

P R E S S

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#4

**ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION**

Volume 84

Held: September 13, 1988, at the St. Thomas Aquinas Church Hall,
Halifax, Nova Scotia

Before: Chief Justice T.A. Hickman, Chairman
Assoc. Chief Justice L.A. Poitras and
The Honourable G. T. Evans, Q.C., Commissioners

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MacAlpine

Mr. Charles Broderick: Counsel for Sgt. J. Carroll

Messrs. S. Bruce Outhouse, Q.C. and Thomas M. Macdonald: Counsel
for Staff Sgt. Wheaton and Insp. Scott

Messrs. Bruce H. Wildsmith and Graydon Nicholas: Counsel for
the Union of Nova Scotia Indians

Mr. E. Anthony Ross: Counsel for Oscar N. Seale

Mr. E. Anthony Ross and Jeremy Gay: Counsel for the Black
United Front

Court Reporting: Margaret E. Graham, OCR, RPR

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MR. QUINTAL, EXAM. BY MR. MACDONALDTuesday, September 13, 1988MR. CHAIRMAN

1
2 Before we start, I regret what apparently is the unavoidable
3 delay in commencing this morning. We, as I said yesterday,
4 intend to keep the schedule that has been allocated for the next
5 two weeks. According to the schedule, we have two witnesses
6 today that we will hear. I'm aware that the press have certain
7 deadlines, but I'm sure they will appreciate our unswerving
8 devotion to duty demands that we carry on until we finish these
9 two witnesses. So we may very well keep going until late in the
10 evening, unless the examination and cross-examination is succinct
11 and to the point, and then I'm sure we'll be out early.

12 Mr. MacDonald?

MR. MACDONALD

13
14 Thank you, My Lord. Just for a little guidance, given the fact
15 that we're starting now at quarter to twelve...

MR. CHAIRMAN

16
17 Well, also we're going to sit until one o'clock today.

MR. MACDONALD

18
19 That's what I was going to ask you. Will you just take just a
20 one-hour break?

MR. CHAIRMAN

21
22 We'll probably compromise at an hour and 15 minutes.

MR. MACDONALD

23
24 Thank you. The next witness, My Lord, is Mr. Quintal.
25

MR. QUINTAL, EXAM. BY MR. MACDONALD1
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RAYMOND QUINTAL, duly called and sworn, testified as follows:

EXAMINATION BY MR. MACDONALD

Q. For the record, sir, what is your name?

A. Raymond Quintal.

Q. Your last name is spelled Q-U-I-N-T-A-L.

A. Yes.

Q. I'll apologize in advance, but Cape Bretoners have trouble, and I may call you a different name from time to time.

MR. CHAIRMAN

In Newfoundland, it's pronounced "can-tle", which means 112 pounds. It takes two to make a draft of salt cod.

MR. MACDONALD

Q. At the present time, Mr. Quintal, you reside in Ottawa, do you, sir?

A. Yes, in the City of Gloucester.

Q. And you are retired from the R.C.M.P.?

A. Yes.

Q. When did you retire?

A. In July, 1981.

Q. What was your rank when you retired?

A. Deputy Commissioner.

Q. Would you just briefly for the Commissioners tell us, trace your career path in the R.C.M.P., so we'll have some idea what

MR. QUINTAL, EXAM. BY MR. MACDONALD

1 you've done in your career?

2 A. Well, I joined in June, 1948. After basic training, I was
3 posted to New Brunswick in 1949, where I served in different
4 capacities at the detachment level until 1961, and then I
5 moved to divisional headquarters in '61 and remained there
6 until '63. I was transferred then to the Province of Quebec
7 and to Montreal. I was commissioned in 1964 and then I
8 served in the Province of Quebec until July, 1970, at which
9 time I moved to headquarters in Ottawa and served in
10 various capacities in headquarters until I retired in 1981.

11 Q. When were you appointed Deputy Commissioner?

12 A. In 197... I think it was the first of January 197...

13 Q. Seventy?

14 A. 1978.

15 Q. 78, thank you. Is there only one Deputy Commissioner?

16 A. No, I don't know how many there are now but, in those days,
17 there were three at headquarters. One responsible for
18 administration, one responsible for Canadian Police Services,
19 and one responsible for operations. Also, there was a Field
20 Deputy Commissioner in British Columbia.

21 Q. What were you responsible for as Deputy Commissioner?

22 A. At first, I was responsible for Canadian Police Services, and
23 then for operations, and that's what I was at the time I
24 retired.

25 Q. And early in 1980, what would you have been responsible

MR. QUINTAL, EXAM. BY MR. MACDONALD

1 for?

2 A. I'm not sure. I think it was in 1980 that I moved from the
3 Canadian Police Services to operations.

4 Q. Canadian Police Services, does that include the negotiation for
5 and the administration of the contracts entered into?

6 A. No, that's administration.

7 Q. Pardon?

8 A. That's administration.

9 Q. Okay. Who would you report to as Deputy Commissioner?

10 A. The Commissioner.

11 Q. And who, in turn, would be reporting to you?

12 A. In my capacity as operations?

13 Q. Yes.

14 A. The Directors of Criminal Investigations, what we call "P
15 directorates," which was protective policing, and the
16 directorate of criminal intelligence.

17 Q. All right, you're aware, Mr. Quintal, that we are concerned
18 with the involvement of the R.C.M.P. in a case involving
19 Roland Thornhill?

20 A. Yes.

21 Q. Would you tell the Commissioners when you first became
22 aware of that case and the R.C.M.P. involvement in it?

23 A. I think it was in... I think it was in June, 1980 when I
24 received an internal document from the Director of Criminal
25 Investigations, who was Tom Venner at the time.

MR. QUINTAL, EXAM. BY MR. MACDONALD

1 Q. Tom Venner?

2 A. Yes.

3 Q. We've had marked here, Mr. Quintal, the document as I've put
4 in front of you, Exhibit 165. Let me ask you to turn to page
5 nine of that document, please. Can you identify for me, first
6 of all, the persons involved here? At the top of that, it says
7 "To" and then it has "ADCI Federal, OIC, CCB." Who would that
8 be?

9 A. "ADCI Federal" is the Assistant Director of Criminal
10 Investigations for the federal. We had also contract policing,
11 and that's the distinction made.

12 Q. Would you be able to say who, what person this would have
13 been in 1980?

14 A. The initials, I think it's Chief Superintendent Riddell.

15 Q. Riddell?

16 A. Yes.

17 Q. And it's coming from... What's that over on the side?

18 A. DCI, which is the Director of Criminal Investigations.

19 Q. Is that an Ottawa thing as well?

20 A. Yes, that would be Assistant Commissioner Venner.

21 Q. Would Venner be someone who would report to you?

22 A. Yes.

23 Q. Let me take you through some of the comments in this and
24 ask you to either... Let me back up and say it appears that the
25 date is, the total date is cut off, but I believe this is written in

MR. QUINTAL, EXAM. BY MR. MACDONALD

1 April of 1980. Would that be the normal way to write the
2 year, then the month, and then the day?

3 A. Yes.

4 Q. Do you recall ever seeing this document before?

5 A. I don't. I may have, but I don't see my initials on it, so I can't
6 say for sure.

7 Q. Let me just take you through some of this and ask you if you
8 were made aware of the contents of the memo; if not by being
9 given the memo, but by being told what was in it. It says:

10
11 Re Roland Thornhill, who was Minister of
12 Development of Nova Scotia. In breach of
13 Section 110 in that he had a substantial debt
14 written off at small per cent of the dollar. Media
15 speculation and government has admitted
16 Minister did settle accounts while a Minister.
17 Debt was over (I don't know if that's 40,000 or
18 400,000) and in return for concessions. Halifax
19 CCB investigating and report will be forthcoming.

20 Halifax CCB is what, Commercial Crime Branch?

21 A. Yes.

22 Q.

23 AG Gale has been told that R.C.M.P. wish to
24 investigate and he agreed they should. There
25 has been attempt to use R.C.M.P. by suggesting
that they have looked at Mr. Thornhill's
transaction and can find nothing wrong. "H"
Division are not prepared to let this be said, so
wish to investigate fully ASAP.

Were you made aware of that, of those events?

A. Probably not at the time.

MR. QUINTAL, EXAM. BY MR. MACDONALD

- 1 Q. What would you expect to happen where the Halifax
2 Commercial Crime Branch is investigating and the report will
3 be forthcoming? Who would it be forthcoming to?
- 4 A. A copy would probably, would normally be sent to the
5 Commercial Crime Branch in Ottawa.
- 6 Q. That's a normal...
- 7 A. Procedure.
- 8 Q. Procedure, is it? All right. Let me take you to page 11. Is
9 that a memo from Mr. Venner to you?
- 10 A. Yes.
- 11 Q. As Deputy Commissioner?
- 12 A. Yes.
- 13 Q. And, again, I apologize, the date isn't fully on there but it
14 appears to have been written in June, is that correct on the
15 date?
- 16 A. Yes.
- 17 Q. And that, I believe what you said earlier, you think it was
18 June that you were made aware of these events?
- 19 A. That's right.
- 20 Q. What do you recall being told? What were you told? What
21 generally do you recall being advised in June? What was
22 brought to your attention?
- 23 A. I don't recall anything except I would have read this.
- 24 Q. Let me take you through this then, Mr. Quintal. "I think the
25 time..." **[POWER INTERRUPTION.]**

1 12:13 p.m.

2 MR. CHAIRMAN

3 I've been asked to request that whenever those involved
4 speak be sure and turn on the mike. Hopefully we can proceed
5 now with the utmost dispatch. It's a bad day.

6 MR. MacDONALD

7 Q. We were trying, Mr. Quintal, to look at page 11 of Exhibit
8 165. This is from Mr. Venner to you where he says, "I think
9 the time has come to draw the line," there's a blanked out
10 portion, and for the benefit of your Lordships these
11 documents have been blanked out to take out reference to
12 cases and materials that are not relevant to this particular
13 issue.

14
15 I think the time has come to draw the line and
16 for other reasons with the Attorney General of
17 Nova Scotia. Either we are running the police
18 force and directing the conduct with
19 investigations or they are. And if the latter is the
20 case then a police force other than the RCMP
21 must be what they should have.

22 COMMISSIONER EVANS

23 Then, the word "then".

24 MR. MacDONALD

25 Then, "other than the RCMP."

Q. "I would like to discuss with you and some of my "C" division
officers." Who are "C" division, is that head office?

1 A. That's "C" directorate.

2 Q. Okay. Is that the head office?

3 A. That's a...no, yes. That's the directorate of criminal
4 investigation.

5 Q.

6 The prospect of meeting with AG, Deputy AG,
7 etcetera, such a meeting not to exclude the
8 possibility of threatening to recommend non-
9 renewal of policing agreement if we can't reach a
10 better understanding. They had been pushing
11 and pushing and I don't see how we can keep
12 backing up without losing credibility and
13 integrity.

14 Now that appears to be pretty serious stuff, would you agree
15 with that?

16 A. Yes.

17 Q. Was there such a meeting with the Attorney General and his
18 officials?

19 A. No.

20 Q. Was the possibility of non-renewal of the policing
21 agreement ever raised with the Attorney General or any of
22 his officials in Nova Scotia?

23 A. Not to my knowledge.

24 Q. What action, sir, did you take or did the force take in
25 response to this memo from Mr. Venner?

A. The last sentence is my writing where I directed that he
develop the policy position and a control system.

Q. That is your writing then on the bottom?

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. Yes, sir.

