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ALSO OFFICES AT
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BEDFORD, NOVA SCOTIA

October 30, 1987

PERSONAL AND CONFIDENTIAL

BY FAX

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

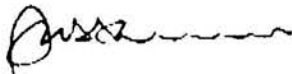
Dear George:

Our File Number: 9201/1

I acknowledge delivery of your letter dated October 28, 1987 with subpoena enclosed. We expect our instructions shortly.

You misunderstood the comment in the last sentence, first page of my letter of October 26th. I was not impugning your integrity in the slightest. What I objected to was a complete reversal in attitude in the space of two days - it was that fact alone which caused us to question the rationale for your demand for production.

Yours very truly,



Jamie W. S. Saunders

JWSS/caf

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October 30, 1987

PERSONAL AND CONFIDENTIAL

BY FAX

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

Dear George:

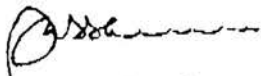
Our File Number: 9201/1

We have checked with Judge Anderson regarding his availability in Sydney next week. We have been informed by his office that other trials prevent him from attending.

Therefore his appearance will have to be put off until the hearings resume in Halifax.

I will check with Judge Anderson concerning the precise dates when he will be available in January, 1988 and I will let you know.

Yours very truly,



Jamie W. S. Saunders

JWSS/caf

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TELECOPIER COVER PAGE

DATE: Oct 30/87

TO: Royal Commission on
Donald Marshall Jr. Prosecution
Attention: George W. MacDonald

FROM: Jamie Saunders
Patterson Kitz

ADDITIONAL INSTRUCTIONS OR COMMENTS: _____

NUMBER OF PAGES BEING TRANSMITTED, INCLUDING THIS PAGE 3

TO BE CHARGED TO FILE NAME Marshall

FILE NO. 9201/1

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CALL Chris AS SOON AS POSSIBLE AT

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

October 23, 1987

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

Dear Wylie:

I have just been catching up in my very overdue reading and happened to come across the case of Scowby et al. v. Glendinning reported at 1987, 29 Canadian Criminal Cases (3d) at p.1. This decision brought back to mind the constitutional impediments involved in inquiring into matters of general practice and procedure pertaining to areas of exclusive federal jurisdiction. In that case the Supreme Court of Canada held that a inquiry conducted under the Saskatchewan Human Rights Code could not proceed against R.C.M.P. officers. Although this is a familiar theme it did strike me as worthwhile to point out to you that if any general inquiry is going to be made into the "reinvestigation process" it might equally be important to identify just what the provincial contracts with the R.C.M.P. are in Nova Scotia. To the extent that they are involved in general policing matters through contracts with the government of Nova Scotia our Commission might well be entitled to enquire into their practices. Without this foundation I have grave doubts about the constitutionality of such an inquiry. Food for thought.

Yours sincerely,



Marlys Edwardh

ME:jp

P.S. It's not that I have any objection of course, but I would anticipate some of our colleagues might.

OCT 30 1987

BOUDREAU, BEATON & LaFOSSE

Barristers & Solicitors

J. Bernard Boudreau, Q.C. G. Wayne Beaton
Guy LaFosse A. Peter Ross
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Our File Ref.:

October 22, 1987

Royal Commission on the Donald
Marshall Jr. Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.
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ATTENTION: Ms. M Susan Ashley
Commission Exec. Secretary

Dear Ms. Ashley:

RE: The Marshall Inquiry

Thank you for your letter of October 20, 1987, regarding the above-noted.

As matters look at the present time, the only time that I see that I will be in attendance at the Marshall Inquiry in Sydney would be for some of the cross-examination of Chief MacIntyre.

Therefore, I agree with you that you can remove the microphone and counsel table that have been set aside for me. In the event that I do attend the hearing for the examination of Chief MacIntyre, I will let you know well enough in advance so that you can have the counsel table, etc. returned for me.

Yours truly,

BOUDREAU, BEATON & LaFOSSE



PER: Guy LaFosse

GLF/cmp

OCT 30 1987

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October 29, 1987

COUNSEL
DONALD A. KERR, Q.C. BRIAN FLEMMING, Q.C. HUGH K. SMITH, Q.C.

DELIVERED BY HAND

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

Dear George:

I thank you for your letter of October 2, 1987.

I have noted that Donna Ebsary will be giving evidence on November 2 and I assume that that will be in Halifax.

I would appreciate a further update with respect to the timing of evidence to be taken from David Ratchford and Urquhart as the time draws nearer.

Many thanks for your assistance.

Yours very truly,

Mich p. L. C.

William L. Ryan

WLR:lc
N0541476

1 OCT 30 1987

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BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

28 October 1987

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

Dear Susan:

I thank you for your letter of October 19, 1987. It is not my intention to attend the sessions in Sydney unless one of the witnesses gives direct evidence which impacts on any of my three clients.

Therefore, there is a slight possibility that I might make the occasional appearance but if I do I will contact your office and notify you of the exact time and dates so that the necessary arrangements can be made. In the meantime, feel free to remove the microphone and counsel table that were set aside for me.

Thank you for your assistance and cooperation.

Yours very truly,

W.L. Ryan per L.C.
W.L. Ryan

WLR:rm

delivered by hand

C0546860

OCT 30 1987

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28 October 1987

George W. MacDonald
Commission Counsel
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre
1026- 1505 Barrington Street
Halifax, Nova Scotia
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Dear George:

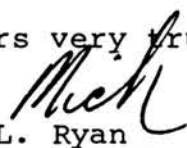
Re: Donald Marshall, Jr. Commission

I thank you for your letter of October 19, 1987.

I will ensure that my attention is turned to the evidence given by Ed McNeill on October 7th and I will acquaint Corporal Green with that evidence before he gives his evidence.

Your assistance and cooperation has certainly been appreciated.

Yours very truly,


W. L. Ryan

WLR:rm

delivered by hand

C0546873

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FILE NO. 87-345

TO: George M^{ce} Donald
Royal Commission, Donald Marshall St.

PLACE: Halifax, N.S.
PHONE: 902-424-2707

FROM: J. Gordon Petrie, Q.C.
Petrie & Richmond

PLACE: Fredericton, N.B.
PHONE: 506 458-1111

SUBJECT: Eugene Smith - scheduling of appearance

DATE: Oct. 29/87

TIME: 12:00

APPROVED BY: L. S. Doherty, sec'y to
J. Gordon Petrie, Q.C.

*Petrie & Richmond
Barristers and Solicitors*

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FILE:

October 29th, 1987

VIA TELECOPIER

George W. MacDonald, Esq.
Commission Counsel
Royal Commission on the Donald
Marshall, Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
HALIFAX, NS
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Dear Mr. MacDonald:

Re: Marshall Inquiry - Eugene Smith

I acknowledge receipt by fax of your letter of October 27, 1987.

As you can appreciate, I have only recently been retained in this matter and scheduling agreed upon previously is simply not convenient. As a matter of fact, I will be involved in a Trial in Moncton on November 9, 1987.

Your letter raised a further concern relating to the status of Counsel for a witness. One of the primary purposes of such Counsel would be to question his/her witness in order to clarify an area of ambiguity raised by prior examination. This right has been recognized and approved by the Court in the interests of fairness.

On the same issue, I would appreciate being advised and supplied with a copy, of any report bearing on my client's involvement in this matter.

My client has a further, real concern in connection with the "public" nature of the proceedings. This is an issue which I would appreciate discussing with you by telephone when you are available.

George W. MacDonald
Page Two
October 29th, 1987

In the circumstances, I regrettably must advise that my client and I are not available for an appearance on November 9, 1987. Accordingly, I would restate our request that Mr. Smith's appearance be postponed until a mutually convenient time in the future.

As well, I would appreciate being supplied with the materials referred to above in the event that the Commission is in possession of same.

Yours very truly,

PETRIE & RICHMOND

Per: *J.G.P.*

per to J. Gordon Petrie, Q.C.

JGP:de
cc: Eugene Smith

OCT 29 1987

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OUR FILE REFERENCE:

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October 28, 1987

George W. MacDonald, Q.C.
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
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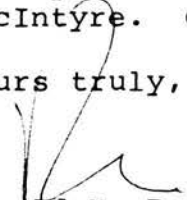
Dear George:

Donald Marshall, Jr., Commission

Thank you for your letter of October 27 concerning my request to call Mr. MacIntyre at the end of the evidence called in Halifax.

I am not quite clear as to what witnesses you plan to re-call in Sydney following the conclusion of the evidence by Mr. MacIntyre. Could you please give me more details on this?

Yours truly,


Ronald N. Pugsley

RNP:dk

N0181006

OCT 28 1987



University of Toronto

TORONTO, CANADA

M5S 1A1

DEPARTMENT OF PSYCHOLOGY

October 26, 1987

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

Dear Wylie:

This letter concerns a couple of matters that need not be copied.

The first my charges for preparing for the meeting of October 13 and the meeting itself, which is \$240 @ \$120 per hour.

The second is the unreturned calls (3) I made to your office last week. This concerned a matter that would be useful for you to consider independently of your decision concerning the matters raised in my copied letter. So I hope you could be back on this as soon as possible.

With best regards,

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'J. Furedy'.

John J. Furedy, Ph.D.
Professor

JJE/jjs

OCT 28 1987



University of Toronto

TORONTO, CANADA

M5S 1A1

DEPARTMENT OF PSYCHOLOGY

October 26, 1987

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

Dear Mr. Spicer:

Thanks for your letter of October 16 which arrived here on October 26. I am replying immediately (hence the reply is somewhat hasty) and am sending it by Purlator, because there are some aspects that you may wish to reconsider quite soon.

The basic problem with the polygraph is, that unlike other scientifically respectable though still controversial areas (e.g., psychiatry), the tactic of going to the experts in the field is apt to be much more misleading. The science that underlies the polygraph is psychophysiology, which in turn is a branch of the science of psychology. Polygraphers are not, in general, trained either in psychology or psychophysiology. Dr. Silverberg, in particular, has his PhD in physiology (thesis on plant physiology), and has no background even at the bachelor's level in either psychology or psychophysiology. In addition, and unlike other controversial areas, there are certain basic terms used by polygraphers which are systematically misleading, and can result in legal opinions (like those of Judge Kurisko) which are scholarly, but which are completely off base. Specifically, the modern polygraph is not a "test", it does not employ "control" in the normal scientific sense of that term, and it is not objective or quantified.

Even if the above problems did not exist, it seems to me that it would be unwise to hear only from an advocate of the polygraph and not from an opponent, whether the concern is with a 1971 version or current version of the polygraph. But due to the fact that there are, in addition, the above problems, it seems particularly inappropriate to go only on Dr. Silverberg's testimony, who does not have any psychophysiological or psychological qualifications. In this connection, of course, the difference between 1971 and current versions is, in my view, unimportant, although there is a slight chance that a clever polygrapher who is unopposed can convince the legal system otherwise.

... 2/...

October 26, 1987

Similarly, on the cross-examination of Mr. Smith and Al Marshall, I do not think that an afternoon's perusal of some of my papers will be sufficient for you to do the best possible job. If, after spending an afternoon with Professor Schiff's Evidence in the Litigation Process, I felt that I knew all about evidence in the Law I would be in a better position than you, because at least the area dealt with there does not have systematically misleading basic terms like polygraphy does. Mr. Smith may have been relatively inexperienced then, but by now I would think he'd be able to bamboozle you with polygraphic jargon. For example, do you think you can cross examine him on the nature of what a "test" is in the psychological sense of the term, on what "control" means in the scientific sense of the term, and what "quantification" entails in the psychophysiological sense of that term?

The point is that it would be better to call no "expert", than to have only one advocate for a particular position.

I have copied this letter to Mr. Clayton Ruby because, as you know, he and I agreed not to communicate on the assumption that you had a prior call on me. You should also feel free to show this letter to anyone else on the Commission. My purpose at present is to ensure that if, once again (e.g., the Kurisko decision; the recent Supreme Court Judgement), the relevant Canadian scientific experts are not consulted on this matter, then that step will be taken after clear and careful consideration by the Commission.

Yours sincerely,



John J. Furedy, Ph.D.
Professor

JJF/js

Cc. C. Ruby

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REPLY TO HALIFAX OFFICE

October 26, 1987

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

Dear George:

Our File No. 9201/1

I acknowledge your letter of October 21, 1987.

Prior to that correspondence, we had talked with you to secure a means of producing the material requested however, at the same time, protecting the legitimate rights and interests of the individuals named in such files. We believed the procedures discussed in my October 7, 1987, letter which would have required consent prior to releasing some of the documents, were both fair and reasonable.

Your decision to issue a subpoena at this time is surprising and a disappointment.

The Royal Commission views its mandate as requiring an investigation into the aspects of the administration of justice beyond the Donald Marshall prosecution and our client has agreed to cooperate with that investigation. Your unilateral decision to disregard the statutory rights afforded to individuals for protection and privacy and further, to order that material to be released, regardless of such rights, raises serious concerns about the integrity of the decision-making process and the reasoning behind the decision requiring release of the requested files.

Mr. George MacDonald, Q.C.
October 26, 1987
Page 2

I was hopeful the Commission would be sensitive to the rights and obligations which are an intrinsic part of the administration of justice. Government's competing principles and values must be constantly balanced. The decision to subpoena the Thornhill and MacLean material at this time, indicates a lack of appreciation of the importance of this balancing process.

Only two days after your October 19, 1987, letter set out the process and material required, you and your colleagues decided those arrangements were no longer adequate. Our client deplors this decision and is indignant the production will be compelled without regard to the protection afforded to individuals and the obligations upon Government to provide that protection.

The subpoena should be served upon me when it is issued.

Yours truly,

for J. W. S. Saunders
Jamie W.S. Saunders
JWSS/jl

OCT 26 1987

Petrie & Richmond
Barristers and Solicitors

J. GORDON PETRIE, Q.C.
GEORGE R. RICHMOND, B.A., LL.B.
(ALSO OF THE ONTARIO BAR)
HAROLD L. DOHERTY, B.A., LL.B.

P.O. Box 1195
Suite 201, Prospect Place
191 Prospect Street West
Fredericton, New Brunswick
Canada B3B 5G8

TELEPHONE
(506) 453-1420
TELEX
014-46111

FILE:

October 20th, 1987

David Orsborn, Esq.
Chief Counsel
Marshall Inquiry
Maritime Centre
Suite 1026
1505 Barrington Street
HALIFAX, NS
B3J 3K5

Dear Mr. Orsborn:

Re: Donald Marshall Inquiry

I have today been retained by Eugene Smith who I understand is to be a witness in the above matter.

Mr. Smith indicated that he is scheduled to appear before the Commission on October 28th and 29th, 1987.

Due to my late retention in this matter and conflicting obligations on those dates, it is simply not possible for me to attend at that time. In order to properly brief myself on this matter and to otherwise be available to attend with Mr. Smith it is necessary that I request of the Commission a postponement of my client's appearance until the first week of December, 1987.

I am certain that you can appreciate the difficulty that has arisen with respect to scheduling of Mr. Smith's appearance and would ask that you confirm the Commission's agreement to a postponement as above indicated.

As well, I would appreciate receiving any assistance you might provide with respect to my obtaining an occasional appearance from the Nova Scotia Law Society.

Yours very truly,

PETRIE & RICHMOND

Per:



dit to J. Gordon Petrie, Q.C.

JGP:de

*Sent via fax
Oct. 26/87*

PATTERSON & KITZ

BARRISTERS & SOLICITORS

FORMERLY PATTERSON SMITH MATTHEWS & GRANT AND KITZ MATHESON

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REPLY TO HALIFAX OFFICE

October 23, 1987

BY HAND

Mr. John E.S. Briggs
Director of Research
Royal Commission on the
Donald Marshall, Jr. Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Mr. Briggs:

Our File No. 9201/1

Enclosed is an update to be inserted in the Advice to Prosecutors manuals which you have in your possession. There is a new index for Section 8 and new pages 8.100.1A - .1C.

Could you kindly acknowledge receipt.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

OCT 23 1987

Ruby & Edwardh
barristers

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

October 16, 1987

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

Dear Wylie:

This is just a note to formally request that the Commission contact Mr. Ron Fainstein of the Department of Justice in Ottawa. He is a person, I think, who is most familiar with the procedures around references and I also believe will have some useful insights into how reluctant the R.C.M.P. was to undertake the 1982 investigation.

I hope this information is useful.

Yours sincerely,


Marlys Edwardh

ME:jp

OCT 23 1987



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

October 23, 1987

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

Dear George:

Please find enclosed what I think is the final version of my Opinion on The Use of Evidence and the Making of Evidentiary Rulings at the Trial of Donald Marshall, Jr.

I am pleased to confirm that I am available on November 10th to appear at the Sydney hearings. I understand that I will be hearing from the Commission staff shortly concerning the confirmation of travel arrangements.

Yours truly,

M Moriarty

for Bruce P. Archibald
Associate Professor of Law

/m

encl.

OCT 21 1987

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COUNSEL
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

RNP
2076-2

October 21, 1987

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

Dear George:

Donald Marshall, Jr., Commission

Thank you for your letter of October 19.

In view of the intention expressed in that letter, it would be my submission that it would be appropriate to call Mr. MacIntyre at the end of the evidence called in Halifax. I have no problem with him being called prior to Donald Marshall, Jr., but suggest that he follow all other witnesses.

I certainly have no problem with Commission Counsel discussing with Mr. MacIntyre the points you raise but suggest, provided you are in agreement with the thrust of this letter, that you delay

George W. MacDonnell, Q.C.
October 21, 1987
Page 2

your interview of him until we resume again in Halifax.

