

FEB 29 1988

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Feb. 29, 1988

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

Hand Delivered Feb.29

Dear George:

Further to my letter of Jan.18,1988 requesting access to various provincial government documents, my understanding from Darryl Pink is that some of this material is now in the hands of the Commission, and more is being gathered. I will be contacting you (or David or Wylie) later this week to review what you have.

In addition, I would like similarly to see and perhaps copy documents between the Province (AG's Dept.) and the federal Dept. of Justice during 1987 relating to a study on Indians/Natives and criminal justice in N.S. This was a study Justice was prepared to fund and do, with provincial cooperation. The documents should include correspondence, a draft Terms of Reference and perhaps minutes of a meeting or two. I have mentioned this request to Darryl and he asked that I follow the protocol of putting the request through Commission Counsel.

On the subject of the National Parole Board and the attendance in May(?) of a representative (McConkey) to speak of behalf of the Board, I enclose two 1987 press clippings suggesting particular problems, indeed discrimination, experienced by native people before the Board. This general issue is of concern to my client and may well be relevant to the treatment of Jr. Marshall by the Board. While I know the involvement and cooperation of entities under federal jurisdiction is limited, I ask that you put this issue to the National Parole Board. I believe it will be of assistance to the Commissioners to hear of the experience of one official actor in the criminal justice system with the concept of "systematic negative discrimination", and of what programs have been thought helpful to "fight the problem." This should not be construed as an attack on the Parole Board. I see it as simply collaboration from one actor in the system that unintentional discrimination

has been and can be a reality, and that something can and should be done about it. The National Parole Board seems to be unusually open and candid on these points and should be able to help us all understand how actors in the criminal justice system, including those within the mandate of the Commission, can unwittingly contribute to discrimination.

If you are in agreement, perhaps you could request the statistics referred to and other reports or studies that the National Parole Board has on these issues.

Yours faithfully,



Bruce H. Wildsmith

cc. Alex Christmas, Pres.
Union of N.S. Indians

National Parole Board plans to combat discrimination against native prisoners

By DON MACDONALD

WINNIPEG / The Canadian Press

The National Parole Board is discriminating against native prisoners and will bring in programs to fight the problem, the board's chairman said yesterday.

"There seems to be, in general, a systematic negative discrimination," Ole Ingstrup said.

"It's obvious that the situation as it stands is unacceptable," Ingstrup told native prison liaison workers at a conference in Winnipeg.

He said department statistics show natives waive their right to appear before parole hearings more often than other federal prisoners.

When they do appear, they are

more likely to be denied parole and if they are released they have a better chance of having their parole revoked, Ingstrup said.

Prisoners are eligible for a parole hearing after serving a sixth of their sentence but last year full parole was granted to only 85 of 372 eligible natives.

Ingstrup said the board is giv-

ing a high priority to increasing the parole rate of native prisoners.

He said that a native advisory council will be established within the board to advise him on developments in native issues and the board will continue to support "culturally sensitive" programs to assist natives prepare for release.

One of the problems may be that natives are confused about what is required of them in parole hearings, Ingstrup said, adding natives may be intimidated by process.

"It's of concern to me that so many natives simply don't want to see us," he said in an interview. "If it's something that can

be rectified than it's incredibly important to rectify it."

One reason that has been offered for the high numbers of natives who are being denied parole — natives had a 17-per-cent higher rejection rate in 1985 than non-natives in Prairie prisons — is that more natives are doing time for violent crimes.

Parole data for natives cited

Canadian Press

EDMONTON

Natives are denied parole more often than non-natives, in part because of a lack of parole supervisors in rural areas, a National Parole Board spokesman said yesterday.

In Alberta, from Jan. 1, 1979, to Dec. 31, 1985, full parole was granted to 43 per cent of non-natives, but to only 20 per cent of natives. The problem, said a native counselling group, is partly that the board does not recognize reliable members of the community can supervise parolees.

S. & M.
June 11/87

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February 24, 1988

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:

**Donald Marshall Royal
Commission of Inquiry
Our File Number: 9201/1**

This follows my letter dated February 1st. My instructions are that the files should be subpoenaed and I will look forward to receiving from you Mr. MacLean's written authorization together with your subpoena.

I will look forward to hearing from.

Yours very truly,



Jamie W. S. Saunders

JWSS/cam

FEB 29 1988

Box 5, Site 5, RR#1
Tantallon, Nova Scotia
B0J 3J0
February 24, 1988

Mr. John Briggs
Director of Research
Royal Commission on the Donald Marshall Prosecution
Suite 1026
Maritime Centre
Halifax, N. S. B3J 3K5

Dear Mr. Briggs:

As you may have seen, the Journal interviewed me as part of their coverage of the Donald Marshall story. More recently, Inquiry has done an interview and ATV has asked for an interview.

At this point I am a bit concerned that you have incorrectly read my 1977 study and its relevance to the work of the Commission. In re-reading your letter explaining why the Commission did not feel the my findings were of direct concern, I realized that you were referring to the wrong paper.

I published two papers as a result of our study. The second one, which you cited, is entitled "The Bureaucratic and Adversary Models of the Criminal Courts: The Sentencing Process." This study is concerned only with sentencing and uses a statistical prediction technique based on residual variances. The correlations you cite are with derived statistical functions. All of this has no bearing on the work of the Commission; any differential treatment would be lost in this analysis.

The first paper, entitled "The Standard of Social Justice," was the one designed to address the issues of differential treatment. It includes the appropriate controls for other obviously important variables, such as prior record and severity of offense. It is only this study that applies to the work of the Commission, and the results are unequivocally clear of the need for concern.

I enclose separate reprints to help you keep this material separate. The work of the Commission is too important to make a mistake or to be open to needless criticism. I trust these comments will be helpful.

Sincerely yours,



K. Edward Renner
Professor

FEB 29 1988

Chief Justice's Chambers
Court House, Duckworth Street
St. John's, Newfoundland A1C 5M3



The Supreme Court of Newfoundland
The Honourable T. Alex Hickman
Chief Justice of the Trial Division

February 19, 1988

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

Dear John:

RE: The Police Study

I return the letters directed to various Chiefs of
Police which have been duly signed by me.

Yours sincerely,

T. ALEX HICKMAN,
Chief Justice

TAH:hdh
Enclosure

FEB 26 1988

COX, DOWNIE & GOODFELLOW

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OUR FILE: 8118-1

February 25, 1988

Mr. David B. Orsborn
Commission Counsel
Royal Commission on the Donald
Marshall Jr. Prosecution
Suite 1036, Maritime Centre
1505 Barrington Street
HALIFAX, N.S.

Dear Mr. Orsborn:

**RE: Marshall Inquiry
S. H. No. 63241**

Further to our discussion of Wednesday, February 24 and our attendance upon the Chief Justice of the Trial Division, I write simply to confirm the following items:

1. The matter is now to be heard by the Chief Justice in Chambers on April 26 and April 27 (if necessary) commencing at 9:30 a.m. on the 26th.
2. You indicated that in the circumstances other counsel may be retained to represent the Commission on the hearing.
3. We discussed the intended appearance before the Commission of Mr. Justice Pace. I believe March 17 has been suggested as the date. He would appear only in his capacity as a former Attorney General. It will not be necessary for me to attend. You have advised that before Mr. Justice Pace is sworn and gives his evidence you will advise the Commission that he appears only to answer

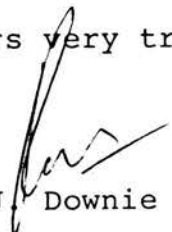
February 25, 1988

questions related directly to his position as former Attorney General and no questions will be put to him by you, by other counsel, or by the Commission relating in any way to his judicial position or the fact that he was a member of the Court which heard the Marshall Reference.

I propose to write you in a separate letter tomorrow dealing with other procedural matters which we discussed.

Kindest regards.

Yours very truly,



R. J. Downie

RJD:cmg

cc. Mr. Jamie W.S. Saunders

FEB 26 1988

COX, DOWNIE & GOODFELLOW

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OUR FILE: 8118-1

February 25, 1988

Mr. David B. Orsborn
Commission Counsel
Royal Commission on the Donald
Marshall, Jr. Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, N.S.

Dear Mr. Orsborn:

**RE: Marshall Inquiry
S.H. No. 63241**

At our meeting the other day with Chief Justice Glube, it was agreed that it might be useful if the Chief Justice had, as part of the record, a statement from you of the matters upon which you wished to question the members of the Court of Appeal or alternately a rough outline of the questions.

I must say I think that this is already covered off in the materials already on file. However, my concern was that we would not want the hearing to go off toward a decision based on an extraneous or false issue. Matters were left between us that you were going to try your hand at something.


You were quick to point out - correctly, I believe - that even if you did do an outline of your proposed questions, you could in no way identify what further questions you may wish to ask of the Justices depending upon the answers you received to your first questions. We also observed that if the Justices were put up as witnesses, there would be no way of knowing, nor any limit upon (except as to relevancy) what questions might be

February 25, 1988

put to the Justices by other counsel.

I'll look forward to hearing from you at your early convenience.

Yours very truly,

A handwritten signature in black ink, appearing to read "R. J. Downie". The signature is written in a cursive style with a large, looped initial "R".

R. J. Downie

RJD:cmg

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February 25, 1988

BY HAND

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

Dear David:

Marshall Inquiry
Our File No. 9201/1

I have recently given serious consideration to the timing of Mr. Justice Leonard Pace's appearance before the Commission.

As you know, he was scheduled for the week of March 14th.

Notwithstanding your assurances that questioning of His Lordship would be restricted to his years as Attorney General for Nova Scotia and what if any knowledge he had of the Donald Marshall case in 1971, I am gravely concerned that such restrictions may not be appreciated or accepted by other parties in attendance.

Mr. Justice Pace's position is unique in that he will be expected to testify at some point as a former Attorney General, and yet he is one of the five justices who sat at the Reference and whose application to quash certain orders requesting their appearance is scheduled to be heard on April 7th. In light of that present application, I believe it would be unwise and imprudent to call for the appearance of Mr. Justice Pace during the week of March 14th. In my opinion it would be inappropriate to expose a member of the Court to a situation where improper questions may be posed, thereby forcing counsel to make objections, claims for privilege/immunity and the like.

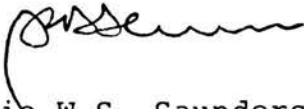
Mr. David Orsborn
February 25, 1988
Page 2

We ought to avoid the risk of that happening in order that the merits of the judges' application can be heard on April 7th and thoroughly dealt with by the Court in its judgment.

For these reasons it is my position that Mr. Justice Pace be rescheduled to a later date so that all judicial proceedings relating to the judges' application have been concluded.

May I hear from you in reply?

Yours very truly,

A handwritten signature in cursive script, appearing to read "J.W.S. Saunders".

Jamie W.S. Saunders

JWSS/cs

FEB 26 1988

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Articled Students
DENES E. BAJZAK
GARY F. PEDDLE, M.B.A.

*A Master of the Supreme Court

XEROX 295
TELECOPIER MESSAGE
COVER PAGE

TO: The Royal Commission on the Prosecution of
Donald Marshall, Jr.

ATTN:

FROM: PUDDESTER/ORSBORN

Per: DAVID B. ORSBORN

Date: FEBRUARY 26, 1988

NUMBER OF SHEETS: THIS COVER PAGE + 1

COMMENTS:

Would you please see that this is faxed over today to Jim Bissell. I would suggest that a covering letter be included to the effect that these are the general areas that we would expect to cover with Doug Rutherford. They are not in any particular order, and George MacDonald has not reviewed them. Accordingly, he may wish to expand upon them when he returns on Monday.

AREAS OF INTEREST RE DOUGLAS RUTHERFORD TESTIMONY

1. General experience re issue of wrongful conviction
 - Explanation of remedies that are available under the Criminal Code
 - If possible, an explanation of accepted principles in dealing with requests for compensation in cases of wrongful conviction
2. Involvement with Nova Scotia Department of Attorney General in determination of procedure to be followed in Marshall case, including factors pro and con a free pardon and the procedure actually undertaken, and also including details of any communication with the Nova Scotia Court of Appeal and the effect of that communication, if any, on the form of the proceeding and documentation.
3. Whether or not the issue of compensation was raised at any time by the Department of Attorney General officials during the course of considering what procedure to take.
4. Knowledge if any of contacts with Marshall's solicitor in connection with remedies available.
5. Knowledge of compensation arrangements, including federal involvement, if any, in settlement with Marshall, and knowledge if any of later federal contribution to same.

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX
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CHIEF JUSTICE T. ALEXANDER HICKMAN
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS
COMMISSIONER

THE HONOURABLE
MR. JUSTICE GREGORY THOMAS EVANS
COMMISSIONER

February 24, 1988

Mr. Jamie W.S. Saunders
Patterson, Kitz
10 Church Street
Truro, Nova Scotia

Dear Jamie:

Further to George MacDonald's letter of January 17, 1988, you will recall that our request for materials additional to those held by the Department of the Attorney General was first raised by letter dated September 30, 1987.

We are seeking access to the files, including personal working files, documents, memoranda, and other materials relevant to the Thornhill and MacLean cases which we assume to exist in the following offices:

1. Auditor General
2. Executive Council and/or individual members thereof
3. The Speaker
4. The Premier
5. The Department of the Attorney General

You have advised that all of the relevant departmental files of the Department of the Attorney General have been made available to us. However, we seek in addition, access to those files and materials, personal working, or otherwise, maintained by the former Deputy Attorney General Mr. Coles, Mr. Gale, Mr. Herschorn and the former Attorneys General Messrs. How and Giffin. In the event that such files and related materials do not exist please provide confirmation that that is the case.

With respect to specific documents we seek from the Department of the Attorney General, the following:

1. Notes/minutes kept by Mr. Coles or Mr. Gale of the meeting between themselves and Messrs. Sarty, Cormier, Superintendent McGibbon and Inspector Blue on November 22, 1983 at the Auditor General's office.

Page 2
February 24, 1988

2. Any RCMP preliminary investigative reports submitted to the A.G.'s Department between November, 1983 and April, 1984 with respect to the MacLean case.
3. Notes/minutes of a meeting between Attorney General How, the Deputy Attorney General and Chief Superintendent Feagan, at the Attorney General's offices on November 12, 1980. (This relates to the Thornhill case.)

If you should have any questions concerning the foregoing, please do not hesitate to contact me accordingly. Thank you for your co-operation. I remain,

Yours very truly,

John E.S. Briggs
Director of Research

JESB:jrc

cc: Commission Counsel

FEB 26 1988

1615A

Nova Scotia



Attorney General

Memorandum

From **D. William MacDonald, Q.C.**
Deputy

Our File Reference
09-88-0042-01

To **Prosecuting Officers and**
Assistant Prosecuting Officers

Your File Reference

Subject **Research Project - The Royal Commission**
on the Donald Marshall, Jr. Prosecution

Date **February 23, 1988**

Professor Bruce Archibald of Dalhousie University has been retained by the Royal Commission on the Donald Marshall, Jr. Prosecution to undertake a research project respecting the role of the local Crown Prosecutor in the administration of justice in Nova Scotia.

As part of this project, Professor Archibald has prepared a questionnaire to all Prosecuting Officers and Assistant Prosecuting Officers in the Province, which you should receive within the next few days. Professor Archibald has assured this Department that the anonymity of responses to this questionnaire will be maintained. I would urge you to respond to this questionnaire and to return it at your earliest convenience to the address indicated.

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

bcc Professor Bruce Archibald ✓

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February 25, 1988

BY HAND

Mr. John Briggs
Director of Research
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia

Dear Mr. Briggs:

Marshall Inquiry
Our File No. 9201/1

The Deputy Attorney General has done a letter to all
Prosecuting Officers regarding the questionnaire urging that
they respond and return the questionnaire as requested.

Yours truly,



Darrel I. Pink

DIP/cs
c.c. Jamie Saunders

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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KIMBERLEY H. W. TURNER

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

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 25, 1988

BY HAND

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

Dear Mr. Briggs:

Winston Barnwell's Research
Our File No. 9201/1

I acknowledge receipt of **your** subpoena and list of files for Winston Barnwell's review. I have requested these files be made available for Mr. Barnwell. I will contact you when this is complete.

Yours truly,



Catherine M. Hicks
Legal Assistant to Darrel I. Pink

CMH/jl

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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 24, 1988

COPY

CONFIDENTIAL

Professor Bruce Archibald
Dalhousie Law School
Dalhousie University
Halifax, N.S.
B3H 4H9

Dear Professor Archibald:

Marshall Inquiry
Our File No. 9201/1

You recall that when you met with Gordon Gale he indicated the Deputy had prepared an outline of the roles for the Department of the Attorney General and Department of the Solicitor General. I now enclose that for you.

I do not expect this is a final or exhaustive list of the functions for each Department but simply a working document prepared which we agreed to provide for your use.

Yours truly,

Darrel I. Pink

DIP/jl
Enc.

c.c. } Mr. John Briggs
 } Mr. R. Gerald Conrad, Q.C.

FEB 25 1988



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

Our file
Notre dossier:

AR-21,613

Your file
Votre dossier:

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

February 24, 1988

Dear Mr. MacDonald:

Re: Donald Marshall Inquiry

We are in receipt of copies of Mr. Pugsley's letters to you of February 15, 1988, concerning Cst. Gadet, Heather Matheson, Alan Storey and Michael Harris.

As counsel for the RCM Police we take the position that the matters Mr. Pugsley addresses in such letters are collateral to the Marshall Inquiry.

The question of credibility of witnesses is properly the subject of cross-examination and argument upon all the evidence relevant to the terms of the inquiry.

Yours very truly,

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:mm

FEB 25 1988



Department of Justice
Canada

Ministère de la Justice
Canada

426-7594

4th Floor
Royal Bank Building
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Our file
Notre dossier AR-21,613

Your file
Votre dossier

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

February 23, 1988

Dear Mr. MacDonald:

Re: Donald Marshall Inquiry

Further to our letter of February 17, 1988, we enclose copies of fingerprint forms for Robert Bruce Patterson for August 13, 1970, February 2, 1971 and March 18, 1971.

We did not receive Affidavits similar to that forwarded with my letter of February 17, 1988. Should you require such Affidavits we will try to get copies.

Yours very truly,

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:mm

Enclosure

Materials attached
in Dept. of
Justice File

Canada

FEB 24 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 24, 1988

BY HAND

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

Dear John:

Our File No. 9201/1

I acknowledge yours of February 22, 1988, enclosing the final form of the questionnaire to Prosecuting Officers.

Yours truly,



Darrel I. Pink

/jl

MONDAY FEBRUARY 15 1988

On conducting royal commissions fairly

IT would be generally accepted by competent observers that the royal commission inquiring into allegations of corruption in the Queensland police force has been conducted fairly and responsibly by Mr Tony Fitzgerald QC. None the less, as was no doubt unavoidable, the names of various persons against whom no charges have been laid, and who could well be acquitted if any prosecution were brought against them, have been widely publicised with consequent damage to their reputations.

Mr Russell Hinze has been most outspoken among those who have been referred to unfavourably in evidence. But he is only one of several citizens who have held high office in Queensland to have had imputations made against their characters during the commission's proceedings.

Several years ago the then NSW commissioner of police, Mr Cec Abbott, remarked that royal commissions had a magnificent record in naming names, but their accomplishments in securing convictions in a court were much less remarkable. This criticism has been only too appropriate to the deliberations of some recent royal commissions. But there have been many instances where only a wide-ranging judicial inquiry would have been capable of revealing most serious wrongdoing.

And it is necessary on many occasions to admit evidence, particularly hearsay evidence, that would not be admissible in a criminal trial, if the person conducting the inquiry is to form a general picture of the matter he is examining. However, any such evidence should be strictly germane to the commission's terms of reference which should never be exceeded if injustices are not to be done through the introduction of irrelevant material.

Mr Hinze has suggested that royal commissions should issue periodic reports exonerating persons whom the commissions find have been falsely accused of wrongdoing by malicious or mistaken witnesses. Others have urged that such inquiries should be held in camera and only their findings made public.

Neither of these proposals should be lightly dismissed. Nor should the recommendation contained in the 1983 report of the Victorian special prosecutor, Mr R.F. Redlich, that royal commissions inquiring into allegations of criminal behaviour should be "required to make findings on illegal activities ... only on evidence admissible in a court of law and sufficient to place a person on trial for that offence".

Indeed, Mr Redlich's proposal would prevent vindictive "fishing expeditions" and the ventilating of harmful scuttlebutt, while still helping to gather otherwise unavailable evidence that would help achieve the successful prosecution of criminals.

However, it would also inhibit the work of royal commissions, which are sometimes essential in their present form as a last resort, particularly when it is the administration of justice itself that is being investigated. And, while the holding of hearings behind closed doors would prevent false and defamatory evidence from being published, it would also take away from royal commissions their useful role of informing the public about matters that ought to concern them. If royal commissions were obliged to issue interim reports before the inquiry had ended, it is possible they would have to correct their interim reports after they had heard all the evidence.

