum of \$5,000 on or before January 15, 1980 and Canada shall pay to Nova Scotia for transmittal to the Union of Nova Scotia Indians the balance of \$12,465 upon the signing of this agreement.
5. Nova Scotia shall not assign this agreement or any part thereof without the written permission of Canada, but nothing herein contained shall preclude Nova Scotia from enlisting the assistance of others in carrying out Nova Scotia's obligation under this agreement.

6. No member of the House of Commons shall be admitted to any share or part of the agreement or to any benefit arising therefrom.
7. Nova Scotia agrees to keep proper accounts and records of the revenues and expenditures for the subject matter of the agreement, including all invoices, receipts and vouchers relating thereto. Nova Scotia will provide a statement of revenues and expenditures for the period to be filed with the Minister of Justice of Canada no later than April 30, 1980.
8. The financial accounts and other records of Nova Scotia shall be accessible, during normal business hours, to the representatives of Canada or to others appointed by Canada to conduct audits. Nova Scotia shall provide the necessary facilities for the audit and shall furnish all such information as the auditors may require. Nova Scotia will keep all financial accounts and vouchers and other records for a period of at least three years after the expiry of the agreement.
9. Canada agrees to inform Nova Scotia of the financial results of any audit, and to pay to Nova Scotia as soon as possible after the completion of the audit any monies which the audit may show to be then due and owing to Nova Scotia. Nova Scotia agrees to pay to Canada, on being informed of the results of such audit, any monies which the audit may show to be then due and owing to Canada, either by reason of overpayment or otherwise.

IN WITNESS WHEREOF, Mr. Roger Tassé, Deputy Minister of Justice of Canada has hereunto set his hand on behalf of Canada and Mr. Gordon Coles, Deputy Attorney General of Nova Scotia has hereunto set his hand on behalf of Nova Scotia.



 Mr. Gordon Coles
 Deputy Attorney General
 of Nova Scotia



 Mr. Roger Tassé
 Deputy Minister of Justice
 of Canada



 Witness

 Witness

UNION OF NOVA SCOTIA INDIANS

NATIVE COURTWORKER BUDGET

December 1, 1979 to March 31, 1980

Salaries

Executive Director	\$3,750	
Courtworkers - 2 @ \$2,500	<u>5,000</u>	
		\$8,750

Travel

Executive Director	\$1,900	
Courtworkers - 2 @ \$1,600	<u>3,200</u>	
		5,100

<u>Training</u>		1,500
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Administration

Office rental	\$ 400	
Equipment rental	250	
Office supplies	375	
Audit & Bookkeeping	150	
Secretarial services	625	
Employee benefits	<u>375</u>	

2,115

TOTAL

\$17,465

MEMORANDUM OF AGREEMENT MADE THE 17th DAY OF *January*, A.D. 1980

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
(hereinafter referred to as "Canada")

of the First Part

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF NOVA SCOTIA (hereinafter
referred to as "Nova Scotia")

of the Second Part

WHEREAS the Parties to this agreement are desirous of assisting in the establishment of a Native Courtworker Programme in Nova Scotia;

AND WHEREAS funding is needed to provide training for courtworkers and in general to make proper arrangements for the introduction of a Native Courtworker Programme in Nova Scotia;

NOW THEREFORE this agreement witnesseth that the Parties have agreed to the following:

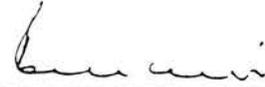
1. For the purposes of this agreement, Canada shall be represented by the Deputy Minister of Justice of Canada and Nova Scotia shall be represented by the Deputy Attorney General of Nova Scotia.
2. A budget covering the costs to be incurred pursuant to this agreement is attached and forms part of this agreement.
3. The training of Native courtworkers and the arrangements to be made for the introduction of a Native Courtworker Programme shall be carried out by the Union of Nova Scotia Indians as per the attached budget.
4. Nova Scotia shall make available to the Union of Nova Scotia Indians the sum of \$5,000 on or before January 25, 1980 and Canada shall pay to Nova Scotia for transmittal to the Union of Nova Scotia Indians the balance of \$12,465 upon the signing of this agreement.
5. Nova Scotia shall not assign this agreement or any part thereof without the written permission of Canada, but nothing herein contained shall preclude Nova Scotia from enlisting the assistance of others in carrying out Nova Scotia's obligation under this agreement.

6. No member of the House of Commons shall be admitted to any share or part of the agreement or to any benefit arising therefrom.
7. Nova Scotia shall enter into an agreement with the Union of Nova Scotia Indians setting out the terms and conditions under which the payments of \$17,465 referred to in Clause 4 of this agreement are being made. The said terms and conditions shall include a requirement for the Union of Nova Scotia Indians to provide Nova Scotia with an independent auditor's report showing how the total payments of \$17,465 have been spent and, a further requirement providing access for Canada to the financial accounts and records of the Union of Nova Scotia Indians regarding payments made pursuant to Clause 4 of this agreement. Nova Scotia shall provide Canada with a copy of the above-noted agreement and the independent auditor's report.
8. Canada shall not hold Nova Scotia responsible for the manner in which Canada's contribution of \$12,465 is managed by the Union of Nova Scotia Indians.

IN WITNESS WHEREOF, Mr. Roger Tassé, Deputy Minister of Justice of Canada has hereunto set his hand on behalf of Canada and Mr. Gordon Coles, Deputy Attorney General of Nova Scotia has hereunto set his hand on behalf of Nova Scotia.



Mr. Gordon Coles
Deputy Attorney General
of Nova Scotia



Mr. Roger Tassé
Deputy Minister of Justice
of Canada



Witness



Witness

The Union of Nova Scotia Indians, through its President, Mr. Stan Johnson, agrees to comply with the obligations placed upon the Union of Nova Scotia Indians pursuant to Clause 7 of this agreement.

Witness

Mr. Stan Johnson
President of the Union of
Nova Scotia Indians

UNION OF NOVA SCOTIA INDIANS

NATIVE COURTWORKER BUDGET

December 1, 1979 to March 31, 1980

Salaries

Executive Director	\$3,750	
Courtworkers - 2 @ \$2,500	5,000	
		<u>\$ 8,750</u>

Travel

Executive Director	\$1,900	
Courtworkers - 2 @ \$1,600	3,200	
		<u>5,100</u>

Training

1,500

Administration

Office rental	\$ 400	
Equipment rental	250	
Office supplies	375	
Audit & bookkeeping	150	
Secretarial services	625	
Employee benefits	375	
		<u>\$ 2,115</u>

TOTAL

\$17,465

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NOVA SCOTIA (hereinafter referred to as "Nova Scotia")
of the First Part

AND:

THE UNION OF NOVA SCOTIA INDIANS (hereinafter referred to as the "Union")
of the Second Part

NOW THEREFORE this agreement witnesseth that the Parties have agreed to the following:

1. For the purposes of this agreement, Nova Scotia shall be represented by the Deputy Attorney General of Nova Scotia and the Union of Nova Scotia Indians by the President of the Union of Nova Scotia Indians.
2. Nova Scotia agrees to forward to the Union any monies received from the Federal Government of Canada immediately upon receipt of same.
3. The Union agrees to the establishment of separate accounting records relating to the operation of the Native Courtworker Program for the period of December 1, 1979 to March 31, 1980. The Union agrees that in addition to the requirements of Section 7 of the Canada-Nova Scotia Agreement executed on the 17th day of January, A.D. 1980 to permit examination of these accounting records relating to the Native Courtworker Program by any member of the Advisory Board.

IN WITNESS WHEREOF, Mr. Gordon F. Coles, Deputy Attorney General of Nova Scotia, has hereunto set his hand on behalf of the Province of Nova Scotia and Mr. Stan Johnson, President of the Union of Nova Scotia Indians has hereunto set his hand on behalf of the Union of Nova Scotia Indians.

*Original signed by Stan
Jan 18/80*

Mr. Gordon F. Coles
Deputy Attorney General
of Nova Scotia

Mr. Stan Johnson
President of the Union of Nova
Scotia Indians

Witness

Witness

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
(hereinafter referred to as "Canada")

of the First Part

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF NOVA SCOTIA (hereinafter
referred to as "Nova Scotia")

of the Second Part

WHEREAS the Parties to this agreement are desirous of promoting the right of every individual to equality before the law and the protection of law;

WHEREAS the inherent dignity and the equal and inalienable rights of all members of the human family in Canada is the foundation of freedom and justice;

WHEREAS it is difficult, if not impossible, to assure equality before the law for Native people in our criminal courts when so many Native people do not understand the nature of the charges against them, the implications of a plea, the basic court procedures and legal terminology, or their right to speak on their own behalf or to request legal counsel;

AND WHEREAS the provision of Native courtworkers in criminal courts in certain localities where there is a substantial Native population would provide great assistance in promoting equality of justice in Nova Scotia;

NOW THEREFORE this agreement witnesseth that the Parties have agreed to the following:

Definitions:

1. In this agreement:
 - a) "approved cost" means the total cost of a courtworker programme as set out in the approved submission for a given financial year;
 - b) "approved submission" means a submission respecting the provision of courtworker services in Nova Scotia for a given financial year which has been approved by Canada and the term includes amendments to an approved submission;
 - c) "carrier agency" means an independent, Native services organization responsible for the administration of a courtworker programme;

- d) "courtworker programme" means a programme of counselling other than legal, to persons charged with an offence under any federal or provincial statute or municipal by-law, in order that such persons may receive information about court procedures, be apprised of their rights, and be referred to legal aid or other resources;
- e) "courtworker area" means a geographic area within Nova Scotia designated as requiring a courtworker programme;
- f) "financial year" means a twelve-month period commencing April 1st in any year and ending March 31st in the following year;
- g) "Native" means a person of North American Indian or Eskimo ancestry, whether he is registered (or entitled to be registered) pursuant to the Indian Act or not.

2. For the purposes of this agreement Canada shall be represented by the Minister of Justice and Attorney General of Canada, and Nova Scotia shall be represented by the Attorney General and Minister of Justice of Nova Scotia.

3. Not later than January 15th of each financial year, Nova Scotia shall prepare and deliver to Canada a written submission respecting the provision of a courtworker programme in Nova Scotia for the following financial year, setting out the courtworker areas, the name or names of the carrier agency or agencies, the number of courtworkers in each courtworker area, the total cost of providing the courtworker services, and any such additional information as Canada may require. A supplementary submission may be made to cover unforeseen circumstances.

4. A submission which has been approved by Canada and such amendments thereto as may be agreed upon by the Parties from time to time shall become part of this agreement.

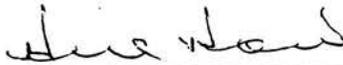
5(1) The following costs necessarily incurred by the carrier agency or agencies shall be shareable under this agreement to the extent that they were paid by Nova Scotia and were fairly attributable to the provision of a courtworker programme as described in the approved submission:

- a) salaries, wages and fees paid for professional, clerical, technical, administrative and maintenance services and casual labour, along with necessary contributions to the Unemployment Insurance Commission, the Canada Pension Plan and the Workmen's Compensation Board;
- b) costs of rent, normal utilities (such as electricity, heat, water, telephone and office equipment) the maintenance of offices, residences or other buildings and taxes;
- c) cost of supplies and materials, shipping charges, stationery, postage, licenses and other fees;

- d) actual and reasonable travelling expenses incurred in the performance of the duty of a courtworker;
 - e) costs of insurance on buildings and materials that are used or are to be used;
 - f) actual and reasonable costs of meetings, including travelling expenses, honoraria and necessary per diem allowances, and in particular the cost of regular national or regional meetings of executive directors of Native courtworker programmes;
 - g) any other costs that Canada may accept as valid and reasonable expenditures in relation to the courtworker programme.
- 5(2) Costs attributable to the following types of activities and counselling services sometimes undertaken by courtworkers shall not be cost shareable under this agreement;
- a) alcohol and drug counselling;
 - b) work normally done by a probation or corrections officer;
 - c) family counselling not related to a criminal prosecution.
6. Canada shall pay to Nova Scotia fifty percent (50%) of the shareable costs of the courtworker programme actually paid by Nova Scotia in accordance with the approved submission, or fifty percent (50%) of the approved cost, whichever amount is the lesser, for each financial year during the term of this agreement.
7. Canada shall make a payment of twenty-five percent (25%) of the approved cost for each financial year on or about October 1st of that financial year and a further payment of up to twenty percent (20%) of the approved cost on receipt and acceptance by Canada of the semi-annual financial report referred to in clause 10(a) for that financial year.
- Canada shall make a final payment of up to five percent (5%) of the approved cost for each financial year on receipt and acceptance by Canada of the claim statement referred to in clause 10(b) for that financial year or at such time and under such other conditions as may be agreed upon by the parties hereto.
8. If Canada through payments to Nova Scotia has paid more than fifty percent (50%) of the actual shareable costs, Nova Scotia shall reimburse Canada in respect of that amount, or Canada may deduct that amount from future payments to the province under this agreement.
9. No payments shall be made by Canada for any financial year until a submission respecting the provision of the courtworker programme in Nova Scotia has been approved by Canada.
- 10(a) Nova Scotia shall submit to Canada no later than December 1st of each financial year a semi-annual financial report setting out the total shareable costs under this agreement for the first six months of the financial year, and an updated forecast of total shareable costs for the final six months of the financial year.

- b) In addition, Nova Scotia shall submit to Canada no later than June 30th of each financial year a claim statement, in such form as Canada may require and signed by the Provincial Auditor, setting out the total actual shareable costs under this agreement for the preceding financial year.
11. All claims submitted under this agreement shall be subject to verification by an auditor appointed by Canada and Nova Scotia shall make available to such auditor any books, records or accounts, including documents of the carrier agency or agencies, which the auditor may require.
12. Nova Scotia shall from time to time provide information for purposes of the continual administrative and evaluative monitoring of the programme by Canada as may be agreed between the parties.
13. Canada, in consultation with Nova Scotia and the carrier agency, shall, at its own expense, carry out a programme evaluation at intervals not longer than three years. Nova Scotia shall ensure that Canada receives the co-operation necessary for these evaluations.
14. Nova Scotia agrees to give adequate and appropriate public recognition to the contribution of Canada towards the Native courtworker programme in its informational activities relating to Native courtworkers.
15. This agreement shall come into force and shall bind the Parties from December 1, 1979 to March 31, 1980, with no commitment beyond March 31, 1980.

IN WITNESS WHEREOF the Honourable Jacques Flynn, Minister of Justice and Attorney General of Canada, has hereunto set his hand on behalf of Canada, and the Honourable Harry W. How, Minister of Justice and Attorney General of Nova Scotia, has hereunto set his hand on behalf of Nova Scotia.



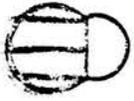
Minister of Justice and
Attorney General of
Nova Scotia

Minister of Justice and
Attorney General of Canada



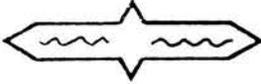
Witness

Witness

**Union of Nova Scotia Indians**

OFFICE OF THE PUTU'S

January 22, 1980

9 

Mr. Gordon Coles
Attorney General's Office
P.O. Box 7
Halifax, Nova Scotia



Mr. Coles:

Attached are our brief comments on Option 3A for our report to Policy Board.

Yours in recognition
of Aboriginal Title,

Sakej

Sakej Henderson
Putu's
Union of N. S. Indians

SH/bjm
Attach.

The Union of Nova Scotia Indians, representing the Bands of Indians in Nova Scotia, have opted for Option 3A for the Reserves. Option 3A is a separate Indian police force in the Province operating solely on Federal Indian Reserves. The particular Indian police force involved is an extension of the Ameridian Police Council, a Federal Corporation operating in Quebec dealing with operations and training of Indian police, into the Reserves located in Nova Scotia. Funding is expected solely from the Federal Government for this limited police force on Reserves in Nova Scotia similar to existing arrangements on Quebec Reserves.

