

Marshall Sr. recounts ordeal

Family suffered after conviction, father testifies

By CATHY NICOLL
The Daily News

After Donald Marshall Jr. was wrongly convicted of murder in 1971, his family was subjected to threatening phone calls and his father's drywall business nearly foundered.

But the family never lost hope that some day their eldest son would be exonerated and return home from prison, Donald Marshall Sr. testified yesterday at a hearing in Halifax re-examining compensation for his son.

Marshall Sr., 64, told the inquiry — presided over by Mr. Justice Gregory Evans, a retired Ontario chief justice — that he and his family suffered after Marshall Jr.'s conviction and during his 11 years in prison.

Big legal fees

Donald Marshall Jr., 36, was found guilty in 1971 of stabbing Sandy Seale, 17, to death in Sydney's Wentworth Park. He was released from prison in 1982 and acquitted the following year.

In 1984, the provincial government paid him \$270,000 compensation. Of that, nearly \$100,000 was spent on legal fees.

The Marshall report, released Jan. 26, criticized the manner in which the province negotiated compensation with Marshall Jr.

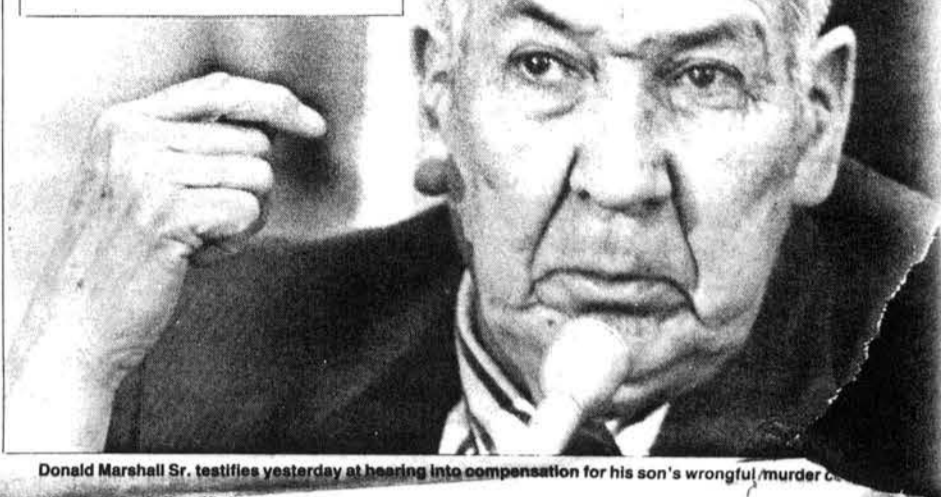
The report, written after a two-year inquiry into the case, recommended that compensation be increased and the provincial government appointed Mr. Justice Evans, one of the three judges who sat on the Marshall commission, to examine the matter.

Marshall Sr., who is grand chief of the Micmac nation, said yesterday he was in the courthouse hallway when the jury returned the guilty verdict in 1971 and his son was sentenced to life imprisonment.

"My nephew told me that they're calling him guilty and they've sent him to

“In my mind, people were saying: ‘There he is, his son killed someone.’”

— Donald Marshall Sr.



Donald Marshall Sr. testifies yesterday at hearing into compensation for his son's wrongful murder conviction.

prison for life," Marshall testified. "I didn't know what to do. I was alone, my wife was at home. I had to go tell her. She just burst out crying."

Marshall said his 10 other children were all quite young. He and his wife Caroline explained that Donald was in jail for killing someone, but that it was all a mistake and some day he would come home.

Marshall Sr. was elected grand chief in 1965, a position of honor and respect, but he said that after his son's conviction it was difficult for him to face the public.

"In my mind, people were saying: 'There he is, his son killed someone.'"

Marshall said he felt his son's conviction

affected how the community regarded him — it was a disgrace to the family — and now it may affect his son's chances of succeeding him as grand chief.

First testimony

"When I die, they'll bring this up. They'll talk about him. He would have had a better chance of being chosen if this hadn't happened," Marshall said.

This is the first time Marshall has testified about his family's experiences in the 19 years between his son's conviction and the release of the Marshall report on Jan. 26. He declined an opportunity to tes-

tify at the inquiry.

Yesterday he said that although Attorney General Tom McInnis's apology last month to him and his family was nice, the people really responsible for his son's 11 years in prison haven't apologized.

"I was thinking last night that the political people shouldn't apologize to us. No, they don't owe us an apology," Marshall said.

"The people who are guilty should apologize, but the Marshall family doesn't want to hear their apology. That's all I've got to say about that."

Government pays Marshall \$10,000 as inquiry opens

The provincial government approved an immediate \$10,000 compensation payment to Donald Marshall Jr. — just days before an inquiry began into how much more the government should pay him.

The inquiry, chaired by retired Ontario chief justice Gregory Evans, began three days of hearings yesterday.

Marshall's lawyer, Anne Derrick, said she asked Evans last week to request that the provincial government make an immediate payment of \$10,000. "It's been approved. I didn't get a cheque yet," Derrick said.

Marshall, 36, was paid \$270,000 compensation by the government in 1984 for 11 years wrongly spent in prison.

"The present inquiry is necessary because the Marshall inquiry found the process by

which compensation was originally determined to have been flawed, and the compensation itself intended only to take account of the actual period of time Marshall spent in prison, without regard to any of the factors which put him there or kept him there for 11 years," inquiry lawyer Wylie Spicer said yesterday.

During the Marshall inquiry, evidence showed that Marshall was convicted of killing Sandy Seale on perjured evidence.

The inquiry found that former Sydney city police chief John MacIntyre pressured teenage witnesses into saying they had seen Marshall stab Seale.

After Marshall was acquitted in 1983, Roy Newman Ebsary was charged with Seale's murder. He was found guilty of

manslaughter and served a year in jail.

After two days of public hearings at the St. Thomas Aquinas Catholic Church hall on Oxford Street, the hearing will be closed when Donald Marshall Jr. gives evidence about his time in prison.

"This testimony will be given in private," Spicer said. "There is no purpose to be served by publicly reviewing and exposing the pain which has been suffered by Donald Marshall Jr. Such a public review would only cause further pain."

Derrick said the compensation hearings take place in the context of the "powerful" findings of the Marshall report.

"The need to compensate leaps off every page," she said.

Federal, provincial AGs to probe report's findings

By CAMPBELL MORRISON
The Daily News

OTTAWA — The Marshall report will likely take centre stage at a June meeting of federal and provincial attorneys general, federal Justice Minister Kim Campbell indicated yesterday.

Campbell met earlier yesterday with Attorney General Tom McInnis for the first time to discuss the report, released Jan. 26.

"Attorney General McInnis made it clear, and I agree with him, that he wants some of these issues to be raised at our national meeting in June... and I think that there'll be a lot of discussion about recommendations that come out of the inquiry as they relate to the administration of justice," she said.

Liberal justice critic Bob Kaplan, a former solicitor general, was disappointed the federal government chose to further delay its formal response to the Marshall report.

"The federal minister of jus-

tice should show leadership in battling racism in Canada, but instead she is delaying so long that when she finally does respond it won't matter," Kaplan said.

"The government's definition of leadership is asking everyone else what to do."

Kaplan said the government could implement the recommendation calling for a review board for those who claim they have been incarcerated for crimes they did not commit.

Campbell said the federal government has implemented or is studying some of the report's recommendations within federal jurisdiction, including moves toward increasing the numbers of native police and setting up a native court system.

She said she would discuss with the provinces in June whether to amend the Criminal Code to require the full disclosure of evidence from Crown to the defence.

than a week to involve Trade Minister John Crosbie, a Nova Scotia official said Wednesday.

Federal officials abruptly cancelled a briefing of Nova Scotia Fisheries Department staff, scheduled for today, on the aid package after published reports that Ottawa planned \$300-million worth of help for Atlantic Canada, the provincial official said on condition of anonymity.

The official added that he believed the aid package totalled \$500 million, not \$300 million as reported.

Crosbie until after Easter.

Crosbie, the minister responsible for Newfoundland, won't be available until the week of April 15, the provincial official said he was told.

A report by Southam News said Fisheries Minister Bernard Valcourt planned to announce an aid package within days of his return from Brussels and Ireland today.

The package includes money for job retraining and relocation, up



■ John Crosbie

■ See Fishery/A2

Phill battle

after themselves."

A survey of students on their own indicates a wide range of circumstances. Some, unhappy and unable to adjust to a step-parent, are provided with apartments, cars and generous living allowances by their parents.

Others are abused, physically or mentally. Their parents often suffer emotional traumas, physical addiction to alcohol, drugs or simple poverty. So the students leave home and some end up on the city's welfare roll.

"We are certainly not going to

■ See Students/A2

Compensate Micmac community—Derrick

By Judy Myrden
STAFF REPORTER

Nova Scotia's close-knit Micmac community should be compensated for its pain and embarrassment when Donald Marshall Jr., a Micmac Indian, spent 11 years in prison for a murder he did not commit, says his lawyer, Anne Derrick.

Ms. Derrick said Wednesday the Marshall compensation in-

quiry must consider the damages incurred by the Micmac nation if it awards further compensation.

"I am interested and have been trying to develop through the evidence (presented on Monday and Tuesday) an understanding that a loss of this nature, which would have an impact on any community, as we might understand it as white people,

■ See Compensate/A2

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The Mail Star - 5 April, 1990



Donovan "Razor" Ruddock glowers over Michael Dokes after Dokes falls into the ropes last night. Ruddock knocked Dokes out in the fourth round. Story/A15.

Associated Press

Crash knocks out power

■ Continued from/A1

window. One car bumper could be seen about 100 feet up Almon Street, while the other bumper was lying in the street.

The driver of the blue car, a woman in her early 30s, was taken to Victoria General Hospital with undetermined injuries and was expected to be released this morning, a Halifax police spokesman said.

Charges are pending against the three men in the other vehicle. They are in hospital with minor injuries.

"They were going at a tremendous speed... well over double the rate, maybe triple," the police

spokesman said.

Jim Vail was watching television in his apartment on the corner of Almon and Windsor when the accident occurred.

"I heard a crash that made me jump," he said. "I saw the power (cable) go like lightning right on the street... then I heard another louder crash... It must have been the post."

The power outage affected from the Kempt Road sub-station to Connaught Avenue to Bayers Road to Windsor Street, the northwest section of the city, a Power Corporation spokesman said.

Most homes had power restored by 7:45 a.m.

Compensate Micmacs—Derrick

■ Continued from/A1

has a special impact on a native community," said the Halifax lawyer.

"Particularly the native community where the person involved is the son of the grand chief, which is a very special relationship. And I think those are factors that could be lost sight of, if a proper understanding of them isn't developed."

The inquiry re-examining compensation paid Marshall and headed by Judge Gregory Evans has gone behind closed doors until May 11, when final arguments will be made in Supreme Court.

Ms. Derrick has not placed a figure on how much compensation she is seeking for Mr.

Marshall, only indicating the initial settlement in 1984 of \$270,000 was hopelessly inadequate.

She would not say whether the Micmac community should receive some form of monetary payment. She did say she will expand on this theme in May.

Earlier in the week, inquiry lawyer Wylie Spicer said not only Mr. Marshall, but his family should receive compensation for their ordeal.

On Tuesday, Dr. Marie Battiste, cultural co-ordinator and curriculum developer with the Eskasoni school board, told the inquiry the Micmac community suffered a loss because of Mr. Marshall's wrongful imprisonment.

help in most cases, he said.

"It's not good enough for a child simply to want the freedom ... from a household because they don't like the rules."

However, social services does not have the mandate to try to reconcile separated children and parents.

"We don't see it as our position to interfere in the behavioural patterns within a family ... or establish standards for what is reasonable discipline or acceptable behaviour."

"We can refer them to a counselling agency, but there's nothing we can do to make them go."

MP raise recommen

By The Canadian Press

TORONTO

A senior House of Commons committee has recommended paying most members of Parliament up to \$7,000 a year in a new tax-free housing allowance.

A recommendation for an allowance of \$40 for each sitting day was passed a few days ago by the management and members' services committee, several MPs told the Toronto Globe and Mail.

That all-party committee sent the recommendation for approval to another all-party Commons committee, the nine-member board of internal economy, the governing body of the House of Commons.

The new allowance would be in

ance. Benefits are not earned. Money does not come from the root of the problem. Independent student whom drop out themselves without tuition and in trouble with the law.

"I think the terms of their lack of support, builds up a bitterness," Mr. "Almost inevitable hurt or reject the means contact drugs, and usual

in addition to the nonaccountable for all MPs to pocket expenses and meals. The eligible for the allowance would be come from Ottawa.

With 295 MPs the new allowance more than \$2 million only 285 members of \$5,000 a year board members cost about \$1.4 million.

MPs now receive a base salary of \$60,000 free \$20,600 expenses bring their total \$82,700.

East

■ Continued from

tional defence. In Halifax-D lines were set up Dockyard, Bedford Oceanography and Guard headquarters.

In 1988, Halifax dockyard worked parity with counterparts a contract negotiations government.

The wage dispute an issue in the campaign, but unable to win one-third per-hour wage discrepancy of about

Mr. Burke will likely be six weeks. It is retroactive 1987 and expires 1991.