Yours truly,

Doreen Keating

Ronald N. Pugsley

RNP:dk

N0180918



KEDDY'S HOTELS & INNS

October 21, 1987

Professor Susan Ashley
Executive Secretary, Marshall Enquiry
c/o Holiday Inn
Sydney, Nova Scotia

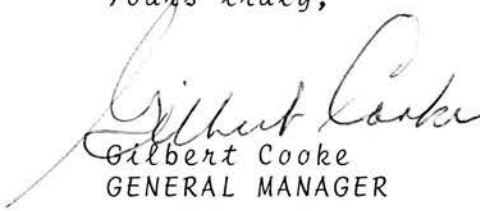
Dear Professor Ashley:

As I understand, your Enquiry will be returning to Sydney for November and part of December. I would be very pleased to have the opportunity of showing you our new rooms at Keddy's Sydney Hotel as well as our recently renovated Dining Room. I am confident that we can offer you designer decorated rooms, several with jacuzzis, as well as three designer decorated suites with jacuzzis (and others without) that are at least the equal of any other accommodations available in Sydney. This would be at a much lower price than I am informed that you are presently paying. Our rate would be \$47.00 plus 10% tax. The rate for the suites would be determined by the number of rooms engaged, but would certainly be very competitive.

I extend this invitation to you for two reasons; the first is that it would save your Enquiry money while at the same time providing comparable accommodations, and would also have the advantage of distributing the public money involving your Enquiry rather than giving all your business to only one Hotel. I am proud to tell you that I hear the rumor is that we have the best food in Sydney. Perhaps you would be good enough to join me for lunch or dinner some day so we could investigate the rumor and discuss this matter.

Thanking you for your kind consideration.

Yours truly,


Gilbert Cooke
GENERAL MANAGER

cc: Honourable Chief Justice Hickman
Marshall Enquiry

OCT 21 1987

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OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, Q.C. BRIAN FLEMMING, Q.C. HUGH K. SMITH, Q.C.

October 20 1987

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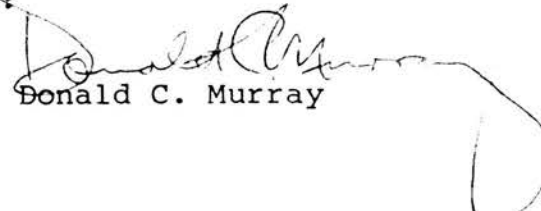
Mr. George W. MacDonald,
Royal Commission on the
Donald Marshall, Jr. Prosecution,
Maritime Centre, Suite 1026,
1505 Barrington Street,
Halifax, Nova Scotia
B3J 3K5

Dear Mr. MacDonald:

RE: William Urquhart

Thank you for your letter of October 19, 1987, which I received today (October 20, 1987). I have spoken with my client and would be most happy to meet with him together with Commission Counsel any evening which suits your convenience during the next couple of weeks of hearings. After that time I expect that I will need to be preparing Mr. Urquhart for his main evidence myself.

Yours very truly,
STEWART, MACKEN & COVERT
Per:


Donald C. Murray

DCM/dmb
c.c. Mr. William Urquhart
N2060748

OCT 21 1987

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OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, Q.C. BRIAN FLEMMING, Q.C. HUGH K. SMITH, Q.C.

October 20, 1987

Mr. J. Gordon Petrie, Q.C.,
Petrie & Richmond,
201-191 Prospect St. West,
Box 1195,
Fredericton, New Brunswick.
E3B 5C8

COPY

Dear Mr. Petrie:

RE: Eugene Smith - Marshall Inquiry

I enclose herewith all file material pertaining to the above-noted whom I understand you will be representing with regard to the above. Due to a conflict of interest I will no longer be able to represent Mr. Smith.

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

Yours very truly,

Joel E. Pink

JEP/nm
Encs.

CC: George W. MacDonald
Commission Counsel

James D. Bissell
Department of Justice

Eugene Smith

N0670769

OCT 19 1987

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OUR FILE REFERENCE:

DONALD A. KERR, Q.C.

COUNSEL
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

October 16, 1987

DELIVERED

Ms. Susan Ashley,
Royal Commission on the
Donald Marshall, Jr. Prosecution,
Suite 1026, 1505 Barrington St.,
Halifax, Nova Scotia.
B3K 3K5

Dear Ms. Ashley:

RE: John MacIntyre and William Urquhart

With respect to the above matters I now enclose our accounts. You will note that the MacIntyre account covers the period from September 15-October 13, 1987 while the Urquhart accounts covers the period from September 14, 1987 to October 13, 1987.

I trust you will find the above in order. If you have any questions please do not hesitate to contact me.

Yours very truly,
STEWART, MACKEEN & COVERT
Per:


Donald C. Murray

DCM/dmb
c.c. R.N. Pugsley, Q.C.

N2060725

OCT 19 1987

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

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

FRANK M. COVERT, Q.C.
RONALD N. PUGSLEY, Q.C.
GEORGE A. CAINES, Q.C.
JAMES S. COWAN, Q.C.
JOEL E. PINK, Q.C.
RICHARD K. JONES
DOUGLAS J. MATHEWS
JONATHAN C. K. STOBIE
BARBARA S. PENICK
MARK E. MacDONALD
GLEN V. DEXTER
ELIZABETH M. HALDANE
ERIC L. BURTON
LAWRENCE J. STORDY
R. BLOIS COLPITTS

J. WILLIAM E. MINGO, Q.C.
J. THOMAS MacQUARRIE, Q.C.
DONALD H. OLIVER
DONALD H. McDougALL, Q.C.
JOHN S. McFARLANE, Q.C.
CARMAN G. McCORMICK
JOHN D. MURPHY
ROBERT P. DEXTER
KARIN A. McCASKILL
R. CAMILLE CAMERON
NANCY I. MURRAY
T. ARTHUR BARRY
JOHN MacL. ROGERS
RICHARD A. HIRSCH
JAMES M. DICKSON

JOHN D. MOORE, Q.C.
DAVID A. STEWART, Q.C.
G. DAVID N. COVERT, Q.C.
J. GERALD GODSOE, Q.C.
WILLIAM L. RYAN
DAVID MILLER
JOHN D. PLOWMAN
TIMOTHY C. MATTHEWS
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MICHAEL T. PUGSLEY
CHARLES S. REAGH
D. GEOFFREY MACHUM
DONALD C. MURRAY
JAMES B. WOODER
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OUR FILE REFERENCE:

DONALD A. KERR, Q.C.

COUNSEL
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

RNP
2076-2

October 19, 1987

George MacDonald, Q.C.
The Royal Commission on
the Donald Marshall Prosecutions
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear George:

Donald Marshall Inquiry

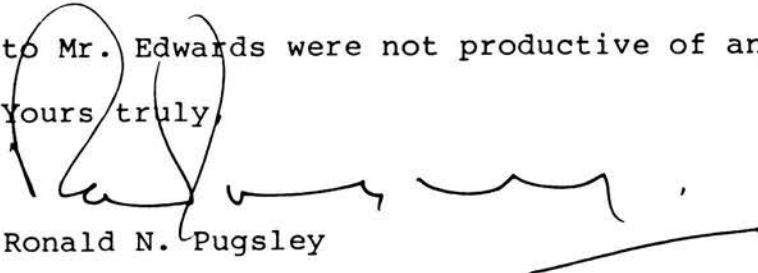
Several weeks ago, I spoke to Mr. Spicer, a request that I now confirm through this letter, that counsel for the Commission call Heather Matheson of the CBC and Allan Storey of the Toronto Star as witnesses for the purpose of adducing evidence on the manner in which the media was kept informed of the results of the reinvestigation in 1982.

Information with respect to the reinvestigation was apparently made available to the media although requests made by my client

George MacDonald, Q.C.
October 19, 1987
Page 2

to Mr. Edwards were not productive of any information.

Yours truly,


Ronald N. Pugsley

RNP:dk

N0180868

c: Clayton Ruby
c: Michael G. Whalley, Q.C.
c: Donald C. Murray
c: Frank L. Elman, Q.C.
c: Jamie W.S. Saunders
c: James D. Bissell
c: Al Pringle
c: W.L. Ryan
c: Charles Broderick
c: S. Bruce Outhouse
c: Bruce H. Wildsmith
c: E. Anthony Ross



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

October 16, 1987

Mr. John E. S. Briggs
Director of Research
Royal Commission on the Donald Marshall, Jr.
Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear John:

Thank you for sending the Federal-Provincial study of compensation for wrongful conviction and imprisonment. I shall finish reviewing it shortly and forward any comments.

I am enclosing a draft outline of my paper on Compensation for Wrongful Conviction. The text is progressing more slowly than I had hoped due to my teaching a new course this term and I am now at the beginning of the "Existing Remedies" section.

As I believe you know, this paper is being written at a level which is not founded on the facts of the Marshall case, but I think that it is essential that the Commission have a broad appreciation of the topic. You might well wish to seek an opinion on aspects of the handling of the Marshall claim in addition. Given that you will receive my research for nothing, it surely would not be extravagant to consider bringing in another person.

Yours sincerely,

A handwritten signature in cursive script that reads "Archie".

H. Archibald Kaiser
Associate Professor of Law

encl.

Faculty of Law

Dalhousie University

October 19, 1987

H. Archibald Kaiser

Outline

Compensation for Wrongful Conviction

A. Introduction

1. Who might be compensated?

- i) the range of potentially aggrieved persons
- ii) narrowing the issues for this discussion to those who are victims of miscarriages of justice

2. A rough assessment of the numbers involved based upon comparative data

B. Why should compensation be paid anyway? What is wrong with the status quo?

1. The Rationale - Why is wrongful conviction important for our society?

- i) a basic presentation of the policy and jurisprudential implications
- ii) Canada's obligations under international law to compensate the wrongfully convicted and her failure to live up to them
- iii) arguments against compensation

2. Existing Remedies - An assessment of the present array of potential sources of recovery: an inadequate state of affairs

- i) Torts - false imprisonment and malicious prosecution - barriers to recovery
- ii) The various pardons - nature, extent of use, how they are extended, relationship to compensation
- iii) References by the Federal Minister of Justice to provincial Courts of Appeal - assessment of remedial powers
- iv) Ex gratia compensation - Canadian and foreign availability and use; disadvantages to this approach
- v) Charter of Rights and Freedoms - prospects of an action for damages under s. 24(1), based upon infringement of legal rights
- vi) Habeas corpus - appropriateness and possibility of damages
- vii) Private members' bills - prospects for use; experience in other countries.
- viii) Publicity - the power of publicity, to support the wrongfully convicted in general and in aid of other remedies

C. A New Regime - Dealing with the major issues

1. What kind of damage should be compensated?

- i) discuss role of compensation in civil realm and heads of damage which may be considered therein
- ii) discuss appropriateness of these factors for wrongful conviction

and detention cases - and the need for extension and adaptation; a full canvas of bases of recovery

2. Factors which may mitigate the existence and extent of state liability
 - i) bona fide prosecution and prompt acceptance of responsibility for error
 - ii) nature of error in relation to verdicts and concepts of guilt and innocence
 - iii) is innocence proved? should it have to be proved?
 - iv) is there a lesser degree of state culpability in the instance of a person wrongfully convicted of one crime - who was still guilty of another crime contemporaneously?
 - v) contributory conduct by defendant - when should it matter and what weight should be assessed?
 - vi) any other mitigating factors?
3. Who may make a claim?
 - i) just the convicted person? - his family, as well? - or his/her survivors?
 - ii) those who have aided in righting the wrong (or uncovering it, at least)? - whether they have a contractual relationship or not?
 - iii) legal costs - an additional sum to be awarded or a deduction from the gross amount?
4. Should there be any limitation period? - or are there reasons for a relaxation of this type of requirement?
5. Should there be any maximum to a claim? - or should there merely be fair and reasonable compensation in all the circumstances?
6. Who should make what decisions?
 - i) issues: eligibility? - amount of compensation? - breadth and manner of inquiry?
 - ii) Decision-makers: the legislature, through government or private bills? or ad hoc assessors, whose recommendations may or must be followed? or a court or commission or board - the preferred alternatives, but should it be a single-purpose tribunal?
7. Compensation According to Law - statutory expression of the resolution of the preceding issues is required

D. Conclusion

1. Suggestion of a process for establishment of a new regime - a provincial responsibility; a uniform statute; cost sharing incentives; a timetable
2. Concluding statements

E. Appendix - A sample statute

MURRANT BROWN

Barristers & Solicitors

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ROBERT MURRANT

TELEPHONE (902) 421-2121

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October 15, 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 Mr. Spicer:

RE: CBC Documents

I have your letter of October 13.

You will recall when this matter was last discussed certain terms and conditions were advanced to the Commission in writing on behalf of the Canadian Broadcasting Corporation. The conditions were the product of extensive consideration designed to protect the interests of the Corporation **and**, as much as possible, to promote the interest of a fair inquiry. As well, you will recall that the Commission did not see fit to accept the conditions advanced by the Corporation and ultimately elected to accept clean copies of depositions, only.

The conditions were designed to be, and were, applicable to all parties having an interest in the Marshall Inquiry such that there would be no unjust or unfair treatment of any interested parties - inasmuch as the Corporation was in a position to cooperate.

It is regrettable that the Commission did not see fit to pursue the matter further when it arose.

...../2

MURRANT BROWN

- 2 -

The situation, however, remains unchanged in that the Commission is still entitled to review material belonging to the Corporation subject to the conditions advanced last year.

We would be more than pleased to hear from you should you wish to reach an accommodation on this basis.

As an administrative matter, this file material remains in the possession of Boyne Clarke but can be released to myself for review with Commission Counsel should you consider this appropriate.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Robert Murrant', with some scribbles and overlapping lines.

Robert Murrant

RM*dm

cc. Mr. Peter Robinson
Corporate Counsel
CBC

OCT 16 1987

Johnson & Somberg

Attorneys at Law
Eleven Green Street
Jamaica Plain, Massachusetts 02130
Telephone (617) 522-4848

Arthur L. Johnson
Judith E. Somberg
Lenore Glaser
Joyce Richard

October 13, 1987

of counsel
Dagmar Pollex

George W. MacDonald
General Counsel
Royal Commission on the Donald
Marshall Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia B3J3K5

Dear Mr. MacDonald:

Please be informed that I represent Donna Ebsary. Any communication, whether telephonically or in writing must go only to me. Please do not contact my client directly. I left a message with your secretary and hope that you will contact me soon.

Sincerely,

Lenore Glaser

Lenore Glaser, Esq.
LG/kmr
cc: Donna Ebsary

OCT 15 1987



FACULTY OF LAW

Queen's University
Kingston, Canada
K7L 3N6

October 13, 1987

Mr. John E.S. Briggs
Director of Research
Royal Commission on the
Donald Marshall, Jr. Prosecution
Maritime Centre, Suite 1026
1505 Barrington St.
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

Thank you for your letter of October 2, 1987. You have asked me to review Professor Archibald's paper for the purpose of advising whether in my opinion it is "error-free". With one exception I believe it is. His description of the existing law of evidence is basically accurate and his identification of mistakes made at the trial is correct. A good deal of his paper is necessarily speculative as to how the trial might have been affected and why defence counsel decided not to proceed along certain avenues of examination; his speculations of course may or may not be accurate.

Evidence of Mrs. Davis

I agree with Professor Archibald that the Crown Attorney should not have asked the questions concerning the tattoo, the defence should have objected and the trial judge should have prevented the reply. The evidence had no relevance save to illustrate the accused's character and was inadmissible and likely very prejudicial to the accused.

The Evidence of Mr. and Mrs. Seale

I agree with Professor Archibald that the relevance of the exhibits identified was nil and the calling of the parents of the deceased to show continuity served no purpose. Emotions of the

jury may have been unnecessarily affected by their presence and again the accused prejudiced.

The Evidence of Miss Harris and Mr. Cushue

I agree with Professor Archibald that the evidence was relevant and receivable.

Sergeant MacDonald's Hospital Conversations with Chant

Professor Archibald is quite correct in identifying the mistakes made by the Crown Attorney and the judge. They do not seem to understand that a statement made out of court may or may not be hearsay depending on the purpose for which it is being introduced. I have a minor quibble with Professor Archibald's characterization of Mr. Rosenblum's formal restatement of the question, p. 16 of his paper. I do not see the question as expressing a desire by Mr. Rosenblum to admit the statement for reasons contrary to the policy behind the hearsay rule. The question seems to me rather to satisfy the other purpose described by Professor Archibald, i.e. to determine that an accusation was not earlier made by Chant in order to affect Chant's credibility and no hearsay problem is presented. I would not be quite as generous to the trial judge as is Professor Archibald in imagining other possible grounds for disallowing the question. Frankly, I see no other grounds.

The ruling by the trial - judge hardly makes sense in light of his advice that Chant could later be asked what he said to Sergeant MacDonald while Sergeant MacDonald cannot be asked that same question. If both witnesses, Chant and MacDonald, were present at the conversation then each is equally able to describe it.

One gets the feeling on reading the transcript of ships passing in the night as counsel and judge do not talk to each other except in legal phrases and jargon. The situation would be improved if the players would only speak to each other in plain English and argue their evidentiary points in terms of their underlying policies instead of exchanging formulae and authorities.

Cross-examination of Maynard Chant

Professor Archibald's speculation as to why Mr. Rosenblum decided not to question the witness about what the police had said to him is just that. It may have been because of the trial judge's rulings or counsel simply may have thought it unwise.

Examination and Cross-examination of M.D. Mattson

Again speculation but it may be justified. One wonders why the witness was even called.

The evidence of John Pratico

The trial judge's recitation of s.11 of the Canada Evidence Act is clearly misplaced. That section has nothing to do with limits on cross-examination and only speaks to counsel's ability to prove a previous inconsistent statement. Defense counsel was entitled by law to pursue in cross-examination the reasons for the previous statement but, again, we don't know why he failed to do so. It's possible that the trial judge's reasons persuaded him that he wasn't allowed to or maybe he didn't want to explore them, content to go to the jury simply with the fact that the witness had made a previous statement inconsistent with his present testimony.

Professor Archibald, at pp. 27-28, seems to be suggesting that Crown counsel on re-examination should not have been allowed to explore the reasons for the earlier statement because defence counsel did not go into them on cross-examination. I disagree. The simple fact that defence counsel brought out that the witness had made a previous inconsistent statement is sufficient to permit the Crown to go into the reasons therefor.

