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Sir Thomas Aquinas Church Hall  
Cornwall Street  
Halifax, N.S.  
April 2, 1990  
9:40 a.m.

Per: Nancy Brackett  
Verbatim Reporter

IN THE MATTER OF THE DONALD MARSHALL, JR.  
COMPENSATION HEARING

---

BEFORE: The Honourable Gregory Evans,  
Commissioner

PRESENT: Mr. Wylie Spicer, Solicitor  
for the Commission

Ms. Anne Derrick, Solicitor  
for Donald Marshall, Jr. with  
Professor Mary Ellen Turpel

Mr. Jamie Saunders, Solicitor  
for the Government of Nova  
Scotia

WITNESSES: Dr. Harold McGee,  
Anthropologist

Mr. Noel Knockwood, Director  
of the Micmac Native Learning  
Centre, Halifax

Mr. Donald Marshall, Sr.

# DRS

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April 2, 1990 - 9:30 a.m.

1 MR. COMMISSIONER

2 Good morning, ladies and gentlemen. This is an  
3 inquiry established under the Inquiries Act by the  
4 Lieutenant-Governor in Council, directing me to  
5 inquire into, to review and to reassess the  
6 compensation paid to Donald Marshall, Jr. We  
7 propose to start our meetings at 9:30 till 12:30,  
8 and from 2:00 until we close. May I have the  
9 appearances first, please?

10 MR. SPICER

11 Wylie Spicer. I'm counsel for the Commission.

12 MS. DERRICK

13 Anne Derrick, Mr. Commissioner, for Donald Marshall,  
14 Jr. I'm here with Professor Mary Ellen Turpel.

15 MR. COMMISSIONER

16 Mary Ellen?

17 MS. DERRICK

18 Turpel, T-U-R-P-E-L.

19 MR. COMMISSIONER

20 T-U-R-P-E-L?

21 MS. DERRICK

22 That's correct.

23 MR. SAUNDERS

24 If it please the Commissioner, Jamie Saunders on  
25 behalf of the Government of Nova Scotia.

1 MR. COMMISSIONER

2 Thank you. Mr. Spicer?

3 MR. SPICER

4 Thank you, Mr. Commissioner. Mr. Commissioner, we  
5 begin this morning the final chapter of the public  
6 examination that's gone on in the last little while  
7 of the life of Donald Marshall, Jr. This chapter  
8 will fulfill certain of the recommendations  
9 contained in the Report of the Royal Commission on  
10 the Donald Marshall, Jr. Prosecution, of which you,  
11 of course, were a member. I have filed with this  
12 Commission as an exhibit the Order in Council  
13 constituting the inquiry. This Order in Council  
14 directs you to -- and I'm going to quote from the  
15 Order in Council:

16 "Recanvass the adequacy of  
17 compensation paid to Donald  
18 Marshall, Jr. in light of  
19 what the Royal Commission on  
20 the Donald Marshall, Jr.  
21 Prosecution found to be  
22 factors contributing to his  
23 wrongful conviction and  
24 continued incarceration, and  
25 to determine any further

1 compensation which is to be  
2 paid as a result."

3 Those terms of reference constitute the response of  
4 the Government to Recommendation #8 of the Marshall  
5 Inquiry Report, which recommended reconvening the  
6 compensation for Donald Marshall, Jr. in precisely  
7 the terms which now form the terms of reference for  
8 this inquiry. I think it's important at the outset  
9 to remind ourselves of the reasons why the Marshall  
10 Inquiry recommended a reconvening of compensation  
11 at all. This inquiry is necessary because the  
12 Marshall Inquiry found two things. They found that  
13 the process by which compensation was originally  
14 determined and concluded to have been flawed. And  
15 the compensation itself was intended only to take  
16 account of the actual period of time that Marshall  
17 spent in prison, without regard to any of the  
18 factors that put him there or kept him there for 11  
19 years. The Marshall Inquiry had the following to  
20 say about the process and about the flaws in it.  
21 I'm quoting from the Inquiry Report.

22 "The Commission did hear  
23 extensive evidence on the  
24 process by which  
25 compensation was eventually

1 granted. And  
2 notwithstanding the  
3 intentions of the Cabinet  
4 Ministers involved, the  
5 process was not fair.  
6 Marshall's emotional state  
7 following 11 years in prison  
8 was such that he simply  
9 wanted to get the matter  
10 over with. It is our view  
11 that the final outcome was  
12 most significantly  
13 influenced by the findings  
14 and comments of the Court of  
15 Appeal in the reference  
16 case. The conclusion that  
17 Marshall was involved in a  
18 robbery and the opinion of  
19 the Court that Marshall had  
20 contributed in large measure  
21 to his conviction provided  
22 the Crown with a strong  
23 basis for keeping any  
24 compensation as low as  
25 possible. We have concluded

1           that there was no robbery  
2           and that there was a gross  
3           miscarriage of justice which  
4           can in no way be blamed on  
5           Marshall. We do not know if  
6           the                    compensation  
7           negotiations would have  
8           reached a different result,  
9           had the facts, as we have  
10          found them, been available  
11          to those concerned."

12       Still from the Report:

13           "Notwithstanding the release  
14           of claims executed by  
15           Marshall, we believe it will  
16           be most unjust should that  
17           settlement be allowed to  
18           stand without any further  
19           consideration of its  
20           fairness, based on the facts  
21           as now known. Accordingly,  
22           we recommend that the  
23           Government recanvass the  
24           adequacy of the compensation  
25           paid to Donald Marshall, Jr.

1 in the light of what we have  
2 found to be the factors  
3 contributing to his wrongful  
4 conviction and continued  
5 incarceration."

6 So that's the first aspect of it, the flawed  
7 process. The Marshall Inquiry had the following to  
8 say about what the monies that were paid in  
9 compensation represented. I quote again from the  
10 Report:

11 "The Government viewed the  
12 two hundred and seventy  
13 thousand dollars  
14 (\$270,000.00) as  
15 compensation for the period  
16 of time Donald Marshall, Jr.  
17 spent in jail. It did not  
18 take into consideration any  
19 negligence or wrongdoing  
20 that may have put him there  
21 or kept him there."

22 Notwithstanding that, Marshall was asked to and did  
23 sign a full release of any and all claims he might  
24 have had against the Crown. The monies paid to  
25 Donald Marshall, Jr. do not in any way purport to

1        compensate him for the inadequate, incompetent and  
2        unprofessional investigations of Sandy Seal's murder  
3        by John MacIntyre and the Sydney Police Department,  
4        the inadequate representation he received at the  
5        hands of his counsel, the failure of the Crown  
6        prosecutor to disclose the inconsistent statements  
7        of key witnesses, the failure of the Attorney-  
8        General's Department to disclose their knowledge of  
9        Jimmy MacNeil's coming forward in November 1971, and  
10       the incompetent reinvestigation by R.C.M.P. Insp.  
11       Marshall in November 1971, none of which relates to  
12       the period Marshall spent in jail. It has been more  
13       than 5 years since Donald Marshall, Jr. was awarded  
14       compensation. However, it was only with the release  
15       of the Marshall Inquiry Report and the apology by  
16       the Province of Nova Scotia that Donald Marshall,  
17       Jr. can be said to have been vindicated. Having  
18       been found innocent by the Court of Appeal in 1983,  
19       he was said to have contributed in large measure to  
20       his own conviction. That was an indignity which Mr.  
21       Marshall carried with him until this year. I  
22       mention this because you will be asked to consider,  
23       as relevant to the quantum of compensation, the  
24       period of time from the decision of the Court of  
25       Appeal in May 1983 to February of this year. I am

1        advised by counsel for the Government that they are  
2        prepared to treat this period of time as being part  
3        of the period concerning which you are entitled to  
4        award compensation. So we run right up to February  
5        of 1990. In fulfilling your mandate, the Order in  
6        Council directs you to take cognizance of certain of  
7        the Marshall Inquiry recommendations. They are  
8        Recommendations #4 through #7, and they are:

9                "4. That there be no preset  
10                limit on the amounts  
11                recoverable with respect to  
12                any particular claim or any  
13                particular aspect of a  
14                claim.

15                5. That you be entitled to  
16                consider any and all factors  
17                which may have given rise to  
18                the wrongful conviction and  
19                imprisonment or the  
20                continuation of that  
21                imprisonment.

22                6. That appropriate legal  
23                fees and disbursements  
24                incurred by or on behalf of  
25                the wrongfully convicted

1 person be paid as part of  
2 the inquiry's expenses."

3 And finally:

4 "7. That the inquiry report  
5 become a public document."

6 The Commission counsel, counsel for Donald Marshall,  
7 Jr. and counsel for the Government of Nova Scotia  
8 have agreed on the process by which evidence will be  
9 put before you for consideration. I anticipate that  
10 there will be two days of public hearings here at  
11 the Church, during which time you will hear  
12 testimony related in large measure to the situation  
13 of Donald Marshall, Jr. as an Aboriginal person and,  
14 in particular, the nature of his relationship with  
15 the Micmac community. Counsel for Donald Marshall,  
16 Jr. has advised that submissions will be made that  
17 this relationship should be a factor in considering  
18 compensation. You will also hear testimony in the  
19 next couple of days from Donald Marshall, Sr.  
20 concerning, amongst other things, the effect that  
21 his son's imprisonment had on the family. It will  
22 be submitted later by counsel for Donald Marshall,  
23 Jr. that compensation should be paid in some  
24 respects to the family. You will also hear  
25 testimony from a person who is currently on parole

1 from a life sentence. He will describe the  
2 difficulties faced by a person serving a life  
3 sentence. Following completion of these public  
4 hearings, you will hear from other individuals who  
5 will describe their observations of the condition of  
6 Donald Marshall, Jr. during the prison years and  
7 following. You will also hear about this from  
8 Donald Marshall, Jr. His testimony will be given in  
9 private. There is no purpose to be served by  
10 publicly reviewing and exposing the pain which has  
11 been suffered by Donald Marshall, Jr. Such a public  
12 review would, I am told, and I have accepted, only  
13 cause further pain to Mr. Marshall. It is not our  
14 purpose here to continue the pain. And it would be  
15 a sad irony, indeed, if the process of assessing  
16 compensation itself were to form an element of Mr.  
17 Marshall's claim for compensation. In addition to  
18 testimony, it is anticipated that actuarial material  
19 and other material will be submitted to the inquiry  
20 concerning at least the loss of income suffered by  
21 Donald Marshall, Jr. as a result of the years he  
22 spent in prison. Final submissions by counsel will  
23 be made on May the 11th at the Law Courts in  
24 Courtroom No. 5. It has been agreed that Volume #1  
25 of the Marshall Inquiry Report shall form part of

1 the record of this inquiry and that the findings of  
2 that Report be considered as facts in this inquiry.  
3 And I have filed a copy of Volume #1 as an exhibit  
4 to this inquiry. I should say in passing that all  
5 the exhibits and all the testimony that went into  
6 the Report itself will be considered to be part of  
7 the record, although I have not separately filed  
8 them. Donald Marshall, Jr. received two hundred and  
9 seventy thousand dollars (\$270,000.00) in  
10 compensation in 1984. Of that amount, ninety-seven  
11 thousand dollars (\$97,000.00) was paid in legal  
12 fees. Last Thursday, the Government, consequent  
13 upon a recommendation from you, approved an interim  
14 payment of ten thousand dollars (\$10,000.00) to  
15 Donald Marshall, Jr. The net amount received in  
16 compensation by Mr. Marshall to date then is one  
17 hundred and eighty-three thousand dollars  
18 (\$183,000.00). Bearing in mind your terms of  
19 reference as set out in the Order in Council, it is  
20 now the task of this inquiry to recanvass that  
21 amount. Unlike the process of the Marshall Inquiry,  
22 in this hearing the Commission counsel will not be  
23 questioning the witnesses in the first instance.  
24 Ms. Derrick will call the witnesses and will conduct  
25 a direct examination. This will be followed by Mr.

1 Saunders on behalf of the Government, and, finally,  
2 battling cleanup, myself. I hope that these comments  
3 will put into focus the task before you. I know  
4 that I speak for all counsel here and recognize the  
5 importance of the task before you. And we are all  
6 committed to putting the facts before you in such a  
7 way that will be of the greatest assistance in  
8 coming to a conclusion as to the appropriate and  
9 proper amount of compensation to be finally paid to  
10 Donald Marshall, Jr. Thank you, Mr. Commissioner.

11 MR. COMMISSIONER

12 The Order in Council will be Exhibit #1?

13 MR. SPICER

14 That's correct. The Order in Council in Exhibit #1.

15 MR. COMMISSIONER

16 Volume #1 of the report will be Exhibit #2?

17 MR. SPICER

18 No. The Provincial Secretary's appointment is  
19 Exhibit #2.

20 MR. COMMISSIONER

21 Thank you.

22 MR. SPICER

23 Volume #1 of the report is Exhibit #3. And there's  
24 a blue volume of exhibit material which constitutes  
25 Exhibit #4. And those have all already been filed.

1 MR. COMMISSIONER

2 Thank you. Ms. Derrick?

3 MS. DERRICK

4 Thank you, Mr. Commissioner. Mr. Commissioner, I'm  
5 honoured to be here today to represent Mr. Donald  
6 Marshall, Jr. in this final inquiry into the matter  
7 of his compensation. As I indicated earlier, I am  
8 here with Mary Ellen Turpel, who is an Associate  
9 Professor of Law at Dalhousie and a Cree, and has  
10 decided to obtain an earned call to the Bar of Nova  
11 Scotia and is articling with me and assisting with  
12 this file. Mr. Marshall is, no doubt, not the only  
13 wrongfully convicted person. But his is a  
14 particularly egregious example of wrongful  
15 conviction. As a young man, he was wrongly accused  
16 and convicted of the most serious crime and  
17 sentenced to life, only to be released after years  
18 of needless suffering and deprivation, to be further  
19 stigmatized by the same system that had wronged him  
20 originally. In presenting this claim, I will be  
21 calling evidence and making an argument in support  
22 of compensation for Mr. Marshall and his family,  
23 which will acknowledge the significance of Mr.  
24 Marshall's Micmac heritage and culture. Mr.  
25 Marshall is first and foremost Micmac. His people

1 have a long and proud history as a first nation. He  
2 is the eldest son of the Grand Chief of the Micmac  
3 nation. It is central to your understanding of Mr.  
4 Marshall, his experience and his loss that you  
5 understand his cultural and community context. To  
6 provide you with an understanding of that context, I  
7 am calling several witnesses knowledgeable about  
8 Micmac culture and community. The first of these  
9 will be Dr. Harold McGee, an Anthropologist at Saint  
10 Mary's University in Halifax. I will also be  
11 calling Noel Knockwood, a traditional Micmac and  
12 spiritual leader, Mr. Marshall, Sr., Junior  
13 Marshall's father and the Grand Chief of the Micmac  
14 nation, and Dr. Marie Battiste, a Micmac educator  
15 and scholar. It will also be my submission that Mr.  
16 Marshall's experience of prison was qualitatively  
17 different because he is an Aboriginal person. You  
18 will hear from Patricia Monture, a law professor at  
19 Dalhousie Law School, who is an Aboriginal woman and  
20 who has worked with Aboriginal prisoners, and who  
21 most recently was a consultant to the Federal Task  
22 Force on Federally Sentenced Women. As to the  
23 experience of prison itself, I will be calling the  
24 evidence of a lifer, Mike Grattan, a man sentenced  
25 to life in 1971 at the age of 16 who served his time

1 at the Dorchester and Springhill institutions. He  
2 will articulate for you the numbing experience of  
3 life inside and the painful transition to life on  
4 the street. Mr. Commissioner, you are no doubt  
5 aware that Donald Marshall, Jr. has suffered greatly  
6 over the past 19 years. With respect, I believe it  
7 will inform your understanding of him and his pain  
8 to learn more about him from the perspective and  
9 observations of some of those who have been the  
10 closest to him since his release in 1982. I will be  
11 presenting this evidence to you in private. Much of  
12 Mr. Marshall's agony has been the subject of intense  
13 public scrutiny. It is essential that the process  
14 of compensating him for the terrible wrongs done to  
15 him not inflict further suffering or harm on him.  
16 The public interest is not served by exposing the  
17 details of the harm done to Mr. Marshall. The  
18 integrity of this process requires that Mr.  
19 Marshall's dignity and privacy be respected and  
20 preserved. In these sessions you will hear from  
21 several people who have witnessed Mr. Marshall's  
22 trauma at close hand and who have lived or continue  
23 to live with his pain and his struggle to regain a  
24 place for himself in the world. You will hear from  
25 a former lawyer, a former and present partner, a

1 corrections official who knew and knows Donald  
2 Marshall, Jr. well, and Donald Marshall himself.  
3 This compensation process takes place in the context  
4 of the powerful and evocative findings of the Royal  
5 Commission. These findings have been accepted by  
6 the Government of Nova Scotia and are the terrible  
7 truths upon which compensation is to be founded. As  
8 the Attorney-General said in his public response on  
9 behalf of the Government following the release of  
10 the Royal Commission Report, the need to compensate  
11 leaps off every page. The need to compensate, the  
12 moral or legal imperative to right as far as is  
13 possible the wrongs done to Mr. Marshall gives rise  
14 to this Commission and your challenging and  
15 essential task. The great burden of Your Lordship's  
16 task is the daunting degree of Mr. Marshall's loss.  
17 This must be quantified as completely as possible.  
18 In argument, I intend to address your attention to  
19 various heads of loss, and I will briefly summarize  
20 these, although in the development of submissions on  
21 behalf of Mr. Marshall, additional instances of loss  
22 may be identified. There will be losses of  
23 earnings, future pecuniary losses, loss of  
24 opportunity, pain and suffering, loss of reputation,  
25 humiliation and disgrace, loss of liberty, loss of

1 enjoyment of life, which might include the loss of  
2 potential normal experiences such as marriage and  
3 having a family, the loss of developmental  
4 experiences such as education and normal  
5 socialization, the loss of civil rights such as  
6 voting, the loss of kinship. There are prison  
7 indignities, prison punishment for refusing to admit  
8 guilt, impairment of future prospects such as  
9 marriage and reintegration into the community,  
10 impairment of his potential to become a Grand Chief,  
11 his burden of shame. And with respect to his  
12 family, the impairment of his self-esteem and that  
13 of his family and the deprivation of the family's  
14 kinship with Mr. Marshall. Mr. Marshall's loss is  
15 also the loss suffered by his family, whose loyalty  
16 and devotion has remained constant throughout.  
17 Their lives have been inextricably linked with  
18 Donald Marshall, Jr.'s suffering, and they must be a  
19 further part of his ultimate restoration by this  
20 Commission. Their loss is pecuniary with respect to  
21 prison visits and telephone calls over the many  
22 years, monies spent because of a State wrong, and  
23 non-pecuniary. The loss of Mr. Marshall, Sr.'s  
24 business, the family's pain and suffering, their  
25 loss of self-esteem and their loss of kinship with

1 their son. Also inextricably linked to Mr. Marshall  
2 is his community. I will submit that it is  
3 essential for Mr. Marshall's compensation to include  
4 a material recognition of his connection with his  
5 community and the unique cultural features that  
6 guide and govern that interrelationship. Mr.  
7 Marshall's proud cultural heritage and  
8 distinctiveness is part of his integrity as a  
9 person. His is a story of courage and dignity, and  
10 his survival a testament of the strength and  
11 resilience of his people. I will be submitting to  
12 Your Lordship that you are not fettered with respect  
13 to quantum or principle by any limits to be found in  
14 your terms of reference or in conventional  
15 precedent. The compensation of Donald Marshall, Jr.  
16 is a unique challenge, the restitution for a State  
17 wrong of enormous proportions against an Aboriginal  
18 person. Thank you, Mr. Commissioner.

19 MR. COMMISSIONER

20 Mr. Saunders?

21 MR. SAUNDERS

22 Thank you, Mr. Commissioner. I had not intended to  
23 make an opening statement. Because other counsel  
24 have done so, I will make a few brief introductory  
25 remarks. The ordeal of Donald Marshall, Jr. began

1 in Wentworth Park in 1971 and continued unabated  
2 until his release in 1982. Certain hardships  
3 continued to plague him like a perplexing shadow  
4 until the release of your report and the apology  
5 delivered by the Attorney-General on behalf of the  
6 people of Nova Scotia. Then, finally, Mr. Marshall  
7 was able to shed the shroud of guilt or doubt that  
8 had dogged him and stand upright as a proud and  
9 honourable man. It is against that background that  
10 the Province has asked you to return to Nova Scotia  
11 and recanvass the amount of compensation paid to Mr.  
12 Marshall and determine, as you have written, whether  
13 it can be said to be fair, given what we now know.  
14 If I may say, Mr. Commissioner, Ms. Derrick, Mr.  
15 Spicer and I have worked very closely and cordially  
16 in the last several weeks in order that the process  
17 of calling evidence in this final phase would be  
18 done quickly and yet as thoroughly as possible.  
19 While we may not always agree on the relevance of  
20 the evidence adduced, and have reserved to ourselves  
21 until final argument the weight, if any, you may  
22 choose to give to it, we have sought to assist one  
23 another in gathering and submitting facts which you  
24 may consider helpful to complete your assignment.  
25 Any one of us who has been privileged to serve in

1 varied responsibilities before this Royal  
2 Commission, and now this public inquiry, has the  
3 shared and common purpose of completing our work in  
4 a way that is both fair and realistic to both the  
5 victim and the system, at whose hands he suffered,  
6 to obtain a result that will impress the ordinary  
7 onlooker as being just and sensible, and with  
8 reasons to instruct and enlighten future generations  
9 or other jurisdictions whose task might some day be  
10 the same as ours.

11 MR. COMMISSIONER

12 Anything further, Mr. Spicer?

13 MR. SPICER

14 No. I'm just going to turn it over to Ms. Derrick.  
15 I believe she's ready to call the first witness.

16 MS. DERRICK

17 Dr. Harold McGee, please.

18 \_\_\_\_\_  
19 DR. HAROLD MCGEE, (Sworn)

20 MR. COMMISSIONER

21 What is your first name, doctor?

22 MR. MCGEE

23 Harold.

24 MR. COMMISSIONER

25 Harold McGee, M-C-G-E-E?

1 MR. MCGEE

2 Yes.

3 DIRECT EXAMINATION BY MS. DERRICK (On Qualifications)

4 Q. Dr. McGee, you're an Anthropologist. Can you tell  
5 us what that is?

6 A. Yes, I can. An Anthropologist, as an academic  
7 profession, is a discipline that deals with the  
8 study of human similarity and variation at all times  
9 and in all places. It includes archeology, physical  
10 anthropology, linguistics and socio-cultural  
11 anthropology. My own field of specialty is in  
12 socio-cultural anthropology, with an emphasis and  
13 concentration on the Native peoples of Atlantic  
14 Canada.

15 MR. COMMISSIONER

16 Perhaps we could move the microphone up closer. Are  
17 you able to hear him?

18 MS. DERRICK

19 There's a bit of an echo, but I think we'll manage.

20 DR. MCGEE

21 Is that better?

22 MS. DERRICK

23 Thank you, Dr. McGee.

24 BY MS. DERRICK

25 Q. We have a copy of your C.V. which is filed in

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 Exhibit #4 that Mr. Spicer handed out. And I just  
2 wanted to go through some singular features of it.  
3 You have a Doctorate in Anthropology. Is that  
4 correct?

5 A. Yes.

6 Q. With your thesis having been on, "Ethnic Boundaries  
7 and Strategies of Ethnic Interaction: A History of  
8 Micmac/White Relations in Nova Scotia"?

9 A. That's correct.

10 Q. And you obtained this from the Southern Illinois  
11 University in the U.S.?

12 A. Correct.

13 MR. COMMISSIONER

14 And that's being filed as Exhibit #5, is it?

15 MS. DERRICK

16 #4. Mr. Commissioner, there are a collection of  
17 materials found in Exhibit #4, which include the  
18 C.V.s of various witnesses I'll be calling, Dr.  
19 McGee's being amongst them.

20 MR. COMMISSIONER

21 All right. Thank you.

22 BY MS. DERRICK

23 Q. Dr. McGee, do any of the courses that you currently  
24 teach include an emphasis on Micmac culture?

25 A. Approximately every other year I teach a course

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 entitled, "Native Peoples of Atlantic Canada and  
2 Maine," which is being offered this coming year. So  
3 that course specifically deals with the culture and  
4 history of the Micmac people. But in my other  
5 courses, because of my own research, there is  
6 obviously mention made of examples from Micmac life,  
7 Micmac culture.

8 Q. And you have been a lecturer over the years of the  
9 Transition Year Program at Dalhousie University?

10 A. On a number of occasions, yes.

11 Q. And can you tell us what that program is?

12 A. It's a program -- an upgrading program designed to  
13 -- for 10 Black, 10 Native students, to prepare them  
14 for university, experience university life. It  
15 consists of upgrading literacy, numeracy and  
16 background courses in Native and Black history and  
17 culture.