WEATHER

Today: Cloudy, a few showers -1/6
Friday: Cloudy, sunny periods -1/6

Saturday: Mostly cloudy -2/7
Sunday: Mostly cloudy -2/5

and his players celebrate their victory in the NCAA basketball final game against Duke last night. Story/A9.

unloaded the Polish Ocean Lines ship, Kazimierz Pulaski. At press time, Halifax Harbour

side of one container, stevedore. The container deep inside one of the giant ship's holds.



Clark Photographic/Darren Pittman Donald Marshall, Sr., listens to a question Monday.

Elder Marshall reveals family's pain, suffering

By Judy Myrden
STAFF REPORTER

Donald Marshall Sr. revealed for the first time Monday the pain and devastation his family suffered during his son's wrongful imprisonment.

"I was hurt in me and I couldn't share my feelings inside," the 64-year-old Marshall testified at the inquiry into his son's compensation.

"It was very hard for me to face any public gatherings or my (Micmac) people because myself, personally, I have a feeling that people say that — there he is, his son killed somebody," said the

man who never wanted to expose his feelings about his son's case.

While always maintaining his son's innocence, Mr. Marshall told how his family suffered during the 11 years Donald Jr. spent in jail for a murder he didn't commit.

During his testimony, Mr. Marshall — the Grand Chief of the Micmac Nation — related tragic circumstances which plagued his family until his son was finally vindicated of any wrongdoing.

The family prayed someday the truth would be revealed, he

■ See Elder/A2

Family deserves payment, hearing told

By Judy Myrden
STAFF REPORTER

The family of Donald Marshall Jr. deserves payment for 18 years of suffering, along with their wrongly convicted son, an inquiry into compensation was told Monday.

Inquiry lawyer Wylie Spicer told Judge Gregory Evans, a retired chief justice of the Ontario Supreme Court heading the inquiry, that the sky's the limit on the amount of money to be paid.

Last Thursday the provincial government advanced \$10,000 to Donald Marshall Jr., 36, until the inquiry's report comes out in mid-June, Mr. Spicer said during the first of two days of public hearings.

The one-man inquiry has also been asked to consider the past seven years of Mr. Marshall's life when deciding how much money he should receive, in addition to the 11 years spent in jail for a murder he never committed.

"Having been found innocent in 1983, he was said to have contributed in large measure to his own conviction. This was an indignity which Donald

Marshall Jr. has carried until this year," Mr. Spicer said during open statements at St. Thomas Aquinas Church hall.

About 25 people attended, mostly media.

Judge Evans, who sat on the Royal Commission, was asked to review the adequacy of the \$270,000 already awarded to Mr. Marshall, after the release of the commission's report in January found the process of compensation in 1984 was flawed.

Meanwhile, Donald Marshall Sr., who spoke publicly for the first time Monday about his son's wrongful conviction, told reporters money doesn't matter now that Donald Jr.'s name has been cleared.

"Money is (of) no value today to us, we'll get by without too much money ..."

During testimony, Mr. Marshall Sr. described the pain and suffering endured by the Marshall family during the time his son was locked up in jail.

He said Christmas was a very difficult time of the year. "I say Christmas would be about the worst; my wife (would) have Christmas Eve and Day dinner

■ See Family/A2

Fishery imminent

By Don MacDonald
OTTAWA BUREAU

Trade Minister John Manley on Monday rejected a call to unilaterally assume the "nose and tail" of the Banks to tackle foreign overcapacity.

"It would be completely less and, not only that, but also damaging to Canada," Mr. Manley told the Commons.

Under heavy opposition during question period, Mr. Manley said announcement of the awaited aid package for the troubled Atlantic fishery is imminent. The Harris report on

East Berlin service w

By Andrew Gumbel
REUTER

EAST 1

Go to a restaurant any day in East Germany and the chairs will be half empty. There is likely to be a long line outside.

Lack of food is not the only problem. Nor, usually, is lack of money. It's just that in a country long known for its undemanding state-issued work quotas, hotel and restaurant staff do not usually feel particularly inclined to be helpful — or

"We're completely booked for the evening. Please go away," the waiter will say firmly to customers trying to push past for a glimpse of what looked like

Life sentence handed driver

By The Canadian Press

WINNIPEG

An impaired driver who crashed his car, killing three people, was handed a life sentence Monday, possibly the most severe sentence ever given in Canada for criminal negligence causing death.

An appeal is being prepared against the sentence handed 28-year-old Donald James Reimer

If the sentence stands, Prober said, it would be about seven years before Reimer would be eligible for parole. He was impaired and driving with his licence suspended at the time of the crash.

Jack London, a law professor at the University of Manitoba, said it was the first time to his knowledge that anyone had received so severe a sentence for criminal negligence causing death. He said six years was about the longest

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ount of its kind that out does away with the most vice charges.

SAFETY

Mail-Star 3/1/84

Father recounts family's ordeal

Donald Marshall Sr. (left) says his family felt disgraced after his son — Donald Marshall Jr. — was wrongly convicted of murder in 1971. Marshall Sr. was testifying yesterday in Halifax at public hearings into compensation for his son, who spent 11 years in jail and was recently exonerated in the Marshall report. Lawyers for Marshall Jr. confirmed yesterday the province has already agreed to an immediate interim payment of \$10,000 /4



Chronicle-Herald 4 April 1990

Prison harder on Marshall—ex-inmate

By Judy Myrden

STAFF REPORTER

The stark realities of the prison life endured by Donald Marshall Jr. for 11 years were revealed Tuesday by a former inmate and murder parolee.

"Junior had it harder than most of us, largely because of the fact that he was innocent," Mike Grattan told the public inquiry, headed by retired Ontario chief justice Gregory Evans, which is re-examining compensation for Mr. Marshall.

"Junior was innocent and he knew that and he stuck to his guns. But being a lifer, I know what the prison authorities think like, and the first thing they want from you is an admission of guilt."

Mr. Grattan, living at a Halifax halfway house, killed someone in Moncton in 1971 when he was 15 years old and served 11 years in prison at the same time as Mr. Marshall.

The former inmate, who was released in 1981, described his friend Junior during those years in behind bars when Mr. Grattan "lived upstairs and he lived downstairs."

Inquiry to close doors

The inquiry re-examining compensation for wrongfully convicted Donald Marshall Jr. will go behind closed doors this morning after two days of public hearings.

Today, the inquiry moves to the Halifax Lord Nelson Hotel from the hall of St. Thomas Aquinas Church.

Former Ontario chief justice Gregory Evans, in charge of deciding how much money Mr. Marshall will receive, will hear testimony today from County Court Judge Felix Cacchione, who

■ See Closed/A2

Grattan said during his more than hour-long testimony during which he sat with his hands folded, occasionally twiddling his thumbs.

"He (Mr. Marshall) was quiet to begin with, he always was and (it was) one of the reasons people liked him... He was more pulled away from others, he drew towards himself what strength he had and kept it within him and that was it.

"Junior was a dignified person and his dignity was quiet and kept to himself."

The inquiry is the final chapter of the Donald Marshall Jr. saga which began in 1971 when he was found guilty of stabbing a Sydney man in a nearby park. He was released from prison in 1982 and ac-

■ See Prison/A2

High school students alone: the alienated minority

First of a series
By Dale Madill

CITY HALL REPORTER

There's a new class of students attending high school in Halifax. They are tough, usually lonely, often hungry, tired or cold, and most will drop out of school before graduation.

"It's difficult to survive outside the family complex, especially at the high school level," says Gordon Young, education director of Halifax District School Board. "There are situations

that have no resolution... They are on their own."

They are students in "non-traditional living arrangements," and the majority face a daily struggle for the chance to get what most students consider a right — a high school education.

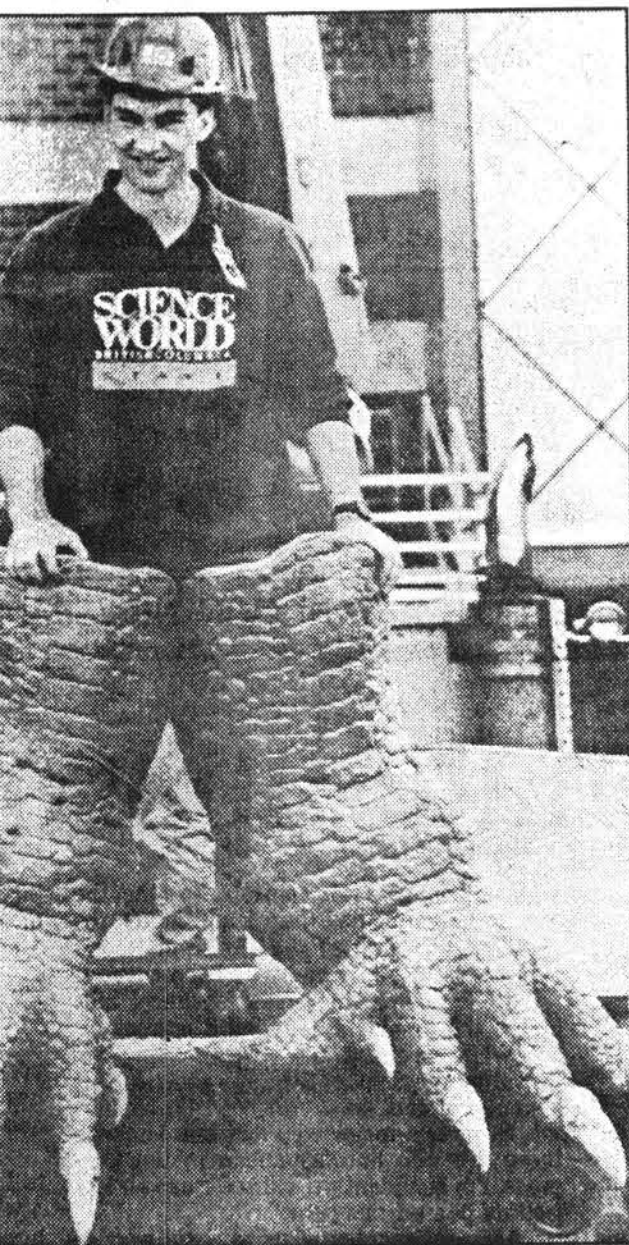
A school board survey shows seven per cent of Halifax's high school students are "non-traditional," which means they live with someone other than parents or a guardian. Of the

3,488 students who completed the survey — 87 per cent of all students — 246 indicated they live independently.

This group said a lack of financial support, feelings of loneliness and alienation, developing self-motivation, staying in school and finding a place to live are their greatest problems.

In a crisis, they turn to friends, or get no help at all, according to the survey. To make

■ See High/A2



Canadian Press

Ferguson tries on a pair of tyrannosaurus legs as he had 14 computer-controlled, moving, roaring replicas of Vancouver's Science World.

Castro talks tough

HAVANA

nt Fidel Castro says fight blow for blow if electronic war with States turned into an ict, calling the U.S. sts "a crude instru- version."

3-year-old Cuban told reporters on t although only God er he would still be in a year's time, if he would be because he efending the island's olution.

rejected suggestions as tired and disap- out recent world n as moves by many aditional Eastern Eu-

ropean allies to abandon communism.

"I really feel fine, absolutely fine," he said.

Regarding the U.S. television broadcasts from Florida, Castro said that if they turned into fighting, "we are not going to stand around with our arms crossed ... we will give blow for blow."

TV Marti, a U.S.-funded news and entertainment channel, has been transmitted to the communist-ruled island since last Tuesday.

He said the channel was "a crude instrument of subversion and destabilization." TV Marti has been jammed daily by Cuban technicians.

"This is an electronic war between David and Goliath," Castro said.

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Former Ontario chief justice Gregory Evans, in charge of deciding how much money Mr. Marshall will receive, will hear testimony today from County Court Judge Felix Cacchione, who represented Mr. Marshall in 1983-84.

In addition, Mr. Marshall's former girlfriend, Karen Brown, and Jack Stewart, of Carleton halfway house in Halifax, where Marshall stayed after being released in 1982, will testify.

Thursday, the inquiry will hear from Mr. Marshall, the Micmac who served 11 years in prison for a murder he did not commit, about what he has suffered personally during the past 18 years. He will be accompanied by his girlfriend.

Mr. Marshall has struggled since his release to get his life together. He's had problems with drugs and alcohol and had brushes with the law on occasion.

He has been convicted of impaired driving, driving while suspended and break and enter with intent to commit theft.

The move to go private was initiated by Mr. Marshall's lawyer,

Prison

Continued from/A1

quote. As a result, it is being re-examined with a report expected in mid-June.

Tuesday was the last day of public testimony. Today, the one-man commission goes behind closed doors to hear private testimony from Mr. Marshall and others.

Mr. Grattan painted a grim picture of prison life in his testimony.

He opened his remarks by saying everything was grey, including the walls, cement floors, bars, cell doors and food. Even the people are grey faced, he said.

Reintegration into society isn't much better, he said.

"Making decisions becomes difficult, as basic as what socks do I wear ... or which restaurant do I eat at ... or getting a transit bus pass."

While admitting some prisoners didn't believe Mr. Marshall was innocent, Mr. Grattan said he holds him in high esteem for his courage and strength during those difficult years.

