

CROSBY, KELIHER & BRODERICK
BARRISTERS & SOLICITORS

APR 03 1987

P. O. Box 151 - 3316 Plummer Ave.
(902) 862-6471

NEW WATERFORD, N. S.
B1H 1Y3

ROBERT M. CROSBY, B.A., LL.B.
CHARLES J. KELIHER, B.A., LL.B.
CHARLES BRODERICK, B.A., LL.B.

March 26, 1987

The Royal Commission on
Donald Marshall, Jr. Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street,
Halifax, N.S. B3J 3K5

ATTENTION: Lois Dyer

Dear Ms. Dyer:

**RE: Royal Commission on Donald Marshall, Jr., Prosecution
& Staff Sgt. James Carroll, R.C.M.P.**

I am writing on behalf of Staff Sgt. James Carroll.

I have been retained by my client on the 24th day of March, 1987. Sgt. Carroll advised that he received a letter from the Attorney General's Department regarding an appearance on April 8, 1987 in connection with the Royal Commission on the Donald Marshall, Jr. prosecution. I have advised Sgt. Carroll to inform the Attorney General's department that he would not in fact be appearing on that date until such time as we have a more clear understanding as to what exactly the purpose of that hearing will be and what, if any, liabilities may arise out of the hearing concerning Staff Sgt. Carroll's involvement in the investigation of the Donald Marshall incident.

I am aware that the Royal Commission has already decided what parties shall have full standing at the hearing and the RCMP have in fact been granted that full standing. I believe that this standing would go to Mr. James Bissell of the Dept. of Justice on behalf of the RCMP. Sgt. Carroll as well as Staff Sgt. Wheaton who were jointly involved in the investigation have both sought legal advice exclusive of the Dept. of Justice. I believe that Staff Sgt. Wheaton will be represented by Mr. Michael Ryan of the lawfirm Stewart, MacKeen & Covert in Halifax. Staff Sgt. Carroll's concern, and I feel a justifiable one, is that there will be parties involved whose interest may be to discredit any investigations done by himself in order to maintain the status quo and perhaps exonerate them from any alleged wrongdoing in the original investigation of Sandy Seal's death.

...../2

You will note, I am sure, that the people interviewed and questioned by Sgt. Carroll are the same people who were interviewed, questioned and statements taken from during the original investigation. I would suggest that it would be very difficult on your part to deny that any evidence obtained by the original parties substantiating their facts and statements would be opposed to that obtained by Sgt. Carroll in the course of his investigation. This is obvious due to the opposing statements given by parties to the different investigators. Sgt. James Carroll does in fact have the right to standing before the Royal Commission and as such standing with the solicitor or his choosing. While James Bissell may be representing the RCMP as a group, he does not in fact represent the individual interest of Sgt. Carroll.

I would appreciate a response confirming at your earliest date that Sgt. Carroll shall be granted standing with the solicitor of his choosing.

I thank you for your anticipated cooperation.

Yours very truly,

CROSBY, KELIHER & BRODERICK


Charles Broderick

CB/jla

APR 03 1987

Ruby & Edwardh
barristers

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

March 25, 1987

David Orsborn
Commission Counsel
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

Would you be good enough to obtain and give me copies of the original polygraph examination charts conducted by RCMP Corporal E.C. Smith on or about November 23, 1971?

Yours very truly,



Clayton C. Ruby

/ms

Clayton Ruby, B.A., LL.B., LL.M.
Ms. Marlys Edwardh, B.A., LL.B., LL.M.
Michael Code, B.A., LL.B.
Melvyn Green, B.A., LL.B.

SMITH, GAY, EVANS & ROSS

BARRISTERS & SOLICITORS

BRUCE W. EVANS
 (Also of the Alberta bar)
 JEREMY GAY
 E. ANTHONY ROSS, M.Eng., P.Eng.
 W. BRIAN SMITH

604 QUEEN SQUARE
 P.O. BOX 852
 DARTMOUTH, NOVA SCOTIA
 B2Y-3Z5
 Telephone
 (902) 463-8100

April 3, 1987

File #1077-01

VIA COURIER

jb

ROYAL COMMISSION ON
 DONALD MARSHALL, JR., PROSECUTION
 Suite 1026, Maritime Centre
 1505 Barrington Street
 Halifax, NS

Attention: M. Lois Dyer (Ms.) - Commission Executive Secretary

Dear Ms. Dyer:

Re: Oscar Nathaniel Seale

Standing having been granted to Oscar Nathaniel Seale on March 13, 1987, I confirmed to the Commission on March 30, 1987, my retainer by Mr. Seale.

I have had an opportunity to review a copy of your letter of March 27, 1987 addressed to Mr. Seale, and although I welcome the opportunity to meet with the Commission on Monday, April 13, 1987, I cannot help but express my view, and the view of my client, that in the absence of a guarantee of funding for the proper preparation and for meaningful participation in the hearings now scheduled to commence in May, the contribution which could be made on behalf of Mr. Seale and his family would no doubt be compromised.

The unfortunate vehicle to make a case for Indian Rights appears to be the absolute disenfranchisement of Sandy Seale when alive, and the failure to address the question of funding at an early stage so that the necessary collecting of information could be done in timely fashion now that he is dead demands immediate action. Recognizing further that with all of the failures and injustices of "the system" and attempts at correction, the one that was denied a forum throughout and with no opportunity to appeal was (and is) Sandy Seale.

Heaven knows that I find it absolutely distasteful to have to confront the unkind focus that the optics which this inquiry is likely to project, but recognizing the serious and far reaching prospects of the inquiry coupled with the high profile and high credibility of the Commissioners, the begrudged voice of the only absolute losers - the Seale family, including the memory of Sandy Seale and his place and promise, not only to his family but to the Black community in general - amid a system of general losers for having failed to properly address the circumstances of the death of Sandy Seale in 1971 and all that flowed from this failure, redress at this late date demands as an absolute minimum, a guarantee of funding, no less than is guaranteed to the solicitors for the Royal Canadian Mounted Police, the City of Sydney Police Commission, the Attorney General of Nova Scotia and the Department of the Attorney General and all present and former employees of the Department of the former Attorneys General, of Donald Marshall Jr., and Correction Services of Canada - National Parole Board (Department of Solicitor General of Canada).

So that the case for funding for Oscar Seale, can be properly dealt with as an important preliminary issue, including making a direct request to the Commission to include such funding in its own budget pursuant to its terms of reference, or in the alternative, requesting that the Commission recommend and/or direct the Management Board of the Province of Nova Scotia to move quickly to guarantee an appropriate level of funding to Oscar Seale and that the Commission, in the interest of justice, ensure that proceedings and hearings are not commenced until such time as counsel for Oscar Seale has had reasonable opportunity to be properly instructed and further, be given reasonable opportunity to prepare for these very important hearings, I ask that a special public hearing be scheduled for Friday, April 10, 1987, at the very latest.

My client and I have no doubt whatsoever that the Commission seeks the fullest participation of and cooperation from the entire Nova Scotia community. At the same time, we entertain the very genuine fear that should, for any reason, the truth relating to the circumstances of the death of Sandy Seale and the general administration of justice in this Province are not so put that the Commission can properly address these matters, the negative and far reaching effects of such failure would not only be unpardonable, but would, for the foreseeable future, be one more uncorrectible symbol, of the inequities which seem to occur with unaccountable frequency when minority groups are involved with the justice system.

Royal Commission
Page 3
April 3, 1987

I therefore request on behalf of Oscar Nathaniel Seale that the Commission convene a hearing as requested to address the fundamental problems raised herein, the solutions to which are inherently necessary for the proper presentation of evidence and participation of counsel for Oscar Seale before the Commission.

Yours very respectfully,

SMITH, GAY, EVANS & ROSS

PER: *E. Anthony Ross/lms*
E. ANTHONY ROSS

EAR/lms
cc O. Seale

Apr 03 1987

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

PURDY'S WHARF TOWER ONE
1959 UPPER WATER STREET
HALIFAX, CANADA

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JOHN D. MOORE, O.C.
DAVID A. STEWART, O.C.
DONALD H. OLIVER
DONALD H. McDOUGALL, O.C.
JOEL E. PINK, O.C.
RICHARD K. JONES
DOUGLAS J. MATHEWS
JONATHAN C.K. STOBIE
BARBARA S. PENICK
MARK E. MacDONALD
DAWN A. RUSSELL
CHARLES S. REAGH
D. GEOFFREY MACHUM
DONALD C. MURRAY
JAMES B. WOODER

J. WILLIAM E. MINGO, O.C.
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ROBERT G. GRANT
MICHAEL T. PUGSLEY
NANCY I. MURRAY
T. ARTHUR BARRY
JOHN MacL. ROGERS
RICHARD A. HIRSCH

COUNSEL
DONALD A. KERR, O.C.

CORRESPONDENCE
P.O. BOX 997
HALIFAX, CANADA B3J 2X2

TELEPHONE (902) 420-3200
TELECOPIER (902) 429-3631
TELEX 019-22593

DIRECT DIAL (902) 420-3304

OUR FILE REFERENCE:

April 1, 1987

Ms. M. Lois Dyer
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. Dyer:

Your letter of March 27th addressed to Angus MacIntyre has been forwarded to me for response. I will be acting on behalf of John F. MacIntyre and will be in attendance at the meeting on April 13th at 2:00.

Yours truly,


Ronald N. Pugsley

RNP/ps



APR 02 1987

Salmon P. Chase • Northern Kentucky University • Highland Heights, KY 41076
College of Law

March 26th, 1987.

Ms. Jean Miller,
Secretary to Chief Justice Hickman,
Royal Commission on the Donald Marshall Jr. Prosecution,
Maritime Centre, Suite 1026,
1505 Barrington Street,
Halifax, Nova Scotia B3J 3K5.

Dear Ms. Miller, Will you kindly process
the attached expenditure claim on my behalf.
It relates to my recent
meeting in Toronto on March 18th-19th with the
Chairman and Counsel to the Commission.

Yours sincerely,

John Edwards.

APR 02 1987

MCINNES COOPER & ROBERTSON

BARRISTERS & SOLICITORS

TELEPHONE AREA CODE 902
425-6500
TELEX: 019-21859
TELECOPIER: 425-6386
CABLE ADDRESS "McInnes"

Donald McInnes, Q.C.	George B. Robertson, Q.C.	Lewis A. Bell, Q.C.
Harold F. Jackson, Q.C.	Reginald A. Cluney, Q.C.	Hector McInnes, Q.C.
Harry E. Wrathall, Q.C.	John G. Cooper, Q.C.	Lawrence J. Hayes, Q.C.
Joseph A. F. Macdonald, Q.C.	George T. H. Cooper, Q.C.	John G. Cooper, Q.C.
David B. Ritcey, Q.C.	Peter J. E. McDonough, Q.C.	James E. Gould, Q.C.
David H. Reardon, Q.C.	George W. MacDonald, Q.C.	Eric Dumford, Q.C.
Robert G. Belliveau	Michael I. King	Peter McLellan
W. Wylie Spicer	F. V. W. Penick	Linda Lee Oland
John D. Stringer	Christopher C. Robinson	Harvey L. Morrison
Gregory J. Arsenault	Thomas E. Hart	Brian G. Johnston
David A. Graves	Peter M. S. Bryson	K. Sara Filbee
Marcia L. Ruitenber	Scott C. Norton	John G. Robinson
Deborah K. Smith	Fae J. Shaw	Maureen E. Reid
Karen P. Oldfield	Stephen J. Kingston	Ian C. Holloway

P.O. BOX 730
1673 BEDFORD ROW
HALIFAX, CANADA
B3J 2V1
OUR FILE: I-1816

March 31, 1987

COUNSEL:
John H. Dickey, Q.C.

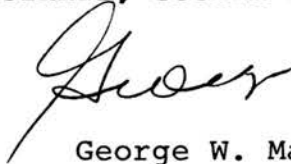
Dear Lois:

Re: Donald Marshall Inquiry

Enclosed is the account for services for Wylie, myself and our Legal Assistants during the month of March, 1987.

Yours very truly,

MCINNES, COOPER & ROBERTSON



George W. MacDonald

Ms. Lois Dyer
Commission Secretary
Royal Commission on the Donald
Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

GWMacD/fm
Encl.

APR 02 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
S. RAYMOND MORSE
DARREL I. PINK
D. SUZAN FRAZER
WENDY J. JOHNSON
ROBERT K. DICKSON
PETER M. ROGERS

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JOEL E. FICHAUD
J. MARK McCREA
ALAN C. McLEAN
WYMAN W. WEBB
GORDON N. FORSYTH
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A. DOUGLAS TUPPER
DARA L. GORDON
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EDWIN A. CAMERON

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REPLY TO TRURO OFFICE

March 31, 1987


Mr. W. Wylie Spicer
Commission Counsel
**ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION**
Maritime Centre - Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Wylie:
ROYAL COMMISSION - DONALD MARSHALL INQUIRY
Our File No.: 9201/1

Darrel is away this week and I am replying to your letter to him dated March 25.

We have made inquiries regarding the material you have described and I will be in touch with you again when I have my instructions.

Yours very truly,



Jamie W.S. Saunders

JWSS/plb

APR 02 1987

McINNES, COOPER & ROBERTSON

INTER - OFFICE MEMO

To: David Orsborn and Wylie Spicer

From: George MacDonald

Date: April 2, 1987

Re: **DONALD MARSHALL INQUIRY**

File No.: I-1816

The following is a list of the witnesses which we have tentatively assigned to each of us for the purpose of conducting examinations:

SYDNEY HEARINGS

George's Witnesses:

Roy Ebsary, Mary Ebsary, Donna Ebsary, Greg Ebsary
Robert MacLean
Patricia Harriss, Mrs. Harriss
Terry Gushue
O'Reilly Twins
Dr. Naqvi, Dr. Gaum
(Medical Expert, possibly Rollie Perry)
Chief John MacIntyre
Moe Rosenblum
Simon Khattar

David's Witnesses:

James MacNeil
Robert MacKay, Debbie MacNeil Livingstone
Sean Gentile, Matson and Doucette
Maynard Chant, Walter Chant, Bueda Chant
Chief Walsh
Constables Mroz, Dean, Ambrose MacDonald, Mallowney;
other Sydney Police
Bill Urquhart
Wayne McGee, Burke

Lou Matheson
Judge Robert Anderson

Wylie's Witnesses:

John Pratico, Mrs. Pratico, Pratico's Doctor
Rudy Poirier, Glen Lampson
Tom Christmas, Kevin Christmas, Roy Gould, Ernie Francis, Art Paul
Barbara Floyd, Sandra MacNeil, Joan Clemons, Mrs. Clemons
Gene Smith, Al Marshall, Gardiner Wardrop, Evers
Bruce Archibald

HALIFAX HEARINGS

George's Witnesses:

David Ratchford, Chris Abbass
Const. Green; Sarsons; other people spoken to by Donna Ebsary
Const. Carroll, Scott, Christian, Reid
Frank Edwards
Gordon Gale

David's Witnesses:

Brian Williston
Steve Aronson
Const. Wheaton, Vaughn, Bentley, MacGibbon, Barlow
Martin Herschorn
Leonard Pace
Harry How
Terry Donahoe
Chief Justices MacKeigan and Clarke
Felix Cacchione

Wylie's Witnesses:

Milton Veniot
Parole Officials; Correctional Services; Legal Representatives

Dan Paul
Gordon Coles
Ron Giffin
Reinhold Endres
Dana Giovannetti
Donald Marshall, Jr.

Witnesses Likely To Be Called But Not Assigned:

Oscar Seale (David)
John Edwards
Michael Harriss
Rutherford; Fienstein; Cretien; McGuigan
Compensation: MacIntosh, Campbell
Nova Scotia Police Commission
Crown Prosecutors
Defense Counsel

You will recall we attempted to estimate the time which could be required for various witnesses . From my rough notes of our assessment, it appears the witnesses assigned to me in Sydney are estimated to take 8 days; those assigned to David and Wylie, 6 days each. Considering that we assigned only one day each for Pratico and Chant and Tom Christmas and the other native witnesses, it is likely that the actual experience should result in a relatively even load being assigned to each counsel.

For the assigned names, coupled with the estimates, for the Halifax hearings we may be asking Wylie to take on an uneven burden. It appears from my calculations that David and I would have approximately 4 days each and Wylie would have 8. If, however, our assessments are correct on the time required for dealing with the compensation and reference points and Professor Edwards,

the assigning of these topics to David and me would balance out the workload in Halifax as well.

GWMacD/fm

the assigning of these topics to David and me would balance out the workload in Halifax as well.

GWMacD/fm

APR 01 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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REPLY TO HALIFAX OFFICE

March 31, 1987

BY HAND

Mr. George MacDonald
Commission Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
1505 Barrington Street, Suite 1026
Halifax, Nova Scotia

Dear Mr. MacDonald:

Marshall Inquiry

As per the instructions of Darrel Pink I enclose for your review a letter of March 24, 1987, received from D. Lewis Matheson concerning the notes of the discussion of February 20th.

Yours truly,

Catherine M. Hicks

Catherine M. Hicks
Legal Assistant for
Darrel I. Pink

CMH/cg

encl:

c.c. Mr. Jamie Saunders

APR 01 1987



D. LEWIS MATHESON, Q.C.
JUDGE

JUDGE'S CHAMBERS
P. O. BOX 404
PORT HAWKESBURY, N.S.
BOE 2V0

TELEPHONE (902) 625-2605

March 24, 1987

RECEIVED

MAR 30 1987

PATTERSON KITZ

Mr. Darrel I. Pink
Patterson Kitz
P.O. Box 247
HALIFAX, Nova Scotia
B3J 2N9

Dear Darrel :

I have your letter of March 13th, containing the notes of our discussion of February 20th with Mr. George MacDonald, as recorded by him.

On page 1, paragraph 2, my prosecutor's duties were restricted to Cape Breton County.

On page 3, paragraph 3, the call from the police came between 6:30 and 7:00.

On page 4, paragraph 4, the last sentence. I do not recall exactly what I said to yourself and Mr. MacDonald but if I left the impression which that sentence seems to imply I would like to correct it.

On the evening MacNeil came forward, it occurred to me that the defense would be very interested in what he had to say, but because of our reluctance to believe MacNeil at that point I felt it would have been irresponsible to make the information known to anyone outside the department, until it had been thoroughly investigated. After that point the decision to disclose or not was in the hands of other officers of the department and I am not aware of what further investigation may have disclosed. To say what I might have done had I had such information and the benefit of consultation is purely speculative. As I indicated earlier in the paragraph, on the basis of the information and knowledge that came to my attention while I had the matter in hand I saw no reason not to disclose the information when fully investigated.

.../2

Page 5, paragraph 3 states, "Judge Matheson was aware that polygraphs were not considered reliable from an evidentiary point of view but he considered that they should be a reliable investigatory aid." My recollection is that I said I considered that they could be a helpful investigatory aid when considered with other evidence.

As for the remainder of the notes, I think they generally reflect the outline of our discussion.

Yours truly,



D. Lewis Matheson
Judge

DLM/b11



Chateau Halifax

1990 Barrington Street, Scotia Square
Halifax, Nova Scotia B3J 1P2
Telephone (902) 425-6700 • Telex 019-22661

APR 01 1987

March 30, 1987

Ms. Lois Dyer
Suite 1026,
1505 Barrington St.,
Halifax, N.S.
B3J 3K5

Dear Ms. Dyer:

Further to your booking for April 13, 1987 I am pleased to enclose Contract #386 which outlines the space being held for upcoming function.

I trust the enclosed is in order and ask that you sign and return the white copy of the contract to my office.

Do not hesitate to contact me personally if I may be of any further assistance to you.

Sincerely yours,

Goldie Cranston
Catering Manager
CHATEAU HALIFAX

GC/cm
enc.

MAR 31 1987

STENO TRAN SERVICES INC.

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1376 KILBORN AVENUE
OTTAWA, ONTARIO
K1H 6L8
TELEPHONE: (613) 521-0703

COMMISSIONS
INQUIRIES
EXAMINATIONS FOR DISCOVERY
MEETINGS
MINUTES OF MEETINGS
PUBLIC HEARINGS
DATA PROCESSING

March 27, 1987

Royal Commission on the Donald Marshall, Jr.,
Prosecution,
Maritime Centre,
Suite 1026,
1505 Barrington Street,
Halifax, Nova Scotia.

Attention: M. Lois Dyer
Commission Executive Secretary

Dear Ms Dyer:

Re: Court Reporting Services - Royal Commission on the
Donald Marshall, Jr. Prosecution

Steno Tran Services wishes to provide you with the following information in connection with provision of court reporting services to your Commission.

