

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 expert, whoever he might be, agrees with Plomb.

2 A. Well...

3 Q. Would you then have gone on and laid charges?

4 A. That's a pretty tough question to answer.

5 4:19 p.m.

6 Q. One way to avoid answering is don't get the opinion, isn't it.

7 A. No, it's not that. There is, I think, in my estimation, you
8 know, you can get opinions, but there comes a time when you
9 must make up your own decision.

10 Q. Okay. Let me go on Mr. Quintal. On page 2, on page 94, which
11 is page 2 of your letter. You say, "Turning to the material
12 provided you by Mr. Coles in his seven-page memorandum..."
13 and that's Mr. Coles' legal opinion, right at the very top of the
14 page. "I must agree that while it makes some relevant points
15 with respect to the position of the banks and the effect of
16 Section 110(b) of the Criminal Code , it fails to address in an
17 informed thus convincing fashion, the position of Mr.
18 Thornhill, vis-à-vis, the unique requirements of Section
19 110(c)." Now are you saying there that the intent required
20 here in order to convict the banks of a violation of Section,
21 subsection (b) of that Code is really something entirely
22 different than the intent required for Thornhill. And, indeed,
23 there may not be evidence to support a conviction of the
24 banks.

25 A. Yes.

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1 Q But it's a recognition that the intent required to support a
2 conviction of Mr. Thornhill under subsection (c) is entirely
3 different.

4 A. It's different.

5 Q But Coles didn't differentiate at all between those two levels
6 of intent, did he?

7 A. No. And I think the, it was suggested to the Division that they
8 go back to him and I think they did and he came back in a
9 further letter on that very point.

10 Q Okay. And then you conclude that paragraph...

CHAIRMAN

11 Well the next sentence certainly indicates that this witness
12 was cognizant of the difference between these two
13 subsections, isn't it.
14

MR. MacDONALD

15 Yes, exactly, My Lord.
16

CHAIRMAN

17 "Nor does it pay sufficient heed to the deliberate differences
18 which exist between these two subsections and the reason for
19 those differences as they seem to be set out in jurisprudence."
20 Which I conclude what he's saying is that intent may very
21 well be an element under (b) but not under (c).
22

MR. MacDONALD

23 Q And that's a fact, isn't it.
24

25 A. Yes, sir.

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 Q. You knew that, and we established this earlier you and I, the
2 only intent required under subsection (c) is that a member of
3 government, or an employee of government, knowingly
4 accepts a benefit from someone who has dealings with the
5 government. That's the only intent.

6 A. Yes.

7 Q. But an entirely different intent, you must establish criminal
8 intent before you can convict the banks under subsection (b),
9 that's a different intent all together.

10 A. Yes.

11 Q. Thank you. Now you go on to conclude in this first paragraph
12 that "A careful study of the materials your investigators
13 (that's Feagan's investigators) have put forward, convinces us
14 that at least no overlooked automatic defence or justification
15 for such behaviour on the part of Mr. Thornhill exists. Some
16 reasonable and probable grounds to lay a charge appear to be
17 present." So there were grounds to lay the charge and there's
18 certainly no automatic defence or justification available to Mr.
19 Thornhill. That's what you're telling Feagan in that sentence,
20 isn't that correct?

21 A. Yes, sir.

22 Q. Now we go on and suggest, you say, having concluded that
23 there is grounds for a charge, I'm going to exercise my
24 discretion to say that charges will not be laid. Is that fair
25 explanation of what you're doing?

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1 A. No, I go on to explain my reasoning process in arriving at the
2 decision that I made.

3 Q. But you start out by saying there are reasonable and probable
4 grounds to lay a charge.

5 A. Right.

6 Q. Now I'm going on to say why we're not going to lay a charge
7 here. You express the view that sometimes even though
8 there are reasonable and probable grounds, police officers
9 have to exercise discretion.

10 A. Yes.

11 Q. Isn't that what you're saying?

12 a. Yes.

13 Q. And then do you go on and say, and in this case our discretion
14 is going to be exercised in favour of the accused?

15 A. I think in this paragraph sort of is a reply to what the Officer
16 in Charge of Commercial Crime Branch had said that all that
17 was necessary, I think he said, well it's quoted there.

18 "Reasonable grounds to lay a charge." And I believe that our
19 obligations went beyond that.

20 Q. And in what way did they go beyond that?

21 A. Well the...

22 Q. Aren't you saying that even though in some cases there are
23 reasonable and probable grounds to warrant the laying of a
24 charge, you shouldn't lay them?

25 A. In this particular case we were faced with the legal opinion

1 which told us different and, therefore...

2 Q. What legal opinion?

3 A. From the Attorney General's...

4 Q. You've said up at the top of this page, sir, that that legal
5 opinion totally ignores the distinction between subsection (b)
6 and subsection (c) and you know that's the case. You weren't
7 being influenced at all, I suggest, by any legal opinion here.

8 A. Well, in terms of the evidence that was available, they also...
9 it was their evaluation that the evidence did not support the
10 warrant, the laying of a charge.

11 Q. Whose evaluation?

12 A. The Attorney General's Department.

13 Q. But you know that was based on the statement that there had
14 to be criminal intent to support the charge.

15 A. And also that there had to be a benefit received.

16 Q. But you concluded there were all of the elements available.
17 And so did everybody else in the RCMP that we've seen.
18 Every name we've seen. But I don't want to question the
19 decision. What I'm trying to find out is what you mean. You
20 say reasonable and probable grounds do exist here, that's
21 your conclusion.

22 A. Yes.

23 Q. But, and I'm trying to find out but what. Reasonable grounds
24 exist but we're not going to lay a charge. Why?

25 A. I'm afraid I can't explain it better than what's in there. To try

1 to put myself back eight years ago and at that time where the
2 events and the facts related to a case were much more
3 familiar to me than they are today.

4 Q. Fine. So let me take you back then to words of you... they're
5 words in your own letter.

6 A. Um-hmm.

7 Q. In the second paragraph you say, "Having said that (that
8 being that there are reasonable and probable grounds) we do
9 not agree with the position of (this would be, I think it's
10 Christen) who says, "All that is necessary is that there are
11 reasonable and probable grounds to believe that an offence
12 has been committed and reasonable and probable grounds to
13 believe that the person to be charged committed that offence"
14 before proceeding. We believe our obligations as peace
15 officers go beyond that. And if they do not, then the
16 discretion which we have all executed from time to time in
17 the proper performance of our duties has been misplaced.
18 Now that's what I'm trying to find out. How do your
19 obligations go beyond that? If you establish that there is
20 reasonable and probable grounds to lay the charge and to
21 support a conviction, your obligations go beyond that. In
22 what way?

23 A. Well that's my point. At the time is I wasn't sure that the
24 evidence supported a conviction.

25 Q. But you said even if you believed there are reasonable and

1 probable grounds to lay a charge and you do believe that
2 there is no automatic defence or justification, then you must
3 have concluded that there's no reasonable... that there are
4 reasonable and probable grounds to support a conviction. You
5 must have. That's what you're saying.

6 A. Well, we look at the... you say about the probable defence and
7 I think that the considerations on paragraph, on page 95
8 explain what we considered at that time in reaching that
9 decision.

10 Q. Are you suggesting that what you've listed on page 95 would
11 be a defence to a charge under subsection (c) of Section 110?

12 A. Yes.

13 Q. The fact that he accumulated the debts over a long period of
14 time during which he took some initiative to pay them off.
15 What does that have to do with whether he received a benefit
16 knowing...

17 A. Well, I don't think you can take them individually. It's all in
18 the whole context. All his debts were accumulated over a
19 period of time before he became a Minister of the Crown.

20 Q. Yes.

21 A. It was established at that time that he was pretty well
22 financially bankrupt and couldn't liquidate his debts within,
23 with the basic income that he had at the time. And then he
24 decided to make a proposal in which he got the backing from
25 his brother-in-law. If the brother-in-law had not agreed to

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1 underwrite those, this proposal, it would never have been
2 made because he, himself, would not have been able to make
3 it. He specified that all the banks were to accept it or else it
4 was no go. And bankruptcy, although I'm not an expert on
5 bankruptcy myself, but the staff at Headquarters who also
6 are involved in the bankruptcy aspects of the...our
7 enforcement responsibilities, felt that bankruptcy might have
8 been cheaper. One bank had, I think, for all intents and
9 purposes, written off their debt. Another one was probably...
10 considered that as a non-collectible loan. These were all
11 factors that would...

12 Q. Go to what?

13 A. Influence whether he would be convicted or not.

14 Q. Whether he'd be convicted or not.

15 A. Yes.

16 Q. But does it influence the conclusion that was reached by
17 virtually every member of the Force, that there were
18 reasonable and probable grounds to support the laying of a
19 charge?

20 MR. PRINGLE

21 My Lords, I hate to interrupt my friend but we're not
22 retrying the events. We've all agreed on that. And whether the
23 decision itself was right or wrong is really not the point. I thought
24 my friend would be looking to see what influences, if any, there
25 were, of what improper motives, if any, there were. And not

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1 going into a detailed examination of the ingredients of the
2 offence.

MR. MacDONALD

4 I'm trying to determine, My Lords, this...

CHAIRMAN

6 I don't, so far there's been no evidence that gets into the
7 ingredients of the defence, of the offence. That clearly is not
8 admissible.

MR. PRINGLE

10 We're pretty close.

CHAIRMAN

12 Dangerously close. I'm watching it very carefully.

MR. PRINGLE

14 That's fine.

CHAIRMAN

16 And there can be no evidence of the, you know, the,
17 impinges upon the guilt or innocence of individuals. I repeat what
18 I said earlier. The purpose of this exercise is to examine the
19 practice and procedures and this goes to the practice and
20 procedure followed by the RCMP dealing with this particular case.

MR. PRINGLE

22 Yes, My Lord, but I understood the thrust of it to be the
23 practices and procedures of the RMC Police as influenced if, at all,
24 if at all, I emphasize, if at all, by the provincial Attorney General's
25 Department.

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1 CHAIRMAN

2 Right. Yes. I mean it, obviously our mandate, our
3 recommendations have to deal with the, should deal with the
4 Department of the Attorney General in the future. That's our, it's
5 only with, on that basis can we, as we must, stay within our
6 mandate. And this, the purpose of this whole exercise is to
7 ascertain what practices are followed, have been followed, by the
8 Attorney General's Department in the Province of Nova Scotia
9 when dealing with investigations carried out by the police.

10 MR. PRINGLE

11 Exactly. I have no quarrel with that, My Lord.

12 CHAIRMAN

13 And so far Mr. MacDonald hasn't strayed, now it's a difficult
14 task to stay within the limits that must be imposed to protect
15 innocent people. But, on the other and, we want to hear evidence
16 that impinges upon the practice and procedures between these
17 two branches of the justice system, namely the Attorney General's
18 Department and Royal Canadian Mounted Police.

19 COMMISSIONER EVANS

20 Q Isn't it, maybe I'm anticipating where you're going and, if so,
21 I'm sorry, but isn't it a fact that you had an opinion from your
22 Force, a legal opinion, that you preferred to that of the
23 opinion of the Attorney General from Nova Scotia?

24 A. Sir, we had the opinion of people in the Force who have
25 attended law school and if you call that a legal opinion...

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1 Q. I would think so.

2 A. Then we had that.

3 Q. I take it that's what the people in the Attorney General's
4 office did, too, they attended law school. But you had two
5 legal opinions, let's put it that way.

6 A. Yes.

7 Q. And you were satisfied that the legal opinion provided by the
8 members of your Force was preferable to that of that opinion
9 from the Attorney General's Department.

10 A. Yes.

11 Q. All right. And that there was reasonable and probable
12 grounds to lay a charge under Section 110 (c). That's what
13 your letter says.

14 A. Yes.

15 Q. You agree with that.

16 A. Yes, sir.

17 Q. For some reason you didn't proceed to lay the charge and
18 presumably you exercised your discretion not to proceed to
19 lay the charge.

20 A. To put it as honestly as I can on what I recall now, I was
21 faced with the dilemma, do we proceed or not, knowing very
22 well the consequences. So I carefully weighed all the facts
23 that I had at that time to determine whether, in fact, we had
24 a sufficiently strong case to go and lay a charge in spite of the
25 directives received from the Attorney General's Department.

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1 My evaluation at the time was we didn't have, we did not
2 have a sufficiently strong case and, therefore, I didn't think
3 we should proceed.

4 Q. You said that you were sort of afraid of the consequences that
5 were going to flow from the proceeding in the face of the
6 directive from the AG's office.