Anne Derrick, to protect her 36-year-old client from further harm.

"Much of Mr. Marshall's agony has been the subject of intense public scrutiny," Ms. Derrick said earlier this week. "It is essential that the process of compensating him for the terrible wrongs done to him not inflict further suffering or harm him."

After the private hearings are held today and Thursday, final arguments will be made in May in Supreme Court. The final report is due in mid-June.

Stealth

Continued from/A1

guns that might include.

During the invasion of Panama, a small number of the fighters dropped two 900-kilogram bombs near a Panamanian Defence Forces barracks.

Unlike many modern fighter jets, the F-117A is designed to fly slower than the speed of sound, and to depend on its stealth characteristics to keep it from being detected and shot down, air force officials said.

Williams said the Pentagon decided to show the F-117A because the fighter has begun daytime operations and is more visible. He denied the move was connected to a struggle between Congress and the Pentagon over whether to go ahead with the B-2 Stealth bomber program.

The first B-2 flew last year and the air force wants to buy 132 of the planes at an expected cost of \$530 million each.

Tories

Continued from/A1

Nowlan, Annapolis Valley-Hants.

Five of the six Nova Scotian Liberal MPs responded that they will not vote for the GST. The exception was South West Nova MP, Coline Campbell, who did not respond.

Mr. Parsons said MPs had ample time to respond to the survey since the deadline was extended to March 16 from Feb. 23.

He added that each MP received at least two calls from federation staffers to confirm receipt and encourage response to the poll. Compared to the rest of Canada, Nova Scotia and Quebec showed relatively low response rates.

Opposition MPs showed a predictably higher national response rate. Seventy of 82 Liberals returned the survey as did 37 of 42 New Democratic Party members.

... with their west Coast counterparts.

■ See Ships/A2

All Micmacs due amends—lawyer

By Judy Myrden
STAFF REPORTER

Nova Scotia's close-knit Micmac community should be compensated for its pain and embarrassment when Donald Marshall Jr., a Micmac Indian, spent 11 years in prison for a murder he did not commit, says his lawyer, Anne Derrick.

Ms. Derrick said Wednesday the Marshall compensation inquiry must consider the damages incurred by the Micmac nation if it awards further compensation.

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that a loss of this nature, which would have an impact on any community, as we might understand it as white people, has a special impact on a native community," said the Halifax lawyer.

"Particularly the native community where the person involved is the son of the grand chief, which is a very special relationship. And I think those are factors that could be lost sight of, if a proper understanding of them isn't developed."

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■ See All/A2

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**'I think these kids are hurt
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Almost inevitably... that
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usually both.'**

— Harold Crowell

Others are abused, physically or mentally. Their parents often suffer emotional traumas,

■ See Social/A2

Chronicle-Herald
5 April /90

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Chronicle Herald Apr 5/90

■ continued from/A1

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Earlier in the week, inquiry lawyer Wylie Spicer instructed Judge Evans that not only Mr. Marshall, but his family should receive compensation for their ordeal.

On Tuesday, Dr. Marie Battiste, cultural co-ordinator and curriculum developer with the Eskasoni school board, told the inquiry the Micmac community suffered a loss because of Mr. Marshall's wrongful imprisonment.

During cross-examination by Mr. Spicer, she explained she personally did not suffer the same loss as Mr. Marshall's parents, but that the community as a whole suffered.

She described how Donald Marshall's story was discussed at great length in the community and the concern people had for his parents' well-being because of their prominence within the Micmac nation.

"This impacted upon the whole community," she said. "One of the things we shared was what was happening to him (Donald Jr.). His mother was obsessed with it and it was the only thing on her mind."

Today, the inquiry will hear privately from the man who suffered the most — Donald Marshall Jr., as well as from his girlfriend.

The re-examination of compensation came after the initial compensation process was found to have been flawed.

road, there may be problems receiving money from the Soviet government.

"If it ever comes to a choice between a food shortage and airplane hangers, they would probably choose to spend their money on food."

Maples imposter almost fools media

BOSTON (Reuter) — It sounded like an April Fool's joke three days late, but reporters smelling a story that was just too good to be true scurried Tuesday to hear "Marla Maples" tell all about her relationship with Donald Trump.

But the extraordinarily forthcoming woman didn't look like the Southern siren linked in dramatic tabloid headlines to the New York billionaire who is having problems with his marriage.

She didn't even have a drawl.

In an incident similar to a recent scam in which hoaxster Alan Abel sent faxes to New York reporters about a "lottery winner," about 30 faxes from "Maples" were sent saying she would meet the press at Boston's Ritz-Carlton hotel.

"She was sharp, well spoken and she had all the answers," said Boston Herald reporter Paul Sullivan. "But something stunk right from the start," he added, explaining why none of the papers fell for the gag.

THE CHRONICLE-HERALD
The Mail-Star

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"It was an absolutely childish infantile exercise on the part of the CFIB," Mr. Crosby said. "It's gross waste of funds because (the operation) already knows how to do it."

Two Tories, Cumberland-Coroner MP William Casey and North Shore PC Peter McCreath, vote the federation, but neither revealed whether they would vote. "I take exception to your GST survey which says that failure to turn the survey will be interpreted as disinterest in the issues..." Mr. Casey wrote.

He said that although he is a longstanding member of the federation, he felt the survey was conducted against the GST and not elective.

Although Mr. McCreath did not reveal how he will vote, he would say he supports the GST. The other two Conservative MPs who reportedly did not respond could not be reached for comment. They were Elmer Mackay, Central Nova, and Patrick

See Tories/A2

Grant involving 59 fighters. All but two of jets have been delivered to the U.S. air force. The F-117A made its first

monitors. It is 20 metres long and has a wingspan of slightly over 13 metres. The F-117A can be refuelled in air, giving it an unlimited

He said it carries an internal weapons system but would not say what mix of bombs, rockets or

had a great three-year deal that benefited everyone," he said. Outside workers maintain streets and grounds, repair and maintain water mains and operate the water utility pump house.



Clark Photograph/Peter Parsons

Michael Grattan testifies at Tuesday's session of a hearing into compensation for Donald Marshall, Jr.

Prison 'harder' on Marshall

By Judy Myrden
STAFF REPORTER

The stark realities of the prison life endured by Donald Marshall Jr. for 11 years were revealed Tuesday by a former inmate and murder parolee.

"Junior had it harder than most of us, largely because of the fact that he was innocent," Mike Grattan told the public inquiry, headed by retired Ontario chief justice Gregory Evans, which is re-examining compensation for Mr. Marshall.

"Junior was innocent and he knew that and he stuck to his guns. But being a liar, I know what the prison authorities think like, and the first thing they want from you is an admission of guilt."

Mr. Grattan, now living at a Halifax halfway house, was 15 when he was sent to Dorchester for a 1971 Moncton murder.

The former inmate, who was released in 1981, described his friend Junior during those years behind bars when Mr. Grattan "lived upstairs and he lived downstairs."

"I think Junior became more withdrawn and more quiet," Mr. Grattan said during his more than hour-long testimony during which he sat with his hands folded, occasionally twiddling his thumbs.

"He was quiet to begin with, he always was and (it was) one of the reasons people liked him... He was more pulled away from others, he drew towards himself with strength he had and kept it within

him and that was it. "Junior was a dignified person and his dignity was quiet and kept to himself."

The inquiry is the final chapter of the Donald Marshall Jr. saga which began in 1971 when he was found guilty of stabbing a Sydney man in a nearby park. He was released from prison in 1982 and acquitted the next year.

A year later, the province and federal government awarded him \$270,000. Of that, \$97,000 went towards legal fees.

In January, a royal commission report into the wrongful conviction of Mr. Marshall found the previous compensation process flawed and the payment inadequate.

High school students alone: the alienated minority

First of a series
By Dale Madill
CITY HALL REPORTER

There's a new class of students attending high school in Halifax. They are tough, usually lonely, often hungry, tired or cold, and most will drop out of school before graduation.

"It's difficult to survive outside the family complex, especially at the high school level," says Gordon Young, education director of Halifax District School Board. "There are situations

that have no resolution... They are on their own."

They are students in "non-traditional living arrangements," and the majority face a daily struggle for the chance to get what most students consider a right — a high school education.

A school board survey shows seven per cent of Halifax's high school students are "non-traditional," which means they live with someone other than parents or a guardian. Of the 3,488 students who completed the survey — 87

per cent of all students — 246 indicated they live independently.

This group said a lack of financial support, feelings of loneliness and alienation, developing self-motivation, staying in school and finding a place to live are their greatest problems.

In a crisis, they turn to friends, or get no help at all, according to the survey. To make ends meet, they steal, gain wages by working "under the table," cheat on social assistance,

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Maoul-Stage-21 April/90

See High/A2

See Prison/A2

■ continued from/A1

quitted the next year.

A year later, the province and federal government awarded him \$270,000. Of that, \$97,000 went towards legal fees.

In January, a royal commission report into the wrongful conviction of Mr. Marshall found the previous compensation process flawed and the payment inadequate. As a result, it is being re-examined with a report expected in mid-June.

Tuesday was the last day of public testimony. Today, the one-man commission goes behind closed doors to hear private testimony from Mr. Marshall and others.

Mr. Grattan painted a grim picture of prison life in his testimony.

He opened his remarks by saying everything was grey, including the walls, cement floors, bars, cell doors and food. Even the people are grey faced, he said.

Reintegration into society isn't much better, he said.

"Making decisions becomes difficult, as basic as what socks do I wear ... or which restaurant do I eat at ... or getting a transit bus pass."

While admitting some prisoners didn't believe Mr. Marshall was innocent, Mr. Grattan said he holds him in high esteem for his courage and strength during those difficult years.

Hijacker demands flight to U.S.

PORT-AU-PRINCE (AP)

A soldier carrying grenades seized a New York-bound jumbo jet at Haiti's airport and threatened to blow it up Tuesday if he was not flown to the United States.

A radio report, however, said the 20-year-old soldier had let the handful of passengers and crew aboard American Airlines Flight 658 get off. Officials confirmed he was alone on board the craft.

Closed inquiry doors

■ continued from/A1

represented Mr. Marshall in 1983-4.

In addition, Mr. Marshall's former girlfriend, Karen Brown, and Jack Stewart, of Carleton halfway house in Halifax, where Marshall stayed after being released in 1982, will testify.

Thursday, the inquiry will hear from Mr. Marshall, the Micmac who served 11 years in prison for murder he did not commit, about what he has suffered personally during the past 18 years. He will be accompanied by his girlfriend.

Mr. Marshall has struggled since his release to get his life together. He's had problems with drugs and alcohol and had brushes with the law on occasion.

He has been convicted of im-

paired driving, driving while suspended and break and enter with intent to commit theft.

The move to go private was initiated by Mr. Marshall's lawyer, Anne Derrick, to protect her 36-year-old client from further harm.

"Much of Mr. Marshall's agony has been the subject of intense public scrutiny," Ms. Derrick said earlier this week. "It is essential that the process of compensating him for the terrible wrongs done to him not inflict further suffering or harm him."

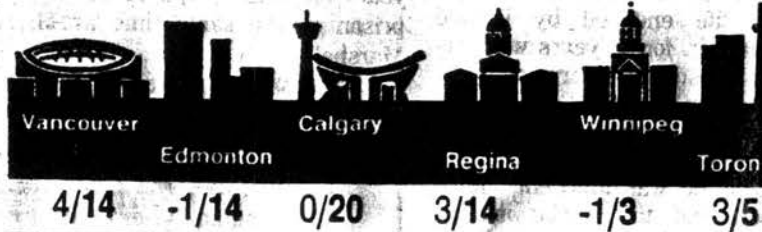
After the private hearings are held today and Thursday, final arguments will be made in May in Supreme Court. The final report is due in mid-June.

rain. Thursday, cloudy, showers. Low 2. Highs 4 to 7.

CAPE BRETON

Overcast, drizzle and fog. Scattered showers and rain. High 4 to 8. Thursday, rain ending in morning, then showers.