By promptly allowing Mr Hinze and Sir Terence Lewis to have the chance to answer allegations made against them, Mr Fitzgerald has diminished any unjustified damage that could have been done to them.

Individuals named in royal commissions have suffered manifest injustices. Nevertheless, royal commissions held under the prevailing general principles perform a valuable public service.

The rules governing them should not be fundamentally changed, but it is essential that those who conduct them should, like Mr Fitzgerald, be not only learned in the law and dedicated to upholding it, but considerate of those whose names could be unfairly tarnished.

②
David -
Thought you
people might
be interested
in this.

lan
24 Feb 88

Project Planning
and Feasibility
Studies.

CML Consultants

Limited
1586 Queen Street
Halifax
Nova Scotia
Canada
B3J 2J1
902 422-1343

FACSIMILE TRANSMISSION SHEET

TO: DAVID O.

FROM: FRASER

TOTAL NUMBER OF PAGES (INCLUDING COVER) 2

DATE: 24 FEB 88

TIME: _____

CONTACT: IAN FRASER

If you do not receive all of the pages, please call as soon as possible.

Telephone (902) 422-1343

FAX (902) 423-6629

THE AUSTRALIAN

MONDAY FEBRUARY 15 1988

On conducting royal commissions fairly

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①
David -
Thought you
people might
be interested
in this.

Lor
24 Feb 88

FEB 24 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 23, 1988

BY HAND

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

Dear George:

Our File No. 9201/1

This is further to yours of February 17, 1988, to Jamie.

We have relayed your request to our client for instructions. However, I note the request has been extended to cover documents in the Speaker's office and the Premier's office. These had not specifically been requested earlier but we have now passed along your inquiry.

We look forward to receiving material from John Briggs which will better particularize precisely what is being sought.

Yours truly,



Darrel I. Pink

DIP/jl

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

LEONARD A. KITZ, Q.C., D.C.L.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 23, 1988

Mr. John Briggs
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear John:

Our File No. 9201/1

This is further to yours of February 11, 1988, to Jamie Saunders. I apologize for our failure to respond to yours of January 5, 1988.

At the present time there are ten towns in Nova Scotia that have contracted directly with the RCMP for the provision of policing services. These are Antigonish, Digby, Liverpool, Oxford, Parrsboro, Pictou, Port Hawkesbury, Shelburne, Windsor and Yarmouth. The province plays no role in the contract between the force and the town other than to approve of policing being provided in this way as is required by the Police Act. I enclose a copy of what I believe is the standard form of agreement used by the RCMP when contracting with the towns.

Under the provincial contract with the RCMP, there is a requirement to provide policing coverage in all of rural Nova Scotia and in those municipalities (towns) not over 1,500 in population.

Mr. John Briggs
February 23, 1988
Page 2

You asked about extended coverage in some areas. I am advised that at present, the RCMP provides extended coverage in the towns of Bridgetown, Canso, Clarks Harbour, Lockeport, Mulgrave and Stewiacke and in the portion of Halifax County known as Cole Harbour. There are no contracts which provide for extended coverage. The particular municipality agree with the Attorney General to pay for extended coverage (coverage beyond what is required under the provincial contract). The arrangements for the municipalities noted above have been done by exchange of letter without formal contractual arrangements. The effect of these arrangements are to provide coverage in the noted municipalities above what is required under the contract. The cost of this is assumed by the municipality, which reimburses the province, which in turn, pays the RCMP.

Although we have previously provided a copy to you, I enclose another copy of the current RCMP contract with the Province of Nova Scotia.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

c.c. Mr. R. Gerald Conrad, Q.C.
Mr. Gordon S. Gale, Q.C.

FEB 22 1988



FACULTY OF LAW,
UNIVERSITY OF TORONTO

78 Queen's Park
Toronto, Canada M5S 2C5

MEMORANDUM

TO: The Commissioners
Commission Counsel
Research Director
Executive Secretary

FROM: J.L.J. Edwards

DATE: February 19, 1988

I enclose the first in a series of opinions that examine the Office of Director of Public Prosecutions or its equivalent title. This opinion examines this English experience, for that is where the office first came into existence in 1879.

When I return from a short visit to The Bahamas and Jamaica I shall turn my attention to the Australian experience where some innovative departures from the English model have been introduced and tried out in the past few years. With luck you should receive the Australian memorandum by the end of March, 1988.

John Edwards

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

FEB 22 1988



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

(902) 426-7594

Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

February 17, 1988

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

Dear Mr. MacDonald:

Re: Donald Marshall Inquiry

We enclose a photocopy of fingerprint form for
Robert Bruce Patterson dated August 13, 1970.

This is a copy of microfilm. We also enclose a copy of the
Affidavit of the officer who did the microfilming process.

We have requested the other fingerprint forms for
Mr. Patterson which appear to have Detective Urquhart's
signature, ie,

(1) February 8, 1971

(2) March 18, 1971.

We will forward copies when received. These are also on
microfilm and we will receive a photocopy and Affidavit
similar to the documents enclosed.

Yours very truly,

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:wm
Enc.

Canada



APPENDIX "B"

Your file Votre reference
Our file Notre reference

AFFIDAVIT OF CAMERA OPERATOR

This affidavit is made pursuant to the requirement of the Canada Evidence Act, R.S.C. 1970, ch. E-10.

I BRIAN BISHOP a CAMERA OPERATOR for ICON MICROFILMING LTD. hereby swear that on NOVEMBER 3, 1980 I commenced microfilming documents that were part of the criminal history file collection of the Royal Canadian Mounted Police. This being done in the regular course of business pursuant to established routine department policy, for the maintenance and preservation of records through the storage of such microfilm in protected areas. The documents photographed to be subsequently destroyed in accordance with established practice.

It is further certified that the photographic process used for microfilming of noted records are accomplished in a manner and on microfilm, which meets the recommended requirements of the Canadian Government Specifications Board for permanent micro-photographic reproductions.

Sworn before me on

this 7th day of January, 1981

Jan. 7 / 81
(date)

at OTTAWA in the
Regional Municipality of
OTTAWA - CABELTON

Brian Bishop
CAMERA OPERATOR
(position)

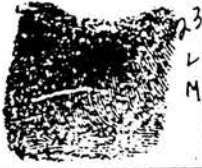




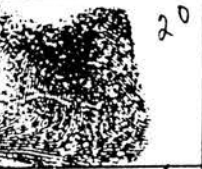
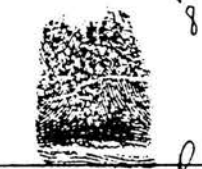



[Signature]
Province of Ontario
[Signature]
Barister & Solicitor, Province of Ontario

SWSM

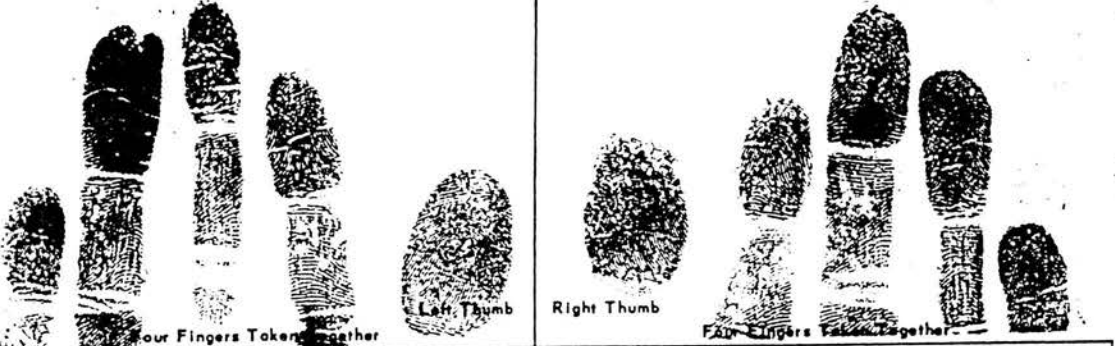
F-808

C-216 REV. 1-3-68

SEX <input checked="" type="checkbox"/> M <input type="checkbox"/> F	* CONTRIBUTOR'S NO.	F.P.S. NO. 422521A	THIS SPACE FOR IDENTIFICATION BRANCH USE ONLY
NAME Robert Bruce Patterson			<i>L I U 100 15</i> <i>L I R 100 14</i>
SURNAME GIVEN NAMES OTHER NAMES, ALIASES, NICKNAMES, MAIDEN NAME, ETC.			
RESIDENT ADDRESS 3 Glebe Ave. Sydney Cape Breton N.S.			
NAME AND ADDRESS OF NEXT OF KIN Eraldine Patterson (Mother) Same Address			

THUMB	INDEX	MIDDLE	RING	LITTLE
 23 <i>L M</i>	 7	 13	 19	 15
 20	 8	 12 <i>0 3</i>	 18	 14

(IF ANY FINGERPRINT IS NOT RECORDED, GIVE REASON FOR OMISSION - IF AMPUTATED, GIVE DATE)



SIGNATURE OF OFFICIAL TAKING PRINTS <i>Wm McFadden</i>		DATE 13 Aug 70	* NAME AND ADDRESS OF CONTRIBUTOR Sydney City Police Dept.	
SIGNATURE OF PERSON FINGERPRINTED (FULL NAME AND ADDRESS) <i>Robert Bruce Patterson 13 Glebe Ave Sydney</i>				
SIGNATURE OF PERSON FINGERPRINTED (FULL NAME AND ADDRESS) <i>Robert Bruce Patterson 13 Glebe Ave Sydney</i>				
NATIONALITY Canadian	RACIAL ORIGIN Irish	OCCUPATION - EMPLOYER Labourer		* APPARENT AGE 16
DATE OF BIRTH 2 May 1954	PLACE OF BIRTH Antaganish Nova Scotia		IF FOREIGN BORN, ARRIVAL DATE IN CANADA	
HEIGHT 5' 3"	WEIGHT 116	BUILD Slight	EYES Grey	HAIR Blond
COMPLEXION Fair				
SPECIALTIES, MARKS, SCARS, TATTOOS, DEFORMITIES, ETC.				

IF ARRESTED 1 Aug 70	DATE REMANDED TO 12 Aug 70	<input checked="" type="checkbox"/> ON BAIL	<input type="checkbox"/> IN CUSTODY	BY WHOM Sydney Police Court
IF CONVICTED 2 Aug 70	DATE SENTENCED 12 Aug 70	PLACE OF CONFINEMENT County Court House Sydney	BY WHOM Sydney City Police	

Five (5) separate charges of break & enter
 Received two (2) Years Probation
 Judge John F. MacDonald

82-05-501

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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10 CHURCH STREET
P.O. BOX 1068
TRURO, NOVA SCOTIA B2N 5B9
TELEPHONE (902) 895-1631
FROM HALIFAX 429-7741
FAX (902) 893-3071

ALSO OFFICES AT
HALIFAX, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 17, 1988

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

ATTENTION: Mr. W. Wylie Spicer
Commission Counsel

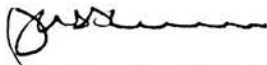
Dear Wylie:

Donald Marshall Inquiry / Brenda Thompson - Edmund Morris
Our File Number: 9201/1

Thank you for your letter dated February 16th.

I will respond in more detail after I have my instructions.

Yours very truly,



Jamie W. S. Saunders

JWSS/cam

LEONARD A. KITZ, Q.C., D.C.L.
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ALSO OFFICES AT
HALIFAX, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 12, 1988

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

ATTENTION: Mr. W. Wylie Spicer
Commission Counsel

Dear Wylie:

Donald Marshall Inquiry
Our File Number: 9201/1

Thank you for your letter dated February 5th. I can advise that neither Gordon Coles nor Ronald Giffin had any communication with members of the Court prior to the Reference being heard in December 1982 and argued in February 1983. In fact Mr. Giffin was not named as Attorney General until November 1983.

In your letter you have asked the same question of Messrs. How, Gale and Herschorn. I will find out and let you know.

It is also our expectation that you will want to meet with these witnesses in advance of their attendance in March (or May) so that they will understand the areas you expect to review in your questioning and they will be able to brief themselves accordingly. I thought it worked quite well when David and George did that in advance with Judge Lewis Matheson, Darrel and myself.

Perhaps you could suggest some dates and we will arrange for meetings.

Yours very truly,



Jamie W. S. Saunders

JWSS/cam

FEB 19 1988



Manitoba

Attorney General
Chief Medical Examiner

Room 120
770 Bannatyne Ave.
Winnipeg, Manitoba, CANADA
R3E 0W3
(204) 945-2088

February 5, 1988

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 Mr. Briggs:

On reviewing the files, I noticed much was made of the fact whether or not the medical examiner had been notified regarding Mr. Seale's death. To find out would be easy enough. All one has to do is obtain a copy of the Death Certificate and see who signed it. There are two scenarios possible here. Firstly, the Death Certificate, indeed, was signed by the medical examiner. Therefore, he failed to order an autopsy. Secondly, the Death Certificate was not signed by a medical examiner. In that case, the Registrar of the Vital Statistics Department failed to act in accordance with the Vital Statistics Act of Nova Scotia which states the medical examiner must examine the body and sign the Death Certificate, etc., in those cases where death occurs as the result of violence.

I have contacted the Director of Vital Statistics in Nova Scotia who has informed me she requires Ministerial permission to release a copy of the Death Certificate to me. To date, I have not received a copy. It still may be coming; however, if not, you may require a Subpoena to get the Death Certificate. Naturally, this will depend on how important you feel the issue of whether or not the medical examiner was notified is, and, whether the Vital Statistics Act of Nova Scotia should be amended. (This is presently being done in Manitoba.)

I look forward to seeing you sometime in March.

Sincerely,

Peter H. Markesteyn, M.D., F.C.A.P.
Chief Medical Examiner

*P.S.
If arrived
PHM/cr today*

Copies enclosed

isolation of Vital Stat act 56-e

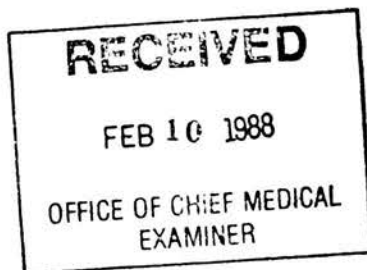
Nova Scotia



**Department of
Health**

Deputy Registrar General

February 8, 1988



PO Box 157
Halifax, Nova Scotia
B3J 2M9

Our file no:

Dr. Peter Markesteyn
Chief Medical Examiner for
the Province of Manitoba
Room 120
770 Bannatyne Avenue
Winnipeg, Manitoba
R3E 0W3

Dear Dr. Markesteyn:

In response to your telephone request and through the authorization of the Minister of Health and Fitness, Mr. Joel Matheson, Q.C., photocopy of death registration for Sandford Seale is herewith enclosed pursuant to Section 32 (7) (a).

Also, enclosed please find articles under the Vital Statistics Act pertaining to procedures in the Registration of Deaths. As far as I am able to discern, there have been no amendments under this Section of the Vital Statistics Act since 1971.

If we can be of any further assistance to you, please advise.

Yours very truly,

A handwritten signature in cursive script that reads "Betty A. Etter".

Betty A. Etter
Deputy Registrar General

BAE/scc

Enclosures

application and that the application is made in good faith, shall register the marriage. R.S., c. 330, s. 12.

13 Repealed 1975, c. 40, s. 2.

REGISTRATION OF DEATHS

Registration of Death Required

14 (1) The death of every person who dies in the Province shall be registered as provided herein.

Statement of Personal Particulars of Deceased

(2) The funeral director shall forthwith after the death of any person obtain the personal particulars of that person from:

(a) the nearest relative of the deceased person present at the death or in attendance at the last illness of the deceased;

(b) if no such relative is available any relative of the deceased residing or being within the registration division;

(c) if no relative is available any adult person present at the death;

(d) any other adult person having knowledge of the facts;

(e) the occupier of the house in which the death occurred; or

(f) the coroner who has been notified of the death and has made an inquiry or held an inquest regarding the death,

and the funeral director shall, from the particulars so obtained, complete a statement in the prescribed form of the personal particulars of the deceased person.

Medical Certificate

(3) The funeral director shall forthwith after the death obtain from the medical practitioner who was last in attendance during the last illness of the deceased or the coroner who conducts an inquest on the body or an inquiry into the circumstances of the death a medical certificate in the prescribed form stating therein the cause of death according to the International List of Causes of Death, as last revised by the International Commission assembled for that purpose.

Duty of Medical Practitioner

(4) The medical practitioner who was last in attendance during the last illness of the deceased or the coroner who conducts an inquest on the body or an inquiry into the circumstances of the death shall, upon the request of the funeral director, complete a medical certificate in the prescribed form and cause it to be delivered to the funeral director.

Death without Medical Attendance

(5) Where a death occurs without medical attendance, or where the medical practitioner mentioned in subsection (4) is not available to complete the medical certificate, and where there is no reason to believe that the death was the result of any of the circumstances set forth in subsection (6), the funeral director shall forthwith notify a coroner having jurisdiction, or the local medical health officer, or a medical practitioner designated by the coroner or by a medical health officer, who shall thereupon inquire into the facts and shall complete the medical certificate in accordance with subsection (4).

Burial Permit where Unnatural Death

(6) Subject to subsection (7) where there is reason to believe that a person has died,

- (a) as a result of violence or misadventure;
- (b) by unlawful means;
- (c) as a result of negligence or misconduct on the part of others; or

(d) under circumstances that require investigation;

no burial permit shall be issued by the division registrar unless,

(e) the body has been examined by the coroner and inquiry is being made by the coroner into the circumstances of the death; and

(f) the coroner has signed the medical certificate of the cause of death in accordance with subsection (4); and

(g) the other provisions of this Act respecting the registration of the death have been complied with.

Burial Permit before Completion of Inquest

(7) When a person dies under any of the circumstances referred to in subsection (6), if it is impossible for the coroner to complete a medical certificate, the division registrar, upon the coroner releasing the body for burial, shall issue a burial permit and the coroner shall, within two days of his determining the cause of death, or of the completion of his investigation, deliver or mail to the division registrar a medical certificate.

Duty of Funeral Director

(8) Upon obtaining the personal particulars respecting the deceased and the medical certificate, the funeral director shall complete the statement in the prescribed form, and shall forthwith deliver the completed

statement to the division registrar of the registration division in which the death occurred, or if the place of death is not known, to the division registrar of the registration division in which the body was found. R.S., c. 330, s. 14.

Burial Permit upon Receipt of Statement

15 (1) Upon the receipt of a statement in the prescribed form respecting the death, the division registrar, if he is satisfied of the truth and sufficiency thereof, shall sign the statement and issue a burial permit.

Impractical To Deliver Statement to Proper Officer

(2) Where it is impracticable to deliver the statement respecting a death to the proper division registrar, the statement may be delivered to the nearest division registrar, who, if he is satisfied of the truth and sufficiency thereof, shall

(a) sign the statement and issue a burial permit, and

(b) forward the statement forthwith to the proper division registrar. R.S., c. 330, s. 15.

Burial Permit from Registrar

16 When a death is not registered within one year from the day of the death, or where the division registrar refuses to accept a statement respecting the death and to issue a burial permit, if application for registration thereof is made by any person to the Registrar in the prescribed form verified by statutory declaration, and accompanied by a statement in the prescribed form respecting the death and such other evidence as may be prescribed, the Registrar, if he is satisfied of the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the death and may issue a burial permit. R.S., c. 330, s. 16.

Burial Permit Required To Dispose of Body

17 (1) No person shall bury or otherwise dispose of the body of a person who dies in the Province unless a burial permit respecting the body has been obtained.

Restriction on Removal of Body

(2) Unless a statement in the prescribed form respecting the death of the person has been completed,

(a) no person shall remove the body of the person from the registration division in which the death occurred or the body was found, except for the purpose of preparing the body for burial;

(b) no person shall remove or permit the removal from a public or municipal hospital or institution of the body of a person who has died therein.

Burial Permit Required To Conduct Funeral

(3) No person shall conduct a funeral or religious service in connection with the burial or other disposition of a body unless he has satisfied himself that a burial permit has been issued.

Restriction on Removal of Body by Common Carrier

(4) A common carrier shall not remove the body of any person to the place of burial or other disposition unless the burial permit is affixed to the outside of the casket.

Authority of Funeral Director at Place of Burial

(5) The funeral director at the place of burial or other disposition shall remove the burial permit affixed to the outside of the casket, exhibit the burial permit to the person conducting the funeral or religious service, and deliver it to the cemetery owner.

Authority for Burial when Death outside Province

(6) Where a death occurs outside the Province and the burial or other disposition of the body is to take

place in the Province a burial permit or such other document as is prescribed under the law of the province or country in which the death occurs, signed by the division registrar or other proper officer, shall be sufficient authority for the burial or other disposition of the body. R.S., c. 330, s. 17.