18 Q. And you've also been a lecturer at the Native  
19 Counsellor Aid Program at St. Francis Xavier  
20 University in Nova Scotia?

21 A. There was a single workshop for Native counsellors.

22 Q. And you have been a research associate at the School  
23 of Education at Dalhousie University?

24 A. Yes, I have.

25 Q. And an instructor in the Micmac Bachelor of Social

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

- 1 Work Program. Can you tell us what that is?
- 2 A. That's a program to take Native people who are  
3 working in areas where the knowledge associated with  
4 social work programs is most beneficial, and  
5 accommodates their working schedules and lifestyles  
6 to have some of the courses in town and some of the  
7 courses near the reserves, just to facilitate their  
8 obtaining their social work degrees.
- 9 Q. You've also been involved as a consultant with  
10 respect to Micmac cultural issues. Is that correct?
- 11 A. On some occasions, yes.
- 12 Q. In your resume, I see that there's a reference to  
13 the Nova Scotia Department of Education, the Micmac  
14 television project for three years?
- 15 A. The development of the Micmac film series which I  
16 believe is still used in the Grade 5 curriculum.
- 17 Q. And what is that? What does that consist of?
- 18 A. It consists of five roughly half-hour programs in--  
19 to be shown I think in the first part of the week in  
20 the Micmac language, then later in the week with an  
21 English voice over. It was an attempt to  
22 reconstruct Aboriginal culture on film for the  
23 educational system, for the curriculum for  
24 elementary school children.
- 25 Q. And you also were involved with the National Film

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 Board in the production of four sound filmstrips  
2 concerning Micmac Aboriginal culture?

3 A. Yes. These are covering essentially four aspects of  
4 the seasonal realm, dealing with social structure  
5 and subsistence patterns and the Aboriginal period.

6 Q. And I think it shouldn't go without note that that  
7 won a first prize.

8 A. Yes, at a New York Film Festival.

9 Q. In the New York Film Festival. You were also the  
10 Editorial Assistant for a book about the Micmac  
11 authored by Robert Lovett?

12 A. Yes.

13 Q. What did that involve?

14 A. That involved sitting down with Dr. Lovett and going  
15 through various manuscript drafts, putting him in  
16 touch with various historical sources, which he, as  
17 a linguist, wasn't familiar, and generally  
18 discussing the work with him and then editing his  
19 final draft.

20 Q. I see as well that you were the Manuscript Reviewer  
21 for a junior high textbook, a chapter concerning  
22 Micmac Indians.

23 A. Well, there's been one junior high school text and,  
24 I believe, two or three elementary school texts that  
25 I've performed that service for.

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 Q. You have also been a member of the Native Studies  
2 Committee at the University College of Cape Breton?

3 A. Yes.

4 Q. Is that a curriculum development committee?

5 A. Partially it does that. But it deals with other  
6 aspects of the program as well, the equipment of  
7 students, counselling. It deals with the entire  
8 program, but the thrust of my involvement is with  
9 curriculum development. The thrust of my  
10 involvement is largely with curriculum development.

11 Q. And that would be from a cultural perspective  
12 relating to Micmac culture?

13 A. Yes.

14 Q. And you are on the Advisory Board to the Micmac  
15 Native Learning Centre?

16 A. Yes, I am.

17 Q. Can you tell us what that is?

18 A. The Learning Centre is housed in a friendship  
19 centre. But it's a program, a multifaceted program,  
20 actually, of upgrading to receive high school  
21 diploma status as well as special training in  
22 computer skills, office management skills, and the  
23 attempt to develop, essentially, self-confidence for  
24 placement -- work placement in the larger community.

25 Q. And sitting on the Board with you would also be

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

- 1 Micmac people?
- 2 A. There are people from industry, commerce, banking  
3 and so on. And there are Native people present.  
4 And there are academics and other researchers.
- 5 Q. I note that with respect to your funded research, in  
6 1969 you did some research into Micmac political  
7 organization at St. Francis Xavier University?
- 8 A. That was -- that would have been some funding for my  
9 Doctoral work, yes.
- 10 Q. Thank you. And in 1987, "Expressive Culture and  
11 Cultural Identity in Maritime Canada." Did that  
12 relate to Micmac culture?
- 13 A. Only peripherally.
- 14 Q. With respect to publications, a number of books, is  
15 it correct to say you've been the Editor of Native  
16 Peoples Across Canada?
- 17 A. Yes, that's quite correct.
- 18 Q. And Native Peoples and About Canada in 1983?
- 19 A. That was a -- some revision in the original.
- 20 Q. You, in 1983, co-authored with Ruth Whitehead, "The  
21 Micmacs: How They Lived 500 Years Ago"?
- 22 A. Yes, I did.
- 23 Q. What text was that?
- 24 A. That's a -- it's a children's -- it was designed or  
25 aimed for a young, oh, probably age 12 to 15 reading

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 audience. And it's essentially a children's book.  
2 But the concern was that it be ethnographically  
3 correct and that it fill a gap with some of the  
4 educational materials that at that time just wasn't  
5 present.

6 Q. You've written numerous journal articles and book  
7 chapters, I note on page 6 of your resume, relating  
8 to Micmac culture. Is that correct?

9 A. Oh, for sure, yeah.

10 Q. And you've read a number of papers as well at  
11 various conferences?

12 A. Yes.

13 Q. These are found on pages 7 and 8 of your resume.  
14 And you've done a number of media presentations, I  
15 see, as well. For example, in 1981, "An Interview  
16 on the IDEAS Program Concerning Early Contact  
17 Between Micmacs and Europeans."

18 A. Yes.

19 Q. And in 1985, an interview concerning Micmac history  
20 for a six-part Radio Quebec series?

21 A. Yes.

22 Q. And numerous book reviews relating as well to Micmac  
23 cultural issues?

24 A. Many of them do, yes.

25 Q. And, indeed -- I'll just follow the activity,

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 including bibliographies, Micmac material, cultural  
2 inventories, found on pages 10 and 11?

3 A. Right.

4 MS. DERRICK

5 Mr. Commissioner, it's my intention to have Dr.  
6 McGee qualified as an expert Anthropologist.

7 MR. COMMISSIONER

8 I'm satisfied that he is qualified in his specialty.

9 MS. DERRICK

10 Thank you.

11 MR. COMMISSIONER

12 Well qualified, I might say.

13 MS. DERRICK

14 Thank you.

15 DIRECT EXAMINATION BY MS. DERRICK

16 Q. Dr. McGee, could you describe the Micmac nation?  
17 What is it?

18 A. At present?

19 Q. Yes.

20 A. The Micmac nation consists of people whose heritage  
21 and cultural background stem from a group of people  
22 who resided in the Maritime Provinces, including the  
23 Gaspe, northern New Brunswick, Prince Edward Island,  
24 Nova Scotia and portions of Newfoundland, and today  
25 would include some communities in New England,

1 including Maine, and a very large settlement in the  
2 City of Boston.

3 MR. COMMISSIONER

4 I'm sorry. I didn't hear the last part.

5 DR. MCGEE

6 In the city of Boston. There's a large Micmac  
7 community in Boston.

8 BY DR. MCGEE

9 A. But the nation, as perceived by the people  
10 themselves, would include status and non-status  
11 people, not just those that are on -- who are on the  
12 Band list.

13 Q. And these people would be found in the Gaspé region,  
14 in P.E.I., in Newfoundland and throughout Nova  
15 Scotia?

16 A. Yes.

17 Q. And also in New England.

18 A. In New England.

19 Q. In the present day.

20 MR. COMMISSIONER

21 Could you give me some indication of the number  
22 we're speaking of?

23 DR. MCGEE

24 I believe, in terms of status, we're probably  
25 looking at figures of around 15,000. But when you

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 include non-status people, I would think that would  
2 probably be closer to 25,000 to 30,000.

3 MR. COMMISSIONER

4 So about an equal number of status and non-status.

5 DR. MCGEE

6 Roughly, yes, people who acknowledge some Micmac  
7 heritage.

8 BY MS. DERRICK

9 Q. Dr. McGee, are you able to say what is status and  
10 what is non-status, now that you've mentioned it?

11 A. The status person is someone whose name is on a Band  
12 -- on a list in Ottawa, indicating that they are a  
13 Native person. And it's essentially the legal  
14 definition of an Indian in this country, is if your  
15 name is on a list in Ottawa, you are an Indian.

16 Q. And this is found in the Indian Act.

17 A. This is part of the Indian Act. And there are  
18 various ways by which people who have cultural links  
19 to Native communities who are not on that list, such  
20 as enfranchisement, either voluntary or forced.

21 Q. And these would constitute non-status people?

22 A. These would constitute the non-status people.

23 Q. What does the term "culture" mean in ethnological  
24 terms?

25 A. This is my Doctoral exams all over again, isn't it?

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 The concept of culture is one that focuses on the  
2 notion of a world view of people having distinctive  
3 ways of perceiving and adapting to the world. So  
4 that it's an adaptive process that is other than a  
5 biological adaptation to environments. So that it  
6 consists of learned, shared behaviours that human  
7 beings have acquired in response to adapting to  
8 particular circumstances. But it also involves the  
9 perception of that environment. And one of the  
10 aspects -- or one of the conclusions or observations  
11 of ethnological inquiry is that peoples around the  
12 world perceive and conceptualize how the universe is  
13 structured and how the universe functions as being  
14 different. And, consequently, their behaviours and  
15 actions to respond to that differ. So, as a source  
16 of cultural difference, it is this difference in  
17 world view or perception of how the world is  
18 structured.

19 Q. And have you already in that definition described  
20 what a "world view" is?

21 A. Well, a world view is something that -- as it rests  
22 within the individual, is all of the factors that  
23 involve an individual's conceptualizations about the  
24 universe and how it operates. And there are a  
25 variety of sources for that. Some are from the

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 inculcation process of just learning to be human and  
2 are directed by the social environment in which they  
3 find themselves. And, as well, there's one's own  
4 personal experience. So a personal world view is, I  
5 suppose one could say, a private culture that one  
6 carries around with one to deal with the world. But  
7 when spoken of in the sense of a community, one can  
8 then talk about a community world view, which is a  
9 shared set of premises about the nature of the  
10 universe.

11 Q. And when you talk about learning to be human, does  
12 this involve learning to interact with other people,  
13 other people in your culture and outside of your  
14 culture?

15 A. Certainly. It involves defining of appropriate and  
16 proper social behaviour. It is concerned with  
17 appropriate behaviour for dealing with human-made  
18 artifacts and as well as with the physical world.  
19 But certainly social relationships are a large part  
20 of that.

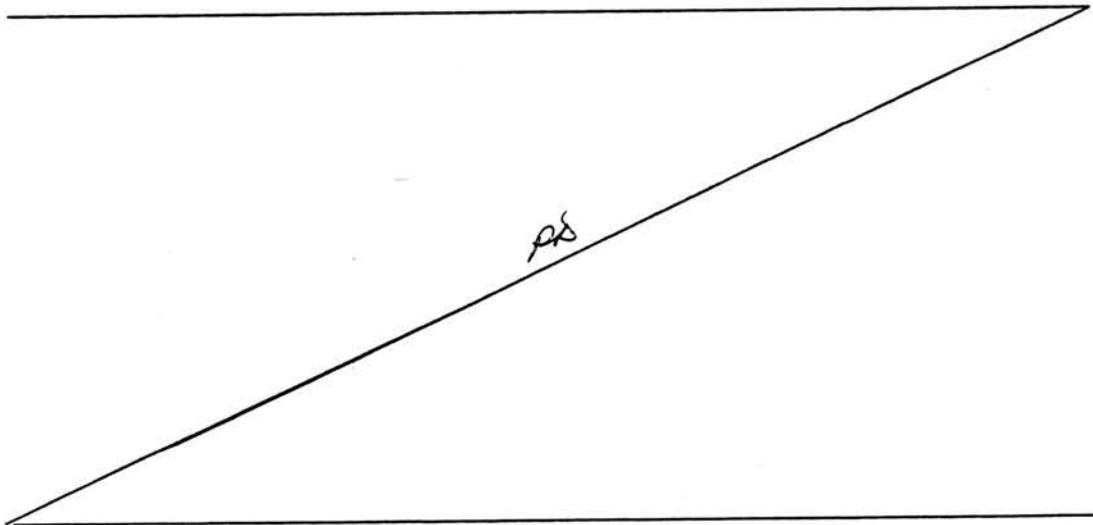
21 Q. What factors contribute to the development of a  
22 world view for the Micmac?

23 A. The sources for the Micmac I think stem from  
24 essentially three major categories of information or  
25 three traditions. And one of those is the tradition

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

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that I think can be linked directly to the  
Aboriginal period and one that we would call  
"traditional Micmac culture." Or I think popularly  
it would be referred to as "traditional Micmac  
culture." The other has to do with adaptation to a  
condition -- at least for the present culture,  
adaptation to the conditions of poverty. And one  
has what in the social science literature is  
referred to as the "culture of poverty," which is a  
series of adaptive strategies for dealing with that  
condition. A third source are those sets of values  
and sets of traditions that exist in the larger  
dominant society in which contemporary Micmac  
communities are encapsulated.



1 Q. And what are the factors that contribute to the  
2 development of a world view in the dominant society?

3 A. I think there are -- again, one of the primary ones  
4 stems from language and the nature of the structure  
5 of Indo-European languages, but, more specifically, I  
6 think there are two sometimes conflicting sources of  
7 value, and those are from the marketplace, the  
8 establishment of our economy, the way that we -- it  
9 is essentially a market orientation. And the other  
10 stems from Judeo-Christian-Islamic traditions of  
11 oneness, wholeness, fairness and so on. So, one is  
12 concerned essentially with advantage and power and  
13 the other is concerned with fairness and equity, I  
14 would argue. And from language one gets a  
15 linearity of thought, a sequential structuring of  
16 cause and effect that's absent in some language  
17 traditions. So, from language one gets our sense of  
18 logic and cause and effect relationships, from our  
19 commercial transaction one gets this emphasis on  
20 advantage and power, and from religious traditions  
21 one gets notions of oneness, wholeness, fairness and  
22 equity.

23 Q. Are some of these features that you've described,  
24 particularly the ones to do with language and the  
25 commercial transactions, absent from the world view

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

- 1 of the Micmac?
- 2 A. They're not absent, because, as I mentioned earlier,  
3 part of the tradition of a contemporary Micmac  
4 person is that they too are subject to acquiring  
5 these, so that it's not something that is absolutely  
6 foreign. But if one takes a look at the traditional  
7 aspect, it's clearly definitely not a part of the  
8 traditional orientation. Micmac as a language is  
9 verb-oriented rather than subject-oriented as is  
10 English and focuses more on relationships and states  
11 of being rather than on temporal sequencing of  
12 events. With respect to the market aspect,  
13 traditionally and to, I think a large degree,  
14 contemporarily, that sense of seeking advantage in  
15 human interaction just isn't there to the same  
16 magnitude or to the same degree that it is in the  
17 larger society. Notions of reciprocity, notions of  
18 gift exchange, notions of balance exist more  
19 prominently in Micmac world view.
- 20 Q. And I will be coming back to that, Dr. MacGee. Can  
21 you tell us how Micmac culture and traditions have  
22 been recorded?
- 23 A. Well, the kinds of information that anthropologists  
24 have recourse to for the study of the history of  
25 particular ethnic groups stems from the -- as I say,

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 if we're concerned with the full history, it stems  
2 from artifactual examinations through archeology.  
3 So, one source is recorded in the manufacturing of  
4 things and their disposition, but for the recent  
5 period, within the last 500 years, much of the  
6 information that we have stems from European  
7 accounts, written accounts, and to a certain extent  
8 through oral traditions and oral history of the  
9 Native people themselves. Some of my own research  
10 sees or acknowledges that in some aspects of  
11 expressive behavior, recreational behavior, games  
12 and art, that much of a model, if you will, for that  
13 world view is presented in those areas. So, there  
14 are a number of places that one can go to ascertain  
15 what a people's world view is. For the Micmac, the  
16 bulk of our evidence as academics rest on oral  
17 tradition, rest on the written traditions of the  
18 English and the French in this area and the few  
19 visiting Germans and Spaniards who happened to move  
20 through this area.

21 Q. And where are the culture and traditions of the  
22 Micmac to be found?

23 A. It's to be found largely in their behaviors, largely  
24 in their behaviors, largely in the way with which  
25 they interact with one another, and in terms of

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 their own traditions of transmission of information  
2 through time, through story-telling and anecdotal  
3 accounts of events that occurred to themselves, and,  
4 more formally, through various kinds of  
5 celebrations, particularly those at the St. Ann's  
6 Day celebration in July at Chapel Island.

7 Q. And these would constitute ceremonies as well,  
8 traditional ceremonies?

9 A. Certainly there are ceremonies, many of them involve  
10 today Catholic church ritual, but there are also  
11 traditional aspects that take place as well which  
12 involve annual -- the meetings of the Grand Council  
13 and the reading -- up until the loss of some wampum  
14 belts in the mid 1950's, reading of traditional  
15 wampum belts, which are treaties with the Mohawk  
16 nation in (Cognawack?).

17 Q. What is a wampum belt?

18 A. A wampum belt? Well, there are two types of wampum  
19 belts, actually three types. The ones that were  
20 read in Chapel Island were belts that confirmed or  
21 validated treaties with foreign nations such as the  
22 Mohawk and consisted of belts of beads with distinctive  
23 patterns that served as a mnemonic device and  
24 symbolic device commemorating a verbal agreement.  
25 Other types of wampum -- traditionally, a wampum

**DR. MCGEE, DIRECT EXAM. BY MS. DERRICK**

1 comparable to that would have been used to validate  
2 other kinds of transactions such as marriages and  
3 various kinds of agreements between communities.  
4 The second type of wampum belt is a messenger,  
5 called messenger wampum, and it's usually in the  
6 form of a string of beads in which the placement of  
7 beads serves sometimes as a census of family heads  
8 and sometimes it serves as coding a message that a  
9 runner would have given to a community. So, there  
10 are essentially two types of wampum. But what's  
11 significant is not so much the artifact itself but  
12 rather the stories that go with it and the  
13 validation is in the retelling of the agreement, the  
14 retelling of the arrangement, and so that what's of  
15 primary importance is what's inside of people's  
16 heads rather than any kind of physical manifestation  
17 of that. So that regardless of whether a wampum  
18 belt survived, the relationship would still be  
19 maintained. So that one of the sources of  
20 tradition is that at Chapel Island the Grand Council  
21 has private meetings in which they discuss national  
22 business and that information then is disseminated  
23 to the other people, to the other residents or people  
24 in the communities.  
25 Q. And this is part of current-day cultural traditions,

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 is it?

2 A. Yes, very much.

3 MS. DERRICK

4 Mr. Commissioner, I'm going to now get into an area  
5 where I'm going to be referring to some of the  
6 material in Exhibit 4. It's a fairly consistent  
7 line of questioning. It might be a good opportunity  
8 for a short break.

9 MR. COMMISSIONER

10 Yes. I wonder if we can have the volume turned up.  
11 I don't know whether the audience can hear or not,  
12 but one of the advantages or purposes of a public  
13 hearing is so that the public can hear, and they  
14 seem to be straining at the bit down there to hear.

15 DR. MCGEE

16 I'm sorry, I should ---

17 MR. COMMISSIONER

18 It's a combination of the witness and probably the  
19 volume could be turned up.

20 DR. MCGEE

21 I'll raise my volume.

22 MR. COMMISSIONER

23 Okay. How long a recess do you wish, then?

24 MS. DERRICK

25 10 minutes or so.

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 MR. COMMISSIONER

2 Pardon? |

3 MS. DERRICK

4 10 or 15 minutes.

5 MR. COMMISSIONER

6 Okay. We'll adjourn for 10 minutes, then.

7 (10-MINUTE BREAK)

8 THE REGISTRAR

9 Please be seated.

10 BY MS. DERRICK

11 Q. Dr. McGee, in front of you you have Exhibit 4 and  
12 in it there's a chapter written by a Father LeClercq  
13 about the Gaspesian Indians and it is entitled "New  
14 Relation of Gaspesia" with the customs and religion  
15 of the Gaspesian Indians, and I just want to ask you  
16 a little bit about that chapter. First of all, who  
17 was Father LeClercq?

18 A. Father LeClercq was a Catholic missionary who came  
19 to Acadia, to the New World, and spent most of his  
20 missionary work here in northern New Brunswick  
21 around the Miscou area, and I believe he spent  
22 approximately 12 or 13 years in that region, in that  
23 area, and became quite familiar with Micmac people  
24 in that region and spoke the language fluently and  
25 is partially credited with the development of the

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 hieroglyphic writing system that was used to  
2 maintain the church catechism and prayers and so  
3 on.

4 Q. And who were the Gaspesian Indians?

5 A. Gaspeians are the Micmac resident in the western  
6 Micmac district. There are seven traditional  
7 regions or divisions of the Micmac and the  
8 Gaspeians would have been the western most in what  
9 is today the Gaspe Peninsula, the Restigouche River,  
10 and probably including much of the communities  
11 surrounding the Bay of Chaleur.

12 Q. And would they, therefore, be the direct forebearers  
13 of the Micmac today?

14 A. Yes.

15 Q. And from your scholarly study of the Micmac, do the  
16 cultural traditions that you see of the  
17 Gaspeians -- would they have been shared amongst  
18 other Micmac living in other parts of the Micmac  
19 nation when Father LeClercq lived there?

20 A. Well, certainly, by and large. The only differences  
21 that would have existed would have been just those  
22 in consequence to different seasonality of the Gaspe  
23 versus that of Cape Sable, but essentially the  
24 cultural patterns are the same.

25 Q. And so it would be reliable then to generalize on

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1        what Father LeClercq reports in this article about  
2        the Gaspesians to other Micmac living in other parts  
3        of the Atlantic region?

4        A.    Certainly.    Certainly.

5        Q.    On P.244 of his article, LeClercq talks about  
6        attitudes amongst the Gaspesians with respect to  
7        injuries done by them and injuries done to them, and  
8        I'm referring to the middle part of the page there  
9        where he says:

10                "Also, they endure with patience  
11                the severest punishments when  
12                they are convinced that they  
13                have deserved them and that one  
14                has reason to be angry against  
15                them.        They even make  
16                considerable presents to those  
17                who punish them severely for  
18                their misbehavior in order, say  
19                they, to remove from the hearts  
20                of the former all the bitterness  
21                caused by the crime of which  
22                they are guilty."

23        And then down at the first part of the second  
24        paragraph:

25                "It is not the same, however,

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1                   when they are ill-treated  
2                   without cause, for then  
3                   everything is to be feared from  
4                   them, as they are very  
5                   vindictive against strangers.  
6                   They preserve resentment for the  
7                   ill-treatment in their hearts  
8                   until they are entirely avenged  
9                   for the injury or for the  
10                  affront which will have been  
11                  wrongly done them."

12                  Can you discuss this, what this means.

13   A.   In the former quote, the first section which you  
14        read, I think there's -- well, taken together I  
15        think they both indicate a strong sense of fairness,  
16        a strong sense of personal responsibility for one's  
17        actions, and that the former quote indicates a  
18        sense in which, when they have wronged, one of the  
19        things that's significant for instituting  
20        restitution besides accepting the conditions placed  
21        on them by the person whom they have wronged is the  
22        giving of gifts to re-establish or to generate a  
23        sense of restitution so that the relationship  
24        between the two parties can be again equitable and  
25        again back to this notion of sense of balance

1 between relationships. The second quote I think is  
2 quite significant because it relates to this notion  
3 of personal autonomy, which I think is very strongly  
4 developed in a Micmac world view, and that's the  
5 sense that if someone has been wronged, if someone  
6 does a wrong to you, it's essentially a challenge to  
7 your self-worth, to your sense of self-identity, and  
8 demands a comparable kind of gift-giving from the  
9 person who has wronged you in order to again  
10 establish not a -- to re-establish the conditions  
11 that existed prior to the breach, prior to the  
12 insult, or prior to the wrong.

13 Q. And would these be gifts to the individual who has  
14 been wronged?

15 A. By and large, they would be gifts to the person who  
16 has been wronged. There are instances in which --  
17 when the wrong has been, in a sense, a -- rather  
18 than between individuals, between communities where  
19 one community will compensate another community, but  
20 this example that you're reading now pertains to  
21 individuals and certainly it was within the realm  
22 of the traditional culture to focus on individual  
23 wrong.

24 Q. On P.245 of this article, LeClercq talks about some  
25 of the cultural features of the Micmac community.

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 He says in I think it's the second full paragraph  
2 there:

3 "They are so generous and  
4 liberal towards one another that  
5 they seem not to have any  
6 attachment to the little they  
7 possess, so they deprive  
8 themselves thereof very  
9 willingly and in very good  
10 spirit at the very moment when  
11 they know that their friends  
12 have need of it."