CROSS-CANADA-TEMPERATURES



INTERNATIONAL TEMPERATURES

Aberdeen snow 00
Amsterdam ptclidy 07
Athens clear 21
Beijing clear 08
Berlin ptclidy 18
Bonn rain 06
Brussels ptclidy 08
Cairo clear 21
Copenhagen cldy 09
Dublin ptclidy 07

Geneva rain 10
Helsinki cldy 10
Hong Kong cldy 25
Jerusalem ptclidy 10
Lisbon cldy 14
London ptclidy 09
Madrid cldy 14
Manila clear 28
Moscow cldy 13
New Delhi clear 28
Paris ptclidy 09
Rome rain 13
Seoul ptclidy 06

Singapore cldy 29
Stockholm cldy 11
Sydney cldy 21
Tokyo cldy 18
Vienna ptclidy 18

UNITED STATES TEMPERATURES

Atlanta 5
Boston 4
Buffalo 3

AT A GLANCE

TIDES

SHEET HARBOUR:
high 4:08 a.m., 5:33 p.m.; low 11:07 a.m., 11:42 p.m.
MUSQUODOBOIT:
high 4:04 a.m., 5:29 p.m.; low 11:09 a.m., 11:44 p.m.
HALIFAX:
high 4:05 a.m., 5:30 p.m.; low 11:10 a.m., 11:45 p.m.
ST. MARGARETS BAY:
high 4:15 a.m., 5:40 p.m.; low 11:20 a.m., 11:55 p.m.
LIVERPOOL:
high 4:21 a.m., 5:46 p.m.; low 11:24 a.m., 11:59 p.m.
SHELburne:
high 4:51 a.m., 6:16 p.m.; low 11:58 a.m.
YARMOUTH:
high 6:56 a.m., 7:40 p.m.; low

12:36 a.m., 1:20 p.m.
DIGBY:
high 7:53 a.m., 8:34 p.m.; low 1:38 a.m., 2:18 p.m.
PARRSBORO:
high 9:01 a.m., 9:41 p.m.; low 2:46 a.m., 3:46 p.m.
PICTOU:
high 7:10 a.m., 5:45 p.m.; low 11:30 a.m.
ANTIGONISH:
high 7:31 a.m., 6:06 p.m.; low 12:32 a.m., 12:07 p.m.
CANSO HARBOUR:
high 4:19 a.m., 5:25 p.m.; low 10:49 a.m., 11:44 p.m.
NORTH SYDNEY:
high 5:05 a.m., 5:05 p.m.; low 10:10 a.m., 11:50 p.m.
CHARLOTTETOWN:
high 7:35 a.m., 6:20 p.m.; low 12:20 a.m., 12:40 p.m.

DATE IN HISTORY

The North Atlantic Treaty signed in Washington by 12 nations including Canada 41 years ago today — in 1949, the established a military alliance North Atlantic Treaty Organization, for the defence of Europe and North America for the security of the North Atlantic region. According to the members pledge to settle international disputes by peaceful but to defend each other case of an attack.

Also on this day in:
■ 1947 — The International Aviation Organization was signed in Montreal.
■ 1968 — Civil rights leader Martin Luther King Jr. was



GREGORY EVANS: hearing into Marshall compensation.

Marshall suffered in jail for 'sticking to his guns'

By CATHY NICOLL
The Daily News

A man sentenced to life in prison in 1971 at the age of 15 yesterday described a life of mind-numbing routine, broken only by outbreaks of violence, when he spoke at an inquiry looking into how much compensation the province should pay Donald Marshall Jr. for 11 years wrongly spent behind bars.

Mike Grattan, who was paroled in 1981 after serving 11 years in prison, said he knew Marshall and described himself as a "good friend."

Knew he was innocent

"Junior had it harder than most of us (lifers) mainly because he was innocent. He was innocent and he knew it and he stuck to his guns," Grattan testified.

Marshall, 36, was wrongly convicted in 1971 of murdering Sandy Seale in Sydney's Wentworth Park and served 11 years in prison before being exonerated.

In 1984, the province paid Marshall \$270,000 in compensation. The Marshall report released on Jan. 26 said that pay-

ment should be increased.

Last month, Gregory Evans — a retired Ontario Supreme Court judge who also sat on the Marshall commission — was appointed to consider compensation.

Grattan said yesterday the first thing prison administration wants prisoners to do is admit their guilt, and if a prisoner refuses to do so then it becomes difficult. For example, he said, it is hard to get day passes or parole.

He said that when Marshall went to the Springhill medium security prison, he was quiet but he became even more quiet and withdrawn as time went by.

Marshall was the only native serving a life sentence, said Grattan, so other native inmates looked up to him and Marshall was like an older brother to them — protecting weaker guys and keeping the peace.

Grattan said that entering Dorchester penitentiary, where Marshall spent part of his sentence, was a frightening experience, but coming out 11 years later was almost as traumatic.

"It's the unknown, you don't know it any more. I hadn't made any decisions for 11 years

— it was very anxiety-inducing, having to make decisions all day long," he said.

Grattan said he didn't notice that he was getting any older, until he was released on parole.

"You don't age in prison — you don't mature in prison, you don't grow because every day is the same," he said.

And he didn't learn to socialize in prison where men don't speak to other men they don't know for fear of starting a fight and there were no women.

Five days' work

The typical day at Springhill began with a 7 a.m. wake-up, followed by breakfast. After returning to the cell block, the men would wait for a call to go to work where they would stay until 4:30 p.m., except for a lunch break.

The men worked five days a week. Work was followed by dinner and then recreation time, which consisted of playing baseball or lifting weights from 6 p.m. until 9:30 p.m.; back in the cell block by 10 p.m. and lockup at 10:45 p.m.

Grattan said that lifers are at the top of the prison hierarchy and are seen as dangerous.

Marshall not likely to be grand chief — expert

Donald Marshall Jr. probably won't succeed his father as grand chief of the Micmac Nation because he spent too many years away from his native community, a cultural expert testified yesterday at an inquiry into Marshall's compensation.

Dr. Marie Battiste of Eskasoni said an elder of the Micmac community told her it would not be possible for Marshall to become the grand chief because of the loss of continuity from his culture and his people.

Battiste said that Marshall

has not returned to his community full-time since his release from prison in 1982 after serving 11 years for a murder he did not commit.

"He doesn't feel like he can come back," she said, although the community holds him in great esteem for the courage he showed during his ordeal. But, she said, Marshall has not built up the respect necessary for him to become grand chief.

"Junior didn't do anything wrong and has nothing to make up for, but he has lost accept-

ance from the community," said Battiste.

Battiste said it's difficult for Marshall to be a regular member of the community because "the only thing on his mind is where he's been. It's hard for him to get back into daily life."

Battiste, Micmac cultural co-ordinator and curriculum developer with the Eskasoni school board, holds a PhD in education from Stanford University. She was the first aboriginal woman in Canada to earn such a degree.

Patricia Monture, a law pro-

fessor at Dalhousie University, said natives often suffer much more in prison than do white people, because they are isolated from their culture.

Monture, a Mohawk, said that more native inmates than whites commit suicide before their prison terms are over. In the last 10 months, she said, three native women committed suicide in Kingston penitentiary.

The inquiry continues today behind closed doors when Donald Marshall Jr. will testify about his experiences in prison.



MARIE BATTISTE

Racism: there's hope ye

ONE OF MY friends remarked recently that the increase in racism in our country of late bothers her very much. It's something that everyone is thinking about — from one point of view or another — and I'm no exception.

My view on what is happening, however (and surprisingly), is one of optimism and satisfaction, because I don't believe racism is on the rise. What I believe is that reaction to racism is on the rise and that can only be encouraging.

I suppose there are a few reasons for this. The first and main one is that people who are made victims of racism are speaking out and fighting back. Another reason is that because of the civil rights movements and the other social revolutions of the past few decades — feminism, pacifism, environmentalism, gay rights — there is a more receptive atmosphere in many areas of the country in which to fight the battles of racism.

At the same time, the country is changing as more immigrants of other than northern European origins arrive than we've been accustomed to. But greater visibility of minorities has not increased racism — Nova Scotian blacks or aboriginal peoples from across Canada will testify to that. Maybe all it has done is provide a focus for the media which, in turn, brings an age-old issue out into the open.

And now comes the question that is so hard to answer: all thoughtful people know that racism is profound in our country, at all levels. Too many people get away with saying, "I'm not personally racist but . . ." and then profess calm understanding

Sharon Fraser



of the Albertans who buy and sell those pins which take aim at people of color. Or, "This is not a question of race. These people are an economic threat, Canadians are afraid of immigrants coming here and taking all the jobs . . ." and other such excuses for offensive behavior. Why can people get away with that non-argument?

White problem

And why are victims of racism left to struggle on their own against both systemic discrimination and overt prejudice? Why is racism not seen for what it is: not only a problem of visible minorities but a problem of the whites who either actively practice it or passively allow it to happen?

I have to say I was very disappointed at the tone of caller responses to CBC Radio's Maritime Noon phone-in, when they asked the question, inspired by the controversy at the Halifax Citadel, "Which is more important, historical accuracy or open hiring practices?"

Only a handful of the callers were willing to accept (or even believe, it seemed to me) that people other than white male soldiers also have a history. Some people felt it would be insulting to show blacks the "way they were" with little comprehension of the fact that the only black history most of us know has been re-

ported and interpreted through white eyes (with those eyes firmly fixed on portraying a past that will justify many of the shameful acts of white male history.)

Other callers kept referring to Yvonne Atwell, studio guest representing the African-Canadian Association, as "you people," as in (I'm paraphrasing) "I don't understand why you people want to butt in to our history, anyway." Funny thing, no matter whom it's used about, every time I hear the expression "you people" I know I'm going to be offended by what follows.

I thought the caller who best understood what the controversy is all about came at the very end of the program. He's from Dartmouth, and he suggested that simply hiring blacks to portray Scottish soldiers is not the solution. Nor does it deal with the real problem. Instead, his suggestion was that the people who determine what shall be represented as history in federal historical sites should more accurately reflect the makeup of our country.

If this were the case, black, Micmac, and women historians would all take part in the process of choosing the history to be animated and in presenting the story of the lives of all segments with dignity and respect.

It would be a small step, but it's one that deserves active support. Racism won't go away on its own, and it won't disappear each time the media get tired of it. The white segment of the population has to start somewhere in the fight against racism. It seems to me an easy place to start would be to refuse to accept a federal government directive that keeps it so blatantly alive.

Money can't make up for shame, father of Marshall tells inquiry

Canadian Press

HALIFAX

No amount of money can erase the shame, financial hardship and devastation caused by the wrongful murder conviction of Donald Marshall Jr., his father said yesterday.

"Money is not valuable today for us. We'll get by without getting too much money from this," said Mr. Marshall's father, Donald Sr. "The whole thing will stay with us. Not just us, the family, all the people that were involved. It will stay with them until they die."

Mr. Marshall, 64, appeared yesterday at an inquiry assessing compensation for his son, a Micmac Indian who spent 11 years in prison for murder before he was cleared in 1983.

The inquiry was set up by the Nova Scotia government after a royal commission concluded that Mr. Marshall Jr., now 36, was wronged by the province's justice system at virtually every turn.

The senior Mr. Marshall, who is grand chief of the Micmac nation, agreed to testify at the compensation inquiry even though he refused to take the stand during months of public hearings by the royal commission, which he said gave him nightmares.

He said he never gave up insisting that his son was innocent.

He described how the conviction caused him trouble in his position as grand chief, a spiritual role he carries for life. "I kept it to myself — I never discussed this with anybody," he said. "The shame of it — my son was in prison."

He said the loss of business at his drywall and plastering company forced him to collect welfare for a short time.

Family life was also affected, Mr. Marshall said, relating how his son's 12 brothers and sisters wanted to know what happened to their older brother. "You'd have to tell them that he got blamed for killing somebody," he said.

Donald Marshall Jr. received \$270,000 in 1984 from Ottawa and the province to compensate him for time

spent in prison, but almost \$100,000 went to legal fees.

Mr. Marshall's lawyer, Anne Derrick, said yesterday that the amount of compensation that could be awarded to Mr. Marshall and his family has no limit.

"Compensation of Donald Marshall Jr. is a unique challenge — the restitution of a state wrong of enormous proportions against an aboriginal person," Ms Derrick told Gregory Evans, a retired chief justice of the Ontario Supreme Court who is heading the compensation inquiry.

Mr. Evans was one of three out-of-province judges who made up the royal commission that cleared Mr. Marshall. The government has said it will accept his recommendation, which is to be made after final arguments May 11.

Mr. Marshall Jr. is expected to take the stand tomorrow or Thursday, but he will testify in private.

"Much of Mr. Marshall's agony has been the subject of intense public scrutiny," Ms Derrick said. "It is essential that the process of compensating him for the terrible wrongs done to him not inflict further suffering or harm on him."

Among other things, Mr. Marshall should be compensated for lost past and future earnings, loss of reputation and the right to an education and normal upbringing, she said.

Ms Derrick said he also may have lost any chance he had to inherit his father's position as grand chief — something Mr. Marshall Sr. agreed with.

Wylie Spicer, lawyer for the inquiry, said the province gave Mr. Marshall an additional \$10,000 last Thursday as an interim payment until further compensation is decided.

Mr. Spicer said additional compensation should cover the period since his conviction until last February, when he was finally cleared of any wrongdoing by the royal commission.

Mr. Marshall was imprisoned for the 1971 stabbing of Sandy Seale in a Sydney park. Another man, the late Roy Ebsary, was later convicted of manslaughter in the case and served one year in jail.

Marshall Sr. outlines family's years of pain

By Judy Myrden
STAFF REPORTER

Donald Marshall Sr. revealed for the first time Monday the pain and devastation his family suffered during his son's wrongful imprisonment.

"I was hurt in me and I couldn't share my feelings inside," the 64-year-old Marshall testified at the inquiry into his son's compensation.

"It was very hard for me to face any public gatherings or my (Micmac) people because myself, personally, I have a feeling that people say that — there he is, his son killed somebody," said the man who never wanted to expose his feelings about his son's case.

While always maintaining his son's innocence, Mr. Marshall told how his family suffered during the 11 years Donald Jr. spent in jail for a murder he didn't commit.

During his testimony, Mr. Marshall — the Grand Chief of the Micmac Nation — related tragic circumstances which plagued his family until his son was finally vindicated of any wrongdoing.