Prohibited Activity of Cemetery Owner

18 (1) No cemetery owner shall permit the burial or cremation of a dead body in the cemetery unless the funeral director or the person officiating at burial has delivered to him the burial permit.

Duty of Cemetery Owner

(2) Every cemetery owner shall file in chronological order and carefully preserve all burial permits delivered to him.

Where No Person in Charge of Cemetery

(3) Where there is no manager, superintendent, caretaker, or other person in charge of a cemetery a funeral director who buries a body in the cemetery shall write across the face of the burial permit the words "no person in charge" and shall file in chronological order and carefully preserve all such burial permits.

Right of Examination of Files of Burial Permits

(4) The Registrar or any person designated by him for the purpose may at all reasonable times examine the files of burial permits kept under this Section and any burial permit in those files. R.S., c. 330, s. 18.

REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON THE HIGH SEAS

Registration of Birth or Death Occurring on Ship

19 Upon receipt from the Minister of Transport of information transmitted under the Canada Shipping Act respecting the birth of a child or the death of a person on

SEC. 14 - VITAL STATISTICS ACT MAKES IT THE DUTY OF THE UNDERTAKER OR PERSON ACTING AS UNDERTAKER TO OBTAIN ALL THE PARTICULARS REQUIRED IN THE "REGISTRATION OF DEATH" AND TO FILE THE SAME WITH THE DIVISION REGISTRAR WHO SHALL ISSUE THE BURIAL PERMIT. WRITE PLAINLY WITH UNFADING INK. THIS IS A PERMANENT RECORD.

Every item of information should be carefully supplied. (See reverse side for instructions.)

This form, if placed in an envelope, on which is printed "Dominion Statistics - Free, penalty for improper use \$50," and properly addressed will pass through the mail "FREE".

02-003873
54-02-001925-

For use of the Department only

033
03

PROVINCE OF NOVA SCOTIA - REGISTRATION OF DEATH

1. PLACE OF DEATH
County of Canada Municipality of Canada

2. LENGTH OF STAY (in years, months and days)
(a) In City, Town or Rural Division where death occurred 12 yrs.

3. PRINT NAME OF DECEASED
Surname or Last Name: SEALE
All Given or Christian Names: SMITH DORIS

RESIDENCE No. 274 Street East Mountain Road City, Town or Rural Division Canada Province N.S.

4. Sex Female 5. Citizenship (Nationality) Canadian 6. Racial Origin White 7. Single, Married, Widowed or Divorced (write the words) Single

8. BIRTHPLACE Canada (Province or Country)

9. DATE OF BIRTH January 19 (Month) 19 (Day) 19 (Year)

10. AGE in 17 years 4 months 10 days If less than one day old hrs. or min.

11. Trade, profession, or kind of work as fisherman, office clerk, sales clerk, etc. None
12. Kind of industry or business, as fishing, bank, grocery store, etc. None
13. Date deceased last worked at this occupation None
14. Total yrs. spent in this occupation None

15. If married give name of wife or husband of deceased None

16. NAME Seale Doris

17. BIRTHPLACE Canada (Province or Country)

18. MAIDEN NAME Smith Doris

19. BIRTHPLACE Canada (Province or Country)

20. Signature of Informant [Signature]

Address [Address]

21. Place of burial, cremation or removal St. Mary's Church, 25 St. St.

22. UNDERTAKER [Name and address]

23. DATE OF DEATH March 29 (Month) 19 (Day) 71 (Year)

24. I HEREBY CERTIFY that I attended deceased from: 12 Princeville Road and last saw h. alive on March 29

25. MEDICAL CERTIFICATE OF DEATH
CAUSE OF DEATH: STAR WOUND OF HEAD
Approximate interval between onset and death: 12 hrs

26. Was there a surgical operation? Yes Date of operation Mar 29 19 71
State findings: As above Was there an autopsy? Yes
27. If death was due to external causes (violence) fill in also the following:
Accident, suicide or homicide? As above Date of injury Mar 28 19 71
Manner of injury: As above (State which) As above (flow sustained)
Nature of injury: As above
Specify whether injury occurred in industry, in home, or in public place: As above

28. Division Registrar's Record Number 19 71
Signed by [Signature] Date 19 71
Address [Address]

FEB 19 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
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BANK OF MONTREAL TOWER
SUITE 1600, 5151 GEORGE STREET
P.O. BOX 247
HALIFAX, NOVA SCOTIA B3J 2N9
TELEPHONE (902) 429-5050
FAX (902) 429-5215
TELEX 019-22893

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 18, 1988

BY HAND

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

Dear John:

Our File No. 9201/1

I have yours of February 17, 1988. I have requested instructions and will be back to you shortly.

Yours truly,



Darrel I. Pink

DIP/jl

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

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 18, 1988

BY HAND

Professor Bruce Archibald
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Bruce:

Our File No. 9201/1

Further to your conversation with Martin Herschorn on
February 16, 1988, I enclose the following:

1. Environmental Assessment Study - Criminal Law
Division - Ministry of Attorney General, prepared
by Alan M. Marcus Associates, Inc.;
2. Ministry of Attorney General - An Operational
and Management Review of the Criminal Law Division -
Final Report, October, 1987
3. Article from The Lawyers Weekly of November
27, 1987, entitled "Report say Ontario Crowns
face job stress, poor morale".

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

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

CHRIS MANNING
BARRISTER, SOLICITOR
AND NOTARY PUBLIC

SUITE 500
1668 BARRINGTON ST.
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B3J 2A2

(902) 420-9111
TELEX 01921663

17th February, 1988

Ms. Susan Ashley
Donald Marshall Inquiry
Maritime Centre
Halifax, Nova Scotia

HAND DELIVERED

Dear Ms. Ashley:

As I indicated to you in our recent telephone conversation, I have been asked to write to the Commission on behalf of Mr. Harry Wilson to describe one man's frustration with the administration of justice in Nova Scotia. I have explained to Mr. Wilson that the central thrust of the Inquiry is to investigate the facts relating to the wrongful conviction of Donald Marshall, Jr., and that the time and resources of the Inquiry are finite. It is his position, however, that he wishes his plight to be known.

Mr. Wilson is a 52-year-old boilerman welder, who until recently, had no criminal record nor any history of mental illness. Formerly of Dartmouth, Nova Scotia, he spent twenty (20) years in Ontario working in his trade until he was divorced and returned to Nova Scotia in 1971 to continue his business under the name and style of Wilson's Welding. In December, 1986, Mr. Wilson was found not guilty, by reason of insanity, of charges of inter alia carrying firearms and attempted murder. Mr. Wilson is now remanded to the Nova Scotia Hospital on a Lieutenant Governor's Warrant as a result of the finding of not guilty by reason of insanity. The incidents that lead to these charges were the combination of four (4) years of frustration for Mr. Wilson dealing with the administration of justice in this Province.

Mr. Wilson's difficulties began in early 1982 when he wished to move a cottage from one lot he owned to a second lot approximately one-half ($\frac{1}{2}$) miles away. The land in question was in the County of Halifax. Mr. Wilson moved the cottage but was prevented from further restoration work, as he describes it of "making the house tight" by the Municipality of the County of

Halifax which required a bond from Mr. Wilson to be posted equal in the amount of \$5,000.00). Mr. Wilson had not arranged for a bond. He was told by County officials that he had to arrange to have a \$5,000.00 bond to relocate the building and on the strength of this, he went to a bonding company who informed him that no such bond was available within this Province. Mr. Wilson was charged with altering the cottage without having arranged a permit, a charge to which he plead guilty and was fined.

In order to continue to work, he once again contacted the County Building Inspector and informed him that he was unable to arrange a bond in this Province. The response was that he should arrange to have a certified cheque or a line of credit equal to the amount originally demanded in a bond, although there is no authority in law for the Building Inspector to seek such an assurance. Mr. Wilson did however approach a Credit Union and received confirmation, in letter form, that a line of credit was available to him. The Building Inspector of the County would not accept this line of credit letter, and Mr. Wilson appealed to the County Appeal board, who upheld the Inspector's decision. Mr. Wilson then followed all other available avenues without success.

In 1983, Mr. Wilson sought a Writ of Mandamus before the Supreme Court Trial Division, to seek an Order requiring the granting of a permit, to allow him to continue with his work. The Application for Mandamus was denied and following this, Mr. Wilson exhausted other avenues of recourse, including the Provincial Ombudsman. Having met with no success in this quarter, Mr. Wilson wrote directly to Chief Justice Lorne Clarke asking that the Judicial Council intervene. Mr. Wilson later learned during a telephone conversation with Mr. Smith of the Prothonotary's Office that all the materials in the Prothonotary's file relating to his case were missing.

Mr. Wilson continued his efforts to be allowed to complete the work on his building that had been moved and sought assistance from various lawyers and even attempted political avenues without avail. In 1986, the issue of this property once again reared its head.

In 1986, Mr. Wilson's common-law wife made an Application for a division of the assets under the Partition Act of Nova Scotia. This matter was before the Supreme Court in 1986, and in Mr. Wilson's mind, the fact that the cottage had been moved without a permit was raised as an aggravating factor against his case. Mr. Wilson believed that this was very unfair as he had made all efforts to have this matter cleared up with the Court without success and it appeared to him that the whole proceeding was

Ms. Susan Ashley
Page 3 of 3
17th February, 1988

preventing any possibilities of reconciliation with his common-law wife. The property was eventually sold at a substantial loss in 1987 as by this time, the foundation and basement were cracked by frost, and the property fell within the meaning of "unsightly and unsafe premises."

Mr. Wilson felt aggrieved by the Supreme Court Trial Division's decision concerning the distribution of matrimonial assets, and matters came to a head when he was scheduled to appear before the Taxing Master concerning costs of the action. The Hearing was scheduled at 9:30 a.m., and Mr. Wilson appeared a few minutes late for the Hearing. When he arrived, he discovered that the Hearing had been begun early, and had now finished. At this point, Mr. Wilson went down to the Offices of the Solicitor who had represented his common-law wife, armed with two (2) handguns, and subsequently this led to his present predicament.

As I have previously indicated, Mr. Wilson is aware of the restraints the Commission is operating under and the primary purpose of the Commission. I have advised him that it is highly unlikely that a letter will do anything to open up his particular case and that he cannot expect to give his account in Hearing. It is his wish, however, that a submission be made on his behalf and be treated with the same courtesy as all other written submissions.

Yours truly,



Chris Manning
Barrister and Solicitor

CM/scc

CC: Mr. Harry Wilson, Nova Scotia Hospital

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ALSO OFFICES AT
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BEDFORD, NOVA SCOTIA

February 17, 1988

BY HAND

Professor Bruce Archibald
Royal Commission on the
Donald Marshall Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Bruce:

Our File No. 9201/1

Further to our discussions on Monday of this week, I would appreciate receiving a copy of the final form of questionnaire which was forwarded to Prosecutors as well as the instructions for completion.

I expect that a letter will go out under the signature of either Deputy Attorney General or the Attorney General sometime this week which will encourage Prosecutors to answer the questionnaire.

Yours truly,



Darrel I. Pink

DIP/jl

c.c. R. Gerald Conrad, Q.C.



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

February 15, 1988

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

Dear John:

Please find enclosed two statements of account related to my research project on the Role of the Local Crown Prosecutor.

The first is a statement of account from Mr. Robert Bayne in the amount of \$965.00. This represents 96-1/2 hours of work relating to library research on relevant literature relating to the role of the local crown prosecutor, a review of prosecutors' manuals from the various provinces of Canada held at the Commission offices, work in relation to the drafting of a questionnaire to go to prosecuting officers, and work in relation to structuring the final report on this project.

The second bill is from Marilee Matheson in the amount of \$50.00 and relates to the typing of the various drafts of the questionnaire to local crown prosecutors.

While I have not consulted with either Mr. Bayne or Ms. Matheson on this point, I presume it would be appropriate for you to have the cheques sent to them at the Law School, perhaps even in care of me particularly in Mr. Bayne's case since I am not sure of the security arrangements with the student mailboxes.

Yours truly,

Bruce P. Archibald
Associate Professor of Law

BPA/m
encs.

FEB 17 1988

COX, DOWNIE & GOODFELLOW

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TERRY L. ROANE
MICHAEL E. DUNPHY
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D. KEVIN LATIMER
K. MICHAEL TWEEL
RONALD E. PIZZO

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CORRESPONDENCE
P. O. BOX 2380, STATION M
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OUR FILE: 8118-1

February 17, 1988

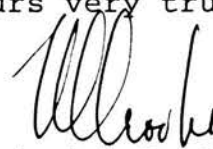
Mr. David B. Orsborn
Commission Counsel
Royal Commission on the Donald
Marshall, Jr. Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, NS

Dear Mr. Orsborn:

**RE: Marshall Inquiry
S.H. No. 63241**

I acknowledge receipt of your letter of February 15 enclosing copies of the Originating Notice and Affidavit endorsed to indicate acceptance of service on behalf of the Defendants.

Yours very truly,



Frederick P. Crooks

FPC:cmg

FEB 17 1988

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BEDFORD, NOVA SCOTIA

February 16, 1988

BY HAND

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

Dear John:

Our File No. 9201/1

Enclosed are pages for insertion in the Advice to Prosecutors volumes.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

FEB 17 1988

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GFP

February 12, 1988

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

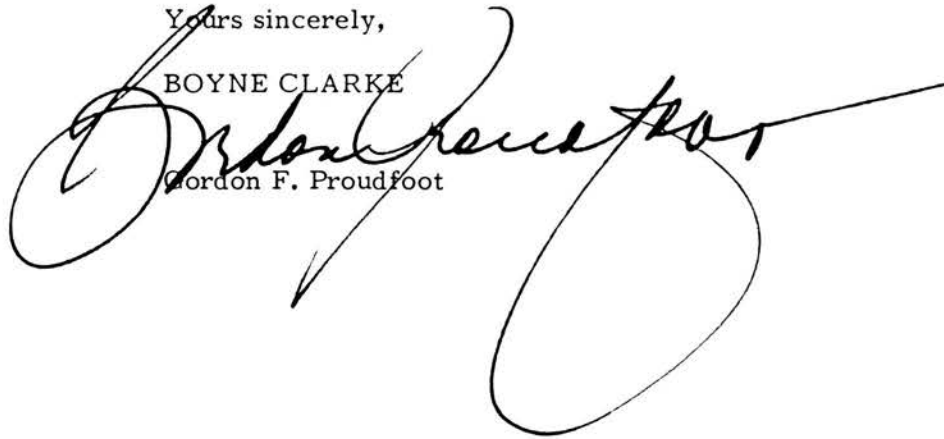
Dear Susan:

Could you indicate to me when the Canadian Bar will be expected to file their
brief and make oral presentation on same. Best regards.

Yours sincerely,

BOYNE CLARKE

Gordon F. Proudfoot

A large, stylized handwritten signature in black ink, which appears to read "Gordon F. Proudfoot". The signature is written over the typed name and extends across the right side of the page.

GFP/ktj

FEB 16 1988

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OUR FILE REFERENCE:

February 15, 1988

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COUNSEL
BRIAN FLEMMING, O.C.

HUGH K. SMITH, O.C.

DELIVERED


Ms. Susan Ashley,
Royal Commission on the
Donald Marshall, Jr. Prosecution,
Suite 1026, Maritime Centre,
Halifax, Nova Scotia

Dear Ms. Ashley:

RE: William Urquhart and John MacIntyre

I now enclose our accounts with respect to the above matters, together with appropriate summaries and breakdowns, which accounts cover the period from January 15, 1988 to and including February 14, 1988, which I trust you will find satisfactory. With respect to the MacIntyre account, you will note time for Geoff Machum, Richard Hirsch, Elizabeth Jollimore, and Kevin MacDonald. These individuals have been charged out at their regular hourly rate as indicated on the first page of the John MacIntyre account.

Yours very truly,
STEWART, MACKEN & COVERT
Per:


Donald C. Murray

DCM/dmb
N2061220

FEB 16 1988



Department of Justice
Canada

Ministère de la Justice
Canada

4th Floor
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Halifax, Nova Scotia
B3J 1M7

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B3J 1M7

AR-21,613

Our file:
Notre dossier:

Your file:
Votre dossier:

426-7592

February 11, 1988

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

Attention: George MacDonald

Dear Mr. ^{*MacLean*} MacDonald:

RE: Thornhill and MacLean Files

I would appreciate it if you would reply at your convenience to my letter to you of January 28, 1988, and forwarded with the RCMP Headquarters file on Roland Thornhill and the RCMP Divisional files on Roland Thornhill and Billy Joe MacLean.

I look forward to hearing from you in due course.

Thank you.

Yours very truly,

JDB
James D. Bissell
General Counsel
Director, Atlantic Region

JDB/vpc

Canada

B 1 6 1988

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OUR FILE REFERENCE:

RNP
2076-2

February 15, 1988

George W. MacDonald
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:

Heather Matheson, Alan Story, Michael Harris

I have a copy of Mr. Ruby's letter of February 5.

The evidence proposed is relevant as one issue that the Commission is addressing is the manner in which the press were kept informed by police forces during the course of the reinvestigation and while proceedings arising out of the reinvestigation were still ongoing.

It was not my intention to put the press on trial but rather to have evidence adduced that is relevant and probative.

The questioning of certain counsel and the responses of certain witnesses has created a situation where the findings the Commissioners eventually make could have very serious adverse effects for Chief MacIntyre and could result in charges being laid against him. Indeed, certain witnesses have testified that these charges should be laid.

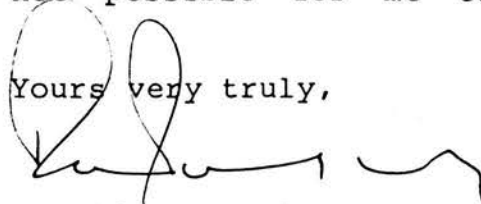
The Commissioners will be faced with a decision of credibility respecting both S/Sgt. Wheaton and Chief MacIntyre. It is a perfectly legitimate technique to test S/Sgt. Wheaton's credibility, and to call that credibility into issue, by adducing

George W. MacDonald
February 15, 1988
Page 2

evidence to refute his statements.

I expect that useful and important evidence from these witnesses will be adduced but I have not talked to any of them concerning their evidence nor would I expect them to discuss their evidence with me. It was accordingly not possible for me to file statements from them.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ronald N. Pugsley', written over the closing text.

Ronald N. Pugsley

RNP:dk

c: Clayton Ruby
c: Michael G. Whalley
c: Frank L. Elman
c: Jamie W.S. Saunders
c: James D. Bissell
c: Allison R. Pringle
c: Charles Broderick
c: S. Bruce Outhouse
c: Guy LaFosse
c: Bruce H. Wildsmith
c: E. Anthony Ross
c: W. Wylie Spicer

N0181774

FEB 16 1988

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2076-2

February 15, 1988

George W. MacDonald
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:

Constable Gaudet

I would request that the Commission subpoena Constable Gaudet by way of duces tecum to compel him to produce all file material relating to the fire at the Port Hawkesbury Restaurant referred to in the evidence of S/Sgt. Wheaton. The allegations made by S/Sgt. Wheaton concerning Mr. MacLean's presence "at the front door of the restaurant in a blinding snow storm at approximately four to five o'clock in the morning" were allegations made after some deliberation by S/Sgt. Wheaton and not directly in response to a question from Mr. Orsborne. If there is no evidence on which such an allegation could be reasonably based, in my submission, S/Sgt. Wheaton's credibility is substantially damaged.

I therefore request that arrangements be made to subpoena Constable Gaudet.

George W. MacDona
February 15, 1988
Page 2

Please advise me at the earliest opportunity of your decision.

Yours very truly,



Ronald N. Pugsley

RNP:dk

c: Clayton Ruby
c: Michael G. Whalley
c: Frank L. Elman
c: Jamie W.S. Saunders
c: James D. Bissell
c: Allison R. Pringle
c: Charles Broderick
c: S. Bruce Outhouse
c: Guy LaFosse
c: Bruce H. Wildsmith
c: E. Anthony Ross
c: W. Wylie Spicer

N0181782

FEB 16 1988

Petrie & Richmond
Barristers and Solicitors

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GEORGE R. RICHMOND, B.A., LL.B.
(ALSO OF THE ONTARIO BAR)
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FILE:

February 11, 1988

George W. MacDonald, Esq.
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Maritime Centre, Suite 1026
1 505 Barrington Street
Halifax, NOVA SCOTIA
B3J 3K5

Dear George:

RE: Eugene Smith

Further to my letter to you of January 21, 1988, please be advised that my letter contained an error in the calculation of expenses for Mr. Smith, which are payable to myself.

The expense shown for Room & Lodging (\$234.00) is not to be shared as this was the full amount I paid on behalf of Mr. Smith.

Therefore the correct amount owing to me is \$305.52. I apologize for any inconvenience or confusion this may have caused.