7 A. In terms of the difficulty of the relationship between the
8 Attorney General's Department and our Force...

9 Q. Yeah, but that's really the reason that you didn't proceed is
10 because you foresaw some future difficulties with... in your
11 relationship, isn't that so?

12 A. Not quite, sir. If I had been convinced that we could have
13 obtained a conviction, I would have gone ahead regardless of
14 the consequences.

15 Q. Well, do you have to concern yourself as to whether you're
16 going to obtain a conviction or do you only concern yourself
17 as to whether you have reasonable and probable grounds to
18 lay the charge?

19 A. Well, I felt in this particular case that we had to consider
20 whether, in fact, a likelihood of getting a conviction was there.

21 Q. Well, I think you had already been told by Feagan that if you
22 proceeded with a charge that the AG was going to stop
23 proceedings anyway, is that the idea?

24 A. No, sir, I wasn't told that.

25 Q. You weren't told that. I was just trying to find out some basis

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1 for you exercising your discretion because I thought that your
2 letter, the next paragraph, indicated that there was, from time
3 to time, "...and the discretion which we have all executed from
4 time to time in the proper performance of our duties has been
5 misplaced." And I thought that's what you were basing your
6 decision on. The exercise of your discretion.

7 A. That's right, sir. Whether we go ahead or not.

CHAIRMAN

8
9 Q. But you obviously were concerned from this letter, you
10 obviously were concerned about the consequences of an
11 acquittal. Because you say, these, referring to a charge having
12 been laid, you said, "These consequences would be even more
13 serious and completely predictable if the charge was laid, a
14 prosecution took place, and the case was dismissed."

15 A. Yes, sir.

COMMISSIONER EVANS

16
17 That's in the next paragraph.

CHAIRMAN

18
19 Yeah. On page 94.

COMMISSIONER EVANS

20
21 The last paragraph.

CHAIRMAN

22
23 Q. The last paragraph, second sentence. And I gather what
24 you're saying when you come over and you list all these
25 items, what you're really saying is these areas would

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1 undoubtedly be raised, let's say before a jury, by any
2 competent counsel for the accused, which brings me back to
3 my concern as to what the consequences would be if there
4 was an acquittal. And the question Mr. Justice Evans has just
5 put to you is , is that a proper consideration for the police,
6 having been satisfied that the grounds are there to... there are
7 many strong cases of... where there've been reasonable and
8 probable grounds, where an accused person has been
9 acquitted. But do consequences to the RCMP naturally flow
10 therefrom or ever flow therefrom?

11 A. Not always, but I felt that in this particular case, since we're
12 dealing with this case, it is because of what had taken place
13 because of the public stand that had been taken by the
14 Attorney General and on the advice of his senior staff, that if...
15 it was predictable that if we went against that advice, there
16 would be some consequences in terms of the relationship
17 between those people and ourselves.

18 Q. Well, maybe. You probably would come out then having
19 made a public statement as you pointed out, and say, well, I
20 told you so. What more could follow, would follow beyond
21 that?

22 A. Well I, I think that it would have gone beyond that in terms
23 of the day-to-day relationship between the commanding
24 officer and the Attorney General which is in a contact division
25 is fairly frequent. And his senior staff. And I think they

MR. QUINTAL, EXAM. BY COMMISSIONERS

1 made no bones about that by saying so.

COMMISSIONER EVANS

2
3 Q. But doesn't it work the way as well? The morale of your staff
4 would be damaged to some extent or considerable extent I
5 suggest to you because doesn't this have the appearance of
6 buckling under to the views of the Attorney General or the
7 threat, really, of the Attorney General?

8 A. Oh, I well aware at the time, sir, that my decision would not
9 be a popular one within my own staff.

COMMISSIONER EVANS

10
11 Q. You communicate...

12 A. And as a matter of fact in a subsequent conversation with Mr.
13 (Truesome?) and then Feagan, I offered to come down to
14 Halifax to explain why and at that time he said that, no,
15 although my notes say he said that they had sort of now
16 accepted it and that he saw no point in me coming down here
17 to explain that, although I did come..

COMMISSIONER EVANS

18
19 Q. Once a decision had been made in Ottawa because of the
20 military set-up in your Force, you would expect him to agree
21 with it, wouldn't you?

22 A. Yes, I would.

COMMISSIONER EVANS

23
24 Q. Yes.

25 A. Although in... then it becomes an administrative matter

MR. QUINTAL, EXAM. BY COMMISSIONERS

1 within the Force.

2 CHAIRMAN

3 We may be jumping the gun but it's probably all in page 97.

4 COMMISSIONER EVANS

5 I probably ran ahead of you...

6 MR. MacDONALD

7 No, My Lords, I can follow any path. Are you taking him to
8 page 97, My Lord?

9 CHAIRMAN

10 No, I said that the matters that we've been talking about
11 seem to come up again on 97.

12 MR. MacDONALD

13 Q. Mr. Quintal, would you agree with this, sir? That all of the
14 considerations you listed on page 95 were all well known and,
15 in fact, probably discussed in November when you met in
16 Ottawa with the whole group of people.

17 A. I would think so.

18 Q. Yes. And notwithstanding all of those considerations the
19 unanimous conclusion of that meeting was that charges
20 should be laid. Or these charges were warranted.

21 A. All warranted, yes.

22 Q. And isn't it a fact that really what happened in December was
23 you decided, all right, there's a *prima facie* case here, but I
24 don't think it's strong enough to buck the AG.

25 A. Well...

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1 Q. Yes?

2 A. That's...

3 Q. Thank you. And that's, in fact, what I believe, what Chief
4 Superintendent Feagan told us yesterday. That's what he
5 took your letter to be saying.

6 4:45 p.m.

7 Q. Thank you. And that's, in fact, what I believe what Chief
8 Superintendent Feagan told us yesterday. That's what he
9 took your letter to say. There are grounds there but it's not
10 strong enough to go against the wishes of the Attorney
11 General. He took from your letter, if my recollection of his
12 evidence is correct, exactly what you meant to tell him.

13 A. Yes.

14 Q. Okay.

15 A. I didn't feel that we had a strong enough case.

16 Q. Okay. Now let me take you, though, back to page 96. Because
17 there is a, I suggest to you a different and perhaps a more
18 serious issue in the second last paragraph on that page. You
19 say:

20
21 It is our further opinion that no false pretence
22 investigation should be pursued against Mr.
23 Thornhill as a result of the information and
24 documentation you have accumulated. There
25 may well be an offence there in connection with
misrepresentation. However, since there is no
indication they wish to complain or lay charges,
it would be perceived as an exercise of dubious

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fate.

1
2 Now would you take it upon yourself to tell your staff that
3 they are not even permitted to do a further investigation to
4 determine whether there may have been the commission of a
5 crime?

6 A. Well, I can't say it any better than what I've said there,
7 where I felt that they, to do so would be to sort of saying,
8 well, okay, you blocked us in one avenue and now we're going
9 to go after another avenue. And I don't have the recollection
10 of the facts that we may have had at that time in terms of the
11 false pretences and just exactly at what time it would have
12 occurred, because I seem to recall there were further loans
13 made by the banks in order for Mr. Thornhill to consolidate
14 his debts, and the timing of that I don't recall now.

15 Q. That's got nothing to do whether or not he may have. I'm not
16 suggesting he did. But whether or not he may have obtained
17 funds in the initial instance under false pretences.

18 A. Yeah.

19 Q. And the report of the investigator said he had some evidence
20 to support that and he would like to further discuss it with a
21 prosecutor. But you're telling him not even to carry on the
22 investigation. Why are you doing that?

23 A. Just what I said in my memorandum, that I can't...

24 Q. You don't want to be seen like a dog in the manger, is a
25 phrase we use.

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. No, I was, I felt we should tell the Attorney General that's the
2 way we're going to go.

3 Q. Okay. Then you conclude this:

4 I appreciate that your investigators may be less
5 than satisfied with this approach. They have
6 done their work thoroughly and with confidence.
7 The activities of Mr. Thornhill and his associates
8 as well as the practices and procedures of the
9 banks involved here have been brought under
10 appropriate scrutiny.

11 What do you mean by that?

12 A. I'm trying to recall just exactly what I meant.

13 Q. Okay.

14 A. And I would only be speculating now as to what I had in
15 mind at that time when I wrote this.

16 Q. Now you have indicated to us that the consequences to the
17 R.C.M.P. in this case of proceeding with a charge were a
18 relevant factor in making your decision not to proceed, that is
19 the consequences of a daily relationship between the A.G. and
20 the R.C.M.P.

21 A. Well, it was a fact that you could not ignore.

22 Q. Now would you accept that the proper role of a police officer
23 is to uphold the law in accordance with his oath?

24 A. Yes.

25 Q. And that it should be done evenly, no matter who you're
dealing with..

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1 A. Yes.

2 Q. How can the relationship then between the A.G.'s Department
3 and the R.C.M.P. be any factor, any relevance in deciding
4 whether to discharge that responsibility?

5 A. I don't think you can overlook the fact that these were in,
6 you're in a contractual agreement with the province. I don't
7 think the police are completely... independent is not the word
8 I'm looking for, but, you know, the Attorney General is sort of
9 the chief law officer of the Crown and in the province and
10 their Chief of Provincial Police, you can hardly ignore the fact
11 that they have to have a working relationship.

12 Q. Don't you accept the fact that the policeman has a different
13 role to play, a different obligation to discharge than does the
14 Attorney General?

15 A. Yes.

16 Q. What is the proper, in your view, the proper resolution of a
17 conflict where the Attorney... or the police officer believes
18 that charges should be laid and the Crown says he does not
19 accept that. He does not believe charges should be laid. How
20 is that conflict to be resolved?

21 A. Well, if the individual police officer believes that he should
22 lay a charge, he has that ultimate right.

23 Q. Does he have an obligation to do that?

24 A. That would be like saying that in all cases where he's
25 convinced, I guess he has to go by his own conscience and his

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1 own convictions.

2 Q. Let me take you to a couple of other documents just quickly,
3 if you can go through them, please. I want to refer you to
4 page 110. Do you see this letter to the Commissioner?

5 A. February?

6 Q. Do you agree with...

7 A. I'm not sure...

8 Q. What is alleged to be Mr. Coles' view, that the Attorney
9 General's role is quite clear. "A final decision as to whether a
10 prosecution is commenced rests with the Attorney General."
11 That's the final sentence in the third paragraph.

12 A. Are you asking me whether that's Coles' view? I think it's
13 correctly stated.

14 Q. Do you accept that that is what has happened in Nova Scotia?
15 That is the practice to be followed in this province.

16 A. Yes, that's what he himself said.

17 Q. That the R.C.M.P. in your term, did the R.C.M.P. accept that
18 policy?

19 A. No, I think you will find in the letter to, from the
20 Commissioner to the Attorney General of Nova Scotia in
21 February where he states otherwise.

22 Q. Well, let me take you to that letter from the Commissioner.
23 Did you draft that letter, by the way? That's on page 117.

24 A. I don't think so, sir. I'm not sure, but I don't think so.

25 Q. Let me take you to page 116 first. Were you aware of

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1 discussions being held between the Commissioner and the
2 Attorney General How at this time?

3 A. I don't think so.

4 Q. You said you didn't think so. Did you see the letter which is
5 on page 117 before it was sent?

6 A. I have no recollection that I did.

7 Q. But you have seen it since?

8 A. Yes.

9 Q. And you would have seen it around the time it was sent?

10 A. Yes, I think if you look in my notes, you will find that in
11 March, I... Yeah, the 16th of March, I got a call from Chief
12 Superintendent Feagan regarding a local article in the paper
13 and, obviously, from my comments there, I have seen the
14 letter. I had seen it at that time, which was the 16th...

15 Q. Was that an unusual routing to be following from the
16 Commissioner to the Attorney General without having
17 contacted the Commanding Officer in Nova Scotia, without
18 sending him a copy of the letter?

19 A. Without contacting him, not unusual nor sending him a copy.
20 There was nothing wrong with sending him a copy. As a
21 matter of fact, when you will look at what I've said, that we
22 would send him a copy if this had that already had been
23 done.

24 Q. Let me take you to the letter, the fourth paragraph, the
25 Commissioner says:

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1 We also maintain as a matter of principle that
2 police officers have the right to lay charges
3 independent of any legal advice received if they
4 are convinced that there are reasonable grounds
5 to do so and provided, of course, that a justice
will accept the charges.

6 Do you accept that as being a correct statement?

7 A. Yes.

8 Q. So in this case, the Thornhill case, where you did consider
9 there were reasonable and probable grounds, you had the
10 right to lay the charge.

