

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

---

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

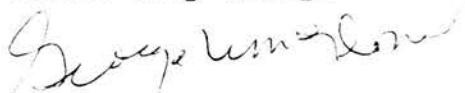
August 16, 1988

Associate Chief Justice Lawrence A. Poitras  
Cour Superieure  
Palais de Justice  
1, rue Notre-Dame est  
Montreal, Quebec  
H2Y 1B6

Dear Commissioner:

I enclose a copy of a letter I have forwarded to Marlys Edwardh, counsel for Donald Marshall, Jr. Also enclosed are copies of the earlier correspondence between Ms. Edwardh and I dealing with the topic of the requirement for counsel for Donald Marshall, Jr., to be present when Hearings recommence in September.

Yours very truly,

  
George W. MacDonald,  
Commission Counsel

GWMacD/mm-7/22

Enclosures

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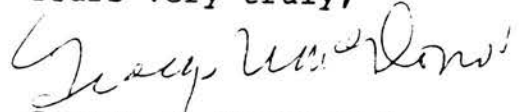
August 16, 1988

Chief Justice T. Alexander Hickman  
Chief Justice of the Supreme Court  
of Newfoundland  
Trial Division  
Court House  
Duckworth Street  
St. John's, Newfoundland  
A1C 5M3

Dear Chief:

I enclose a copy of a letter I have forwarded to Marlys Edwardh, counsel for Donald Marshall, Jr. Also enclosed are copies of the earlier correspondence between Ms. Edwardh and I dealing with the topic of the requirement for counsel for Donald Marshall, Jr., to be present when Hearings recommence in September.

Yours very truly,

  
George W. MacDonald,  
Commission Counsel

GWMacD/mm-7/21

Enclosures

August 11, 1988

Dean James C. MacPherson  
York University  
Osgoode Hall Law School  
4700 Keele Street  
Downsview, Ontario  
M3J 2R5

Dear Jim:

I refer to our telephone conversation and  
enclose a copy of my Factum as Respondent on the Cabinet  
Appeal and also a copy of a Factum of George's.

Kind regards,

Yours very truly,

W. Wylie Spicer  
Commission Counsel

/mm

Enclosures

August 9, 1988

Mr. Jamie W. S. Saunders  
Patterson Kitz  
Barristers and Solicitors  
P. O. Box 1068  
Truro, Nova Scotia  
B2N 5B9

Dear Mr. Saunders:

Re: Cabinet Appeal

I enclose a copy of the Factum of the Respondent  
The Royal Commission.

I have made no mention in our Factum of the suggestions in the Crown's Factum concerning the scope of our mandate. I have not had a reply to my letter of last week concerning this issue and I would appreciate it if you would respond since I identified a number of paragraphs that were offensive in that letter. As you no doubt appreciate, it is really the entirety of the argument commencing at paragraph 47 of your Factum which in my view contravenes the undertakings given to the Commission.

Yours very truly,

Wylie Spicer  
Commission Counsel

WWS/fm  
Encl.



# McINNES COOPER & ROBERTSON

BARRISTERS & SOLICITORS

Cornwallis Place  
1601 Lower Water Street  
P.O. Box 730  
Halifax, Canada  
B3J 2V1

Telephone  
(902) 425-6500

Fax  
(902) 425-6386  
(902) 425-6350

Telex  
019-21859

DATE: August 12/88

OUR FILE: +1816

SENT. AUG 12 1988

TIME 1:00

BY: mm

Please deliver the following 1 pages.

TO: (Name)

Wylie's Secretary

(Firm)

Royal Commission

(City)

Halifax NS

(Telecopier)

424-2709

FROM: (Name)

m.m.

McInnes, Cooper & Robertson  
1601 Lower Water Street  
P.O. Box 730  
Halifax, Nova Scotia B3J 2V1

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COMMENTS

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

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COMMISSIONER

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MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 18, 1988

**PERSONAL AND CONFIDENTIAL**

Prof. Jean-Paul Brodeur  
Apartment 93  
1227 Sherbrooke St. Ouest  
MONTREAL, Quebec  
H3G 1G1

Dear Prof. Brodeur:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

Further to our telephone conversation of today, I now enclose for your information and on a confidential basis a copy of the above noted research report which was prepared for the Royal Commission.

You have been invited to attend as a participant in all-day in-house workshop to be held in Halifax on Wednesday, August 31, 1988, the workshop is essentially the second stage of a review process. The first stage of which consists of review by three outside reviewers. The research report will be thoroughly discussed at the workshop with the participation of the reviewers, the researchers, Commissioners, Commission Counsel and staff and other invited participants. It is our intention that there be a frank, informed and wide-ranging discussion of the research and all of the relevant issues. The workshop will not be a public event and participants will be required to maintain the confidentiality of the research report as well as the discussions arising during the workshop.

In consideration of your participation at the workshop we will pay your necessary travel, accommodations, and related expenses. In this regard the following indicates the travel and hotel arrangements made on your behalf.

Prof. Brodeur

August 18, 1988

Montreal to Halifax August 30, 1988

AC 144      Leaving: 5:35 p.m.  
             Arriving: 7:55 p.m.

Halifax to Montreal August 31, 1988

AC 637      Leaving: 7:15 p.m.  
             Arriving: 7:44 p.m.

Prepaid ticket at Airport  
Locator number: VU2334HA

Hotel Accommodation

Prince George Hotel

I have also enclosed for your information a tentative agenda and list of workshop participants. If you should have any questions or concerns please do not hesitate to contact me accordingly.

Thank you for your cooperation and interest.

I remain,

Yours very truly,

*John Briggs per bjs.*

John E. S. Briggs  
Director of Research

JESB:bjs  
Enclosures

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

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COMMISSIONER

BY COURIER

August 18, 1988

**PERSONAL AND CONFIDENTIAL**

Admiral H. Porter  
Apartment 1504  
5770 Spring Garden Road  
HALIFAX, Nova Scotia  
B3H 4J8

Dear Admiral Porter:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

---

Further to our telephone conversation this morning, I now enclose for your information, and on a confidential basis, a copy of the above noted report on Policing in Nova Scotia which was prepared for the Royal Commission.

As I indicated to you we will be holding an all-day in-house workshop on the Police Study in Halifax on Wednesday, August 31, 1988. The workshop is essentially the second stage of a two part review process, the first stage of which is outside review by three reviewers. The report will be thoroughly discussed at the workshop with the participation of the reviewers, the researchers, Commissioners, Commission Counsel and staff and other invited participants. It is our intention that there be a frank, informed and wide-ranging discussion of the research and all of the relevant issues that flow from it during the workshop. It will not however, be a public event and participants will be required to maintain the confidentiality of the research report and the discussions arising during the workshop.

I have also enclosed for your information a tentative agenda along with the list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn, in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

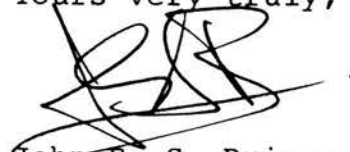
Admiral Porter

August 18, 1988

I understand that your schedule is such that you do not except to be able to stay for the afternoon session. I shall keep your situation in mind with a view to obtaining your comments on the report during the morning session. I look forward to meeting on the 31st. Thank you for your cooperation and participation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to be "JESB", written over a horizontal line.

John E. S. Briggs  
Director of Research

JESB:bjs  
Enclosures

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MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 18, 1988

Professor H. Archibald Kaiser  
Dalhousie Law School  
6061 University Avenue  
HALIFAX, Nova Scotia  
B3H 4H9

Dear Archie:

RE: WRONGFUL CONVICTION AND IMPRISONMENT: TOWARDS  
AN END COMPENSATORY OBSTACLE COURSE

Thank you for sending along a copy of your above noted paper as submitted for publication. (Although your covering letter is dated August 5 - of this year - it arrived in this office yesterday). You are not forgotten at this end although it may seem so. I suggest that we hold one of our state-of-the-nation gatherings at "King spring" in early September. In the meantime, thank you for your continuing cooperation and interest.

I remain,

Yours very truly,



John E. S. Briggs  
Director of Research

JESB/bjs

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THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 18, 1988

Dr. Tony Johnston  
Chairman, Nova Scotia Human  
Rights Commission  
P.O. Box 2221  
HALIFAX, Nova Scotia  
B3J 3C4

Dear Dr. Johnston:

Further to your office's request of today, I now enclose for your attention copies of the following:

1. The Royal Commission's Terms of Reference, dated 28th of October, 1986.
2. Chief Justice Hickman's Opening Statement.

I draw your attention in particular pages 3 and 4 of Chief Justice Hickman's opening statement. If you should require any further information please do not hesitate to advise accordingly.

I remain,

Yours very truly,



John S. E. Briggs  
Director of Research

JESB/bjs  
Enclosures

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

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THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 16, 1988

Mr. E. Anthony Ross  
Smith, Gay, Evans & Ross  
Barristers & Solicitors  
604 Queen Square  
P. O. Box 852  
DARTMOUTH, Nova Scotia  
B2Y 3Z5

Dear Mr. Ross:

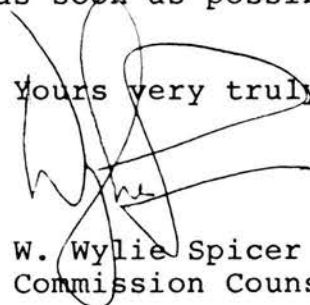
RE: BLACK UNITED FRONT - INQUIRY/WITNESSES

I am replying to your letter of August 12, 1988.

I would suggest that you indicate to the Commissioners at the commencement of the Hearings on September 12, 1988 that you have made a request to Commission Counsel that certain witnesses be called and that Commission Counsel have indicated to you that we are not prepared to call these witnesses and accordingly you are making this request directly to the Commissioners. In order that the Commissioners may consider your request you should indicate to them the reasons for which you think that it is important that these witnesses be called as part of the Hearing portion of the Inquiry.

If you intend to proceed on September 12, I would appreciate it if you would let me know as soon as possible so that I may so advise the Commissioners.

Yours very truly,



W. Wylie Spicer  
Commission Counsel

WWS/bjs



**ROYAL COMMISSIC ON THE DONALD MARSHALL, 2., PROSECUTION**

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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 11, 1988

**PERSONAL AND CONFIDENTIAL**

Chief Harry Vickers  
President, Nova Scotia Chiefs  
of Police Association  
c/o 112 Main Street  
SYDNEY MINES, Nova Scotia  
B1V 2Z3

Dear Chief Vickers:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

I enclose for your information and on a confidential basis a copy of Drs. Apostle and Stenning's draft research report.

You have been invited to attend an all-day workshop (Wednesday, August 31, 1988) at which the enclosed report will be thoroughly discussed with the participation of three outside reviewers, the researchers, Commissioners, Commission Counsel and staff and other invited participants. The workshop will not be a public event, the proceedings will not be recorded and participants will be asked to maintain the confidentiality of the contents of the research report and the discussions arising during the workshop. It is our hope that there will be a frank, informed and wide-ranging discussion of the report and all of the relevant issues that flow from it.

I have also enclosed for your information a tentative workshop agenda along with the list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn, in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

Chief Harry Vickers

August 11, 1988

If you should have any questions concerning the foregoing or the workshop, please do not hesitate to give me a call.

Thank you for your cooperation and participation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to read 'JESB', with a large, sweeping flourish underneath.

John E. S. Briggs  
Director of Research

JESB:bjs  
Enclosures

**ROYAL COMMISSIC.. ON THE DONALD MARSHALL, C.R., PROSECUTION**

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THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

**BY COURIER**

August 11, 1988

**PERSONAL AND CONFIDENTIAL**

Mr. James Crosby  
Canadain Union of Public Employees  
337 Welton Street  
SYDNEY, Nova Scotia  
B1V 2Z3

Dear Mr. Crosby:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

I enclose for your information and on a confidential basis a copy of Drs. Apostle and Stenning's draft research report.

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Mr. James Crosby

August 11, 1988

If you should have any questions concerning the foregoing or the workshop, please do not hesitate to give me a call.

Thank you for your cooperation and participation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to be 'JESB', written over a horizontal line.

John E. S. Briggs  
Director of Research

JESB:bjs  
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MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 12, 1988

**PERSONAL AND CONFIDENTIAL**

Professor Clifford Shearing  
Centre of Criminology  
University of Toronto  
Room 8001, 8th Floor, Robarts Library  
130 St. George Street  
TORONTO, Ontario  
M5S 1A1

Dear Professor Shearing:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

Further to our telephone conversation of August 10, 1988,  
I now enclose for your information on a confidential basis a copy  
of Drs. Apostle and Stenning's draft research report.

You have been invited to attend an all-day workshop  
(Wednesday, August 31, 1988) at which the enclosed report will be  
thoroughly discussed with the participation of three outside  
reviewers, the researchers, Commissioners, Commission Counsel and  
staff and other invited participants. The workshop will not be a  
public event, the proceedings will not be recorded and  
participants will be asked to maintain the confidentiality of the  
contents of the research report and the discussions arising  
during the workshop. It is our hope that there will be a frank,  
informed and wide-ranging discussion of the report and all of the  
relevant issues that flow from it.

I have also enclosed for your information a tentative  
workshop agenda along with the list of workshop participants.

You will note that the workshop is scheduled to commence at  
9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington  
Inn, in the Sackville Room. A buffet lunch is being provided by  
the Royal Commission, which will be held at the Delta Barrington.

Professor Clifford Sheering

August 12, 1988

We will finish the workshop at approximately 4:30 p.m.

As I indicated during our telephone discussion the Commission is prepared to pay your travel and related expenses in connection with your participation in the workshop. In this regard, I have asked that accommodation and air travel be booked for you. The details of same will be forwarded shortly. In the meantime should you have any questions please do not hesitate to give me a call. Thank you for your cooperation and participation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to be 'JESB', written over a horizontal line.

John E. S. Briggs  
Director of Research

JESB/bjs  
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BY COURIER

August 12, 1988

**PERSONAL AND CONFIDENTIAL**

Mr. E. Anthony Ross  
Smith, Gay, Evans & Ross  
Barrister & Solicitors  
604 Queen Square  
P.O. Box 852  
DARTMOUTH, Nova Scotia  
B2Y 3Z5

Dear Mr. Ross:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

Enclosed for your information on a confidential basis a copy of the above noted draft research report. I have also enclosed for you information a tentative agenda and list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m. Wednesday, August 31, 1988 at the Delta Barrington Inn in the Sackville Room. The format for the workshop will be the same as that which we have employed in connection with the previous workshops. That is it will be an in-house non-public event with participants asked to maintain the confidentiality of the report and the proceedings.

If you should have any questions please do not hesitate to give me a call. Thank you.

I remain,

Yours very truly,

*John E. S. Briggs per bjs*

John E. S. Briggs  
Director of Research

JESB/bjs  
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COMMISSIONER

BY COURIER

August 12, 1988

**PERSONAL AND CONFIDENTIAL**

Mr. Joseph Ross  
Executive Director Police Association  
of Nova Scotia  
P.O. Box 1557  
HALIFAX, Nova Scotia  
B3J 2Y3

Dear Mr. Ross:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

Further to our telephone conversation of August 10, 1988, I now enclose for your information and on a confidential basis two copies of Drs. Apostle and Stenning's draft research report.

