

Intro - My responsibilities under Act, part 800004

The '83 Annual Report did not go further because review of our Report findings still in progress; by A/G & Speaker.

If Acted he would Per move

Essentials - The claims and the documentation were highly irregular, did not meet acceptable standards, and in fact to AWS & me were likely fraudulent. Therefore, felt it necessary to consult with RCMP (which we did and they were of the opinion that it was serious enough to pursue further with Attorney General. Also reaction of Speaker Nov.10/83, supported our concerns).

At legal level, Attorney General satisfied that criminal prosecution not warranted. This is an area that I am not competent to comment upon, nor will I, because I have neither the expertise or responsibility to do so.

However, the additional documentation and explanation received (in BJMcL case) does not, in my judgement, from an audit perspective, provide adequate or proper support for a payment.

Moreover-

I personally find it extremely difficult to accept the veracity of the explanation and and documentation provided. Again, I will make no judgement on the legality of the matter.

Consider that:

- there were 42 cases of S/M vouchers used;
- they were in continuity;
- they included meal and tax charges as well;
- so they could not be considered as memos prepared after each trip;
- no explanation why this type of support documentation had to be used in lieu of proper type of documentation.

*asked OPC for his memos
th, Gen & Speaker Nov 20/83*

Moreover - Must report on follow up to 1983 article:
Cont'd

- action taken legislation, regulations, guidelines and administration;
- because issues raised and considerable detail known outside, it will require me to provide more than otherwise;
- unable to indicate what precisely will be stated, but will ^{have} to report on status @ Jan.15/85 at latest.
 1. re progress on items, ^{1st} 2nd item above;
 2. likely include thoughts from the 3 paragraphs in essentials;
 3. will avoid names and situations related to names;
 4. might have to describe briefly the types of occurrences.

* * * * *

Other
Matters -

Clarify to A/G & Speaker - no comments to the media on anything not previous knowledge. We reacted to RCMP - Sup. McGibbon remarks.

Media - has details of the circumstances regarding BJ MCL & in their entirety, as included in our report.

The Ripley letter - media questioned me regarding the circumstances raised in his letter, and advised me I would be receiving a letter.

Regarding media, I am not prepared to say which media have what, would prefer to have their permission to advise you.

Status investigation Expenses

What is the process re referral to and action by RCMP
(Refer to Premier's remarks).

- Purposes:
- 1) Explain what I said & why
To review the detail behind it
 - 2) So as to minimize / avoid conflicting statements
you & me / Speaker & me / BSM & JoFus.
 - 3) Review with you a draft prepared statement
for PAC & / or media.

Process: Meeting Jan 10/84 -

My Problem in going (no opinion, pt of view, ^{only} instr.)
(Not too plausible - believe conveyed to Act).

A/G Letter Apr 18/84

Two months after c. - / 3 mos after 5

I was surprised at the letter contents
Not the decision to proceed further
But the lecture & detail provided.
The decision to table

Reaction from Media

- At Election time No comment, wait for report
- CBC Inquiry - request for Expense vouchers.
- Last week -

Do you or do you not believe he sipped off the
taxpayer?

Meeting w/ Atty Gen & Speaker Nov 20/84

Purpose

Advice on what I can/should do re:

- ✓ Dealing with Speaker, Attorney General, etc.
- ✓ Dealing with media
- ✓ Letter from Ripley
- Contents and wording of Annual Report
- ✓ Review expenses
- Acting as a Commissioner (Section 13)
- Taping of phone calls

Ability
to Act

Independence/confidentiality

Firm Partners

Politicians

(Actual vs: perceived)

Need to distinguish?

Counsel - Representation

Scope - Criminal

Legislative

Other

Precis May-Sept. '83 - Audit of expense claims all members, ministers, deputies, ministerial, assistants.

- Findings:

- 1) Significant inadequacies in the legislative regulations and guidelines; result - inconsistencies in application.
- 2) Administration & control of function by Speaker's Office extremely inadequate.
- 3) Usual number of inadvertent errors, over and underpayments, etc.
- 4) Serious situation 6 members, 2 of which appeared fraudulent.

Oct.-November '83 - Meetings RCMP and Attorney General's Office, left one member's case with Attorney General for resolution.

Nov. 29/83 - Report to Speaker on MLA expenses.
- The matter of certain other MLA's expenses (see letter OPC to AD Dec. 2/83).

Jan. /84 - Report to Chrm. Mgmt. Board on expenses of Ministers, D/M's, MLA's.

- Matter of one member given to Speaker to follow-up. (Meeting A/D & OPC with member January 10/84; see letter of A/D to Coles Jan. 13/84).

Feb. /84 - Meeting with Leg. Int. Economy Board (see memo Feb. 9/84).

- Receipt of letter to member from friend, received Feb. 28/84 by OPC.

Mar. /Apr. /84 - Meeting with Speaker & Legislative Council on Mar. 28 to initiate action on revamping legislation and regulations.

- Letter Attorney Gen. to Speaker April 18/84 re BJ McL (attached).

- Tabling of A/G Report (see article on p. 49)

Sept. '84 - Request by OPC to AD & RR re advice on current status re reports.

Oct. Nov. '84 - Information in hands of opposition and media with attendant publicity.

- Request of Auditor General by Speaker to review expenses of . . . (currently underw.

- Meetings held Nov. 8 & 14 with AD & RR. Meetings scheduled Nov. 20 and 22/84.

In March 1984, the recommendations of Evans Research Corporation were adopted, as the framework for developing long range plans and strategies for data processing within the government. Since then, the preparation of the Government Systems Overview has begun, and many departments have commenced their long range systems and applications plans.

I am pleased to note the positive reaction to the need for an EDP policy, and the implementation of an appropriate course of action. However, I draw attention to the time lapse between the original identification of these problems, and the remedial action taken.

Department of Development Resources Development Board

Venture Corporations Board

The Venture Corporations Act empowers the Venture Corporations Board to make unsecured loans to venture capital corporations. The venture capital corporations provide an amount equal to the Provincial assistance, and make unsecured loans to third parties that are eligible under the Act. The purpose of this Act is to encourage investment in companies that have difficulty qualifying for conventional loans.

Since it began, the program has grown steadily each year. At March 31, 1984, loans totalling \$3,665,990 had been made to venture corporations. The terms of these loans provide for no repayments in the first 10 years unless there are distributions to the venture corporation shareholders. Repayments, with interest, are to begin after the 10 year period based upon the profitability of the venture corporations.

Sections 15 and 16 of the Venture Corporations Act require the venture corporations to file an annual return and audited financial statements within four months of their fiscal year end. In October 1983, seven of the 16 venture corporations registered with the Board had not filed the required annual return or financial statements. A follow-up examination a year later showed that only half of the venture corporations were submitting the required information.

In mid 1984, in recognition of the difficulties being encountered in the monitoring of these loans, the Department of Development staff implemented revised operating procedures to achieve a closer liaison with, and information flow from, the venture capital corporations.

In my opinion, it is important that the Venture Corporations Board obtain current information on a regular basis, to ensure that the provisions of the Act are adhered to, and that loans are being applied to the purposes agreed upon.

Expenses of Members of the House of Assembly, Members of the Executive Council, Deputy Ministers and Ministerial Assistants

Introduction

In the March 31, 1983 Report of the Auditor General, there was a brief article noting that a review of the expenses of the members of the House of Assembly, Members of the Executive Council, Deputy Ministers, and ministerial assistants had been carried out. This article concluded "... there were serious inadequacies in the House of Assembly Act, the Executive Council Act, and the accompanying regulations, relating to expense allowances for Members of the House and Executive Council. These inadequacies relating to voids, contradictions, overlaps, and other deficiencies have made it extremely difficult in many cases, to be certain of the intent of the legislation. The possibilities for misinterpretation and error also posed problems for the claimants, and those responsible for the approval of expense claims."

Two reports were issued on the basis of this audit — one to the Speaker of the House of Assembly, regarding expenses of members of the House, and one to the Chairman of the Management Board, concerning expenses of Ministers, Deputy Ministers, and ministerial assistants.

However, it was not appropriate at the time of the preparation of our 1983 Annual Report to provide any detail other than that which was reported, because of two conditions. First, one member's expenses were under review by the Attorney General. Second was the need for the Speaker to obtain explanations for certain other members' expenses, which was deferred pending resolution of the item in the hands of the Attorney General.

During the past few months, action has been taken by the Speaker, Management Board, and the Legislature Internal Economy Board on the various matters raised in our two reports. It is now possible to report in detail on:

- the objectives and conclusions of our review;
- the steps taken to remedy the various problem areas identified; and
- to express an opinion on the resolution of the matters raised in our audit reports.

Scope of Audit

Our office completed a review of the travel, accommodation, per diem, and constituency expenses of all members of the House of Assembly, for the period from January 1, 1982 to June 30, 1983.

The objective of this audit was to determine whether the expense claims of the members were prepared in accordance with the provisions of the House of Assembly Act, the Executive Council Act, and related Regulations. The audit report on this assignment was issued to the Speaker on November 29, 1983.

In addition, we reviewed travel and other expenses of the members of the Executive Council, Deputy Ministers, and ministerial assistants for the period from April 1, 1982 to March 31, 1983. The objective of this audit was to determine if these claims were reasonable, properly authorized, properly documented, and where applicable, in accordance with the established guidelines for expenses of public servants of the Province. The report on this assignment was issued to the Chairman of the Management Board on January 20, 1984.

In both audits, we examined expense claims of all persons in each of the groups mentioned. In certain cases, we examined all of the expense claims for a given individual, but in most cases we examined only a sample of the claims.

Principal Audit Findings

The overall findings and conclusions derived from both audits may be summarized as follows:

1) Numerous deficiencies were encountered with respect to the adequacy of supporting documentation and explanations for expenses claimed in all groups audited. As a result, it was often impossible to determine whether or not the expenses claimed were eligible for reimbursement. In addition, there were instances where non-allowable expenses were claimed and reimbursed.

2) Under Sections 40B(1), and 43(1)(e) of the House of Assembly Act, members of the House are entitled to recover constituency expenses as determined by Legislature Internal Economy Board Regulation. The Regulation was inadequate in terms of describing the extent to which certain expenses were claimable.

3) Outside members are those whose normal place of residence is more than 25 miles distant from the House of Assembly. Under the Executive Council Act, Section 5(A) and the House of Assembly Act, Section 40(2), outside members are entitled to reimbursement for reasonable travel, accommodation, and other expenses incurred.

However, the Regulations under these two Acts did not clearly define the allowable expenses as being only those out-of-pocket expenses actually made, nor did the Regulations indicate the extent to which some expenses could be claimed for trips made when the House was not in session.

4) The responsibility for the checking and approval of members' expense claims rests with the Office of the Speaker. During most of the period subject to our audit review, the Speaker's Office did not have sufficient staff resources to review adequately these expense claims. This deficiency was remedied, and at the conclusion of our audit, more appropriate staffing arrangements were in place.

Accordingly, it was our conclusion that the Speaker's Office had not fulfilled its responsibilities in terms of requiring proper documentation and explanation, and reviewing expense claims for compliance with existing Regulations.

Significant Dates and Events

To provide a better perspective on this audit, the subsequent review process, and the resolution of matters raised in our reports, the following tabulation of significant events is presented.

The audit was performed by our office during the months of May to September 1983, and as previously noted, covered the period January 1, 1982 to June 30, 1983 for members of the House of Assembly; and from April 1, 1982 to March 31, 1983 for members of Executive Council, Deputy Ministers, and ministerial assistants.

During our review of the expense claims of one member of the House of Assembly, documentation was found which, in the opinion of the then Auditor General, was questionable as to its authenticity and appropriateness. It was decided to contact the RCMP, and consult with them regarding this documentation, with a view to determining whether the matter should be referred to the Attorney General. Two meetings were held between representatives of this office and the Commercial Crime Division of the RCMP in late October 1983.

It should be noted that the expense documentation of only one member was referred to the RCMP by our office for their advice.

On November 22, 1983, there was a meeting attended by the former Auditor General and myself, the Deputy Attorney General and a Director from his staff, and two representatives of the RCMP. The matter of certain expense claims of one member was discussed, and it was decided that the Attorney General's Department would take this matter under advisement.

On November 29, 1983, our report was issued to the Speaker of the House of Assembly on the audit of the travel, accommodation, per diem, and constituency expenses of the members of the House of Assembly.

In this report, we outlined matters relating to six members of the House. There were items requiring further explanation or justification, not readily discernible from the expense claims and documentation submitted, involving:

— improper documentation attached to the expense claims;

OTHER AUDIT OBSERVATIONS

— inadequate clarification in the Regulation of the Legislative Internal Economy Board, or the directives and guidelines from the Speaker's Office relating to the reimbursement of certain expenses; and

— apparent overpayments, certain of which were inadvertent clerical errors.

The Speaker's Office undertook to contact each of these members and obtain explanation or recovery of the expense payment, as deemed appropriate. However, it was decided that this action by the Speaker would be deferred, until the matter in the hands of the Attorney General was resolved.

On January 20, 1984, our report on the expense claims of Ministers, Deputy Ministers, and ministerial assistants was issued to the Chairman of the Management Board. In this report, it was noted that there were some instances of inadequate documentation and explanation, and apparent deviation from the expense guidelines used for public servants. It was recommended that revised guidelines be prepared to specify what are allowable expenses, and to prescribe documentation and explanation requirements.

In February 1984, I met with the Legislative Internal Economy Board. The Board advised that steps would be taken to proceed with the development of appropriate Regulations and guidelines to address the various problems with respect to ambiguity and incompleteness of existing Regulations and guidelines.

On April 18, 1984, the Attorney General in a letter to the Chairman of the Legislative Internal Economy Board (who is also the Speaker of the House of Assembly), presented his Department's reply to our request of November 1983 regarding certain expense claims of one member. This letter was made public by the Attorney General at a press conference on November 1, 1984.

On August 1, 1984, a Bulletin providing an overall policy statement, definitions, and guidelines relating to the claiming and documentation of Ministers' expenses, was issued by Management Board.

On October 28, 1984, the Speaker requested that I conduct a further review of the expense claims of Malcolm A. Mackay.

On November 1, 1984, a revised statement of travel policy was issued in Management Manual 510 — Personnel Management. This statement provides a comprehensive coverage of travel policies, and payment allowances for all public servants.