11 A. Yes.

12 Q. Is that what the Commissioner is saying?

13 A. Yes.

14 Q. Now he goes on, the Commissioner, in the next couple of
15 paragraphs to say that he asked that a review of the Thornhill
16 case be carried out, a careful review conducted by you and
17 the... Yes, by you. And he refers to the meeting being
18 convened in Ottawa and so on. Now you've told us everything
19 that was done in the review process, didn't you? We've dealt
20 with that already today.

21 A. I think so. I don't know if I overlooked anything.

22 Q. Now this is the paragraph that I'd like to direct your attention
23 to. It says:

24 At the completion of his review (that's you), he
25 came to the same conclusion as had the Deputy

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 Attorney General, that being that the
2 circumstances of the case as reflected in the file
3 combined with the evidence in the hands of the
4 investigators did not warrant the laying of a
5 charge nor the continuation of an investigation.

6 Is that an accurate reflection of the conclusion you came to?

7 A. Not quite. I would not have said that in those terms.

8 Q. In fact, you came to the conclusion that there were reasonable
9 and probable grounds to warrant the laying of a charge but
10 the case wasn't strong enough to go against the wishes of the
11 Attorney General.

12 A. Yeah.

13 Q. Yes, and the answer was yes. Did the commissioner instruct
14 you to carry out a review in this case? That's what was said
15 on the bottom of page 117, that he instructed you to carry out
16 a careful review.

17 A. He said, "I instructed that the file be carefully reviewed."
18 Whether this was done to me personally or whether it was
19 done to the Director of Criminal Investigation at the time, I
20 couldn't say. And he goes on to say that the review was
21 conducted by myself and the senior staff at headquarters.

22 Q. The Commissioner goes on to say in this letter, though, after
23 the paragraph we just read, which does not accurately reflect
24 what happened here, does it?

25 A. I'm sorry?

Q. We've already agreed that the second paragraph on page 18
doesn't accurately reflect what happened here; that is, that

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 you came to the conclusion that the facts did not warrant the
2 laying of a charge. That's not accurate.

3 A. I... It's hard for me to get... It depends on how you interpret
4 my memo of December the 17th where...

5 Q. I thought we already agreed on that. It was interpreted by
6 Feagan and you said you agreed that the interpretation is
7 correct, that you believed that there were reasonable and
8 probable grounds to warrant the laying of a charge but the
9 case wasn't strong enough to justify going against the wishes
10 of the Attorney General. That was your conclusion following
11 the review.

12 A. Well, I didn't think we should initiate the prosecution under
13 those circumstances.

14 Q. Against his wishes.

15 A. Against the direction of his...

16 Q. Against the direction of the Attorney General.

17 A. No.

18 Q. Okay. But when the Commissioner then says in the second
19 last paragraph of his letter, in the middle of it:

20 What is important, of course, is that this is a
21 judgement reached entirely within the force and
22 without outside influence or direction.

23 That isn't accurate either. There certainly was outside
24 influence or direction which affected the decision you made
25 not to lay a charge.

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 A. I don't... No, I reached my decision myself. Nobody
2 influenced me to...

3 Q. I'm sorry, sir, I don't mean to suggest that anyone
4 deliberately came and influenced you, but I'm saying that
5 your decision was certainly influenced by the decision that
6 was taken by the Attorney General. Had it not been for that,
7 I suggest to you, had it not been for the Attorney General
8 saying "No charges are to be laid," charges would have been
9 laid here.

10 A. Well, that's a hypothetical question. If there had been no
11 disagreement, it would never have come to headquarters in
12 the first place.

13 Q. If the Attorney General had not taken the position and
14 directed that no charges were to be laid, I suggest to you that
15 once you concluded there were reasonable and probable
16 grounds to warrant the laying of a charge, that a charge
17 would have been laid.

18 A. There would have been no disagreement at the divisional
19 level.

20 Q. Okay. How lengthy was your briefing of the Commissioner
21 with respect to this whole thing, this whole review process,
22 what was done, what was in the file, and what led to your
23 conclusions? How detailed was your briefing of the
24 Commissioner?

25 A. I don't recall, but I certainly would have made him aware of

MR. QUINTAL, EXAM. BY MR. MacDONALD

1 the facts as thoroughly as I could.

2 Q. Would you have advised him... Never mind. He would have
3 had a copy of your letter that you sent to Feagan?

4 A. It would be on the file, certainly.

5 Q. And can we assume that he would have read that before?

6 A. I would think so.

7 Q. Advising the Attorney General of what was done by the
8 R.C.M.P.?

COMMISSIONER EVANS

9
10 He says he didn't.

MR. MACDONALD

11
12 I'm sorry, he says he didn't, My Lord? Thank you.

COMMISSIONER EVANS

13
14 Although I did not personally review the file...

MR. MACDONALD

15
16 Q. Yes, or sit with a review team. That's what the Commissioner
17 said.

18 A. Uh-huh.

19 Q. So if he didn't personally review the file, you would have
20 reviewed with him all the salient facts and told him what was
21 happening.

22 A. Yes.

MR. MACDONALD

23
24 Those are all the questions I have, My Lord.
25

MR. QUINTAL, EXAM. BY COMMISSIONERSEXAMINATION BY COMMISSIONERSCOMMISSIONER EVANS

1
2
3 Q. Mr. Quintal, I notice that you did not receive a copy of this
4 letter. Was that unusual? Would that be unusual? Would
5 you have expected to receive a copy of the letter?

6 A. Not necessarily, sir. It would probably be placed on the file
7 and whether it would be sent back through my office or not
8 or sent directly to the Director of Criminal Investigations, I...
9 It could be either one.

10 Q. Thank you.

11 A. There is no indication on the file itself as to just what route it
12 followed.

MR. CHAIRMAN

13
14 Q. Did you ever see this letter before...

15 A. Before it was sent, sir?

16 Q. No, no, but did you...

17 A. Yes, I had, but as I mentioned on, in my conversation with
18 Chief Superintendent Feagan on the 16th of March, I told him
19 I had seen it.

COMMISSIONER EVANS

20
21 Q. Sorry, but that's a long time afterwards. That's a month or so
22 afterwards. No, I'm sorry. It was sent on the 25th of
23 February, I'm sorry.

24 A. Two or three weeks.

25 Q. Yeah, you're right. thank you.

MR. QUINTAL, EXAM. BY COMMISSIONERSMR. CHAIRMAN

Mr. Ruby?

EXAMINATION BY MR. RUBY

Q. Mr. Quintal, there's two items that are confusing to me that I'd like you to assist me if you can. First on page nine, if you could turn to page nine. It's a handwritten note and I don't understand the middle paragraph on the right-hand side. "They," and I'm not sure if that refers to the police or the Crown's office, "They do wish to drag their feet a little," a word I can't understand...

MR. CHAIRMAN

Until.

MR. RUBY

Q. Mine is a little shorter, thank you. "Until the leave to appeal on the blank search warrant matter so that any warrant they execute or apply for will not be accessible to public press..." Et cetera. Do you know what that's about?

A. I don't know for sure but... It seems, I'm only speculating now but it seems to me that there was some question, I don't know whether it was at that time or not, about access to the court records in terms of applications for search warrants.

Q. The Queen v. MacIntyre.

A. You've got me there, I don't know, but I think that may be what it refers to but I don't really know.

5:10 p.m.

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Q. Do you know why they wished to drag their feet to prevent the press and the public from getting access to search warrant executions?

A. No.

Q. At page 78 is a passage that I find confusing as well. In the middle of the first complete paragraph on that page, it's a discussion about... The paragraph opens with a decision about the Deputy Attorney General wishing to release his findings to the press at the time of his release in order the press should have the decision researched by their own counsel before drawing any proper conclusions on their own and the Attorney General was not in favour of that. Do you know what that's about?

A. I'm sorry?

Q. Do you understand what that is about?

A. Well, I can only surmise from the documents that are in here. I think there was a draft press release from Mr. Coles. Yeah, I don't know but there was a draft release and the final release from the Attorney General was a little different. That's all I can tell you about that.

Q. Do you know what is meant by the phrase "The Attorney General is apparently not in favour of this." Does that make any sense to you?

A. Well, I presume it's based on the changes made in the original

media

Margaret E. Graham Discovery Service

298 PORTLAND STREET, DARTMOUTH, N.S. B2Y 1K4

PHONE: 469-5734

September 30, 1988


To: All Solicitors

From: Margaret Graham

Re: Daily Transcripts

In Volume 84, September 13, page 14811, Line 11, the phrase "drawing any proper conclusions" should read "drawing improper conclusions." In Volume 87, September 19, please insert the attached page 15489A which was inadvertently left out.

I apologize for any inconvenience this has caused.



M. Graham

MR. QUINTAL, EXAM. BY MR. RUBY

1 draft press release and the last, the one that actually come
2 out.

3 Q. And then he goes on to say:

4
5 Mr. Gale also advised instructions should be
6 going forward to the Crown Prosecutor appointed
7 to assist us in the Canadian Distilleries
8 investigation, not to include any recommenda-
9 tions as to charges in his report to the Deputy
10 Attorney General. At the conclusion of the
11 investigation, the Deputy Attorney General and
12 his staff will review the file and determine if or
13 what charges are available.

14 Now am I right that the Canadian Distilleries investigation
15 was the Barrow's case?

16 MR. PRINGLE

17 My Lord, I'm not sure if that matter is still not proceeding in
18 some way. I think we'd better be a bit careful.

19 MR. CHAIRMAN

20 I don't even know the case you're talking about.

21 MR. PRINGLE

22 I don't think we want to get into it if it is a case that's
23 presently before the courts. I'm not sure if it is or not, I just have
24 a suspicion that it may be.

25 MR. RUBY

I don't know if it is either.

Q. What I'm trying to get at is the question of whether or not
that was also a political case because it's another example of a

1 case where the Deputy Attorney General doesn't want any
2 recommendation regarding charges, or is it an ordinary case.
3 Do you know? Can you assist us?

4 A. I think the, I think that the Distilleries investigation had to do
5 with some... I don't know if I can remember it now, but I
6 think it had to do with some amounts that had to be paid by
7 companies who had their products on the...

8 Q. That's for listing privileges that you pay off a political party,
9 is that what the allegation was?

10 A. I think so.

11 Q. So that would be a political case as well.

12 A. I don't know who was involved totally within that
13 investigation.

14 Q. I want to turn then to page 94, which is your letter. You've
15 been asked a lot of questions about it, but I have a few more.
16 You said in the second line on the top of page 94:

17
18 I must agree that while it (that's the Coles'
19 memorandum) makes some relevant points with
20 respect to the position of the banks and the
21 effect of Section 110(b) of the Criminal Code fails
22 to address in an informative fashion and so forth
23 the requirements of 110(c).

22 And you ultimately decide not to proceed. You said today
23 when my friend questioned you that you came to the
24 conclusion that there was no intent necessary under
25 110(1)(b) on the part of the banks. You told Mr. MacDonald

MR. QUINTAL, EXAM. BY MR. RUBY

1 just a little while ago. Is that really your conclusion?

2 MR. CHAIRMAN

3 No, I think you. .. Try it again. Will you ask it again?

4 MR. RUBY

5 Q. Sure. My note of what you said to Mr. MacDonald was that
6 you concluded with regard to Section 110(1)(b) and the
7 prosecution that was possible of the banks, that requisite
8 intent required under 110(1)(b) was not there vis-a-vis the
9 banks. Is that so?

10 COMMISSIONER EVANS

11 I didn't understand him to say that.

12 MR. RUBY

13 Q. Let me just clarify again. Was that your position?

14 A. I think we, if I recall the question, was that the interpretation
15 of intent under 110(b) or the requirements is different than
16 under 110(c).

17 Q. Right. And then why did the banks not get charged? What's
18 the answer to that? What was the defect in the proposed case
19 against the banks that caused you not to lay an information
20 against them?

21 A. The banks, their, the proposal that was made for the
22 settlement in September was in an effort to liquidate their
23 debt and they decided to agree to that. And it was a
24 condition by Mr. Thornhill that all of them were to agree that
25 that settlement or else it... And this was a normal business

1 proposition.

2 Q. It was a normal business proposition?

3 A. From a person that, or a normal proposal to be made by a
4 person under debt who he felt couldn't liquidate.

5 A. Yes, on the part of Mr. Thornhill, on the part of the banks,
6 why did you not charge them for settling for 25 cents on the
7 dollar with Mr. Thornhill?