The trial judge again displays a lack of understanding of the hearsay rule, pp. 163-175 of the transcript, in holding that while the witness Pratico may give reasons for his previous inconsistent statements, i.e. he was scared for his life, he cannot relate the threats made to him by Tom Christmas and Artie Paul, which threats made him scared. This ruling reminds one of the ruling made by the trial judge in the famous case of Subramaniam, [1956] I.W.L.R. 965 (P.C.). In that case the Privy Council held that the trial judge was wrong and that the witness was entitled to describe the threats made to him by the terrorist since the fact that such threats were made was relevant to the witness's state of mind on the earlier occasion. The trial judge here, p. 170 of the transcript, holds that Pratico "cannot tell in court what somebody said to him because it was not in the presence of the accused". Professor Archibald is obviously correct that cross-examination and re-examination were improperly curtailed. Given the threats the witness would have described, however, p. 163 of the transcript, the accused was certainly not prejudiced by the exclusion of the evidence. There is a danger, of course, that the jury having heard that the witness was scared, and that the witness had had contact with Christmas, Paul and Marshall Sr., might theorize that threats to the witness were forthcoming because the accused had sought the same. From such threats the jury might infer guilt. There was no evidence that

the accused had any connection with scaring the witness Pratico and one might suggest the trial judge could have warned the jury against making the connection. He did not, p. 278 of the transcript.

I hope that the above remarks are of some assistance to you.

Yours truly,

A handwritten signature in cursive script, appearing to read "Ron Delisle".

Ronald Delisle
Professor

RD/lb

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

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

CHIEF JUSTICE T. ALEXANDER HICKMAN
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS
COMMISSIONER

THE HONOURABLE
MR. JUSTICE GREGORY THOMAS EVANS
COMMISSIONER

October 13, 1987

Mr. Joseph S. Conforti
30 John Best Avenue
Weston, Ontario M9N 1C5

Dear Mr. Conforti:

Thank you for your letter of September 24th, 1987 addressed to Chief Justice Hickman. The Royal Commission does have a big job to do and I am sure all Canadians share your concern that the criminal justice system be accessible and fair.

Thank you for your interest in our work.

Yours very truly,

Susan M. Ashley,
Commission Executive
Secretary

SMA/ljb

See Miscellaneous file

OCT 13 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
JACK A. INNES, Q.C.
DIANNE POTHIER
JANET M. CHISHOLM
PETER M. ROGERS

DONALD J. MACDONALD, Q.C.
PAUL M. MURPHY, Q.C.
RICHARD N. RAFUSE, Q.C.
J. RONALD CREIGHTON
J. RONALD CULLEY
NANCY J. BATEMAN
R. MALCOLM MACLEOD
ALAN C. MACLEAN
DENNIS ASHWORTH
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GERALD J. MCCONNELL, Q.C.
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J. MARK MCCREA
D. SUZAN FRAZER
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KIMBERLEY H.W. TURNER

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ALSO OFFICES AT
HALIFAX, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

HAND DELIVERED

October 7, 1987

Mr. George W. MacDonald, Q.C.
Commission Counsel
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear George:

ROYAL COMMISSION - DONALD MARSHALL, JR., PROSECUTION
Our File No.: 9201/1

This will confirm our meeting with Commission counsel last evening.

We reviewed the terms upon which we are prepared to release copies of file materials.

We must identify and have time to identify what material is contained in the Thornhill and MacLean files which is "personal information" within the context of Section 2(g) of the Freedom of Information Act.

We must contact the parties concerned to obtain their consent to the release of such information.

We have asked you for a statement as to the intended use to be made by the Commission of this information. Given your interest in the "process" as opposed to the "merits", such information should be treated consistently with that position and not made public. It was agreed that we would have sufficient time to complete the steps I have just outlined and we will not be bound by the October 7/9 deadline.

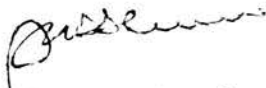
We are prepared to provide copies of all other requested material from the Thornhill and MacLean files (excluding "personal information"), however, as this file material includes R.C.M.P. reports which have always been treated as being highly confidential, we must insist that this material will be kept confidential by the Commission and will not be released publicly. If you determine that this material can only be dealt with publicly, you have agreed to give us twenty-eight (28) days advance notice so that we may consider whether action should be taken to prevent such release.

Mr. George W. MacDo: i, Q.C.
October 7, 1987
Page 2

Finally, we confirmed that you are free to question anyone in the Department about whatever information you have concerning the Rhondenizer and former Attorney General Allan Sullivan matters. However, we wish to be present during such discussions. As you know, we have no files on either of these gentlemen.

Darrel and I will be in touch with you next week upon our return to Halifax regarding release of the material you have requested.

Yours very truly,



Jamie W.S. Saunders

JWSS/plb

c.c.: The Honourable Terrence R. Donahoe, Q.C.
R. Gerald Conrad, Q.C.
Gordon F. Coles, Q.C.

PATTERSON ' 'TZ

BARRISTERS & SOLICITORS

FORMERLY PATTERSON SMITH MATTHEWS & GRANT AND KITZ MATHESON

OCT 13 1987

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
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HAND DELIVERED

October 7, 1987

Mr. George W. MacDonald, Q.C.
Commission Counsel
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear George:

ROYAL COMMISSION - DONALD MARSHALL, JR., PROSECUTION
Our File No.: 9201/1

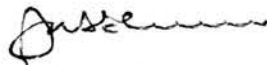
This will confirm our meeting with you and David Orsborn yesterday.

We expressed our shock and outrage at the article appearing on page 1 of The Chronicle Herald. It was our clear understanding that details of any discussions between ourselves about other files would be kept in the strictest confidence.

In our view, such disclosure was a mistake and can only work to disrupt the lines of communication and co-operation which we have worked so hard to establish.

You have explained the context of your conversation with the reporter, Mr. Underhill, and I have now received your letter dated October 6, which I will forward to our clients.

Yours very truly,



Jamie W.S. Saunders

JWSS/plb

c.c.: The Honourable Terrence R. Donahoe, Q.C.
R. Gerald Conrad, Q.C.
Gordon F. Coles, Q.C.



halifax cablevision limited

p.o. box 8660 str. "A", 5841 bilby street; halifax, nova scotia, canada B3K 5M3

tel. (902) 453-2800

October 5, 1987

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

Dear Susan:

We have been considering your September 11th. letter very carefully.

You may be aware that our reasons for becoming involved originally were three fold.

- (1) To provide daily coverage of the entire Commission's hearings to community channels throughout Nova Scotia.
- (2) To co-operate with broadcasters by pooling resources in order to provide media feeds.
- (3) To provide The Commission with a video record of the events.

Point one is no longer possible and point two turned out to be a very disappointing experience.

.... /2

halifax cablevision limited

October 5, 1987

Susan Ashley,
Commission Executive Secretary

Halifax Cablevision's community channel is in the business of providing public access television, not ratings and unfortunately, ventures of this magnitude are beyond our scope. We cannot tackle them alone. Without friendly co-operation from local broadcasters, I am afraid we must pass on your suggestion to submit a proposal for the Halifax phase.

I personally sympathize with your dissatisfaction towards the C.B.C.'s arrangement and regret the circumstance from which it was created. If there were any other solution, you would have heard from me sooner.

Sincerely,
HALIFAX CABLEVISION LIMITED

A handwritten signature in cursive script, appearing to read "Michael Barnes".

MICHAEL BARNES
DIRECTOR OF PROGRAMMING/
MARKETING SERVICES

MB/dml

PATTERSON I T Z

BARRISTERS & SOLICITORS

FORMERLY PATTERSON SMITH MATTHEWS & GRANT AND KITZ MATHESON

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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ROBERT M. PURDY
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S. RAYMOND MORSE
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

October 2, 1987

BY HAND

Mr. John E. S. Briggs
Director of Research
Royal Commission on the
Donald Marshall Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Mr. Briggs:

Advice to Prosecuting Officers
Our File No. 9201/1

Further to yours of September 21, 1987, I am enclosing the Advice to Prosecuting Officers binders, volume one and two.

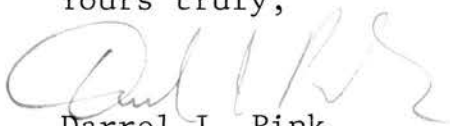
This material is provided to you on the specific understanding that it is confidential and no material contained in the binders (other than that which has already been provided to Commission counsel), will be made public or be presented to witnesses in the public hearings.

I also remind you this material is not a "manual" but is simply a compilation of various policies and procedures of the Department of the Attorney General that have been accumulated over the years and have now been consolidated in these volumes. However, there is no pretence they are exhaustive or are a complete code for the conduct of prosecuting officers.

Could you kindly acknowledge receipt of these documents.

If you have any questions regarding this, do not hesitate to be in touch.

Yours truly,


Darrel I. Pink
DIP/jl

c.c. Mr. Gerald Conrad, Q.C.

44-1 Q6 1987
06-1987

STEWART MACKEEN & COVERT

BARRISTERS AND SOLICITORS

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

FRANK M. COVERT, Q.C.
RONALD N. PUGSLEY, Q.C.
GEORGE A. CAINES, Q.C.
JAMES S. COWAN, Q.C.
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DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, Q.C. BRIAN FLEMMING, Q.C. HUGH K. SMITH, Q.C.

October 5, 1987

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

Dear George:

Thank you for your letter of October 1st concerning your decision not to reimburse Mr. MacIntyre for expenses he incurred as well as attending the Halifax phase of the inquire.

I disagree with the position taken by you. Mr. MacIntyre is going to be placed in very real jeopardy as a consequence of the evidence to be given by the RCMP during the course of the 1982 reinvestigation. It is conceivable that as a consequence of evidence to be given by Sargeants Wheaton and Carroll, that the Commission could well be influenced to make recommendations which could seriously affect my client. An examination of the materials prepared by Wheaton and Carroll would certainly lead to this inference. No other person before the inquiry faces such jeopardy. Mr. MacIntyre is unique in this respect. I would ask you to reconsider the matter and if your decision is the same, then I would want to take the matter before the Commission itself.

Yours truly,

Ronny Snow
(for) Ronald N. Pugsley

RNP/ps
N0180618

OCT. 06 1987

JRH

James R. Hughes Management Advisory Services Inc.

1604 Eleventh Avenue N.W.

Calgary, Alberta, T2N 1G9 Phone (403) 289-9444

October 2, 1987

The Hon. Mr. Justice Alexander Hickman
Royal Commission on the Donald Marshall Prosecution
Suite 1020, Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia, B3J-3K5

Dear Mr. Justice Hickman,

Thank you for the interest that you expressed in learning more about my consulting services.

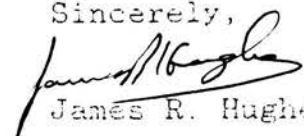
My background includes managerial and consulting experience in industry and in government. I have developed information gathering, analytical, planning, administrative, communication and interpersonal skills in quite a variety of assignments throughout my career. I have worked with and for lawyers and judges in a number of situations and I appreciate the complexities and intricacies of legal affairs in general and judicial proceedings in particular. Recently I served as Executive Director of the Commission of Inquiry into the Hinton Train Collision under the direction of Mr. Justice R.P. Feisy of Edmonton, and I also served as Secretary to the Saskatchewan Public Utilities Review Commission chaired by Mr. Justice E.C. Boychuk.

Several elements of my background might be relevant in support of your investigation into the Donald Marshall prosecution. Matters in which I might assist you and your advisors and staff include:

- collecting and reviewing background information
- providing coordination and logistical support during the hearing process
- reviewing and indexing evidence and transcripts
- developing and producing your final report.

I am enclosing a biographical summary that outlines my qualifications and experience. The prospect of assisting you in the conduct of the Marshall Inquiry is very appealing to me. Please contact me if you require any additional or more specific information.

Sincerely,


James R. Hughes

Enclosure

JRH

James R. Hughes Management Advisory Services Inc.

1604 Eleventh Avenue N.W.

Calgary, Alberta, T2N 1G9 Phone (403) 289-9444

James R. Hughes Management Advisory Services Inc. provides research and consulting services for clients in government and industry. The scope of services available to clients includes the following:

- Information gathering
- Review
- Analysis
- Planning
- Development
- Implementation

The range of subjects to which these services can be applied includes, but is not limited to, the following:

- Administrative matters
- Budgets (operating and capital)
- Corporate plans
- Feasibility studies
- Governmental relationships
- Impact assessments
- Market development
- Operations
- Organizations
- Policies
- Procedures
- Programs
- Projects
- Public relations activities
- Regulatory matters
- Research and development activities
- Socioeconomic assessments

Jim Hughes, the firm's principal, has developed a wide range of skills during the managerial, regulatory and consulting assignments that are outlined in the attached Biographical Summary. Please call should you require any additional or more specific information in regard to qualifications and experience relevant to your particular requirements.

JAMES R. HUGHES - BIOGRAPHICAL SUMMARY

A. Management Consulting Experience

- Principal of a one-person firm providing management, research and consulting services to corporations and to government departments and agencies. Assignments have included business plan development, commercial and organizational feasibility determinations, operating and capital planning and budgeting, market research and planning, a nation-wide government revenue and program expenditure analysis, a socioeconomic impact assessment, an advertising and promotional background study, an industry financial performance review, and the development of a municipal records management system. A major project was an Edmonton, Alberta based assignment as Executive Director of the Commission of Inquiry into the Hinton Train Collision. (1979-1982 in Saskatoon, Sask., and 1984 to present in Calgary, Alberta)

- Senior Consultant, Bureau of Management Consulting, Ottawa, Ontario, responsible for developing and conducting a variety of fee-for-service assignments for Federal government department and agency clients. Included were solo engagements (e.g. market research, organization and compensation studies) and multi-disciplinary team projects such as occupational and operational reviews, operating and capital budget analysis and planning assignments and socioeconomic impact assessments. (1975-1978)

B. Regulatory Experience

- Executive Secretary, Saskatchewan Public Utilities Review Commission, Saskatoon, Saskatchewan, responsible for developing the operations of a provincial regulatory agency newly established in 1982. Directed the review and approval process, including public hearings, for initial rate increase applications from corporations that provide compulsory vehicle/driver insurance, telecommunications, electricity and natural gas services throughout the province. Coordinated the analysis of applicant and intervenor evidence from financial, technical, operational and regulatory perspectives and developed Commission Orders and news releases. Participated in meetings and seminars to develop an appreciation of national and international perspectives of utility regulation. Organizational and administrative achievements included setting goals and objectives, developing policies, preparing operating budgets and implementing budget control systems. Also established operational responsibilities, procedures, records-keeping and reporting requirements necessary for statutory or regulatory purposes. Developed and maintained effective working relationships with Commission members and staff, advisers and consultants, applicant corporation representatives and consultants, news media, intervenors and interested parties. (1982-1984)

C. Industrial and Technical Experience

- Saskatchewan Economic Development Corporation, Saskatoon, Saskatchewan. Development Manager responsible for conceptual and physical development planning, capital and operating budgeting, marketing and tenant negotiations, project approval submissions and project implementation for a Research Park complex (now known as the Innovation Place) covering 32 hectares adjacent to the University of Saskatchewan. (1978-1979)

- Ford Motor Company, Dearborn, Michigan, with areas of responsibility as follows:

1. Test Program Management - directed the operation of a fleet of prototype vehicles and engines under strict regulatory procedures to demonstrate compliance with vehicle emission standards; the program was on the critical path in the Company's product development and production schedule; completed extensive organizational planning and development activities; worked with basic and applied research staff; managed a staff of 40+ with an operating budget of \$6 million; implemented recession-induced staff and budget reductions. (1973-1975)

2. Regulatory Affairs Management - directed technical and administrative liaison with vehicle emissions regulatory agencies in the U.S.A., Canada and overseas; developed compliance programs and conducted program audits; represented the Company on Motor Vehicle Manufacturers Association (MVMA) committees; handled two brief international assignments; period of rapid responsibility and organizational growth. (1971-1973)

3. Educational leave of absence under a Ford Advanced Education Fellowship. (1971)

4. R & D Project Management - applied "state-of-the-art" technology to the development of dealership service equipment with responsibilities ranging from defining needs through to the field introduction of new or improved equipment; managed contracts for development work and prototype assembly; presented two technical papers; co-inventor of one U.S. patent. (1967-1970)

5. Plant and Project Engineering - responsible for new installations and revisions to existing equipment and facilities in a large plastics manufacturing and assembly plant; handled special assignments such as developing a preventive maintenance plan and relocating a small nearby factory into the main plant. (1966-1967)

- Intercontinental Packers Ltd., Saskatoon, Saskatchewan. Plant and project engineering responsibilities for equipment and facility expansions and renovations in a large meat-processing plant. (1966)

- Stock, Keith & Associates, Regina, Saskatchewan. Field project engineering supervision responsibilities; managed the firm's Saskatoon project office and materials test laboratory. (1964-1965)

D. Professional Affiliations

- Prospective Member, Institute of Management Consultants of Alberta.
- Registered Professional Engineer in Alberta, Ontario and Saskatchewan.
- Member, Society of Automotive Engineers.

E. Academic Background and Awards

- M.B.A. (1972), University of Windsor, Windsor, Ontario.
- Ford Motor Company Fellowship for one year of full-time studies (1971).
- B.E. (1964) and Postgraduate Diploma (1968), Mechanical Engineering, University of Saskatchewan, Saskatoon, Saskatchewan.

James R. Hughes
1604 Eleventh Avenue N.W.
Calgary, Alberta, T2N-1G9

Telephone: (403) 289-9444

SEP 05 1987

Margaret E. Graham Discovery Service

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

PHONE: 469-5734

September 30, 1987

Ms. S. Ashley
Royal Commission
Maritime Centre, Suite 1026
Halifax, N.S.
B3J 3K5

Dear Ms. Ashley:

This letter will confirm that the revised hearing schedule on the Donald Marshall, Jr. Prosecution is convenient to us.