Over the past years, this Force has proven its ability to prevent crime on Indian Reserves. This is due to its administrative competence, its concepts of preventive law enforcements, equipment and capital construction. The Union of Nova Scotia Indians is aware that, at the present, there is a lack of police experience among Indians to administer and operate such a police force; hence, we desire to contract for these services with the Ameridian Police Council on an experimental and demonstration basis. This requires the consent of the Attorney General for the Force to operate as Special Constables under the Police Act.

By associating with an established separate Indian police force, the Indians on the Reserve will see it as independent from politics on the Reserve and an objective police force. As Indian policement from the community are trained and local jails are established on Indian Reserves, the concept of law and order for Band purposes will become more clear.



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John
Union of Nova Scotia Indians

TELEPHONE 758-2048
TELEX 019-34576

MICMAC P.O.
HANTS CO., N. S.
John

July 4, 1980

The Hon. Jean Cretien, P.C., M.P.
Minister of Justice
Room 438-N
House of Commons
Ottawa
K1A 0A6

Dear Mr. Cretien:

Further to our correspondence and negotiations on a Native Courtworkers Program in Nova Scotia, please find attached a copy of a letter from the Native Council of Nova Scotia (Non-status Indians) to the Hon. Harry W. How, Q.C., Attorney General of Nova Scotia.

From this letter you will gather that the Union of Nova Scotia Indians (Status Indians) and the Native Council of Nova Scotia are co-sponsoring the Native Courtworkers Program, and attempting to re-vive our original request for fifty-fifty Federal/Provincial funding. It seems reasonable to us that the two senior governments should find a way to overcome difficulties that are presently preventing cooperative funding action.

We do hope that either you or Mr. How will pick up the phone and break the ice in an effort that will result in positive consideration. Should Mr. How absolutely refuse to negotiate then our only alternative would be to seek 100 percent Federal funding as indicated in my letter dated May 5/80.

This whole exercise has been most frustrating, and its results so far most disappointing. As each day goes by we see more and more of our people become further alienated from the Justice System, without hope of overcoming the dire results of such negative experiences.

Yours in Recognition
of Aboriginal Title,

Stanley Johnson
President

c: Warren Allmand
Chiefs of Nova Scotia
Executive, UNSI

NATIVE COUNCIL OF NOVA SCOTIA

P.O. BOX 1320
TRURO, NOVA SCOTIA
B2N 5N2

236

TELEPHONE: 895-6573
895-6084
TELEX: 019-34503



June 30, 1980

The Honourable Harry W. How Q.C.
Attorney General of Nova Scotia
Legislative Building
Halifax, Nova Scotia

Dear Mr. Minister:

Thank you for your letter dated 25th April, 1980, outlining your Government's attitude towards Native people in general and the Native Court Workers Program in particular.

Both the Native Council of Nova Scotia and the Union of Nova Scotia Indians would agree with you that the British North America Act is the crux of the matter. However, we would respectfully remind you that Native Citizens of the area, now called Nova Scotia, were not consulted in respect to the wording of this Act of the British Parliament, nor were we extended the dignity of being signatories to this document that has so disrupted the Native way of life, and channeled and controlled our people into the distressing state of dependency in which we presently find ourselves.

Furthermore, we would respectfully suggest to you that your reasoning, during our telephone conversation, referred to in your letter, doesn't "hold water"---that should the government of Nova Scotia engage in Federal-Provincial funding for the Native Court Workers Program, people of ethnic origin (Scots, English, Blacks, French, Irish, etc.) would demand similar service. Our contacts through the Multicultural Association of Nova Scotia and elsewhere indicate to us that these people hold extreme good will for Native Citizens and Native Citizens organizations. Such people have an acute awareness of the disruptions to the Native way of life occasioned by the advent of their forefathers to our Shores, and we feel any suggestion that they would play "dog in the manger", by seeking for themselves that which they do not need thus preventing Native Citizens from obtaining that which they do need, is an unjust assessment of the present dominant population of Nova Scotia. Surely, if



.... /2

VICE-PRESIDENT
DWIGHT A. DOREY

PRESIDENT
VIOLA M. ROBINSON

SECRETARY-TREASURER
BARBARA A. BRAKE

Native Citizens have arrived at the stage where we are now seeking redress to enable us to take our part in the White Man's Society, that society has progressed and evolved to the point where an infantile attitude need not be anticipated.

The two senior governments (Government of Canada and the Government of Nova Scotia) have been at "loggerheads" for generations over their conflicting interpretations of the BNA Act. Native Citizens can sympathize with the two senior governments in their failure to come to an amicable conclusion, but we are also very much aware that the two mill stones, grinding against each other, have ground grief for Native People.

The classification of Native People into Status and Non-Status Indians appears to have been arrived at from the conflicts afore mentioned. Previous to this unfortunate labelling we were classified as Treaty and non Treaty Indians. Then some government bureaucrat discovered that Native People in the Nova Scotia area signed no treaties with Immigrant Whites, the Government of the Colony of Nova Scotia, the Government of the Province of Nova Scotia, or the Government of Canada.

The classification itself is an unfortunate visitation on Native People in its divisive results. The Government of the Union of South Africa is not known for its humane legislation, but at least they have left the Black People with their unity; in this particular respect Native Citizens in Nova Scotia have not been so fortunate. However, the Union of Nova Scotia Indians, representing Status Indians, and the Native Council of Nova Scotia, representing non Status Indians, have managed to overcome this undesirable classification, and are working together for common aims and objectives. We think we are doing very successful and creditable work in our co-operative efforts.

The need of Native Court Workers is an undeniable fact in Nova Scotia. And the vast majority of Court cases in which Native People find themselves involved come directly under your Department, and are "tried" by your Judges and your Magistrates. Because Native Citizens do not have a working knowledge of the Justice system they are in grave trouble from the moment a charge is laid until the usual imprisonment takes place. And then too, there are grave instances of jeopardy by preconceived notions, as in the case of a few years ago where a magistrate in Cape Breton judged a Native Citizen to be guilty because of his place of residence---I will not go into this as it was much publicized at the time. Whilst Magistrates and Judges no longer make overt racial references in their Courts, Native Citizens have not the confidence in the Justice system that will permit them to assume that they have equality before the Court. They are desperately in need of a Court Workers Program, where they will have assistance in guiding

them through what appears to be an incomprehensible maze. There is also need of the Native Court Workers Program to assist in building a respect, not born of fear, for the Justice System in Nova Scotia.

We could go into greater lengths in our attempts to justify the Native Court Workers Program in your eyes, but we gather from your preparedness to support an application to the Federal Department of Indians and Northern Affairs, that you have no need to be convinced of the justice of our seeking.

Mr. Minister, we are also Nova Scotians. At present, non Status Indians have no legal claim for consideration under the BNA Act, as interpreted by the Government of Canada. And since the Department of Indian and Northern Affairs is a Department of the Government of Canada, and that Government insists that its interpretation of the BNA Act is correct, it seems highly unlikely that the Native Council of Nova Scotia and the Union of Nova Scotia Indians will accomplish what the Government of Nova Scotia has failed to do during the decades the two Governments have wrestled with the issue.

We are suggesting that until such time as the Government of Nova Scotia and the Government of Canada agree on the interpretation of the BNA Act respecting Native Citizens, both Governments engage in a fifty-fifty funding scheme for the Native Court Workers Program.

With this condition on funding the Government of Nova Scotia will not be compromising its position, but will be acting in a humane manner, giving consideration to a people whose special needs are clearly evident. Further, instead of the present "stand off" between the two Governments where no progress is being made, working together on this issue may well establish an atmosphere where progress towards agreement is possible. In this manner you would not be using the legal interpretation of "Indian" to grind a people, but rather giving immediate and much needed assistance pending the outcome of an agreed on interpretation. In such an undertaking the Government of Nova Scotia would gain credibility by its show of concern for and humane treatment of Native People in the Province.

The Government of Nova Scotia is an "old hand" at negotiating Federal-Provincial agreements. For instance the disagreement over offshore mineral rights didn't prevent the drilling for oil, but accommodation was worked out without either Government jeopardizing its position. Surely people are more important than oil.

We are hoping that you will approach the Federal Department of Justice, through the Honourable Jean Chretien, Minister of Justice, for an accommodation that will permit Federal-Provincial funding of our Native Court Workers Program.

Mr. Minister, our request to have a Native Courtworkers Program operating here in Nova Scotia certainly is not an unreasonable nor an unjustly one, we only ask that if our provincial government and the Federal Government can't agree on the funding formula as it exists, then agree to disagree and do something about it. We just cannot accept the excuse of either government for lack of a program thus far, nor do we intend to let the matter rest until the problem is resolved.

Thank you.

Going Forward To
A Better Future.

A handwritten signature in black ink, appearing to read "Dwight A. Dorey". The signature is written in a cursive style with a horizontal line underneath it.

Dwight A. Dorey,
VICE-PRESIDENT

DAD:vas

c.c. Hon. Jean Chretien
Hon. Laird Stirling
Stanley Johnson ✓

Ottawa, Canada
K1A 0H8

Our File: 6350-8

September 11, 1979

Mr. Bill Poulette,
Union of Nova Scotia Indians,
P.O. Box 961,
Sydney, Nova Scotia.
BLP 6J4

Dear Bill:

Further to our recent conversation concerning the implementation of a courtworker programme in Nova Scotia, you requested a list of items that could be included in an agenda for our meeting on October 3, 1979. I would suggest that the following matters be addressed:

- 1) Administrative structure that is to be employed to deliver the programme. For example, the number of employees, job descriptions of the employees, office location, etc.
- 2) Board structure that will be responsible for the policy direction of the programme.
- 3) A budget submission that will provide a breakdown of expenses for a programme that will operate for approximately 18 months.
- 4) Some thought should be given to the demonstrated need for the programme in terms of the number of courtworkers that are required to service the needs of Nova Scotia.
- 5) Some thought should be given to developing an agreement with the province to deliver the programme.

...2

*Received
Sept. 14/79*

I imagine there are many other items that you can bring to the attention of the meeting but I feel the above items must be dealt with on October 3, 1979.

See you in two weeks.

Sincerely,



G.E. Williams,
Chief,
Native Programmes.



ATTORNEY GENERAL
NOVA SCOTIA

RECEIVED
AUG - 6 1980

Halifax, N. S.
B3J 2L6

August 1, 1980

Mr. Dwight A. Dorey
Vice-President
Advisory Board Chairman
Native Council of Nova Scotia
P. O. Box 1320
TRURO, Nova Scotia
B2N 5N2

Dear Mr. Dorey:

Further to your letter of June 30th, I took the matter of your proposed Courtworker Program to the Management Board and they share my view that any such program ought to be funded entirely by the Federal Government.

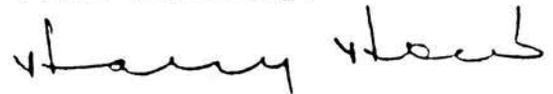
As you may know, I wrote on May 1st to the Honourable John C. Munro urging that the Federal Government support your program. The reply I got on June 19th was that the Federal Government still maintains that their contribution cannot exceed fifty percent.

Frankly, I find their position on this subject very curious. If indeed it has been presented to the Federal Government as a vital and necessary program then with all the millions of dollars spent by the Department of Indian Affairs, then surely they could find the forty thousand dollars you are requesting. When I see the millions of dollars wasted on Federal programs of doubtful or no value, such as some of the L.I.P. programs we have seen in the past, then I have no sympathy with them when they suggest that they cannot fund a program which you feel is a priority item. Any Government which can afford to run a

deficit of over eleven billion dollars a year certainly
can fund this kind of a program.

I am sorry I cannot be more helpful.

Yours sincerely,



Harry W. How, ² C.



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Union of Nova Scotia Indians

TELEPHONE 758-2048
TELEX 019-34576

MICMAC P.O.,
HANTS CO., N. S.

Stuart

August 26, 1980

*copy
Bill
Poulette*

Honourable Jean Chretien
Minister of Justice
Room 438-N
House of Commons
Parliament Buildings
Ottawa, Ontario K1A 0A6

Dear Mr. Chretien:

The attached letter from the Honourable Harry How, Attorney-General for the Province of Nova Scotia, points out in no uncertain terms the problem we are having establishing a courtworker program on a cooperative basis between your Department and the Province of Nova Scotia. Attorney-General Howe's views are well known, in fact on May 1, 1980, he wrote to the Minister of Indian Affairs, John C. Munro, urging that the Federal Government support the program 100%. The reply was that the Federal Government maintained that their contribution cannot exceed 50%.

Once again, the Micmacs of Nova Scotia are a political football that is being kicked around amongst the Federal and Provincial bureaucrats. We maintain that through equalization grants, the Province of Nova Scotia has an obligation to contribute funds for programs such as the courtworkers.

During your Constitutional talks, if no headway can be made with the Province of Nova Scotia, we suggest that equalization grants allotted to Nova Scotia be re-directed from the Province to the Union of Nova Scotia Indians to carry out such a program.

Mr. How's second last sentence certainly shows the intellect of the present Government here in Nova Scotia.

Yours in recognition
of Aboriginal Title,

[Signature]
Stanley Johnson
President

/saj

cc: Stuart Killen, Tripartite Liaison, U.N.S.I.
Dwight Dorey, Vice-President, Native Council of N.S.
Laird Sterling, Minister of Social Services, Province of N.S.



Union of Nova Scotia Indians

TELEPHONE 758-2048

245

TELEX 019-34576

MICMAC P.O.

HANTS CO., N. S.

September 29, 1980

The Hon. Jean Chretien
Minister of Justice
Room 438-N
House of Commons
Ottawa, Canada
K1A 0A6

Dear Mr. Chretien:

At a meeting on September 24/80 with Mr. Farrell, I was very disappointed to learn that you were not prepared to fund our Courtworkers Program 100% since the Province of Nova Scotia refused to provide the required 50%.

Since the Province and Federal could not agree on funding the Courtworkers Program, I have initiated an application with C.E.I.C. under the Canada Community Services Project. The initial response is very receptive however, we have run into two problems.

- 1) The proposal presented to C.E.I.C. could not fund total expenses budgetted, which will leave us with a shortfall of \$15,000. for year one.
- 2) Before Manpower would process the application they require a letter of intent that Department of Justice will give us consideration for funding in future years.

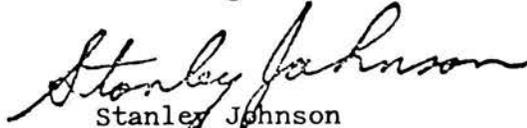
The Canada Community Services Project will fund a project on the following levels; year one - 100%, year two - 66%, and year three - 33%. However expenses will be allowed at a rate of 25% of total salary cost, which is the reason for the shortfall.

...2

The Hon. Jean Chretien
September 29, 1980
Page 2

A favorable response from your department will ensure a re-instatement of a very needed service to the Native people of Nova Scotia.

Yours in Recognition
of Aboriginal Title,


Stanley Johnson
President

/tp

c: Chiefs of Nova Scotia
Executive - UNSI ✓
Native Council of Nova Scotia
Hon. Harry Howe
J.P. LeBlanc
Wayne Abram



1980

Cost-shared Agreements:

Compensation to Victims of Violent Crimes	1
Legal Aid in Criminal Cases	1
Native Courtworker Programme	2
Unified Family Court Pilot Projects	3

Other Programmes:

Consultation and Development Fund	5
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Employment of Law Students by the Department of Justice	8
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In a time of widespread social change, Canada's system for the administration of justice is increasingly a focus for the changes affecting our society. The response of our legal system to new social trends and standards reflects society's changing view of itself.

