

Nova Scotia



**Department of
Municipal Affairs**

Finance and
Advisory Services

RECEIVED

JUN 8 1988

PO Box 216
Halifax, Nova Scotia
B3J 2M4

902 424-5760

Our file no:
03-88-0016

PATTERSON KITZ

June 1, 1988

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

Dear Mr. Pink:

Re: Marshall Inquiry

In response to your request in the letter dated May 25, 1988, I have the following information.

1. Other Protective Services include consumer investigation, protective inspection, i.e. Building inspection and animal and pest control. These services exclude land registry offices and the administration of justice.

2. The police protection operating costs are obtained from the estimates provided by the municipalities which finance and deliver this service. The classification of the municipalities are determined by the size and urban or rural character of a municipal unit. The various municipal units are grouped in the following classes:

- Class I - over 7500 dwelling units
- Class II - 3000 to 7499 dwelling units
- Class III - 250 to 2999 dwelling units
- Class IV - urbanized areas of rural municipalities
- Class V - rural municipalities excluding Class IV

above.

Implied in the program is the intention to treat similar types of community the same regardless of the legal form of municipal incorporation.

Mr. D. Pink
Re: Marshall Inquiry
Page 2

For each class, the total estimated expenditures are divided by the number of dwelling units to determine the operating standard expenditure per dwelling unit. The police protection element is 25% of this standard for Classes I, II and III.

The Police protection costs would include operating costs for the police commission, administration, crime investigation and prevention, traffic services, training, police stations and buildings, police automotive equipment and the detention and custody of prisoners.

I trust this is a satisfactory response to your concerns. Please contact me if there is any further information you require.

Yours truly,


Melissa Raymond
Municipal Officer

MR/dmw

JUN 9 0 1988

MURRANT BROWN

Barristers & Solicitors

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

ROBERT MURRANT Q.C.

TELEPHONE (902) 421-2121

XEROX-FAX (902) 421-2125

June 8, 1988

COPY FOR YOUR INFORMATION

Mr. Donald C. Murray
STEWART MacKEEN & COVERT
Barristers and Solicitors
900 - 1959 Upper Water Street
P. O. Box 997
HALIFAX, Nova Scotia

Dear Mr. Murray:

RE: Michael Harris

I have your letter of June 7.

Obviously your letter crossed with mine.

I have difficulty in recommending that Mr. Harris attend at the Inquiry for a number of reasons. Obviously, questions of costs and legal fees are involved and it wouldn't appear to make any sense to have lawyers travelling to Newfoundland or Mr. Harris travelling to Halifax unless it is necessary. We feel that responses can be refined in writing provided some diligence is applied to formulating the questions.

Surely, precise questions will have to be formulated whether they are addressed to Mr. Harris in writing or orally. My suggestion is simply that the process be expedited in order to save time and costs for all concerned.

Yours truly,

Robert Murrant

RM*dm

cc. Mr. George W. MacDonald
Commission Counsel

MURRANT BROWN

Barristers & Solicitors

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

ROBERT MURRANT Q.C.

TELEPHONE (902) 421-2121

XEROX-FAX (902) 421-2125

June 7, 1988

Mr. George W. MacDonald
Royal Commission on the
Donald Marshall, Jr., Prosecution
8th Floor
World Trade Centre
HALIFAX, Nova Scotia

Dear Mr. MacDonald:

RE: Marshall Inquiry - Michael Harris

I have your letter of June 6.

Immediately after receiving your letter I spoke with Mr. Murray as regards the interests of Mr. MacIntyre in expediting this matter.

In light of the above, I was able to take further instructions from Mr. Harris.

The solution, as we see it, is as follows:

- (a) The answer to the single question posed by the Commission will be "yes";
- (b) Obviously counsel for Mr. MacIntyre will have some interest in "the details of this disclosure, noting that it was not included in 'Justice Denied'";
- (c) Counsel for Mr. MacIntyre should frame such supplementary questions as are considered necessary under the circumstances;
- (d) On the basis of these written questions, an attempt will be made to provide prompt responses in order to dispose of this matter;
- (e) Mr. Harris will cooperate on the notion that a satisfactory affidavit response can be given and that his personal attendance will not be necessary; and

MURRANT BROWN

- 2 -

(f) Hopefully this matter can be worked out in the spirit of cooperation so that recourse to prerogative and other remedies will not be necessary.

Effectively, this will require that Mr. Murray formulate the questions to be put to Mr. Harris. Quite frankly, we can think of no other expedient method of moving forward as no other party would have an interest in posing such questions.

We look forward to hearing from Mr. Murray at his early convenience.

Yours truly,

A handwritten signature in black ink, appearing to read 'Robert Murrant', written in a cursive style.

Robert Murrant

RM*dm

cc. Mr. Michael Harris

cc. Mr. Donald C. Murray



Law Reform Commission
of Canada

Commission de réforme du droit
du Canada

JUN 08 1988

130 Albert St.
Ottawa, Canada
K1A 0L6

130, rue Albert
Ottawa, Canada
K1A 0L6

Your file *Votre référence*

Our file *Notre référence*

June 6th, 1988

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

Dear Mr. Briggs:

Mr. Stanley Cohen has requested, that I forward to you a copy of the latest version of our Working Paper entitled **Toward A Unified Criminal Court** for your information.

Yours sincerely,

E. Dianne Rathwell

E. Dianne Rathwell
Secretary to Coordinator
Criminal Procedure Project

Enclosure

*John Briggs
has material*

Canada

JUN 08 1988

Nova Scotia



**Department of
Attorney General**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no: 09-88-0042-01

Our phone no: 424-4033

June 3, 1988

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

Dear Mr. Briggs:

**Re: Records Retention
- Cases (Criminal),
Theft & Possession**

Further to our telephone conversation of May 30, 1988, I enclose a copy of the approved Records Retention Schedule (Schedule "A"). I would refer you to item 21-0920.1A - Cases (Criminal) Theft & Possession. These would include all summary conviction cases. You will note that following a six month active period in the Prosecutors' Office, these files are forwarded to the Provincial Government Records Centre where they are kept for an additional three years, following which they are destroyed.

Schedule "B" reflects the proposed revision of this Records Retention Schedule and under the same item number, you will note that following a six month active period in the Prosecutors' Office, these files are to be forwarded to the Records Centre where they will be retained for a 9½ year period, resulting in a total document life of 10 years, following which they will be destroyed.

I trust this is the information you require.

Yours very truly,

A handwritten signature in cursive script that reads "Martin E. Herschorn".

Martin E. Herschorn, Q.C.
Director (Prosecutions)

MEH:if
Encls.
c.c. Darrel I. Pink

APPROVED RECORDS RETENTION SCHEDULE

DEPARTMENT/AGENCY ATTORNEY GENERAL	CODE NO	DISTRIBUTION	DATE FIRST SCHEDULE ISSUED
CLASSIFICATION 09 CRIMINAL MATTERS		REVISION NO	DATE REVISED
		APPROVED BY MINISTER	D.C. NO. P7-253

ITEM NUMBER	RECORD NAME OR DESCRIPTION	DEPT		REC CTR	MICRO ATTER	RETAIN MICRO FOR	TOTAL DOC LIFE	FINAL DOC DISPOSITION SEE BELOW
		ACT	INACT					
21-0915	15 EXTRADITION							
21-0915.1	- General	1	10				11	D
21-0916	16 STATISTICS							
21-0916.1	- Criminal	1	2	2			5	D
21-0917	17 OBSCENE LITERATURE							
21-0917.1	- General	1	2	3			6	D
21-0918	18							
21-0919	19 PREVENTION OF CRIME	1	2	3			6	D
21-0920	20 PROSECUTORS' RECORDS							
21-0920.1	- Cases (Criminal) General	*2		4			6	D
21-0920.1A	- Cases (Criminal) Theft & Possession	*6mths		3			3 1/2	D
21-0920.1B	- Cases (Criminal) Motor Vehicle	*6mths		3			3 1/2	D
21-0920.2	- Warrants	10		15			25	PA
21-0920.3	- Correspondence - General	3		3			6	D
21-0920.3A	- Correspondence - Special	3	10				13	D
21-0920.4	- Index Cards	5	5	10	20	P	20	Shred
21-0920.4A	- Transmittal Lists	5		10	15	P	15	Shred

* or duration of case

FINAL DISPOSITION CODES

AS-Archival Selection

PA - PUBLIC ARCHIVES

LL - LEGISLATIVE LIBRARY

REV - REVIEW

D - DESTROY

APPROVED RECORDS RETENTION SCHEDULE

DEPARTMENT AGENCY ATTORNEY GENERAL		CODE NO.	DISTRIBUTION	DATE FIRST SCHEDULE ISSUED			
			REVISION NO.	DATE REVISED			
CLASSIFICATION 09 CRIMINAL MATTERS			APPROVED BY MINISTER				DIC No 87-253

ITEM NUMBER	RECORD NAME OR DESCRIPTION	DEPT		REC CTR	MICRO AFTER	RETAIN MICRO FOR	TOTAL DOC LIFE	FINAL DOC DISPOSITION (SEE BELOW)
		ACT*	INACT*					
21-0915	15 EXTRADITION							
21-0915.1	- General	1	10				11	D
21-0916	16 STATISTICS							
21-0916.1	- Criminal	1	2	2			5	D
21-0917	17 OBSCENE LITERATURE							
21-0917.1	- General	1	2	3			6	D
21-0918	18							
21-0919	19 PREVENTION OF CRIME	1	2	3			6	D
21-0920	20 PROSECUTORS' RECORDS							
21-0920.1	- Cases (Criminal) General	*2		23			25	D
21-0920.1A	- Cases (Criminal) Theft & Possession		*6mons	9½			10	D
21-0920.1B	- Cases (Criminal) Motor Vehicle		*6mons	9½			10	D
21-0920.2	- Warrants	10		15			25	PA
21-0920.3	- Correspondence - General	3		3			6	D
21-0920.3A	- Correspondence - Special	3	10				13	D
21-0920.4	- Index Cards	5	5	15	25	P	25	Shred
21-0920.4A	- Transmittal Lists	5		10	15	P	15	Shred

* or duration of case

FINAL DISPOSITION CODES

AS-Archival Selection
 PA - PUBLIC ARCHIVES
 LL - LEGISLATIVE LIBRARY
 REV - REVIEW
 D - DESTROY

JUN 07 1988

STEWART MACKEEN & COVERT
BARRISTERS AND SOLICITORS

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

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

JOHN D. MOORE, O.C.
DAVID A. STEWART, O.C.
G. DAVID N. COVERT, O.C.
J. GERALD GODSOE, O.C.
WILLIAM L. RYAN, O.C.
DAVID MILLER
JOHN D. PLOWMAN
TIMOTHY C. MATTHEWS
ROBERT G. GRANT
MICHAEL T. PUGSLEY
CHARLES S. REAGH
D. GEOFFREY MACHUM
DONALD C. MURRAY
JAMES B. WOODER
DAVID P. S. FARRAR

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

CORRESPONDENCE
P O BOX 997
HALIFAX, CANADA B3J 2X2

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

DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

DONALD A. KERR, O.C.

COUNSEL
BRIAN FLEMMING, O.C.

HUGH K. SMITH, O.C.

COPY

June 7, 1988

DELIVERED

Mr. Robert Murrant,
Murrant Brown,
Suite 404, Purdy's Wharf Tower,
P.O. Box 2626,
Halifax, Nova Scotia,
B3J 3B7

Dear Mr. Murrant:

RE: Michael Harris

Thank you for your telephone call of yesterday afternoon during which we discussed this matter at length. Having now had an opportunity to discuss the matter in depth with Mr. Pugsley it is our position that in the event that Mr. Harris gives a positive response to the question contained in the draft form of responding document (enclosed), Mr. Harris should appear before the Commission to give viva voce evidence about the details of Wheaton's disclosure.

If the form of responding document is satisfactory to you, perhaps you would be so kind as to have the document re-typed including the proper answer, forwarding it then to Commission Counsel who could then secure Mr. Harris' declaration to this effect most expeditiously in Newfoundland. Then we could make any logistical decisions about receiving further evidence from Michael Harris, should this be required by virtue of the

June 7, 1988

2

answer given. Of course, we would appreciate receiving a copy of any documentation forwarded on by you to the Commission.

Yours very truly,
STEWART, MACKEEN & COVERT
Per:

Donald C. Murray

DCM/dmb

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

c.c. R.N. Pugsley, Q.C.
N2061608

1988

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

IN THE MATTER OF: An Application on behalf of John F.
MacIntyre;

- and -

IN THE MATTER OF: Michael Harris;

- and -

IN THE MATTER OF: Public Inquiries Act, R.S.N.S. 1967,
c. 250, as amended, and the Evidence
Act, R.S.N.S. 1967, c. 94, s. 59, as
amended.

DECLARATION

I, MICHAEL HARRIS, Journalist, of St. John's, Newfoundland, do solemnly declare that I have reviewed the materials attached to this Declaration as Exhibit "A" which I am informed by my counsel and do believe fairly and accurately represent the evidence of Staff Sergeant Harry Wheaton of the Royal Canadian Mounted Police to the Royal Commission on the Donald Marshall, Jr., Prosecution on January 19, 1988 with respect to an alleged paper-slipping incident involving John F. MacIntyre on April 26, 1982. As to the question asked by the Royal Commission on the Donald Marshall, Jr., Prosecution which I understand to be:

Whether I was told of this alleged incident by
Staff Sergeant Harry Wheaton?

my answer is

I make this solemn declaration conscientiously believing

N2061607

it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at)
Province of)
this day of)
1988, before me)
)
)
)
)
_____)

Michael Harris

A Person Authorized by the Laws of the Province to take Affidavits in and for any of the Courts of that Province.

1988

THE ROYAL COMMISSION ON THE
DONALD MARSHALL, JR. PROSECUTION

DECLARATION

Stewart, MacKeen & Covert
P.O. Box 997
Halifax, Nova Scotia
B3J 2X2
DCM

JUN 06 1988

LEONARD A. KITZ, Q.C. D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
S. RAYMOND MORSE
DARREL I. PINK
JACK A. INNES, Q.C.
DIANNE POTHIER
JANET M. CHISHOLM
PETER M. ROGERS

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

FRED J. DICKSON, Q.C.
DAVID R. HUBLEY, Q.C.
GERALD J. McCONNELL, Q.C.
RONALD A. PINK
LOGAN E. BARNHILL
JOEL E. FICHAUD
J. MARK McCREA
D. SUZAN FRAZER
BRUCE A. MARCHAND
RODNEY F. BURGAR
JANICE A. STAIRS
DENNIS J. JAMES

JAMES C. LEEFE, Q.C.
FRANK J. POWELL, Q.C.
CLARENCE A. BECKETT, Q.C.
GEORGE L. WHITE
DAVID R. FEINDEL
A. DOUGLAS TUPPER
DORA L. GORDON
LORNE E. ROZOVSKY, Q.C.
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

June 6, 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:

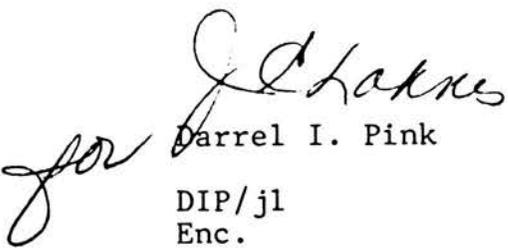
Marshall Inquiry
Prosecutors
Our File No. 9201/1

I have had compiled, information regarding the Bar admission date, appointment date, initial classification and current classification and salary for Prosecuting Officers and enclose this for Professor Archibald's study.

It is imperative that the specifics of the information contained herein be kept confidential and it is provided to you on that basis.

Of significance is the note that as of April 1, 1988, all Order-in-Council prosecutors were converted to civil service prosecutors with all the rights and privileges that pertain thereto.

Yours truly,


Darrel I. Pink

DIP/jl
Enc.

John Briggs
has attached
material

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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A. DOUGLAS TUPPER
DORA L. GORDON
LORNE E. ROZOVSKY, Q.C.
WYMAN W. WEBB
GORDON N. FORSYTH
KIMBERLEY H. W. TURNER

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

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

June 6, 1988

BY HAND

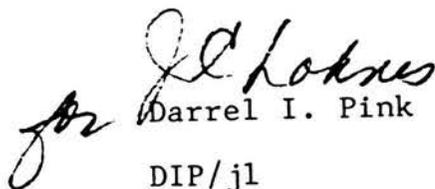
Mr. John Briggs
Director of Research
Royal Commission on the
Donald Marshall, Jr. Prosecution
Suite 1026
1505 Barrington Street
Halifax, N.S.

Dear Mr. Briggs:

Marshall Inquiry
Police
Our File No. 9201/1

As I endeavour to complete the list of undertakings for material previously given, I now enclose a list of the assessments of municipal police departments done by the Nova Scotia Police Commission. I believe the list is self-explanatory.

Yours truly,


Darrel I. Pink

DIP/jl
Enc.

Nova Scotia



Nova Scotia
Police Commission

PO Box 1573
Halifax, N.S.
B3J 2Y3

902 424-3246

25 March 1988

Our File # 04-86-0017-02.2

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

Dear Sir:

Further to our telephone discussion, attached is a list of the assessments of municipal police departments that have been conducted by the Nova Scotia Police Commission. I have also included other studies which although not assessments per se, are at least in my opinion closely related.

As we discussed, any release of these studies, assessments in particular, without permission of the Boards of Police Commissioners, could have an adverse effect on the credibility of the Commission. In accepting these assignments the Commission have always considered themselves to be consultants to the parties requesting same and have stated that release of the document except to the Attorney General was at the discretion of the originators of the request.

Yours truly,



George A. Smith,
Director of Police
Research & Statistics.

GAS/smb
Attach.

cc: Deputy Solicitor General.