The family prayed someday the truth would be revealed, he said.

Donald Jr.'s wrongful conviction left his family without any means of support for a time, he said.

In 1971 when Donald Jr. was arrested, the family received threatening telephone calls and its drywall business on the Membertou Reserve in Cape Breton came to a standstill, Mr. Marshall said.

The calls forced the family to remove its number from telephone books, resulting in the downfall of

Marshall Sr.

■ continued from/A1

the business, Mr. Marshall said.

He was forced to collect welfare until his business picked up three to four years later. He is now retired due to poor health.

Mr. Marshall also recalled nights after Donald Jr.'s arrest when he and his wife, Caroline, would say, "Let's hope some day someone will come out and really tell us what happened."

Occasionally, the other 12 children asked about their brother Donald and when could they go visit him, he said.

Mr. Marshall did not testify during hearings of a Royal Commission struck to determine why the justice system failed his 16-year-old son in 1971. The hearings began in September, 1987.

The commission vindicated Donald Marshall Jr. in its findings released last January in a seven-volume report and slammed the Nova Scotia justice system.

The commission recommended the province call an inquiry into the adequacy of the \$270,000 compensation awarded to Donald Jr. in 1984.

During the lengthy commission hearings which lasted 89 days, Mr. Marshall had "nightmares" about the case, but said they have since ended.

Near the end of his testimony Monday, Mr. Marshall, accompanied by Micmac spiritual leader Noel Knockwood, said it is time for those who wronged his son to apologize.

"I was thinking last night, I don't think the political people should make apologies to us ... I say people that are guilty of this whole affair, they're the ones that should apologize to us."

The hearings resume today.

Marshall compensation review opens

Part of hearings to take place behind closed doors

By Judy Myrden
STAFF REPORTER

Much of the hearings into compensation for wrongly-convicted Donald Marshall Jr., which commence this morning, will be held behind closed doors at the request of his lawyer.

The hearings, being held at St. Thomas Aquinas Church hall, Halifax, will be open to the public for only two days before the one-man commission hears privately the sufferings of a young man locked behind bars for 11 years.

"Other counsel has agreed that there are intimate details about Mr. Marshall and his feelings that are not necessary for the public to know," said Anne Derrick, Mr. Marshall's lawyer.

Six years after the Nova Scotia government gave \$270,000 to an innocent Micmac Indian, \$100,000 of that went towards legal fees. Former Ontario chief justice Gregory Evans will try to re-evaluate that compensation.

Judge Evans, one of three royal commissioners who vindicated Mr. Marshall and condemned Nova Scotia's justice system in a seven-volume report in January, was asked by the provincial government to review the ade-

quacy of Mr. Marshall's compensation.

It is expected the hearings will take three to five days, with Judge Evans hearing evidence and arguments from Ms. Derrick as well as counsel for the government and the royal commission.

On May 11, final arguments will be made in Supreme Court. Although no firm commitment has been made, it is expected Judge Evans will submit his recommendation to cabinet by mid-June.

Ms. Derrick's case will concentrate not on legal precedents — of which there are very few — but on Mr. Marshall's lost youth and suffering in prison.

In general terms, the Halifax lawyer will call evidence about Mr. Marshall's compensation as a Micmac versus a white person's compensation.

She would not place a figure on the amount of compensation being sought, saying only the initial compensation was hopelessly inadequate.

While Mr. Marshall, 36, will be absent from the hearings, his father will be called as a witness, along with five others, including: Saint Mary's University anthropologist Harold McGee; director of the Micmac Learning

Centre, Noel Knockwood; and Dalhousie University law professor Patricia Monture, a Mohawk who has experience working with aboriginal prisoners.

Also being called are Dr. Marie Battiste, a Micmac; and a man who was sentenced to life in prison and is now out on parole. He will provide evidence about what's involved with being held under restraint and being in jail.

"The state wronged against a young man who was locked up for 11 years and victimized afterwards. It (the compensation hearing) is unprecedented in its dimensions," Ms. Derrick said in an interview.

Mr. Marshall was only 16 when he was convicted of murdering Sandy Seale in the spring of 1971 in a Sydney park. Mr. Marshall was the eldest of 13 children of the grand chief of the Micmacs.

He always maintained he was innocent, was released from prison in 1982 and was acquitted a year later.

On the legal side of compensation, Ms. Derrick will point to one of the few compensation cases. In 1980, a 42-year-old New Zealand man was awarded \$1 million New Zealand for serving nine years in jail for a double murder he never committed.

NOTICE OF INQUIRY

The Royal Commission on Compensation for Donald Marshall, Jr., will conduct Hearings commencing at 9:30 a.m. on Monday, April 2, 1990, in the Saint Thomas Aquinas Church Hall on Cornwall Street in Halifax, Province of Nova Scotia.

Copies of the Terms of Reference may be obtained by writing to the Commission Counsel:

W. Wylie Spicer

McInnes Cooper & Robertson

Barristers & Solicitors

1601 Lower Water Street

P.O. Box 730

Halifax, Nova Scotia

B3J 2V1

1990-03-29 14:00:00

Marshall family deserves payment, inquiry advised

■ Ottawa responds/A8

By Judy Myrden
STAFF REPORTER

The family of Donald Marshall Jr. deserves payment for 18 years of suffering, along with the wrongly convicted man, an inquiry into compensation was told during the opening day of hearings Monday.

Inquiry lawyer Wylie Spicer instructed Judge Gregory Evans, a retired chief justice of the Ontario Supreme Court heading the inquiry, that the sky's the limit on the amount of money to be paid.

Last Thursday the provincial government advanced \$10,000 to Donald Marshall Jr., 36, until the inquiry's report comes out in mid-

June, Mr. Spicer said during the first of two days of public hearings.

The one-man inquiry has also been asked to consider the past seven years of Mr. Marshall's life when deciding how much money he should receive, in addition to the 11 years spent in jail for a murder he never committed.

"Having been found innocent in 1983, he was said to have contributed in large measure to his own conviction. This was an indignity which Donald Marshall Jr. has carried until this year," Mr. Spicer said during open statements at St. Thomas Aquinas Church hall.

■ See Payment/A2



Clark Photographic/Darren Pittman
Donald Marshall Sr. with his son's lawyer Anne Derrick Monday.

THE MAIL-STAR Tuesday, April 3, 1990

Payment overdue, inquiry told

■ continued from/A1

About 25 people attended, mostly media.

Judge Evans, who sat on the Royal Commission, was asked to review the adequacy of the \$270,000 awarded to Mr. Marshall previously, after the release of the commission's report in January found the process of compensation in 1984 was flawed.

Meanwhile, Donald Marshall Sr., who spoke publicly for the first time Monday about his son's wrongful conviction, told reporters money doesn't matter now that Donald Jr.'s name has been cleared.

"Money is (of) no value today to us, we'll get by without too much money..."

During testimony, Mr. Marshall Sr. described the pain and suffering endured by the Marshall family during the time Donald Jr. was locked up in jail.

He said Christmas was a very difficult time of the year. "I say Christmas would be about the worst; my wife (would) have Christmas Eve and Day dinner and all that. Junior won't be there and we keep saying let's hope he'll be here next year."

As Grand Chief of the Micmac nation, Mr. Marshall said...

uncomfortable going out in public and believed people thought of him only as the father whose son killed somebody.

Mr. Marshall Jr.'s lawyer, Anne Derrick, has not set an amount of compensation to be awarded, except to say she is seeking generous compensation, and argued he lost his youth while being incarcerated at the age of 16.

"You are not fettered with respect to quantum or principle by any limits to be found in your terms of reference or in conventional precedent," Ms. Derrick said to Judge Evans.

morning at the church, and then the inquiry will go behind closed doors to hear private testimony from Mr. Marshall and other witnesses on Wednesday and Thursday.

"Much of Mr. Marshall's agony has been the subject of intense public scrutiny," said Ms. Derrick. "It is essential that the process of compensating him for the terrible wrongs done to him not inflict further suffering or harm him."

Mr. Marshall was convicted of murdering Sandy Seale in the spring of 1971 in a Sydney park was released from prison in 1988.

Capsule

Correction

A meteorologist taking rain measurements in a photograph appearing in these newspapers Thursday was incorrectly identified as Bill Clair.

The man appearing in the photo is Corporal Barry Bowen, of the meteorology section at CFB Shearwater.

Marshall testifies before inquiry

Donald Marshall Jr. testified Thursday morning before Judge Gregory Evans who is heading up an inquiry into re-examining further compensation for him.

For the past two days the inquiry has met behind closed doors and now adjourns until May 11 when final arguments will be made at supreme court.

Mr. Marshall received \$270,000 in 1984 for spending 11 years in prison for a murder he never committed. Judge Evans was asked by the provincial government to exam the adequacy of the compensation and his recommendation is expected in mid-June.

Most of our media ineptly reported on Marshall package

GETTING IT WRONG

IF YOU read *The Chronicle-Herald* or listened to the national news on CBC Radio, you probably think Donald Marshall got \$1.25 million in compensation last week.

He didn't. If you watched *The National* on CBC Television, the evening news on MITV, or read the headline on page one of *The Daily News*, you probably think he got \$1 million.

Wrong again.

In reporting Marshall's compensation, much of the news media displayed breathtaking ineptitude. The result is that most Nova Scotians have a wildly exaggerated notion of how much Marshall received.

The Canadian Press, the national wire service, took the prize for inaccuracy. It said Marshall got "more than \$1 million," which was wrong, then "corrected" the figure to \$1.5 million, which was even more wrong.

Under the terms laid out by Gregory Evans, the former Ontario Supreme Court justice who conducted a one-man inquiry into the issue, Marshall received \$199,872 in cash and an annuity worth \$291,542. That's a total of \$491,414.

Evans also recommended that the province pay up to \$50,000 for a drug or alcohol rehabilitation program — if and only if Marshall enrolls in such a program within five years. Marshall won't receive that money, the people providing the treatment will. But even if you include that amount, it brings the total to only \$541,414.

For their own suffering and out-of-pocket expenses, Marshall's parents will receive \$94,242 in cash, plus an annuity worth \$80,023 — a total of 174,265.

Not a million

The entire package — money for Marshall, money for his parents, possible money for a rehab program — comes to only \$715,679. That's it. Not a million. Not \$1.25 million or \$1.5 million. \$715,679.

Where news reports went off the track was in the explanation of an annuity, a concept many journalists seem to have trouble with. An annuity is a contract, purchased from a life insurance company, under which the company agrees to pay specified amounts, at specified intervals, over a specified period of time.

In Marshall's case, monthly payments of \$1,875 will continue for 30 years or for as long as Marshall lives, whichever is longer. The payments are "indexed," which means they will rise by three per cent a year to compensate for anticipated inflation, a standard provision in such contracts.

The insurance company invests the money paid for the annuity — \$291,542 in

Parker
Barss
Donham



Marshall's case — and uses the interest to make the agreed-upon payments. Whatever is left at the end of the contract is the insurance company's profit.

30-year guaranteed term

Wildly exaggerated figures emerged when journalists erroneously calculated the value of Marshall's annuity by picking some arbitrary future date and adding up the cumulative total he would receive if he lives that long. Many reporters picked the 30-year guaranteed term, which yields a cumulative payout of \$1,070,447.

Such a total is meaningless because no one knows how much a dollar will be worth in 10, 20 or 30 years. For example, the million-dollar figure includes \$53,023 to be paid in the year 2020, but by then, thanks to inflation, Marshall might need \$20 to buy a stick of gum. The only meaningful way to describe the value of an annuity is to give its present value, the amount it costs to buy the contract in the first place.

USING CUMULATIVE totals, the media mislead the public into thinking Marshall received much more than he did. It left the impression that Marshall received the stated amount in 1990 dollars. That's what people think when they see a headline such as: MARSHALL AWARDED \$1.25 M (*The Chronicle-Herald*, July 6).

If Marshall really had received \$1.25 million, he could put the money in a bank and earn about \$125,000 a year forever. In reality, he will be earning less than one-fifth that amount, and for only 30 years or the rest of his life.

For the record, several journalists got it right: *The Globe and Mail's* Kevin Cox; local CBC reporters in Halifax and Sydney (although national CBC programs used inaccurate figures); Cathy Nicoll of *The Daily News* (although the people's tabloid ran the misleading headline on the front page); Steve MacLinnis of *The Cape Breton Post*; Bob Rankin of *ATV*. The fact that so many other, capable reporters messed it up is a testimony to the dismal state of math education.

Exaggerated reports of Marshall's compensation pander to the resentments of those who think he has been treated too generously. They also disguise the fact that the settlement was modest, if not downright shabby.

Marshall received two kinds of com-



Ex-Ontario justice Gregory Evans: the entire Marshall package is \$715,679.

penation: for tangible or "pecuniary" losses (mostly lost income, past and future); and for intangible, "non-pecuniary" losses (such things as pain, suffering, humiliation, loss of companionship, damaged reputation). Evans then added interest and deducted amounts already paid in the inadequate, 1984 compensation.

For his non-pecuniary losses, Marshall got only \$225,000 (plus interest, minus \$173,000 already paid). There aren't many precedents, but Evans cites the case of a New Zealand farmer, falsely imprisoned for a shorter period than Marshall, and at a less critical time in his life. The New Zealander got \$250,000.