8 A. Well, I didn't think we had the evidence of an intent, I think,
9 intent... You're asking me now to go back eight years, and
10 without having the benefit of looking at the Code, but it
11 seemed to me in 110(b), it has to be related to dealings...

12 Q. With respect to these dealings, that's right.

13 A. Yes.

14 Q. You felt you had no intent on the part of the banks to act with
15 respect to these dealings, is that...

16 A. Well, there were no specific dealings with the government at
17 the time that I was aware of.

18 Q. You were not aware of any.

19 A. No, except that all banks, all those banks did business with
20 the government. But the offer to settle the debts were not
21 related to any specific dealings. That's my recollection now of
22 the facts.

23 Q. And did you think that the Code required that the offer to
24 settle the debts had to relate to the government's business as
25 well as Mr. Thornhill's business? Was that your impression?

1 A. I'm trying to, the only dealings that were taking place at the
2 time were the settlement of the debt.

3 Q. That's with Thornhill's dealings.

4 A. Yes. I don't know of any other dealings with...

5 Q. Dealings with Mr. Thornhill's, not the government's, right?

6 A. Right.

7 Q. Did you read Mr. Plomp's memorandum where he talks about
8 the meaning of those dealings?

9 A. What page is that?

10 Q. Starting at page 70? It's the dealings, I suggest, when you
11 read that, that the government on the part of the banks was
12 concerned. Not the dealings of Mr. Thornhill in a charge
13 against the banks under 110(b). You didn't understand that.

14 A. Now you're asking me that now and eight years ago, I would
15 have been much more familiar with the provisions of the
16 Criminal Code and their requirements.

17 Q. You see at page 72 in the middle of the page there's a quote
18 from Regina v. Williams. Now I'll read in the middle of that:

19
20 Where a person confers a benefit upon a
21 government employee, the [crease?] of the
22 benefit must relate to the dealings with the
23 government but no such restriction is contained
24 in provisions under which the accused under
25 110(c) would be charged.

It's the dealings with the government that are in issue.

A. That's in 110(b).

1 Q. Right, that's the one I'm asking you about. The banks were
2 supposed to be charged. They had dealings with the
3 government, did they not?

4 A. Not specifically related to that settlement.

5 Q. The answer is you thought that the particular benefit had to
6 be related to the particular, to the Thornhill dealings, not
7 dealings with the government, generally. That's why he
8 wasn't charged. Is that correct?

9 A. I'm trying to recall now what I said about the banks.

10 Q. You can see at page 71, the first, second complete paragraph:
11 "Co-status quoted. It is significant that the word 'dealings' is
12 immediately followed by the expression of 'of any kind' That
13 indicates that Parliament did not intend the word 'dealings'
14 to be construed in a narrow restricted sense." And they cite
15 Williams "where dealings included the negotiation of a
16 hospital tax arrears settlement." This was in front of you,
17 was it not?

18 A. Yes.

19 Q. And you reviewed this or should have reviewed this before
20 you made your opinion, correct?

21 A. Yes.

22 Q. All right. Page 95, if you turn back to it in that report. You
23 outline a number of factors here and I want to ask you to
24 consider them with me together so I can understand better
25 what was going on in your mind. You outlined in the first two

MR. QUINTAL, EXAM. BY MR. RUBY

1 paragraphs the history, really. Accumulated the debts over a
2 long period of time and it was his brother-in-law who
3 engineered the final settlement by giving him a loan. Then
4 you say: "Given the fact that (a) bankruptcy might have been
5 cheaper." Do you have any knowledge as to whether or not
6 bankruptcy was cheaper?

7 A. I think I said earlier that the advice I got at the time was that
8 the bankruptcy might have been cheaper and I take that
9 from the experience of our people who are also involved in
10 the bankruptcy side within the commercial crime section.

11 Q. But you didn't know whether it would or wouldn't be, did
12 you?

13 A. No, that's why it says it might have been.

14 Q. And you took no steps to find out, did you?

COMMISSIONER EVANS

16 That's hardly fair, Mr. Ruby. He says that he took the advice
17 of someone in his department who was familiar with bankruptcy.

MR. RUBY

18 That might be. I'm asking him whether he took any steps
19 to find out whether it would be.

CHAIRMAN

22 Well, the only way would be is to go bankruptcy, I guess.

COMMISSIONER EVANS

24 Yeah, go through it.

MR. QUINTAL, EXAM. BY MR. RUBYMR. RUBY

1
2 Q. Or to consult your legal counsel, for example. To say, for
3 Thornhill, in this circumstance, would it be cheaper or not,
4 given his income, his job, his assets, give me an opinion,
5 please. You could have done that and you did not, correct?

6 A. I did not do that, no.

7 Q.

8 (b) One, possibly two of the banks had already
written off these debts.

9 Feagan testified yesterday that was false. That, in fact, they
10 had not written off these debts. You thought they had.

11 A. From the documentation I had read, yes.

12 Q. From the documentation that he gave you, he said no, that
13 they were contemplating it but they never did it. And he
14 pointed out that if they had done it, they wouldn't have had a
15 settlement to receive.

MR. PRINGLE

17 Where is that in that documentation? Can you refer us?

MR. RUBY

19 I don't have it here. I'm talking about Mr. Feagan's evidence.

MR. PRINGLE

21 Well, you just made a reference where you said when the
22 documentation was referred to him, he pointed that out and I
23 don't recall that being in there.
24
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 A. Well, that's the impression I had at the time and I have not
2 indicated otherwise.

3 Q. You knew that the reason why the banks were taking the
4 view they had taken towards these debts was expressed in
5 the quotes that we find at page 40 and following. Have you
6 seen those?

7 A. Yes.

8 Q. And they are replete with references to political prominence
9 and you'll see at the top of page two in the last paragraph:
10 "They considered it a political donation." The motivation is
11 exclusively political from these quotes, you agree? There
12 were the other considerations but these show a political
13 motivation?

14 A. On the part of the banks?

15 5:25 p.m.

16 Q. Yes.

17 A. That...

18 Q. Well, if the whole purpose of Section 110 is to prevent
19 improper advantage being taken or given and you've got all
20 this material indicating political advantage is what's being
21 sought, *inter alia*.

MR. MERRICK

22 Oh, I object, My Lords, there's been no evidence of political
23 advantage being sought at all, in fact, the evidence is contrary to
24 that.
25

14821 MR. QUINTAL, EXAM. BY MR. RUBY

1 MR. RUBY

2 Q. Well, let's go back and take a look at 40 and 41.

3 MR. CHAIRMAN

4 These are internal memos from within the banks.
5 Presumably for them to be motivated, someone else would have
6 to have some knowledge of this, wouldn't they?

7 MR. RUBY

8 Q. Let's take a look then if you would with me, sir, at page 41,
9 the last four lines, for example, of the first quote, second
10 paragraph on that page, "And the fact that Mr. Thornhill
11 may indeed have a very influential role to play as an
12 important Cabinet Minister, we now inquire if you wish us
13 to make a formal approach concerning the position of his
14 debt with us." Does that not indicate to you as a trained
15 police officer, that they are...

16 MR. MERRICK

17 My Lords, I rise in objection again. That's exactly the point
18 that I was raising yesterday. We have no evidence as to what was
19 the final determining factors on the parts of these banks in
20 making whatever decisions they may have. We have a bunch of
21 unattributed statements clipped out of somebody's file, pasted
22 together, on scissors and paste, a couple of pages here, giving us
23 no indication whether it's the bank teller, whether it's an assistant
24 bank manager, and that statement itself indicates "We now
25 inquire if you wish us to make a formal approach concerning the

MR. QUINTAL, EXAM. BY MR. RUBY

1 position of his debt with us." Before Mr. Ruby can begin to
2 suggest, either for the witness or for any of this, that the banks
3 did this, did something for political reasons, he's going to have to
4 have the evidence that that is, in fact, the reason why the banks
5 made decisions and not a collage of quotes clipped out of
6 somebody's files. I'm sure that if you went through files, you're
7 going to find a lot of quotes suggesting all sorts of things but have
8 no relevancy as to why decisions are actually made.

MR. CHAIRMAN

9
10 There certainly is no evidence before us and I'm not sure
11 that the evidence would be relevant in any event, and I ruled on
12 this yesterday with respect to what motivated the banks.

MR. RUBY

13
14 With respect, what there is before us is some evidence that
15 the banks have political motivation. Whether or not it would be
16 conclusive enough to sustain a finding...

MR. CHAIRMAN

17
18 Or whether that... you know, the point that's being made is
19 that we have excerpts from documents that were obtained from
20 the bank documentation in the hands or in the files of the
21 Department of the Attorney General. There may be...the next
22 paragraph may follow and say "We think that the only reason
23 why we can do this is the only chance of recovering any money."

MR. RUBY

24
25 Well, let's have the full quotes then. I'm relying on counsel

MR. QUINTAL, EXAM. BY MR. RUBY

1 to give us meaningful quotes and not misleading ones.

MR. CHAIRMAN

3 I'm sure they're not misleading.

MR. RUBY

5 Well, if they're not misleading, then surely we can rely on it
6 as being some evidence of political motivation.

MR. CHAIRMAN

8 It is evidence of a suggested motivation, but I repeat, Mr.
9 Ruby, that we, as we've said a dozen times, that we're not going to
10 admit evidence that will impinge upon a criminality of anyone
11 who is not before us. It is outside our terms of reference. The
12 only reason why these issues are before us now is to enable us in
13 the making of recommendations in this inquiry, otherwise it
14 would not be a very meaningful inquiry if we suddenly made
15 findings of fact as to what caused the...brought on the wrongful
16 conviction of Donald Marshall, Junior. We have been asked to
17 make recommendations presumably, hopefully, so that if they're
18 accepted there will not be a recurrence in the future.

MR. RUBY

20 Well, I want it understood that I don't insist or suggest that
21 this is conclusive evidence of political motivation.

MR. CHAIRMAN

23 No, but it's still...the innuendo is there and these people are
24 not before us and they have really no right to be before us,
25 certainly they haven't asked to be before us, and I think it would

14824 MR. QUINTAL, EXAM. BY MR. RUBY

1 be outside of our reference terms and would not be appropriate to
2 start down another line of...or another avenue which could lead to
3 someone suggesting further injustices.

4 MR. RUBY

5 Well, shall we shut our eyes to the content of these...

6 MR. CHAIRMAN

7 We're not shutting our eyes to the contents.

8 MR. RUBY

9 Can I not refer to them in asking questions of the witness?

10 MR. CHAIRMAN

11 You can refer to them.

12 MR. RUBY

13 How can I refer to them?

14 MR. CHAIRMAN

15 You can refer to them. You can ask this witness, number
16 one, whether or not he has seen these before. Did you see these?

17 MR. RUBY

18 Q. Were they before you?

19 A. Yes, I have.

20 MR. CHAIRMAN

21 No, I know you've seen them now, but did you see them at
22 the time you made your recommendation or your opinion to
23 the...to the Attorney General's Department, your final decision?

24 MR. QUINTAL

25 I can't recall specifically, sir, but if they were in our files, I

MR. QUINTAL, EXAM. BY MR. RUBY

1 have seen them.

2 MR. CHAIRMAN

3 If they were in your files, but it says here they're in the
4 files of Messrs. Herschorn and Coles.

5 MR. RUBY

6 We clarified yesterday from Mr. Feagan that, in fact, they
7 were part of the RCMP files.

8 MR. CHAIRMAN

9 They were. Well, if you had seen these...do you recall seeing
10 them?

11 MR. QUINTAL

12 Not specifically, sir, I'm not...

13 MR. CHAIRMAN

14 Well, what sort of meaningful evidence can he give us on
15 this?

16 MR. RUBY

17 Oh, I think he can help us a great deal, let me try.

18 Q. If you had seen those comments, assuming that you saw
19 them at the time, would you not think it wrong to take into
20 account the bank's view of these debts when their views
21 were at least in part so coloured by the seeking of political
22 advantage.

23 MR. MERRICK

24 My Lords, they don't know what the views are. We're
25 getting in to that area. He insists on getting into this, we have to

1 bring the...

2 MR. CHAIRMAN

3 If Mr. Ruby will use the word "may."

4 MR. RUBY

5 Q. Please take my question as using the word "may". That the
6 banks may have been seeking political advantage.

7 A. I don't know what the banks may have been seeking.

8 Q. You were unable to draw any inference on what the banks
9 were seeking?

10 A. Well, we were looking at a benefit, the benefit was really in
11 terms of a settlement which took place in September '79 or
12 the offer, I think, was made in September '79. These
13 comments sort of, in my estimation, sort of relate to a
14 process of collection of...or noncollection of a debt.