On December 17, 1984, the Legislature Internal Economy Board approved a Regulation effective January 1, 1985, relating to expenses of members of the House. In addition, the Board approved a set of policy guidelines on members' indemnities, allowances, expenses and reimbursement, to supplement this Regulation.

On January 11, 1985, I reported to the Speaker on the findings of our expanded review of the expense claims of Malcolm A. Mackay.

During the months of November 1984 to February 1985, the Speaker met with the six members noted in our report, and I met with three of them as well. The purpose of these meetings was to receive their explanations regarding various expense claims submitted.

Concluding Remarks

In the following paragraphs of this article, I present my opinions regarding the disposition of the principal matters raised in our audit reports to the Speaker of the House and to the Chairman of Management Board.

(1) Regulations and Guidelines

The Management Manual Bulletins referred to above for Ministers, Deputy Ministers and ministerial assistants, and the Regulation and guidelines of the Legislature Internal Economy Board for 1985 for members of the House of Assembly have been reviewed in detail by our office:

In my opinion, these now provide adequate definitions and descriptions of expense entitlements, and the required process for claiming and reimbursement. In addition, they deal satisfactorily with our audit conclusions and recommendations, relating to ambiguities and incompleteness.

OTHER AUDIT OBSERVATIONS

The Legislature Internal Economy Board Regulation and related "Policy Guidelines On Members' Indemnities, Allowance Expenses And Reimbursement", have been published by the Speaker's Office. In briefing sessions held in January 1985 these were explained to the members.

Members, Ministers, Deputy Ministers and ministerial assistants entitled to be reimbursed under these regulations and guidelines, should make every effort to ensure they understand and comply with them.

(2) Administration of the Expense Approval Process

Moreover, those responsible for administering the approval and disbursement process must ensure there is compliance with the eligibility, documentation, and explanation requirements of the Regulation and guidelines.

It must be recognized that there are two complementary segments involved — adequate Regulation and guidelines, and competent administration. Both of these must be in place to ensure the proper management of this activity.

In my opinion, the revised Regulation and Guidelines, as well as the improved procedures in the Speaker's Office, should provide for the adequate administration of this function.

(3) One Member's Expense Claims

The matter of certain expense claims of the Honourable William J. MacLean was referred to the Attorney General, because of the opinion of the Auditor General, the documentation was questionable as to its authenticity and appropriateness. These expenses totalled \$6,952. The April 18, 1984 letter from the Attorney General to the Chairman of the Legislature Internal Economy Board, indicated that there was no basis for further action by his Department on this matter.

It should be clearly understood that it is not within the responsibility, or the competency of my office to make judgements with respect to legal matters which have been referred to the Attorney General for his opinion or action.

However, as Auditor General, it is my opinion that the documentation employed, and the explanations provided by the member for certain expense claims are inappropriate for the expenses claimed, and unacceptable from an audit standpoint.

(4) *Expense Claims of Five members*

Results of subsequent explanations received for the expense claims of four other members, and additional claims of the member discussed in section 3 above, are as follows.

There were items for which reasonable explanations were provided by the members concerned, certain of which involved prior approvals by the Office of the Speaker. In these cases, I was satisfied with the explanations received, and agreed that the members were entitled to reimbursement.

There was a second group of items comprising overpayments, principally due to inadvertence, clerical error, or misinterpretation of entitlements. In the case of all five members, there were items to be repaid, which total \$9,790. Satisfactory repayment arrangements have been made in all cases.

(5) *Review of Expense Claims of Malcolm A. Mackay*

Our audit report of November 29, 1983 included comments on the review of the above member's expense claims for the period January 1, 1982 to August 31, 1983. We questioned the appropriateness of certain expense payments, because in our opinion, according to the House of Assembly Act, he did not qualify as an outside member.

On the basis of a letter to me from the Speaker of the House of Assembly, dated October 28, 1984, we expanded our review of Mr. MacKay's expense claims, to encompass the period January 1, 1981 to September 30, 1984.

We again verified that he was not resident more than 25 miles distant from the place where the House sits. Thus, he did not qualify as an "outside member", in accordance with Section 1 (l)(bb) of the House of Assembly Act. Accordingly, he was not entitled to "Travelling and Accommodation Expenses", under Section 40 (2) of the Act.

The member commenced claiming expenses as an out member on February 19, 1981. From then to September 1984, travel and accommodation expenses as an out member were claimed by, and paid to, him in the amount \$34,454.

On January 11, 1985, I reported to the Speaker on the finding of this audit review. It is my opinion that Mr. MacKay did not qualify for outside member status, and should not have been provided expense allowances as one.

It was the view of the Speaker and the Legislature Inter-Economy Board that responsibility for this situation was entirely the member's. There was a lengthy period of time during which his claims as an outside member were accepted and paid. As well, the member had a strongly held view that he was entitled to outside member status, because a large portion of his constituency was over 25 miles distant from the House.

Accordingly, the Speaker has requested repayment for only that portion of his expenses paid during 1984 when he used an improper residence address, which amounts to \$7,024.

(6) *Information*

It is essential that Regulations, guidelines, and Management Manual Bulletins relating to travel expenses be made public in their entirety, and steps be continued to explain the definitive conditions, and entitlements contained therein. Moreover, administrative processes relating to expense payments and reimbursement procedures should be clearly explained to and concerned on a regular basis.

The Speaker has initiated this year, the practice of meeting with all members of the House to review the Regulations and guidelines with them. It is my understanding this practice will be maintained.

(7) *Disclosure of Expenses*

In keeping with the need for proper accountability, and adequate disclosure of government expenditures, and also to permit comparability with disclosure of other government salary and expense payments, I recommend the following.

Details of all payments to members should be reported each year in the Supplement to the Public Accounts. For each member there should be disclosure of:

- annual indemnity payments;
- committee fees;
- other stipends received;
- travel expenses for constituency and House related matters;
- travel expenses for committee work; and
- constituency office and other related expenses paid for the member.

* * * * *

In summation, I am pleased to report that the initiatives taken with respect to new Regulations and guidelines, an improved review and approval process in the Speaker's Office, and the dissemination of information to members of the House do adequately deal with the administrative and procedural matters raised in our audit reports. In addition, the specific items concerning certain members' expense claims have been finalized. The recommendation made, in the immediately preceding section, regarding a greater degree of disclosure of expenses warrants serious consideration.

It is indeed unfortunate that the recommendations made by the Auditor General in his 1978 Annual Report relating to members' expenses were not acted upon. Had they been, the situation experienced in 1983 and 1984 might have been avoided.

Grants and Assistance

During our audits of three departments, we found a lack of adequate control over several grant and assistance programs. Proper control features should include the evaluation of requests to ensure they meet the criteria of the program, and a subsequent review to determine that the monies were used for the approved purposes.

The weaknesses we encountered in the three departments are described in the following paragraphs.

Department of Environment

Policies and guidelines do not exist over the disbursement of Environmental Improvement Project grants. Grants are made on an ad hoc basis, and thus proper evaluation and review criteria are not always applied.

We became aware of one grant for \$100,000 to finance an incinerator project. Shortly after the grant was given, the project was terminated by the local government. The Department had no stipulations or covenants concerning the requirement to complete the project, so the grant recipient was completely within its rights to cancel the project, and the Department had no recourse.

This might have been prevented if appropriate policies and guidelines were in place for disbursement of these grants.

Department of Development

We found one grant for \$20,000 under the Assistance to Industrial Commissions program was not properly evaluated against existing program policies and guidelines, and there was no documentation to support the grant request.

REPORTED SIGNALÉ	Date	Time Heure	Priority Priorité
Details of Event - Précisions sur l'incident			
-- Fraud against the Government.			
Location - Endroit		Zone	
UNITS ASSISTING - UNITÉS DÉPÊCHÉES			
P.C. - V.D.P.	Traffic Circulation	G.I.B. - S.E.G.	Ident.
Other - Autre		Dog Services Serv. des chiens	

Subject No. No. du Rapport	G1 - P1	G2 - P2
Address - Adresse		
Phone - No. de tél.		BIN
DOB - DATE DE NAISS. Y.A. M. D.-J.	App. Age Age app.	Height Taille
Mass Masse	Hair Cheveux	Eyes Yeux
Photo No. - No. de photo	POB - L.D.	Race/Desc. Race/Origine
Driver's Licence No. - No. de permis de conduire	F.P.S.	OCCUPATION OCCUPATION
Charges - Accusation(s)	Investigator - Enquêteur	
	S/Sgt. W. F. Leigh	
	Unit - Service C.C.S.	
Nature of Event - Genre d'incident		
Fraud against the Government		

VEHICLE - VÉHICULE					REGISTERED OWNER - PROPRIÉTAIRE					
Veh. No. No. de veh.	Status État	Licence No. - No. d'immatr.	Prov.	L. Yr. Année d'immatr.	No. of Occupants Nombre d'occupant(s)	Surname - Nom de famille		<input type="checkbox"/> As above - Même que ci-		
Type	Make - Marque	Model - Modèle	Style	Year - Année	G1 - P1	G2 - P2		<input type="checkbox"/> Notified Avisé		
Colour Couleur	Top - Toit	Bottom - Carross.	Val. Tag. No. - No. d'étiquette de validation	Year - Année	Address - Adresse		City - Ville			
V.I.N. - N.I.V.	Interior - Intérieur		Exterior - Extérieur		Prov.		Phone - No. de			
Distinct Features Caractéristiques			Received by - Reçu par			Originating Detachment - Détachement expéditeur			Collator Code - Code de collation	

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
83-10-21	1015	Mr. Arnold Sarty, Auditor General, Province of Nova Scotia called this office and advised that he wished to speak with Inspector Blue.
		I advised him that Inspector Blue was on course and he requested that a meeting be arranged between him and Inspector Blue at his office on Wednesday, October 26, 1983 at 10:00 a.m. He did not discuss the nature of the meeting.
		SUI
		WFL/eam

<input type="checkbox"/> Concluded Enquête terminée	Date Completed Date d'avis de plaignant	SUI F.C.E.	D.D. - D.A.	<input type="checkbox"/> Consulted Consulté	<input type="checkbox"/> Attended sur les lieux	<input checked="" type="checkbox"/> Advised avisé
Investigator - Enquêteur		Date	SUPERVISOR SUPERVISEUR	Signature		Date
S/Sgt. W. F. Leigh		83-10-21	K			
COPIES TO - COPIES A		Other - Autre		PAGE		1
<input type="checkbox"/> M.G. 2.G.	<input type="checkbox"/> DIV	<input type="checkbox"/> C.I.B. S.F.J.	<input type="checkbox"/> G.I.B. S.E.G.			

RE - OBJET

Province of Nova Scotia

B:N - BD

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
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83-10-26 1000

Insp. Blue and I contacted Mr. Sarty at his office (1649 Hollis St., 4th Floor). Following a general discuss with him in his office, we attended a meeting in his boardroom. The following attended the meeting:

- Arnold Sarty, Auditor General, Province of Nova Scotia
- O. Paul Cormier, Deputy Auditor General, Prov. of N. S.
- David Hicks, Staff Professional, Dept. of the Auditor G
- Thomas Edwards, Audit Supervisor, " " " "
- Insp. K. J. Blue, C.C.S.
- S/Sgt. W. F. Leigh, C.C.S.

The meeting dealt with the expense statements of certain Progressive Conservative M.L.A.'s. During the annual audit, the expenses of the following M.L.A.'s came into question:

- William J. MacLean, Inverness South Constituency

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Auditor General had prepared three packages for example purposes, outlining the expenses of MacLean, [REDACTED] and [REDACTED]

<input type="checkbox"/> Concluded (Auditor's opinion)	Date Completed Date of entry in program	SUB DD-DA ECE	<input type="checkbox"/> Consulted	<input type="checkbox"/> Attended	<input checked="" type="checkbox"/> Revised
Investigator - Enquêteur S/Sgt. W. F. Leigh	Date 83-10-27	SUPERVISOR SUPERVISOR	Signature K	Date	PAGE 2
COPIES TO - COPIES A	Other - Autre				
<input type="checkbox"/> HQ <input type="checkbox"/> DB	<input type="checkbox"/> DW	<input type="checkbox"/> CIB SPJ	<input type="checkbox"/> OIS SEG		

RE-OBJET

Province of Nova Scotia

BIN - BD

DATE TIME HEURE ACTION TAKEN - MESURES PRISES

[REDACTED] The packages contained copies of the expense statements and a resume outlining the irregularities. For example, the irregularities noted in MacLean's expense involved:

- claiming expenses improperly
- claiming excessive living allowance
- claiming constituency allowance twice
- paying rent to a member owned business
- not providing adequate detail on claim
- false invoice(s)

Copies of the packages were provided to us to review (enclo). The Auditor General explained that the meeting was an informal information meeting in which he was seeking advice. It was determined at the meeting, to our satisfaction, that the matters required investigation and appeared to be criminal in nature. Other Provincial Statutes involved are the Executive Council Act and the House of Assembly Act and related Regulations. The Auditor General did not know if he should make a formal request for investigation to the police, the Speaker of the House, or the Attorney General. He was advised that we would review the material and contact him on 83-10-28.

<input type="checkbox"/> Concluded Enquête terminée	Date Compteur arrêté Date de l'incident	SUR ICS P	DD - DA	<input type="checkbox"/> Consumed Consumé	<input type="checkbox"/> Attended sur les lieux	<input checked="" type="checkbox"/> Advised avisé
Investigator - Enquêteur S/Sgt. W. P. Leigh	Date 83-10-27	SUPERVISOR SUPERVISEUR	Signature K	Date	PAGE 3	
COPIES TO - COPIES A	<input type="checkbox"/> HD <input type="checkbox"/> DE <input type="checkbox"/> DW <input type="checkbox"/> CIS <input type="checkbox"/> SFJ <input type="checkbox"/> OIS <input type="checkbox"/> SFG	Other - Autre				

REPORT

REPORT CONTINUATION 15

OCURRENCE NO - N° D'INC. TA 83-203 26

RE - OBJET

BIN - 80

Province of Nova Scotia

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
83-10-26		On our return from the meeting, Inspector Blue and I met with the C.I.B.O. and the matters were reviewed. It was decided that a meeting should be arranged between representatives of the Auditor General's Dept., Dept. of the Attorney General, and our Force (possibly Tuesday, 83-11-01

- Nova Scotia Safety Council.