ASSESSMENTS OF MUNICIPAL POLICE DEPARTMENTS
BY THE NOVA SCOTIA POLICE COMMISSION

1. Amherst
2. Annapolis Royal
3. Berwick
4. Bridgewater
5. Dominion
6. Glace Bay
7. Louisbourg
8. Lunenburg
9. Mahone Bay
10. Middleton
11. New Glasgow
12. New Waterford
13. Springhill
14. Stellarton
15. Wolfville

In addition to the above the following related studies were also done:

1. Dartmouth - A re-structuring proposal requested by Chief of Police.
2. Mahone Bay - A personnel related study with references to the assessment done five years earlier.
3. Bedford - Assistance to Department of Municipal Affairs.
4. Bedford - Start-up costs, personnel, equipment, budget, etc. - assistance to Town of Bedford.
5. Middleton - Requested follow-up to assessment.
6. Lower Sackville - Policing Requirements - assistance to Department of Municipal Affairs.
7. Sydney - A re-structuring proposal requested by Chief of Police.
8. Cape Breton County Regional Police - A feasibility study requested by the Cape Breton County Joint Expenditure Board. This is already in the possession of the Marshall Inquiry.

SMITH, GAY, EVANS & ROSS

BARRISTERS & SOLICITORS

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

604 QUEEN SQUARE
P O BOX 852
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5
Telephone (902) 463-8100
Facimile (902) 465-2313

June 2, 1988

File #1085-01

DICTATED BUT NOT READ

ROYAL COMMISSION ON
DONALD MARSHALL JR., PROSECUTION
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, NS
B3J 3K5

Attention: John E. S. Briggs, Esq.

Dear John:

Re: Dr. Wilson Head's Study - Review Process

Finally, and at very long last, I am forwarding the list pursuant to your letter of April 5, 1988.

I am advised that the people considered for the review team by the Black United Front will be the following:

1. Yvonne Atwell
2. Gerald Taylor
3. Calvin Gough
4. John Mooring
5. Cheryl Bishop
6. Ken Crawford

It is my understanding that you propose to invite Ken Crawford separately, and accordingly, I would also suggest that Joyce Robart be included.

Mr. John Briggs

Page 2

June 2, 1988

File #1085-01

With respect to the Native Research Program, Review Process, I will be attending and with me will be Yvonne Atwell of the Black United Front.

The individual whom I spoke sometime ago is Ms Jackie Barkley, and as I understand it, she can be reached at home at 454-5784.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:

E. Anthony Ross
E. ANTHONY ROSS (lms)

EAR/lms

cc: G. Taylor

J. Briggs - (Fax #424-2709)

Encl.

SMITH, GAY, EVANS & ROSS

BARRISTERS & SOLICITORS

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

604 QUEEN SQUARE
 P. O. BOX 852
 DARTMOUTH, NOVA SCOTIA
 B2Y 3Z5
 Telephone (902) 463-8100
 Facimile (902) 465-2313

June 2, 1988

File #1085-01

DICTATED BUT NOT READ

**ROYAL COMMISSION ON
 DONALD MARSHALL JR., PROSECUTION**
 Maritime Centre
 Suite 1026
 1505 Barrington Street
 Halifax, NS
 B3J 3K5

Attention: John E. S. Briggs, Esq.

Dear John:

Re: Marshall Inquiry - Other Cases

As you know, I have been trying to raise some money to address some "other cases" to be put before the Inquiry. It is my view that the factual information relating to these "other cases" will tie in the research done by Dr. Head etc. with what has been received by way of Viva Voce testimony.

I am advised that such a program will be well received by the Department of Secretary of State **PROVIDED THAT IT DOES NOT CONFLICT WITH THE MARSHALL INQUIRY.**

I explained to people in the Ottawa office the limitations of the terms of reference of the Commission, but they ask that I try to get a letter from you as Director of Research to the effect that any other research being carried out by the Black United Front as these relate to "other cases" will not be in conflict with what the Inquiry is doing.

There is serious urgency in this regard, and if you are of the view that looking into some other cases and providing the information to you as discussed and putting the information before the Inquiry does not conflict with the Inquiry process itself, I ask that you send me such a letter (hopefully by fax) at your very, very earliest convenience.

Mr. John Briggs

Page 2

June 2, 1988

File #1085-01

Please understand that along with my submission, a photocopy of your letter will be forwarded to Secretary of State, Ottawa.

I thank you for your cooperation.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:

E. Anthony Ross
E. ANTHONY ROSS (lms)

EAR/lms

cc: K. Crawford (Fax #420-1038)

J. Briggs (Fax #424-2709)

G. Taylor

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
S. RAYMOND MORSE
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J. RONALD CREIGHTON
J. RONALD CULLEY
NANCY J. BATEMAN
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DENNIS ASHWORTH
WENDY J. JOHNSTON
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J. MARK McCREA
D. SUZAN FRAZER
BRUCE A. MARCHAND
RODNEY F. BURGAR
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DENNIS J. JAMES

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TELEPHONE (902) 429-5050
FAX (902) 429-5215
TELEX 019-22893

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

June 2, 1988

BY HAND

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

Dear Mr. Spicer:

Our File No. 9201/1

I acknowledge receipt of yours of June 2, 1988, to Jamie Saunders regarding the re-appearance of Mr. Giffin before the Inquiry.

As advised, at the conclusion of the June 2, 1988, hearings, we are instructed to appeal the decision of Chief Justice Glube and will be proceeding to prepare a Notice of Appeal in the near future.

Accordingly, I am assuming our previous arrangement stands and there is an effective stay of the effect of Chief Justice Glube's order.

Yours truly,



Darrel I. Pink

DIP/jl

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

JUN 06 1988

LEONARD A. KITZ, Q.C. D.C.L.
JOHN D. M. ISAAC, 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

June 3, 1988

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

Dear Mr. Briggs:

Marshall Inquiry
Our File No. 9201/1

Further to my letter of June 1, 1988, I enclose the resumé
of Mr. T. Robert Parker, Q.C.

Yours truly,

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

CMH/cs
encl:

PERSONAL RESUME OF T. ROBERT PARKER, Q.C., CROWN PROSECUTOR, PICTOU COUNTY,
PROVINCE OF NOVA SCOTIA

Birth Place: New Waterford, Cape Breton County, Nova Scotia, November 13, 1933.
Grew up in Halifax, Nova Scotia.

Education: Richmond Grammar School
Queen Elizabeth High School
Dalhousie University
Dalhousie Law School - graduated from Dalhousie Law School,
May 1959 - LLB
Articled with Ronald J. Downie - law firm of Rutledge, MacKeigan,
Craig & Downie.
Admitted to Bar of Nova Scotia, March 14, 1960.
General practice of Law with John T. Connors in Dartmouth,
Nova Scotia. 1960 - 1966 (emphasis of practice being
on criminal law).
General practice of Law 1966 - 1973 with Elmer M. MacKay
at New Glasgow, Nova Scotia, under the firm name - "MacKay
and Parker" (emphasis of practice on criminal law).
Began full-time prosecutions - October 1974.
Appointed Queens Counsel - December 23, 1976.
Have participated as a presenter at the refresher course
presented by the Federation of Law Societies of Canada.
Have participated as a panelist and presenter at some of the
presentations by the Continuing Legal Education Society of
Nova Scotia, pertaining to criminal law.
Have lectured to members of the Royal Canadian Mounted Police
at "H" Division, Halifax, Nova Scotia, on criminal investigations
- gathering of criminal evidence, and presentation of evidence
in criminal trials.
Have lectured and made formal presentations at the Arson
Investigators Course at Acadia University, Wolfville, Nova Scotia.
An active member with the Canadian Association of Crown Counsel.

Marital Status: Married to Phyllis June Abell 1964
two daughters, Catherine and Elizabeth.

In summary - during my practice have spent fourteen years
defending criminal cases at all court levels and fourteen
years prosecuting criminal cases at all court levels.

T. Robert Parker Q.C.
T. Robert Parker, Q.C.,
Crown Prosecutor.

JUN 03 1988

TAYLOR
McCAFFREY
CHAPMAN

BARRISTERS & SOLICITORS

4TH FLOOR
386 BROADWAY
WINNIPEG, MANITOBA
R3C 3R6

TELEPHONE (204) 949-1312
TELECOPIER (204) 957-0945

DONALD K BIBERDORF
JACK M CHAPMAN Q C
RONALD L COKE
(also of Alberta & B C Bar)
DOUGLASE FINKBEINER
PAUL B FORSYTH
ROBERT T GABOR
COLIN J GILLESPIE
(also of Saskatchewan Bar)
WILLIAM G HAIGHT
JAMES W HEDLEY
JOE E HERSHFELD
DAVID C KING
JACK A KING

PATRICIA C L...E
ERIC G LISTER
JACQUELINE A LOWE
A DAVID MARSHALL
(also of B C Bar)
D ARCY McCAFFREY Q C
(also of Saskatchewan Bar)
MICHAEL W McCANDLESS
JAMES R McLEOD
(also of Ontario Bar)
LORNE G C MILNE
GRANT MITCHELL
JEFFREY J PALAMAR
DENISE A M PAMBRUN

G PATRICK S RILEY
ROD C ROY
BRUCE H RUTHERFORD
S GLENN SIGURDSON Q C
(also of Saskatchewan Bar)
MARTA J SMITH
LAWRENCE B STEINBERG
(also of B C Bar)
J F REEH TAYLOR Q C
TIMOTHY N TAYLOR
ELIZABETH R TEIXEIRA

COUNSEL
H SANFORD RILEY

June 1, 1988

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

ATTENTION: Mr. John E. S. Briggs

Dear Mr. Briggs:

RE: Dr. Scott Clark's Study -
The Mi'kmaq and Criminal Justice
in Nova Scotia

This is to confirm that I would be pleased to participate in the review process as outlined in your letter of May 25, 1988. Enclosed as requested is a signed copy of your letter of engagement.

I look forward to participating in the workshop on June 16, 1988 and meeting you at that time.

Yours truly,

TAYLOR McCAFFREY CHAPMAN

Per:



Rod McLeod

RM:mcb

*Letter Not
Enclosed as
Stated.*

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

May 30, 1988

BY HAND

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

Dear Mr. Spicer:

Marshall Inquiry
Our File No. 9201/1

Thank you for your letter dated May 20th enclosing a stamped copy of the order of Chief Justice Glube filed with the Prothonotary on the same date.

The appeal period will expire 30 days from that point. I will be in touch with you when I have received my instructions.

Yours very truly,

Candace Stetson

for: Jamie W.S. Saunders
JWSS/cs

JUN 03 1988

HENSON
COLLEGE

Micmac Professional Careers Project

May 24, 1988

Mr. John Briggs
Royal Commission
Maritime Centre
Suite 1126
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

We invite you to participate in a Native Law Seminar organized by the Micmac Professional Careers Project Committee. The main focus of the seminar will be the issues and problems concerning Native Legal Education. The seminar will be held on June 17th at Henson College in the auditorium from 8:30 to 4:30.

We believe the proposed seminar is needed to respond to the low levels of enrollment of Micmac and other Native students in Law School. Very few students successfully complete the full Law Program and consequently we face a lack of Micmac and Native Law expertise to deal with our legal affairs. It is important to the Micmac people that we have our own Native lawyers especially in view of the steps being taken to gain control of our own destiny. The Native Law Seminar will provide insight into the problems, identify the issues and work towards recommendations for a strategy to change the present situation.

Your participation in this most important and timely seminar is greatly needed since you have concerns, ideas and relevant experience to share. Your contribution to this seminar through participation will be very valuable and most appreciated.

A tentative agenda is enclosed for your information. Please call me at 424-8868 to confirm your attendance. Further information will be made available before the event.

Yours sincerely,

MICMAC PROFESSIONAL CAREERS PROJECT



Catherine Martin
Co-Ordinator

CM/dlp

Micmac Professional Careers Project

DALHOUSIE UNIVERSITY
Henson College Auditorium

SEMINAR

"NATIVE LEGAL EDUCATION"

A G E N D A

- 8:30 MORNING GATHERING - INFORMAL INTRODUCTIONS
COFFEE, TEA & MUFFINS SERVED
- 8:50 OPENING PRAYER
- 9:00 INTRODUCTORY REMARKS
- a) Viola Robinson, Native Council of Nova Scotia
 - b) Fred Wien, Director, Micmac Professional Careers Project
 - c) Innis Christie, Dean, Dalhousie Law School
- 9:30 PANEL: NATIVE EXPERIENCE WITH LEGAL EDUCATION
- a) Don Julian - Attended Saskatchewan Law Program
 - b) Darlene Paul - Attended Saskatchewan Law Program
- 1 year Osgoode Hall
- COFFEE BREAK
- c) - Saskatchewan Law Programme
- 1 year Dalhousie Law School
(To be confirmed)
 - d) Graydon Nicholas - Attended Saskatchewan Law Program
- University of New Brunswick
- QUESTIONS
- 11:00 DISCUSSION GROUPS
- 11:45 REPORTS FROM GROUPS
- 12:00 LUNCH (Served in Auditorium) Guest Speaker (Not yet confirmed)
- 1:00 PANEL: ALTERNATIVE APPROACHES TO NATIVE LEGAL EDUCATION
- a) Prof. Samuel Stevens - University of British Columbia
 - b) Ruth Thompson - University of Saskatchewan, Saskatchewan
Native Law Centre
 - c) Prof. Bruce Wildsmith - Dalhousie Law School
- 2:30 QUESTIONS
- 2:45 COFFEE
- 3:00 DISCUSSION GROUPS
- 3:45 RECOMMENDATIONS PANEL: STRATEGIES FOR CHANGE
- 4:15 CONCLUSION
- 4:30 CLOSING PRAYER



Royal Canadian
Mounted Police

Gendarmerie royale
du Canada

JUN 03 1988

Your file Votre référence

Our file Notre référence

88-05-30

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

Dear Sir:

Re: Officer Information Sheets

This is to advise that we have approached our members again with a view to having additional Officer Information Sheets completed. This further step has been taken to endeavour to assist you with your survey.

Cpl. Grant Shaw will advise you of further responses.

Yours truly,

C. J. Reid, Chief Superintendent
Commanding "H" Division

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

BY HAND

June 1, 1988

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

Dear Mr. Briggs:

Marshall Inquiry
Our File No. 9201/1

Further to your letter to Darrel Pink dated May 20, 1988, I enclose copies of resumes for Douglas J. Keefe, John D. Embree and Martin E. Herschorn. I also attach a brief biographical sketch for Adrian Ried. I am waiting for a response to my request for a brief biographical sketch from Robert Parker. Upon receipt of Mr. Parker's sketch I will forward the same to you.

Truly yours,

Catherine M. Hicks

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

CMH/sc
encl.

RESUME

DOUGLAS J. KEEFE

ADDRESS: 7 Lawnsdale Drive
Dartmouth, Nova Scotia
Canada, B3A 2N1

TELEPHONE: Residence: (902) 463-3418
Office: (902) 424-3236

DATE OF BIRTH: December 20, 1950

PLACE OF BIRTH: Halifax, Nova Scotia

NATIONALITY: Canadian

HEALTH: Excellent

MARITAL STATUS: Married with three children - ages six, four and two months.

EMPLOYMENT EXPERIENCE:

- 1988
- Assumed responsibility for
 - (a) civil matters pertaining to Aboriginal peoples,
 - (b) offshore energy,
 - (c) Transportation Policy, and
 - (d) Communications Policy.

- 1987 to 1988
- Directly involved in development and drafting of various legislative initiatives in the field of transportation and natural resources.
- 1980 to 1988
- Principal legal advisor to the Nova Scotia Department of Mines and Energy. While day-to-day legal services are performed by an in-house solicitor I am involved in all major resource related matters including:
 1. Development of new petroleum and mineral legislation.
 2. Representing the Department before the Courts and Boards, including the National Energy Board.
 3. Assistance in negotiation of contracts and agreements with consultants, the Federal Government, etc. as required.

I have, I believe, a sound knowledge of natural resources law including constitutional and international aspects.

- 1985
- Attorney General's representative on the team negotiating a new Federal/Provincial offshore energy administration agreement.

- 1982 to 1987
- Attorney General's representative on the team developing legislation to implement the Canada/Nova Scotia Petroleum Agreements.

- 1981
- Nova Scotia delegate to United Nations Law of the Sea Conference, Geneva, Switzerland, 1981 (Boundary delimitation).

- 1977 to 1981
- Prior to moving into the natural resources field I conducted a high volume of administrative law and general civil litigation. I specialized in real property and business valuation cases. In three years I conducted approximately 210 separate cases 40 of which reached the Nova Scotia Court of Appeal and one, the Supreme Court of Canada. A large number of these cases involved substantial questions of law and money.

I continue to handle one or two cases a year.

- 1977 to 1980 - Counsel to the Nova Scotia Public Utilities Board respecting Municipal boundaries.
- Sept. 1976 to June 1977 - Articled with the law firm of Burchell, Jost, MacAdam and Hayman in Halifax. As a number of the partners took an interest in my legal development I was exposed to a great many of the facets of the general practice of law.
- June 1976 to Sept. 1976 - Taxi Driver with the "Y" Taxi.
- May 1975 to Sept. 1975 - Field Representative, Canadian Mental Health Association - travelled the Province extensively, speaking to small groups on the importance of mental health using a format similar to university seminars.
- June 1972 to Aug. 1973 - Professional musician.
- Feb. 1971 to June 1972 - Announcer/operator Radio Dartmouth Limited (CFDR) on weekends.

ACADEMIC EXPERIENCE:

- 1986 to 1987 - Author of two texts on law and property assessment for Henson College, Dalhousie University. A third is under way.
- Lecturer, Henson College.
- Speaker, Natural Resources Law, Dalhousie Law School.
- Speaker, at seminars for assessors and Assessment Appeal Court Chairmen.