15 Q. Yes. And the reason that's given in these excerpts for non-
16 collection, they may not be the only comments as to reasons,
17 but the reasons given on these excerpts are political
18 advantage being sought, do you agree? You don't agree.

19 A. No, I...

20 Q. What do you take as...what did you take as the meaning of
21 the phrase, in number 5, "We consider it prudent,
22 considering Mr. Thornhill's position as Minister of
23 Development for the Province of Nova Scotia, not to apply
24 too much pressure at this juncture."

25

1 MR. MERRICK

2 My Lords, I rise again. When we start to ask this witness
3 what does he think was meant by some unnamed bank official
4 who wrote something, I don't know how many years ago, that
5 somehow got clipped out and pasted onto these pages, we're into
6 the realm of fantasy. That's not where this Commission should
7 be.

8 MR. CHAIRMAN

9 Well, I have no difficulty interpreting what that meant
10 anyway, any more than, you know, it shows how...when you're
11 dealing with excerpts how careful one has to be because I see
12 down here what also may be a source of an answer to a question
13 you put just a few minutes ago to this witness, Mr. Ruby.

14 MR. RUBY

15 Yes, My Lord.

16 MR. CHAIRMAN

17 About the bankruptcy, you see 7(a), "The debtor, now
18 Minister of Development and chairman of the Treasury Board for
19 the Province of Nova Scotia, is in a bankrupt position financially."

20 MR. RUBY

21 Yes.

22 MR. CHAIRMAN

23 And I would think that no one better than a chartered bank
24 would be able to assess whether a person is bankrupt or not.
25 They've had more experience than the rest of us.

1 MR. MERRICK

2 My Lords...

3 MR. RUBY

4 I can see very clearly from number 7(b) if you turn the
5 page the rest of that letter's extract. "The other competitor banks
6 to whom Mr.Thornhill is heavily indebted have adopted a wait-
7 and-see attitude, and for political reasons we are not pressuring
8 for payment and, in fact, are making no effort to contact him.

9 MR. MERRICK

10 My Lords.

11 MR. CHAIRMAN

12 You know, all that is true. In all this, I don't, you know, I
13 don't need any interpretation from this witness about what all
14 that means.

15 MR. MERRICK

16 In fairness I take it Mr. Ruby is going to read the four or
17 five or six pages of other quotes that talk about the business
18 reasons for doing this.

19 MR. RUBY

20 My Lord, but the witness has now said that he did not take
21 from these excerpts that there was any political motivation at all.

22 Q. Now, that is still your position?

23 A. Excuse me, I think you said were they seeking a political
24 advantage.

25 Q. Yes.

1 A. Well, I don't know what advantage they were seeking.

2 Q. You couldn't imagine any advantage they were seeking. You
3 thought of none at the time?

4 A. All four banks were dealing with the government.

5 Q. Fine. And none of this language, looking at 7, read again
6 with me, "The other competitor banks to whom Mr.
7 Thornhill was heavily indebted have adopted a wait-and-
8 see attitude and for political reasons we are...political
9 reasons are not pressuring for payment and, in fact, are no
10 effort to contact him," does not suggest to you any seeking of
11 political advantage by that bank?

12 A. I must admit I'm not sufficiently familiar with the dealings
13 of the banks with the government in the business sense to
14 determine what political advantage they would gain when
15 all of them are dealing with the government, and all four
16 had indebt...debts from the same individual.

17 Q. All right. And you took no steps to make inquiries with
18 respect to that issue?

19 A. I'm sorry.

20 Q. You made no inquiries from others in your...from the force
21 with respect to that issue?

22 A. No. Except to determine that, in fact, all four were dealings
23 with...were dealing with the government at the time.

24 Q. (c), back to page 95. "He now has an obligation to his
25 brother-in-law amounting to twelve yearly repayments of

1 \$3,600 each and has signed over his share of the Thornhill
2 home." How does that assist us one way or the other in
3 determining whether or not a charge would be sustained at
4 trial?

5 A. I'm sorry, I don't get the point.

6 Q. How did this help you when you were assessing the case in
7 deciding whether or not the charge would be sustained at
8 trial, successful at trial?

9 A. Well, he still had an obligation to pay whatever amount of
10 settlement had been proposed.

11 Q. I couldn't hear because the chair moved. Still had an
12 obligation to pay...

13 A. Whatever amount of the proposal that had been made that
14 he still had to pay.

15 Q. He still had to pay the twenty-five cents on the dollar. It
16 wasn't an entirely free trip.

17 A. No, no, but he's...he had to pay it back to his brother-in-law.

18 Q. Yeah. Right. Can you assist me as to how that helps us or
19 helped you in determining whether the charge would be
20 sustainable at trial?

21 A. I can't recall now just exactly what was in my mind at the
22 time we were...we wrote this.

23 Q. You then go on at the top of page 96, "It could be argued
24 that (a) he hardly received a benefit at all." Now, you're
25 familiar with the well-known police discretions with more

1 trifling cases, cases where there's nothing really involved,
2 theft of a hairpin, that sort of thing, you just don't bother
3 prosecuting, right?

4 A. Uh-hum.

5 Q. Is that what you're talking about here, that kind of trifling
6 case?

7 A. No, that's not what I'm talking about. It's not...

8 Q. Because he received a number of benefits. Tell me if you
9 agree with me. One, he kept his job, his public reputation and
10 his position. And he saved \$.75 on the dollar. You knew that,
11 did you not?

12 A. I don't know that he would have lost his job. He could have.
13 I don't know that.

14 Q. He managed to escape any risk to his job. I'll amend my
15 suggestion. You knew all those things?

16 A. I don't know whether his job was in jeopardy as a member
17 and a Cabinet Minister.

18 Q. He's in charge of the treasury of Nova Scotia. Do you think...

19 A. Well, I don't recall that he was in charge...

20 Q. Do you think going in bankruptcy might affect that position...

21 A. Excuse me, I don't recall he was in charge of the Treasury. I
22 thought he was the Minister of Development.

23 Q. He's in charge as a Minister, let's not worry about the detail of
24 it, with large budgets under his control, very large budgets,
25

1 o.k.? Assume that. Would you not that such a person,
2 reference to Page 41, Minister of Development and Chairman
3 of the Treasury Board for the Province of Nova Scotia. Would
4 you not think that the Chairman of the Treasury Board might
5 be looked askance at if it was discovered he was personally
6 bankrupt it was publicly known?
7

8 MR. MERRICK

9 My Lord, I'm going to rise again on an objection...

10 A. Well, if...

11 Q. Let me finish my question for a second.

12 COMMISSIONER EVANS

13 Before you answer it, listen.

14 MR. RUBY

15 Q. And the avoidance of that disclosure would be a benefit to
16 him of great significance. Now don't answer until my friend
17 has a chance to object.

18 MR. MERRICK

19 My Lord, it's one thing to ask this witness, "Did you take that
20 into account, how does that particular aspect influence your
21 decision one way or the other?" It's not within the realms of the
22 relevancy of this commission to now begin to debate whether or
23 not Mr. Thornhill's job was or was not in fact in jeopardy. The
24 sole issue is whether this witness took that account into fact [sic]
25 and if so, how did it influence his decision. We're now going to get

MR. QUINTAL, EXAM. BY MR. RUBY

1 on another one of Mr....

2 CHAIRMAN

3 Not how it may influence voters, unless we want to take
4 judicial note of things that have been happening.

5 MR. MERRICK

6 And I don't want Mr. Ruby to go off on another one of his
7 flights of supposition on this point because it's beyond the scope
8 of this inquiry.

9 MR. RUBY

10 I understand my question. I don't understand the objection.
11 I want to know if I can, whether the witness is aware that that
12 was a benefit that this man was getting, the avoidance of publicity
13 given his position.

14 COMMISSIONER EVANS

15 Well, did it affect him is what you want to know.

16 MR. RUBY

17 Was he aware of it at the time and the second question is
18 did it affect him?

19 CHAIRMAN

20 Well, that's the only question, did it affect him because...

21 MR. RUBY

22 First of all, he wasn't aware that it couldn't affect him.

23 CHAIRMAN

24 Well, it's purely speculative whether it would or would not.
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 MR. RUBY

2 Quite. But I wouldn't say it was purely speculative.

3 MR. CHAIRMAN

4 It's a speculation that could only be answered properly
5 whenever the next election rolled around as it related to Mr.
6 Thornhill.

7 MR. RUBY

8 Q. Did you first of all know that he was Chairman of the
9 Treasury Board when you made your decision?

10 A. I'm not sure. I knew he was the Minister of Development.
11 Whether I was aware that that included Treasury Board, I
12 can't recall exactly.

13 Q. You've agreed that the passage I read to you on Page 41 was
14 part of the material you would have had before you? If you
15 read it, you would have known that he was the Chairman of
16 the Treasury Board. The bottom of Page 41.

17 A. I probably would have. I can't recall.

18 Q. Either you knew it or you didn't read the file carefully, one or
19 the other, correct?

20 COMMISSIONER EVANS

21 There may be another answer too. Is it accurate? This is
22 some unknown person...

23 MR. RUBY

24 Mr. Thornhill's counsel is here and he can tell me if it's
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 inaccurate, I'm sure.

2 MR. MERRICK

3 I'm not going to speak to the accuracy of a collage of
4 documents containing God knows what bankruptcies...

5 CHAIRMAN

6 Anyway, suffice it to say...

7 MR. MERRICK

8 Which is what Mr. Ruby would like to have his case on.

9 CHAIRMAN

10 Without getting into great arguments as to the prestige and
11 importance of various portfolios within a government, I think we
12 can accept the fact that Roland Thornhill occupied, as a Minister of
13 the Crown, a position of importance in the government of Nova
14 Scotia. So the only question that you have to answer is whether,
15 when you were arriving at your conclusions that are set forth in
16 your opinion, whether or not you took that into account. That he,
17 that it may have affected his position as a Minister of the Crown.

18 MR. RUBY

19 Did you consider it a benefit?

20 COMMISSIONER EVANS

21 Pardon?

22 MR. RUBY

23 Q. Did you consider that to be a benefit? Did you think the
24 publicity which might attend upon it being disclosed that the
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 Minister of the Crown was bankrupt and that avoidance of
2 that publicity would be of benefit.

3 A. There was at that time already a lot of publicity regarding the
4 Thornhill case.

5 Q. There was nothing regarding him being a bankrupt. Did you
6 think that avoiding that publicity might be of benefit?

7 A. No, I didn't consider that aspect, not that I recall.

MR. MERRICK

9 Incidentally, My Lord, I have to rise again. There is no
10 evidence that he wasn't a bankrupt. If we see that reported
11 tomorrow, there will be trouble that will flow from that. This
12 witness merely said that possibly bankruptcy proceedings would
13 have been cheaper.

COMMISSIONER EVANS

14 All we're really concerned with, Mr. Ruby, surely is were all
15 these various things factors that influenced this witness in
16 arriving at the conclusion at which he arrived. You have to
17 enumerate one by one. Were they factors that you took into
18 consideration, the fact that he was a Cabinet Minister, that he was
19 short of money, that he owed the banks. Was that a factor that
20 you took into consideration?
21

MR. QUINTAL

22 A. Well, the fact that he could not liquidate his debts would
23 certainly, as I explained here, it was all part of this. He made
24
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 a proposal. He couldn't liquidate his debts on the basis of the
2 income he had at the time and, therefore, made a proposal to
3 the banks to try to settle his debts.

4 Q. Did it make any difference to you that he was a Cabinet
5 Minister? Did that influence your decision?

6 A. No.

COMMISSIONER EVANS

8 Is that what you wanted?

MR. RUBY

10 Q. Yeah.

11 A. No, because, at that time, as I say, this was well known.

COMMISSIONER EVANS

13 Q. Well, whether it was well known or not, did it influence you,
14 is what we'd like to...

15 A. No.

MR. RUBY

17 Q. Did you consider whether, not having to pay off 75 cents on
18 the dollar was a benefit? That was the net result of it, was it
19 not, he didn't have to pay off 75 cents on the dollar. Did you
20 consider whether that was a benefit when you said "He
21 hardly received a benefit at all"?

22 A. I forget now what amounts he owed to each of the banks.

23 Q. Over a hundred thousand in total.

24 A. No, but in terms of each of the banks and how much had been
25

1 written off and was considered to be written off by the other
2 banks, how much that would total. Because if, in fact, he
3 wrote that off, then his actual indebtedness would be reduced
4 to a corresponding amount.

5 Q. I think what you're saying then is that the amount may have
6 been quite trivial, the amount that he actually saved.