Yours very truly,
PETRIE & RICHMOND



J. Gordon Petrie, Q.C.

JGP:ame

SMITH, GAY, EVANS & ROSS

BARRISTERS & SOLICITORS

BRUCE W. EVANS
 (Also of the Alberta bar)
 JEREMY GAY
 E. ANTHONY ROSS, M.Eng., P.Eng.
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 Telephone
 (902) 463-8100

February 15, 1988

File #1077-01

Mr. George MacDonald
 Commission Counsel
ROYAL COMMISSION ON THE DONALD MARSHALL, JR.,
PROSECUTION
 Suite 1026, Maritime Centre
 1505 Barrington Street
 Halifax, NS
 B3J 3K5

Dear Mr. MacDonald:

Re: Prospective Witnesses - Request of Jan. 29/88

I have had an opportunity to review Mr. Pugsley's request of January 29, 1988, the response of Mr. Bissel and the dissertation of Mr. Ruby.

The purpose of this letter is to lend support to the request of Mr. Pugsley in that it would appear that the individuals referred to in Mr. Pugsley's request were privy to a substantial amount of information not only relating to the circumstances of the death of Sandy Seale and the 1971 trial and conviction of Donald Marshall, but further, with respect to the events of late 1981 and 1982 which led eventually to the release of Mr. Marshall.

It would appear that the activities of the press went a long way in clouding the character of Sandy Seale and supporting the "robbery theory" which, upon a closer analysis of Volume 35 of the material before the Commission would suggest as a very probable theory that Donald Marshall himself was unaware of any robbery attempt prior to late 1981, and further, it would appear that disclosure from the RCMP to the solicitors involved in the 1982 review of the evidence leading to the conviction of Donald Marshall back in 1971 was systematically and continually vented (as opposed to leaks) to the press and could have been the basis of Donald Marshall himself becoming aware of a robbery theory which could be used to his own benefit.

.../2

Mr. George MacDo

Page 2

February 15, 1988

File #1077-01

On behalf of Oscar Seale, we request that the persons named in Mr. Pugsley's letter be called to give evidence before this Commission.

Yours very truly,

SMITH, GAY, EVANS & ROSS



PER:

E. ANTHONY ROSS

EAR/lms

cc: Ronald N. Pugsley, Q.C

Mr. Don Murray

Mr. Clay Ruby

Mr. Jamie Saunders

Mr. David Barrett

Mr. Bruce Wildsmith

Bruce Outhouse, Q.C.

Mr. Chuck Broderick

Mr. Guy LaFosse

FEB 16 1988



FACULTY OF LAW,
UNIVERSITY OF TORONTO

78 Queen's Park
Toronto, Canada M5S 2C5

MEMORANDUM

TO: The Commissioners
Commission Counsel
Research Director
Executive Secretary

FROM: J.L.I.J. Edwards

DATE: February 15, 1988

Re: Thornhill

Enclosed please find my supplementary opinion on the above named matter. It follows on my earlier opinion dated 18th December, 1987.

John Edwards.

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

Copies TO:
DAVID
WYLIÉ
GEORGE
SUSAN
J. BRIGGS

*Opinion in
Edwards' file*

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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S. RAYMOND MORSE
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 15, 1988

BY HAND

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

Dear Wylie:

Our File No. 9201/1

I enclose the letter from Melinda MacLean and original notes from her file which you loaned to us in January.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

MELINDA J. MACLEAN, Q.C.
Barrister & Solicitor

TELEPHONE (902) 895-2866

P. O. BOX 126
188 QUEEN STREET
TRURO, NOVA SCOTIA
CANADA B2N 5B6

January 15, 1988

McInnes, Cooper & Robertson
P.O. Box 730
1673 Bedford Row
Halifax, Nova Scotia
B3J 2V1

Attention: Mr. W.Wylie Spicer

Dear Mr. Spicer:

Re: Donald Marshall, Junior

I enclose herewith the original of Lawrence O'Neill's notes of his interview with Donald at Springhill as you requested today.

Yours very truly,



MELINDA J. MACLEAN, Q.C.

MJM/am

c.c. Anne S. Derrick

Outline of Interview With Marshall

Donald Marshall's evidence

- Denies meeting Prater Pg 194 of his evidence
- Can't remember meeting ^{Hushue} & Harris girl at a certain place
- Mind blanked out after stabbing
- Can't remember encounter with Hushue & Harris only that he met them somewhere around there & he gave Hushue a light
- Says he had not seen 2 men before
- says he visited Prater Saturday afternoon & Sunday evening and was still unaware Prater was in Park on the evening in question

Rosenblum sums up Pg 2 17

Marked: Interviews in Jan 11/20 - Springhill
Questions: Don't accept answers challenge him!

1. Why you wouldn't tell who did it? ✓
2. Who did it? ✓
3. You did lie at trial? no ✓
4. Patterson his role? just saw him → made
5. Why would Pratico lie? Chant lie? → don't know _{see inside}
6. What about Harris and Gushue? why couldn't you remember them?
7. Where was the knife? never found nothing ✓ He did ✓
8. Did you talk to Pratico the next day? yes ✓ explained
9. Describe these 2 men you met in the park? Indians? no ✓
10. Who did you meet in the County Jail? Cohen? explained ✓
11. Who can help us get evidence against the real killer? don't know
12. Are you working while in prison? How you will finance a defence? ✓
13. Did you tell your lawyers at trial who did it? ✓
14. " your lawyers at trial know you were holding out? no I wasn't then
15. Why would that guy have wanted to kill you that evening? ✓
16. How " he know you were there? ✓ → didn't
17. Was Pratico threatened by someone? is that why he changed his story? no - Mother living with Walker -
18. Tell what happened? where the killer fled to etc!
19. Why did you take off near ~~near~~ Sherbrooke, get an appeal publicity

Up For Parole in 16 mts

Finance

\$200 was Savings + Indian Affairs
next week begin job at minimum wage 40 hr/week
job for 6 weeks case worker may get it
for more Indian Affairs will cover deficiency

① Mickey Flynn of Sydney maybe died about 50 non Indian
he was trying to protect himself thought Marshall
was going to rob him - glasses on face
calls them back (Marshall or scale) asked where they were going
& then he yelled names at Marshall
burned cigarette, small talk women in park etc

this made them think of
robbery - about 15-20 ft away - come back & talked
what you want - said don't shake blacks or Indians
anyway - put hand on scale's shoulder &
then stabbed - scale fell & then Flynn stabbed
Marshall - (Marshall ran Flynn ran)

Wearing Flynn wearing prison clothes in ct.
said foreign clothes hadn't seen them to that point
Flynn's companion was white (brown sportcoat) about
late 20's, no beard, about 6ft, slim,
scale was medium build 5'9" - 5'10";

② Met Robert Patterson before stabbing in bank at ct
he was probably drunk; he was in County jail said all he remembered
was meeting Marshall

③ Flynn wasn't poor, met him in jail after murder,
in there for stealing seal,
" was in line up but did not wear glasses
in line up but had them with him in Sydney
jail (not sure if after or before trial)
Flynn was living with Pratico's mother
" said he heard Pratico & Sgt. MacIntyre
talking about setting him up (offer to be buddies in jail
to get mind of him)

④ Pratico was not in the park that night
corroboration: fellow took Pratico to lumber camp
Donald Job (Indian 1st cousin)
found out during trial, was to testify but
did not

⑤ Chant lied

Marshall made a error in st. said ~~that~~ he met him on Byng avenue ~~to~~ actual at bridge on Bentueck Street,

he saw four people but he had 3 visits a week from the cops

⑥ Prior experience with cops - knew McIntyre - motive of cops - Chinaman killed in Sydney in and sister unsolved - this would be a 2nd unsolved and Marshall was the best candidate -

⑦ Flynn had just got out of prison (murder) Dorchester income from jewellery hobby in prison was Flynn's money

⑧ Why not tell at trial? spent 7 mts. after conviction in ~~same~~ Sydney, not suspicious of Flynn at trial,

⑨ Pratico not threatened to Marshall's knowledge
guy charged as " " was acquitted

⑩ gave description to Police of Flynn at the time

⑪

found out in Sydney County jail, Flynn said Marshall he was getting set up offered to testify (so probably before trial); didn't tell lawyers;

⑫ Donald Joe McNichy didn't he testify, lawyers were supposed to tell him to come,

⑬ Lawyers said ~~you~~ Marshall would get off even said charges would be dropped when Pratico told story

⑭ 2 yrs. since read trial evidence

⑮ last saw Donald Joe about a yr ago here

⑯ Escape at Sherbrooke Oct '79 Why? trying to get my appeal everyone ignored it until this time

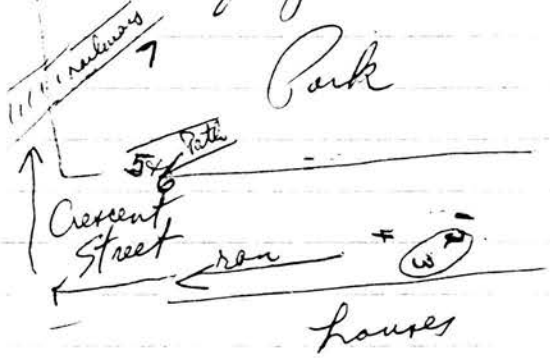
⑰ became suspicious of Flynn when I met him in Dorchester for Parole violation '72, spent 2 yrs there with him, he was on protective floor since he had patted on an inmate who killed a guard,

⑱ when one leaves prison takes prison clothes with him

⑲ Flynn said at Dorchester (Marshall there to end

9 1974), couldn't talk to him, against prisoners rule since he ratted & also in another area,
 → Marshall told (Donnie Smith) Flynn did it out west in for smashing up farm camp Blue Mountain took a prisoner guard got 7 years
 → I'm 2nd person to know
 → Prater is still alive and in Sydney,
 → Wrote lawyers after you found out? don't know but I wrote minister of Justice re new evidence 1 1/2 years ago, he said not to demand a new trial,
 → bridge where ^{the} meet Chent

Knife never found can't say what kind it was
 Flynn used rt hand put left hand on shoulder Attacks
Location of 4 parties



- 1 scale 5+6 Harris & Hushie
- 2 Flynn 7 Prater
- 3 " Buddy
- 4 Marshall

1 + 2 was in Park called out by 3 and 4 who were then on Park side of street just up from Harris & Hushie 5+6 at same time " " called for cigarette went to them first

Harris & Hushie were heading across Crescent, (Harris said there was a little crowd but she didn't pay attention, Hushie said one person) then that's why couldn't see 2nd person, scale hung back while I responded, then you walked back to scale on side of street while Flynn & Buddy waited - when you reached them gave @ both of them a cigarette - told Flynn he was just like a Priest meaning different clothes - Reference to Manitoba no meaning

Ran met Byng on bridge not Byng Avenue a mistake because I was confused just said yes

Went to Prater's House next day why? at station walked in his house he was on steps we talked

he was provoked

-4-

- talked about - others - (said not to worry) as if
- to back Marshall up - told Pratico he was attacked by 2 men -
- Flynn may have been living there at the time -
- just a few minutes there went home
- Saw Pratico again same circumstances - ^{Sunday} Police said to check in daily had to go by his house - Talk about I don't remember - Bentenck St home -
- Pratico had a sister Father?
- apartment in house = other apartment in the house

Others in County Jail at that time

- Pratico house in relation to scene? don't know a distance
- Just walking through Park on way to dance not there, met Seale who said it was almost over - was going to meet girl friend there (French girl from Sydney) - (keep her name) - don't date her now since '71
- I had was supposed to meet her earlier brother told her you hadn't returned
- 38 Muckle Crescent / Parents Sydney
- Brother lives on Reserve Mumberton in Sydney
- Tobin knew Marshall left for the dance friends with Dennis Tobin in Saint John N.B. Park Town Centre a half way house
- Ask father about his threatening Pratico, father says he can get 2 women to say he didn't
- House Marshall attended to call ambulance can say his arm was bleeding,
- Kenbeschef given to Marshall on Byng Avenue by a girl Chant was with Marshall (Chant testified to this) girl wouldn't get involved,
- elastix band on jacket was ~~put~~ ^{cut} there because of pressure on ^{the} wound

Marshall in air Cadets one officer was in Park with his girl
friend that night he was talking to Flynn
now about late 20s a cadet officer then
could recognize

have told no one else about this, didn't tell
lawyers didn't see the importance
he was an officer in 69-70 maybe 70 might be
a sergeant, same squadron,

7 ~~at~~ ~~st.~~ drilled at Sydney Academy

7 if he remember night he would remember these
guy

7 officer see Marshall - don't know

7 vice guy → get photo he could identify him

Donald Marshall

597-3755 Correctional Service of Canada

ask for Clyde Murray Preventive Security re
arrangement for visits

Friday Jan 11/80 will see Marshall in visits and
Correspondence area (if not adequate another
area will be made available)

Visiting Hours are 9-11 AM, 1-4 pm

FEB 15 1988

COX, DOWNIE & GOODFELLOW

BARRISTERS AND SOLICITORS

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1959 UPPER WATER STREET
HALIFAX, CANADA

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

OUR FILE: 8118-1

February 15, 1988

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

Dear Mr. Orsborn:

RE: S.H. No. 63241

You have indicated to me by telephone that you will be accepting service of the Originating Notice and Affidavit on behalf of the three Defendants. However, almost three weeks have now elapsed since I sent copies of the documents to you for that purpose under cover of my letter of January 26, 1988.

If for any reason you are not in a position immediately to accept service by endorsing and returning one copy of each document, would you please return the documents to me together with addresses for each of the Defendants so that arrangements can be made for personal service.

I look forward to hearing from you in either event.

Yours very truly,



Frederick P. Crooks

FPC:cmg

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Kenzie MacKinnon
Wayne F. Howatt

Counsel
William H. Jost, Q.C.

BURCHELL MacADAM & HAYMAN

February 11, 1988

The Honourable Mr. Justice Gregory Evans,
1020 Northwest 48th Place,
Pampano, Florida, U.S.A.
33064

Re: Insurance Law Subsection, Canadian Bar Association

My Lord:

I am the Chairman of the Insurance Law Subsection of the Canadian Bar Association (Nova Scotia Branch) and I am writing to determine whether you might be available to give a short lunch time presentation to our Committee sometime in March.

Our meetings tend to be very informal and are usually fairly well attended.

I had thought that you might be prepared to offer some insight into the Ontario experience with respect to the legislative changes concerning fatal injury claims. In Nova Scotia we have recently implemented an amendment to our fatal injuries legislation to allow for compensation for the loss of care, companionship and guidance. As far as I know, we have had no cases which have gone to trial since the legislative change and it would be of considerable help to understand the approach of the Ontario Courts in this area. It is my understanding that perhaps there is a move in Ontario to so-called conventional awards for this type of claim.

One other area that I think would be of interest to our members concerns the potential for no-fault automobile insurance in Ontario. Certainly there is a tendency for this Province to follow the lead of Ontario in such matters and it would seem to be a topic of current interest.

Of course if you were willing to address our meeting, we would be open to any other suggestions for discussion topics which you may wish to make.

I realize that your schedule is very full with the commitment of the Marshall Inquiry and we will certainly understand if you are unable to accept this invitation. However, if you are able to accept, I would certainly appreciate hearing from you and we could then arrive at a convenient date for the meeting.

I look forward to hearing from you.

Yours very truly,

Robert L. Barnes

called Mar 7/88

declined

R.

L2-158

COPY

Donahoe MacInnes
BARRISTERS AND SOLICITORS

FEB 15 1988

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MICHAEL A. WATSON	HENRY JOHN DIETRICH
RAYMOND F. WAGNER	D. WILLIAM MacDONALD
R. BRUCE RAWDING	MICHAEL F. FEINDEL
TONY M. TAM	ANNA MARIE BUTLER
KEVIN P. DOWNIE	NEIL R. FERGUSON

February 10, 1988

Royal Commission
10th Floor, Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Attention: David Osborne, Counsel

Dear Mr. Osborne:

Re: Marshall Inquiry - Cst. Joe Gaudet


Further to our conversation of the 4th day of February, 1988, I hereby confirm that I represent Joe Gaudet with respect to his testimony before the Inquiry, if required.

If Cst. Gaudet is required, we trust we will be advised well in advance so that we may be prepared for his appearance.

All correspondence and inquiries of Cst. Gaudet should be directed to our office.

Yours very truly,

DONAHOE, MACINNES


RAYMOND F. WAGNER

RFW:dmm

cc: client

FEB 15 1988

MURRANT BROWN
Barristers & Solicitors

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P.O. BOX 2626
HALIFAX, CANADA
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ROBERT MURRANT

TELEPHONE (902) 421-2121

XEROX-FAX (902) 421-2125

February 8, 1988

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

ATTN: Ms. Susan Ashley

Dear Ms. Ashley:

RE: Heather Matheson

Further to our telephone conversation of last week, this will confirm that Robert Murrant is representing Ms. Matheson and would appreciate receiving any documentation issued by or for the Royal Commission which may affect his client or her interests.

Also, we understand the Commission has a schedule of witnesses who have appeared and will be appearing before it. Would you please provide us with a copy of this schedule at your earliest convenience.

Thank you for your cooperation on this matter.

Yours truly,



Susan Allen
Articled Clerk

SA*dm

FEB 12 1988

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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 12, 1988

BY HAND


Mr. John Briggs
Royal Commission on the
Donald Marshall, Jr. Prosecution
Maritime Mall
1505 Barrington Street
Suite 1026
Halifax, Nova Scotia

Dear Mr. Briggs:

Marshall Inquiry
Our File No. 9201/1

I acknowledge receipt of the subpoena with respect to the
Sydney Crown Prosecutors files.

Yours truly,


Catherine M. Hicks,
Legal Assistant to
Darrel I. Pink

CMH/cs
c.c. Mr. Darrel Pink
Mr. Jamie Saunders

FEB 12 1988



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

February 12, 1988

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

Dear John:

Please find enclosed a copy of the Questionnaire to Prosecuting Officers as well as a copy of my letter to Madine VanderPlaat and her letter to me dated February 9, 1988.

I hope that you will find all in order here.

Best regards.

Yours sincerely,

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

Bruce P. Archibald
Associate Professor of Law

BPA/m

encs.

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
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JAMIE W. S. SAUNDERS
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D. SUZAN FRAZER
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 9, 1988

BY HAND

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

Dear John:

Our File No. 9201/1

I have yours of February 3, 1988.

As counsel for the Department of the Attorney General, which is the subject of a substantial portion of the research effort, we now formally request that we be given an opportunity to review draft reports prior to their submission to the Commissioners and in adequate time to allow for meaningful input.

It is not our desire to question the conclusions of the researchers but rather, to ensure that factual matters which provide the basis for those conclusions be accurate.

In light of the interviews which have occurred to date and considering the vast amount of material which the researchers are covering, it is not inconceivable that errors will occur. This will undermine the value of the research paper to the Commissioners and to the public if they are eventually released.

Mr. John Briggs
February 9, 1988
Page 2

We would ask that this request be dealt with by Commission counsel and the Commissioners, if necessary.

Yours truly,

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

Darrel I. Pink

DIP/jl

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

LEONARD A. KITZ, Q.C., D.C.L.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 11, 1988

BY HAND

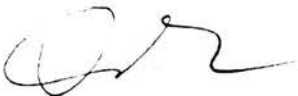
Mr. Bruce Archibald
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Bruce:

Our File No. 9201/1

Further to your meeting with Gordon Gale, I am enclosing various forms of Orders in Council pertaining to the remuneration of Prosecuting Officers and Assistant Prosecuting Officers together with a copy of the form respecting the appointment of a Prosecuting Officer or and Assistant Prosecuting Officer under the Prosecuting Officers Act.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

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



Department of Justice
Canada

Ministère de la Justice
Canada

FEB 12 1988

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Halifax, Nova Scotia
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Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

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

February 11, 1988

Dear Mr. MacDonald:

Re: Donald Marshall Inquiry

Further to our telephone conversation of February 10, 1988, we enclose a photocopy of Roy Ebsary's fingerprints as taken on April 9, 1970.

We had looked at these prints earlier this year for the purpose of determining if the M.O. section on the back of the form was completed.

On Thursday, February 4, 1988, Mr. Ruby asked us to check the M.O. aspect again. At this time we noted the signature which appears to be that of Detective Urquhart on the front portion of the form. The M.O. section of the form was never completed by the Sydney City Police when they forwarded the form.

When we receive the fingerprint forms or microfiche, thereof, for Mr. Patterson, we will forward copies to you.

Yours very truly,

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:mm

Encl.

Canada

FEB 12 1988



University of Toronto

TORONTO, CANADA

M5S 1A1

DEPARTMENT OF PSYCHOLOGY

February 8, 1988

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

Dear Wylie:

Thanks very much for your January 29 letter and enclosed evidence of Mr. Smith regarding the polygraph. It is quite a tome, and I haven't had a chance to go through it thoroughly, but I have a few impressionistic comments that may be useful.