<input type="checkbox"/> Concluded (Regular or Special)	Date Completion Needed Date d'achèvement	SUN DD-DA LUN ECE	SUPERVISOR SUPERVISEUR	<input type="checkbox"/> Consulted consulté	<input type="checkbox"/> Attended sur les lieux	<input checked="" type="checkbox"/> Advised avisé
S/Sgt. W. F. Leigh		Date 83-10-27	Signature <i>[Signature]</i>	Date <i>[Signature]</i>		Date
COPIES TO - COPIES A NO <input type="checkbox"/> DIV <input type="checkbox"/> CIB SFJ <input type="checkbox"/> OIS SEB		Other - Autre		PAGE		4

RE - OBJET

Province of Nova Scotia

BIN - BD

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
83-10-27		Phoned Mr. Paul Cormier of the Auditor General's Department, and arranged for a meeting to be held with him and his staff at 1:30 pm on the 28 October.
83-10-28		<p>Supt. MacGibbon and myself met with the Auditor General, Mr. Sarty; the Deputy Auditor General, Mr. Paul Cormier; and two of their staff, David Hicks, Staff Professional, and Thomas Edwards, Audit Supervisor. At this meeting it was pointed out to the Auditor General personnel that it was our recommendation that this matter be brought to the attention of the Attorney General's office of this province. We advised that we would be willing to attend any such meeting between the Auditor General's staff and the Attorney General's staff. They expressed the opinion that they would like to advise the House Speaker prior to a meeting but would be unable to do so prior to November 10th, as the Speaker was out of the country. We advised that we saw no difficulty with this and, following their meeting with the Speaker, suggested a meeting be held with the Attorney General's Dept. as well.</p> <p>At this time we requested the Auditor General's personnel to supply, if possible, a breakdown of all irregularities noted and by category.</p>

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RE - OBJET

Province of Nova Scotia

BIN - BD

DATE TIME HEURE

ACTION TAKEN - MESURES PRISES

83-10-28

The meeting then adjourned on the understanding that the Auditor General's personnel would be in touch with our office following their meeting with the Speaker.

S.U.I.

KJB/eam

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Investigator - Enquêteur <i>KJB</i> Insp. K. J. Blue	Date 83-11-01	SUPERVISOR / SUPERVISEUR	Signature <i>[Signature]</i>	Date	PAGE
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RE - OBJET

Province of Nova Scotia

BIN - BD

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
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83-11-14 0900

Paul Cormier called and left message for myself to call h

Later that morning I returned his call and he advised me he and Mr. Sarty had met with the Speaker of the House, [redacted] and advised him of what their audit had revealed. He also advised the Speaker agreed that the matter should be brought to the attention of the Attorney General's Department. Mr. Cormier advised that a letter had been drafted to Mr. Gordon Coles of the A.G.'s Department and this was being forwarded and that he would attempt this date to arrange a meeting. Mr. Cormier phoned back later and advised that Mr. Gordon Coles was out of town this week and tentative arrangements were made with his secretary to meet at 2 p.m. on Tuesday, the 22nd.

83-11-15

Mr. Cormier called and left a message for me to phone him.

I phoned Mr. Cormier at approximately 1:45 p.m. and he advised he had been in conversation with the Speaker, [redacted] and [redacted] was concerned as he would be out of town commencing Saturday the 19th until Saturday the 26th and felt an obligation to advise the Premier on this matter as soon as possible. I advised Mr. Cormier

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RE - OBJET

Prov. of Nova Scotia

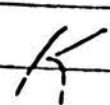
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DATE	TIME HEURE
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ACTION TAKEN - MESURES PRISES

that I saw no problem with ██████████ advising the ██████████ prior to his going away and Mr. Cormier advised that unless we heard to the contrary, this is the course of action that would be taken and a meeting would still be slated with the Attorney General's Department for 2 p. Tuesday, the 22nd.

KJB/eam

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Inspector - Inspecteur Insp. K. J. Blue		Date 83-11-16	Signature 		Date
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RE - OBJET

Province of Nova Scotia

83-203

BIN - 80

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
83-11-22	1500	<p>Met at Auditor General's office with Mr. A. Sarty, Mr. Cormier, Mr. G. Cole, Mr. G. Gale, Supt. MacGibbon and Mr. Gale and Mr. Cole of the Attorney General's Dept. been briefed by Mr. Sarty and Mr. Cormier prior to our arrival. Mr. Coles indicated that he wished to review Provincial Statutes involved and review <u>some</u> of the material presented and his Department would advise at a date the course of action they would recommend.</p> <p>(KJB/mls)</p>

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TO A Officer i/c C.I.B.

FROM DE Officer i/c C.C.S.

SECURITY - CLASSIFICATION - DE SÉCURITÉ
CONFIDENTIAL
OUR FILE/VOTRE RÉFÉRENCE
83-203
YOUR FILE/VOTRE RÉFÉRENCE
DATE
83-11-23

SUBJECT / OBJET Assistance to Auditor General Province of Nova Scotia

Possible offences requiring investigation:

1. Case I - False motel receipts and Constituency office rent.
- Case II - Receipts for accommodation from unknown female.
- Case III - Receipts for Constituency office rent - non-existing company previously owned by member.
- Forgery - Sec. 325(1) C.C.
- Utter Forged Document - Sec. 326(1)(b) C.C.
- False Pretence - Sec. 320(1)(a) C.C.
- Fraud - Sec. 338(1)(a) C.C.
- Breach of Trust - Sec. 111 C.C.
2. Case IV - Double billing under two Acts.
- Case V - Billing for unauthorized expenses re: 85 mile limit.
- Case VI - Constituency office in location owned by related person (several instances).

These may be technical violations of the Executive Council Act and Regulations or the House of Assembly Act and Regulations, which could be dealt with by the Speaker of the House, however, from the information supplied, they did not appear to be criminal in nature.

K. J. Blue, Insp. Officer in Charge Commercial Crime Section

RCMP CRC

CONTINUATION REPORT

RAPPORT DE CONTINUATION

OCCURRENCE No - N° D'INCIDENT	
YA	18
813-203	
BIN - BD	

RE - OBJET Province of Nova Scotia

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
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84-01-11 1000

Telephone call from Paul Cormier, Deputy Auditor General, N. He advised that yesterday, on the advice of the [redacted] and [redacted], he attended a meeting in Speaker's office between [redacted] and W.J. MacLean. He said that he had no input at the meeting and felt that he was pl there as a "sitting duck." He stated that [redacted] appraise MacLean of the entire situation as it related to him and as him for an explanation. ([redacted] had the information in a report dated 83-11-30, which was compiled by the Auditor General's Dept. for the Attorney General.) MacLean explained the matter by saying that his secretary compiled his expense statements and made out the receipts to cover the expenses. MacLean said that he incurred all of the expenses claimed and that they related to his staying in an apartment in Halifax with a friend. With respect to the receipts, they were only made up to expedite the claims, and it was his secretary who made them up. Cormier stated that [redacted] appeared to accept this explanation. He stated that [redacted] will be interviewed [redacted] next, in the near future.

Cormier advised that [redacted] is reporting the results of his investigation directly to the Deputy A.G., Mr. G. Coles. Co is not interested in having the matter investigated by the Police. Mr. G. Gale is not opposed to a Police investigation

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S/Sgt. W.F. Leigh		Date 84-01-11	Signature <i>[Signature]</i>		Date
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RE - OBJET

Province of Nova Scotia

BIN - BD

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
		<p>although he will go along with Coles' wishes.</p> <p>From the information supplied by Cormier, it would appear that any chances for a successful Police investigation are being seriously hampered by ██████████ investigation. ✓</p> <p>S.U.I. ✓</p>

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PROVINCE OF NOVA SCOTIA

BIN - BD

DATE TIME
HEURE

ACTION TAKEN - MESURES PRISES

84-03-28

This matter came to our attention on 83-10-21, through Arnold Sarty, Auditor General, N. S. The C.I.B and C.O. "H" Division were made aware of the details, a reported, and Officials of the Dept. of the Attorney General, N. S. were apprised of the matter. Instructions were to be awaited from the Dept. of the A.G. re a police investigation. To date, instructions have not been received and the C.I.B.O. is aware of the situation. The file will remain open pending release of the "Report of the Auditor General, March 31, 1984" and the "Public Account" for the Province.

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OCCURRENCE No - N° D'INCIDENT	
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BIN - BD	

-OBJET

PROVINCE OF NOVA SCOTIA

DATE	TIME HEURE	ACTION TAKEN - MESURES PRISES
-10-24		<p>A year has now passed since the Auditor General brought matter to the attention of the Police. The Dept. of Attorney General N.S. was to review the matter and issue instructions re request for Police investigation. Since no correspondence was received from the Department, this file is being closed.</p> <p>WL/mls</p>

Date Complainant notified Date d'avis au plaignant		SUN DO - DA ICE	SUPERVISOR SUPERVISEUR	Signature	<input type="checkbox"/> Consulted consulté	<input type="checkbox"/>
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14-84-0002-06



AUDITOR GENERAL
NOVA SCOTIA

P.O. BOX 793
HALIFAX, N.S.
B3J 2V2

November 14, 1983

Mr. Gordon F. Coles, Q.C.
Deputy Attorney General
Province of Nova Scotia
Halifax, N.S.

Dear Mr. Coles:

Attached is a letter to you from Mr. A.W. Sarty, dated October 28, 1983, which was the last work day in which he served as Auditor General.

This letter was held, on his instruction, until such time as he was able to review the situations with the Speaker of the House, through whose department the expense accounts were processed. It was not possible to meet with Mr. Donahoe until last week, because he was out of the country for an extended period. The meeting with him took place on November 10th.

Mr. Sarty would like to meet with you to review the situations revealed by this audit.

I telephoned you this morning to arrange a suitable meeting time, and in your absence have tentatively scheduled one for Tuesday, November 22, 1983 at 2:00 p.m. in our office.

I will be in contact with you on Monday, November 21, to confirm the suitability of this arrangement.

Yours very truly,

O. Paul Cormier
Deputy Auditor General

OPC/nm
Att.



AUDITOR GENERAL
NOVA SCOTIA

P.O. BOX 793
HALIFAX, N.S.
B3J 2V2

October 18, 1983

Mr. Gordon F. Coles, Q.C.
Deputy Attorney General
Province of Nova Scotia
Halifax, N.S.

Dear Mr. Coles:

In recent weeks my office has been conducting a rather indepth audit of travel and living expense accounts for certain classes of persons.

We uncovered two situations where, based upon the evidence before us, it appeared to us that abuses of the system of a fraudulent nature may have occurred.

? We then arranged to meet with representatives of the Commercial Crime Division of the Royal Canadian Mounted Police to get their reaction and for them to tell us, whether in their opinion, further action was indicated.

The R.C.M.P. have now responded to us. Based upon the evidence that we laid before them, they feel there is justification to take the matter further. I therefore request that a meeting be arranged without delay with yourself and/or the appropriate officers of your Department, so that we may present and discuss with you, the information that is causing us concern.

Yours very truly,

A.W. Sarty
A.W. Sarty
Auditor General

AWS/nm



14-84-0002-06

The SpeakerHouse of Assembly
Nova ScotiaPO Box 1617
Halifax, Nova Scotia
B3J 2Y3

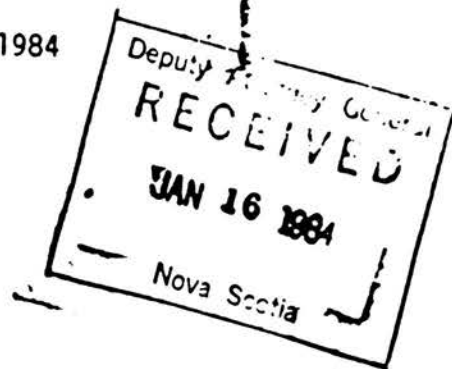
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PRIVATE & CONFIDENTIAL

January 13, 1984

TO: Mr. Gordon Coles, Q.C.
Deputy Attorney General

FROM: Arthur R. Donahoe
Speaker



On January 10, 1984, Mr. Paul Cormier, Deputy Auditor General and I met in my office with Mr. Billy Joe MacLean, M.L.A. The purpose of the meeting was to discuss with Mr. MacLean the situation revealed by an audit carried out by officials of the Auditor General's Department which showed that Mr. MacLean had used receipt forms from the Shieling Motel in Port Hawkesbury (owned by Mr. MacLean or members of his family) in support of claims for accommodation expenses incurred by him during trips to Halifax throughout the period from June 25 to November 30, 1982. Claims were made by Mr. MacLean for some 35 trips during that period. The regulation in effect at the time allowed a Member to claim for only 26 trips between his constituency and Halifax while the House was not in session.

Mr. MacLean freely admitted that the receipt forms used by him came from the Shieling Motel. He told us that most of the trips had been made in his capacity as Chairman of the Legislature Select Committee on the Offshore. He said that he had held numerous meetings with officials of various oil companies doing business in the offshore region. These included briefing company officials on the work of his Committee and outlining to them matters about which his Committee would want to have information during its public hearings. He also indicated that he made some efforts to try to entice these businesses to set up operations in the Canso Strait area of the Province.

Mr. MacLean told us that earlier in the year while the House was in session he had maintained a room at the Lord Nelson Hotel. When he first came to Halifax after the session,

.../2

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Mr. Gordon Coles, Q.C.

January 13, 1984

he was told that the Lord Nelson would be able to accommodate him only for one night. He stayed for that night, left the following day, checked into the Chateau Halifax and was told that he could stay there for only one day and on his third day in Halifax, was required to move to the Barrington Inn. He indicated that he complained about this to a friend of his, named _____ who told him that he could stay at his _____ apartment during his next visit to Halifax. He did so, and during later trips to Halifax, stayed at the apartment of a _____ a friend of his, who is employed by a Company which has considerable dealings in matters relating to the offshore.

Mr. MacLean advised us that he paid both _____ for the use of their apartments while he was in Halifax. He told us that he stayed on only one occasion with _____ and that on all other occasions, he stayed in _____ apartment. Mr. MacLean had a key to the apartment and on many occasions he would stay in it, even though _____ was not present at the time.