1) Service

Three reporters will be required to produce the day's transcripts to be available as specified in your Fact Sheet or may be available within five hours of the conclusion of each day's sitting.

To provide eight copies of transcript to the Commission (plus two additional copies, at no extra charge, should the need arise) - \$4.00 per page.

Should the Commission sit on any given day for less than the prescribed time resulting in a reporter producing less than 50 pages on that day, the minimum fee for that reporter will be \$150.00 for that day.

Steno Tran Services shall provide C.S.R. reporters, or the equivalent, page numbers, line numbers, and shoulder notes (the top of each page indicating witness' name, type of examination and person examining).

Transcript sales to third parties shall be negotiated between Steno Tran Services and third parties and shall not interfere with the Commission.

It is understood that the hearing dates mentioned in your Fact Sheet are tentative to the end of June 1987, commencing May 12, through May 29, in Sydney, Nova Scotia, and that hearings from June 1 to June 25 will be in Sydney or Halifax, to be announced.

It is understood that Steno Tran Services shall supply all the equipment required for court reporting services. We would appreciate it if a room in close proximity to the hearing room could be provided for the production of transcripts. We would require three typing desks and three steno chairs, as well as appropriate electrical outlets.

We recommend that a sound system be provided by professional services, such as ISTS (International Simultaneous Translation Services) or Multitone, because of the various line feeds to the press, television, translation, et cetera, which might be required.

No charges will be incurred by the Commission for travelling or living expenses for the reporters assigned by Steno Tran Services.

If you require further information, please do not hesitate to contact us.

Respectfully yours,

STENO TRAN SERVICES INC.

Lynda Johansson

per:

Lynda Johansson, C.S.R., R.P.R.

LJ/sm

McINNES, COOPER & ROBERTSON

MAR 30 1987

INTER - OFFICE MEMO

To: David Orsborn
From: George MacDonald
Date: March 30, 1987
Re: **DONALD MARSHALL INQUIRY**

File No.: **I-1816**

I am enclosing extract taken from the Minute Book of the Supreme Court of Tuesday, November 2, 1971, and which lists the names of the Grand Jurors. Also listed are the other relevant notes contained in these Minutes concerning the Marshall trial.

GWMacD/fm

Att.

cc: Wylie Spicer

MAR 30 1987

SMITH, GAY, EVANS & ROSS

BARRISTERS & SOLICITORS

BRUCE W. EVANS
(Also of the Alberta bar)
JEREMY GAY
E. ANTHONY ROSS, M.Eng., P.Eng.
W. BRIAN SMITH

604 QUEEN SQUARE
P.O. BOX 852
DARTMOUTH, NOVA SCOTIA
B2Y-3Z5
Telephone
(902) 463-8100

March 30, 1987

File No. 1077-01

BY COURIER

ar

Royal Commission on the
Donald Marshall, Jr.
Prosecution
1505 Barrington Street
Suite 1026
Halifax, NS
B3J 3K5

Attention: Commission Secretary

Dear Sir/Madam:

Re: Oscar N. Seale

I confirm my telephone conference of March 16, 1987, with Ms. Dyer, at which time I confirmed to her that I have been retained by Mr. Oscar Seale to advise him and assist him in the above-captioned inquiry.

It is my understanding that upon receipt of this letter, you will forward to me copies of all information which was sent by The Commission to Mr. Seale after Thursday, March 12, 1987.

I have been supplied with a copy of Mr. Seale's letter to The Commission of February 25, 1987 (together with enclosure) and ask that if there is any other information which has been exchanged between Mr. Seale and The Commission, that you forward copies to me at your earliest convenience.

So as to avoid the delay caused by mailing material, I ask that you contact my office when any information is available so that I can arrange for pickup.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:


E. ANTHONY ROSS

EAR/cac
cc: O. Seale

MAR 30 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
A. DOUGLAS TUPPER
DARA L. GORDON
D. SUZAN FRAZER
WENDY J. JOHNSON
ROBERT K. DICKSON

DONALD J. MACDONALD, Q.C.
PAUL M. MURPHY, Q.C.
RICHARD N. RAFUSE, Q.C.
J. RONALD CREIGHTON
J. RONALD CULLEY
JOHN C. MACPHERSON
S. RAYMOND MORSE
DARREL I. PINK
BRUCE A. MARCHAND
RODNEY F. BURGAR
JANICE A. STAIRS

FRED J. DICKSON, Q.C.
DAVID R. HUBLEY, Q.C.
GERALD J. MCCONNELL
RONALD A. PINK
LOGAN E. BARNHILL
NANCY J. BATEMAN
R. MALCOLM MACLEOD
LORNE E. ROZOVSKY, Q.C.
WYMAN W. WEBB
GORDON N. FORSYTH
KIMBERLEY H. W. TURNER

JAMES C. LEEFE, Q.C.
FRANK J. POWELL, Q.C.
CLARENCE A. BECKETT
GEORGE L. WHITE
DAVID R. FEINDEL
JOEL E. FICHAUD
J. MARK MCREA
ALAN C. MACLEAN
DIANNE POTHIER
JANET M. CHISHOLM
EDWIN A. CAMERON

BANK OF MONTREAL TOWER
SUITE 1600, 5151 GEORGE STREET
P.O. BOX 247
HALIFAX, NOVA SCOTIA B3J 2N9
TELEPHONE (902) 429-5050
TELECOPIER (902) 429-5215
TELEX 019-22893

10 CHURCH STREET
P.O. BOX 1068
TRURO, NOVA SCOTIA B2N 5B9
TELEPHONE (902) 895-1631
FROM HALIFAX 429-7741
TELECOPIER (902) 893-3071

REPLY TO HALIFAX OFFICE

March 26, 1987

BY HAND

Mr. W. Wylie Spicer
Commission Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia

Dear Mr. Spicer:

Donald Marshall Inquiry

I have yours of March 25th with notes from interviews with Judge Anderson and Messrs. Veniot, Reid and Gumpert.

I have forwarded copies of the notes to each of these gentlemen. If they have any comments regarding the contents I shall advise.

Yours truly,



Darrel I. Pink

DIP/cg
c.c. Mr. Jamie Saunders

MAR 30 1987

**Sydney
Discovery
Services**

P. O. Box 542
Sydney, Nova Scotia
B1P 6H4 539-7591

March 25, 1987

Ms. M. Lois Dyer
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. Dyer:

RE: Court Reporting Services

We are submitting a proposal to provide court reporting services to the Royal Commission on the Donald Marshall, Jr., Prosecution.

It is our intent to offer our services for the Sydney hearings only and we will be in a position to accommodate your indeterminate schedule in that regard. There will be no travel charges.

Also we can provide forty-eight or twenty-four hour delivery of transcripts as required. For a five-hour hearing, it is estimated there could be approximately 250 pages of transcript produced. Therefore it is estimated that the daily cost could be:

Attendance fee, fixed at	\$ 135.00
Transcript, original copy only provided at \$3.50 per page (estimated at 250 pages per day, approximately)	\$ 875.00
Approximate daily total	<u>\$1,010.00</u>

Since we will be setting aside specific dates in May, as outlined in your letter of March 17, 1987, we would request a retainer of \$1,755.00 if we are to provide our services. This amount covers our attendance fees for 13 days booked. Otherwise our invoicing will be done on a weekly basis.

Additional copies of the transcript can be provided at a further cost of \$0.25 per page per copy. If the Commission has a restriction on who may or may not receive copies, we would appreciate being advised.

Continued...

March 25, 1987

Unfortunately, we cannot provide sound amplification with our equipment. We can, though, provide tape recording of the proceedings for purposes of transcription only. Upon reviewing the area designated at St. Andrew's United Church Hall, it is felt microphones would be placed as indicated on the attached sketch. This will facilitate clear recordings, no feed-back, making our job easier with our machines.

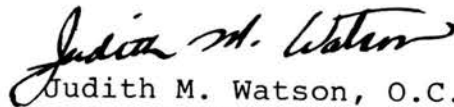
I might add that our recording systems have been previously used in the Supreme Court of Nova Scotia, Trial Division, throughout the Province in court rooms of a much larger size than the facilities which will be used in Sydney; therefore we anticipate no difficulties in voice pick-up.

If you have any inquiries whatsoever, please call. As you are aware, I personally will be out of the Country from April 10 to 28, 1987. If it is necessary to get any information during that time, don't hesitate to contact Ms. Lisa Musgrave of our offices.

Thank you for your consideration.

Sincerely,

SYDNEY DISCOVERY SERVICES



Judith M. Watson, O.C.R.
Official Court Reporter

JMW/jgr
Encl. (1)

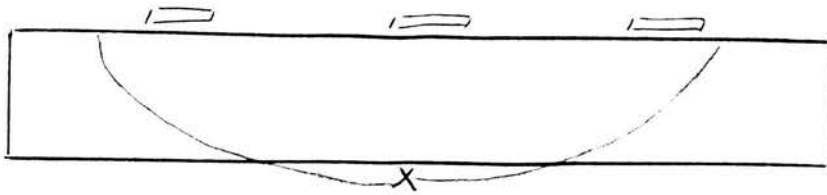


EXHIBIT TABLE

CLERK

WITNESS

COMMISSION
COUNSEL

#1 #2

#3 #4

#5 #6

#7 #8

#9 #10

#11
OBSERVER OBSERVER

sliding door

sliding door

MEDIA
TABLE

1-11 as indicated are Parties with Standing.
indicate location of microphones for recording only.; scope of microphone indicated in pencil.

Elman, Kuna & Hannem
Barristers & Solicitors

FRANK L. ELMAN, O.C.
J. MICHAEL KUNA, B.A., LL.B.
MURRAY F. HANNEM, B.A., LL.B.

321 Charlotte Street
Sydney, Nova Scotia
B1P 6G9

OUR FILE NO.: 11073/FLE

24 March 1987

M. Lois Dyer
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. Dyer:

Receipt is acknowledged of your letter of March 13, 1987.

At present Mr. Elman is out of the Country but will be back
in his office the end of this month at which time your letter
will be directed to him.

Yours very truly,



J. Michael Kuna

JMK:nml

MAR 27 1987

McINNES, COOPER & ROBERTSON

INTER - OFFICE MEMO

To: David Orsborn
From: George MacDonald
Date: March 26, 1987
Re: **DONALD MARSHALL INQUIRY**

File No.:

Re: Telephone Conversation, Angus MacIntyre

On March 25 I had a call from Gus MacIntyre to discuss the position adopted by the Attorney General respecting funding for his father's participation in this hearing. Apparently the Attorney General has advised Mr. MacIntyre that no funding would be provided by the Province and suggested he contact the City of Sydney for support.

Gus MacIntyre wanted to discuss the general topic of "fairness" and indicated he would be writing to the Commission to raise the question whether a fair hearing can be conducted for Mr. MacIntyre where the Province is paying for counsel on behalf of Donald Marshall whose objective quite likely will be to attack and place blame on others, including Mr. MacIntyre. The suggestion is that the question will be raised at the opening of the hearings if it is not dealt with prior to that time.

Obviously we will have to wait the receipt of any letter forwarded by Gus MacIntyre but I wanted to bring this to your attention and suggest we discuss it with the Commissioners when we meet in Montreal on April 9.

GWMacD/fm

cc: Wylie Spicer

McINNES, COOPER & ROBERTSON

INTER - OFFICE MEMO

MAR 27 1987

To: David Orsborn and George MacDonald

From: Wylie Spicer

Date: March 26/87

Re: Marshall Inquiry

File No.:

I have asked to see Reinhold Endres and Martin Herschorn during the week of April 13th and Leonard Pace and Harry How during the week of April 20th. I will let you know the dates as soon as I get them.

I am also going to see Dave Thomas during the week of the 13th of April.

WWS/mm

MAR 27 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
GORDON F. PROUDFOOT
CYRIL J. RANDALL
JAMES L. CONNORS
MATTHEW W. NAPIER
BRUCE V. McLAUGHLIN
DEBORAH CONRAD
DAVID G. COLES
C. GAVIN GILES

SUITE 700
BELMONT HOUSE
33 ALDERNEY DRIVE
DARTMOUTH, NOVA SCOTIA
CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 24, 1987

11135RCM

Mr. David Orsborn
c/o Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear David:

**RE: Canadian Broadcasting Corporation -
Exchange of Depositions**

We have now made available to you copies of all depositions in our possession pursuant to the arrangements we worked out earlier.

My understanding was that we could charge the Commission with all clerical and photocopying expenses. We have, however, disregarded the clerical aspect of it and are merely forwarding an invoice for photocopying expense.

Please do not hesitate to telephone should you have any concerns with respect to this matter.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

cc. Mr. Peter E. Robinson

March 24, 1987

MAR 25 1987

Ms. Lois Dyer
Royal Commission on the Donald Marshall, Jr.
Prosecution
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Ms. Dyer:

RE: COURT REPORTING & TRANSCRIPT SERVICES

We thank you for the opportunity of submitting a proposal/ quotation for the hearings as listed in your letter of March 17, 1987.

We have prepared, as attached, the per diem rate for

- (a) Staffing
- (b) Equipment

and other costs that are expected to be incurred in the supervision and performance of the task.

As you can appreciate at this juncture, we would wish to review the program with you during the middle period of the hearings for a realistic evaluation.

We are assuming that there will be separate office accommodation for our transcribers to perform their duties at St. Andrew's Church Hall.

It would appear that it would be possible to have copies of the transcripts prepared by the end of each day for forwarding to whomever you may wish to delegate for distribution, based on our proposal to have a transcript/recording staff of four persons, who will be working during the hearings and after 4:30 p.m. each day of the hearings. The first tape, therefore, will be typed from 10:30 a.m. on each day of the hearing.

Our equipment costs are based on rental prices of the appropriate machinery, backed up by our own electronic resources. We would presume that it would be sufficient for four loudspeakers

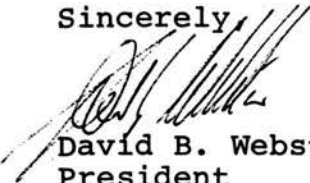
.../2

.../2 (cont'd)

for amplification purposes. We will have a technician on hand throughout the hearings.

We would be happy to discuss this matter with you at your convenience.

Sincerely,



David B. Webster
President

March 24, 1987

Proposal - Quotation

The provision of court reporting services to the Royal Commission on the Donald Marshall, Jr. prosecution.

(Tentative) May 12-15, 1987, May 19-22, 1987, May 25-29, 1987 (Sydney)
Months of June to October, 1987.

(a) Providing the following professional staff:

1. Supervisor/Manager
(Who will report to the Commission Secretary)
2. Two (2) recorders/typists
3. Two (2) typists
4. One (1) technician
5. One (1) proofreader/corrector/copier

The Supervisor/Manager will be responsible for the duties of classifications - 2 to 5 inclusive.

(b) Providing the following equipment:

1. Sixteen (16) microphones: both table and stand
2. One (1) 16 panel mixer (or 4 x 4 mixers)
3. Three or four (3 or 4) loudspeakers for public use in hall, with appropriate amplification facility
4. Two (2) recorders and appropriate tapes
5. Three (3) transcribers
6. Four (4) electric typewriters
7. One (1) Xerox machine/collator and stapler
8. Desks and chairs for staff use.

(c) Back-up equipment as required - maintenance included

(d) Back-up staff as required

.../2

.../2

- (e) Additional overhead costs shall include:
- Two (2) return air fares - Halifax to Sydney
 - Accommodation for three nights - Sydney
 - Set-up training and Commission briefing time (one day)
 - Courier and taxi services - express services as required
 - Long distance telephone calls
 - Shipment of equipment (as required) Halifax to Sydney and return

Quotation: Per diem rate:

Staff	\$695.00
Equipment	\$215.00
<hr/>	
Transcripts:	
Per original page:	\$ 1.85
Per copy:	\$.70
Overhead costs:	
Air fares and travel	\$560.00
Accommodation and meals	\$325.00
Training and briefing time	\$765.00
Courier Services:	
At cost (variable)	
Allow:	\$250.00
Long Distance Calls	
At cost (variable)	
Allow:	\$150.00
Equipment shipping charges	
At cost (variable)	
Allow:	\$350.00
Miscellaneous (unspecified)	\$250.00

Conditions and undertakings by Reco-Trans Services Ltd. (RTSL)

RTSL will provide only professional qualified personnel, to

.../3

.../3

record, transcribe and prepare documentation.

RTSL will provide the day's transcript on a 36 hour or less basis and is available to provide on a 24 hour or less basis, at no additional premium.

RTSL will prepare transcripts according to the layout and design required by the Commission and will provide the Commission with the completed tapes at the completion of each set of transcripts.

RTSL will proofread all transcripts on a regular basis.

RTSL will provide confidential transcripts of the Commission's hearings, if required, under oath, and shall ensure secrecy at all times.

Any discussions regarding the work of the recording and transcript company shall be referred to the Commission Secretary.

RTSL will invoice the Commission on a weekly basis, and will require settlement within seven (7) days of the date of the invoice.

RTSL will wish to review the arrangement after twenty-four (24) days of hearings, with Commission staff to evaluate performance and financial arrangements. As details of the latter part of the hearings are not currently known, it may be necessary to amend the proposed formula to accommodate the revised schedule.

Reco-Trans-Services Ltd.
Suite 200
1649 Barrington Street
Halifax, N. S.
B3J 1Z9

J. A. W.
Paul 24 87

MAR 25 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
GORDON F. PROUDFOOT
CYRIL J. RANDALL
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MATTHEW W. NAPIER
BRUCE V. McLAUGHLIN
DEBORAH CONRAD
DAVID G. COLES
C. GAVIN GILES

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DARTMOUTH, NOVA SCOTIA
CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 23, 1987

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

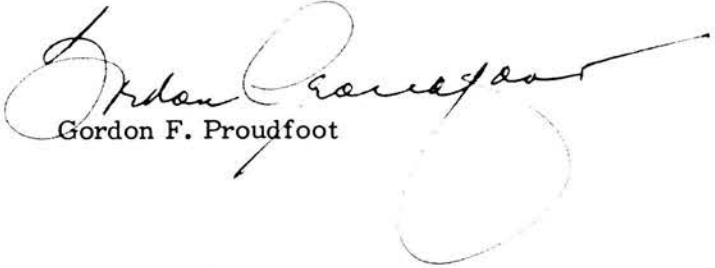
Dear *Lois* Ms. Dyer:

Thank you for your letter of March 13, 1987 confirming that the Nova Scotia Branch of the Canadian Bar Association has been granted observer status.

Please direct all further correspondence to me.

Yours sincerely,

BOYNE CLARKE


Gordon F. Proudfoot

GFP/lb

COX, DOWNIE & GOODFELLOW

BARRISTERS AND SOLICITORS

TELEPHONE (902) 421-6262
FACSIMILE (902) 421-3130
TELEX 019-22514

A. WILLIAM COX, Q.C.
W. R. E. GOODFELLOW, Q.C.
JOHN R. GRANT, Q.C.
DANIEL M. CAMPBELL
DOUGLAS C. CAMPBELL
WARREN K. ZIMMER
TERRY L. ROANE
MICHAEL E. DUNPHY
BRIAN W. DOWNIE
ALAN J. DICKSON
A. JAMES MUSGRAVE

RONALD J. DOWNIE, Q.C.
DAVID McD. MANN, Q.C.
ROBERT G. MACKEIGAN, Q.C.
JOHN ARNOLD
DANIEL F. GALLIVAN
THOMAS P. DONOVAN
ANTHONY L. CHAPMAN
J. CRAIG MCCREA
JAMIE S. CAMPBELL
LORRAINE P. LAFFERTY
LES D. DOLL

GEORGE M. MITCHELL, Q.C.
JOHN M. BARKER, Q.C.
MICHAEL S. RYAN, Q.C.
GREGORY I. NORTH
PETER W. GURNHAM
FREDERICK P. CROOKS
PAUL C. MARTIN
LESLIE J. DELLAPINNA
ROBERT W. CARMICHAEL
D. KEVIN LATIMER
K. MICHAEL TWEEL

1100 PURDY'S WHARF TOWER
1959 UPPER WATER STREET
HALIFAX, CANADA

CORRESPONDENCE
P. O. BOX 2380, STATION M
HALIFAX, NOVA SCOTIA B3J 3E5

OUR FILE:

March 20, 1987

PERSONAL & CONFIDENTIAL

Mr. W. Wylie Spicer
McInnes, Cooper & Robertson
Barristers & Solicitors
1673 Bedford Row
Halifax, Nova Scotia

Dear Wylie:

I believe that I sent you a copy of a letter that I received from Martin Herschorn concerning the matter of disclosure of statements. By way of follow up, I would like to advise that the Crown continued to refuse to produce the statements at the time the preliminary inquiry began. As you have read in the paper, the first count was dismissed and Father MacDonald discharged and the Crown then proceeded to withdraw all other charges against him. I had made a request at the preliminary for production of the statement and at the point that Judge MacEwan ordered that it be produced, the Crown asked for an adjournment and following a discussion determined that they would not proceed with the matter any further. I have to date not seen the statements, but they must be fairly damaging in terms of contradicting the witness and thereby effecting her credibility. If you would like to discuss the matter further, I would be happy to find some time to do so.