It's hard to be definitive only on the basis of a transcript, but it appears that the polygrapher you dealt with was not able to completely bamboozle the Commission with pseudo-scientific jargon. Mediocre polygraphers like Smith are not as skillful at selling the polygraph in a positive sense as are stars like Raskin and Silverberg. In particular, I thought that your bringing out the distinction between "frivolous" and necessary information gathered before the procedure nicely illustrated the point about pre-polygraph information biasing the examiner.

However, I suspect that Smith may have been quite effective in a negative sense, in that he have succeeded in defending the polygraph's perceived scientific status (and the validity of his own procedures). That is, he may have got across the impression that although, in that particular instance, he was wrong (the facts clearly show that this is so), nevertheless his procedures were scientific (all scientifically-based instruments sometimes yield wrong decisions; only God is omniscient). I think Smith may have achieved this goal by the relatively simple method of talking for a long time in a way that probably was not intelligible to anyone (including himself), but that may well have left an impression that there was something of substance to talk about (see, e.g., his uninterrupted monologue on 6871-4). In contrast, Clayton Ruby was more effective when he was able to keep the answers short and to the point. So, for example, he was able to derive consequences that were easily understood to be absurd by the Court [e.g., the notion of "bleeding dry" a thought process, the total reliance of the "test" on the polygrapher's "own assumptions" (6923), the irrelevance of the "quasi-scientific machinery" (6924), and, of course, the chicken-entrails comment.]

The one point where he seemed less successful was when he got into an analysis of a passage in a polygraph "text" (6929-6932). Smith was able to fob him off, and conclude with an answer (6932, line 9) which made Smith sound more knowledgeable than

Mr. W. Wylie Spicer

- 2 -

February 8, 1988

the lawyer on that issue. A polygrapher skilled and experienced in court testimony (like Silverberg or Raskin would), would, at that point, have been able to turn the whole thing around by snowing the Commission with a barrage of pseudo-scientific nonsense which, however, would sound completely plausible and scientific. The problem with getting into polygraphic writings is that they contain so many semantically misleading uses (for the main semantic traps, see enclosed abstract for CPA), that logical analysis is not possible. Also, of course, even a mediocre polygrapher is more familiar with that material than any non-polygrapher (that includes both lawyers and psychophysicologists!). Further, by citing from a polygraph "text" the questioner implicitly grants the field scientific status. Finally, the polygrapher's ability to spew forth details may lead to the Court's losing the thread of the argument, and assuming that at least part of what they do not understand is science rather than mumbo jumbo.

In that regard, I think it helps if the first three points made in the enclosed abstract are firmly brought home. The point that, despite the name, the polygraph is not a "test" is particularly important, because it more clearly establishes the tea-leaf-reading (or chicken-entrails-examining) status of the polygraph. If this is established, then the point about pre-polygraph information biassing the examiner (your questioning that distinguished between "frivolous" and necessary information) can be more clearly stated.

This, I think, goes to the heart of the matter. Police, in general, are quite weak as "investigators" in the true sense of that term. To investigate means to consider alternatives with an open mind. Any tests that are performed need to be unbiased, that is unconfounded by preconceptions. So a polygraphic procedure that was used as such an unbiased test would be one where the examiner is not given information about the probable truthfulness of the examinee, because such information would prejudice the test. So such information is not merely "frivolous", but it is prejudicial.

Unfortunately, the CQT Polygraph "Test" requires the provision of such prejudicial information, because the so-called control questions are made up on the basis of an interview with the examinee, an interview which goes into the examinee's background. Aside from that, most police polygraphers, who do not understand the concept of an unbiased test (which is part of psychological test theory), don't see any harm in acquiring as much "background" information (which includes opinions about truthfulness) as possible. By the way, the Guilty Knowledge Technique (proposed by Lykken in the late fifties, used widely in Japan, but hardly at all in North America) is an unbiased "test" in the above sense. It requires no pre-test interview of the sort given in the CQT, and the opinions of the examiner are not relevant to this test's outcome.

In this particular case, Smith clearly had preconceptions both about Ebsary (that he was truthful) and McNeil (that he was not). After all, he had had a chance to talk to other police officers about the matter for a couple of days. The fact that he does not see this as a problem of bias impugns the "investigatory" methods that he used, and the fact that he did not try to test McNeil on an occasion when this examinee would provide clearer physiological records (i.e., when he was not shaking so much) is convincing evidence that Smith was not serious in his investigatory use of the polygraph.

Mr. W. Wylie Spicer

- 3 -

February 8, 1988


However, I think it is also important to stress that the bias of obtaining pre-polygraph information is built into the polygraph procedure, even when the operator does not commit the mistakes that Smith made. It is sometimes claimed that having an "independent" record reader assess the charts removes the bias and eliminates the problems. People are particularly impressed when the "independent" record reader has a computer with which he "objectively" analyses the charts, and Raskin has been doing this sort of thing with some success lately. However, as Lykken has suggested in a letter to me back in 1983, this is a marriage of the myth of the polygraph to the myth of the computer, with Dr. Raskin acting as midwife to produce lots of little mythlets with which to bedazzle the minds of the jury. More prosaically, the point is that computerization and independent analysis of the charts does not overcome the prejudicial nature of the CQT polygraph. The examiner's preconceptions affect the way in which he puts the questions, and this, in turn, affects the physiological responses given by the examinee.

I think that the issue you raised of polygrapher bias--produced by the "frivolous" information obtained before the polygraph--is very important. It is certainly striking that even after all this time, and having seen that he obviously made mistakes both with McNeil and Ebsary, Smith still doesn't understand that the "frivolous" information he gathered may well have prejudiced him in the way he (mis)administered the polygraph. The crudest example of this prejudice, of course, is his failure to have a serious try at getting reasonable recordings from McNeil.

As I said, this is based only on a cursory reading of the material. I'll get back to you later if I have any further thoughts. In the meantime, thanks for letting me have a look at this material.

With best wishes,

Yours sincerely,



John J. Furedy, Ph.D.
Professor

JJF/jms
encl.

FEB 12 1988

MCINNES COOPER & ROBERTSON

BARRISTERS & SOLICITORS

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Ian C. Holloway

Lewis A. Bell, Q.C.
Hector McInnes, Q.C.
Joseph A. F. Macdonald, Q.C.
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David H. Reardon, Q.C.
Robert G. Belliveau, Q.C.
W. Wylie Spicer
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CABLE ADDRESS "McInnes"

OUR FILE: I-1816

February 10, 1988

COUNSEL:
John H. Dickey, Q.C. George B. Robertson, Q.C.

Dear Susan:

Re: Donald Marshall Inquiry

I refer to your letter of February 8, 1988 and comment as follows:

1. You are correct that the entries for January 6 and January 8 for Wylie Spicer obviously contain duplication. According to my calculations the number of hours which should be deleted is 16.5 at a rate of \$150.00. The account therefore should be reduced by \$2,475.00 and should read \$39,995.00 in total. I am enclosing a revised account and would ask that you cancel the earlier account.
2. With respect to the January 20 item, Wylie was preparing for the examination of Scott and Christian. As you know, the allocation of witnesses was changed due to various circumstances and it was necessary for Wylie to spend the 12 hours preparing on January 20 in order to be ready to examine these individuals. We are finding preparation time is taking longer than expected on occasion, particularly where witnesses giving evidence at the Inquiry speak to matters which must be put to following witnesses and thereby it is necessary to review the transcripts on a daily basis.
3. On January 23 Wylie was returning from London and was working on the plane reviewing materials and preparing to examine witnesses at the Hearings which resumed on January 25. He had taken a large amount of materials

...../2

with him to London and was able to use the time on the plane to carry out his preparatory work.

Yours very truly,

MCINNES, COOPER & ROBERTSON

George W. MacDonald/fm

George W. MacDonald

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

GWMacD/fm
Encl.

FEB 11 1988

Ruby & Edwardh
barristers

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

February 5, 1988

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

Dear Wylie:

If you look at the volume containing the trial transcripts, Volume 21 at pages 181 and 182, you will see that Donald Marshall was cross examined about the cut on his sleeve and he says in open court that his cousin cut it because of the difficulties that were being caused by the tightness. Therefore, obviously, his defence counsel knew it and made no attempt to get the cousin into court to corroborate that. The cousin, I am told is Stewart Marshall and he remembers it. It is one more example of ineptitude of counsel and I not certain whether you want to follow up on this or not but I thought I ought to draw it to your attention.

Yours very truly,



Clayton C. Ruby

/ms
cc Anne Derrick
Jr. Marshall

FEB 11 1988

BOUDREAU, BEATON & LaFOSSE

Barristers & Solicitors

J. Bernard Boudreau, Q.C. G. Wayne Beaton
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Our File Ref.:

February 9, 1988

Ms. Susan M. Ashley
Executive Secretary
Royal Commission
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, N.S.
B3J 3K5

Dear Ms. Ashley:

RE: Marshall Inquiry

As solicitor for Sgt. Herb Davies, I wish to advise you that we will no longer require any further transcripts taken at the Marshall Inquiry.

I trust this is satisfactory for your purposes.

Yours truly,

BOUDREAU, BEATON & LaFOSSE



PER: Guy LaFosse

GLF/cmp
cc Herb Davies

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

February 5, 1988

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 Mr. MacDonald:

Mr. Pugsley has requested that three members of the press be called to testify in connection with statements that may or may not have been to them by police officers. I object to the calling of these witnesses as the number of collateral witnesses should be kept to a minimum given the length of the necessary witnesses who will in fact be called.

It is important to remember that this is not a trial of former Chief MacIntyre. He will not be punished by the Commissioners, nor will they make any finding which will have any legal effect against him.

Even if it were a trial, the proposed evidence is collateral. Having gone into the matter of whether or not Sergeant Wheaton, for example, spoke to the press, the answers on that point are collateral and final. Even if it were a trial, he would not be allowed to go farther.

In any event, this is a classic fishing expedition. There is no indication that we will get useful or important evidence from these witnesses. If that were not the case, I would have expected statements to be filed from the witnesses, rather than full cross examination to be undertaken without any expectation that useful evidence would be forthcoming.

It is important to remember that the Royal Commission is not a trial of the press. Putting the press on trial is a useful tactic in many cases. (Who

Ruby & Edwardh

among us have not attempted it from time to time?)
But I see no reason why we should allow Mr. Pugsley to
divert the Commission from its central issues in this
way.

I acknowledge that his manner of doing so is full
of charm and grace, but substantively there is simply
no reason why we should accept this invitation to
shift the focus of the inquiry to put the press on
trial.

Yours very truly,



Clayton C. Ruby

/ms

cc Wylie Spicer
David Orsborn
all other counsel

Feb 4th / 88

Berwick RR 2 Kings Co. N.S.

BOPIED

Chief Justice T. Alex Hickman.
Chief Commissioner on the
Donald Marshall inquiry
Halifax N.S.

Dear Sir:-

During the latter part of the 1970^s,
an investigation was conducted by the R.C.M.P. in
the town of Berwick N.S. on drug trafficking and
related offences.

Det Mike Ennis of the R.C.M.P. Conducted the
investigation, he was stationed in New Minas
 detachment at the time. He is now ~~with~~^{with} the
 detachment in Kingston N.S.

It is understood that Mr Donald Hall of
Berwick was to be charged. All of a sudden the
investigation was stopped. Mr Hall is now
County Court Judge.

One might expect that there is a file in
the Attorney General's Dept. Perhaps Mike
Ennis might say why the investigation was
stopped,

is it within your jurisdiction to
look into this matter?

Yours sincerely,
Gordon R Carter

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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February 10, 1988

BY HAND

Mr. David Orsborn
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
Maritime Centre
Halifax, N.S.

Dear Mr. Orsborn:

Our File No. 9201/1

On receipt of the tentative witness list for the March hearing days, we have spoken with Chief Judge How regarding the time he is scheduled; namely, the week of March 21, 1988.

Judge How has March 21 and 22 available and we have requested he keep those dates free.

We would also request your confirmation that best efforts will be used to have him called on those dates.

Yours truly,



Darrel I. Pink

DIP/jl

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

FEB 10 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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GORDON N. FORSYTH
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 1, 1988

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:

**Donald Marshall Royal
Commission of Inquiry
Our File Number: 9201/1**

Thank you very much for your letter dated January 25th.

Can you provide me with a copy of Mr. MacLean's written authorization that he has no objection to you reviewing any file materials on the 1982 Port Hawkesbury fire?

I have sought instructions and will get back to you shortly. At the very least we would require Mr. MacLean's written authorization (to get around any problems of "consent" under the Freedom of Information Act) and we might also require a subpoena from the Commission although I am not sure of that.

As you know, I have no difficulty at all with showing you our file, however, it is the obligation to protect the interests of innocent persons that concerns me.

Yours very truly,



Jamie W. S. Saunders

JWSS/cam

Supreme Court of Prince Edward Island

FEB 10 1988



108 CENTRAL STREET
SUMMERSIDE
C1N 3L4

February 1, 1988

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:

Because the Commission hearings may extend into late Spring, I thought it advisable to inform you that Mrs. Campbell and I will be out of the country from approximately March 20th until May 7th.


Our holiday arrangements for Florida are made a year in advance, and I trust that your requirements may be conveniently ~~be~~ adjusted to accomodate these plans.

When out of Province, I may be reached through my office in Charlottetown c/o Mrs. Jackie Pineau, tel. 902-892-9131.

Looking forward to your reply to my earlier letter on December 25th.

I remain,

Yours truly,


Alexander B. Campbell

abc/tm
cc Hugh D. MacIntosh, LL.B, LL.M.

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

February 9, 1988

Mr. Jamie W.S. Saunders
Patterson, Kitz
10 Church Street
Truro, Nova Scotia

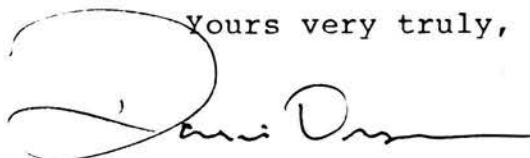
Dear Jamie:

Thank you for the letter of January 21, 1988.

While no firm decision has been taken, it is my present opinion that the issues raised by the Thornhill and MacLean matters would best be dealt with in a public forum. If we in fact proceed in this matter, the hearings would be held following completion of the Marshall phase of the Inquiry, and probably after summations in Marshall. As you point out, this would enable a number of present parties who have no interest in these other matters to cease their involvement.

You will be given at least 10 day's notice of any intended distribution of material and an opportunity to review same.

Yours very truly,



David B. Orsborn
Commission Counsel

DB0:jrc

FEB 4 1988

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BEDFORD, NOVA SCOTIA

February 3, 1988

BY HAND


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

Dear David:

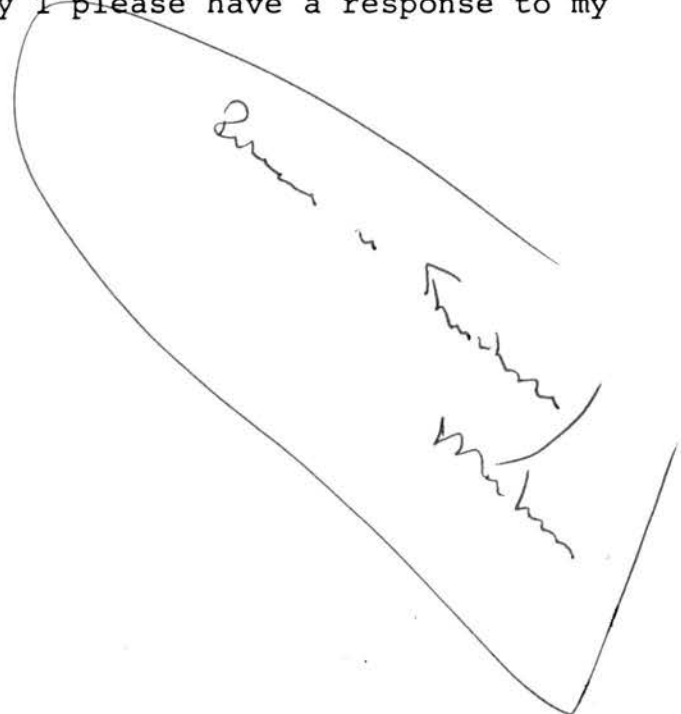
Marshall Inquiry
Our File No. 9201/1

At your early convenience may I please have a response to my
letter dated January 21st.

Yours truly,


Jamie W.S. Saunders

JWSS/cs
c.c. Mr. James D. Bissell



PATTERSON KITZ
BARRISTERS & SOLICITORS

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ALSO OFFICES AT
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FAX NO. (902) 429-5215

TELECOPIER COVER PAGE

DATE: February 9/88
TO: Royal Commission on Donald Marshall, Jr.
Attention: Dawn Orsburn
FAX NUMBER: 424-2709
FROM: Darrel Pink
ADDITIONAL INSTRUCTIONS/COMMENTS: Per our discussions
of this morning

NO. OF PAGES BEING TRANSMITTED (INCLUDING COVER PAGE) 3
FILE NO: 92011
TIME SENT: _____

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January 21, 1988

BY HAND

Mr. David Osborn
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear David:

Our File No. 9201/1

Considerable time has elapsed since we provided you with copies of the Thornhill and MacLean files from the Attorney General's Department.

We wish to be informed as to the use you intend to put these materials? I recall from our previous discussions that one of the possibilities we considered was to have the documentation reviewed in a setting other than a viva voce, public hearing. I seriously question how many of the parties with standing would have any legitimate interest in reviewing the Thornhill or MacLean matters and I believe thought ought to be given to reducing the number of parties involved in that phase of the Inquiry. For example, it may be best dealt with during the research phase of the Inquiry called upon to explore the role of the Attorney General and the relationship between the Attorney General and the investigating police.

We are, of course, mindful of the distinction you make between "process" and the "merits" of the case and we wish to ensure that the interests of persons mentioned in the files are properly protected.

Mr. David Orsborn
January 21, 1988
Page 2

As with other material provided from the Attorney General's Department's files, we ask for the opportunity to review whatever documentation you are assembling as exhibits so that we may object if necessary before the evidence is bound and distributed among other parties. We ask that sufficient time be given to us, and I suggest not less than 10 days advance notice of any such intention on your part.

I look forward to your response as soon as convenient.

Yours truly,

Jamie W. S. Saunders

JWSS/jl

✓ b.c.c. Jamie Saunders

FEB 9 1988



**Department of
Attorney General**

PO Box 488
Halifax, Nova Scotia
B3J 2R8
902 424-7729

Our File No.

5 February 1988

Mr. George W. MacDonald, Q.C.
Marshall Inquiry Office
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. MacDonald:

Re: Mr. Sandford Seale - Detailed Death Certificate
Our File 35-2(p)

I enclose a copy of a letter I received today, which was sent by the Honourable Joel R. Matheson, Q.C., Minister of Health and Fitness, to Mrs. Betty A. Etter, Deputy Registrar General, authorizing issuance of a detailed death certificate in connection with the above.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Wayne D. Cochrane", with a long horizontal flourish extending to the right.

Wayne D. Cochrane
Legal Counsel
Department of Health and Fitness

WDC:jer
Enc.

PATTERSON KITZ

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BEDFORD, NOVA SCOTIA

TELECOPIER COVER PAGE

DATE: February 9/88

TO: Royal Commission on Donald Marshall, Jr.

Attention: Darrel Pink

FAX NUMBER: 424-2709

FROM: Darrel Pink

ADDITIONAL INSTRUCTIONS/COMMENTS: Per our discussions
of this morning

NO. OF PAGES BEING TRANSMITTED (INCLUDING COVER PAGE) 3

FILE NO: 92011

TIME SENT: _____

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January 21, 1988

BY HAND

Mr. David Osborn
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear David:

Our File No. 9201/1

Considerable time has elapsed since we provided you with copies of the Thornhill and MacLean files from the Attorney General's Department.

We wish to be informed as to the use you intend to put these materials? I recall from our previous discussions that one of the possibilities we considered was to have the documentation reviewed in a setting other than a viva voce, public hearing. I seriously question how many of the parties with standing would have any legitimate interest in reviewing the Thornhill or MacLean matters and I believe thought ought to be given to reducing the number of parties involved in that phase of the Inquiry. For example, it may be best dealt with during the research phase of the Inquiry called upon to explore the role of the Attorney General and the relationship between the Attorney General and the investigating police.

We are, of course, mindful of the distinction you make between "process" and the "merits" of the case and we wish to ensure that the interests of persons mentioned in the files are properly protected.

Mr. David Orsborn
January 21, 1988
Page 2


As with other material provided from the Attorney General's Department's files, we ask for the opportunity to review whatever documentation you are assembling as exhibits so that we may object if necessary before the evidence is bound and distributed among other parties. We ask that sufficient time be given to us, and I suggest not less than 10 days advance notice of any such intention on your part.

I look forward to your response as soon as convenient.