- Speaker, Nova Scotia Chamber of Mines Annual Meeting, 1986.

EDUCATION:

Saint Mary's University - 1969 to 1972 B.A. (English)

Dalhousie Law School - 1973 to 1976 LL.B.

- 1985 to present LL.M. candidate (part time) (completed course requirements and currently writing a thesis on natural resources and constitutional law).

ACTIVITIES:

Team leader, Campaign for Dalhousie, 1987.

Coach, Caledonia Junior Soccer.

HOBBIES:

Music, soccer and reading.

Member, Nova Scotia Barristers' Society and the International Bar Association (Natural Resources Section).

**RESUME
OF
MARTIN E. HERSCHORN**

ADDRESS: (Home) 129 Tangmere Court
Halifax, Nova Scotia
B3M 1J8

(Office) Department of Attorney General
Province of Nova Scotia
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

TELEPHONE: (Home) (902) 443-6554

(Office) (902) 424-4033

AGE: 41

MARITAL STATUS: Married, two children

EDUCATION: Bachelor of Commerce, 1967, Dalhousie University

Bachelor of Laws, 1970, Dalhousie University

Attendance at Criminal Law Refresher Courses offered
by the Federation of Law Societies of Canada and
Continuing Legal Education Society of Nova Scotia

**EMPLOYMENT
EXPERIENCE:** Department of Attorney General
Province of Nova Scotia

Positions held:

Solicitor	January, 1972 - January, 1978
Senior Solicitor	January, 1978 - September, 1980
Assistant Director (Criminal)	September, 1980 - March, 1986
Director (Prosecutions)	March, 1986 - present date

Civil responsibilities as Solicitor and Senior Solicitor:

Department of Mines
Provincial Secretary
Residential Tenancies Boards
Rent Review Commission
Department of Agriculture & Marketing

Criminal responsibilities as Senior Solicitor and Assistant Director (Criminal) included preparation and presentation of all criminal appeals before the Appeal Division, Supreme Court of Nova Scotia, the Supreme Court of Canada, and assessment of requests by prosecuting officers for appeals.

Current responsibilities as Director (Prosecutions) include:

- (1) Supervision and direction of prosecutions and prosecuting officers in the Province of Nova Scotia
- (ii) Assistance to the Director (Criminal) in assessing requests for appeals submitted by prosecuting officers in the Province
- (iii) Advice on civil and criminal matters to the Correctional Services Division, Department of Attorney General

OTHER DATA:

Past Provincial Chairman, Young Lawyers Section, Canadian Bar Association

Member, Board of Directors, Waegwoltic Club

Member, Board of Directors, Continuing Legal Education Society of Nova Scotia

President, Jewish Historical Society of Halifax

CURRICULUM VITAE

JOHN DOWER EMBREE

PERSONAL

Address: 123 Hardisty Court
Dartmouth, Nova Scotia
B2V 1K8

Telephone: (902) 462-1234

Born: April 8, 1953
Halifax, Nova Scotia

Marital Status: Married

EDUCATION

LL.B. 1977, Dalhousie Law School

Activities: Student Representative on Law Faculty
Appointments Committee, 1974-5 and 1975-6
Member of the Organizing Committee,
Dalhousie Law School Mock Parliament, 1975-6
Student Representative on Law Faculty
Tenure and Promotion Committee, 1976-7

B.A. 1974, Dalhousie University

Major: Political Science (Canadian Government and
Constitution)

Minor: History

Awards: Dalhousie Entrance Scholarship
Dalhousie Scholarship to complete Honours B.A.
(fourth year) - declined because entering law school

High School 1968-71, Halifax West High School

Valedictorian of the Class of 1971

PROFESSIONAL MEMBERSHIPS

Nova Scotia Barristers' Society
(Member of the Administration of Justice Committee)

ORGANIZATIONS AND CLUBS

Rotary Club of Halifax Northwest

EMPLOYMENT

December 1985 to Present: Senior Solicitor, Department of Attorney General, Halifax, Nova Scotia.

January 1983 to December 1985: Crown Prosecutor, Department of Attorney General, Halifax, Nova Scotia.

January 1978 to December 1982: Crown Attorney, Newfoundland Department of Justice, St. John's, Newfoundland.

ADRIAN RIED

Brief Biographical Sketch

Graduated from Dal Law School-1975
Called to the Nova Scotia Bar-March 1986

Mr. Reid has been working with the Attorney General's Department since his admission to the Bar in March of 1976 until the present period.

JUN 02 '88 11:31 SMITH Y, EVANS&ROSS 902 4652313

P.2

June 2/88

SMITH, GAY, EVANS & ROSS
BARRISTERS & SOLICITORSJUN 02 1988BRUCE W. EVANS
(Also of the Alberta bar)
JEREMY GAY
E. ANTHONY ROSS, M. Eng., P. Eng.
W. BRIAN SMITH
KEVIN DROLET604 QUEEN SQUARE
P.O. BOX 852
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5
Telephone (902) 463-8100
Facimile (902) 465-2313

June 2, 1988

File #1085-01

Dictated but not readROYAL COMMISSION ON
DONALD MARSHALL JR., PROSECUTION
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, NS
B3J 3K5Attention: John E. S. Briggs, Esq.

Dear John:

Re: Dr. Wilson Head's Study - Review Process

Finally, and at very long last, I am forwarding the list pursuant to your letter of April 5, 1988.

I am advised that the people considered for the review team by the Black United Front will be the following:

1. Yvonne Atwell
2. Gerald Taylor
3. Calvin Gough
4. John Mooring
5. Cheryl Bishop
6. Ken Crawford

It is my understanding that you propose to invite Ken Crawford separately, and accordingly, I would also suggest that Joyce Robart be included.

JUN 02 '88 11:31 SMITH, GAY, EVANS & ROSS 902 4652313

P.3

Mr. John Briggs

Page 2

June 2, 1988

File #1085-01

Please understand that along with my submission, a photocopy of your letter will be forwarded to Secretary of State, Ottawa.

I thank you for your cooperation.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:

E. Anthony Ross
E. ANTHONY ROSS (lms)

EAR/lms

cc: K. Crawford
J. Briggs (Fax #424-2709)
G. Taylor

SMITH, GAY, EVANS & ROSS
BARRISTERS & SOLICITORS

BRUCE W. EVANS
(Also of the Alberta bar)
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June 2, 1988

File #1085-01

DICTATED BUT NOT READ

**ROYAL COMMISSION ON
DONALD MARSHALL JR., PROSECUTION**
Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, NS
B3J 3K5

Attention: John E. S. Briggs, Esq.

Dear John:

Re: Marshall Inquiry - Other Cases

As you know, I have been trying to raise some money to address some "other cases" to be put before the Inquiry. It is my view that the factual information relating to these "other cases" will tie in the research done by Dr. Head etc. with what has been received by way of Viva Voce testimony.

I am advised that such a program will be well received by the Department of Secretary of State **PROVIDED THAT IT DOES NOT CONFLICT WITH THE MARSHALL INQUIRY.**

I explained to people in the Ottawa office the limitations of the terms of reference of the Commission, but they ask that I try to get a letter from you as Director of Research to the effect that any other research being carried out by the Black United Front as these relate to "other cases" will not be in conflict with what the Inquiry is doing.

There is serious urgency in this regard, and if you are of the view that looking into some other cases and providing the information to you as discussed and putting the information before the Inquiry does not conflict with the Inquiry process itself, I ask that you send me such a letter (hopefully by fax) at your very, very earliest convenience.

JUN 02 '88 11:32 SMITH, GAY, EVANS & ROSS 902 4652313

P.5

Mr. John Briggs

Page 2

June 2, 1988

File #1085-01

With respect to the Native Research Program, Review Process, I will be attending and with me will be Yvonne Atwell of the Black United Front.

The individual whom I spoke sometime ago is Ms Jackie Barkley, and as I understand it, she can be reached at home at 454-5784.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:

E. Anthony Ross
E. ANTHONY ROSS (emo)

EAR/lms

cc: G. Taylor

J. Briggs - (Fax #424-2709)

Encl.

JUSTICE

JUN 01 1988

(BRITISH SECTION OF THE INTERNATIONAL COMMISSION)
95a CHANCERY LANE LONDON W1

*Material in
"Miscarriages of
Justice"
file*

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IVAN LAWRENCE QC MP	

W. Wylie Spicer Esq.,
Counsel to the Royal Commission on the Donald Marshall Jr., Prosecution
Maritime Centre, Suite 1206
1505 Barrington Street
HALIFAX
Nova Scotia B3J 3K5
Canada

25 May 1988

Dear Mr Spicer,

re: Marshall Inquiry

Further to your visit of earlier this year, I am writing to let you know that I have sent you, by printed matter air mail, a copy of the first draft ~~of~~ our report on miscarriages of justice.

I would be grateful if you would treat this as confidential to yourself and the members of the Royal Commission, as it has yet to be approved by the committee and the Council of JUSTICE. If all goes well, I anticipate that it will be published towards the end of the year.

If there are any other ways in which I can assist the Inquiry, please feel free to get in touch with me.

Yours sincerely,


Peter Ashman

Ps. I am still waiting for some statistical

JUN 01 1988

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

May 31, 1988

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

Dear Mr. Briggs:

June 16 Seminar
Treatment of Natives in
the Criminal Justice System
Our File Number 9201/1

As you know, Mr. Allan Clark, of the Department of Community Services is the Provincial Co-Ordinator for Aboriginal Affairs. He works both with the Cabinet Committee on Aboriginal Affairs and with various groups in the native community. We would ask that Mr. Clark be allowed to attend the seminar scheduled for June 16 dealing with the issue of natives in the criminal justice system. Again, we believe it important that those people most affected by this type of research be involved and Mr. Clark is probably the main person in the Government with knowledge and expertise in this area. Could I please hear from you?

Yours truly,



Darrel I. Pink

DIP/les

cc: Mr. R. Gerald Conrad, Q.C.
Mr. D. William MacDonald, Q.C.

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

May 31, 1988

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

Dear Mr. Briggs:

Marshall Inquiry
Our File Number 9201/1

On behalf of the Attorney General's Department, I would like one additional person to attend the seminar on June 15. Mr. Jim Fanning, who previously was a prosecutor, has been involved in these issues and from the Department's perspective we would like him to be in attendance on the same terms as the remainder of our participation.

I mentioned to you earlier that I thought the Deputy Attorney General may be interested in attending the seminars. He has advised that he is interested in the seminar for blacks and natives and will likely be in attendance.

Yours truly,



Darrel I. Pink

DIP/les

cc: Mr. R. Gerald Conrad, Q.C.
Mr. D. William MacDonald, Q.C.

MAY 31 1988



CITY OF SYDNEY
P.O. BOX 730
SYDNEY, NOVA SCOTIA
B1P 6H7

May 26, 1988

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

ATTENTION: Mr. George W. MacDonald

Re: Donald Marshall, Jr. Commission of Inquiry

Dear Mr. MacDonald:

I enclose herewith the action by the City of Sydney
re "affirmative action" from its inception in 1982 to
date.

Sincerely,

M. G. Whalley, Q.C.,
City Solicitor

MGW/emi

Encl.

MAY 31 1988

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

May 30, 1988

BY HAND

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

Dear Wylie:

Marshall Inquiry
Our File Number 9201/1

I've asked the Attorney General to indicate when he would be free to meet with you and briefly discuss the Brenda Thompson file.

He said that as soon as the sittings in the House wrap up he'll be in a better position to arrange a meeting.

I will let you know.

Yours very truly,

Jamie W. S. Saunders

JWS: Jamie W. S. Saunders
JWSS/sac

MAY 30 1988

CHIEF LEGISLATIVE COUNSEL:
GRAHAM D. WALKER, Q.C.

LEGISLATIVE COUNSEL:
ARTHUR G. H. FORDHAM, Q.C.
GORDON D. HEBB, Q.C.
GORDON C. JOHNSON
CHRISTINE A. MOSHER
E. ANNE BASTEDO



NOVA SCOTIA

OFFICE OF

THE LEGISLATIVE COUNSEL

NINTH FLOOR
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P.O. BOX 1116
HALIFAX, NOVA SCOTIA
B3J 2X1
TELEPHONE (902) 424-8941

May 27, 1988

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

Dear Mr. Briggs:

Re: Bill 72 - 1985 Amendments to the Police Act

Your correspondence requesting material from the files of the Law Amendments Committee, a Standing Committee of the Nova Scotia House of Assembly, has been reviewed by the Chairman of the Law Amendments Committee. As a result thereof, he has requested me to furnish you with a copy of the submissions made to the Law Amendments Committee in 1985 concerning this Bill, as well as, any notes or records I might have of the deliberations of the Committee concerning this Bill.

In accordance with the instructions of the Chairman of the Law Amendments Committee I enclose,

- (1) A copy of Bill 72 introduced into the Nova Scotia Legislature in 1985.
- (2) A copy of changes recommended to the Law Amendments Committee in respect of this Bill.
- (3) A copy of Bill 72 as assented to by the Lieutenant Governor on May 17, 1985, designated as Chapter 33 of the Acts of 1985.

.../2

Mr. John E. S. Briggs
May 27, 1988

- (4) A copy of a written representation made to the Law Amendments Committee by Joel E. Pink, Q.C. Mr. Pink did not appear before the Committee.
- (5) A copy of the submission on behalf of the Union of Nova Scotia Municipalities by A. William Cox, Q.C.
- (6) A summary of submissions to the Law Amendments Committee in regards to Bill 72 which summary was prepared jointly by myself and Mr. D. William MacDonald Q.C., then Assistant Legislative Counsel now Deputy Attorney General.
- (7) A copy of my notes of meetings of the Law Amendments Committee for May 15, 1985, May 10, 1985 and May 8, 1985 at which meetings Bill 72 was considered.
- (8) A copy of minutes of D. William MacDonald, Q.C. who assisted with me as co-counsel to the Committee for the meetings of May 15, 1985, May 10, 1985 and May 8, 1985.
- (9) A copy of the report of the late Judge Nathan Green concerning changes in the Police Act.

There are no official Minutes of the Law Amendments Committee since it has not been the practice of the Committee to have Minutes approved by the Committee. Up until the 1988 session of the House, proceedings of the Law Amendments Committee were not recorded so there is no tape or transcription of the proceedings.

I trust that the material enclosed is of assistance to you.

Yours very truly,



Graham D. Walker, Q.C.
Chief Legislative Counsel

GDW/lle
Encls.



Department of Justice
Canada

Ministère de la Justice
Canada

MAY 27 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

(902) 426-7594

Our file
Notre dossier **AR-21,613**

Your file
Votre dossier

DELIVERED BY HAND

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

May 27, 1988

Dear Mr. Briggs:

Re: Donald Marshall Inquiry

I acknowledge receipt of your letter dated May 18, 1988.

As I informed you on May 20, 1988, I have sought instructions.

I am now instructed that our client will consent to a telephone conversation call with Mr. Clark, Mr. Walsh, Lloyd Younger and myself.

Yours very truly,

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:mm

Canada

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.

MAY 27 1988
Sovereign Building, Suite 205,
5516 Spring Garden Road
Halifax, Nova Scotia
B3J 1G6
(902) 422-7411

May 26, 1988

COPY
FOR YOUR INFORMATION ONLY

BY COURIER

Chief Justice Constance R. Glube
Trial Division
Law Courts
1815 Upper Water Street
Halifax, Nova Scotia
B3J 1S7

Your Ladyship:

Re: MacKeigan et al. v. Hickman et al. - S.H. No. 63241

I indicated in oral argument that I would furnish you with the citation for the case that decided that Supreme Court of Canada obiter dicta are binding on lower courts. It is Her Majesty the Queen v. Sellars, [1980] 1 S.C.R. 527 at 529.

Yours very truly,

Clayton C. Ruby

CCR/arm

cc. R. J. Downie, Q.C.
Jamie W. S. Saunders
✓ W. Wylie Spicer

MAY 26 1988

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

May 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:

Our File No. 9201/1

I acknowledge receipt of yours of May 17, 1988, regarding the sentencing study.

I believe the information from your researchers regarding file destruction is not correct. The active life of files is two years. They are then transferred to central storage where they are kept for a substantially longer period.

We have previously provided to the Commission information regarding file retention and, as well, Mr. Herschorn testified about this at the Inquiry.

If you would like to speak with Mr. Herschorn about this, please feel free to give him a call.

Yours truly,


Darrel I. Pink

DIP/jl

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

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

May 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 John:

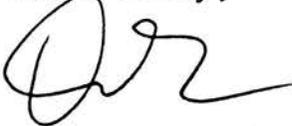
Marshall Inquiry
Advice to Prosecuting Officers
Our File No. 9201/1

This will acknowledge receipt of yours of May 19, 1988,
reference the above.

As you know, I have forwarded to you from time to time,
updates for the advice to Prosecuting Officers' volumes
which are all those that have been issued since the delivery
of the blue books to you.

I do not believe there are any "directives or memoranda"
as referred to in your second paragraph. If I receive
instructions to the contrary, I shall advise.

Yours truly,



Darrel I. Pink

DIP/jl

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

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
S. RAYMOND MORSE
DARREL I. PINK
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DIANNE POTHIER
JANET M. CHISHOLM
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DONALD J. McDONALD, Q.C.
PAUL M. MURPHY, Q.C.
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J. RONALD CREIGHTON
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D. SUZAN FRAZER
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

May 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:

Our File No. 9201/1

This will acknowledge yours of May 18, 1988, with regard to "The Police Study - Dr. Philip Stenning".

I believe I could provide most of the information you have requested but have directed your inquiry to the appropriate individuals and upon receipt of information, shall advise.