13 And farther on, he says:

14 "Hospitality is in such great  
15 esteem amongst our Gaspesians  
16 that they make almost no  
17 distinction between the home  
18 born and the stranger. They  
19 give lodging equally to the  
20 French and to the Indians who  
21 come from a distance and to both  
22 they distribute generously  
23 whatever they have obtained in  
24 hunting and in the fishery  
25 giving themselves little concern

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 if the strangers remain among  
2 them weeks, months, or even  
3 years."

4 And he goes on further:

5 "They are also good-natured to  
6 their guests whom for the time  
7 they consider as belonging to  
8 the wigwam, especially if they  
9 understand even a little of the  
10 Gaspesian tongue. You will see  
11 them supporting their relatives,  
12 the children of their friends,  
13 the widows, orphans and old  
14 people without ever expressing  
15 any reproach for the support or  
16 the other aid which they give  
17 them. It is surely necessary  
18 to admit that this is a true  
19 indication of a good heart and  
20 a generous soul."

21 Can you comment on this and tell us from your study  
22 of the Micmac whether what is reported here has any  
23 cultural application today?

24 A. One of the -- there are a number of things that  
25 practically all of the early observers note for the

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1 Micmac, and this notion of what the Europeans called  
2 generosity is one of them. So, it was clearly a  
3 widespread cultural belief and not something just  
4 restricted to the Gaspesians, and it's something  
5 that exists in the historical record through time.  
6 You can find it in the records in the 19th Century,  
7 in the 18th Century, and it's a practice that I've  
8 certainly found in contemporary society as well.  
9 The notion of generosity to the strangers is  
10 certainly there, but when there is a person in need  
11 within the community, people see to it that that  
12 individual has food on their table and so on in ways  
13 that don't threaten that sense of self, in ways that  
14 don't threaten that person's sense of autonomy or  
15 sense of pride or sense of dignity. Food, clothing  
16 and other things manage to find themselves in these  
17 people's households.

18 Q. And you're speaking in a contemporary ---

19 A. Very much in a contemporary situation, yes. Or  
20 contrary-wise, sometimes if the household is under  
21 stress, some of the members of that household may  
22 visit other households for extended periods of time,  
23 which is another way of again distributing -- of  
24 looking after that household without threatening  
25 its sense of autonomy or its sense of integrity.

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1 So, notions of where LeClercq mentions putting  
2 people up in one's home and so on, it's still very  
3 much an active way by which the community looks after  
4 its own members, periods of adoption for short or  
5 long term depending upon the need.

6 Q. On P.247, LeClercq, in the middle of the page, says:

7 "The Gaspesians, however, are so  
8 sensitive to affronts which are  
9 offered them that they sometimes  
10 abandon themselves to despair or  
11 even make attempts upon their  
12 lives in the belief that the  
13 insult which has been done them  
14 tarnishes the honor and the  
15 reputation which they have  
16 acquired whether in war or in  
17 hunting."

18 Can you comment on the response of the Gaspesians  
19 to insult and injury, and is there a current  
20 cultural context arising from this?

21 A. Okay. This question of despair, this question of  
22 attack on one's integrity, again is mentioned by  
23 the -- certainly, through the 17th and 18th  
24 Centuries this question of affront is clearly a  
25 continuous cultural theme. With respect to the

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1 present day, it's still very much -- still very  
2 present, although I think sometimes the cultural  
3 response to the affront and to that hurt may have  
4 changed over time in the sense of rather than  
5 seeking immediate confrontation or attempts to seek  
6 restitution, oftentimes the present despair, I  
7 think, results in withdrawal and removal of oneself  
8 from the source of confrontation.

9 Q. And that withdrawal and removal arising from a sense  
10 of insult and injury, is that what you're telling us?

11 A. Yes.

12 Q. Also, in the materials before you is a published  
13 letter from Monsieur De La Varenne, which is dated  
14 May 8, 1756, and found at the Yale University  
15 library in New Haven, Connecticut. You're familiar  
16 with this writing?

17 A. Yes.

18 Q. Can you tell us about Monsieur De La Varenne?

19 A. This letter is contained in a larger document that  
20 has been attributed to (Yabbi Mayard?) and it was  
21 a combination or a collection of materials published  
22 in England shortly after it was written and it  
23 consists of a series of the translations of the  
24 original source material as well as some footnotes  
25 provided by the English publisher. But De La

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1 Varenne was a French official at Louisbourg and had  
2 familiarity and interaction with the Micmac while  
3 there.

4 Q. And on P.99 of this letter, there's a reference near  
5 the bottom of the page about the Micmac preferring  
6 death to captivity as a consequence which may be far  
7 more cruel to them. Can you describe some of the  
8 historical reactions demonstrated by the Micmac to  
9 the loss of liberty, and does this caption from this  
10 letter deal with that?

11 A. Certainly, both the English and French sources --  
12 just some background. One of the practices in  
13 dealing with conflict between the English and the  
14 Micmac and other Native peoples was the practice of  
15 maintaining hostages as a practice of ensuring  
16 conformity to particular agreements or  
17 understandings through the use of holding hostages, and  
18 it was something that the Micmac and other Native  
19 peoples in this region found extremely distasteful  
20 and extremely objectionable, and especially in  
21 circumstances where the parties that were being held  
22 as hostage or as surety for these activities were  
23 either not involved or were, I suppose as we would  
24 say, innocents -- it sometimes included children, it  
25 sometimes included women -- and the Micmac reaction

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1 to that was to attempt to secure the liberty of  
2 these peoples with all dispatch that they could  
3 arrange. Their primary concern was to release  
4 hostages being held by the British. The notion  
5 of -- so, that's with relationship to the English.  
6 With relationship to Native peoples with whom they  
7 were in hostile actions or engaged in hostilities,  
8 with whom they were engaged in hostilities, again  
9 the notion of captivity was a tremendous threat to  
10 the sense of autonomy, the sense of self-worth, and  
11 was a repugnant condition.

12 Q. How have the Micmac traditionally responded to  
13 negative social environments?

14 A. I'm not entirely sure. In what sense? I mean, by  
15 the whole adaptive process, the fact that you have  
16 a Micmac nation today that's an identifiable nation,  
17 suggests that the mechanisms that they employ are  
18 clearly working. But the kinds of conditions of  
19 negative involvement include the conditions of  
20 poverty, the conditions of discrimination, the  
21 conditions of being considered somehow -- in a  
22 hierarchical system that exists sometimes in western  
23 society as being somehow less than other people,  
24 the response, I think, has been to maintain a very  
25 private and a very personal sense of the falsity of

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1       those kinds of perceptions by others and by  
2       frequently -- as I mentioned earlier, this notion  
3       of withdrawal, this notion of encapsulation, this  
4       notion of removal of oneself from the source of  
5       hostility. As a Micmac if you set about to create a  
6       negative situation for me, I'd just simply remove  
7       myself from your presence and don't bother with you,  
8       or, if I can't do that, then I'd close you out  
9       through some kind of a mental process. It's a  
10      withdrawal from the sources of confrontation, or at  
11      least the way things have developed.

12   Q.   Can you tell us how the contemporary Micmac  
13       community is structured?

14   A.   I find the Native communities in Canada to be among  
15       some of the most complex social structures that  
16       exist, because there are a multiplicity of levels of  
17       decision-making, of governing. One has an  
18       indigenous traditional system that's still very  
19       operative for reaching certain kinds of decisions,  
20       one has an imposed Canadian government procedure  
21       through the Indian Act and the establishment of band  
22       councils and so forth, one has the church, the  
23       presence of the church and the role of the priest in  
24       the community in terms of decision-making, one has  
25       a variety of Native organizations and associations

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1 operating in the communities, and at the level of  
2 governments, they're extraordinarily complex  
3 communities. At the level of interpersonal  
4 relationships, the level of day to day activities,  
5 one still has very much a focus on kinship and  
6 household composition and structure to link and to  
7 affiliate people with one another, so the family  
8 structure is extraordinarily important for  
9 understanding the communities. There are certainly,  
10 as well, patterns of friendships, age-mated  
11 friendships, that are established as well. But I  
12 would say if one had to find a short description of  
13 the structure of the communities, it would be with a  
14 certain degree of ambivalence with respect to  
15 governments in that there are these multiple levels  
16 of decision-making but a source of strength in a  
17 sense of there is a home, there is a family  
18 connection, there is a place where when one's  
19 autonomy is threatened by whatever forces,  
20 threatened in the outside world or within the  
21 community, there is a family structure that can  
22 reinforce the -- that allows the expression of  
23 oneself in a non-threatening way. So, Native peoples  
24 who have examined their own communities have  
25 expressed to me that there is this tremendous

1        ambivalence about the communities. On the one hand,  
2        it's a source of the poverty and the isolation from  
3        the larger society, but, on the other hand, it's  
4        a source of strength and a source of regeneration  
5        and of healing. So, the community serves both those  
6        functions.

7    Q. And when you talk about family in that context, are  
8        you referring to the extended family as being a  
9        characteristic of that?

10   A. Certainly, yes. I mean, there's one's household,  
11        but there are clearly other individuals to whom one  
12        is linked and connected, and, as mentioned earlier,  
13        through this notion of sharing individuals between  
14        household through short periods of adoption and  
15        co-residence. There is a very strong sense of being  
16        linked and connected to people other than one's own  
17        household members.

18   Q. And in contemporary Micmac cultural terms, how would  
19        you define "kinship"?

20   A. Well, I think kinship in contemporary terms are  
21        those individuals with whom one has these kinds of  
22        links and extends kinship terminologies to people,  
23        but it's not restricted to blood relatives, it's not  
24        restricted to people by either descent or marriage,  
25        it can include other people, as I say, again through

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1       this process of adoption. I know of circumstances  
2       or situations where perhaps unrelated children come  
3       to live in a household and wind up with two sets of  
4       parents, and so their kinship connectedness or their  
5       sense of kinship becomes much broader in that it  
6       includes the fostering families as well as  
7       the families of orientation. So, this notion of  
8       kinship, I think the sense of fostering, the sense  
9       of caring, the sense of looking after is a prominent  
10      feature.  
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1 Q. What are the attitudes in the Mic Mac culture towards  
2 parents?

3 A. Parents are sources of support, sources of this kind  
4 of nurturing that I've been mentioning, this sense of  
5 fosterage, if one's speaking of children, and a child,  
6 in relation to an adult parent. If one's speaking of  
7 adults, and their relationship to adult parents, it's  
8 one of reverence and one of placing that individual in  
9 a category of being an elder. But I should emphasize  
10 that it's, in a sense, an earned status. It's not  
11 something that is immediately derivative of having  
12 given birth to, or having fathered a particular child.  
13 It's based on these notions of action, these notions  
14 of respect, these notions of nurturing and fostering.  
15 So that, an elder is not revered because they are old.  
16 An elder is revered because the elder is wise, because  
17 the elder behaves as an elder should behave. And  
18 similarly, with parents. A parent is not honoured  
19 because they are the parent. A parent is honoured  
20 because they act in an honourable parental fashion, or  
21 manner. So that, back to this sense of personal  
22 integrity. The parent that nurtures, or encourages,  
23 or develops that sense of integrity, is a wise parent,  
24 and one who will be honoured and treated with respect.  
25 The parent who denies, or who threatens that sense of

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1       autonomy, someone will seek another parent. Someone  
2       will seek someone else in the community who can provide  
3       that kind of nurturing, or else, others will remove a  
4       child whose autonomy is threatened, and place them in  
5       a situation where that nurturing takes place. So the  
6       relationship of the attitude towards parents, is much  
7       like the attitude towards any elder who behaves as an  
8       elder, with all the -- elder is not just simply an  
9       older person, but a title of respect. And people who  
10      deserve that respect, frequently are parents.

11 Q.   What are the attitudes in Mic Mac culture, towards  
12      siblings?

13 A.   Sibling relationships are extraordinarily strong. Some  
14      of my own research with 19th century aural traditions,  
15      and I think an examination of the early historical  
16      literature, as well as contemporary involvement,  
17      suggests that some of the strongest kinship bonds in  
18      native communities, in the Atlantic region, are those  
19      between siblings. There's a very close affinity  
20      between siblings.

21 Q.   What about attitudes towards grandparents?

22 A.   Grandparents, again, fall under this category of  
23      respected elder. And those -- a grandparent is  
24      probably the ultimate term of respect to give to any  
25      person. So that one may address a respected elder by

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1 the term "grandparent." It's, in a sense, the  
2 paramount form of -- term of address to signify  
3 respect.

4 Q. What are some of the important values that underlie  
5 the Mic Mac community? I believe you may have  
6 addressed some of them.

7 A. Yeah. Before leaving kinship, I might mention the term  
8 for Uncle, Nugumis -- I may be mispronouncing that  
9 -- but the people with whom I've discussed the  
10 etymology or significance of that word, is that it's  
11 one who looks after, or one who cares. So that, even  
12 the term that is used for a collateral relative, is,  
13 again, focusing on this nurturing, focusing on this  
14 caring, focusing on this sense of responsibility for  
15 the well-being of those under your care.

16 Q. And I take it, from what you're describing, that when  
17 you're saying the use of the term Uncle, you're not  
18 just, from the Mic Mac community perspective, referring  
19 to someone who is the brother of a mother or father?

20 A. Well as a kinship term, that term is now used for those  
21 individuals. But the significance is that an Uncle is  
22 like -- assumes some of the aspects, or duties, or  
23 roles that I think those of us in the West tend to  
24 associate with a parental role. So that, those of us  
25 from a European tradition, tend to compartmentalize or

1 to isolate, or to fit very specific behaviours, to  
2 particular individuals. In this instance, the whole  
3 concept, or the whole term, of Uncle, is one that  
4 suggests a much broader notion of coverage of  
5 responsibility for one's charges, for those who are  
6 younger than one's family members. Your present  
7 question of, what are some of the values of ---

8 Q. Yes, underlying the Mic Mac community.

9 A. I think one of -- again, as I've mentioned several  
10 times, this notion of personal autonomy is an extremely  
11 significant and an extremely important value. And that  
12 much of what the inculturation process is concerned  
13 with, is developing individuals who have a sense of  
14 -- a well-developed sense of self, and a sense of  
15 competence, and being able to get by, to survive in the  
16 world. And I think that can be, again, demonstrated  
17 to reflect Aboriginal value. One can find linkages  
18 throughout the historical period, to link that sense  
19 of -- I hesitate to use the word individualism, because  
20 it carries certain connotations in our own society of  
21 isolation, of cutting oneself off from others. We tend  
22 to think of the individual person as someone who can  
23 get along without others. But the Mic Mac notion of  
24 autonomy is one of a competent, self-reliant person,  
25 who is linked to, and integrated with, other autonomous

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1 beings, other autonomous persons in the community. And  
2 the traditional political decision-making process,  
3 which is essentially one of consensual government, one  
4 of consensus, emphasizes both that autonomy and the  
5 connectedness, by seeking resolution to community  
6 problems, through negotiation, through discussion,  
7 through sometimes endless discussion -- not endless,  
8 but long-term discussion -- frustrates Westerners  
9 sometimes. And again, the early accounts mention the  
10 long harangues that people would make. Or they  
11 emphasize the oratorical skills of particular leaders.  
12 And much of the reason for that, is that one did not  
13 -- a traditional Mic Mac leader, and I would argue most  
14 contemporary Mic Mac leaders, don't impose their will  
15 through the control of sanctions, or through the use  
16 of sanctions, but rather, through the use of oratory,  
17 and through the use of convincing others. And much of  
18 the reason for that, is that that is a way that one can  
19 achieve political decisions, without challenging anyone  
20 else's self-worth. It's a way by which all members'  
21 self-worth can be maintained. So this sense of  
22 consensual decision-making, the sense of community, of  
23 autonomous but connected people, I think are important  
24 values. This concern of caring for others, again, is  
25 related to that, in that, if you see a household or an

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1 individual who is down on their luck, their sense of  
2 autonomy is being -- their absense of that sense of  
3 autonomy is being made public. And so one seeks ways  
4 of re-establishing that individual's ability to present  
5 themself in the community, in the public, without being  
6 demeaned in any way. So that the processes by which  
7 help comes to that individual, comes to them in a way  
8 that, again, doesn't threaten the sense of self.

9 Q. So is it an important part, then, of the Mic Mac  
10 culture, to take an interest in what is happening to  
11 other people in the community?

12 A. Absolutely. Definitely.

13 Q. Can you describe a little bit about that?

14 A. Well again, I think the -- from my own work, where I've  
15 seen that happen, or instances, again, of children  
16 being re-allocated to households, I've seen it in the  
17 sense of personal tragedy in the forms of, let's say,  
18 a death in a family, where the entire community will  
19 come to the support of widowed people and so on. I  
20 mean, there are a number of instances in which  
21 individuals who are in need, have those needs  
22 fulfilled. So that, the community as a whole, looks  
23 after other members in the community, usually, again,  
24 through various forms of gift giving or temporary  
25 hospitality.

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1 Q. Can you describe some points of continuity, between  
2 what we see in the Mic Mac community today, and what  
3 we understand to have been the historical values of Mic  
4 Mac culture?

5 A. Yeah. Perhaps I can give a description of a council  
6 meeting, a Town Council Meeting, that I attended -- or  
7 a Band Council Meeting I attended in Whycomagh a  
8 number of years ago, in the early '70s. It was a  
9 meeting that was called, to discuss the fact that,  
10 people who had gone through job training programs, had  
11 difficulty getting into labour unions, and getting  
12 labour wages, or union wages, on jobs that they were  
13 engaged in. And I know that because, the person with  
14 whom I attended this meeting, explained it to me  
15 afterwards. And you could pick up the odd phrases of,  
16 "on-the-job training," and "two (\$2) or three dollars  
17 (\$3) an hour," and so on.

18 Q. The meeting was conducted in Mic Mac?

19 A. The meeting was conducted in Mic Mac. But in many  
20 ways, because the meeting was conducted in Mic Mac, I  
21 was able to make some observations about how decisions  
22 are reached, that could just have easily have been  
23 written in the 1600s or in the 1700s. A couple of  
24 things about this meeting, that are important to note,  
25 before describing the meeting itself, is that, it was

1 called only after both the elected Chief and the Priest  
2 were off the community. And the reason for that was  
3 that the elected Chief would not hold a meeting without  
4 the presence of the Priest. And the Priest insisted  
5 that all meetings be conducted according to Robert's  
6 Rules, with various kinds of white procedures, to  
7 demonstrate democracy at work. So the Priest and the  
8 Chief were absent. The meeting was called. And the  
9 arrangement of the room was somewhat comparable to  
10 this. There was a row of tables in the front, much  
11 like this, but closer to the stage, much where your  
12 table is now, Mr. Commissioner, and with chairs  
13 arranged, as they are in this hall. And people were  
14 sitting around the table, and in the chairs. And  
15 conversation was taking place, with rising and falling  
16 pitch, and conversational tones. But after a while,  
17 I noted that the intonation pattern had shifted, and  
18 that there was an even-toned, a very formal kind of  
19 speaking taking place, and that people were beginning  
20 to -- the number of people speaking began to reduce.  
21 But people would listen to one speaker for a while.  
22 And someone else would pick up. And I didn't realize  
23 the meeting had started. No one had called the meeting  
24 to order. No one had said, "The meeting is about to  
25 begin." But there was a shift in the manner of

1 delivery. And there was a shift in frequency of  
2 conversation. Now on occasion, you might have two  
3 people speaking at once. But there was no attempt, of  
4 either party, to either shout the other person down,  
5 or any attempt to say, "Wait a minute. I'm speaking,  
6 you know, be quiet." There was no attempt to infringe  
7 upon anyone else's ability to speak, or right to speak,  
8 at any time. But the individuals who were talking  
9 simultaneously, would begin to look around and note,  
10 through various facial gestures, and other non-  
11 linguistic communication cues, that they weren't being  
12 listened to. And then they would be quiet. So that,  
13 everyone who chose to, had the right to speak, and had  
14 the right to speak, when they chose to. And after a  
15 while, you started noticing people nodding in  
16 agreement, or accepting a particular frame work. And  
17 the meeting ended, when everyone had incorporated, or  
18 had adopted, a common perspective, a common viewpoint.  
19 There was no voting. There was no, "It is now moved."  
20 There was no public announcement. But there didn't  
21 have to be, because everyone who was present, had  
22 incorporated that into their own action. Their own  
23 action, from there on out, would be in accordance with  
24 the action of others, because they had accepted and had  
25 agreed to some position. I knew the meeting was over,

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1 when people began to, again, speak in a modulated  
2 fashion, and people started getting up and having  
3 coffee, and doing other things. But reading some of  
4 the accounts of early historical meetings, in which  
5 decisions are made, treaty negotiations, political,  
6 some of the early Jesuits' writings, that meeting could  
7 have been held in the 1600s, in the 1700s. The pattern  
8 was very much the same. Now, is that the way in which  
9 all political decisions are made? And the answer to  
10 that is, "No." But it's still very much present. And  
11 it's still very much alive. And it's still very much  
12 one way that people deal with certain issues. So this  
13 notion of consensual decision-making is something that  
14 is still a value that is held in high esteem in the  
15 Native community.

16 Q. So can you tell us, Dr. McGee, if Mic Mac culture has  
17 survived contact settlement, other attempts at  
18 assimilation?

19 A. Absolutely. Absolutely. Culture isn't to be found in  
20 style of dress, or even in particular, -- sometimes  
21 not even in particular traditional behaviours. But  
22 it's to be found, as I suggested earlier, in this world  
23 view, in this image of how the world functions, how it  
24 operations, and how to come to grips with it, how to  
25 deal with it. And in that regard, Mic Mac culture is

1 distinctive, and very much alive.

2 Q. How do the Mic Mac regard outside authority?

3 A. How do they regard it?

4 Q. Yes.

5 A. They regard it -- to the degree that they have to deal  
6 with it, they accept it as part of the political milieu  
7 in which negotiation with outsiders has to be engaged  
8 in. But to the degree that -- and they deal with it  
9 to the degree that it impinges upon their own life.  
10 I think, if you were to take a survey of attitudes  
11 about Indian Affairs, you won't find a complete and  
12 total consensus. But I think you would see it as the  
13 imposition of a foreign structure. I mean, I think  
14 much of it is viewed as alien.

15 Q. Are notions of fairness and equality found in Mic Mac  
16 culture?

17 A. I would argue, yes. Certainly. Absolutely. Again,  
18 some of the materials that you've cited here,  
19 demonstrate that, as well as practically -- again, a  
20 lot of the early sources mention that we may fault  
21 these people for lots of their behaviours. But one of  
22 the things they are, is that they are honest, and they  
23 are straight-forward in their dealing with one another,  
24 and with foreigners. So those values, those qualities,  
25 I would say certainly, are part of Mic Mac culture.

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1 Q. And in contemporary Mic Mac culture, they're found  
2 today, as well as in the historical?

3 A. By and large. There is that slight modification, as  
4 a result of the culture of poverty, and having to deal  
5 with people on the outside. But by and large, I would  
6 say they're still operative, although other values are  
7 also added on to that.

8 Q. And how is the concept of equality interpreted, in  
9 contemporary Mic Mac culture?

10 A. I think one of the most -- let me see if I can do this.  
11 There are a number of ways by which that's manifested.  
12 And some of them have to do with the fact that those  
13 items or those symbols that are sometimes used on the  
14 dominant society, to symbolize inequality -- items of  
15 wealth, symbols of material well-being -- are not  
16 perceived by Native people, as being an indicator of  
17 who you are, as a person. So that, one of the senses  
18 of equality is that appearances are not the place --  
19 not the source that one finds distinctiveness. One  
20 looks for distinctiveness in one's behaviour, and how  
21 you relate to others. This notion of looking at the  
22 heart, rather than at material wealth. Now this means  
23 that someone can display material worth, within the  
24 community. And they are neither ridiculed, nor  
25 praised, because of it. In other words, it genuinely

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1 makes no difference, in terms of the evaluation of that  
2 person's worth, and, I would argue, as a sense of their  
3 equality, or the way in which they measure equality.  
4 Another way, has to do with this notion of wrong, of  
5 being wronged, and the sense that sometimes, wrong that  
6 is unrestituted wrong, becomes a source of tension  
7 within the community at times. And that's because it's  
8 a threat to autonomy. It's a threat to that sense of  
9 integrity. So the question of the way that it's  
10 expressed, is through ways of establishing interaction  
11 patterns that emphasize personal, individual worth and  
12 autonomy. All of the factors, all of the mechanisms  
13 that exist, to create those non-threatening  
14 environments.

15 Q. This value of looking at the heart, as opposed to  
16 relying on appearances, is that something that the Mic  
17 Mac expect of outsiders, non-Mic Macs?

18 A. I don't know -- it's not something that they expect.  
19 Because of their long interaction with outsiders, they  
20 realize that it's not a value in the outside society.