Yours truly,

COX, DOWNIE & GOODFELLOW



Warren K. Zimmer

WKZ/am

MAR 25 1987



CANADIAN UNION OF PUBLIC EMPLOYEES
SYNDICAT CANADIEN DE LA FONCTION PUBLIQUE

Atlantic Regional Office

337 Welton Street,
Sydney, N.S.
B1P 5S6

(902) 539-4933
Telex: 019-35272

March 19, 1987

Mrs. Lois Dyer
Commission Executive Secretary
Maritime Centre
Suite 1026, 1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Mrs. Dyer:

In a recent edition of the local newspaper it announced the persons or organizations who were granted status at the Commission of Inquiry of the Marshall Case.

May I inform you that at all relevant times the Canadian Union of Public Employees Local 758 represented police officers in the City of Sydney and I note that the Police Association of Nova Scotia has been granted observer status and the Canadian Union of Public Employees has not.

I am at a loss to understand on what basis the Police Association of Nova Scotia are granted an observer status as opposed to the Canadian Union of Public Employees who represent the police who are involved.

I would therefore request that the Canadian Union of Public Employees be granted observer status at the Commission Hearing.

Yours truly,

Manning McIntyre,
DIRECTOR - ATLANTIC REGION

Jeff Rose
National President
Président national

Man-Claude Laniel
National Secretary-Treasurer
Secrétaire-trésorier national
MM/vh
opeiu 491

René Doyon
Mike Dumler
Gladys Nicholson
Tom O'Leary
Mark Rodie
General Vice-Presidents
Vice-présidents généraux

MAR 24 1987

Cape Breton Hospital

P. O. BOX 515 PHONE 539-3370
SYDNEY, NOVA SCOTIA
B1P 6H4

March 18, 1987

**CAPE BRETON HOSPITAL
PRIVATE & CONFIDENTIAL**

Mr. G. Fred Horne, Investigator
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S. B3J 3K5

This report is confidential and for your
Mr. Horne's information only.
Not to be released, copied or published in
whole or in part without written consent of
the Cape Breton Hospital.

Dear Mr. Horne:

Re: John Pratico

I examined Mr. John Pratico on the morning of March 18, 1987.

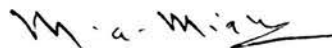
On mental status examination, his condition is well stabilized on Modecate 25 mgs I/M every three weeks. In addition to that, he is on Nozinan 75 mgs h.s. and Artane 2 mgs daily. There is no overt evidence of any psychotic manifestations of his illness. His mood and affect are appropriate.

In my opinion, he is under no stress of duress now, and he is able to give information regarding Donald Marshall, Jr.'s case without any distortion of reality, at this time.

Considering his psychiatric history, I would respectfully suggest that his cross-examination be held in camera and should not be more thirty to forty-five minutes duration.

I hope this will be helpful to you.

Sincerely,



M.A. Mian, M.D., F.R.C.P.(C)
MEDICAL DIRECTOR

/pm

MAR 24 1987

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

March 23, 1987

Mr. David B. Orsborn
Commission Counsel
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

Further to our letter of March 11, 1987, a copy of which I have attached for your reference, please find enclosed photocopies of the materials from the Cacchione, Aronson and Gass files.

If you have any questions, please feel free to contact me by telephone.

Yours very truly,



Delmar Doucette
Student-at-Law for
Marlys Edwardh

DD:jp
Encl.

MAR 24 1987

Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

March 11, 1987

David Orsborn
Commission Counsel
Royal Commission in the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

Pursuant to our telephone conversation of Tuesday, March 10, 1987, I wish to confirm with you in writing that Mr. Marshall is prepared to waive solicitor and client privilege with respect to his communications with Messrs. Cacchione, Aronson and Gass. In light of this we are forwarding to you the files which I believe contain the record of both their work and their communication with our client, Mr. Marshall. I have xeroxed these and trust that you will not have any difficulty reading them. If any difficulty should occur, please do not hesitate to contact us. In return for such a waiver, I wish to further confirm that you understand that we have not waived solicitor/client privilege in relation to Mr. Marshall's communication with Mr. Khattar and Mr. Rosenblum. As you are aware, we have yet to see any materials in their files and as yet have not had an opportunity to fully canvas any communications they may have had with Mr. Marshall. I also understand from our conversation that you agree that we have not waived the privilege pertaining to Mr. Khattar and Mr. Rosenblum in the circumstances of providing you with the files belonging to Messrs. Cacchione, Aronson and Gass.

Further, I would appreciate if you would communicate this to Mr. Spicer. I had had several conversations with him after he had served a subpoena on Anne Derrick, counsel of record in the inquiry for Mr. Marshall and we have agreed to adjourn the return of this subpoena to mid-March. I take it from our conversation as well that it is agreed that we have no obligation to appear on the adjourned return date of

Don Ruby, B.A., LL.B., LL.M.

Marlys Edwardh, B.A., LL.B., LL.M.

Michael Code, B.A., LL.B.

John Green, B.A., LL.B.

this subpoena in these circumstances.

I would further ask that you communicate to Mr. Spicer our position on privilege in relation to Mr. Khattar and Mr. Rosenblum. I understand he is about to commence interviewing our client, Mr. Marshall, and would ask that he confine his questions to areas which do not involve discussions that Mr. Marshall may have had with these gentlemen.

I hope the foregoing adequately sets out our understanding.

Sincerely yours,

Marlys Edwardh

Marlys Edwardh

ME:jp

cc: Anne Derrick

MAR 23 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
GORDON F. PROUDFOOT
CYRIL J. RANDALL
JAMES L. CONNORS
MATTHEW W. NAPIER
BRUCE V. McLAUGHLIN
DEBORAH CONRAD
DAVID G. COLES
C. GAVIN GILES

SUITE 700
BELMONT HOUSE
33 ALDERNEY DRIVE
DARTMOUTH, NOVA SCOTIA
CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 20, 1987

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3M5

Dear Wylie:


Re: CBC MacIntyre Material

Enclosed are depositions of the following individuals:

1. Roger Bill
2. Doug Grant
3. Manning MacDonald
4. Wayne Magee
5. Michael J. MacDonald
6. Michael B. MacDonald and
7. James MacNeil

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

MAR 23 1987

BOYNE CLARKE
Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
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Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

MAR 19 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
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S. RAYMOND MORSE
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EDWIN A. CAMERON

10 CHURCH STREET
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TRURO, NOVA SCOTIA B2N 5B9
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FROM HALIFAX 429-7741
TELECOPIER (902) 893-3071

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P.O. BOX 247
HALIFAX, NOVA SCOTIA B3J 2N9
TELEPHONE (902) 429-5050
TELECOPIER (902) 429-5215
TELEX 019-22893

REPLY TO TRURO OFFICE

March 17, 1987

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

Maritime Centre - Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Attention: David B. Orsborn
Commission Counsel

Dear Mr. Orsborn:

DONALD MARSHALL INQUIRY

Our File No.: 9201/1

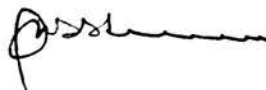
I refer to Ms. Lois Dyer's letter dated March 2, and will look forward to hearing as soon as possible the names of those parties granted standing by the Commission.

In order that arrangements for accommodations can now be made, are you able to indicate whether hearings will begin in Sydney the week of May 11, and if so, where you expect the hearings to be held? What is your best estimate for the length of time we will remain in Sydney before transferring to Halifax? Where do you expect the hearings to be convened in Halifax and for how long?

Do you anticipate that the Commission will sit Monday-Thursday, inclusive, with each Friday off?

With only seven weeks remaining, it would help us with our planning if we had your advice on these points, and I repeat my earlier suggestion that an early meeting among all counsel would be useful to discuss these and other matters of mutual concern.

Yours very truly,



Jamie W.S. Saunders

JWSS/plb

MAR 18 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
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TELEPHONE (902) 895-1631
FROM HALIFAX 429-7741
TELECOPIER (902) 893-3071

REPLY TO HALIFAX OFFICE

March 17, 1987

BY HAND

Commission Counsel
Royal Commission on the
Donald Marshall, Jr. Prosecution
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia

Attention: Mr. George MacDonald

Dear Sirs:

Donald Marshall Inquiry
Our File 9201/1

Thank you for yours of March 13 with the notes of your interview with Judge Matheson enclosed. I have sent a copy of your notes to Judge Matheson and if he has any comments, I shall communicate them to you.

In comparing your notes to mine, I note a few small discrepancies.

On page 1, in paragraph 2, my notes indicate that the responsibilities of Judge Matheson were limited to other parts of Cape Breton County and not beyond.

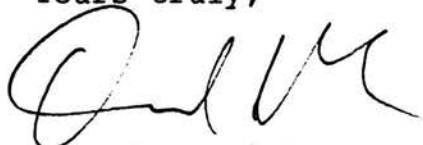
On page 3, my notes indicate that Judge Matheson said the call on the police was between 6:30 and 7:00 p.m.

On page 4, in paragraph 4, you say "Judge Matheson considers it would be appropriate and important to make the fact of this subsequent statement and the investigation known to the defence at the conclusion of the investigation". My notes do not reflect this statement.

Commission Counsel
March 17, 1987
Page 2

When I hear from Judge Matheson, I shall be in touch with you.

Yours truly,

A handwritten signature in black ink, appearing to read 'Darrel I. Pink', written in a cursive style.

Darrel I. Pink
DIP/sw

cc. His Honour Judge D. Lewis Matheson
Mr. Jamie W.S. Saunders

MAR 18 1987

COURIER

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

March 16, 1987

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

Attention: David Orsborn
Commission Counsel

Dear Mr. Orsborn:

Thank you for your letter of March 10, 1987.

Your initial scheduled interview with Mr. Marshall was not cancelled; we asked to be given copies of Mr. Marshall's testimony at the Ebsary trials prior to your conversations with Mr. Marshall.

The reason is simple. We have a copy of Mr. Marshall's evidence at the first Ebsary trial but not of his evidence at the preliminary hearing nor at the subsequent trials. Before he speaks with you we quite naturally want to have an opportunity to speak with him ourselves about this subject.

As soon as we have had that opportunity, we are quite willing to permit you to interview Mr. Marshall in accordance with the correspondence between us.

Nothing could be further from my mind than an "exchange of access to Commission documentation for access to interview any witnesses." I expect that any or all material in your hands touching and concerning the issues raised at the Commission will be made available to Mr. Marshall to use as he sees fit.

If you are not going to obtain the transcripts I refer to, then please let me know at once so that I may order them from the Court reporter. I had assumed that

Ruby & Edwardh

you already had them, as I would think that they would be relevant and have significance. I have a copy of the Wheaton statement. There is no point in wasting money on duplication if we can avoid it.

It may be that for reasons I don't understand, you want to keep that material out of our hands until some later date. If so, I am sure there are good reasons which do not, at the moment, leap to my mind. But I think it would be useful for you to have an opportunity to speak to Mr. Marshall and I am still hopeful we can arrange such a meeting as soon as I have had an opportunity to read the transcripts referred to above and discuss them with my client.

Yours very truly,



Clayton C. Ruby

/ms



OFFICE OF THE PRESIDENT, NOVA SCOTIA BRANCH
CABINET DU PRÉSIDENT, DIVISION PROVINCIALE DE LA NOUVELLE-ÉCOSSE

MAR 18 1987

P. O. Box 876
Dartmouth, N.S.
B2Y 3Z5

(902) 469-9500

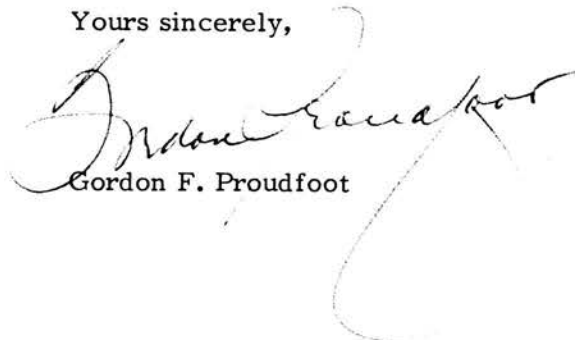
March 16, 1987

Lois Dyer
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. Dyer:

Our Executive has met and we have been instructed to meet with Chief Justice Hickman to discuss our presentation as was suggested by His Lordship. I look forward to hearing from you.

Yours sincerely,



Gordon F. Proudfoot

GFP/mf

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 364-9664

March 11, 1987

David Orsborn
Commission Counsel
Royal Commission in the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

Pursuant to our telephone conversation of Tuesday, March 10, 1987, I wish to confirm with you in writing that Mr. Marshall is prepared to waive solicitor and client privilege with respect to his communications with Messrs. Cacchione, Aronson and Gass. In light of this we are forwarding to you the files which I believe contain the record of both their work and their communication with our client, Mr. Marshall. I have xeroxed these and trust that you will not have any difficulty reading them. If any difficulty should occur, please do not hesitate to contact us. In return for such a waiver, I wish to further confirm that you understand that we have not waived solicitor/client privilege in relation to Mr. Marshall's communication with Mr. Khattar and Mr. Rosenblum. As you are aware, we have yet to see any materials in their files and as yet have not had an opportunity to fully canvas any communications they may have had with Mr. Marshall. I also understand from our conversation that you agree that we have not waived the privilege pertaining to Mr. Khattar and Mr. Rosenblum in the circumstances of providing you with the files belonging to Messrs. Cacchione, Aronson and Gass.

Further, I would appreciate if you would communicate this to Mr. Spicer. I had had several conversations with him after he had served a subpoena on Anne Derrick, counsel of record in the inquiry for Mr. Marshall and we have agreed to adjourn the return of this subpoena to mid-March. I take it from our conversation as well that it is agreed that we have no obligation to appear on the adjourned return date of

on Ruby, B.A., LL.B., LL.M.
Marlys Edwardh, B.A., LL.B., LL.M.
el Code, B.A., LL.B.
n Green, B.A., LL.B.

this subpoena in these circumstances.

I would further ask that you communicate to Mr. Spicer our position on privilege in relation to Mr. Khattar and Mr. Rosenblum. I understand he is about to commence interviewing our client, Mr. Marshall, and would ask that he confine his questions to areas which do not involve discussions that Mr. Marshall may have had with these gentlemen.

I hope the foregoing adequately sets out our understanding.

Sincerely yours,

A handwritten signature in cursive script that reads "Marlys Edwardh" followed by a flourish.

Marlys Edwardh

ME:jp

cc: Anne Derrick

MAR 17 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
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TELEX 019-22893

REPLY TO TRURO OFFICE

March 13, 1987

Mr. David Orsborn
Commission Counsel
**ROYAL COMMISSION ON THE DONALD MARSHALL, JR.,
PROSECUTION**
Maritime Centre - Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

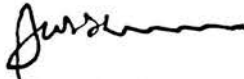
DONALD MARSHALL INQUIRY
Our File No.: 9201/1

Thank you for your letter dated March 11.

My instructions are that no Minutes were ever taken of regular meetings held between the R.C.M.P. and members of the Department of Attorney General. I do not know whether the R.C.M.P. kept any record of such meetings and I suggest you inquire of Mr. Bissell.

I appreciate your confirmation that copies of the transcripts from the C.B.C. litigation will most likely be provided to us.

Yours very truly,



Jamie W.S. Saunders

JWSS/plb

MAR 16 1987

March 9, 1987

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

David Orsborn
Commission Counsel
Royal Commission in the Donald Marshall, Jr.,
Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

Would you be good enough to forward to me any written material including notes of interviews or conversations with Leo McIntyre, now a Provincial Court Judge in Nova Scotia. I am particularly interested in any notes or questions that might have been put to him in 1971 when it appeared that Mr. Ebsary and Mr. McNeil were at least being considered in connection with the death of Mr. Seale. If you yourself have interviewed him I would appreciate a copy of that interview and literally anything else that he may have said or done in connection with this matter.

Yours very truly,



Clayton C. Ruby

/ms

MAR 13 1987

BOYNE CLARKE
Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
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P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 13, 1987

VIA COURIER

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

RE: CBC MacINTYRE MATERIAL

I am enclosing the deposition of William A. Urquhart
as promised.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
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B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 12, 1987

11135RCM

VIA COURIER

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

RE: CBC-MacIntyre Material

I write to enclose the Deposition of Parker Barss Donham.

Yours truly,

BOYNE CLARKE

D MacDougall
for Robert Murrant

RM*dm

Enc.

REV. THOMAS G. WHEAT, B.A., B.D.
 PHONES: MANSE - 562-4905
 STUDY - 564-4810

THE UNITED CHURCH OF CANADA
Saint Andrew's Church
 SYDNEY, NOVA SCOTIA

MAILING ADDRESS:
 P. O. BOX 937
 SYDNEY, N. S. B1P 6J4
 PHONE 564-4810

March 10, 1987

Ms. Lois Dwyer
 Royal Commission on the Donald Marshall Jr. Prosecution
 Maritime Centre,
 Suite 1026
 1505 Barrington St.
 Halifax, N.S. B3J 3K5

Dear Lois:

This is to confirm our agreement regarding the rental of St. Andrew's Church Hall for the Marshall Commission for May 11 - June 5. We will provide the Lower Hall space, including 4 additional rooms on the same level, plus the Board Room on the floor above for the agreed price of \$3,500.00. We will also supply a platform for desk area being used by the three commissioners. All electrical outlets will be changed to accommodate three prong plugs. No smoking signs will be posted throughout the Lower Hall.

The matter of the canteen services is being referred to other groups in the church. Hopefully we will have an answer soon and will advise you when more information is available.

Sincerely,

Ed Mann

Ed Mann
 Chairman,
 Hall Committee





OFFICE OF THE PRESIDENT, NOVA SCOTIA BRANCH
CABINET DU PRÉSIDENT, DIVISION PROVINCIALE DE LA NOUVELLE-ÉCOSSE

MAR 10 1987

P. O. Box 876
Dartmouth, N.S.
B2Y 3Z5

(902) 469-9500

March 10, 1987

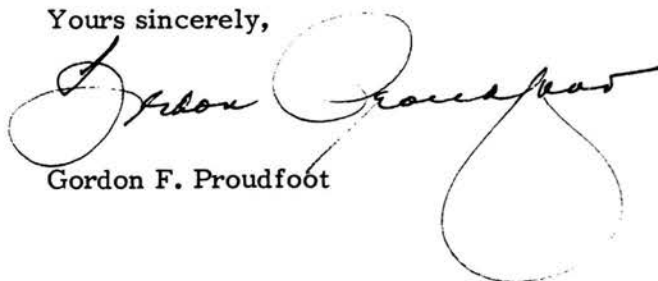
Lois Dyer
Commission Executive Secretary
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Ms. Dyer:

This is to confirm that the Nova Scotia Branch of the Canadian Bar Association is interested in making a submission to the Royal Commission as was discussed with Bryan Williams, Q.C.

Our Branch Executive will be meeting tomorrow to finalize our participation in this regard.

Yours sincerely,



Gordon F. Proudfoot

GFP/mf

MAR 11 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
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B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 9, 1987

REGISTERED MAIL

Mr. W. Wylie Spicer
Commission Counsel
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Wylie:

I have been away from the office for a few weeks and I now have your letter of February 27, 1987.

Let me take this up with the source. You should know that to the best of my recollection, this is one of the CBC protected sources.

Sincerely,

BOYNE CLARKE


Gordon F. Proudfoot

GFP/pi

BOYNE CLARKE
Barristers & Solicitors

MAR 06 1987

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
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TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 6, 1987

VIA COURIER

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

Re: CBC MacIntyre Material

I am enclosing the following:

1. Depositions of John F. MacIntyre, Kevin Bernard Christmas and Michael Terry Harris;
2. Deposition of Patricia Harris;
3. Deposition of Maynard Chant;
4. Deposition of John Pratico.

We are having difficulty locating the deposition of William Urquhart. You may want to speak with me on the telephone regarding this.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

MAR 09 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
GORDON F. PROUDFOOT
CYRIL J. RANDALL
JAMES L. CONNORS
MATTHEW W. NAPIER
BRUCE V. McLAUGHLIN
• DEBORAH CONRAD
• DAVID G. COLES
C. GAVIN GILES

SUITE 700
BELMONT HOUSE
33 ALDERNEY DRIVE
DARTMOUTH, NOVA SCOTIA
CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 6, 1987

VIA COURIER

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

Re: CBC MacIntyre Material

I enclose the deposition of Heather Matheson.