7 A. I didn't say "trivial," but I don't know how much it would
8 exceed the settlement that he finally made. I don't recall now
9 what...

10 Q. Why wouldn't you inquire and find out?

11 A. I think at that time we had the amounts that were owed but I
12 don't recall what they were. And also the fact that he
13 couldn't pay his debts according to his income at that time.

14 Q. Well, that explains to me why the benefit was of particular
15 importance to him, he couldn't pay the debts. But I don't
16 understand how you can say in the face of the fact that
17 you're talking about, how "he hardly received a benefit at all."
18 And I'd appreciate any assistance you can give me on that. I
19 mean, what did you mean by that, "he hardly received a
20 benefit at all"? At the very least he got 75 cents on the
21 dollar. We know from Paragraph (c), that he owes about
22 forty-odd thousand as 25% of the total. So the sum total, the
23 75% must have been quite substantial. How can you say he
24 hardly received a benefit at all?
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 A. Because if he hadn't paid his debts, the settlement that he
2 finally reached was a proposal which he made and had his
3 relative underwrite on his behalf. The alternative to that
4 would have been if he had gone into bankruptcy, what
5 amount would he have been obligated to pay. Now would it
6 be greater or lower than what he actually paid or had to pay?

7 Q. And you think this is first class police work? To sit
8 speculating as to whether it would be lower or higher, making
9 no impression... no request for further information and then
10 concluding he hardly received a benefit at all? Is that first
11 class police work, in your view?

12 A. All I can tell you is that these are the considerations that I
13 made at the time when reaching a decision.

14 Q. Is this the usual standard of the force, in your experience?

COMMISSIONER EVANS

15
16 Is he able to answer what's the usual standard in the force,
17 Mr. Ruby?

MR. RUBY

18
19 The man was head of Criminal Operations of the entire force;
20 he surely would have some knowledge of what the standard is.
21 May I ask that question, My Lord? I don't want to...

COMMISSIONER EVANS

22
23 It's a decision he made.
24
25

MR. QUINTAL, EXAM. BY MR. RUBYMR. RUBY

1
2 Q. That I know. I'm wondering whether this is usual or unusual.
3 Can you assist me?

4 A. Well, all I... All I can tell you is...

MR. PRINGLE

6 My Lord, before the witness answers, I think it is not a
7 proper question, I suggest, to ask him about the standards of the
8 force. This was his decision at the end of a period of time when
9 certain people put information before him. He made it rightly or
10 wrongly and the matters that may have influenced him are
11 certainly very relevant to this Inquiry. But as to how that might
12 compare to another Deputy Commissioner and another assistant in
13 a case in Saskatchewan or whatever is certainly not going to help
14 any of us here.

MR. RUBY

15 Is that the view of the...

MR. CHAIRMAN

17 Yes, that's the view. That's a valid objection.

MR. RUBY

19
20 Q. Let's turn to (b): "If he did, he received it from his brother-
21 in-law, not the banks. " Would you not say rather that he
22 received it both from his brother-in-law and the banks? Isn't
23 that fair and more accurate?

24 A. Well, if his brother-in-law had not accepted to underwrite
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 that, then there would never have been a proposal.

2 Q That's right. And, conversely, if the banks hadn't agreed to
3 accept it, he would never have gotten the benefit either.

4 A. Yes.

5 Q Isn't it fairer to say that the benefit came from both of them?
6 More accurately?

7 A. Well, you could argue that, I suppose.

8 Q You did not consider it could come from both of them.

9 A. In the light of their position at the time, I'm not so sure. They
10 weren't sure at all that they could collect any more than what
11 they collected, and some of them might even have expected to
12 collect less.

13 Q I take it your answer is "no", you did not consider a benefit
14 would come from both of them.

15 A. Oh, I think it could be argued that that was so.

16 Q But that argument didn't cross your mind.

17 COMMISSIONER EVANS

18 Q Did that argument occur to you?

19 A. I can't recall, frankly, but I knew that the banks...

20 Q Well, the question is, did that argument occur to you? Yes, or
21 it didn't?

22 A. Years later, you know, I wished that all these questions had
23 been asked the week after I made this.

24 Q Then is your answer that you can't recall?
25

MR. QUINTAL, EXAM. BY MR. RUBY

1 A. Not specifically, sir.

2 MR. RUBY

3 Q. Let me take you to the time period just before your finished
4 this letter. You said you spoke to Mr. Venner because he
5 drafted the document for you.

6 A. Yes.

7 Q. Did you discuss it with anyone else? You get the request from
8 Feagan for direction. Did you talk to the Commissioner? Did
9 you talk to somebody in Justice? Did you talk to anyone
10 about this matter?

11 A. I did not discuss that with Justice. I did not discuss it with
12 the Commissioner in terms of, prior to making a decision.
13 Whether I discussed it with other people other than Venner
14 among his staff, I don't recall. I can't say for sure. What
15 involvement his staff had in the preparation of the draft, I
16 don't even know either.

17 Q. When you talked with Venner about this subject matter,
18 during the process after Feagan asked you for direction and
19 the time you actually gave it, was there any discussion with
20 him of the consequences and the problems of confrontation?

21 A. The consequences of our decision?

22 Q. Yes.

23 A. Yeah, I think it's, what is in my letter were certainly aspects
24 that were discussed.

25

1 Q. Was the renewal of contract discussed at any time?

2 A. I'm sorry?

3 Q. Was the renewal of the contract for Nova Scotia discussed?

4 A. I don't recall that, no.

5 5:55 p.m.

6 Q. At page 94 you've been asked about the paragraph at the
7 bottom and you've stated all the serious consequences and in
8 a response to a question about that from Mr MacDonald you
9 said that there will be difficulties in the relationship between
10 the RCMP and the Attorney's General Department of Nova
11 Scotia. And that was the consequences you're referring to.
12 You recall that.

13 A. Yes.

14 Q. I'm not a police officer so I don't know, what did you have in
15 mind as, what would be the difficulties? What did you
16 envision would happen if you went ahead despite the
17 direction of the Attorney General? Can you give me example?
18 What was in your mind?

19 A. The Commanding Officer of the Division and his CIB Staff have
20 very frequent contacts with the Attorney General's
21 Department and what we were anticipating if, was a very
22 strained relationship would develop.

23 Q. What does that mean? You mean he would stop talking to
24 you. He wouldn't answer your phone calls. What did you
25 think would happen?

MR. QUINTAL, EXAM. BY MR. RUBY

1 A. Well I think that makes the day-to-day discussions very
2 difficult when people don't get along.

3 Q. Yeah. You might be a bit uncomfortable but what, was that
4 all you're talking about, just discomfort? Hugh Feagan would
5 no longer be relaxed, wouldn't be on a first-name basis?
6 What are we talking about here? What was in your mind as a
7 consequence?

8 A. Well just what I said in terms of their day-to-day contacts.
9 It's...

10 Q. Just discomfort.

11 A. It's, discomfort is not really the word I'm looking for. I think
12 it would be very difficult to do business on a day-to-day
13 rela...

14 Q. Why? What would happen to make it difficult to do
15 business? What would they do?

16 A. Well I would, I can only presume what they would do but I
17 had estimated that, you know, when you go and consult with
18 them and report with them you have a, sometimes you see
19 directions in terms of all the problems, the policing problems
20 you have within the province. It makes it very difficult to
21 operate under those circumstances when people really don't
22 get along.

23 Q. I take it you're unable to assist me any further than this.

COMMISSIONER EVANS

24
25 Mr. Ruby, to be fair to him, the continuation of that

1 paragraph he does not set out what really would be the problems?

2
3 They would be denied the traditional interim
4 step of consultation with a Crown counsel which
5 step is of great assistance in coming to a better
6 appreciation of the evidence, the available
7 defences, the interpretation of the law... et
8 cetera.

9 MR. RUBY

10 Definitely. It says how it happened. In the situation at
11 hand your investigators were denied...

12 COMMISSIONER EVANS

13 That's exactly what happened here.

14 MR. RUBY

15 But it had already happened. I quite agree.

16 COMMISSIONER EVANS

17 On the one case.

18 MR. RUBY

19 Before there was any hostility at all. I mean they did that
20 simply because they wanted to keep control. But is that a true
21 saying, that what would have happened is they would have
22 stopped or cut down on the consultation that you would expect
23 from Crown counsel? Is that one of the consequences or is that
24 what happened?

25 A. It could be but I think there's a lot more in terms of contacts
between a Division CO and the Attorney General and his
Department. It all has to do with the situation of law

1 enforcement in the province and discussions in terms of
2 personnel requirements in terms of law enforcement
3 programs and, you know, there's all kinds of things that are
4 discussed on a daily, I don't know if on a daily basis but
5 certainly on a frequent basis. And it becomes difficult to
6 operate when, in fact, two people are in a very strained
7 relationship. And it was certainly intimated by the people in
8 the Attorney General's Department that that would be the
9 case.

10 Q. Did you think they would stop meeting your requests for
11 personnel and so forth on their merits?

12 A. Oh, I didn't say that. No...

13 Q. What did you say? Would they stop discussing it with you? I
14 mean you raised the subject matter. What did you mean by
15 it?

16 A. Well it could take, it's hard to establish exactly what would
17 happen, but I would think that in terms of your programs,
18 getting answers, getting direction...

19 Q. All right. You thought and you considered the adverse
20 consequences to the RCMP of going against this direction,
21 correct?

22 A. Yes.

23 Q. Did you also consider the adverse consequences to the public
24 if allegations of crime, in the case of a political person, a
25 minister of the Crown, went untried and was never proceeded

1 with. Did you consider that as well?

2 A. The issue at the time was a pretty public one. The public
3 interest is really, in turn, I think the responsibility of the
4 Attorney General's Department, or the Attorney General
5 himself who is responsible to the people of the province in
6 terms of his actions.

7 Q. Doesn't the RCMP have an independent obligation to the
8 public? Doesn't a peace officer have that duty as well?

9 A. We have the duty to enforce the law.

10 Q. It wasn't done in this case, was it. You didn't consider that
11 duty. The duty to publicly lay the information and see that
12 the matter was dealt with even in a case of importance.

13 A. Well I don't agree with you. I have based my decision on the
14 estimation that I didn't think we had a strong case to go
15 ahead with in the first place.

16 Q. When you say strong case, you mean a strong enough case to
17 overcome the objections of the Attorney General to fly in the
18 face of that direction. Right?

19 A. A strong enough case that would lead to a conviction. If I had
20 been convinced of that I would, I would have gone ahead
21 regardless of the circumstances or the consequences. I mean
22 what personally did I have to gain or to lose?

23 Q. Well isn't this a decision you made for the good of the Force
24 and to hell with everybody else? Just let's not embarrass the
25 Force.

MR. QUINTAL, EXAM. BY MR. RUBY

1 A. Oh, I think that, you know, that if I had been personally
2 convinced of that I would have gone ahead of publicly...

MR. RUBY

4 Thank you, sir.

CHAIRMAN

6 Mr. Saunders.

EXAMINATION BY MR. SAUNDERS

8 Q. Mr. Quintal the questions I will pose to you will be on behalf
9 of the Attorney General and his Department, sir. I'd like to
10 begin by referring you to Exhibit 167 which are the notes that
11 you introduced earlier today. I draw your attention first, sir,
12 to the paragraph towards the bottom of the page under the
13 heading "November 5th, 1980" and the paragraph that starts,
14 "They are likely to be questioned about their visit here..."

CHAIRMAN

16 Where's that, I'm sorry?

COMMISSIONER EVANS

18 What page is that?

MR. SAUNDERS

20 Exhibit 167, My Lords. This gentleman's notes, page 1. I'll
21 just wait until you have that, My Lord.

CHAIRMAN

23 I have it.

MR. SAUNDERS

25 Q. And the reference I have given to you, sir, is the sentence

1 that reads, "They are likely to be questioned about their visit
2 here..."

3 A. Yes.

4 Q. And also on the second page, sir, the entry "December 4th,
5 1980" and your remark number 3 "Thornhill file" and the
6 second sentence, "He made known our views..." Do I take from
7 those particular notes, Mr. Quintal, that you expected Mr.
8 Feagan would have notified the Deputy Attorney General of
9 the meeting held in Ottawa on November the 5th.

10 A. I didn't expect the meeting to remain a secret. It wasn't a
11 secret. It was a consultation from our Field Commanders with
12 Headquarters...

13 Q. Yes.

14 A. And I'm not sure who raised that aspect but I think it was the
15 Division, they felt that they would likely be questioned about
16 their coming to Ottawa.