21 Q. Is it a method of assessment that they employ with  
22 others, outside of their community?

23 A. But people who respond to that kind of evaluation, are  
24 quite regularly incorporated, and accepted in the  
25 community, as -- so it's something that -- they don't

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1 see it in terms of a racial characteristic. They see  
2 it in terms of a personal quality, that some people  
3 acquire, and others don't. But in terms of their use  
4 of -- in terms of their evaluating the circumstances,  
5 their interaction with people -- as I mentioned  
6 earlier, as the multiple sources of value in the Mic  
7 Mac community, those traditional values are clearly  
8 going to be operative in dealing with others. So the  
9 short answer is, yes, they will employ those values for  
10 judging others. But do they expect to find that  
11 behaviour in others? I think the answer is, by and  
12 large, no, they don't.

13 Q. What is the relationship of language to culture, Dr.  
14 McGee?

15 A. It's, in many ways, very central to the notion of world  
16 view. And there is a fair amount of anthropological  
17 and psychological literature to suggest that language  
18 may well be a determiner of the way in which  
19 individuals perceive an environment.

20 Q. So what is the significance, in cultural terms, of  
21 restricting a Mic Mac's ability to use his or her  
22 language?

23 A. I think it depends, to a certain extent, on the age at  
24 which that restriction takes place.

25 Q. In the case of a young person.

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1 A. In the case of a very young person, it can deny to  
2 them, a source of perception of the world that is  
3 meaningful and distinctive, in the way that it's used  
4 by other members of the community, and can alienate  
5 them from their community, meaning that other people  
6 have a source of knowledge about the world, that they  
7 are lacking. So not being able to learn one's  
8 language, is of that type. Not being able to speak  
9 one's language is a situation by which one doesn't have  
10 an opportunity to seek confirmation of those values  
11 that one has. So that, if one has learned -- if one's  
12 first language is prohibited, if one is restricted in  
13 expressing oneself in a first language, and must use  
14 a second language, it means that, to a large extent,  
15 one is being compelled to view the world, and to think  
16 about the world, in ways that are perhaps alien and a  
17 source of chaos, depending upon the fluency with which  
18 one speaks the second language. But clearly, not being  
19 allowed to speak one's first language, is an  
20 infringement, in terms of the way that one addresses  
21 the problems. It's a way of alienating someone, in a  
22 sense, from their own selves. It's a challenge to this  
23 notion of autonomy. One is not free to choose to speak  
24 the language of one's choice. One is not free to  
25 express one's conceptualizations of the world, in the

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1 language of one's choice. So that, that threat to  
2 autonomy, for a Mic Mac, by not being allowed to have  
3 the freedom of choice in speaking one's language, is  
4 going to have very negative effects on one's self-  
5 image.

6 Q. Are there common values amongst all Aboriginal people  
7 in Canada?

8 A. Only -- a complicated question. The short answer is,  
9 yes and no. The yes is, the degree to which all Native  
10 peoples in this country, have had to adjust and adapt  
11 to the world view of the dominant society, there's a  
12 commonality. The degrees to which they have had to  
13 -- all Native peoples have had to adapt to the poverty  
14 conditions, and the development of a culture of  
15 poverty, there's similarity. The degree to which there  
16 is ethnic similarity depends, to a large degree, on  
17 the language spoken and the area in which one lives.  
18 For instance, there's greater similarity among speakers  
19 of Algonquian languages, than there would be between  
20 a speaker of an Algonquian language and a speaker of  
21 a Dene language.

22 Q. And Algonquian includes the Mic Mac?

23 A. And Algonquian would include the Mic Mac. So the  
24 degree to which the culture of Native peoples across  
25 the county is the same or not, depends upon whether

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1 one's -- at what source one's looking for this culture,  
2 or this world view, or the circumstances with which  
3 they have to interact or deal.

4 Q. In relation then, to responding to outside authority,  
5 or outside conditions, there would be some commonly  
6 shared values?

7 A. There would definitely be some commonly shared values,  
8 and cultural patterns, in that regard.

9 Q. What do gifts symbolize, in the Mic Mac community?

10 A. Traditionally, I think, gifts operated at three or four  
11 levels of significance. Perhaps, in relation to  
12 statements I made earlier about treaties, gifts given  
13 at the time of treaties, including the gifts of the  
14 wampum belts themselves, are forms of validation. So  
15 that, the giving of gifts validates an understanding  
16 or a transaction, among peoples. So that's one  
17 function that it serves, is a function of validation.  
18 Another function it serves is a social one, of  
19 establishing connectedness, and of establishing various  
20 types of -- symbolizing connectedness to others. So  
21 it establishes and maintains social relationships. It  
22 serves as a means of restitution, as we saw in one of  
23 the -- in both of the accounts in the documents. It's  
24 a means of re-establishing social relationships that  
25 have been breached. So as a form of social control,

1 it becomes a way of establishing restitution, of re-  
2 creating equality. And it serves the economic  
3 function, that when there is disparity, one of the ways  
4 of equalizing that disparity, was by the giving of  
5 gifts. In the early historical materials, often times,  
6 the person who was acknowledged as the head of the  
7 community, was frequently also described as being among  
8 the poorest person, because they were constantly giving  
9 their wealth away to others in the community. And part  
10 of the reason for that, is maintaining the well-being  
11 of the community. And that was done through gift  
12 giving. One of the ways to manage one's political  
13 career, was to be generous, was to give gifts.

14 Q. And that would be perceived with favour, then, in the  
15 Mic Mac community, to be seen as being generous, and  
16 to be a gift giver. Is that correct?

17 A. Yes. But again, one would be seen as a gift giver, the  
18 prestige attached to a gift giver, as long as it wasn't  
19 an ostentatious kind of presentation, to establish --  
20 to emphasize difference, rather than to establish  
21 equity. The person who ostentatiously gives parties  
22 or gifts today, is ill-favoured. But someone who can  
23 manage to give gifts, with a good heart, is someone who  
24 is respected.

25 Q. And each of these ways in which gifts are symbolized,

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1 have contemporary manifestations?

2 A. Yes.

3 Q. What values underlie the concept of sharing in the Mic  
4 Mac community?

5 A. Sharing, I think, is much like -- in a sense, much like  
6 the sense of equity. One shares, one gives of one's  
7 possessions to others, to maintain that sense of  
8 autonomy in others, when it's threatened. But one  
9 doesn't -- there isn't an egalitarian sense, that  
10 everyone has to have exactly the same amount of stuff.  
11 So it's not sharing, in a sense of equality of all  
12 valued goods. I mean, there are clearly differences  
13 of ownership of goods. But sharing is one that occurs,  
14 largely through these patterns of gift giving, that are  
15 done, either to maintain a sense of well-being, of  
16 survival, maintain that sense of autonomy, and to be  
17 hospitable, to look after those who come to visit or  
18 to stay with you. So there is a willingness to share  
19 what one has. But there isn't a sense that one has to  
20 give all of one's worldly possessions to someone else.  
21 There's a sense in which one is in control of one's  
22 wealth, in order to maintain one's own integrity, one's  
23 own sense of autonomy, as well as looking after the  
24 sense of well-being and autonomy of others, for whom  
25 one cares, for whom one has obligation.

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1 Q. In contemporary Mic Mac culture, does the concept of  
2 restitution have any significance?

3 A. I think the way in which quarrels, disputes are  
4 rectified, there clearly is a sense of restitution, a  
5 sense that, if someone has been wronged, then they will  
6 seek to have that wrong rectified, or restitution  
7 established. And there are a variety of formal and  
8 informal mechanisms for resolving those kinds of  
9 disputes, and seeking to, again, achieve balance in the  
10 social relationships.

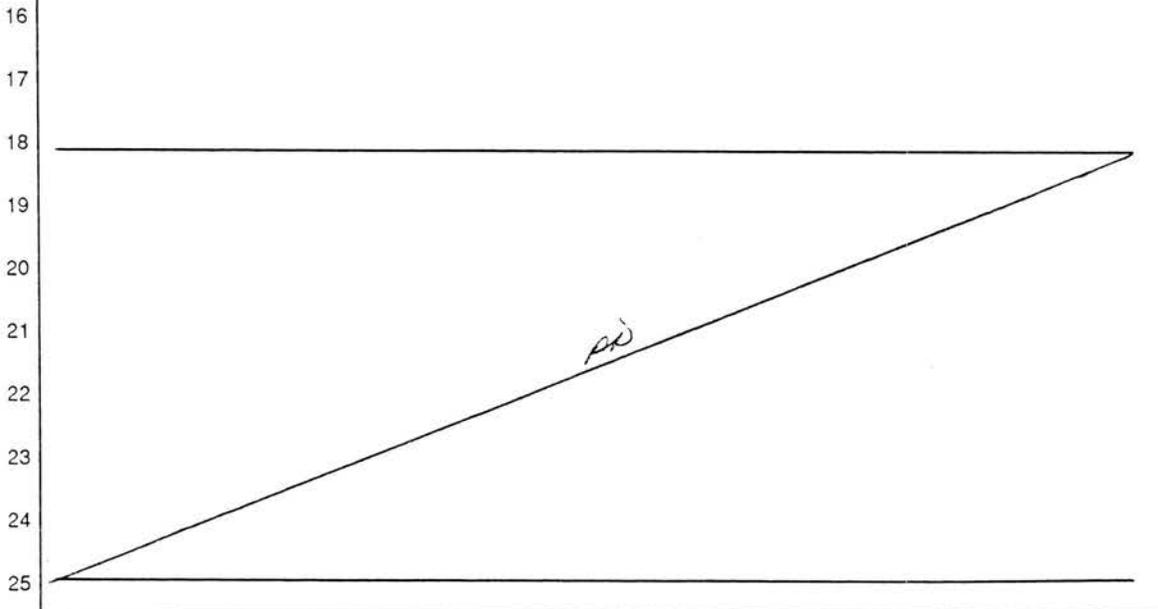
11 Q. Dr. McGee, in cultural terms, can you describe the  
12 effect on a Mic Mac, of being away from the community?

13 A. Of their own will? Because people leave communities  
14 ---

15 Q. No, in circumstances of removal.

16 A. Okay. First of all, the very act of being removed is,  
17 again, a threat to an individual's autonomy. They are  
18 subjected to other people's control. And that, in  
19 itself, brings a sense of loss of sense of self, with  
20 respect to oneself, and a sense of shame, with respect  
21 to the community. So that, being removed from the  
22 community, is being -- one having one's self-image  
23 diminished. Secondly, being removed from the  
24 community, is being removed from a setting by which all  
25 of those -- the world view that one personally has, is

1 shared by others. And if one is placed in a community  
2 other than one like the one that one's being pulled  
3 from -- in other words, if you're not being placed in  
4 another Mic Mac community -- then there is that  
5 alienation from being able to have other people relate  
6 to your actions, or understand your behaviours, because  
7 they don't possess the world view that you have. They  
8 don't understand your responses, or your reactions.  
9 And that then becomes a source of threat, in one sense,  
10 a source of chaos in your own world view. So to be  
11 separated from a community, is to be separated from a  
12 cultural milieu, in which your expectations of how the  
13 world works, are not being shared by the people with  
14 whom you have to interact. And it's a very threatening  
15 and alienating kind of circumstance.



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1 A. The technical term to relate to that is culture  
2 shock, where you're placed in a community where  
3 other people's values, which may be different from  
4 your own, are operative. And you have to learn and  
5 adapt to those values. So to be removed from your  
6 community is, one, to be removed from a familiar  
7 cultural milieu, and it's also probably to be  
8 removed from that source of nurturing and support  
9 that one has when one is -- when one's sense of  
10 autonomy is threatened. There is then no place to  
11 go for that kind of solace. Often times, Native  
12 people who leave the reserve for work or whatever  
13 other types of activities they engage in away from a  
14 community frequently come back for that kind of  
15 healing and for that kind of nurturing for various  
16 periods, and then going back to their work  
17 communities. St. Anne's Day celebration, again, is  
18 an opportunity for many of the Micmac from Boston to  
19 come home, to get that sense of community. So to be  
20 taken from a community is an undesirable and  
21 unhealthy sort of situation.

22 Q. And the phenomena that you've described, are they  
23 true Micmac who have perhaps had some interaction  
24 with the outside community, but then are removed  
25 exclusively from their community?

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1 A. I think to the degree to which they have  
2 incorporated the other world views is -- and it's a  
3 matter of degree rather than a set of absolutes.  
4 But I would argue that any person, any Native person  
5 raised in a Nova Scotia reserve community,  
6 regardless of how acculturated the community is, has  
7 this sense of loss at being separated from that  
8 community.

9 Q. And how is this cultural identity affected by  
10 removal for a long period of time? Is it possible  
11 to reintegrate?

12 A. It's possible. But people -- I've known people who  
13 have gone for various amounts of time in Europe, who  
14 have spent various amounts of time in Ontario,  
15 various amounts of time in the States, who come back  
16 to the community and who attempt to reestablish  
17 community life. And it's stressful. It presents  
18 difficulties. Many of those people -- or some of  
19 those people have -- wind up living off reserve, out  
20 of the community, and go back in and visit it. And  
21 some find more permanent ways.

22 Q. Does this have an effect then on such an  
23 individual's sense of self-esteem?

24 A. Yes, it does.

25 Q. And can you describe the nature of that effect?

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1 A. Part of those reactions, because the sources of  
2 world view are both social and personal, will vary.  
3 But there is a -- I think a fairly typical Native  
4 Algonquian reaction is -- to this sense of loss of  
5 community, this loss of connectedness to the  
6 community, is to become very isolated and to become  
7 very much cut off from all sources of healing and  
8 support.

9 Q. And that would reflect itself how in terms of self-  
10 esteem?

11 A. In self-esteem, it crashes or becomes diminished,  
12 and either has to go through some kind of  
13 reintegration into the community, some kind of  
14 reestablishment of wellbeing, of connectedness, or  
15 one develops an identity with another cultural  
16 orientation where one can find that support. I'm  
17 not sure I'm answering the question that you're  
18 asking.

19 Q. Yes, thank you, Dr. McGee. You are. Those are my  
20 questions. And I believe my friends may have some  
21 questions. But I'm sure His Lordship would be  
22 prepared for a short break, if you would like that,  
23 Dr. McGee, before any other questions are asked.

24 A. It's entirely up to the court.

25 Q. You're happy to continue?

DR. MCGEE, DIRECT EXAM. BY MS. DERRICK

1 A. I'm happy to continue.

2 Q. Thank you, Dr. McGee.

3 CROSS-EXAMINATION BY MR. SAUNDERS

4 Q. Dr. McGee, a couple of concepts that I'd like your  
5 assistance on, if I might.

6 A. Okay.

7 Q. Sir, you spoke earlier, in answer to questions put  
8 by my friend, Ms. Derrick, when she asked you  
9 whether or not the concepts of equality and fairness  
10 were still values in present-day Micmac culture.

11 A. Right.

12 Q. And I noticed some hesitancy in your answer. And  
13 eventually you said, by and large, it is still found  
14 today. And then you said that it was affected to  
15 some extent by the culture of poverty. Do you  
16 recall that answer, sir?

17 A. Yes, I do.

18 Q. And I'd like your explanation as to how present-day  
19 values of fairness and equality have been impacted  
20 or affected by that culture of poverty.

21 A. Okay. I think the -- I guess the way to approach  
22 this is if one takes a look at the way in which, oh,  
23 let's say, 15 or 20 years ago housing was dealt with  
24 in the community. There is a sense in which a very  
25 limited amount of financial resources for the

1 construction and building of -- and repair of homes  
2 is available. And there's a sense then in which the  
3 question of absolute need by some kinds of  
4 measuring, numbers of broken windows and numbers of  
5 holes in floors, which might be an abstract measure  
6 of need, might get moderated by the fact that, "I'd  
7 like a house to live in." So that sense of  
8 fairness, if you will, is moderated to some extent  
9 by having to deal with Indian Affairs, bureaucracies  
10 and decision-making about the criteria for being  
11 placed on a list for various amenities.

12 Q. Has the reaction to the culture of poverty caused an  
13 exodus of young people leaving the reserves going to  
14 large urban centres?

15 A. It's certainly a factor. I don't know whether it's  
16 caused it, but it's certainly a factor.

17 Q. In your studies, doctor, had you noted that young  
18 Aborigines were given a great deal of independence  
19 early on by their parents?

20 A. That's a one -- the question is a culturally-based  
21 question. You're asking for an evaluation in  
22 comparison to the dominant White society's notions  
23 of what is independence and a free rein kind of  
24 situation. And I would argue that my involvement  
25 with Native communities across the country suggests

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 that -- or, at least, certainly with Algonquian-  
2 speaking peoples -- is that that's quite a normal  
3 and traditional way of relating to children in terms  
4 of their own autonomy.

5 Q. So that, at a young age, children have a lot of  
6 responsibility themselves.

7 A. At a young age, children have an opportunity to  
8 develop a sense of competence in dealing with the  
9 world, and that what is, I think, happening is that  
10 the children are given an opportunity to learn  
11 lessons by a direct involvement with understanding  
12 the consequences of their actions. They begin to  
13 develop a sense of self-confidence by learning how  
14 the world works through direct involvement with it.

15 Q. To the extent, doctor, that by age 15 or 16, a young  
16 Aboriginal could be seen to be self-reliant and  
17 responsible for one's own actions?

18 A. I think, by and large, that's true, as long as you  
19 attach to that that, while learning this  
20 independence, while learning this sense of self-  
21 reliance and autonomy, that one is also learning  
22 responsibility for the caring and nurturement of  
23 others. So that one doesn't learn each of these  
24 values in an isolated, separated kind of milieu.  
25 But one sees that the reason for being autonomous is

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 not to be independent, but to be competent and to be  
2 of assistance and of aid to others, if one needs to  
3 be, certainly, for one's own self-survival, but also  
4 for the assistance of others.

5 Q. Have problems developed on the reserve with the  
6 exodus of young people to urban centres, such as  
7 Halifax, Boston or Toronto, in that the young  
8 persons are then using others off reserve as role  
9 models?

10 A. Using others?

11 Q. As role models?

12 A. Is it a problem?

13 Q. Yes.

14 A. It's -- it becomes a problem only to the degree that  
15 it causes -- what's the word I want here -- only to  
16 the degree that it causes confusion in the  
17 individual's mind as to conflicting values when they  
18 arise, and which set of values does one choose.

19 Q. Yes. Apart from that personal confusion, has it  
20 also created a form of dilution of traditional  
21 Micmac values on reserves?

22 A. Oh. A dilution of the values on the reserves?

23 Q. Yes.

24 A. I would say not.

25 Q. Upon the return of such young people who have been

1 to urban centres, has that impact been felt?

2 A. I think this notion of tradition, one has to take a  
3 look at what it is. It's to be found, as I  
4 mentioned earlier, in specific sets of behaviours  
5 and specific sets of artifacts. And a dynamic  
6 living, growing culture is one that does change, one  
7 that does adapt. But it adapts at a pace and under  
8 conditions under which it incorporates and it  
9 accepts and adopts those values and those world  
10 views from the outside world. There is no culture  
11 that is not unaffected or not uninfluenced by the  
12 societies and the individuals with whom members of  
13 that society interact.

14 Q. So, notwithstanding whatever values the young people  
15 have brought back from a non-reserve situation, the  
16 Band and Council have been able to adapt  
17 satisfactorily to that.

18 A. To the degree that there is still a distinctive  
19 autonomous Micmac community, yes. But as I  
20 mentioned in my opening statements, the source of  
21 value for Native communities derives minimally from  
22 those three sources, the traditional community, the  
23 culture of poverty and from the dominant society.  
24 And to say that those are present doesn't mean that  
25 the traditional values are any less significant or

1 any less important.

2 Q. You mentioned earlier, doctor, the characteristic of  
3 Micmac to judge by the heart or with the heart. And  
4 as opposed to looking at material indications of  
5 someone's prestige or respect, they would choose  
6 instead to test one's character by action and deed.  
7 Is that correct?

8 A. Yeah.

9 Q. I take it that, while a laudable characteristic,  
10 you're not suggesting that that is one peculiar to  
11 Aboriginal peoples.

12 A. I'm not saying it is -- no, it's not. The short  
13 answer to that is, obviously, no, it's not. But  
14 what is significant, I think, is the degree to which  
15 I think it becomes a prominent or dominant means of  
16 assessing and evaluating personal worth.

17 Q. You mentioned as well that the validation or the  
18 verification of stories was in the repetition of the  
19 storytelling. Did I get that right?

20 A. That's one way ---

21 Q. In the constancy or the frequency of the  
22 storytelling, it obtained its validation?

23 A. That's true, yes.

24 Q. And do I take from that, though, doctor, that  
25 stories or myths would change depending on the

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 perspective of the storyteller?

2 A. Are you speaking now of the actual narrative  
3 content?

4 Q. Yes.

5 A. That changes probably from one telling to the next  
6 telling by the same person. And it's not a  
7 published literature with a set text.

8 Q. In some of my readings, I've noted that gossip is  
9 something that is frequent, in that it is a form of  
10 message-sending among people in the community, that  
11 is, telling stories about one another and how  
12 they're doing and what successes or failures they've  
13 had. Is that accurate?

14 A. Yes.

15 Q. All right. What check is there in terms of gossip,  
16 doctor, in your experience? What check is there on  
17 gossiping to ensure that it is fair and accurate?

18 A. The check is -- there are a number of them. But one  
19 of them is simply through the ways that one would  
20 check any other source of information, through  
21 attempting to find -- I mean, if we're talking about  
22 a specific event that occurred, one would ascertain  
23 who was present and under what conditions and check  
24 one's information. If we're dealing with a question  
25 of character, a question of someone's evaluation of

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1 someone's worth, then the questions of validation  
2 are those by which the individual's knowledge of the  
3 other individual conforms to that behaviour.

4 Q. And in present-day Micmac culture, if one were being  
5 gossiped about in terms of reason for failure or  
6 character or both, would one have the opportunity to  
7 discredit that kind of gossip by giving a different  
8 version or different reasons for it?

9 A. Certainly.

10 Q. You described the history and present-day  
11 characteristics and importance of gift-giving, Dr.  
12 McGee. And I'd like to take you back to something  
13 you said earlier with reference to the autonomy, and  
14 that the similarity in gift-giving had the effect of  
15 restoring one's condition prior to breach or prior  
16 to wrong, and in that way, as you elaborated, to  
17 restore the balance between giver and recipient.

18 A. Um-hmm.

19 Q. And as I read the two pieces that have been  
20 introduced in evidence and as quoted by Ms. Derrick,  
21 one referred to the situation where one would be  
22 giving a gift to either respond in kind or return a  
23 favour, whereas the other context that was spoken of  
24 in one of the earlier writings was, if one felt ill-  
25 treated without cause, then the quotation read into

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 the record was that the Micmac or Aborigines would  
2 be very vindictive against strangers in that kind of  
3 context ---

4 A. Right.

5 Q. --- and would seek to avenge for the injury or the  
6 affront which they felt had been wrongly done to  
7 them.

8 A. Right.

9 Q. So there was then, I take it, this at least notion  
10 or concept of vengeance, if one felt that one had  
11 been wronged at the outset.

12 A. I -- absolutely.

13 Q. And the illustration that you gave in terms of  
14 hostage-taking, if innocents had been taken, then  
15 attempts would be made to have those people secured  
16 and with dispatch.

17 A. Yeah.

18 Q. Was it also the concept in terms of if one felt that  
19 the single or the personal entity or one's  
20 individualism was the whole, that is, if the single  
21 part was the whole? Did that carry with it the  
22 notion that one could exact vengeance or restitution  
23 on a whole group rather than just the single culprit  
24 that was felt to be responsible?

25 A. The degree to which that's an Aboriginal practice

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1 and the degree to which that became the practice in  
2 the 17th and 18th century is something that I'm  
3 still attempting to resolve. But, certainly, by--  
4 certainly within the 18th century conflicts between  
5 Micmac and the British, there are various agreements  
6 that wrongs between those two ethnic groups would be  
7 resolved by dealing with individual wrong, with the  
8 wrongs of the individual parties, and that  
9 restitution would not be sought by punishing  
10 individuals who were not involved. The tradition  
11 within the Native community is that the English  
12 consistently violated that principle by taking  
13 hostages in one part of the province when a wrong  
14 had been incurred in another part of the province.  
15 So that a ship that might have been attacked near  
16 Canso, the British would take hostages around Bear  
17 River. The Micmac found that objectionable and also  
18 against their understandings and their treaty. They  
19 came to see that that was a pattern that the English  
20 engaged in frequently. And back to this question of  
21 whether -- how one responds to the culture of  
22 another group, I think there's some sense in which  
23 the Micmac response to that was to behave, on  
24 occasion, in a comparable fashion. So by the 17th  
25 and 18th century, notions of revenge perhaps took on

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 a more ethnic character than perhaps it had had.

2 Q. So is it your evidence, doctor, that this idea of  
3 retribution or vengeance against a group as opposed  
4 to the individual that was seen to be responsible  
5 came about in reaction to actions taken by others?

6 A. What I'm saying is that that's an area in which I  
7 think there's some contradictory evidence in the  
8 earliest record.