2 Q. And did, in fact, Mr. Venner develop a policy position?

3 A. This was done, I'm not sure whether it was done and
4 completed before I left or not.

5 Q. Was it in the works?

6 A. It was initiated and developed because we were having
7 problems in various provinces with regards to our
8 relationship with the Attorney General and the Crown
9 counsel.

10 Q. What do you mean by control system?

11 A. I would take it, and it's difficult eight years later to recall
12 exactly what that would mean, but I would take it it would
13 probably refer to the clarification of responsibilities
14 between the force and the Attorney General's Department
15 with regards to investigation.

16 MR. CHAIRMAN

17 Are the responsibilities of the RCMP, vis-a-vis the Attorney
18 General of the province, set forth in the policing agreement
19 between the Government of Canada and the Government of the
20 province concerned?

21 MR. QUINTAL

22 Yes, I think, Your Lordship, there are some sections in the
23 agreements that deal with that.

24 MR. MacDONALD

25 And those agreements are filed with...

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 MR. CHAIRMAN

2 I appreciate that.

3 MR. MacDONALD

4 Q. Was the contract with Nova Scotia for the provision of RCMP
5 services being negotiated at this time?

6 A. I couldn't say whether they were actually underway. I
7 think the contracts were eventually signed after my
8 departure in 1981. They may well have had some
9 preliminary discussions but that would be handled by the
10 Deputy Commissioner, administration and the Commissioner.

11 COMMISSIONER EVANS

12 Aren't the agreements for five year...a term of five years or
13 how long are they?

14 MR. QUINTAL

15 I think the last one was for ten years.

16 COMMISSIONER EVANS

17 Ten years.

18 MR. CHAIRMAN

19 And aren't they negotiated collectively, the eight...the eight
20 contracting provinces.

21 MR. QUINTAL

22 I think so, sir.

23 MR. CHAIRMAN

24 You don't do it province by province.
25

1 MR. QUINTAL

2 No, sir.

3 MR. CHAIRMAN

4 The eight provinces gang up on the Solicitor General and try
5 to get the best deal possible.

6 MR. QUINTAL

7 Yes, sir.

8 MR. CHAIRMAN

9 And then they all sign.

10 MR. QUINTAL

11 I think so, sir.

12 MR. MacDONALD

13 Q. What type of problems were being experienced at this time
14 with the Nova Scotia Attorney General's Department?

15 A. I can't recall specifically what they were.

16 Q. Can you assist us in telling us what was meant by "They
17 have been pushing and pushing"?

18 A. I'm sorry, but I can't.

19 Q. You indicated to me earlier that it was at this time you
20 became aware of the Thornhill matter. There's no reference
21 in this particular document to Thornhill, at least not
22 specifically I don't believe.

23 A. Oh, it probably came with the Thornhill file.

24 Q. It was probably at that time you were given the Thornhill
25 file, and perhaps I can give you a little chronology that may

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 be of assistance to you. I understand the report, at least the
2 final report of the RCMP on the Thornhill matter was not
3 delivered to the Attorney General's office, was not delivered
4 until August 29th.

POWER FAILUREMR. CHAIRMAN

7 Why don't we break for lunch and come back at 1:45.

LUNCH BREAK- 12:21

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MR. QUINTAL, EXAM. BY MR. MacDONALD

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2 final report of the RCMP on the Thornhill matter was not
3 delivered to the Attorney General's office, was not delivered
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POWER FAILUREMR. CHAIRMAN

7 Why don't we break for lunch and come back at 1:45.

LUNCH BREAK- 12:21

9 2:50 p.m.

CHAIRMAN

11 Mr. MacDonald.

MR. MacDONALD

13 Q. Mr. Quintal, when we broke we were referring you to page 11
14 and I was asking you if you would tell the Commissioners
15 what it is you were advised about the Thornhill matter and
16 there is nothing directly dealing with Thornhill in that
17 particular memo.

18 A. I don't recall exactly, but as I said, I think that this would
19 have come with the file that we had at that time, whatever
20 material was contained in it.

21 Q. What is your best recollection today about what you knew in
22 the summer of 1980 concerning the investigation of the
23 Roland Thornhill matter?

24 A. Not very much except that there was an ongoing investigation
25 at that time.

1 Q. Were you aware that your investigators were not to have
2 access to a Crown Prosecutor for advice?

3 A. I don't know if it was at that time but I certainly became
4 aware of it later.

5 Q. Turn to page 12, sir, in that book. This has been identified as
6 a memorandum to file by Inspector McInnes of the "H"
7 Division. And I'm not suggesting that you had it but I want to
8 refer to some of the things in here and see if you were
9 familiar with these questions. This took place in July. You
10 see at the beginning it says, "At 3:45 p.m. on July 24, 1980..."
11 so this is after you were aware something was going on in
12 Nova Scotia that is causing Mr. Venner concern anyway.

13 A. Mmm.

14 Q. So in July Inspector McInnes was informed by Gordon Gale
15 that he was extremely displeased because your investigator
16 had met with the Crown Prosecutor. And he said that the
17 investigator should not have approached counsel bearing in
18 mind that the Attorney General's Department did not wish
19 them to do so until after the investigation was completed and
20 his Department members has the opportunity to review the
21 file. Were you aware of that?

22 A. At that time I'm not sure. I can't say.

23 Q. You were at some time?

24 A. Yes. Certainly by the meeting we had in November.

25 Q. And is that something that caused you concern?

1 A. Yes. It was not normal practice, although it's a, it had
2 occurred, that some cases the Attorney General would ask
3 that the investigator's results be made available to his
4 Department.

5 Q. Without the investigator having any access to a Crown
6 Prosecutor?

7 A. Well the staff of the Attorney General's Department are
8 Crown Prosecutors or you mean local Crown Prosecutors.

9 Q. Local Crown Prosecutors. The day-to-day guy down in the
10 trench.

11 A. Yeah.

12 Q. That fellow.

13 A. Yeah.

14 Q. Are you aware of other cases where the investigators had
15 been denied access to that type of Crown Prosecutor?

16 A. I can't tell you of a specific case.

17 Q. Mr. McInnes, or Inspector McInnes went on to say in the
18 second paragraph,

19
20 I informed Mr. Gale that I was not in any
21 position to instruct our members not to see
22 Crown counsel, bearing in mind that it is normal
23 practice when investigations are conducted,
24 whether they be minor or major. Personally I
25 feel that their advice to us not to seek views of
Crown counsel in this particular investigation
was tantamount to obstruction.

Are you aware of that view by Inspector McInnes?

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. I was certainly familiar with this in November. I...

2 Q. Do you agree that the advice which apparently was given by
3 Mr. Gale, or through him to the investigator, that he was not
4 to seek the views of Crown counsel in this particular
5 investigation was tantamount to obstruction.

MR. SAUNDERS

7 Bearing in mind, of course, if the witness said that and
8 "views of Crown counsel" meant the local Crown.

MR. MacDONALD

10 Yes.

MR. SAUNDERS

12 Yes.

MR. MacDONALD

14 Certainly. I understood that to be the case.

15 A. Obstruction, it seems to me is a pretty strong word. I don't
16 know whether the fact that they don't have access to local
17 Crown would prevent them from continuing their
18 investigation.

19 Q. Why do police officers, in particular, members of the RCMP
20 wish to have access to local Crown?

21 A. Well I think it's explained further on with, look for advice
22 with regards to the importance of the evidence and this
23 indicates if you've already done some investigative work to
24 come up with some evidence whether there is a need for
25 certain areas, additional areas to be covered because of the

1 weaknesses that may be present in their cases and, or other
2 questions of law. I think it's a, and then what procedures are
3 followed from there.

4 Q. Now given that, and you've read the, and I believe that's from
5 the RCMP manual, isn't it?

6 A. Yes.

7 Q. Now given that fact, if that's the purpose of having access to
8 local Crown Prosecutors, or to Crown counsel, would you say
9 the denial of that access to the RCMP investigating officer
10 would be tantamount to obstruction?

11 A. I don't know.

12 Q. It certainly would not be the normal practice, would it?

13 A. Not normally no.

14 Q. Were you ever advised that your investigating officer had, in
15 fact, been instructed that he could consult if he wanted to
16 with Mr. Gale or Mr. Coles rather than with a local Crown?

17 A. I think there were instructions from the Deputy Attorney
18 General at the time that they were to consult his office or to
19 report directly to his office.

20 Q. They were to report to the Head Office. But are you aware of
21 any instruction given to your investigators that they could
22 consult, that they could consider Mr. Gale or his boss the
23 equivalent of a Crown attorney, Crown Prosecutor, and consult
24 with him to obtain the type of advice that's normally
25 available from a local Crown?

1 A. I don't, I'm not aware that these were actually said to the
2 investigator, Corporal House.

3 Q. Let me take you to page 18. That's a letter from Mr. Gale to
4 Inspector, or Superintendent Feagan. Have you ever seen
5 that letter before?

6 A. Yes.

7 Q. When would you have seen that, sir?

8 A. I don't recall exactly when but it would probably be in the
9 fall of 1980.

10 Q. These were the instructions as relayed in this letter, if I can
11 just read them to you. It's about halfway through the
12 paragraph,

13
14 Those instructions were that no charges were to
15 be laid nor was any contact to be made with
16 prosecutors concerning this matter until you
17 have finished your investigation and forwarded
18 a report to this Department so that the matter
19 could then be examined and the Attorney
20 General fully apprised of the evidence. Your
21 investigators are to cease to have contact with
22 the prosecutors concerning this investigation and
23 to concentrate on getting their long-awaited
24 report in to the Department summarizing the
25 evidence and the charges proposed based on the
evidence so that it can be reviewed and then
forwarded for prosecution if the evidence
supports charges.

Do you take that to be an invitation to the members of your

1 Force to consult with anybody in the Attorney General's
2 Department?

3 A. No.

4 Q. And in fact, do you take it be a direction that you are not to
5 consult with anybody.

6 A. No.

7 Q. Do you take it to be that instruction?

8 A. No. According to this is that they are not to consult with...

9 Q. And how does the investigating officer get the type of
10 assistance he needs as set out in your operating manual which
11 is reported on page 13? At least the extracts are on page 13.
12 It says, "Operating..." at the top,

13
14 Operational Manual [and it gives the number]
15 look to counsel for these reasons. Advice
16 regarding the importance of evidence available.

17 Where were your inspectors going to get that advice in
18 investigating this particular matter?

19 A. Well in this case if they needed it they would have to get it
20 from the Deputy Attorney General or his staff.

21 Q. And "Advice regarding the importance of obtaining
22 additional information."

23 A. Same thing.

24 Q. And "Advice on questions of law."

25 A. Same thing.

Q. And do you take the invitation, or the instruction from Mr.

1 Gale, that I've just read to you on page 18, to be an invitation
2 to come to him for that type of advice?

3 A. No.

4 Q. Would you agree with me that, in effect, what's happened
5 here is the RCMP is being denied access to legal advice?

6 A. In the normal sense, yes.

7 Q. Thank you. Now on page 20, Mr. Quintal, there's a
8 memorandum from Mr. Christen, from Inspector Christen I
9 guess, to the Commission. Would you have had this memo?
10 Would this have been given to you?