17 Q. I understand that. And my question to you is was it your
18 understanding that Superintendent Feagan would have
19 alerted the people in the Attorney General's Department to
20 the fact that there had been this meeting of senior officers in
21 Ottawa?

22 A. Would he go back to the Attorney General and tell him that
23 he had, I don't know, but there'd be no problem if he did.

24 Q. Thank you. Would it surprise you to learn that Mr. Feagan
25 never advised the Attorney General or his Deputy that there

1 had been a meeting of senior officers in Ottawa on the 5th?

2 A. Am I surprised that he did?

3 Q. Yes. That he did not.

4 A. I don't know what the relationships were but, am I
5 surprised? No, I think that there was something on the
6 news shortly after that, I don't recall now just how long
7 after, but in fact that they had come up to Ottawa to
8 consult.

9 6:10 p.m.

10 Q. Well, quite apart from whatever may have been on the
11 news, I take it that you had no problem with Mr. Feagan
12 informing the Attorney General or his deputy that senior
13 officers of the RCMP had met?

14 A. No.

15 Q. I want to turn your attention, sir, to the notes that Mr.
16 Feagan made of that meeting in Ottawa that begin at page
17 63 of the book, and specifically Mr. Feagan's note to his file,
18 the last line of the page, page 63, this is Feagan writing
19 where he said, "I told him, Mr. Coles, that after discussing
20 the whole matter with my CIB officer," who would that be?
21 Would that be Superintendent Christen?

22 A. Yes.

23 Q. Yes. "And other members closely involved with the
24 investigation." There's no reference in that sentence to
25 there being a meeting in Ottawa or that Mr. Feagan alerted

1 Mr. Coles to that. And then Feagan goes on to say, "I was not
2 completely satisfied that there were no grounds for a charge
3 under Section 110(1)(c) of the Criminal Code." He said, "That
4 I related further that I was having Sergeant Plomp, a legally
5 trained member, research the matter. I was having him
6 prepare some argument which I hoped we could discuss
7 with him, Mr. Coles, at a later date." Do you see that, sir?

8 A. Yes.

9 Q. And I believe I heard you say earlier that the analysis
10 conducted by Sergeant Plomp, that is the legal research and
11 analysis that he prepared was never conveyed by the force
12 to the Attorney General's Department because you thought it
13 would be pointless, is that correct?

14 A. Yes.

15 Q. And indeed, sir, if we were to look at the memorandum of
16 Superintendent Christen at page 78 of the book and the
17 memo starts at page 77. It's dated November 18th, 1980, so
18 this is obviously subsequent to that meeting of superior
19 officers in Ottawa, and Superintendent Christen concludes
20 the memorandum by indicating in his view,

21 I do not feel there is any purpose or advantage
22 to be gained in making a further representation
23 to the Attorney General or his deputy and I
24 suggest when we next discuss this case with
25 them it should be to tell them that we are
proceeding with charges or that we have

MR. QUINTAL, EXAM. BY MR. SAUNDERS

accepted their decision.

1

2

So it's obvious, I suggest to you, sir, from this memorandum of the CIB officer, "H" division, that he saw no point in advancing that further analysis to the department, correct?

3

4

5

A. Well, that was written subsequent to the meeting of...

6

Q. Oh, yes, indeed.

7

A. ...the 12th of November.

8

Q. Yes, that's right. But he saw no point in further representations going forward, correct?

9

10

A. That's right.

11

COMMISSIONER EVANS

12

Mr. Saunders, going back to page 64 again, did you say...I understood you to indicate that Feagan had not said anything to Mr. Coles about...or anybody in the AG's office about the meeting in Ottawa. Didn't he indicate when he said he was having Sergeant Plomp, a legally trained member, research the matter, including case law,

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I was having him prepare some argument which I hoped we could discuss with him, Mr. Coles, at a later date. Mr. Coles outlined his perception of the necessity for the element of intent in this case. I told him I was not prepared to argue the merits of the case at this time, but it was our view that it was different. I repeated,

further on,

MR. QUINTAL, EXAM. BY MR. SAUNDERS

1 I repeated, however, that we would be preparing
2 a written argument outlining our views on the
3 matter and asked if he would be prepared to
4 discuss our arguments with us. Mr. Coles
5 continued to support his views of the case at
6 some length,

7 and then he...

MR. SAUNDERS

8 Yes, My Lord.

COMMISSIONER EVANS

9 Does that not indicate that there was some con...some
10 indication to the AG's office that they wanted to discuss the
11 matter further and that there had been discussion with somebody,
12 I just assumed that Plomp was in Ottawa, maybe...

MR. SAUNDERS

13 No, My Lord.

MR. CHAIRMAN

14 Plomp was here.

MR. SAUNDERS

15 Sergeant Plomp was in Halifax, based at "H" division.

COMMISSIONER EVANS

16 I see.

MR. SAUNDERS

17 And that was my point.

COMMISSIONER EVANS

18 Thank you.

MR. SAUNDERS

1
2 Q. And indeed, just to follow up that point of his Lordship, Mr.
3 Quintal, Mr Coles did indicate to Feagan that he would
4 entertain and receive the analysis that was mentioned by
5 Feagan, I draw your attention to page 67, the middle of the
6 page, the sentence, "Mr. Coles replied that he would do so,
7 but he still felt I should not be questioning his judgement
8 and he had no intention of changing his mind." And the fact
9 is, sir, that the analysis prepared by Sergeant Plomp was
10 never referred to the department, correct?

11 A. No, sir.

12 Q. Yes. Now, just to stay with the meeting in Ottawa for a
13 moment, you can't identify the member who prepared the
14 minutes of that meeting which are at page 55 of the book.
15 So I take it that these minutes, whoever prepared them,
16 were circulated among senior officers who were in
17 attendance at the meeting?

18 A. Now... they were circulated within the branch and they went
19 to Assistant Commissioner Venner.

20 Q. Yes.

21 A. Because he made some corrections I understand.

22 Q. And Venner reported directly to you.

23 A. Yes.

24 Q. And there was discussion, was there not, Mr. Quintal, at that
25 meeting among the senior brass as to the authority of the

1 Attorney General to determine whether or not a prosecution
2 would go forward?

3 A. The, oh, the decision was already made at that time that it
4 would not go forward.

5 Q. Yes. But I'm speaking of the principle, that is to say that the
6 Crown office has the ultimate authority to decide, once a
7 charge being laid, whether prosecution will continue.

8 A. Oh, yes.

9 Q. And that was discussed at your meeting, sir.

10 A. I think we discussed the right or the prerogative of a police
11 officer to lay a charge and the Attorney General to stay
12 proceedings.

13 Q. Exactly right, and I draw your attention to the bottom of
14 page 56 of the book, the last paragraph, "A discussion
15 developed which fortified our prerogative to lay an
16 information recognizing that it was within the ambit of the
17 provincial AG as to what type of prosecution would be
18 presented, if any." And do you recall that discussion at that
19 meeting, sir?

20 A. I don't recall it specifically, no.

21 Q. Do you take any exception to that comment in the minutes,
22 that is to say that it's the prerogative of a police officer to
23 decide whether she or he will lay a charge, but it's the
24 prerogative of the Attorney General to decide whether the
25 prosecution would be presented, if at all.

1 A. Yes.

2 Q. Do you accept that, sir?

3 A. Yes.

4 Q. When you prepared your decision, Mr. Quintal, and it's at
5 page 95, sorry, 93 of the book, and it bears the date on the
6 force stationery of December the 17th, 1980, you had
7 considered the file materials available to you, the
8 representations made to you at the meeting held in Ottawa
9 on November the 5th and subsequent discussions that you
10 had had with your Deputy Commissioner Venner, is that
11 correct?

12 A. Yes.

13 Q. And do I have it correctly stated that when you wrote at
14 page 96 of your decision, quote, and I'm at the middle of the
15 page now, "It is our opinion...it is our further opinion that no
16 false pretence investigation should be pursued against Mr.
17 Thornhill as a result of the information and documentation
18 you have accumulated to date on this file," that that was
19 your decision, sir?

20 A. Yes.

21 Q. And four lines from the bottom of that same paragraph
22 where you wrote, "The above also applies to the question of
23 conspiracy," was that your decision, Mr. Quintal?

24 A. I'm sorry, where are you reading from?

25 Q. Yes, the same paragraph.

- 1 A. Yeah.
- 2 Q. Four lines from the bottom of that paragraph.
- 3 A. Yes.
- 4 Q. Where you write, "The above also applies to the question of
5 conspiracy."
- 6 A. Yes.
- 7 Q. That was your decision, was it, sir?
- 8 A. Yes
- 9 Q. You spoke earlier today of there being a difference between
10 a police officer believing that he had reasonable and
11 probable grounds to believe that an offence had been
12 committed, that there was a difference between that and the
13 ultimate decision of a police officer to proceed and lay a
14 charge. That it was more than having a *prima facie* case
15 before a police officer decided whether or not to lay an
16 information, is that correct?
- 17 A. I don't...I'm not sure I said that in...there are the exercise of
18 discretion by the police in terms of whether they would
19 charge a person or not.
- 20 Q. Yes.
- 21 A. And in this particular case that's what I did. I reviewed
22 that and didn't think that we should proceed under all the
23 circumstances relating to this particular case.
- 24 Q. Yes, sir. And at that time that you made that decision you
25 were the second-highest ranking police officer in the

1 country of the RCM Police.

2 A. Yes.

3 Q. It was your decision to make.

4 A. Yes, sir.

5 Q. When one looks at the responsibility of a police officer to
6 consider to lay a charge if he thinks that he has a *prima*
7 *facie* case and contrast that with the oath that you took to
8 investigate and enforce the law without motive based on
9 fear or favour, I take it that that is the thrust or the gist of
10 the police officer's discretion that you were talking about,
11 that is, that a police officer has to exercise something more
12 than just determining if there's a *prima facie* case before
13 deciding to put an accused to trial.

14 A. Yes, I would agree.

15 Q. And when Mr. MacDonald, my friend, asked you whether
16 the right of a police officer to lay a charge if he thought he
17 had a *prima facie* case was an obligation upon a police
18 officer to do that, you said, "No," that it depended upon the
19 judgment and experience and conscience of a police officer,
20 correct?

21 A. It's not an obligation to go ahead.

22 Q. Yes. And so when you reflected for the time that you did
23 and made the decision that you did on December the 17th,
24 1980, did you apply that thirty-two years of experience and
25 judgement and conscience before arriving at your

1 conclusion?

2 A. Obviously.

3 Q. Was there any contact or communication between the
4 Attorney General's Department and you between November
5 the 5th, 1980, and your decision taken on December 17th?

6 A. I don't know the Attorney General, I don't know the ...his
7 deputy, I don't know anybody, I never talked to any of
8 those either people either.

9 Q. Yes, sir. Did you try to be fair and apply independent
10 assessment to your review of the facts in making your
11 decision based not on fear or favour?

12 A. Yes, I was well aware of the sensitivity of the...of this
13 particular case. I was well aware of the feelings within
14 certain members of the force. I was well aware of the views
15 of the Attorney General's Department.

16 Q. Did you exercise any preferential treatment in coming to the
17 decision that you did, sir?

18 A. No.

19 Q. Do you accept responsibility for your decision?

20 A. Yes.

21 Q. And would you do it the same again today?

22 A. Yes.

23 MR. SAUNDERS

24 Those are my questions.

25

6:25 p.m.

1 MR. GAY

2 I have no questions, My Lord.

3 MR. PRINGLE

4 I don't think we have any questions, but just for the record,
5 Your Lordships might be interested in the dates of the police
6 contract, when they were signed.

7 MR. CHAIRMAN

8 Yes, I would be.

9 MR. PRINGLE

10 I refer Your Lordships to that. It's in Volume 40, which is
11 Exhibit 140 at page 29. The contract was entered into on the 3rd
12 day of November, 1981. The previous one had expired, and this is
13 found at page 26 in Exhibit 140, on the 31st day of March, 1981.

14 MR. CHAIRMAN

15 Mr. Merrick?

16 MR. MERRICK

17 My Lords, it's late and I will not be long.

18 **EXAMINATION BY MR. MERRICK**

19 Q. Mr. Quintal, you were examined at some length by Mr.
20 MacDonald as to your appreciation of the distinction, the
21 element of intent required for the offence under Section
22 110(1)(b) and the offence under Section 110(1)(c). And you'll
23 recall that line of questioning.