I have deleted Pages 25, 26 and 27.

Quite apart from the issues of privilege and relevance (which the Corporation would insist apply) I can give you my personal assurance that the deleted information would in no way advance the interests of the Commission.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

cc. Mr. Peter Robinson

SUPREME COURT OF NOVA SCOTIA
MR. JUSTICE HALLETT
TRIAL DIVISION



MAR 12 1987
THE LAW COURTS
P.O. BOX 2314
HALIFAX, NOVA SCOTIA
B3J 3C8

March 6, 1987.

PERSONAL AND CONFIDENTIAL

W. Wylie Spicer, Esq.,
Royal Commission on the Donald Marshall, Jr.,
Prosecution,
Maritime Centre,
Suite 1026,
1505 Barrington Street,
Halifax, Nova Scotia,
B3J 3K5.

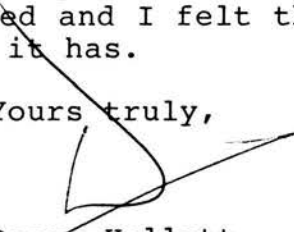
Dear Mr. Spicer:

I have been advised by my secretary that Mr. Murrant called and said the matter at issue between the Commission and the CBC has been resolved.

I did not mention it at the pre-hearing conference we had but I rather doubt if you should be applying to the Supreme Court for an order to compel production of documents as the Commission has this power under Section 4 of the Public Inquiries Act. The Commission can enforce its own orders as the commissioners have the same power as a Supreme Court judge with respect to enforcing the attendance of persons as witnesses and to compel them to give evidence and produce documents.

There may be some reason why you feel the Commission is not in a position to do this but I thought I would bring it to your attention in case you were contemplating any further applications to the Court. I did not raise this point at the pre-hearing conference because, although it had occurred to me, I had not thought it through and, secondly, there seemed merit in your obtaining copies of the transcripts you requested and I felt the matter might get resolved, as in fact it has.

Yours truly,


Doane Hallett,
Justice.

MAR 11 1987

MicroAge[®]
COMPUTER STORES
"The Solution Store"[®]

March 6, 1987

Royal Commission into the Donald
Marshall Prosecution
1505 Barrington St., Suite 1060
Maritime Center
Halifax, N. S.
B3J 3K5

Attention: C. Dennis

Dear Mr. Dennis:

We are enclosing three copies of Service Contract #100176 covering your recent hardware purchase, as well as a copy of our Terms of Agreement. Please sign and return two copies of the contract and keep one copy for your files.

Yours truly,

Tannis Oickle

(Mrs.) Tannis Oickle

encls.

MAR 06 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
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P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 5, 1987

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

Re: CBC MacIntyre Material

This is simply a note to confirm our telephone conversation on Thursday morning.

I understand that the Commission is satisfied with respect to receiving the depositions only (as earlier discussed).

These in fact are being prepared.

I have confirmed to Mr. Justice Hallett's secretary that the matter has been settled and that we will not be appearing.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Château Laurier

CN Hotels
Hôtels CN

Vancouver
 Jasper
 Edmonton
 Toronto
 Ottawa
 Montréal
 Moncton
 St. John's

Hotel Vancouver
Jasper Park Lodge
Hotel Macdonald (1987)
L'Hôtel
CN Tower La Tour CN
Château Laurier
Le Reine Elizabeth
The Queen Elizabeth
Hotel Beauséjour
Hotel Newfoundland

MAR 11 1987

March 4th, 1987

Ms. Jean Miller
The Royal Commission on the Donald
Marshall Junior Prosecution
Maritime Center
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Ms. Miller,

As requested please find enclosed invoice # 10734 for
Mr. David B. Orsborn during his stay with us on January 13th,
1987.

If you require further information, please do not hesitate
to contact the undersigned.

Sincerely,



Aline Leblanc
Credit Department

AL



MAR 09 1987

1657 Barrington Street
Suite 521
Halifax, Nova Scotia
B3J 2A1

March 5, 1987

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

Dear Ms. Dyer:

The attached letter was mailed to you on January 28th and returned to me on March 2nd. The Post Office had marked "Unknown" on the envelope.

I called your office this morning to confirm the address and was advised that you had experienced some problems with your mail delivery, and to forward it again to the same address.

Trusting you will receive this letter,

Yours truly,

A handwritten signature in cursive script, appearing to read "B. Taylor", with a long horizontal line extending to the right.

Brenda E. Taylor

MAR 09 1987

1657 Barrington Street
Suite 521
Halifax, Nova Scotia
B3J 2A1

January 27, 1987

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

Dear Ms. Dyer:

Thank you for your letter of 22 January in which you state that my services are not required by the Commission.

Please convey my thanks to The Honourable Mr. Justice Hickman and to Mr. David Orsborn for the time they have taken to consider my application.

May I also take this opportunity to wish you and the members of the Commission the very best in all of your important deliberations.

Yours truly,



Brenda E. Taylor

MAR 09 1987

BOYNE CLARKE
Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
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DARTMOUTH, NOVA SCOTIA
CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 6, 1987

VIA COURIER

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

Re: CBC MacIntyre Material

I am enclosing Volumes I through V of the Judicial Record.

Yours truly,

BOYNE CLARKE

D. MacDougall
for / Robert Murrant

RM*dm

Enc.

MAR 09 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
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B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 6, 1987

VIA COURIER

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

Re: CBC MacIntyre Material

I enclose the deposition of Heather Matheson.

I have deleted Pages 25, 26 and 27.

Quite apart from the issues of privilege and relevance (which the Corporation would insist apply) I can give you my personal assurance that the deleted information would in no way advance the interests of the Commission.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

cc. Mr. Peter Robinson

MAR 06 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
A. DOUGLAS TUPPER
DARA L. GORDON
D. SUZAN FRAZER
WENDY J. JOHNSON
ROBERT K. DICKSON

DONALD J. MACDONALD, Q.C.
PAUL M. MURPHY, Q.C.
RICHARD N. RAFUSE, Q.C.
J. RONALD CREIGHTON
J. RONALD CULLEY
JOHN C. MACPHERSON
S. RAYMOND MORSE
DARREL I. PINK
BRUCE A. MARCHAND
RODNEY F. BURGAR
JANICE A. STAIRS

FRED J. DICKSON, Q.C.
DAVID R. HUBLEY, Q.C.
GERALD J. MCCONNELL
RONALD A. PINK
LOGAN E. BARNHILL
NANCY J. BATEMAN
R. MALCOLM MACLEOD
LORNE E. ROZOVSKY, Q.C.
WYMAN W. WEBB
GORDON N. FORSYTH
KIMBERLEY H. W. TURNER

JAMES C. LEEFE, Q.C.
FRANK J. POWELL, Q.C.
CLARENCE A. BECKETT
GEORGE L. WHITE
DAVID R. FEINDEL
JOEL E. FICHAUD
J. MARK MCREA
ALAN C. MACLEAN
DIANNE POTHIER
JANET M. CHISHOLM
EDWIN A. CAMERON

BANK OF MONTREAL TOWER
SUITE 1600, 5151 GEORGE STREET
P.O. BOX 247
HALIFAX, NOVA SCOTIA B3J 2N9
TELEPHONE (902) 429-5050
TELECOPIER (902) 429-5215
TELEX 019-22893

10 CHURCH STREET
P.O. BOX 1068
TRURO, NOVA SCOTIA B2N 5B9
TELEPHONE (902) 895-1631
FROM HALIFAX 429-7741
TELECOPIER (902) 893-3071

REPLY TO HALIFAX OFFICE

March 6, 1987

BY HAND

Mr. David B. Orsborn
Commission Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia

Dear Mr. Orsborn:

Marshall Inquiry

For the Commission's information I am enclosing copies of the documents which indicate disposal of records in the Attorney General's Office from the years 1971 and 1972.

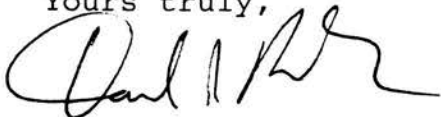
In the office matters were stored by County under a file entitled "Criminal and Penal Matters". A separate file was maintained for each individual County.

The file for Cape Breton for 1971 was sent to storage and received at the records centre on April 15, 1975. It was stored in Box 77B35. At that time the total period for retention was seven years and accordingly, pursuant to instructions dated January 16, 1979, that box was destroyed. A copy of that authorization is also enclosed.

Mr. David B. Orsborn
March 6, 1987
Page 2

If the Marshall file was stored in the 1972 material, it was sent to the record centre on March 5, 1976 and stored in Box 20B35. Again the total retention period was seven years and accordingly, by authorization dated January 15, 1980, that box was destroyed. A copy of that authorization is also enclosed.

Yours truly,

A handwritten signature in cursive, appearing to read "Darrel I. Pink".

Darrel I. Pink

DIP/cg
encl:
c.c. Mr. Jamie Saunders

MAR 06 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
W. RICHEY CLARKE
A. LAWRENCE GRAHAM
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SUITE 700
BELMONT HOUSE
33 ALDERNEY DRIVE
DARTMOUTH, NOVA SCOTIA
CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 5, 1987

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

Re: CBC MacIntyre Material

This is simply a note to confirm our telephone conversation on Thursday morning.

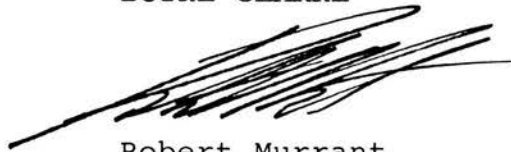
I understand that the Commission is satisfied with respect to receiving the depositions only (as earlier discussed).

These in fact are being prepared.

I have confirmed to Mr. Justice Hallett's secretary that the matter has been settled and that we will not be appearing.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

MAR 05 1987



Post Office Box 1557
Halifax
Nova Scotia
B3J 2Y3

Executive Director
J.W. (Joe) Ross
1154 Rockcliffe Street
Halifax
Nova Scotia
Office: 902 423-7477
Home: 902 429-0343

President
Cst. James Griffin
Halifax

First Vice-President
Sgt. Harold Thurrott
Truro

Second Vice-President
Cpl. Bob Kennedy
Dartmouth

Secretary/Treasurer
Cst. Roy Landry
Halifax

Solicitor
Bruce Evans

Member:
Canadian Police
Association and the
International Union
of Police Associations

March 4, 1987

Mr. David Orsborn
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

RE: STANDING - ROYAL COMMISSION ON THE DONALD MARSHALL, JR.
PROSECUTION

I acknowledge receipt of your letter dated February 25, 1987.

The Police Association of Nova Scotia is requesting standing at the Royal Commission Inquiry into the prosecution of Donald Marshall, Jr. The Police Association of Nova Scotia currently represents 75% of the police officers within the Province of Nova Scotia. Under the Order in Council dated October 28, 1986 the commission will inquire into and may make recommendations respecting the investigation of the death of Sanford William Seal. We are concerned with recommendations that the commission may make in regards to the manner in which police officers in general may conduct their investigations. We feel it is our responsibility to represent our organization and members and protect their interests in this regard.

We would not require full standing as we do not see any need for the right to cross examine witnesses. We would request the right to be present during those portions of the inquiry that may require representation on behalf of our members and the right to make oral or written submissions to the commission.

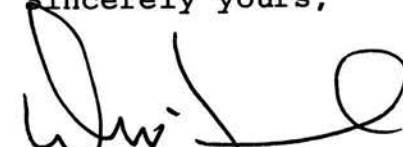
Mr. David Orsborn

2

March 4, 1987

I hope this letter adequately outlines our concerns. I look forward to hearing from you in the near future.

Sincerely yours,



David W. Fisher
Solicitor, PANS

DWF/brb

pc: Mr. Joseph Ross

MAR 04 1987

BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

Flora I. Buchan, B.A., LL.B.
Anne S. Derrick, B.A.(Hons.), LL.B.
Dawna J. Ring, B.A. (Hons.), LL.B.

1545 Grafton Street
Halifax, Nova Scotia
B3J 2B9
(902) 422-7411

March 2, 1987

Royal Commission of Donald
Marshall, Jr., Prosecution
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia
B3J 3K5

Attention: Commission Secretary
Lois Dyer

Dear Ms. Dyer:

Re: Application for Standing - Donald Marshall, Jr.,

Please regard this letter as the Application by Donald Marshall, Jr., for standing to be heard by the Royal Commission on the Donald Marshall, Jr., Prosecution.

Mr. Marshall, Jr., is represented by Clayton Ruby of Ruby and Edwardh in Toronto and me. For the purposes of the standing application, the Commission may use my address and telephone number for Mr. Marshall. Mr. Ruby's address and telephone number is as follows:

Ruby and Edwardh
11 Prince Arthur Street
Toronto, Ontario
M5R 1B2 (416) 964-9664

Mr. Marshall, Jr.,'s reasons for applying for standing before the Commission are that he has a material interest in the Inquiry as the individual wrongfully convicted for the second degree murder of Sandford William Seale in May, 1971, and sentenced to life imprisonment. Mr. Marshall professed his innocence throughout his long incarceration and made an application to the Nova Scotia Court of Appeal in 1981 for the hearing of fresh evidence. The Nova Scotia Court of Appeal granted Mr. Marshall, Jr.,'s application for hearing fresh evidence and on the basis of that evidence acquitted Mr. Marshall of the murder. The fresh evidence before the Nova Scotia Court of Appeal included sworn testimony from previous witnesses acknowledging that they had lied under oath at Mr. Marshall, Jr.,'s original trial resulting in his conviction.

Mr. Marshall eventually received compensation from the Nova Scotia Provincial Government. Mr. Roy Ebsery was eventually convicted of manslaughter for Sandy Seale's death.

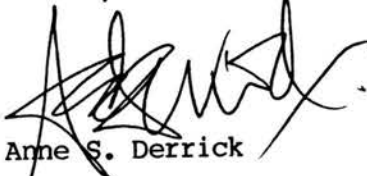
Mr. Marshall has a material interest in all aspects of the Inquiry by the Commission into his wrongful conviction including the investigation of the death of Sanford William Seale on the 28th to 29th day of May, 1971, the charging and prosecution of himself with that death, the subsequent conviction and sentencing of himself for the non-capital murder of Sanford William Seale for which he was subsequently found not guilty and such other related matters which the Commissioners consider relevant to the Inquiry.

I trust that if the Commission requires any additional detail with respect to Mr. Marshall, Jr.,'s Application for Standing you will not hesitate to get in touch with me.

Thank you for your kind attention to this.

Yours sincerely,

BUCHAN, DERRICK & RING



Anne S. Derrick

ASD/dlp

cc: Donald Marshall Jr.,
Clayton Ruby

Marshall/
Commission
ASD#3A

MAR 05 1987

BOYNE CLARKE

Barristers & Solicitors

JOHN A. YOUNG, Q.C.
THOMAS O. BOYNE
ROBERT MURRANT
DAVID J. BRIGHT
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SUITE 700
BELMONT HOUSE
33 ALDERNEY DRIVE
DARTMOUTH, NOVA SCOTIA
CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

March 4, 1987

WITHOUT PREJUDICE

VIA COURIER

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

RE: CBC File Material

I write in furtherance of our discussion at the Law Courts yesterday. I understand that this matter is resolvable by us providing to you copies of all discovery depositions in our possession which copies shall not contain marginal notes or annotations.

I looked at the prospects of turning certain of them over to you to be copied but have now concluded, looking at some of the material, that it should be done here under my scrutiny. We are proceeding accordingly.

Undoubtedly you and I will speak on the telephone concerning this prior to your receipt of this correspondence. In any event, we are regarding the matter as settled.

My client is naturally concerned that this matter may arise again. Regrettably, the course of proceedings

...../2

to date has been somewhat unsettling. At the outset, yourself and Mr. Osborne had requested an opportunity to review the file material in detail and instructions were sought on this matter. When instructions were received, the demand of the Commission had altered somewhat. In addition, the demands were modified completely only hours before the pre-hearing conference with Mr. Justice Hallett in a letter I did not have time to study (because of an important meeting) before this meeting. Even at the meeting, the reference to "documents" was deleted leaving depositions only as a basis of resolving the matter.

Had this been the initial request, the matter would have been resolved initially through some minor scrutiny and photocopying as opposed to an exercise which would have given grave concerns to the Corporation, i.e. a blanket subpoena and subsequent Court application for **all** file material.

We wish to express our regret that the matter has proceeded as outlined above but, nevertheless, our satisfaction that the matter has been resolved.

Yours truly,

BOYNE CLARKE

A handwritten signature in black ink, appearing to read 'Robert Murrant', written over a horizontal line.

Robert Murrant

RM*dm

7th floor, 14 Carlton Street
Toronto, Ontario M5B 1J2
Telephone (416) 595-1065

A
S
C
O
L

ANGUS STONEHOUSE & COMPANY LTD.

March 2, 1987

Royal Commission on Donald Marshall
Junior Prosecution,
The Maritimes Centre,
Suite 1026,
1505 Barrington Street,
Halifax, Ontario,
B3J 3K5

Attention : Ms. Lois Dyer

Dear Ms. Dyer,

This is with regard to our telephone conversation of today's date.

Angus, Stonehouse is one of the older established freelance court reporting companies in the City of Toronto. We have been in existence for forty years.

We have been the official court reporters for a large number of royal commissions:

The Mississauga Train Derailment; Aviation Safety Commission; Sich Children's Inquiry; Estey Commission; War Criminals and much, much more. References can be readily obtained if they are needed.

We have currently thirty court reporters associated with us, all of whom are certified shorthand reporters with diplomas from registered schools in North America. Our court reporters are able to read back portions of the hearing at a moments notice because we do not use stenomask or monitors.

A diskette of the hearing can also be provided if required.

We look forward to receiving your tender.

Yours very truly,



BARBARA BELSITO, C.S.R.

MAR 04 1987

Margaret E. Graham Discovery Service

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

PHONE: 469-5734

March 2, 1987

Ms. Lois Dyer
Suite 1026, Maritime Ctr.
1505 Barrington St.
Halifax, N.S.
B3J 3K5

Dear Ms. Dyer:

Re: Donald Marshall Inquiry

Further to our recent conversations, I understand that the hearings in the Marshall case will begin in Sydney on May 12 and will proceed thereafter on an approximate four-day schedule at regular sitting times.

I further understand that the hearings will move to Halifax some time in June and may proceed during July or August and will definitely go on in September and at least part of October.

You mentioned that you would like to have a court reporter present to record the proceedings and provide at least eight copies of a transcript within 48 hours.

I understand the above information is subject to change and of course any changes may affect the quote. (For example, if there were longer sitting times, a 48-hour turnaround time from Sydney may be harder to meet because of courier deadlines.)

Bearing the above in mind, I am prepared to provide a court reporter for the duration of the hearing both in Sydney and in Halifax and to give you 8 or more copies of the transcript within 48 hours at the following rates:

Attendance fee: \$125/day (max. 5 hrs.)

Overtime: 1 1/2 times the hourly rate - \$37.50/hr.

Transcription fee:

\$3.00/ first copy

\$.50/ additional copies

For Sydney, the fees will remain the same as above except:

- travelling and living expenses for one court reporter for duration of Sydney hearing;
- courier fee of \$40/day for transmittal of tapes and transcript back and forth between Sydney and Halifax.

Should you have any questions about any of the above information, please call. References attached.

Yours very truly,

MARGARET E. GRAHAM
DISCOVERY SERVICE



Margaret E. Graham

Encl.

As references for this particular case, I would submit the following names:

1. Mr. E.G. Flinn, Q.C.
MacInnes, Wilson, Flinn & Wickwire
2100-1801 Hollis St.
Halifax, N.S.
B3J 2X6

Ph. 429-4111

Re: N.S.S.L. v. Exco

2. Mr. George MacDonald, Q.C.
McInnes, Cooper & Robertson
P.O. Box 730
Halifax, N.S.
B3J 2V1

Ph. 425-6500

Re: Palmer et al. v. N.S.F.I.

BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

Flora I. Buchan, B.A., LL.B.

Anne S. Derrick, B.A.(Hons.), LL.B.

Dawna J. Ring, B.A. (Hons.), LL.B.

MAR 04 1987

1545 Grafton Street
Halifax, Nova Scotia
B3J 2B9
(902) 422-7411

March 2, 1987

Mr. George W. MacDonald
Royal Commission on the
Donald Marshall Jr. Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.
B3J 3K5

Dear Mr. MacDonald:

I am writing with respect to a letter dated February 25th, 1987 from you to Mr. Ruby, a copy of which you sent me. In it you refer to a letter I wrote to Mr. Khattar and a discussion you subsequently had with him.