Yours truly,

Jamie W. S. Saunders

JWSS/jl

 v.c.c. Jamie Saunders

FEB 9 1988

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GLEN V. DEXTER
ELIZABETH M. HALDANE
ERIC L. BURTON
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R. BLOIS COLPITTS

PURDY'S WHARF TOWER ONE
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CORRESPONDENCE
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TELECOPIER (902) 420-1417
TELEX 019-22593

DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, Q.C.

BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

February 8, 1988

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

Dear David:

RE: William Urquhart

With the production of the latest witness list Mr. Urquhart is scheduled to testify during the week of March 7-10, 1988. I do not know whether Supt. Christen is still a local resident or not, but I was wondering whether we might plan to commence with Mr. Urquhart on Monday, March 7, 1988, so that neither he nor the Commission incurs the expense of having him wait around while more tangential testimony is being completed.

My intention is to ask Mr. Urquhart to plan to commence testifying on Monday, March 7, 1988, and therefore to stay overnight in Halifax on March 6, 7, and 8. If these arrangements do not fit in with the Commission's plans, please advise.

Some time ago when we were in Sydney you suggested that you might like to meet with Mr. Urquhart again to discuss changes and developments in the Sydney Police Force between 1971 and 1983 (when Mr. Urquhart retired). Events seem to have prevented this but I suggest that there is still merit in having Mr. Urquhart on the stand once and only once with respect to all matters that may be of concern to the Royal Commission.

February 8, 1988

2

I look forward to your thoughts.

Yours very truly,
STEWART, MACKEEN & COVERT

Per:

J. Bennett (Murray)

for

Donald C. Murray

DCM/dmb

Mr. William Urquhart

N2061216

FEB 15 1988

MURRANT BROWN

Barristers & Solicitors

SUITE 404
PURDY'S WHARF
P.O. BOX 2626
HALIFAX, CANADA
B3J 3P7

ROBERT MURRANT

TELEPHONE (902) 421-2121

XEROX-FAX (902) 421-2125

February 8, 1988

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

ATTN: Ms. Susan Ashley

Dear Ms. Ashley:

RE: Heather Matheson

Further to our telephone conversation of last week, this will confirm that Robert Murrant is representing Ms. Matheson and would appreciate receiving any documentation issued by or for the Royal Commission which may affect his client or her interests.

Also, we understand the Commission has a schedule of witnesses who have appeared and will be appearing before it. Would you please provide us with a copy of this schedule at your earliest convenience.

Thank you for your cooperation on this matter.

Yours truly,



Susan Allen
Articled Clerk

SA*dm

LEONARD A. KITZ, O.C., D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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SHEPPARD, NOVA SCOTIA

February 5, 1988

BY HAND

Professor Bruce Archibald
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Professor Archibald:

Our File No. 9201/1

Further to our recent telephone conversation, I have arranged
the following meetings:

1. Martin Herschorn
February 22, 1988, 1 p.m.
2. Ronald MacDonald
February 23, 1988, _____ m.

Both of these meetings will be in our offices on the _____
floor.

Yours truly,

Catherine M. Hicks

Catherine M. Hicks
Legal Counsel, P. 20 D

CMH/jl

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 5, 1988

BY HAND

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

Dear Mr. Briggs:

Our File No. 9201/1

Further to yours of January 26, 1988, we now have in our possession a copy of the Currie, Coopers & Lybrand Ltd. study dated December, 1981, entitled "Province of Nova Scotia Department of Attorney General - Development and Implementation of Revised Organizational Arrangements".

You can arrange to see this at your convenience and then, in accordance with yours of January 26, 1988, segments of that may be made available to you.

Perhaps you could be in touch with me next week to arrange to review it.

Yours truly,


Darrel I. Pink

DIP/jl

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

FEB 9 1988



**Department of
Attorney General**

PO Box 488
Halifax, Nova Scotia
B3J 2R8
902 424-7729

Our File No.

5 February 1988

Mr. George W. MacDonald, Q.C.
Marshall Inquiry Office
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. MacDonald:

Re: Mr. Sandford Seale - Detailed Death Certificate
Our File 35-2(p)

I enclose a copy of a letter I received today, which was sent by the Honourable Joel R. Matheson, Q.C., Minister of Health and Fitness, to Mrs. Betty A. Etter, Deputy Registrar General, authorizing issuance of a detailed death certificate in connection with the above.

Yours sincerely,

Wayne D. Cochrane
Legal Counsel
Department of Health and Fitness

WDC:jer
Enc.



Nova Scotia

**Department of
Health**

Office of the Minister

PO Box 488
Halifax, Nova Scotia
B3J 2R8

28 January 1988

Mrs. Betty A. Etter
Deputy Registrar General
Vital Statistics
Department of Health and Fitness
Halifax, Nova Scotia

Dear Mrs. Etter:

Re: Mr. Sandford Seale - Death - Detailed
Death Certificate

Pursuant to Section 32(7)(a) of the Vital Statistics Act, I authorize you to issue to Dr. Peter Markesteyn, Chief Medical Examiner for the Province of Manitoba, a certificate of the full particulars of death for the following person:

Mr. Sandford Seale
Date of Death: 29 May 1971
Place of Death: Sydney, Nova Scotia

Yours very truly,

Joel R. Matheson, Q.C.
Minister of Health and Fitness

2

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.

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

February 4, 1988

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

Attention: George MacDonald, Q.C.

Dear Mr. MacDonald:

RE: MacKeigan, Hart, Jones, MacDonald
and Pace v. Hickman, Poitras and Evans

I act for Donald Marshall, Jr. before the Royal Commission of Inquiry into his wrongful conviction. I understand that the Commission have issued subpoenas to the five Justices of the Court of Appeal who sat on Mr. Marshall's 1982-1983 Reference. I understand that the Justices are opposing the subpoenas and that the Justices' applications for relief are to be heard on April 7, 1988.

I am writing to advise you that on behalf of Donald Marshall, Jr. we will shortly be applying for an Order under Rule 8.01 of the Civil Procedure Rules so that we may appear at the April 7 hearing as intervenors. The appropriate documents will be served on you in due course.

I would appreciate being advised as soon as possible if you intend to oppose our application.

Yours sincerely,

BUCHAN, DERRICK & RING



Anne S. Derrick

ASD/arm
MacDonald
ASD #5

COX, DOWNIE & GOODFELLOW

BARRISTERS AND SOLICITORS

Feb. 4/88

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

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W. R. E. GOODFELLOW, O.C.
JOHN R. GRANT, O.C.
DANIEL M. CAMPBELL
DOUGLAS C. CAMPBELL
WARREN K. ZIMMER
TERRY L. ROANE
MICHAEL E. DUNPHY
BRIAN W. DOWNIE
ALAN J. DICKSON
D. KEVIN LATIMER
K. MICHAEL TWEEL
RONALD E. PIZZO

RONALD J. DOWNIE, O.C.
DAVID McD. MANN, O.C.
ROBERT G. MACKEIGAN, O.C.
JOHN ARNOLD
DANIEL F. GALLIVAN
THOMAS P. DONOVAN
ANTHONY L. CHAPMAN
J. CRAIG MCCREA
JAMIE S. CAMPBELL
LORRAINE P. LAFFERTY
A. JAMES MUSGRAVE
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BRIAN A. TABOR

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MICHAEL S. RYAN, O.C.
GREGORY I. NORTH
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1100 PURDY'S WHARF TOWER
1959 UPPER WATER STREET
HALIFAX, CANADA

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

OUR FILE: 8118-1

February 3, 1988

Mr. David B. Orsborn
Commission Counsel
Royal Commission on the Donald
Marshall Jr. Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, N.S.

Dear Mr. Orsborn:

Further to our telephone conversation of yesterday, I confirm that you are accepting service, on behalf of the Defendants, of the Originating Notice and Affidavit forwarded to you under cover of my letter of January 26. I look forward to receiving copies of those documents so endorsed.

As you know, the five Orders to Attend bear a return date of February 4, 1988. I confirm your advice that in view of the Court Application to determine the validity and effect of these Orders, the Commission's position is that the Justices are not required to appear on February 4, and that the question of their attendance before the Commission will await the outcome of the proceedings to determine the validity of the Orders.

Finally, I look forward to hearing from you on the timing of the Application so that this can be finalized. As you know, the matter is currently set down for hearing on Thursday, April 7, 1988 at 9:30 a.m.

Yours very truly,


Frederick P. Crooks

FPC:cmg
cc. The Prothonotary

Filed to David Feb 5/88

BAILEY AND BLACK

BARRISTERS AND SOLICITORS

BRIAN F. BAILEY
JOHN A. BLACK(902) 465-4888
159 PORTLAND ST., P.O. BOX 532
DARTMOUTH, NOVA SCOTIA
B2Y 3Y8**FEBRUARY 3, 1988**George MacDonald
The Donald Marshall Inquiry
10th Floor Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. MacDonald:

**RE: AVAILABILITY OF TRANSCRIPTS OF TESTIMONY AND
VOLUMES CONTAINING EXHIBITS FOR USE BY
SUPERINTENDENT A.E. VAUGHAN (R.C.M.P.)**

This will confirm that I represent Superintendent A.E. Vaughan, the officer in charge of Criminal Operations for the Royal Canadian Mounted Police Stationed at Headquarters in Halifax, Nova Scotia. I have been instructed by my client that he expects to be asked to testify before the Donald Marshall Inquiry in the not to distant future and he has requested that I look after his interests in that regard. Pursuant to the scope of my retainer, I have determined that it is necessary to review the exhibits that are before the Inquiry and certain testimony or statements of witnesses or potential witnesses.

This is to advise you that I have run into difficulties in my efforts to obtain the volumes of exhibits. I want to assure you that the persons I have spoken with of the Commission namely Susan Ashley and Brenda MacGillivray have been very cooperative and have made every effort to provide me with documents requested. I must advise, though, that there are limitations on what they can provide to me since my requirements will be substantial and since I anticipate that my requests would be burdensome and difficult to oblige.

Further, in my discussions with my client, and with yourself it has become apparent to me that Superintendent Vaughan will in all likelihood require my assistance during the course of his testimony to retrieve certain information to which he will wish to refer and to advise him where he deems it necessary.

.../2

Page 2
George MacDonald
February 3, 1988

I have been led to believe for some reason, the present status of this issue is that witnesses are not permitted access to their counsel or anyone else during the course of their testimony. This has been the position taken despite the fact that a number of these witnesses have appeared with their counsel who did not participate in the direct examination of their clients. I am researching now whether or not that is a distinction with a difference or not. Also, it has become apparent that a number of areas of concern have arisen in the mind of Superintendent Vaughan which could require certain questions to be put to a number of witnesses. I do not believe that this responsibility ought to be left to other counsel withstanding and in particular Mr. Jim Bissell, Esquire since there exists a potential for conflict of interest between my client and Mr. Bissell's client.

Please consider this my request for copies of all the volumes that contain copies of the exhibits before the inquiry and copies of the testimony of all Police Officers that have testified at the Commission and any statements of Police Officers who will testify. In addition, please consider this as my request for copies of the testimony of Chief John MacIntyre and Messres. Pratico, Chant, and Mrs. Paris. As you can appreciate, this request will require your early reply.

Also, please provide me with your position concerning the issues of standing in the matter. I look forward to your comments.

Yours very truly,

Brian F. Bailey
Barrister and Solicitor

BFB/sah
cc/Jim Bissell
client



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

February 4, 1988

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

Dear John:

Please find enclosed a letter dated January 29, 1988 from Madine VanderPlaat, the Director of The Survey Centre of the Gorsebrook Research Institute. With this letter she encloses her budget for setting up the questionnaire, distributing it, coding it and analyzing the resulting data.

Her total figure is \$3,878.00 which seems reasonable to me. If you can approve it, then perhaps you might send her notification directly of this fact so that we may proceed.

Yours truly,

Bruce P. Archibald
Associate Professor of Law

BPA/m

encs.



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

(902) 426-7592

Our file: AR-21,613
Notre dossier:

February 2, 1988

Your file:
Votre dossier:

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

Attn: W. Wylie Spicer

Dear Wylie:

Re: R.C.M.P. Policy

This letter is in reply to yours of January 31, 1988, and to confirm our conversation of February 1, 1988.

It is my understanding that you now have the R.C.M.P. policy document concerning the laying of charges which you requested. I also understand that aside from the general questions as to whose responsibility it is to investigate and to lay charges, retired Superintendent Christen will not, at this stage, be expected to give evidence concerning any cases other than the Donald Marshall investigation. I would expect the same rule to apply to any other R.C.M.P. officer or member.

Yours very truly,

James D. Bissell
General Counsel
Director, Atlantic Region

JDB:wm

cc: Mr. Doug Christen

Inspector Harry Murphy

Canada



Department of Justice
Canada

Ministère de la Justice
Canada

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

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5161 rue George
Halifax, Nouvelle-Écosse
B3J 1M7

(902) 426-7592

Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

February 2, 1988

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

Dear Mr. ^{George} MacDonald:

Re: Prosecution Witnesses

This letter is in reply to Ron Pugsley's letter to you dated January 29, 1988, wherein he requested that you call the following witnesses:

1. Heather Matheson
2. Alan Story
3. Michael Harris

It is our position, that none of these witnesses can usefully add material evidence relative to the primary mandate of this Inquiry; namely, the investigation, charging and wrongful conviction of Donald Marshall for the death of Sanford Seale.

To the extent that Harry Wheaton's credibility is an issue at this Inquiry, that credibility can be adequately assessed from the record before the Commissioners and from S/Sgt. Wheaton's six and one-half days of testimony.

Yours very truly,

James D. Bissell
General Counsel
Director, Atlantic Region

JDB:wm

...2

Canada

George MacDonald, Q.C. - 2 -
February 2, 1988

Copy To:

Ronald N. Pugsley, Q.C.
Mr. Don Murray
Mr. Clay Ruby
Mr. Jamie Saunders
Mr. David Barrett
Mr. Bruce Wildsmith
Mr. Tony Ross
Bruce Outhouse, Q.C.
Mr. Chuck Broderick
Mr. Guy LaFosse

PATTERSON & KITZ
BARRISTERS & SOLICITORS

LEONARD A. KITZ, Q.C., D.C.L.
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LORNE E. ROZOVSKY, Q.C.
WYMAN W. WEBB
GORDON N. FORSYTH
KIMBERLEY H. W. TURNER

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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

VIA COURIER

Royal Commission on the
Donald Marshall, Jr. Prosecution
Lord Nelson Hotel
Belle Isle Room
South Park Street
Halifax, N.S.

Attention: Ms. Laurie Burnett

Dear Ms. Burnett:

Marshall Inquiry
Dr. Roland Perry
Our File No. 9201/1

Enclosed please find the information provided to me by
Dr. Perry's office upon request for a copy of his curriculum
vitae.

Yours truly,



Catherine M. Hicks
Legal Assistant to Darrel I. Pink

CMH/jl
Enc.

BIOGRAPHICAL DATA FOR INTRODUCTORY PURPOSES

" Dr. Perry is a native of Halifax. He attended Dalhousie University and graduated with the degree of Doctor of Medicine in 1961. He was in General Practice in Halifax from 1961 to 1976.

Dr. Perry became a part-time Medical Examiner in 1964. In 1977 he became the full-time Chief Medical Examiner for Halifax County, and since 1984 he has been the Chief Medical Examiner for Nova Scotia.

Dr. Perry's experience includes numerous appearances in court as an expert witness as well as investigation of cases over the past 24 years in which he has been engaged in this work."

FEB 4 1988



DALHOUSIE UNIVERSITY
HALIFAX, N.S.
B3H 1T2

DEPARTMENT OF SOCIOLOGY
AND SOCIAL ANTHROPOLOGY
TELEPHONE: (902) 424-6593

February 1, 1988

Mr. John Briggs
Director of Research
Royal Commission on the
Donald Marshall Presecution
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

This is to notify you that in accordance with my project plan of December 6, I have put in 14 working days during the month of January, 1988, on the police project. I would appreciate receiving compensation for this work.

I have also enclosed receipts for minor expenses (\$25.21) incurred during January, as well as receipts for the Sydney trip of January 27-29 (94.75).

Yours sincerely,

Richard Apostle

Enclosures

RA/mmw

FEB 4 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 3, 1988

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

Dear Mr. Briggs:

Our File No. 9201/1

Enclosed please find copies of the factum of the Attorney
General of Nova Scotia and Alberta regarding Hauser.

Yours truly,

Catherine M. Hicks

Catherine M. Hicks
Legal Assistant to Darrel I. Pink

CMH/jl
Enc.

*Original in
Patt. Kitz file*



Native Communications Society of Nova Scotia

P. O. BOX 344, SYDNEY, NOVA SCOTIA, B1P 6H2, TELEPHONE: 539-0045
P. O. BOX 1407, TRURO, NOVA SCOTIA, B2N 5V2, TELEPHONE: 895-6217

January 25, 1988

The Donald Marshall Royal Commission
C/O The Lord Nelson Hotel
South Park Street,
Halifax, Nova Scotia

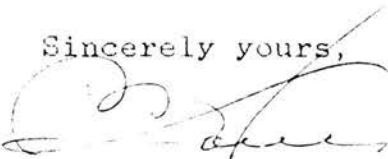
Dear Sirs;

The Native Communications Society of Nova Scotia would appreciate receiving a complete copy of all daily proceedings and exhibits tendered to the Royal Commission to be put on file as part of our Resource Library, at the completion of the hearings.

In addition, we will request the Commission's findings to be added as part of the resource material whenever they are released.

Your cooperation and support will be appreciated.

Sincerely yours,



Mr. Roy A. Gould
Executive Director
Native Communications Society
of Nova Scotia

RAG/jdp

c.c. Jim Maloney

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

January 26, 1988

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

Dear John:

In your letter to me of November 17, 1987 you quoted from the Bray and Kerr article from the journal "Law and Human Behaviour" Vol. 3, nos. 1/2. That issue was devoted to an analysis of this particular technique, jury simulation. The attention paid to the phenomenon is critical, and properly so when one reads the entire journal. But I think that the comment you quoted is not representative of the view of the authors who took part in that analysis in the journal as a whole. I find a more fair assessment in the article by Neil Widmer at page 95.

He is quite critical of the technique, but closes with the comment:

"I am, moreover, optimistic about the future of psychology and law research, including the usefulness of jury simulation. The field seems to be maturing and gaining greater acceptance by members of the legal profession. One recent notable example, of course, was in Ballew v. Georgia (1978), where jury simulation research played an important role in helping the U.S. Supreme Court reach its decision to restrict further reductions in the size of juries."

He then discusses two different models in the literature, relying on Anthony Doob's 1976 research. The former category is characterized by these authors and by Tony Doob as "a naive legal strategy". He approves an alternate strategy which he describes as a situation where "he or she may choose a problem of

Ruby & Edwardh

legal relevance which has psychological implications and put opposing hypothesis to an empirical test i.e., a legal problem strategy".

It is that form of research which he approves.

I think that sums up the better opinion. If properly structured, this research is useful and valid.

I still am concerned that we have not proposed any research that will deal with the crucial question of what factors affect juries in the decision making process. I await an idea from you that will deal with that issue.

Yours very truly,



Clayton C. Ruby

/ms

FEB 4 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 3, 1988

BY HAND

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

Dear David:

Marshall Inquiry
Our File No. 9201/1

At your early convenience may I please have a response to my
letter dated January 21st.

Yours truly,


for Jamie W.S. Saunders

JWSS/cs
c.c. Mr. James D. Bissell

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 3, 1988

BY HAND

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

Dear David:

Our File No. 9201/1

As Mr. Justice Pace does not return from vacation until March 15th I have asked whether he would be available to attend on Thursday, March 17th. As soon as I hear from him I will let you know so that that date can be fixed.

This will confirm the assurances given to me this afternoon that questioning of Mr. Justice Pace will be restricted to his capacity as former Attorney General, his knowledge (if any) of the Marshall case and no question will be posed (or permitted) regarding his position as a member of the Court, the conduct of the Reference, how he came to sit as a member of the Court, deliberations of the Court, etc.

Yours very truly,


For Jamie W.S. Saunders

JWSS/cs

c.c. Mr. D. William MacDonald
The Honourable Terence R.B. Donahoe, Q.C.

SMITH, GAY, EVANS & ROSS
BARRISTERS & SOLICITORS

FEB 4 1988

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

February 3, 1988

File #1077-01

George MacDonald, Esq., Q.C.
ROYAL COMMISSION ON THE DONALD MARSHALL, JR.
PROSECUTION
Suite 1026, Maritime Centre
1505 Barrington Street
Halifax, NS
B3J 3K5

Dear Mr. MacDonald:

Re: Dixon and MacDonald

Mr. Seale has requested that I try to find for him the dates when Karen MacDonald and Alanna Dixon will be called as witnesses.

Please be good enough to give me any information which could be released as this time.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:

E. Anthony Ross
E. ANTHONY ROSS (lms)

EAR/lms
cc: O. Seale

Project Planning
and Feasibility
Studies.