9 Q. Yes.

10 A. And the degree to which that's an Aboriginal  
11 pattern, I'm not willing to -- at this juncture to  
12 make a decision about -- or a statement on. But--  
13 so the source of that value or the source of that  
14 activity is the source of the value that says one  
15 must seek vengeance. If you're asking me when that  
16 became a Micmac value and -- I'm not able to give  
17 you an expert opinion on that at the present.

18 Q. All right. As well, doctor, you said that the  
19 respect paid to parents is not viewed simply by  
20 fathering a child but, rather, by action or deed and  
21 a demonstration that the respect has been earned.

22 A. Yes.

23 Q. In your studies of Aboriginal cultures, are you  
24 familiar with succession ---

25 A. Yes.

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 Q. --- and how one Chief would replace a former Chief?

2 A. Yes.

3 Q. All right. Is that a decision in the Micmac  
4 community, sir, that is taken by the Council of  
5 Micmac?

6 A. You're obviously not speaking of elected Chiefs and  
7 contemporary communities under the Indian Act ---

8 Q. No.

9 A. --- but, rather, traditionally.

10 Q. Exactly, traditional ---

11 A. Okay. It's a decision -- again, there's a -- there  
12 are levels of Headship or Chieftancyship. One has a  
13 Community Head or Community Chief. One has a  
14 District Head or District Chief. And one has a  
15 Nation Head or a Nation Chief. And the traditional  
16 process was one of a combination of succession  
17 within a family line, as long as there was this  
18 consensual agreement that that individual was worthy  
19 of that post or worthy of that position. Now, back  
20 to the question of does it go from father to son,  
21 that also has to be placed in the context of the  
22 adoptive practices and adoptive procedures. So  
23 that, traditionally, it could have gone from a--  
24 from one person to a young person who would have  
25 been called "son," who would have been dealt with as

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 son, but who may not have been a biological  
2 descendant. Now, the other issue involves kinship

3 ---

4 Q. And, historically, have there been examples of that?

5 A. It's -- in terms of the number -- the actual records  
6 of succession, they're relatively few. The  
7 principles of succession -- there's discussion of  
8 them in general terms. But in terms of actual  
9 transferrals in the early historical record, they're  
10 small. In terms of the more recent historical  
11 period, most of them have gone from a father to a  
12 son. But there have been instances in which it has  
13 gone to another person.

14 Q. And when you say, "more recently," are you speaking  
15 of the last 100 years?

16 A. Within the last 200 years.

17 Q. All right. And is there a record of that?

18 A. Yes.

19 Q. And then when you say that that kind of decision-  
20 making is consensual, by whom and in what way is  
21 that decision taken?

22 A. Okay. The -- before leaving this, I want to mention  
23 one more thing about the Aboriginal or traditional  
24 kinship succession. In terms of kinship, one  
25 referred to or extended the term that we would use

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 for "son" to individuals who were what -- whom we  
2 would call "nephews," and whom we would call "first  
3 cousins once removed." In other words, the term  
4 "son," as a kinship term, applied more broadly than  
5 to one's own offspring. Your question of in terms  
6 of what was the process of consensus and succession,  
7 a person in terms of in time of selection for the  
8 next Head person, someone would be put forward by a  
9 body of elders, by a group. And in the distant  
10 past, if there were individuals who failed to accept  
11 that individual, they were free to move and settle  
12 into another community. They were free to leave and  
13 establish a separate community in which they would  
14 consensually choose their own leader.

15 Q. That is to say, those who didn't accept the choice  
16 were free to go elsewhere.

17 A. Yes, in terms of a community leader. And in terms  
18 of district leaders, that process worked again with  
19 the heads of each of the local communities, who  
20 would discuss and select someone. They would, in  
21 turn, go back to their own communities, announce who  
22 this individual was. If there was consensus, then  
23 it would be confirmed at a later date. So there is  
24 this period of fluctuation of information back and  
25 forth from a local community to a district community

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 for the nation as a whole. But, in some sense, the  
2 heart of that would have been the Council. The  
3 Grand Council would be the body of respected--  
4 they're people who have been -- who are there  
5 because they are respected individuals, in any case.  
6 And their decisions were generally acknowledged and  
7 accepted.

8 Q. Now, to what extent is that the same today?

9 A. By and large, it still functions that way. Again,  
10 there is -- you say, well, why the "by and large,"  
11 why the qualification? And the qualification is  
12 largely because those decisions of the Grand Council  
13 are done in camera. They're done by the Council. I  
14 don't have access to Council meetings.

15 Q. Have you ever attended a meeting of the Grand  
16 Council?

17 A. Not of the Grand Council.

18 Q. Do you know how many attend Grand Council?

19 A. There are approximately 7 or 8.

20 Q. 7 or 8 officials who would make up the Grand  
21 Council?

22 A. Yes.

23 Q. Would these be officials of varying rank, to your  
24 knowledge?

25 A. There is the Grand Chief. There are the -- there's

DR. MCGEE, CROSS-EXAM. BY MR. SAUNDERS

1 the Grand Captain. There are the Captains. And  
2 there is the Wampum Keeper.

3 Q. Is the Wampum Keeper different than the Grand  
4 Medicine Man? Is that a different position, or do  
5 you know?

6 A. Well, it depends on -- I mean, are you referring to  
7 specific individuals?

8 Q. Yes.

9 A. All right. Then who are you referring to?

10 Q. Do you know what position Mr. Knockwood has in the  
11 Grand Council?

12 A. To my knowledge, I'm not sure that he is a member of  
13 the Grand Council. The Wampum Keeper is Sejeg  
14 Henderson.

15 Q. To your knowledge, are the members of the Grand  
16 Council able to submit candidates for the position  
17 of Grand Chief?

18 A. The candidacy is -- the short answer to that is, no,  
19 I don't know.

20 Q. Thank you, doctor.

21 CROSS-EXAMINATION BY MR. SPICER

22 Q. Dr. McGee, do you know Donald Marshall, Jr.?

23 A. I met Donald Marshall, Jr. -- well, I didn't meet  
24 him. What's the word I want? I was at a St. Anne's  
25 Day celebration and -- in the summer of 1970 and he

DR. MCGEE, CROSS-EXAM. BY MR. SPICER

1 was pointed out to me. So I've -- the last time I  
2 physically saw him was roughly 20 years ago.

3 Q. Would it be the case that the -- you spoke of  
4 acculturation -- that the degree of acculturation  
5 that takes place depends to an extent on the level  
6 of contact that the society has with the dominant  
7 culture? In other words, it's affected by the  
8 amount of contact?

9 A. Yes.

10 Q. So that the rural community is perhaps going to be  
11 less acculturated than a community that's in an  
12 urban centre.

13 A. Possibly. With electronic media, certainly even  
14 very rural communities are subject to sources of  
15 value from the dominant society.

16 Q. But as a generalization, would my suggestion to you  
17 be the case, though, that it's more likely there  
18 would be greater acculturation in an urban setting  
19 than there would be in a rural situation?

20 A. The opportunity is probably greater, yes.

21 Q. And are you able to tell us from your experience  
22 whether or not that is a fact?

23 A. Well, on that issue, there is, again, evidence not  
24 only from Native communities that are encapsulated  
25 within urban settings, but also examples of European

DR. MCGEE, CROSS-EXAM. BY MR. SPICER

1 ethnic minorities who have survived quite  
2 distinctively within urban settings. So that the  
3 degree of urbanization, I think, has to be matched  
4 with -- in a sense, with the other sources for  
5 maintenance of traditional value. And the -- I want  
6 to be cautious here with the notion -- the concept  
7 of acculturation. Because I have a sense that it's  
8 sometimes being used to refer to the loss of the  
9 traditional culture, the replacement of the  
10 traditional culture by a dominant culture. And  
11 that's, in a sense, assuming that the capacity for  
12 culture is limited as a container and that you can  
13 only have so much of one kind in it. And I think  
14 the resourcefulness of human beings and the  
15 structure of human beings is that, one, it is  
16 possible to function biculturally or  
17 multiculturally. It is possible to operate in  
18 different settings and different circumstances with  
19 a number of cultural orientations.

20 Q. Are you able to tell us from your experience whether  
21 or not there's a different degree of acculturation  
22 between, say, Eskasoni and Membertou?

23 A. Again, that ---

24 Q. And if you don't like the word "acculturation,"  
25 perhaps you can suggest another word.

DR. MCGEE, CROSS-EXAM. BY MR. SPICER

1 A. Okay. If you're saying that culture as an adaptive  
2 concept consists of these sets of strategies for  
3 perceiving situations and making decisions through a  
4 set of ranking of values, but how to deal with them,  
5 and if the argument -- or the question is, do people  
6 on, let's say, Eskasoni, differ as a collectivity  
7 from the people in Membertou, as a collectivity, for  
8 interacting with the larger White society, I would  
9 argue it depends on the degree to which the  
10 individuals from each community interact with the  
11 dominant society and have opportunity to use those  
12 values as choices.

13 Q. Okay. And does it then become the case, in order to  
14 answer that question with respect to any particular  
15 individual, you'd need to know the situation of the  
16 individual?

17 A. I would say that that's true.

18 Q. You said a number of things about values of the  
19 Aboriginal or Micmac community, fairness and  
20 equality and a couple of other things that Mr.  
21 Saunders was referring to. In providing us with  
22 those insights into the Micmac value system, do you  
23 seek to differentiate that from the value system of  
24 the dominant system, or merely to state, "These are  
25 the values of the Micmac community"?

DR. MCGEE, CROSS-EXAM. BY MR. SPICER

1 A. Well, the ones that I would emphasize and the ones  
2 that I thought I had emphasized in the original  
3 testimony were those of autonomy and self-reliance.  
4 And it's in those areas that I would argue that  
5 there is some distinctiveness.

6 Q. Okay. I wanted to be sure that I got you  
7 completely, instead of saying, "Well, I think you  
8 said." Are there others then that you seek to  
9 distinguish the dominant society from the Aboriginal  
10 society? And, if so, could you tell us which ones  
11 those are that you say are distinctive as opposed to  
12 merely being possessed by the Aboriginal culture?

13 A. Okay. Well, I -- again, it's a question of -- I  
14 think I'm having difficulty with the semantics of  
15 the question. Because one of -- to me, one of the  
16 notions of distinctiveness is whether it is, in  
17 fact, different from, not a question of degree. And  
18 the notion of distinctiveness -- I would argue that  
19 the notion of autonomy versus the notion of  
20 individualism is the distinction, I think. In the  
21 West, we have a notion of the primacy of the  
22 individual as opposed to the autonomy of the person.  
23 So -- and I think those are different concepts. So  
24 I see that as one area of genuine distinctiveness.  
25 Now, I see the expression of various other, say,

DR. MCGEE, CROSS-EXAM. BY MR. SPICER

1 value choices, that, statistically, one group will  
2 choose one option more frequently than another  
3 option. But that's not a question of  
4 distinctiveness in terms of value. It's a  
5 distinctiveness in terms of option, of operating,  
6 that in choosing that value as opposed to some other  
7 value. But getting at the level of primary  
8 difference, I would argue that it rests on this  
9 notion of autonomy of the individual versus the--  
10 in Western society, the supremacy of the individual,  
11 I guess.

12 Q. You made a couple of comments about the effect of a  
13 Native person being removed from their community and  
14 the effect that that would have on that person. I  
15 believe you said that being away from the community  
16 means being subjected to someone else's control.  
17 And that being removed would mean having one's self-  
18 image diminished, and being removed from a place  
19 from where your world view is shared.

20 A. Right.

21 Q. Let's talk about prison for a moment, because I  
22 think that's really where that question is headed.  
23 Are you saying that those feelings would be felt  
24 more by a Native person than they would by a person  
25 of the dominant culture, or merely that those are

DR. MCGEE, CROSS-EXAM. BY MR. SPICER

1 the sorts of things that would be felt by a Native  
2 person being subjected to that kind of situation?

3 A. Okay. I would think that the -- I'm not a  
4 specialist on prison culture. And I understand  
5 you're going to be having people describe prison  
6 culture. But the few academic and public materials  
7 that I -- popular materials that I do know about  
8 prison culture is that, in many senses, prison  
9 culture is the -- presents many of the dominant  
10 culture's values in extreme form, notions of power  
11 and notions of control. Notions of a sense of  
12 prison fairness may well reflect outside notions of  
13 fairness and integrity. So I would argue that for a  
14 Native person to be placed in prison, you're being  
15 placed in a situation where the dominant society's  
16 values are present. So that if you derive from the  
17 dominant society, being placed in that circumstance  
18 -- or it may be -- and if unjustly placed there,  
19 it's going to be difficult for you. It's going to  
20 be -- it's going to threaten your sense of  
21 integrity. It's going to threaten your sense of  
22 wellbeing. But, by and large, the system operates  
23 in a fashion with which you are familiar and with  
24 which you basically understand is the way the world  
25 works, but perhaps very harshly in that

DR. MCGEE, CROSS-EXAM. BY MR. SPICER

1 circumstances. But it's the principles that govern  
2 the operation of the world. I'm saying that a  
3 Native person placed in that same circumstance would  
4 suffer greater culture shock, cultural  
5 disorientation, than would a non-Native person.

6 Q. And in any particular case, in the case of any  
7 specific individual, the degree to which that shock  
8 is suffered would depend on that person's degree of  
9 ---

10 A. Of cultural distinctiveness.

11 Q. Sure.

12 A. Yes.

13 Q. So in order to answer the question specifically  
14 about any particular person -- and let's be specific  
15 -- Donald Marshall, Jr. -- you'd have to know his  
16 own particular specific situation before you could  
17 answer that question.

18 A. Yes.

19 Q. Thank you.

20 MS. DERRICK

21 Mr. Commissioner, just one question arising out of  
22 that.

23 RE-DIRECT EXAMINATION BY MS. DERRICK

24 Q. Dr. McGee, for a Micmac, where do cultural  
25 interactions take place? Just on the reserve where

DR. MCGEE, RE-DIRECT EXAM. BY MS. DERRICK

1 they may have grown up or they may live, or more  
2 broadly than that?

3 A. Would you repeat that, please? Where do  
4 interactions take place?

5 Q. Cultural interactions take place. Where is culture  
6 expressed and experienced for a Micmac?

7 A. Well, it would -- in terms of the traditional sets  
8 and principles, wherever you find Micmac or people  
9 who share that set of world views. For instance,  
10 perhaps Maliseet would be able to -- the Maliseet of  
11 New Brunswick would be able to share that kind of  
12 experience. But Micmac -- distinctively, Micmac  
13 cultural manifestations or behaviour would occur  
14 whenever you find people who share that culture  
15 interacting with one another. It's clearly not  
16 restricted to the reserves.

17 Q. And in the Micmac nation, as you've defined it for  
18 us, is the interaction throughout the Micmac nation  
19 amongst Micmac?

20 A. Most definitely. People are moving back and forth  
21 between communities, visiting communities. There  
22 are formal cultural meetings, as well as the more  
23 informal ones. But there is certainly a web of  
24 connectedness from Maria and the Gaspé to Yarmouth,  
25 to Koon River, to wherever one finds -- to Boston,

**DR. MCGEE, RE-DIRECT EXAM. BY MS. DERRICK**

1           wherever one finds Micmac people.

2 Q.   Thank you, Dr. McGee.

3

4 --- Upon recessing at 1:00 p.m.

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1 --- Upon resuming at 2:15 p.m.

2 THE REGISTRAR

3 All rise. Please be seated.

4 MR. NOEL KNOCKWOOD (Sworn)

5 DIRECT EXAMINATION BY MS. DERRICK

6 Q. Your name is Noel Knockwood?

7 A. Yes.

8 Q. That's correct?

9 A. Yes.

10 Q. And, Mr. Knockwood, you are currently the Director  
11 of the Micmac Native Learning Centre in Halifax?

12 A. That is correct, yes.

13 MS. DERRICK

14 Mr. Commissioner, Mr. Knockwood's c.v. is found in  
15 Exhibit 4, and there are just certain aspects of it  
16 that I will draw to your attention.

17 BY MS. DERRICK

18 Q. Mr. Knockwood, you've been doing a Bachelor of  
19 Social Work part-time, is that correct ---

20 A. That is correct.

21 Q. --- at the Halifax School of Social Work?

22 A. Yes.

23 Q. And you have a Bachelor of Arts degree in  
24 Sociology?

25 A. I have a B.A. with a major in Sociology from Saint

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 Mary's University, yes.

2 Q. And prior to being Director of the Micmac Native  
3 Learning Centre, you were the life skills instructor  
4 at the Micmac Native Learning Centre?

5 A. I was.

6 Q. Could you tell us what that involved?

7 A. Well, the life skills training that's being taught  
8 at the Micmac Native Learning Centre in Halifax  
9 basically concentrates on two cultures. It teaches  
10 Native people to live in both societies, in a Native  
11 culture and in a non-Native world. We prepare our  
12 students to go into the work force with the  
13 understanding of both cultures, so that they can  
14 function a whole lot better.

15 Q. And you were involved in actually teaching in this  
16 program, is that correct?

17 A. Yes, I was.

18 Q. Mr. Knockwood, you've worked extensively in the  
19 Native community in Nova Scotia and I note here that  
20 you were the Curriculum Development Officer with the  
21 Native Alcohol/Drug Abuse Counselling Association in  
22 Sydney?

23 A. Yes, I held the Alcohol and Drug Program Curriculum  
24 Development Officer for a period of 2 years and I  
25 worked with the Micmac Association of Cultural

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 Studies for approximately 10 years.

2 Q. Yes, I wanted to ask you about that. Can you tell  
3 us what the Micmac Association of Cultural Studies  
4 is and was?

5 A. Well, once the Union of Nova Scotia Indians was formed in  
6 1969, the Native Chiefs began to examine their  
7 culture and began to understand that there was a  
8 certain amount of assimilation amongst our people  
9 in the loss of language and traditions and they had  
10 developed a program called the Micmac Association  
11 of Cultural Studies to do research into exactly what  
12 the Native culture is all about.

13 Q. And what was your involvement there with the Micmac  
14 Association of Cultural Studies?

15 A. I was hired as the Cultural Officer for Mainland  
16 Nova Scotia and I was responsible to all the bands  
17 and my responsibilities were to research the Native  
18 history, culture, and traditions.

19 Q. And Mr. Knockwood, you're a Micmac yourself, is that  
20 correct?

21 A. Yes, I am a Micmac. I was born on the Shubenacadie  
22 Reserve.

23 Q. You're also an Elder. Can you describe what that  
24 means?

25 A. An Elder is an individual in the Native society who

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 is recognize by his people to possess a certain  
2 amount of intelligence, knowledge and wisdom of the  
3 culture to which he belongs, and an Elder is  
4 considered to be a position of high respect in the  
5 Native culture, and I was appointed to be an Elder  
6 back in the early 70's. And the term "Elder" does  
7 not necessarily have to apply to an individual of  
8 old age, although that too is a part of the  
9 criteria, but the basic criteria lies on the wisdom,  
10 intelligence and knowledge of that person about the  
11 language, about the culture, and about the  
12 traditions to which he belongs.

13 Q. And what function or role does an Elder have in  
14 the Micmac community?

15 A. The basic role that an Elder has in the Native  
16 culture throughout Canada is that he is considered  
17 to be an advisor, a consultant, he is a custodian of  
18 legends and stories and he also counsels people who  
19 are in trouble with law and other areas that needs  
20 his counselling. So, he takes on very broad  
21 responsibilities in that respect.

22 Q. Mr. Knockwood, how have you acquired knowledge of  
23 Micmac cultural traditions?

24 A. I've done it in two ways basically; I have  
25 researched the Native ways which were recorded by

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 the early Christian missionaries and by other  
2 historians and, because the Micmac culture is  
3 basically an oral culture, I needed to go back to  
4 the Native Elders to confirm these recorded  
5 documents that I've researched out, and, on many  
6 occasions, they've made some corrections but they  
7 accepted the bulk of the information that I was  
8 giving them. And this is what I had to do because  
9 I was dealing with two different cultures, one was  
10 an oral culture and the other culture was a written  
11 culture.

12 Q. Mr. Knockwood, can you tell me what a traditional  
13 Indian is?

14 A. A traditional Indian in its definition today means a  
15 Native Indian who had basically backed away from  
16 Christianity and who has gone back to embrace the  
17 ancient teachings of his people and to practise the  
18 holy rituals and the sacred ceremonies.

19 Q. And is it possible for a person to have both  
20 traditional Indian values and contemporary Christian  
21 values at the same time?

22 A. Exactly. A living example is our Grand Chief who is  
23 a devout Christian and also he recognizes and  
24 respects highly the Native traditions of our people.

25 Q. And who is that person?

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 A. That's Grand Chief Donald Marshall.

2 Q. I notice, Mr. Knockwood, in your c.v. that you say  
3 on P.3 that you sit on the Grand Council of the  
4 Micmac nation and hold the honored title of  
5 Spiritual Medicine Man, this is a lifetime  
6 appointment and that you are responsible to the  
7 Grand Chief. Could you tell us about your role as  
8 spiritual leader or Medicine Man to the Micmac Grand  
9 Council.

10 A. Well, I think it's quite important to understand the  
11 definition of the word "Medicine Man", because in  
12 the Native culture there is no division between the  
13 body and soul. So, therefore, one can say if you  
14 are to treat a particular individual physically,  
15 you'll have to concentrate on his spirit or his  
16 soul. So, therefore, Native Medicine Men in the  
17 past concentrated on the psychic of the person so  
18 that he can better deal with their physical  
19 ailments. Some of the medicine people today in  
20 North America continue to practise that kind of  
21 medicine, as we call it, but I ask people to use the  
22 words Spiritual Medicine Man, because when I deal  
23 with people in counselling and when I go to the  
24 prisons, I counsel Native Indians by developing on  
25 their soul and bringing pride to their identity and

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 to their being, and I need to do that through the  
2 avenue of what I call spiritual approach.

3 Q. But what is the soul in this context?

4 A. "Soul"?

5 Q. Yes.

6 A. The word "soul", the word "spirit" and the word  
7 "mind" are synonymous.

8 Q. And what is represented therein, what features of a  
9 person?

10 A. It represents the entirety of that individual, body,  
11 mind and soul, and because it addresses that, it  
12 takes on a very broad definition in its perspective.

13 Q. Mr. Knockwood, can you describe to us what the Grand  
14 Council is?

15 A. The Grand Council? Perhaps, it would be wise if  
16 I start from the beginning. When the Union of Nova  
17 Scotia Indians was formed in the late 1960's, they  
18 began to examine the culture and do research into  
19 the history of the Micmac people. In their  
20 research they found that thousands of years prior to  
21 European contact that the Native people had a  
22 political organization here which was hereditary in  
23 nature and they had formed what is known as the  
24 Grand Council. The Grand Council consisted of seven  
25 Chiefs because the Micmac nation was divided into

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 seven districts, and prior to European contact  
2 the Micmac Domain was the entirety of Nova Scotia,  
3 all of Prince Edward Island, most of New Brunswick,  
4 parts of the Gaspé Peninsula in the Province of  
5 Quebec and sections of Newfoundland. That area  
6 called the Micmac Domain was divided into seven  
7 districts and the seven districts each had a Chief.  
8 They, amongst themselves, had selected a Grand  
9 Chief, and the custom of the day was that the Grand  
10 Chief would be hereditary meaning that the oldest  
11 son in that particular family would be the next  
12 Grand Chief in line. So, when they researched that  
13 out, they also found out that the Micmac nation had  
14 what is called a political affiliation with other  
15 nations which was then to be viewed as the Wabenaki  
16 Confederacy. The Wabenaki Confederacy is the  
17 political affiliation of Native Indians, tribes as  
18 such or nations, that were Micmac, Maliseet,  
19 Passamaquoddy, Penobscot, and Abenaki nations. They  
20 formed what is called the Wabenaki Confederacy and  
21 the Wabenaki Confederacy geographically was adjacent  
22 to the Six-Nation Confederacy. So, therefore, there  
23 was a political affiliation here prior to the  
24 arrival of the European immigrants, and this was  
25 researched out and it was confirmed through our oral

**MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK**

1 traditions. It was at that time that the Union of  
2 Nova Scotia executive decided to ask and appoint  
3 Donald Marshall to be the Grand Chief, to which he  
4 had accepted, and that is a lifetime appointment and  
5 he will be our Grand Chief till the day that he  
6 dies.

7 Q. And had there been a Grand Chief prior to him?

8 A. Yes, there were Chiefs prior to him but the  
9 recognition was not as such, it was somewhat of a  
10 weak identity. But when the Union of Nova Scotia  
11 Indians was formed, it sort of made it more  
12 official.

13 MR. COMMISSIONER

14 May I stop you for a moment. How was Donald  
15 Marshall senior elected the Grand Chief? By whom?

16 MR. KNOCKWOOD

17 Well, I don't think I should say "elected", perhaps  
18 "selected" would be a better word. He was selected  
19 by the executive of the Union of Nova Scotia  
20 Indians.