I wish to make it absolutely clear that in writing to Mr. Khattar I did not mean to imply that he should have any cause for concern with respect to the approach by Commission Counsel to this case. Naturally Mr. Marshall has elected to require that his former counsel maintain solicitor/client privilege until his present counsel have had a better opportunity to review any matters that might be privileged. I am sure that as an experienced litigator you fully understand his asserting this position at this time.

I have written to Mr. Khattar directly to clarify my letter to him of February 3rd but I wanted you to understand as well that my letter was not to be construed as Commission Counsel being anything other than entirely neutral with respect to the inquiry.

It would appear that Mr. Ruby will be resolving this question of solicitor/client privilege with you directly.

Thank you for your kind attention to this letter.

Yours sincerely,

BUCHAN, DERRICK & RING



Anne S. Derrick

ASD/raj
c.c. C. Ruby

Marshall/MacDonald

BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

MAR 04 1987

Flora I. Buchan, B.A., LL.B.

Anne S. Derrick, B.A.(Hons.), LL.B.

Dawna J. Ring, B.A. (Hons.), LL.B.

1545 Grafton Street
Halifax, Nova Scotia
B3J 2B9
(902) 422-7411

March 2, 1987

Mr. Wylie Spicer
c/o Royal Commission on the
Donald Marshall Junior Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.
B3J 3K5

Dear Wylie:

Subpoena

With respect to the Subpoena you sent me, I have a copy of a letter from Marlys Edwardh dated February 16th, 1987, concerning the reviewing of Mr. Marshall's files to see whether or not there will be any assertion of solicitor/client privilege. At Mr. Ruby and Ms. Edwardh's request, I took the files to them in Toronto for the purpose of their reviewing them so as to resolve the above. I therefore no longer have in my possession any of the files which you want.

I trust you will be hearing from Marlys concerning this in the very near future.

Yours sincerely,

BUCHAN, DERRICK & RING


Anne S. Derrick

ASD/raj
c.c. C. Ruby

Marshall/Spicer
AD#1A

MAR 03 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
A. DOUGLAS TUPPER
DARA L. GORDON
D. SUZAN FRAZER
WENDY J. JOHNSON
ROBERT K. DICKSON

DONALD J. MACDONALD, Q.C.
PAUL M. MURPHY, Q.C.
RICHARD N. RAFUSE, Q.C.
J. RONALD CREIGHTON
J. RONALD CULLEY
JOHN C. MACPHERSON
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TELEX 019-22893

10 CHURCH STREET
P.O. BOX 1068
TRURO, NOVA SCOTIA B2N 5B9
TELEPHONE (902) 895-1631
FROM HALIFAX 429-7741
TELECOPIER (902) 893-3071

REPLY TO HALIFAX OFFICE

March 3, 1987

BY HAND

Mr. W. Wylie Spicer
Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
1505 Barrington Street, Suite 1026
Halifax, Nova Scotia

Dear Mr. Spicer:

Marshall Inquiry
Our File No. 9201/1

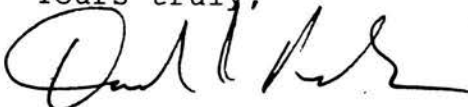
I have arranged for meetings with five Crown Prosecutors at the Provincial Court House on Spring Garden Road for Thursday, March 5, 1987. The schedule is as follows:

9:30	John Wade
10:15	Susan Potts
11:00	Gary Holt
11:45	Chris Morris
12:30	Art Theuerkauf

Mark Chisholm may also be available that day though he is scheduled to be in court and his availability cannot yet be determined. Bernadette MacDonald will be conducting a jury trial that day and therefore is not available.

I am awaiting word from you relating to use of transcripts of tape recordings and would appreciate your advice prior to Thursday.

Yours truly,



Darrel I. Pink

DIP/cg
c.c. Mr. Jamie Saunders

MAR 03 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
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TELECOPIER (902) 893-3071

REPLY TO HALIFAX OFFICE

March 3, 1987

BY HAND

Mr. David Orsborne
Royal Commission on the Donald Marshall, Jr.
Prosecution
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia

Dear Mr. Orsborne:

Marshall Inquiry
Our File No. 9201/1

I am writing to state for the record some of my concerns about the direction being taken by the Inquiry and procedures being taken during the course of its investigation and preparation for the hearings in May.

I am advised that meetings were held in Halifax in January, involving members of the Defence Bar who included former employees of the Attorney General's Department. I am told that Kevin Burke, Warren Zimmer and Duncan Beveridge were interviewed. As our mandate is to represent the Attorney General's Department including all present and former employees, we naturally have an interest in what was said by these gentlemen regarding the matters being addressed by the Commission. Would you please supply us with copies of all statements, files, notes or records of any kind either provided to you by these people or confirming their conferences with you? If I have left anyone out who was once an employee of the Attorney General's Department then kindly provide me with the name of such individual(s) and include them in the request for particulars which I have just made.

We wish to know whether the Commission intends to call these people as witnesses at the Inquiry, and it is our understanding from the meeting in January that we will be supplied - well in advance of the commencement of proceedings in May - with a list of witnesses, copies of documentary evidence, statements of evidence to be given by witnesses, etc.

Mr. David Orsborne
March 3, 1987
Page 2

I am as well concerned about the use to be made of tape recordings and transcripts of same taken during interviews of people whom we represent. I know that my partner Darrel Pink has already discussed this with Wylie Spicer, and our position was made clear in Darrel's letter to Wylie dated February 23, 1987. I look forward to your early response so that there is and will be no misunderstanding as to the use to which such records may be put. We have always sought to cooperate fully with Counsel for the Commission and I trust you will agree that we have quickly and fairly responded to your various requests for information and access to personnel and files. Nonetheless, we represent many people who are being asked to recollect specific facts and events which happened almost 20 years ago. We must protect their interests and therefore have to insist that there be compliance with the conditions attached to the use of such transcriptions as we have described them in our letter dated February 23rd.

I understand that you have reviewed files of the National Parole Board, and Correctional Services of Canada and I presume that you have also conducted interviews and additional investigations to which we have not been privy. We ask that we be provided with any and all notes, statements, files, records or materials whatsoever having anything to do with the Department of the Attorney General and its present or former employees. This would include but not be in any way restricted to information relating to the conduct of Prosecutors; any critical commentary directed against Prosecutors; procedures followed by Prosecutors then and now; relations between Prosecutors and Defence Counsel then and now; the conduct of the Marshall case by Messrs. MacNeil and Matheson and any other instances thought to parallel the Marshall case.

In the interest of fairness and efficient administration of the Commission's mandate I suggest that such disclosure be made now so that we may properly prepare in the two months remaining before commencement of the hearings.

One final comment. Mr. Spicer has requested copies of the contracts between the RCMP and the Province for the period 1971-1985 as well as all minutes of regular meetings held between the RCMP and the Attorney General's Department. I must again respectfully question the relevance of such information in light of the Commission's authority to:

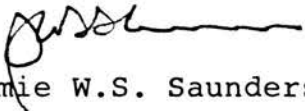
Mr. David Orsborne
March 3, 1987
Page 3

". . .inquire into, report their findings, and make recommendations. . .respecting the investigation of the death of Sanford William Seale. . .the charging and prosecution of Donald Marshall, Jr., with that death; the subsequent conviction and sentencing of Donald Marshall, Jr., for the non-capital murder of Sanford William Seale for which he was subsequently found to be not guilty; and such other related matters . . .relevant to the Inquiry. . .". (emphasis mine)

I fail to see how the contracts and minutes sought by Mr. Spicer have any connection with or bearing on your mandate. I look forward to hearing from you.

May I suggest that an early meeting of Counsel with the Commissioners would be useful so that we may consider timetabling, procedures to be followed during the course of the hearings, and any other matters set forth in this letter which - if it turns out to be the case - we cannot resolve.

Yours truly,



Jamie W.S. Saunders

JWSS/cg
c.c. Mr. Darrel Pink

MAR 03 1987

03 March 1987

Ms. Lois Dyer
Commission Secretary
Royal Commission on the Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Project Planning
and Feasibility
Studies.
CML Consultants
Limited
1586 Queen Street
Halifax
Nova Scotia
Canada
B3J 2J1
902 422-1343

Dear Lois,

Please find enclosed a letter I mailed to you on 30 January. As you can see, it was returned to us, marked "Unknown". I hope you have been receiving your other mail.

I have been in touch with Mr. Tom Murphy at Customer Service, Canada Post and he is trying to determine the reason for non delivery.

The tear sheets are starting to come in and some of the invoices have arrived as well. Hopefully we will have a summary for you shortly of all expenses related to the "Applications For Standing" advertisement.

Yours sincerely,



A. M. Montague
Business Manager

Enclosure

MAR 03 1987

Project Planning
and Feasibility
Studies.

CML Consultants
Limited

1586 Queen Street
Halifax
Nova Scotia
Canada
B3J 2J1

902 422-1343

30 January 1987

Ms. Lois Dyer
Commission Secretary
Royal Commission on the Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Ms. Dyer,

As you requested, we have arranged to have the "Applications For Standing" ad inserted in the six daily and twenty-one weekly, English newspapers across Nova Scotia. We have also inserted the ad in five supplemental publications that are delivered free of charge to homes across the province.


The daily papers will carry the ad on Wednesday, Friday and Monday - February 4th, 6th and 9th. The weekly and supplemental papers will carry it once only before February 14th. (They all publish on different days.) We stressed the importance of maximum exposure for the ad and in all cases, where possible, the ad will be placed on the page opposite the editorials.

We estimate the total cost at approximately \$10,000 for these insertions.

We have enclosed a photocopy of the PMT that was submitted to the newspapers. We have requested tear sheets in each case and will forward these when they arrive.

If you require any further assistance, please don't hesitate to contact us.

Yours sincerely,



A. M. Montague
Business Manager

MAR 02 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W.S. SAUNDERS
ROBERT M. PURDY
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REPLY TO HALIFAX OFFICE

March 2, 1987

ROYAL COMMISSION ON THE DONALD MARSHALL, JR.
PROSECUTION
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia
B3J 3K5

Attention: Ms. L.A. Dyer
Commission Secretary

Dear Ms. Dyer:

The Department of the Attorney General and the Attorney General of Nova Scotia apply for standing as a major participant for the ROYAL COMMISSION ON ALL MATTERS RELATED TO THE DEATH OF SANFORD WILLIAM SEALE AND THE CRIMINAL PROSECUTION OF DONALD MARSHALL, JR.

1. Name of Applicant:

Department of the Attorney General of the Province of Nova Scotia and the Attorney General of Nova Scotia.

2. Address and Telephone Number of Applicant:

c/o Jamie W.S. Saunders
Patterson Kitz
Barristers & Solicitors
10 Church Street
Truro, Nova Scotia
B3N 3B9
Telephone: (902)895-1631
From Halifax: 429-7741

3. Reasons for Application for Standing:

Under the Public Service Act, R.S.N.S., 1967, C.255, S.4, the Attorney General of Nova Scotia and the Department of the Attorney General have responsibility to see that the administration of public affairs is in

ROYAL COMMISSION ON THE DONALD MARSHALL, JR.
PROSECUTIONS
March 2, 1987
Page 2

accordance with the law and have the superintendence of all matters connected with the administration of justice in the Province, which is within the constitutional authority of the Province under Section 92 of the Constitutional Act, 1982. In addition, under the Police Act, S.N.S., 1974 the Attorney General of Nova Scotia, insofar as policing is concerned, is confirmed to be the constituted authority for the administration of justice within the Province and is vested with specific authority with regard to the Nova Scotia Police Commission, the Nova Scotia Provincial Police, whose role is filled by the Royal Canadian Mounted Police Force, and municipal police forces.

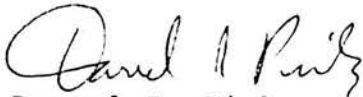
In seeking standing before this Royal Commission, the Attorney General of Nova Scotia and the Department of the Attorney General seek to have major participation in the Royal Commission's inquiries as they relate to all aspects of the administration of justice in Nova Scotia. This participation would relate to both the specific events which are the subject of the Royal Commission and any more general inquiries which may be undertaken in furtherance of the Commission's terms of reference.

Counsel from outside the Department has been retained to represent the interest of the Attorney General of Nova Scotia and the Department of the Attorney General as well as all present and former employees of the Department and former Attorneys General.

Yours truly,



Jamie W.S. Saunders



Darrel I. Pink
Counsel to the Attorney General



FEB 27 1987

Studio East Limited Suite 702, 5151 Terminal Road Halifax, Canada, B3J 1A1 (902)421-1164

February 27, 1987

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION
MARITIME CENTER, SUITE 1026
1505 BARRINGTON STREET,
HALIFAX, N.S.
B3J 3K5

Attention David B. Orsborn,
Commission Counsel

Dear Mr. Orsborn:

We are in receipt of your letter dated February 24, 1987, requesting the original VHS Videotape dated September 12, 1984; Subject, Roy N. Ebsary; Interviewer, David Ratchford and Camera, Chris Abbass. We are herewith delivering, by hand, the above mentioned tape.

We trust that this is satisfactory.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Norman D. Lee".

Norman D. Lee
General Manager

I, DAVID B ORSBORN, acknowledge receipt of the above tape from Studio East Limited.

Date: March 2/87

Signature: David Orsborn

MAR 02 1987

985 Westmount Road
Sydney, Nova Scotia
B1R-1C5
February 25, 1987

Royal Commission on the
Donald Marshall, Jr.
Prosecution
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia
B3J-3K5

Attention Commission Secretary:

I, Mr. Oscar Nathaniel Seale, would like to request for standing at the up-coming Royal Commission Hearing to be held later in 1987. I do feel that this will give me some participation in the sordid murder of my son, Sandy Seale, in 1971.

I do want to declare that the Crown Prosecutor, Mr. Frank Edwards, was very unco-operative with my family and myself, as he flatly refused to listen to a Character Reference of my Deceased Son. I did write a letter of complaint to the Nova Scotia Barristers Society. I didn't have any choice but to accept their reply of Mr. Edwards acting on his Professional Judgment.

I was very disturbed by the actions of Mr. Edwards, who did not rigorously cross-examine one James MacNeil at the Supreme Court Appeal hearing held December 2, 1982 on the evidence of a robbery attempt, alleged to have taken place on the night my son, Sandy, was murdered. I would later have a better understanding of why, because in his summation he asked the Panel of Judges to quash the conviction of Donald Marshall, Jr., as MacNeil and Marshall stated that a robbery was being committed, and no doubt, this was the principle grounds for the 5 Panel Judges to over turn the conviction of Mr. Donald Marshall, Jr. as they believed Mr. James MacNeil to be a credible witness. Later in the last trial of Mr. Roy Newman Ebsary, who was now charged with manslaughter in my son's death, Mr. Marshall denied this robbery attempt, and stated he only said this to gain his release from prison. After hearing this testimony from Mr. Donald Marshall, Jr., Mr. Edwards (Crown Prosecutor) then decided he would not call Mr. James MacNeil to give evidence. Although, he had been a Credible Witness in the quashed conviction of Donald Marshall, Jr., Mr. Edwards told the court that he did not want to have MacNeil testify at this trial as he found him to be an Incredible Witness. After a lengthy discussion, Mr. Justice Merlin Nunn had to compel Mr. Edwards to put Mr. James MacNeil on the stand to testify.

I find it more than frustrating for a witness to be credible for the Crown, and then later to be an incredible witness under the same circumstances. However, I did write to the Attorney General at that time, Mr. Ronald Giffin, about this affair and our feelings on the results of it all. I am enclosing a copy of the letter for your file.

I must now state that it would be a pleasure to meet with Mr. David Osbourne, who I talked with via a phone conversation, February 24, 1987, as we certainly do feel that Sandy was not represented by anyone in the Appeal Court hearing or the trials of Roy Newman Ebsary, and only slandered and defamed by one Donald Marshall, Jr., until the final trial of Roy Ebsary.

I certainly do have many more complaints which I would like to have discussed. Hoping to hear from or see you soon in the Sydney area.

Sincerely yours,



Mr. Oscar N. Seale
Phone (562-1792)

Enclosure

*Forward to Marshall Commission
office.
File 24 37.*

985 Westmount Road
Sydney, Nova Scotia
B1R-1C5
Phone 562-1792
February 12, 1985

Rt. Honourable Ron Giffin
Attorney General Prov. of N.S.
House of Assembly
Halifax, Nova Scotia

Dear Sir:

This is a follow up letter to our conversation on Jan. 17, 1984 concerning an inquiry into the whole affair and evidence given from 1971 until 1985 in the case of Donald Marshall, Jr., who was convicted of the murder of my son Sandy Seale in 1971.

Donald Marshall, Jr. was acquitted of this murder in May 1983, by the Nova Scotia Appeal Court after hearing evidence from several witnesses, including Miss Patricia Harris and Mr. Maynard Chant who had given evidence in 1971. I must say that their evidence did not do much, if anything, to influence the 5 judge panel hearing the appeal. Other witnessess (or I should say new witnessess) were Mr. James MacNeil, Greg and Donna Ebsary, son and daughter of Roy Ebsary, and R.C.M.P. forensic expert, A.J. Evers, and of course, Mr. Marshall himself.

Now, as the whole story goes, it was Mr. Marshall who signed an affidavit in a sworn statement to R.C.M.P. officers in Dorchester Penitentiary, to the effect, that he met my son Sandy in Wentworth Park the night of the stabbing, May 28, 1971. He asked Sandy if he would like to make some money by robbing or "rolling" someone that night; he didn't know if Sandy had ever done this before, but he had on a few occasions. (He didn't know this because they were never friends for three years as reported in the newspaper.) They later, he stated, saw two men whom they approached and talked to on a number of subjects and even introduced themselves to one another. Later, when the men were on their way, Marshall stated, he called them back and then they knew they were about to be rolled. Now in this affidavit, while under oath in court during the appeal, at a preliminary hearing and two trials later (namely during Roy Ebsary's manslaughter trial) he still swore that this statement was a true version of what happened on the night of May 28, 1971.

Now James MacNeil, who had sworn an affidavit to Sydney Police which was turned over to the R.C.M.P. and who had been given a polygraph test, which proved inconclusive, also gave evidence to the appeal court that after leaving a tavern he was approached from behind by Marshall and that without any warning, Marshall had grabbed and put his arm up behind his back, and he heard Sandy say "Dig Man Dig" which he stated he took for granted meant they wanted money. First he stated he saw Ebsary take a knife (like a pocket knife and slit Seale up the middle) but did not see him cut Marshall, all this in 5 seconds. When asked where Marshall went, he stated he just disappeared. He also stated he saw Seale running and flopping, and running and flopping but this story he would later change to say he saw Seale on the ground with his stomach coming out from the wound.

Now my point is this. The 5 judge panel found that the new evidence of Mr. J. MacNeil, which they believed, at the time of the hearing, was the most credible, and the confessed story of Marshall's planned robbery were grounds for an acquittal, and I quote from the Judge's excerpts, "Although Mr. Marshall now puts Mr. MacNeil as his chief witness, their evidence in the main is in conflict, but both agree that Ebsary stabbed Seale. Mr. MacNeil's evidence, although unfortunately not adequately tested by rigorous cross-examination by Crown Counsel, is evidence capable of belief. In attempting to defend himself to a charge of murder, Mr. Marshall admittedly committed perjury for which he could still be charged. By lying he helped secure his own conviction, misled his lawyers and presented to the jury a version of facts he now says is false, a version that was so far fetched as to be incapable of belief. By planning a robbery with Mr. Seale he triggered a series of events which unfortunately ended in Mr. Seale's death. By hiding the facts from his lawyers and police, Mr. Marshall effectively prevented development of the only defense available to him namely, that during a robbery Seale was stabbed by one of the victims. Now, Mr. Marshall, says he knows where the man lived who stabbed Seale and had a pretty good description of him. With this information the truth of the matter might well have been uncovered by the police.

Even at the time of taking the fresh evidence, although he had little more to lose, and much to gain if he could obtain his acquittal, Mr. Marshall continued to be evasive about the robbery and assault and refused to answer questions until the court ordered him to do so. So there can be no doubt but that Donald Marshall's untruthfulness through this whole affair, contributed in large measure to his conviction.

We accordingly allow the appeal, quash the conviction and direct a verdict of acquittal be entered."

Now I must relate all this evidence in accordance to the last trial of Roy Ebsary in Sydney in January 1985. Quoting from Mr. Marshall's testimony, Mr. Marshall quoted the statement he gave to the police in 1982, while still in the penitentiary serving time for the murder of Sandy Seale, that he and Sandy were out to commit a robbery. In later testimony he acknowledged the statement to be true. But under oath this time he denied the statement, explaining that he felt compelled to admit robbery to clear himself of the killing, and also to get his release from prison.