11 A. Yes, I would have seen that.

12 Q. And I would like to direct you to the second paragraph where
13 it says,

14 Mr. Gale advised the purpose in wishing to
15 review the evidence prior to assigning a
16 prosecutor was, firstly, to determine the
17 evidence available and if evidence to support a
18 charge was present, the Department would then
19 select appropriate counsel to handle this
20 particular case. In view of Mr. Thornhill's
21 position in the Provincial government, it would
22 be the wish of the Attorney General to brief the
23 Premier concerning any decision to prosecute.

24 Did you consider that would be a normal and appropriate
25 thing to do?

26 A. Well, I think yes.

27 Q. And why would that be?

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. The, when it involves a Minister, whether it be provincial or
2 federal, I think it is proper to inform the Premier or the
3 Prime Minister.

4 Q. At what time would that decision, would the advice be given
5 to the Premier or the Prime Minister, sir?

6 A. I would think when the investigation is pretty well complete.

7 Q. Would it be after a decision had been made to prosecute or
8 before?

9 A. Well it could be either one but...

10 Q. It could be either one.

11 A. Yes.

12 Q. Did you see anything wrong in advising the Prime Minister or
13 a premier that an investigation of one of his ministers was
14 being carried out and there may be charges going to be laid
15 but no decision has been made as yet?

16 A. I'm sorry, I missed that.

17 Q. Do you see anything wrong, or would there be anything
18 wrong in your view, if a premier or a prime minister were
19 advised that one, an investigation was being carried
20 inspecting one of his ministers and that charges may be laid,
21 but no final decision has yet been made?

22 A. Would it be improper to let him know? Not if the
23 investigation is completed.

24

25

2:10 p.m.

1 Q. As long as the investigation is completed, you see nothing
2 improper in advising the head of a government that charges
3 may be laid, no decision having been made as yet, no final
4 decision.

5 A. It would be preferable to have the decision made first and
6 then inform the authorities accordingly.

7 Q. Yes, it may be preferable but I understood from your
8 evidence that you would see nothing improper in having
9 advised the Premier first.

10 A. No.

11 Q. Wouldn't you be concerned that the Prime Minister may be
12 able to exert some pressure on his Cabinet colleague, the
13 Attorney General, not to lay charges?

14 A. Well, normally the advice to the Premier or Prime Minister
15 would be done by the Attorney General.

16 Q. Yeah. I'm not concerned who is the actual carrier of the
17 news.

18 A. No.

19 Q. My concern, sir, is that if the head of government is advised
20 before the actual decision is made to prefer a charge or to
21 lay a charge that there at least is the possibility of some
22 political influence being brought to bear on the Attorney
23 General.

24 A. No, no, because you have, you know, when you obtain search
25

1 warrants, for instance, to search offices or residences or the
2 business of Cabinet Ministers, this then becomes in the public
3 area which the Premier can very well become aware of, and
4 that's way before a decision is made with regards to
5 prosecution.

6 Q. But something public has happened there.

7 A. Yes.

8 Q. There's been an issuance of a search warrant.

9 A. Uh-hum.

10 Q. But nothing public has occurred when the RCMP has carried
11 out an investigation of an alleged criminal activity, has
12 there?

13 A. Well, in this particular case there was quite...there was some
14 publicity in the early stages when there was a press release
15 issued by the division that they were not going to carry out
16 a further investigation and then I think this was in April.

17 Q. But that may be, but my concern is this, that normally when
18 the RCMP are carrying out an investigation, that's private,
19 isn't it?

20 A. Yes.

21 Q. That's confidential.

22 A. Well.

23 Q. And the advices given to the Attorney General are
24 confidential.

25 A. Yes.

1 Q. And how could there ever be an excuse or a reason that the
2 Attorney General, before any public charge is laid, for the
3 Attorney General to breach that confidentiality and advise
4 the Premier or the Prime Minister?

5 A. Well, it would be up to the individual Attorney General to
6 decide.

7 Q. But in any event, you as a deputy commissioner of the RCMP
8 would see nothing wrong with an Attorney General doing
9 that.

10 A. No.

11 Q. Thank you. If I could finish this paragraph that I referred
12 you to on page 20. Mr. Gale advised that there was no
13 intent to interfere with our investigation, and if any advice
14 or direction was required, it would be provided by their
15 office rather than a local Crown prosecutor. So I take it from
16 that that indeed Mr. Gale did advise at least Mr. Christen
17 that if the investigating officer needed any assistance he
18 should go to Gale, or at least someone in Mr. Gale's office.

19 A. Yes.

20 Q. Do you know if that advice was passed along to the
21 investigator?

22 A. If I know.

23 Q. Do you know?

24 A. Not personally I don't.

25 Q. Thank you.

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. Although I see there's a note there a copy was sent to the
2 officer in charge of the commercial crime section.

3 Q. And would that be a Halifax...

4 A. Yes.

5 Q. ...person? Thank you. You did obtain a copy, I think you
6 said in the normal course, of the report that was filed by the
7 investigating officer in Halifax and delivered to the Attorney
8 General, a copy of that would have been forwarded to
9 Ottawa as well?

10 A. Yes.

11 Q. And would that be the same with any interim reports that
12 were made available?

13 A. Well, yes, I would think so with most of the reports.

14 Q. Thank you. Give the witness Exhibit 164, please, that's the
15 statement of facts. Mr. Quintal, for your information, sir, an
16 agreed statement of facts or a statement of facts has been
17 prepared and filed here and on page 4 of that Exhibit
18 164...do Your Lordships not have your copies?

19 COMMISSIONER EVANS

20 Not yet, it's coming.

21 MR. MacDONALD

22 Q. On page 4, paragraph number 17, what that is an extract
23 from the final report which was submitted by the
24 investigating officer and forwarded to Mr. Gale on
25 September 11th of 1980. Do I understand the procedure

1 either one.

2 Q. By the time it gets to the Attorney General's Department
3 though it's been looked at by two or three levels in the
4 division.

5 A. Yes.

6 Q. What about when it gets to Ottawa? Is it something that's
7 looked at up there?

8 A. Yes.

9 Q. And who would be looking at it up there?

10 A. Well, it would be the staff in the commercial crime branch, it
11 would probably go to the officer in charge of the branch. He
12 may decide to refer it to, what at that time was his
13 immediate supervisor, which was the DCI federal and, or it
14 could go directly to the DCI.

15 Q. And what are they looking for when they review it?

16 A. They look at the investigative report to see whether in their
17 judgement the investigation is complete or whether there
18 are areas that may be lacking that they could be further
19 investigated and to provide necessary instructions to the
20 division if need be.

21 Q. Can we assume, therefore, that when the report is delivered
22 to the Attorney General it's been looked at by sufficient
23 number of people in the RCMP that any...that the RCMP are,
24 in fact, endorsing what is contained in the report?

25 A. Unless there are comments to the contrary.

1 Q. Thank you. Now here is what was said then and it's in
2 paragraph 17. It's said in the report, and I'm just going to
3 concern myself with recommendations if I can. The
4 investigating officer said, "I would like to make the
5 following recommendations. First, that I have established a
6 *prima facie* case of section 110(1)(c) Criminal Code against
7 Mr. Thornhill." Do you have that, sir?

8 A. Yes.

9 Q. "Therefore a prosecutor should be appointed to take this
10 matter before the courts." That's his first recommendation.
11 Secondly, "That I have shown some evidence that Mr.
12 Thornhill obtained funds by false pretences and I would like
13 to further discuss this matter with a prosecutor," and he
14 refers to the relevant sections of the Criminal Code. Third,
15 that the four chartered banks involved in this settlement
16 had violated the Criminal Code. And he is referring to
17 Sections 110(1)(c) and section 21(1)(b) of the Code, and I
18 understand what that is is, in effect, someone who is an
19 accomplice to the commission of a crime, isn't that correct?

20 A. I haven't read the Code since.

21 Q. Okay. "And consideration should be given to charging
22 them," and finally, "That there was evidence that the four
23 chartered banks, Mr. Thornhill, et al, have conspired to have
24 Mr. Thornhill receive a benefit." And he goes on to say, "I
25 would like to discuss the matter with a Crown prosecutor to

1 get certain things." And that's to get the advice or the
2 information and the assistance that your operation's manual
3 contemplates an investigating officer can get from a Crown,
4 isn't it?

5 A. Yeah.

6 Q. Now what did you anticipate would happen or what could
7 normally happen with such a report being delivered to the
8 Attorney General?

9 A. Well, normally it would...I would expect it would be
10 reviewed by the staff in the Attorney General's Department
11 and evaluated.

12 Q. Would you expect that the Attorney General would appoint
13 a prosecutor as asked for by the RCMP?

14 A. They would if they felt that there was evidence to
15 prosecute.

16 Q. Would you expect they would make the prosecutor available
17 for the purposes of the investigator discussing the matter
18 with him further to get his advice regarding the importance
19 of seeking additional evidence, regarding the importance of
20 the evidence available, his advice on questions of law?

21 Would you expect that a prosecutor would be appointed for
22 that purpose or those purposes?

23 A. Um. Those cases are rather few, that's not...that's not the
24 normal course of events and, well, I can't recall other cases
25 where this has occurred so I don't know what the practise

1 would be, although these would be the sort of a senior
2 Crown counsel's within the, ah, law offices of the province, I
3 guess it would be up to their discretion whether they wish
4 to appoint another prosecutor to review that or do it
5 themselves.

6 Q Now, Mr. Quintal, it's your operations manual that says your
7 investigating officers, the RCMP operations manual, it says,
8 "An investigating officer should be able to have access to a
9 Crown for the following reasons."

10 A. Yes.

11 Q A report is submitted to the Attorney General's office which
12 has been reviewed or normally we can assume has been
13 reviewed by various levels.

14 A. Yeah.

15 Q Of the RCMP in which the investigating officer has asked
16 "Let me have access to a prosecutor to discuss these points."

17 A. Um.

18 Q Wouldn't you expect that a prosecutor would be appointed
19 for that reason?

20 A. It should, normally I don't see why the province would
21 object.

22 Q Do you have any example of any other case where the RCMP
23 has asked for access to a prosecutor for the purpose of
24 getting that type of assistance and has been denied, in any
25 province?

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. Oh, I don't know, personally I don't know.

2 Q But you know that's what happened here.

3 A. Yes.

MR. SAUNDERS

4
5 My Lord, I hesitate to rise when my friend is doing his
6 direct examination, and I recognize that he has been trying to at
7 times get into cross-examination, but I think in fairness, my
8 friend ought to put the cover letter that came from the CO of "H"
9 division with the report in which Mr. Feagan, who testified last
10 day, made requests of my department and asked them whether it
11 was their wish that a local Crown prosecutor be appointed to
12 handle it. And I urge my friend to put to this witness page 24.
13 Surely that's what my department would have been expected to
14 respond to.

MR. CHAIRMAN

15
16 But I presume that's coming in time, isn't it?

MR. MacDONALD

17
18 Yes, My Lord, I don't know if I had or not but I certainly
19 don't object to putting the question from page 24 to Mr. Feagan,
20 Mr. Quintal, sorry.

21 Q What is on page 24, Mr. Quintal, is a covering letter from Mr.
22 Feagan which sends along the final report from the
23 investigating officer. Had you seen that before?

24 A. I can't recall.

25 Q But you did see the report that was prepared by the

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 investigating officer.