21 MR. COMMISSIONER

22 But you had indicated that there were seven Chiefs?

23 MR. KNOCKWOOD

24 That was prior to the arrival of the European  
25 immigrants when the Micmac nation was divided up

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1           into seven districts.

2           MR. COMMISSIONER

3           Yes, with a Chief in each one?

4           MR. KNOCKWOOD

5           With a Chief from each district, yes.

6           MR. COMMISSIONER

7           Yes.

8           MR. KNOCKWOOD

9           But when the Europeans divided our country further  
10          into the provinces, that tore that idea apart and  
11          therefore we had to, according to the Indian Act,  
12          then elect our Chiefs.

13          MR. COMMISSIONER

14          Okay. Thank you.

15          BY MS. DERRICK

16          Q. Mr. Knockwood, what is the role of the Grand Council  
17          today?

18          A. The Grand Council is basically a position of great  
19          honor and it is basically spiritual in nature, it  
20          has a little bit of political overtones but it is  
21          not basically political, it's more spiritual than  
22          anything else. The Grand Chief and the Grand  
23          Council take a leading role in the Native  
24          communities in burying the dead, in assisting the  
25          deceased's family and helping other that may have

MR. KNOCKWOOD, DIRECT EXAM. BY MS. DERRICK

1 problems in the entire Micmac nation, and they don't  
2 don't look at the boundaries of New Brunswick or  
3 Prince Edward Island to be divisions, they accept  
4 the fact that the Grand Council's dominion still  
5 remains as I described earlier. But their basic  
6 role today is spiritual and, in that definition, we  
7 also perform the aboriginal healing ceremonies, we  
8 do the holy rituals of the peace pipe ceremony, at  
9 least I do, and I was designated to do that by the  
10 Grand Chief. In 1976, I was asked to take on that  
11 responsibility and, from that time onward, I have  
12 carried that honored title to be the Spiritual  
13 Medicine Man of our people. But basically the Grand  
14 Council is a position of honor and respect and  
15 people from the communities are the ones that select  
16 and recommend to the Chief to send a particular  
17 individual to the Grand Council.

18 Q. And you started to describe some of these sacred  
19 ceremonies and you mentioned the ceremony of the  
20 pipe. Can you describe that in some detail as to  
21 its significance?

22 A. Yes. Our philosophy and Indian sacred teachings  
23 tells us that peace can only come from within and  
24 because peace with yourself and with God, as you  
25 understand him, and peace amongst your brothers and

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1 sisters is ritualized by a ceremony called the peace  
2 pipe ceremony in which we pay our highest respect to  
3 the creator of our understanding. We refer to that  
4 as the Great Spirit and, when we burn our sacred  
5 tobacco and our sacred offerings, we ritualistically  
6 take the sacred pipe and point it to the four  
7 directions of north, east, south and west, and at  
8 each cardinal point we offer a prayer. The Native  
9 beliefs are pantheistic, believing that the presence  
10 of God is felt in every object, in every person and  
11 in every place, and because of that our ceremony  
12 called the peace pipe ceremony addresses all of the  
13 creation of God, and that is one of the ceremonies  
14 that I perform.

15 Q. Why is it important for the Grand Council to have  
16 spiritual advice from someone like yourself?

17 A. Because of the degree of assimilation that has taken  
18 place and, as we understand history, the Micmac  
19 nation embraced Christianity in the year 1610 when  
20 the first Micmac Grand Chief was baptized at Port  
21 Royal on June 24th. From that time onward, the  
22 Native people embraced Christianity and today the  
23 majority of the Indian people are Christians of the  
24 Catholic definition.

25 Q. And therefore the necessity in having spiritual

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1        advice given to the Grand Council is to keep  
2        traditional spiritual values alive and current, is  
3        that correct?

4    A.    Yes.    There are certain parts of our culture that  
5        are quite weak and in our research we needed to  
6        advise our own people and some of them in the Grand  
7        Council that there was a way of worship prior to the  
8        arrival of the Europeans, and we address that issue  
9        and we tell them and they seem to embrace that idea  
10       wholeheartedly.

11   Q.    And what is the significance of spiritual values in  
12        contemporary Micmac society?

13   A.    The    significance    of    today's    Native    ways,  
14        spirituality, is because Christianity to many Indian  
15        people offers a very little bit of salvation.  
16        Because in a Native way when we address that  
17        particular point of God or the Creator or the Great  
18        Spirit, we seem to address the whole scope of the  
19        universe that we are in.    I'm kind of forgetting  
20        your main question.    Can you get back to that,  
21        please?

22   Q.    Yes.    I was just asking you the significance of  
23        spiritual values in contemporary Micmac ---

24   A.    Oh, the significance?    That it brings a spiritual  
25        acknowledgement to the individual where other

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1 religions basically do not address that, and it is  
2 very important right across North America that the  
3 Native people go back in this direction, and that  
4 movement is starting to take place. So, it is  
5 very important because it's all-inclusive in the  
6 Native way and the mind, body and soul are one.

7 Q. And have traditional spiritual values enjoyed a  
8 revival amongst the Micmac?

9 A. Very much so. The Indian ecumenical movement began  
10 somewhere in the early 1970's and it began in the  
11 United States on an Indian Reserve, I can't think of  
12 the particular Reserve that it originated, then the  
13 movement came to Canada in a place called Morley,  
14 Alberta, on a Blood Indian Reserve. And it was at  
15 that time when the formation of  
16 the Indian ecumenical movement began, of which the  
17 Grand Chief, Donald Marshall, was a member, and in  
18 the early and mid 1970's he would often send me in  
19 his place and I would learn from other tribal  
20 nations the rituals, the ceremonies and the  
21 philosophy, which was somewhat of a common thing  
22 throughout all tribal groups in North America.

23 Q. Can you tell us what exactly was or is the Indian  
24 ecumenical movement, then?

25 A. The Indian ecumenical movement is a group of elderly

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1 people and Medicine Men and Medicine Women as well  
2 who got together and decided to begin to bring the  
3 ancient teachings of our people back to the  
4 contemporary world as we understand it, and that  
5 promotion originated at that time and the Indian  
6 ecumenical movement spread somewhat like wildfire  
7 throughout Canada and the United States and it is  
8 now present today in our Micmac culture.

9 Q. And when did traditional spirituality start to come  
10 back amongst the Micmac? What years did that start  
11 to happen?

12 A. Well, initially there was a tremendous amount of  
13 rejection at first because of the assimilation of  
14 Native people, but once they began to find out the  
15 sincerity of it and began to witness and began to  
16 understand how it was explained, they embraced it  
17 quite openly and today the movement is going very  
18 strong because it addresses the very soul of our  
19 Native people.

20 Q. And did this happen in the 70's or in the 80's?  
21 When did traditional spirituality start to enjoy a  
22 revival in the Micmac tradition?

23 A. It started to come back very strong in about the  
24 1980's.

25 Q. But did it have a presence in the 1970's?

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1 A. Yes, the presence was already here but it was  
2 somewhat weak. We needed to educate an awful lot of  
3 Native people in that area and those who were  
4 courageous enough to come forth and to learn the  
5 ancient ways of our people began to do so, and today  
6 those people can now number into the hundreds.

7 Q. And when did traditional spirituality start to be  
8 reintroduced or enhanced in the Micmac community,  
9 was that in the 70's?

10 A. Yes, it initiated in the 70's but it was grasped in  
11 more detail in the 1980's.

12 Q. Mr. Knockwood, can you tell us the significance of  
13 language to the Micmac people?

14 A. Language is the transmission of our culture. It is  
15 a very important part of our Native way and we have  
16 been told by our Elders that there are many secrets  
17 in the language of yet we need to research and to  
18 find out, for when they tell us the stories, when  
19 they tell us the history of our land, when they  
20 teach us the ancient ways, they tell us in the form  
21 of a story-telling and it is up to us to interpret  
22 and translate those stories to give a meaningful  
23 significance to understanding the world around us.

24 Q. When did you learn Micmac?

25 A. My first language was Micmac and when I first went

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1 to the Indian residential school in Shubenacadie in  
2 1939, I only could speak two words of English and  
3 those two words were "yes" and "no", but my first  
4 language was Micmac.

5 Q. And what happened to you at the residential school  
6 with respect to the use of your language?

7 A. In the residential school, which was run by the  
8 Catholic church, I was forbidden to speak my  
9 language and I was beaten and strapped whenever I  
10 did.

11 Q. And did that result in a loss of your language for  
12 you?

13 A. To me individually, no, it rather strengthened me  
14 because I said to myself that the only way I can  
15 maintain my language is to think it, and I used to  
16 think in my own language and that helped me to  
17 maintain my language and, when I got home for the  
18 summer vacations, my parents would practice in using  
19 the language with me 100% of the time.

20 Q. And in the residential school, were you also  
21 discouraged from using other aspects of your culture  
22 or expressing other aspects of your culture?

23 A. Very much so. Every time we tried to make a  
24 positive reflection or image of ourselves and our  
25 race of people, we were somewhat belittled because

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1 of that and in some cases punished.

2 Q. Mr. Knockwood, what work have you done in the area  
3 of Micmac literacy?

4 A. I have not done all that much work in literacy, but  
5 I do have programs in place where I wish to make a  
6 submission to the Federal Government so that I can  
7 teach Micmac at the Micmac Learning Centre here in  
8 Halifax.

9 Q. And do you teach Micmac now at the Micmac Learning  
10 Centre?

11 A. No, I don't, but we could quite easily.

12 Q. I see. From your knowledge, has the Micmac language  
13 resisted assimilation?

14 A. Very much so. Although we were forbidden to speak  
15 our languages by the Indian residential school  
16 system throughout Canada, our Elders in the  
17 communities would not assimilate, so they continued  
18 to resist by making sure that the children  
19 understood and spoke the aboriginal language which  
20 was given to them by the Creator.

21 Q. Mr. Knockwood, can you explain the importance of the  
22 extended family in the Micmac nation?

23 A. The extended family is very, very important in the  
24 Native way. It even cuts across boundaries that are  
25 quite geographical and in distance are miles and

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1 miles apart. In the communities within, the family  
2 structures are united through a common bond called  
3 Indian Reservations and the language is part of  
4 that common denominator, and the extended family is  
5 well practised to this very day. And the example  
6 that I can share with you today is to tell you that  
7 during the moose harvest last year, those Native  
8 Indians who went out and shot the moose came back to  
9 the Native Reservations and in their communities  
10 they called the elderly, the sick, and the people  
11 who could not go out to hunt and they shared their  
12 kill with them, and they did it at the community  
13 halls throughout the Reserves in Nova Scotia. And  
14 that part of that is still the extended family  
15 concept and it embraces the entire community in  
16 cases like that.

17 Q. Would that be an example of the value of sharing in  
18 the Micmac community?

19 A. Very much so. The characteristics of the Native  
20 culture is one of sharing and giving rather than the  
21 accumulation of wealth and materialistic goods.  
22 Sharing is still a very important part of our  
23 culture today.

24 Q. And when you say that, that it's still a very  
25 important part of your culture, that suggests that

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1 it has historical origins, the concept of sharing  
2 and giving, is that correct?

3 A. Very much so, because prior to the arrival of the  
4 European immigrants to our homeland, my society and  
5 our culture was one of sharing and giving, and that  
6 kind of practice continued in time until it is  
7 brought up to today and that sharing is still  
8 practised in the Native communities. We visit our  
9 Elders, we look after our homeless, we take care of  
10 our sick the best way we can, and that kinship and  
11 that sharing idea is still practised today in the  
12 Native culture.

13 Q. What is the significance of kinship in the Micmac  
14 community?

15 A. Well, kinship is so strong that should one person be  
16 offended in any way that it hurts that immediate  
17 family and spreads out into the community and it's  
18 possible that the entire nation could be affected  
19 by any kind of misdeeds that happen to particular  
20 individuals.

21 Q. Mr. Knockwood, historically did penal institutions  
22 or mental institutions exist in the Micmac  
23 community?

24 A. No, there were no prisons or jails, neither were  
25 there any mental institutions. According to the

1 early recorders of history who were the Jesuit  
2 priests and some merchants, there was no indication  
3 of Native people suffering from mental retardation  
4 and that they were in great physical shape and  
5 condition and that their existence on this earth --  
6 they lived anywhere from approximately of 100 to 120  
7 up to 150 years of age. So, therefore, they were  
8 both physically in great shape and mentally they  
9 were in top shape because they had no need for  
10 mental institutions, so therefore there weren't any.  
11 In reference to prisons or jails, that also was  
12 absent, but should any kind of civil disobedience  
13 take place, the people were banned from their own  
14 families and from their own villages and from their  
15 own communities, and because they were banned they  
16 could not participate in any of the activities and  
17 that was the kind of punishment that was practised  
18 in those years.

19 Q. And on the spectrum of punishments that the  
20 community could dole out, where did banishment or  
21 exile fit? Was it considered a very severe  
22 punishment or a moderately severe punishment?

23 A. No, it was considered to be a very severe punishment  
24 because if anyone refused to talk to you or have  
25 anything to do with you, it was the highest form of

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1 insult that one could give another individual.  
2 Again, should the civil disobedience that had taken  
3 place be murder or something like that, then it was  
4 the responsibility of the person who had committed  
5 the civil disobedience to maintain the family that  
6 he had caused harm to, and he had to maintain the  
7 food and the clothing and whatever the needs of that  
8 particular family were.

9 Q. So, in historical terms, the event of a murder  
10 didn't necessarily result in the person being  
11 banished or exiled, is that what you're telling us?

12 A. No, I'm telling you that both of those things could  
13 have happened. Even though they were banished,  
14 they were still obligated to provide goods and  
15 services to the family that they harmed.

16 Q. Mr. Knockwood, I believe you've worked extensively  
17 in prisons with Native prisoners, is that correct?

18 A. I have.

19 Q. What has the nature of your work consisted of in the  
20 prisons?

21 A. Well, in the 1970's because some my responsibilities  
22 was the promotion of our Native culture, and in that  
23 definition spirituality was part of that movement, I  
24 I felt obligated -- I had to make visitations to the  
25 prisons to bring peace to the individuals that were

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1       incarcerated, and I did that by teaching them the  
2       philosophy, I did that by performing the sacred  
3       ceremonies in their presence, and I had to do that  
4       with the authority coming from Correction Services  
5       Canada. So, the work in that field was long and it  
6       was sometimes very difficult for us to convince the  
7       authorities that we are sincere in what we are  
8       doing.

9       Q. And at the time when you were performing these  
10       ceremonies, was Donald Marshall junior still  
11       incarcerated in any of the institutions you visited?

12       A. Yes. I've ran across Donald Marshall junior in  
13       Dorchester Penitentiary, in Westmoreland and in  
14       Springhill.

15       Q. And was he ever present during the performance of  
16       these traditional sacred ceremonies?

17       A. Occasionally, he was there, yes.

18       Q. Would he have been there as part of the Native  
19       Indian Brotherhood?

20       A. Exactly.

21       Q. Can you tell us what the Native Indian Brotherhood is?

22       A. The Native Indian Brotherhood is the assembly of  
23       Native inmates who have been incarcerated and they  
24       unite themselves so that they can face the realities  
25       of life in the institution of a prison or a jail so

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1 that it helps them to unite themselves in a manner  
2 that they will be able to survive in that kind of an  
3 environment.

4 Q. What sort of sacred spiritual ceremonies did you  
5 perform in the institutions?

6 A. Basically, I performed the sacred peace pipe  
7 ceremony and left the purification sweat rituals to  
8 another Medicine Man, but I do personally perform  
9 purification ritual called a "sweat" as well.

10 Q. Can you tell us the historical origins of the sweat  
11 ceremony?

12 A. Well, when the Europeans first came to a Micmac  
13 land, Nicholas Deny, one of the early merchants who  
14 recorded the activities of Native people, identified  
15 and described a sweat ceremony, and this was  
16 reinforced by the early Jesuits who wrote on that  
17 particular activity. So, we know through oral  
18 traditions that this was the kind of a ritual that  
19 was performed and in that kind of healing ceremony,  
20 we heal the mind, the body and the soul. So, it's  
21 psychological, it's physical and it's spiritual, and  
22 and it's very healing and once people go through  
23 that experience they seem to be able to take on  
24 other difficult areas in their path of life.

25 Q. Mr. Knockwood, you were talking a little earlier

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1 about the selection of Grand Chief. Can you tell us  
2 a bit more about how that process works, what  
3 characteristics go into the selection for Grand  
4 Chief?

5 A. Well, in ancient times the method that was used was  
6 that the oldest son of a particular family would  
7 probably be the next Grand Chief, and it was  
8 hereditary somewhat like the hereditary system that  
9 is in England today. So, the oldest particular  
10 member of the family could be the next leader.

11 Q. And are those characteristics of succession,  
12 hereditary succession, still present today?

13 A. I cannot answer that to the affirmative, the only  
14 way that I can answer that is to tell you that  
15 probably what will happen today because of the  
16 degrees of assimilation of Native people that the  
17 Grand Council itself would perhaps select the next  
18 Grand Chief among its members.

19 Q. And would the eldest son of the current Grand Chief  
20 be up for consideration as a member of the Grand  
21 Council and then later possibly as Grand Chief?

22 A. That is a possibility, yes.

23 Q. By virtue of his status of the eldest son?

24 A. Right.

25 Q. Would that be one of the considerations?

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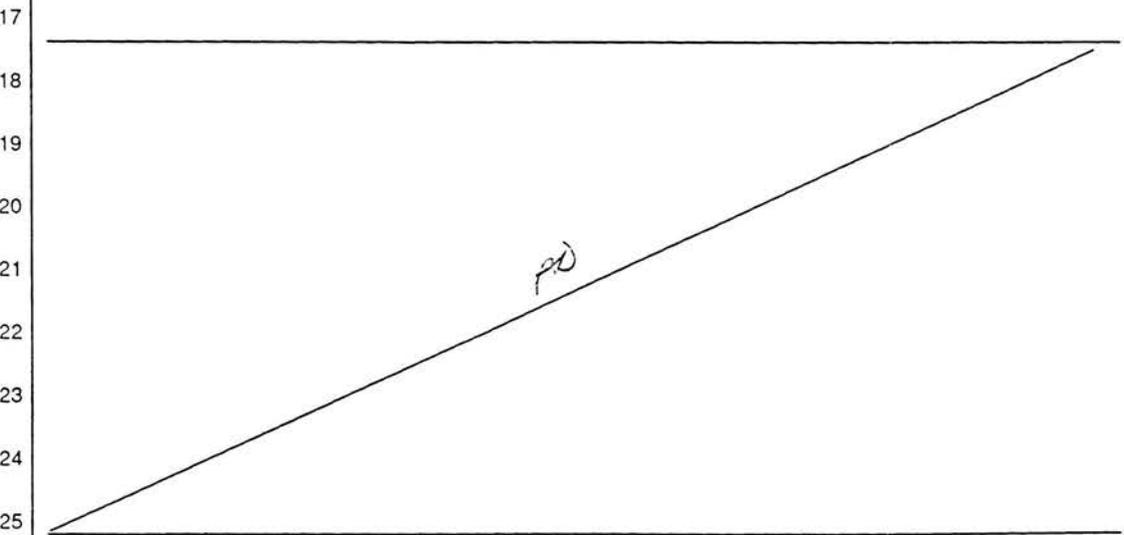
1 A. Yes.

2 Q. Can you comment from your knowledge about these  
3 things whether Donald Marshall junior's experiences  
4 as a wrongfully convicted and imprisoned person will  
5 have an effect on his ability to be selected for  
6 this position?

7 A. I think that jeopardized him quite a bit because, as  
8 we attempt to survive in two cultures, some of the  
9 value systems apparently rub off on us and the guilt  
10 and the shame that is directed to a man who committed  
11 a crime he did not commit was part of that hurt,  
12 and we feel that him going through that experience  
13 jeopardizes him to become the next Grand Chief.

14 Q. And in your opinion, is that true, even though now  
15 he has been vindicated?

16 A. In my opinion, I think I agree, yes.



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1 Q. Mr. Knockwood, from your experience in the community,  
2 can you tell us how the community was affected by Mr.  
3 Marshall's wrongful conviction?

4 A. The way the community was affected, as I understand it,  
5 was that many people were hurt when he first indicated  
6 that he was being accused of a crime he didn't commit.  
7 And the Native people understood that he did not have  
8 his opportunity to express himself. And since some  
9 people defined Donald to be basically a functional  
10 illiterate, he had quite a difficult time in  
11 understanding what was happening to him, during that  
12 time. And that affected the people at a community  
13 level as well, and said, "If that ever happened to us,  
14 how would we be able to survive"? So the closeness of  
15 the MicMac people, it affected our people at the  
16 community level, to a point where we felt that it put  
17 us in a state of hopelessness. And Donald Marshall,  
18 Jr. was the man who our compassion went to. But that's  
19 all we could offer, was our compassion.

20 Q. Do you know this from your own personal feelings, with  
21 respect to Mr. Marshall's experience, as well as  
22 talking with other members of the MicMac community?

23 A. Yes, because in my own home, we discussed the issue.  
24 And I've told my oldest boys to be very careful, and,  
25 "Try not to be involved with the law, because of the

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1 possibility of you being incarcerated, because we don't  
2 have the money to hire expensive lawyers," and things  
3 like that. And they abided by the laws. And I even  
4 took them to the penitentiaries to prove to them what  
5 that kind of experience was like. And my two oldest  
6 boys went there with me, to visit. And although they  
7 did not see Donald Marshall, Jr. himself, they seen  
8 other Native people there. And it was a learning  
9 experience for them. So it did rub off into the Native  
10 communities, and our people were affected by his  
11 incarceration.

12 Q. Your home is in Shubenacadie? Is that ---

13 A. No, I was born on the Shubenacadie Indian Reserve. But  
14 in 1972, I went and I bought a house in the Town of  
15 Truro. And that's where I reside today.

16 Q. Mr. Knockwood, you mentioned, when you were discussing  
17 the notion of kinship, that if one person was injured  
18 within the community, that the entire family, the  
19 entire community, in fact, the entire nation, is harmed  
20 by that injury. I'm asking you, as a MicMac, do you  
21 feel that harm, as a result of what happened to Donald  
22 Marshall Jr.?

23 A. Very much so. Yes, because, as I indicated earlier,  
24 because perhaps, that I am a person of compassion, that  
25 affected me very much.

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1 Q. Thank you very much, Mr. Knockwood. Those are my  
2 questions.

3 A. Thank you.

4 CROSS-EXAMINATION BY MR. SAUNDERS

5 Q. Mr. Knockwood, can you tell me when the Native  
6 Brotherhood started, in Dorchester Penitentiary?

7 A. I can not answer that, sir, because that was in  
8 existence prior to my visitations to those  
9 institutions.

10 Q. And you first would have visited that institution, do  
11 I have it right, in the mid 1970s?

12 A. Yes.

13 Q. And was there also a Native Brotherhood at the  
14 Springhill Medium Institution?

15 A. There was.

16 Q. And West Morland was the third institution that you  
17 identified. Was there also a Native Brotherhood at  
18 West Morland?

19 A. Yes. There's one in Dorchester, one in West Morland,  
20 and one in Springhill. And now there is one in  
21 Renouse, New Brunswick.

22 Q. And as I understood your evidence, after some  
23 persuasion, you convinced the authorities of the  
24 Canadian Correctional Services, that you were sincere  
25 and serious in your approach, and were allowed into the

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 institutions, as an Elder?

2 A. Yes, as an Elder, Spiritual Medicine Man. But I can  
3 not take the credit for that. That movement began in  
4 the United States, and then was more well known in  
5 Western Canada. And as its movement -- as its  
6 spiritual ecumenical movement moved, in an easterly  
7 direction, it began to take hold here, in the 1980s.  
8 But it began in Western Canada. And those were the  
9 people that were able to -- those were the Medicine  
10 Men, who were able to convince the bureaucracy of  
11 Correction Services Canada, to allow Native people --  
12 spiritual Native people -- to come in, parallel as to  
13 how the clergy comes in to make visitations to inmates.

14 Q. And are you now satisfied, sir, that that parallel  
15 exists?

16 A. Yes.

17 Q. From what I've read, it seems to me that the process  
18 started in penitentiaries in Alberta, in the early  
19 1970s, and then spread eastward.

20 A. Exactly.

21 Q. Can I ask you how many people you would take with you,  
22 when you attend at a Federal Institution, like  
23 Dorchester?

24 A. That would vary. Sometimes we would make visitations  
25 as a group of two or three. And sometimes we would

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 have about 10, 15 people, who would make a visitation.

2 Q. How long would a visitation last?

3 A. Usually half a day, or in some cases, most of the day.  
4 I can't say a full day. And of course, it is required,  
5 a lot of security clearance, from the people who made  
6 those visitations. And that took a lot of time, as  
7 well.

8 Q. Yes. And to belong to a Native Brotherhood, or a  
9 Native Sisterhood, is that a voluntary thing?

10 A. Very much so.

11 Q. So that not all people of aboriginal origins are  
12 expected to be members of a Native Brotherhood, if  
13 they're incarcerated?