I very much regret that you will be unable to attend the all day workshop which we have scheduled for Wednesday, August 31, 1988 in Halifax. I understand that you will be attending a National meeting of Police Associations in Montreal at that time. If however, your plans or that of your colleagues should change I would be very pleased to see you at the workshop.

The intention of the workshop is to thoroughly discuss the research report with the participation of three outside reviewers, the researchers, Commissioners, Commission staff, and other invited participants. This will be an in-house non-public event with the hope that there will be a frank, informed, and wide-ranging discussion of all of the relevant issues.

I have enclosed for your further information a copy of the tentative workshop agenda along with the list of workshop participants. In addition to those now on the list, I expect that there will be a representation from the RCMP.

As we discussed, I would very much welcome your comments on



Mr. Joseph Ross

August 12, 1988

the enclosed report be they critical or otherwise. The workshop is part of the review process which we have employed for all of our research reports. We have found it to be a very useful opportunity to obtain feed-back from interested organizations and persons. I therefore look forward to hearing from you at your earliest convenience. Thank you for your cooperation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to read 'JESB', with a stylized flourish underneath.

John E. S. Briggs  
Director of Research

JESB/bjs  
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MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 12, 1988

**PERSONAL AND CONFIDENTIAL**

Mr. Bruce H. Wildsmith  
Barrister  
Room 307, Weldon Law Building  
Dalhousie Law School  
HALIFAX, Nova Scotia  
B3H 4H6

Dear Bruce:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

Enclosed for your information on a confidential basis a copy of the above noted draft research report. I have also enclosed for you information a tentative agenda and list of workshop participants.

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If you should have any questions please do not hesitate to give me a call. Thank you.

I remain,

Yours very truly,

*John E. S. Briggs per bjs*

John E. S. Briggs  
Director of Research

JESB/bjs  
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COMMISSIONER

BY COURIER

August 11, 1988

**PERSONAL AND CONFIDENTIAL**

Mr. George Smith  
A/Executive Director of Nova Scotia  
Police Commission  
10th Floor  
Queen's Square  
45 Alderney Drive  
DARTMOUTH, Nova Scotia  
B3J 2Y3

Dear Mr. Smith:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

I enclose for your information and on a confidential basis a copy of Drs. Apostle and Stenning's draft research report.

You have been invited to attend an all-day workshop (Wednesday, August 31, 1988) at which the enclosed report will be thoroughly discussed with the participation of three outside reviewers, the researchers, Commissioners, Commission Counsel and staff and other invited participants. The workshop will not be a public event, the proceedings will not be recorded and participants will be asked to maintain the confidentiality of the contents of the research report and the discussions arising during the workshop. It is our hope that there will be a frank, informed and wide-ranging discussion of the report and all of the relevant issues that flow from it.

I have also enclosed for your information a tentative workshop agenda along with the list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn, in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

Mr. George Smith


August 11, 1988

If you should have any questions concerning the foregoing or the workshop, please do not hesitate to give me a call.

Thank you for your cooperation and participation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to be 'JESB', written over a horizontal line.

John E. S. Briggs  
Director of Research

JESB:bjs  
Enclosures

**ROYAL COMMISSIC ON THE DONALD MARSHALL, , PROSECUTION**

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 11, 1988

**PERSONAL AND CONFIDENTIAL**

Mr. Murray Ritch  
A/Chairman Nova Scotia Police  
Commission  
c/o Holm Ritch & Penfound  
Bank of Commerce Building  
708 - 1809 Barrington Street  
HALIFAX, Nova Scotia  
B3J 3K8

Dear Mr. Ritch:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

I enclose for your information and on a confidential basis a copy of Drs. Apostle and Stenning's draft research report.

You have been invited to attend an all-day workshop (Wednesday, August 31, 1988) at which the enclosed report will be thoroughly discussed with the participation of three outside reviewers, the researchers, Commissioners, Commission Counsel and staff and other invited participants. The workshop will not be a public event, the proceedings will not be recorded and participants will be asked to maintain the confidentiality of the contents of the research report and the discussions arising during the workshop. It is our hope that there will be a frank, informed and wide-ranging discussion of the report and all of the relevant issues that flow from it.

I have also enclosed for your information a tentative workshop agenda along with the list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn, in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

Mr. Murray Ritch

August 11, 1988

If you should have any questions concerning the foregoing or the workshop, please do not hesitate to give me a call.

Thank you for your cooperation and participation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to be 'JESB', written over a horizontal line.

John E. S. Briggs  
Director of Research

JESB:bjs  
Enclosures

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

**BY COURIER**

August 11, 1988

**PERSONAL AND CONFIDENTIAL**

Mr. Al Swim  
Director Personnel & Training  
Nova Scotia Police Commission  
10th Floor  
Queen's Square  
45 Alderney Drive  
DARTMOUTH, Nova Scotia  
B3J 2Y3

Dear Mr. Swim:

RE: PUBLIC POLICING IN NOVA SCOTIA - RESEARCH  
REPORT PREPARED BY DR. RICHARD APOSTLE AND  
DR. PHILIP STENNING

I enclose for your information and on a confidential basis a copy of Drs. Apostle and Stenning's draft research report.

You have been invited to attend an all-day workshop (Wednesday, August 31, 1988) at which the enclosed report will be thoroughly discussed with the participation of three outside reviewers, the researchers, Commissioners, Commission Counsel and staff and other invited participants. The workshop will not be a public event, the proceedings will not be recorded and participants will be asked to maintain the confidentiality of the contents of the research report and the discussions arising during the workshop. It is our hope that there will be a frank, informed and wide-ranging discussion of the report and all of the relevant issues that flow from it.

I have also enclosed for your information a tentative workshop agenda along with the list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn, in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

Mr. Al Swim


August 11, 1988

If you should have any questions concerning the foregoing or the workshop, please do not hesitate to give me a call.

Thank you for your cooperation and participation.

I remain,

Yours very truly,

A handwritten signature in black ink, appearing to be 'JESB', written over a horizontal line.

John E. S. Briggs  
Director of Research

JESB:bjs  
Enclosures



ROYAL COMM. ION ON THE DONALD MARSH L, JR., PROSECUTION

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 11, 1988

Mr. Darrel I. Pink  
Patterson, Kitz  
Suite 1600, 5151 George Street  
Halifax, Nova Scotia  
B3J 2N9

Dear Darrel:

Re: Public Policing in Nova Scotia - Research Report Prepared  
by Dr. Richard Apostle and Dr. Philip Stenning

I enclose for your information and that of your colleagues, on a confidential basis, six copies of the report prepared for the Royal Commission on Policing by Dr. Richard Apostle and Dr. Philip Stenning.

As you know the workshop on the Police Study is scheduled for Wednesday, August 31, 1988. I expect that we will follow the same approach and format which we have employed in the previous three workshops. I presume that Jamie will wish to attend and I have enclosed sufficient copies on the assumption that both Mr. MacDonald and Ms. Nadine Cooper-Mont will wish to attend along with at least one of their colleagues. You or they may wish to suggest other persons in the Department in addition to those whose attendance I have anticipated. In any event, please advise in due course.

I have also enclosed for your information a tentative agenda and a list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

Page 2  
August 11, 1988

If you should have any questions regarding the workshop, please do not hesitate to give me a call. Thank you for your co-operation and participation.

I remain,

Yours very truly,

John E.S. Briggs  
Director of Research

JESB:jc

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 11, 1988

Ms. Anne Derrick  
Buchan, Derrick & Ring  
5516 Spring Garden Road, Suite 205  
Sovereign Building  
Halifax, Nova Scotia  
B3J 1G6

Dear Anne:

Re: Public Policing in Nova Scotia - Research Report Prepared  
by Dr. Richard Apostle and Dr. Philip Stenning

Further to our telephone conversation of August 8, 1988, I now enclose for your information and that of your colleagues, on a confidential basis, two copies of the report on Policing prepared by Dr. Richard Apostle and Dr. Philip Stenning.

As you know the workshop is scheduled for Wednesday, August 31, 1988 in Halifax. I expect that we will follow essentially the same format which we have employed in the previous three workshops.

I have also enclosed for your information a tentative agenda and a list of workshop participants.

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

Page 2  
August 11, 1988

I have enclosed an extra copy of the report on the assumption that Marlys may wish to attend the workshop, but if not, she would undoubtedly like to have a copy of the report.

If you should have any questions regarding the workshop, please do not hesitate to give me a call. Thank you for your co-operation and participation.

I remain,

Yours very truly,

John E.S. Briggs  
Director of Research

JESB:jc

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 11, 1988

Mr. James D. Bissell  
Director, Atlantic Region  
Department of Justice Canada  
4th Floor, 5161 George Street  
Halifax, Nova Scotia  
B3J 1M7

Dear Jim:

Re: Public Policing in Nova Scotia - Research Report Prepared  
by Dr. Richard Apostle and Dr. Philip Stenning

I enclose for your information and that of your colleagues, on a confidential basis, five copies of the report on Policing prepared by Dr. Richard Apostle and Dr. Philip Stenning.

As I believe you are aware we are conducting an all-day workshop in Halifax on Wednesday, August 31, 1988. This will not be a public event and will follow essentially the same format which we have employed in the previous three workshops. I thought that you and/or Al Pringle might wish to attend the workshop along with the CO of "H" Division or his representative and in addition, perhaps, someone from the Federal Department of the Solicitor General. In any event, once you have had an opportunity to consider the matter, you might give me a call and we can discuss who will be attending.

In the meantime I have also enclosed for your information a tentative agenda and a list of workshop participants.

Page 2  
August 11, 1988

You will note that the workshop is scheduled to commence at 9:00 a.m., Wednesday, August 31, 1988 at the Delta Barrington Inn in the Sackville Room. A buffet lunch is being provided by the Royal Commission, which will be held at the Delta Barrington. We will finish the workshop at approximately 4:30 p.m.

If you should have any questions regarding the foregoing or the workshop, please do not hesitate to give me a call. Thank you for your co-operation and participation.

I remain,

Yours very truly,

John E.S. Briggs  
Director of Research

JESB:jc

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 10, 1988

PERSONAL & CONFIDENTIAL

Prof. John LI. J. Edwards  
Faculty of Law  
University of Toronto  
78 Queen's Park Crescent  
Toronto, Ontario M5S 1A6


Dear Professor Edwards:

John Briggs has spoken to me about his conversation with you concerning my letter of August 3rd.

I have read the correspondence between you and Chief Justice Hickman in order to determine the nature of your original retainer. It does appear that our use of your services has evolved slightly from the way it was originally intended. The services that you have been providing to the Commission have centred almost exclusively on the Role of the Attorney General in Nova Scotia. We have been viewing your important work on this topic as being in a similar vein as that performed by our other principal researchers on the topics of racism against Blacks and Natives, the Role of the Crown Prosecutor and Police Organization in Nova Scotia.

In light of the fact that the Commission's use of your services appears to have changed from that envisaged in March, 1987, I will ensure that your recent account is paid. The Commission will be meeting at the end of August, and I think it appropriate that I raise this matter with them in order to avoid any future misunderstandings.

Yours truly,

  
Susan M. Ashley,  
Commission Executive  
Secretary

SMA/ljb

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

**BY COURIER**

August 8, 1988

PERSONAL AND CONFIDENTIAL

Professor Alan Grant  
Professor of Law  
York University  
Osgoode Hall Law School  
4700 Keele Street  
NORTH YORK, Ontario  
M3J 1P3

Dear Alan:

RE: THE POLICE STUDY

Further to my letter of July 13, 1988, I enclose herewith a copy of the following: Public Policing in Nova Scotia prepared by Dr. Richard Apostle and Dr. Philip Stenning.

As you know the Workshop is scheduled for Wednesday August 31, 1988, in Halifax. It would be helpful if you were able to forward your written review of the research report in advance of the Workshop. I have also enclosed for your information a copy of the tentative agenda and list of Workshop participants.

I seem to recall that you indicated you might be in Nova Scotia during the latter part of August. The Workshop commences at 9 o'clock Wednesday morning therefore I have taken the liberty of booking hotel accommodation for you on Tuesday, August 30. I would appreciate it if you would make yourself available to join me, the researchers, and the other reviewers for dinner on the Tuesday evening.

If you intend to fly from Toronto, I suggest you contact us




Professor Alan Grant

August 8, 1988

and we will make the necessary ticketing arrangements at this end. If you have any questions please do not hesitate to give me a call accordingly.

Thank you for your cooperation and participation.

Yours very truly,

A handwritten signature in black ink, appearing to be "JESB", with a horizontal line extending to the right.

John E. S. Briggs  
Director of Research

JESB/bjs

Enclosures

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 8, 1988

**PERSONAL AND CONFIDENTIAL**

C.L. Campbell, Esq.  
Director, Atlantic Police Academy  
295 Grafton Street  
CHARLOTTETOWN, P.E.I.  
C1A 8W4

Dear Mr. Campbell:

**RE: THE POLICE STUDY**

Further to my letter of August 4, 1988, I now enclose one copy of the following: Public Policing in Nova Scotia prepared by Dr. Richard Apostle and Dr. Philip Stenning.

It would be most helpful to have your written comments prior to the commencement of the Workshop which is as you know scheduled for Wednesday, August 31, 1988 in Halifax.

I have also enclosed for your information a tentative agenda outline for the Workshop along with a list of participants. If you advise this office as to your travel requirements we can make the necessary ticketing arrangements at this end. I have taken the liberty of arranging hotel accommodation for you for the evening of Tuesday, August 30, 1988. I would be pleased if you would join me, the researchers, and the other outside reviewers for a dinner on Tuesday evening.

I shall look forward to hearing from you shortly. In the meantime, should you have any questions concerning the foregoing or any aspect of the review process please do not hesitate to give me a call at any time.

C. L. Campbell, Esq.

August 8, 1988

Thank you for cooperation and participation.

Yours very truly,

A handwritten signature in black ink, appearing to read "JESB", with a horizontal line drawn through the middle of the letters.

John E. S. Briggs

JESB/bjs

Enclosures

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY COURIER

August 8, 1988

**PERSONAL AND CONFIDENTIAL**

Professor Chris Murphy  
c/o Foundation Year Program  
University of Kings College  
HALIFAX, Nova Scotia  
B3H 2A1

Dear Chris:

**RE: THE POLICE STUDY**

Further to our correspondence on this subject and our recent conversation in Ottawa, I now enclose a copy of the following: Public Policing in Nova Scotia by Dr. Richard Apostle and Dr. Philip Stenning.

As you know the Workshop on the Police Study is scheduled for Wednesday, August 31, 1988, in Halifax. I would like to have your written review of the study prior to the Workshop if that is at all possible. I have also enclosed a tentative agenda outline for the Workshop along with a list of participants. In the meantime, if you should have any questions or concerns regarding the Workshop or the review process please do not hesitate to give me a call at any time.