2 A. Yes, I've...

3 Q. Were you surprised?

4 MR. CHAIRMAN

5 And presumably this letter of September the 11th from
6 Chief Superintendent Feagan to the Deputy Attorney General
7 encloses the report of August 29th.

8 MR. MacDONALD

9 That's correct, My Lord, yes, at least that's my
10 understanding that that was enclosed.

11 MR. CHAIRMAN

12 Yes.

13 MR. MacDONALD

14 Q. Were you surprised, Mr. Quintal, that no prosecuting officer
15 was appointed or no one was designated from the Attorney
16 General's office to be made available to your investigator to
17 discuss the points raised in the report and to obtain the type
18 of advice that your investigator wanted to obtain?

19 A. If you ask if I was.

20 Q. Yes.

21 A. Surprised. The problem is I don't...I can't remember exactly
22 when this came to my knowledge, prior to the meeting in
23 November because not all files at headquarters are
24 necessarily referred to the Deputy Commissioner of
25 operations.

1 Q. But in June you had been told by your...by Mr. Venner that
2 there appear to be problems in Nova Scotia.

3 A. Yes.

4 Q. That the AG was, to use his words, "pushing and pushing".
5 Would you not have been keeping on top of what was
6 happening with the controversial matters in Nova Scotia?

7 A. Well, at headquarters you pretty well rely on your support
8 staff to bring matters to your attention which they feel is...

9 Q. Okay, thank you. On page 31 there's a copy, it's the first
10 page of a memorandum from Mr. Coles to the Attorney
11 General, and on page 39 is a covering letter from Mr. Coles
12 in which that memorandum is sent to Chief Superintendent
13 Feagan. Would you have ever seen this memorandum?

14 2:30 p.m.

15 A. Yes.

16 Q. Are you able to tell us when in the course of things you
17 would have seen it?

18 A. No. But...

19 Q. But you did at some time.

20 A. Yes.

21 Q. Can I suggest this to you that at least you would have seen it
22 in November of that year or very close to November.

23 A. Yes.

24 Q. We'll come back to that. Were you aware that the Attorney
25 General's Department issued a press release on October the

1 29th, 1980, stating that there would not be any charges laid
2 against Mr. Thornhill or the bank?

3 A. Yes.

4 Q. And how did you learn of that?

5 A. I don't recall.

6 Q. Would it be fair to suggest that your local people, your
7 Halifax people, were quite upset about the actions being
8 taken by the Attorney General without consultation with
9 them?

10 A. Yes, that's what led ...that's what led to the meeting of the...

11 Q. That's what led to the meeting in Ottawa.

12 A. On November the 5th.

13 Q. Now who convened that meeting?

14 A. I tried to think, I can't recall exactly how it was convened. I
15 don't have any notes in that regard and I can't tell you. I
16 don't know whether it was division or it was ourselves who
17 requested it. I...

18 Q. Who would decide who was going to be present?

19 A. Oh, the...out in the division CO, Chief Superintendent Feagan
20 would decide who would come up from "H" division in Nova
21 Scotia and DCI would decide which one of the staff he would
22 bring to the meeting.

23 Q. Mr. Feagan described these people yesterday giving
24 evidence here that "They were all our specialists in that
25 field with lots of experience and what went on across

1 Canada in commercial crime investigations." Would you
2 agree with that description of the people present?

3 A. I would think so.

4 Q. Now this is a meeting of people who have a lot of experience
5 and, in fact, are your specialists in commercial crime
6 investigation in Canada. Yes.

7 A. Yes.

8 Q. On...

9 A. In Canada, ah, the people in Ottawa would probably have a
10 better idea of what was going on across Canada than would a
11 particular division.

12 Q. And the people who were here, look at page 55, there's a list
13 of who was present. There's yourself as Deputy
14 Commissioner of Criminal Operations. And then there is
15 Venner and who is that, Chief Superintendent Riddell?

16 A. Yes.

17 Q. Would they both be experienced in criminal or commercial
18 crime investigations?

19 A. Ah.

20 Q. Or be aware of such...

21 A. Certainly they...I don't know what their actual background
22 was at the time, but they certainly... DCI would be
23 responsible for the commercial crime branch, the ADCI
24 would be their immediate supervisor.

25 Q. What about Staff Sergeant Jay, legal? He's from Ottawa, is

1 he? Or, no, he...who is he?

2 A. I don't know. I don't recall him.

3 Q He's noted to be "Legal C Director."

4 A. Well, we had at that time a legal branch at headquarters.

5 Q A legal branch at headquarters?

6 A. Yes, which were made up of members of the force who had
7 law degrees.

8 Q And you have Chief Superintendent Feagan, Superintendent
9 Christen.

10 A. Yes.

11 Q Inspector Blue.

12 A. Yes.

13 Q All from Halifax, all experienced officers in commercial
14 crime investigation.

15 A. I...they would be familiar. Blue would probably have more
16 experience in the commercial crime investigative field than
17 would have Christen or Feagan. I don't think that they
18 themselves worked as commercial crime investigators.

19 Q Okay. Sergeant Plomp, legal division, did you know him?

20 A. No.

21 Q Was there legal staff in Halifax?

22 A. Not per se, no, it's...probably we had in our commercial
23 crime section a mixture of people with different
24 backgrounds, some in accounting, some in legal.

25 Q I see. Then you have Corporal House, he's the investigating

1 officer.

2 A. Yes.

3 Q Superintendent Roy, who is he?

4 A. He was the officer in charge of our commercial crime branch
5 in Ottawa.

6 Q Would he be the head, head man for commercial crime in
7 Canada?

8 A. In Ottawa, yes.

9 Q And all the divisions would report to him.

10 A. Through that branch, yes.

11 Q Inspector, how do you pronounce that name, koz-ick.

12 A. Kozij, yeah.

13 Q Who is he?

14 A. He was one of the officers in the commercial crime branch in
15 Ottawa. I see here has "Policy and admin".

16 Q And then we have Inspector McConnell.

17 A. Yes.

18 Q Who is...what's he do?

19 A. I'd say he's in charge of government frauds within the
20 section within the commercial crime branch in Ottawa.

21 Q Okay. He's in charge of government fraud?

22 A. Yes.

23 Q And then Staff Sergeant Dillabugh and Sergeant Pratt.

24 A. Yes.

25 Q Who are they?

1 A. Both members of our commercial crime division in Ottawa.

2 Q. Was there anyone in the force available to you readily that
3 you would have wanted to have at this meeting for their
4 expertise that weren't there?

5 A. No, if we had, we would have called on them.

6 Q. Who would have kept the minutes of the meeting?

7 A. I don't know.

8 Q. Would someone be assigned to do that?

9 A. There probably was somebody.

10 Q. You kept your own notes.

11 A. Yes.

12 Q. At some time did you receive a copy of the minutes as
13 prepared and circulated, and that's the final version, I
14 believe, appears on page 55 and subsequent pages. There
15 was an earlier draft on which there were handwritten
16 changes and so on.

17 A. Well...

18 Q. Would you have at least obtained a copy of the final
19 version?

20 A. I don't recall seeing them.

21 Q. When had...when was the first time you had seen them, to
22 your recollection?

23 A. To my recollection is when in preparing for this Commission.

24 Q. Okay. You've given me copies of your own notes and I
25 believe we gave copies around this morning, My Lord, and

1 I'll have those introduced now.

2 **EXHIBIT 167 - NOTES BY MR. QUINTAL**

3 Q. So that's Exhibit 167. Do you remember the meeting?

4 A. Yes.

5 Q. How long would the meeting have lasted?

6 A. I recall it lasted for some time.

7 Q. An afternoon, the morning.

8 A. It was in the afternoon.

9 Q. What do you recall about the meeting?

10 A. Well, we had a presentation from the members from Nova
11 Scotia and...

12 Q. What information was made available to you?

13 A. At the meeting you mean?

14 Q. Yes. Or prior to the meeting.

15 A. It seemed to me we had a brief, but I can't...I don't see any
16 copies of it or whether it was a verbal presentation, I can't
17 recall.

18 Q. Would you know if the file, if we can call it that, the Halifax
19 file would have been available to Ottawa?

20 A. The Halifax file, I'm not so sure. Certainly the headquarters'
21 file would have been available.

22 Q. The headquarters' file would be available. And what would
23 be contained in the headquarters' file?

24 A. I don't recall now what was in it.

25 Q. If you wanted the complete Halifax file, it's something you

1 could have obtained, I assume.

2 A. Oh, I presume, yes.

3 Q. On page 55 there's a statement of the purpose of the
4 meeting. Would you agree that that is a correct summary of
5 the purpose of that meeting, "To discuss in depth the
6 problems derived from the Attorney General of Nova Scotia
7 comments to the media that no charges were warranted," is
8 that one of the purposes?

9 A. Yes.

10 Q. "To provide headquarters with advice and guidance, input
11 into a sensitive discussion in connection with a high profile
12 investigation," was that one of the purposes?

13 A. I think that is not quite correct in the sense that it's
14 headquarters' advice, not headquarters with advice. I think
15 if you look at the handwritten notes of the Assistant
16 Commissioner Venner, that's what it says, it's "headquarters'
17 advice" and not "headquarters with advice."

18 Q. Yeah, on page 51 is the handwritten notes from, part of the
19 handwritten notes of Mr. Venner and down toward the
20 bottom it says, "Add some comment about our discussion on
21 this point. We were meeting to provide headquarters'
22 advice, guidance, input into a sensitive..." So the purpose is
23 for headquarters to be able to provide advice.

24 A. That's right, yes.

25 Q. And then the next purpose was "To test the strength and

1 weakness of the investigation." That was one of the
2 purposes.

3 A. Yes.

4 Q. And then "To plan a course of action on how best to deal
5 with the fact that the provincial Attorney General has stated
6 his opinion to the press without giving the RCMP an
7 opportunity of rebuttal or comment." And that was another
8 purpose.

9 A. That was.

10 Q. Were there any other purposes, to your knowledge?

11 A. No.

12 Q. Now is that how the meeting started, that there was a
13 presentation given by the Halifax group of what this was all
14 about?

15 A. Yes.

16 Q. Let me take you over to page 56. Just before that listing 1,
17 2, 3, 4 in the middle of the page, it says, "A well-prepared
18 submission touched on the essential ingredients of a charge,
19 that is..." and it lists out the ingredients. That's of a charge
20 under section 110(1)(c), isn't it, of the Criminal Code?

21 A. Yes.

22 Q. And it's noted that,

23
24 The submission and the investigation were
25 queried on all aspects for the investigation had
to stand the test of our own internal scrutiny so

1 as to create a united front. Case law and other
2 precedents were cited to support the necessary
3 elements required to support a charge.

4 Is that an accurate reflection of what took place. This wasn't
5 just a glossing over of something. You were...you had your
6 specialists there to look at this, to scrutinize what happened
7 to make certain that there were the necessary elements
8 here to support a charge.

9 A. Yes.

10 Q

11 A discussion developed which fortified our
12 prerogative to lay an information recognizing
13 that it was within the ambit of the provincial AG
14 as to what type of prosecution would be
15 presented if any. A further brief discussion was
16 held on the fact that the force was morally
17 obligated to lay an information if the evidence
18 supported such action.

19 Is that an accurate reflection of what was said at the
20 conclusion of the meeting?

21 A. I don't recall exactly. I know there was some discussion if
22 you follow that where we said, in fact, that this had not
23 always taken place within the force.