With regard to the new regulations under the Police Act, I am advised that the draft earlier provided to you is the form in which they were proclaimed. Of course, you could check with the Registrar of Regulations to obtain a copy of the version which actually came into effect on May 3, 1988.

Mr. John Briggs
May 25, 1988
Page 2

With regard to the RCMP and the complaints against them, as you know from the RCMP contract, matters of the internal administration of the RCMP remain within the sole authority of that force. I suggest you check with the RCMP for statistics relating to complaints against members of the Force. My instructions are, that upon receipt of a complaint regarding a member of the RCMP, this is simply transmitted to the appropriate officer in that force where it is dealt with in accordance with their internal procedures.

Yours truly,



Darrel I. Pink

DIP/jl

c.c. Mr. R. Gerald Conrad, Q.C.
Ms. Nadine Cooper-Mont



Department of Justice
Canada

Ministère de la Justice
Canada

MAY 26 1988

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

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

(902) 426-7594
Telecopier #426-2329

Our file: AR-21,613
Notre dossier:

Your file:
Votre dossier:

May 17, 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:

Re: Donald Marshall Inquiry

I acknowledge receipt of your letter of March 29, 1988.

We have received instructions that the Correctional Service and National Parole Service witnesses nominated cannot speak about the newspaper articles referred to by Mr. Wildsmith. The articles are not relevant to the Marshall case and certainly constitute heresay on collateral matters.

We have a fairly extensive package of documents pertaining to Natives and Correctional Service which we can make available to the Commission researchers. If you or Mr. Briggs wish to review these documents, please let me know.

Yours very truly,

A. R. Pringle
Senior Counsel
Atlantic Region

ARP/wm
cc: Mr. John E. S. Briggs

Canada



Law Reform Commission
of Canada

Commission de réforme du droit
du Canada

130 Albert St.
Ottawa, Canada
K1A 0L6

130, rue Albert
Ottawa, Canada
K1A 0L6

MAY 26 1988

Your file *Voire référence*

Our file *Notre référence*

May 18th, 1988

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

Dear John,

As promised, I am forwarding the most recent version of our Powers of the Attorney General Working Paper. It is still some distance from completion but nevertheless markedly improves on the original. I would welcome your reactions to it. I will forward an up-dated version in due course.

Many thanks for the kind invitation to participate in your workshop in Halifax on June 17th. I have diarized it accordingly. I look forward to seeing you then.

Yours truly,

Stanley A. Cohen
Coordinator
Criminal Procedure Project

Enclosure

*Briggs has
material*

Canada

MAY 18 1988

COX, DOWNIE & GOODFELLOW

BARRISTERS AND SOLICITORS

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WARREN K. ZIMMER
TERRY L. ROANE
MICHAEL E. DUNPHY
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CORRESPONDENCE
P.O. BOX 2380, STATION M
HALIFAX, NOVA SCOTIA B3J 3E5

OUR FILE: 0118-1

May 17, 1988

Chief Justice Constance R. Glube
Supreme Court of Nova Scotia
Trial Division
The Law Courts
1815 Upper Water Street
HALIFAX, N.S.

My Lady:

RE: 1988 S. H. No. 63241
MacKeigan et al v. Hickman et al.

Upon reviewing my file in this matter, I note that I did not include in our written Submission reference to a case dealing with judicial immunity which I had earlier noted in my briefing notes. I believe that it is relevant and might very well be of assistance to the Court.

I refer to Sirros v. Moore and Others (1975) 1 Q.B. 118 (Court of Appeal) - particularly Lord Denning, M.R., at page 132 under the heading of "The liability of the judge".

Yours very truly,

R. J. Downie

RJD:cmg

cc. Mr. James C. MacPherson
Mr. Jamie W.S. Saunders
Mr. Clayton Ruby

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

May 20, 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 am now able to confirm the names of those who will be participating at the various workshops.

In addition to Jamie and me, those in attendance will be:

Blacks - John Embree

Natives - Doug Keefe

Prosecutors - Martin Herschorn, Robert Parker,
Adrian Reid.

I have advised the Deputy Attorney General of the workshops and he may wish to attend a portion of some or all of the workshops, which I trust will not cause any difficulty to the Commission.

Mr. John Briggs
May 20, 1988
Page 2

In advance of the various workshops, could you please advise of the following:

1. Will the materials be available in advance?
If so, when?
2. Are there other materials that it might be beneficial to review in advance of the workshops?
3. Could we have an indication of who will be participating in the various seminars?
4. Where and at what time are the seminars to be held?

The Department very much looks forward to participating in the seminars within the framework you and I have discussed earlier. We believe the process will be beneficial and look forward to playing a positive role in that process.

Yours truly,



Darrel I. Pink

DIP/jl

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



Department of Justice
Canada

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AR-21,613

Our file
Notre dossier

Your file
Votre dossier

426-7592

May 18, 1988

Mr. John 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:

RE: Annual Planning Document - R.C.M.P.

Further to your earlier correspondence, I am pleased to enclose herewith a copy of the Annual Planning Document with respect to RCMP policing services in Nova Scotia and related correspondence pertaining to 1988/89.

I would, of course, ask that before any portion of this document is made public, that we be given notice of such intention so that we may make any representations we deem appropriate.

Thank you.

Yours very truly,

James D. Bissell
General Counsel
Director, Atlantic Region

JDB/vpc
Encl.

c.c. Inspector H. E. Murphy
Officer in Charge
Contract Policing Branch
RCMP Halifax

Mr. Darrel I. Pink

John Briggs
has original
material

Canada

MAY 19 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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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

May 13, 1988

BY HAND

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

Dear Mr. Spicer:

Marshall Inquiry
Our File Number 9201/1

Thank you for your letter dated May 11 which I received late this afternoon. I am seeking instructions and will get back to you shortly.

I do not anticipate any trouble with your proposal as long as it is understood when you say:

"1. We will interview all Cabinet Ministers..."

that Darrel or I will be present. I think that is what you meant to imply as I read the elaboration contained in clause #2.

Yours truly,

P. Skatford

for: Jamie W. S. Saunders
JWSS/les

MAY 18 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

May 18, 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 recent request, I enclose a copy of a memorandum dated November 27, 1981 which details the various classifications for Prosecutors and the salary ranges.

With regard to your request for a job description for a Prosecutor, we have been advised by the Attorney General's Department they do not have same, only one for an Assistant Prosecutor which I understand you already have.

Yours truly,

Catherine M. Hicks

Catherine M. Hicks
Legal Assistant to Darrel I. Pink

/jl
Enc.



ATTORNEY GENERAL
NOVA SCOTIA

M E M O R A N D U M

TO: Departmental Solicitors and
Prosecuting Officers

FROM: Gordon F. Coles
Deputy Attorney General

RE: Classifications

DATE: November 27, 1981

I refer you to paragraph 5 of my memorandum of November 19, 1981. In my haste in communicating the results of the Hay evaluations, my memorandum did not distinguish between the criteria being used in converting existing classifications to the new levels I, II and III from the new rating criteria which will apply to such positions subsequent to the initial conversion. In the conversion some adjustments have been made in individual cases where the computer information had not been updated. Such changes have been dealt with on an individual basis.

The new rating eligibility criteria and the applicable pay level which has been agreed upon for subsequent classification of the above noted positions is as follows: (criteria requirements additional to minimum years experience yet to be determined).

	<u>Minimum</u>	<u>Policy</u>	<u>Maximum</u>
Intake Level - (MCP 15)	31,549.00	39,436.00	41,013.00
Solicitor/ Prosecuting Officer Level I - 2 yrs. experience (MCP 20)	36,782.00	45,977.00	47,816.00
Solicitor/ Prosecuting Officer Level II - 4 yrs. experience (MCP 24)	42,404.00	53,005.00	55,126.00
Solicitor/ Prosecuting Officer Level III - 6 yrs.+ experience (MCP 26)	45,307.00	56,634.00	58,900.00

Promotion to any level is upon recommendation to and approval of Deputy Attorney General.

EFFECTIVE MARCH 29, 1987

MAY 16 1988

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

PURDY'S WHARF TOWER ONE
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RICHARD A. HIRSCH
JAMES M. DICKSON

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JONATHAN C. K. STOBIE
BARBARA S. PENICK
MARK E. MacDONALD
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OUR FILE REFERENCE:

COUNSEL
DONALD A. KERR, Q.C.

BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

May 16, 1988

DELIVERED

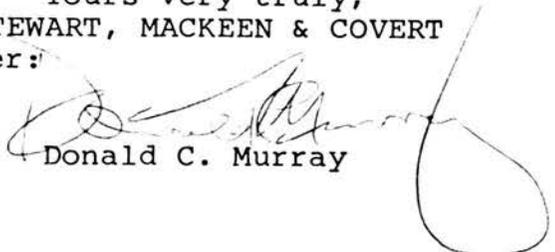
Mr. Wylie Spicer,
Royal Commission on the
Donald Marshall, Jr. Prosecution,
Suite 1080, Maritime Centre,
Halifax, Nova Scotia,

Dear Wylie:

RE: Certiorari Application Draft Order

Please find enclosed an original of the Order which you drafted upon which I have indicated my consent as to form on behalf of John F. MacIntyre. I trust that you will be forwarding us all certified copies upon the filing of this with the Prothonotary.

Yours very truly,
STEWART, MACKEEEN & COVERT
Per:


Donald C. Murray

DCM/dmb
N2061533

Filed to L.B. on May 16+1.

1988

S. H. No. 64097

IN THE SUPREME COURT OF NOVA SCOTIA

TRIAL DIVISION

BETWEEN:

HER MAJESTY THE QUEEN in right of the
Province of Nova Scotia, as represented
by the Attorney General of Nova Scotia

APPLICANT

- and -

**THE ROYAL COMMISSION INTO THE DONALD
MARSHALL JR. PROSECUTION**

RESPONDENT

1988

S. H. No. 64118

IN THE SUPREME COURT OF NOVA SCOTIA

TRIAL DIVISION

BETWEEN:

DONALD MARSHALL, JR.

APPLICANT

- and -

**T. ALEXANDER HICKMAN, LAWRENCE A. POITRAS
and GREGORY THOMAS EVANS** in their joint
capacity as Commissioners under the Public
Inquiries Act, R.S.N.S. 1967, c.250 to
The Royal Commission of Inquiry into the
Donald Marshall, Jr. Prosecution

RESPONDENT

O R D E R

These Applications having come on for hearing
before the Honourable Chief Justice Constance R. Glube

on April 26, 1988 and counsel for all parties having been heard;

AND UPON HEARING Jamie W. S. Saunders for the Attorney General, W. Wylie Spicer for The Royal Commission, Clayton Ruby for Donald Marshall, Jr. and Donald C. Murray for John F. MacIntyre.

NOW UPON MOTION

Except as hereinafter provided IT IS ORDERED that the Application of the Attorney General to quash the Decision of the Royal Commission dated March 17, 1988 is hereby dismissed without costs to any party.

IT IS FURTHER ORDERED that the Application of Donald Marshall, Jr. to quash that portion of the Decision of the Respondent dated March 17, 1988 insofar as that Decision restricted the scope of questioning of former and present members of the Cabinet, as to identities and contributions made by participants to discussions in Cabinet, is allowed without costs to any party.

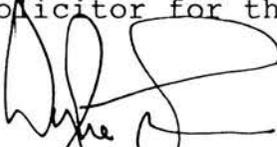
DATED at Halifax, Nova Scotia, this day of May, 1988.

PROTHONOTARY

CONSENTED TO AS TO FORM:



JAMIE W. S. SAUNDERS
Solicitor for the Attorney General



W. WYLIE SPICER
Solicitor for the Royal Commission



CLAYTON RUBY
Solicitor for Donald Marshall, Jr.



DONALD C. MURRAY
Solicitor for John F. MacIntyre

1988

S. H. No. 64097

**IN THE SUPREME COURT OF NOVA SCOTIA
TRIAL DIVISION**

BETWEEN:

HER MAJESTY THE QUEEN in right of the
Province of Nova Scotia, as represented
by the Attorney General of Nova Scotia

APPLICANT

- and -

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

RESPONDENT

1988

S. H. No. 64118

**IN THE SUPREME COURT OF NOVA SCOTIA
TRIAL DIVISION**

BETWEEN:

DONALD MARSHALL, JR.

APPLICANT

- and -

**T. ALEXANDER HICKMAN, LAWRENCE A. POITRAS
and GREGORY THOMAS EVANS** in their joint
capacity as Commissioners under the Public
Inquiries Act, R.S.N.S. 1967, c.250 to
The Royal Commission of Inquiry into the
Donald Marshall, Jr. Prosecution

RESPONDENT

O R D E R

MAY 1 1988

McCARTHY & McCARTHY

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TELEPHONE (416) 362-1812

OUR REFERENCE:

May 10, 1988

Mr. George W. MacDonald, Q.C.,
Commission Counsel,
Royal Commission on the
Donald Marshall Jr., Prosecution,
Suite 1026,
1505 Barrington Street,
HALIFAX, Nova Scotia,
E3J 3K5.

Dear Mr. MacDonald:

Re: Commission of Inquiry on
Donald Marshall Jr. Prosecution

In Mr. Robinette's absence today from the office, I wish to acknowledge and thank you for your letter of May 4, 1988, enclosing cheque of the Province of Nova Scotia in the sum of \$6,047.96 in payment of Mr. Robinette's account dated March 29, 1988.

Yours truly,

(Miss) M.J. Reid

Secretary to Mr. Robinette.

/MJR

MAY 10 1988

365 Wright Street
Fredericton, New Brunswick
E3B 2E3
May 10, 1988

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

Attention: John E. S. Briggs

Dear Sirs:

**Re: Prof. Archibald's Study - The Role of the Local Crown
Prosecutor in the Administration of Justice in Nova Scotia**

I acknowledge your letter of May 2, 1988, and would be pleased to participate as a reviewer in accordance with the content of that letter.

Yours truly



Gordon Gregory

MAY 16 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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GORDON N. FORSYTH
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ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

May 13, 1988

COPY

BY HAND

The Honourable Chief Justice
Constance R. Glube
Supreme Court of Nova Scotia
Trial Division
The Law Courts
1815 Upper Water Street
Halifax, N.S.

My Lady:

MacKeigan et al v.
Hickman et al
Attorney General of
Nova Scotia - Intervenor
S. H. No. 63241
Our File No. 9201/1

As indicated when our brief in this matter was filed, we are forwarding copies of the authorities referred to in our brief. You will note on the list of authorities we have only provided additional copies of those cases not referred to in other counsel's submissions. However, we have noted the location of all cases for your reference.

Yours truly,

Darrel I. Pink

DIP/jl
Enc.

c.c. ~~Mr.~~ Ronald Downie, Q.C.
~~Mr.~~ James MacPherson
Ms. Anne Derrick

May 16/88

Sent to Jim MacPherson
on May 16/88.

LEONARD A. KITZ, Q.C. D.C.L.
JOHN D. McISAAC, Q.C.
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May 13, 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

Further to our recent correspondence regarding Dr. Stenning's research, I enclose a copy of a letter from George Smith which deals with the remaining matters.

As for new draft police regulations, Dr. Stenning was earlier provided with a draft of regulations to come into force when the amendments to the Act were proclaimed. As you know, the Act was proclaimed effective May 1, 1988. The draft regulations came into force on May 3, 1988.

Yours truly,



Darrel I. Pink

DIP/jl
Enc.

c.c. Ms. Nadine Cooper-Mont



Nova Scotia
Police Commission

09 May 1988

RECEIVED
MAY 18 1988

PO Box 1573
Halifax, N.S.
B3J 2Y3
902 424-3246

PATTERSON KITZ

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

Dear Mr. Pink:

Further to your letter of May 3rd, our telephone conversation of May 4th and your letter to Mr. John Briggs dated May 6th, 1988; the following deals with those questions not addressed by yourself:

1. The information on Mr. Swim contains an inaccuracy. He was with Correctional Services for approximately one year, not several years.
2. Meetings of the Nova Scotia Police Commission:
1987 - 4 (plus Symposium of Provincial Police Commissions hosted and held in Halifax).

1988 (to date) - 3

Assessments of Municipal Police Departments:

1987 - 1 (New Waterford)
1988 (to date) - Nil

To date we have now completed sixteen assessments. The attachment to my correspondence to you dated March 25, 1988 which was in response to a request from Dr. Richard Apostle, showed fifteen assessments.

I chose to ignore the re-assessment of Middleton at that time. If it is included and it was in the annual report of the Commission, than sixteen to date stands.

I am not able to confirm or deny that there were discrepancies (or typographical errors) in the reports of 1977, 1978 and 1979. The persons that were involved are long gone.

2. cont'd Involvement in Selection and Promotional Routine:

Selection Boards (Recruits) - 1987 - 3
1988 (to date) - nil.

Promotion Routines - 1987 - 2
1988 (to date) - 1

Interview Boards Chiefs of Police - 1987 - nil
1988 - nil

Public Inquiries/Investigations (Sec. 9 Police Act):

1987 - nil
1988 (to date) - nil

Hearings & Appeals under Police Act:

1987 - 1 (appeal)
1988 (to date) - nil.

Public Complaints Against Police:

Year: 1987
Police Officers: 750
Total Complaints: 80
Informally Resolved/Abandoned: 50
Unsubstantiated: 12
Discipline or Advice: 17
Pending: 1

Internal Discipline:

Year: 1987
Police Officers: 750
Matters Investigated: 59
Dismissed: 27
Discipline: 30
Pending: 2

1988 (not available until early 1989)

Both of the above were as per Dr. Stenning's format which ignores written reprimands.

6. The two forces were Sydney and Halifax. Halifax resulted from instructions from the Attorney General and Sydney was requested by their Board of Police Commissioners.
7. They are included.
8. They are not available for past years. It has been our practise to consolidate forms 8 and 10 for annual reports purposes and then to dispose of the returns and the consolidations.