CML Consultants

Limited

1586 Queen Street
Halifax
Nova Scotia
Canada
B3J 2J1

902 422-1343

3 February, 1988

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

Dear Susan:

Thank you for your letter of 15 January, 1988 concerning our account for the month of December 1987.

I assume the following will meet your requirement for additional information:

- a. During our discussions in November, we agreed to provide a senior staff member as the Media Coordinator on a full time basis. A copy of the letter dated 15 November, 1987, setting out the details, is attached.
- b. You may also wish to take the following factors into consideration:
 - (1) The Media Coordinator is required to be present at all public hearings and, in addition, the Coordinator is required at the site prior to hearings and frequently for meetings after the daily sitting. The Coordinator is also required at regular staff meetings at CML to assist in the development and implementation of a media strategy. These requirements are, of course, in addition to the actual time spent at the hearings.

- (2) Carole McDougall, a senior member of our staff, was specifically requested by the Commission. In accordance with our letter, she therefore had to be committed by CML as Media Coordinator on a full time basis. Because of this commitment, it is not possible to effectively employ her on any other company projects.
 - (3) When the Coordinator is not attending the hearings, she is also responsible for all media monitoring and the compilation of print, radio and TV media files. This requires a minimum of 10 hours/week, much of which is devoted to compilation of the material which must be done when the Commission is not sitting. She has also devoted a considerable amount of what could legitimately be considered her free time in dealing and liaising with the media representatives covering the hearings.
 - (4) Our letter of 15 November, 1987 pointed out that a minimum of 30 hours/week would be devoted to the project by the Coordinator. Given the time required in Sydney, the Halifax hearings, the media monitoring, as well as the additional work required, it has turned out she has in fact been committed on an average of 40 hours/week on commission business since mid-November.
- c. Although it may not be particularly relevant to the question of the Coordinator's responsibilities, her participation has reduced the time I would have to devote to the project. As you will recall, I agreed to a maximum of 30 hours/month. The time I have devoted to the project is considerably in excess of that. In January, for example, it was 52 hours, although I hope the time will average out to 30 hours/month before the project ends.

I hope the information above satisfies your request. I would be happy to provide whatever additional information you might require.

Yours truly,


I. S. Fraser
President

FEB 2 1988

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

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

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TELEX 019-22593

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OUR FILE REFERENCE:

DONALD A. KERR, O.C.

COUNSEL
BRIAN FLEMMING, O.C.

HUGH K. SMITH, O.C.

February 2, 1988

DELIVERED

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

Dear Ms. Ashley:

RE: MacIntyre Account - January 20, 1988

Thank you for your letter of January 25, 1988, and the reference to the apparent discrepancy in that account. I have re-consulted my timesheets and can advise that on December 15, 1987 I spent 0.6 hours researching a matter involving Sgt. Herb Davies. This particular piece of research involved two separate segments of time of 0.3 hours each. For convenience and conciseness in preparing the account I combined these items but failed to change the time indication from 0.3 to 0.6 - even though I had changed the \$30.00 to \$60.00. I would ask that you regard this as a revision of that item for claim purposes.

I thank you for your consideration, as well as the close attention you have given to our accounts in the past.

Yours very truly,
STEWART, MACKEN & COVERT

Per:


Donald C. Murray

DCM/dmb
N2061179

FEB 2 1988



DALHOUSIE UNIVERSITY
HALIFAX, N.S.
B3H 1T2

DEPARTMENT OF SOCIOLOGY
AND SOCIAL ANTHROPOLOGY
TELEPHONE: (902) 424-6593

February 2, 1988

Mr. John Briggs
Director of Research
Royal Commission on the
Donald Marshall Prosecution
Suite 1206
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

Enclosed you will find a completed version of the memorandum based on the Sydney testimony. I would be grateful for any feedback (especially from David Orsborne).

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Richard D. Apostle".

Richard Apostle

Enclosure

RA:dme

FEB 2 1988

COMMISSION OF INQUIRY

All Canada is watching and hpping. Do you know what 8 years of unhappiness does to an innocent family unit? Unlike, Columbia as god - fearing men we hope other lawyers will expose prosecutors inept - blundering - career madness.

Please forward
to Bill Corbett LLB

January 28 1988

RCMP Assistant Commissioner
Mr Dale Henry
1091 Portage Avenue
Winnipeg, Manitoba
R3C 2G9

Dear Internal Committee;

re: Request for 1988 RCMP
Internal investigation of Wilson
Research Team charges against
RCMP members of M.I.I.U. and lawyers
Prober/Macfarlane 203/80 QB Man CCC

We are in receipt of a letter from Mr John Tait in which both SG Kelliher and himself keep referring to suggested two internal investigation by Cst Duncan or some other staff member.

Would you please outline the nature of these two investigations which we feel must be terribly "NARROW" and suspect? Can you remove Duncan from the case and have an update look into my charges. Remember, not one RCMP-Winnipeg staff person has looked into my charges by talking - recording my charges. RCMP Internal staff have never talked to myself about my charges of demonic deceit and possible criminal code infractions by the M.I.I.U. support staff.

We would be pleased to meet "in camera." Like, the Marshall inquiry we would like the RCMP TO BE GIVEN THE PUBLIC RELATIONS GOODNESS for redressing a 'terrible mistake' by overzealous constables in the drug squad. We do not wish the families of Guertin, Barrington, Storrey and King to suffer as my family has suffered. We only wish re-education for these misguided or careless staff unit.

Some 'higher power' I am sure will cause someone in the RCMP to examine the CROWN THEORY and know it is the work of the devil or inept human weakness.

Sincerely yours;

Robert George Wilson esq
Box 242 GPO
Winnipeg Man R3C 2G9

FEB 2 1988

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I.S.T.S.

January 28, 1988

HEAD OFFICE:

MONTREAL Our File: 1626

BRANCH OFFICES:

HALIFAX Ms. Susan Ashley
SAINT JOHN The Royal Commission of the
QUEBEC CITY Donald Marshall Jr. Prosecution
OTTAWA Maritime Centre
TORONTO Suite 1026
EDMONTON Halifax, N.S.
VANCOUVER H3J 3K5

Dear Ms. Ashley:

Please find enclosed our Invoice No. 24022, regarding our technical services rendered on January 11-14, 1988, in Halifax, N.S.

We sincerely hope that our services were carried out to the entire satisfaction of all parties concerned. We hope that we can be of service to you once again in the near future, and remain,

Yours truly,

I. S. T. S.


Robert Thiel
President

RT/mw

Enclosure

FEB 2 1988

Ruby & Edwardh
barristers

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

January 27, 1988

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:

There has been considerable mention of the cuts in the jacket that Junior Marshall was wearing on the night of the murder. It appears that neither his trial counsel nor Chief MacIntyre thought to ask Junior how those cuts were caused. In fact, part of the cut on the cuff of the jacket was caused when Stewart Marshall was asked to loosen it because Mr. Marshall's arm was throbbing from the injury he had received from Mr. Ebsary. This occurred shortly after his arrival home that night, and Stewart Marshall remembers it.

Junior does not recall whether or not he told his counsel about this. We think that this evidence is sufficiently important that it ought to be called and you may want to interview the party involved.

Yours very truly,



Clayton C. Ruby

/ms

cc Anne Derrick

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 1, 1988

BY HAND

Professor Bruce Archibald
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Professor Archibald:

Our File No. 9201/1

Further to your meeting with Mr. Gale on January 29, 1988,
I am pleased to enclose the following:

1. A copy of the factum of the Attorney General
of Nova Scotia in the Hauser case;
2. A copy of the factum of the Attorney General
of Alberta in the Hauser case;

As you know, Nova Scotia supported the position of Alberta.

Because of the volume of the remainder of the material
in the file, I have not copied it for you but should you
wish to review any of the other facta, please advise.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

c.c. Mr. R. Gerald Conrad, Q.C.
Mr. Gordon S. Gale, Q.C.

LEONARD A. KITZ, Q.C. D.C.L.
JOHN D. MACISAAC, Q.C.
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TELEX 019-22893

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 1, 1988

BY HAND

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

Dear John:

Our File No. 9201/1

I would appreciate an answer to the matters raised in
mine of January 4, 1988.

Yours truly,


Darrel I. Pink
DIP/jl

FEB 2 1988

LEONARD A. KITZ, Q.C., D.C.L.
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

February 1, 1988

BY HAND

Ms. Susan Ashley
Roayl Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Susan:

Our File No. 9201/1

Could you please advise what I must do to obtain a copy of the video tape of a witness' testimony. I have had a request from one witness for this and indicated I would make the inquiry.

Yours truly,

for 
Darrel I. Pink

DIP/jl

G.S. CLARK AND ASSOCIATES LTD.

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

FEB 1 1988

MEMORANDUM

January 25, 1988

To: John Briggs
From: Scott Clark
Re: BRUCE ARCHIBALD'S QUESTIONNAIRE TO CROWN PROSECUTORS

With respect to your memorandum of January 19th, I would note that Professor Archibald's draft questionnaire covers most of the points in which I am also interested.

I have a couple of suggestions, however. First, I would like to know about the extent to which Crown Prosecutors refer to and are guided by Pre-sentence Reports and Pre-disposition Reports at sentencing. Perhaps this would fit best between the present questions 19 and 20.

Second, with respect to plea negotiations, I think there might be a space for comments after question 25; that is, why do Crown Prosecutors take the position they do on plea negotiations? Frank Edwards' office in Sydney has a policy of "no plea bargaining" and a distinct rationale to back up the policy. This could be captured in the questionnaire and compared with the policy in other offices, including headquarters.

Finally, Bruce might want to consider expanding the space at the end of question 53 to encourage the free expression of comments. If only four lines of space are provided, then people might feel obliged to restrict their comments to four lines and valuable information could be lost.

Thanks for the opportunity to make suggestions. I'll be looking forward to the results.





Department of Justice
Canada

Ministère de la Justice
Canada

JAN 29 1988

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

AR-21,613

Our file
Notre dossier

Your file
Votre dossier

426-7592

January 28, 1988

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~~ *George*:

RE: Billy Joe MacLean

Thank you for your letter of January 25, 1988, requesting access to the Billy Joe MacLean (arson investigation) file.

We will provide you with access on the same basis as given on the Thornhill/MacLean files previously.

Please call and arrange a mutually convenient time for examination.

Yours very truly,

James D. Bissell
General Counsel
Director, Atlantic Region

JDB/vpc

c.c. Inspector H. E. Murphy
R.C.M. Police
"H" Division
P. O. Box 2286
Halifax, Nova Scotia
B3J 3E1

Canada



Department of Justice
Canada

Ministère de la Justice
Canada

JAN 29 1988

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AR-21,613

Our file
Notre dossier

Your file
Votre dossier

426-7592

January 28, 1988

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: Donald Marshall, Jr., Royal Commission

I acknowledge receipt of your letter of January 25, 1988, concerning the RCMP-Headquarters file on Roland Thornhill.

With respect to document No. 7, the portion "blackened out" contains material of no relevance whatsoever to the Thornhill matter or the Province of Nova Scotia.

Yours very truly,


James D. Bissell
General Counsel
Director, Atlantic Region

JDB/vpc



Department of Justice
Canada

Ministère de la Justice
Canada

JAN 29 1988

4th Floor
Royal Bank Building
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(902) 426-7592

Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

January 28, 1988

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

Attn: George MacDonald

Dear Mr. MacDonald:

**Re: Disclosure of Documentation From Files of the
R.C.M.P. "H" Division and Headquarters**

I enclose herewith documents from the following "H"
Division files identified and requested by David Orsborn
following his review of the complete files:

- i. Roland Thornhill
- ii. Billy Joe MacLean

The documents are identified on the enclosed inventory.
You will note that the R.C.M.P. have deleted the identity
of third persons from these documents, as per our
discussion.

Also enclosed and listed on a separate inventory are those
materials you identified from the documentation taken from
the headquarters' file on Roland Thornhill and sent to us
for disclosure purposes. All documentation relevant to
your Inquiry from the headquarters' file has been
disclosed. Only items pertaining to the formulation of
internal administrative policy, the preparation of House
Cards, correspondence and related material for the
Solicitor General of Canada and correspondence between the
Solicitor General and the Commissioner have been excluded.
We would ask for your assurances that the interests of
persons mentioned in our files are properly protected.

These materials are forwarded in a spirit of co-operation
with your Inquiry. We have your assurances that you are
concerned only with the process involved with the
disposition of these files and primarily to determine what,

Royal Commission on the - 2 -
Donald Marshall, Jr.,
Prosecution
Attn: George MacDonald
January 28, 1988

if any, communication passed between officials of the Department of the Attorney General of Nova Scotia and the R.C.M.P. It is understood and agreed between us that these files will not be used for a purpose outside the constitutional mandate of the Inquiry. A thorough review of the Thornhill file maintained at the Headquarters Division of the R.C.M.P. does not reveal any communication between any official of the Department of the Attorney General of Nova Scotia and any officer at R.C.M.P. Headquarters prior to the making of the decision not to lay a charge.

While we understand that you have not yet decided upon the manner these documents are to be considered by the Commissioners, we confirm our agreement that you will provide us with advance notice of any intention to circulate any of the documents among other parties so that we may make any necessary objection. We would ask for a minimum of ten days notice.

In the event that you decide to use these materials during the research phase of the Inquiry in lieu of tendering them during the evidentiary phase, we have two concerns upon which we seek your assurances:

(1) that they not be used for any purpose other than that set out above, bearing in mind the constitutional scope of the Inquiry; and that we are provided with a detailed explanation how they will be used; and

(2) that an opportunity be given to explain documents to ensure they are not misconstrued or taken out of context.

I look forward to your reply.

Yours very truly,



James D. Bissell
General Counsel
Director, Atlantic Region

JDB:wm

Enc.

cc: David Orsborn

JAN 29 1988

STEWART MacKEEN & COVERT

BARRISTERS AND SOLICITORS

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CARMAN G. McCORMICK
JOHN D. MURPHY
ROBERT P. DEXTER
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R. CAMILLE CAMERON
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OUR FILE REFERENCE:

DONALD A. KERR, O.C.

COUNSEL
BRIAN FLEMMING, O.C.

HUGH K. SMITH, O.C.

January 29, 1988

DELIVERED

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

Dear Mr. MacDonald:

RE: Prospective Witnesses

I would request that the following be subpoenaed for
the Marshall Inquiry:

1. Heather Matheson;
2. Alan Story;
3. Michael Harris.

The 1982 reinvestigation by the R.C.M.P. is obviously an
area with which the Commission is concerned and the release of
information to the media during the course and after that
reinvestigation is a topic that is relevant thereto.

The foregoing witnesses will, in accordance with my
understanding, deal with that issue and in addition their
evidence is required to assist the Commission in determining the
amount or reliance which should be placed on Staff Sergeant
Wheaton's testimony.

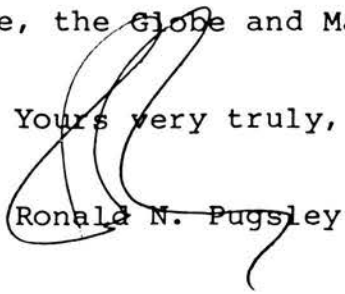
I would request that the subpoena directed to Alan
Story be duces tecum to ensure that all the articles he has
written concerning the Marshall case be brought with him whether

January 29, 1988

2

that be the Toronto-Star, MacLean's Magazine, the Globe and Mail
or others.

Yours very truly,


Ronald N. Pugsley

dmb
c.c. ALL COUNSEL
N2061174

JAN 29 1988

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

January 28, 1988

BY HAND

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

Dear Mr. Briggs:

Our File No. 9201/1

Enclosed please find the additions to the blue binders entitled "Advice to Crown Prosecutors". The top page will be filed as page 175 in section 12. The next two pages (pages 4 & 5) are the pages referred to. The remaining two pages (pages 7 & 8) appear to replace pages in the index. Please place these papers in their appropriate spots in the binders.

Yours truly,



Catherine M. Hicks
Legal Assistant to Darrel I. Pink

CMH/jl
Enc.

JAN 29 1988



FACULTY OF LAW,
UNIVERSITY OF TORONTO

78 Queen's Park
Toronto, Canada M5S 2C5

January 28, 1988

The Commissioners
Chief Justice T. Alexander Hickman
Associate Chief Justice Lawrence A. Poitras
The Honourable Mr. Justice Gregory Thomas Evans
Suite 1026, Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Commissioners,

Re: The Office of Solicitor General

In accordance with the revised terms of reference (enclosed with John Briggs's memorandum dated January 22, 1988), governing the background opinions that I have undertaken to prepare for the Commission, I now enclose the first of this series of opinions. In it I examine a series of questions that relate to the recent creation in Nova Scotia of a Ministry of the Solicitor General.

The new Ministry's existence, and the ensuing consequences that flow from the reorganisation of the Attorney General's Department, must have a direct bearing on any recommendations that you may wish to make. Hence my choice of this subject as a high priority amongst the broad ranging research agenda.

I plan next to tackle the subject of a statutory office of Director of Public Prosecutions and the arguments for and against its establishment in a province such as Nova Scotia. You will be familiar with my public statements favouring such a reform but I hope to present you with somewhat more than a personal disposition towards this kind of change in our systems of prosecutions.

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

c.c. Commission Counsel
Director of Research

JAN 29 1988

Ruby & Edwardh
barristers

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

January 19, 1988

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

Dear Wylie and George:

I have been most distressed that, through an apparent confusion, you did not received the full Debbie Gass file nor the full Melinda McLean file. You are owed an explanation.

Anne Derrick's memory is that she collected the Gass and McLean files, and kept the originals in her office. She remembers bringing to us in Toronto copies of those files. She says that she assumed we xeroxed those copies and sent them to you when we waived privilege.

This week Marlys and I went through all the material that we have that was sent to us or brought to us by Anne which involves files from anyone connected with the Marshall case. We have no copy of any file from Melinda McLean, and no original file from Melinda McLean. We have a file from Debbie Gass which appears to be a copy sent to us by Anne Derrick. That file contains a xeroxed copy of the O'Neill notes in seven pages. The remainder of the file consists of thirteen pages. I remember having a great deal of difficulty tracking down the authorship of the O'Neill notes and in fact speaking to Ms. Gass, Ms. McLean and finally Mr. O'Neill and ascertaining their authorship.

I note that on March 2, 1987 Anne wrote to you indicating that the files that were the subject matter of the subpoena sent to her had been sent to us here

Ruby & Edwardh

in Toronto. That is true of the Aaronson and the Cacchione files (of which we have the originals) and some Correctional Service of Canada files (of which we have what appear to be complete photocopies). Anne apparently retained the original of the Gass files and the McLean files in her office and they remain there to this day. I have never seen the McLean file, with the exception of Mr. O'Neill notes which I assume were all that there was in that file of any substance.

Accordingly when on March 23, 1987 Delmar Doucette wrote to David Orsborn, we had photocopied for sending to you a copy of everything we had (Cacchione, Aaronson & Gass) except the Correctional Service of Canada files which Mr. Spicer had told Ms. Edwardh he could get for himself. No copy of that letter was sent to Ms. Derrick so she would not have been aware that we had not sent the McLean file.

In a letter to Mr. Spicer dated March 31, 1987 I advised that the O'Neill notes, which we believed to be part of the Gass file were in fact made by O'Neill. I waived privilege with regard to all of them and assumed you would contact Ms. Melinda McLean directly. I did this because I did not think that there was any file in our possession from her.

I believe that you have everything which is in our possession (I assume you have your own copies of the Correctional Service of Canada files). You should feel free to attend on Anne's office and make certain that everything she has is also in your possession.

Needless to say, I regret this confusion on our part and I take comfort only in the fact that waivers of privilege enabled you to get access to these materials early enough and that the Commission was not inconvenienced.

Yours very truly,



Clayton C. Ruby

/ms

JAN 29 1988

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

January 19, 1988

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

Dear Wylie:

I think it is a wonderful idea for you to visit Peter Ashman, the lawyer who is in charge of the Justice group in London, England.

On behalf of Donald Marshall I want him called as a witness. He is preparing over the next two months a draft report to be issued under the Chairmanship of Mr. Justice Waller, for a Committee that includes such learned justices as Sir Brian McKenna. The report analyzes the various causes of miscarriages of justice over the thirty year experience of the Justice group in England.

It seems to me that the Commission has looked with great intensity at a tiny slice of the problem of miscarriages of justice, and that their report would greatly be benefitted by having an overview of a group of wide experience in that field.

He has agreed that we can have a confidential copy of that draft when it is prepared and he is sending me some materials immediately regarding a paper he is publishing on his own concerning this subject matter and I will pass it on to you as soon as I get it.

Yours very truly,



Clayton C. Ruby

Ruby & Edwardh
barristers

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January 26, 1988

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

Dear Ms. Ashley:

Thank you for your letter of January 7, 1988.

Let me deal with the items that you raise in the order in which they are put by you.