24 Q. No, and in fact there had been other examples that the force
25 has had across Canada where having received written
instructions from an Attorney General that they would stay
a charge if it was laid, the force elected not to lay the charge.

A. Yes.

Q. But that's not something that's unique to the force, that's

1 happened before.

2 A. Yes. As a matter of fact, it seemed to me in our policy
3 review in developing a policy, we queried the divisions to
4 determine or to find out what the local procedures were
5 and, now I'm only going by memory, but it seems to me that
6 the replies we got back were...showed various situations in
7 various provinces. They weren't all the same all across the
8 country.

9 2:45 p.m.

10 Q. Let me take you to the conclusions of this meeting. And
11 they're on page 57. "It was concluded that the
12 investigational evidence supported a *prima facie* case under
13 Section 110 (1)(c) against Mr. Thornhill." Is that the
14 conclusion of the meeting?

15 A. I presume it is. We...

16 Q. Let me ask you to look at your own notes that were taken,
17 they're Exhibit 167. Under the subtitle "Heading" of your
18 notes of the 5th of November 1980, under "Decision" it says,
19 "They are to write back to AG and say they feel very strongly
20 about the matter and don't mind their reason why they
21 disagree with the evaluation of the DAG. We feel a charge is
22 warranted under Section 110 (1)(c)." So that was a conclusion
23 of the meeting.

24 A. Yes.

25 Q. Did you consider there was any additional investigation that

1 would have to be carried out, any additional evidence that
2 would have be to gathered to fortify that decision or to
3 support that decision?

4 A. I don't recall specifically but it seemed to me we felt it was a
5 pretty complete investigation. If there had been some it
6 would be in a minor area but...

7 Q. And it goes on in the "Conclusions" to say that, "Some leeway
8 must be given to the Attorney General." That's in the
9 conclusions of the minutes.

10
11 Therefore, a report shall be prepared pointing
12 out our position, outlining the jurisprudence, et
13 cetera, which supported and asking the AG to
14 reconsider his opinion. A report shall be
15 prepared by "H" Division and shall be delivered
16 by hand to the AG after review by Headquarters.

17 And do I take it you were contemplating "H" Division
18 preparing a written report which would be reviewed by
19 Headquarters and then taken to the Attorney General?

20 A. Well this was one of the purposes of the meeting in which
21 was to plan a course of action in the light of the fact that we
22 had not been given the opportunity to rebut our comment on
23 the decision of the Attorney General and this was decided
24 that that would be the course of action to take. Where they
25 were to prepare a written submission to the Attorney
General's Department outlining their reasons and reasoning
for disagreeing with that decision and that was to be done in

1 writing.

2 Q. And then the final conclusion in the minute was that, "The
3 Attorney General of the Province must be informed in writing
4 that it is our intention to pursue a charge against Thornhill
5 under Section 110(1)(c)."

6 A. Well I don't recall that being said at the meeting and I don't
7 think that Division were instructed to do that. As a matter of
8 fact they were to prepare a submission.

9 Q. The draft minutes, and if I can direct you to page 50...Do you
10 see that draft? It's Draft number 2. That handwriting is Mr.
11 Venner's, isn't it?

12 A. Yes.

13 Q. And that draft minute says that the Attorney General must be
14 informed in writing that it is our intention to pursue a charge
15 against Thornhill under Section 110(1)(c) subject to
16 Conclusion number 2." And Number 2 is the one immediately
17 below that. That you're going to give him some leeway. But
18 was it not the decision or the conclusion of that meeting that
19 you're going to give the Attorney General notice, you were
20 going to try and convince him of your view.

21 A. Yes.

22 Q. But that in the end result a charge was going to be laid by the
23 A-, by the RCMP.

24 A. I don't, personally I don't recall making that decision. I don't
25 think I made it at that time because if I had made it then I

1 would have made it in writing to the Division.

2 Q. Why wouldn't you have reached that conclusion if after a
3 complete presentation by the Halifax contingent, which was
4 queried, scrutinized by the specialists in the field, a
5 conclusion being reached that there was sufficient evidence to
6 lay a charge, why wouldn't you have concluded that a charge
7 will be laid? We may have to get around some of our, we
8 may have to mend a few fences or whatever, but we are
9 going to lay a charge.

10 A. Why would not...I felt that we should proceed the way I said
11 we should proceed which...

12 Q. But exactly what were you going to try and accomplish?

13 A. We hoped to convince the Attorney General's Department that
14 the argumentation presented was valid and strong enough to
15 bring him to change his decision.

16 Q. Were you going to let him make the final decision?

17 A. As to what?

18 Q. Whether charges should be laid?

19 A. Ultimately we, it would be our own decision to decide.

20 Q. You had concluded, or the meeting had concluded that there
21 was sufficient evidence to warrant a charge. Yes? We've
22 already agreed to that, haven't we?

23 A. Yeah.

24 Q. What would the Attorney General be able to present to you
25 having gone through the type of exercise you did to change

1 the collective opinion of that meeting that there was sufficient
2 grounds to lay a charge?

3 A. I'm sorry, would you repeat that again?

4 Q. What were you expecting the Attorney General, or his
5 Department could bring to you, could bring to the RCMP, that
6 could possibly change the collective opinion reached at that
7 meeting?

8 A. I don't know. What the consultative process would be
9 afterwards, I don't...

10 Q. Well did you consider the Attorney General might have some
11 evidence that wasn't available to the RCMP?

12 A. No.

13 Q. So you considered you had all the evidence.

14 A. Yes.

15 Q. Necessary. Did you consider the Attorney General might be
16 able to convince you, and when I say "you" I'm talking about
17 the Force, that your legal opinions were wrong?

18 A. Yes. That they, their legal opinion was wrong?

19 Q. No, that yours. You said, it's reported that at that meeting
20 that there was case law and there were precedents presented
21 to the meeting to support the conclusion that there were all of
22 the necessary elements to found a charge here.

23 A. Well the, we felt we had a *prima facie* case.

24 Q. Yes.

25 A. There were other factors, there was one thing that is not

1 mentioned in the minutes here and, which had to do with the
2 presentation which indicated that the proposal itself when it
3 was made was to the effect that all the banks were to accept
4 the proposal. And that nagged me personally from the very
5 outset. I seem to recall asking at the meeting also whether, in
6 fact, this type of proposal was kind of a normal practice for a
7 person found in this type of situation where he was
8 reportedly in a position where he couldn't liquidate his debts,
9 whether that was normal practice for people to make a
10 proposal to try to settle and I was told, yes, that that was a
11 normal procedure.

12 Q. You were told that at the meeting.

13 A. Yes.

14 Q. So notwithstanding that fact, that input, it was still the
15 conclusion of the meeting that all of the elements existed to
16 support a charge.

17 A. Yes.

18 Q. What I'm trying to find out, I guess, Mr. Quintal, and I'll try
19 again, you have agreed at a high level meeting that a charge
20 should be laid or is warranted. Now you're going back to the
21 Attorney General, I'm not quite certain why, are you still
22 subject to the Attorney General saying, "Well we don't care
23 what you think, no charge is to be laid and that the Force will
24 accept that direction."

25 A. Well not necessarily. The, we, you get legal advice and you

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 can accept it or reject it. But you don't do that lightly. When
2 you have three senior Crown law officers who tell you that
3 you don't have sufficient evidence, then you don't go against
4 that unless you feel you have, you're on pretty solid grounds.

5 Q. Was the opinion of the, that was given to the Attorney
6 General by Mr. Coles in this case, we've already looked at it,
7 was that reviewed at the meeting in Ottawa?

8 A. I can't say for sure whether it was or not.

9 Q. In your notes, Exhibit 167, you refer specifically to the fact
10 that you should outline the reason why you disagree with the
11 evaluation of the Deputy Attorney General.

12 A. Yeah. Well we certainly talked about that. But whether we
13 actually made a review of point by point I don't recall.

14 Q. Did your legal people at that meeting in Ottawa make any
15 reference to the quality of the opinion given by the Deputy
16 Attorney General to the Attorney General?

17 A. I don't know.

CHAIRMAN

18 What was the answer?
19

MR. QUINTAL

20 I don't know, sir.
21

MR. MacDONALD

22 Q. You were aware that legal advice had been given to the
23 Attorney General by his Deputy.
24

25 A. Yes.

MR. QUINTAL, EXAM, BY MR. MacDONALD

1 Q. And you were getting contrary advice from your legal people.
2 Contrary opinions.

3 A. Yes. Well...

4 Q. Would they not have tried to demonstrate why their opinion
5 of the Deputy Attorney General was not valid in their view?

6 A. When you say we got advice from our legal people, I'm not
7 sure we referred that to our Legal Branch, I don't think we
8 did. We have some of our representatives there...

9 Q. You have at the meeting Staff Sergeant Jay, who was noted to
10 be legal.

11 A. Yes.

12 Q. "C" Division. You have Sergeant Plomp who was noted to be
13 legal. There was a reference to the fact that there were cases
14 and there were precedents cited to support the necessary
15 elements. I suggest to you that the legal issues involved here
16 must have been discussed at that meeting.

17 A. Yes.

18 Q. And that it must have been stated or suggested to you that
19 the legal opinions of the Deputy Attorney General were
20 incorrect.

21 A. I think there was a particularly disagreement with the
22 question of intent under Section 110(c), I think it was.
23
24
25

MR. QUINTAL, EXAM. BY MR. MacDONALD

3:00 p.m.

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Q. Was that section not looked at?

A. Oh, I'm sure it was at that time.

Q. What about the other charges that had been recommended or at least the investigating officer said he would like to get further investigation or some guidance on whether there are other charges that should be laid, that is, a charge of false pretences possibly, charges against the bank, charges for... Was there any discussion about those possible charges at the meeting in Ottawa?

A. I don't personally recall that. I don't see much in here referring to this.

Q. I don't either and I'm just wondering if you have any recollection of why it wouldn't have been discussed.

A. No, I think the focus was certainly on the Thornhill aspect of the investigation.

Q. Was it discussed at the meeting that if you were to lay charges...or if the RCMP were to lay charges against the advice of the Attorney General that could have serious ramifications to the force?

A. I don't recall specifically, but it could have been.

Q. And the reason I ask you that is on page 52, again these are Mr. Venner's handwritten notes having read the draft minutes, if you start on the bottom of 51, we already said,

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 To provide headquarters' advice, guidance, input
2 into a sensitive decision in connection with a
3 high profile investigation. This is a feature of
4 the Commissioner's responsibility to manage the
5 force and to assure that the quality of our
6 criminal investigation activity is of the highest
7 order. Given the obvious ramifications of any
8 charge being laid against the advice of the
9 Attorney General, it rendered it absolutely
10 imperative that merits of the case be examined
11 at the highest possible level within the force.

12 Would you agree that that was one of the purposes and one
13 of the reasons you were going to subject this particular
14 charge to the closest of scrutiny in Ottawa.

15 A. Yes.

16 Q. And having done so, I'm probably repeating myself, it was
17 concluded that all of the evidence necessary to support a
18 charge were there.

19 A. Yes.

20 Q. Okay.

21 A. All of the elements, that there were sufficient elements to
22 initiate a charge.

23 Q. Sufficient evidence to initiate a charge.

24 A. Yeah.

25 Q. Now when was...what was your next involvement with this
matter?

MR. CHAIRMAN

Before we move on I've been having difficulty getting this

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 evidence Mr. Quintal rather succinctly. I'm not sure what Mr.
2 Quintal is saying. Was it...is it your recollection from these
3 meetings that after you had...when you met, whether you had the
4 opinion of the Deputy Attorney General to his Minister or whether
5 you had a summary by those in attendance, you were aware that
6 the Deputy Attorney General had, in his legal opinion, advised that
7 consent was a necessary element.