Evans decided he couldn't estimate pecuniary losses with any accuracy, because assumptions about how much Marshall would have earned are too speculative. Instead, he recommended an award

sufficient to let Marshall "live his life with dignity." That's the basis for the annuity, which will give Marshall an annual tax-free income of \$22,500, equivalent to taxable income of about \$28,300. Considering that this is supposed to compensate for both past and future lost income, it's a meagre sum.

Such awards are inevitably arbitrary since they involve compensation for losses that can't be quantified in dollars. The only tests are subjective. If you had been wrongfully imprisoned for 11 years at age 17, and then abused and humiliated for another eight years, how much would you want?

By that standard, the province got off cheap. Few Nova Scotians would trade places with Marshall.

Most of our media ineptly report

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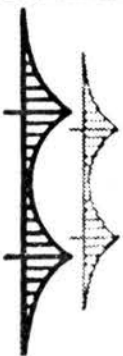
The Mail-Star

Tuesday/June 5/1990

METRO'S AFTERNOON NEWSPAPER ©

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Today



Volume 42, No. 132

Mulroney alien to Trekkies' tastes

The Canadian ship of state may be in trouble, but let nothing impede the progress of the Starship Enterprise.

Hundreds of "Trekkies" lit up the switchboards at CFCO-TV in Saskatoon Sunday night to complain about their favorite program being interrupted.

The conclusion in the latest episode of Star Trek: The Next Generation was about to unfold when Prime Minister Brian Mulroney's face appeared on screen to tell the country there was no breakthrough on the Meech Lake constitutional accord.

"The news bulletin cut off the last six minutes or so of the program and the people could not find out what happened to (Star Trek character) Capt. Jean-Luc," said CFCO-TV program director Reed Brown.

About 250 people called Sunday night and another 400 Monday morning to complain, figures based on an unofficial

Marshall to blame—judges' lawyer

By Judy Myrden
STAFF REPORTER

Donald Marshall Jr. was branded a liar and would-be robber Monday by the lawyer representing three of the five judges who heard his 1983 appeal.

Ottawa lawyer Gordon Henderson also tackled the Marshall inquiry, saying it was based on erroneous findings.

"There is no doubt Donald Marshall Jr.'s untruthfulness con-

tributed in large measure to his conviction," he told the five-member Canadian Judicial Council investigating the judges who heard Marshall's appeal.

"He was planning a robbery... he wasn't collecting money for the Salvation Army. They (Marshall and Sandy Seale) intended to roll somebody and get money."

The five appeal court judges freed Marshall in 1983 but the last two pages of their decision accused him of being a thief and a liar.

Those assertions prompted the unprecedented three-day investigation in Halifax by the Canadian Judicial Council.

The hearing will determine whether the three sitting judges—Mr. Justice Malachi Jones, Mr. Justice Gordon Hart and Mr. Justice Angus Macdonald, represented by Henderson—should be removed from the bench.

The other two judges involved. ■ See Marshall/A2

Commission, union threaten legal action

By Janice Tibbetts
LABOUR REPORTER

The liquor commission and the union representing striking liquor store workers plan to take legal action against each other over a picket line incident Monday which sent three people to

hospital.

The Nova Scotia Government Employees Union said it intends to sue the commission's director of advisory services for allegedly hitting strikers with his car while driving through the

■ See Commission/A2

Mackenna moves into Meech camp



Senate reform stumbling block

By The Mail-Star Staff
and The Canadian Press

OTTAWA

New Brunswick moved closer to embracing the Meech Lake constitutional accord yesterday, but Canada's 11 first ministers remain deeply divided on the prospects of a successful outcome as they begin their third day of talks today.

Emerging from close to four hours of intense negotiations Mon-

practices on Citadel Hill has been lodged with the Canadian Human Rights Commission/B1

Index

At a glance.....A2
 Business.....A13-A18
 Classified.....D1-D14
 Comics.....C7
 Editorial.....A6-A7
 Entertainment.....C5, C6
 International.....A5, A11
 A20, D15
 Living Today.....C1-C4
 Metro.....B1-B4, B8
 National.....A4, A19
 C8, D15
 Obituaries.....B7
 Prime Time.....A8
 Sports.....D16-D20
 The Province.....B5, B6
 News: 426-3061
 Circulation: 426-3031

Group also owns nearby Que Government Place, valued at \$6.8 million.
 A city hall source, who asked not to be identified, said the company has conceptual plans for a mixed-use development with retail space on a Barrington Street main

■ See Halifax/A2

Marshall's lawyer gets status at inquiry

By Judy Myrden
 STAFF REPORTER

Donald Marshall Jr.'s lawyer parachuted into a public inquiry Tuesday after his client was verbally attacked by a lawyer for three of five Nova Scotia justices being investigated by Canada's highest judicial watchdog.
 "It is clear that despite Mr. Marshall's long legal ordeal, aspersions are still being cast on him by some parties," Archie Kaiser said Tuesday at the hearing in Halifax.
 "It remains to be seen whether this precedent will be followed by counsel for the two retired justices, but in any event there is already

could also face close to 40 charges in Canada.
 The *Mestres* pleaded guilty Monday in New Glasgow to 15 charges of fraud and false pretences laid after cheques totaling more than \$10,000, written in the Pictou area in mid-May, were returned for lack of funds.

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Investigating officer Const. Mike Garrett of Pictou RCMP estimated Tuesday 24 similar charges could be laid for alleged incidents in Lunenburg, Centreville, N.B.

The *Mestres* leave court in this file photo.

Investigating officer Const. Mike Garrett of Pictou RCMP estimated Tuesday 24 similar charges could be laid for alleged incidents in Lunenburg, Centreville, N.B.

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credit Mr. Marshall during the hearing on Monday and Tuesday, calling him a liar.
 Mr. Kaiser, acting on behalf of Anne Derick who is representing Dr. Henry Morgentaler on charges of performing illegal abortions, said he attended Monday's session as an observer. But he said he became exasperated by the comments.
 "Yesterday (Monday) I listened first with interest and then with horror," he told the council's committee of inquiry.
 Mr. Kaiser sought and was granted intertorenor status on Tuesday.

By Janice Tibbetts
 LABOUR REPORTER
 The liquor commission and its striking workers will probably return to the bargaining table this week — a move that is good news for dried-up bars and thirsty Nova Scotians.
 The commission and the Nova Scotia Government Employees Union are expected to announce today that contract talks will resume Thursday or Friday.
 "There's nothing firm set yet, but we expect to be back to the table this week," said NSGEU president Greg Blanchard.
 If talks succeed, liquor stores that haven't been vandalized during the strike could be open by the weekend. If talks fail, the commission won't decide until next week whether

credit Mr. Marshall during the hearing on Monday and Tuesday, calling him a liar.
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Printer also got six-figure statutes job—MLA

By Brian Ward
 PROVINCIAL REPORTER


The Nova Scotia government's pet printer was handed a six-figure, once-in-a-decade job while others were deliberately frozen out, Liberal MLA John MacEachern said Tuesday.
 McCurdy Print and Typesetting of Halifax was awarded the contract to print 3,500 sets of the

province's revised statutes even though the company was not the lowest bidder, he said.
 McCurdy was also given the contract to publish the Marshall inquiry report without having to face competitive bids. Opposition members and a representative of the inquiry said the contract was directed to McCurdy by Lloyd McQueen, a former employee of the company who is now director

of publishing for the Department of Government Services.
 The Marshall report contract caused a furor in the legislature last month and led Government Services Minister Terry Donahoe to issue a directive banning single-source contracts.
 A spokesman for McCurdy's said Tuesday the company was invited to tender for the statutes job, and he doesn't know why the

McCurdy bid was selected.
 Mr. Donahoe told the legislature the task of printing a decade worth of revisions to Nova Scotia law was offered to five companies by the Queen's Printer. He said neither he nor Mr. McQueen was involved in sending the contract to McCurdy.
 "I was not part of that. That

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June 6/90
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Marshall's lawyer jumps into fray

By Judy Myrden
STAFF REPORTER

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"It is clear that despite Mr. Marshall's long legal ordeal, aspersions are still being cast on him by some parties," Archie Kaiser said Tuesday at the hearing in Halifax.

"It remains to be seen whether this precedent will be followed by counsel for the two retired justices, but in any event there is already

the prospect of further harm being done to Mr. Marshall."

Five justices of the Nova Scotia Supreme Court appeal division are being investigated by the Canadian Judicial Council for saying Mr. Marshall was the author of his own misfortunes in 1983. Mr. Marshall was imprisoned 11 years for a murder he did not commit.

Three judges are still on the bench: justices Malachi Jones, Gordon Hart and Angus Macdonald. Mr. Justice Ian MacKeigan has retired, and Mr. Justice Leonard Pace retired early because of ill health.

Ottawa lawyer Gordon Hen-

■ See Marshall/A2

Planning' razing downtown strip



Clark Photographic/David Grandy
Bob Stapells may tear down the buildings
Barrington St., in downtown Halifax. The ten-
ked to vacate by April 1991.

rs.
s us scope
months from
ans for the
s demolition
or something else," he said.
"We've no plans, but it's obvious
the buildings are in less-than-ac-
ceptable condition."
City assessment rolls show

the Barrington Street properties are worth \$1.5 million. Canterbury Group also owns nearby One Government Place, valued at \$6.8 million.

A city hall source, who asked not to be identified, said the company has conceptual plans for a mixed-use development with retail space on a Barrington Street main floor, and several levels of office space. The plans have been in the works for almost two years, said the source.

But Mr. Stapells said he has "no idea" how anyone could know what is planned since conceptual plans are "non-existent."

Richard Matthews, Halifax's director of development and planning, said no plans have been submitted and no application has been made for demolition.

The properties fall within one of Halifax's 12 protected view-planes, said Mr. Matthews. However, it is unlikely development of the site would be seriously restricted by the regulations.

Mail Star
June 6/90

Millions of Chinese men have failed to find a wife and a young women will be in even shorter supply in coming years, indicated a survey published by Beijing's China

Type-Print and McCurdy charged Tuesday. MacEachern charged Tuesday. John MLA out, Liberal MLAs John while others were deliberately six-figure, once-in-a-decade job printer was

for Government Services. The Marshall report contract caused a furore in the legislature last month and led Government Services Minister Terry Donahoe to issue a directive banning sin-

ay, June 6, 1990

First

continued from/A1

Offshore evacuation of sick seaman planned

By Lorraine Griffin
STAFF REPORTER

Halifax Search and Rescue is planning to evacuate by helicopter tonight a seriously ill crewman on an Algerian freighter steaming toward Sydney.

At 8:45 this morning, the *Aln Oussera*, a 174 metre-Algerian registered bulk carrier, was about 450 nautical miles southeast of Sydney, a Search and Rescue spokesman said.

Search and Rescue has done

radio medical consultations concerning the 29-year-old crewmember, who is suffering from abdominal problems. The cause of the illness is unknown, but the spokesman said the man does not have appendicitis.

The consultations were done between the *Victoria General Hospital* and the vessel via the *Halifax Coast Guard Radio Station*.

The *Summerside Labrador* helicopter will be unable to make contact with the *Aln Oussera* until the carrier is about 200 nautical

miles from *Sable Island*, the helicopter's last refueling point.

The helicopter is expected to be within range of the ship by no earlier than 9 p.m. today. A *Bur-falo* aircraft from *Summerside* will be sent to assist with the mission.

Factors such as weather, the man's condition, and the ship's progress are among items that will determine "how soon we can act," the spokesman said.

At 8:45 a.m. today the carrier was experiencing rough weather, but conditions were expected to

be more favourable this afternoon.

The helicopter will probably refuel on *Sable Island*, pick up the crewman, then return to *Sable Island* before transporting the man to *Halifax*. The rescue will take about 10 hours, from the time the *Labrador* leaves *Summerside* until it reaches *Halifax*.

The spokesman said the helicopter may have a doctor on-board.

Search and Rescue was contacted by the carrier around 8 p.m. Tuesday.

Marshall's lawyer joins judicial hearing fray

Continued from/A1

Premier Wells, like other first ministers, pointed to changes Tuesday in the mood inside the reference room and said it would be a shame if the first ministers Ottawa without an accord.

"The tone of the discussions is very, very good," he said.

New Brunswick Premier Frank McKenna said the atmosphere could best be characterized as one of respect and a strong urge to do this for Canadians who do not want this country to break up over constitutional issues.

Quebec Premier Robert Bourassa conceded last night the date was improved, but re-nated steadfast in his demands the accord be ratified without changes, including his province's region of a veto over Senate re-

He also said all first ministers "coming closer to under-stand the value of the Meech

Another lawyer representing one of the judges at the hearing was unhappy about Monday's remarks and said he would never call Mr. Marshall a liar.

"When it was said Donald Marshall has served 11 years in jail ... I felt that that was a sad moment ... we should lament that things are said against him," said Toronto criminal lawyer Ed Greenspan. Mr. Greenspan represented retired Justice Leonard Pace.

In January, the Royal Commission on the Donald Marshall Jr. Prosecution released its findings vindicating Mr. Marshall and criticizing the five justices' remarks.