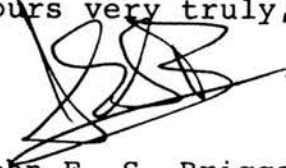
Incidentally, I would be pleased if you would join me, the researchers, and the other outside reviewers for dinner on Tuesday, August 30. I presume there will be no need for travel or accommodation arrangements with respect to your attendance at the Workshop.

Professor Chris Murphy

August 8, 1988

Thank you for your cooperation and participation.

Yours very truly,

A handwritten signature in black ink, appearing to be 'JESB', written over a horizontal line.

John E. S. Briggs  
Director of Research

JESB/bjs

Enclosures

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 9, 1988

Mr. Jamie W. S. Saunders  
Patterson Kitz  
Barristers and Solicitors  
P. O. Box 1068  
Truro, Nova Scotia  
B2N 5B9

Dear Mr. Saunders:

Re: Cabinet Appeal

I enclose a copy of the Factum of the Respondent  
The Royal Commission.

I have made no mention in our Factum of the suggestions in the Crown's Factum concerning the scope of our mandate. I have not had a reply to my letter of last week concerning this issue and I would appreciate it if you would respond since I identified a number of paragraphs that were offensive in that letter. As you no doubt appreciate, it is really the entirety of the argument commencing at paragraph 47 of your Factum which in my view contravenes the undertakings given to the Commission.

Yours very truly,



Wylie Spicer  
Commission Counsel

WWS/fm  
Encl.

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 9, 1988

Ms. Anne Derrick  
Buchan, Derrick & Ring  
Barristers and Solicitors  
205-5516 Spring Garden Road  
Halifax, Nova Scotia  
B3J 1G6

Dear Ms. Derrick:

**Re: Cabinet Appeal**

I enclose a copy of the Factum of the Respondent  
The Royal Commission.

Yours very truly,



Wylie Spicer  
Commission Counsel

WWS/fm  
Encl.

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 8, 1988

Mr. Brian A. Crane  
Gowling & Henderson  
Barristers and Solicitors  
Suite 2600  
160 Elgin Street  
Ottawa, Ontario  
K1N 8S3

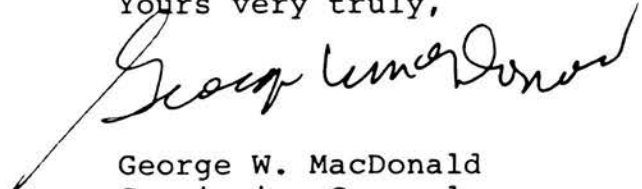
Dear Mr. Crane:

Re: Marshall Inquiry - Judicial Immunity

Thank you for your letter of August 3, 1988.

I am enclosing a copy of the formal Judgment of Chief Justice Glube. The hearing of the Appeal in Nova Scotia has been scheduled for December 8 and 9. We will keep you advised of the disposition of that Appeal.

Yours very truly,



George W. MacDonald  
Commission Counsel

GWMacD/fm  
Encl.

cc: Dean James MacPherson



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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 8, 1988

Mr. John P. Merrick, Q.C.  
MacInnes, Wilson, Flinn & Wickwire  
Barristers and Solicitors  
P. O. Box 1054  
Halifax, Nova Scotia  
B3J 2X6

Dear John:

Re: Roland J. Thornhill  
Your File No. 17143

Thank you for your letter of August 4, 1988.

We do have a set of documents and I can arrange for you to review them at the Commission offices at your convenience. To date we do not have authority to release copies of the documents to anyone but do have permission to allow them to be viewed on a confidential basis. I would like to meet with you for a few minutes before you view the documents to explain once again our intentions in proceeding with this matter.

I will wait your formal contact with respect to an Application for standing. Concerning funding, the Commission does not itself provide funding. In the past the Commission has advised Government of its opinion that funding should be provided to particular individuals and the Commission has acted as a taxing authority when the Government has determined that it should pay the cost of having a party represented by counsel at the Hearings.

Yours very truly,

George W. MacDonald  
Commission Counsel

GWMacD/fm

MACINNES WILSON  
FLINN WICKWIRE  
Barristers and Solicitors

W.J. MACINNES, Q.C.  
E.J. FLINN, Q.C.  
JOHN P. MERRICK, Q.C.  
JOHN W. CHANDLER  
R.J. ROSS STINSON  
C. JAMES ENMAN  
JAMES P. BOUDREAU  
GUY C. SPAVOLD  
GILLIAN S. ALLEN

KENNETH G. WILSON, Q.C.  
FREDERICK B. WICKWIRE, Q.C.  
ROBIN N. CALDER  
BRIAN MACLELLAN  
MICHAEL M. KENNEDY  
GEOFFREY SAUNDERS  
JAMES B. ISNOR  
TREVOR I. HUGHES  
LYNN M. CONNORS

2100 CENTRAL TRUST TOWER  
1801 HOLLIS STREET  
HALIFAX, NOVA SCOTIA

CORRESPONDENCE

P.O. BOX 1054  
HALIFAX, NOVA SCOTIA  
B3J 2X6

TELEPHONE (902) 429-4111  
TELECOPIER (902) 429-8215  
(902) 429-5645

August 4, 1988

George W. MacDonald, Q.C.  
McInnes, Cooper & Robertson  
Barristers & Solicitors  
P. O. Box 730  
1673 Bedford Row  
Halifax, N. S.  
B3J 2V1

Dear George:

Re: **ROLAND J. THORNHILL**  
Our File Number 17143

Further to my meeting with you and Wylie Spicer, this will confirm that we will be representing Mr. Thornhill at the time of the continuation of the Marshall Inquiry in September. I understood from Wylie that he had a set of documents that were likely to be introduced and that he would provide us with copies sometime this week. I would of course be interested in getting those as soon as possible.

Within the next few days we will communicate directly with the Commission offices to make application for full status at this phase of the inquiry as well as to seek funding.

Yours very truly,

**MACINNES WILSON  
FLINN WICKWIRE**

John P. Merrick

JPM/jmc

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

---

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

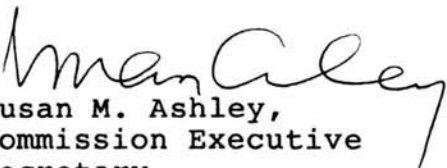
August 8, 1988

Mr. Doug Kirby,  
Senior Librarian  
Canadian Broadcasting Corporation  
Film Library  
P. O. Box 3000  
Halifax, Nova Scotia B3J 3E9

Dear Doug:

I am now returning the tapes of the evidence of John  
MacIntyre on December 8th through December 11th, 1987.

Yours truly,

  
Susan M. Ashley,  
Commission Executive  
Secretary

SMA/ljb

Enclosures  
(2 Boxes)

cc: Mr. Ron Crocker

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 8, 1988

Ms. Rosemary Coffin  
Sales Manager  
Holiday Inn  
1980 Robie Street  
HALIFAX, Nova Scotia  
B3H 3G5

Dear Rosemary:

I do not think that it will be possible for us to use the space at the Holiday Inn for the September Hearings, as it will not will be available on all the days that we require. Thank you very much for all of your assistance in this matter. We will certainly consider using the Holiday Inn for other meetings of the Commission, as required.

Yours truly,



Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs

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

---

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 5, 1988

Mr. Donald D. Higgins  
Atlantic Institution  
P.O. Box 74  
RENOUS, New Brunswick  
E0C 1X0

Dear Mr. Higgins:

Enclosed please find the testimony of Deborah Gass before the Inquiry. Would you kindly remit payment of \$4.60 which will cover the cost of Xeroxing forty-six pages at \$0.10 per page.

Yours truly,



Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs

Enclosure

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

---

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THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 5, 1988

Honourable Gregory T. Evans, Q.C.  
1221 - 44 Charles Street West  
TORONTO, Ontario  
M4Y 1R8

Dear Sir: *Greg.*

I attach some correspondence between the Commission and John Edwards, for your information. The Chief thought that you should be kept advised of these developments! I trust that you will let me know if you have any suggestions on how to deal with this.

Yours very truly,



Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs

Enclosure

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

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Professor John Ll. J. Edwards  
University of Toronto  
Faculty of Law  
78 Queen's Park Crescent  
TORONTO, Ontario  
M5S 1A6

Dear Professor Edwards:

Thank you for your invoice dated July 25, 1988, outlining time spent by you between June 14 and July 23, 1988.

In reviewing this invoice I note that, while some of the material read relates to the subject matters of your retainer with the Commission - the position and role of the Attorney General - some of it refers to material that was provided for your information or at your request. While I hesitate to raise the issue, I trust that you will appreciate my concern that, in approving your account for processing and payment, I approve payment only for those services requested by the Commission. As such, I would have some difficulty in approving for payment time spent on areas outside your retainer, such as reading papers by Clark and Head, and the submissions on compellability of judges.

If you could give me some further information on the time spent on these areas, I would be happy to reconsider approving your invoice. Alternatively, could you kindly provide me with a replacement invoice omitting time spent outside the area of your retainer.


-2-

Professor Edwards

August 3, 1988

Thank you for your continuing assistance and interest.

Yours truly,



Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs



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

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Associate Chief Justice Lawrence A. Poitras  
Superior Court of the Province of Quebec  
The Court House  
1 Notre Dame Street East  
MONTREAL, Quebec  
H2Y 1B6

and

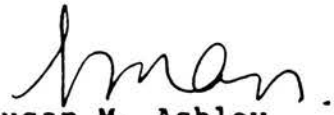
Honourable Gregory T. Evans, Q.C.  
1221 - 44 Charles Street W.  
TORONTO, Ontario  
M4Y 1R8

Dear Sirs:

Attached is correspondence between Ron Downey, Counsel for the judges of the Appeal Division and George MacDonald. As you will see, Mr. Downey advises us that he is "not prepared to advise the plaintiffs to accede to the request of the defendants to consent to a per saltum appeal". In his letter he raises several reasons why he has come to his conclusion. George's letter attempts to deal with those issues. We have, basically, handed it back to Ron Downey, but we do not really anticipate that there will be any change in their decision on the basis of our most recent letter. We will be appearing in Chambers tomorrow, August 4, to get a date on Marshall's appeal of the "judges subpoena" matter. We will be filing our own notice of appeal as well.

Looking forward to seeing you in Digby.

Yours very truly,

  
Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs  
Enclosure  
cc Chief Justice Hickman

AUG 03 1988



FACULTY OF LAW,  
UNIVERSITY OF TORONTO

78 Queen's Park  
Toronto, Canada M5S 2C5

July 27, 1988

Chief Justice T. Alexander Hickman  
Chairman  
Royal Commission on the Donald  
Marshall, Jr., Prosecution  
Maritime Centre  
Suite 1026  
1505 Barrington Street  
Halifax, Nova Scotia  
B3J 3K5

*Alex,*  
Dear Chief Justice Hickman:

You will recall that the terms of my agreement to serve as Special Advisor to the Commission were set out in an exchange of letters between us dated February 25th and March 20th, 1987. Included in those terms was a 10% overhead payable to the University of Toronto Law School. This sum has been transmitted to the Dean as and when my professional fees are forthcoming from the Commission.

Dean Prichard has now written to me on this subject and I enclose a copy of this letter for your information. In essence, I am being pressed to secure a more realistic overhead figure and I think you will agree that Dean Prichard has made out a strong case in support of his position.

May I, therefore, ask for your sympathetic consideration of this request to amend our original agreement so as to accommodate the Law School's financial needs in the specific area of an overhead allowance as part of my professional remuneration.

With kindest personal regards,

Sincerely,

J.L.J. Edwards  
Special Advisor to the Commission

encl.

c.c. Dean J.R.S. Prichard

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

---

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Professor John Ll. J. Edwards  
University of Toronto  
Faculty of Law  
78 Queen's Park Crescent  
TORONTO, Ontario  
M5S 1A6

Dear Professor Edwards:

Thank you for your invoice dated July 25, 1988, outlining time spent by you between June 14 and July 23, 1988.

In reviewing this invoice I note that, while some of the material read relates to the subject matters of your retainer with the Commission - the position and role of the Attorney General - some of it refers to material that was provided for your information or at your request. While I hesitate to raise the issue, I trust that you will appreciate my concern that, in approving your account for processing and payment, I approve payment only for those services requested by the Commission. As such, I would have some difficulty in approving for payment time spent on areas outside your retainer, such as reading papers by Clark and Head, and the submissions on compellability of judges.

If you could give me some further information on the time spent on these areas, I would be happy to reconsider approving your invoice. Alternatively, could you kindly provide me with a replacement invoice omitting time spent outside the area of your retainer.

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

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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 5, 1988

Associate Chief Justice Lawrence A. Poitras  
Cour Superieure  
Palais de Justice  
1, rue Notre-Dame est  
MONTREAL, Quebec  
H2Y 1B6

and

Honourable Gregory T. Evans, Q.C.  
1221 - 44 Charles Street West  
TORONTO, Ontario  
M4Y 1R8

Dear Sirs:

Attached is a proposal that I have prepared for the November Consultation, for your information. I have sent it along to Mr. Berger for his comments and I expect to hear from him in the very near future. As it will be necessary to send out the invitations by the 1st of September, I would appreciate any suggestions that you might have on the list of participants that I have drawn up. Although I do not think the number of participants should exceed one hundred, we will probably want to have more than that number on the initial list, as it is not likely that everyone on the list will be able to attend.

I look forward to hearing from you.

Yours very truly,



Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs  
Enclosure  
cc Chief Justice Hickman

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

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 5, 1988

Honourable Tom Berger, Q.C.  
Barrister & Solicitor  
300 - 171 Water Street  
VANCOUVER, British Columbia  
V6B 1A7

Dear Mr. Berger:

Attached is a memo that I have prepared on the Marshall Inquiry Conference. It includes a brief background of the work of the Inquiry, the rationale for the Consultation, a proposed agenda, and a suggested list of participants. I should explain that this represents my idea of how the meeting could proceed. Chief Justice Hickman has looked at a previous draft that I prepared a week or two ago and this proposal incorporates his suggestions for changes as well as some further changes of my own.

We very much want to have you involved in all aspects of the planning of this Consultation and would appreciate your comments on any or all matters raised in my proposal. I would like, in particular, your comments on the agenda, the presenters that I have put forward, and any ideas that you may have on the participant list.

I would like to discuss this with you in the very near future. I think that we must approach all of the speakers and participants by the beginning of September. While we can firm up the agenda a bit later on, we will have to agree on the list of participants in the next few weeks. If you plan to travel to central Canada at any time in the next little while, perhaps I

Honourable Tom Berger, Q.C.

August 5, 1988

could arrange to meet you there so that we can discuss this matter. In the alternative, we could discuss it by telephone. In any event, I look forward to hearing from you and receiving your views on this matter.

Yours truly,

A handwritten signature in cursive script, appearing to read "Susan Ashley", written in dark ink.

Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs  
Enclosure  
cc Chief Justice Hickman

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 4, 1988

Dr. J. A. Mannette  
University College of Cape Breton  
P. O. Box 5300  
Sydney, Nova Scotia B1P 6L2

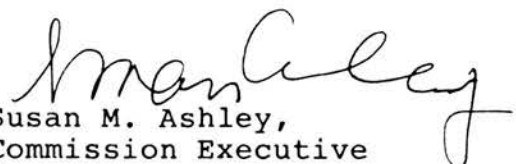
Dear Dr. Mannette:

Thank you for your letter of July 22nd, 1988.

I have given the matter of your request some thought. It seems to me the topics which you are interested in are so general that you would have to spend a great deal of time looking over the transcripts. As I am sure you can imagine, August is a very busy month for us at the Commission since we are preparing for the September Hearings and also working on several other matters. As I indicated to you, we do not have any separate office space in which you could work. I had indicated in my letter my intention to place copies of the transcripts and exhibits in the Public Archives of Nova Scotia at the end of the Commission's work. As I am sure we will have other requests similar to yours, I think it might be more appropriate to place these documents in the Public Archives as soon as possible, so that researchers and others can view the documents without having to deal through the Royal Commission. To that end, I am taking steps to ensure that a complete set of transcripts and exhibits to date will be placed in the Public Archives of Nova Scotia. However, I am not sure that this can be accomplished within the time frame that you suggested.

I trust that this solution will be satisfactory.

Yours truly,

  
Susan M. Ashley,  
Commission Executive  
Secretary

SMA/ljb

Susan

JUL 25 1988



# University College of Cape Breton

P. O. BOX 5300  
SYDNEY, NOVA SCOTIA  
CANADA  
B1P 6L2  
(902) 539-5300

July 22, 1988

Susan M. Ashley  
Commission Executive  
Secretary  
Royal Commission on  
the Donald Marshall, Jr.  
Prosecution  
Maritime Centre  
Suite 1026  
1505 Barrington Street  
Halifax, Nova Scotia  
B3J 3K5

Dear Ms. Ashley,

Thank you for your prompt and encouraging reply of July 14.

I am particularly interested in two issues, at this time. These are witnesses' perceptions of the Inquiry process and witnesses' and counsel's understandings about racism.

In terms of my own schedule, it would be most convenient for me if I could examine office copies of transcripts between August 15th and 30th. If this is convenient for you, as well, please let me know. Also, it would be helpful if you could indicate to whom I might speak upon arriving at your offices.

Your assistance has been greatly appreciated.

Sincerely,

A handwritten signature in cursive script, reading "J.A. Mannette".

Dr. J.A. Mannette



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

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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 4, 1988

**WITHOUT PREJUDICE**

Burchell, MacAdam & Hayman  
Barristers & Solicitors  
1646 Barrington Street  
P. O. Box 36  
HALIFAX, Nova Scotia B3J 2L4

**ATTENTION: RONALD J. MACDONALD**

Dear Mr. MacDonald:

**RE: ROSE A. ALPHONSE - TERMINATION OF EMPLOYMENT**  
**YOUR FILE NO. 1004293**

Thank you for your letter of July 27, 1988.

While I appreciate the fact that your client has modified her position, it is of course easy to move from a totally unacceptable position. Perhaps our difficulties stem from a difference of opinion over the type of arrangement the Commission had with your client. There was not a fixed term contract and it is our belief that your client was well aware that she would be working only if and as required. In fact, we have not replaced her over the summer. It is our view that any settlement position we take is simply to avoid litigation, and does not represent any suggestion that your client has in fact suffered a loss.

While I have not formally put to you a position of the Commission, I have every confidence that the Commission will accept any recommendation that I make, and I must ask you to accept our negotiations on that basis.

I am not prepared to recommend a payment to your client of more than \$1,250.00, but I will be prepared to recommend, in addition, and as a final effort to settle this matter, a contribution of up to \$250.00 towards her costs in pursuing this matter.

Mr. Ronald J. MacDonald

-2-

August 4, 1988

I look forward to hearing from you.

Yours very truly,

A handwritten signature in dark ink, appearing to read "David Orsborn". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David B. Orsborn,  
Commission Counsel

DBO/bjs

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

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COMMISSIONER

PERSONAL & CONFIDENTIAL

BY COURIER

August 4, 1988

C.L. Campbell, Esq.  
Director, Atlantic Police Academy  
295 Grafton Street  
Charlottetown, P.E.I.  
C1A 8W4

Dear Mr. Campbell:

Re: Dr. Apostle/Dr. Stenning's Study on Policing in  
Nova Scotia

---

This is to confirm our telephone conversation of August 3, 1988, during which it was agreed that you would act as a reviewer of the Police Study and subsequently as a participant at an all-day workshop to be held in Halifax on Wednesday, August 31, 1988.

The review process consists essentially of two stages, namely:  
(a) outside review by three reviewers each of whom will be required to provide a written critique of the research report;  
(b) an all-day workshop at which the report will be thoroughly discussed with the participation of the reviewers, researchers, Commissioners, and other invited participants. It is our intention that there be a frank, informed and wide-ranging discussion of the research and all of the relevant issues that flow from it during the workshop. It will not however be a public event and as I am sure you can appreciate, you will be required to maintain the confidentiality of the research report and the discussions flowing from the review process.

I anticipate forwarding the Police Study to you next week and as we have discussed, you can expect that we will require a quick turnaround time on submission of your written critique.

Campbell  
Page 2  
August 4, 1988

In consideration of your services as outlined above, including your attendance at the workshop (Wednesday, August 31, 1988) the Commission is prepared to offer an honorarium of \$1,000. In addition, your necessary travel and related expenses will be reimbursed by the Commission.

If you are agreeable to the foregoing proposal, please be good enough to initial the enclosed copy of this letter and return it to my attention at your earliest convenience.

I trust you will find this in order but should you have any questions or concerns, please do not hesitate to contact me accordingly. Thank you for your co-operation. I remain,

Yours very truly,

A handwritten signature in black ink, appearing to read "JESB", with a horizontal line extending to the right.

John E.S. Briggs  
Director of Research

JESB:jc

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

---

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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

August 4, 1988

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

Mr. Ronald N. Pugsley, Q.C.  
Stewart, MacKeen & Covert  
Barristers & Solicitors  
Purdy's Wharf Tower 1  
1959 Upper Water Street  
P.O. Box 997  
HALIFAX, Nova Scotia  
B3J 2X2

Dear Mr. Pugsley:

RE: ROLAND THORNHILL CASE

I am replying to your letter of July 29, 1988. The following paragraphs refer to the numbered paragraphs of your correspondence.

1. We will provide you with the names of witnesses as soon as we have finalized that list ourselves.
2. Other than the statement of facts which has already been provided to your client and the documents which you will be reviewing, we do not intend to provide written summaries of anticipated evidence.
3. You will have seen the documents which we propose to introduce when you review the material at our offices.
- 4&5. We do not intend to get into the basis upon which either the banks or Mr. Thornhill were to be charged. We are interested only in the fact that the RCMP was of the view that there was evidence. Bases upon which the allegation is founded is of no interest to the Commission.

Mr. Ronald Pugsley, Q.C.

-2-

August 4, 1988

I trust that the foregoing responds to your inquiry but if you have any questions please feel free to give me a call.

Kind regards,



W. Wylie Spicer  
Commission Counsel

WWS/bjs

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

---

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COMMISSIONER

August 3, 1988

Mr. Ronald N. Pugsley, Q.C.  
Stewart, MacKeen & Covert  
Barristers & Solicitors  
Purdy's Wharf Tower 1  
1959 Upper Water Street  
Halifax, Nova Scotia B3J 2X2

Mr. Jamie Saunders  
Patterson, Kitz  
Barristers & Solicitors  
Bank of Montreal Tower, Suite 1600  
5151 George Street  
P. O. Box 247  
Halifax, Nova Scotia B3J 2N9

Dear Ron and Jamie:

RE: Marshall Inquiry

I received letters from each of you dated June 23, 1988 in which you asked for an explanation of the role we consider the Commission counsel will perform after final submissions are made to the Commission in Sydney in late October.

Obviously, our involvement will depend entirely on the wishes of the Commissioners. We are counsel to the Commissioners and will be available to perform any role which they ask.

We have not asked specifically what services the Commissioners may require from us after the final submissions are made. The following comments, therefore, represent the view of Commission counsel on the services we expect to be asked to perform, and which services we consider are normally performed by such counsel.

Throughout the course of our retainer, we have attempted to avoid advocating any particular viewpoint. When examining witnesses we have always attempted to canvass all areas and points of view, although at times it has been necessary to conduct some form of cross-examination which may have given the appearance of a bias toward a particular point of view.

Mr. Ronald N. Pugsley, Q.C.  
Mr. Jamie Saunders

August 3, 1988

In giving consideration to the final submission to be made by Commission counsel to the Commissioners, we intend to attempt to identify various findings of fact which we consider the Commission must make, and to discuss recommendations which may be appropriate for the Commission to make. We would hope to present all evidence relevant to any particular finding of fact which must be made, and in circumstances where it appears appropriate will advise the Commission what finding we think is supported by the preponderance of evidence. We consider such an approach to be consistent with that followed by commission counsel in other public inquiries in Canada during the past several years. The following quotations would seem to support this practice.

"It is the normal practice for counsel assisting to make the final closing submission. Counsel representing various interests naturally take the opportunity to present the evidence in the most favourable light in regard to those interests. It is logical that counsel assisting should make the final address as he is concerned and identified with the function of the Commission or Board. The opportunity is available for him to try to present a balanced view of all the evidence and submissions for the benefit of the Commission or Board."

(L. A. Hallett: Royal Commissions and Boards of Inquiry (Australian publication); quoted by John Sopinka - Dalhousie Conference)

"... presentation of staff analysis by way of a submission does nothing more than make public the impressions and biases that already exist among the staff, and it puts these views forward in a public way so that they can be criticized and commented upon by other participants. Also, it is often the inquiry staff that has the research capability and knowledge necessary to prepare a detailed summary which will assist all participants in comments they may wish to make. If inquiry staff are to make a final submission, it may be preferable that inquiry counsel file it before the filing dates for submissions by other participants, thereby allowing others to comment on staff positions in the last public session



Mr. Ronald N. Pugsley  
Mr. Jamie Saunders

August 3, 1988

before report writing."

(Anthony and Lucas, A Handbook on the Conduct of Public Inquiries in Canada at p. 132)

"There was the problem of ensuring that the Inquiry staff are not allowed to put their arguments privately to the Commission or to the Inquiry. I have sought to overcome this by laying down a ruling that the recommendations that the Inquiry staff wish to develop should be presented to the Inquiry by Commission counsel at the formal hearings. In this way the Inquiry staff will be developing what they conceive to be the appropriate terms and conditions to be applied, but they will not be enabled to do so privately."

([1976] 3 Queen's Law Journal 14)

"Commission counsel also properly discharged their duty in relation to their submissions. When all parties urged an interpretation of the evidence that advanced their client's cause, it was Commission counsel's duty to point out to the Commission that other inferences could be drawn from the evidence and that these must be weighed and considered by me in the course of my deliberations. Further, on those occasions that Commission counsel urged that only one inference could be drawn from the evidence, they did so on the basis that in their view a preponderance of credible evidence left only one inference available to me."

(Justice Parker - Stevens Inquiry Report).

Our research reveals that the only recent Inquiry in Canada where Commission counsel did not continue to be involved after final submission was the Estey Inquiry into the Canadian commercial bank collapse. Normally, in Royal Commissions, Commission counsel are not acting as a prosecutor and it is this

Mr. Ronald N. Pugsley  
Mr. Jamie Saunders

August 3, 1988

distinction which justifies the continued involvement of counsel in providing advice as required by the Commissioners. We do not consider our role in this Commission to have been prosecutorial, and if the Commissioners do wish to have our assistance and advice as the Report is prepared, it will be our intention to continue to be involved.

I hope the foregoing adequately answers the questions and concerns you raised, but if you would want to discuss the matter further, please get in touch with me.

Yours very truly,

*George W. MacDonald*

George W. MacDonald, *ljb*  
Commission Counsel

GWMacD/ljb  
cc: All Counsel

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

---

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Mr. John J. Robinette, Q.C.  
McCarthy & McCarthy  
Barristers & Solicitors  
P.O. Box 48  
Toronto Dominion Bank Tower  
Toronto-Dominion Centre  
Toronto, Ontario M5K 1E6

Dear Mr. Robinette:

I refer to your letter of June 23, 1988 and I apologize for having taken so long to reply. I had been out of the office for a week or so on holidays and spending my time dealing with my normal practice, and I overlooked the correspondence at the Commission office for a month or so.

As requested, I am enclosing a copy of the Reasons for Judgement of Chief Justice Glube.

Very truly yours,

George W. MacDonald  
Commission Counsel

GWMacD/ljb

Encl.

July 29, 1988

Ronald N. Pugsley, Esq., Q.C.  
Stewart, MacKeen & Covert  
Barristers & Solicitors  
Purdy's Wharf  
1959 Upper Water Street  
P. O. Box 997  
Halifax, Nova Scotia  
B3J 2X2

Dear Ron:

Re: Thornhill - Royal Bank of Canada

I refer to our recent telephone conversation and your request to have access to the documents which we intend to introduce in evidence at the Hearings commencing September 12, 1988.

We are prepared to allow you to review these documents at the Commission offices. I must ask that you not make copies of any of them and that you treat the information revealed to you by the documents confidentially. The documents which we intend to introduce have been produced to the Commission by the R.C.M.P. and the Department of the Attorney General and they requested that we permit access to the documents on the foregoing basis only.

If you could call the Commission office and indicate when you would like to come over and have a look at the material, I will arrange to have it available for you.

Kind regards,

Yours very truly,

W. Wylie Spicer  
Commission Counsel

BCC George W. MacDonald, Esq., Q.C.  
David Orsborn, Esq.

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

---

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Mr. Jamie Saunders  
Patterson, Kitz  
Barristers & Solicitors  
Bank of Montreal Tower, Suite 1600  
5151 George Street  
P. O. Box 247  
Halifax, Nova Scotia B3J 2N9

- and -

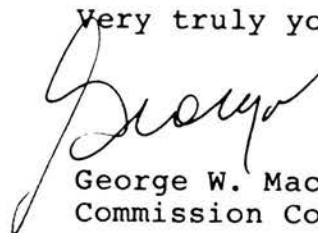
Mr. James D. Bissell  
Counsel, Atlantic Region  
Department of Justice Canada  
4th Floor, Royal Bank Building  
5161 George Street  
Halifax, Nova Scotia B3J 1M7

Dear Jamie and Jim:

RE: Thornhill Matter

Thank you for your quick response to my request contained in my letter of August 2, 1988. I am enclosing the additional pages which will be inserted in the Booklet of Documents immediately following the Memorandum from Martin Herschorn to Gordon Coles dated October 17, 1980.