A few comments on Dr. Stenning's paper. On page 4 under the Police Services Act, he summarizes Section 11 accurately, but same is not what really takes place. No such appointments having been made in the last 10 years, or if there have been, no copy of the appointments were filed with the Commission.

The note on the top of page 5 in regards to old Section 8 has no consequence. The power of the Commission was subject to approval of the Governor-in-Council. New Section 7(k) has the effect of retaining what really existed before and broadened the right to make recommendations to include "— and to any other enactment dealing with law enforcement".

The previous assessment that was evaluated on page 9 was Middleton. The Commission chose to count this re-assessment as an assessment in 1980. The reference to the Town of Bedford should say that the staff assisted Municipal Affairs with an assessment of policing services requirements for the proposed Town of Bedford and then assisted the Town of Bedford by developing indepth planning for the establishment of a Town of Bedford Police Department.

It should be noted that the format of the annual reports has never been fully defined. This would account for variances in the details that are reported year to year, and therefore, they do not lend themselves as fully as a researcher may like to comparative analysis.

Yours truly



George A. Smith,
A/Executive Director.

GAS/smb

cc: Nadine Cooper Mont
Deputy Solicitor General.

MURRANT BROWN

Barristers & Solicitors

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

ROBERT MURRANT Q.C.

TELEPHONE (902) 421-2121

XEROX-FAX (902) 421-2125

May 13, 1988

George W. MacDonald, Q.C.
McINNES COOPER & ROBERTSON
Barristers and Solicitors
P. O. Box 730
1673 Bedford Row
HALIFAX, Nova Scotia
B3J 2V1

Dear George:

RE: Marshall Inquiry - Michael Harris

At about 2:00 p.m. on Friday afternoon I received instructions with respect to the interests of Mr. Harris. You will recall that at our meeting on Monday the matter of Mr. Harris' representation had not been resolved as regards his course of employment at material times amongst Canadian Newspapers Limited and The Sunday Express together with the involvement of his book publisher.

It took some time in sorting this out and I have now been asked to represent Mr. Harris.

As well, I learned on Friday afternoon that the position of Mr. MacIntyre was to the effect that it would be necessary for Mr. Harris to attend at the Inquiry and give oral evidence. This position differs dramatically from that taken with respect to, for example Ms. Matheson or Mr. Story.

In light of this, it is anticipated that all attempts to procure the attendance of Mr. Harris will be strenuously contested. Unfortunately, given the lateness of our retainer and the present position of Mr. MacIntyre, it will be impossible for this matter to be dealt with on Monday, as Mr. Harris is in Toronto and will not return, to Newfoundland, until Tuesday next.

With the above in mind, my present proposal is that there would be a pro forma appearance on Monday to indicate that

MURRANT BROWN

- 2 -

Ms. Matheson's situation is either resolved or close to resolution and that Mr. Harris' situation will have to be addressed at a later date once instructions have been taken and an adequate response prepared.

I trust you will find the same satisfactory.

Yours truly,



Robert Murrant

RM*dm

cc. Ronald N. Pugsley, Q.C. and
Donald C. Murray

cc. S. Bruce Outhouse, Q.C.

cc. Mr. Michael Harris

MURRANT BROWN

Barristers & Solicitors

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ROBERT MURRANT Q.C.

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May 13, 1988

VIA FACSIMILE

Mr. Donald C. Murray
STEWART MacKEEN & COVERT
Barristers and Solicitors
P. O. Box 997
900-1959 Upper Water Street
HALIFAX, Nova Scotia
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- and to -

George W. MacDonald, Q.C.
McINNES COOPER & ROBERTSON
Barristers and Solicitors
P. O. Box 730
1673 Bedford Row
HALIFAX, Nova Scotia
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- and to -

S. Bruce Outhouse, Q.C.
BLOIS, NICKERSON, PALMETER & BRYSON
Barristers and Solicitors
P. O. Box 2147
500-1568 Hollis Street
HALIFAX, Nova Scotia
B3J 3B7

Gentlemen:

Re: Evidence of Ms. Heather Matheson

My understanding of the situation at the moment is as follows:

1. Don Murray will provide me with written questions to be addressed by Ms. Matheson. In this process the questions should be comprehensive in that the responses will be given on a "once and for all" basis so as to preclude any further involvement by Ms. Matheson in the Inquiry;

MURRANT BROWN

- 2 -

2. Based on discussions to date I am assuming that these questions will be answerable by Ms. Matheson without particular concerns as regards her function as a journalist in this matter;
3. When we have concluded that the questions will be answerable, Ron will then be in a position to make a Motion before the Inquiry requesting that this evidence be provided by Ms. Matheson;
4. We would consent to responding to the questions provided they are, as anticipated, satisfactory to us;
5. We would then undertake to obtain the answers by way of an affidavit to be sworn by Ms. Matheson in British Columbia and delivered to the Inquiry;
6. Natuarlly, our wish is to establish a situation whereby we are being cooperative but are, at the same time, setting up a type of issue estoppel so that Ms. Matheson will not be required, further;
7. Following this procedure, Ms. Matheson would not consent to give any further evidence and would contest any such applications;
8. It is anticipated that Ms. Matheson's sworn affidavit would not arrive in Halifax for several days; and
9. It is assumed throughout that Bruce will wish to review the questions and answers in order to ensure that there is no desire of cross-examination vis-a-vis the interests of Staff Sergeant Wheaton.

As we appear to be progressing satisfactorily, I am operating on the assumption that an application will not be made so long as a resolution of these matters is anticipated. By the same token, it would be most helpful to resolve the situation on a once and for all basis on Monday.

Yours truly,



Robert Murrant

RM*dm

cc. Mr. Peter Robinson

MAY 13 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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ALSO OFFICES AT
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BEDFORD, NOVA SCOTIA

May 12, 1988

BY HAND

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

Dear Wylie:

Her Majesty The Queen v.
Royal Commission et al
S.H. No. 64097; S.H. No. 64118
Our File No. 9201/1

Following our discussions of May 10th, I would appreciate hearing from you the date on which the Order is granted by Chief Justice Glube and filed and perhaps you would be good enough to send me a photocopy of the Order, as filed.

Thank you for your cooperation.

Yours very truly,



Jamie W.S. Saunders

JWSS/cs

MAY 13 1988

TEL: 477-2182 (RESIDENCE)
424-3531 (DALHOUSIE LAW SCHOOL)

BRUCE H. WILDSMITH, B.Sc., LL.B., LL.M. (HARV.)
BARRISTER & SOLICITOR

33 WALTON DRIVE
HALIFAX, NOVA SCOTIA
B3N 1X6

May 12, 1988

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

Dear John:

Further to telephone discussion today, I am writing to furnish you with a list of those members of the native community in Nova Scotia that the Union of Nova Scotia Indians believes should be invited to the private seminar on Dr. Scott Clark's study. They are:

Alex Christmas, Pres. UNSI (former Chief, Membertou)
Reg Maloney, V-Pres. UNSI (former Chief, Shubenacadie)
Rodney Googoo, V-Pres. UNSI, & Chief, Whycocomagh
Terry Paul, Chief, Membertou
Allison Bernard, Chief, Eskasoni
John Knockwood, Chief, Shubenacadie
Sakej Henderson, Advisor (& non-practising lawyer)
representing the Grand Council of Micmacs
&/or Alex Denny, Grand Captain of Grand
Council (both live at Eskasoni)
Viola Robinson, Pres. Native Council of N.S.
Dan Christmas, Exec. Assistant to Pres. UNSI
Noel Doucette, former Pres. UNSI and a Commissioner
of N.S. Human Rights Commission (former
Chief, Chapel Island)

Some of the above may wish to send a delegate or observer rather than attend personally, and I think that option should be available to them.

I believe that confidentiality can be maintained on the understanding that the final report will become public in the time-frame leading up to submissions at the end of Sept. I would prefer, however, if you made contact with and invited those who are not presently officers of the UNSI (perhaps indicating that UNSI suggested their involvement). It might well turn out that some will choose not to participate.

I trust that you and the Commission agree that Indian participation in the discussion of Indian problems is vital.

Yours faithfully,



cc. Alex Christmas

MAY 13 1988

TELEPHONE 429-7327
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GREEN SPENCER

Barristers & Solicitors

FAX: (902) 425-2504

P. O. Box 1134
1301 PURDY'S WHARF
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FILE NO.
May 12, 1988

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

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

Dear George:

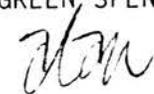
Donald Marshall Inquiry

I see that Ron has copied you with his letter to me of May 11th.
In order to complete your file, I am enclosing a copy of my letter to Ron.

Thank you for your assistance in the resolution of this matter.

Yours very truly,

GREEN, SPENCER


Alan V. Parish

AVP/cgr
Enclosure

TELEPHONE 429-7327
AREA CODE 902

GREEN SPENCER

Barristers & Solicitors

FAX (902) 425-2504

PETER G. GREEN, Q.C. PETER F. SPENCER, Q.C.
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P. O. Box 1134
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HALIFAX, NOVA SCOTIA
B3J 2X1

FILE NO.

May 10, 1988

COPY

WITHOUT PREJUDICE

Ronald N. Pugsley, Q.C.
Stewart, MacKeen & Covert
9th Floor, Purdy's Wharf
1959 Upper Water Street
HALIFAX, Nova Scotia

Dear Sir:

Donald Marshall Inquiry

I am writing in response to the meeting held at our offices on Monday May 9, 1988. As I indicated, we represent Alan Story and the Toronto Star.

The following are our responses to the questions which you put to me at that meeting:

1. As I mentioned at our meeting, the relationship between Mr. Story and Mr. Wheaton at the time of the reinvestigation is accurately recited by Staff Sergeant Wheaton at pages 7987 and 8231 of the transcript of his cross-examination. There were no "in depth interviews" such as the Heather Matheson interview.

2. Alan Story approached Staff Sergeant Wheaton at the Inquiry in Sydney as a courtesy to inform him that it was not his practice to reveal sources. Mr. Story had learned that it was your intention to ask the Commission to summons him as a witness and it was clear that the purpose for his testimony would be to reveal discussions which he had with Frank Edwards, Harry Wheaton and Jim Carroll. As a courtesy, Mr. Story approached both Mr. Edwards and Mr. Wheaton and informed them that it was not his practice to reveal sources and that it is his position that there is a journalist-interviewee privilege that attaches to those discussions. Mr. Story intended to speak to Mr. Carroll in the same vein but was not able to find him at the time.

3. At no time did Staff Sergeant Wheaton speak to Mr. Story of the incident whereby Mr. MacIntyre allegedly slipped some papers on the floor during or after an interview.

As indicated at our meeting, these responses are made on a without prejudice basis and are not to be used in cross-examination or for any other purpose. If you decide to proceed with your application we reserve all rights to oppose it.

In light of our cooperation in supplying you with the answers to your inquiries, I would be happy to hear from you as to whether or not your intention remains to apply to the Commission to have Mr. Story called as a witness.

Yours very truly,

GREEN SPENCER

Alan V. Parish

AVP/cgr
bcc. Alan Story
Robert Bruser

STEWART MacKEEN & COVERT
BARRISTERS AND SOLICITORS

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

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

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

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JONATHAN C. K. STOBIE
BARBARA S. DENICK
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DIRECT DIAL (902) 420-

OUR FILE REFERENCE:

DONALD A. KERR, Q.C.

COUNSEL
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

RNP
2076-002

May 11, 1988

BY HAND

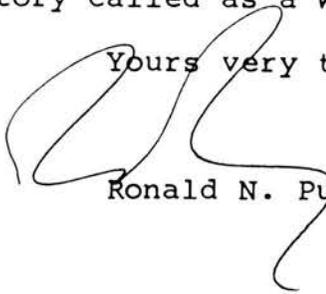
Alan V. Parish, Esq.
Green & Spencer
Barristers
1301 Purdy's Wharf
Halifax, Nova Scotia
B3J 2X1

Dear Mr. Parish:

RE: Donald Marshall Inquiry

Thank you for your letter of May 10th. In view of the responses provided by you in the letter, I will no longer be applying to the Commission to have Mr. Story called as a witness.

Yours very truly,


Ronald N. Pugsley

RNP:pjm

→ c.c. Mr. George W. MacDonald, Q.C.

N0182453

COPY

MAY 13 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
Telecopier #426-2329

Our file **AR-21,613**
Notre dossier

Your file
Votre dossier

May 11, 1988

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

Dear Mr. Orsborne:

Re: Donald Marshall, Jr., Inquiry

We enclose a copy of Staff Sergeant Barlow's draft memorandum of June 16, 1983. You will recall asking for such memorandum. Earlier attempts to locate the draft memorandum were unsuccessful. However, when Staff Sergeant Barlow was in Halifax last week to review the files he located the memorandum in one of the small binders.

We trust that this is satisfactory.

Yours very truly,

A. R. Pringle
Senior Counsel
Atlantic Region

ARP:wm

Canada

The O.C. Sydney Sub-Division

Plain Clothes Coordinator

SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE / NOTRE REFERENCE
YOUR FILE / VOTRE REFERENCE 71H-010-6
DATE 83-06-16

SUBJECT
OBJET

Donald MARSHALL, Jr.

This file has been reviewed by Cpl. CARROLL ~~mx~~ and myself and although he and S/Sgt. WHEATON are far more familiar with it than anyone, there are some points of interest in the police investigation. The treatment of the witnesses, important witnesses, CHANT, HARRIS and PRACTICO ~~IS NOT CHANT SUSPECT~~ is highly suspect to say the least. No court, I suggest, would approve the police tactics used on these people, certainly improper. If one can criticize the police for their methods in this matter, then one should also look closely at the manner in which the prosecutor, Donald McNEIL conducted the case. There is a note in his handwriting indicating that he was told by witness CHANT that MARSHALL did not stab SEALE. This was passed off as CHANT being afraid of threats from some of MARSHALL's friends. Enough doubt certainly should have been created at this point ~~any~~ any prosecutor should have looked more closely at the entire case. It would seem the case was "rammed" through court.

In my opinion there is one main point ~~any~~ any investigator if he was being objective should have look at very seriously. MARSHALL told police from the very outset ~~two~~ "two other men" were in the park and the older of the two stabbed SEALE. The police officers on duty that night must have placed some credibility to that story as a search was conducted of the city, motels were checked, taxi,s, in fact, there ~~ix~~ are notes from several, police officers ~~their~~ their efforts were directed toward locating these "other men". MARSHALL was not detained that night, he is left handed, SEALE was stabbed on the left side and MARSHALL cut on the left arm. Everyone MARSHALL met after the stabbing he told basically the same story. "Look what they did to me", he described an older and younger man who made racial remarks about "niggers" and Indians.

HARRIS in her first statement mentioned two other men in the park. This statement was never finished or signed and there was no mention ever made in her subsequent statements or in court of these "two other men". CHANT in his statement of May 30th, 1971 mentioned "two other men" beside SEALE and MARSHALL. ~~CHANT~~ CHANT was questioned by the police, "Would they be younger or older", was there four men there?, His reply was, Yes. Investigators did not follow up on this information. In fact another witness who appears to have been completely ignored stated

he saw two other men in the park beside SEALE and MARSHALL and his description was similar to the description given to police by MARSHALL and others. George MacNEIL was questioned and supplied a statement on May 31st, there seems to be no attention paid to anything he said.

Sydney City Police officers were familiar with EBSARY who was convicted in 1970 for carrying a knife. His manner of dress was familiar to them and his potential for violent crimes was also known. I submit that MARSHALL's initial statements and the information of others, all of which was known to investigators should have alerted them to place some credibility on the "two other men" possibility. After the first day of the case there is no indication that possibility was ever explored.

It has long been held by courts and practiced by police forces ~~that~~ an accused persons "alibi" should be checked out, in fact, it has been held that police have a responsibility to do so. In this case, with the great amount of material that suggested someone else may have stabbed SEALE, there is no indication any serious attempt was made to explore that area of the investigation. Investigators committed a serious error in not following that course, I suggest. This is further supported at trial when CHANT stated the MARSHALL did not stab SEALE.

The first indication I could find that would point to EBSARY was in August 1971 when Det. URQUHART received information EBSARY was responsible for the murder. No action was apparently taken on that information. Then in November 1971 James MACNEIL came forward with information pointing in the same direction, a review of the case was conducted with several bits of information that supported MARSHALL's story. A polygraph examination was conducted with inconclusive results. ~~That whole review~~ One must wonder how serious the review was taken by investigators. The use of polygraph was relatively new to Canadian police at the time, it was being used extensively with varying degrees of success. Police forces everywhere probably relied on the polygraph far too much.

At this time and knowing the outcome of this case, it is relatively easy to criticize and in doing so one must be conscious of all the ~~elements~~ ~~various~~ ~~factor~~s that came into play. Pressure on investigators, their personal desires for advancement and the things mentioned in S/Sgt. WHEATON's report all played an important part in this case. One can only conclude this case was "ram-rodged" (for want of a better word) from early in the investigation until its final court day in 1971. MARSHALL was the victim of an improper and erroneous police investigation by an experienced police officer who was under a great deal of pressure to produce. MacINTYRE, is also a victim, a ~~is~~ victim of bureaucratic pressure, the "bureaucratic syndrome" if you like. This man has given many years of his life to loyal and dedicated service to his community, no less a consideration than anything written above, in the past or in the future.