One facet of that response to the challenge of change has been the work of the Law Reform Commission of Canada in its continuing study of the administration of justice in Canada. The Commission's reports and recommendations provide a basis for debate on the over-riding issue of how the law may be adapted to serve best the needs of both the community and the individual.

Within the Department of Justice itself, there is an ongoing process of evaluation of the law in light of changing conditions in modern society, and in light of the work of the Law Reform Commission. This process is one source of legislation brought to Parliament for amendment of the Criminal Code and other statutes. It also results in programmes being developed by the Department to meet clearly perceived needs related to the administration of justice in Canada.

A vital concern of the Department of Justice is to ensure equality of access to the legal and judicial processes. To this end, programmes were developed whose main objectives are to provide this much needed increased accessibility to the law and the legal system.

Some programmes offer outright grants and contributions to associations and individuals, others are cost-sharing programmes worked out in cooperation with the provinces, but all are aimed at making a positive impact on the quality of our judicial system, legal education and research.

COST-SHARED AGREEMENTS

be made available to eligible persons. The only exception to this rule is that where an individual has been charged with an offence, the minimum penalty for which is life imprisonment, he shall be entitled to retain and instruct any member of the Bar of the province who is prepared to act for him as a legal aid client.

Agreements with the territories are similar to those with the provinces but coverage extends to civil matters as well as criminal.

For further information write to:

Director
Programmes and Law Information
Development Section
Department of Justice
Justice Building
Ottawa, Ontario
K1A 0H8

Native Courtworker Programme

In order to encourage the development of courtworker services to assist Canada's Native People in understanding their legal rights and obtaining legal assistance, the Department of Justice has established a Native courtworker programme. The criteria for eligibility for funding under the programme are as follow:

- (1) the programme must serve status and non-status Indian people alike;
- (2) the programme must be administered by an independent service organization which has the support of the majority of Native People;
- (3) any contribution by the Department of Justice must be limited to providing courtworker services (i.e., it cannot be used to finance half-way houses, or alcohol or drug abuse programmes, etc.);
- (4) at least 50% of the cost of the courtworker programme must be borne by the Province involved;

COST-SHARED AGREEMENTS

- (ii) The application has come from, through, or with the approval of a provincial government or Minister;
- (iii) the provincial government agrees to bear at least 50% of the cost of the project;
- (iv) the project will run for a fixed term not exceeding three years;
- (v) the project is for demonstration purposes and is not designed as a supplement to existing on-going services;
- (vi) the project will be instituted according to a well developed and systematic plan which includes its research objectives;
- (vii) the project will be so designed that the court will have broad jurisdiction to adjudicate upon a wide range of legal problems relating to the family;
- (viii) the project will be an innovation in the environment in which it will operate, with a clear potential to contribute to the improvement of family court-related services;
- (ix) the project has local support;
- (x) the project will be evaluated, according to the nature and scope of the project.

For further information write to:

Director
Programmes and Law Information
Development Section
Department of Justice
Justice Building
Ottawa, Ontario
K1A 0H8

OTHER PROGRAMMES

the evaluation of the reports of the Law Reform Commission of Canada, and the taking of positive steps for implementing law reform in areas of its jurisdiction where it deems it appropriate and advisable.

The Department of Justice created the Criminal Law Reform Fund to promote legislative and non-legislative reform of the criminal law by:

- (i) enabling discussion with, and obtaining the assistance of outside authorities and experts in relation to legislative reform in specific areas of the criminal law;
- (ii) promoting and evaluating experimental projects to test the proposals for changing the criminal law;
- (iii) promoting consultation upon, and disseminating information about new approaches to problems in specific areas of the criminal law, involving both the legislative and non-legislative proposals.

Since the creation of the Fund, its priorities have been almost exclusively dictated by the reports produced by the Law Reform Commission of Canada. The Fund will continue to be used to contribute to proposals which support changes to substantive criminal law, procedures and practices including necessary revisions to the Criminal Code and other criminal law statutes.

For 1980/81, the following are considered priority areas:

- general principles of criminal law
- court procedures and practices
- dispositions and sentencing principles and procedures
- pre-trial procedures and prosecution practices
- family violence, victim/witness issues

OTHER PROGRAMMES

Closing date for submission of applications is early December. For further information, students should consult the Dean of their law school or write to:

Director
Programmes and Law Information
Development Section
Department of Justice
Justice Building
Ottawa, Ontario
K1A 0H8

Employment of Law Students by the Department of Justice

The Department of Justice each year offers summer positions and articling positions to second and third year law students interested in working for the federal government. This programme is considered part of the overall plan for recruitment of lawyers considering careers with the Public Service of Canada.

For further information write to:

Officer i/c Student Programmes
Department of Justice
Justice Building
Ottawa, Ontario
K1A 0H8

Employment of Law Students by Police Forces

The Department of Justice, in conjunction with the Canadian Association of Chiefs of Police, has developed this programme to promote a better understanding between the legal profession and the police, as well as between young people and the police. The contribution of the Department of Justice under this programme covers the salaries of law students hired during the summer vacation by individual police forces. Applications should be submitted to the Association or to the Chief of Police of the police force with which the student wishes to seek employment, by early December. Students interested in obtaining further information should write to:

OTHER PROGRAMMES

For further information write to:

Secretary
 Selection Committee
 Fellowships in Legislative Drafting
 Department of Justice
 Ottawa, Ontario
 K1A 0H8

Native Law Students Programme

The Department of Justice believes that it is extremely important to encourage students of Native ancestry to enter the legal profession. Therefore it provides a number of bursaries to Métis and non-status Indian students who have been admitted to a law school of their choice. Additionally, bursaries are available for Métis and non-status Indian students to attend special pre-law orientation courses as a condition for admission to law school. Qualified Inuit and status Indian students are eligible to receive similar support from the Department of Indian and Northern Affairs.

Applications are considered in the spring of each year. Students interested in obtaining further information should write to:

Director
 Programmes and Law Information
 Development Section
 Department of Justice
 Justice Building
 Ottawa, Ontario
 K1A 0H8

Special Projects - Legal Aid

To encourage experimental and research work in the legal aid area, the Department of Justice maintains a programme of contributions in support of special projects in legal aid, formerly known as the Community Legal Services Programme. The activities supported by this programme encompass planning, research, evaluation and training, as well as experimental pilot projects, which have as their purpose the improvement of the delivery of legal aid services. Both independent organizations and government programmes are eligible.

OTHER PROGRAMMES

In considering project proposals the Department will take into account, the following factors:

- 1) the project's potential for incorporation into a provincial or territorial legal aid programme;
- 2) whether the project has a long-range plan and sufficient local support to assure its continuance after financial support from the Department of Justice has come to an end;
- 3) the extent to which the project can document its progress and evaluate its success to ensure that useful information about the project experience is obtained;
- 4) the extent to which the activity has the support of other levels of government and is compatible with the structure and operation of the relevant provincial or territorial legal aid plan;
- 5) whether the proposal advances the priorities of the Department of Justice as these are determined from time to time.

Although any experimental or research work tending to improve the delivery of legal aid services may be supported under this programme, the Department annually attempts to identify specific priority areas for information gathering in the legal aid context.

Recipients under this programme will be required, during the life of the project, to provide the Department of Justice such information as is required for project evaluation.

Contributions under this programme will be for a one-year period. The Department of Justice recognizes that some projects may require support for a longer period than one year, and therefore, additional short-term funding may be available in some cases. The funds available under this programme are limited; consequently, not all requests for financial assistance can be met.

AUTRES PROGRAMMES

Pendant toute la durée du projet, les bénéficiaires sont tenus de fournir au ministère les renseignements dont il a besoin pour apprécier les résultats obtenus.

Les subventions octroyées en vertu du programme couvrent une période d'un an. Aussi, il peut arriver que certains projets nécessitent une subvention de plus longue durée. Vu le caractère restreint des crédits disponibles, il est malheureusement impossible de donner suite à toutes les demandes de financement reçues.

Pour obtenir de plus amples renseignements sur le sujet ou solliciter une subvention, prière d'entrer en communication avec:

Projets spéciaux - Aide juridique
Ministère de la Justice
Edifice de la Justice
Ottawa (Ontario)
K1A 0H8

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UNION of NOVA SCOTIA INDIANS

MICMAC P. O.
HANTS CO, N. S.
TEL. 758-2048
TELEX 019-34576



P. O. BOX 961
SYDNEY, N. S.
B1P 6J4
TEL. 539-4107
TELEX 019-35215

OFFICE OF
THE PRESIDENT

April 8, 1981

Hon. Laird Sterling
Tripartie Liaison
Dept. of Social Services
P.O. Box 696
Halifax, N. S.

Dear Mr. Sterling:

I have been directed by the Chiefs of the twelve Bands, which make up the Board of Directors of the U.N.S.I. to seek a letter from the Province of Nova Scotia with signature of Premier Buchanan stating the Province of Nova Scotia's official policy respecting services to Micmac people both living on and off of Indian Reserves within the Province of Nova Scotia. I am using the term "Micmac Indians" as defined by "Registered Indians" under the Indian Act, R.S.C; also, the letter should be written with Section 91(24) of the present British North America Act in mind as it relates to the provincial policy as outlined by Premier Buchanan.

We are requesting an early reply to this request; hopefully, on or before April 25, 1981. Should you have any questions of clarification on this letter, please do not hesitate to call me.

Yours in recognition
of Aboriginal Title,


Stu Killen,
Tripartite Liaison
Federal-Provincial &
Indian Gov. Relations

SK/bjm

c c: Chiefs, Nova Scotia



DEPARTMENT OF SOCIAL SERVICES

April 13, 1981

Mr. Stu Killen
Tripartite Liaison
Federal-Provincial &
Indian Gov. Relations
Union of Nova Scotia Indians
P. O. Box 961
Sydney, Nova Scotia
B1P 6J4

Dear Mr. Killen:

On behalf of the Honourable Laird Stirling I wish to acknowledge your letter of April 8th regarding the Province's official policy respecting services to Micmac people.

Please be assured your letter will be brought to the immediate attention of the Minister.

Sincerely,

Marie Ayotte
Executive Secretary

Room 755
Justice Building

File No.: 6350-22

June 11, 1981

*rec'd
June 16/81*

Mr. Bill Poulette
Executive Director
Union of Nova Scotia Indians
1-11 Membertou Street
P.O. Box 961
Sydney, Nova Scotia
B1P 6J4

Dear Mr. Poulette:

Re: Changes in Terms and Conditions of
Native Legal Information Projects

In the past it was necessary that Native legal information projects must have the approval and financial support of the government of the province or territory involved.

This has been changed to: "Native Legal Information Projects must have the approval of the government of the province or territory involved and should be cost-shared by the provincial or territorial governments, or a municipal government or an independent, private or philanthropic organization".

The purpose of this change was to broaden the areas of support and allow the project initiators greater freedom to involve other agencies in their projects.

It should be noted the projects that will be considered are projects having a preventive orientation and which are designed to provide information about the law and the legal system to Native people.

...2

UNION of NOVA SCOTIA INDIANS

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MICMAC P. O.
HANTS CO, N. S.
TEL. 758-2048
TELEX 019-34576

OFFICE OF
THE PRESIDENT

P. O. BOX 961
SYDNEY, N. S.
B1P 6J4
TEL. 539-4107
TELEX 019-35215

LEGAL EDUCATION AND
COUNSELLING PROGRAM
FOR MICMACS

Presented To
Department of Justice
Native Legal Information Projects
Justice Building
Ottawa, Ont.
and
Nova Scotia Law Foundation
Law Courts Building
Halifax, N.S.

Union of Nova Scotia Indians
P.O. Box 961
Sydney, Nova Scotia
B1P 6J4
Contact Person: Bill Poulette
Co-ordinator Micmac Courtworker Program

PREAMBLE

In recognition of the needs and the same time limited facilities of specific on-going programs covering all aspects of Indian rehabilitation in criminal and other matters, this program proposal will be a planned and carefully executed endeavour to begin to bridge the limited services available to Indian people in the province of Nova Scotia. The Federal Government, specifically through the Department of Justice has been fit to finance a very apparent need that has plagued Indian people. The program will be both preventive and rehabilitative.

IDENTIFYING THE NEED FOR SUCH A PROGRAM

To state that Micmacs have been suffering from grave injustices in the past and present would be an idle statement which would meet with very little dispute.

This program recognizes that Micmac people, not merely because of the fact they are in the minority, but more specifically, are disadvantaged economically and have no adequate access to vital information affecting their well being.

In the past, the Union of Nova Scotia Indians have tried to provide a Courtworker System, Alcoholic Rehabilitation and Health Advisors, etc., to attempt to alleviate serious obstacles the Micmac people have encountered with respect to infractions of the laws; incarceration and parole.

A number of studies completed in the past have discovered that a major and startling proportion of the national inmate population was composed of Native people. Many of the Natives were not acquainted with, let alone knowledgeable of existing laws their legal rights and how to defend themselves. A report Indians and the Law conducted by Canadian Corrections Association in 1967, made major recommendations that would require vast amounts of personnel and monies to change the direction of this situation.

Such a program with respect to objectives, staffing and costs would offer to the native people a substantial services that would not deviate into an ad-hoc program. Union of Nova Indians is unanimous in concluding that a sad and tragic state exists for the aid and assistance of Micmac people in the criminal justice system. The criminal justice system includes knowledge, ability and confidence to make themselves complete for and defend their rights, the need is there and present everywhere within this province.

Even with present programs that are being offered, there is an essential absence and lack of values that represent the

philosophy of Micmac people. To the Micmacs, this is still a non-Native program established and functioning for the benefit of non-Natives.

DURATION OF PROGRAM

It is proposed for period of 6 months in order for the benefits of such a program to be realized and bear fruit, this length of time is exploratory, experimental and a learning process.

The training must be for a minimum of two months.

The method of training would be determined by the Director. It would involve many hours of exposure to some basic methods. There would be instruction on the purpose, use and effectiveness of reports. This would enable the individual worker to focus, identify, and elaborate on major issues encountered in his work. The work may require knowledge of the use and benefits of audio-visual presentations. This would widen the scope of his abilities and maximize original style. The worker must also be acquainted with the benefits that derive from the news media, such as radio, television and publications.

The worker at the utmost has to have and possess a knowledge of existing programs available to everyone. This is necessary, especially if he attempts to modify, alter or replace an aspect of a program. He has to know the resources and be confident about them, when making a presentation, criticizing objectively the aims of a program and developing his own priorities.

In this respect the training phase although initially involving an intense two month exposure to present programs, at the same time, requires an on-going educative process. The programs that are designed by the pen of a policy adviser may reflect different implications when put into operation in a program. The worker has to see how solutions are brought about in the field. Since many programs have new or changing guide-

lines being introduced each year, the worker has to keep abreast with these new changes. Also some of the on-going training may involve and should include formal training at the College of Cape Breton, it may be on counselling, behavioural sciences and research.

Once the full impact of the training phase has been absorbed, especially the field inspection of the operation of penal institutions, family courts, criminal courts (provincial), and coupled with the development of confidence for self-expression, the worker will be better prepared to enter the Work Phase.

It is here very important to stress that the success to be attained in the work phase evolves from the intense preparation and educative process of the training phase. This work phase, therefore, will, in essence, be the actual duties and functioning of the workers.