8 MR. QUINTAL

9 Yes, sir.

10 MR. CHAIRMAN

11 Or not consent, intent.

12 MR. QUINTAL

13 Intent.

14 MR. CHAIRMAN

15 Intent was a necessary element. And that you had an
16 opinion or opinions from members of the RCMP who were lawyers
17 which indicated to the contrary, they concluded that intent was
18 not a necessary element to sustain a charge, is that correct?

19 MR. QUINTAL

20 Yes, under 110(c), I believe.

21 MR. CHAIRMAN

22 So when I look at conclusion two, when you refer to giving
23 some leeway to the Attorney General, it seems to me that what
24 you're saying there is that someone from the force go back to the
25 Deputy Attorney General or the Attorney General or someone in

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 that department and say "Here's our opinion and our reasons why
2 we cannot accept the opinion, the legal opinion of the Deputy
3 Attorney General." Is that correct?

MR. QUINTAL

4 Yes.

MR. CHAIRMAN

5
6 And I would...that was probably...would probably be a
7 prudent and logical thing to do. But are we entitled to assume
8 from paragraph 3 that if after reading, for want of a better word,
9 your rebuttal opinion, the Deputy Attorney General was still firm
10 in his position that his opinion was the correct one at law, that you
11 would go ahead and lay a charge in any event, and advise the
12 Attorney General accordingly?
13

MR. QUINTAL

14 No, sir, I don't think, not on November the 5th.

MR. CHAIRMAN

15 I see. All right. Okay.

MR. MacDONALD

16
17 Q. Well, what would you contemplate would happen if that
18 scenario did develop?

19
20 A. Exactly what happened. We...the further contacts with the
21 Attorney General's Department did take place except that
22 they did not take place in writing in the first instance, they
23 took place verbally.
24

25 Q. Yeah.

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. I think on November the 12th, I think. And then the
2 division came back with the memorandum to Headquarters
3 Ottawa asking for our decision, for a decision as to whether
4 charges should be laid or not.

5 Q. But...

6 A. At which time this caused us to take a very close look at the
7 total facts available in order to reach a decision whether we
8 would proceed or not.

9 Q. I thought that's what you did on November 5th. You spent a
10 whole afternoon with specialists looking at it, scrutinizing
11 what happened, they had a complete presentation from the
12 investigating officer and the other people in Halifax and
13 they all reached the conclusion that, in fact, the
14 investigational evidence supported a *prima facie* case. Now
15 are you...perhaps we'll come to it in detail, but are you
16 saying that after the Deputy Attorney General and the
17 Attorney General met with Feagan, there was another
18 intense review of the facts of this case?

19 A. There was a review of all, yes, after, you know, okay, after
20 the memo was received and before we replied, yes, there
21 was a thorough review made before we prepared the reply.

22 Q. Okay. Let me come to that then, sir, if we could in
23 chronological fashion. Let me take you to page 53. This is a
24 memorandum as I understand it from Sergeant Pratt to
25 Dillabaugh on the top part of the page and then the bottom

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 part it's writing...it's the writing of Dillabaugh, is that
2 correct?

3 A. I take it that's his, I'm not as familiar with his writing if that
4 would be, but I would take it that's from Dillabaugh.

5 Q. Did you see this letter or this memo prior to preparing for
6 this case?

7 A. Prior to...

8 Q. Prior to giving...preparing to give evidence before this
9 Inquiry. Did you see at the...

10 A. Oh, yes, oh, before this Inquiry, yes, I did.

11 Q. You did. Now on that page 53 Pratt is saying, the second
12 sentence there:

13 My personal opinion on this matter is that we
14 should proceed with a charge under Section
15 110(1)(c) in this matter. There is one rider,
16 however, and that is if we do so in this case, we
17 must be prepared to proceed in like fashion in
18 all other divisions who are confronted with a
19 similar situation.

19 Do you see that?

20 A. Excuse me.

21 Q. It's on the top of...it's on page 53.

22 A. Oh, I'm sorry, okay. Oh, that's...that's from...that's not from
23 Dillabaugh, that's to.

24 Q. That's from Pratt.

25 A. That's to Dillabaugh, yeah.

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 Q. But somebody is writing to Dillabaugh.

2 A. Yes.

3 Q. And Dillabaugh's reply is saying "I agree with Sergeant
4 Pratt's opinion," that's why I assume that it's Pratt who is
5 writing the above. "On both points and I realize the
6 possible implications of going against the instructions of the
7 provincial Attorney General but I believe that the
8 ingredients are there for charges under 110(c)."

9 A. Um.

10 Q. "And 110(1)(b)."

11 A. Uh-hum.

12 Q. "And it is a matter of principle involved here. I would
13 recommend that before the charges are laid that we inform
14 the Attorney General by written letter," and so on. Were
15 you aware that this memo was written after the meeting in
16 November?

17 A. Yes.

18 Q. And, in fact, after Feagan had visited the Attorney General
19 and the Deputy Attorney General.

20 A. I presume the date is about the 23rd or 24th of November.

21 Q. Yes. If you look down at the bottom part before Dillabaugh's
22 writing, the date is there, 80-11-23. Right there.

23 A. Yes.

24 Q. In your notes, Mr. Quintal, Exhibit 167, you have notes of
25 November the 6th and I'd ask you to look at those because it

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 refers to the press release from the Attorney...Deputy
2 Attorney General from Victoria. Do you see that, sir, down
3 at the bottom?

4 A. Yes.

5 Q. Did you review that press release?

6 A. No, sir, I don't recall it.

7 Q. It's on page 58 of that booklet if you want to look at it.
8 And I want to direct you to the second paragraph where Mr.
9 Coles said, "That although he has not seen the statement
10 attributed to the assistant prosecuting officer, he restates his
11 previous advice," and this is the point I want to refer to,

12
13 That it was clearly understood policy and
14 accepted practise between the RCMP and the
15 Attorney General's Department that in matters of
16 major or involved criminal investigation,
17 particularly those involving allegations of so-
18 called commercial crime and fraud, the police
19 investigation into the fact is referred to the
20 Deputy Attorney General or other senior lawyers
21 in the department experienced in criminal law.

19 And he goes on to say, "It's only after that determination at
20 that level that the necessary ingredients exist that a
21 prosecutor is appointed." Would you say that that is a
22 statement of policy and accepted practise?

23 A. Well, I think the division at that time disputed that
24 statement.
25

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 Q. The division disputed it, and that's what's noted in
2 your...recorded in your notes at the top of page 2, "Division
3 says this is new as a standing policy for all cases." You'd
4 never heard of that policy before, had you?

5 A. No.

6 Q. As Deputy Commissioner.

7 A. Not from Nova Scotia, no.

8 Q. Was it a policy in any other province?

MR. PRINGLE

9
10 I really wonder how relevant it is whether it's a policy in
11 any other province. We're looking at this province right now.

MR. MacDONALD

12
13 I can pass on that.

MR. CHAIRMAN

14
15 Well, it's relevant in this sense that I take it when they say
16 it's...when the note here indicates it's new to the force, that that's
17 all embracing.

MR. PRINGLE

18
19 I think, My Lord, he's saying it's new to "H" division, I
20 believe that's what his notes say.

MR. QUINTAL

21
22 On page 2, sir.

COMMISSIONER EVANS

23
24 New to Nova Scotia.
25

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 MR. PRINGLE

2 Yes, the top of page 2.

3 MR. CHAIRMAN

4 I'm sorry, yes, so it does. Anyway, as far as Nova Scotia is
5 concerned what's your...what's your reaction to the statement of
6 the Deputy Attorney General?

7 MR. QUINTAL

8 Well, from what the...from what Superintendent Feagan told
9 me at the time that was not so.

10 COMMISSIONER EVANS

11 What's you're saying it's incorrect.

12 MR. QUINTAL

13 Yes, sir.

14 MR. MacDONALD

15 Q Now I take it from your notes, Mr. Quintal, that you...you
16 had no notes between November the 6th and December the
17 4th and on your December 4th you note that you had been
18 away to a conference. Were you away from that period of
19 time, sir?

20 A. I think I left on the 8th of November out of the country and
21 then didn't return until about the 2nd or 3rd of December

22 Q Okay. And when you returned, as your note indicates,
23 Feagan had a very stormy meeting with the Attorney
24 General and the Deputy Attorney General and "He made
25 known our views and got rough treatment. They have sent

1 in their proposed reply to the AG. DCI is reviewing and will
2 prepare a memo for me." Did you...were you given any
3 written advice from Feagan as to his reception by the
4 Attorney General or Deputy Attorney General?
3:16 p.m.

5 A. No. I think this was a verbal briefing upon my return from
6 Assistant Commissioner Venner. I think the meeting he's
7 referring there is probably the meeting of the 12th of
8 November.

9 Q. What did you understand that Feagan had told to the
10 Attorney General, that you say "he made known our views"?

11 A. Well, I think that it referred to the fact that we disagreed
12 with his, with the advice that he had provided and wished to
13 further make presentations on the matter.

14 Q. Look at page 63. Those are notes which Chief Superintendent
15 Feagan says he prepared following the meeting with Messrs.
16 Coles and How. Had you ever seen those?

17 A. Just recently. I have no recollection of seeing those before. I
18 don't know whether he would have sent those to Ottawa or
19 these were just notes in the file at the divisional level.

20 Q. And there's a report on page 68 from Inspector Blue to the
21 Officer-in-Charge of C.I.B. in Halifax. Would you have seen
22 that report?

23 A. I'm fairly sure I did, yes.

24 Q. You would have, okay.
25

1 A. Yeah

2 Q. That would have been available to you in Ottawa at the time
3 the final decision was made.

4 A. Yes.

5 Q. Down at the bottom of page 68. Inspector Blue says "It
6 appears evident that there is sufficient evidence and grounds
7 to support the laying of a charge under Section 110(1)C,
8 Criminal Code against Mr. Thornhill. In the laying of a charge,
9 all that is necessary is that there are reasonable and probable
10 grounds to believe that an offence has been committed and
11 reasonable and probable grounds to believe that the person to
12 be charged committed that offence. The determination, once
13 a charge has been laid, as to innocence or guilt of the person
14 charged is a matter for the court to decide. Do you accept that
15 as an accurate statement of the role of the police officer?

16 A. Well, it's not as simple as all that. I think that traditionally
17 the police has exercised discretion and does not lay charges in
18 all cases where there was evidence of a crime.

19 Q. What sort of factors would influence the exercise of that
20 discretion not to lay a charge?

21 A. Oh, there could be a number of factors. I, myself, for instance,
22 am sure I have not charged everybody who have exceeded
23 the speed limit and brought them to court. There are liquor
24 cases in the Province of New Brunswick when they had the
25 days that they had no liquor permits... Well, we didn't

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 prosecute everybody that had a bottle of liquor or beer.

2 Q. What determines, what sort of factors?

3 A. I don't know. There is no clear set of rules. When they say
4 these are the factors you consider, I think you exercise your
5 judgement at the time depending on all the circumstances.

COMMISSIONER EVANS

6
7 Q. But you're not talking about serious cases, are you?