The procedure he followed was to keep track of these trips. On his return to Port Hawkesbury, he would advise a female employee of the motel, have her ring through receipts for accommodation after first clipping off the name of the motel from the receipt form, and submit these receipts in support of his expenses. He told us that at no time was payment made to the Sheiling Motel, rather the payments were made to _____

He indicated that he can, if required, obtain a letter from _____ setting forth this arrangement and indicating that _____ was actually paid by MacLean for the use of the apartment.

I pointed out to Mr. MacLean that the regulations did not permit him to claim for payment of expenses incurred as Chairman of the Committee unless there was a meeting of the full Committee. The most to which he was entitled was 26 constituency trips between Port Hawkesbury and Halifax and that he had claimed for some 35 trips during the period under review. I suggested to him that an adjustment might have to be made to reduce the amount paid to him to the appropriate level.

The situation appears to be that had Mr. MacLean obtained receipts directly from _____ and used them to substantiate his claims, no problem would have arisen. However, by using forms from his own motel and ringing them through the cash register there, he created the situation which

.../3

-3-

Mr. Gordon Coles, Q.C.

January 13, 1984

gave rise to the current cause for concern. Mr. MacLean indicated that he would obtain a letter from verifying the fact that he did in fact stay at apartment and, insofar as is possible, verifying the amount paid by him to Mr. Cormier and I indicated that it would be desirable if this letter could be obtained as quickly as possible and I will be in touch with you further as soon as it is made available to me.

I should add that Mr. Cormier has seen the contents of this memorandum and agrees that it accurately sets forth the discussion which took place at our meeting with Mr. MacLean.



ARD:nk



Attorney General

Memorandum

From Gordon S. Gale, Q.C.
 Director (Criminal)

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

Subject

Our File Reference 14-84-0002-06

Your File Reference

Date April 2, 1984

This is in regard to the material referred to us by the Auditor General concerning the expenses of Billy Joe MacLean.

The period under review by the Auditor General is June 25, 1982 to November 30, 1982, a period during which the House was not sitting.

Members expenses are provided for in the House of Assembly Act and in Regulations made by the Legislature Internal Economy Board (LIEB) pursuant to Section 43 of the House of Assembly Act. The LIEB Regulations are not Regulations within the meaning of the Regulations Act nor are they publicized and, in fact, the members are only given verbal notice of what the Regulations contain.

The LIEB Regulations allow 26 return trips per year for a member when the House is not sitting for the purpose of conducting constituency business. The House was not sitting during the period under review. There are two sets of LIEB Regulations affecting this period the first from January 1st to the end of July which allowed a maximum of \$100. a day and the second from August 1st to the end of 1982 allowing maximum expenses of \$85. per day. The material given to us shows that Mr. MacLean claimed \$85. per day plus mileage.

During the period under review Mr. MacLean made 35 trips and according to the Speaker's memo most of the trips were made in his capacity as Chairman of the Legislature Select Committee on the Offshore. According to the Speaker's memo Mr. MacLean has stated that he did lobbying to have firms located in the Canso Strait area. When dealing with Committee work he is not entitled to compensation unless there is a full committee meeting. Perhaps his lobbying on these trips could be considered to be constituency business but that is a matter for the LIEB to decide and at most, it could only be for 26 trips leaving 9 on which he has wrongfully received payment.

- 2 -

Questions were raised by the Auditor General concerning the supporting receipts, however Mr. MacLean has indicated that these were simply used as a means of accounting for his expenditures as he stayed at private accommodations. He was asked to obtain a letter from verifying the fact that he did stay with him and verifying the amount paid by him to We now have a short note from stating that Mr. MacLean stayed with him approximately 40 or 45 days between June and December and contributed in the area of \$2,000. as compensation.

The only charge that could be considered is that of fraud under Section 338 of the Criminal Code. However, since it is virtually impossible to prove the LIEB Regulations or that Mr. MacLean had knowledge of them a charge could only be proceeded with if he had not expended the money he claimed for. In the material we have it appears that the claims are not fraudulent in that he made trips and expended money although there is no hard evidence as to how many trips he made or how much he expended but on the other hand there is no evidence on which to contradict his assertions. If one wanted evidence to prove or disapprove his assertions then a police investigation would be necessary.

In conclusion, it is a matter for the Speaker's Office to determine under the LIEB Regulations which, if any, of the trips are to be considered to be on constituency business. The remainder of the trips will have to be paid back by Mr. MacLean or he will have to be compensated from other sources. On the information we have there is no basis for criminal charges in that there is no prima facie case if one accepts the explanations given by Mr. MacLean.

This matter brings up some points which should be considered in the future.

1. The LIEB Regulations should be written in unambiguous language because at present they are ambiguous as to whether the total amount allowable per day includes accommodations, meals and travel or whether travel is separate.
2. The LIEB Regulations should be provided to each member so that there is no question as to what they are allowed to claim.
3. The Speaker's Office should monitor the accounts submitted more closely to determine what they pertain to and whether the member has exceeded the total expenses allowable in each year for the matter being claimed.

- 3 -

Our file is attached herewith.

GSG:jd
Enclosure

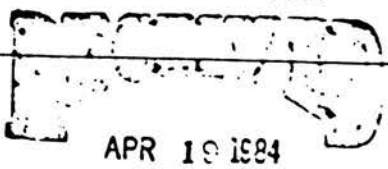




**Department of
Attorney General**

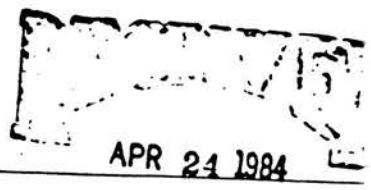
Deputy Attorney General

Gordon F. Coles, Q.C.



APR 19 1984

ATTORNEY GENERAL



APR 24 1984

PO Box 7
Halifax, Nova Scotia
B3J 2L6

ATTORNEY GENERAL

902 424-4223

File Number

14-84-0002-06

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

FROM: Gordon F. Coles, Q. C.

RE: Legislature Internal Economy Board

DATE: April 18, 1984

Enclosed is Gordon Gale's summary report in the matter of our inquiry into certain expenses claimed by the Honourable Billy Joe MacLean.

It is Mr. Gale's opinion, with which I concur, that the irregularities in Mr. MacLean's compliance with the general regulations made pursuant to the House of Assembly Act are more accounting irregularities rather than such as to warrant any further criminal investigation. Mr. MacLean's explanation of the manner in which he filed his statement of travel and living allowances is, in our opinion, a reasonable explanation, particularly in light of the manner in which these regulations are communicated to Members of the Legislative Assembly.

I understand that there may be irregularities in respect to other Members which may also be attributed to the fact that these regulations are not written in the clearest language and the manner in which they are communicated to the Members makes it difficult to be satisfied that the Members have knowledge of their provisions.

We have communicated our opinion in the matter to the RCMP who, although they were not formally asked to investigate the matter, nevertheless were made aware of the concerns of the Auditor General since Mr. Arnold Sarty had spoken to them on an informal basis before bringing the matter to our attention and raising his concerns with us.

Since the Speaker is Chairman of the Legislature Internal Economy Board which is responsible for authorizing payment of Members' travel and living allowances, I think it appropriate that you communicate the results of our investigation to him. I enclose a letter for your consider-

ation and suggest that it be copied to the Deputy Auditor General for his information.

11/11/11

CONFIDENTIAL

April 18, 1984

14-84-0002-06

Honourable Arthur R. Donahoe, Q. C.
Chairman
Legislature Internal Economy Board
House of Assembly
Halifax, Nova Scotia

Dear Mr. Donahoe:

As you are aware, Mr. Paul Cormier, Deputy Auditor General, raised with the Deputy Attorney General the concerns of the Auditor General concerning certain statements for travel and living allowances by the Honourable Billy Joe MacLean and delivered copies of certain such statements and supporting documentation for our consideration and the taking of such action which, in our opinion, the facts warrant.

Travel and living expenses for members and officers of the Legislative Assembly are provided for in the House of Assembly Act and the regulations prescribed by the Legislature Internal Economy Board pursuant to Section 43 of the Act. Although motions of the Board pursuant to Section 43 of the Act are called regulations, they are not regulations within the meaning of the Regulations Act and therefore are not published in accordance with the provisions of such Act, nor is there any requirement in the so-called regulations for them to be copied to the Members or otherwise communicated to them. Apart from verbal notice of such regulations, the practice appears to be to leave the onus on each Member to inquire of the provisions of such regulations.

The period covered by the statements referred to my staff by the Deputy Auditor General was June 25, 1982 to November 30, 1982, a period during which the House was not sitting.

...2

There were two sets of regulations applicable to this period, the first from January 1 - July 31 which authorized a maximum reimbursement of \$100.00 per day and the second regulation which repealed the earlier regulation and was in effect from August 1 to December 31 which reduced the maximum reimbursement to \$85.00 per day. The documentation under review claimed expenses to the amount of \$85.00 per day plus mileage during the period covered by the statements and the statements for claim for reimbursement were supported by statements setting forth amounts shown as paid for food and lodging for each day covered by the claim period. Most of these supporting statements totalled in excess of \$85.00.

The Honourable Member's statements for the period included thirty-five trips from his constituency to Halifax and raised a question as to the authority for exceeding the maximum allowable return trips per year for a Member when the House is not sitting for the purpose of conducting constituency business, namely twenty-six, and whether the statements in support of the claim were sufficient to substantiate the claim for reimbursement.

The Honourable Mr. MacLean, in response to such questions, offered the explanation that the supporting statements were not intended to be receipts for accommodations but rather a statement of moneys expended by him for accommodations plus other expenses incurred on such trips. That he had experienced difficulty in arranging one night accommodation at two of the Halifax hotels and when he had mentioned this to a friend his friend offered him the use of his apartment and that of another friend whenever he was visiting in Halifax and that he paid them when he had use of their apartments. Mr. MacLean provided a letter in which the writer acknowledged receiving the approximate sum of \$2,000.00 during the period June - December 1982. The amount shown for accommodations in the said statement of \$47.00 per day does not appear out of line for accommodations in Halifax.

Mr. MacLean also stated that although the statements were on stationery of the Sheiling Motel, he used such as a matter of convenience, clipping the Motel name from the statement and that these statements were not intended as receipts but rather daily statements of moneys expended. Although some of the other particulars in the supporting statements may raise questions as to their need for the purpose intended, Mr. MacLean's explanation of the nature and purpose of the supporting statements and the letter from the apartment owner acknowledging receipt for payment of accommodation refutes any otherwise prima facie consideration of criminal wrongdoing in the

matter. Whether Mr. MacLean is entitled to claim mileage in addition to the maximum per diem amount of allowable reimbursement and entitled to reimbursement of expenses for return trips to and from his constituency in excess of the allowable maximum of twenty-six are matters of an accounting and administrative nature to be examined and considered by you or others, particularly since Mr. MacLean states that these extra trips were necessary as a result of his involvement with matters relating to the Offshore.

It appears to me that the concerns raised by the manner in which Mr. MacLean submitted his claims for reimbursement and possibly that of other MLA's are in part the result of ambiguity and conflict in the regulations and the informality in which they are communicated to the Members. The regulations in effect during the first eight months of 1982 were different from those applicable to the last four months of the year and the regulations in effect for 1983 are substantially different from those in effect in 1982. Perhaps, at the risk of confusing the situation further, consideration ought to be given to a further review of the matter of reimbursement to make certain that Members and Officials are fairly and adequately compensated for reasonable and necessary expenses and limit the requirement of receipts to expenses other than food and lodging, which may be more properly provided for by stipulating allowable sums with receipts only required to support expenditures in excess of the sums allowable for food and lodging.

Since the LIEB regulations are not published under the provisions of the Regulations Act, I suggest that a copy of current regulations be provided to each Member of the Legislative Assembly so there will be no doubt that they are aware of current provisions in respect to such allowances and expenses.

I further respectfully submit that your office should assign someone to be responsible for examining such claims and to advise that they are in compliance with the Act and regulations before being submitted to you for approval. This would pick up any accounting irregularities or claims for reimbursement for expenses not provided for by the LIEB regulations and enable them to be corrected before being submitted to you.

Yours very truly

Ronald C. Giffin

c.c. Deputy Auditor General

THE CHRONICLE-HERALD

VOLUME 36, NO. 262 HALIFAX, CANADA, SATURDAY, NOVEMBER 3, 1984

MLA's expense documents most unusual — Cormier

By ALAN JEFFERS
Provincial Reporter

Tuesday's election has effectively silenced the province's financial watchdog, who won't say whether he's satisfied with a government-approved explanation of a cabinet minister's travel expenses.

Because the issue is "so controversial," Auditor General Paul Cormier will not say whether he's satisfied with an explanation of Culture, Recreation and Fitness Minister Billy Joe MacLean's travel expenses, which the attorney general's department insists do not warrant an RCMP investigation.

"It was a most unusual way to document expense claims," Mr. Cormier said in an interview about Mr. MacLean's explanation of expense documentation.

At a press conference in Halifax Friday, Attorney General Ron Giffin released a letter dated April 18, 1984 that he wrote to Speaker Art D'Onofrio which details Mr. MacLean's explanation of questions the auditor general's department had about his expense documentation.

Detailing the history of the case, Mr. Giffin said after an auditor general's department review of MLAs' expense claims, then-auditor general Arnold Sarty "spoke informally on two occasions with the RCMP, and that these discussions concerned the expense claims of only one MLA."

That's a contradiction of what Mr. Cormier, who was at the meetings, said.

He said he and Mr. Sarty discussed six MLAs' expense claims with the RCMP, although only two or three claims warranted discussion with police.

"Some of them were significantly less serious than others and we wouldn't have consulted the RCMP on some of them," he said, adding Mr. Sarty "was concerned with two and maybe a third."

But Mr. Giffin said: "At no time did either the RCMP or the auditor general raise with my department any question concerning the expenses of any MLA other than the one MLA referred to in my letter of April 18."

Mr. Giffin wrote in the letter that when Mr. MacLean was asked about certain documentation, "he stated that although the statements were on stationery of the Sheiling Motel (owned by a member of Mr. MacLean's family), he used such as a matter of convenience, clipping the motel name from the statement and that these statements were not intended as receipts but rather daily statements of money expended."

Mr. Giffin wrote that Mr. MacLean's explanation "refutes any otherwise prima facie consideration of criminal wrongdoing in the matter."

Mr. Cormier said because of the timing of the election, Nova Scotians will have to wait for his annual report to find out whether his department is satisfied with the explanations.