I am writing to you because even though Mr. Ebsary has been convicted of this crime, my wife, my family and I do not feel that Mr. Ebsary is guilty.

Reason (1) After 22 months of investigation by the R.C.M.P., we find they have uncovered no new evidence to support the conviction of Mr. Ebsary outside of a recording of a taped conversation taken 6 weeks or so after he was released from a Mental Institution. He had also been drinking wine before this recording was taken, and began drinking again when the recording was finished, with no witnesses present at the time only R.C.M.P. Cpl. Carroll, and himself.

I would also like to emphasize on the very fact that once again Mr. Donald Marshall, Jr. has completely changed his story to near his 1971 testimony after this defaming and slandering my son Sandy's name as a robber from this east coast of Cape Breton to west coast of Canada, and I am sure in many other parts of the world, as this story did gain world wide attention, and this is the reason why I am calling for a full inquiry in this whole affair. Also, and rightly so, that charges of perjury be laid against one Donald Marshall, Jr. for lying and giving false statement under oath.

Reason (2) The next biggest reason is how, Mr. MacNeil was so proclaimed to be a most credible witness by the Crown Prosecutor during all of the hearings, even to the point where he barely cross examined Mr. MacNeil during the appeal's court hearing, and also had him for the key witness during the preliminary hearing and the two previous trials of Roy N. Ebsary, and certainly was believed by all the jurors, and appeal court judges.

Now in this last trial of Mr. Ebsary, after Mr. Marshall denounced that the evidence he had given in previous testimony was false, the Crown then decided not to call Mr. James MacNeil (who was the chief witness) or only witness that was supposed to have seen and was in the park, on the night of the stabbing, knowing quite well that his testimony would not change that much from previous testimony given. The Crown argued with the judge (Mr. Merlin Nunn) that he had now found Mr. MacNeil to be an incredible witness, and had no intention to call him, or Mrs. Mary Ebsary to give evidence unless he could cross examine Mr. MacNeil. Now after some lengthy arguments and some extra versions of law read from various cases especially when the Crown

(4)

had their chief witness on the indictment, the judge had to order Crown Prosecutor, Mr. Frank Edwards, to call these witnesses although he had completed his case for the crown. Now, I must also state that Judge Nunn did make it quite clear that Donald Marshall, Jr. would likely still be in Dorchester Penitentiary if it were not for the evidence given at the Appeal Court trial hearing in December, 1982. Of course, this is what the whole charge of manslaughter had been based on by the crown, that a robbery was taken place when Sandy lost his life. Now, it sure does not seem fit and proper for the crown to instruct the 5 judge panel to acquit Marshall, especially on the evidence given at the appeal hearing, and now at Ebsary's trial to tell the judge that he has found Mr. MacNeil to be an incredible witness and that is why he did not want him to give evidence at this trial.

Now with this much said, and after listening to all the evidence and attending just about all of the trials since 1971, we as a family feel that we were and always will be the real victims of this affair, along with this to have to listen, under the strain and frustration and pain that we had to endure, while Donald Marshall Jr., defamed, and branded our son Sandy as a robber, to get himself out of prison, and tell a story that he stated other people wanted to hear, and he was forced to do so. (By Whom?)

Now, as you surely know your Government permitted a judge from another Province to compensate Mr. Marshall for \$270,000 and your Government did not wish to wait until all the trials of Mr. Ebsary were completed, but went along mostly from the pressure from the news media.

Yes your Honour we do ask, I must state again, demand a full inquiry without delay, or after the climax to the Ebsary trials. As suggested by you the board should comprise 6 members, 3 each from both the Federal and Provincial Justice Departments.


Hoping to hear a reply from your office on these requests with anticipation we remain.

Sincerely yours.

Mr. Oscar Seale & Family

Mr. & Mrs. Oscar Seale & Family

MAR 02 1987

The logo for Halifax Cablevision Limited features the letters 'hcv' in a bold, lowercase, sans-serif font. The 'h' and 'c' are connected, and the 'v' is also connected to the 'c'. A thick black arrow points to the right from the top of the 'v'. The logo is positioned in the upper left corner of the page, with several diagonal lines extending downwards and to the right from its base.

halifax cablevision limited
p.o. box 8660 str. "A", 5841 bilby street; halifax, nova scotia, canada B3K 5M3
tel. (902) 453-2800

February 25, 1987

Royal Commission
Maritime Centre
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia
B3J 3K5

ATTENTION: Ms. Lois Dyer

RE: Donald Marshall Inquiry

Dear Lois:

I appreciated the opportunity to discuss the subject of cablevision coverage for the forthcoming inquiry with you earlier this week.

As we suggested, providing live, daily coverage for the duration of the public inquiry would be a considerable undertaking. Halifax Cablevision Limited took into account the commission's desire to limit the interruptions of proceedings by the electronic media; we have also examined Cape Breton Cablevision Limited's resources and we have discussed this project with interested media outlets.

Our discussions with the producers of the "Sinclair Stevens Inquiry" (Rogers Cablevision, Toronto) were most enlightning as well.

After consultation, we have concluded the following:

- 1) There is great public interest
- 2) There is media interest on a regional level
- 3) We have the ability to provide this public service under certain circumstances

These circumstances are outlined in the attached proposal.

.... /2

halifax cablevision limited

February 25, 1987

Royal Commission

ATTENTION: Ms. Lois Dyer

In our conversation, we discussed the feasibility of providing television coverage that does not interfere with the inquiry proceedings or intimidate witnesses. We agreed the number of cameras and reporters would seriously impede those proceedings unless kept to an absolute minimum.

The live coverage aspect also played an important aspect in our discussions with respect to the general public's access to these proceedings.

I believe we have proposed the best solution for all concerned.

The most difficult and crucial element has been acquiring a commitment from Cape Breton Cablevision Limited to broadcast the inquiry. They have indicated to us that if presented, a program feed at no cost, they would consider our project.

This we can do and I feel confident Cape Breton Cablevision will agree to carry the inquiry since we can offer to send delay coverage from Halifax for the remainder of the inquiry.

Halifax Cablevision is anxious to hear the commission's opinion regarding our proposal.

Please feel free to contact me any time should you need further information or clarifications.

There are many elements of this project that stretch our resources as a community channel, so we would greatly appreciate an early decision.

Sincerely,
HALIFAX CABLEVISION LIMITED



MIKE BARNES,
PROGRAM DIRECTOR

Enclosure

cc/ W. C. Sayers
Ian Wiseman

MAR 02 1987



PUBLIC ARCHIVES
NOVA SCOTIA

6016 UNIVERSITY AVENUE
HALIFAX, N. S.
B3H 1W4

423-9115

February 24, 1987

Ms. Lois Dyer
Executive Director
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.
B3J 3K5

Dear Ms. Dyer:

As the repository for the province's public records of lasting research value, the Public Archives of Nova Scotia is interested in cooperating with your office regarding the longterm preservation of the commission's records. I recognize your work is only beginning and that it will continue for some time, however, it is best to set out now the interest of the Archives in your records. Brenda MacGillivray and I had an opportunity to discuss this subject briefly last week. I explained to her that the Archives would be prepared to accept all records accumulated by the commissioners and staff in carrying out your mandate, regardless of the physical form of the records- correspondence, subject files, research notes, published material, memorandum, photographs, computer generated material (so long as it included documentation to read it), tapes, films, etc.

.....

Ms. Lois Dyer

Your royal commission is an important one thus the records generated will undoubtedly be of longterm value. The fact that material is placed in the Archives does not mean that it becomes open immediately. In cases where confidential material is involved access provisions can be worked out. I expect that much of the material would not require restrictions however this can be determined at a later date.

The Public Archives is prepared to cooperate fully with you in respect to your records. Should you wish to discuss this with me do not hesitate to contact me. I look forward to hearing from you.

Yours sincerely,



Carman V. Carroll
Provincial Archivist

CVC/ck

Ruby & Edwardh
barristers

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

February 23, 1987

Mr. Wylie Spicer
Associate Commission Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Spicer:

Pursuant to our telephone conversation of February 23, 1987, please be advised that we are prepared to let you interview our client, Mr. Donald Marshall, Jr. I understand that the purpose of your interviewing Mr. Marshall is to assure that you have developed a sufficient relationship with him and are yourself familiar enough with the facts to be able to adduce his evidence before the Commission of Inquiry. I think it is fair to say that all of us who have had occasion to read transcripts of Mr. Marshall's earlier testimony believe that it is important for you to take this time with him so he will be both confident in your desire to be fair and get over what undoubtedly is a highly anxiety provoking situation for him.

As part of our considering letting you interview Mr. Marshall, it is also conditions of these interviews that:

1. Anne Derrick be permitted to be present at all times.
2. The interview take place in circumstances where it will "not be any subsequent use." I say this to make clear to you that it is our understanding that the interview will not be given out to other parties in these proceedings, and further that Mr. Marshall will not be subjected to any cross examination arising from the interview.

These are essential preconditions to ensure that Mr. Marshall develops confidence in your fairness.

Clayton Ruby, B.A., LL.B., LL.M.
Ms. Marlys Edwardh, B.A., LL.B., LL.M.
Michael Code, B.A., LL.B.
Melvyn Green, B.A., LL.B.

I wish to also indicate that we reserve as counsel on behalf of Mr. Marshall the right to consider if we so choose calling Mr. Marshall and adducing his evidence in chief. It may be that you do not agree with this, but in any event we would reserve our right to make application before the commissioners.

I hope the foregoing is of assistance.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Marlys Edwardh".

Marlys Edwardh

ME:jp

cc: Anne Derrick

FEB 26 1987

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REPLY TO TRURO OFFICE

February 24, 1987

Mr. W. Wylie Spicer
Commission Counsel
**ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION**
Maritime Centre - Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

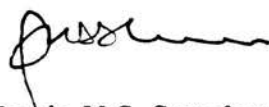
Dear Wylie:

ROYAL COMMISSION - DONALD MARSHALL INQUIRY
Our File No.: 9201/1

Thank you for yours dated February 20th.

I will discuss this with Mr. Bissell, seek instructions and get back to you in due course.

Yours very truly,



Jamie W.S. Saunders

JWSS/plb



February 20, 1987

FEB 26 1987

Ms. Lois Dyer
Executive Secretary
Royal Commission re The Donald
Marshall Jr. Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Lois:

Please find enclosed my statement of account in relation to the consultation on selective matters of criminal procedure which I held with Commission counsel.

I enjoyed the sessions immensely, and I hope that you all found them to be useful. If there are other matters on which I might be of assistance to the Commission, I should be pleased to discuss the possibility. I shall be forwarding a curriculum vitae to you in the near future on the suggestion of Wylie Spicer.

Yours sincerely,

Bruce P. Archibald
Associate Professor of Law

BPA/m

encl.

February 20, 1987

Ms. Lois Dyer
Executive Secretary
Royal Commission re The Donald
Marshall Jr. Prosecution

In account with:

Bruce P. Archibald
Faculty of Law
Dalhousie University
Halifax, Nova Scotia
B3H 4H9

To professional services:

Consultation - Feb. 15 - 16, 1987 -
My fee \$300.00

Disbursements:

Secretarial assistance	\$8.00	
Courier Service (Gelco)	\$3.25	<u>11.25</u>
Amount of this account		<u>\$311.25</u>

Bruce P. Archibald

The Stevens Inquiry

*Chronicle Herald
Feb. 24/87*

AFTER EIGHT months, 90 witnesses, and 84 full days of hearings, the inquiry into conflict-of-interest allegations against Sinclair Stevens has finally drawn to a close. Canadian taxpayers are more than \$3 million out of pocket as a result of the hearings, though it is doubtful that the proceedings generated \$3 million worth of information.

Now, Mr. Justice William Parker of the Ontario Supreme Court is charged with the task of preparing a report on this whole matter. As commissioner of the inquiry, Mr. Justice Parker must decide if the evidence supports the claim that Mr. Stevens has violated conflict guidelines for federal cabinet ministers.

The chief allegation is that the former industry minister's wife, Noreen Stevens, obtained a \$2.6 million, interest-free loan from a firm that did business with Mr. Stevens' department. It was also alleged that the company which obtained the loan, York Centre Corp., was controlled by Mr. Stevens.

Mr. Justice Parker will have no shortage of advice to consider as he sits down to weigh the validity of these allegations. To begin with, John Sopinka — Mr. Stevens' lawyer — said in his summation last week that evidence presented to the commission formed no 'foundation' for the allegations levelled at his client.

This was not a surprising position for Mr. Stevens' advocate to take. Nor did the summation presented by David Scott — chief counsel to the commission — surprise observers. Throughout the inquiry, Mr. Scott appeared to see himself as a United States-style 'special prosecutor.' Clearly, Mr. Scott was not prepared to play the traditional Canadian role

in his position, by clarifying evidence when necessary, and assisting the commissioner as instructed.

Instead, Mr. Scott aggressively challenged witnesses whose sworn testimony supported Mr. Stevens. He suggested, for instance, that former Stevens' aide Shirley Walker was an 'untruthful witness,' and threatened to charge her with perjury. This led to a statement by Mrs. Walker's lawyer that Mr. Scott had abused his role as counsel. Indeed, lawyers for both Mrs. Walker and Mrs. Stevens have asked Mr. Justice Parker that their clients be exonerated in his final report.

Not only was Mr. Scott a tough questioner; in the end he appeared to play the role of commissioner as well when he submitted an 800-page report alleging Mr. Stevens was in real conflict of interest in 11 instances. This created fears that the role of the commissioner was being usurped, and led Mr. Justice Parker himself to state: "Any findings I make will be my own."

The fact that the commissioner felt compelled to make this remarkable statement at all supports our view that Mr. Scott has taken on altogether too much. The Royal Commission is not a criminal proceeding, yet Mr. Scott has often acted as if it were.

As we await Mr. Justice Parker's own report, Mr. Scott's role in the inquiry continues to be questioned in the Canadian legal community, as it should be. Canadians in general, meanwhile, must be asking whether their \$3 million has been well-spent on this inquiry. That we will not know, until Mr. Justice Parker releases his own report on the Stevens' affair.

FEB 25 1987



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Truro

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Dartmouth

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Cst. Roy Landry
Halifax

Solicitor
Bruce Evans

Member:
Canadian Police
Association and the
International Union
of Police Associations

February 20, 1987

Mr. David Orsborn
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

RE: DONALD MARSHALL INQUIRY

The Deputy-Attorney General Mr. Gordon Coles has provided me with the Order in Council in relation to the above inquiry. He has further suggested that I contact you with respect to the roll the Police Association of Nova Scotia may play in the upcoming inquiry.

Please note the Police Association of Nova Scotia currently represents 75% of the police officers within the Province of Nova Scotia. It is our view that the Donald Marshall inquiry will probably make recommendations which will effect policing for years to come. In particular we are concerned with recommendations which may arise out of the investigation of the death of Sanford William Seal by the Sydney Police Force on May 28 and 29, 1971.

It is the position of our Association that it would be in the best interests of our members as well as the general public that the majority of police officers in Nova Scotia be represented at the Donald Marshall inquiry.

We would be pleased if you could forward to us the information which we require to insure that the police officers who are members of PANS will be adequately represented.

We look forward to your responding with your views on how we can contribute to the above inquiry.

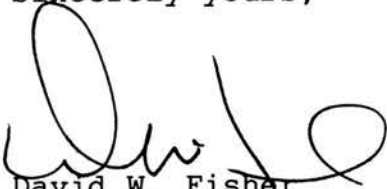
Mr. David Orsborn

2

February 20, 1987

I look forward to your response.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'DWF', with a large, sweeping flourish extending to the right and underlining the text below.

David W. Fisher
Solicitor, PAMS

DWF/brb

pc: Mr. Joseph Ross

FET 5 1987



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February 20, 1987

Account No. 22941

Royal Commission on
Donald Marshall Jr. Prosecution
1505 Banington Street
10 Floor Suite 1026
Halifax, Nova Scotia
B3J 3K5

Dear Jean:

We are extremely pleased to welcome you as a charge account customer. Please note your above customer number.

The enclosed Customer Identification Card is a very important part of our new system. We encourage your use of this card for instore purchases to give quick and accurate information, as well as quoting your account number when placing orders with our order desk, by mail or one of our sales representatives.

The terms of your account are net 30 days. Any amounts outstanding in excess of our normal credit terms are subject to a past due interest charge. Goods returned after 15 days from delivery are subject to a 20% restocking charge. Minimum order for delivery is \$5.00. Minimum charges at our stores is also \$5.00.

If there are any questions or problems please do not hesitate to call us at 463-8150.

We appreciate this opportunity of serving you and look forward to hearing from you soon.

Respectfully Yours,

A handwritten signature in cursive script, appearing to read 'Ken Pate', written in dark ink.

Ken Pate
SALES MANAGER

KP:1s
encl.

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FEB 24 1987

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FROM HALIFAX 429-7741
TELECOPIER (902) 893-3071

REPLY TO HALIFAX OFFICE

February 23, 1987

BY HAND

Mr. W. Wylie Spicer
Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia

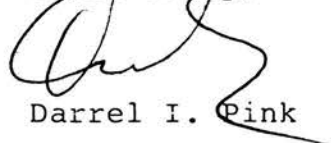
Dear Mr. Spicer:

Marshall Inquiry
Our File No. 9201/1

You and I discussed briefly the use to be made of the transcribed tape recordings of conversations with witnesses from the Department of the Attorney General. It is our position that these transcriptions are to be used only for the purpose of ease of the conversation and to avoid the necessity of your making notes. They are not to be used at some future time to impugn the credibility of witnesses if they take the stand. If that is the situation, we have no objection to future conversations being taped. However, if that is not the case, we will not agree to any further tape recordings being made. Could you please confirm your position on this.

I also look forward to receiving copies of the note material relating to the discussions with Judge Robert Anderson, Milton Veniot, Adrian Reid and Jim Gumpert.

Yours truly,



Darrel I. Pink

DIP/cg
c.c. Mr. Jamie Saunders

FEB 24 1987

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

February 20, 1987

courier

Mr. George W. MacDonald
Commission Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. MacDonald:

Anne Derrick has given me your letter of February 17, 1987. I am replying directly because the letter seems symbolic of the dynamics you apparently want to create between us. You assume the worst from Mr. Marshall and his counsel, and you attempt to set up a most adversarial position between us. If you continue to act in this way, you will in fact create an adversarial position between us.

If you had really wanted an explanation about the position that I have taken with regard to Mr. Marshall's assertion to his right to solicitor/client privilege, I would have been pleased to provide it to you. But you write a letter which implies "you've got something to hide". You say in your letter:

"I thought Mr. Marshall would be the person most interested in having all relevant facts concerning these events disclosed to Commission counsel and ultimately to the Commission. Am I to assume that the refusal of Mr. Marshall to permit Mr. Khatter to discuss freely with me his participation in the events indicate some reluctance to have all the facts disclosed?"

This is an unbelievable assertion from a lawyer of some experience and indicates an incredible arrogance in relation to Mr. Marshall. First of all, you should know, as a matter of law, communications which are properly privileged are never "relevant" because they are not admissible as evidence. Second, Mr. Khatter

Ruby & Edwardh

has, to my knowledge, never suggested that he did not wish to speak with you and certainly I did not instruct him or ask him not to meet with you. To date, I have only indicated to him that Mr. Marshall has not waived solicitor/client privilege. Third, you assume that Mr. Marshall has no moral right to assert the confidentiality of his communications with his counsel, a right which developed carefully over centuries and which the law assiduously protects even for the humblest of our citizens. You attempt to draw from the assertion of this right an inference that he has something to hide -- which is shocking.

I am not going to let you walk over Donald Marshall's rights in the way that so many in the administration of justice in Nova Scotia did. You must understand that the fact that he is a Micmac Indian, and that he was wrongly convicted, does not mean that he no longer cares about legal constitutional rights. I would have thought that Commission counsel would be sensitive to Mr. Marshall's rights, and respectful of any decision he might make with respect to them. Instead, you assume from the fact that he chooses to exercise the same rights that every citizen of Canada has that he is acting in bad faith and is thereby "[reluctant] to have all the facts disclosed".

If you take this position, and think in this way, it becomes absurd for me to urge his cooperation with Commission counsel.

I would be pleased to give an explanation to you of Mr. Marshall's position regarding his privilege, but won't you try to write a courteous letter asking for information?

Yours very truly,

Clayton C. Ruby

CCR:jp

cc Anne Derrick

FEB 20 1987

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JAMIE W.S. SAUNDERS
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REPLY TO HALIFAX OFFICE

February 20, 1987

BY HAND

Mr. W. Wylie Spicer
Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia

Dear Mr. Spicer:

Marshall Inquiry
Our File No. 9201/1

Further to your earlier request, I am enclosing a copy of a list of officials and staff employed by the Department of the Attorney General from 1971 to present in Halifax and Sydney. I am advised that the telephone directories for those years have not been maintained and the enclosed list was prepared by the personnel office.