(T.E. Barlow) 20980, S/Sgt.
Sydney Sub-Division Plain Clothes
Coordinator

LEONARD A. KITZ, Q.C., D.C.L.
JOHN D. MACISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
S. RAYMOND MORSE
DARREL I. PINK
JACK A. INNES, Q.C.
DIANNE POTHIER
JANET M. CHISHOLM
PETER M. ROGERS

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

FRED J. DICKSON, Q.C.
DAVID R. HUBLEY, Q.C.
GERALD J. MACCONNELL, Q.C.
RONALD A. PINK
LOGAN E. BARNHILL
JOEL E. FICHAUD
J. MARK MACCREA
D. SUZAN FRAZER
BRUCE A. MARCHAND
RODNEY F. BURGAR
JANICE A. STAIRS
DENNIS J. JAMES

JAMES C. LEEFE, Q.C.
FRANK J. POWELL, Q.C.
CLARENCE A. BECKETT, Q.C.
GEORGE L. WHITE
DAVID R. FEINDEL
A. DOUGLAS TUPPER
DORA L. GORDON
LORNE E. ROZOVSKY, Q.C.
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TELEPHONE (902) 429-5050
FAX (902) 429-5215
TELEX 019-22893

ALSO OFFICES AT
TRURO, NOVA SCOTIA
BEDFORD, NOVA SCOTIA

May 12, 1988

BY HAND

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

Dear Mr. Spicer:

Our File No. 9201/1

I have in my possession, the Attorney General's departmental file and the Prosecutors' Office file with regard to Greg MacIsaac. These files are available for your review.

I shall require a subpoena prior to giving you access to them.

Yours truly,



Darrel I. Pink

DIP/jl

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

MAY 11 1988



DALHOUSIE UNIVERSITY
HALIFAX, N.S.
B3H 1T2

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

May 11, 1988

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

Dear Mr. Briggs:

Enclosed you will find my latest draft of the police organization report. As previously mentioned, it is not intended for circulation. At this point, the major unfinished areas in the report are the analysis of the RCMP Officer Information Sheets and incorporation of RCMP interview materials from Subdivision OCs and Detachment ICs. I expect to complete my work on these two sections shortly after my return from Denmark.

I would like it noted that Professor Clairmont has not yet completed two pieces of work he promised three weeks ago. One is a transcription of his notes from our visit to the Atlantic Police Academy and the other, more important, item is Appendix E (on the distribution of visible minority groups in Nova Scotia). I trust these will be finished when I return on May 30.

Sincerely,

Richard Apostle

c.c.:

Professor Donald Clairmont
Department of Sociology and Social Anthropology
Dalhousie University
(Draft Included)

Professor Philip Stenning
Centre of Criminology
University of Toronto
(Draft Included)

*Report in
Apostle
file.*

RA·de

Ruby & Edwardh
barristers

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

F A X C O V E R I N G L E T T E R

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: David Orsborn
902-424-2709

ADDRESS: Royal Commission

FROM: Clayton Ruby

TOTAL NUMBER OF PAGES INCLUDING COVER LETTER: 3

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL US WITH AS SOON AS POSSIBLE.

TELEPHONE: (416) 964-3564
FAX: 967-1956

Ruby & Edwardh
barristers

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

May 11, 1988

Mr. Ronald J. Downie
Barrister and Solicitor
1100-1959 Upper Water Street
Halifax, N.S.

Dear Mr. Mr. Downie:

Re: Marshall Intervention Appeal --
Nova Scotia Court of Appeal

While reviewing the material that has been placed before the court in the appeal book just last night, I noted at page 125 a letter from you to David Orsborn dated January 11, 1988 where you indicate that you have been retained not merely by justices MacKeign, Hart, Jones, Macdonald and Pace, but also by "the Appeal Division of the Nova Scotia Supreme Court" with respect to this matter.

The appeal presently before the Court of Appeal was, I had thought, to be heard by the remaining three justices of that court. But it now appears that it is the entire court that has retained you.

The same assertion is contained in the second last paragraph of that letter where you speak "On behalf of the Court and the Justices".

The present appeal, though interlocutory, is in the action respecting which the appeal division itself has retained you to give them advice and perhaps to act concerning resisting the orders to attend, issued by the Royal Commission. In these circumstances, I would ask you to speak to your clients, the appeal division of the Nova Scotia Supreme Court, and arrange for this matter to be heard by a panel of judges not from that Division who are appointed ad hoc for the purpose of hearing this appeal. I do not think that any judge who has been involved in retaining counsel in connection with this matter can take part in the decision in the hearing of this appeal.

Ruby & Edwardh

It may be, of course, that this step has already been taken unbeknownst to me. If you know who the judges are who have been appointed to hear this appeal, would you be good enough to advise me of this.

Yours very truly,



Clayton C. Ruby

CCR:jp

cc: Anne Derrick
David Orsborn

MAY 11 1988

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

May 5, 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:

I am enclosing with this letter further material regarding Robert Murrant's work as my agent with respect to assisting me in the representation of Mr. Marshall, Jr. As you will see, it discloses in detail the subject matters of the material which he produced for us and made available for our use prior to the commencement of the Royal Commission.

As you will see from the enclosed list of the witness files that he made available to us, there was a very complete preparation already done by him relating to the subject matter of our Commission.

I thought it essential to gain access to that material.

By doing so, we were able to ensure that we could prepare adequately for the commencement of the Royal Commission without actually having to go ourselves and interview all these people. Most of them were eventually witnesses at the Royal Commission. With regard to Sgt. MacIntyre, he had refused to be interviewed by us and accordingly we had great difficulty in obtaining information as to what he would say. Mr. Murrant, on behalf of a previous client, had spent a great deal of time preparing material to deal with the various explanations that Sgt. MacIntyre would give, and making this available to us was a great time-saver.

I was very pleased to be able to save money for such a modest expenditure; to do without the work

Ruby & Edwardh

already done by Mr. Murrant would have cost the Commission easily \$25,000, in time from our lawyers and students, instead of the \$2,500 that has been billed.

It is important to note that the \$2,500 not only covers the time spent in putting the material together, but also spending time with myself, Ms. Edwardh, and Ms. Derrick and going over the files and the material that he had and assisting us to deal with the material. Ms. Edwardh spent more than a half day with Mr. Murrant, getting information from him, and Ms. Derrick spent more time than that.

I hope that the only difficulty you had was the absence of detail, and if further detail is required I am sure Mr. Murrant would be glad to provide it. But the work itself was, I think, an intelligent use of limited resources and it would, I hope, be appropriate to compensate Mr. Murrant for the time he actually spent in working with us. I hope you will agree.

Yours very truly,



Clayton C. Ruby

CCR:jp

SMITH, GAY, EVANS & ROSS

BARRISTERS & SOLICITORS

MAY 11 1988

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

604 QUEEN SQUARE
P.O. BOX 852
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5
Telephone (902) 463-8100
Facimile (902) 465-2313

May 9, 1988

File #1077-01

ROYAL COMMISSION

ON DONALD MARSHALL, JR., PROSECUTION

Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, NS
B3J 3K5

Attention: George W. MacDonald Esq., Q.C.

Dear Mr. MacDonald:

Re: Sandy Seale (deceased)

I have had an opportunity to extensively review with Herbie Desmond, the boyhood activities of Sandy Seale. Mr. Desmond was a very personal friend of Sandy Seale and somebody who was with him at the dance on the night of the stabbing in 1971, and who could be of assistance to the Inquiry.

It is my view that there is still a cloud over the character of Sandy Seale, particularly as to whether or not he was involved in a robbery.

I believe that it would be well worth it to have Herbie Desmond interviewed, and I would ask that he be called as a witness before the Inquiry in that he could very well provide useful and good first-hand information about Sandy Seale.

Mr. Desmond can be reached at his home number, 443-5033 or at his work number, 421-6987.

I have also been specifically requested by Mr. Seale to ask that Mr. Desmond be called. Also, recognizing that we will have no opportunity to rebut any evidence to support the robbery theory after Donald Marshall, Jr. has given testimony, I would further ask that either Karen MacDonald or Alana Dixon be called to give evidence.

.../2

George W. MacDonald, Esq., Q.C.

Page 2

May 9, 1988

File #1077-01

Mr. Seale has again expressed an interest in Irving Cameron, and accordingly, I again spoke with Mr. Cameron by telephone and he continues to stick to a story that he was in the park on the night of the stabbing, and recognizing that Patterson was brought from Toronto and gave evidence as to the tactics of the Sydney Police Force, it might very well be appropriate to arrange for Irving Cameron to be interviewed by a lawyer in the Montreal area recognizing that he is now in that jurisdiction, and if it is that any story he gives could be checked out and found to be worthy of further examination, a decision could be made at that time.

In the interim, I would ask that you confirm to me whether or not Alana Dixon or alternatively Karen MacDonald will be called and also respond to my query with respect to Herbie Desmond.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:



E. ANTHONY ROSS

EAR/lms

cc: O. Seale.

Nova Scotia



MAY 10 1988

**Department of
Attorney General**

PO Box 7
Halifax, Nova Scotia
B3J 2L6

Our file no:

Our phone no: 424-4024

Telecopier: 424-4556

May 9, 1988

Mr. David Osbourn, Q.C.
Commission Counsel
Royal Commission of Inquiry into the
Donald Marshall, Jr., Prosecution
Suite 1026, Maritime Centre
1505 Barrington Street
Halifax, Nova Scotia
B3J 3K5

Dear Mr. Osbourn:

Re: **Rose A. Alphonse v. A.G.N.S. et al.**

May I please have a response to my letter to you of April 19, 1988.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Reionhold M. Endres".

Reionhold M. Endres

RME/crn

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, O.C.
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.
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J. CRAIG MCCREA
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A. JAMES MUSGRAVE
JOCELYN M. CAMPBELL
BRIAN A. TABOR

GEORGE M. MITCHELL, O.C.
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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:

May 9, 1988

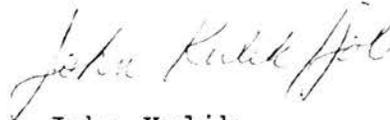
Mr. James C. MacPherson
c/o Marshall Commission
Suite 1026, Maritime Centre
1505 Barrington Street
HALIFAX, Nova Scotia

Dear Mr. MacPherson:

RE: MacKeigan et al. v. Hickman et al
1988 S.H. No. 63421

Please find enclosed a copy of the Plaintiffs' Cases, Statutes and Authorities for the above-noted matter.

Yours very truly,



John Kulik
Articled Clerk for
R.J. Downie
and F.P. Crooks

JK:job
Enclosure

MAY 09 1988

TEL: 477-2182 (RESIDENCE)
424-XXXX (DALHOUSIE LAW SCHOOL)
-1030

BRUCE H. WILDSMITH, B.Sc., LI.B., LI.M. (HARV.)
BARRISTER & SOLICITOR

33 WALTON DRIVE
HALIFAX, NOVA SCOTIA
B3N 1X6

May 6, 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:

I am writing in response to the comments in your letter to all counsel of April 6, 1988. You suggest that no party other than the Attorney-General and the RCMP has an interest in participating in the hearings of the Inquiry after Donald Marshall, Jr. has completed his testimony. The Commission then intends to hear evidence of "other cases". The Union of Nova Scotia Indians disagrees with this view in respect of itself and asserts an interest in participating further. Indeed, the UNSI probably has the strongest case of any party outside those you have named to participate in the general administration of justice phase.

As you know, and as the Commission recognized in its Opening Statement of May 13, 1987 and its Funding Decision of May 14, 1987, the issues of concern to the UNSI are racism and discrimination. Whether Indians fare worse in the administration of justice in N.S. than others is a central issue. It should be readily apparent that concepts like discrimination are comparative ones and require not only an examination of how Indians are treated but also of how others fare when justice is being administered. For the very reason that the Commission itself is adducing evidence on other cases, i.e. to look at differential treatment, it is necessary that the UNSI continue to be involved as this evidence unfolds.

You should also appreciate that your suggestion would result in a blanket exclusion, "sight unseen". We know nothing of these other cases or what material will be brought before the Commission. It is more likely that some material will be germane to us than that all would not be.

It should go without saying, but we will say it nevertheless, that the UNSI has no interest in attacking Mr. Roland Thornhill or Mr. Billy Joe MacLean, if these individuals are part of the "other cases". Rather, it is our interest to contribute to bringing out the decisions made and processes followed in "other cases" as a basis of comparison to what happened to an Indian, Mr. Marshall. The UNSI is at the Marshall Inquiry to represent all Indians in N.S. It is precisely because of this general community interest, rather than the narrow personal or private interest of most parties before the

Commission, that the UNSI should continue to be represented and to actively participate when and as it seems useful. Indeed, these points seem to be fully recognized by the Commission when, in the May 14, 1987 funding decision at p. 4, it refers to the UNSI and BUF as parties with full standing who "fall into a different category" because they represent "the public interest, or groups thereof". The Commission continued: "The public interest requires that the point of view of organized and affected minority groups be appropriately represented and articulated". This should be contrasted with the role of Commission Counsel, which is not to represent or articulate (at least in the presentation of evidence) a particular point of view.

Thus, because discrimination is a comparative concept, because we fall into a different category from most other parties, because we represent the public interest or a group thereof, namely the Indians of Nova Scotia, and because it is in the public interest that our perspective not be pushed aside when reviewing how others were treated, the UNSI considers our participation in the general administration of justice phase to be necessary.

Yours faithfully,



Bruce H. Wildsmith
Counsel
Union of Nova Scotia Indians

BHW/hmp

cc. Alex Christmas

MACINTOSH, MACDONNELL & MACDONALD

Barristers, Solicitors, Notaries

CLYDE F. MACDONALD, Q.C.
DAVID F. WALLACE
BRUCE T. MACINTOSH
N.M. SCARAVELLI
HARRY R.G. MUNRO
CATHERINE A. MCKEAN
PETER P. ROSINSKI

159 GEORGE STREET
P.O. BOX 368
NEW GLASGOW, N.S.
CANADA
B2H 5E5

Counsel
THOMAS C. SEDGWICK, Q.C.

Telephone: (902) 752-8441
Telefax: (902) 752-7810

May 5, 1988.

Marshall Inquiry
1505 Barrington St.
Suite 1026
Halifax, N.S.
B3J 3K5

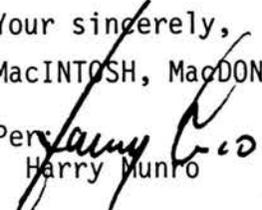
Attention: Mr. Justice Alec Hickman

Dear Mr. Justice Hickman:

Clarence Porter, the principal of D. Porter & Son Limited, has asked me to forward to your attention, this narrative which outlines the details of his Company's five (5) year assessment appeal.

My client feels that since the Attorney General's Department handled the case for the Assessment Department, that perhaps this may provide you with some insight as to how the Attorney General's Department functions when dealing with the general public at large.

Your sincerely,
MacINTOSH, MacDONNELL & MacDONALD

Per: 
Harry Munro

HM/bls

cc: Mr. Clarence Porter

CASE HISTORY

D. Porter & Son Limited Assessment Appeal

In the belief that our experience may be of benefit to property owners and so that all may understand the structures involved in assessment appeals, we offer the following information gained from experience. If a taxpayer is not satisfied with his assessment, he has twenty-one (21) days within which to launch an appeal. The Regional Assessment Appeal Court is the first stage of the appeal process. The Regional Assessment Appeal Court judges are usually lawyers and answerable to the Minister of Municipal Affairs. Appeals from their decisions are heard by the Municipal Board. This Board was established in 1982 to replace the role of the independent County Court in assessment appeals. It too is appointed by the government in power. It is only after this stage that the taxpayer has the opportunity to plead his case before a truly impartial tribunal being the Nova Scotia Supreme Court Appeals Division.

The Department of Municipal Affairs and their assessors, the Regional Assessment Appeal Court and the Municipal Board are supportive of each other and are all on the same payroll and it became clear during our appeal that there was no way in which we could prove our case to those whose income and position depended on holding the contrary view.

TOWN OF STELLARTON - TAXES

<u>YEAR</u>	<u>D. PORTER & SON ASSESSMENT</u>	<u>TAX</u>	<u>% INCREASE BASE 1972</u>	<u>TYPICAL RESIDENTIAL ASSESSMENT</u>	<u>TAX</u>	<u>% INCREASE BASE 1972</u>
1972		\$ 4,661.25	100%	\$25,800.	\$709.50	100%
1973		6,558.75	141%	25,800.	709.50	100%
1974		9,400.00	202%	36,000.	720.00	102%
1975	470,000	11,750.00	252%	30,000.	750.00	106%
1976	475,000	16,625.00	357%	30,000.	690.00	97%
1977	485,000	19,012.00	408%	30,000.	735.00	104%
1978	302,000	9,075.00	195%	49,000.	911.40	128%
1979	302,000	9,528.75	204%	49,000.	980.00	138%
1980	368,500	12,344.75	204%	49,000.	1,053.50	148%
1981	1,000,000	29,500.00	633%	60,000.	1,170.00	165%
1982	1,000,000	29,500.00	633%	60,000.	1,170.00	165%
1983	1,000,000	31,200.00	669%	60,000.	1,236.00	174%
1984	1,223,550	38,174.76	819%			

This table illustrates the history of the assessment of the D. Porter & Son Limited complex off Foord Street in Stellarton. We believe that these increases on our assessment are without precedent. By the time we had compared the increase in our 1981 assessment to those of other commercial properties in the Town, the time for launching appeals had expired and therefore our appeal had to wait until 1982.

Our main ground of appeal was that our assessment had been increased by a greater percentage than other commercial properties within the Town.

No one wishes to jeopardize the situation of a neighbor or competing business and we certainly did not in our case. All that we sought was to be treated equally with other taxpayers in the Town of Stellarton. The Assessment Act requires that all property shall be assessed for the amount which would be paid if it was sold on the open market by a willing seller to a willing buyer. But, the Act stipulates that the assessor must have regard to other properties in the Town to ensure that taxation falls in a uniform manner on all taxpayers. We felt that because of the extraordinary increase in our assessment that we were bearing more than our fair share of taxation.