He said his office still considers the method of documentation outlined in the letter "most unusual."

He said if he comments now, he would be seen as supporting one side or the other, which he does not want to do.

Mr. Cormier promised to make "a more definitive" statement by the time his report is tabled during the regular session of the legislature, which usually starts in February.

Mr. Giffin wrote that concerns about Mr. MacLean's expenses "are in part the result of ambiguity and conflict in the regulations and the informality in which they are communicated to the members."

The attorney general told reporters he has initiated legal action against Liberal leader Sandy Cameron because he "impugned my integrity. And worst of all, they (Mr. Cameron's charges) have called into question the administration of justice in Nova Scotia."

Contacted last night, Mr. Cameron said Mr. Giffin's decision on Mr. MacLean's expenses constitute a conflict of interest because the two men are political colleagues.

He refused to back down from his stance and said he would not be intimidated by threats of lawsuits.

Earlier this week Mr. Cameron first accused the attorney general's department of blocking an investigation. He later said Mr. Giffin's department delayed acting on the request of the auditor general's department.

**The Speaker**House of Assembly
Nova ScotiaPO Box 1617
Halifax, Nova Scotia
B3J 2Y3

902 424-5707

January 4, 1985

Mr. O. Paul Cormier, FCA
Auditor General
4th Floor
Hollis Building

Dear Mr. Cormier:

Re: Honourable William J. MacLean

I have held two meetings with Honourable William J. MacLean respecting the matters raised in your report to me of November 29, 1983. Six items were raised in your report, one of which, relating to documentation supporting expense claims made by Mr. MacLean has been otherwise dealt with. I will deal with the other items in the order in which they appear in your report.

Claims for accommodations and per diems appear excessive.

A review done subsequent to your report of November 29 indicates that Mr. MacLean overclaimed for 17 trips during 1982. Mr. MacLean advises that he believes that most of these trips were taken in connection with work he was carrying out as Chairman of the Legislature Select Committee on the Offshore. However, it would appear that they were not taken in conjunction with committee meetings and accordingly, he is not eligible for reimbursement for them. The total paid to Mr. MacLean in connection with these trips is \$4,437.53. A review of the claims indicates that \$2,196.40 of this was with respect to mileage paid to Mr. MacLean. I have discussed the matter with him and it has been agreed that he will reimburse the mileage portion of \$2,196.40.

Apartment rental charges.

The apparent overclaim of \$913.00 will be reimbursed by Mr. MacLean.

.../2

Mr. O. Paul Cormier, FCA

January 4, 1985

Accommodation charges overclaimed.

The overclaim of \$120.00 will be reimbursed by Mr. MacLean.

Overpayment due to error in extension.

Mr. MacLean will reimburse the overpayment of \$360.00.

Constituency expense paid twice.

Mr. MacLean will repay the duplicate payment of \$500.

Payments to constituency office questionable.

As you know, at the relevant time the regulations did not prohibit reimbursement for payment of rental of a constituency office made to a company of which the member was a shareholder. Accordingly, no repayment will be made by Mr. MacLean in connection with this item. The revised regulations in effect as of January 1, 1985 no longer permit this type of arrangement.

The total reimbursement from Mr. MacLean thus amounts to \$4,089.40. Of this amount, \$2,500.00 has been repaid by way of deduction from Mr. MacLean's 1985 indemnity and expense allowance and the balance will be deducted from expense claims made by him in 1985. I expect the amount will be fully repaid before March 31, 1985.

I trust this is satisfactory, however, should anything further be required, please do not hesitate to let me know.

Yours very truly,



Arthur R. Donahoe
Speaker

ARD:nk

cc: Hon. William J. MacLean



Auditor General

PO Box 783
Halifax, Nova Scotia
B3J 2V2

January 8, 1985

Honourable Arthur R. Donahoe, Q.C.
Speaker
House of Assembly
Province of Nova Scotia
Halifax, N.S.

Dear Mr. Donahoe:

NOTE: Two paragraphs deleted from this page, because they do not pertain to Mr. MacLean.

I would also like to acknowledge your letter of January 4, 1985, relating to the expense claims of the Honourable William J. MacLean, included in our report to you of November 29, 1983. You indicate the first item described in our report, "Expense Claims Supported By Questionable Receipts", has been otherwise dealt with, and is not considered in this letter.

You have dealt with the remaining six items, namely:

- 1) claims for accommodations and per diems appear excessive;
- 2) apartment rental charges;
- 3) accommodation charges overclaimed;
- 4) overpayment due to error in extention;
- 5) constituency expense paid twice; and

4. Taylor is writing his name

I am pleased to accept your explanation for the first and sixth items noted above, and your indication of reimbursement arrangements for number one to five inclusive, as a satisfactory resolution of these six items relating to the expense claims of Mr. MacLean.

NOTE: One paragraph deleted from this page, because it does not pertain to Mr. MacLean.

Yours very truly,



O. Paul Cormier, F.C.A.
Auditor General

OPC/nm

Report details expense scandal

By ALAN JEFFERS
Provincial Reporter

A provincial cabinet minister and former Tory MLA involved in last year's travel expense controversy were singled out in the auditor general's report made public Wednesday.

Auditor General Paul Cormier is not satisfied with an explanation given by Culture, Recreation and Fitness Minister Billy Joe MacLean about questionable travel expenses and said that former Sackville MLA Malcolm MacKay was wrongly paid \$34,454 in travel and accommodation expenses over a 3 1/2-year period.

Mr. Cormier and former auditor general Arnold Sarty conducted an audit of members' expenses in 1983 that turned up expense documentation of Mr. MacLean's that "in the opinion of the then auditor general, was questionable as to its authenticity and appropriateness."

After meetings with RCMP the matter was left in the hands of the attorney general's department and then later excused by Attorney General Ron Giffin after Mr. MacLean explained his expense claims.

Acknowledging in his report that it is not his responsibility to make legal judgments, Mr. Cormier said he finds it "difficult to accept the explanations and documentations provided by the member in response to our audit findings."

See REPORT page 16



Billy Joe MacLean



Malcolm MacKay

"It is my opinion, that the documentation employed and the explanations provided by the member (Mr. MacLean) for certain expense claims are inappropriate for the expenses claimed and unacceptable from an audit standpoint."

In an interview, Mr. Cormier said he "can't second guess" government's decision about Mr. MacLean. "It's not up to me to say."

Mr. MacLean used expense statements from a motel owned by a family member, with the letterheads removed, and said when questioned that he intended them to provide an outline of how much was spent, and not to be receipts.

When Liberal leader Sandy Cameron heard about the auditor general's queries during the campaign, he said the government was obstructing justice. He also made charges about five other members whose problems, according to the auditor general, were due to "inadvertence, clerical error or misinterpretation of entitlements."

Mr. Cameron, who lost his seat in the election, said in an interview after the report was made public that he feels he has been vindicated by the auditor general and that there are problems with the justice system in the province.

Meanwhile, the legislature's internal economy board, which is entirely made up of Conservative members, decided that Mr. MacKay, who also was not re-elected in the election, should pay back \$7,024, because "the responsibility for this situation was not entirely the member's," Mr. Cormier writes in the report. Mr. MacKay claimed expenses as an out-of-town member even though he did not live far enough from the House to do so.

Speaker Arthur Donahoe told reporters that Mr. MacKay has been contacted about repaying the money, and while he has not yet received a reply, he is confident he will soon.

Mr. Cormier said the decision to make Mr. MacKay repay only last year's expenses is "not inappropriate."

"The Speaker has requested repayment for only that portion of his expenses paid during 1984 when he used an improper residence address." Mr. MacKay used an address that made him eligible for extra expenses even though he lived elsewhere.

Speaker Donahoe said the expense problems were largely due to regulations that were unclear at best and that for the most part, the problems could not happen again.



Leader of the
Opposition

1809 Barrington Street
Suite 1212, Bank of Commerce Bldg
PO Box 723
Halifax, Nova Scotia
HXJ 2T3
902 424 3281

April 29, 1985

Chief Superintendent Campbell Reid
Royal Canadian Mounted Police
P.O. Box 2286
Halifax, Nova Scotia
B3J 3E1

Dear Chief Superintendent Reid:

RE: RCMP Investigation - MLA Expense Claims

I have raised questions in the House of Assembly concerning the expense claims submitted by several MLA's, including Billy Joe MacLean. The purpose of raising this issue is to ensure all Nova Scotians are treated equally before the law.

The Premier of the province and the Attorney General refuse to take any action. This leaves the clear impression MLA's are above the law. This is wrong and must be corrected.

I have specifically requested the Attorney General, who is the Chief Law Enforcement Officer of Nova Scotia, to cause an investigation into the expense claims. He has refused to take any action whatsoever and has merely said the RCMP is free to investigate if it so wishes.

The Premier and the Attorney General's response to this serious matter is totally unsatisfactory to me and my fellow Nova Scotians. Accordingly, I hereby request an RCMP investigation into the expense claims of Billy Joe MacLean. If it is necessary for me to file a formal complaint to start the investigation, would you please advise.

If there is anything further that need be done to cause such an RCMP investigation, may I hear from you as soon as possible.

Sincerely,

Vincent J. MacLean

R. C. M. P.
HALIFAX, N. S.
APR 30 1985

C. O. "H" Division

RECEIVED
APR 30 1985
COMMERCIAL CRIME SEC.
HALIFAX, N. S.

APRIL 8, 1986

CANADA
MAGISTERIAL DISTRICT OF THE PROVINCE OF NOVA SCOTIA

This the information and complaint of Nigel M. Green of Halifax, in the County of Halifax, Province of Nova Scotia, for and on behalf of Her Majesty the Queen, hereinafter called the Informant.

The Informant says that he has reasonable and probable grounds to believe and does believe that

William Joseph MacLEAN

of Port Hawkesbury, County of Inverness, Province of Nova Scotia, at or near Halifax in the County of Halifax, Province of Nova Scotia, between the 1st day of January, 1982, and the 1st day of March, 1986, did by deceit, falsehood, or other fraudulent means defraud Her Majesty the Queen in the right of the Province of Nova Scotia, of monies in excess of one thousand dollars (1,000.00) by submitting Statements of Travel and Living Allowances for Members and Officers of the Legislative Assembly for reimbursement, contrary to Section 338(1)(a) of the Criminal Code;

AND FURTHER THAT William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of March, 1982, and the 30th day of June, 1982, did use documents, to wit: receipts signed by Maureen O'Leary or Gordon Grady, as though they were genuine, knowing that the documents were forged, contrary to Section 326(1)(b) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of August, 1982, and the 30th day of September, 1983, did knowingly make false documents, to wit: receipts purported to be signed by Roberta MacKinnon with intent that they be acted upon as genuine and thereby did commit forgery, contrary to Section 325(1) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of August, 1982, and the 30th day of September, 1983, did use documents, to wit: receipts purported to be signed by Roberta MacKinnon as though they were genuine, knowing that the documents were forged, contrary to Section 326(1)(b) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of June, 1982, and the 30th day of November, 1982, did knowingly make false documents, to wit: receipts purported to show charges for accommodations with intent that they be acted upon as though genuine and did thereby commit forgery, contrary to Section 325(1) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of June, 1982, and the 30th day of November, 1982, did use documents, to wit: receipts purported to show charges for accommodations as though they were genuine knowing that the documents were forged, contrary to Section 326(1)(b) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of October, 1983, and the 31st day of December, 1984, did knowingly make false documents, to wit: receipts purported to be signed by Joan Briggs with intent that they be acted upon as though genuine and did thereby commit forgery, contrary to Section 325(1) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of October, 1983, and the 31st day of December, 1984, did use documents, to wit: receipts purported to be signed by Joan Briggs as though they were genuine knowing that the documents were forged, contrary to Section 326(1)(b) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of January, 1985, and the 28th day of February, 1986, did knowingly make false documents, to wit: receipts signed by Frances De Coste with intent that they be acted upon as though genuine, and did thereby commit forgery, contrary to Section 325(1) of the Criminal Code;

AND FURTHER THAT the said William Joseph MacLean at or near Halifax, County of Halifax, Province of Nova Scotia, between the 1st day of January, 1985, and the 28th day of February, 1986, did use documents, to wit: receipts signed by Frances Decoste as though they were genuine knowing that the documents were

SWORN before me this
day of April, 1986,
at
in the County of
Province of Nova Scotia.

.....
Informant

.....

STEWART MACKEN & COVERT
BARRISTERS AND SOLICITORS

PURDY'S WHARF TOWER ONE
1850 UPPER WATER STREET
HALIFAX, CANADA

CORRESPONDENCE
P.O. BOX 807
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RICHARD R JONES
DOUGLAS J MATHews
JONATHAN C. R. STOBIE
BARBARA S. PENICK
MARY E McDONALD
DANN A RUSSELL
CHARLES S REAGH
D. GEOFFREY MACHUM
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J WILLIAM E. MINGO, O.C.
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T. ARTHUR BARRY
JOHN McL. ROGERS

COUNSEL
DONALD A. KERR, O.C.

OUR FILE REFERENCE:

April 28, 1986

Mr. Norman Clair,
Crown Prosecutor's Office,
The Law Courts,
1815 Upper Water Street,
Halifax, Nova Scotia.
B3J 1S7

Dear Norm:

Re: The Queen v. Billy Joe MacLean

The above matter having now been scheduled for Preliminary Inquiry for five days commencing on the 14th of October, 1986, I think that it is imperative that in order for we of the defence to prepare for the preliminary that the Crown disclose to us at the earliest opportunity witnesses to be called and show us any statements given by any of those witnesses together with any documentation that will be tendered.

It has always been the practice of the Attorney General's Department to make full disclosure for the defence for it has always been their attitude that "the Crown has nothing to hide".

I appreciate that you are somewhat concerned about my client bringing pressure upon certain witnesses but let me assure you that if in fact he does so the Crown has the remedies available in order to prosecute him further. He has assured me that he will not contact any of the witnesses to be called other than for personal businesses that these witnesses may be involved with which are of concern to my client.

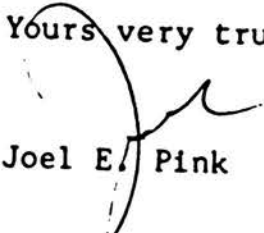
.../2

I once again am making a request of the Crown to disclose to the defence their case well in advance of the October 14th date in order that we may properly prepare ourselves.