Very truly yours,



George W. MacDonald,  
Commission Counsel

GWMacD/ljb  
Enclosure

THE FOLLOWING EXTRACTS ARE TAKEN FROM BANK DOCUMENTATION

AVAILABLE IN THE FILES OF THE DEPARTMENT  
OF THE ATTORNEY GENERAL

AT THE TIME MESSRS. HERSCHORN AND COLES WROTE THE MEMORANDA

OF OCTOBER 17 AND 23, 1980 RESPECTIVELY

1. "You instructed us to place this account in the non-current category and we agree that quite properly it should be so classified. However, Mr. Thornhill is the financial critic in the Opposition Party in the Provincial Legislature and we do know that if the Conservative Party is elected in the next Provincial Election, at this point, Mr. Thornhill would be Finance Minister and Deputy Premier in the new Administration.

In view of this eventuality, we do not at this particular time want to class his loans as non-current."

(April 4, 1977)

2. "In light of political prominence Banks have agreed to go along with customer's proposal to cut living expenses, increase earnings and endeavour to repay loans over 9/10 year period."

(between July 1977 and  
December 1977)

3. (a) "From our point of view, bankruptcy proceedings would be politically unpalatable and would also result in Mr. Thornhill losing his security dealers license and very likely would also mean a loss of his seat in the next election thereby leaving him without any source of income. Accordingly, although it is distasteful there would appear to be no course but to write off these loans."

(March 8, 1978)

- (b) "We agree with your decision to write-off this account as distasteful as it is and we should appreciate you forwarding a Bad and Doubtful Debt Report containing your recommendation."

(March 10, 1978)

4. "... as we indicated in our writing of March 16th, any such action on our part would lead to immediate Bankruptcy, a loss of Mr. Thornhill's broker's license, and last but not least, place his political career in jeopardy.

We regret having not acted previously to comments contained in your letter of August 24th, however, we considered it prudent to await the outcome of the provincial election, and it would now seem apparent to us, that Mr. Thornhill will receive a cabinet posting in the new government. Meanwhile, however, we will contact the various other creditors regarding the status of his liability, however, again as brought out in our writing of March 16th, the (XX) Bank, decided to write off its liability and to quote its Branch Manager, they considered it a "Political donation".

We will be in a position to give you a further resume within the next few days concerning the other creditors' account, however, considering the recent turnaround in political parties, and the fact that Mr. Thornhill may indeed have a very influential role to play as an important cabinet minister, we now enquire if you would wish us to make a formal approach concerning the position of his debt with us."

(September 29, 1978)

5. "Considering Mr. Thornhill's position as Minister of Development for the Province of Nova Scotia, we consider it prudent not to apply too much pressure at this juncture, and would appreciate receiving your comments with regard to this matter."

(January 31, 1979)

6. "While payment of this debt is extremely doubtful, as we have said, we are reluctant to accept 25% on the basis presented. We think that the banks could well be open to criticism if it were publicly known we had given Mr. Thornhill preferential treatment because of his influential position. We probably would insist on sale of the house and monthly payments from any other debtor and we think this should be treated in the same manner.

The decision is an extremely political one and we pass it on for your comments."

(September 26, 1979)

7. (a) The Debtor, now Minister of Development, and Chairman of the Treasury Board for the Province of Nova Scotia, is in a bankrupt position financially.

7. (b) "The other competitor Banks to whom Mr. Thornhill is heavily indebted, have adopted a "wait and see" attitude, and for political reasons are not pressuring for payment and in fact are making no effort to contact him."

( ,1979)



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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Mr. Jamie Saunders  
Patterson, Kitz  
Barristers & Solicitors  
Bank of Montreal Tower, Suite 1600  
5151 George Street  
P. O. Box 247  
Halifax, Nova Scotia B3J 2N9

- and -

Mr. James D. Bissell  
Counsel, Atlantic Region  
Department of Justice Canada  
4th Floor, Royal Bank Building  
5161 George Street  
Halifax, Nova Scotia B3J 1M7

Dear Jamie and Jim:

## RE: Billy Joe MacLean Matter

I am enclosing a proposed Statement of Facts regarding the Billy Joe MacLean case. Also enclosed is a proposed Booklet of Documents which would be used.

Would you please review the Statement and the documents and let us have your advice as quickly as possible whether you have any objections. Upon receipt of your consent, it would be our intention to forward a copy of the proposed Statement of Facts to Mr. MacLean, and to invite him or his counsel to meet with us to review the documents on a confidential basis.

Having reviewed numerous documents on several other cases, we have determined that we will present evidence to the Commission only with respect to the Thornhill and MacLean cases. As you know, our objective is to determine whether the Attorney General's Department and the Police operate in any different manner when dealing with persons who are in positions of influence, or otherwise occupy a prominent position. The evidence to date has considered the normal and expected

Mr. Jamie Saunders  
Mr. James Bissell

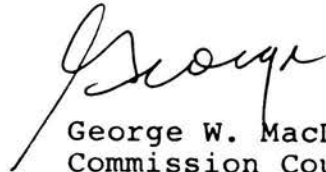
August 3, 1988

procedures to be followed by the Attorney General's Department and the Police. We do not consider a review of cases other than Thornhill and MacLean could provide any evidence which would be of assistance to the Commission in making its recommendations. As we have stated on numerous occasions, it is not our intention to attempt to determine whether Messrs. Thornhill, MacLean, or any other individual, should have been charged, convicted or otherwise dealt with by the criminal justice system.

Once we have been able to identify counsel for all parties interested in the Thornhill and MacLean cases, we propose convening a meeting to which you will be invited and at which time we will discuss the procedures to be followed when the Hearings convene in September, and hopefully be able to determine the intention of the other interested parties.

We have been proceeding on the assumption that Jamie Saunders is representing all departments of government, and in the MacLean case in particular would be representing the Auditor General and the Speaker. I would ask that Jamie confirm that our assumption is correct since it is quite likely we would want to have evidence from both of those individuals, and certainly we will want to interview them.

Very truly yours,



George W. MacDonald,  
Commission Counsel

GWMacD/ljb

Enclosures

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

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Mr. Raymond F. Wagner  
Raymond F. Wagner & Associates  
Barristers & Solicitors  
Pontac House, 2nd Floor  
Historic Properties  
1869 Upper Water Street  
Halifax, Nova Scotia B3J 1S9

Dear Mr. Wagner:

Re: Joseph Gaudet - Billy Joe MacLean  
R.C.M.P. Investigation

I refer to your letter of June 10, 1988 which was not received at our offices until June 28th.

When I met with you and Constable Gaudet in late May, I explained that our interest in the arson investigation at that date was restricted to a determination whether Constable Gaudet would confirm or deny evidence given by Staff Sergeant Wheaton during the Public Hearings. During our discussions, Constable Gaudet indicated that he would confirm the evidence of Wheaton, and in particular the evidence that Gaudet told Wheaton that Billy Joe MacLean was privy to the contents of the report prepared by Constable Gaudet in or about January, 1982.

During the interview Constable Gaudet raised other concerns which he had concerning this file and which you have outlined in your letter of June 10, 1988. The Commission considers its mandate to be broad enough to encompass a review of the entire system of the administration of justice in this Province. It is the intention of Commission counsel to present evidence to the Commission of the manner in which cases other than Donald Marshall, Jr. have been handled by those persons in the system. It is not our intention to ask the Commission to make findings whether other persons may have been wrongfully convicted, or allowed to avoid prosecution wrongfully, but rather to determine whether there are "loopholes" in the system which permit different treatment to be afforded to different classes of

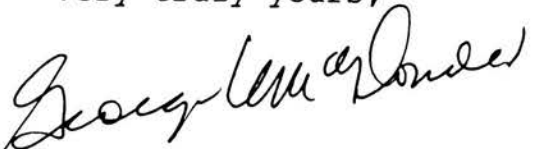
Mr. Raymond F. Wagner

August 3, 1988

persons depending on the amount of influence they may be able to exert. We have identified several cases which illustrate the manner in which the system may have operated differently. The Billy Joe MacLean "fire" case may be another example of a case which was not treated in the ordinary and expected manner. In our opinion, it would not provide any evidence of such different treatment in addition to that which we have already identified. In those circumstances therefore, we have elected not to call any further evidence with respect to this particular case. I emphasize once again that had we proceeded to call evidence in this case it would not be our intention or wish to attempt to lead evidence which may demonstrate that arson had been committed, but would have been interested only in the activity of the Attorney General's Department and the R.C.M.P. during the investigation stage and thereafter.

I want to thank you and Constable Gaudet very much for your assistance and willingness to discuss this case with us and to give evidence had we decided to proceed further this particular case.

Very truly yours,

A handwritten signature in cursive script, reading "George W. MacDonald". The signature is written in dark ink and is positioned above the typed name and title.

George W. MacDonald,  
Commission Counsel

GWMacD/ljb

JUN 28 1988

# Raymond F. Wagner & Associates

BARRISTERS & SOLICITORS

Raymond F. Wagner, LL.B.  
Anna Marie Butler, LL.B.

2nd Floor  
Pontac House  
Historic Properties  
1869 Upper Water St.  
Halifax, Nova Scotia  
B3J 1S9  
Phone (902) 425-7330

June 10, 1988

Royal Commission on the  
Donald Marshall Jr. Prosecution  
1505 Barrington Street  
Halifax, Nova Scotia  
B3J 3K5  
Attention: George W. MacDonald, Q.C.

Dear Mr. MacDonald:

Re: Joseph Gaudet - Billy Joe MacLean  
RCMP Investigation

Further to Constable Gaudet's appearance on the 25th of May, 1988 and our conversation with you on that day, I have the following comments.

Cst. Gaudet is not prepared to agree to a statement of facts in relation to Staff Sgt. Wheaton's testimony. We are concerned that any statement or confirmation of facts would tend to further confuse the issue. Such a document, in light of the loose ends left by Staff Sgt. Weaton's testimony could lead to misunderstanding of what is or is not confirmed and may cause certain reflection upon the character and credibility of Cst. Gaudet.

It is our belief that the matter of the Billy Joe MacLean file investigation is still outstanding in the minds of the public. The matter has been raised and should be dealt with so that it's reflection on the administration of justice can be canvassed.

As we had previously indicated, we have no intention to persecute Billy Joe MacLean through the hearings. However, the questions raised in the file as they impact upon the administration of justice in this province are most relevant.

Some of the concerns identified are as follows:

1. Billy Joe MacLean's knowledge and apparent perusal of the contents of the confidential RCMP file investigating the fire at his restaurant at an early stage in the investigation.
2. Involvement of the Fire Marshall's office in attempting to surpress the investigation as well as attempting to deflect the cause of the fire to improbable causes.
3. Ministry of Labour's Jack MacIsaac's involvement in the file.

Mr. George MacDonald  
June 10, 1988  
Page 2

4. Apparent about-face made by the prosecutor's office in Sydney about the strength of the evidence against Billy Joe MacLean.


Other concerns of lesser significance also arise out of this apparently politically sensitive investigation.

As you are aware, Cst. Gaudet will speak frankly about his knowledge of the political interference in this investigation. Cst. Gaudet is not attempting any grand standing but rather his interests are to ensure that the RCMP not be restricted in their ability to proceed with criminal investigations because of political consideration. This appears to be the direction the commission is headed in the fall of 1988.

If any further comments are necessary to further clarify this matter, then kindly contact me at your convenience. If you intend not to call Cst. Gaudet or delve into this matter at the hearings, then kindly notify me so that I may advise my client

Yours very truly,

R. F. WAGNER & ASSOCIATES



RAYMOND F. WAGNER

RFW:dmm  
cc: client

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

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MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Mr. Darrel I. Pink  
Patterson, Kitz  
Barristers & Solicitors  
Bank of Montreal Tower, Suite 1600  
5151 George Street  
P. O. Box 247  
Halifax, Nova Scotia B3J 2N9

Dear Darrel:

Thank you for your letter of August 3, 1988 concerning the newspaper article authored by Bob Wall. I agree with all of the concerns you have raised. We have advised Mr. Wall that it is the Commission's view that his behavior has been completely unacceptable. We have given him notice that we will no longer require his services.

Thank you for advising me formally of your concern about this matter.

Very truly yours,

Susan M. Ashley,  
Commission Executive  
Secretary

SMA/ljb

cc: The Hon. Terence R. B. Donahoe, Q.C.  
Mr. D. William MacDonald, Q.C.



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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Mr. Darrel I. Pink  
Patterson, Kitz  
Barristers & Solicitors  
Bank of Montreal Tower  
Suite 1600  
5151 George Street  
P. O. Box 247  
HALIFAX, Nova Scotia  
B3J 2N9

Dear Mr. Pink:

## RE. CABINET APPEAL

I refer our telephone conversation this morning.

We are of the view that the Factum filed on behalf of the Crown violates the undertakings given on behalf of the Attorney General's department that no attack on the mandate of the Commission would be made at the hearing of this Appeal. It is our view that there are several places in the Factum which directly address the issue of the scope of the mandate of the Inquiry an issue which was never mentioned in the trial division and which if it had been adverted to would have caused us to introduce evidence to establish the mandate.

Specifically in paragraph 11(d) in the second paragraph your Factum makes the point that "the administration of justice" to the present day is not a listed item in the order in council. This point is made again in paragraphs 47 and 53. In paragraph 54 you indicate that the media have stated that the Marshall Inquiry is to investigate the administration of justice to the present. The Attorney General himself in the House on April 14, 1987 indicated that:



August 3, 1988

"It is the administration of justice in the Province of Nova Scotia, which during the relevant times, which is the subject of the Inquiry, the Attorney General of today and predecessor Attorneys General in the relevant times are therefore a principal party ... It is, therefore, in my opinion and in the opinion of the government completely appropriate and consistent that there be legal counsel, not to the Attorney General or not to the individuals in the Attorney General's department, but to "the administration of justice" that is what is being looked at".

Paragraph 55 then suggests that Glube erred by balancing the administration of justice "past and present" against the public interest in joint Cabinet responsibility.

Paragraphs 56 and 57 then go on to attempt to define the "public interest" by reference to the items listed in the order in council. Your Factum is clearly making an argument as to what the scope of the inquiry is and what the matters are that it is mandated to inquire into. These are precisely the types of arguments that we had understood would not be raised.

If your point is simply that cabinet discussions no matter what the subject matter are protected from disclosure then there is absolutely no reason to delve into the extent of the Commission's mandate. The issue is simply not affected by a discussion of our mandate in any sense at all.

Accordingly we would ask that you withdraw any and all portions of your Factum which advert in any way to the scope of the Commission's mandate. Since I am in the process of preparing our own Factum I would ask that you would provide us with your response by Thursday afternoon August 4, 1988.

Yours truly,



W. Wylie Spicer  
Commission Counsel

WWS/bjs

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

---

MARRITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Professor John Ll. J. Edwards  
University of Toronto  
Faculty of Law  
78 Queen's Park Crescent  
TORONTO, Ontario  
M5S 1A6

Dear Professor Edwards:

Thank you for your invoice dated July 25, 1988, outlining time spent by you between June 14 and July 23, 1988.

In reviewing this invoice I note that, while some of the material read relates to the subject matters of your retainer with the Commission - the position and role of the Attorney General - some of it refers to material that was provided for your information or at your request. While I hesitate to raise the issue, I trust that you will appreciate my concern that, in approving your account for processing and payment, I approve payment only for those services requested by the Commission. As such, I would have some difficulty in approving for payment time spent on areas outside your retainer, such as reading papers by Clark and Head, and the submissions on compellability of judges.