There will be many functions which the worker will be prepared to offer and also may be asked to perform. Giving, receiving and dispensing information to individuals, groups, either in a setting of one-to-one, seminars or workshops about available resources is a prime function. There may be the need to provide counselling. Counselling is a term used widely. It is both directive in the sense of being a prohibitive measure as well as a vehicle for a dialogue. Often the troubled individual or group may require a person who will listen and advise them of their present state and how to emerge from a crisis in a better frame of mind. But groups may also require guidance on basic organization and operation.

Another important feature of the workers' position will be the availability of and access to literature such as publications, reports, and laymen's interpretations of the laws. He will be a small library whom the Indian people can approach for their benefit.

The worker must attend Courts and visit Institutions where those who run afoul of the law can be assisted. Even visits can be of immense value to an individual doing time in an institution. In conjunction with this, the worker has to liaise with government departments (federal and provincial) on the needs of the Indians and often be an advocate for them to protect their rights.

It is also very important that a beneficial relationship exist between the Director and the Workers as well as between the Workers themselves. Many times, these workers will have to lean heavily on one another and this reciprocal flow has to be continuous. The reports of the workers must be on the basis and criteria that have been established in the program.

The Work Phase could be for a definite period of time. It could be on a continual or permanent basis so long as the need exists and is not being met. This of course, will be determined as the program is operating and ascertaining whether the stated goals and objectives are being reached.

OBJECTIVES - GOALS

The goals and objectives that the Union of Nova Scotia Indians have developed are the following:

1. to lessen the crime rate on the Reserves;
2. to provide up to date information on
 - (a) laws, i.e., Criminal Code, Provincial Statutes, Proposed Band Government Act
 - (b) child welfare,
 - (c) family courts, provincial courts,
 - (d) legal aid,
 - (e) parole and probation;
3. to recommend and develop related programs on social development and fostering a better system of justice;
4. development of an Indian inmate institution.

Some of these goals are immediate and others are long

term goals. Both are essential so a comprehensive service will be delivered to the Native people. It is also apparent that the Director and Workers may have a secondary objective, be they personal goals or aspirations. However, the program goals are most important and they will be evaluated within the operation of the program to determine their effectiveness and attainment.

The personnel that will be required in this program will consist of a Director, two (2) Workers, and a Secretary/Bookkeeper.

PERSONNEL

The staff of the program requires a Director who is capable of performing the following functions:

1. Develop a method of training for the Workers. This training is immediate and on-going.
2. Be responsible for staff recruitment and replacement.
3. Be responsible for acting upon concerns and requests of the staff.
4. Be responsible for managing the budget and its preparation.
5. Co-ordinate and liaise with both levels of federal and provincial government programs.
6. Co-ordinate the activities of the Workers (compile and evaluate the workers reports).
7. To publish and provide information in the news media concerning the program.
8. Staff evaluation and program evaluation.
9. Provide reports and recommendations to the Board of Directors and Executive of the Union of Nova Scotia Indians, as required.

THE DUTIES OF THE WORKERS WOULD BE THE FOLLOWING:

1. To attend the initial training and on-going training sessions.

2. To make monthly reports to the Director.
3. To compile and provide needed information on such matters as - legal rights, civil rights, laws such as the Indian Act, Child Welfare Act, Provincial Statutes, Juvenile Delinquents, Game Act and Fisheries Act.
4. Set up workshops and Seminars on and off the reserves.
5. Improve communications and relations with judges, police, probation and parole officers, C.D. workers, lawyers, social workers.
6. Attend all staff meetings.
7. To record all activities concerning the job.
8. Compile studies on the number of offences committed.

THE DUTIES OF THE SECRETARY WOULD BE:

1. Be responsible to the Director.
2. Be responsible for recording and preparing reports, minutes of meetings, etc.
3. Maintain an office in good order.
4. Maintain an up-to-date filing system.
5. Possess knowledge of general secretarial work.

The duties outlined above are not necessarily complete. There may be other functions that each of these persons will have to perform. The duties outlined are in actual fact guidelines, flexible but at the same time provide a direction for the program that must not be forgotten.

EVALUATION

In order to measure and determine the effectiveness of the program, an evaluation is most critical. This should be done on quarterly basis to determine if the stated goals and objectives are being met, forgotten or require expansion. There has to be feedback from the Reserves, Workers, Justice System, etc.,

to ensure that needs are being fulfilled. This information mechanism could be provided through the use of surveys, questionnaires, and interviews.

SUMMARY

This program will answer some of the needs of Indian people in the Province of Nova Scotia. Some of these needs are expressed and identified by Union of Nova Scotia Indians. Such a program must be set up and become operational so that Indian people can begin to assist and help themselves in this critical area.

SIX MONTHS (6) BUDGETPERSONNEL COSTS(a) Salaries:

- Co-ordinator (Director)	\$ 8,000	
- 2 Workers @ 6,000 each	12,000	
- Secretary/Bookkeeper	<u>5,000</u>	
	25,000	\$ 25,000

(b) Travel Expenses:

- Co-ordinator	3,500	
- 2 Workers @ 2,500 each	<u>5,000</u>	
	8,500	8,500

(c) Training Development:

	4,000	4,000
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(a) Administrative CostsOffice & Related Expenses

- Office Rental	750	
- Equipment Rental	1,500	
- Office Supplies	1,250	
- Information Printing & Xerox	1,000	
- Miscellaneous e.g. Bank Charges	<u>500</u>	5,000

(b) Workshops (12)

	3,000	3,000
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TOTAL BUDGET:

		<u>45,000</u>
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50%		<u>22,750</u>
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THE PREMIER
HALIFAX, NOVA SCOTIA

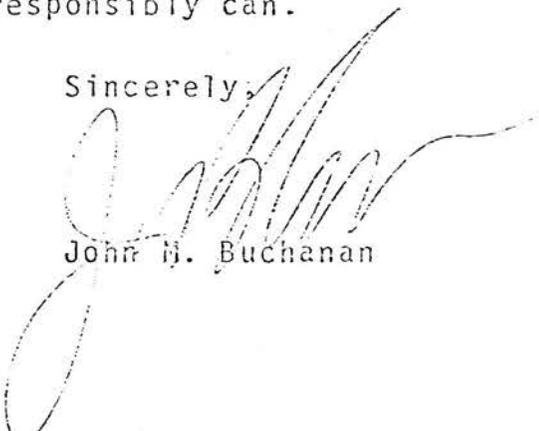
June 22, 1981

Dear Mr. Killen:

This will reply to your letter of April 8th to my colleague, the Honourable Laird Stirling, Minister of Social Services, requesting my response regarding the Province's policy in relation to the provision of services to Micmac people both on and off reserves.

As you know, section 91(24) of the British North America Act clearly states that the Parliament of Canada has exclusive legislative authority over Indians and lands reserved for Indians. Through interpretations and practice since the Act was passed, this section has been taken to mean the Federal Government has not only jurisdictional authority but responsibility for Indians. The Province of Nova Scotia has respect for and, as in past, will continue to abide by the tenets of the British North America Act. However, the Province, through the Department of Transportation, Department of Finance, and Department of Social Services will continue to assist wherever we responsibly can.

Sincerely,



John M. Buchanan

Mr. Stu Killen
Union of Nova Scotia Indians
P.O. Box 961
Sydney, N.S.
B1P 6J4

/bg

UNION of NOVA SCOTIA INDIANS



MICMAC P. O.
HANTS CO, N. S.
TEL. 753-2048
TELEX 019-34576

P. O. BOX 961
SYDNEY, N. S.
B1P 6J4
TEL. 539-4107
TELEX 019-35215

OFFICE OF
THE PRESIDENT

July 2, 1981

Hon. Jean Chretien
House of Commons
Room 438-N
Ottawa, Ontario

Dear Mr. Chretien:

The attached letter from Premier John Buchanan of Nova Scotia confirms our statements that the Province of Nova Scotia will not cost-share in the establishment of a Native Courtworkers Program within the Province of Nova Scotia.

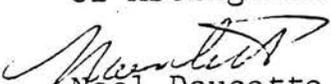
In your letter of June 5, 1981, to Mr. William Poulette, our native courtworker, you suggest that you will be pursuing directly with the Attorney General of Nova Scotia. We would like to be kept informed of your discussions.

We agree that the Native Court Worker Program is making a significant contribution to the administration of justice within Canada; however, it seems fruitless for you to consistently suggest a Federal--Provincial cost-sharing of this program, while the Province of Nova Scotia maintains the stance as indicated in Premier Buchanan's letter.

We suggest that the Province of Nova Scotia's equalization payment with respect to the administration of justice be transferred directly to the Micmacs of Nova Scotia. This would have the effect of transferring the Micmacs per capita share of that equalization area directly to them. With this the bands could cooperate in establishing a Native Court Workers Program for the native people of Nova Scotia.

We wish to impress upon you that it is not acceptable for us to be caught in the middle of this cost-sharing dilemma between your Government and the Province of Nova Scotia.

Yours in recognition
of Aboriginal Title,


Noel Doucette, President
Union of Nova Scotia Indians

c c: Russell MacLellan
William Poulette

Enc.
ND/+lg



THE PREMIER
HALIFAX, NOVA SCOTIA

Rec. June 26/81

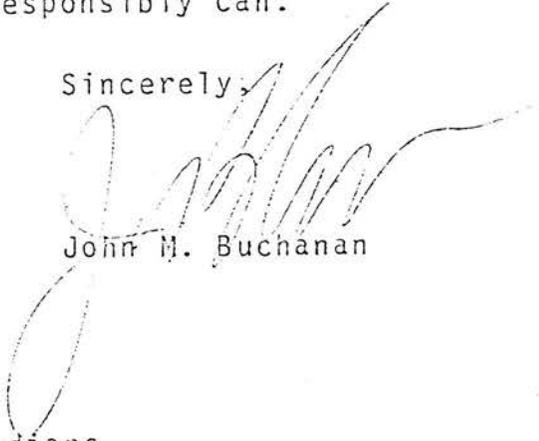
June 22, 1981

Dear Mr. Killen:

This will reply to your letter of April 8th to my colleague, the Honourable Laird Stirling, Minister of Social Services, requesting my response regarding the Province's policy in relation to the provision of services to Micmac people both on and off reserves.

As you know, section 91(24) of the British North America Act clearly states that the Parliament of Canada has exclusive legislative authority over Indians and lands reserved for Indians. Through interpretations and practice since the Act was passed, this section has been taken to mean the Federal Government has not only jurisdictional authority but responsibility for Indians. The Province of Nova Scotia has respect for and, as in past, will continue to abide by the tenets of the British North America Act. However, the Province, through the Department of Transportation, Department of Finance, and Department of Social Services will continue to assist wherever we responsibly can.

Sincerely,



John M. Buchanan

Mr. Stu Killen
Union of Nova Scotia Indians
P.O. Box 961
Sydney, N.S.
B1P 6J4

/bg

1511
says

OTTAWA (CP) — There are signs that economic recovery has taken hold in the last six months, but it is weaker than recoveries from past recessions, Statistics Canada said Tuesday.

Increases in retail sales, home construction, auto exports and real estate were cited by the agency as evidence "that a recovery of output and employment began to take hold in 1982 and that these gains were sustained early in the first quarter of 1983."

However, the agency said a pessimistic outlook for business investment and the cautious nature of increased production "are indications that the early stage of recovery may be weak compared to past recoveries."

In previous recoveries since the Second World War, the economy expanded by an average 6.9 per cent during the first year. That is seen unlikely this time, a Statistics Canada official said.

To match the strength of previous recoveries, gross national product, a key measure of growth in the economy, would have to rise by 6.5 per cent in the next 10 months, he said. Most economic analysts are predicting less than that increase.

Williams firemen, aided by fellow volunteers from neighbouring Kings County departments, battle to save Port Williams Elementary School from fire last night. In spite of a brisk wind and lack of an adequate water supply, firemen were able to save 10 classrooms, a purpose room and library but the west wing of the structure, containing four classrooms in French and music departments, was lost. See story page 2.

Kingsbury

How's letter violates Human Rights Act, says McDonough

By DON MacDONALD
Staff Reporter.

NDP leader Alexa McDonough has urged Attorney-General Harry How to resign from his post for written comments that she says violate the province's Human Rights Act. McDonough's call for Premier

John Buchanan to remove Mr. How from the attorney general portfolio followed her tabling in the House Thursday of a letter written by Mr. How late last year concerning the selection of a librarian at Acadia University in his home town of Wolfville.

Writing to the Indo-Canadian Association of Nova Scotia, Mr. How said he felt that "other things being equal, we ought to give native Canadians a preference for positions where government funds are a major contribution to the institution concerned."

Mr. How's letter to the association followed a letter sent by the group to Acadia University president James Perkin, complaining about discrimination against Dr. M. J. Jain with respect to selection of a librarian at the Valley institution.

Ms. McDonough first raised the matter during question period Thursday, saying the Human Rights Act "makes it unlawful for any person to discriminate against any individual for reasons of race, religion, sex, age or marital status."

The NDP leader directed a series of questions at Consumer Affairs Minister Laird Stirling, minister responsible for the Human Rights Act, concerning Mr. How's views as expressed in his letter.

Ms. McDonough wondered whether lawyers appointed by the attorney general's department served as legal counsel to the human rights commission in

Bill not necessary if bill becomes law

By MERLE MacISAAC
Staff Reporter

Scotians could be convicted, possibly jailed for motor vehicle offences without a court having jurisdiction, if legislation proposed by Attorney-General Harry How becomes law.

How's Bill 36 would eliminate the necessity of evidence being called by a person accused of breaching a criminal statute if that person fails to appear in court.

An amendment to the Summary Offences Act, given first reading in

If no reply is heard after 21 days the court must issue a "warrant in default of payment." Mr. How said: "As I understand it, the fine could still be paid at that point."

But he agreed a failure to pay when one is presented with the warrant would mean jail even if the individual had forgotten about the initial ticket and had not received the mailed notice of conviction.

Roughly corresponding to the size of fines, courts normally include a default period in jail if fines are not paid.

Barney a medic

SALT LAKE CITY (AP) — Barney Clark's artificial heart was switched only after his other organs and had failed, doctors said Thursday they hailed their patient as a medical pioneer to match these westlands.

"It was essentially the death of the entire being except for the artificial heart," Dr. William DeVries, who implanted the device, told a news conference that was part eulogy, part scientific seminar.

DeVries said the decision to switch off the heart was made only after Clark had shown no neurological response several hours and Clark's wife, Loy, had been consulted.

Clark, 62, was declared dead at 10:02 p.m. Wednesday after the artificial device had beaten almost 12 million times. An autopsy was performed early Thursday and the funeral was scheduled for next Tuesday in SeaTac, Wash., the area Clark called home. DeVries and some other doctors were planned to attend.



CP
ticks off points on his final Edmonton Thursday before

s spared x hikes

coming fiscal year, but Mr. Hyndman promised there would be no cutbacks in services or "people programs."
Borrowing on the Canadian markets and overseas will reach about \$1 billion, and represents a policy change which is expected to continue. The other major policy change is the reduction of the 30 per cent annual transfer of resource revenue to the Heritage Fund for the next two fiscal years.
Half that amount estimated at \$745 million will be used for budgetary revenue. Total revenue in 1983-84 is estimated at \$3.8 billion and total expenditures at \$9.7 billion.

How's letter violates

(Continued from page one)

any cases of alleged discrimination.
In reply, Mr. Stirling said the commission does rely on the attorney general's department for legal resources, and one departmental lawyer deals with matters of human rights.

However, Speaker Art Donahoe objected to the nature of the wording of further questioning from the NDP leader.

Outside the House, Ms. McDonough said the government should provide independent legal counsel for both the commission and the complainant during an upcoming commission of inquiry concerning the selection of the Acadia University librarian.