Your office has informed me that the Halifax hearings will be held at the Lord Nelson Hotel. We have made arrangements to rent a room at the hotel so that we could do our work without having to use couriers. If there is a change in the location of the hearing, please let me know at your earliest convenience so that I could cancel our room reservations.

Yours very truly,

MARGARET E. GRAHAM
DISCOVERY SERVICE



Margaret E. Graham



Department of Justice
Canada

Ministère de la Justice
Canada

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7

OCT 02 1987

DELIVERED BY HAND

Our file
Notre dossier: AR-21,613

Your file
Votre dossier:

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

October 2, 1987

Dear Mr. Spicer:

Re: R.C.M.P. Files - Thornhill and MacLean

I acknowledge receipt of your letter dated September 29, 1987.

Immediately following your telephone conversation with Al Pringle your request was passed on to the RCM Police locally. You will appreciate that the RCM Police and our Department were also notified at the Ottawa level. In addition, we notified counsel for the Attorney General of Nova Scotia.

We expect to have firm instructions from our clients within the near future. We would appreciate being kept informed of the status of access to and production of the Attorney General's files in this regard as we wish to give their counsel the opportunity to express any position they might have before our client's files would be produced.

Yours very truly,

James D. Bissell
General Counsel
Director, Atlantic Region

JDB:mm

Canada

PRIORITY POST

c.c.: Mr. Jamie Saunders
Patterson, Kitz
P.O. Box 1068
10 Church Street
Truro, Nova scotia
B2N 5B9



Province of
British Columbia

Ministry of
Attorney General

Criminal Justice Branch
Third Floor, Harbour Square
910 Government Street
Victoria
British Columbia
V8V 1X4

OCT 05 1987

OUR FILE

YOUR FILE

September 22, 1987

Mr. John E.S. Briggs
Research Director
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

RE: Crown Prosecutors' Manual

Further to your letter of August 31, 1987, I am forwarding to you a copy of our policy and procedure manual for ad hoc Crown Counsel issued March, 1987.

We are in the final stages of formulating both Crown Counsel policy and procedure manuals. The procedure manual is undergoing examination for typographical errors and the policy manual is under final revision. Neither of those publications are yet available for circulation given their relatively incomplete state. Both will, however, be made available to you if you so wish upon their completion.

Yours very truly,

H.N. Yacowar

H.N. Yacowar
Director
Policy and Support Services
Criminal Justice Branch

Nova Scotia



**Department of
Attorney General**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no: **09-87-0631-01**

Our phone no:

September 30, 1987

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

Dear Mr. MacDonald:

You were marked for a copy of a letter dated September 21, 1987 from the Community Involvement of the Disabled Society to the Attorney General concerning access to the Marshall Inquiry hearings by disabled persons.

The Attorney General asked me to draft a reply to this letter. Before doing so I would first appreciate receiving any comments you might wish to make.

Yours very truly,

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

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



Department of Justice
Canada

Ministère de la Justice
Canada

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7

426-7592

Our file / Notre dossier AR-21,613

October 2, 1987

Your file / Votre dossier

BY COURIER

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

Att: David Orsborn


Dear David:

Re: Anonymous Information Provided to Crime Stoppers

A Crime Stoppers Association has recently been formed in the Sydney area and works out of the R.C.M.P.'s subdivision building. Corporal Mike MacMullin of the Sydney Police Department received a call from an anonymous female that Donald Marshall, Jr. and Sandy Seale had a dispute at the dance over a girl and went to the park to settle their dispute.

A copy of the notes made by Corporal MacMullin about this call are enclosed for your information in the event that you wish to have your investigators investigate the claim further.

Yours very truly,


James D. Bissell
General Counsel
Director, Atlantic Region

JDB:wm

Enclosures

cc: Inspector H. E. Murphy
R.C.M.P. "H" Division
P. O. Box 2286
Halifax, Nova Scotia
B3J 8E1

Canada

FOR POLICE USE ONLY

DATE: 25 Sept-87

CRIME STOPPERS DIARY DATE

Non Issued

PLEASE ADVISE STATUS BY ABOVE DATE

TYPE OF OFFENCE: Seale Murder / Hearing CRIME OF THE WEEK: NoAWARD: YES NO TESTIFY: YES NOLOCATION OF OFFENCE: Westworth Park, Sydney P.B.DATE: May 1971 TIME: ?VICTIM: Sandy Seale PHONE: _____ADDRESS: Westmount Lane BptonOUR OCCURRENCE #: 87-028 ASSIGNED TO: CP. Grant Shaw Remif.
Marshal Hearing

NARRATIVE: _____

On September 25th, 1987 at 1150 AM a female called the Crime Stoppers office and asked the Undersigned, why don't they bring out the evidence at the Marshall driveway about young Seale and Marshall fighting at the home that night over a girl and the fact that both Seale and Marshall went to the park to settle the dispute.

The lady who sounded after said all they (the police) have to do is question the young people who were at the home and they will tell them about the dispute over a girl friend.

The lady stated that another lady whom she wouldn't name had on many

CONTINUATION REPORT

OCCURANCE NO.

87-028RE: Seale Murder/Hearing

occasions stated this fact about the dispute at the dance as some member of her family had been at same and had come home relating the incident.

I tried to have the caller give me his name and the name of the other lady. I had no success. I even tried to have her talk to this lady and to have her contact someone at the hearing. Once again I had no success.

When I tried to get more info the lady caller, stated "question the young people who were at that dance they all know." The caller than hung up.

87-09-25
12:50 noon
received from

Mike Max Mallin

CRIME STOPPERS SECTION

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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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

September 30, 1987

BY HAND

Mr. John E.S. Briggs
Director of Research
Royal Commission on the
Donald Marshall Jr., Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Mr. Briggs:

Advice to Prosecuting Officers
Our File No. 9201/1

Thank you for yours of September 21, 1987.

I hope to be back to you shortly regarding this material.

Yours truly,



Darrel I. Pink

DIP/jl

SEP 30 1987

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

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

FRANK M. COVERT, Q.C.
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OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, Q.C. BRIAN FLEMMING, Q.C. HUGH K. SMITH, Q.C.

BY COURIER

September 29, 1987

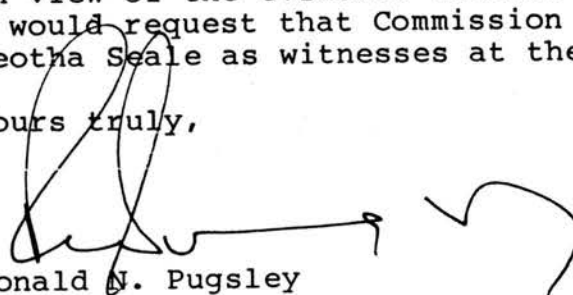
George W. MacDonald, Esq., Q.C.
Royal Commission on the
Donald Marshall Jr., Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear George:

RE: Marshall Inquiry

In view of the evidence adduced from John Pratico last Thursday, I would request that Commission Counsel call both Oscar and Leatha Seale as witnesses at the Sydney phase of the inquiry.

Yours truly,


Ronald N. Pugsley

RNP/ps

cc: Anne S. Derrick
cc: Frank L. Elman
cc: Jamie W.S. Saunders
cc: Darrel I. Pink
cc: James D. Bissell
cc: Al Pringle
cc: E. Anthony Ross

N0180493

STEWART MacKEEN & COVERT**BARRISTERS AND SOLICITORS**

FRANK M. COVERT, Q.C.
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 JAMES M. DICKSON

JOHN D. MOORE, Q.C.
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 JAMES B. WOODER
 DAVID P.S. FARRAR

DONALD A. KERR, Q.C.

COUNSEL
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 TELEX 019-22593

DIRLCT DIAL (902) 420-

OUR FILE REFERENCE:

BY COURIER

September 29, 1987

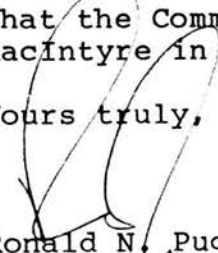
George W. MacDonald, Esq.
 Royal Commission on the
 Donald Marshall Jr., Prosecution
 Maritime Centre, Suite 1026
 1505 Barrington Street
 Halifax, Nova Scotia
 B3J 3K5

Dear George:

RE: Marshall Inquiry

It will be necessary for John MacIntyre to attend in Halifax during certain parts of the Halifax phase of the hearings in order to give me instructions with respect to cross-examination of certain witnesses such as constables Wheaton and Carol as well as Donald Marshall, Jr. I would appreciate your confirmation that the Commission will pay the reasonable expenses of Mr. MacIntyre in this regard.

Yours truly,



Ronald N. Pugsley

RNP/ps

N0180494

SEP 29 1987

Nova Scotia



**Human Rights
Commission**

Office of the Chairman

PO Box 2221
Halifax, Nova Scotia
Canada
B3J 3C4

902 424-4111
902 424-7690

Our file no:

September 25, 1987

Mr. R. L. Hornsby
President
Community Involvement of the
Disabled, Society
P. O. Box 1448
Sydney, Nova Scotia
B1P 6R7

Dear Mr. Hornsby:

I wish to express my pleasure to you for the action you have taken in bringing to the public's attention the fact that the Donald Marshall, Jr. inquiry is being held in a building which is presently inaccessible to persons with a severe mobility handicap.

Most assuredly this action underlines the necessity for a continuing program to educate the general public concerning the needs of various minority groups within the population.

Again, I reiterate my pleasure upon noting your action in this regard.

Sincerely,

Donald E. Curren, C.M., Q.C., LL.D.
Chairman

c.c. Hon. T.R.B. Donahoe, Q.C.

✓ c.c. Mr. George MacDonald

SEP 29 1987



**Department of
Attorney General**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no:

Our phone no: 424-4024

September 28, 1987

Mr. John E.S. Briggs
Director of Research
Royal Commission on the Donald
Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

Re: Thornhill and MacLean Files

Further to your letter of September 25th, I have asked our filing staff to prepare a list of the Thornhill and MacLean files, access to which was provided to you and Professor Edwards, and I enclose a copy thereof herewith. You will note that there are some small discrepancies between that list and yours.

Since your visit to our offices, one additional "Thornhill" file has returned to our central filing system. This file, numbered 04-81-0007-09, was, apparently, in circulation (as a precedent), and should have been provided for your examination. Subject to this, I am advised by our filing staff that all Thornhill and MacLean files have been identified for your perusal.

Consistent with arrangements that have been made since we last met, please direct any further inquiries to our counsel, Mr. Jamie Saunders, in the first instance.

Yours very truly,



Reinhold M. Endres
Director (Civil Litigation)

RME/crn

Enc.

c.c. Jamie Saunders
Jocelyn Cross

SEP 28 1987

STEWART MACKEEN & COVERT
BARRISTERS AND SOLICITORS

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OUR FILE REFERENCE:

DONALD A. KERR, Q.C.

COUNSEL

BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

September 28, 1987

Ms. Susan Ashley,
Royal Commission on the
Donald Marshall, Jr. Prosecution,
Suite 1026, 1505 Barrington St.,
Halifax, Nova Scotia,
B3K 3K5


Dear Ms. Dyer:

RE: John MacIntyre and
William Urquhart

With respect to the above matters I now enclose our accounts. You will note that the MacIntyre account covers the period from August 14, 1987 to and including September 14, 1987 while the Urquhart account covers the period from August 14, 1987 to September 13, 1987.

I trust that you will find the above in order. If you have any questions please do not hesitate to contact me.

Yours very truly,
STEWART, MACKEEN & COVERT
Per:


Donald C. Murray

DCM/dmb
N20600643

SEP 28 1987

Ruby & Edwardh
barristers

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

September 21, 1987

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

Dear George:

I understand that the jury foreman was on the radio speaking about the case shortly before Sunday, March 28, 1982. Do you have a copy of that tape that we could have? Has anyone done a further interview with that jury foreman?

Yours very truly,



Clayton C. Ruby

/ms
cc Anne Derrick

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

September 18, 1987

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

Dear George:

Would you be good enough to forward to me a copy of the record of any arrests, whether they resulted in conviction or not, and any charges laid against my client Donald Marshall, Jr. Do you have any evidence that Marshall had been suspected of other offences, eg. vandalism in a cemetery?

Yours very truly,



Clayton C. Ruby

/ms
cc Anne Derrick

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

September 21, 1987

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

Dear George:

May I suggest that the interviewer that is doing the interviews on differential treatment of Indians by police and public should speak to a cab driver named Barry Penticost of 297 Rotary Drive, Apt. 101, Sydney, Nova Scotia, B1P 6L5. He has no phone. Mr. Penticost has agreed to speak to a commission investigator on the condition that he does not have to testify and that his identity can be kept anonymous. I think that the investigator concerned with racism may be interested in him.

He went to school with Donald Marshall and remembers him as being a tough character with a bit of a mean streak but to be an Indian in those days meant that you had to have a mean streak because everybody picked on you and made trouble for you. In particular, he can recount incidents of dealing with the police and differential enforcement of the law (including one case where he himself was involved and no charges were laid because the victim was an Indian). He can also recount cases where Indians were treated with undue physical harshness as compared with non-Indians in the course of police duties. I think he is exactly the kind of person we have been talking about for that survey by our academics.

Ruby & Edwardh

It is most important that his name not be released to anyone because he is afraid of reprisals from the police concerning this matter.

Yours very truly,



Clayton C. Ruby

/ms

SEP 28 1987

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

PURDY'S WHARF TOWER ONE
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OUR FILE REFERENCE:

DONALD A. KERR, Q.C.

COUNSEL
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

008721-001

September 25, 1987

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 George:

I thank you for your letter of September 11, 1987 and enclosures therewith.

I have no problem with the remarks as made and I have forwarded a copy of the transcript directly to Corporal Green.

Could you please confirm in writing when the evidence of Donna Ebsary and the other individual who impacts upon Green's evidence will be giving their evidence.

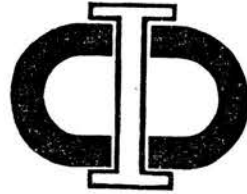
Many thanks for your assistance.

Yours very truly,

Mick per L.C.

William L. Ryan

WLR:lc
N0541132



Community Involvement of the Disabled, Society

P.O. BOX 1448 SYDNEY, N.S. B1P 6R7

"A Voice Of Our Own"

September 21, 1987

Hon. Terence Donahoe
Attorney General of Nova Scotia
P.O. Box 7
Halifax, N.S.
B3J 2L6

Dear Mr. Minister,

On behalf of Community Involvement of the Disabled. I am writing you to bring to your attention a most distressful situation.

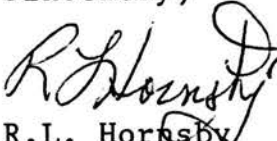
As you are aware, the Donald Marshall Jr. inquiry is being conducted at St. Andrew's Church Hall in Sydney. This facility is not equipped for entry by persons with a mobility handicap. As citizens of the province of Nova Scotia, disabled persons are entitled to attend this public inquiry.

Ms. Susan Ashley, spokesperson for the Royal Commission has stated that disabled persons could still attend the hearing, that there are several commission officials in attendance who could help them into and out of the hall (Cape Breton Post, Sept. 19, 1987, pg. 3). This, of course, is not a realistic nor an acceptable solution. Further, it is an insult to mobility impaired persons.

...2

We, the members of Community Involvement of the Disabled, anxiously await a resolution of this matter and a reply that addresses the seriousness of the situation.

Sincerely,



R.L. Hornsby
President

c.c. Mr. Donald Curren
Chairperson, NSHRC
Mr. George MacDonald
Chief Commission Counsel

Marshall Jr. — Day Eight

Walsh still believes Marshall is innocent

vidence.
one of those procedures was fol-
d in the Seale investigation the
he was found lying in the street.
other testimony, Walsh was ques-
d concerning notes he made after
ewing the transcripts of the 1982 ap-
hearing as requested by MacIn-

he only conclusion the court can ar-
at is that the actions of this man
not consistent with those of a man
ng to proclaim his innocence to the
d," said Walsh in his notes.

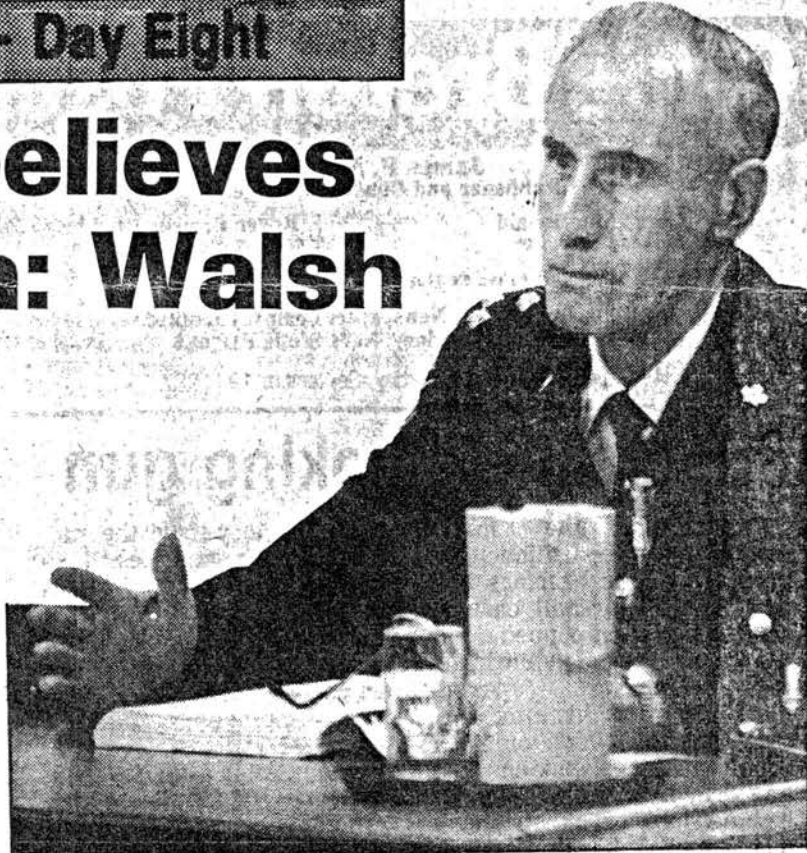
explained Marshall must have
coached in what to say at the hear-
because of his limited educational
ground and the length of time
h passed between his conviction
appeal.

le wasn't coming across forceful
gh for a court to believe him," said
h.

e said he was surprised the notes
e surfaced during this inquiry add-
ne thought it was just something be-
en a few men.