I have arranged for a meeting with Mr. Jim Gumpert at the Prosecutor's Office in Dartmouth at 2:30 p.m. on Monday, February 23, 1987. If that is not convenient, please advise.

I have also arranged a meeting with David Thomas at the Prosecutor's Office at the Law Courts in Halifax on March 2nd at 2:00 p.m. I trust that will be convenient as it is one of the dates that you provided to me.

Yours truly,

C. Gibbons

per: Darrel I. Pink

DIP/cg

encl:

c.c. Jamie Saunders

FEB 20 1987

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REPLY TO HALIFAX OFFICE

BY HAND

February 20, 1987

Mr. W. Wylie Spicer
Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia

Dear Wylie:

Marshall Inquiry
Our File No. 9201/1

Thank you for your letter to Darrel dated February 18th.

Would you kindly indicate the relevance of the contracts between the RCMP and the Province for the period 1971-1985 as well as your request for all minutes of regular meetings held between the RCMP and the Attorney General's Department?

After hearing from you we will discuss your request with Jim Bissell, solicitor for the RCMP.

Yours truly,

C. Gibbons

per: Jamie W.S. Saunders

JWSS/cg

c.c. Darrel Pink



1571 Argyle Street
Halifax, Nova Scotia
B3J 2B2
(902) 426-6000

*anytime Mon.
on Tues. a.m.*

February 19, 1987

Ms. Lois Dyer
Royal Commission on the Donald
Marchall J. Prosecution
1505 Barrington Street, Suite 1026
Halifax, Nova Scotia
B3J 3K5

Dear Ms. Dyer:

Following our telephone conversation of February 18, 1987, I would like to explain to you a bit more of what we discussed. The National Film Board is very interested in getting permission to be able to film at the upcoming Royal Commission on the Donald Marshall Jr. Prosecution.

As you pointed out, video cameras will probably be recording the hearing anyway, so why not simply use this videotape? Unfortunately, videotape is simply not a good enough quality. More importantly, however, we see this film as an examination of the whole process of conducting a Royal Commission, not just a record of the testimony. At the actual hearing, we would propose to have two 16mm cameras in a fixed position, not to be moved during the hearing - so as not to disturb anything. We would not distract from the hearing by using artificial lights, cables etc. Our crew would consist of three people (2 cameramen and 1 soundman).

We have just completed filming two murder trials in the United States where we were granted total access. I have included the tape. In these trials, to everyone's delight, we were forgotten about within hours of the trial commencing. Physically, we can be quite inconspicuous.

The film we are proposing to do would be a major undertaking for us, in terms of time and money and for you in terms of granting us access to film. What would come out of this would be a one and a half-hour film for television that would document the process from beginning to end. We feel it could offer a unique insight into the Canadian justice system and would be well worth the effort. We feel strongly that the case merits this kind of exposure.

.../2

Page 2
Mahoney to Dyer
February 19, 1987

Thanking you in advance for considering the project and for taking
our request to the Commissioner.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Mahoney".

Mike Mahoney
Co-Director

MM/mjc
Enclosure

Ruby & Edwardh
barristers

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

February 16, 1987

Mr. Wylie Spicer
McInnes, Cooper & Robertson
1673 Bedford Row
Box 730
Halifax, Nova Scotia
B3J 2V1

Dear Mr. Spicer:

This will confirm our telephone conversation of Friday, February 13, 1987, wherein you agreed that the return date for the subpoena served upon Anne Derrick for Mr. Marshall's legal files would be adjourned to March 13, 1987. It is my hope that we will be meeting with Ms. Derrick in the very near future and commence a process of reviewing for ourselves Mr. Marshall's files to see whether or not there will be any assertion of solicitor/client privilege. We will endeavour to get this material to you and reach a resolution of these matters with you prior to the return date set out above.

May I thank you for your cooperation in this matter.

Yours very truly,


Marlys Edwardh

ME:jp

cc: Anne Derrick

Rayton Ruby, B.A., LL.B., LL.M.
Ms. Marlys Edwardh, B.A., LL.B., LL.M.
Michael Code, B.A., LL.B.
Melvyn Green, B.A., LL.B.

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

February 3, 1987

David Orsborn
Commission Counsel
Royal Commission on the Donald Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

I am advised that some former counsel to Mr. Marshall have been approached by Mr. MacDonald of your staff and asked for information. As Mr. Marshall's present counsel, I would ask that requests for information of a confidential nature be addressed to me so I might assist Mr. Marshall in determining whether he shall waive his right to have this information remain confidential.

It is Mr. Marshall's intention at the moment to reserve his right to confidentiality and privilege until I have had a chance to evaluate any requests that you might make of me in that regard and to examine all of his files and the information I can gather.

Will you be good enough to remind Mr. MacDonald to respect Mr. Marshall's right to confidentiality and privilege in this matter?

I am advised by Ms. Edwardh that Mr. Spicer has asked Ms. Edwardh for access to notes of conversations between Mr. Marshall's former counsel and various employees of the Attorney-General's office. I am in principle quite prepared to grant access to any such material to you, but I would want to see the documents first myself before making a decision.

Yours very truly,



Clayton C. Ruby

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CANADA

CORRESPONDENCE TO:
P.O. BOX 876
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELEX NO: 019-23629

February 17, 1987

PRIVATE

Mr. W. Wylie Spicer
Commission Counsel
Royal Commission on The
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Mr. Spicer:

RE: Marshall Inquiry

I have your letter of February 16.

I will not be in the office for the next four days, or so.

I am forwarding a copy of your letter to my client for instructions.

Yours truly,

BOYNE CLARKE



602/ Robert Murrant

RM*dm

cc. Mr. Peter Robinson

FEB 13 1987

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REPLY TO HALIFAX OFFICE

February 13, 1987

Mr. George MacDonald
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia

Dear Mr. MacDonald:

Marshall Inquiry

This will confirm that arrangements have been made to interview Judge Lewis Matheson at 10:30 a.m. on Friday, February 20th. I have arranged for that meeting to take place at Judge Matheson's office on the 1st floor of the courthouse in Sydney.

Yours truly,

C. Gibbons

per Darrel I. Pink

DIP/cg

c.c. Mr. Jamie Saunders

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REPLY TO HALIFAX OFFICE

February 13, 1987

BY HAND

Mr. W. Wylie Spicer
Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia


Dear Mr. Spicer:

Marshall Inquiry

I have yours of February 11, 1987.

I am endeavoring to arrange meetings for next week (February 16-20) with Messrs. Reid, Gumpert and Morris. I hope to be able to confirm arrangements on Friday or Monday.

Yours truly,



Darrel I. Pink

DIP/cg

c.c. Mr. Jamie Saunders

Feb. 16/87

Circulation

L. Dyer	✓
D. MacDonald	✓
D. Osborn	✓
W. Spicer	✓

FEB 12 1987

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Dawna J. Ring, B.A. (Hons.), LL.B.

1545 Grafton Street
Halifax, Nova Scotia
B3J 2B9
(902) 422-7411

February 12, 1987

Royal Commission on
Domal̄c Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.
B3J 3K5

Att: Wiley Spicer

Dear Wiley:


I am in receipt of the Commission's subpoena with respect to Mr. Marshall's files. I have no authorization from Mr. Marshall to release these files to the Commission and as they are subject to privilege, I cannot provide them to you. However, I will be discussing this matter with Mr. Ruby, Mr. Marshall's senior counsel, and will respond to you further once I have talked with him.

You advised me to send you a list of those materials we need but do not have and you would see about having them duplicated for us. I am leaving for Toronto early Wednesday morning and so I would require these materials by Tuesday afternoon in order to take them with me. Please find attached a list of those documents and materials we do not have. Would your secretary please call me to advise if it going to be possible to obtain copies of the materials from the Commission by Tuesday afternoon.

Thank you for your kind attention to this.

Yours sincerely,

BUCHAN, DERRICK & RING



Anne S. Derrick

ASD/raj
c.c. C. Ruby

Marshall/Commission
AD#3A

L I S T

1. Marshall appeal transcript (first appeal--1972).
2. Transcripts of three Ebsery trials.
3. Transcripts of two Ebsery appeals.
4. Original Crown Sheets from 1971 investigation that led to Marshall being charged.

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TELEPHONE: (902) 469-9500
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February 12, 1987

PRIVATE

Royal Commission on the
Donald Marshall, Jr. Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

ATTN: W. Wylie Spicer
Commission Counsel

Dear Wylie:

Re: Marshall Inquiry

I write in furtherance of our telephone conversation on Thursday morning.

Last evening I had an opportunity to discuss this matter extensively with counsel for the Canadian Broadcasting Corporation.

It is unfortunate that we have not made our position clear with respect to disclosure of our file contents.

I am writing in an attempt to clarify these matters so that certain access can be given to you **without** adverse consequences to the Canadian Broadcasting Corporation or its journalists. Our requirements are as follows:

1. We must have the written acknowledgement of the Commission that our file material is subject to normal solicitor/client privilege. This is not in doubt but simply enhances the understanding that we are

...../2

waiving our rights to some extent as a courtesy to the Commission. It is also important in that the Commission will not be able to follow up our cooperation by pressing additional demands and advancing arguments that the material is in fact not privileged.

2. With the aspect of privilege recognized, we would then separate from our file material all internal correspondence. I need not deal with this as you and I have a mutual understanding on this item.
3. We have an extremely serious concern with respect to sources who provided information to our journalists. We will have to review our material to delete references to sources and we will need the acknowledgement of the Commission that they will not pursue our journalists in an attempt to extract the names of their sources. Quite frankly, there are several very difficult problems in this category and the Corporation wishes to avoid future problems by way of subpoenas, discovery and litigation, bearing in mind that the libel case brought against us is long since completed.
4. In my letter to you of February 5th, I referred to a professional mandate. I am enclosing a copy of that letter, as I understand it unfortunately did not reach you. This point requires amplification as one almost gets the sense that we are haggling for legal fees in exchange for our file material. The Corporation is a Crown Corporation which functions as a broadcaster and has no mandate with respect to the cooperation you are requesting. Indeed, its legal affairs are normally handled by the Department of Justice and my mandate is only occasional and, thus, limited. In essence, the Corporation is functioning outside its objects. Moreover, it is functioning outside its budget, as well. The problem is essentially one of future exposure. If this firm is functioning without a mandate then we may be regarded as acting as busybodies with some very sensitive evidence. We are concerned that an aggrieved person could allege impropriety with respect to our conduct and, given ostensible authority, attribute that impropriety to the Corporation. For example,

...../3

we would have no immunity from libel in giving written material to you and no immunity from slander in conversing with you. An exposure of this nature in this situation is unacceptable to the Corporation.

An additional consideration is the possible allegation that the Corporation is "making" news by its unmandated participation.

5. Given the considerations set out above, we arrived at the conclusion that it would be appropriate that we be retained in our professional capacity in the gathering of evidence. A professional mandate would thus be created and all communications would be, once again, a matter of solicitor/client privilege. We would naturally have to extend this privilege such that we would require counsel for the Commission to treat all communications as privileged and confidential - in effect the client agreeing not to waive the privilege.

We appreciate that time is of the essence as you prepare your case. It is regrettable that some has slipped away through an inability to reach an understanding on this.

Yours truly,

BOYNE CLARKE



Robert Murrant

RM*dm

Enc.

cc. Mr. Peter Robinson

February 5, 1987

PRIVATE

Royal Commission on the
Donald Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

ATTN: W. Wylie Spicer
Commission Counsel

Dear Wylie:

Re: Marshall Inquiry

I am writing to respond to your correspondence of February 4 as an addition to our telephone conversation of February 5.

Firstly, I acknowledge receipt of your correspondence together with the enclosed Subpoena. In order to clarify the present situation, it is obviously the wish of the Corporation that there be a fair and impartial inquiry. It is the desire of the Corporation to respond to the inquiry in the same manner as any good corporate citizen.

Unfortunately, we could not recommend strict compliance with your Subpoena for certain reasons as would be indicated below.

The Corporation is prepared to release such material as would have been presented in Court had the libel action with John F. MacIntyre proceeded to trial.

A blanket Subpoena, however, creates two insurmountable

...../2

problems:

1. Any and all communications with the Corporation, its legal department and various producers and journalists would naturally be privileged and irrelevant. This should present no practical difficulty as I believe we both agree on this aspect and these matters are separately filed and easily excluded;
2. The file material contains references to very sensitive sources. In these instances, journalists had given commitments to sources which they were not prepared to violate even if the threat of imprisonment for contempt. These references appear throughout our material and could not be deleted without a cautious review of a considerable number of notes and documents.

A blanket Subpoena with respect to items 1 and 2 would inevitably lead to a Court challenge.

As is the case with item 1, this item can be resolved through proper scrutiny. Discussion of these matters poses additional difficulties. In the absence of a professional mandate to carry out such discussions, we would have no privilege with respect to liability. With this in mind, a legal process would be appropriate.

Lastly, if we were to engage in such endeavours, we would expect to be compensated for our time.

Yours truly,

BOYNE CLARKE

Robert Murrant

RM*dm

cc. Mr. Peter Robinson

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We take snowmobiles in trade.
MCKAY BROS.
Tatamagouche
N.S. 1-657-2650

MacDonald, 32, who speaks Chinese fluently, and Arr have denied the espionage charge. There has been no indication of Lin's fate. The ministry accused last week to receive a delegation of correspondents seeking to present a letter expressing concern and asking authorities to substantiate the charges against MacDonald. Officials warned them not to get involved in the matter.

ASTROLOGICAL FORECAST

by Sydney Omarr

Thursday, February 12, 1987

What's So Funny?: Something about Aquarius, some quality, some subtle ingredient enables natives of this sign to be funny, to tickle that part of us which brings forth laughter, ironic and otherwise. The list of Aquarians who possess this bitter-sweet quality is impressive -- George Burns, Jack Benny, Jack Lemmon, Carol Channing, Tommy Smothers and many others. Include Shelley Berman, and he tells us, "I am an Aquarian, Feb. 3, no one has to tell me about my sign, I am a true Aquarian!"

ARIES (March 21-April 19): Key is to attend to business first, then to enjoy fun and games. Temptation is to toss aside routine, to neglect basic duties. Moon position emphasizes creativity, romance, ability to dance to your own tune.

TAURUS (April 20-May 20): Emphasize ability to analyze character. You'll be dealing with shrewd individual who wants to "put across deal." Property, money, future security -- these are involved. Study transcripts, check notes.

GEMINI (May 21-June 20): Lunar, numerical cycles highlight domesticity, home, special relationship which includes finance, security and love. Emphasis on relatives, visits, short journeys. Family member will make significant concession.

CANCER (June 21-July 22): Look behind scenes, realize that what appears to be lost will soon be recovered. Means don't waste time brooding! Perfect techniques, streamline procedures, get rid of superfluous material. You're a winner.

LEO (July 23-Aug. 22): This is your power-play day! Focus on responsibility, deadlines, pressure, money and love. Events swing in your favor, you'll make important contacts, you'll receive credit long overdue. Capricorn figures prominently.

VIRGO (Aug. 23-Sept. 22): There is strife behind scenes. What appears calm on surface could bubble with dissension when you are "not looking." Know it, be direct, insist on facts, not evasions. Aries, Libra persons play roles.

LIBRA (Sept. 23-Oct. 22): You rebound from recent setback, you win friends, important allies and you could also win contest. Popularity zooms

upwards, you'll make new start and love is very much in picture. Leo native figures prominently.

SCORPIO (Oct. 23-Nov. 21): Family traditions surge to forefront. Some dissension does exist in connection with business, career. Your intuition rings true, by following instincts you emerge victorious. Aquarian plays role.

SAGITTARIUS (Nov. 22-Dec. 21): Define terms, avoid scattering forces, satisfy curiosity by making pertinent inquiries. Focus on travel, philosophy, religion, dissemination of information. Be aware of long-range prospects, opportunities.

CAPRICORN (Dec. 22-Jan. 19): What seems a "trap" will turn out to be genuine steppingstone toward goal. Refuse to be discouraged by minor detours. Focus on payments, collections, financial obligation of business partner, mate.

AQUARIUS (Jan. 20-Feb. 18): Accent ability to be flexible, to keep options open. Utilize sense of drama, showmanship. You attract favorable attention, you also could be presented with "legal paper." Gemini figures prominently.

PISCES (Feb. 19-March 20): Be diplomatic without abandoning principles. Means make intelligent concession, especially where family relationships are concerned. Money dispute will be settled, no one need "lose face." Taurus in picture.

IF FEBRUARY 12 IS YOUR BIRTHDAY you are sensitive concerning appearance, body image. It is necessary for you to "watch your weight." You are dynamic, attractive, possess intellectual curiosity and remarkable sense of humor. Gemini, Sagittarius persons play important roles in your life. You are attracted to the offbeat, you read and write and travel. Mild flirtation in February could be transformed into "something big." May will prove to be memorable for you during 1987.

(Discover your love and money mates in the booklet "Secret Hints for Men and Women." Send \$2.50, which includes postage and handling, to Omarr Astrology Secrets, in care of this newspaper, P.O. Box 2000, Los Angeles, CA 90053. Not available outside continental United States.)

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Friend testifies against Shaw in murder trial

LAS VEGAS, Nev. (AP) — A friend of a teenaged Las Vegas girl charged with murder in the September killing of a Canadian testified Tuesday that the defendant told her she shot a man between the eyes and later took her to see the body in the desert.

Stacey Buhman said Sandy Marie Shaw, 15, told her she helped kill James Cotton Kelly, 24, of Edmonton to get some of the \$1,400 US Kelly told her he had won gambling. Buhman said Shaw needed the money to bail a boyfriend out of jail.

Buhman, 17, testified that Shaw told her she and two male friends took the victim to the desert, then shot him dead and robbed him.

She said Shaw told her one of her friends fired the first shot, hitting Kelly in the neck. She said Shaw then told her that she took the gun and shot Kelly between the eyes.

Buhman said she didn't believe Shaw and asked to be taken to the body. She said Shaw took her to the desert the next day and showed her the body.

Buhman, who identified pictures of the victim at the crime scene in court, said she went to police two days later after talking with her uncle about the killing.

The witness testified that she first learned of an alleged plan to get Kelly's money when the victim called Shaw at her house three days before the killing to tell her of his winnings.

Shaw and two companions are accused of luring Kelly into the desert Sept. 29, 1986, then killing him.

The two companions, William Merritt, 17, and Troy Kell, 18, face separate trials next month.

Kelly's death was dubbed the "show-and-tell" murder after the defendants allegedly took friends to a desert area where his body had been dumped to view the body.

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FEB 11 1987

BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

Flora I. Buchan, B.A., LL.B.

Anne S. Derrick, B.A.(Hons.), LL.B.

Dawna J. Ring, B.A. (Hons.), LL.B.

1545 Grafton Street
Halifax, Nova Scotia
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(902) 422-7411

February 9, 1987

Royal Commission on the
Donald Marshall, Jr., Prosecution
1505 Barrington Street
Suite 1026
Halifax, N.S.
B3J 3K5

Attention: David Osborne

Dear Mr. Osborne:

Re: Donald Marshall Junior

I am acting with Clayton Ruby of Toronto as counsel for Donald Marshall Junior for the Judicial Inquiry scheduled to commence in May. As you are undoubtedly aware, we consider the conduct of certain individuals in the case to be material with respect to Mr. Marshall's wrongful conviction. One of these individuals is the now deceased Donald McNeil, Crown Prosecutor at the time of Mr. Marshall's original trial. We understand that Mr. McNeil was censured on January 20th, 1970, by the Nova Scotia Human Right's Commission for racist remarks made in the course of his practice as a Crown Prosecutor. I am writing to request that the Commission subpoena these files and provide us with access to them.

I look forward to hearing from you with respect to the above. Thank you for your kind attention to this request.

Yours sincerely,

BUCHAN, DERRICK & RING



Arne S. Derrick

ASD/dlp

Marshall/Osborne

ASD#4

Ruby & Edwardh
baristers

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 904 9364

February 9, 1987

Mr. Willie Spicer
Associate Commission Counsel
McInnes, Cooper & Robertson
1673 Ledford Row
Box 730
Halifax, N.S.
B3J 2V1

Dear Willie:

Please find enclosed a part of a memorandum of law prepared in relation to a motion brought in the trial of some Armenians I acted for in Ottawa a few years ago. You may find it of some assistance in the question of the duty of the prosecution in relation to disclosure.