The NDP leader said the human rights commission had decided Thursday to appoint a commission of inquiry to investigate a complaint of alleged discrimination filed by Dr. Jain in relation to the selection of a librarian at the University. Human Rights commission director George McCurdy could not be reached last night for comment.

Calling for independent legal counsel, Ms. McDonough said lawyers provided by the attorney general's department "could not be expected not to be prejudiced" by the attorney general's views as expressed in his letter.

Thursday marked the second day in a row that Mr. How found himself on the hotseat for personal views expressed in letters written on departmental stationery.

Wednesday, the combined Liberal and NDP benches were up in arms for comments he made on labor relations in a letter he sent to striking EPA pilots.

Facing reporters Thursday, Mr. How admitted he should probably be more careful in his written replies because they seem to end up in the hands of the opposition.

However, the minister stuck to his written views, saying there were personal and not those of the government.

"I don't have to sympathize with some laws (passed by the former government) even though I have to enforce them," he said in an interview.

Mr. How told reporters he wrote the letter to the Indo-Canadian Association of Nova Scotia after Dr. Jain complained he was discriminated against because he was from another country.

The attorney general said he was not aware at the time of writing the letter that Dr. Jain was a Canadian citizen. Ms. McDonough told reporters yesterday that Dr. Jain is a Canadian citizen and that the person hired by Acadia University as librarian had come to Canada more recently than Dr. Jain.

Pressed on his written comments that "we ought to give native Canadians a preference for positions where government funds are a major contribution of the institution concerned," Mr. How said he leans in that direction out of a feeling that, other things being equal, persons living for some time in a country "have earned some kind of preferred position."

The minister was quick to point out that he felt that new arrivals, based on their eventual contributions to the country, would also rate similar considerations.

In his Dec. 7, 1982 letter, Mr. How said he doubted that Dr. Jain's complaint, had he gone to the United States and faced a similar situation, would have been given the same attention he apparently got in this country.

"Likewise if a Canadian had gone to India and had been there for only some 10 years, I doubt if his protest under reversed circumstances would have been given very much attention," he wrote.

"Generally, I am concerned today that on every occasion that some person of a minority race applies for a position and is not accepted, that it is popular to raise the complaint of discrimination," he wrote.

Barney Clark dies

(Continued from page one)

On his last morning, Clark was on a respirator and could not speak, although he could communicate with gestures. DeVries said Clark's last meaningful conversation was Monday or Tuesday with his wife. "It was closed

eration — must do so with the next candidate.

"The artificial heart at the autopsy looked as good as the day it was put in," DeVries said. He said only minor changes were contemplated for the de-

TRIPARTITE MEETING

DEPARTMENT OF INDIAN & NORTHERN AFFAIRS

Council of Maritime Premier Board Room

Royal Bank Towers

Halifax, Nova Scotia

June 13, 1983

M I N U T E SPRESENT:

Honourable Edmund Morris - (Chairman) Minister of Social Services
 Mr. Ron Witt - Director General, Atlantic Region, Indian & Inuit Affairs
 Mr. Noel Doucette - President, Union of Nova Scotia Indians
 Mr. Don Eldridge - Deputy Minister of Lands & Forest
 Mr. Bill Lane - D.I.A.N.D. (Halifax)
 Mr. Gordon Gale - Attorney General Department
 Mr. Peter Woods - Department of Labour & Manpower
 Mr. Gerry Cooper - D.R.E.E.
 Mr. Clarrie MacKinnon - Department of Fisheries
 Mr. Eric Lavers - Department of Finance (Provincial Tax Commission)
 Mr. E.W. Pendegast - Department of Lands & Forest
 Mr. Art Higgins - D.I.A.N.D. (Amherst)
 Mr. Wayne Abram - U.N.S.I.
 Mr. Neil Walsh - D.I.A.N.D. (Halifax)
 Mr. Allan Clark - Department of Social Services

Purpose of Meeting

To identify concerns and issues with specific programs affecting the Native population of Nova Scotia.

Background

Mr. Morris welcomed everyone to the meeting. The first items discussed on the agenda were items 6 and 7, policing on Reserves and the Court Workers Program as some members had prior commitments and asked if these issues could be discussed first.

Policing on Reserves

Mr. Ron Witt spoke on this issue concerning policing on reserves. He indicated that there was need for more policing on some reserves like Eskasoni while others like Pictou Landing and Annapolis Valley region still do not have any 3B policing, but have requested this service from the Department of Indian and Northern Affairs. Funding and co-operation for this additional service is needed from both Federal and Provincial Governments.

Mr. Gale indicated that the service is not a Provincial responsibility but a Federal responsibility, but they are willing to assist with the program. He also stated that the Province would prefer the 3B policing on Reserves rather than the way policing is done on Reserves in Quebec which is through the Amirand Policing. Apparently if this method of policing was adopted they would not be accountable to the Provincial Attorney-General Department.

Mr. Witt indicated that there is a federal Minister's sub-committee under Jack Tully who will be visiting the provincial Attorney-General Department to discuss a possible new cost-sharing arrangement for policing on Reserves.

It was suggested that there needs to be further clarification of this issue between the Federal, Provincial, and U.N.S.I. Mr Ron Witt has agreed that he will make a report at the next Tripartite meeting on the progress of these meetings.

Court Worker Program

This issue will also be included for discussing when the Federal sub-committee meets with the Provincial Attorney-General Department and the U.N.S.I. and a progress report will be made at the next Tripartite meeting. It was moved by Mr. Ron Witt and seconded by Mr. Noel Doucette that the Minutes of October 6, 1982 be received.

Employment and Training Follow-Up

Mr. Morris indicated that there is still a hiring freeze which is still in effect in the Provincial Government. At present, efforts are being made within the Provincial Government to provide affirmative action programs as well as assisting non-status Indians associated with the Native Council of Nova Scotia to find employment

Mr. Peter Woods indicated that he met with U.N.S.I. officials and Mr. Clark with regard to training certification for status Indians on Reserves.

As a result of this meeting it was agreed that wherever possible the Department of Labour and Manpower will administer the normal examination to those natives who have been jointly identified as having the necessary prerequisites.

In addition, it was also agreed that for those Natives who have been jointly identified as having the necessary essential prerequisites but may be lacking certain capabilities to attempt the written examination, a suitable practical examination will be administered to determine eligibility for certification. Mr. Doucette felt that the Department of Labour was doing an excellent job to assist in certifying natives for possible jobs in Nova Scotia. Mr. Witt informed the committee that under the Native SAP program, natives do not have to go through a competition process under the Public Services Sector and they can bypass the red tape and be hired directly into the Federal Government offices. This is allowed only for a certain number of times up to the year 1985.

Mr. Witt indicated that he also was supportive of the Department of Labour efforts in certifying natives for specific trades within the Province.

He also informed the committee that work is being done on CEIC and Public Service Inventory for Indians regarding employment as they are not accurate.

Fisheries Employment

Mr. Clarrie MacKinnon gave a report on the Native employment situation in the Department of Fisheries. He indicated that they had trained 68 natives for the fisheries industry but that the Federal Government were not issuing any more fishing licenses.

It was suggested by Mr. Doucette that a meeting should be called between UNSI, Department of Fisheries and Federal Department of Ocean and Fisheries and Department of Indian and Northern Affairs and Department of Lands and Forest to discuss licenses for lobster, Herring Gill Net, and Salmon. This meeting would also discuss a new quota system for Indian people in Nova Scotia and to report back on the progress of the meeting at the next Tripartite meeting. Mr. Clark to arrange meeting.

Taxation (Cigarettes and Alcohol)

Mr. Eric Lavers gave a report of the problem and abuses of Natives purchasing large quantities of tax free cigarettes. The Provincial Tax Commission surveyed the whole of the Province and sent a complete listing to Mr. Noel Doucette. There appears to be a control problem and Indians may not be to blame for this abuse. Mr. Doucette said that he is willing to meet with the Taxation Department to look at the alledged abuses and to work out controls for enforcement. Mr. Clark will arrange a meeting between the Department of Finance, Department of Indian and Northern Affairs and Union of Nova Scotia Indians and report back to the next Tripartite meeting in September.

Access to Crown Land and Lease of Crown Land

Mr. Doucette explained that there are certain woods which the Native people use in handicraft such as ash and these trees are being cut down for firewood and by the pulp and paper industry in their harvesting for pulp wood. The Indians would like to have access to crown lands or lease crown land in the Province for harvesting of wood used for Indian Crafts.

Mr. Doucette would also like to see more Indian people trained and employed in the forestry industry and also under the Department of Lands and Forest.

A number of reserves are also interested in getting into the Christmas Tree Industry and would like to discuss this concept with the Department of Lands and Forest officials.

Mr. Eldridge would be only too pleased to meet with the Union of Nova Scotia Industry to discuss their concerns on forestry matters and also employment opportunity under the new Forestry Agreement. Mr. Clark will arrange for this meeting between U.N.S.I., Department of Lands and Forest and the Department of Indian and Northern Affairs.

Some agenda items for the next meeting are as follows:

1. Taxation re: Cigarettes Report
2. Access and Lease of Crown Land Report
3. Fisheries Report re: Employment Opportunities
4. Attorney General Report on Court Worker and Policing on Reserves
5. Child Welfare Report for next meeting

The next Tripartite meeting will be held on Monday, September 19, 1983 in Millbrook, this to be arranged by U.N.S.I.

**TRIPARTITE MEETING
DEPARTMENT OF INDIAN AND NORTHERN AFFAIRS,
UNION OF NOVA SCOTIA INDIANS AND
THE DEPARTMENT OF SOCIAL SERVICES**

Millbrook Band Hall
Millbrook Reserve
September 19, 1983

Present:

Honourable Edmund Morris (Chairperson) Minister of Social Services
Mr. Ron Witt - Director General, Atlantic Region, Indian & Inuit Affairs
Mr. Noel Doucette - President, Union of Nova Scotia Indians
Mr. Bill Lane - D.I.A.N.D. (Halifax)
Mr. Gerry Cooper - D.R.E.E.
Chief Stan Johnston - U.N.S.I.
Mr. Clarrie MacKinnon - Department of Fisheries
Mr. Eric Lavers - Department of Finance
Mr. Lenard LeBlanc - D.I.A.N.D. (Amherst)
Mr. Ernest Johnson - U.N.S.I.
Mr. Wayne Abraham - U.N.S.I.
Mr. Allan Clark - Department of Social Services

PURPOSE OF MEETING

The purpose of this meeting was to follow up on departmental meetings between U.N.S.I. and various provincial departments regarding concerns brought forward by previous tripartite meetings.

COURT WORKER PROGRAM

Mr. Witt indicated that 1974/75 was the last year that this court worker program was funded in the Province.

Mr. Morris asked if Mr. Witt could provide him with a summary of other provinces that are participating in the court worker program and the cost-sharing formula for each Province. Mr. Morris said he will investigate this issue with the Attorney General's Department. He also will discuss this concern in Cabinet along with other native concerns.

Mr. Witt will see if a meeting can be arranged between the Federal Department of Justice and the Provincial Department of the Attorney General during the month of October.

3B POLICING

Mr. Witt stated that the lack of policing on some Reserves is a very serious problem and he would like to see if the matter could be resolved.

Mr. Witt indicated at the present time there are three and a half ways policing is carried out on Indian Reserves in the Province.

- (a) On five Reserves, law enforcement is carried out directly by the R.C.M.P. as a part of the regular Federal/Provincial contract.
- (b) On three other Reserves, Schubencadie, Wagmatcook, and Whycomomagh law enforcement is carried out under the option 3B Policing Agreement. The cost-sharing ratio is as follows: 54 percent Provincial and 46 percent Federal.
- (c) Another method of law enforcement on the Reserves is through the Department of Indian and Northern Affairs whereby the Department pays 100 percent for (2) two Native people who are employed on the local Municipal Police Forces and are regular members of the force. The two Reserves using this system are Millbrook and Membertou.
- (d) The final method of law enforcement on Reserves in the Band constables program which is under the Department of Indian Affairs where by the Band Council hires constables on Reserves to enforce only Band by law. The Department pays 100 percent for Band Constables.

The problem which the Department of Indian Affairs is faced with are the number of requests asking for 3B Policing.

Eskasoni and Pictou Landing Reserves wish to establish 3B Policing on their Reserves, as well, other Reserves in the Province wish to do the same.

The cost-sharing arrangements of policing on Reserves provides a problem between the Federal and Provincial Governments. The Federal Government feels that it is the responsibility of the Attorney General of a Province to provide policing and that the Province should pay 100 percent of all policing arrangements. The Province has stated that since Reserves are located on Crown Lands and Indians are a responsibility of the Federal Government, then the Federal Government should pay all costs.

The Department has held a National Indian Policing Policy Review. This involved interview teams visiting each Region during February 1983, meeting with Indian, Federal, Provincial and Municipal representatives. From these interviews, a Policy Issues Report was prepared and presented to the Interdepartmental Advisory Committee.

After considerable discussion of the report, the Advisory Committee was unable to reach a consensus on the options, and agreed that a small sub-committee would evaluate the report and develop an outline for the detailed discussion paper.

TAXATION (CIGARETTES AND ALCOHOL)

Mr. Eric Lavers reported on the three meetings between U.N.S.L and the Tax Commission regarding abuse by some native people in the purchase of large quantities of tax exempt cigarettes from wholesale outlets.

Recently, the tax commission received a complaint from a wholesaler in the Sydney area regarding the resale of tax exempt cigarettes by Natives to retail outlets stating that his business is losing sales because Indians are selling tax exempt cigarettes to retail outlets at a lower price than the wholesaler can sell to the retail vendor.

Mr. Lavers stated that the Minister of Finance will be informing the 12 tobacco wholesalers in the Province that under the present legislation of the Health Services Tax, exemptions of tangible personal property is provided to Indians as defined by the Indian Act, Chapters 1-6 of the R.S. of Canada, 1970 when tangible personal property is delivered to and consumed or used on a Reserve.

Also, under the new Regulations Health Services Act, April 12, 1983 "Tobacco Products Regulations" states that;

"No vendor shall purchase any tobacco in the Province from a person other than a wholesale vendor who holds a registration certificate granted by the Commissioner for that purpose pursuant to subsection 9(1) of the Health Services Tax Act, unless otherwise authorized by that Act or Regulations made thereunder."

Mr. Morris indicated that the regulatory changes which took place in the spring of 1983 were aimed at the wholesaler so Government could better control them, it was not aimed at the Indian population.

Mr. Doucette stated that the chiefs are concerned that some Indians and non-Indians are abusing the tax exempt privilege for the rest of the native people. He indicated that the Union did not have any method of policing the situation.

Mr. Lavers said that as a result of the last meeting between U.N.S.L and the Tax Commission, Mr. Doucette requested that a letter be sent from the Minister of Finance to himself indicating the problem and what steps are being taken to correct the abuse. Mr. Lavers said that copies of the new regulatory changes have been mailed out to all wholesalers and retailers in the Province.

This topic to be placed on the next agenda.

FISHERIES REPORT RE: U.N.S.L

On August 4th the U.N.S.L, Federal Department of Ocean and Fisheries, and the Provincial Department of Fisheries met to discuss Native concerns regarding fishing licenses, aquaculture, fisheries loans, commercial fisheries, and native employment.

Mr. Doucette said that native people should be allowed to get involved in the commercial fisheries. He said that they recently had a request from buyers in the United States for 10,000 pounds of Lobster and nine million pounds of fish, but since there are very few Indians in the Province who have commercial licenses, Indians are unable to develop this resource.

It was suggested that the U.N.S.L. should first get approval from Federal Government, re: commercial fisheries licenses for various species of fish and then they would be eligible for Provincial Loans.