This case has always troubled the
f," said Walsh adding he (MacIn-
) felt trapped because he couldn't
ment on the issue.

Walsh, who is the eighth witness to ap-
before the commission, is expected
ontinue his testimony when the hear-
resume at 9:30 Monday morning.



Post photo by Lloyd Warren.

Chief Walsh testifies before commission Friday

City

Bob Duchemin
City Editor

564-5451



Hall inaccessible to handicapped

The hall where the hearing into the wrongful dismissal of Donald Marshall Jr. is being held may be one where evidence is being heard about alleged injustice against minority groups, but another such group feels left out because of the inaccessibility of the hearing for the handicapped.

The hearing is focusing partly on how police and the justice system has treated blacks and Indians in Nova Scotia. However, says a spokesman for a disabled group, handicapped people are being discriminated against by the hearing itself because the hall in which proceedings are located, is not accessible.

"It makes us feel as if we're not wanted," said Ron Hornsby, president of Community Involvement of the Disabled (CID), a disabled-rights group in Cape Breton. They could have put it in a building that was accessible to the disabled."

Hornsby said he knows of two cases where people in wheelchairs could not get into the hearings due to the un-

availability of a ramp to enable them access to the base-ment hall.

Hornsby said his group is writing officials in charge of organizing the hearings, as well as the provincial attorney general's office, criticizing the decision and asking that the second part of the hearing, which will be held in Halifax, be accessible for everyone.

Susan Ashley, spokesman for the Royal Commission on the Donald Marshall Jr. Prosecution, said other locations were considered. "Thought was given to it but there didn't seem to be any other option," she said.

Ashley said St. Andrew's Hall was chosen for its meeting space as well as its offices which were needed by lawyers and other officials for the hearing.

Ashley suggested disabled people could still attend the hearings. She said there are several commission officials in attendance who could help them into and out of the hall.

SEP 25 1987

DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

September 24, 1987

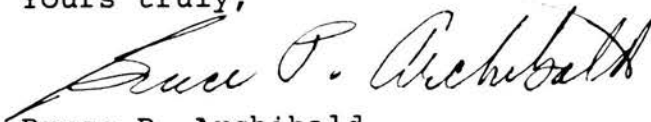
George W. MacDonald, Q.C.
Commission Counsel
Royal Commission on the Donald Marshall
Jr. Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. MacDonald:

Please find enclosed my Opinion re The Use of Evidence
and the Making of Evidentiary Rulings at the Trial of
Donald Marshall, Jr.

I am willing to make myself available to give testimony
at the public hearings on the matter if this appears
desirable.

Yours truly,



Bruce P. Archibald
Associate Professor of Law

BPA/m

encl.

SEP 25 1987



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

September 24, 1987

George W. MacDonald, Q.C.
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:

Please find enclosed my Statement of Account in relation to the preparation of my Opinion re The Use of Evidence and the Making of Evidentiary Rulings at the Trial of Donald Marshall, Jr.

In examining my revised schedule I note that I teach on Tuesdays from 9:00 - 10:30 and have no classes on Wednesdays or Fridays.

Yours truly,

A handwritten signature in cursive script that reads "Bruce P. Archibald".

Bruce P. Archibald
Associate Professor of Law

BPA/m

encl.

SEP 24 1987

September 15th/87

Dear George;

Here is the copy you requested. On this tape you will find the interview Peter Cotter and I conducted at the Cape Breton County Correctional Institute on Feb. 17/83. Also included with this interview is another we conducted with Mr. Ebsary on Dec. 16/82. In this second interview Roy mentions a Irving Cameron who claims that he was also in Wentworth Park on the night Sandy Seal was killed. I'm sure you have heard of the Cameron connection before but I thought that you might be interested in what Ebsary himself had to say at that time and compare it to what he says now. The ranting between the two interviews took place between Roy Ebsary and the news director over the phone in 1983.

I hope that the audio is clear enough for you to understand what is happening as both tapes were made inside the County Correctional Institute where taping was very difficult because of interference and echo.

sincerely yours

David Franklyn-Ratchford

SEP 24 1987

STEWART MacKEEN & COVERT

BARRISTERS AND SOLICITORS

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JOHN D. MOORE, O.C.
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OUR FILE REFERENCE:

008721-001

September 15, 1987

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

Dear George:

Re: Donald Marshall Inquiry

I thank you for your letter of September 8, 1987. I am sure by now you have received the letter that I arranged to have delivered to you in Sydney.

If you have any questions, please do not hesitate to contact me.

Yours very truly,

Wick per L.L.

William L. Ryan

WLR:lc

N0541030



OFFICE OF THE OMBUDSMAN ↓

P.O. BOX 2152
5161 GEORGE STREET
HALIFAX, NOVA SCOTIA
B3J 3B7

SEP 24 1987

OUR FILE:

PHONE 424-6780

18 September 1987

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

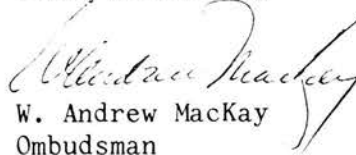
Dear Mr. MacDonald:

At his request I enclose a copy of a letter dated September 10th 1987 from Clifford Robert Olson, currently a resident of Kingston Penitentiary, together with enclosures received with his letter alleging complaints in relation to the chief and officers of the City of Sydney Police Department and Crown counsel in relation to charges said by Mr. Olson to have been laid against him in 1978 and 1979.

I have not yet considered whether the matters raised by Mr. Olson fall within the jurisdiction of this office to investigate. If those matters are of interest or concern to the Royal Commission perhaps you would be good enough to let me know whether your office may be following up upon them. If anything were to be done by this office I will keep you informed.

At his request by telephone I have also provided the address for the Royal Commission to Mr. Olson.

Yours sincerely,


W. Andrew MacKay
Ombudsman

Enclosures

SEP 24 1987



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

September 17, 1987

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

Dear Wylie:

I spoke to you several weeks ago concerning my ongoing research on the issue of compensation for wrongful conviction and imprisonment. At that time, I explained that I had been working in the area off and on for a couple of years and had recently agreed to share the results of my unfolding research with counsel for Mr. Marshall. After some reflection and discussion with me, Marlys Edwardh has suggested that I also make my paper available to the Commission, as it is clear that it will be taking an interest in such matters. I am pleased to be able to assist the Commission, should you think there might be any benefits accruing from consulting me.

I would attach two conditions only. First, as I have always insisted with Mr. Marshall's lawyers, I am writing independently and accept no direction from any party to the proceedings.

Second, I am not writing with the idea of accepting any professional fees from the Commission directly or indirectly. Other than any necessary expenses, which might be incurred, I do not want anything from the Marshall case.

At present, I am writing an article which will be submitted for publication. It may be of relevance to the Commission. It examines the nature of the problem of wrongful conviction from a compensatory perspective, reviews existing remedies and suggests a framework for dealing with such cases. It does not specifically address these issues in the context of the Marshall case -- I do not have the necessary facts and I am intending in the first instance to write on the topic at a more general level, covering mainly philosophy, policy and procedure.

Regardless of any position you may take on my becoming more directly involved with the case, I shall forward a copy of the article upon completion and you can make use of it or not, as you wish.

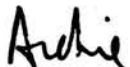
.../2

Mr. W. Wylie Spicer
September 17, 1987
Page 2

I know you are busy with the hearings, so I am not surprised that I have not heard from you. At least now, you have this letter to jog your memory and I assume that you shall be in touch.

Best wishes.

Yours sincerely,

A handwritten signature in cursive script that reads "Archie".

H. Archibald Kaiser
Associate Professor of Law

c.c. - Mr. Clayton Ruby
Ms. Marlys Edwardh
Ms. Anne Derrick

SEP 23 1987

DAVID L. DELANEY

Barrister & Solicitor

P.O. BOX 847
235 CHARLOTTE STREET
SYDNEY, NOVA SCOTIA
B1P 1G4
PHONE (902) 582-3222

September 17, 1987

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

**ATT: George W. MacDonald
Commission Counsel**

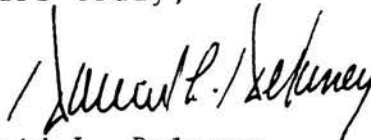
Dear Mr. MacDonald,

RE: My Clients: Greg Walsh, Mary Ebsary and Donna Ebsary

Further to my telephone conversation of today's date with your fellow commission counsel, Wylie Spicer, this is to confirm the following: my clients now agree to the public hearing of their testimony and no longer request an in camera proceeding.

I thank you for your efforts in securing the in camera hearing. However, my clients have determined that the reaction to an in camera hearing would have more adverse repercussions upon them than a full public hearing.

Yours truly,



David L. Delaney

DLD/ras
cc: Greg Walsh

sent for
Sept. 23/87

SEP 22 1987

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

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

FRANK M. COVERT, O.C.
JOHN D. MOORE, O.C.
DAVID A. STEWART, O.C.
DONALD H. OLIVER
DONALD H. McDUGALL, O.C.
JOEL E. PINK, O.C.
RICHARD K. JONES
DOUGLAS J. MATHEWS
JONATHAN C. K. STOBIE
BARBARA S. PENICK
MARK E. McDONALD
DAWN A. RUSSELL
CHARLES S. REAGH
D. GEOFFREY MACHUM
DONALD C. MURRAY
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R. CAMILLE CAMERON
GLEN V. DEXTER
ELIZABETH M. HALDANE
ERIC L. BURTON
LAWRENCE J. STORDY

~~DAVID R. CHURMAN, O.C.~~
J. THOMAS MacQUARRIE, O.C.
BRIAN FLEMING, O.C.
JAMES S. COWAN, O.C.
HUGH K. SMITH, O.C.
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ROBERT G. GRANT
MICHAEL T. PUGSLEY
NANCY I. MURRAY
T. ARTHUR BARRY
JOHN MacL. ROGERS
RICHARD A. HIRSCH

CORRESPONDENCE
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HALIFAX, CANADA B3J 2X2

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

DIRECT DIAL (902) 420-

COUNSEL
DONALD A. KERR, O.C.

OUR FILE REFERENCE:

September 22, 1987

DELIVERED

Ms. Susan Ashley,
Royal Commission on the
Donald Marshall, Jr. Prosecution,
Suite 1026, 1505 Barrington St.,
Halifax, Nova Scotia.

Dear Susan:

RE: William Urquhart

Further to an informal request which I made to you during the first week of Hearings, I would now like to renew my request that the Royal Commission give serious consideration to reimbursing my client for travel expenses of 240 kilometers per week for attending the Royal Commission hearings in Sydney. Originally I had anticipated that Mr. Urquhart's presence would be required only for those witnesses who had made specific allegations against Mr. Urquhart, such as Maynard Chant, but it now appears obvious that the breadth of the questioning of each witness will be such that it cannot fairly be predicted when a witness will mention actions of my client upon which it is appropriate that I be able to obtain immediate instructions. My client resides in West Bay, Cape Breton and the travel back and forth could develop into a serious financial burden. As it is, my client is imposing on relatives in Sydney to live during the week.

This matter of travel support will become more acute when the hearings shift to Halifax. It is anticipated that in Halifax direct evidence involving William Urquhart will be given by two of the major players in the matters being investigated by this Royal Commission - Donald Marshall, Jr., and Staff Sergeant Harry Wheaton. I would ask the Commission to confirm that when the Hearings resume in Halifax that my client will be entitled to reimbursement for hotel accommodations for the period of

September 22, 1987

2

testimony by Donald Marshall, Jr., Harry Wheaton, James Carroll,
and Constable D. Hyde.

I look forward to your response.

Yours very truly,
STEWART, MACKEN & COVERT
Per:


Donald C. Murray

DCM/dmb
c.c. Mr. William Urquhart

N2060625

SEP 21 1987

Nova Scotia



**Department of
Attorney General**

PO-Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no:

Our phone no:

September 16, 1987

Mr. George W. MacDonald
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. MacDonald

**Re: Royal Commission on Donald
Marshall, Jr., Prosecution**

This is in reply to your letter of September 8, 1987. I share your concerns about the adversarial position that has developed between the Department and the Commission and I hope that we can avoid further public arguments about access to files.

I look forward to receiving details from you as to the information that your researchers would like to have.

As a matter of protocol, I think that it would be more appropriate if future correspondence and requests for information were routed through Messrs. Saunders and Pink.

Yours very truly,

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

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

cc Reinhold Endres
Jamie Saunders
Darrel Pink

*Sent fax
on Sept. 21/87*

SEP 18 1987



ATTORNEY GENERAL
General Prosecutions Branch

Office of the Director

9833 - 109 Street, Edmonton, Alberta, Canada T5K 2E8 403/427-9620 TWX 610-831-1167

September 11, 1987

Mr. John E. S. Briggs
Research Director
Royal Commission on the
Donald Marshall, Jr., Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
HALIFAX, Nova Scotia B3J 3K5

Dear Mr. Briggs:

RE: CROWN PROSECUTORS MANUAL

I acknowledge your letter dated August 31, 1987. I am pleased to enclose a copy of this Department's Agents' Manual.

The Manual is a public document. It should be read in conjunction with the attached organizational chart. Please note that we have done some name changing recently. "Agents" are now referred to as Crown Prosecutors; "Senior Agents" are now called Chief Crown Prosecutors; and so on. The office that was formerly that of the "Director of Criminal Justice" is now called the office of the Director of General Prosecutions.

By way of a context for the Manual, I should add some brief comments about the approaches to enforcement which have been fostered within our Criminal Justice Division.

The point I would mention first and foremost is that what I will refer to as the rules of practice contained in the Manual are guidelines and not directives. The point here is that while in the great majority of specific cases, a particular operational decision will adhere to an applicable guideline, the final judgment and discretion is always that of the crown prosecutor handling the matter. If, in his or her judgment, dispensing with the application of a guideline governing a particular situation will best serve the interests of justice, then he or she is afforded all necessary discretion to do so. In this regard, it should

.../2

be noted that in the case of some guidelines in the Manual, for example that numbered 16 dealing with impaired drivers, the nature and limits of the discretion are defined in the guideline itself, while others are silent thereby leaving it to Crown Counsel to determine in his or her own judgment when the interests of justice dictate a relaxation of a given rule.

Secondly, I would mention that the approach to enforcement of the law in Alberta is reflected in the fact that as a general rule, authority for the laying of charges rests with the police. In our view, the alternative of having all charges authorized by the Crown (what I would refer to as a district attorney system) would be inefficient, expensive, unnecessary and would run counter to the historical experience as well as the reasonable and understandable expectations of our police agencies. Having said that, it is important to note that prosecutor screening of all charges is seen as essential. The approach taken here is to effect such screening after the charge is issued but prior to first court appearance. If charges which have been laid are seen by the prosecutor as ill advised or unsupportable, they may be modified or even withdrawn at or prior to first court appearance. Of course, the charge will inevitably be subjected to further screening during such pre-trial activities as disclosure, witness selection, and pre-court preparation. Wherever practicable, withdrawal action is only taken after discussion of the matter with the appropriate police agency.

In addition, it is the general custom here for police agencies to consult the prosecutor prior to laying those charges in the most serious category, such as homicides, major commercial crimes, and cases having a high degree of public interest and media attention.

The final point I would mention is that the Manual is reviewed and updated on an ongoing basis by a standing committee. Additions and revisions are made on the advice of our Committee of (all) Chief Crown Prosecutors before being sent to the Assistant Deputy Minister (Criminal Justice) and then to the Deputy Attorney General for approval.

If this Department can assist the Commission further in its inquiries, please feel free to contact me.

Yours truly,



R. H. Davie, Q.C.
Director
General Prosecutions

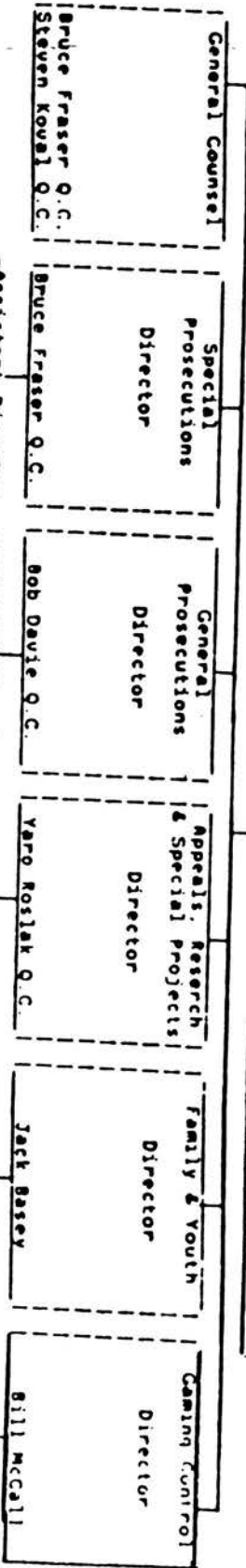
/lb

Encl.