Finally, I understand Clayton has written one of your colleagues indicating that we will consider seriously your request to waive privilege attached to any communications made by Mr. Marshall's counsel to the Attorney General's office, but would first like an opportunity to see this material ourselves. We are in the process of contacting it and as you can imagine, this is a somewhat time consuming task. We shall be in touch in relation to this matter as soon as we have occasion to inspect these conversations ourselves.

Hoping this letter finds you well.

Sincerely yours,


Marlys Edwardh

ME:jp

Clayton Ruby, B.A., LL.B., LL.M.
Ms. Marlys Edwardh, B.A., LL.B., LL.M.
Michael Code, B.A., LL.B.
Melvyn Green, B.A., LL.B.

McINNES, COOPER & ROBERTSON

INTER - OFFICE MEMO

To: George W. MacDonald
From: Anne Uteck
Date: 09 February, 1987
Re: Marshall Inquiry - Autopsy

File No.: I-1816

You have asked me to check the following:

1. Is there an absolute requirement that an autopsy be performed in cases of death by violence; and
2. Was there such a requirement in 1971.

CONCLUSION

Under the present legislation, there is no absolute requirement that an autopsy be performed in any case, nor was there such a requirement in 1971. The Chief Medical Examiner has complete discretionary power as to whether or not to perform an autopsy.

The relevant provisions of the Fatality Inquires Act R.S.N.S. 1967 c.101 provides:

"3(1) Where a Chief Medical Examiner is informed that there is lying within the territory to which he is appointed the dead body of any person, and it appears that:

- (a) there is reasonable cause to suspect that the person died by violence, undue means, or culpable negligence; or
- (b) the person died in a place or under circumstances requiring an inquest under any Statute; or
- (c) the cause of death is undetermined; or
- (d) the person died in jail or prison;

the Chief Medical Examiner shall forthwith take charge of the body and shall make diligent inquiry respecting the cause and manner of the death of the person.

3(2) Immediately upon completing this inquiry he shall reduce to writing every circumstance respecting the condition of the body, and tending to show the cause and manner of the death, together with his own opinion as to the cause of the death, and shall sign the writing and file it with the Clerk of the Crown for the County in which he found the body.

4(1) If, as a result of the inquiry under section 3, the Chief Medical Examiner is of the opinion that a postmortem examination is necessary to determine the cause of death, he may perform it, but in all cases in which he performs such examination, he shall, before or immediately after making it, make a statement in which he shall state that in his opinion the postmortem examination was necessary, and his reasons for that opinion, as fully as the circumstances permit, and shall file this statement as part of his report.

4(1A) The Attorney General may:

(a) Direct a post-mortem examination where he deems it necessary;

(b) direct further inquiry into any of the circumstances attending a death where he thinks such an inquiry should be made,

and the Chief Medical Examiner shall take such action as is necessary to comply with the direction of the Attorney General."

Note: These provisions were in place in 1971 with the exception of section 4(1A) which was enacted in 1982.

These provisions have not been judicially considered, but it would appear that after the Chief Medical Examiner receives notification of a death, an autopsy will only be performed if, in his discretion, he deems it necessary, or he is directed to do so by the Attorney General.

I spoke with Dr. Terry, Chief Medical Examiner at the Coroner's Office, who confirmed that there is no absolute requirement today, nor has there ever been, that an autopsy be performed. Dr. Terry went on to say that even in cases of violent deaths, autopsys are not necessarily done as a matter of course.

According to Dr. Terry, the only requirement under the Act after the Coroner's Office receives notification of the death, is that an inquiry be made into the cause and manner of the death. In most cases, this can be determined by an external examination of the body, blood and urine samples together with the police report. Therefore, these results will provide the medical examiner with the cause and manner of the death sufficient to file his report and make it unnecessary to perform any further examination, i.e. an autopsy.

The bottom line, according to Dr. Terry, is that he has, as Chief Medical Examiner, complete discretionary power unless otherwise ordered by the Attorney General, to perform an autopsy in any case.

As regards the Marshall case then, the medical examiner had to have made the decision not to perform an autopsy on the Seale body. Assuming a report was filed pursuant to s. 41(1) by the medical examiner respecting the cause and manner of the death, it would have to have been based on an initial inquiry (i.e. police report) and external examinations.

AU/jmr (au5-7)

PATTERSON KITZ

BARRISTERS & SOLICITORS

FORMERLY PATTERSON SMITH MATTHEWS & GRANT AND KITZ MATHESON

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
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JAMIE W.S. SAUNDERS
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REPLY TO HALIFAX OFFICE

BY HAND

February 9, 1987

Mr. W. Wylie Spicer
Counsel
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia

Dear Mr. Spicer:

Donald Marshall Inquiry
Our File No. 9201/1

Enclosed please find copies of the documents that you had flagged from the files that we had obtained from the Attorney General's Office.

Yours truly,



Catherine M. Hicks
Legal Assistant to
Darrel I. Pink

CMH/cg

encl:

c.c. Darrel Pink
Jamie Saunders

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

February 3, 1987

David Orsborn
Commission Counsel
Royal Commission on the Donald Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Orsborn:

I am advised that some former counsel to Mr. Marshall have been approached by Mr. MacDonald of your staff and asked for information. As Mr. Marshall's present counsel, I would ask that requests for information of a confidential nature be addressed to me so I might assist Mr. Marshall in determining whether he shall waive his right to have this information remain confidential.

It is Mr. Marshall's intention at the moment to reserve his right to confidentiality and privilege until I have had a chance to evaluate any requests that you might make of me in that regard and to examine all of his files and the information I can gather.

Will you be good enough to remind Mr. MacDonald to respect Mr. Marshall's right to confidentiality and privilege in this matter?

I am advised by Ms. Edwardh that Mr. Spicer has asked Ms. Edwardh for access to notes of conversations between Mr. Marshall's former counsel and various employees of the Attorney-General's office. I am in principle quite prepared to grant access to any such material to you, but I would want to see the documents first myself before making a decision.

Yours very truly,



Clayton C. Ruby

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W. Spicer Esq.,
Messrs. McInnes Cooper & Robertson,
P.O. Box 730,
1673 Bedford Row,
Halifax,
Canada.
B3J 2VI

YOUR REF

OUR REF SC/dld

DATE 16.1.87

Dear Wylie,

Noel Fellowes - Murder Trial

Further to my fax of Friday, I am now pleased to enclose a copy of Fellowes's book "Killing Time" which we found in a religious book shop of all places.

As I informed you in my fax, we are making investigations to obtain as much information as possible with regard to his trial and ultimate pardon. Our current researches (even on Lexis) do not throw up a case report but we shall ask Counsel's clerk if he can assist.

With best wishes.

Yours sincerely,



Stephen Cropper

LONDON:

CEDRIC G. HARRIS
K. G. MITCHELL
DAVID W. TAYLOR
P. NICHOLAS MOORE
J. N. POPE
J. C. EVANS
N. ADAM RIDLEY

CARL S. GOLDSMITH
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A.P.



**Attorney General
Province of Nova Scotia**

PO Box 7
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B3J 2L6

902 424-4044
902 424-4020

File Number **09-86-0579-01**

January 20, 1987

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

Mr. David B. Orsborn
Puddester/Orsborn
Suite 900, Atlantic Place
Water Street, P.O. Box 1538
St. John's, Newfoundland A1C 5N8

Dear Sirs:

This is to inform you that Mr. Jamie Saunders of Patterson, Kitz has been appointed as Counsel for the Administration of Justice for purposes of the Marshall Commission of Inquiry.

Yours very truly,


Ronald C. Giffin

Nova Scotia



**Department of
Attorney General**

Office of
Crown Prosecutor

77 Kings Road
Sydney, Nova Scotia
B1S 1A2

24 December 1986.

Our File No.

Mr. Wylie Spicer
McInnes, Cooper & Robertson
P. O. Box 730
Halifax, Nova Scotia
B3J 2V1

Dear Mr. Spicer:

Re: Donald Marshall Inquiry

This will confirm our telephone conversation of December 23, 1986 wherein I advised that our meeting of January 5, 1987 would have to be postponed pending appointment of counsel for our Department. I understand that the appointment is imminent and that you will be contacted in the very near future.

As discussed, this postponement in no way suggests an alteration in the Department's stance vis-a-vis the Inquiry. I was asked to assure you that you will have our complete cooperation.

I trust this is satisfactory for the time being.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'F. C. Edwards'.

F. C. Edwards
Crown Prosecutor

sm

xc Martin Herschorn

P.S. - After we spoke, Mr. Orsborne returned my call and I related the same information to him.

Ruby & Edwardh
barristers

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

December 11, 1986

David B. Orsborn, Esq.
Ruddester, Orsborn
900 Atlantic Place
Box 1538
St. John's, Newfoundland
A1C 5N8

Dear Mr. Orsborn:

I have not yet received a copy of the terms of reference of the Commission, which I assume is in the mail.

I am enclosing for you as Commission counsel a copy of my correspondence with the Deputy Attorney General of Nova Scotia. You will see that there is little that is satisfactory in this exchange of correspondence. But the correspondence does set out my own views which I want to bring to your attention.

The Deputy Attorney General has the view that Mr. Marshall should be granted standing only as a witness, and should have counsel provided for him only at that period, and perhaps during submissions. This is not my view. I would ask for a grant of full standing to take part by calling witnesses, cross-examining witnesses, making submissions and taking part fully in the proceedings of the Commission.

I write to you today to ask that you canvass your Commissioners and see if a grant of standing can be obtained for me now, in advance, so that I can commence necessary preparation. There seems to be some doubt in the mind of the Deputy Attorney General as to the nature of the grant of standing that will be made, and I would like to have that ambiguity cleared up at the earliest possible opportunity.

It is my view, as I set out in my letter to him, that it is important in terms of public perception of fairness that Mr.

Clayton Ruby, B.A., LL.B., LL.M.
Ms. Marlys Edwardh, B.A., LL.B., LL.M.
Michael Code, B.A., LL.B.
Melvyn Green, B.A., LL.B.

Marshall be treated the same as all the other parties. Accordingly, if they are accorded junior counsel, then I would like to have the same privilege. As a matter of ordinary economics, I do not anticipate that I will be attending at the Commission every day, and it would be useful to have junior counsel who will be familiar with the case who can stand in for me when I am not there, and assist me when I am.

The practice in recent Royal Commissions has been not only for a Commission to grant standing but to have the Commission recommend to the government which successful applicants for standing ought to receive government funding. This advice is invariably accepted. I would ask your Commission to make a similar recommendation for Mr. Marshall, recommending that he be allowed the same number of fully funded counsel as other parties who are likely to be granted standing, such as the police and the Attorneys General.

Yours very truly,



Clayton Ruby

/ms
Enclosures



**Department of
Attorney General**

Deputy Attorney General

PO Box 7
Halifax, Nova Scotia
B3J 2L6

902 424-4223

File Number

09-86-0579-01

November 25, 1986

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

Dear Mr. Ruby:

The Attorney General, the Honourable Ronald C. Giffin, Q. C., has asked me to acknowledge and reply to yours of November 19th.

Your letter of advice on behalf of Mr. Donald Marshall, Jr., raises a number of issues requiring clarification.

The question of Mr. Marshall's status before the Inquiry and the nature and extent of his participation are, of course, matters for the Commissioners to determine. Procedurally I would think that these preliminary matters ought to be raised with the Commission's counsel when counsel is appointed.

Mr. Marshall, of course, has the right to retain counsel and any decision to do so will be that of Mr. Marshall. It is not the intention of the Attorney General to appoint or retain counsel on behalf of Mr. Marshall. I would therefore expect if Mr. Marshall decides to retain counsel, all matters pertaining to such retainer will be agreed upon between the solicitor and the client in the usual way. The Attorney General has indicated that the Province will be prepared to reimburse Mr. Marshall's necessary legal fees, if required.

I would have thought Mr. Marshall would have inquired

the basis on which the Province will be prepared to reimburse him for legal fees if he thought it necessary to retain counsel in respect to any testimony he may be required to give before the Commission. ✓

The Commissioners, appointed under the Public Inquiries Act, are to investigate into the police investigation of the death of Sandford William Seale and the charging, prosecution and conviction of Donald Marshall, Jr., with that death for which he was subsequently found to be not guilty. Although the inquiry resulted from circumstances affecting Donald Marshall, Jr., the purpose of the Inquiry is to investigate, consider and report how such a result occurred in our criminal justice system. It is therefore difficult to speculate at this time the extent to which Mr. Marshall will be involved in the Inquiry or his need to be present or represented during hearings at which he is not required to give testimony. Obviously these are matters for the Commissioners themselves, however, such determination will obviously affect Mr. Marshall's decision in retaining counsel and certainly the Province's decision in reimbursing him for necessary legal costs.

Our experience in this Province with reimbursing persons, who are witnesses before Commissions, their legal expenses, is that senior competent counsel are available within Nova Scotia at hourly rates ranging from One hundred dollars to One hundred seventy-five dollars per hour. As a rule of thumb we equate the need for preparation time to the actual time involved in the hearing, limited in all cases to that part of the hearing concerned with the testimony of the person for whom counsel has been retained. In other words, if Mr. Marshall were required to be interviewed by counsel for the Commission and give testimony before the Commission involving, for purposes of example, a total of twenty-four hours, we would acknowledge the need for an additional three times twenty-four hours

...3

for the necessary preparation time for a total reimbursement of ninety-six hours at the hourly rate agreed upon. If the Commission requested oral or written submission at the conclusion of its hearings, the same factors would apply. We would expect the hourly rate to be inclusive of all fees and would not consider reimbursement in respect to associate counsel or local counsel in such circumstances.

In addition to fees, necessarily incurred disbursements and reasonable travel and necessary living expenses within the Province during times of preparation and of hearings relating to Mr. Marshall's own testimony would also be reimbursed. I am not able, at this time, to express any opinion as to reimbursement for travel expenses of counsel, retained outside of the Province, other than to expect that any such reimbursement by the Province would be limited to necessary travel related to the time for which reimbursement will be paid for the preparation and attendance on the hearings in respect to testimony required of Mr. Marshall.

You will understand that although Mr. Marshall has a right to retain counsel of his choice, I have no authority nor am I prepared to recommend reimbursement to Mr. Marshall for legal costs at rates or on a basis other than that which has been paid in respect to comparable inquiries in Nova Scotia, particularly, when senior competent counsel in this Province have been and I understand are available to him on such terms in the matter of this Inquiry.

Yours very truly


Gordon F. Coles

Ruby & Edwardh
barristers

11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2
Telephone (416) 964-9664

December 11, 1986

COURIER

G.F. Coles, Q.C.
Deputy Attorney General
Department of the Attorney General
Provincial Building
Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Mr. Deputy:

Thank you for your letter of November 25, 1986. I appreciate very much hearing from you and replying to my letter of November 19, 1986, and think it best to state my perspective on the forthcoming Commission so that you will understand it.

In my view, though clearly not yours, Mr. Marshall is central to this inquiry. My status as his counsel is different from that of all others who, I expect, will be granted standing at this inquiry. The administration of criminal justice in Nova Scotia is at issue in this inquiry. All other parties, except Commission counsel, have an interest in seeking to justify what they did to Mr. Marshall. The police, the prosecutors, the Attorneys General and the judges all have this common interest. They may well have a common interest to cast blame in whole or part on Mr. Marshall himself.

But I would be the only party who seeks to represent the interests of the accused/appellant/prisoner in the criminal justice system. That perspective is important and unique. It does not seem to me, based on this letter, that the Attorney General's office understands that role, or is capable of representing that interest.

For some peculiar reason, you harbour the notion that this sort of representation can be effectively carried on if Mr. Marshall has counsel qua witness, i.e., when he is actually on

Clayton Ruby, B.A., LL.B., LL.M.
Ms. Marlys Edwardh, B.A., LL.B., LL.M.
Michael Code, B.A., LL.B.
Melvyn Green, B.A., LL.B.

the witness stand, and if he is asked, during submissions. This would be a period of perhaps three or four days at most. It is as if the entire balance of the commission had nothing to do with Mr. Marshall, or the interests of the accused/appellant/prisoner did not need to be brought out by someone who understood them, and had an interest and could present them not from some impartial point of view, but from that particular perspective.

Neither Mr. Marshall nor I would accept such a limited role.

With your experience you should understand that it is likely that the Commission will grant standing to Mr. Marshall in the full sense, to appear, to examine and cross-examine witnesses, and to make submissions throughout the hearing. Indeed, in his public statements to the press, the Attorney General seemed to contemplate that Mr. Marshall would be granted standing, whereas you write to me on the footing that he will be granted counsel only to appear as a witness.

The level of preparation that you contemplate is entirely inadequate to do an effective job by my standards. I can believe that some senior counsel will be available in Nova Scotia at \$175.00 per hour, but it strains credibility to think that they will be available at \$100.00 per hour. My own inquiries at the Nova Scotia bar indicate that \$200.00 per hour is the accepted fee for a number of senior Nova Scotia counsel in litigation matters. I understand that out-of-province counsel from Toronto may well be more expensive than counsel in Halifax because, inter alia, the expenses of running a law office are much greater in Toronto than they are in Halifax.

I note that you "would no consider" reimbursement in respect to associate counsel or local counsel in such circumstances. You know, of course, that the Law Society rules require that I have local counsel and without local counsel at least at the beginning and the end of the proceedings, I cannot appear. Your rule would therefore preclude me from appearing at all.

If counsel for the Sydney Police Department, or the Attorneys General, or any other party granted standing have associate or junior counsel, I would expect that I will be treated exactly the same way. Discrimination between parties having standing and a substantial interest in the proceedings seems invidious.

The main thrust of your letter seems to be resentment at Mr. Marshall for choosing counsel from outside the province. Together with this there seems to be some concern on your part that Mr. Marshall did not make any inquiries of you before he went ahead and obtained counsel outside the province. You say in your letter:

"I would have thought Mr. Marshall would have inquired [sic] the basis on which the Province will be prepared to reimburse him for legal fees if he thought it necessary to retain counsel in respect to any testimony he may be required to give before the Commission."

Mr. Marshall sought counsel outside the province for the very same reasons that impelled you to choose counsel from outside the Province and Commissioners from outside the Province. In the words of the Attorney General (Toronto Star, September 25, 1986):

"It will be a person from outside the Province. There are so many people in the legal profession and on the bench from this Province who are involved in the case."

From that same news report, the Attorney General is said to have committed the Nova Scotia government to pay the expenses of all lawyers, including Mr. Marshall's, who are part of the inquiry. That language seems clear and unambiguous. It would not have occurred to me, as it did not occur to Mr. Marshall, that it was necessary then to inquire into the "basis" on which the Province will reimburse him.

I want to commence my preparation for this matter immediately. Your letter throws up a number of road blocks that prevent my doing so, yet Mr. Marshall cannot afford on his own to retain counsel.

Your letter makes it impossible for me to commence work, and preparation time is vanishing as we write these letters to each other. The restrictions you have placed upon Mr. Marshall's representations seem designed to make certain that the appearance of participation will exist, but the reality and substance of it is such that it is guaranteed to be ineffectual. Neither I nor Mr. Marshall will take part in such a charade. A public fight with the Attorney General's office is not sought by Mr. Marshall, but unless a firm foundation for reimbursement can be established quickly, we will have no alternative but to announce that we cannot participate in the Commission under the circumstances that you have set out.

In closing, I have some difficulty understanding why you are dealing with these matters. It seems to me that you and your office have an interest in these proceedings which is incompatible with an impartial settling of financial matters for those who are opposed in interest to you, as is Mr. Marshall. The appearance of justice cannot exist so long as you continue. Meanwhile, it is imperative that I have someone with whom I can speak to settle these matters quickly so that the required

preparation can be commenced now. Would you be good enough to arrange for someone to telephone me so that these matters can be decided quickly.

Yours very truly,



Clayton Ruby

/ms

Nova Scotia



Department of
Attorney General

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no: 09-86-0579-01

Our phone no:

December 2, 1986

The Honourable T. Alex Hickman
Chief Justice of the Trial Division
The Supreme Court of Newfoundland
Court House, Duckworth Street
St. John's, Newfoundland
AIC 5M3

Dear Chief Justice Hickman:

Re: Royal Commission Donald Marshall, Jr.

I acknowledge receipt of your letter dated November 28, 1986 advising of the appointment of David B. Orsborn as Counsel to the Commission.

In accordance with your request Mr. Orsborn, other Commission Counsel and any person authorized by the Commission will be given free access to our files, documents and personnel as requested by the Commission in the course of its investigation and inquiry.

Yours very truly,

A handwritten signature in cursive script, appearing to read 'R. Conrad'.

R. Gerald Conrad, Q.C.
Executive Director (Legal Services)