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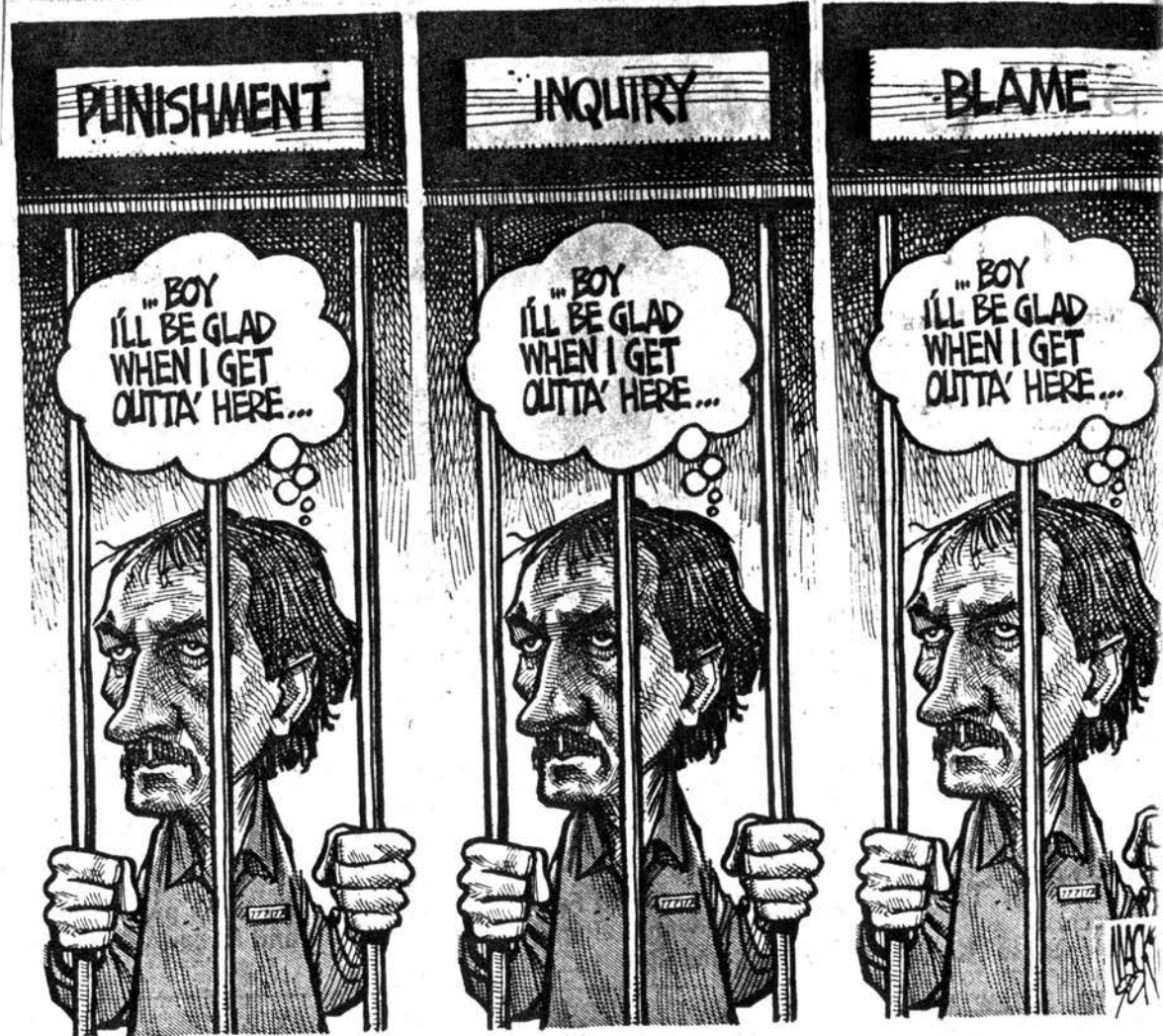
"I'm not calling him (Marshall) a liar. I'm not calling him anything at all. He's been tried and tried enough. He's not on trial here and that is to me something we must never forget," said Mr. Greenspan.

At the opening day of the hearing council lawyer Harvey Yarosky told the committee he personally wrote Mr. Marshall regarding the hearings but received no reply.

Mr. Kaiser said it was uncertain whether Mr. Marshall had ever received the letter.

Halifax lawyer Ron Downie, representing Mr. Justice MacKeigan, said the royal commission opinion of the judges was "liberally sprinkled with hyperbole."

Printer handed contract by official—Liberal
Continued from/A1
nothing to do with determining who he is also influencing the Queen's discouraged from seeking certain



June 7/90

Efforts to save Sackville River need to be intensified

Urban development in Bedford, Sackville and Hants County has put an increasing pressure on the Sackville River which winds its way from waters north of East Uniacke to the Bedford Basin.

Heavy siltation has left the river — particularly from the junction of the main Sackville River and the Little Sackville River to the Bedford Basin — less habitable for fish.

Dateline Bedford/Sackville
Cathy Krawchuk



in communities bordering the watercourse wish to enjoy the area as they did before lems eroded the river's natural beauty.

Those who want to take action meantime can join volunteers Saturday in Bedford to collect garbage along the banks of the Sackville River from Shore Drive to the Bicentennial Highway.

Others may choose to take part in the 16 cleanup of the Little Sackville River organized by the Riverside Estates Resident Association.

But there's still a long road ahead. Since 1986, the Department of Fisheries and Oceans has restocked the river with 52,000 salmon smolt.

Other communities should follow

nics better, trial told

"bumped or delayed" and did not receive recommended abortions. Before retiring last year, he said he counselled about 3,000 women with unwanted or unplanned pregnancies.

By Judy Myrden
STAFF REPORTER

Thursday, June 7, 1990 THE CHRONICLE-HERALD THE MAIL-STAR

Inquiry adjourns 'in fairness' to Marshall lawyer

When asked by Anne Derrick, Morgentaler's lawyer, his opinion on the best place for an abortion, Dr. Kushner was adamant that free-standing clinics are not associated with hospital bureaucracy, staffed by experts and people who know how to deal with a woman's fears and apprehension.

The Canadian Judicial Council investigating five Supreme Court judges who heard Donald Marshall Jr.'s 1983 appeal — on Wednesday unexpectedly adjourned its investigation until July.

The council had planned to hold hearings Monday to Thursday in Halifax, but that plan was scuttled Wednesday morning when Archie Kaiser, Mr. Marshall's lawyer, moved to adjourn the hearings to prepare a submission.

Women who have unplanned pregnancies have enough stress without having to deal with bureaucracy and delay, he said. "A woman who is waiting for an abortion is very vulnerable."

Mr. Justice MacEachern also said the postponement would not delay the committee's recommendation to the judicial council, due in August.

Justice Allan MacEachern of British Columbia, will resume the hearing July 10. He said he granted the delay "in fairness to Mr. Marshall's lawyer" and also to ensure submissions are made in an orderly fashion.

Under cross-examination by Crown prosecutor Alison Scott, Dr. Kushner admitted he had not visited the VG pregnancy termination unit for two years and was unaware of current services offered. When asked why he did not complain about the offending physician at the VG unit, he said since it was the only service in town, and he did not want to make waves.

Mr. Kaiser, who was granted status at the hearing Tuesday, had argued the delay is necessary because Mr. Marshall did not know he was able to participate in the hearings. The adjournment comes as a relief to Mr. Kaiser.

Mr. Justice MacEachern also said the postponement would not delay the committee's recommendation to the judicial council, due in August.

Kushner's anecdotal methods of determining possible effects of abortion on women, methods not based on broad scientific studies, and questioned him about lack of follow-up.

"It means we're not forced into a very uncomfortable position of having to make submissions in a very complicated and unprecedented proceeding without adequate preparation. No lawyer would want to be put in that position," he said.

If the hearings proceeded as planned, Mr. Kaiser would have been the last lawyer to make a submission. The timing annoyed the three lawyers representing Justice Malachi Jones, Gordon Hart, Angus L. Macdonald, Ian MacKeigan and Leonard Pace.

Susan Lanz, director of the Morgentaler clinic in Halifax, testified that women who choose to leave Nova Scotia for an abortion face procedure costs, plane fare, accommodation and sometimes child care expenses.

The hearing will determine whether the three sitting judges (Jones, Hart and Macdonald) should be removed from the bench.

"You would have to be deaf, dumb and blind not to know this committee was sitting," Gordon Henderson, representing the three sitting justices, told the committee.

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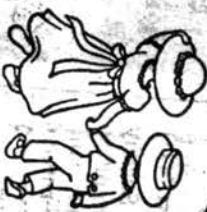
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ANNUAL SUMMER SALE

BIB 'N TUCKER
CHILDREN'S SHOP



Marshall wins right to defend himself

Family 'disturbed' by lawyer's attack

By CATHY NICOLL
The Daily News

Donald Marshall Jr. has been given the right to defend himself from attacks on his character before an inquiry committee of the Canadian Judicial Council looking into the conduct of five Nova Scotia appeal court judges.

Archie Kaiser, a Dalhousie University law professor, asked the panel yesterday for the right to make arguments on behalf of Marshall.

Marshall, 37, was wrongfully convicted of murder in 1971 and spent 11 years in prison. In 1983, the five appeal court judges acquitted him of the charge, but said he was partly to blame for his conviction.

Kaiser said yesterday that Marshall and his family were "considerably disturbed" by remarks made by Ottawa lawyer Gordon Henderson at the opening of the hearing in Halifax Monday.

Spectator

"I listened first with interest and then with horror to the submissions," said Kaiser, who sat in on the hearings Monday only as a spectator.



GORDON HENDERSON

Seale's death.

The inquiry also concluded that the appeal panel had attempted to defend the Nova Scotia legal system at Marshall's expense.

The judicial council was asked in February by Attorney General Tom McInnis to review the finding of the appeal court

judges in light of the Marshall inquiry's criticism.

Kaiser told the investigating committee it must remember this case is "an historic miscarriage of justice on the Canadian scene."

"When I listened yesterday (Monday), I wasn't at all confident this perspective was being borne in mind. Donald Marshall Jr. has been engaged in a very long battle for justice. He is tired, but he is not exhausted. He wants his interests to be properly guarded."

Henderson interrupted Kaiser at this point, and when Kaiser tried to carry on he was shouted down by Henderson.

Test for judges

"We don't need all this rhetoric," said Henderson.

"I do not believe I was indulging in any flights of rhetoric," replied Kaiser.

He said Marshall has an interest in whether the five judges will testify at the inquiry.

Committee lawyer Harvey Yarosky supported Marshall's application, saying it is only fair since the two judges who no longer sit on the appeal court were given status.



STU DUCKLOW

Archie Kaiser: "I listened with interest, then with horror."

yer Gordon Henderson at the opening of the hearing in Halifax Monday.

Spectator

"I listened first with interest and then with horror to the submissions," said Kaiser, who sat in on the hearings Monday only as a spectator.

Henderson, 78, is representing Mr. Justices Malachi Jones, Gordon Hart and Angus L. Macdonald, the three judges on Marshall's appeal panel who are still members of the appeal division of the Nova Scotia Supreme Court.

The two other appeal panel members — former chief justice Ian MacKeigan and Leonard Pace — have since resigned.

On Monday, Henderson reiterated the appeal court's 1983 finding that Marshall and his friend Sandy Seale were involved in an attempted robbery at the time Seale was stabbed to death in a Sydney park. He said that if Marshall had told the truth from the start, he would not have been convicted.

The report of the Marshall inquiry, released in January, harshly criticized that finding. It said Marshall and Seale were not involved in a robbery and Marshall was blameless in

Seale's death.

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Appeal findings 'supportable,' lawyer says

The five appeal court judges who heard Donald Marshall Jr.'s case in 1982 had every right to conclude that Marshall was untruthful, Ottawa lawyer Gordon Henderson argued yesterday before an inquiry committee of the Canadian Judicial Council.

Henderson is representing Mr. Justice Malachi Jones, Gordon Hart and Angus L. Macdonald, who still sit on the province's highest court.

"That conclusion was within the province of the court because Marshall elected to testify on his own behalf. The court was entitled to judge the truthfulness of his story, and his credibility," he said.

"The court further said that by not telling the truth, Marshall had helped to secure his own conviction. That conclu-

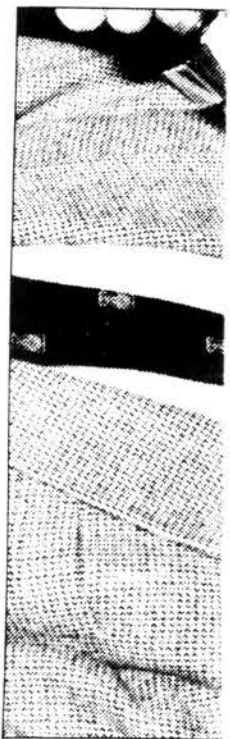
sion is equally reasonable and supportable."

Henderson said Crown prosecutor Frank Edwards told the court that if Marshall had been forthright, the police investigation would have taken a different course.

"The comments (by the appeal court) were far from gratuitous, they flowed from comments of counsel. So the royal commission looking at it in different times, that is a gratuitous comment," he said.

"The court has been haunted by the royal commission report since it came out and it (the court) couldn't speak out."