Mr. Witt will investigate the problem with the Department of Ocean and Fisheries and report back at the next meeting.

Notes from Tripartite Meeting (Fisheries) held August 4, 1983 in
Nova Scotia Department of Fisheries Board Room
10th Floor, Maritime Centre

1. Primary focus was on licensing with considerable discussion on herring gill net (limited entry), lobster (limited entry), salmon (limited entry) and eels and gaspereaux. Mr. Glen Jefferson, representing federal Fisheries and Oceans, pointed out the requirement of past, recent participation as a main criterion for license eligibility.

Union of Nova Scotia Indians representatives made clear the possible potential of the fishery with 7 of the 12 Indian bands in Nova Scotia on or close to lucrative fishing areas.

It was determined that the entire issue of native rights and the fishery had to be addressed at the Ottawa level. The Kirby Task Force Report was also referred to as a possible stumbling block with even more emphasis on reserving the fishery primarily for full time fishermen.

The potential for development of eel and gaspereaux fisheries was outlined and the suggestion put forward that involvement should be commenced quickly before they too become totally limited entry. (Gaspereaux fishery already is partially restricted).

2. Some attention was given to the regional policy on the Indian Food Fishery. Wagamatcook Band was the only applicant for a permit this year and it was issued. There were no other applications. One hundred salmon are allowed to be taken for food fish only with a permit also required to transport the salmon to Indians elsewhere.

Mr. Jefferson said that there has been a new directive too keep away from issuing any new licenses and permits including the Indian Food Fish permit and this is in force until further notice.

3. The oyster industry and aquaculture received a good examination with special input from Linc MacLeod, Director of Estuarine and Inland Fisheries

(provincial), who outlined legislation aimed at providing the legal framework to develop policy and programs.

It was suggested that one should start small and prove capabilities and that there was the possibility of a matching grant (Max. \$10,000) providing funding is earmarked in the next fiscal year.

The matter of stacking grants i.e. \$10,000 Prov. and \$10,000 Indian Affairs will have to be addressed.

MacLeod stated that business finesse is just as important as technology. He indicated that Bras d'Or oyster production was capable of a three fold increase - 7,000 boxes to 20,000 to 30,000 boxes annually.

A copy of the new Act was to be made available and further discussion took place on surveying and associated fees.

Other items dealt with were:

- (a) Rainbow Trout Culture and Smoking Process
- (b) Irish Moss
- (c) Striped Bass
- (d) Training and Native Employment Policy - designation of positions, minimum qualifications, skills upgrading and availability of actual job descriptions.
- (e) Difference in involvement and management between federal regions - Scotia Fundy and Gulf.
- (f) Section 81 Indian Act vs. Section 4 Fisheries Act.
- (g) Enforcement and lack thereof: native people fishing at night, spearing, illegal lures, etc.

In general the meeting was interesting and entailed some excellent exchange of frank information.

FORESTRY ISSUES

A letter was received from Mr. Bob Doherty who is a member of the Forest Resource Development Agreement Liaison Committee. He is asking for reaction, re: the acceptability of the wording in the proposed amendment to the Forestry Agreement 10.2 which reads as follows:

10.2 Canada and Nova Scotia agree that Status Indians, as defined by the Indian Act, R.S.C. 1970 c. I-6 as amended, will be given opportunities to participate in the Agreement by inclusion of Indian Reserve forested lands among those lands eligible for assistance under the Forest Resource Enhancement, Private Land Program.

It was decided that Mr. Clark contact Mr. Doherty and inform him that the Tripartite Committee felt that the wording was acceptable.

Mr. Noel Doucette indicated that he was pleased with the progress of the meetings with the Department of Lands and Forest on August 9 and August 18, 1983.

In the meeting of August 18, 1983 with the Department of Lands and Forest, it was suggested that a letter be drafted by the Deputy Minister of Lands and Forest to the Deputy Attorney-General indicating that the Department of Lands and Forest is prepared to give approval to the Native population to transport firearm, ammunition, game from one Reservation to the other as well as transporting fur pelts from Reservations to the nearest Department of Lands and Forest office.

The permission of issuing permits for this purpose could be transferred from the Minister to the Band Councils of the Reserves for use by the native population for a 12 month period. This issue to be investigated further by the Department of Lands and Forest.

NATIVE CHILD WELFARE PROGRAM

Mr. Noel Doucette gave a report on the development of Native Child Welfare Program. He indicated that there was a meeting at St. Francis Xavier University and as a result of this meeting further meetings and committees were developed at the various band level.

He also indicated that 45 native candidates will be enrolling in the Maritime School of Social Worker B.S.W. Program in December. These candidates will consist of 15 Drug, Alcohol counsellors and the current Band Welfare Officers.

EMPLOYMENT AND TRAINING FOLLOW-UP

Mr. Doucette stated that the meetings with Mr. Peter Woods, Department of Labour and Manpower have been progressing very well and to date there have been four tradesman tested and have received their trades license. He also sent a list of 280 Native tradesmen names to Mr. Woods and many will eventually be taking the examination for their trades paper.

Mr. Doucette also informed the committee that there are 20 Native people interested in taking C.N.A. Nurses training courses. The funding to be worked out by the Department of National Health and Welfare and the Department of Manpower and the Doner Foundation.

TRAPPING COURSES

Mr. Doucette said that the Department of Lands and Forest provide courses in the proper techniques of trapping animals. He would like to know if the courses which Mr. Johnson gives on Indian Reserves will be acceptable by the Department of Lands and Forest as a prerequisite for Natives receiving their first trappers license.

Mr. Clark and Mr. Ernest Johnson to investigate what is involved in order for Mr. Johnson to be certified.

NATIVE ECONOMIC DEVELOPMENT FUND

Mr. Gerry Cooper from the Department of Regional Economic Expansion explained that the Native Economic Development Fund will be operational in April 1984 and he has heard that there are approximately 200 applications for assistance now in Ottawa mostly from the West and Central Canada, although applications for the assistance are not yet available in the East.

The next meeting of the Tripartite Meeting will be scheduled for Halifax, Sir John Thompson Building, Department of Indian and Northern Affairs Board Room during the month of November.

Neil
July 23/84

TRIPARTITE MEETING

DEPARTMENT OF INDIAN AND NORTHERN AFFAIRS
UNION OF NOVA SCOTIA INDIANS AND
THE DEPARTMENT OF SOCIAL SERVICES

COUNCIL OF MARITIME PREMIERS
BOARD ROOM
10TH FLOOR - ROYAL BANK TOWERS
APRIL 16, 1984
5161 GEORGE STREET
HALIFAX, NOVA SCOTIA

PRESENT: Honourable Edmund L. Morris (Chairperson) Minister of
Social Services
Mr. Ron Witt - Director General, Atlantic Region, Indian
And Inuit Affairs
Mr. Noel Doucette - President, Union of Nova Scotia
Indians
Mr. Bill Lane - D.I.A.N.D. (Halifax)
Ms. Nalini Perera - D.I.A.N.D. (Headquarters - Ottawa)
Mr. Syd Wile - Provincial Tax Commissioner
Mr. Hugh MacIssac - Department of Lands & Forests
Mr. Peter Woods - Department of Labour & Manpower
Mr. Wayne Abram - Union of Nova Scotia Indians
Mr. Donald M. Zwicker - D.I.A.N.D. - Amherst
Ms. Barbara MacDonald - Union of Nova Scotia Indians
Mr. Gordon S. Gale - Attorney General's Department
Mr. George Richard - Nova Scotia Department of Fisheries
Dr. D. Waldkan - Medical Services Branch
Mr. Allan Clark - Department of Social Services

MINUTES OF SEPTEMBER 19TH, 1984

The Chairman, Honourable Edmund L. Morris acknowledged the minutes which were circulated to the committee members.

NATIVE COURT WORKER PROGRAM

Mr. Noel Doucette indicated that there is a need of a court worker program in the Province and that he has been in contact with the

Federal Department of Justice on this matter. The Department is willing to participate in such a program on a cost-sharing basis with the Province.

"3B Policing"

The issue of policing continues to be a problem. Mr. Gale reported that the Attorney General's Department is still waiting for a response to a letter which was sent to the D.I.A.N.D. in Ottawa with regard to this issue.

Mr. Witt stated that there are three Reserves in the Province which has the 3B Policing - Schubencadie, Wagmatcook and Whycocomagh. He also indicated that cost-sharing arrangements with the Provinces does differ from regions to region.

Mr. Witt stated that Chapel Island is in critical need of "3B Policing". Mr. Morris would like to see this matter resolved and asked Mr. Witt if he had any suggestions on how this could be moved forward. Mr. Witt stated that he would check with Ottawa to see were the study is on this issue and if it can be moved forward.

Mr. Morris indicated that he is trying to resolve many of these issues but apparently the Native Chiefs do not want the province to speak for them, that they should be exercising their own Native Rights.

Mr. Morris stated that the province's position is that you cannot have it both ways, you must deal with pragmatic matters first. It appears that Mr. Doucette only wants to talk with federal government and it appears that the door is being slammed in our faces.

In summary, there appears to be no sign of positive movement so the matter shall remain on the agenda for the next meeting and all related correspondence is to be brought up to date.

ITEM 4 - CIGARETTE TAXATION

Mr. Wile reported on the new Regulations to the Health Services Act which were made on April 12, 1983 and amended on March 13, 1984. He stated that these regulations are designed to affect tobacco wholesalers and retail vendors of tobacco as follows:

1. Wholesaler Vendors:

- A. Must be registered with the Provincial Tax Commission as a wholesaler of tobacco products.

- B. May only sell tobacco for the purpose of resale to persons who are registered as vendors under the Health Services Tax Act.
- C. Must maintain records of all purchases and sales of tobacco products as follows:

PURCHASES

- 1. Name of tobacco manufacturer from whom purchases made.
- 2. Quantities of tobacco purchased.

SALES

- 1. Name of retail vendor to whom tobacco products sold.
- 2. Retail vendors Tax Registration Number.
- 3. Quantity purchased by retail vendor.

EXEMPT SALES

- 1. Record name of purchaser and obtain a certification citing the section of the Health Services Tax Act or Regulations under which the exempt purchase is being made.
- 2. Record quantity and price of items purchased.

2. Retail Vendors:

- A. Must be registered as a vendor under the Health Services Tax Act.
- B. Must maintain records of all purchases of tobacco products as follows:
 - 1. Must record name and Registration Number of wholesaler from whom tobacco products are purchased.
 - 2. Must record quantities of tobacco products purchased and price paid.

All business records and books of account which are required to be maintained by these regulations must be kept until written permission for their disposal has been granted by the Minister.

Mr. Wile stated that the situation has gotten worse and if the situation does not improve then there will be no choice but to prosecute.

It was suggested that a copy of the new tax regulations be forwarded with the minutes.

Mr. Abram questioned what is stopping the native individual from going to the wholesaler and working out a deal. Mr. Morris cited 10(1) (ab) of the Health Services Act.

Mr. Abram stated what is stopping the native individual from buying large quantities of cigarettes having them sent to a Reserve in N.S. and then transfer them to another Reserve in other Provinces tax exempt.

Mr. Wile and Mr. Clark was asked to look into this matter further and report back at the next meeting.

ITEM 5 - LICENSING FOR FISHING

Mr. Richards from the Department of Fisheries stated that both natives and non-native are treated in the same manner as far as becoming a licensed fisherman. An individual has to work for two years before being capable of buying a license or setting up a fishing enterprise. Mr. Witt feels it is not amendable to increase licenses to Indians. At the present time, they are trying to reduce the number of Native fisherman by purchasing them back.

Mr. Doucette would like to see further meetings with both the Provincial and Federal Department of Fisheries. He feels that generations even before his forefathers they had only received permission from the tribes to fish and no requirements for a license or quota was required. Mr. Doucette asked the question why can't the native people continue to fish like their forefathers providing they stay within the boundaries of the Reserves.

Mr. Clark is to set up meetings between the Provincial and Federal Fisheries and the U.N.S.I.

ITEM 6 - TRANSPORTATION OF FIREMAN AND GAME FROM ONE RESERVE TO ANOTHER

In the meeting of August 18, 1983 with the Department of Lands & Forest, it was suggested that a letter be drafted by the Deputy Ministers of Lands & Forest to the Deputy Attorney-General indicating that the Department of Lands & Forest is prepared to give approval to the Native population to transport firearm,

ammunition, game from one Reservation to the other as well as transporting fur pelts from Reservations to the nearest Department of Lands & Forest office. The permission of issuing permits for this purpose could be transferred from the Minister to the Band Councils of the Reserves for use by the native population for a 12 month period. This issue to be investigated further by the Department of Lands & Forest.

Mr. MacIssac indicated a request from the Tripartite Committee Chairman would be required in order to have the Department of Lands and Forest grant permission of transporting firearms.

It was moved by Mr. Abram and seconded by Mr. Witt that Mr. Clark forward a copy of the minutes of the last meeting accompanied by a covering letter from the Tripartite Committee Chairman to see if this issue can be revolved.

At this point the Honourable Edmund L. Morris excused himself and appointed Mr. Witt as chairman to continue the meeting as he had another engagement which he had to attend.

ITEM 10 - HEALTH CONCERN ON RESERVES

Mr. Doucette requested that Mr. Clark arrange a meeting between the Honourable Edmund L. Morris, Dr. Sheehy, and Mr. Doucette to discuss the possibility of employing Native nursing staff at hospitals in the province.

ITEM 7 - NATIVE CHILD WELFARE AGREEMENT

On January 26, 1984, a draft agreement was tabled and a further meeting is to be held on April 17, 1984 to further discuss items within the agreement. Mr. Doucette indicated that there is a need to have this agreement finalized as soon as possible so training for Native workers entering the Maritime School of Social Work for the B.S.W. program can take place in September 1984. Mr. Clark commented that their practicum should not only be confined to Reserves but should be broader in scope.

ITEM 11 - SALES TAX ON PHONE BILLS ON RESERVES

Mrs. B. MacDonald spoke on this issue regarding taxes on native phone bills on Reserves. She has been receiving several requests regarding tax exemptions on phone and power bills.

Mr. Wile suggested instead of dealing with these individually as is now the practice. It would expediate matters if a letter from the Union of Nova Scotia Indians was sent to him requesting tax exemption from present and past phone bills rather than receiving individual letters of request.

ITEM 12 - Was deleted from the agenda

ITEM 8 - EMPLOYMENT AND TRAINING UPDATE "CERTIFICATION"

Mr. Woods reported that as of March 31, 1984 seventeen people wrote exams, fifteen completed the course; eight certified in this one occupation pilot program and that it was the most successful course to date.

The second step is to find funding to maintain an ongoing program. Discussion have been held with C.E.I.C. on this issue.

Mr. Woods stated that it costs \$1,300 per person for this program and in many cases individuals have had no previous training, not all reserves were covered under the pilot program.

A progress report on discussion with C.E.I.C. will be given at the next Tripartite Meeting.

*Minutes of Proceedings and Evidence
of the Standing Committee on*

*Procès-verbaux et témoignages
du Comité permanent de la*

Justice and Legal Affairs

Justice et des questions juridiques

RESPECTING:

Bill C-53, An Act to amend the Criminal Code in relation to sexual offences and the protection of young persons and to amend certain other Acts in relation thereto or in consequence thereof

Main Estimates 1982-83: Votes 1, 5 and 10 (Department) under JUSTICE

CONCERNANT:

Bill C-53, Loi modifiant le Code criminel en matière d'infractions sexuelles et de protection des jeunes et apportant des modifications corrélatives à d'autres lois

Budget principal des dépenses 1982-1983: crédits 1, 5 et 10 (Ministère) sous la rubrique JUSTICE

APPEARING:

The Honourable Jean Chrétien,
Minister of Justice and
Attorney General

COMPARAÎT:

L'honorable Jean Chrétien,
Ministre de la Justice et
Procureur général

WITNESSES:

(See back cover)

TÉMOINS:

(Voir à l'endos)

First Session of the
Thirty-second Parliament, 1980-81-82

Première session de la
trente-deuxième législature, 1980-1981-1982

[Texte]

Mr. Chrétien: With regard to Bill C-53, I agree with you . . . There was support by the three official spokesmen of the different parties about it.