There are, of course, fringe benefits for doing same and that being that once assessing the case and the evidence to be called we may be able to shorten the Preliminary Inquiry considerably.

I would once again ask that you reconsider my request and advise me as to your position.

Yours very truly,



Joel E. Pink

JEP/nm

CC: Billy Joe MacLean



STEWART MacKEEN & COVERT

BARRISTERS AND SOLICITORS

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OUR FILE REFERENCE:

September 2, 1986

WITHOUT PREJUDICE

Mr. Norman Clair,
Crown Prosecutor's Office,
The Law Courts,
1815 Upper Water Street,
Halifax, Nova Scotia.
B3J 1S7

Dear Norm:

Re: Billy Joe MacLean

Further to my several telephone conferences with you I wish to now confirm that I have instructions from my client which are as follows:

That he would be willing to plead to two counts of uttering, namely: Roberta McKinnon (#4) and Joan Briggs (#8).

In return for my client pleading guilty to these two counts the Crown will withdraw the other counts plus they will ask for fines, which will be discussed between counsel.

I look forward to a favourable reply.

Yours very truly,

Joel S. Pink

JEP/nm

Nova Scotia



DEPT. OF THE

SEP 8 1986

ATTORNEY GENERAL

53

**Department of
Attorney General**

Office of
Crown Prosecutor

The Law Courts
1815 Upper Water Street
Halifax, Nova Scotia
B3J 1S7

424-4900, Loc. 180

September 8, 1986

Mr. Martin Herschorn
Director (Prosecutions)
Department of Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Herschorn:

Re: Billy Joe MacLean

Multiple Charges of Fraud, Forgery & Uttering

The RCMP investigation with regard to Mr. MacLean covers a period from October 6, 1981, and includes up until February 28, 1986. During this period it would be submitted that a total of fifty four statements of travel and living allowance were submitted of which at least 33 of them are fraudulent by virtue of them being supported in whole or in part by receipts that have been found to be totally false, deliberately erroneous or bearing forged signatures.

The information count relating to the dates of March 1st through until the 30th of June 1982 relate to what are known as Somerset receipts. During that period Mr. MacLean submitted six statements for reimbursement that related to lodgings he had rented at the Somerset Place apartments in Halifax. The rental agreement shows that the agreed upon price was \$ 513.50 per month. Claims over that period were submitted in the amount of \$ 605.00 per month. One of the witnesses prepared to testify that at least she signed three of them knowing full well that the padded price was included. The receipt for the month of January was originally written bearing February dates and the receipt for the month

.../2

of February appears to have originally been dated February 17th. In fact Mr. MacLean did not stay in the apartment in January, although he made claim for same. Given that he would be entitled legitimately to expenses and taking into account the inflated receipts provided to support such claims, it would be estimated that an overpayment of \$ 2030.00 was received by Mr. MacLean.

With regard to the offence of forgery and uttering between the 1st of August, 1982 and the 30th of September, 1983, McLean submitted 11 claims for reimbursement for expenses incurred in maintaining a constituency office at the rate of \$ 500.00 per month and in support of these claims provided eight original receipts and three copies from Bluenose Enterprises Limited, each one being signed by Regulations during this period of time provided that a member could claim reimbursement of \$ 250.00 per month for constituency expenses and a further \$ 250.00 a month for office space, secretarial work, etc., if supported by proper 'receipts.' Regulations also went on to stipulate that the entitlement does not apply for rental of space in a members residence or a property owned by a member or his family.

Bluenose Enterprises Limited was incorporated in 1962 showing officers and directors being William J. MacLean, President, and Glenda MacLean, Secretary. who reportedly signed the receipts in support of such claims appears to be the Manageress of the Carriage House Tavern in Port Hawkesbury which is also owned by Billy Joe MacLean. She appears to be the only in the area and has been shown the original receipts, 8 in number, which she denies signing. She advises that during this period of time Mr. MacLean did have a constituency office for approximately 2 hours every Saturday morning which was set up in a banquet room of the Shealing Motel also owned by Mr. MacLean at that time. advised that she had nothing to do with the management or business of the Shealing Motel. On the basis of the forged documents, a total of \$ 7500.00 was reimbursed to Mr. MacLean.

With regard to counts 5 & 6 relating to the offence of forgery and uttering between the dates of the 1st of June, 1982 and the 30th of November 1982, Mr. MacLean submitted six more claims in two batches

of three claims each. The first batch covered the period of June to September 26th and the next period up and to including November 30, 1982. The statements were characterized by a great number of return trips being 39 in all between Halifax and Port Hawkesbury, as well living allowance for 15 days was claimed and a further 29 days living allowance for attending committee meetings were included in the statements. In support of this documentation 40 receipts with no identifying source were submitted which have now been identified as receipts put through the cash register in sequential numbers of the Shealing Motel, then owned by Billy Joe MacLean. Evidence would show that Billy Joe never did stay at his own motel which is located some 5-10 minute drive from his own residence. Also from records maintained at the speakers office and elsewhere, it was determined that during this time frame the offshore committee held only one meeting and the tourism committee three of which only two Mr. MacLean actually attended. Based on these fraudulent receipts, it is estimated that an overpayment of \$ 13,663.00 was paid which would include the overpayment not only of living allowance and room rental, but also trips claimed but allegedly never taken.

Counts 7 and 8 relating to both forgery and uttering between the 1st day of October, 1983 and the 31st day of December, 1984, involving one relates to claims by Mr. MacLean for constituency expenses to the maximum allowable limit. Each of these statements was attached to the original receipt indicating an acknowledgement by of having received \$ 250.00 in 1983 and \$ 260.00 in 1984 per month from Mr. MacLean. All of the receipts endorsed by are forgeries. They have been examined by and she denies that she wrote any of the signatures on them. Mr. MacLean set up a constituency office in the Central Trust building in Port Hawkesbury. acknowledged that she assisted in setting up the office and worked there to assist Mr. MacLean but has not done so since mid 1983. She now works for the federal member of parliament and was the progressive conservative constituency secretary, not assigned to Mr. MacLean. To her knowledge Mr. MacLean had no secretary at that point, then or now. It is estimated that due to the submittal of the forged receipts an overpayment of \$ 2320.00 was made.

With regard to Counts 9 and 10 relating to the offence of forgery and uttering between the 1st day

Mr. Martin Herschorn

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September 8, 1986

of January 1985 and the 28th day of February, 1986, involving Frances Decoste, again it appears that the receipts for claims during this period are forgeries. The claims were submitted in support of constituency secretarial expenses signed by _____ is Billy Joe MacLean's housekeeper and has no secretarial skills. In fact, she is semi-literate. The receipts, some of them signed by _____ were signed in blank by her and had no knowledge as to what was filled in by the persons taking them. _____ recalls two incidents, once during the winter of 1984 and 1985 and the winter of 1985-86. Mr. MacLean had her sign these documents on the kitchen table in his house in his presence. Also present during the signing was Mr. MacLean's executive assistant, Allan Wilson. The receipts put in by Mr. MacLean by support the constituency expenses during this time also are fraudulent and the estimated overpayment is \$ 3120.00.

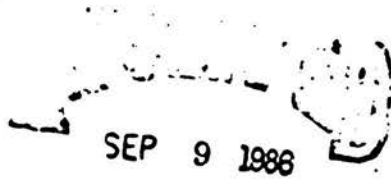
I trust this will explain various schemes used by Mr. MacLean in some detail used to pad his living expense account. If any further information is required, please do not hesitate to contact me as I hold the complete RCMP brief given to me by Sgt. Green.

Yours truly,

Roxanne Hopkins
for / Norman Clair
Asst. Prosecuting Officer

NC/rrph

Dictated but not read.



Attorney General

ATTORNEY GENERAL

Memorandum

**From Martin E. Herschorn
Director (Prosecutions)**

Our File Reference

**To Honourable Ronald C. Giffin
Attorney General**

Your File Reference

Subject Q. vs William Joseph (Billy Joe) MacLean

Date **September 9, 1986**

I enclose a copy of the Information wherein Billy Joe MacLean is charged with ten counts of fraud, uttering a forged document and forgery. Also attached is a letter dated September 2, 1986 to the Assistant Prosecuting Officer, Norman Clair, from Defence Counsel, Joel Pink, in which Mr. Pink confirms a plea bargaining proposal.

Norman Clair is seeking the views of the Department as to what to accept by way of plea and direction as to the type of sentence which the Crown should seek. I am attaching a copy of Mr. Clair's letter to me of September 8, 1986 which summarizes the fraudulent activity which resulted in these charges. I would appreciate an opportunity to discuss this matter with you at your convenience.

M. E. H.

MEH:if

Encls.

c.c. Gordon F. Coles, Q.C.



Department of
Attorney General

09-86-0971-88

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no:

Our phone no: 424-4033

September 11, 1986

Mr. Norman Clair
Assistant Prosecuting Officer
The Law Courts
1815 Upper Water Street
Halifax, Nova Scotia

Dear Mr. Clair:

Re: R. vs William Joseph (Billy Joe) MacLean

Further to your letters of September 3rd and September 8th, 1986, I would suggest the following as a guide in your subsequent discussions with Joel Pink vis a vis plea and sentence.

The Department is of the view that a plea of guilty to the first count of fraud would be more appropriate than the entering of one or more pleas to individual counts of either uttering or forgery. In the event that this is unacceptable to the Defence, the Crown should take the position that pleas of guilty should be entered to the 4 most serious uttering counts.

With respect to sentence, the Crown's position in these discussions with Defence Counsel should include the following factors:

1. A fine, would appear to be the appropriate form of disposition. As to the quantum, this should be substantial, in the range of from \$5,000.00 to \$10,000.00.
2. Secondly, the Crown should seek an order for restitution with respect to the total amount which can be ascertained as having been defrauded by Mr. MacLean between January 1, 1982 and March 1, 1986. It is my understanding that the figures referred to in your letter of September 8th are estimates, rather than precise determinations. I would suggest that in consultation with the R.C.M.P. and, if necessary, the Speaker's Office or the Department of Finance, the precise amount of the fraud be determined and that figure utilized in future discussions concerning restitution with Joel Pink. A representation by the Crown that

restitution be made in the amount so determined would be a pre-requisite to any negotiation with respect to plea and sentence between the Crown and Defence.

Yours very truly,



Martin E. Herschorn
Director (Prosecutions)

MEH:if



Department of
Attorney General

Office of
Crown Prosecutor

The Law Courts
1815 Upper Water Street
Halifax, N.S.
B3J 1S7
424-4900, ext. 180

September 12, 1986

Joel Pink, Q.C.
Stewart, MacKeen & Covert
P. O. Box 997
Halifax, N.S.
B3J 2X2

Dear Mr. Pink:

RE: R. v. William (Billy-Jo) MacLean

Further to our telephone conversation of today's date this letter will confirm that the Crown requests and will accept guilty pleas to four counts of uttering in favour of withdrawal of all remaining counts. My instructions are to accept pleas to the four most serious uttering counts, however, it appears that there is not much difference between the monetary values alleged to be fraudulently obtained in count two and count eight. For the sake of argument I would request guilty pleas to be entered to count four, count six, count eight, and count ten. These charges relate to documents signed by Roberta MacKinnon, documents used from the Sheiling Motel, documents in the name of Joan Briggs, and lastly Frances Decoste.

My position on sentence is as I have stated -- the Crown will ask for a fine in the range of \$5,000.00 to \$10,000.00. I understand the \$5,000.00 is acceptable to you. Although the \$5,000.00 is acceptable I want it understood that my instructions are that I not be bound to ask for that and no more. As I suggested I was prepared to suggest a range and live whatever the Court sees fit.

With regard to the question of restitution, I sought further instructions and it is the position of the Department that they will not ask as a formal portion of the sentencing that restitution be ordered. As you can

Joel Pink, Q.C.

- 2 -

September 12, 1986

appreciate this is a sensitive and high-profile matter given Mr. MacLean's former position with the Provincial Government. So that no questions might be raised as to any inproprietary the Crown will put before the Court the amounts it feels have been defrauded. With regard to obtaining the monies, I am advised that Mr. MacLean will be entitled to receive a pension by virtue of the fact of his long standing as an M.L.A. and that the Government will take actions with regard to retrieving monies from that pension. To that end I have instructed the R.C.M.P. to get in touch with the Auditor General's Department so that a work up can be done on the four counts I have suggested so that a proper accounting may be done showing the amounts of money to which Mr. MacLean would be entitled had the claims been legitimate and the difference reflecting the fraud incurred by the submission of the documents in question.

If this meets with the approval of yourself and your client, I would suggest that the matter could be concluded upon a date mutually agreed to by the parties or, in the alternative, it could wait until the date of the original preliminary hearing to be dealt with.

I trust the foregoing will meet with the approval of yourself and your client and look forward to concluding the matter as suggested.

Yours very truly,

Norman H. Clair
Asst. Prosecuting Officer

NHC/amb

STEWART MACKEN & COVERT

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September 15, 1986

WITHOUT PREJUDICE

Mr. Norman Clare,
Crown Prosecutor,
The Law Courts,
1815 Upper Water Street,
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B3J 1S7

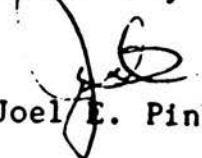
Dear Norman:

RE: Billy Joe MacLean

Further to my telephone conversation with you on the 15th of September, would you kindly confirm to me that in your submission to Judge Atton if there is a guilty plea to four counts of uttering and an agreed fine of \$5000.00 total, that the Crown will not use the words fraud, forgery or that my client personally benefited.

If your submission was to take on the picture of us submitting false claims which we knew were false and that as a result of us submitting those claims the government paid us so many dollars. The above is very important to my client so if you would consider same I will then relate your response to my client and confirm with you that we have a deal.

Yours very truly,


Joel E. Pink

JEP/nm

CC: Billy Joe MacLean

Nova Scotia



Attorney General

Memorandum

From Martin E. Herschorn
Director (Prosecutions)

m E.H.

Our File Reference

09-86-0549-08

To File

Your File Reference

Subject R. v William Joseph (Billy Joe) MacLean

Date September 16, 1986

On September 12th at 11:30, I was contacted by Norman Clair who had been in receipt of my earlier letter concerning the Department's position vis a vis negotiations with counsel for Billy Joe MacLean in respect to plea and sentence. Norman indicated that Joel Pink has now advised him that his client is prepared to plead guilty to four counts of uttering and that the range of fine which the Crown would be seeking was acceptable to him. Mr. Pink did indicate however that his client was not in a position to make restitution.