Criminal Justice
Assistant Deputy Minister
Neil McCrank

Legal Support
Manager
Bob Butlin

Secretary
Laurie Nichol



CHIEF CROWN PROSECUTORS

- | | | | | | |
|----------------|--------------|------------|---------------|--------------|--------------|
| EDMONTON | CALGARY | VEGREVILLE | PRACE RIVER | ST. PAUL | WETASKIWIN |
| M. Allen | M. Wejong | S. McRory | L. Kurala | D. Demetrick | D. Pless |
| LEITHBRIDGE | MEDICINE HAT | RED DEER | GRANDE PRERIE | HINTON | FT. McMURRAY |
| A/Jim Langston | D. Greaves | W. Kubanek | R. Smith | | |

SEP 18 1987

BLOIS, NICKERSON, PALMETER & BRYSON
BARRISTERS AND SOLICITORS

Telephone: (902) 425-6000
Telecopier: (902) 429-7343
1568 Hollis Street
Halifax, Nova Scotia

S. DAVID BRYSON, Q.C.
ALAN J. STERN, Q.C.
S. BRUCE OUTHOUSE, Q.C.
JANE E. HOLMES
MICHAEL B. SHERAR
THOMAS M. MACDONALD
PAMELA J. MACKEIGAN
IRENE P. CHRISTIE

FRANKLYN W. CORDON, Q.C.
WILLARD STRUG, Q.C.
LAWRENCE A. FREEMAN
ROBERTA J. CLARKE
GORDON R. KELLY
COLIN D. BRYSON
KAY L. RHODENIZER
ANNE E. TUTTY

COUNSEL
ROBERT H. BLOIS, Q.C.

CORRESPONDENCE:
P.O. Box 2147
Halifax, Nova Scotia
B3J 3B7

OUR FILE REFERENCE:
SB0/31907-001

September 16, 1987

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

Dear George:

Re: Staff Sergeant H. F. Wheaton and Inspector D. B. Scott

Thank you for your letter of September 11th and enclosures.

I don't have any quarrel with the accuracy of the statements, at least insofar as they concern Staff Sergeant Wheaton, and do not request that any corrections be made.

I note that you still want to talk to Staff Sergeant Wheaton, preferably before John MacIntyre takes the witness stand. I will certainly raise the matter again with Staff Sergeant Wheaton; however, I am not in a position to make any promises and am afraid that the above-referenced comments have only served to harden Staff Sergeant Wheaton's resolve on this issue.

Yours very truly,

BLOIS, NICKERSON, PALMETER & BRYSON



S. Bruce Outhouse

SB0:sw

*Sent via fax to
Mc Jones Cooper
at 2 P.M. on the 18th.*

SEP 18 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
PETER A. McINROY
PATRICIA A. DAVIS
MATTHEW W. NAPIER
BRUCE V. McLAUGHLIN
DEBORAH CONRAD
DAVID G. COLES
C. GAVIN GILES
PETER J. TRASK

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

CORRESPONDENCE TO:
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DARTMOUTH, NOVA SCOTIA
B2Y 3Z5

TELEPHONE: (902) 469-9500
TELECOPIER: (902) 468-3800
TELEX: 019-23629

September 16, 1987

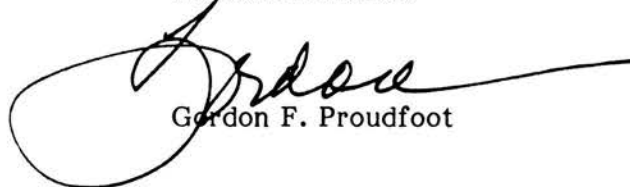
W. Wylie Spicer
Royal Commission on the Donald
Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Wylie:

I am sorry that this matter has not been resolved before this. The witness is obviously quite concerned about getting involved in this affair. Perhaps I could have her call you and speak to you directly. She may not wish to reveal her identity to you other than to indicate that she is the person that was involved. You can ask her questions and take it from there. If this appears to be satisfactory, please let me know and I will contact her.

Yours sincerely,

BOYNE CLARKE



Gordon F. Proudfoot

GFP/mf

*sent via fax
to Wylie at McInnes Corp
Sept. 18 at 2:00 pm*

SEP 17 1987

Wilson A. Head
111 Yorkminster Rd.
Willowdale, Ont.
M2P 1M5

Mr. John E.S. Briggs
Royal Commission on Donald Marshall, Jr.
Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, Nova Scotia B3J 3K5

September 14, 1987

Dear Mr. Briggs:

Enclosed is a copy of the first draft of the proposal for the research project discussed with you on your visit to Toronto on September 8 and 9, 1987. I drew up the proposal after reading through the materials received from Mr. E. Anthony Ross and yourself. I hope that the draft meets with your requirements. This draft will naturally be subject to revisions which may result from discussions with you at our next meeting, probably in Halifax.

In view of the need for speed in getting this project underway I suggest that I meet with you and representatives of the Black United Front as soon as possible, probably early next week. I would be free to come to Halifax on Tuesday, Wednesday or Thursday September 22, 23 or 24. Unfortunately, I am tied up here in Toronto early this week and will be in Calgary the latter part of the week.

Please give me a call as soon as possible so that I can plan to come to Halifax, or alternatively, you and/or Mr. Ross can come to Toronto. In the meantime, I will begin work on the questionnaire and the review of the literature, including the material I will be receiving from you, as soon as it arrives.

With best wishes, I am

Sincerely,

per Wilson A. Head

WAH/kk
Encl: proposal
cc: Mr. A. Ross

Louisbourg
Sept 11/87 ^{N.S.}

SEP 16 1987

Royal Commission
on the Donald Marshall Jr.
prosecution
Halifax N.S.

Dear Sirs

For me to be able to attend
this hearing I'll have to hire
someone to stay with the elderly
people that I look after, also I don't
drive and my husband works from
8 to 5, and takes his car to work
so I wouldn't have any transportation
to Sydney which is 36 k. each way
so if I could have some assistance
in this matter.

Thank you.

Mrs Sandra Lehan
Louisbourg N.S.

SEP 15 1987



YORK
UNIVERSITY

OSGOODE HALL LAW SCHOOL

4700 KEELE STREET, DOWNSVIEW, ONTARIO M3J 2R5

(416) 736-5036

September 9, 1987

Mr. John Briggs
Director of Research
Royal Commission on the Donald Marshall Jr. Prosecution
Maritime Centre, Suite 1026
1505 Barrington St.,
Halifax
Nova Scotia
B3J 3K5

Dear John,

Further to our meeting at Halifax on September 1, 1987 and our subsequent discussions in Toronto on September 8, 1987 I am writing to confirm that I have too many other commitments to be able to undertake field research in the Maritimes and elsewhere by your projected deadline of March 31, 1988.

I would, however, be willing to act as a resource person in the areas of policing and to advise on drafts or other research which you may commission in the policing area as this will take less time than engaging in original research.

Please find enclosed the attached expense receipts for my Halifax trip for which, you will note, I have made no claim for any professional fee. In the event that I can be of assistance to the Commission my per diem rate is \$1000.00.

If you feel that I can be of further assistance, please let me know.

Yours truly,


Alan Grant
Professor of Law

Encl.

AG:lg

SEP 14 1987

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

FRANK M. COVERT, Q.C.
JOHN D. MOORE, Q.C.
DAVID A. STEWART, Q.C.
DONALD H. OLIVER
DONALD H. McDOUGALL, Q.C.
JOEL E. PINK, Q.C.
RICHARD K. JONES
DOUGLAS J. MATHEWS
JONATHAN C. K. STOBIE
BARBARA S. PENICK
MARK E. MacDONALD
GLEN V. DEXTER
ELIZABETH M. HALDANE
ERIC L. BURTON
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JOHN S. McFARLANE, Q.C.
CARMAN G. McCORMICK
JOHN D. MURPHY
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KARIN A. McCASKILL
R. CAMILLE CAMERON
NANCY I. MURRAY
T. ARTHUR BARRY
JOHN MacL. ROGERS
RICHARD A. HIRSCH

DAVID R. CHIPMAN, Q.C.
J. THOMAS MacQUARRIE, Q.C.
BRIAN FLEMMING, Q.C.
JAMES S. COWAN, Q.C.
HUGH K. SMITH, Q.C.
WILLIAM L. RYAN
DAVID MILLER
JOHN D. PLOWMAN
TIMOTHY C. MATTHEWS
ROBERT G. GRANT
MICHAEL T. PUGSLEY
CHARLES S. REAGH
D. GEOFFREY MACHUM
DONALD C. MURRAY
JAMES B. WOODER

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B3J 3J5

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TELECOPIER (902) 420-1417
TELEX 019-22593

DIRECT DIAL (902) 420-

COUNSEL
DONALD A. KERR, Q.C.

OUR FILE REFERENCE:

September 10, 1987

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:

RE: Witness - Eugene Smith RCMP

Yours addressed to James D. Bissell dated August 17th, 1987, has been forwarded to me since I will be counsel for Mr. Smith at the time that he gives evidence before the Commission inquiry. Would you kindly confirm either October 28th or 29th as the date set for Mr. Smith's evidence. I will tentatively book out both days.

Yours very truly,


Joel E. Pink

JEP/nm

PS: There will be no need for a Subpoena.

N0670547



SEP 14 1987

(306) 787-5490
TWX 071-2662

Your File:
Our File:

September 2, 1987

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

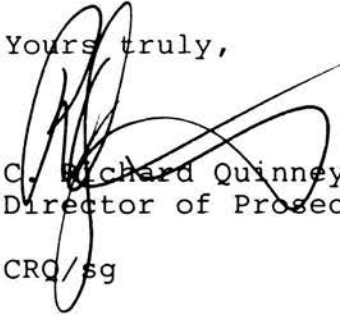
Dear Madame:

You recently spoke with me with respect to obtaining a copy of our policy manual used in connection with prosecutions in this province. After this discussion I consulted with our Executive Director of Public Prosecutions, Ellen Gunn, and it was determined that it was not appropriate at this time to provide you with our present policy manual. Our manual has been around for some time and is in the process of a substantial review and update. Thus we do not feel it would be appropriate to provide you with the manual in its present form. If and when the review is completed and you still require the manual, we would be in a position to forward same to you.

If there is some specific area of policy that you want Saskatchewan's position on, we should be able to provide that to you at your request. If so, please advise.

I trust this is satisfactory.

Yours truly,



C. Richard Quinney, Q.C.,
Director of Prosecutors.

CRQ/sg

SEP 12 1987

TELEPHONE 429-7327

AREA CODE 902

TELEX

GSLAWO1921829

FAX: (902) 425-2504

GREEN SPENCER

Barristers & Solicitors

P. O. Box 1134

1301 PURDY'S WHARF

HALIFAX, NOVA SCOTIA

B3J 2X1

FILE NO.

PETER G. GREEN, Q.C. PETER F. SPENCER, Q.C.
MILTON J. VENIOT, Q.C. ALAN V. PARISH
CATHERINE S. WALKER BLAIR H. MITCHELL
PAUL E. RADFORD SALLY B. FAUGHT
JEFFREY H. MORRIS GREGORY D. AULD
MICHAEL J. O'HARA GOLDIE L. TRAGER
SHIRLEY P. LEE ANGUS E. SCHURMAN

September 10, 1987.

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

Dear Ms. Ashley:

Please forward one copy of the Terms of Reference of The Royal Commission on the Donald Marshall, Jr., Prosecution at your earliest opportunity.

Thank you for your assistance in this regard. I look forward to hearing from you.

Yours very truly,

GREEN SPENCER

Sally Faught

Sally B. Faught

/amcd

Sent Sept. 14/87

SEP 14 1987

Nova Scotia



Family Court

P O Box 785
Sydney, Nova Scotia
B1P 6J1

September 9, 1987

George 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:

As stated in your letter dated August 17, 1987, I am writing to advise that I require the subpoena to cover my appearance before the Commission.

I can be contacted at 122 Sherwood Drive, Sydney River (Phone: 539-7944) or at Family Court, Prince Street, Sydney (Phone: 563-2200) for service of the subpoena.

Sincerely,


Larry Burke

LB:jf

SEP 11 1987

25 King Street
Yarmouth, N.S.
B5A 2X9

September 8, 1987

Susan M. Ashley
Commission Executive Secretary
ROYAL COMMISSION ON THE DONALD MARSHALL, JR.
PROSECUTION
Suite 1026 - Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Ms. Ashley:

Would you kindly send me a copy of the Terms of Reference regarding the Donald Marshall, Jr., Prosecution.

Thank you as it is very much appreciated.

Yours truly,



Geneve M. Pitman
Concerned Citizen

Sent Sept. 11/87

SEP 10 1987

From the Law Offices of

McINTYRE, MacDONALD & GILLIS

Frank G. Gillis, B.A., LL.B.
Steven K. O'Leary, B.A., LL.B.

Sterling Professional Centre, 65 Minto Street
P.O. Box 187, Glace Bay, Nova Scotia, B1A 5V2
Telephone — Glace Bay (902) 849-6507 or 849-6508

September 3rd., 1987

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

Attention: Ms. Susan M. Ashley
Commission Executive Secretary

Dear Ms. Ashley:

Please forward to my attention the Terms of Reference
of the Donald Marshall, Jr., inquiry with regard to this
matter.

Thank you for your attention to this matter.

Yours very truly,

Steven K. O'Leary

SKO/jc

Sent Sept. 11/87

SEP 11 1987

Nova Scotia



**Department of
Attorney General**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no: **09-87-0609-01**

Our phone no: **424-4024**

September 8, 1987

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

Dear Mr. MacDonald:

Re: **A.G.N.S. et al. v. Commission of Inquiry on the
Donald Marshall, Jr., Prosecution, et al., S.H. No. 61755**

Attached hereto please find a copy of the Notice of Discontinuance which was filed with the Prothonotary's Office on September 4, 1987.

Yours very truly,

A handwritten signature in dark ink, appearing to read "RME".

Reinhold M. Endres
Director (Civil Litigation)

RME/crn
Enc.

SEP 11 1987

25 King Street
Yarmouth, N.S.
B5A 2X9

September 8, 1987

Susan M. Ashley
Commission Executive Secretary
ROYAL COMMISSION ON THE DONALD MARSHALL, JR.
PROSECUTION
Suite 1026 - Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Ms. Ashley:

Would you kindly send me a copy of the Terms of Reference regarding the Donald Marshall, Jr., Prosecution.

Thank you as it is very much appreciated.

Yours truly,



Geneve M. Pitman
Concerned Citizen

Terms of Reference
sent Sept. 10 / 87

09 1987

181 Main St
Gloucester Bay, N.S.
B11A 4Z5

Sept 4, 1987.

Dear Mr. Ashley,

Will you please send copies of the
Terms of Reference on the Royal Commission
on the Ronald Marshall case;

I have just finished reading "Justice
Denied" by Michael Harris and feel a
lot has been left unresolved, re Mr. Marshall
essentially and the Justice System has failed to
assure me that it has taken any action at
all to protect my son or anyone else's son
from this sort of treatment in the future.

- 1) I am greatly concerned by the manipulation of
evidence by police authority.
- 2) The suppression of evidence
- 3) The judge, on the original trial was most
biased. ect. ect. ect.

In effect I will be most grateful for a
correction of the wrongs in a system where one
individual can be so hurt, be he innocent
or not, by the opinion and performance of one
man with authority: where are the rules & regulations
that govern most of us in our jobs, and

11

here is the Guardian of this system?
the boss who can spot the overzealous
employee and pull him or her back in line?

Thank you for your consideration in this
matter

Yours Truly,

Patricia Skott



Attorney General

Criminal Justice Division

5th Floor
Woodsworth Building
405 Broadway
Winnipeg, Manitoba, CANADA
R3C 3L6

September 2, 1987

(204) 945-0230

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

Attention: John E. S. Briggs, Research Director

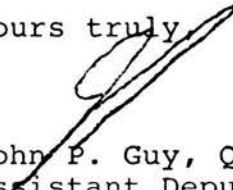
Dear Sir:

RE: CROWN ATTORNEYS' HANDBOOK

Your letter of August 31, 1987, addressed to Wayne Myshkowsky has been turned over to the writer for response.

I wish to advise at this time that our Crown Attorneys' Handbook is currently being printed and therefore I cannot presently forward a copy to you. I will, however, forward a copy of our Handbook, on a confidential basis (same is not a matter of public record) when I receive same from the printers.

Yours truly,



John P. Guy, Q.C.
Assistant Deputy
Attorney General

JPG/ljb/

MEMORANDUM

NOTE DE SERVICE

Royal Commission on Donald MARSHALL
Maritime Centre, Suite 1026
1505 Barrington Street,
Halifax, Nova Scotia.

S/Sgt. John L. RYAN
Identification Section,
R.C.M. Police,
P.O. Box 9700, Postal Station "B"
St. John's, Nfld.
AlA 3T5

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE/NOTRE REFERENCE 87/032
YOUR FILE/VOTRE REFERENCE
DATE 87-09-01

SUBJECT / OBJET: Royal Commission on the Donald MARSHALL, Jr. Prosecution

Please be advised that a subpoena is required to ensure my appearance at the above inquiry. It is my understanding that I will be required for Sept 17th. & 18th, 1987 at Sydney, Nova Scotia. I would like to point out that a later date would be more convenient, however I will make the necessary changes in my work schedule to meet the dates of Sept. 17/18, 1987.

If a change is considered, the week of Sept. 21 to 25 would be appropriate.

[Signature]
(J.L. Ryan) S/Sgt.
RCMP, St. John's, Nfld.

cc; Insp. MURPHY
RCMP, Halifax.

SEP 09 1987.

STEWART MacKEEN & COVERT

BARRISTERS AND SOLICITORS

FRANK M. COVERT, Q.C.
JOHN D. MOORE, Q.C.
DAVID A. STEWART, Q.C.
DONALD H. OLIVER
DONALD H. McDougall, Q.C.
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D. GEOFFREY MACHUM
DONALD C. MURRAY
JAMES B. WOODER

COUNSEL
DONALD A. KERR, Q.C.

PURDY'S WHARF TOWER ONE
1959 UPPER WATER STREET
HALIFAX, CANADA
B3J 3J5

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

TELEPHONE (902) 420-3200
TELECOPIER (902) 420-1417
TELEX 019-22593

DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

September 8, 1987

DELIVERED

Ms. Susan Ashley,
Executive Secretary,
Royal Commission on the
Donald Marshall Jr., Prosecution,
Suite 1058, 1505 Barrington St.,
Maritime Centre,
Halifax, Nova Scotia.

Dear Ms. Ashley:

RE: William Urquhart

Mr. Urquhart attended in Halifax to be interviewed by the Royal Commission on August 5 and 6, 1987. The Commission undertook to reimburse him for his reasonable expenses, receipts for which I now forward to you.