14 A. That is correct.

15 Q. And as well, the ceremonies that you would be putting  
16 on in a Federal Institution, is one's attendance also  
17 voluntary?

18 A. Yes.

19 Q. Do you recall how often you observed Donald Marshall,  
20 Jr. at the ceremonies that you put on at institutions,  
21 in the '70s and early '80s?

22 A. Perhaps no more than half a dozen.

23 Q. And were there some occasions when you put on  
24 ceremonies, when Mr. Marshall was not present?

25 A. Yes.

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 Q. Did you know Donald Marshall, Jr., before his arrest  
2 in 1971?

3 A. No, I did not.

4 Q. Are you able to say to the Commissioner, to what extent  
5 Donald Marshall, Jr. adhered to traditional MicMac  
6 values and customs, prior to 1971?

7 A. Would you repeat that, please?

8 Q. Are you able to say, to what extent, Donald Marshall,  
9 Jr. adhered to traditional MicMac culture and values,  
10 prior to 1971?

11 A. I think, to be fair, in answering that question, sir,  
12 I would say that, because Donald Marshall is a  
13 bilingual, and that many hidden secrets of our  
14 tradition are in the language, that he did carry a  
15 certain amount of perspectives in that area, to bring  
16 forward to some of his beliefs in his ancient  
17 teachings, but not to a degree, as they are today.

18 Q. Were you involved in any of these holy rituals, or  
19 ceremonies, prior to Mr. Marshall's difficulty with the  
20 law in 1971?

21 A. Was I, as an individual?

22 Q. Yes.

23 A. Prior to 1971? No, I was just beginning to learn  
24 myself, at that time.

25 Q. And could I get a date from you, sir, as to when you

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1       were selected as Grand Spiritual Medicine Man by Grand  
2       Chief Marshall?

3   A.   Yeah, I think that was in June of 1976.

4   Q.   And is this a position that you will then hold, for  
5       your lifetime?

6   A.   Yes, sir.

7   Q.   And are you able to pass it on to your successor?

8   A.   Not through imposition. Only through the experience  
9       of learning, and maybe putting somebody under my  
10      apprenticeship, that I'll be able to do that.

11  Q.   And is that a selection or a choice that you, yourself,  
12      will make?

13  A.   I will make that choice. Yes, sir.

14  Q.   You said that historically, one could succeed a Grand  
15      Chief, by heredity. And that the oldest son could  
16      become the next leader, or the successor, as Grand  
17      Chief. And when you said "could," I took from your  
18      answer that there might be other factors or reasons,  
19      than just heredity, that would enter into that  
20      decision.

21  A.   Perhaps it would be better if I answered you this way.  
22      In ancient times, that was the custom, for the eldest  
23      son of the family of the Grand Chief, to be the next  
24      person in line. I used the words "could be" today,  
25      because of the fact of the degree of assimilation that

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 Native people are going through. And I say, that's a  
2 possibility, that yes, he could have been selected as  
3 the next Grand Chief.

4 Q. But is the decision ultimately made by the members of  
5 the Grand Council?

6 A. The decision will be made by the members of the Grand  
7 Council, and perhaps will be reaffirmed by the  
8 communities, in their acceptance. And in usual cases,  
9 they accept the recommendations coming from the Council  
10 itself.

11 Q. And how many members, in present-day MicMac culture,  
12 are there on the Grand Council?

13 A. We have representations from every reserve. In all of  
14 Nova Scotia we have -- and the same applies to Prince  
15 Edward Island. We have representations on the Grand  
16 Council from Newfoundland. We have them from  
17 Restigouche and Maria, in the Province of Quebec, and  
18 other Indian reserves in New Brunswick. And of course,  
19 Nova Scotia itself, as well, has its members.

20 Q. So that, how many, all together, would there be,  
21 sitting on Grand Council?

22 A. I just can't come up with an immediate figure, sir.  
23 Maybe I can estimate, perhaps.

24 Q. Would you please?

25 A. Maybe 20.

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 Q. About 20?

2 A. Yes.

3 Q. And does each person, of those 20, have an equal vote  
4 in the selection process?

5 A. We have a form of consensus, I think you can call  
6 voting. But it is not practiced in a manner where you  
7 express your vote in the form of a written ballot. It  
8 is usually expressed orally and verbally, whether you  
9 acknowledge or not.

10 Q. Yes. To perhaps put it a better way, would the view  
11 of any one of those 20 members of Grand Council, be  
12 considered with equal respect?

13 A. Would be what?

14 Q. Considered with the same degree of respect.

15 A. Oh, definitely. Yes.

16 Q. And when my friend, Ms. Derrick, asked you whether  
17 Donald Marshall Jr.'s chances of succeeding his father  
18 as Grand Chief had been jeopardized, despite his  
19 vindication by this Royal Commission Report, you  
20 thought that it still might be. I'd like to explore  
21 that with you, sir, because I'm still not sure I  
22 understand it. Why, despite the release of this Royal  
23 Commission's findings, and the apology made in February  
24 of this year, do you say that his chances might still  
25 be jeopardized?

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 A. I don't think apologies going to Donald Marshall are  
2 relevant. I think that the damage has already been  
3 done, on his wrongful conviction, and that the Native  
4 communities had already acknowledged that. And because  
5 the Native people seem to be of a character that they  
6 do not express themselves fully, only when they speak  
7 their native tongue, then can they safely say that,  
8 "Perhaps it's wise that we don't do that, based on  
9 diplomacy." That could possibly have jeopardized  
10 Donald Marshall, Jr. from being our next Grand Chief.  
11 That is the reason why I used the word "could."

12 Q. Yes. And diplomacy between or among whom?

13 A. Among the Grand Council, and the MicMac nation itself.

14 Q. Yes. That given that history, he may, to some degree,  
15 have been jeopardized.

16 A. Yes.

17 Q. Do you agree with me, Mr. Knockwood, that as a  
18 consequence of the findings of this Royal Commission,  
19 that Donald Marshall Jr. was, in fact, vindicated?

20 A. Was in fact what?

21 Q. Was, in fact vindicated?

22 A. I don't know the meaning of the word, sir. I'm sorry.

23 Q. That he was, in fact, shown to have not been at fault.

24 A. Oh, very much so. Yes.

25 Q. Yes. You accept that?

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 A. I certainly do.

2 Q. And is it generally accepted, among the MicMac  
3 community, that that is so?

4 A. Yes.

5 Q. And is it also generally accepted, that by being able  
6 to sustain himself during that 11 years of  
7 incarceration, he displayed courage and valor?

8 A. According to the mind of Native people, he displayed  
9 tremendous courage, in that he kept his sanity, and  
10 that many people feel that -- even a lot of non-Indian  
11 people feel today that he was a very courageous person.

12 Q. Quite so. And has he returned then, to a position of  
13 respect and honour?

14 A. Gradually. He is getting there. In a Native culture,  
15 you need to earn your position in society, by  
16 exercising your ability to do things, and to give a  
17 positive reflection in all areas of your life.

18 Q. So is that something then, that will have to be  
19 demonstrated again by Donald Marshall Jr.?

20 A. Yes. In time yet to come, he has to prove his manhood,  
21 in that fashion.

22 Q. By his own actions and deeds?

23 A. Exactly.

24 Q. Are there other organizations within Federal  
25 Institutions, than the Native Brotherhood that you've

1 described, which assist in the spiritual revitalization  
2 of aboriginal peoples incarcerated?

3 A. We get support from the provincial and territorial  
4 organizations across Canada. And we also seek support,  
5 and receive support, from the Native alcohol and drug  
6 programs across Canada, because they seem to be one of  
7 the most powerful instruments that can make these  
8 things happen, for they too, make visitations, as well.

9 Q. I've read, in places, of an organization referred to  
10 as the Sacred Circle. Is that something different than  
11 the Native Brotherhood?

12 A. Native organizations throughout the United States and  
13 Canada, have different kinds of names for their  
14 spiritual organizations. And I heard of the Sacred  
15 Circle, but I've never had no direct involvement with  
16 them, as such.

17 Q. Are you able to say whether such an organization exists  
18 at the Dorchester, or Springhill institution?

19 A. I believe it does.

20 Q. Do you know if Donald Marshall, Jr. was a member of  
21 that Sacred Circle, during the period of incarceration?

22 A. I can't say for sure, sir.

23 Q. Besides the visits that you paid, in your capacity,  
24 sir, as Spiritual Medicine Man, are you aware of any  
25 other visitations that were paid to Donald Marshall

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 Jr., while he was incarcerated, by Elders in the MicMac  
2 community?

3 A. Definitely. On several occasions I've seen his mother  
4 and father at the institutions, making visits. And  
5 they would come on social nights, where a lot of Native  
6 Elders in the community would come forward. And he  
7 would associate himself with other people during those  
8 kinds of visitations, which we call social evenings,  
9 that we would bring in the drummers and the chanters.  
10 And we would invite others to come forward. And we  
11 would go in discussions and dialogue with the inmates.  
12 And we'd try to make them feel at home and acceptable,  
13 in our culture.

14 Q. And in that way, provide some kind of sustenance or  
15 spiritual healing, to those people incarcerated?

16 A. Yes.

17 Q. And Donald Marshall, Jr. partook of those ceremonies  
18 and rituals?

19 A. Very much so.

20 Q. And can you tell me whether or not Donald Marshall, Jr.  
21 specifically asked for that kind of spiritual support,  
22 during the time that he was in prison?

23 A. Yes. On a few occasions, he had personally approached  
24 me, and asked if I would say a prayer for him. And I  
25 acknowledged to the affirmative, that I would.

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SAUNDERS

1 Q. Thank you. Are you persuaded, Mr. Knockwood, that now,  
2 more people in authority, more custodians, more people  
3 in Canadian Correctional Services, are persuaded to the  
4 importance of the kind of spiritual healing that you,  
5 and other Elders, are providing inmates?

6 A. Yes, sir. I acknowledge that very much, because I was  
7 asked to sit on a National Advisory Council for  
8 Correction Services Canada. And we are still having  
9 lots of problems in the area of negotiating other  
10 things. But yes, I acknowledge the fact that a lot of  
11 work has been done in that field.

12 Q. When did you last see Donald Marshall Jr., Mr.  
13 Knockwood?

14 A. Last month at the MicMac Friendship Centre.

15 Q. In your experience, both as an Elder and a Spiritual  
16 Medicine Man, and your knowledge of Mr. Marshall, are  
17 you able to say whether he might be of some  
18 considerable assistance to inmates who are  
19 incarcerated, and require the kind of help that you've  
20 described?

21 A. He would be very helpful to our Native people. And I  
22 stand strong in my convictions, that there will come  
23 a day when he will take that avenue of approach, to  
24 help others.

25 Q. Thank you. Those are my questions.

CROSS-EXAMINATION BY MR. SPICER

1  
2 Q. I just have a couple of questions. At one point, you  
3 indicated that at this point, the task facing Donald  
4 Marshall Jr., to a degree, is -- I think the phrase you  
5 used was, "the process of proving his manhood." Is  
6 there anything now, standing in his way, to stop him  
7 from doing that? Is there anything, that you see, that  
8 stands in his way, that could stop it?

9 A. I think, because of the public attention that he  
10 received, and because of the fact that he has a  
11 difficulty in society generally, by proving himself,  
12 not only to the Native community, but to others, that  
13 this has become a burden to him. And it is now to his  
14 disadvantage, rather than to his advantage. And his  
15 road to recovery, and put himself back into the proper  
16 perspective, through the Native views, is going to be  
17 quite -- it's going to take some time. And Junior,  
18 it's going to be a little bit tough for him.

19 Q. And are there those in the Native community, that are  
20 assisting in this regard?

21 A. Yes. They're giving all kinds of moral support. There  
22 is spiritual support amongst the Native people  
23 throughout. And a tremendous amount of respect now,  
24 is going back to Donald Marshall, because he had the  
25 ability to face these kinds of realities in life, and

MR. KNOCKWOOD, CROSS-EXAM. BY MR. SPICER

1 yet, maintain his sanity.

2 Q. And can you tell me, from your experience, whether or  
3 not, at this point, Donald Marshall Jr., is seeking out  
4 that help?

5 A. Donald Marshall Jr. is seeking out all kinds of help,  
6 because he needs to do that. And he is succeeding to  
7 a degree. But yet, his journey is still -- his journey  
8 to accomplish 100 percent being back into culture  
9 itself, is still yet down the road.

10 Q. Does the fact that he has to take this road, and to go  
11 back along the path of proving his manhood again, is  
12 that partly what stands in his way, or may stand in his  
13 way, to becoming Grand Chief? The fact that he has  
14 still to go through this process?

15 A. Yes. It did jeopardize him, in that manner. Very much  
16 so.

17 Q. Let me ask you this then. If he were successful in re-  
18 establishing his manhood, in that fashion, do you think  
19 that that would negate that reason for him perhaps not  
20 becoming Grand Chief? In other words, if he's  
21 successful, would that reason go away?

22 A. Probably not. I don't mean to be insulting. But I  
23 only can answer a hypothetical question with a  
24 hypothetical answer.

25 Q. I appreciate that. Thank you.

RE-DIRECT EXAMINATION BY MS. DERRICK

1  
2 Q. Mr. Knockwood, you, I think, in answer to Mr. Saunders,  
3 said that everybody who forms the Grand Council, is  
4 regarded with equal respect. Is that correct?

5 A. Yes.

6 Q. Is it true, however, that the Grand Chief, occupies a  
7 special role?

8 A. He does.

9 Q. And is he regarded as the spiritual leader of the Grand  
10 Council, under the MicMac nation?

11 A. Because our Grand Chief, Donald Marshall, is a  
12 Christian, and a very strong Christian, and besides the  
13 fact that he recognizes the aboriginal faith of his  
14 nation, he is very influential, in the Council, and in  
15 the communities that he visits. And he gets great  
16 honour and respect from all people, throughout the  
17 entire nation.

18 Q. And is his a diplomatic role?

19 A. Part of the Grand Council is the role of diplomacy,  
20 yes. And Donald Marshall exercises that daily,  
21 because, as you well know, he makes representations to  
22 governments, both Federal, Provincial and Municipal,  
23 and on a few occasions, perhaps has even addressed  
24 international groups, in the United States.

25 Q. With that in mind, therefore, what kinds of

MR. KNOCKWOOD, RE-DIRECT EXAM. BY MS. DERRICK

1 characteristics or qualities does a Grand Chief need  
2 to possess?

3 A. Well one of the basic criteria, as I see it, would be,  
4 first of all, to be bilingual, in a manner where you're  
5 able to understand both languages, but moreso, the  
6 Native language than others. And that the  
7 characteristics that give a Chief a good honour, would  
8 be one where he will be able to lead people who are in  
9 conflict. He will be able to assist people who need  
10 spiritual help. And he must be able to do all kinds  
11 of these things, and do it with great diplomacy, and  
12 great ease.

13 Q. And what kind of background does he need to have come  
14 from?

15 A. There is no set-down criteria, as the way I understand  
16 it, to have a background. But his background must be  
17 one that has spirituality in it, whether it be  
18 Christian or otherwise, or Native. He needs to be an  
19 individual who thinks, and has a high self-esteem of  
20 himself. And all of these characteristics indicate  
21 that our leader, who is the Grand Chief, needs to go  
22 beyond all of these characteristics, and be able to  
23 excel in the field of -- well in the olden days, it  
24 used to be war and peace. Today, that character has  
25 changed a little bit, because we are not warring

1 nations today. But we would like to contribute in  
2 assisting people to have peace on this earth. And the  
3 Grand Chief thinks highly of that. And I can say that  
4 justifiably, because I've known Donald for quite a few  
5 number of years.

6 Q. Can you say anything about the sorts of personal  
7 experience that a Grand Chief should, or should not  
8 have had?

9 A. I don't really understand your question. Maybe you  
10 could rephrase it.

11 Q. In terms of the kind of experience that a person may  
12 have had, are there certain types of experiences that  
13 would especially qualify a person to be Grand Chief,  
14 or especially disqualify a person to be Grand Chief?

15 A. Well I think if a person has a habit of being  
16 dishonest, that would stop him from being selected, or  
17 elected, as a member of the Grand Council, and to  
18 become the Grand Chief. I think we -- I do know that  
19 we look at the positive characteristics of an  
20 individual, before that selection and suggestion is  
21 made, that he occupy that post. So it is not an  
22 appointment where any individual can fit. This  
23 particular individual needs all kinds of qualities.  
24 And he needs to express them. And he has to show his  
25 people that he can do these things.

**MR. KNOCKWOOD, RE-DIRECT EXAM. BY MS. DERRICK**

1 Q. What if the person has been a subject of controversy?  
2 How would that be regarded?

3 A. That would be regarded as somewhat jeopardizing to that  
4 person.

5 Q. Thank you, Mr. Knockwood.

6 MR. COMMISSIONER

7 You've known Donald Marshall, Sr. for some years?

8 MR. KNOCKWOOD

9 Yes.

10 MR. COMMISSIONER

11 And was his father the Grand Chief?

12 MR. KNOCKWOOD

13 Not to my knowledge. I think the Chief prior to Donald  
14 Marshall, was a man by the name of Sylliboy.

15 MR. COMMISSIONER

16 Thank you.

17 MS. DERRICK

18 The next witness, Mr. Commissioner, is Donald Marshall,  
19 Sr. And this might be a good time for a short break.

20 (10-MINUTE BREAK)

21  
22  
23  
24  
25

1 MS. DERRICK

2 Mr. Commissioner, Mr. Marshall Sr. is my next witness.  
3 And he has asked if Noel Knockwood would sit with him,  
4 to assist in his ability to hear the questions, if  
5 there's any problem with that, and also, if there is  
6 an occasion when Mr. Marshall might like to give an  
7 answer in MicMac, to more fully express his thoughts.  
8 Mr. Knockwood, as you know, is fluently bilingual, and  
9 could provide a translation service.

10 MR. COMMISSIONER

11 Fine.

12 \_\_\_\_\_  
13 MR. DONALD MARSHALL, SR., (Sworn)

14 MR. COMMISSIONER

15 Mr. Marshall, you take your time. If you don't  
16 understand the question, or have difficulty hearing,  
17 you let us know. Make certain that you are  
18 comfortable, and that you understand the questions,  
19 before you answer. Probably, we should swear the  
20 interpreter.

21 MR. KNOCKWOOD, (Sworn)

22 DIRECT EXAMINATION BY MS. DERRICK

23 Q. Mr. Marshall, you're the father of Donald Marshall Jr.,  
24 and you're the Grand Chief of the MicMac Nation.

25 A. Yes. Excuse my voice. I got a harsh throat right now.

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 Q. That's fine. Mr. Marshall, how old are you?

2 A. I'm going on 65.

3 Q. And where did you grow up?

4 A. I grew up in Sydney.

5 Q. Where in Sydney?

6 A. There was a reservation before, the Membourtou Reserve,  
7 down on King's Road. And we moved up there, when I was  
8 only one year old.

9 Q. And you grew up there?

10 A. Grew up on Membourtou Reserve.

11 Q. And when did the reserve move from Kings Road, to its  
12 present location?

13 A. 1926 and '27.

14 Q. And did you move with it?

15 A. Yes, we did.

16 Q. Where was your father from, Mr. Marshall?

17 A. My father was born in St. Peter's area, Richmond  
18 County, Chapel Island.

19 Q. And is there a reserve there?

20 A. There is a reserve in Chapel Island.

21 Q. And was that reserve where his home was?

22 A. What's that again?

23 Q. I'm sorry. Was the Chapel Island Reserve where your  
24 father grew up?

25 A. Yes.

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 Q. And what about your mother, Mr. Marshall? Where did  
2 she grow up?

3 A. My mother grew up in Sydney.

4 Q. At the Membourtou Reserve?

5 A. No, right in Sydney.

6 Q. Have you lived at Membourtou all your life?

7 A. Yes.

8 Q. And you're married to Caroline Marshall?

9 A. Yes. She was Caroline Googoo.

10 Q. Where was her family from?

11 A. From Whycocomagh Reserve.

12 Q. How many children do you have, Mr. Marshall?

13 A. We have 11 at home.

14 Q. And Junior is your oldest son?

15 A. Oldest son, yes.

16 Q. As a child, did he spend time in other MicMac  
17 communities?

18 A. Just for summer vacations.

19 Q. And where would that have been?

20 A. That would be Whycocomagh, and a few other reserves  
21 like Chapel Island, and maybe Shubenacadie Reserve.

22 Q. And what was he doing there, visiting family and  
23 friends?

24 A. Just friends.

25 Q. Mr. Marshall, when Junior was arrested in 1971, you had

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

- 1 your own business, in the drywalling trade?
- 2 A. Yes, I did.
- 3 Q. How did you get into that business?
- 4 A. I started out with my father when I left school, when  
5 I was 15. He was a plasterer, by trade.
- 6 Q. So it was your father's business?
- 7 A. Yes.
- 8 Q. And when did you take it over from your father?
- 9 A. When my father died, in '53, I took over.
- 10 Q. Did anyone else work in the business with you?
- 11 A. I had two of my boys. The oldest boys I had.
- 12 Q. And who were they?
- 13 A. They were Donald Jr. and Pyes. They were that age,  
14 around 14, 15, 16.
- 15 Q. When they started working in the business with you?
- 16 A. Yes.
- 17 Q. And what did they do in the business?
- 18 A. In business, if I do plaster work. There's two  
19 different types of work. I did plastering houses, and  
20 putting the drywall finish on the houses. That's two  
21 different types. If I do plastering, they will be  
22 helping, shifting sand and carry the plaster mortar to  
23 me, and all that. But when I do drywall, they do  
24 drywall with me too. I just pass the tools to them and  
25 say, "Go ahead."

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 Q. So they were involved in actual drywall ---

2 A. Oh, yes, very. Very.

3 Q. Was the drywalling work seasonal?

4 A. It was seasonal.

5 Q. And what months were you engaged in doing drywalling  
6 work?

7 A. All months. But mostly July and August, that's the  
8 quietest two months of this business.

9 Q. So what did you do during periods of time when there  
10 wasn't much demand for drywalling?

11 A. Well most times, them two months, I go with the  
12 construction.

13 Q. And did this drywalling business steadily employ you,  
14 from the time that you started with your father?

15 A. Oh, yes.

16 Q. How did you get business? Where did it come from?

17 A. The business come from one job to the other. I hardly  
18 advertised my work.

19 Q. Would you describe that as word of mouth?

20 A. Right.

21 Q. And how would people know how to get in touch with you,  
22 to ask you to come and do a job?

23 A. From looking at the jobs I did, and ask people who did  
24 it, and all that. That's how they ---

25 Q. And then how would they contact you, to ask you to come

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

- 1 and work on their walls?
- 2 A. I had a telephone. And I was listed in the telephone  
3 directory, in my name.
- 4 Q. So people would call you up ---
- 5 A. Oh, yes.
- 6 Q. --- and make arrangements?
- 7 A. They did, yeah.
- 8 Q. In 1971, were you the principle income earner for the  
9 family?
- 10 A. Yes, I did.
- 11 Q. What did Mrs. Marshall do?
- 12 A. Mrs. Marshall was working too. She was a house -- how  
13 do you describe this -- housekeeper, at the hospital.
- 14 Q. Can you describe what affect, if any, Junior's arrest  
15 had on your business?
- 16 A. To the family?
- 17 Q. To your business, yes.
- 18 A. Well it affected my business quite a lot.
- 19 Q. Can you tell us how that happened? What affect it had?
- 20 A. See, I was relying on telephone for my work. There'd  
21 be a note pad and pencil along side the telephone. And  
22 there would be calls every day, for work. But when  
23 this happened, I had to put the unlisted telephone in  
24 our house.
- 25 Q. Why did you have to have an unlisted telephone number?

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 A. The first week, when this happened, we were -- I never  
2 answered them. But my wife answered, and they were  
3 tricking calls we were getting.

4 Q. And as a result of that, you unlisted your phone?

5 A. Yes. We did right away.

6 Q. Did this affect the numbers of calls you got for  
7 drywalling work?

8 A. It affected the whole thing. We never got calls.  
9 That's why we were unlisted.

10 Q. So what happened to the family income, during that  
11 year, 1971?

12 A. Well I had no choice but -- I was drawing welfare.

13 Q. And had that happened to you before?

14 A. Yes.

15 Q. Very often?

16 A. When there was a bad year for work.

17 Q. How long since there had been a bad year?

18 A. Well it's seasonal, bad years too. Like there might  
19 be nothing during the winter, or the middle of the  
20 summer. Three, four months probably, that would be  
21 bad.

22 Q. Did you notice that this lack of business lasted  
23 through most of 1971?

24 A. Yes.

25 Q. And was that unusual, given your experience of the

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 drywall business?