I indicated to Norman that I would discuss the matter within the Department and get back to him. I subsequently contacted the Attorney General in Truro and discussed these developments. The Attorney General indicated that with respect to restitution, the Province would have other means of recovery of the defrauded monies, through access to funds Mr. MacLean would be entitled to from the Province, i.e. pension funds or the annual stipend. Hence, the Attorney General was of the view that the entering of a plea of guilty to four counts of uttering with the Crown seeking a fine in the range of from \$5,000 to \$10,000 would be appropriate. This information was communicated to Norman Clair at 11:50 a.m.

On the afternoon of September 12th, I received a further call from Norman Clair indicating that he had met with Joel Pink and that Joel was seeking a firm representation from the Crown of a fine in the amount of \$5,000.00. I related this to the Attorney General by telephone in Truro. He agreed that a Crown representation to this effect was satisfactory to him.

MEH:if

I N T H E P R O V I N C I A L C O U R T

CITY OF HALIFAX

HALIFAX, N.S., OCTOBER 3, 1986

MR. N. CLAIRE, for the Crown

MR. J. PINK, for the Accused

BEFORE: JUDGE W.J.C. ATTON

MINUTES OF EVIDENCE

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MR. PINK: Yes, if Your Honour pleases, I am present this morning with Mr. MacLean. As Your Honour has before you, there was an Information containing ten counts. As Your Honour will also note, there was an original election for a Judge and Jury. Prior to dealing with the charges, I am letting Your Honour know exactly what Mr. MacLean will be doing. I first of all ask that there be a re-election down before Your Honour, on all counts.

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MR. CLAIRE: The Crown consents to that re-election, Your Honour.

THE COURT: Re-elects to Provincial Court. .. Are you ready to enter a plea this morning, Mr. MacLean?

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MR. PINK: Yes he is, Your Honour. If Your Honour pleases, you will note that the ten count Information before you - there will be a guilty plea entered on Charges 4, 6, 8, and 10. There will be not guilty pleas entered on all other counts.

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THE COURT: Guilty to Counts 4, 6, 8 and 10. Not guilty to Counts 1, 2, 3, 5, 7, and 9.

MR. PINK: That is correct, Your Honour.

THE COURT: Mr. Claire ...

MR. CLAIRE: Your Honour, in view of the guilty pleas to the

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main charges in the Information, the Crown will withdraw the remaining charges, that is, 1, 2, 3, 5, 7, and 9.

THE COURT: The Crown withdraws 1, 2, 3, 5, 7, and 9....

Are you ready to proceed today, on the other matter.

5 MR. PINK: Yes we are, Your Honour.

10 MR. CLAIRE: Your Honour, in the sentencing matter with Mr. MacLean - by way of background, I can advise this is a somewhat unusual case, in the fact of Mr. MacLean's position. He is a Member of the Legislative Assembly, for Inverness South. He won the Provincial Election in October of 1981, and was re-elected in November of 1984. In November of 1983 he was appointed Minister of Culture, Recreation and Fitness, Minister in charge of the Administration of The Heritage Property Act, and also Minister in charge of the Administration of the Lottery Act. He was reappointed to these posts in November of 1984. And in addition to these duties, he also was appointed as a Member of the Select Committee of the Off Shore, in May of 1982. As a Member of the Legislative Assembly, he, as all other Members, is entitled to compensation for travelling and living expenses, which are set out in the House of Assembly Act and its Regulations. And Mr. MacLean was defined as an Outside Member, meaning that he lived more than 25 miles distant from where the House of Assembly sits, here in Halifax. He is a resident of Port Hawkesbury, Nova Scotia. Each Outside Member is entitled to

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claim for return trips between the place of his residence and the House, within the guide lines, and it does depend whether the House is in session or not. The Act also stipulates that a Member is entitled to reimbursement for expenses actually incurred by him as a Member, in relation to the provision of office space, equipment, secretarial service, and travel within the electoral district. The way the claims are made is that reimbursement, for reimbursement, the Member is required to submit a statement of travel and living allowance to the Office of the Speaker, usually on a monthly basis. The staff of the Speaker's Office then check over the claims, for compliance with the Regulations, and check the arithmetic correctness of the calculations. The Regulations stipulate that all claims for reimbursement for certain items must be supported by proper receipts, and as long as the claim for these types of expenses are supported by those receipts, and appear normal or proper on the face, within the allowable limits, the claims are processed for payment. The Speaker's Office has no investigative arm to ensure the correctness of the claims, and so the Speaker's office then depends on the honesty and integrity of each Member making the claim, and generally accept the claim at face value. The claim is then signed by the Speaker of House, or his designate, and sent to the Finance Department for processing. Now with regards to the four Counts that Mr. MacLean has pled guilty to:

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The Count 4, relating to the uttering of forged documents, between the 1st of August, 1982, and the 30th of September, 1983. Between this period Mr. MacLean submitted eleven claims for reimbursement for expenses incurred in maintaining a constituency office, at the rate of \$500.00 a month. And in support of these claims provided eight original receipts and three copies, from a Bluenose Enterprises Limited. Each one of these receipts being signed by a Roberta MacKinnon. The Regulations during this period of time provided that a Member could claim reimbursement of \$250.00 a month, for constituency expenses, and a further \$250.00 a month for office space, secretarial work, etc., if supported by the proper receipts. The Regulations also stipulated that entitlement does not apply for rental of space in a Member's residence or property owned by a Member or his family. Now members of the Speaker's staff who processed the claims advised that they did not know at the time who owned Bluenose Enterprises. It turns out that Bluenose Enterprises Limited was incorporated in 1962. The officers and directors of the company, both between 1962 and 1982, were William J. MacLean, President, and Glenda MacLean, Secretary and/or Treasurer. Both of Philpott Street, which is the address in Port Hawkesbury of Mr. MacLean. It is through this company that Mr. MacLean operates a Beverage Room, or Tavern, called The Carriage House, in Port Hawkesbury. Roberta MacKinnon is the Manageress

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of that establishment, she has worked at the Tavern since 1972, and for the past five years has been the Manageress. As far as she's aware, she's the only Roberta MacKinnon in the area, and certainly the only one working for Bluenose Enterprises. The office that she is aware of, that Mr. MacLean had at that time, in the Port Hawkesbury area, is one he had open for two hour period on Saturday mornings, at the Sheiling Motel, which she advised she had nothing to do with. When shown the receipts, and questioned, Mrs. MacKinnon examined them, and denied that she had signed them, or had any part of them. The handwriting samples were analyzed, and confirmed this fact. Mrs. MacKinnon also advises that she has never been Mr. MacLean's political secretary, and the only office she was aware of, is the Sheiling Motel. I can advise that during this period Mr. MacLean was either the owner or part owner, and had control

in the Sheiling Motel. The Auditor General has recalculated the expense accounts, discounting the documents complained of in this account, and an overpayment has been calculated at \$7,500.00. Which he has advised that \$500.00 has been covered, now leaving a surplus of \$7,000.00 overpayment.

With regards to Count 6 - Mr. MacLean then submitted six claims over the next period of time, that is between June and November 30th, 1982. The claims were submitted in two

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batches, of three claims each. The first batch covered the period of June to September 26th, and the next covered the period up until and including November 30th, 1982. The six statements are characterized by a great number of return trips being claimed on each claim form, thirty-nine return trips in all, between Halifax and Port Hawkesbury, are claimed in this time frame, as well as living allowances for fifteen days, and a further twenty-nine days living allowance, for attending Committee meetings, were included on the statements. In support, forty receipts with no identifying source were submitted, each purporting to show a night's lodging. The receipts are all identical, in each case identifying a person as W.J. MacLean, of Philpott Street, Port Hawkesbury, as the person. The receipts attached to the earlier statements included such detail as automobile make and license number, room number, rate, date of arrival, and date of departure. Some of this material was omitted on the later receipts. The earlier receipts were also signed by Mr. MacLean, while the later ones does not include this. All of the receipts, however, had been posted through a cash register and the receipts, both the tape number and the actual folio number on the receipts, were in sequential numbers, which indicated that they were run through the machine at the same time. As I indicated, Mr. MacLean was owner or part owner of the Sheiling Motel at the time. It appears that the

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folios, or the receipts, were identical to the receipts used by the Shelling Motel, except that where the name was on the receipt, it appeared to have been cut off. I am also advised that the House was not in session at that time, in that it sat from February 18th to June 26th. It appears that this claim overlapped the August, 1982, claim, in Count 4. A recalculation based on the false documents provided by Mr. MacLean, done by the Auditor General, shows an overpayment to Mr. MacLean of \$7,808.55.

THE COURT: Is that just in relation to Count 6 - or a combination of

MR. CLAIRE: No, that's just Count 6, Your Honour. \$7,000.00. Count 4 - \$7,808.55 on this Count.

With regard to Count 8 - Receipts provided by, or signed Joan Briggs, between October of 1983, and 31 December, 1984. As I indicated earlier, a Member was allowed to claim \$250.00, for secretarial and office space, and an additional \$250.00 with receipts. During this particular time period, nine expense statements, actually ten, were submitted. One was disallowed because it was the month previous to the election, and because the Regulation was disallowed for all Members. So, we're dealing with nine expense statements, submitted on a monthly basis between October, 1983, and December, 1984. Each claiming the maximum allowable constituency expense. To each of these statements of claim was attached an original

MHC 21

receipt, indicating an acknowledgement by Joan Briggs of having received \$250.00, that is in the 1983 year, and \$260.00 in 1984, which was the allowance in that time period. The first receipt bears a notation, Constituency Secretary. All of these receipts are false. Mrs. Briggs was asked to examine the documents in question, and categorically denied that she wrote the signature Joan Briggs, or that the handwriting was hers, nor had she given anyone permission to sign her name. Again, handwriting analysis confirmed her statements. During this time frame Mr. MacLean, I understand, operated his offices in the Central Trust Building, and still does, in the Port Hawkesbury area. Mrs. Briggs herself assisted in setting it up, in December of 1983, and for a short leading up into the 1984 election, that is one month I understand, worked there, to assist Mr. MacLean. Other than that, she has not been his secretary since the close of the office in the Shelling Motel, in mid 1983. Mrs. Briggs has advised that she has received no moneys from Mr. MacLean in connection with secretarial services during the time frame involved. Again, the Auditor General, taking into account these false documents, has recalculated the expense claims provided by Mr. MacLean, and shows an overpayment of \$3,610.00.

Count 10 - Again relates to constituency expenses, this time in the name of Francis DeCoste. And the dates of this offence include January, 1985, up to and including the 28th of

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February, 1986. Again, during this period Mr. MacLean claimed the maximum allowable reimbursement for constituency secretarial expenses. To support, there was... supporting receipts in this period were House of Assembly official receipts, constituency expense form - a new form that had been provided. Each of these receipts, with one exception, is handwritten. All are for the amount of \$260.00, all signed by Mrs. Francis DeCoste. It has been learned that Mrs. DeCoste is, and has been for the past eight years, the full time housekeeper at the MacLean residence at Philpott Street in Port Hawkesbury. She's an elderly lady, in her 60's, who works six days a week. And I am told that she currently draws Unemployment Insurance benefits, to the tune of \$186.00, and supplemented by Mr. MacLean by a further \$75.00 a week for her housekeeping duties. The only constituency office that Mrs. DeCoste was aware of, in the immediate area was the one at the Central Trust Building. She advised that she has never visited there, and has no business dealings as his constituency secretary there, or at the house. She has advised that on the odd occasion she takes telephone messages, other than that she is strictly the housekeeper. She does not have the educational requirements to be a secretary. Mrs. DeCoste admitted that on two occasions, once during the winter of 1984-85, and again during the winter of 1985-86, Mr. MacLean had her sign documents on the kitchen

MAC 21

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table in his house. She was able to describe the documents in general, however she didn't know what they were. And in her opinion, they had been blank at the time she signed them. She advises she had difficulty in that she requires reading glasses for this kind of work, but does not take them to work when she's providing the housekeeping services, and did not have them when she signed these documents. She advised that they were signed in the presence of Mr. MacLean and his Executive Assistant. There were between ten and twelve papers on each occasion that she signed, and no explanation was given to her as to what they were to be used for. As I indicated, Mrs. DeCoste is not his secretary, and although the documents were in fact signed by her, they were in blank, and she was not signing them for the purpose of providing receipts for secretarial services, and therefore are false, in the meaning of the Act. A recalculation of Mr. MacLean's expense accounts during this period show an overpayment of \$3,380.00. I might advise that the blank receipt book signed by Mrs. DeCoste was found in Mr. MacLean's office in Halifax. The secretary working for him at the time indicated that she had been instructed by him to routinely take these forms, fill them out, showing the maximum amount to be claimed for secretarial services, and to submit them for payment, which she had been doing. There were several blank forms still in the book, to be used.

MAR 21

The total overpayment, as calculated by the Auditor General, for the Counts 4, 6, 8, and 10, is \$21,798.55. Those are the facts that we put forward on this guilty plea.

5 MR. PINK: Just... In regard to these facts, there is only; one issue that I may have in dispute - and that is, that my client had no interest in the Sheiling Motel after foreclosure by the Government, in 1981.

MR. CLAIRE: We take no issue to that, Your Honour.