A cheque made out to Mr. Urquhart for the claimed amount may be forwarded through myself or directly to Mr. Urquhart at the West Bay address indicated at the top of his note.

Yours very truly,
STEWART, MACKEN & COVERT
Per:

D. Bennett (Ms.)
for Donald C. Murray

DCM/dmb
N2060563
c.c. Mr. William Urquhart

SEP 08 1987

MARIE Couturier
830 McKeon St., Apt. #12
Halifax, Nova Scotia
B3H 2T8

September 3, 1987

Susan M. Ashley
Commission Executive Secretary
Royal Commission on the
Donald Marshall Jr. Prosecution
Suite 1026 - Maritime Center
1505 Barrington Street
Halifax, N.S.
B3J 3K5

Done

Please forward a copy of the Terms
of Reference re the Public Hearings on
the Royal Commission on the Donald
Marshall Jr. Prosecution to the address
indicated above. Thank you.

M. Couturier



**Department of
Attorney General**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no: 09-87-0609-01

Our phone no: 424-4024

September 4, 1987

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

Dear Mr. MacDonald:

Re: **A.G.N.S. et al. v. Commission of Inquiry on the
Donald Marshall, Jr., Prosecution, et al., S.H. No. 61755**

This documents our telephone conferences earlier today wherein we agreed that the Commission be provided immediate access to the materials which are the subject of the subpoena directed to the Deputy Attorney General, dated August 21, 1987.

It is understood that access be restricted initially to counsel acting on behalf of the Commission and to the Commission's researcher, Mr. Edwards.

If, upon perusal of the Department's files, the Commission requires copies of documents from these files, counsel will offer a list setting out the specific documents which are to be copied, upon which the Department will review its position, which review shall be conducted with dispatch.

If the Department's advice is that disclosure will not be offered, the Commission, of course, may decide to take steps attempting to compel disclosure.

Finally, the subpoena referred to will be withdrawn, and the proceedings commenced to date for the quashing of the subpoena will be discontinued by consent, without costs.

..... 2/

Mr. George W. MacDonald, Q.C.
September 4, 1987
Page 2

If the preceding does not correctly record our arrangement, please advise immediately.

Yours very truly,



Reinhold M. Endres
Director (Civil Litigation)

RME/crn
c.c. R. Gerald Conrad, Q..C.
Jamie W. S. Saunders

BUCHAN, DERRICK & RING

SEP 08 1987

BARRISTERS · SOLICITORS

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

Sovereign Building, Suite 205,
5516 Spring Garden Road
Halifax, Nova Scotia
B3J 1G6
(902) 422-7411

September 3, 1987

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

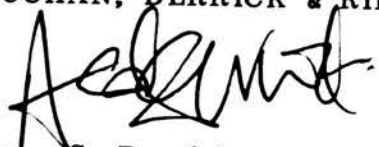
Dear George:

Re: Criminal Record

Please find enclosed a Release executed by my client with respect to his criminal record. I trust this will enable you to obtain his record from the RCMP. I would appreciate receiving a copy of it once you have obtained it.

Yours sincerely,

BUCHAN, DERRICK & RING



Anne S. Derrick

ASD/har
MacDonald
ASD 7A

Enclosure

*Sent to Sydney
By on
Prosecutor
Sept. 8.*

SEP 08 1987



CHARLES BRODERICK B.A., LL.B.
BARRISTER & SOLICITOR

P.O. BOX 151
3316 PLUMMER AVE.
NEW WATERFORD N.S.
B1H - 4K4
TELEPHONE 862-6471

August 31, 1987

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

ATTENTION: Lois Dyer

Dear Lois:

I acknowledge receipt of your correspondence of the 13th day of August, 1987.

* I note in that correspondence that there were three books of documents distributed to counsel. I would appreciate it if you could have those forwarded to me at your earliest convenience as I was unavailable to attend.

I thank you for your anticipated cooperation.

Yours very truly,

J. Abraham
Charles Broderick

CB/jla

* Documents Distributed:

- City of Sydney Police Department
- Frank Edwards' Notes
- Eskasoni Clippings

-> These documents are in Exhibit Book
(Spoke to Susan Ashley)

SEP 04 1987



Department of Justice
Canada

Ministère de la Justice
Canada

426-7594

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7

VIA COURIER

Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

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

September 4, 1987

Dear Mr. Orsborn:

Re: Donald Marshall Inquiry

I acknowledge receipt of your letter dated September 3, 1987.

I understand from your letter that you may not be satisfied with the "will say" statement. The "will say" statement is as follows.

Sergeant Eugene R. Cole will testify as follows.

That his recollection is that which appears in his notebook as follows:

29 SEP 75 - "Deputy Chief Sydney C.P. interviewed and advised that Roy EBSARY was given a lie detector test and found to be cleared and not involved. Inquiries conducted into SEALE murder case, 5 years old. MARSHALL presently serving life for this murder."

03 OCT 75 - "Read EBSARY file re: SEALE murder."

.../2

Canada

I have as we discussed on September 2, 1987, during our telephone conversation sought instructions concerning production of the actual pages. I have received instructions not to object to production of a copy of the actual pages to you as Cpl. Cole will no doubt refresh his memory from the notes. It would probably be best to issue the subpoena in any event for the pages.

Yours very truly,

A handwritten signature in cursive script, appearing to read "A. R. Pringle". The signature is written in dark ink and is positioned above the typed name.

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:mm

SEP 04 1987



Department of Justice
Canada

Ministère de la Justice
Canada

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7

426-7594

VIA COURIER

Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

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

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Yours very truly,

A handwritten signature in cursive script, appearing to read "A. R. Pringle". The signature is written in black ink and is positioned above the typed name.

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:mm

SEP 04 1987

STEWART MacKEEN & COVERT

BARRISTERS AND SOLICITORS

PURDY'S WHARF TOWER ONE
1959 UPPER WATER STREET
HALIFAX, CANADA
B3J 3J5

FRANK M. COVERT, O.C.
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COUNSEL
DONALD A. KERR, O.C.

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

TELEPHONE (902) 420-3200
TELECOPIER (902) 420-1417
TELEX 019-22593

DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

BY COURIER

September 4, 1987

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

Dear Mr. Spicer:

Thank you for forwarding the medical records of John Pratico. Would you please forward to me a transcript of the tape taken by you from Dr. Mian on June 24, 1987. Thank you for your co-operation.

Yours truly,

Penny Snow

(for) Ronald N. Pugsley

RNP/ps
N0180382

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

PURDY'S WHARF TOWER ONE
1959 UPPER WATER STREET
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DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, O.C.

BY COURIER

September 4, 1987

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

Dear Mr. Spicer:

If you have copies of Dr. Mian's notes relating to Pratico, would you please forward them to me. If not, would you please request them from him and make a copy available to me.

Thank you for your co-operation.

Yours truly,

Penny Snow

(for) Ronald N. Pugsley

RNP/ps
N0180383

04 1987

STEWART MacKEEN & COVERT

BARRISTERS AND SOLICITORS

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COUNSEL
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OUR FILE REFERENCE:

BY COURIER

September 4, 1987

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

Dear Mr. Spicer:

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Would you please forward to me a transcript of the tape taken by
you from Dr. Mian on June 24, 1987. Thank you for your
co-operation.

Yours truly,

Penny Snow

(for) Ronald N. Pugsley

RNP/ps
N0180382

50004 1987



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

August 25, 1987.

Ms. Lois Dyer
Commission Executive Secretary
Royal Commission on The Donald Marshall JR.
Prosecution
Suite 1026
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Lois:

This letter is to inform The Commission that Halifax Cablevision Ltd. must withdraw it's proposal of April 1st, 1987.

Our partner, The National Film Board has determined their costs to be beyond their means and have altered their film project accordingly.

Without their support we regretfully must also withdraw.

I've appreciated your assistance throughout this project and wish you well in the future.

Sincerely,
HALIFAX CABLEVISION LIMITED

Mike Barnes
Director Program/Marketing Services

SEP 04 1987

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

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

TELEPHONE (902) 420-3200
TELECOPIER (902) 420-1417
TELEX 019-22593

DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, O.C.

September 1, 1987

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 Mr. Spicer:

I note that on the revised witness list for September 1, 1987 that has been updated from the August 10, 1987 list, there are the following additions:

- (1) Arthur Paul
- (2) David Ratchford

And the following deletions:

- (1) M. Rosenblum
- (2) Mary Ebsary
- (3) Greg Ebsary

Would you please be good enough to advise why these changes have been made.

Yours truly,


Ronald N. Pugsley

RNP/ps
N0180357



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

September 3, 1987

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

Dear George:

Please find enclosed a draft version of my opinion to the Commission on Evidentiary Rulings at the trial of Donald Marshall. I call it a draft not because I am desirous of changing the substance of any of my views, but because I would be willing to respond to your suggestions concerning revisions on form or the treatment of issues which are not presently contained in this draft. In particular, I have tried to keep the opinion short and to avoid unnecessary citation of authorities. If you think that certain issues need to be expanded or further authorities cited, we should discuss this.

In response to your letter of August 17, 1987, I have a preference for October 27 since I do not teach on that day. If the Commission wishes to hear my evidence in Sydney on days other than Tuesday or Friday, I might indeed like a subpoena to get me there!

I am anxious to discuss with you the substance of my opinion and the way in which my testimony might be handled at a time mutually convenient to us both.

Yours very truly,

Bruce P. Archibald
Associate Professor of Law

BPA/m

*See Archibald's
file for original
draft.*

SEP 03 1987



Department of Justice
Canada

Ministère de la Justice
Canada

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7

Our file
Notre dossier AR-21,613

Your file
Votre dossier

September 3, 1987

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

Dear David:

RE: R.C.M.P. MATERIAL

This is in reply to your letter to me of September 1 and to confirm your telephone conversation with Al Pringle on September 2.

We confirm that our clients are agreeable to the inclusion of the documents you have identified in Exhibit Books 16 to 21, other than noted below, for purposes relevant to the Inquiry. The one excepted document is found in Volume 18 at page 89 and also in Volume 16 at page 213. We appreciate your co-operation in deleting that document as it was prepared for our instructional purposes only. We share your concern to be fair to John MacIntyre who will testify before Eugene Cole, and thus we would agree to providing MacIntyre's counsel with a "will say" statement.

For your information, I enclose herewith a copy of a letter that I have sent to Wylie Spicer concerning the Correctional Services material. We have every confidence that it is not the Commission's intention to examine the operation and management of the Royal Canadian Mounted Police although we do feel it is worth noting the comments of the Supreme Court of Canada highlighted in the enclosed letter.

...2

Canada

Mr. David Orsborn
September 3, 1987

- 2 -

If you wish me to prepare a "will say" statement for the evidence of Eugene Cole, or if I may be of other assistance, please feel free to call.

Thank you.

Yours very truly,



James D. Bissell
General Counsel
Director, Atlantic Region

JDB:wm

cc: Inspector Harry Murphy
R.C.M.P. Halifax

SEP 03 1987



Department of Justice
Canada

Ministère de la Justice
Canada

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
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426-7592

HAND DELIVERED

Our file / Notre dossier: AR-21,613

Your file / Votre dossier:

September 3, 1987

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

Att: *Wylie*
W. Wylie Spicer

Dear Mr. Spicer:

RE: CORRECTIONAL SERVICE MATERIAL

Thank you for your letter of September 1, 1987.

As you know, my Minister in his letter to the Honourable Chief Justice T. Alexander Hickman on June 18, 1987, reassured the Chief Justice of our intentions to co-operate fully with the Commission. The Honourable Ray Hnatyshyn also said:

"While the practices and policies of the Correctional Service of Canada, the National Parole Board, or the Department of Justice could not properly be the object of an Inquiry under Provincial jurisdiction, both the Department of Justice and the Department of the Solicitor General will co-operate in endeavoring to determine, at an early stage, whether there exists information within the departments which could be relevant to the terms of reference of your Inquiry".

We feel that the documents you have identified are relevant to the terms of reference of the Inquiry in so far as they reflect involvement by institutions and agencies of the Provincial Government, specifically the Sydney City Police Department. However, in our respectful view that your stated wish for "an answer to the question as to why there is some requirement for admission of guilt prior to commencement of any parole processes" crosses the constitutional line. I would draw your attention to the

decision of the Supreme Court of Canada in Keable et al versus Attorney General of Canada et al (1978), 24 N.R.1, specifically the decision of Pigeon, J., at pp. 29 to 30 wherein the learned Justice states as follows:

"Great stress was laid by the appellants as well as by intervenants on Dickson's, J., statement in Di Iorio, at page 392 N.R., p. 208 S.C.R. that, "A provincial commission of inquiry, inquiring into any subject, might submit a report in which it appeared that changes in federal laws would be desirable". This was said obiter in a case concerning an inquiry into organized crime. As previously noted, the basis of the decision was that such an inquiry into criminal activities is within the proper scope of "The Administration of Justice in the Province". The intended meaning of the sentence quoted is not that a provincial commission may validly inquire into any subject, but that any inquiry into a matter within provincial competence may reveal the desirability of changes in federal laws. The commission might therefore, whatever may be the subject into which it is validly inquiring, submit a report in which it appeared that changes in federal laws would be desirable. This does not mean the the gathering of information for the purpose of making such a report may be a proper subject of inquiry by a provincial commission.

I thus must hold that an inquiry into criminal acts allegedly committed by members of the R.C.M.P. was validly ordered, but that consideration must be given to the extent to which such inquiry may be carried into the administration of this police force. It is operating under the authority of a federal statute, the Royal Canadian Mounted Police Act, (R.S.C. c. R-9). It is a branch of the Department of the Solicitor General (Department of the Solicitor General Act, R.S.C. c. S-12, s. 4). Parliament's authority for the establishment of this force and its management as part of the Government of Canada is unquestioned. It is therefore clear that no provincial authority may intrude into its management. While members of the force enjoy no immunity from the criminal law and the jurisdiction of the proper provincial authorities to investigate and prosecute criminal acts committed by any of them as by any other person, these authorities cannot, under the guise of carrying on such investigations, pursue the inquiry into the administration and management of the force. The doctrine of colourability is just as applicable in

adjudicating on the validity of a commission's term of reference or decisions as in deciding on the constitutional validity of legislation. As Viscount Simon said in Attorney General for Saskatchewan v. Attorney General for Canada, [1949] A.C. 110, at page 124: "you cannot do that indirectly which you are prohibited from doing directly".

The words [TRANSLATION] "and the frequency of their use" at the end of paragraph a) as well as the words [TRANSLATION] "and the frequency of their use" at the end of paragraph c), of the Commissioner's mandate, do not contemplate an inquiry into criminal acts but into the methods used by the police forces. Those are essential aspects of their administration and therefore, to the extent that those words relate to the R.C.M.P., what they purport to authorize is beyond provincial jurisdiction to inquire into. That this is the intended scope of the inquiry is apparent from the subpoenas which call for the production of all operating rules and manuals. For similar reasons, I would hold that paragraph d) is invalid in so far as it relates to the R.C.M.P. This paragraph pertaining to recommendations, following as it does provisions contemplating an inquiry into the regulations and practices of the R.C.M.P., is clearly intended to invite, as a purpose of the inquiry, recommendations for changes in such regulations and practices. Inasmuch as these are the regulations and practices of an agency of the federal government, it is clearly not within the proper scope of the authority of a provincial legislature to authorize such an intrusion by an agent of a provincial government".

The foregoing remarks, of course, apply equally to all departments, agencies, and undertakings of the federal government and not just the Correctional Services of Canada and the National Parole Board. I am sure you will understand the need for our sensitivity to this constitutional issue and why I cannot therefore agree to the tendering of the documents you have identified for the purpose of:

Mr. W. Spicer
September 3, 1987

- 4 -

(i) identifying whether a policy requiring admission of guilt prior to parole exists; or

(ii) the reason for such a policy, if any.

May I please hear from you.

Yours very truly,



James D. Bissell
General Counsel
Director, Atlantic Region

JDB:wm

cc: Mr. Lloyd Younger
Counsel, Legal Services
Ministry Secretariat
Solicitor General

A. R. Pringle
Senior Counsel
Halifax Regional Office

David Orsborn
Commission Counsel
Royal Commission on the
Donald Marshall, Jr.,
Prosecution

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
JACK A. INNES, Q.C.
DIANNE POTHIER
JANET M. CHISHOLM
PETER M. ROGERS

DONALD J. MACDONALD, Q.C.
PAUL M. MURPHY, Q.C.
RICHARD N. RAFUSE, Q.C.
J. RONALD CREIGHTON
J. RONALD CULLEY
NANCY J. BATEMAN
R. MALCOLM MACLEOD
ALAN C. MACLEAN
DENNIS ASHWORTH
WENDY J. JOHNSTON
ROBERT K. DICKSON

FRED J. DICKSON, Q.C.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

September 2, 1987

BY HAND

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

Dear Mr. Spicer:

Our File No. 9201/1

This will confirm our conversation of September 2, 1987, with regard to the subpoena issued by the Commission. As I indicated, it is the view of the Department of Attorney General that the subject matter of the subpoena is both outside the scope of the Commission's terms of reference and outside the scope of our retainer.

We have discussed this matter with our client and they will be dealing with Commission counsel directly on this one issue; however, they would appreciate our being kept advised of all proceedings by receiving copies of correspondence and other documents that have been filed.

Yours truly,



Darrel I. Pink

DIP/jl

c.c. Mr. Gerald Conrad, Q.C.

SEP 02 1987

STEWART MacKEEN & COVERT

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OUR FILE REFERENCE:

BY HAND

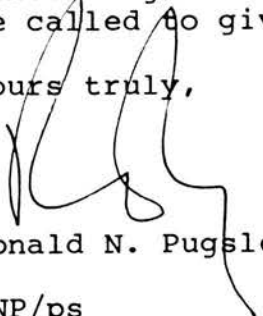
September 2, 1987

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

Dear George:

I understand that John Butterworth of 499 Cottage Road, Sydney, N.S. has relevant information to address to the Commission concerning John Pratico and I would request that Mr. Butterworth be called to give evidence before the Commission in Sydney.