If you could give me some further information on the time spent on these areas, I would be happy to reconsider approving your invoice. Alternatively, could you kindly provide me with a replacement invoice omitting time spent outside the area of your retainer.

Professor Edwards

August 3, 1988

Thank you for your continuing assistance and interest.

Yours truly,

A handwritten signature in cursive script, appearing to read "Susan Ashley", written in dark ink.

Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs

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

---

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Chief Justice T. Alexander Hickman  
Chief Justice of the Supreme Court  
of Newfoundland  
Trial Division  
Court House  
Duckworth Street  
St. John's, Newfoundland A1C 5M3

Dear Chief:

Attached for your information is a letter that I have just written to John Edwards about his most recent bill. It has apparently crossed in the mail with a letter to you from John Edwards asking for an increase in his fee. Since that letter was addressed to you I will leave it to you to deal with. However, I do think that it is unlikely that we would have much further need for Professor Edwards' services and I would suggest that the minimum of 20 percent secretarial costs which is being requested should be taken from the daily rate that is paid to Professor Edwards. I really do not think that we can pay him a higher per diem; my own view is that the rate that he is now being paid is much too high.

If you would like me to deal with this just let me know.

Yours truly,

Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs  
Enclosure

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

---

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Mr. Robert Murrant, Q.C.  
Murrant Brown  
Barristers & Solicitors  
Suite 404  
Purdy's Wharf  
P.O. Box 2626  
HALIFAX, Nova Scotia  
B3J 3P7

Dear Mr. Murrant:

Thank you for your letter of August 2, 1988.

I am sorry that my letter of July 27, 1988 was not sufficiently precise to enable you to respond directly to my question. The Commission's order of May 31, 1988 allowed Mr. Pugsley's application to call your client. It suggested that the procedure to be followed would be one in which we would determine whether there had been communication between Staff Sergeant Wheaton and your client on the relevant issue. If not, there would be no point in calling your client. Given that you have advised that there was such communication, the Commission wishes to note "the details of this disclosure". It is for the purpose of eliciting these details that the Commission wishes your client to attend and testify. The Commission did not order that these details be obtained in writing, nor did it order that all counsel's prior consent be obtained with respect to abiding by the Commission's order. Presumably one is entitled to expect that counsel will obey the Commission's order outlining the extent of relevant questioning.

My request is a simple one. On the basis of Mr. MacDonald's letter to you of June 21, 1988 and mine to you of July 27, 1988, will your client attend voluntarily on September 12, 1988? Kindly reply at your earliest convenience so that we may govern ourselves accordingly.

Mr. Robert Murrant

-2-

August 3, 1988

Yours very truly,

A handwritten signature in dark ink, appearing to read "David B. Orsborn". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

Mr. David B. Orsborn  
Commission Counsel

DBO/bjs

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

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 3, 1988

Associate Chief Justice Lawrence A. Poitras  
Superior Court of the Province of Quebec  
The Court House  
1 Notre Dame Street East  
MONTREAL, Quebec  
H2Y 1B6

and

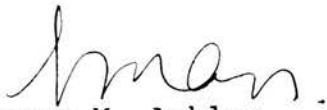
Honourable Gregory T. Evans, Q.C.  
1221 - 44 Charles Street W.  
TORONTO, Ontario  
M4Y 1R8

Dear Sirs:

Attached is correspondence between Ron Downey, Counsel for the judges of the Appeal Division and George MacDonald. As you will see, Mr. Downey advises us that he is "not prepared to advise the plaintiffs to accede to the request of the defendants to consent to a per saltum appeal". In his letter he raises several reasons why he has come to his conclusion. George's letter attempts to deal with those issues. We have, basically, handed it back to Ron Downey, but we do not really anticipate that there will be any change in their decision on the basis of our most recent letter. We will be appearing in Chambers tomorrow, August 4, to get a date on Marshall's appeal of the "judges subpoena" matter. We will be filing our own notice of appeal as well.

Looking forward to seeing you in Digby.

Yours very truly,

  
Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs  
Enclosure  
cc Chief Justice Hickman

August 2, 1988

Mr. R. J. Downie, Q.C.  
Cox, Downie & Goodfellow  
Barristers and Solicitors  
P. O. Box 2380, Station "M"  
Halifax, Nova Scotia  
B3J 3E5

Dear Ron:

Re: MacKeigan et al v. Hickman et al

I acknowledge your letter of July 29, 1988.

With respect to the various concerns you expressed I would comment as follows:

1. We had received a letter last week from Marlys Edwards advising that the Appeal which was commenced by the filing of the Notice of Appeal on behalf of Donald Marshall, Jr. would be abandoned if consent to proceed to the Supreme Court of Canada per saltum was obtained. I had understood from Mr. Ruby's earlier letter that he was seeking consent to apply pursuant to Section 39 of the Supreme Court Act.

2. I have spoken with our Agent in Ottawa and am advised that if Leave to Appeal were granted by the Supreme Court of Canada, you would have no difficulty whatever raising for consideration by the Supreme Court of Canada all of the issues contained in your Notice of Contention.

3. We do not consider a consent to proceed by way of a per saltum appeal would imply that a panel in Nova Scotia would not deal with the Appeal judicially and appropriately. The difficulty we have is the obvious perception which exists generally in the Province that the Appeal Division should not make a decision on a matter which involves the majority of members of that Division.



- 2 -

4. Our Ottawa Agent advises that any consent your clients granted could contain a stipulation that the consent is with respect to the Application for Leave only and is not to be construed as an agreement that Leave to Appeal should be granted or that the issue in question is of such importance that it should be considered by the Supreme Court of Canada.

While I can understand the various concerns you have raised, I suggest that each of them can be overcome. In those circumstances I would invite you to once again consider the question and hopefully the issue can be finally decided quickly.

Yours very truly,

George W. MacDonald  
Commission Counsel

GWMacD/fm

cc: Mr. Jamie Saunders  
Mr. James Bissell  
Ms. Anne Derrick

# McINNES COOPER & ROBERTSON

BARRISTERS & SOLICITORS

Cornwallis Place  
1601 Lower Water Street  
P.O. Box 730  
Halifax, Canada  
B3J 2V1

Telephone  
(902) 425-6300

Fax  
(902) 425-6386  
(902) 425-6390

Telex  
019-21859

DATE: August 3, 1988

OUR FILE: I-1816

Please deliver the following 2 pages.

TO: (Name) Lori Burnett

(Firm) Royal Commission

(City) Halifax, N. S.

(Telecopier) 424-2709

FROM: (Name) Freda

McInnes, Cooper & Robertson  
1601 Lower Water Street  
P.O. Box 730  
Halifax, Nova Scotia B3J 2V1

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CONCURRENCE

ROYAL COMMISSION ON THE DONALD MARSHALL CASE, PROSECUTION

---

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 2, 1988

Col. Ret'd Ian Fraser  
President  
CML Consultants Limited  
1586 Queen Street  
HALIFAX, Nova Scotia  
B3J 2J1


Dear Ian:

Enclosed are the video tapes of the Public Hearings for December 8, 9, 10, and 11, 1987, and the written transcripts for the same days. All of this relates to the testimony of John MacIntyre. I have included as well a list which indicates the portions of the video tape that we would like excerpted. There are thirty excerpts in all. We would like to have these portions dubbed to the VHS tape if possible before the end of the week.

There will be other portions of the evidence that we would like to deal with in a similar way and I will let you know when we are ready to proceed with those.

When this work is completed will you please have all of the tapes and the transcripts returned to this office, thank-you.

Yours truly,

  
Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs  
Enclosure

C.S. CLARK AND ASSOCIATES LTD.

suite 712  
151 Slater Street  
Ottawa, Ontario  
K1P 5H3 Canada  
Tel.: (613) 234-1827

copy

AUG 02 1988

July 25, 1988

Mr. Ian Cowie,  
Ian B. Cowie and Associates,  
300 Nelson Street,  
Ottawa, Ontario  
K1N 7S4

Dear Ian;

Re: Marshall Inquiry

This letter outlines the assistance I need from you in preparing my final report to the Royal Commission. As we discussed last Friday, if time permits your role could have two parts: first, a fairly brief written piece on the self-government/constitutional/political environment with respect to aboriginal criminal justice; and second, consultation with me regarding my recommendations.

The written work should address the following:

- . the nature and scope of the federal self-government initiative, particularly as it applies to possibilities in the area of aboriginal criminal justice;
- . the implications of the Charter for criminal justice initiatives at the community level (e.g., collective vs. individual rights);
- . generally, the implications of the role of the provinces for aboriginal community-based justice initiatives;
- . any current or future federal policies (of which you are already aware) that affect or might affect aboriginal community-based justice initiatives.

The object of the written piece will be to provide a contextual framework for my analysis and recommendations. The recommendations must be innovative and realistic; with your material as background, both qualities should be readily apparent to the Commissioners.

As we discussed, the written part of your job will take two or three days; meeting with me to discuss my recommendations could take one or two days. I would like to have the consultations on recommendations completed by August 19 and your written piece in hand by August 26. This will enable me to complete and submit my final report by the end of August.

It would be helpful if you were to draft a more detailed outline of your written piece, as you suggested last Friday. At that point we could finalize the arrangements.

I will be out of town this Friday and back for next Monday. Perhaps you will be able to send your outline to me by early next week. Don't hesitate to phone.

Best regards,

A handwritten signature in cursive script that reads "Scott Clark". The letters are fluid and connected, with a prominent "S" and "C".

Scott Clark

cc. John Briggs

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

BY FAX

August 2, 1988

Mr. Darrel I. Pink  
Patterson, Kitz  
Barristers & Solicitors  
Bank of Montreal Tower, Suite 1600  
5151 George Street  
P. O. Box 247  
Halifax, Nova Scotia B3J 2N9

- and -

Mr. James D. Bissell  
Counsel, Atlantic Region  
Department of Justice Canada  
4th Floor, Royal Bank Building  
5161 George Street  
Halifax, Nova Scotia B3J 1M7

Dear Darrel and Jim:

RE: Thornhill Matter

There is some confusion as to the Statement of Facts which is to be used. I spoke with Darrel last week and he indicated he had a Statement containing 4 pages and which was noted as "Draft #2". I am enclosing copies of David Orsborn's letter of May 5, 1988 and the attachments. You will see our proposal at that time was to insert additional extracts from the materials to identify information available to Messrs. Herschorn and Coles at the time they wrote their Memorandum. It is still our intention to make that change.

Unfortunately, the documents which we forwarded to the banks and Mr. Thornhill last week did not include this additional information. We would like to forward a revised Statement of

-2-

Mr. Darrel I. Pink  
Mr. James D. Bissell

August 2, 1988

Facts to them immediately, and before doing so, require your consent to the inclusion of this additional information. Please review this matter with your clients and let me have your comments as soon as possible.

Very truly yours,

A handwritten signature in cursive script, appearing to read "George W. MacDonald".

George W. MacDonald,  
Commission Counsel

GWMacD/ljb  
Enclosure

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

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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 29, 1988

Ms. Lynn Connors  
MacInnes, Wilson, Flinn, Wickwire  
Barristers & Solicitors  
1801 Hollis Street  
P. O. Box 1054  
Halifax, Nova Scotia B3J 2X6

Dear Ms. Connors:

I enclose a copy of the Terms of Reference of the Royal Commission, and the Decision of the Commissioners in relation to applications for funding from several of the parties with standing before the Commission. I anticipate receiving from you or Mr. Merrick a letter applying on behalf of Mr. Thornhill for standing before the Inquiry and for funding. Once I receive the letter, I will bring it before the Commissioners immediately.

Yours truly,

Susan M. Ashley,  
Commission Executive  
Secretary

SMA/ljb

Enclosures



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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
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COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 28, 1988

Mr. Ronald N. Pugsley, Q.C.  
Stewart, MacKeen & Covert  
Barristers and Solicitors  
P. O. Box 997  
Halifax, Nova Scotia  
B3J 2X2

Dear Mr. Pugsley:

**Re: Michael Harris**

We have been provided with documents issued by Robert Murrant and returnable on September 8 wherein he is bringing an Application which appears to be an attempt to prevent the Commission from seeking to have the Newfoundland Supreme Court issue a subpoena requiring Michael Harris to appear in that Province to give evidence. Initially, we thought we would proceed in Newfoundland in any event but our advice is to wait until the Decision of the Nova Scotia Supreme Court is obtained because the Newfoundland Court would be unlikely to grant an Order in the face of the Application being brought in Nova Scotia.

We have written once again to Mr. Murrant to determine if he wants to reconsider his position and arrange to have Mr. Harris appear voluntarily in Nova Scotia when the Hearings resume in September. If he does agree to this suggestion, we will let you know immediately. Otherwise we will have to await the outcome of the Halifax Application.

Yours very truly,

George W. MacDonald  
Commission Counsel

GWMacD/fm

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

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ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 28, 1988

Mr. Gavin Giles  
Murrant Brown  
Barristers and Solicitors  
P. O. Box 2626  
Halifax, Nova Scotia  
B3J 3P7

Dear Mr. Giles:

Re: Michael Harris

Thank you for your letter of July 21, 1988.

We will be available on Thursday, September 8, 1988 at 9:30 a.m. in Chambers for the hearing of your Application.

Yours very truly,

George W. MacDonald  
Commission Counsel

GWMacD/fm

JUL 28 1988

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

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

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CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 26, 1988

Mr. R. J. Downie, Q.C.  
Cox, Downie & Goodfellow  
Barristers and Solicitors  
P. O. Box 2380, Station "M"  
Halifax, Nova Scotia  
B3J 3E5

Mr. Jamie W. S. Saunders  
Patterson Kitz  
Barristers and Solicitors  
P. O. Box 1068  
Truro, Nova Scotia  
B2N 5B9

Mr. Clayton Ruby  
Ruby & Edwardh  
Barristers and Solicitors  
11 Prince Arthur Avenue  
Toronto, Ontario  
M5R 1B2

Gentlemen:

**Re: MacKeigan et al v. Hickman et al**

I understand all parties have been asked to appear in Appeal Court Chambers on August 4 to discuss setting a date for the hearing of an appeal launched on behalf of Donald Marshall, Jr. I refer to my letter of June 29, 1988 and note that to date I have received consent from Mr. Ruby to our proposal to proceed with an Application for Leave to Appeal to the Supreme Court of Canada per saltum. Mr. Downie advised he was seeking instructions from his client, and I have not heard further from him or Mr. Saunders.

I would ask that prior to August 4 Messrs. Downie and Saunders let me have an answer to my request for consent on behalf of your clients to our proposal to apply for Leave to Appeal directly to the Supreme Court of Canada. I would like to be in a position to

advise the presiding Judge of the intention of the Commission, and to be able to answer any questions which might arise.