10 THE COURT: Very well, Mr. Claire....

MR. CLAIRE: Now, with regards to sentence, Your Honour. The obtaining of these moneys, using the false documents, Mr. MacLean given the position he holds in the Legislature, I would suggest is a breach of trust of his public office, shattering the faith and confidence of the public placed in him. However, I would advise the moneys were not in the nature of a trust account, where Mr. MacLean was responsible and accountable to others who had placed the money in his care, by virtue of his position as a M.L.A. or Cabinet Minister. The offence of uttering forged documents, pursuant to Section 326(1) of the Canadian Criminal Code make the offender liable to a maximum imprisonment period of fourteen years. In making a recommendation to this Court, the Crown has considered the options of sentence that are open to the

p. 21

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Court, including that of imprisonment. It is the function, I would submit, of the Court to pass sentence on Mr. MacLean. And it may also consider the same options as it sees fit. I would submit that the number of Counts, four in all, that he has pled guilty to, the nature of the offence, the period of time over which it was committed, are not favourable factors to Mr. MacLean in the sentencing. The reasons and principles of sentencing must be the guideline for the sentencing Court, and as you are well aware Your Honour, a sentence must take into account general deterrence to those who may consider a similar course of action, specific deterrence to the offender, that he will be dissuaded from committing a similar offence, and lastly, but equally, the rehabilitation of the offender. In the Crown's recommendation I have taken the following factors into consideration, before making a recommendation, and I ask the Court also. Mr. MacLean has no previous criminal convictions. By my calculations, he is now presently 49 years of age. He has pled guilty before a preliminary hearing or trial, saving the Courts valuable time and money, and more perhaps to his credit as well, saved the people who have worked for him, the secretaries who have assisted him, the anguish of giving evidence against him, in what I would suggest would be a trying ordeal. As I understand it, he has resigned his post as Cabinet Minister, which will have serious consequences to

MAC 21

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his political career, as well as the loss of face before his
colleagues in the House of Assembly. He has also damaged
his image and stature in his home community of Port Hawkesbury
before the people he has to live with. I understand he is
5 married, and has a family of eight children, six of which I
believe he is still supporting. I think it is important to
look at the offender, as what he is, as opposed to who he is.
The Crown feels that as a first offender, in all of the
circumstances, and taking into account all of the considera-
10 tions, the Crown recommends a substantial fine, and would
recommend a minimum fine of \$5,000.00 for all matters.
However, I would remind the Court of the provisions of Section
646(2), where a fine only is not permitted in lieu of other
punishment. The remaining matter to be addressed, is that
15 of restitution. The Province of Nova Scotia will be seeking
the return of the moneys from Mr. MacLean, but it is not the
Crown's position, that a restitution order by way of probation
is required. The reasons are that the Province at present
owes Mr. MacLean certain moneys by virtue of his status as
20 M.L.A. The salary of a Member of the Legislature in 1986
was \$27,315.00. Each Member is allowed to take that amount
at the first of the year, in a lump sum payment, which I
understand Mr. MacLean did, for the year of 1986. He is still
25 a Member of the House, as I understand it, and will be
entitled to draw the same amount the beginning of 1987. Also,

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under the Members Retiring Allowance Act, I am advised that there are provisions for holding back money from Members, as they have done in Mr. MacLean's situation. It is broken down into three areas - general contributions by Mr. MacLean have been held back, in the amount of \$8,476.08. Moneys taken from his expense account have been also held back, in the amount of \$3,816.64. And by virtue of the fact, his status as Minister, Executive Council funds have been held back, in the amount of \$6,226.09. As of October 2nd, 1986, the total held back at this point is \$18,518.81. I am informed by the Province that they have retained sufficient funds, and will be able to hold back sufficient funds, to compensate the Province for the overpayments caused by the false receipts supplied by Mr. MacLean. Those are my comments, Your Honour.

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MR. PINK: If Your Honour pleases, Your Honour has this morning the difficult task, in light of the pleas of Mr. MacLean, to now impose sentence upon him, after he has pleaded guilty to four counts of uttering a false document as if they were genuine. As Your Honour knows, the gist of the offence under Section 326(1) is simply to use a document as authentic which is known to be false. The law of uttering a false document does not include the element of fraud and/or for personal benefit. My client maintains that at all times, in

making the claims that he did, that there was no fraud, there was no forging of signatures, and there was no personal benefit gained by him. Mr. Claire stated during his remarks that the total amount paid to Mr. MacLean as result of the false documents was \$21,798.58. With these figures, we do not have any dispute. Your Honour has also heard the Crown's interpretation of the facts. Now Your Honour can well imagine that in determining the penalty to be imposed, it is important for the Court to know what the Defence story is, as well as the Crown's, for the story told may mitigate one's involvement in a particular crime. Prior to Mr. MacLean's election to the Provincial Legislature, in September, October of 1981, Mr. MacLean was a very active community minded and spirited member of the County of Inverness. He did become involved in a motel known as Sheiling Motel. Shortly before his election in 1981, the Sheiling was having severe financial problems, which caused the Government of Nova Scotia to foreclose on the mortgage, leaving Mr. MacLean in a very precarious position. The Motel was eventually sold at a foreclosure sale, to my client's brother, who began managing it, and trying to make a go of this financially troubled business. After the Motel had been sold, and after my client became elected to the Provincial Legislature, my client, I respectfully submit, did maintain a constituency office in the Motel. Because of the embarrassment that my client felt

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that this would cause the Government, he wrongfully decided that he would make claims for office rent initially through his own business, known as Bluenose Enterprises Limited. In this way, members of the Opposition would not know that he was supporting his brother's company by making contributions to it. There's no question that Bluenose Enterprises Limited did not receive any funds from Mr. MacLean for office rent. All moneys paid to Bluenose Enterprises Limited as a result of receipts submitted, were in fact the moneys legitimately owed to my client for office rent. At the time of submitting these false documents, there was no element of fraud, nor was there any element of a dishonest taking on the part of my client. The signature of Roberta MacKinnon found on a number of the receipts submitted, even though she did not place them there, it is our respectful submission that Roberta MacKinnon did in fact give her approval for us to use her signature, Even though Mrs. MacKinnon may not have a recollection of giving approval to my client, my client still has distinct recall of approval being given. In 1982, the general Regulations made pursuant to Section 43 of the House of Assembly Act, Section 6(2), states: Notwithstanding sub Regulations 1 and 2, no Member shall be entitled under this Regulation to reimbursement for

- (a) expenses incurred in employing a member of his family;
- (b) rental of space in a Member's residence or a property

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owned by a member of his family; and (c) postage. Family was not defined by the Regulations. In 1983, the Report of the Auditor General, on page 49, states: An overall conclusion was that there were serious inaccuracies in the House of Assembly Act, the Executive Council Act, and the accompanying Regulations relating to expense allowances for Members of the House and of the Executive Council. These inaccuracies relate to voids, contradictions, overlaps, and other deficiencies, and have made it extremely difficult in many cases to be certain of the intent of the legislation. The possibilities for misinterpretation and error also poses problems for the claimants and those responsible for the approval of the expense claims. In 1984, in light of the recommendations of the Auditor General, the Legislature's Internal Economy Board, Regulation No.1, Section 11, approved on December 2nd, 1984, finally defined Family Member or Relative as follows - Notwithstanding anything contained therein, no payment may be made pursuant to this Regulation to any spouse, child, parent, or family member, or relative, of a Member, for services performed by or on account of the Member. As the Crown pointed out, the Regulations prevented Members of the House of Assembly who had constituency offices, from renting from their immediate members of their family. When this Regulation was brought to the attention of my client, that he should not be putting his expenses from Bluenose Enterprise

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Limited in, he then transferred the payments of receipts from
Bluenose Enterprises Limited to Joan Briggs. The purpose
for changing over to Joan Briggs was simply that he did not
want certain members of the Government to know in fact that
5 he was renting an office at the Sheiling Motel. If in fact
my client had disclosed the proper sources, as to where the
money was going, he would not be before Your Honour this
morning, for until the new Regulation made in 1984 defined
Family Member, I respectfully submit, there was nothing
10 wrong in him renting space from his brother. For the period
in question, my client made these receipts showing payment
to Joan Briggs, when in fact Joan Briggs did not receive any
moneys. As Mr. Claire in his submission states, Joan Briggs
did not give permission for her signature to be placed on
15 the receipts. On April 17th, however, in 1986, a Mr. Duncan
Ivan MacKenzie gave his lawyer, Mr. J. Bernard Boudreau of
Sydney, a statement which was forwarded on to the R.C.M.P.,
with a copy to myself. In that statement he says: When I
20 went into the office, he was talking on the telephone. I
don't recall the details of the telephone conversation.
When he hung up the phone, he turned to the lady - he was
standing - and said to the lady who was sitting, and said,
Well, Joan, I guess we qualify for office expenses after all,
25 which means I'll be signing your name again. She turned to
him, and said, You've been doing it for so long now, what's

the difference. Or words to that effect. The part I recall specifically is that he would be signing her name again. In regards to Count 3, there is no question that Mrs. DeCoste worked in the house of Mr. MacLean. As Your Honour can well appreciate, the life of a politician does not stop after the hour of 4:30, when the constituency office closes, or when the constituency office is not open. On a continuous basis Mrs. DeCoste answered telephones, made coffee, served constituents who came to see Mr. MacLean, and took messages on behalf of Mr. MacLean. In light of the interpretation given to the vague Regulations by my client, he thought that this was a proper claim to be placed in his expense account. By pleading guilty to the additional count of uttering false documents, which is the so-called Sheiling receipts, what my client is pleading guilty to is a case of personal mismanagement, and his failure to keep account of invoices to substantiate the expense claimed, where substantiation is needed. As Mr. MacLean often stated to me, he's a politician, but unfortunately not a bookkeeper. During the summer and fall of 1982, Mr. MacLean was the Chairman of a special committee known as the Off Shore Committee, and he had to make several trips to Halifax when the Legislature was not in session, for the purpose of meeting oil company Executives and personnel. His bookkeeping was completely inadequate, whereby he forgot to obtain receipts, or he lost

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them once he in fact received them. When the time came to
make up his expense account, which was in the range of
several thousand dollars, and realizing that he did not have
the receipts that were required in order to support his
claim, he approached the office manager of the Sheiling, and,
as Mr. Claire said, asked her to make out receipts for the
approximate days, for one night's stays that he was in
Halifax. It is my client's position that the number of
trips that he actually made to Halifax will completely offset
the amounts that in fact were paid in the course with the
false receipts submitted. It is as result of his negligence
on his part, that he now finds himself having to plead guilty
to that particular count. In asking the Court to accept a
recommendation of fining Mr. MacLean - and I am respectfully
saying that total fine of \$5,000.00, which is \$1225.00 per
count, plus the one day in jail, being his Court appearance,
I ask the Court to keep in mind the following facts. Mr.
MacLean is 49 years of age, married, a father of eight
children. He has no prior record. He was first elected to
the Provincial Legislature in 1981, and in November of 1983
he was appointed Minister of Culture, Recreation and Fitness.
He maintained that position from November of 1983 to March
of 1986. As a member of the Progressive Conservative Party,
he headed up the important Committee on the Off Shore. And
he served on the Select Committee for Tourism, and various

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5 other House Committees. Prior to his election as a Provincial
Member of Parliament, he was the Mayor of Port Hawkesbury,
from 1983 to 1981. He served on the Port Hawkesbury Town
Council from 1964 to 1981, and prior to becoming Mayor he
was the Deputy Mayor, from 1969 to 1973. He is the former
President of the Strait Pirates Hockey Association, and a
former President of the Inverness County Progressive
Conservative Association. He was appointed Honorary Chairman
of Fund Raising for the Strait Richmond Hospital, and he is
10 a Charter Member of the Lions Club of Port Hawkesbury, and
a member of the Chamber of Commerce. This community spirited
and hard working individual has gone through the process,
has learned a very valuable lesson, and the conviction regis-
tered against him will be something that he will have to
15 live with. In applying the proper principles of sentencing,
which Your Honour is well aware of, it is my respectful
submission that all the principles of sentencing will be met
by the imposition of the penalty that is being asked for by
the Crown. And those, if Your Honour pleases, are my
20 respectful submissions.

25 MR. CLAIRE: Your Honour, I only take issue with one item
brought up by my Learned Friend - the affidavit shown to Miss
Briggs - or it was given to the R.C.M.P., it was shown to
Miss Briggs, and she has no recollection of that conversation.

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THE COURT: Thank you gentlemen. The situation is one where there is a plea of guilty to four counts under Section 426, commonly referred to as uttering. I think we certainly Counsel is familiar with the principles of sentencing as set out by our Appeal Court on several occasions, and they briefly are the question of deterrence, both specific and general. Of course there is the matter of rehabilitation of the individual involved. We have the overriding principle which our Appeal Court says is most important - it is the protection of the public from similar offences from either the defendant or other persons in similar situations. And of course, the question of restitution, which apparently doesn't seem to be something that this Court has to address, because the victim in this case, which is the Province, is in the position to recover their moneys. So it is not necessary that it be ordered that it be paid. And lastly, of course, there is the matter of penalty, punitive penalty, as a form of punishment for a wrongdoing. Well, we have this type of case on a regular basis from various members of the public. Of course when it happens, someone in relation to a person of this defendant's status in the community, it generates considerably more attention than it does to someone else who may have committed a similar type of offence, and isn't as well known to everyone concerned. And I think the very fact that someone in Mr. MacLean's position can find himself before the Courts

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for this type of offence, regardless of what his particular position of positions may have been, is in itself a very strong form of general deterrence to other members in similar situations, from committing the same offence. Because it makes it quite plain to them that, regardless of what their position in the Public Service, or any other service, might be, they are not above being brought before the Courts for any offence which they may see fit to commit, thinking that they can do it perhaps because of the position they are in, and not be observed. I don't think that there is any requirement for specific deterrence in Mr. MacLean's situation, or for that matter, in relation to rehabilitation. I don't think those are two matters that are seriously to be considered in his situation. So, it brings us then really to the question of whether or not there should be punitive penalty imposed for the commission of such an offence. The Criminal Code sets out certain matters. I might say that I find it rather hard to accept Mr. Pink's explanation that none of this was done for personal gain. It seems to me that regardless of where the money goes, it was being done through the defendant for his own personal purposes. And I also find it rather hard to accept that the fault lies completely with the legislation or the Regulations. However, having said that, and guilty pleas having been entered - and certainly I concur with Mr. Claire that the fact of

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entering a guilty plea in this set of circumstances saves not only the Courts and everyone involved, it also saves the people who would otherwise have to be witnesses from appearing - and that is something I think has to be taken into consideration. Having said all of that, on the fourth count, which is the first one pleaded guilty to, there will be one day, considered served, plus a fine of \$1500.00. On the sixth count, there will be the statutory one day, plus a fine of \$1500.00. On the eighth count, there will be the statutory one day, plus another fine of \$1500.00. And on the tenth count, one day, plus a fine of \$1500.00... Mr. Pink, does your client require time?

MR. PINK: Yes, we would require ninety days, if Your Honour pleases.

THE COURT: Pay by the 15th of January, 1987.

MATTER ADJOURNED