8 A. No.

9 Q. You're not talking about bootlegging cases and speeding cases,
10 but thefts, things like that, or robberies, you're not...

11 A. No. No, sir.

12 Q. There is a distinction, I'm sure, that you draw, some place you
13 draw the line.

14 A. Yes, sir.

MR. MACDONALD

15
16 Q. But you can't tell us where that is.

17 A. No, it's...

18 Q. All right, later on I'm sure we're going to be asking why the
19 discretion was exercised in a particular fashion in this case.

20 Let me take you to page 69, and this is continuing on with
21 Inspector Blue's comments. The first full paragraph:

22
23 It is realized that to so proceed would place our
24 course in direct conflict with the decision
25 reached by the Deputy Attorney General of the
Province of Nova Scotia and his assistant.
However, that is a matter of policy which must

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 be dealt with at a much higher level. That is,
2 whether we abide by their decision or whether
3 we perform our duties and responsibilities as we
4 see them and answer to the law.

5 Would that be, in your view, a correct statement of the
6 dilemma that's facing the R.C.M.P. at this stage, whether
7 you're going to abide by the decision of the Attorney General
8 or perform your duties as you see them.

9 A. Yes.

10 Q. And let me ask you about the next paragraph. This is the
11 man in charge of Commercial Crime in Halifax at the time.

12 In reaching such a decision, it should be pointed
13 out that we have dealt with the Deputy Attorney
14 General's office throughout this matter in all
15 earnestness and complete good faith. Previous
16 instructions to submit reports prior to laying
17 charges and to cease dealing with the office of
18 the Halifax County Crown Prosecutor were
19 followed. However, the reasons given for
20 wanting the report prior to laying charges to
21 cease dealings with the Crown Prosecutor's office
22 and the use of the report dated July 28th, 1980,
23 to make final decisions without further dialogue
24 with this force and the manner in which the final
25 decision by the Deputy Attorney General's
Department was given to this force and then
immediately followed by a press conference
tends to lend itself to circumspection as to
whether the ends of justice have been truly
served in this matter.

Do you take that to be Inspector Blue saying the force has
been dealing throughout in good faith, but I'm not certain

1 about the other guy.

2 A. Yes, that's what is implied here.

3 Q. Did you take that into account when you were making your
4 final decision here?

5 A. I was aware of this, yes.

6 Q. And the final question he puts there in his letter:

7
8 Therefore a decision must now be made as to
9 whether our duty is to be carried out in the
10 manner in which we perceive it or if the decision
11 of the Deputy Attorney General and his assistant
12 is to be followed.

11 That's the decision that had to be made, isn't it?

12 A. Yes.

13 Q. Now attached to that memorandum is a legal memorandum
14 prepared by Sergeant Plomp. Did you see this memorandum
15 prior to making a final determination of whether to lay
16 charges?

17 A. It was included with the correspondence.

18 Q. And in the beginning of that memo, Sergeant Plomp says:

19
20 The purpose of this memorandum is to clarify
21 the law surrounding Section 110 of the Criminal
22 Code and to point out the weaknesses and basic
23 academic and factual flaws in the memorandum
24 from Gordon Coles to Harry How.

23 Did you read it with that in mind? That here is a legal person
24 in the force saying that the opinion from Mr. Coles is weak,
25

1 both academically and factually.

2 A. Yes.

3 Q. Did you review the opinion of Sergeant Plomp?

4 A. In this memorandum?

5 Q. Yes.

6 A. Yes, I would have.

7 Q. Had you ever at any time been given any other legal opinion
8 which would disagree or take issue with what Sergeant Plomp
9 has said in this opinion, other than, of course, the earlier
10 opinion from Mr. Coles?

11 A. Legal opinion? I didn't seek any legal opinion.

12 Q. And would you agree now, and I'll take you through it if you
13 like, but what Sergeant Plomp is saying is that the only intent
14 required in Subsection C of Section 110 is that do knowingly
15 accept a gift from somebody who has dealings with the
16 government. That's the only intent required. Yes?

17 A. Yes.

18 Q. So if somebody who is working for the government knowingly
19 accepts a gift from somebody who has, or a benefit from
20 somebody having dealings with the government, there is a
21 contravention of Section... Subsection C of Section 110.

22 A. Yes.

23 Q. Thank you. Now at page 77, there's a memorandum from
24 Superintendent Christen to C.O. "H" Division. The C.O. would
25 be Feagan, is that right?

1 A. Yes.

2 Q. Would you have seen a copy of this, sir?

3 A. As it would be included with all the other documents.

4 Q. It would be included with the documents sent to your office,
5 okay. At the bottom of that first long paragraph on page 77,
6 he says this:

7
8 It would therefore appear if we are to consider
9 charges in this matter, we would be well advised
10 to obtain an independent legal opinion of some
11 consequence. Mr. Coles has indicated he does not
12 consider legally trained members of this division
13 sufficiently experienced to draw the proper
14 conclusions in this case. Such being the case, I
15 suggest Mr. Coles has opened the door for us to
16 seek more experienced counsel.

17
18 In your experience, does the force ever go outside to get legal
19 opinions?

20 A. The force itself?

21 Q. The force or does the force draw on the Department of Justice
22 to get opinions?

23 A. Go outside the...no....Does the force go outside...

24 Q. Does the force go to the Department of Justice to obtain legal
25 opinion?

26 3:30 p.m.

27 A. The Force itself...

28 Q. Boards of, does the Force draw on the Department of Justice to

1 get opinions?

2 A. Outside, no. Does the Force go outside...

3 Q. Does the Force go to the Department of Justice to obtain legal
4 opinions?

5 A. Well we have gone at times. As a matter of fact now in our
6 Headquarters there is a section of the Justice Department that
7 provides legal advice to the Force.

8 MR. PRINGLE

9 I'm not sure if my friend is putting the question as clearly
10 as he might. He might talk about, with respect, to offences under
11 the Criminal Code in the province. I think that's what the issue is
12 here. But certainly the Department of Justice gives legal advice to
13 the RCM Police.

14 MR. MacDONALD

15 Thank you. That's what I intended to find out, Mr. Quintal.

16 Q. In connection with whether or not there were sufficient
17 grounds to, whether there's been a crime committed in a
18 province, does the Force ever get opinions from the
19 Department of Justice?

20 A. Not that I know of.

21 Q. It always relies on the Department of the Attorney General in
22 the province?

23 A. That's right.

24 Q. Thank you. I want to take you to page 78.
25

CHAIRMAN

1
2 Q Before we leave that, Mr. Quintal, what, in your opinion, is
3 wrong with that suggestion that came from Christen? That
4 where you have two diametrically opposed legal opinions, and
5 I'm sure we have dozens of them every day in Canada
6 amongst practicing lawyers, what would be wrong with going
7 to get an independent opinion? If it sustained your position
8 then you'd be in a very strong position.

9 A. Well I'm not so sure what the, all I know is I have no
10 recollection of any time we have done this.

CHAIRMAN

11
12 Q I appreciate that and I accept it. But I gather from listening
13 to your testimony today that this was a case, a confrontation
14 with the Deputy Attorney General and conflicting opinions
15 that it was not a usual, not a very usual occurrence and the
16 local CIB Officer suggests that you get an outside opinion to
17 try and resolve what appear to be an irreconcilable difference
18 between the law officers of the Crown and your officer in
19 your force.

20 A. Well there's two aspects here. One is you can shop around
21 until you get the opinion you want. Second is the, the second
22 aspect is the financial aspect, is in order for the Force to
23 retain outside counsel they would have to go to the Justice
24 Department in Ottawa to, for them to authorize the funds.

25

MR. QUINTAL, EXAM. BY COMMISSIONERSCHAIRMAN

1
2 Q. Well I don't know anything about the shopping around, That's
3 something's that happened since I've quit practicing.

COMMISSIONER EVANS

4
5 Q. Well following up on that. I think your Department did
6 suggest that the Attorney General of New Brunswick, I'm in
7 the wrong province again, of Nova Scotia, might seek...

8 A. Yes.

COMMISSIONER EVANS

9
10 Q. Outside advice but that your Department was satisfied, your
11 Force was satisfied with the advice that it was receiving
12 within the Force.

13 A. Well we didn't think it would have been proper at that
14 particular time to even suggest that to the Attorney General's
15 Department. I think that the kind of suggestion would have
16 been proper at the initial, and some Attorneys General, I
17 think in some provinces, have seen fit to refer certain cases to
18 outside counsel in order to get a legal opinion.

COMMISSIONER EVANS

19
20 I think there was some suggestion in this book that
21 somebody in your Force was suggesting the Attorney General for
22 Nova Scotia seek outside counsel's advice. Am I wrong on that?
23 Some place or other I think I saw...

MR. MacDONALD

24
25 Oh yes, there's suggestion in here that the, in fact, it was the

MR. QUINTAL, EXAM. BY COMMISSIONERS

1 Department of Justice's advice to the RCMP, I read it, and Mr.
2 Quintal can tell us, but I understand the Department of Justice
3 suggested that that's what should happen. But the RCMP elected
4 not to do that. But we'll come to that. I may be wrong and I
5 certainly give Mr. Quintal the opportunity to comment.

MR. PRINGLE

7 I think Mr. Justice Evans is right. There is something that
8 somebody in the RCM Police made that reference. I'm just looking
9 for it.

MR. MacDONALD

11 Certainly on page 93, My Lords, but it's under Tab 93. If we
12 go back to page 84.

MR. QUINTAL

14 In my letter to the Division, sir.

COMMISSIONER EVANS

16 That's where it is, eh?

MR. MacDONALD

18 Q. We'll come to that, Mr. Quintal. You'll have a full opportunity
19 to comment on it. On page 78...

CHAIRMAN

21 Are you embarking upon another area now?

MR. MacDONALD

23 Yes.

24 BREAK - 3:35 - 3:53 p.m.

1 MR. MacDONALD

2 Q. Mr. Quintal, we were looking at page 78 and I wanted to
3 direct your attention to the second paragraph where it starts
4 out saying, "I further gather from your conversation..." Do
5 you see that?

6 A. Yes, sir.

7 Q. It's the last sentence in that paragraph I want to have you
8 comment on. "It would appear in future any major
9 investigations involving politically prominent persons..." I'm
10 sorry, yeah,

11 ...in future any major investigations involving
12 politically prominent persons the decision as to
13 whether there is evidence to support charges
14 will be made at the Deputy Attorney General's
level.

15 Do you consider that to be an accurate statement of the
16 situation that prevails in Nova Scotia?

17 A. The attitude of the Attorney General's Department.

18 Q. That in investigations involving politically prominent persons
19 in this province the decision, whether there is evidence to
20 support charges, is going to be made by the Deputy Attorney
21 General.

22 A. It would appear that that was their stand at the time.

23 Q. And that's what happened here in the result...

24 A. No.

25 Q. No? Well we'll come to that. Page 79, that is a letter to the

1 Commission from Mr. Feagan. you would have reviewed that
2 letter?

3 A. Yes.

4 Q. Now that is telling me what took place in the meeting with
5 the Attorney General and the Deputy Attorney General which
6 you contemplated was going to occur after the November 5th
7 meeting in Ottawa.