I am somewhat confused by the action taken on behalf of Donald Marshall, Jr. Mr. Ruby had advised me of his intention to follow a similar course as that proposed by the Commission provided consent could be obtained from all parties. Given the fact that a Notice of Appeal now has been filed with the Nova Scotia Supreme Court Appeal Division, I am not certain if that step affects Mr. Ruby's intention to apply for Leave to Appeal to the Supreme Court of Canada in accordance with the provisions of Section 39 of the Supreme Court Act.

I look forward to hearing from you prior to August 4.

Yours very truly,

George W. MacDonald  
Commission Counsel

GWMacD/fm

cc: Ms. Anne Derrick

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

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MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

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CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 28, 1988

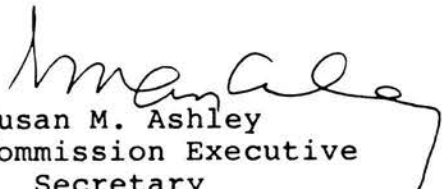
Mr. Doug Kirby  
Senior Librarian  
Film Library  
Canadian Broadcasting  
Corporation  
P.O. Box 3000  
HALIFAX, Nova Scotia  
B3J 3E9

Dear Doug:

We have an immediate need to receive several of the tapes from the Public Hearings of the Inquiry. I will be sending a courier up to obtain from you the tapes from the testimony heard on December 8th, 9th, 10th, and 11th, 1987. We will return them to the Film Library when we are finished with them.

I have discussed this with Ron Crocker.

Yours truly,

  
Susan M. Ashley  
Commission Executive  
Secretary

SMA/bjs

cc Ron Crocker ✓

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

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MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 27, 1988

Mr. Robert Murrant  
Murrant Brown  
Barristers & Solicitors  
Suite 404, Purdy's Wharf  
P.O. Box 2626  
Halifax, Nova Scotia B3J 3P7

Dear Mr. Murrant:

Re: Michael Harris, Applicant -  
Hickman, et al., Respondents

I have your letter of July 12th enclosing the pleadings with respect to contesting the appearance of Michael Harris before the Commission.

I am unsure whether the basis for your client's concern is having to testify at all, or the possible scope of the questioning. You are aware that no decision or order of the Commission has been made in the matter, other than in response to Mr. Pugsley's application to call Mr. Harris. The Commission allowed that application and indicated its view of the extent to which questioning would be permitted.

There have been no other orders given or subpoenas issued upon which to base a certiorari proceeding. Presumably you are not asking that comments and discussion between Counsel and the Commission be set aside.

With respect to the power to compel the attendance of witnesses outside the Province of Nova Scotia, it has not been our position that the Commission could directly compel the attendance of Mr. Harris in either Newfoundland or Nova Scotia.

However, it is our view that under s. 43 of the Canada Evidence Act, the Commission, as a tribunal of competent jurisdiction, could request the Newfoundland Court to secure the attendance of Mr. Harris in Newfoundland. At its discretion, the Newfoundland Court could order and enforce the attendance of Mr. Harris before the Commission in Newfoundland.

Robert Murrant  
Page 2  
July 27, 1988

It is our intention to proceed with such a request to the Newfoundland Court, but it is felt to be in the best interests of all concerned if your client would appear voluntarily in Nova Scotia. I refer you to Mr. MacDonald's letter of June 21st in which he assured you that Commission counsel would restrict their area of questioning and would object if any other counsel went beyond this. These assurances still apply, although you understand that we cannot obtain prior written undertakings from other counsel that they will not at least attempt to broaden the questioning. This situation would, of course, apply whether your client is questioned in Nova Scotia or in Newfoundland.

You appreciate that further court proceedings will not accelerate the work of the Commission, and we would like to be able to schedule your client as our first witness in Halifax on September 12th. Traveling expenses would, of course, be borne by the Commission.

I look forward to hearing from you at your very earliest convenience.

Yours very truly,

A handwritten signature in dark ink, appearing to read "David B. Orsborn". The signature is fluid and cursive, with a large initial "D" and "O".

David B. Orsborn  
Commission Counsel

DB0/jc

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

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MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 25, 1988

Mr. E. Anthony Ross  
Smith, Gay, Evans & Ross  
Barristers & Solicitors  
604 Queen Square  
Dartmouth, Nova Scotia  
B2Y 3Z5

Dear Mr. Ross:

Re: BLACK UNITED FRONT - WITNESSES

I am writing to you in connection with a letter which we have received from your client, the Black United Front requesting that certain witnesses be called at the up-coming hearings of the Inquiry. As you are counsel to the Black United Front, I think it is appropriate for me to respond directly to you rather than to your client. A copy of your client's letter is enclosed.

As you know, the Commission has not called witnesses specifically to deal with the general issues of racism. This area has been dealt with extensively in the research projects commissioned by the Inquiry and it continues to be our view that that is the best way in which this type of information can come to the attention of the Inquiry.

We do not intend to call the persons referred to in your client's letter of July 20, 1988. It is not our view that the general issue of racism other than as it relates to the Donald Marshall matter, should be subject of viva voce testimony.

You of course have the right to apply directly to the Commissioners to call other witnesses and if you intend to do so, I would appreciate it if you would let me know well in advance of your intentions.

Yours truly,

W. Wylie Spicer  
Commission Counsel

WWS:jrc



**ROYAL COMMISSION ON THE DONALD MARSHALL MURDER, PROSECUTION**

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MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 25, 1988

Mr. James D. Bissell  
Department of Justice Canada  
4th Floor, Royal Bank Building  
5161 George Street  
Halifax, Nova Scotia B3J 1M7

Dear Mr. Bissell:

I am replying to your letter of July 20, 1988 directed to  
George MacDonald

With respect to item #2 identified in your letter it is not  
the intention of the Commission to inquire into the practices,  
procedures, methods or internal management of the RCMP other than  
as those matters may become evident through an examination of the  
Thornhill case itself.

We have today sent notification to Mr. Thornhill and the  
Banks of the Commission's intention to proceed in September.

Yours very truly,

  
W. Wylie Spicer  
Commission Counsel

WWS:jrc

## POSSIBLE PARTICIPANTS

(Try for a good mix of local/regional/national, black/native/white, male/female, academic/legal/government/community people. Should have an upper limit of numbers - I would suggest 100, excluding Commission people).

1. Dr. Scott Clark (author of the Commission's research study on natives).

Reviewers of Dr. Clark's report:

2. Dr. Carole LaPrairie (expert on aboriginal justice, with federal Department of Justice).
3. Rod MacLeod (native lawyer from Manitoba).
4. Dr. Fred Wien (local expert on Micmacs).
5. Dr. Wilson Head (author of Commission's research study on blacks).

Reviewers of Dr. Head's study:

6. Dan MacIntyre (Race Relations Commissioner for Ontario, black).
7. Dr. Llewellyn Watson (sociologist from University of P.E.I., black).
8. Dr. Tony Johnston (Director, Nova Scotia Human Rights Commission, black).
9. Dr. Phillip Stenning)
10. Dr. Richard Apostle ) authors of the Commission's study
11. Dr. Don Clairmont ) on the Police.

Reviewers of the Police Study

12. Dr. Alan Grant (University of Toronto).
13. Chris Murphy (incoming Director, Dalhousie Institute of Criminology).
- 14.
15. Dr. John Edwards (author of Commission's study on the role of the Attorney General).

Reviewers of Dr. Edwards' study:

- 16.

17. Prof. Bruce Archibald (author of the Commission's study on Crown prosecutors).

Reviewers of Prof. Archibald's study:

18. Dr. Ken Chasse Q.C. (Director of Research, Ontario Legal Aid Plan).
19. Mark Rosenberg (Greenspan & Rosenberg, Toronto).
20. Gordon Gregory Q.C. (former Deputy Attorney General, New Brunswick).
21. Russell Juriansz (Blake Cassels & Graydon, Toronto; former Senior Counsel, Canadian Human Rights Commission).
22. Jim MacPherson (Dean, Osgoode Hall, special counsel to the Commission).
23. Gordon Fairweather Q.C. (former Chief Commissioner, Canadian Human Rights Commission).
24. Judge Murray Sinclair
25. and other judge from the Manitoba Inquiry on Natives.
26. Innis Christie (Dean, Dalhousie Law School).
27. Bruce Wildsmith (Assoc. Dean, Dalhousie Law School; Counsel, Union of Nova Scotia Indians).
28. Tony Ross (Counsel, Black United Front, Counsel, Confederacy of Nova Scotia Micmacs).
29. George Erasmus (Assembly of First Nations).
30. Representative from Atlantic Police Academy.
31. Wayne MacKay (Prof. Dalhousie Law School, local expert on Charter issues).
32. Archie Kaiser (Prof. Dalhousie Law School, wrote article on compensation for wrongful conviction).
33. former Supreme Court Justice Estey.
34. Roland Penner (former Attorney General of Saskatchewan).
35. Alan Blakeney (former Premier of Saskatchewan).
36. Bob Hyslop (Director of Public Prosecutions, Nfld.).

37. Alan Borovoy (Director, Canadian Civil Liberties Assoc.).
38. Nadine Cooper-Mont (Deputy Solicitor General, Nova Scotia).
39. Bill MacDonald (Deputy Attorney General, Nova Scotia).
40. Graydon Nicholas (President, Union of New Brunswick Indians).
41. Viola Robinson (Native Council of Nova Scotia - non-status).
42. Lorene Clark (Prof., Dalhousie Law School, participated in Crown Prosecutor's workshop).
43. Stan Cohen (Coordinator, Criminal Law Project, Law Reform Commission of Canada).
44. Darrell Pink (Counsel to Attorney General's Department).
45. Jamie Saunders " "
46. Marlys Edwardh (Counsel to Donald Marshall, Jr.).
47. Anne Derrick " "
48. Judge Felix Cacchione (County Court of Nova Scotia, former counsel to Donald Marshall, Jr.).
49. Representatives of U.N.S.I.
50. "
51. "
52. Representatives of Black United Front
53. "
54. "
55. Representatives of Confederacy of Mainland Indians
56. "
57. "
58. Dr. Andrew MacKay (Ombudsman, Nova Scotia).
59. Dr. D. G. Hill (Ombudsman, Ontario).
60. Dr. Ed Renner (Prof., Dalhousie - Psychology; writes on criminal justice/race/sex).
61. Judge Connie Sparks

62. Rosemary Brown (former member of British Columbia legislature, well-known black activist)
63. Sandra Lovelace (re. case at United Nations, concerning Indian women losing status on marrying non-native man).
64. Svend Robinson, M.P. (N.D.P. Justice critic House of Commons).
65. Mary Two-Axe Early (Native Council of Canada).
66. Sam Stevens (Director, Native Law Programme, University of British Columbia).
67. Carol Montagnes (Ontario Native Council on Justice).
68. Jenny Margetts
69. Roberta Jamieson (Indian Commission of Ontario).

July 25, 1988

## CONFERENCE

### Statement of Purpose

#### Background:

The Royal Commission on the Donald Marshall, Jr. Prosecution was established to inquire into the wrongful conviction and incarceration of a Micmac youth in Sydney, Nova Scotia, in 1971. The investigation of this incident has opened up a more general inquiry into the administration of criminal justice in Nova Scotia. The opportunity for an in-depth examination of this system which is so much taken for granted is unprecedented in Canada, and will have effects which are felt much farther afield than the boundaries of Nova Scotia.

To date, the Commission has held broad-ranging public hearings (82 days, 103 witnesses) which have served not only to define the factual questions, but have also raised more general policy matters. These have included the proper functioning of the courts, the obligations of defense and crown counsel, the proper role of the Attorney General in prosecutorial decision-making, questions of police training and practices, and difficult issues concerning racism against black and native people in the criminal justice system. Allegations that have been raised in the public hearings have shaken the confidence of many in the integrity and fairness of our justice system.

The public hearings are only part of the process of investigation. To assist in arriving at recommendations and to give a broader base of information than can be obtained in structured hearings, five major research projects have been undertaken. An important part of the research process has been consultation with other experts in the areas of work being studied, and with community leaders who have day to day experience in the issues under discussion. The peer and community review process will help ensure that the research is sound, and will permit the Commissioners to feel confident in making recommendations based on information found in the research reports.

On the basis of the extensive public hearings and the ambitious research programme, the Commission now has sufficient information to define the problems facing the Nova Scotia criminal justice system. The challenge now is to identify appropriate and meaningful solutions.

## CONFERENCE cont.

### The Conference:

To further this end, the Commission intends to hold a public consultation, bringing together experts on the broad general topics of the impact of racism against blacks and natives in the criminal justice system, and the proper relationship between the police, the crown prosecutor, and the Attorney General. In a conference format, invited experts and community leaders will be challenged to propose and discuss options for improvement and change. Such a consultation will provide a forum for high-level discussion which we hope will further assist the Commissioners in making innovative, yet practical, recommendations.

It should be emphasized that the research reports will not be the starting point for discussion. While fairly detailed precis may be distributed in advance to all participants for background information, the discussion at this consultation should strive to rise above the detail of the research reports, and have a broader policy focus. The full text of the studies should probably be given to the speakers.

The major purpose of this Consultation is to give the Commissioners access to a very broad range of expert advice to bring to the process of framing recommendations which will deal with the difficult issues that have been uncovered in this Inquiry. We are asking local and national experts to share their expertise with the Commission in a public forum. This is a unique and important exercise in public policy-making, and will ensure that the recommendations which the Commissioners make to government are based on sound, current, and complete knowledge of the issues.

The Consultation will be open to media representatives, who will be given the same access to proceedings as was available at the Public Hearings of the Inquiry.

The Consultation will be held on November 24 - 26, 1988 at the Sheraton Hotel in Halifax. It will be chaired by the Honourable Thomas Berger Q.C., who will also give the keynote address.

Each separate session will be addressed by a recognized expert in the area, who will present a paper. We would expect each paper to be provocative and stimulating, and to identify the speaker's stand on the most pressing issues raised by the topic, along with suggestions for how these issues might be addressed in the Commissioners' final report. Each paper will be commented upon by two other people - either experts with a different

## CONFERENCE cont.

viewpoint than the presenter, or a person with a practical or community orientation. The floor would then be open for discussion. We should attempt to choose speakers and participants keeping in mind the academic/practical/community, national/local, male/female and racial balance.

A tentative schedule follows, giving suggestions for paper topics, and speakers.

### THURSDAY EVENING

6 - 7:30 p.m.	Registration
7:30	Opening remarks, and introduction to the keynote speaker.
	Keynote address by Honourable Thomas Berger Q.C. "Innocent Until Proven Guilty"
9 p.m.	Informal reception

### FRIDAY

9:30 a.m.	Introductory remarks - Conference Chairman
9:45 a.m.	"Racism in the criminal justice system - what can be done" The paper and comments would identify: a) the particular problems facing blacks in the Criminal Justice System, and b) the changes that might be made in the system to alleviate the apparent perception (and reality?) of racism. Paper presented by: Gordon Fairweather Q.C.? Dan Hill? other possibilities? Commentators: Rosemary Brown? Wilson Head? Dan MacIntyre? Rocky Jones?
11:00 a.m.	COFFEE



CONFERENCE cont.

FRIDAY cont.

11:15 a.m.