24 A. Yes.

25

1 Q. You understood, I take it, that under Section 110(b), to charge
2 the banks, there would have had to have been some element
3 of intent that any benefit or favour being done was being
4 done in relation to relations with the government or some
5 aspect of those relations. Is that right?

6 A. Yes.

7 Q. And you reviewed very carefully, I take it, the factual
8 evidence that you had as to the proposition that was put to
9 the banks by Mr. Thornhill in September of 1979, is that
10 right?

11 A. Yes.

12 Q. And reviewing the facts carefully and having your
13 investigator's report before you, I take it you were satisfied
14 that there was no reasonable and probable grounds that the
15 banks at least had any element of that intent. Is that right?

16 A. No.

17 Q. That the element of intent wasn't there.

18 A. Yes.

19 Q. That from the banks, at least, there was no favour or benefit
20 being conferred whatsoever in relation to any dealings with
21 the government.

22 A. No.

23 Q. Is that so?

24 A. No.
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Q. Indeed, I think that you have told us that somebody, and it may have been you, characterized that proposition that Mr. Thornhill made to the banks through his accountant as being "a normal business proposition".

A. Yes.

Q. Do you recall that phrase? I picked it up from your answers to Mr. MacDonald.

A. Well, what I recall it, you know, from memory that, no, I can't say that I remember somebody telling me in those terms...

Q. Let me put it to you this way. In your position, were you satisfied that the proposal that Mr. Thornhill had made to the banks through his chartered accountant could be characterized as a "normal business proposition"?

COMMISSIONER EVANS

You mean in the circumstances then existing?

MR. MERRICK

Q. Yes.

A. Yeah, uh-huh.

Q. And your answer?

A. Yes.

Q. Yes, thank you. Now I presume, as well, in looking at the two charges and under Section 110(1)(b) and 110(1)(c) in deciding whether to proceed, you would want to know whether there was reasonable and probable grounds, whether

1 anybody had put any pressure on the banks. On your review
2 of the file, did you see any evidence that anybody had
3 pressured the banks to make the settlement which they, in
4 fact, did?

5 A. No.

6 Q. In fact, there's no evidence that Mr. Thornhill, or anybody
7 else, did anything other than make a proposal.

8 A. Through his accountant, yes.

9 Q. Yes, thank you. Now we've heard a lot of talk about a "false
10 pretences charge" and that's now again being reported in the
11 paper as a possibility. I take it, Mr. Quintal, that at the time
12 you made the decision not to proceed on any of the three
13 charges, that your reason...

14 COMMISSIONER POITRAS

15 I think you're having problems there with a whole series of
16 leading questions.

17 MR. MERRICK

18 It may be, I think I...

19 COMMISSIONER POITRAS

20 Cross-examining his own witness.

21 MR. MERRICK

22 It will also shorten things up at this hour of the day if the
23 Commissioners, please.

24 Q. Mr. Quintal, at page 96 of the document book, your letter, and
25

1 you've been directed to this portion of it before, the second
2 paragraph, you say:

3
4 It is our further opinion that no false pretence
5 investigation should be pursued against Mr.
6 Thornhill as a result of the information and
7 documentation you have accumulated to date on
8 this file.

9 Do you see that?

10 A. Yes.

11 Q. I take it, sir, that from your review of the file at that stage,
12 there was no reasonable or probable grounds for laying such
13 a charge, is that correct?

14 A. At the time, I was probably satisfied that there was not.

15 Q. Thank you. The charge that is being discussed as to Mr.
16 Thornhill, can I suggest this to you and you tell me whether
17 it's a correct characterization of the evidence you've given? I
18 have, as I read the documents, the impression that from
19 November the 5th on, 1980. This is the date when the
20 meeting is held in Ottawa with the senior R.C.M.P. officials.
21 That from that date on, the major issue that was of concern to
22 the R.C.M.P. was whether the Attorney General's Department
23 had pre-empted any further action by the R.C.M.P. by the
24 press release that had been given. Is that a major concern to
25 the R.C.M.P. from that point on?

A. It was a major concern in that, in fact, the usual relationship

1 It has never been the rule that suspected
2 offences must automatically be the subject of
3 prosecution and that the public interest is the
4 dominant consideration.

4 I take it you adhere to that proposition, do you?

5 A. Yes.

6 Q. I take it what you mean by that, sir, in your letter that even
7 though a police officer may feel there is reasonable and
8 probable grounds, there is still a discretion that that police
9 officer can exercise as to whether to lay charges in particular
10 circumstances, is that correct?

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

12 Q. I take it what you mean by that is that even if a police officer
13 thinks that there may be reasonable and probable grounds to
14 lay a charge, that doesn't automatically determine that a
15 charge must be laid, that there is still a discretion.

16 A. Yes.

17 Q. And, indeed, Mr. Feagan yesterday refers to an analogy that I
18 found interesting from his Northwest Territories experience,
19 where he said, for example, that it was against the law for a
20 person under 16 to drive a snowmobile. Nevertheless if a
21 youngster was found driving a snowmobile taking food to his
22 parents on the trap line, the police officer might take that into
23 account in deciding whether to charge. And that's the type of
24 thing we're talking about, isn't it?

25 A. Yes.

1 Q. Even though reasonable and probable grounds exist there can
2 be other considerations. Sir, you've set out in your letter
3 other factors, and I'm referring now to page 95 and 96, other
4 factors that you say you took into account and you've been
5 examined at some length by Mr. Ruby on that and I won't
6 repeat all of the evidence, or the questions he put to you. But
7 I see on page 96 you make a statement five lines down, six
8 lines down in that main paragraph:
9

10 It is likely that they would be impressed by such
11 probable defence witnesses as the Premier if, in
12 fact, he is the head of the branch of government
13 who could be expected to testify that he would
14 have willingly authorized Mr. Thornhill's activity
15 had he been asked to.

14 Do you see that statement?

15 A. Yes.

16 Q. I take, sir, that at that point you were referring to the fact
17 that under Section 110(1)(c), that if a piece of paper had been
18 obtained by the Premier, all of this debate would have been
19 academic because no charge, the elements for the charge
20 wouldn't have been there, is that right?

21 A. Yes.

22 Q. I take it, sir, you were also aware that according to the
23 internal documentation that was on the file, and I'm referring
24 now to page 7 in the document book, a memo to file, which I
25

1 take to be from Mr. Feagan, and you'll see about five and half
2 lines up from the bottom, a statement:

3
4 During our discussions on the matter, it was
5 mentioned that the Premier had stated outside
6 the Legislature that Mr. Thornhill had accepted
7 financial benefits while holding office as a
8 Minister.

9 So that the Premier knew. Were you aware of that
10 statement?

11 A. Yes, I would be.

12 Q. So that here the head of government knew. It's just that
13 somebody didn't get a piece of paper. Is that what you were
14 considering when you took, when you wrote your letter?

15 A. That's what we refer there in saying that the Premier could
16 have been called to repeat that statement as a defence
17 witness.

18 Q. That's right. So that the only thing that has taken Mr.
19 Thornhill through the public media for the past eight years is
20 that he didn't have a piece of paper.

21 MR. RUBY

22 My friend is getting into the guilt or innocence of Mr.
23 Thornhill and we can explore that at length but I don't think he
24 wants.

25 MR. CHAIRMAN

Right.

1 MR. MERRICK

2 I'll move on to my last point.

3 REPORTER

4 Excuse me, I'm sorry, I didn't get Mr. Ruby's comment.

5 MR. RUBY

6 He's getting into the guilt or innocence of Mr. Thornhill and
7 we can explore that at length, but I don't think he wants to.

8 MR. MERRICK

9 Well, My Lords, I will debate Mr. Thornhill's innocence and
10 with Mr. Ruby...

11 MR. CHAIRMAN

12 Anyway, you're not going to debate here, not in this forum.

13 MR. MERRICK

14 My last point.

15 MR. CHAIRMAN

16 That's what they said about World War I, there was a book
17 written, it said, "All for a scrap of paper."

18 MR. MERRICK

19 Q. My last point, Mr. Quintal. The whole purpose of this Inquiry
20 is to determine if the normal procedures in the R.C.M.P. were
21 not followed and if for some improper reason. Let me ask
22 you the question point blank. Did anybody put political
23 pressure on you to arrive at the decision that you arrived at?

24 A. No.

25

1 Q Mr. Thornhill certainly never communicated with you, did he?

2 A I don't know him.

3 Q And you have no evidence to indicate that Mr. Thornhill was
4 engaged in any of these discussions with the A.G. or the
5 Crown prosecutors or the R.C.M.P.

6 A No.

7 Q And I'll put my question to you that I put to Mr. Feagan
8 yesterday. Based on all the evidence you have, he had to sit
9 home and read about it in the paper just like I did.

10 A Yes.

11 Q All right. I'll come down to my last question. You've told us
12 that notwithstanding the Attorney General's position in
13 relation to this matter, you made your decision not to proceed
14 because "you didn't think there was a strong enough case to
15 lead to a conviction." And that's really what it was, wasn't it,
16 Mr. Quintal?

17 A Yes.

18 Q You didn't believe the evidence was there.

19 A That's right. That I think is the tenure of my memo of the
20 17th.

21 Q And that's consistent with your 32 years of experience as a
22 police officer and that's consistent with your oath of office.

23 A Yes, sir.

24 MR. MERRICK

25

1 Thank you.

2 MR. CHAIRMAN

3 Mr. MacDonald?

4 MR. MACDONALD

5 Only one question, My Lord. I may have been omitted.

6 EXAMINATION BY MR. MACDONALD

7 Q. Mr. Quintal, did you advise the Commissioner of the results of
8 the meeting of November 5th and did you give him a copy of
9 the minutes of that meeting?

10 A. I advised the Commissioner. At what particular time, I don't
11 know really. The minutes themselves, I don't recall seeing at
12 the time. Remember, I was away from the 8th of November
13 until about the 4th of December and the minutes, the final
14 draft is dated the 24th of November. I'm sure we discussed
15 that particular case and I certainly briefed him on the
16 meeting and I certainly briefed him on my decision.

17 Q. And, specifically, you would have briefed him on the
18 conclusions reached at the meeting on November 5th.

19 A. Yes, but just when, I don't recall when.

20 MR. MACDONALD

21 Thank you.

22
23 MR. CHAIRMAN

24 Q. Just one question, and I think I touched on it earlier, Mr.
25

1 Quintal. In your letter to Headquarters when you set forth
2 the final instructions to Chief Superintendent Feagan as to
3 how this matter was to be disposed of, you reviewed with, in
4 response to questions put by Mr. MacDonald and Mr. Ruby
5 and others, your concern about the consequences of vis-à-vis
6 the Attorney General's Department. And I won't take you
7 over these again. But you do seem to, at least you refer to the
8 fact and you're reading it as a whole, you're concerned about
9 the possibility of laying a charge and it being dismissed.

10 A. That's right, sir.

11 Q. And I think you indicated to me earlier today that that really
12 shouldn't be a consideration for a police officer when deciding
13 whether a charge should or should not be made, laid. Did I
14 get that impression from you?

15 A. Ahh...

16 Q. If you conclude that there's sufficient evidence to lay a
17 charge.

18 A. Yes, sir, if you're convinced that you have the evidence to go
19 ahead and obtain a conviction, I think you should.

20 Q. Now you have told us, and we've also had evidence from
21 Feagan, that the press release of the Attorney General of
22 October the 29th, 1980 and the press release wherein he said
23 he relied on the opinion of his Deputy Attorney General, and
24 the subsequent press release of the Deputy Attorney General,
25

1 which concluded that the evidence did not satisfy him. That
2 there had been a commission of any offence. That that sort
3 of, to use the words of counsel "pre-empted" you. Now did
4 you in these consequences that you were concerned about,
5 did you have any concern as to what the position of the
6 R.C.M.P. might be in the eyes of the public if after the
7 statements had been made saying that no offence had been
8 committed, and the charge was laid and then the accused was
9 subsequently convicted. Did that concern you at all?

10 A. At that time, sir?

11 Q. Yes.

12 A. No, sir, I...

13 Q. So your decisions were not influenced or hampered or
14 constrained in any way by these earlier press releases.

15 A. No, because what they, what the press... The press release,
16 they had sort of pre-empt any further, an opportunity to
17 comment and rebut the arguments...

18 MR. CHAIRMAN

19 I see. Okay, that's all. Thank you very much, Mr. Quintal. I
20 would like, we would like to, as I said earlier, keep on schedule. I
21 realize that some are not as young as we are, active, and might
22 find it a bit difficult, but I have to remind counsel and others that
23 the fall term of the courts are upon us and we have other duties
24 to perform and it's essential for that reason and many others, but
25