• 1610

I said that there are some aspects of the bill I have put there for the purpose of discussion, but I was not necessarily committed to that and I will accept the recommendations and the views of the committee on that, group sex and bestiality and so on. So these things I am not obliged to proceed with, but the rest of the bill was receiving 100 per cent agreement by the Tories, NDP and the Liberals, so I think we should proceed with it, the rest of the bill, and as quickly as possible. I do not know what the work of this committee is at this time, but the sooner the better. Of course, we will need some agreement in the House of Commons in order to pass it because there is a lot of legislation before the House and we will have to determine the priorities there. But if there is a complete airing of the issue here I hope the members will be willing to make it very easy to pass third reading in the House of Commons.

In terms of the reform of the Criminal Code, of course, it is a mandate that was given to the Law Reform Commission and it is a pretty far-reaching proposition. So of course in the omnibus bill in the Criminal Code that we might introduce later in the year there will be some changes in the interim, but the major issue of . . . In fact, the mandate that was given to the Law Reform Commission is to start from scratch in trying to develop a new Criminal Code for Canadians, because the one we have has been amended so many times over the last many generations that the time has come to have a more concise Criminal Code. It will make the defence and the accused have an easier time before the courts.

You can ask the commission. We gave them five years to do that reform, and when the Law Reform Commission president is here you could question him about the progress he has made so far.

Mr. MacLellan: What is his position with respect to amendments to the Evidence Act? Is it contemplated that there are going to be changes recommended?

Mr. Chrétien: Yes, we were working on some changes to the Evidence Act, but at the same time as we have given the mandate to the Law Reform Commission to review all that, we have a kind of a dilemma because I do not want to pre-empt the work of the Law Reform Commission. At the same time, there is some reform that is needed. At any rate, in due course there will be some propositions coming from me. I just say that because we might have that as an interim measure until the Criminal Code is completely rewritten, but at this time we are contemplating some amendments to the Evidence Act.

Mr. MacLellan: Mr. Minister, until recently it has been the practice that the Court Workers Program for native people will be shared 50-50 between the Department of Justice and

[Traduction]

M. Chrétien: En ce qui concerne le projet de loi C-53 je suis d'accord avec vous . . . trois porte-parole officiels des différents partis y sont favorables.

J'ai dit que certains aspects du Bill avaient été mis là pour qu'on en discute, mais je ne suis pas nécessairement inflexible là-dessus et j'accepterai les recommandations et les idées du Comité sur ces questions, le sexe en groupe et la bestialité, et ainsi de suite. Alors, je ne suis pas obligé de faire avancer ces questions, mais on avait l'approbation entière des tories, du NPD et des libéraux pour le reste du projet de loi, alors je pense que nous devrions procéder avec le reste aussi rapidement que possible. Je ne sais pas ce que le Comité a à faire ces temps-ci, mais le plus tôt sera le mieux. Il faudra évidemment l'approbation de la Chambre des communes pour adopter le Bill, car il y a beaucoup de lois qui sont à l'étude présentement à la Chambre et il faut déterminer les priorités. Mais si la question a été traitée à fond, j'espère que les députés seront disposés à en faciliter l'adoption en troisième lecture à la Chambre des communes.

Pour ce qui est de la réforme du Code criminel, c'est un mandat qui a été confié à la Commission de réforme du droit et c'est une tâche très vaste. Alors il y aura évidemment des changements qui seront apportés avant la présentation plus tard dans l'année du bill omnibus concernant le Code criminel, mais la principale question de . . . En fait, la Commission de réforme du droit reçu le mandat de commencer à zéro et d'élaborer un nouveau Code criminel pour les Canadiens, parce que celui que nous avons a été modifié tellement souvent au cours des dernières générations qu'il est maintenant temps d'élaborer un Code criminel plus concis. Cela va faciliter la tâche de la défense et de l'accusé devant les tribunaux.

Vous pouvez demander à la Commission. Nous lui avons donné cinq ans pour effectuer cette réforme, et quand le président de la Commission de réforme du droit sera là, vous pourrez l'interroger sur les progrès réalisés jusqu'à présent.

M. MacLellan: Quelle est sa position en ce qui concerne les modifications à la loi sur la preuve? Croit-on qu'il va y avoir des recommandations de changements?

M. Chrétien: Oui, nous avons travaillé à certains changements de la loi sur la preuve, mais en même temps nous avons donné à la Commission de réforme du droit le mandat d'étudier toute cette question, alors nous nous trouvons dans un dilemme parce que je ne veux pas empiéter sur le travail de la Commission. En même temps, on a besoin d'une certaine réforme. De toute façon, je ferai certaines propositions en temps et lieu. Je dis cela simplement parce qu'on recourra peut-être à cette mesure intérimaire en attendant la refonte complète du Code criminel, mais nous nous penchons sur certaines modifications à la Loi sur la preuve à l'heure actuelle.

M. MacLellan: Monsieur le ministre, jusqu'à tout récemment, le Programme d'assistance judiciaire destiné aux autochtones devait être partagé également entre le ministère

[Text]

the provincial governments in which that program was implemented. It is my understanding that, at least until recently, the Province of Nova Scotia has refused to pay that 50 per cent, so as a result the program has not proceeded in the Province of Nova Scotia. Is this still the case, and if so, is this the only province in Canada where this program is not being implemented because of the policies of the provincial government?

Mr. Chrétien: My information on both of your questions is that the answer is yes. It is the case in Nova Scotia and that is the only province.

Mr. MacLellan: Has there been any recent negotiation with the Province of Nova Scotia on this particular question?

Mr. Chrétien: There are some continuing negotiations on that, but the difficulty has not been resolved.

Mr. MacLellan: Is there . . . ?

Mr. Chrétien: The option is to the province to decide to be in, and if they are in we have to pay our share. That is the way the program works.

Mr. MacLellan: So the Department of Justice's position is that they are still prepared to pay the 50 per cent, and as soon as the province pays its 50 per cent then the program will proceed in the Province of Nova Scotia.

Mr. Chrétien: That is the policy of the department.

Mr. MacLellan: As well in the Province of Nova Scotia, the minister may be aware that recently legislation was introduced which has since been amended to be modified somewhat, but in the modified state it allows for the breaking of the Innkeepers Act and the Motor Vehicle Act in the interest of solving crime. There is advocacy again that the Department of Justice and the federal government implement such legislation in particular federal fields. Has the federal government given any thought to this? Has anything further proceeded on this?

• 1615

Mr. Chrétien: No. I am aware of the controversy that exists about this bill in Nova Scotia, but so far we have not had to take any position on that and what will be the effect if the bill is implemented on the federal activities within the province. In fact, I have not seen any documents on that. So far it has not been mentioned as a problem for us, but we will see when the law is passed.

Mr. MacLellan: But then, certainly the federal government does not plan on following that example?

Mr. Chrétien: At first glance, the answer is no.

Mr. MacLellan: Good. Mr. Minister, what is the present position of the department on the Crown prerogative for mercy?

Mr. Chrétien: In what way?

Mr. MacLellan: For instance, how are the applications received? How are they received, and how are they dealt with?

[Translation]

de la Justice et les gouvernements provinciaux où le programme existait. J'ai entendu dire que, du moins jusqu'à tout récemment, la province de la Nouvelle-Écosse avait refusé de payer sa part de 50 p. 100, de sorte que le programme ne fonctionnait pas dans cette province. Est-ce que c'est toujours le cas et, dans l'affirmative, est-ce que c'est la seule province au Canada où ce programme n'existe pas à cause des politiques du gouvernement provincial?

M. Chrétien: A ce que je sache, la réponse est oui à vos deux questions. C'est le cas en Nouvelle-Écosse, et c'est la seule province dans cette situation.

M. MacLellan: Y a-t-il eu des négociations dernièrement avec la province de la Nouvelle-Écosse sur cette question?

M. Chrétien: Des négociations se poursuivent constamment là-dessus, mais le problème n'a pas encore été réglé.

M. MacLellan: Y a-t-il . . . ?

M. Chrétien: C'est à la province de décider de participer au programme, et si elle choisit de le faire, nous devons payer notre part. C'est la façon dont fonctionne le programme.

M. MacLellan: Alors la position du ministère de la Justice dans cette affaire est que le ministère est toujours prêt à payer sa part de 50 p. 100, et dès que la province paiera son écot, le programme pourra fonctionner en Nouvelle-Écosse.

M. Chrétien: C'est la politique du ministère.

M. MacLellan: Le ministre sait peut-être que dans cette même province de la Nouvelle-Écosse, une loi a été adoptée récemment et modifiée quelque peu par la suite pour permettre d'enfreindre la Loi sur les hôteliers et la Loi sur les véhicules-automobiles afin de faciliter la solution de crime. Certains seraient favorables à ce que le ministère de la Justice et le gouvernement fédéral adoptent de telles lois dans des secteurs particuliers de compétence fédérale. Le gouvernement fédéral s'est-il penché sur cette question? Quelque chose a-t-il transpiré de cela?

M. Chrétien: Non. Je suis au courant de la controverse au sujet de cette loi en Nouvelle-Écosse, mais jusqu'à présent nous n'avons pas pris position sur la question et nous n'avons pas évalué l'incidence de l'application de cette loi dans la province sur les activités fédérales. En fait, je n'ai pas vu de document là-dessus. Jusqu'à présent, cela n'est pas un problème pour nous, mais nous verrons lorsque la loi sera adoptée.

M. MacLellan: Mais le gouvernement fédéral ne songe certainement pas à suivre cet exemple?

M. Chrétien: A première vue, la réponse est non.

M. MacLellan: Très bien. Monsieur le ministre, quelle est la position actuelle du ministère en ce qui concerne le droit de grâce de la Couronne?

M. Chrétien: Dans quel sens?

M. MacLellan: Par exemple, comment les demandes sont-elles reçues? Comment sont-elles reçues, et comment sont-elles traitées?

HOUSE OF COMMONS

CHAMBRE DES COMMUNES

Issue No. 113

Fascicule n° 113

Monday, December 6, 1982

Le lundi 6 décembre 1982

Chairman: Mr. Jean-Guy Dubois

Président: M. Jean-Guy Dubois

*Minutes of Proceedings and Evidence
of the Standing Committee on**Procès-verbaux et témoignages
du Comité permanent de la***Justice and
Legal Affairs****Justice et des
questions juridiques****RESPECTING:**Supplementary Estimates (B) 1982-83: Votes 1b and
5b—Administration of Justice Program under
JUSTICE**CONCERNANT:**Budget supplémentaire (B) 1982-1983: crédits 1b et
5b—Programme d'administration de la justice sous la
rubrique JUSTICE**APPEARING:**The Honourable Mark MacGuigan,
Minister of Justice and
Attorney General of Canada**COMPARAÎT:**L'honorable Mark MacGuigan,
Ministre de la Justice et
Procureur général du Canada**WITNESSES:**

(See back cover)

TÉMOINS:

(Voir à l'endos)

First Session of the

Thirty-second Parliament, 1980-81-82

Première session de la

trente-deuxième législature, 1980-1981-1982

[Text]

Mr. Peterson: Do you have any idea how much money we are contributing to these provincial programs of legal aid?

Mr. MacGuigan: My department has that available.

Who could give us that information here? Mr. Fairbairn will give us this.

Mr. Lyle Fairbairn (General Counsel, Programmes and Law Information Development Section, Department of Justice): In the current year we will be spending about \$29.1 million, which represents something less than half of the national costs of criminal legal aid in Canada.

Mr. Peterson: Excuse me; I am not sure I understand that. We pick up half the cost of all legal aid?

Mr. Fairbairn: Approximately half of the cost. That is in the order of about 45%.

Mr. Peterson: What would be the reason for our participating in this type of program? Not that I disapprove of it at all—to the contrary—but the administration of justice is a provincial matter. Under what type of agreement with the provinces do we provide this funding?

Mr. Fairbairn: These are cost-sharing arrangements which have existed since 1972, and the federal government became involved as a result of its concern about liberty as a subject. The program, I think, has become even more important today because it gives the greatest practical effect to legal equality in criminal matters, and in the Young Offenders Act it will be even more important to ensure that counsel are available.

Mr. Peterson: Thank you very much.

I understand that we have a native court worker program that is maintained by the Department of Justice, Mr. Minister. Could you give me a few details about that and how we got involved and how it is working out?

Mr. MacGuigan: Yes, I would be glad to do that, Mr. Chairman.

The essential purpose of the native court worker program is to provide counselling other than legal advice to native persons in the criminal justice system. The native court workers help natives—and this includes non-status Indians and the Métis—to understand the nature of the criminal charges against them and how to obtain legal aid, and frequently intervene at the request of the court to provide background information about the native accused which helps the court in the sentencing process. It exists in both territories and all provinces except Nova Scotia. The Province of Nova Scotia takes the position that natives are a federal responsibility and have not agreed to establish a program.

There is cost sharing. We pay 50% of the native court worker budgets on a current-year basis.

[Translation]

M. Peterson: Avez-vous une idée des sommes que nous contribuons à ces programmes provinciaux d'aide juridique?

M. MacGuigan: Mon ministère dispose de ces renseignements.

Qui peut me les communiquer ici? M. Fairbairn le fera.

M. Lyle Fairbairn (avocat général, Programmes et informations juridiques, ministère de la Justice): Pendant l'année en cours, nous dépenserons environ 29.1 millions de dollars, ce qui représente moins de la moitié des coûts à l'échelle nationale, au titre de l'aide juridique au criminel dans notre pays.

M. Peterson: Excusez-moi; je ne suis pas certain d'avoir compris. Nous assumons la moitié des frais de toutes les formes d'aide juridique?

M. Fairbairn: Environ la moitié des coûts, c'est-à-dire 45 p. 100.

M. Peterson: Pourquoi participons-nous à ce genre de programmes? Ce n'est pas que je désapprouve, bien au contraire, mais l'administration de la justice est un domaine de compétence provinciale. En vertu de quel arrangement avec les provinces assumons-nous cette part du financement?

M. Fairbairn: Il s'agit d'ententes en matière de partage des coûts remontant jusqu'à 1972 et auxquels le gouvernement fédéral a décidé de participer parce qu'il se préoccupait de la liberté des citoyens. Je crois que ce programme est devenu encore plus important aujourd'hui du fait qu'il établit une plus grande égalité juridique sur le plan pratique dans des questions relevant du criminel. Il prendra encore plus d'importance dans la Loi sur les jeunes contrevenants puisqu'il donnera les moyens d'avoir accès aux services d'un avocat.

M. Peterson: Merci beaucoup.

Monsieur le ministre, je crois savoir que le ministère de la Justice administre un programme d'aide juridique aux autochtones. Pouvez-vous me donner quelques renseignements là-dessus, nous dire comment nous l'avons entrepris et quels résultats il donne?