2 A. Yes.

3 Q. What did you do about these changes in the drywalling  
4 business?

5 A. Later on, from 1971, I established myself. People knew  
6 me, my work. So I usually -- one time I'd pass out  
7 cards for people to call me, and all that. So a lot  
8 of people know my unlisted number, within three, four  
9 years after '71.

10 Q. So within a period of time after you had unlisted your  
11 phone, people started to call you again?

12 A. Yes.

13 Q. And did you continue to do drywalling work? Or were  
14 you doing other work, by this time?

15 A. Well I was doing other work, for about eight years,  
16 insulating.

17 Q. This was after 1971, was it?

18 A. From after 1971.

19 Q. And the fact that you changed the nature of your work,  
20 did that arise out of Junior's arrest, in your opinion?

21 A. I'd say so, yes.

22 Q. Are you still working, Mr. Marshall?

23 A. No. I haven't worked for seven years now, since I took  
24 sick. I had kidney failure in '83, and I haven't  
25 worked since.

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 Q. Mr. Marshall, how did you feel when Junior was  
2 arrested?

3 A. I can't very well describe how I felt. It's hard to  
4 explain.

5 Q. Why is that?

6 A. Why is that? I was hurt, in me, you know. I couldn't  
7 show it to anybody, how I feel inside of me.

8 Q. Were you at the court when he was convicted ---

9 A. Right through.

10 Q. --- and sentenced to life in prison?

11 A. Right through. I wasn't in the courtroom when the  
12 decision came out. I was in the ---

13 Q. Where were you?

14 A. --- hallway.

15 Q. And so how did you find out this had happened?

16 A. How I found out was, my nephew came over to me. I was  
17 standing by the outside door of the courtroom. And he  
18 came right over and says, "They found him guilty," he  
19 says, "And he's sentenced for life."

20 Q. Can you tell us how you felt at that moment?

21 A. I was -- I can't describe it. I didn't know what to  
22 do. See, my wife didn't go to the court house. She  
23 was home. I had to go home and tell her. And one of  
24 my daughters was just about having a baby. She lived  
25 in town. So I had to go over. I was running back and

**MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK**

1       forth. And when I got home, there was a call from  
2       jail, that Don, Jr. wanted to see me too.

3 Q. And so you went home to tell Mrs. Marshall?

4 A. Yes.

5 Q. And what was her reaction to the news?

6 A. Well that's hard to describe.

7 Q. Did she have any reaction?

8 A. She just burst out crying.

9 Q. Mr. Marshall, would you find it any easier to describe  
10       how these events made you feel, if you spoke about them  
11       in MicMac?

12 A. If there's a difficult question to answer, yes.

13 Q. But in terms of answering the question of, how did you  
14       feel about Junior's arrest, and his conviction, would  
15       you find it any easier to express how you felt about  
16       those events, if you told those feelings in MicMac?

17 A. Let's try it.

18 MR. COMMISSIONER

19       I think he was devastated, and so was his wife. I  
20       would think that would be the normal reaction. I think  
21       that's probably what he's indicating.

22 MS. DERRICK

23       And I just wanted to give him the opportunity, Mr.  
24       Commissioner, if he did want to add anything further  
25       to the description of those feelings, that he could do

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 so in MicMac.

2 BY MS. DERRICK

3 Q. Mr. Marshall, if there's anything further that you  
4 wanted to add, to describe how you felt, at that time,  
5 and you would feel more comfortable doing that in  
6 MicMac, feel free to do so. Otherwise, I can just go  
7 on with my questions.

8 A. I think you'd better just keep on asking.

9 Q. Okay, fine. I'll do that.

10 A. All right.

11 Q. Mr. Marshall, what efforts did you make to have  
12 Junior's case re-opened? Can you tell us about some  
13 of those efforts?

14 A. Of re-opening the case?

15 Q. Yes. Did you go and speak to people?

16 A. Oh, yes. See, we didn't get much help from anybody  
17 else, but us, wife and I. We went to see a lot of  
18 people that we thought they would help us, of securing  
19 the help for the Appeal, such as lawyers and people  
20 like that. And we never got anywhere.

21 Q. And did these efforts continue, throughout the 11  
22 years, that Junior was in prison?

23 A. Yes. Yes, right through.

24 Q. Were there any particular efforts that stand out in  
25 your mind? Any particular discussions or meetings with

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 anyone, that you'd care to tell us about?

2 A. Well there was one Native lawyer that I was talking to  
3 a couple of times, in Ottawa. That's where he was.  
4 And when I first told him about the case, that's before  
5 the whole thing came up.

6 Q. Before the Appeal.

7 A. No, before the whole thing came out. Yes. And I  
8 described what happened and all that, to him, you know.  
9 And when I first met him, he says, "That sounds very  
10 good, interesting case." So he says, "When you come  
11 to Ottawa again, let's get together on it again." So  
12 I did, twice. Twice I talked to this person, lawyer.  
13 And the third time -- I couldn't get to him, third  
14 time, because the whole thing came out. It just  
15 happened I was in Ottawa, when the whole thing came  
16 out.

17 Q. What happened on that occasion?

18 A. When the decision came from, who was it now, Jean  
19 Chretien, saying that, "Marshall should be freed." And  
20 that person, the Native lawyer I'm talking about, from  
21 Ottawa, was Bill Babcock.

22 Q. Mr. Marshall, can you tell us what affect this case has  
23 had on Junior's brothers and sisters?

24 A. Of course, they were that age -- none of them would be  
25 over 15, only probably Pyes, because Junior was only

1 just a little over 16. And his brothers and sisters  
2 would be too young yet, to say about -- they would be  
3 about from eight, nine, 10, that age. But I'm pretty  
4 sure they felt the strain of it, because many times,  
5 they asked about him, and, "When do we go see him"?  
6 That's what they would be saying most times.

7 Q. So you would take some of them with you, when you went  
8 to visit Junior in the penitentiaries?

9 A. Yes, we did. And a few more of our neighbours' boys,  
10 like Junior's age, would go along with us.

11 Q. Can you tell us about the effects that this case had  
12 had on Mrs. Marshall?

13 A. To me, on her, she was very, very firm. She never gave  
14 up on the whole thing. Many nights, after Junior was  
15 arrested and sent to prison, many nights we were  
16 discussing him. Like wife would say, "Let's hope, some  
17 day, that somebody will come out and tell us what  
18 really happened."

19 Q. Did you talk about the case very much with the  
20 children, the other children?

21 A. Occasionally we did. Once they asked, and most times  
22 they asked, you know, about him. And we discussed.

23 Q. Was there any particular time of year that was worse,  
24 or more difficult?

25 A. I'd say Christmas would be about the worst.

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 Q. And what was that like?

2 A. Well when we have you know, Christmas Eve and Christmas  
3 Day dinner, and all that, Junior won't be there. And  
4 we'd start talking about him, eh. And we'd be saying,  
5 "Let's hope he'll be here next year." We kept saying  
6 that right through.

7 Q. Mr. Marshall, did you experience people saying bad  
8 things about Junior, to you, as a result of this?

9 A. I can't recall. If they did, I ignore it a lot.

10 Q. Mr. Marshall, you're Grand Chief of the MicMac Nation.  
11 Can you tell us a little bit about this position?

12 A. Yes.

13 Q. When were you made Grand Chief?

14 A. '65.

15 Q. And how were you selected for this honour?

16 A. When Grand Chief Sylliboy died, in May of that year,  
17 his older son, I believe he was approached to take  
18 over, as Grand Chief. And older son couldn't see  
19 himself becoming a Grand Chief. So he passed on to the  
20 whole Council to discuss it.

21 Q. And what happened, as a result of that?

22 A. Our Grand Council, we got together in May. That would  
23 be Pentecost weekend. And that's where we decide that  
24 we elect Grand Chief in last Sunday of July.

25 Q. And out of that process, were you elected?

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

- 1 A. Yes.
- 2 Q. Had your father occupied any particular position within  
3 the MicMac community?
- 4 A. Yes. My father was what we call Captains of each  
5 Reserve. And my father was a Captain before. When he  
6 died, I took over from him.
- 7 Q. Can you tell us what that position is?
- 8 A. What position?
- 9 Q. The position of Captain.
- 10 A. Captain's role on reserve, is looking after the church  
11 work, such as looking after the deaths and the weddings  
12 and functions on the reserve, related to the church.
- 13 Q. How is that different from the role of the Grand Chief?
- 14 A. Not too much, only there more for Grand Chief to cover.
- 15 Q. And is the more that the Grand Chief has to cover, the  
16 responsibility that the Grand Chief has for the Nation?
- 17 A. Um-hmm.
- 18 Q. Mr. Marshall, are you related to any former Grand  
19 Chiefs?
- 20 A. Well not -- the last two, the first one was John Deny.  
21 That would be 1900, I guess. Around that. Him and my  
22 father were first cousins. Their mothers were sisters.  
23 So when Deny died, Sylliboy took over. And Sylliboy  
24 married to my aunt, my father's sister. So that's how  
25 close we are related.

MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK

1 Q. Mr. Marshall, can you tell us some of the  
2 characteristics that a Grand Chief should have?

3 A. Like what?

4 Q. What kinds of qualities a Grand Chief should have?

5 A. I think Mr. Knockwood here, mentioned that a person has  
6 to be respected and, you know, by not just one  
7 community, the whole Nation.

8 Q. And you would agree with that?

9 A. Yes.

10 Q. Mr. Marshall, did Junior's conviction and imprisonment  
11 have an effect on your ability to do your job as Grand  
12 Chief?

13 A. That's very, very hard to describe. It was very hard  
14 for me to face any public gatherings, even to my  
15 people, because myself, personally, I have a feeling  
16 that, you know, the people say to me now, in my mind,  
17 people saying that, "There he is. His son killed  
18 somebody. There he is himself." So it was really hard  
19 for me to face my people.

20 Q. I'm sorry, Mr. Marshall. I didn't heard just what you  
21 said at the end. I didn't mean to interrupt.

22 A. It was really hard for me to face the public.

23 Q. So are you saying that Junior's conviction affected how  
24 you were regarded by people in the community?

25 A. Yes.

**MR. MARSHALL, SR., EXAM. BY MS. DERRICK**

1 Q. Mr. Marshall, was Junior's conviction regarded as a  
2 disgrace to you and your family?

3 A. I would say, yes.

4 Q. Had anything like this happened to any other Grand  
5 Chief?

6 A. I don't think so.

7 Q. Mr. Marshall, in your opinion have Junior's  
8 experiences likely affected his ability to become  
9 Grand Chief?

10 A. Affect, you mean?

11 Q. Yes.

12 A. Yes.

13 Q. Are they likely to have affected his ability to be  
14 chosen?

15 A. Yes.

16 Q. Can you tell us why that might be?

17 A. I don't know. But I think -- I don't know. When I  
18 die, I think, then they'll bring this up. That he'll  
19 be mentioned.

20 Q. The experiences that Junior has had will be mentioned.

21 A. Right. I imagine when this -- they'll talk about who  
22 will be the next Grand Chief after I die. I imagine  
23 they'll talk about him, first, before anybody else.

24 Q. Mr. Marshall, is it an honour for the family when --  
25 let me put it this way. Would it be an honour for the

MR. MARSHALL, SR., EXAM. BY MS. DERRICK

1 family, if Junior was to become Grand Chief following  
2 in your footsteps?

3 A. I imagine it would. Yes.

4 Q. And in your opinion, would Junior Marshall have a  
5 better chance of being chosen if these events hadn't  
6 happened to him?

7 A. Yes.

8 Q. Mr. Marshall, can you tell us a little bit about what  
9 Junior was like when he was 16 and 17? What were some  
10 of his characteristics as a person?

11 A. When he was 16, that age, he was a very, very gentle  
12 boy.

13 Q. What were his attitudes to other people in the  
14 community?

15 A. Junior was very concerned to our neighbours. When he  
16 sees that they were having a hard time of providing  
17 food for their homes, which it was, he would tell his  
18 mother, "How about giving something to that family.  
19 'Cause they got nothing home, eh?" Many times he did  
20 that.

21 Q. When Junior was growing up, Mr. Marshall, what  
22 language was spoken in the home?

23 A. It was strictly our language, MicMac.

24 Q. And when you visited him in prison, what language did  
25 you speak with him?

MR. MARSHALL, SR., EXAM. BY MS. DERRICK

1 A. We'd speak MicMac, so nobody else would understand us.

2 Q. Very sensible. And do you still speak MicMac at home?

3 A. We do.

4 Q. Mr. Marshall, how did the Royal Commission affect you,  
5 the hearings, the inquiry into Junior's case?

6 A. I don't know how it affected me. But I'd say it -- I  
7 had nightmares during -- on the Royal Commission.

8 Q. Nightmares about the case?

9 A. About the case, yeah.

10 Q. Over the years the feelings you had about the case,  
11 have you kept these feelings to yourself?

12 A. What's that again?

13 Q. Over the years, your feelings about this case, have  
14 you kept these feelings to yourself?

15 A. Yes.

16 Q. And why is that?

17 A. I don't know. I never want to expose myself to --  
18 even to my children, my feelings, eh? When I'm done  
19 and somebody will come over and say, "What's wrong  
20 with you?" And I'd just spry up and say, "Nothing."

21 Q. Mr. Marshall, do you have any comment to make about  
22 the apology which was made to your son, and to your  
23 family by the Attorney General?

24 A. The Attorney General made an apology to us. But my  
25 feeling for the apology is -- which was good for the

MR. MARSHALL, SR., EXAM. BY MS. DERRICK

1 Attorney General to apologize to us and all of that,  
2 but -- I was thinking last night that the -- I don't  
3 think the political people should make apology to us,  
4 like the Attorney General. Even Prime Minister,  
5 Premier, you name it. No. They don't owe us an  
6 apology. I say the people that are guilty of this  
7 whole affair, they are the ones that should apologize  
8 to us. And as we, the Marshall family, we don't want  
9 to hear some of them people's apologies. That's all I  
10 can say about that part.

11 Q. Mr. Marshall, has this case had any affect on your  
12 feelings about the political process, about the  
13 justice system?

14 A. I'm still a one-track mind. You know, just what I  
15 said. But the justice system -- not just to the  
16 native people -- I hope for the better to the native,  
17 and other minorities.

18 Q. Mr. Marshall, is there anything else you would like to  
19 say?

20 A. Personally, I think we, as the Marshall family, we  
21 should apologize to the general public of not coming  
22 up with the hospitality that the public gave us for  
23 all of this -- what's going on. So, I would like to  
24 thank the general public for the cooperation it gave  
25 us all during this ordeal.

**MR. MARSHALL, SR., DIRECT EXAM. BY MS. DERRICK**

1 Q. Thank you very much, Mr. Marshall.

2 A. Okay.

3 Q. I think that there'll be some questions from Mr.  
4 Saunders and probably Mr. Spicer.

5 A. Yes.

6 **JAMIE SAUNDERS CROSS-EXAMINES DONALD MARSHALL, SR.**

7 Q. Grand Chief Marshall, you described the visitations  
8 that you would pay to your son when he was  
9 incarcerated and you indicated that not only would you  
10 take some of your children, but you would also take  
11 some of your children's friends or Donald's friends  
12 with you. Did that increase the expense that you had  
13 to pay, sir, in travelling from your home to New  
14 Brunswick?

15 A. Yes.

16 Q. I had suggested to Ms. Derrick that we obtain a record  
17 from the institutions as to the number of visits ---

18 A. Um-hmm.

19 Q. --- that you and your family paid and one piece of  
20 correspondence that we received as to the record from  
21 Dorchester indicated that in the space of about  
22 fourteen months you and your family were there at  
23 least once during ten of those fourteen months. And  
24 I'm wondering, sir, would you say that that was more  
25 or less the frequency that you and your family tried

## MR. MARSHALL, SR., CROSS-EXAM. BY MR. SAUNDERS

- 1 to visit Donald at the institutions?
- 2 A. We -- I think we went more to Springhill when he was
- 3 there too -- than Dorchester.
- 4 Q. Yes. Once account of distance?
- 5 A. On account of distance and the place.
- 6 Q. In having to go to either Dorchester or Springhill to
- 7 visit your son, did you ever have to borrow funds from
- 8 others to pay your way?
- 9 A. Most times, yes.
- 10 Q. Yes. And have you kept any records, sir, of the kinds
- 11 of borrowings or expenses that you or Mrs. Marshall
- 12 were put to in having to visit that frequently?
- 13 A. No, but it would cost us around two hundred dollars to
- 14 go up there and back home.
- 15 Q. Yes.
- 16 A. That's providing a place to stay and meals and that.
- 17 Q. I'm sure. And do you recall, Mr. Marshall, whether or
- 18 not you had to deplete any savings that you may have
- 19 had in order to visit Donald, either at Springhill or
- 20 Dorchester?
- 21 A. Yes, most times I did.
- 22 Q. And on the occasions that you would visit him in the
- 23 summer months, were you giving up vacations or
- 24 holidays in order to visit him?
- 25 A. Yes. Excuse. When I saw, visit Junior in prisons

**MR. MARSHALL, SR., CROSS-EXAM. BY MR. SAUNDERS**

1       like Springhill and Dorchester, I used to go to native  
2       gatherings when he was there.

3       Q.   The kind of gatherings that Mr. Knockwood described  
4       earlier?

5       A.   Yes.   Right.

6       Q.   Yes.

7       A.   Maybe three a year that they had in prisons.

8       Q.   And was Donald present at those?

9       A.   Some of them, yes.   Sometimes.   When he was in  
10      Springhill, I was called to go to Dorchester.   The  
11      prison inmates' organization asked me to visit  
12      Dorchester.   And Junior wasn't there.

13      Q.   Could you describe to Mr. Evans what your health was  
14      like, Mr. Marshall, in 1971, prior to your son's  
15      arrest?

16      A.   What's the first part on that?

17      Q.   Pardon me?

18      A.   What did you say, the first part?

19      Q.   What description of your health can you give?   How was  
20      your health in 1971?

21      A.   My health was good.

22      Q.   And your wife's health, in 1971?

23      A.   She was in good health, yeah.

24      Q.   I believe you said that you took over the plastering  
25      business of your father when he died in -- 1953, was

MR. MARSHALL, SR., CROSS-EXAM. BY MR. SAUNDERS

1 it?

2 A. Yes.

3 Q. Is that correct?

4 A. '53, yeah.

5 Q. What was his age, sir, when he died?

6 A. Seventy-two.

7 Q. And is your mother still living?

8 A. No, my mother died when she was ninety-one. In '77.

9 Q. I would like to review with you some of what you said  
10 regarding the business of drywalling and plastering.

11 A. Yes.

12 Q. I take it that, as you've described, it was seasonal  
13 employment with some periods of time when you did not  
14 have such employment.

15 A. Yes.

16 Q. And that would be so during the years prior to 1971?

17 A. Yes.

18 Q. So that there were some months in the year ---

19 A. Yes.

20 Q. --- when you were not employed either as a drywaller  
21 or a plasterer?

22 A. Right.

23 Q. And on those occasions, Mr. Marshall, when you were  
24 not so employed, you would be forced to acquire  
25 welfare, is that so?

MR. MARSHALL, SR., CROSS-EXAM. BY MR. SAUNDERS

1 A. Yes.

2 Q. And was it in 1972, Mr. Marshall, that you then  
3 acquired business cards and would pass out cards to  
4 those to show that you were still in the business of  
5 plastering and drywalling?

6 A. Yeah. I was in business until '83.

7 Q. When ill health forced you to stop all work?

8 A. Yes.

9 Q. You had mentioned something to Ms. Derrick about also  
10 being involved in the insulation business.

11 A. Yes, I was about eight years with Guildford  
12 Insulators.

13 Q. Pardon me?

14 A. I was with Guildford Insulators about eight years.

15 Q. Was that in addition to your work as a drywaller ---

16 A. Yeah.

17 Q. --- and a plasterer? Now, had Donald ever worked with  
18 you, either in insulation or in drywalling and  
19 plastering before 1971?

20 A. Mostly drywalling.

21 Q. He had done some work with you in drywalling?

22 A. Yes.

23 Q. Had you had any discussions with Donald about him  
24 taking over the business?

25 A. He would have. I think, now. Two boys I had working

**MR. MARSHALL, SR., CROSS-EXAM. BY MR. SAUNDERS**

1 for me at the time, they were, like I say they would  
2 take over.

3 Q. Yes. And that would be Donald and Pius?

4 A. Pius, yeah.

5 Q. Yes. Is he about two years younger than Donald?

6 A. Just over a year younger.

7 Q. So both of those sons had worked with you in the  
8 business?

9 A. Uh-hmm.

10 Q. And so it was your expectation then, Mr. Marshall,  
11 that Donald would follow you in that business?

12 A. Yes.

13 Q. When you gave up working in 1983, did you sell your  
14 business?

15 A. No, I didn't.

16 Q. But what happened to the business?

17 A. One of my boys buys, just carries on with my business.

18 Q. And has he still continued it?

19 A. He still does, yeah.

20 Q. Yes. After your son's arrest and conviction and  
21 imprisonment, did you have any way of explaining that  
22 to your children, Mr. Marshall? What had happened to  
23 him.

24 A. Yes, we did. We did explain to our children.

25 Q. What was your explanation that you gave to them?

## MR. MARSHALL, SR., CROSS-EXAM. BY MR. SAUNDERS

1 A. Explained. They ask, especially when they're that age  
2 -- seven, eight, in that age. They would ask, "What  
3 happened to Junior?" And they don't know that -- we  
4 have to tell them. That he got blamed for killing  
5 somebody.

6 Q. Yes. And in that explanation, was it always suggested  
7 that he wasn't at fault and that this was ---

8 A. Yes.

9 Q. --- some kind of mistake?

10 A. Yes. And we kept telling them that he'll be home, but  
11 we didn't when, but ---

12 Q. All right. So, was that a position, then, that you  
13 and your wife took in giving the explanation to your  
14 younger children.

15 A. Um-hmm.

16 Q. That, yes, he was in prison but it was all the result  
17 of a mistake.

18 A. That's right, yeah.

19 Q. And can you tell me, Grand Chief, whether that was  
20 also the view taken by other people in the MicMac  
21 community, that it was some big mistake. And that  
22 really, in fact, he was not responsible.

23 A. Yes, but to me -- I couldn't talk to our other --  
24 anybody, in fact. If they asked me about Junior's in  
25 prison, you know, I couldn't tell them. 'Cause my

MR. MARSHALL, SR., CROSS-EXAM. BY MR. SAUNDERS

1 feeling about people asking, they just want to know  
2 what's what and all that, eh? And in my mind they  
3 weren't believing me, anyway. When I said he's in  
4 there, and -- he's in there. You know, he didn't kill  
5 and, you know, I still have feelings but people think  
6 he did kill, eh.

7 Q. Were you able to have a view yourself? Did you think  
8 that the others in the community either thought or  
9 thought that Donald was not guilty and that it was all  
10 the result of a mistake made? Did you have the view  
11 that that was a thought shared by the others in the  
12 community?

13 A. Not too much. I kept it to myself, you know. I never  
14 discussed this to anybody on this aspect of it.

15 Q. Yes.

16 A. The shame of it, eh. My son was in prison. And I  
17 couldn't talk to anybody about it.

18 Q. Do you feel, Grand Chief, that as a result of the  
19 findings of this Royal Commission that your son has  
20 been vindicated?

21 A. Only for Royal Commission this would never be.

22 Q. Yes. So you agree, then ---

23 A. I agree, yes.

24 Q. --- that as a result of the report he has been  
25 vindicated?

MR. MARSHALL, SR., CROSS-EXAM. BY MR. SPICER

1 A. Yes.

2 Q. And has he been returned to a position of honour in  
3 the MicMac community?

4 A. Right.

5 Q. And do you agree with the evidence given by Mr.  
6 Knockwood that he must continue by his actions and  
7 deeds to earn the respect of the members of his  
8 community?

9 A. Right.

10 Q. Thank you, sir.

11 WYLIE SPICER EXAMINES DONALD MARSHALL, SR.

12 Q. Mr. Marshall, having observed your son in the time  
13 since he's come out of prison, since 1983, is it your  
14 feeling now that he is in fact working on that road to  
15 gaining the respect again from the members of the  
16 MicMac community?

17 A. Yes. Not just towards the MicMac communities, I'd say  
18 it's throughout Canada. I'd say.

19 Q. And can you tell us what sorts of things, in your  
20 mind, is he doing to gain that respect?

21 A. For him?

22 Q. Yes, for him.

23 A. To me, on him, he's more open today since the Royal  
24 Commission -- since the Royal Commission -- he's more  
25 open to the public and to the family. Like, if he's

MR. MARSHALL, SR., CROSS-EXAM. BY MR. SPICER

1 on the road to fairness he's planning it today.

2 Q. Planning?

3 A. He's planning for the future.

4 Q. Thank you.

5 (ADJOURNED UNTIL 9:30 APRIL 3, 1990)

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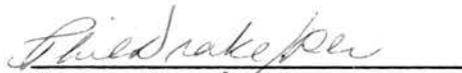
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Nancy Brackett  
Verbatim Reporter

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