In the year of our appeal almost all commercial properties in the Town of Stellarton were supposed to be valued on a replacement cost approach using a manual produced by the Boeckh Company. This manual can be used to calculate a replacement cost for all types of buildings and includes formula for costing such details as heating, lighting, flooring, fire protection, etc.. When used properly, this manual produces an approximate but fair valuation figure. When we started our appeal we sought access to the work sheets and figures used to determine the assessments on these other commercial properties so that we might determine whether we had been treated equally and in a uniform manner. This request was immediately denied and it took three years and an appeal to the highest court in this Province to obtain access to these records.

The first hearing was held in early 1982, before the Regional Assessment Appeal Court Judge, Joseph Cameron. We sought Mr. Cameron's permission to record these proceedings so that a transcript would be available in the event of an appeal. Before the hearing had begun the Judge, who was appointed by the Department of

Municipal Affairs, was informed by the Solicitor for the Director of Assessment, Marion Tyson (a lawyer from the Attorney General's Department), that he could not authorize such a recording. Thus, it became evident at an early stage, that the Judge and the Department of Assessment were one and the same. Mr. Cameron was asked by us to write to his superior, the Deputy Minister of Municipal Affairs, to request a ruling and eventually permission to record the proceedings was granted to us. At that stage both sides took their own tape recorders into the hearing which was held on July 13, 1982. In spite of the fact that the Regional Assessment Appeal Court is required by law to render its decision within sixty (60) days, Mr. Cameron gave his decision only after having been forced to do so by a Supreme Court Order nine months later on May 16, 1983. His decision reduced the assessment on our property to \$380,000.00, but two weeks later it was appealed by the Director of Assessment to the Municipal Board.

The power to tax has the power to destroy, and levied as we were, it was necessary to research our case, and provide witnesses and legal counsel to make a meaningful appeal.

We had to bear our own costs in this appeal, for research, lawyers, witnesses, etc., and at this first appeal we presented descriptions, pictures and other apparent features on thirteen other commercial properties within the Town of Stellarton, properties not owned by us. We also had evidence from a registered architect and a property appraiser who also supplied data on these other properties as well as our own.

It is clear that Mr. Cameron, in making a judgment favorable to us, delayed as long as possible, but to his credit he judged on what he saw, and on what he heard.

His decision was not acceptable to the Department of Municipal Affairs, and two weeks after receiving his findings we were advised that they were appealing his decision. We would now have to appear before the Municipal Appeal Board for a new Hearing. This meant an entirely new trial. Evidence previously given could not be re-presented, and to appeal our assessment we had to start all over again.

As the Municipal Board was a new body, we contacted the Chairman and requested information on the rules of procedure before the Board. We received a response on June 6, 1983 stating that "general rules are in the process of being prepared". Four years later these rules were still not available.

Before this Hearing started we asked for the working papers for the thirteen commercial properties owned by other parties for our review, but without success. To understand the importance of these records it is necessary to appreciate their function. Every assessment has a card and on that card are the particulars that the assessor has recorded on any given property, for instance, lot dimension, frontage, type of construction (steel, wood, brick, etc.), paving, heating, lighting, etc. Also on the same card the assessor must show each feature that was included, or not included, in his valuation figures. Thus, to determine whether a building or property was properly assessed in a manner similar to ours, access to these cards was essential. Without access to these records, there is no meaningful way of verifying or discrediting anything.

To prepare our case, we requested that these documents be subpoenaed, and this request was granted through the County Court.

The Hearings in Stellarton were a prolonged examination of witnesses on both sides, but all confined to our property and no other.

Listening to these proceedings, and aware of the costs involved, we believed that if comparative values were to be excluded from the Hearing, we had no case, and in discussing this with our legal counsel, they advised us that this comparative information would eventually be made available, and that we should continue.

The next session was in Halifax, and during this session we were advised by the Chairman that evaluation methods used on other properties were not relevant to our case and we could not have the information. By their decision they effectively revoked the decision of our County Court and held themselves above its authority.

When we were so informed, we knew that we were in serious difficulty. We had spent a lot of time and money. Our combined costs for taxes and legal costs

during 1981, 1982, 1983, 1984 were out of all reason. For the assessment year 1984, valuations were increased by 22.35%, and the tax bill to \$38,174.00. Reluctantly we were forced to seek the real value of the property by offering it for sale.

The Board was informed of our intentions and forthwith the property was advertised and proposals invited.

In March 1985, sixteen months after the first day of Hearings before them, and twenty-two months after the appeal notice was filed, they gave their decision setting the assessment at \$989,000.00. The decision was lengthy. Where the evidence of the appraiser retained by D. Porter & Son Limited differed from the evidence of the assessor, the assessor's evidence was accepted. Our evidence, despite the fact that it could be verified by physical inspection of the buildings, was said to be biased, and a precedent was set, indicating that a property owner who took the stand in defence of lower assessment would be tainted with the "biased label". In their decision, they substantially confirmed the assessor's valuation and taxed all costs to us.

Prior to the decision, a transcript had been ordered and reviewed. Many inconsistencies were apparent. After revealing the decision, and based on the statement of Marion Tyson and Merle Gordon, that the records which had been subpoenaed to the Municipal Board for comparative purposes were available and an appeal was launched to the Court of Appeal.

An appeal from the Municipal Board to the Nova Scotia Supreme Court Appeals Division can only be made on a question of law. This means that the Municipal Board has the widest authority when it comes to finding of facts and deciding who to believe and who not to believe. However, after reviewing the evidence it was decided to appeal.

From the date of our inflated assessment in 1981 until today, this case was in process, and it may confuse the reader to get a clear time frame for each incident, but with your patience we hope to inform you on at least the highlights of the process as it unfolded. The information being presented is being researched from volumes of files, but as every property owner is directly involved

and affected, we trust the whole narrative will merit your attention.

Appeal to a Higher Court

The basis of our appeal had always been uniformity. The Municipal Board in their decision had held that the comparable information that we sought was not relevant to our assessment and was therefore inadmissible. We reasoned, however, that if the paramount duty of the assessor was to ensure that the burden of taxation fell in a uniform manner on all properties in the Town, then this information had to be of relevance to our assessment. In an appeal from the Municipal Board decision, an appealing taxpayer must first obtain permission to appear before the Nova Scotia Court of Appeal from a judge of that Court in Halifax. This was granted to us and the appeal was heard in September, 1985. The Appeal Court was made up of three judges, Mr. Justice Pace, Jones and Matthews, who in a brief judgment, held that the information we had sought and to which the Municipal Board had denied access was both relevant and admissible. Accordingly, the Court allowed our appeal. They overturned the Municipal Board's decision, ordered a new hearing and ordered that the Department of Municipal Affairs pay our taxed costs at both the Municipal Board hearing and at this appeal itself.

Missing Records

Following the overturn of the Municipal Board's Decision, we then requested the comparable worksheets which the Municipal Board had been told were available and which we had been informed in various letters would be provided to us should the Municipal Board so order. After much correspondence we were informed by the solicitor for the Department of Municipal Affairs, Marion Tyson, that the information we sought had been erased. Our trip to the Nova Scotia Supreme Court Appeals Division and the costs incurred on the expectation of obtaining the assessor's working papers had been in vain.

Appeal should at least know about this and we sought permission to appear before them and to ask them for full compensation for our legal costs. This permission was granted and the same panel of three judges heard our arguments in June of 1986. The Court's judgment was given by Mr. Justice Jones who stated:

"While I have a great deal of sympathy for the applicant's position, I do not think that sufficient grounds have been shown to set aside the order assuming that this court has the power to do so. There was certainly some evidence to indicate that this litigation could have been avoided if the information had been disclosed in the first instance. However, the principal of finality cannot be overlooked. In the circumstances I would dismiss the application but without costs." (emphasis added)

The principal of finality stands for the proposition that once a Court has made its decision and issued an Order then only in very exceptional circumstances can that Order be overturned. This prevents the parties from returning to a Court asking it to alter its Order. We note that it does not prevent a matter such as ours from being remitted back to the same forum (the Municipal Board) for a new hearing.

At this second hearing, the Court of Appeal sought an explanation for the missing records from a senior solicitor with the Department of Municipal Affairs, Randall Duplak. During the discussions with Mr. Duplak, the Court of Appeal suggested to him that in the absence of these records the assessor would have a difficult time proving to the Municipal Board that the burden of taxation had fallen in a uniform manner in the Town. The Court suggested, to prove that point, the assessor would require these records. Thus, even without the records, it was clear to us that we still had strong arguments for the new hearing before the Municipal Board.

Pre-Hearing Conference

At the pre-hearing conference in Halifax, we learned that the Municipal Board was to sit as a single member, Mr. Richard Weldon, who had been a Dartmouth lawyer. I wished to be present at this conference and was most surprised when Ms. Tyson, the Department's Lawyer objected to my sitting in. However, after my Counsel insisted on my being present, the conference proceeded. Mr. Weldon works in and out of the same office as Mrs. Lawrence and Darrell Wilson and he advised us of

his familiarity with what had happened previously. During the conference, we were asked to submit a Pre-Hearing Brief setting out our grounds for defending Mr. Cameron's decision. We informed Mr. Weldon that we were unable to prepare our Brief since we did not have the assessor's records for these other properties. We suggested that the assessor could reconstruct these records. Alternatively, if he was unable to reconstruct the records then it would be necessary for us to have him recreate his assessment figures at the hearing.

It was also during this conference that Marion Tyson, the Department's Solicitor, stated that she wanted it made clear on the record that her Department would be looking for all their costs in preparing and bringing this appeal, and that these would include the costs of the preparation of the assessor's report and his attendance at the Hearing. This position was adhered to even when it was pointed out to her that these individuals were government employees doing their job. The observation was made to Mr. Weldon at that time that we considered this statement to be intimidation.

Municipal Board Hearing

The Municipal Board Hearing commenced in late November, 1986. At that time Richard Weldon brought with him a Clerk of the Board, and the Board's legal counsel, Vincent Lambie. From the Department of Municipal Affairs there was the Regional Director of Assessment, Francis Monck; the Director of Assessment for the Colchester region, Sam Farrell; an assessor who previously worked on our valuation, Merle Gordon and two senior solicitors, Marion Tyson and Randall Duplak. D. Porter & Son Limited retained our lawyer, Harry Munro and I sat through the Hearings. A raw nerve had obviously been touched to necessitate the attendance of three government lawyers and three assessors.

Prior to this Hearing the Board had again been asked to provide us with any rules that might have been formulated regarding procedure, but at the start of the Hearing these rules were still not available. On the first day, November 24, 1986. Randall Duplak who had represented the Director of Assessment before the Nova Scotia Court of Appeal, rose to his feet and introduced the records which all along, we had been told were not available. He introduced them in the following words:

"The Respondent has made much "to-do" about these original cards and in letters and comments has indicated that he cannot proceed unless he has those original cards. In preparing for this Hearing the Respondent subpoenaed the assessor again for those same 13 properties and plus requested three more. In going through the boxes and boxes of material we have come across, unbeknownst to anybody, copies of the original cards before they were altered. Who made the copies we don't know but they are copies of the originals, they were hand copied and we've photostated them and now we have them here for the Respondent." (Emphasis added)

This was Mr. Duplak's introduction. Mr. Gordon's sworn explanation was as follows:

"Q. Have you seen those records before today?

A. Yes, Friday.

Q. And at what time on Friday did you find them?

A. Approximately 1 o'clock.

Q. And where did you find them?

A. Found them buried in a file.

Q. And in what file were they buried?

A. In a file in the office that I weren't aware that they were there.

Q. Now can you describe this file, was it a manila folder, was it a banker's box?

A. It was a cardboard box with Mr. Porter's files.

Q. Is that box here today?

A. No, it's not.

Q. What else was inside the cardboard box?

A. 1980 cards, Mr. Picketts' report from the last Hearing, my report from the last Hearing, calculations for the last Hearing.

Q. And where was this box kept?

A. In my office.

Q. Now that box file would have been in your office pretty well continuously from 1983 'til the present, is that right?

- A. Not particularly this box, no.
- Q. The contents of that box file.
- A. The contents were, yes.
- Q. Now do you recall looking for these records?
- A. Yes.
- Q. Looking for them several times?
- A. Yes.
- Q. And do you recall correspondence wherein you said you couldn't find them?
- A. Yes.
- Q. What's your explanation?
- A. I didn't know they were there and apparently the file was not opened where they were.

At last, after almost five years, we had obtained handcopied cards showing some particulars and calculations for the other commercial properties in the Town of Stellarton. Some of the figures on these cards were to prove extremely interesting.

It is important to note that in the interim period, while the 1982 assessment was in progress, the Chairman of the Regional Assessment Appeal Court, David Hubley, another lawyer from Truro, was trying to push on with our 1983 and 1984 assessment appeals even though our assessed values for those years would obviously be affected by the decision of the Municipal Board.

In our next article we will look into some of the assessor's calculations and methodology concerning commercial properties in the Town of Stellarton to illustrate how the Town's tax base was manipulated in those years and the tax burden shifted around.

Magic With Figures

At the commencement of the cross-examination of the assessor, we obtained the

following details of the increases of the assessments of the major commercial properties in Stellarton between 1980 and 1981:

C.N.R.	13.5%	
Sobeys Supermarket	21.6%	
Canada Envelope	12.3%	
Sears Building	11.1%	
Scotsburn Co-op	50 %	
Wearwell Garments	36.8%	
Heather Motel	29.9%	
Food City Distribution Centre	121.%	(This included the new part just completed.)
D. Porter & Son Limited	133%	(on building alone)
	368%	(on building, equipment and business occupancy.)

All other properties in this category would have either stayed the same or had their assessments reduced.

Uniformity

In the three years between "reassessments" the Assessment Department reflects uniformity by applying a contrived figure known as the "general level of the roll". They take all the properties that have sold in that year and express their assessed value as a percentage of their sale price. If 10 houses with a total assessment of \$800,000.00 sold for a total of \$1,000,000.00 then the "general level of the roll" would be 80 percent.

At the time of our appeal there was no distinction made between commercial and residential properties as far as this figure went. In fact, in calculating the "general level" for the 1982 tax year there were no commercial properties used. Thus the roll did not act as a check on the accuracy of the assessor's opinion of value regarding commercial properties and did not in our opinion provide any manner of uniformity. In a large urban centre it is assumed there would be sufficient commercial sales to reflect any inaccuracies. But, it was our position that in the absence of a good cross-section of commercial sales that this concept of a general level was completely unsuited to a small town like

Stellarton where commercial sales were few and far between.

When you appeal your assessment, you put your property under the assessor's microscope. He looks at every detail most carefully. We felt that if the assessor applied this same degree of diligence to other commercial properties in the Town that this would be a good check on their assessments, and, if as a result we discovered that their assessments were lower than his calculated figure, then we too should also be entitled to this same reduction.

It became clear in our cross-examination of the assessor that his valuation of these other commercial properties in the Town was seriously flawed in four areas.

1. His calculation of land values.
2. His choice of costing models.
3. His development of depreciation and obsolescence factors.
4. His rounding down of final valuation figures.

Calculation of Land Values

The testimony of the assessor was that there were three methods of valuing commercial land in Stellarton. The first method was to apply a value of \$.20 per square foot to occupied industrial land in the Town regardless of location and \$.35 per square foot in the Stellarton Industrial Mall. The second method was to value land based on its street frontage and lot depth. The third method was to value land in excess of five acres and not utilized as bulk land at \$1,000.00 an acre regardless of location.

The value of \$.20 per square foot was applied to our land. Thus, our lands, with no road frontage, access over a railway crossing and minimal municipal services had in his opinion the same value as other lands with full municipal services and street frontage.

Street frontage values were generally applied to downtown properties. It became clear in our cross-examination however that in the Department's opinion, corner lots were worth the same as other street frontage lots. The assessor did not add any value to them even though his worksheets made provision for a "corner

influence" factor. This flexibility of the application of these rules led to some interesting situations.

One property which we examined had been purchased for \$64,000.00 in 1965, had some additional lands added to it and yet 15 years later, in 1980, was valued at \$60,000.00, \$4,000.00 less. Incredibly, it had decreased in value. Another property that we examined consisted of a building containing 110,000 square feet and a parking lot covering 20,000 square feet; yet on the worksheet only 130,000 square feet of land was listed as being used. The remaining five acres of the lot were listed as unoccupied bulk land and valued at \$.02 per square foot rather than \$.20 per square foot. This led to a loss in assessed value of approximately \$45,000.00.

As in most other areas where errors were discovered in the next year of reassessment (1983), these errors and most others were rectified.

The Assessor's Choice of Model

When an assessor values a building under the replacement cost method he chooses a model from the Boeckh Manual which is as similar as possible to the one he is working on. The exercise of this discretion can lead to some unusual situations. Our retail store which many of our readers are familiar with, was valued as a one-story/neighborhood food store which in the Boeckh Manual was described as follows:

"These stores are located in residential sections to provide essential convenience food and variety items to the immediate neighborhood. ... A typical design has load-bearing masonry exterior walls, light interior steel framing supporting a built-up roof on metal deck with open-web steel joists."

As most of you know our building had a peaked roof, was wood framed and sided and had no metal framing.

There was one warehouse building in particular in the Town which, because of its similarity in structure and use to ours, we felt would be a good check on the assessor's methods. Our building was valued in the Boeckh Manual as a commercial industrial storage shed. When we looked at the worksheet on the other building

used for comparison, it was valued as an agricultural workshop. The assessor agreed that it would be appropriate to use the same commercial model on this building as had been used on our warehouse. When we had him value this building in this manner the new value came out to \$35,716.00 as opposed to the value shown on his worksheets of \$22,000.00. In other words, the assessor had, simply by choosing the inappropriate model, decreased its value by \$13,000.00.