1. Dealings with Clifford Olsen

I am enclosing the correspondence that I have had with Mr. Olsen. In my phone conversations with him he intimated that he had much better evidence than it later appeared he did. It looked originally as if he had actually been involved in Sydney with Chief MacIntyre in a situation which showed Chief MacIntyre acting either negligently or corruptly with regard to his arrest. At the end of the day, it does appear that his evidence shows that Chief MacIntyre was involved in laying an information against him that had no foundation in fact and was later withdrawn. In my view this is relevant and might well have been called by me or used in cross examination had it not been for the notoriety of Mr. Olsen and the fact that calling him as a witness would entail security problems and would attract so much media attention that it would not be worthwhile doing in terms of the true focus of the Commission. Accordingly at the end of the day I weighed the evidence and decided it was not useful to raise it.

Because of the sensitive nature of this evidence Ms. Edwardh and I spend some time discussing it before a final decision was made.

2. Working Lunches

I cannot now remember who the meetings were with at lunch time and what was discussed. I kept no notes because at the time it did not seem relevant to do so.

May I suggest that the appropriate method of dealing with this is to impose the requirement for detail as to who was present at lunch and in a general way what was discussed only prospectively and not retrospectively. As of the date of your letter I will have information for you as to the subject matter of discussion and which lawyers were in attendance. It does not seem fair to ask now for detail which was not formerly required since my memory does not permit an accurate answer to you. I would be guessing. To use a classic phrase, "I do not recollect!"

3. Error in Invoice

You are completely correct.

4. Entry of October 27, 1987

I have checked my docket and it does indeed disclose exactly what was indicated on the bill, but no more. I cannot now remember what I met with the students about, but on the face of it it would indicate that I asked them to prepare something which would be used at a future date in the hearings. I would not have docketed the time to the Marshall Commission had it not been an appropriate item to bill to you. On the other hand the amount is not very large and I am not terribly concerned about it.

5. Hourly Rate for Marlys Edwardh

I am very grateful for your decision on this matter, and I know it caused you considerable difficulty. I am particularly grateful for the amount of time you took in assessing the issue so thoroughly.

6. Disbursements

I have enclosed accounts regarding the items you have questioned. We consulted with Graham Turrall, a forensic psychologist whom we often use, on the question of giving us an assessment of the psychiatric state of Mr. Roy Ebsary to prepare us for cross examination of him, and with a view to dealing with the issue of whether we should call our own experts to give evidence concerning his psychiatric state. The time involved meetings on his part with us, and

Ruby & Edwardh

research which he performed for us. It was impossible for a layman to assess the complicated and confused psychiatric state of Mr. Ebsary and we felt we needed psychiatric assistance to that end. I assume the Commission did its own consultations on that same subject matter for the same reasons.

The xeroxing of the Rough Justice books was necessary because, with the exception of the few copies I was able to obtain from England, they were out of print. I thought it important that the work of the Justice Committee in England be brought to the attention of the Commissioners and to counsel, and I note that Wylie Spicer is attending upon the Justice group in England this week with a view to exploring the question of whether they should be called as witnesses on the question of miscarriages of justice in the common law system.

If there are further questions, would you be good enough to contact me again.

Yours very truly,



Clayton C. Ruby

/ms

JAN 28 1988

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

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
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JONATHAN C. K. STOBIE
BARBARA S. PENICK
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COUNSEL
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

OUR FILE REFERENCE:

WLR

January 28, 1988

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

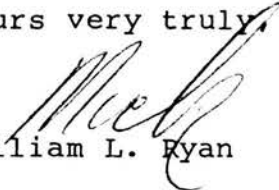
Dear George:

Evers

I thank you for your letter of January 25, 1988.

I look forward to receiving your new schedule of witnesses for the March hearings as well as the evidence booklet concerning Mr. Evers.

Yours very truly


William L. Ryan

WLR:dk

C0546006

JAN 27 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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BEDFORD, NOVA SCOTIA

January 27, 1988

Professor Bruce Archibald
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Professor Archibald:

Our File No. 9201/1

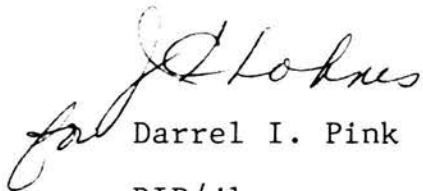
Further to your meeting with our Gerald Conrad, on January 25, 1988, I enclose documents which you requested from him regarding organization of the Attorney General's Department. Enclosed are the following:

Position Description - Director (Prosecutions)
Position Description - Director (Criminal)
Position Description - Executive Director (Legal Services)
Legal Services Division - Structure Chart 1986
Legal Services Division - Structure Chart 1980 (+ or -)
Memo dated December 1, 1966, from Deputy Attorney to Staff
Departmental (Solicitor) Assignments - March 12, 1986
Solicitor Assignments - January 13, 1986
Solicitor Assignments - July 8, 1985
Solicitor Assignments - November 19, 1984
Solicitor Assignments - September 29, 1983
Solicitor Assignments - January 18, 1982
Solicitor Assignments - September 24, 1980
Solicitor Assignments - February 27, 1980
Solicitor Assignments - November 2, 1979
Solicitor Assignments - March 1, 1979
Solicitor Assignments - September 11, 1978
Solicitor Assignments - April 17, 1978

Professor Bruce Archibald
January 27, 1988
Page 2

Memo (#1) from R.G. Conrad to Solicitors dated March 17, 1978
Memo (#2) from R. G. Conrad to Solicitors dated March 17, 1978
Solicitor Assignments - September 9, 1977
Memo from R.G. Conrad to Solicitors dated May 25, 1977
Solicitor Assignments - March 14, 1977
Memo from R. G. Conrad to Solicitors dated February 14, 1977
Solicitor Assignments - September 27, 1976
Memo from R. G. Conrad to Professional Staff dated February 6, 1976
Memo from R. G. Conrad to Professional Staff dated January 23, 1975
Solicitors Assignments - January 23, 1975

Yours truly,

A handwritten signature in cursive script, appearing to read "DIP", is written over the typed name "Darrel I. Pink".

Darrel I. Pink

DIP/jl
Enc.

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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ALSO OFFICES AT
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BEDFORD, NOVA SCOTIA

January 27, 1988

BY HAND

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

Dear John:

Our File No. 9201/1

Could you please expedite delivery of the subpoenas to me regarding the Sydney Prosecutors' files.

Yours truly,


Darrel I. Pink

DIP/jl

JAN 27 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
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January 27, 1988

BY HAND

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Halifax, N.S.

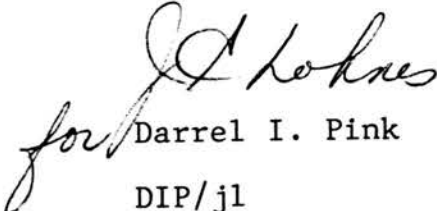
Dear George:

Our File No. 9201/1

Further to your recent request, enclosed is a job description for the position of Director (Criminal).

If you are interested in seeing other material regarding the organization of the Department, this has been provided to Bruce Archibald as part of his research and is readily available from him.

Yours truly,


for Darrel I. Pink

DIP/jl
Enc.

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

JAN 27 1988

LEONARD A. KITZ, Q.C., DC.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
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WYMAN W. WEBB
GORDON N. FORSYTH
KIMBERLEY H. W. TURNER

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

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

January 25, 1988

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

ATTENTION: Mr. W. Wylie Spicer
Commission Counsel

Dear Wylie:

Gordon Coles

Thank you for your letter dated January 15th. We will continue our efforts to try to find out whether Mr. Coles is prepared to meet with you as you have requested.

I will be in touch just as soon as I hear from him.

Yours very truly,

Chris McConnell
for

Jamie W. S. Saunders

JWSS/cam

Forwarded Jan. 27

JAN 26 1988

COX, DOWNIE & GOODFELLOW

BARRISTERS AND SOLICITORS

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

A. WILLIAM COX, O.C.
W. R. E. GOODFELLOW, O.C.
JOHN R. GRANT, O.C.
DANIEL M. CAMPBELL
DOUGLAS C. CAMPBELL
WARREN K. ZIMMER
TERRY L. ROANE
MICHAEL E. DUNPHY
BRIAN W. DOWNIE
ALAN J. DICKSON
D. KEVIN LATIMER
K. MICHAEL TWEEL
RONALD E. PIZZO

RONALD J. DOWNIE, O.C.
DAVID McD. MANN, O.C.
ROBERT G. MACKEIGAN, O.C.
JOHN ARNOLD
DANIEL F. GALLIVAN
THOMAS P. DONOVAN
ANTHONY L. CHAPMAN
J. CRAIG MCCREA
JAMIE S. CAMPBELL
LORRAINE P. LAFFERTY
A. JAMES MUSGRAVE
JOCELYN M. CAMPBELL
BRIAN A. TABOR

GEORGE M. MITCHELL, O.C.
JOHN M. BARKER, O.C.
MICHAEL S. RYAN, O.C.
GREGORY I. NORTH
PETER W. GURNHAM
FREDERICK P. CROOKS
PAUL C. MARTIN
LESLIE J. DELLAPINNA
ROBERT W. CARMICHAEL
JAN MCK. SILLIKER
LES D. DOLL
JONATHAN R. GALE

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

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

OUR FILE: 8118-1

January 26, 1988

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

Dear Mr. Orsborn:

I am writing to you on behalf of my partner, R. J. Downie, who is now out of the Country until February 22.

I am enclosing herewith the original and three copies of an Originating Notice (Application Inter Partes), dated and issued out of the Supreme Court of Nova Scotia, Trial Division, on January 25, 1988. As the Notice indicates, the applicants seek Orders in the nature of Certiorari and Prohibition, as well as Declaratory relief, respecting the "Orders to Appear" dated January 13, 1988 and directed to them by the Defendant Commissioners.

I am also enclosing four (4) copies of the Affidavit of R. J. Downie sworn January 25, 1988, which has been filed in support of the Application.

If you are authorized to accept service of these documents on behalf of the three (3) Defendants, would you kindly endorse the top copy of the Notice and one copy of the Affidavit to that effect and return the same to me. Please let me know if, for any reason, you are unable to accept service.

The Notice specifies that the Application will

January 26, 1988

be heard on Thursday, April 7, 1988 at 9:00 a.m. - during the regular Chambers schedule. Given the nature of the issues raised, it may be more convenient to have the matter heard at a time specially designated for that purpose by arrangement with the Court. I look forward to hearing your views on this and on timing generally.

Yours very truly,



Frederick P. Crooks

FPC:cmg
Enclosures

JAN 26 1988

Jan. 22, 1988

R.R.#4

Tatamagouche, N.S.

BOK 1V0

To: Marshall Inquiry

From: Judy Davis

Inquiry Members,

In light of recent information which has come forth at the Inquiry pertaining to Staff Sgt. Harry Wheatons' statements that, "the dept. would not begin an investigation into a police chief, judge or anyone who would abstract media attention unless instructions from the Attorney Generals Department were recieved first," ...I am sending you copies of material concerning an incident which took place ten years ago in the town of Westville, Pictou Co. N.S.

I am sending you this information as I feel the requested investigation into the police dept. and municipal authorities of that town is still valid today as the same Mayor (Walter Duggan) and police chief (oswald Chalker) are still in office today.

Could our unfulfilled request for an investigation, by several citizens of the town, not been carried out as a result of some sort of intervention by the Attorney Generals dept. of that time ?

Many questions regarding the death of John Wayne Hodgeson remain unsatisfactorily answered in the minds of many to this day.

If the enclosed information can be of any use in this inquiry presently underway or if I can provide you with more please feel free to contact me. If this information is not pertinent to the business at hand could you please return it to me. Thankyou.

Sincerely,

Judy Davis
Judy Davis

R.R.#4

Tatamagouche, N.S.

BOK 1V0

phone 657-3371

original to Miscellaneous File

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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TELEPHONE (902) 429-5050
FAX (902) 429-5215
TELEX 019-22893

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

January 21, 1988

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

ATTENTION: Mr. W. Wylie Spicer
Commission Counsel

Dear Wylie:

Donald Marshall
Our File Number: 9201/1

With the revised schedule I assume that you will not require Mr. Justice Pace to attend until March.

Would you please indicate what dates you are considering and I will check with him.

I know that he plans to leave on vacation at the conclusion of the February term of court.

Yours very truly,



Jamie W. S. Saunders

JWSS/cam

c.c. Darrel I. Pink

JAN 20 1988

PATTERSON & KITZ
BARRISTERS & SOLICITORS

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
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ALSO OFFICES AT
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BEDFORD, NOVA SCOTIA

January 21, 1988

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

ATTENTION: Mr. W. Wylie Spicer
Commission Counsel

Dear Wylie:

Donald Marshall
Our File Number: 9201/1

With your revised schedule we have notified Ron Giffin that he will not appear in February.

He has asked that he be scheduled to attend sometime during the week of March 14, 1977.

As soon as I hear from you we'll advise Mr. Giffin.

Yours very truly,


Jamie W. S. Saunders

JWSS/cam

c.c. Darrel I. Pink

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

January 21, 1988

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

Dear John:

I have read the Terms of Reference of the Research Projects that you were good enough to send to us for comment.

The study of the Attorney General's office does not propose to examine the role of the Attorney General himself in criminal prosecutions, nor his role vis-a-vis cabinet or the Premier of the Province. I think that should be included.

Nor is the role of the local Crown attorney examined in terms which require an assessment of whether the decision to charge, and the decision as to what charges ought to be laid, should be taken from the police and put in the hands of the Crown attorney.

With regard to the police study I would like you to include the question of an examination of the ethical training given police and what the police ethics are, in fact, regarding the integrity of investigations of a criminal nature conducted by them.

It was nice to see you at the airport the other day. I hope these remarks are helpful to you, but our main concern is that there is nothing in all this research which is going to examine the question of how racial prejudice actually affects the jury system in Nova Scotia either then or now. Given the scope of

y & Edwardh

the Terms of Reference of the Royal Commission, this is the central issue and it has simply not been dealt with at all.

Yours very truly,



Clayton C. Ruby

/ms

JAN 25 1988

Petrie & Richmond
Barristers and Solicitors

J. GORDON PETRIE, O.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:

January 21, 1988

George W. MacDonald, Esq.
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Maritime Centre, Suite 1026
1 505 Barrington Street
Halifax, NOVA SCOTIA
B3J 3K5

Dear George:

RE: Eugene Smith

I am enclosing herewith copies of Invoices relating to Mr. Smith's stay in Halifax for the Marshall Inquiry. It is my understanding that you will be paying his share of these expenses. I am also enclosing copies of Invoices for meals that were shared by Mr. Smith and I.

It would seem to me that one-half of this would be fair. Accordingly, I would request payment to myself since all of these charges were put on my charge account in the following amounts:

Room & Lodging		\$ 234.00
Meals	23.41	
	22.98	
	<u>96.66</u>	<u>\$ 143.05</u>
		\$ 377.05

($\frac{1}{2}$ of \$377.05 = \$ 168.50)

- 2 -

Also the travel involved was 196 kilometres return. If you have any problems with this, please advise. I am not aware that you are paying a witness fee. If so, it should be payable to Mr. Eugene Smith.

Yours very truly,
PETRIE & RICHMOND



J. Gordon Petrie, Q.C.

JGP:ame
Enclosures
cc: Eugene Smith



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

Personal and Confidential

January 20, 1988

Ms. Madine VanderPlaat
Director
The Survey Centre
Gorsebrook Research Institute
Saint Mary's University
Halifax, Nova Scotia
B3H 3C3

Dear Ms. VanderPlaat:

As I mentioned to you on the phone I am involved in doing research for the Royal Commission Inquiry into the prosecution of Donald Marshall Jr.

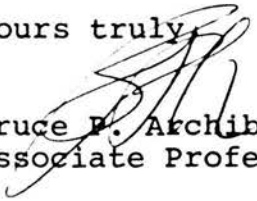
This research will involve me in gathering information via a questionnaire, the first draft of which I enclose for your perusal.

I understand from Richard Apostle and from your brochure which you sent to me earlier, that you may be able to help me with a number of things including the forming of the questionnaire, the administration of the questionnaire, and a computerization and manipulation of the data obtained through it.

I shall be pleased to discuss these issues with you in our meeting at 11:00 a.m. on January 28. The purpose of this meeting would be to fully explore the range of services which you might provide and to be able to submit to the Royal Commission an estimate of the cost of such services.

I look forward to meeting with you.

Yours truly,


Bruce P. Archibald
Associate Professor of Law

c.c. - Mr. John E. S. Briggs ✓
Royal Commission on the
Donald Marshall Jr. Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, N. S.
B3J 3K5

JAN 22 1988

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MacISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

January 21, 1988

BY HAND

Mr. Scott Clark
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Scott:

Our File No. 9201/1

Further to our meeting in Sydney on January 7th, I am enclosing brochures from the Correctional Services Division of the Solicitor General's Department. These brochures cover a number of areas and they are self-explanatory.

I am also enclosing a document entitled "Probation Officer Duties" which lists those various responsibilities for Probation Officers.

I am awaiting word on the pilot project relating to a native probation officer. I hope to be in a position to forward this to you fairly shortly.

Yours truly,



Darrel I. Pink

DIP/jl

Enc.

c.c. Mr. James Crane
Ms. Nadine Cooper-Mont

Dr. Autar Krishen Munshi, Psychiatrist, MB,BS, D.P.M.(London), M.Ch.Psy.(U.K.), F.R.C.P.(C)

207 Alexandra Street

~~897-1016-1122~~

Sydney, N.S. ~~897-1016~~ B1S 2

Tel. (902) 562-2828

JAN 22 1988

January 19, 1988

PRIVATE & CONFIDENTIAL

Mr. George MacDonald
ROYAL COMMISSION ON THE DONALD MARSHALL JR.
PROSECUTION
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, N.S.
B3J 3K5

Re: Roy Newman Ebsary

Dear Mr. MacDonald:

I received your letter on January 5, 1988. I find it very strange that you refuse to pay me for the services that I have provided. I spent my professional time and would like to be paid for the time spent. You may be providing free services, but I do not. In your letter of January 5, 1988, you mentioned about my psychiatric colleagues who had to testify in court. For your information, psychiatrist in question is a salaried psychiatrist; and I am not a salaried psychiatrist.

I am not sure whether you have the authority to approve or disapprove my fees. I would like you to forward my bill to the person who is responsible for my payment.

I am expecting payment soon.

Sincerely,


A.K. Munshi, M.D.
PSYCHIATRIST

AKM/ds

P.S. Please note change of office address.

JAN 22 1988

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.

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

January 20, 1988

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

Dear Ms. Ashley:

RE: Donald Marshall Jr.
Invoice # 2785

Thank you very much for your letter of January 15, 1988. We have just received the payment of the account in question from Mr. Ruby's office. I thank you for looking into this matter for me.

Yours sincerely,

BUCHAN, DERRICK & RING



Flora I. Buchan

FIB:tem
Marshall/Ashley
FIB#2

JAN 22 1988

19 January, 1988

Royal Commission,
Suite 1026,
Maritime Centre,
1505 Barrington St.,
Halifax, N.S.
B3B 3K5



To Whom it May Concern:

Enclosed you will find an Air Canada ticket from Kevin Lynk. As he had to testify in the Donald Marshall inquiry.

Yours Truly,

Patty Walsh
for Kevin Lynk.

JAN 22 1988

BLACK UNITED FRONT

OF

NOVA SCOTIA

2006 GOTTINGEN STREET, HALIFAX, N.S. B3K 3A9
PHONE: (902) 420-0381

January 15, 1988

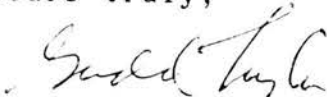
Mr. John Briggs
Director of Research
Royal Commission on the
Donald Marshall Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

I would like to meet with you to discuss a few matters concerning the Black United Front's participation in the Marshall Inquiry especially such items as the present status of the Commission's research, witnesses, etc.

Please contact me at your earliest convenience so that we can arrange a mutual time.

Yours truly,



Gerald Taylor
Executive Director

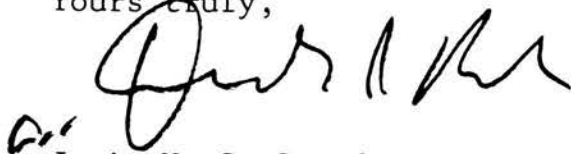
GT*mr

Mr. David Orsborn
January 21, 1988
Page 2

As with other material provided from the Attorney General's Department's files, we ask for the opportunity to review whatever documentation you are assembling as exhibits so that we may object if necessary before the evidence is bound and distributed among other parties. We ask that sufficient time be given to us, and I suggest not less than 10 days advance notice of any such intention on your part.

I look forward to your response as soon as convenient.

Yours truly,

A handwritten signature in black ink, appearing to read "Jamie W. S. Saunders". The signature is written in a cursive style with a large initial "J".

Jamie W. S. Saunders

JWSS/jl