8 A. Yes, sir.

9 Q. And at that meeting, according to Mr. Feagan, in the third
10 paragraph, the Attorney General was saying, or the Deputy
11 Attorney General,

12 He emphasized the result was not a mere opinion
13 but was a decision that no charge would be laid.
14 And this had, in fact, been made the subject of a
15 news release by the Attorney General and,
16 therefore, the matter was closed. He expounded
17 further that his Department was responsible for
18 the people of Nova Scotia for the administration
19 of justice and Feagan had a great deal of gall to
question his decision. And that if we now
considered laying a charge, it would be a very
dangerous step to take.

20 What did you take that to mean?

21 A. I guess it was an education of the consequences that may take
22 place if we were to go ahead and lay a charge.

23 Q. Well what would be the consequence?

24 A. I think it would have rendered our relationship with the
25 Attorney General's Department a very difficult one.

1 Q In what way? Because you stood up for what you believed
2 the Force's decision is.

3 A. I would presume so because it would have made the
4 relationship between the local, our local people here and the
5 Attorney General's Department certainly very difficult.

6 Q Mr. Feagan goes on that "he", that's Mr. Coles, "...indicated he
7 had no intention of altering his decision regardless of any
8 written argument presented to him." Do you take that to be a
9 given? No matter what you tell him, he's not going to change
10 his mind?

11 A. That's apparently what he said at the meeting.

12 Q And down at the bottom of that page, Mr. Feagan again sets
13 out the dilemma facing the RCMP, doesn't he, "provided we do
14 have sufficient evidence to lay a charge." The dilemma then
15 is whether or not "we," the investigating police force, should
16 exercise our right to initiate a prosecution when the Attorney
17 General of the province has ruled no such action be taken.
18 That's now in your hands, you've got to make that decision.

19 A. Yes.

20 Q On the next page, Mr. Feagan refers to the possibility that if
21 the prosecution is unsuccessful for any reason, subsequent
22 civil litigation is a possibility. Would that be a concern of the
23 RCMP?

24 A. Not overly much, no.

25 Q Not if you believe that you had good grounds to lay a charge.

1 A. That's right.

2 Q. And you would only do that if you thought there were
3 reasonable and probable grounds to support a conviction.

4 A. Yes, sir.

5 Q. On page 81, do you know whose writing that is?

6 A. Well that's Assistant Commissioner Venner's.

7 Q. Venner's?

8 A. Venner.

9 Q. Thank you. And then on page 82, this is in November 25th,
10 this is Mr. Kozij?

11 A. Yes, sir.

12 Q. This is written after Feagan met with Coles, isn't it?

13 A. Yes, sir.

14 Q. And Mr. Kozij says,

15
16 I am not in favour of having the case reviewed
17 by counsel. The evidence in this case has been
18 assembled and reviewed by experienced and
19 competent police officers. I have faith in their
20 convictions and opinions. The decision to be
21 made is 'Do we proceed with charges?' I
22 recommend we proceed.

23 You had that recommendation in your hand when you made
24 your final decision.

25 A. [No audible response.]

Q. Now you returned on the 4th of December, and at that time
you knew what had happened with Feagan and Coles, and a

1 decision had to be made at that stage, didn't it, whether
2 charges were going to be laid or not. Now given the fact that
3 in November, at a meeting of some length, all of this was
4 reviewed in great detail, and a decision was made that
5 charges should be laid, what did you do after that before
6 writing your letter to Feagan telling him that charges would
7 not be laid? What did you do?

8 A. Between the 5th and the 8th nothing particular in relation...

9 Q. Between the 5th and 8th of November.

10 A. November, yes.

11 Q. So you're back on the 4th of December.

12 A. On the 4th. At that time I'm made aware of the latest
13 developments in the case by Assistant Commissioner Venner.

14 Q. And at that time everybody in the RCMP that we've seen, at
15 least according to the documents, were still of the opinion that
16 charges should be laid. Is that correct?

17 A. Everybody? I'm not so sure.

18 Q. Well the documents that we've looked through, Dillabaugh
19 said that...

20 A. Oh yes. Yes, so far.

21 Q. Pratt said that. Kozij said that. Christen, Feagan...

22 A. Um-hmm.

23 Q. The conclusion of the meeting in November. All of those
24 people that were there.

25 A. Yes.

1 Q. Okay. Now what took place after December 4th then which
2 gave rise to your letter directing that charges would not be
3 laid?

4 A. I had discussions with Assistant Commissioner Venner at the
5 time and told him to prepare a memorandum for my
6 signature.

7 Q. Well did you tell him what the conclusions should be?

8 A. We certainly had discussions between the 4th of December
9 and the 16th when he submitted his draft memorandum.

10 Q. But in preparing a draft for your signature does he know
11 what your wishes are?

12 A. Normally we would review the evidence that we had, the
13 facts that we had at our disposal at the time and come up
14 with a direction on which the reply should take. They
15 would have, they probably had done some preliminary staff
16 work before I even arrived there after receipt of the
17 Divisional memorandum of the 19th of November.

18 4:05 p.m.

19 Q. Let me make...understand, that between November 5th, the
20 time of the meeting and the time you were going to sign
21 your letter on December the 16th, there are no further facts
22 come to light, no new evidence.

23 A. No.

24 Q. There's no further legal review.

25 A. No.

1 Q. Then what did you have that prompted you to say we were
2 going to ignore or not accept the recommendation, the
3 collective view of all of those people on November 5th that
4 charges should be laid?

5 A. The...I don't remember exactly the sequence of events, but
6 as I say, there are some staff work must have been done
7 before I arrived. We had discussions, Venner and I, about
8 the case which led to the preparation of a draft memo. We
9 must have discussed the various aspects that came within
10 the first draft that he prepared including some elements
11 that are in the memo and then I personally sat down to
12 review all of this and make up my own mind.

13 Q. What did you review?

14 A. The complete file.

15 Q. The complete file.

16 A. That we had at our disposal at the time and I don't really
17 know, but I would think that from my working habits at the
18 time that I probably took that file home at night on the 16th
19 and reviewed that before I made some changes to the
20 memorandum that had been prepared for my signature and
21 finally came up with a final draft.

22 Q. But did you go back to House, the guy who did the
23 investigation?

24 A. No.

25 Q. Did you go back to Feagan?

1 A. No.

2 Q. What about Dillabaugh and Pratt?

3 A. No.

4 Q. Kozij.

5 A. No.

6 Q. Christen.

7 A. I didn't go back to the division, no.

8 Q. Well, what was it then that came to your attention, what
9 prompted you to say that notwithstanding the conclusion
10 that was reached in November that everything was present
11 to warrant charges that you were directing Feagan no
12 charges would be laid?

13 A. Well, you must realize that on November the 5th as you, you
14 know, in the space of, you know, two or three hours you get
15 a briefing on a complex investigation. Before I wrote my
16 reply, then I sat down and looked at all the aspects in
17 addition to what had been prepared for my signature and
18 came to a final conclusion. I can't tell you any more.

19 Q. Did you conclude that Mr. Thornhill didn't receive a benefit?

20 A. I think the contents of my memorandum which was written
21 at the time when I was much more familiar with events can
22 tell that in a much better way than I could today.

23 Q. Okay. Let's go to your memorandum then.

24 A. Yeah.

25 Q. The memorandum was drafted, as I understand it, by Mr.

- 1 Venner, is that correct?
- 2 A. I don't know whether it was all by Venner himself or by the
3 staff and himself, but he certainly presented the draft to me.
- 4 Q. In any event, it's on page...the first draft is on page 84,
5 starting on page 88 is a draft which has your handwriting on
6 it, I believe, is that correct?
- 7 A. Yes.
- 8 Q. Then the final draft is on page 93.
- 9 A. Is there a difference between 84 and 88?
- 10 Q. No, I'm saying 84 is just a ...is a draft, 88 and the following
11 pages contain your handwriting.
- 12 A. Yes.
- 13 Q. Which are then incorporated in to make the final draft.
- 14 A. That's right.
- 15 Q. Which is on page 93.
- 16 A. Yes, sir.
- 17 Q. Just before we go to 93, on page 92, can you tell me what
18 that is?
- 19 A. Well, that's an A5 from me to Assistant Commissioner
20 Venner, who is in DCI at the time, returning the file with my
21 memorandum to the CO "H" division.
- 22 Q. So that's just returning the file to Venner, is it?
- 23 A. That's right.
- 24 Q. Now the first thing you deal with on your...in you letter to
25 Feagan on page 93 is that his request that outside counsel be

1 obtained will not be accepted, is that fair?

2 A. Yes. There had been some approaches made with the
3 Department of Justice and...

4 Q. Yeah, let me take you back to 84, the initial draft. And in
5 that first long paragraph it says, "We sought the advice of
6 Mr. Rutherford on these points and he, in turn, consulted
7 with the associate Deputy Minister. It was their feeling that
8 the department would probably not authorize such
9 expenditure for the following reasons." He sets out the
10 reasons. Then he says, it's noted in this draft,

11 It would not in a situation such as this one be
12 inappropriate for the police to urge the Attorney
13 General himself to seek advice outside his
14 department,indeed outside his own province, in
15 order that whatever the advice might be, it
16 would stand a better chance of being perceived
17 by everyone concerned as objective and
18 unbiased.

17 Do you know if that's the advice that had been received
18 from the Department of Justice?

19 A. I didn't make those contacts.

20 Q. So you're not able to tell us.

21 A. No.

22 Q. And then it goes on to say, "In these particular
23 circumstances, however, given the known attitude of the
24 Attorney General and his officials and considering what all
25

1 MR. CHAIRMAN

2 What position had they made very clear? What was the
3 position that they made very clear?

4 MR. QUINTAL

5 Where they're...on November the 12th, sir, when they said
6 that their legal opinion, you know, they stood and that was it.

7 MR. CHAIRMAN

8 How...I guess looking at page 3 of your notes, the top of the
9 page, those your notes apparently made by you on the 10th day
10 of December, which would be some days before this opinion was
11 written or memorandum of instructions, and there you indicate
12 that you had...that Feagan said to you that the Attorney General
13 never said we could not lay the charges, but that it would be very
14 serious in light of the legal review made by three top legal brains
15 in his department, as well as himself.

16 MR. QUINTAL

17 Yes.

18 MR. CHAIRMAN

19 That doesn't look to me as meaning that the door was shut
20 at the time you wrote that third paragraph.

21 MR. QUINTAL

22 Well, sir, then I didn't read it that way at the time because
23 the division itself never even sent a written submission to the
24 Attorney General's department because they felt it would be no
25 use, that Cole would have said that regardless of any written

1 argument he would receive, it would not change his mind.

2 MR. CHAIRMAN

3 I see.

4 MR. QUINTAL

5 And if I recall, I think that Superintendent Christen in his
6 memorandum said that he didn't feel it would be...would serve
7 any purpose to send a written opinion that had been prepared at
8 their level.

9 MR. MacDONALD

10 Q. Because he didn't think that the members of the force had
11 sufficient legal experience that you could rely on their
12 opinion.

13 A. Well, that was Mr. Coles' opinion.

14 Q. That's what Christen said.

15 A. Yeah.

16 Q. But you wouldn't even go back to him and say, "Well, if you
17 don't accept what the force's legal people say, why don't you
18 get an outside opinion? Let's put this to somebody else, let's
19 get an answer." You weren't even prepared to do that.

20 A. I don't think it would have served a purpose at that time.

21 Q. What would the purpose be?

22 A. The...well, my reading of the situation was that we wouldn't
23 get any more favourable replies from the Attorney General's
24 Department.

25 Q. But what if he got an outside opinion saying that this outside