M. MacGuigan: Oui, volontiers, monsieur le président.

Le principal objectif du programme d'aide juridique aux autochtones est de fournir des services, à part l'aide juridique, aux autochtones ayant affaire avec la justice criminelle. Ce programme vient donc en aide aux autochtones, y compris les Indes de fait et les Métis, afin que ces derniers puissent comprendre la nature des accusations criminelles portées contre eux, qu'ils sachent comment obtenir les services de l'Aide juridique et qu'à la demande du tribunal, ils fournissent des renseignements sur eux s'ils sont accusés, ce qui aide lorsqu'il s'agit de déterminer les peines. Il est en vigueur dans les deux territoires et dans toutes les provinces, sauf la Nouvelle-Écosse. Cette dernière est d'avis que les autochtones relèvent du fédéral et a choisi de ne pas mettre en oeuvre ce genre de programmes.

Il y a partage des frais. Nous assumons 50 p. 100 des coûts des budgets établis sur une base annuelle.

[Texte]

We feel it is an important program because many native people have an inadequate appreciation of the criminal justice system and certainly of the process of criminal justice.

• 1705

Without the kind of help they receive from native court workers, it might be difficult to ensure that they would receive fair treatment under the system. It also helps the court in satisfying itself that the native person understands the process in which he is participating.

Mr. Peterson: Mr. Minister, you have always been a very progressive person when it comes to the . . .

Mr. MacGuigan: Would you excuse me for just a moment? I have to take a telephone call. Could you stop the clock or something?

The Vice-Chairman: We will adjourn for one moment.

• 1706

• 1707

The Vice-Chairman: Mr. Peterson had the floor.

Mr. Peterson: Mr. Minister, would you care to tell us what happened with that phone call? Was that from London?

Mr. MacGuigan: No.

Mr. Peterson: You have a very strong academic background in the law. You have always been identified with progressive legal reform, and right now, as I understand it, the Department of Justice, through the Law Reform Commission, is undertaking very extensive legal reforms or suggestions. Could you bring us up to date on what is being done in this area, and where you think it will take us?

Mr. MacGuigan: Yes, I would be glad to talk about that, Mr. Chairman.

We have a five-year review under way, and that process involves the Law Reform Commission, it involves the Department of Justice, and of course it involves the minister, to whom both the Law Reform Commission and the department are responsible. It is hoped and expected that in the case of all the reforms the Law Reform Commission will have an opportunity in some fashion or other to study the matter first, although there may be some cases in which we will want to have the study jumped from the Law Reform Commission before it has actually produced any kind of report. But normally I would prefer to have a report, either a working paper, or, even better still, final recommendations by the commission, before we proceed to attempt to move to the legislative process.

I want the legislative process to begin next fall. I feel if our five-year review process is to have any credibility a year after it has begun, it has to move to the level of action. We have had

[Traduction]

Nous tenons ce programme pour important parce que bon nombre d'autochtones comprennent mal le droit criminel et certainement la procédure pénale.

Sans l'aide fournie par les auxiliaires autochtones de la Justice, il serait peut-être difficile de s'assurer que les autochtones sont traités de façon équitable par notre système judiciaire. Par ailleurs, le programme est également bénéfique pour le tribunal, car il l'aide à s'assurer que l'autochtone comprend la procédure à laquelle il est partie.

M. Peterson: Monsieur le ministre, vous avez toujours été très progressiste pour ce qui est de . . .

M. MacGuigan: Auriez-vous l'obligeance de m'excuser un moment? Je dois faire un appel téléphonique. Pouvez-vous arrêter l'horloge ou faire quelque chose de semblable?

Le vice-président: Nous allons lever la séance pour un moment.

Le vice-président: La parole était à monsieur Peterson.

M. Peterson: Monsieur le ministre, pouvez-vous dire quelle était cette communication téléphonique? Venait-elle de Londres?

M. MacGuigan: Non.

M. Peterson: Vous avez de très solides antécédents scolaires en matière de droit. En outre, vous avez toujours été associé à une réforme juridique progressiste, et en ce moment, je crois savoir que le ministère de la Justice, par le truchement de la Commission de réforme du droit, est en train d'effectuer ou d'envisager des réformes juridiques très poussées. Pouvez-vous nous indiquer ce qui se fait dans ce domaine, et nous donner une idée de la direction dans laquelle cela nous entraînera?

M. MacGuigan: Oui, avec plaisir, monsieur le président.

Un processus de réexamen de cinq ans est en cours, et il s'effectue grâce à la participation de la Commission de réforme du droit, du ministère de la Justice, bien entendu, du ministre lui-même, de qui relèvent à la fois la Commission et le ministère. Nous espérons et prévoyons qu'en ce qui a trait à toutes les réformes, la Commission de réforme du droit pourra étudier la question en premier, même si dans certains cas, nous voudrions que le dossier soit acheminé ailleurs avant que la Commission ait pu produire un rapport quelconque. Cependant, dans les circonstances normales, je préfère disposer d'un rapport, qu'il s'agisse d'un document de travail, ou mieux encore, de recommandations définitives de la part de la Commission, avant que nous ne passions à l'étape législative.

Cela dit, j'aimerais que le processus législatif soit amorcé l'automne prochain. Si notre processus de réexamen de cinq ans veut avoir une crédibilité quelconque, un an après son

HOUSE OF COMMONS

Issue No. 122

Thursday, March 10, 1983

Chairman: Mr. Claude-André Lachance

CHAMBRE DES COMMUNES

Fascicule n° 122

Le jeudi 10 mars 1983

Président: M. Claude-André Lachance

*Minutes of Proceedings and Evidence
of the Standing Committee on*

Justice and Legal Affairs

*Procès-verbaux et témoignages
du Comité permanent de la*

Justice et des questions juridiques

RESPECTING:

Main Estimates 1983-84: Votes 1 and 5—
Administration of Justice Program and Vote 10—
Canadian Unity Information Office Program under
JUSTICE

CONCERNANT:

Budget des dépenses 1983-1984: crédits 1 et 5—
Programme d'administration de la justice et crédit 10—
Programme du Centre d'information sur l'unité
canadienne sous la rubrique JUSTICE

APPEARING:

The Honourable Mark MacGuigan,
Minister of Justice and
Attorney General of Canada

COMPARAÎT:

L'honorable Mark MacGuigan,
Ministre de la Justice et
Procureur général du Canada

WITNESSES:

(See back cover)

TÉMOINS:

(Voir à l'endos)

First Session of the
Thirty-second Parliament, 1980-81-82-83

Première session de la
trente-deuxième législature, 1980-1981-1982-1983

[Texte]

Mr. MacLellan: I would just like to, if I could, Mr. Chairman, ask the deputy minister: Are there any guidelines that are given to the solicitors of the Department of Justice in the various departments as to what they should be doing? Do you have any kind of priority within the Department of Justice on this question?

• 1715

Mr. Tassé: We have a small group of lawyers, who are working in the public law and administrative law sector, who have the responsibility of coming forward with proposals for change. We are working on a program for the next few years that will guide the work of that small unit.

Mr. MacLellan: Mr. Minister, I think the last time I spoke with you in the committee you mentioned that the native court worker program in Nova Scotia was not under way because of the failure to reach an agreement with the Province of Nova Scotia and this was the only province in Canada where this program was not being undertaken. Is there any change in that? Is there anything new to add?

Mr. MacGuigan: I am informed that there is no change in that.

Mr. MacLellan: Is there anything that can be done? It is unfortunate that the native people in the Province of Nova Scotia are being deprived of this program.

Mr. MacGuigan: I will ask Mr. Fairbairn to respond to that.

The Chairman: Mr. Fairbairn.

Mr. L. Fairbairn (General Counsel, Programs and Law Information Development, Department of Justice): No, there has not been any change in that, Mr. MacLellan. The Attorney General in Nova Scotia takes the position that that program is a 100% federal responsibility and would not enter into the cost-sharing arrangements that prevail throughout the rest of Canada. There has been some correspondence exchanged on that point, but there has been no movement on it.

Mr. MacLellan: Mr. Minister, you mentioned the backlog with respect to tax appeals, which is increasing dramatically, as you mentioned. This is creating quite a hardship, as you know. There is another aspect too, and that is the *de novo* aspect. Each time an appeal is heard, if the individual wins that appeal and the department wants to appeal, the case is heard from the beginning with witnesses at the next stage, and then at the stage after that. That can put quite a hardship on some individual who has a principle that he or she wants to put before the courts. Yet, when that individual wins his or her case and the department appeals it, of course that cost is thrown back, even if just temporarily, to the individual to bring those witnesses back in from wherever they may be and to go through this case all over again. I was wondering if, perhaps, some assistance is contemplated in a situation such as this.

[Traduction]

genre de projets que nous pourrions entreprendre en vue de rationaliser une partie du droit administratif au palier fédéral.

M. MacLellan: J'aimerais demander, avec votre permission, monsieur le président, la question suivante au sous-ministre: Y a-t-il des directives à l'intention des avocats du ministère de la justice, en service dans les divers ministères au sujet de ce qu'ils devraient faire? Accordez-vous la moindre priorité à cette question au sein du ministère de la Justice?

M. Tassé: Il y a un petit groupe d'avocats qui travaillent dans le secteur du droit public et du droit administratif, et qui ont pour responsabilité de proposer des changements. Nous sommes en train de mettre au point un programme portant sur les quelques prochaines années afin d'orienter le travail de ce petit groupe.

M. MacLellan: Monsieur le ministre, je crois que la dernière fois que je vous ai parlé en comité, vous avez dit que le programme des auxiliaires de la justice autochtones en Nouvelle-Écosse n'était pas encore lancé faute d'un accord avec cette province et qu'il s'agissait de la seule province du Canada où ce programme ne fût pas en cours. Y a-t-il eu un changement? Y a-t-il du neuf?

M. MacGuigan: On me dit qu'il n'y a eu aucun changement.

M. MacLellan: Y a-t-il quelque chose qu'on puisse faire? Il est malheureux que les autochtones de la Nouvelle-Écosse se voient privés de ce programme.

M. MacGuigan: Je vais demander à M. Fairbairn de vous répondre.

Le président: Monsieur Fairbairn.

M. L. Fairbairn (avocat général, Programmes et information juridiques, ministère de la Justice): Non, il n'y a eu aucun changement à ce sujet, monsieur MacLellan. Le procureur général de la Nouvelle-Écosse pense que ce programme relève à 100 p. 100 de la compétence fédérale et il a refusé de souscrire aux mesures de partage des coûts qui ont cours à travers le reste du Canada. Il y a eu un échange de correspondance sur ce point, mais rien n'avance.

M. MacLellan: Monsieur le ministre, vous avez mentionné l'accumulation des appels en matière d'impôt qui augmente de façon marquée. Cela entraîne des difficultés, comme vous le savez. Il y a un autre aspect aussi, c'est la question de l'instruction *de novo*. Chaque fois qu'un appel est entendu, si le contribuable a gain de cause et que le ministère veuille interjeter encore appel, l'affaire doit être entendue au fond avec des témoins à chaque étape suivante. Cela entraîne des difficultés pour l'individu qui veut défendre un principe devant les tribunaux. Pourtant, lorsque ce contribuable gagne et que le ministère interjette, évidemment, il incombe au contribuable d'assumer, même si ce n'est que temporairement, les frais nécessaires à faire recomparaître les témoins et les frais nécessaires pour l'audition au fond de toute l'affaire. Je me

[Text]

Mr. MacGuigan: You mean financial assistance?

Mr. MacLellan: Financial assistance. When the matter is resolved permanently, perhaps this thing is... but in the interim it is quite a hardship.

Mr. MacGuigan: I think it is fair to say that we have not been giving any consideration to that. Perhaps the changes that I plan to make in the new session, with the legislation that I have ready to bring forward when we are able to begin the new session, will help us to resolve this problem very considerably.

Mr. MacLellan: Thank you, Mr. Chairman.

The Chairman: I intend to adjourn at 5.30 p.m. sharp. Mr. Kilgour.

Mr. Kilgour: I think he is giving me a message.

The Chairman: I do not want to be rude, but we are organizing a subcommittee at 5.30.

Mr. Kilgour: May I start with a compliment to the minister on his annual report for the department; I think that is an excellent idea and salute him for bringing it forward.

There are a number of issues I would like to ask you about, if I may, Mr. MacGuigan. The first is the question of gating. As a matter of the rule of law, do you consider that gating, after the decision of the Ontario Court of Appeal in the Marlene Moore case, is now legal, or illegal, within the Province of Ontario?

Mr. MacGuigan: As is usual once a provincial court has made a decision and since, in this case, it was the Ontario Court of Appeal, we do not engage in gating in that province, or in whatever other practice may have been brought into question by the court.

Mr. Kilgour: So there will be no more gating, at least within this province?

• 1720

Mr. MacGuigan: Of course, we are appealing the decision to the Supreme Court of Canada, but until such time as the court decides in our favour, right. Leave was granted, yes. I should also add that there is a contrary federal court decision on this same matter.

Mr. Kilgour: Changing subjects: I see you are wearing a button. On the question of appointing judges, I understand there have been 47 federal judges appointed in the last 12 months. Can you tell us how many of those appointments have been women?

Mr. MacGuigan: I cannot. I do not know whether anyone here can.

Mr. Kilgour: Next question.

Mr. MacGuigan: I suspect that Madam Justice Wilson was appointed within the last 12 months, but...

[Translation]

demandais si on envisageait d'offrir une aide dans une telle situation.

M. MacGuigan: Vous parlez d'une aide financière?

M. MacLellan: D'une aide financière. Une fois la question réglée définitivement, peut-être que ce serait... mais dans l'intervalle, c'est assez pénible.

M. MacGuigan: Je dois dire que nous n'y avons pas songé. Peut-être les changements que j'ai l'intention de présenter au cours de la nouvelle session, dans le projet de loi que je suis prêt à présenter lorsque nous pourrions commencer la nouvelle session, nous aideront-ils à résoudre ce problème dans une large mesure.

M. MacLellan: Merci, monsieur le président.

Le président: J'ai l'intention de lever la séance à 17h30 précises. Monsieur Kilgour.

M. Kilgour: Je crois qu'il essaie de me dire quelque chose.

Le président: Je ne veux pas être impoli, mais nous organisons un sous-comité à 17h30.

M. Kilgour: Puis-je commencer en félicitant le ministre pour le rapport annuel du ministère; je crois que c'est là une excellente idée et je l'en félicite.

Il y a plusieurs questions que j'aimerais soulever, avec votre permission, monsieur MacGuigan. D'abord la question du portillonnage. En droit, pensez-vous que le portillonnage, après la décision de la cour d'appel de l'Ontario dans l'affaire Marlene Moore, soit maintenant légal ou illégal en Ontario?

M. MacGuigan: Comme d'habitude, une fois qu'une cour provinciale s'est prononcée, et puisque dans le présent cas il s'agissait de la cour d'appel de l'Ontario, nous ne faisons pas du portillonnage dans cette province, pas plus que nous n'allons nous adonner à la moindre pratique réprouvée par un tribunal.

M. Kilgour: Donc il n'y aura plus de portillonnage, du moins dans cette province?

M. MacGuigan: Bien entendu, nous portons l'affaire devant la Cour suprême du Canada, mais avant que la Cour ne décide en notre faveur, la réponse est non. Le pouvoir a été autorisé. J'ajouterais qu'il y a eu une décision contraire de la Cour fédérale sur la même question.

M. Kilgour: Changeons de sujet, je vois que vous portez un insigne. Au sujet de la nomination des juges, je crois comprendre que 47 juges fédéraux ont été nommés au cours des 12 derniers mois. Pouvez-vous me dire combien de femmes il y a eu parmi ces nominations?

M. MacGuigan: Je ne peux vous répondre, je ne sais pas si quelqu'un ici peut le faire.

M. Kilgour: J'ai une autre question.

M. MacGuigan: Il me semble que M^{me} le juge Wilson a été nommée au cours des 12 derniers mois, mais...