Yours truly,


Ronald N. Pugsley

RNP/ps
N0180370



Department of Justice
Canada

Ministère de la Justice
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426-7592

Our file AR-21,613
Notre dossier

Your file
Votre dossier.

HAND DELIVERED

September 1, 1987

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

Att: Susan Ashley - Commission Executive Secretary

Dear Ms. Ashley:

Re: Correctional Service Material

This letter is in reply to the letter of August 13, 1987, from Lois Dyer in which she enclosed the following four documents from the files of the Correctional Service of Canada:

1. Memorandum dated March 2, 1978, to N.P.S., Sydney from Diahann McConkey of N.P.S., Truro; subject Marshall, Donald Jr. S.P.S. 410491A (2 pages).
2. Community assessment of Donald Marshall, Jr. completed on 05-06-78 by R. Kevin Lynk, Parole Service Officer, and J. Bernard MacNeil, Acting District Director (3 Pages).
3. Pages 1, 1A and 2 of a progress summary report on Donald John Marshall, Jr., signed by M. MacWilliam, C.M.O.I., on October 19, 1981, and N. E. Flanagan, Acting Case Management Supervisor on October 20, 1981, (3 pages).
4. Telex from Parole Services, Moncton, to the attention of Maud Hody from Parole Services, Sydney, dated November 12, 1981, (1 page).

Ms. Dyer requested our position on the inclusion of the above documents as exhibits of the Inquiry.

Canada

Ms. Ashley
September 1, 1987

- 2 -

We have now had a chance to seek instructions and advise that we have no objections to their inclusion as exhibits for the sole purpose of providing evidence as to the input of members of the Sydney Police Department or any other provincial agency. We understand from our discussions with Mr. Orsborn and Mr. Spicer in Ottawa on June 25, 1987, that there is no intention to examine the policies, procedures, or practices of either the Correctional Service of Canada or the National Parole Board. Please confirm that such is the case.

Thank you.

Yours very truly,



James D. Bissell
General Counsel
Director, Atlantic Region

JDB:wm

cc: Mr. Lloyd Younger
Counsel, Legal Services
Ministry Secretariat
Solicitor General

A. R. Pringle
Senior Counsel
Halifax Regional Office

AUG 31 1987



FACULTY OF LAW,
UNIVERSITY OF TORONTO

78 Queen's Park
Toronto, Canada M5S 2C5

August 26, 1987

Confidential

Mr. John E.S. Briggs
Director of Research
Royal Commission on the Donald Marshall Jr. Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear John,

Before I left Halifax last week I promised I would send you a considered reply to your letter of August 13th, 1987. You will have a pretty good idea of my position in the light of our informal discussions and my memorandum to the Commissioners dated August 19th, 1987 on the subject of research programme deadlines.

With particular reference to my proposed study on "The Prosecutorial System in Nova Scotia" you should regard Part I of Project A - as set forth in the document I prepared under the title "Tentative Schedule of Research Projects and Project-Responsibilities" dated July 3, 1987 - as constituting a draft outline of the work on which I intend to embark shortly. It is rather more difficult to give a firm estimate of the number of days work that will be involved in covering the various sub-topics. In my memorandum to the Commissioners on research deadlines I indicated that I would be inclined to view September 1st, 1988 as a more realistic target for the completion of my study. I intend to cast no reflection on the other parts of the research programme when I suggest that Part I is the major component of the research effort and is likely to occupy an equally proportionate amount of time.

Based on an estimated 2 days a week commitment to the study over a period of 9 months between now and September 1st, 1988, I suggest that a ball-park figure of \$72,000.00 be used as an approximation of the fees that will be incurred by the Commission. At the meeting of the Commissioners in Ottawa on July 14th, 1987 I explained that my professional rate per diem would be the same as that agreed upon with respect to my other duties as Special Adviser to the Commission. Nothing was said then that would lead me to conclude other than that this was entirely acceptable to the Commissioners. The figure I have given above must remain an approximation until I get much further along in the study on the office of the Attorney General in Nova Scotia. At that time it may turn out to be too high or too

low an estimate. A further figure of \$3,000.00 should be provided for in the research budget to cover related expenses (such as research and secretarial assistance, telephone etc.), making a tentative total of \$75,000.00.

As for Part 2 of Project A, and any involvement I may have with respect to its subject matter, I suggest that this be left until I have an opportunity of discussing this part of the research programme with you and Bruce Archibald when I next visit Halifax.

Your letter of August 24th has just reached me with the copies of the statutes that I requested. Many thanks for your help.

Kind regards,

Yours sincerely,

A handwritten signature in black ink that reads "John Edwards." The signature is written in a cursive style with a large initial "J" and a period at the end.

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

J. CARL MACDONALD N.S.L.S.

NOVA SCOTIA LAND SURVEYOR

AUG 31 1987

August 27, 1987

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

Dear Sir/Madam:

Further to our telephone conversation of several days past,
I enclose my account for work performed on your behalf for
the Donald Marshall Prosecution.

As per my request, I would appreciate if, after this matter
has been settled, you would forward the plan to me so that
I may hang it in my office.

Thanking you for your consideration in this matter.

Yours truly,



J. Carl MacDonald, N.S.L.S.

JCMacD:jl
Enc.

BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

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

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August 25, 1987

Mr. George W. MacDonald
Commission Council
Royal Commission
Maritime Centre
Suite 1026
1505 Barrington St.
Halifax, N.S.
B3J 3K5

Dear George:

Re: Donald Marshall Jr., Prosecution

Clay Ruby has forwarded on to me a copy of a letter you wrote to him requesting Mr. Marshall's consent to the release of his criminal record. I will raise this with Mr. Marshall when I speak with him next, I don't see that there should be a problem. We as his counsel have no difficulty with the release of this information to you.

Yours sincerely,

BUCHAN, DERRICK & RING



Anne S. Derrick

ASD/har
MacDonald
ASD 7A

UNION of NOVA SCOTIA INDIANS

P. O. BOX 961
 SYDNEY, N. S.
 B1P 6J4
 TEL. 539-4107
 TELEX 019-35215



OFFICE OF
 THE PRESIDENT

August 25, 1987

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

Dear Ms. Dyer:

We have been notified by our Legal Advisor, Mr. Bruce Wildsmith, that the Commission does not consider it in its best interest to have Mr. Wildsmith present during all the Commission's Hearings. We suspect that the rationale for this decision is based on the Commission's desire to keep the financial costs of the inquiry at a minimum.

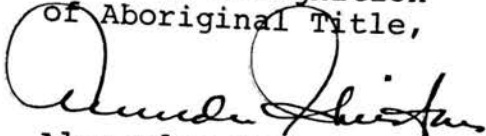
Although, in some respects, we can appreciate the Commission's priority on finances, we consider this as a serious compromise in ensuring that the inquiry is conducted openly and with full participation of the Micmac community. In our perspective, the Donald Marshall, Jr. inquiry is not just restricted to the immediate case in question but it has a direct psychological impact on all Micmac who live under the Justice System of Nova Scotia.

We believe that the facts that will be revealed during the inquiry will demonstrate an attitude of mind based on racial discrimination. You will agree that if such attitudes of mind effected the decisions and actions of several of the parties involved, it is a cause of great concern to not only to the commission and Donald Marshall, Jr. but to all Micmac people.

We are also concerned that if our Counsel does not participate during the hearings, the Micmac population may perceive our participation as less than adequate. Even where the linkage to racism may not be so obvious, we consider it important that the U.N.S.I. have a representative present throughout the hearings.

We therefore request that the Commission reconsider its position in allowing our Counsel to be present on a fully funded basis where he in his discretion thinks it advisable. We do not consider it to be in the best interest of the Commission, the general public or the Micmac community to leave the U.N.S.I. "on the sidelines."

Yours in Recognition
of Aboriginal Title,



Alexander Christmas,
PRESIDENT, UNSI

AC/np

C.C. Bruce Wildsmith

BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

AUG 28 1987

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

Sovereign Building, Suite 205,
5516 Spring Garden Road
Halifax, Nova Scotia
B3J 1G6
(902) 422-7411

August 27, 1987

Ms. Lois Dyer
Commission's Secretary
Royal Commission
Maritime Centre, Suite 1026
1505 Barrington St.
Halifax, N.S.
B3J 3K5

Dear Lois:

Re: Donald Marshall Jr., Prosecution

Thank you for your letter dated August 24, 1987, enclosing the diagram/map of Wentworth Park, Sydney. I note that you say one copy of the colored coded version is available from the Commission. I would appreciate a second copy being made available for Mr. Ruby in Toronto.


I am also writing to request if you can provide us with a copy of the Ratchford video tape of Roy Ebsorie or certainly that portion of it dealing with the incident in the park.

Finally, I would appreciate receiving copies of all witness books you forwarded to Mr. Ruby in Toronto. I understand that witness books have been prepared and are available for counsel. Given the distance between me as local counsel and Mr. Ruby in Toronto I require copies to ensure my preparation of our case.

Thank you for your kind attention to these requests. The last one is particularly urgent.

Yours sincerely,

BUCHAN, DERRICK & RING



Anne S. Derrick

ASD/har

ASD 7A

AUG 28 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

August 28, 1987

File #1085-01

VIA COURIER

MR. JOHN E. S. BRIGGS
Director of Research
ROYAL COMMISSION ON THE DONALD MARSHALL, JR.
-PROSECUTION
Suite 1026 Maritime Centre
1505 Barrington Street
Halifax, NS

Dear Sir:

Re: Racial Discrimination Research Project

Further to your letter of August 25, 1987, we wish to advise the Commission that the Black United Front has concluded its extensive inquiries into the required scope of the above-captioned as well as appropriate candidates for conducting such research.

As you may be aware, there is a paucity of research in the social sciences on the question of black/white race relations in Canada. Virtually no research has considered the perception and practice of discrimination against blacks in Nova Scotia and little is known of systemic racism in the administration of criminal justice. Dr. K. Edward Renner's study of the standards of social justice in the Halifax Criminal Courts provides a useful basis for analysis of the problem, but does not focus sufficiently on Blacks' perception of, and by the system.

Working in conjunction with Dr. Renner, the Black United Front, has prepared preliminary terms of reference for the research which is required to assist the Commission in making meaningful recommendations on the basis of its inquiries (copy of which is enclosed herewith). However, it is our wish to have those terms of reference reviewed by Dr. Wilson Head of York University in

.../2

MR. JOHN E. S. BRIGGS

Page 2

August 28, 1987

File #1085-01

Toronto to ensure that they are adequate to the task. In our opinion, Dr. Head is the only individual with sufficient expertise in the area of discriminatory treatment of blacks in Canada to assist the Commission in directing such research.

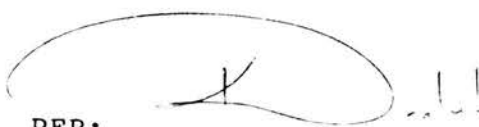
After considerable effort over the past three weeks, we have succeeded in contacting Dr. Head and he is enthusiastic about participating in the Commission's inquiries. Dr. Head has extensive experience in such inquiries and has indicated to us his flexibility in contributing to the Commission's work and proceedings as required. Enclosed herewith is a profile of Dr. Head for your information; his complete curriculum vitae will follow as it becomes available to us.

We wish to apologize for the delay in submitting this information to you, but it is imperative that our efforts be full and complete so as to ensure that the best interests of the Black United Front and the Commission are achieved.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:


KEVIN DROLET

KD/lms
Encl.



Department of Justice
Canada

Ministère de la Justice
Canada

4th Floor
Royal Bank Building
5161 George Street
Halifax, Nova Scotia
B3J 1M7

4ième étage
Immeuble Banque Royale
5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7 426-7592

AUG 27 1987

AR-21,613

August 25, 1987

Our file
Notre dossier:

Your file
Votre dossier:

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. *David* Orsborn:

RE: Marshall Inquiry

This letter is to confirm and follow up our meeting with you and Wylie Spicer at Douglas Rutherford's office in Ottawa on June 25th.

On the question of your interviewing officials from the National Parole Board and the Correctional Service of Canada, we expressed our concerns about the possible unintentional broadening of the Inquiry into areas within the exclusive competence of the federal authority. Naturally, we are anxious to cooperate to ensure that the objects of the inquiry process are attained and we appreciate your assurances that you do not wish to examine the policies and practices of either the Correctional Service or the National Parole Board. This is rendered all the more inappropriate by the scheduled Parliamentary examination into these processes.

The individuals you have identified from the correctional and parole services are more conversant with policies and procedures than they are with the input of the Sydney Police Department and other provincial agencies to the community assessments prepared by the Correctional Service. I understand it is the latter information which you consider more relevant for your purposes. Since you had indicated your intentions to reconsider your approach to this aspect of the Inquiry, may I suggest that you may find it preferable to interview the staff members of the Corrections office in Sydney. They can speak from a first-hand knowledge about the representations made by John McIntyre and we may thereby avoid the pitfalls discussed at our meeting.

Canada

Page 2
Mr. Orsborn
August 25, 1987

As to the role of our department, I hope Mr. Rutherford's briefing on the Justice Department's participation in the decision-making process that culminated in the reference back to the Nova Scotia Court of Appeal answered your questions in regard thereto. If there are any items which still concern you, please advise me.

Yours very truly,



James D. Bissell
General Counsel
Director, Atlantic Region

JDB/vpc

c.c. Mr. Douglas Rutherford, Q.C.
Associate Deputy Minister, Litigation
Room 450, Justice, Ottawa

Mr. Ian Glen, Q.C.
Senior General Counsel
Solicitor General's Dept.
Sir Wilfrid Laurier Bldg.
13th Floor
340 Laurier Ave. W.
Ottawa, Ontario
K1A 0P8

AUG 27 1987

August 24, 1987

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

ATTENTION: Mr. George W. MacDonald
Commission Counsel

Dear Mr. MacDonald:

I received your letter on the evening of August 21, 1987 and I believe it should be sufficient to show my boss in order to get the 2 days off from my employment.

However, I am a bit concerned about my wages. Could you please advise me if you people will be paying my 2 days missed wages or who will be paying? I know my employer does not pay because when I had to appear in Halifax about 4 years ago regarding this same case, my employer did not pay nor did anyone else. I must say I was upset as I am now because I have a family to support. The 2 days would amount to \$130.00

If you do not pay, then could you tell me who does? welfare? social assistance? whom?

Please write back and let me know as soon as possible or phone after 5:00 p.m. (collect if you wish) 733-3336.

Sincerely,

J. Chant per

Mr. Maynard Chant
P.O. Box 23
Louisbourg, N.S.
B0A 1M0

MC/jc

AUG 25 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
JACK A. INNES, Q.C.
DIANNE POTHIER
JANET M. CHISHOLM
PETER M. ROGERS

DONALD J. MACDONALD, Q.C.
PAUL M. MURPHY, Q.C.
RICHARD N. RAFUSE, Q.C.
J. RONALD CREIGHTON
J. RONALD CULLEY
NANCY J. BATEMAN
R. MALCOLM MACLEOD
ALAN C. MACLEAN
DENNIS ASHWORTH
WENDY J. JOHNSTON
ROBERT K. DICKSON

FRED J. DICKSON, Q.C.
DAVID R. HUBLEY, Q.C.
GERALD J. MCCONNELL, Q.C.
RONALD A. PINK
LOGAN E. BARNHILL
JOEL E. FICHAUD
J. MARK MCCREA
D. SUZAN FRAZER
BRUCE A. MARCHAND
RODNEY F. BURGARD
JANICE A. STAIRS

JAMES C. LEEFE, Q.C.
FRANK J. POWELL, Q.C.
CLARENCE A. BECKETT, Q.C.
GEORGE L. WHITE
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A. DOUGLAS TUPPER
DARA L. GORDON
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WYMAN W. WEBB
GORDON N. FORSYTH
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

August 25, 1987

BY HAND

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

Dear Mr. Spicer:

Our File No. 9201/1

Mr. Herschorn has had an opportunity to review the interview notes from his interview in June. He has prepared a list of errors and alterations which I would ask that you incorporate into the interview notes.

I particularly request that the reference in the second line on page 28 be deleted. This was an unfortunate use of words that Mr. Herschorn regrets and is inappropriate in this context.

I look forward to hearing from you confirming these changes have been made.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

c.c. Mr. Martin Herschorn
Mr. R. Gerald Conrad, Q.C.

AUG 25 1987



OSGOODE HALL LAW SCHOOL

4700 KEELE STREET • NORTH YORK • ONTARIO • CANADA • M3J 1P3

August 19, 1987
(416) 736-5036

Mr. John Briggs,
Royal Commission on the Donald Marshall Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, N.S.
B3J 3K1

Dear Mr. Briggs,

Further to our telephone conversation of today's date, I am enclosing a copy of my c.v. for your information and look forward to hearing from you in due course.

Yours truly,

A handwritten signature in black ink, appearing to read "Alan Grant".

Alan Grant
Professor of Law

Encl.

AG:lg

A long, sweeping handwritten flourish or checkmark-like stroke in black ink.

M. D. Mattson,
Box 603 Chester, N.S. B0N1J0


Mr. George W. Macdonald,
Commission Counsel.
21 Aug 87.

Dear Mr. Macdonald,

This is to confirm my call at your office and receiving a copy of your letter re my attendance in Sydney 14 Sept 87.

At this same time I made an inquiry about expenses and was advised to write you a letter setting out expenses that might be expected. These are as follows:-

Motel Room	@	\$55 to \$60.00
Kilometers	-	Chester Rtn. 1000 @ 26.2¢
Meals	-	B-@ \$5.00, L-@ \$6.00, D-@ \$12.00
		Incidental exp. @ \$4.00
		(based on N.S. Prov. Govt. rates)

yours truly,

(M. D. Mattson)

NB.

Somewhere or another I have misplaced
a statement I prepared at the time
of the investigation for Sydney Lobb.
I recall you have a copy of this
or the same information & deposition
you possess.

May I please have a copy of
this to refresh my memory


(M. D. Mattson)