The Marshall report released in January criticized the court for "convicting" Marshall of a robbery he was never charged with and for defending the justice system at Mar-



Archie Kaiser: "I listened with interest, then with horror."

shall's expense.

Henderson said the commission's report contained "extravagant and exaggerated" statements.

"I don't like criticizing the royal commission, but I'm forced into that position by the attorney general. Let's not accept the royal commission report as the finality in this matter when it's wrong."

The inquiry committee was struck at the request of Attorney General Tom McInnes.

Halifax lawyer Ron Downie, representing former chief justice Ian MacKeigan, said the commission report is "sprinkled with hyperbole" about the appeal court.

He said the attorney general based his request for the investigation because of "alleged er-

rors" in reasons for judgment.

"Errors alone don't justify a finding of misbehavior. . . . What we have here is a member of the legislative assembly and a member of caucus compelling an inquiry of supreme court justices without even having to establish a *prima facie* case," said Downie.

Downie said the attorney general has done the judges a favor by forcing further public scrutiny of that part of the report dealing with the appeal court.

"Nobody has been prepared to say in public that they're wrong and they're excessive."

Toronto lawyer Edward Greenspan, representing Pace, said he won't call Marshall a liar, but the court had a right to decide whether Marshall was telling the truth.

Local calls hike would hurt poor, Dal prof says

By MARK RENOUF
The Daily News

Raising the cost of local phone calls to provide cheaper long distance service would help big businesses but hammer low income householders, says a Dalhousie law professor.

Maritime Tel & Tel applied about two weeks ago to the Canadian Radio-television and Telecommunications Commission for approval to slash long distance charges by up to 11 cents a minute for out-of-prov-

The company wants to raise rates for local service by as much as \$2.95 a month for householders and up to \$12.10 for businesses, beginning Jan. 1, 1991.

MT & T also wants to raise directory assistance charges to 75 cents a call from 50 cents and increase operator assisted surcharges to \$2.50 from \$1.50.

The charge for getting a new number (not requiring an installer to visit) would drop to \$20 from \$23, but if an installer has to set up a new line the cost will rise to \$55 from \$30.

distance calls and higher basic rates will mean only 4.2 per cent increase on the average residential customer's bill.

But Rolffe Thompson — who teaches a regulated-industries course at Dalhousie law school — said yesterday the real increase to low-income earners who rarely make long distance calls will be much higher.

"Those on fixed incomes, senior citizens and the like, will lose a lot," Thompson, a former consumer advocate, said.

calling, the answer is the cost of my telephone is going up 25 to 35 per cent."

He said MT & T is following a trend with other telephone companies in Canada toward so-called rate rebalancing, which essentially means turning around the traditional approach of subsidizing costly local service with revenues from long distance charges.

"The major beneficiaries of rate rebalancing and of long dis-

tance bills," he said.

"For them this is a windfall."

MT & T spokeswoman Eileen Reardon said yesterday the company is simply reacting to increasing customer demand for lower long distance rates, and is not hiking local rates to pay for it. "We haven't had an increase in service charges since 1982."

MT & T public affairs manager Gordon Lummis said about 80 per cent of Nova Scotians use long distance every month.

...with pedophilia
ough said: "We've got a really
keeping the neighbors up.
JOHN LEEFE: "Difficult to convince those with doubts."

Five judges treated 'as unfairly as' Marshall

By CATHY NICOLL
The Daily News

Dragging five Nova Scotia appeal court judges before a judicial committee over comments they made in acquitting Donald Marshall Jr. is as unfair as what happened to Marshall himself, Toronto lawyer Edward Greenspan yesterday.

"What's going on here is as unfair as what went on with Mr. Marshall," he said at a unprecedented judicial review hearing in Halifax.

"You can't make a right from two wrongs. What's happening now is an attempt to discipline five judges because someone thinks they're wrong. Error is not misconduct."

Greenspan is representing former justice Leonard Pace, who sat on Marshall's 1982 appeal hearing with former chief justice Ian MacKeigan, and Mr. Justice Malachi Jones, Gordon Hart and Angus L. Macdonald.

Marshall 37, a Micmac, was convicted in 1971 for a murder he did not commit and spent 11 years in prison before being freed in 1982.

Earlier this year, the Marshall inquiry concluded after two years of hearing evidence that the Nova Scotia justice system failed Marshall at every turn.

The inquiry report also severely criticized the appeal court for branding Marshall a liar and a robber in its 1983 deci-

sion that acquitted him.

The court wrote: "Any miscarriage of justice is more apparent than real."

Greenspan said the justice system discovered it was unfair to Marshall and now the system is trying to compensate by being unfair to the judges.

"They clearly disbelieved Marshall's evidence. They had the right to be wrong. The royal commission had the right to be wrong. Some would say the appeal court did not acquit him enough — that's why we're here," said Greenspan.

'Playing politics'

He also accused Attorney General Tom McInnis of playing

politics by demanding the Canadian Judicial Council examine the behavior of the five judges.

He said the judges' Act should be changed. As it stands, if an attorney general asks for an investigation, one must be done.

As Greenspan was about to sit down, British Columbia Chief Justice Allan MacEachern — chairman of the Canadian Judicial Council committee investigating the judges — asked him to comment on the Marshall inquiry finding that Pace should not have sat on the appeal because he was attorney general in 1971, when Marshall was convicted.

Greenspan replied that the

committee has no jurisdiction to deal with this question because Pace had resigned from the bench and the committee had no power to remove him from office.

The hearing was adjourned until July 10 at the request of Marshall's lawyer, Archie Kaiser, to give him time to prepare his submission.

'Interest, horror'

When the committee began hearings Monday, Marshall was not represented.

But on Tuesday, Kaiser applied to have Marshall granted standing in light of remarks made by Ottawa lawyer Gordon Henderson, who is representing

the judges still on the bench — Jones, Hart and Macdonald.

Kaiser said he listened first with interest and then with "horror" as Henderson attacked Marshall, calling him a liar and accusing him of being involved in an attempted robbery at the time Seale was stabbed.

Henderson opposed the application for an adjournment, saying one would have to be "deaf, dumb and blind not to know this panel was sitting."

He said Marshall had been sent a letter advising him of the hearing to which he did not reply.

Kaiser said Marshall may have received a letter, but he didn't understand the importance of it. He said the letter should have been sent to Marshall's lawyer, Anne Derrick, who has represented him for the past few years.

"He didn't know his reputation would be raised. He has been subjected to a further series of accusations," said Kaiser.

Henderson said that although his comments about Marshall were strong, he is not accusing him. "I'm defending my clients. I'm obliged to speak strongly. Mr. Marshall is not at risk here, the judges are at risk — we want to get this over," he said.

Chief Justice MacEachern ruled there should be an adjournment in the interest of fairness.

Public paying N.S. justices' legal bills

The taxpayer is footing the legal bills of five appeal court judges being investigated by the Canadian Judicial Council.

Dennis Gray, deputy commissioner of the committee for federal judicial affairs, in Ottawa, said yesterday his organization is paying the judges' legal bills.

The federal government is paying because the judges are federally appointed.

The five judges are being investigated for their 1983 find-

ing that Donald Marshall Jr. was partly the author of his own misfortune.

The court acquitted Marshall in a 1971 murder he did not commit, but wrote: "Any miscarriage of justice is more apparent than real."

Well-known Toronto criminal lawyer Edward Greenspan is representing former justice Leonard Pace, who resigned last month from the bench because of ill health.

Ottawa lawyer Gordon Hen-

derson, 78, is representing the three judges still on the bench — Mr. Justice Malachi Jones, Gordon Hart and Angus L. Macdonald.

Halifax lawyer Ronald Downie, of Cox, Downie & Goodfellow, is representing former chief justice Ian MacKeigan who is retired from the bench.

The remaining judges could be removed from the bench if they are found to have committed misconduct.

June 7/90

■ Well-known Toronto criminal lawyer Ed Greenspan, representing recently retired Nova Scotia Appeal Court Justice Leonard Pace, will continue arguments today during an unprecedented Canadian Judicial Council inquiry in Halifax. The judicial council is holding a public hearing into the 1983 acquittal decision of Donald Marshall Jr. by five Nova Scotia judges.

■ Halifax city hall reporter Marilla Stephenson finishes her coverage of the Federation of Canadian Municipalities' 53rd annual conference, which wraps up in Quebec City today. Delegates are expected to discuss conflicts between police and minorities.

Capsule
New fiver
in UK pockets

LONDON (AP) — The British will get less for their money today as a new, smaller five pound note enters circulation engraved with a gracefully aging Queen. The new fiver, the first in two decades, is designed to combat high-technology forgeries and cut production costs.

"No item created by man can't be recreated," said Nigel Bevit-Smith, manager of Design and development at the Bank of England's printing works. "What we try to do is to make it time-consuming and as expensive as possible."

The dominant blue of the older note has been lightened from navy to turquoise, and a blend of background colors

Bar wanted in three states

■ Continued from/A1

know how many charges the Mestres face in the U.S., but they are wanted by the FBI and sought for alleged offences in Montana, California and Wisconsin.

The Mestres' trip to Eastern Canadian began in late April when they stopped for a time in Ste. Anne des Monts, in western Gaspé. Sgt. Gilles Auger of the Quebec Provincial Police said Tuesday seven or eight charges of fraud involving bad cheques will be laid against Mrs. Mestre. Their value is

Marshall lawyer

■ Continued from/A1

Another lawyer representing one of the judges at the hearing was unhappy about Monday's remarks and said he would never call Mr. Marshall a liar.

"When it was said Donald Marshall has served 11 years in jail ... I felt that that was a sad moment ... we should lament that things are said against him," said Toronto criminal lawyer Ed Greenspan. Mr. Greenspan represented retired Justice Leonard Pace.

In January, the Royal Commission on the Donald Marshall Jr. Prosecution released its findings vindicating Mr. Marshall and criticizing the five justices' remarks.

Following release of the inquiry's report, Nova Scotia Attorney General Tom McInnis asked the Canadian Judicial Council to investigate the Nova Scotia appeal court's decision to overturn Mr. Marshall's conviction and the remarks found on the last two pages of the decision.

On Monday, Mr. Henderson, 78, told the council's inquiry com-

between \$1,000 and \$2,000.

The couple left the Gaspé and travelled to Centreville, about 160 kilometres north of Fredericton, arriving at the bed and breakfast home of Ken and Shirley Reid on April 30.

They stayed for about a week, and as guests they were "lovely; you just couldn't find nicer people," said Mrs. Reid Tuesday.

She said Mrs. Mestre told her she was a retired obstetrician and her husband a retired electrical engineer. The Mestres made arrange-

ments that Marshall contributed to his own wrongful conviction in 1971 by lying.

Mr. Henderson continued this line of attack Tuesday, calling Marshall a liar and the Marshall report erroneous.

Meanwhile, during yesterday's hearing, Mr. Greenspan, representing Mr. Justice Leonard Pace commented on his colleague's remarks.

"I'm not calling him (Marshall) a liar. That I'm not calling him anything at all. He's been tried and tried enough. He's not on trial here and that is to me something we must never forget," said Mr. Greenspan.

At the opening day of the hearing council lawyer Harvey Yarosky told the committee he personally wrote Mr. Marshall regarding the hearings but received no reply.

Mr. Kaiser said it was uncertain whether Mr. Marshall had ever received the letter.

Halifax lawyer Ron Downie, representing Mr. Justice MacKeigan, said the royal commission opinion of the judges was "liberally sprinkled with hyperbole".

ments to buy a house.

Mrs. Reid said Mrs. Mestre told her that Mr. Mestre was going to give Mr. Reid a satellite dish for Christmas.

At the end of their stay, Mrs. Reid received a \$350 cheque written on an account at a Montreal bank. Mrs. Reid said the cheque wasn't good.

On May 8, the Mestres checked in at the Lumberland Inn, owned by John and Faith Piccolo. Mrs. Piccolo said the couple, who stayed until May 17, was

friendly, nice and even offered to lend the inn's owners money to expand.

But when Mrs. Piccolo called the Montreal bank branch on May 22 concerning a \$1,300 cheque from the Mestres, "the people at the bank told us that the account didn't exist."

Mrs. Piccolo called the Lumberland police.

Sgt. Eugene Cole of the Pictou RCMP said Tuesday three calls were received at about 6:30 p.m. on May 23, and, following contact with

police in Lumberland, the Mestres were apprehended at the Braeside Inn on the Pictou waterfront about an hour later.

Inn co-owner Tom Mackay said the pair, who had arrived May 18, was personable. "They were very public when they were here."

Similar to actions in Centreville and Lumberland, the couple made arrangements to buy a house.

Mr. Mackay said the Mestres' arrest by the RCMP was "so quiet. No scuffle. No surprise."



Clark Photographs/Jim Clark

Picket-line activity at the liquor commission's head office in Halifax was quiet Tuesday, after two days of violence between strikers and management trying to report for work.

Liquor talks may resume

■ Continued from/A1

bargaining is the first signal of an end to the six-day-old strike that has shut down the province's 90 liquor stores.

Meech Inoiam may be over

it will try to use replacement work-

has shut down the province's 90 liq-

ment and union to resume talks. Moosehead will decide today