Discussion (emphasis on  
recommendations for change.)

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12:30 p.m.

LUNCH

2:00 p.m.

The treatment of native people in  
the Criminal Justice System;  
Paper & comments to deal with:  
a) accessibility of the Criminal  
Justice System to native  
people in Nova Scotia;  
b) adequacy of the system to meet  
the needs of native people;  
c) reform of the System to make  
it more responsive to native  
people, and alternatives to  
give more control to native  
people.

Paper presented by:

Sam Stevens?  
George Erasmus?  
other possibilities?

Commentators:

Bruce Wildsmith?  
Roberta Jamieson?  
Judge Sinclair (Manitoba)?

3:15 p.m.

COFFEE

3:30 p.m.

Discussion

FRIDAY EVENING

BANQUET FOR PARTICIPANTS  
DINNER SPEAKER:

SATURDAY

9:30 a.m.

Relationship between the police,  
the crown prosecutor, the Attorney  
General in criminal law.  
Paper presented by:  
Phillip Stenning?  
Jim MacPherson?

CONFERENCE cont.

SATURDAY cont.

Commentators:

Alan Grant?  
Mr. Justice Estey?  
Alan Blakeney?  
Roland Penner?  
Marlys Edwardh?

10:45 a.m.

COFFEE

11:00 a.m.

Discussion

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12:30 p.m.

LUNCH

2:00 p.m.

Panel composed of presenters, each having the opportunity to integrate the discussion from all sessions, and to give an overview of the proceedings. The focus would be on devising an integrated strategy for change.  
Discussion

3:30 p.m.

Brief remarks from Chief Justice Hickman.  
Closing remarks from the Chairman.

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

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MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 28, 1988

Mr. G.M. Sandala  
Toronto Dominion Bank  
1785 Barrington Street  
Halifax, Nova Scotia B3J 3K7

Dear Mr. Sandala:

Re: Roland Thornhill Case

You will find enclosed a letter and supporting documents which set out the fashion in which the Commission intends to deal with the Roland Thornhill matter. This material is being sent to you as recognized agent for the Toronto Dominion Bank.

I would appreciate it if you would acknowledge receipt of this material.

Yours very truly,

W. Wylie Spicer  
Commission Counsel

WWS:jrc

enclosure

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

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MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 25, 1988

Mr. W.J. Mandzia  
General Counsel  
Bank of Nova Scotia  
44 King Street West  
Toronto, Ontario  
M5H 1H1

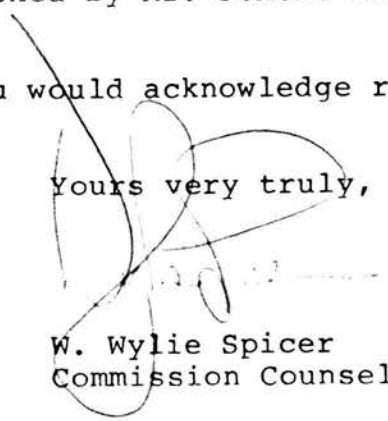
Dear Sir:

Re: Roland Thornhill Case

You will find enclosed correspondence and documents which set out the way in which the Commission will deal with the Roland Thornhill case. I have been asked by Mr. J.A.F. MacDonald to direct this material to you.

I would appreciate it if you would acknowledge receipt.

Yours very truly,

  
W. Wylie Spicer  
Commission Counsel

WWS:jrc

enclosure

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

---

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COMMISSIONER

THE HONOURABLE  
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COMMISSIONER

July 25, 1988

Mr. Richard N. Rafuse  
Patterson, Kitz  
5151 George Street, Suite 1600  
Halifax, Nova Scotia

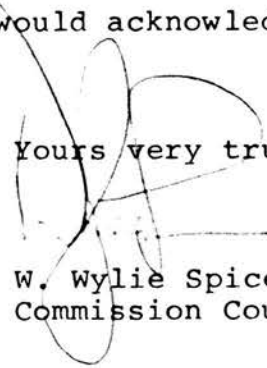
Dear Mr. Rafuse:

Re: Roland Thornhill Case

You will find enclosed a letter and supporting documents which set out the fashion in which the Commission intends to deal with the Roland Thornhill matter. This material is being sent to you as recognized agent for Bank of Montreal.

I would appreciate it if you would acknowledge receipt of this material.

Yours very truly,

  
W. Wylie Spicer  
Commission Counsel

WWS:jrc

enclosure

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

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MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 25, 1988

Mr. R.J. Sutherland  
Royal Bank of Canada  
5161 George Street, 13th Floor  
Halifax, Nova Scotia B3J 2Y1

Dear Mr. Sutherland:

Re: Roland Thornhill Case

You will find enclosed a letter and supporting documents which set out the fashion in which the Commission intends to deal with the Roland Thornhill matter. This material is being sent to you as recognized agent for the Royal Bank of Canada.

I would appreciate it if you would acknowledge receipt of this material.

Yours very truly,

W. Wylie Spicer  
Commission Counsel

WWS:jrc

enclosure

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

---

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July 25, 1988

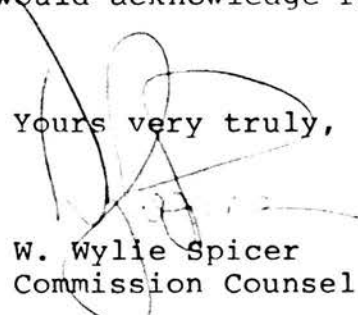
Mr. Roland J. Thornhill  
4 Fairfield Avenue  
Dartmouth, Nova Scotia

Dear Mr. Thornhill:

You will find enclosed correspondence and documents which set out the way in which the Commission will deal with the case involving yourself and the Banks.

I would appreciate it if you would acknowledge receipt of this correspondence.

Yours very truly,



W. Wylie Spicer  
Commission Counsel

WWS:jrc

enclosure

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

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THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 25, 1988

~~Mr. C.N. Collier~~  
~~Canadian Imperial Bank of Commerce~~  
~~1809 Barrington Street~~  
~~Halifax, Nova Scotia B3J 3A3~~

Dear Mr. Collier:

Re: Roland Thornhill Case

You will find enclosed a letter and supporting documents which set out the fashion in which the Commission intends to deal with the Roland Thornhill matter. This material is being sent to you as recognized agent for the Canadian Imperial Bank of Commerce.

I would appreciate it if you would acknowledge receipt of this material.

Yours very truly,

W. Wylie Spicer  
Commission Counsel

WWS:jrc

enclosure

*Returned  
not involved in  
Thornhill Case  
- J.W. - "Sandala  
Htr"*



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

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MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX  
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CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

Dear Sir:

## RE: Roland Thornhill Case

It is the intention of Commission Counsel to present evidence to the Commissioners commencing September 12, 1988 dealing with the manner in which the Attorney General's office and the Royal Canadian Mounted Police handled particular files other than the Donald Marshall, Jr. matter. Specifically, it is our intention to look at the way in which the Attorney General's office and the R.C.M.P. dealt with the recommendation of Constable House that charges be laid against the Honourable Roland Thornhill and four chartered banks for violation of Section 110 (1)(c) of the Criminal Code.

It is not our intention to ask the Commissioners to hear any evidence which is directed solely to the question whether that Section of the Criminal Code was violated by any of the parties named. Our only interest is to determine whether a different set of criteria was applied by those in authority when dealing with prominent persons. In an attempt to avoid any detailed consideration of the facts which may have supported a finding that the relevant Section of the Criminal Code was violated we have prepared an "Agreed Statement of Facts", which Statement has been approved by counsel for the Attorney General and the R.C.M.P. It would be our intention to file this Statement with the Commission, without any of the supporting documents referred to in the Statement. A copy of the Statement is enclosed for your review.

We intend to introduce evidence and documents which deal with the activity of members of the Attorney General's office and the R.C.M.P. after the report was filed by Constable House. These documents contain statements of opinion by various persons that a prima facie case did exist that the relevant Sections of the Criminal Code had been violated and that charges should have been laid. We would edit those documents to delete reference to any specific bank and would refer only to the

"banks" generically. Even though there exist public documents which identify the various banks involved, we do not intend to refer to specific banks.

We wanted to give you notice of our intention to proceed in this manner on September 12, 1988. We would be prepared to meet with you or your representatives to elaborate on any of the points set out in this letter and to answer any questions.

Yours very truly,

W. Wylie Spicer  
Commission Counsel

WWS/jc

STATEMENT OF FACTS WITH RESPECT TO THE  
"THORNHILL" CASE

I. Background

1. This case arose out of circumstances surrounding a compromise financial settlement reached by the Honourable Roland Thornhill ("Thornhill") on November 27, 1979 to settle his indebtedness to four Canadian chartered banks.
2. As of January 31, 1978 Thornhill was indebted to the four banks in the aggregate amount of \$142,576.83 all of which was unsecured. This debt had been accumulated over a number of years commencing in the early 1970's.
3. Thornhill put forth a proposal, through his accountant, on September 17, 1979 whereby he would pay 25% owing to each of the banks, providing they all accepted and, there was a forgiveness of interest accruing since January 31, 1978. The four banks confirmed their acceptance during the period September 21 to November 5, 1979.
4. Thornhill had been Minister of Development in the Provincial Government since October 5, 1978.

II. Pre-Investigation Stage - January - March, 1980

5. In February, 1980, rumours were circulating publicly regarding the Thornhill case and the RCMP met with the Attorney General, the Deputy Attorney General, et al to brief the Attorney General.
6. On March 7, 1980 the Attorney General advised the Legislature that the RCMP were not conducting an investigation in relation to any government official, the provincial government or any government agency.
7. On March 11, 1980 the Attorney General, the Deputy Attorney General and Mr. Gordon Gale met with Superintendent Christen, OIC, CIB and Inspector Blue, OIC, CCS, to discuss RCMP involvement in the Thornhill matter. Following this meeting, the Deputy Attorney General reviewed and commented upon a draft press release prepared by Supt. Christen who released a modified version stating that the Attorney General was correct in his report to the House of March 7,

1980 and advising that: "Information had been received by the RCMP concerning such matters and in mid-February inquiries were made into such information, which inquiries did not warrant the commencement of an investigation".

III. RCMP Investigation - April 10, 1980 - August 29, 1980

8. On Thursday, April 10, 1980 Chief Superintendent Feagan and Inspector McInnes met with Gordon Gale, Director Criminal, and advised him that: "we would be proceeding with an investigation to which he agreed".
9. On April 18, 1980 the Attorney General, Harry How, is reported in a news article entitled "RCMP Seeking Documentation" as follows:

"He told reporters later he is convinced Mr. Thornhill did nothing improper in the settlement with the banks and he hopes the Minister will stay in his job for a 'long time to come'.  
He said the matter of the Minister keeping his portfolio during the investigation would be up to the Premier to decide.  
Mr. How said his Department is letting the RCMP conduct the investigation.  
'We are not going to be seen as exercising any political interference with what they do'."

10. On May 7, 1980 Cpl. House filed an interim report in which he concluded:

"That there is sufficient evidence on hand to establish a prima facie case under Section 110(1)(c)C.C.

Consideration is now being given as to whether or not there is sufficient evidence to substantiate an offence by the banks or its officers. Offences that are being considered are Sec. 110(1)(b)C.C. or Conspiracy, Sec. 423 C.C."

This RCMP report was forwarded to Gordon Gale's attention on May 14, 1980.

11. On June 26, 1980 a further interim RCMP report was submitted and concluded as follows:

"Further investigation to follow.... upon completion of these inquiries an analysis of information and documentation on hand, the Crown Prosecutor will be contacted and a decision made regarding the laying of charges".

This report was forwarded to Mr. Gale's attention on June 27, 1980.

12. In early July, 1980 David Thomas, Q.C., Chief Prosecuting Officer, instructed Kevin Burke to meet with Cpl. House, Investigating Officer, to determine if charges should be laid, and then to forward his recommendations to Thomas and await further instructions.
13. On July 18, 1980 a further interim RCMP report was submitted detailing interviews with senior officers of the various banks involved and advising that:

"preliminary discussions have been held with Crown Counsel, Mr. Burke, and it is intended to have further discussions with him when he and the investigator return from holidays. A review of all information gathered to-date will be undertaken then and any further course of action decided upon".
14. On July 24, 1980 Gordon Gale contacted the RCMP and advised of his 'extreme displeasure' that the Investigating Officer, Cpl. House had met with Crown Prosecutor, Kevin Burke. The RCMP spokesperson informed Mr. Gale: "that I was not in any position to instruct our members not to see Crown Counsel bearing in mind that it is normal practice when investigations are conducted, whether they be minor or major in nature".
15. Following receipt of the RCMP report referred to in paragraph 14 herein, which was forwarded on July 23, 1980 Mr. Gale wrote to Chief Supt. Feagan to convey the Deputy Attorney General's instructions:

"that no charges were to be laid nor was any contact to be made with prosecutors concerning this matter until you had finished your investigation and forwarded a report to this Department so that the matter could then be examined and the Attorney General fully apprised of the evidence. Your investigators are to cease to have contact with the prosecutors concerning this investigation and to concentrate on getting the long awaited report in to the Department summarizing the evidence and the charges proposed based on the evidence so that it can be reviewed and then forwarded for prosecution if the evidence supports charges".

16. On September 4, 1980, Mr. Thomas, Chief Prosecuting Officer wrote to Mr. Gale "Re: Roland J. Thornhill" as follows: "As it appears this file is being monitored by yourself, it will be considered concluded here unless we receive instructions from you".
17. On August 29, 1980 a final report was submitted by the investigating officer and subsequently forwarded to Mr. Gale's attention by covering letter dated September 11, 1980. The report concluded with the following two paragraphs:

"The foregoing, read in conjunction with the attachments, outlines some of the evidence gathered to-date. This matter is a very involved and time-consuming one. On the basis of the information outlined as a result of my investigation, I would like to make the following recommendations: '1) That I have established a prima facie case of sec. 110 (1) (c) C.C. against Mr. Thornhill. Therefore, a prosecutor be appointed to take this matter before the courts; 2) That I have shown some evidence that Mr. Thornhill obtained funds by FALSE PRETENSES and I would like to further discuss this matter with a prosecutor (Sec. 320 (1)(c) C.C.) (Attachment #3). 3) That the four chartered banks involved in the settlement have violated the Criminal Code - Sec. 110(1)(c) by virtue of Sec. 21(1)(b) C.C. and consideration should be given to charging them; 4) That there is evidence that the four chartered banks, Mr. Thornhill, ... [et al]... have conspired to have Mr. Thornhill receive a benefit and should be charged with Conspiracy, Sec. 421(1)(d) C.C.

In view of the fact that this is a delicate matter as well as a very involved one, it is requested that a Crown Prosecutor be appointed in view of Mr. Gale's correspondence of 80-07-25. I would like to discuss this matter with the prosecutor to:

1. Get his advice regarding the importance of the evidence available;
2. Get his advice regarding the importance of obtaining additional evidence to support the charge(s);
3. Seek his advice on questions of law; and,
4. The procedures that will be followed in court. This is per OPS. MAN. III.6.E.4."