Depreciation and Obsolescence

Depreciation is the factor used to reflect the age of, and wear and tear on, a building. Obsolescence is the factor used to reflect a building's lack of utility and style for its present use. These can be calculated on a mathematical basis or as was the case in most of the commercial and industrial buildings we looked at, by the "observed" method.

Our nine buildings dating from 1911 and sprawling over a four and one-half acre complex were given a 20 percent obsolescence factor. The assessor admitted he had no experience in our industry however, he based this figure on a calculation using an imaginary replacement building which, he said, would be needed to replace our nine buildings. Even though the trend in the building supply business is for smaller, more efficient operations this replacement building contained a square footage equal to that contained in our nine buildings. On the other hand, where the assessor used the "observed" method for obsolescence he was able to provide an opinion that one commercial property still being used for the purpose that it was built for only 12 years before, was 40 percent obsolete. This allowed him to reduce its assessment by 40 percent. When asked why he had formed such an opinion he could give no reasons. In other words, it was a "guess". Most of the other properties had 30, 40 and in one case 55 percent deductions from their value for obsolescence on the basis of "the assessor's opinion".

The assessor's use of depreciation figures had the same effect on value. On one building we looked at the assessor gave his opinion with no factual basis that its depreciation was 35 percent, yet in the next reassessment year after our appeal, he had reduced this depreciation figure to 25 percent. He could give no explanation for the 35 percent figure or for the reduction. In other words, on

the figures, the condition of the building had actually improved with age.

Rounding Down

The practice that gave us the most concern was the evidence that came out on "rounding down". This, we feel, caused a serious erosion of the Town's tax base. One property was valued after depreciation, etc. at \$2,950,000.00 yet it was rounded down to \$2,500,000.00. In other words, at the stroke of a pen \$450,000.00 had been erased from the assessment roll of the Town of Stellarton. Another property, while being valued on the cards at \$2,186,192.00 was rounded down to \$2,000,000.00. Yet another property was valued at \$138,000.00 and was rounded down to \$100,000.00. We point out that there are many residential properties in the Town of Stellarton assessed at less than \$38,000.00 whose owners pay the full amount of taxes on that assessment. Our assessed value was rounded down from \$582,953.00 to \$582,950.00, a \$3.00 reduction!

The assessor could provide no explanation for this practice but again, we point out that after our appeal was launched, the local office in the assessor's words was reprimanded and told to discontinue this practice. We wonder if such a practice would ever have been made known to the public in the absence of our appeal.

Our examination of the worksheets that we obtained showed that in the years involving our appeal, the assessor had the discretion through the use of these tools to create whatever value he wished for a building and simply justify it, by stating that it was "his opinion".

However, when our assessment appeal was launched this opinion was quickly substantiated by carefully manipulated calculations to reflect the assessed value.

We estimate that the assessor's failure to apply the same methods he used on our buildings to other commercial properties in the Town of Stellarton eroded hundreds of thousands of dollars from the Town's tax base. After the testimony of the assessor it was clear that there were indeed good reasons for the Assessment Department having denied us access to these worksheets.

It was the stated intention of these articles to fully inform the Public of the method of assessment used on our property and also on the method - or rather lack of method used on other commercial properties in the Town. It is a sad indictment on our assessment system when a property owner can be assessed not on a property's physical features but on what physical features an assessor says should exist. When we sold our operation in two parts, we made commitments to the purchasers to see this matter through to a conclusion. It became obvious to us after five days at this second Hearing that we were no closer to a comparison of property values, than we were when we were before Mrs. Lawrence and Darryl Wilson.

Extraordinary Situation

We found ourselves in an extraordinary situation, we were appealing a 1982 assessment in 1987, and the Department of Municipal Affairs were pressing for a rerun for 1983, 1984, 1985, etc.. Mr. Gordon's evidence and calculations clearly demonstrated that it was all a facade and Mr. Weldon even refused to permit us to put up comparative calculations on a flip chart to illustrate this facade.

A Genuine Authority

We had contacted the Boeckh Organization, on whom the Province relied for appraisal expertise and subscribed to their system. They assigned Mr. Joseph Dicolangelo to our case to assist us in providing evidence in support of our position. Please note that we subsequently learned that Mr. Dicolangelo providing evidence within the Province for a client other than the Province of Nova Scotia, could have jeopardized the entire use of the Boeckh System by the Province. Mr. Dicolangelo to his credit however, was still prepared to testify in spite of this.

The documents tendered to us and superficially examined before Mr. Weldon, completely exposed the assessment system. We wanted Mr Dicolangelo to do an appraisal on the other properties in question and to present his calculations and conclusions to the Board. However, the Board would not accommodate our request for an adjournment so that Mr. Dicolangelo could be present during Mr. Gordon's cross-examination.

Escape Options

The Municipal Board could insist to have evidence before it to show what the proper assessment for our property should be. Up to this time, there was no indication that the value of other properties would have any bearing on the Board's conclusions. The requirement for us to prove the correct assessment meant that this Hearing could have continued indefinitely. Furthermore, costs were mounting. Besides the Chairman, Mr. Weldon, and his counsel, Mr. Lambie, the Government had two lawyers, a stenographer and three assessors sitting in on the Hearing; six of whom were staying in motels in the area. We had been warned earlier that we would be responsible for the assessor's costs and that we would have to face legal costs as well. Mr. Cameron at the Regional Assessment Appeal Court had found that our assessment was \$380,000.00. After protracted negotiations, a figure of \$425,000.00 was manufactured. Added to this was a business occupancy tax of 50% and machinery at \$80,000.00 for a total of \$717,500.00.

The year 1981 was not considered, in spite of the fact that it took us six years to obtain the information we had sought back then, so, in the spirit of justice, we were stuck with our 1981 assessment of \$1,000,000.00.

The following chart shows our assessment before the appeal, after the appeal and the reduction we achieved. You will note how much more valuable our property became in 1984, (Could this have been further intimidation?)

	<u>Before</u>		<u>After</u>	<u>Reduction</u>
1981	\$ 600,000 300,000 100,000	Land & Building Bus. Occupancy Equipment	\$ 600,000 300,000 100,000	
	\$1,000,000		\$1,000,000	No reduction because of 3-week limitation
1982	\$ 600,000 300,000 100,000		\$ 425,000 212,500 80,000	
	\$1,000,000		\$ 717,500	\$ 282,550
1983	\$ 600,000 300,000 100,000		\$ 425,000 212,500 80,000	
	\$1,000,000		\$ 717,500	\$ 282,550
1984	\$ 721,700 360,850 141,000		\$ 500,000 250,000 80,000	
	\$1,223,550		\$ 830,000	\$ 393,550

Part of our property was sold in 1984 to A.J. Munro Building Supplies Limited.

A Fabricated Figure

The Municipal Board is bound by its legislation to make an investigation and finding once a case has been commenced. This means that it cannot accept an agreed figure. Thus to accommodate this, the assessor, Mr. Farrell took the stand and conveniently gave testimony to the effect that our correct assessment based on the evidence he had heard in the second Hearing should be \$425,000.00 (as opposed to nearly \$600,000.00 he testified was appropriate in the first Hearing). This figure was a fabricated figure, symbolic of the whole process we had been through. We offered no evidence in rebuttal and so the Board accepted this figure as final.

We had incurred extraordinary legal bills between January 1, 1981 and January 31, 1987 with three law firms and an appraisal company. We point out that these costs had been imposed on us ever since our assessment was increased 300% in 1981.

Seven Years of Torment and Aggravation

The following is a chronology of the events imposed on us from 1981 to 1987.

<u>Month</u>	<u>Day</u>	<u>Year</u>	
Jan.	01	1981	Initial reassessment (3 week appeal limitation)
Jan.		1982	Appeal Filed
May		1982	Initial hearing before Regional Assessment Appeal Court. This was adjourned because of an objection by the solicitor for the Department of Municipal Affairs to counsel for D. Porter & Son Limited re, recording the proceedings.
May	18	1982	Deputy Minister of Municipal Affairs, John Mullaly, confirms in writing to Joseph A. Cameron, Vice-Chairman of Regional Assessment Appeal Court that recording of proceedings is acceptable provided that parties record at their own expense.
July	13	1982	Regional Assessment Appeal Court Hearing. Both parties record Hearing.
April	29	1983	Application by way of Mandamus to force Joseph A. Cameron, Vice-Chairman of Pictou Regional Assessment Appeal Court to file his decision. Justice Lorne Clarke issues order and awards costs to D. Porter & Son Limited. <u>10 months later.</u>
May	16	1983	Decision of Regional Assessment Appeal court received. Assessment set at \$380,000. D. Porter & Son accept decision and later pay taxes on this figure.
May	30	1983	Director of Assessment files Notice of Appeal with Municipal Board, <u>against Mr. Cameron's decision.</u>
July	8	1983	Letter to Marion Tyson requesting access to tapes for transcript of proceedings before Regional Assessment Appeal Court, our tapes inaudible.
July	25	1983	Follow-up request for tapes.

July	28	1983	Reply from Marion Tyson stating that the tapes were not available and <u>probably erased</u> .
September	22	1983	Request by D. Porter & Son Limited for information later subpoenaed, regarding comparable properties.
October	13	1983	Request refused. Subpoena issued
November	15	1983	First day of Hearings before Municipal Board: R. H. Blois (Chairman), Elizabeth Lawrence, Darryl Wilson.
January	17 18 19	1984)	Resumption of Hearing in Halifax (Lawrence and Wilson, Blois no longer on Board).
March	19 20	1984)	Completion of Hearing in Stellarton (Lawrence and Wilson).
March	18	1985	Decision and Order of Municipal Board issued. <u>1 year later</u> to Supreme Court of Appeal.
April	10	1985	Application for leave to Appeal filed.
June	20	1985	Order granting leave to Appeal on issue of access to records.
September	13	1985	Appeal heard and Order issued revoking decision of Municipal Board ordering a new hearing awarding costs to us and granting access to records. Various requests for assessment cards for 13 buildings made.
Sept. '85 -	March '86		Solicitor for Department of Municipal Affairs <u>states No records Figures erased</u> .
March	27	1986	Ex Parte Application to have matter remitted back to Supreme Court of Appeal; made for an order seeking full costs. June 19 date set.
May	8	1986	Appearance in Court of Appeal Chambers to answer application by Director of Assessment to have March 27 Order struck out.
May	15	1986	Appearance before Clarke, Chief Justice of Nova Scotia on adjournment from previous week, Director of Assessment's application dismissed.
June	19	1986	Attendance before Nova Scotia Supreme Court Appeal Division to argue application.
June	25	1986	Nova Scotia Supreme Court Appeal Division hands down judgment, sympathizes but refuses application for full costs.

November	24	1986	First day of Hearing in Stellarton, Randell Duplak produces " <u>missing documents</u> ". Merle Gordon claims they were <u>found previous Friday</u> .
November	24-28/86		Hearings in Stellarton.
January	26	1987	Hearings in Stellarton.
January	26	1987	Escaped by accepting fabricated assessment of \$425,000.00.

We Sought Redress

We have sought redress, from our elected officials, and have asked for three things: (a) compensation for the costs incurred (b) a roll-back of our 1981 assessment to reflect the reduced 1982 figure (c) a forgiveness of the 17% interest penalty charged on over-due accounts by the Town of Stellarton.

To seek this redress and to express our dismay, we contacted the Honourable Jack MacIsaac. He in turn put me in touch with Mr. Gordon Gillis, Deputy Minister of Municipal Affairs. A meeting was held with the Deputy Minister on May 8, 1987 and a transcript of the Hearing was supplied to him, together with an offer of free access to our files. Meanwhile, while these matters were under consideration, the purchaser of our plant, A.J. Munro Building Supplies Ltd., was threatened with a tax sale on their property. In order to bring the matter to a head, we contacted Mr. Gillis by letter and told him that unless we heard from him, we would assume that the Province had taken the position that we would have to pay all the costs imposed on us.

Part of the System

In response, we received correspondence from Mr. Gillis stating that we must negotiate any interest settlement with the Town and that if our concern was of the legal nature, we must deal directly with Mr. Duplak. In our opinion, Mr. Duplak was part of the system and had no power to remedy this situation. That was the sum total of the Province's answer to this whole charade. The Town was then contacted and a meeting with Town Council requested. The following response was received from Town Council:

"Council feels that no useful purpose would be served in

meeting with D. Porter & Son Limited representatives to discuss outstanding taxes owed by A.J. Munro Limited and Stellar Moulding Inc.

Likewise the matter of assessments is a Provincial responsibility handled through the Regional Assessment Office."

With a very superficial examination of a few commercial properties on the Stellarton assessment roll, we had discovered that the Town's tax base had been reduced by more than \$2,000,000.00. The Town authorities by receiving and accepting the assessment roll knew or should have known what was going on, but they showed no further interest. It must be kept in mind that all of these maneuvers by the Assessment Department were on behalf of the Town to collect taxes from us. Yet neither wanted to accept responsibility for the reprehensible actions that had continued for seven years.

As a result of this we ask this question of all our readers: Is taxation without representation any worse than with it?

From the information given in our previous presentation you may wonder as we do, whether we were involved in an obstruction of justice, a miscarriage of justice, a conspiracy or a combination of all three.

After seven years we escaped from a morass of bureaucracy by accepting a compromise on our assessment. From the inception, we have been subjected to a succession of maneuvers that were intended to deny our rights as taxpayers. When it became apparent that rather than an inquiry, we were in a confrontation with all the resources of Government, a decision was made to remove capital and vacate.

Following extensive advertising, we did not receive a single offer or proposal for the whole operation, so we offered it for sale in two parts and eventually sold both our manufacturing and sales facilities. We gave an undertaking to both purchasers that we would give our best efforts to find a solution to the inherited assessment problem. It is dangerous to be right when the Government is wrong.

Without justification, we continue to see both segments of the operation assessed in a manner that bears little relationship to other commercial properties in the Town, some of which are overvalued, some are undervalued. However, I believe that we have found the rules of the game and through the experiences of the past seven years, we should be in a position to guide others around the barriers that were raised against our efforts. One does not have to eat a whole egg to ^{KNOW} that it is bad. It must be apparent that property assessment and taxation is an in-house operation, from the assessors to the appeal system and the legal support supplied to enforce the will of the assessors.

The consequences to many people have become apparent, and will continue to become apparent. Prior to this fiasco we felt a moral and civic responsibility to create employment, but it is difficult to pursue these goals with such overwhelming forces working to disrupt and destroy. From a staff of 25 in 1981, eight are now employed in the two separated operations. This could be called job creation in reverse.

The past seven years have been a very distressing period, but nevertheless, we have obtained a valuable insight into a situation from which no taxpayer, challenging the system, will escape unscathed. The scars have many forms, horrendous costs on time and money, loss of livelihood for many people and all for what? For extra taxes? Hardly! Other commercial properties assessed for a small fraction of their values, properties left off the assessment rolls, hundreds of thousands of dollars written off the rolls after the manipulation of models, features, depreciation, obsolescence factors, etc..

While it is true that there is a higher court, and that twice we appeared before them, there is little one can do to limit the power of a system whose authority and resources are unlimited. The Nova Scotia Court of Appeal's role is a very limited one, in that they cannot adjudicate the merits of the case, only observe and judge the propriety of the proceedings at the lower court and board level.

No one can change the events of the past. Damage has been inflicted and none of our elected representatives has cared to intervene. The type of situation that we uncovered was anticipated by the original drafters of the Assessment Act and, in the Act, there is a section that deems an assessment of property at any amount

greater or less than the value at which it should have been assessed by 25% to be fraudulent and unjust, and to result in criminal charges. Unfortunately, these charges must be brought within two years of the offence. The procedure in our case was drawn out for seven years and thus circumvented the use of that section. What we have at present is a civil service bureaucracy which few are prepared to challenge and one which is an entity answerable only unto itself.

We have been damaged and others have been damaged through their actions, and the outcome we cannot predict. It is surely just another manifestation of those things which gives rise to so much public cynicism and mistrust of our legal and administrative systems.

To avoid recurrences, we urge our legislators to have the following incorporated into the Assessment Act now.

1. Once an assessor has set an assessment on a particular property that should be the end of his involvement. If a taxpayer chooses to appeal, the taxpayer should retain an independent appraiser to check the assessor's figures and the Province should do the same. Their choice should not be another assessor from within their own system but a competent and independent individual, one without a vested interest. This would avoid a situation where the assessor is scrambling and compromising to justify his own figures and would, we feel, create credibility and responsibility.
2. That the Regional Assessment Appeal Board divorce itself entirely from the local assessment offices. At present the Recorder of this Court works in the Assessment Office and any one of you who have attended a Regional Assessment Appeal Court will have noted how, upon entering the room, the assessor and the Regional Assessment Appeal Court Judge appear to be sharing the same papers and conversing in friendly and familiar terms, with nothing to manifest the independence or detachment of the judge from the administration.
3. That on a rotating basis the assessor's work papers undergo an audit by an independent appraisal firm to ensure proper valuation principles are applied and that uniformity of taxation is present. Such audit should be Province-wide and unannounced.

4. All judicial bodies involved in the assessment process be required by law to file their decisions within thirty days of the conclusion of the hearing. An extension to this only be granted upon application to a court of law.
5. That a taxpayer who successfully reduces his assessment in excess of 15% be reimbursed for all costs and appraisal fees.
6. That the Assessment Act be reviewed so that taxpayers and municipalities generally are treated on an equal basis throughout (i.e. no interest to either party or interest to both).
7. That all records pertaining to an assessment be carefully preserved and available for audit or comparative purposes.

We trust that our readers have been alerted by our experience and we hope no other taxpayer will ever have to endure the imposition of costs and anguish that we have had to to through over the past seven years. Freedoms are dearly won and easily lost, surely the right to appeal a property assessment should not be hindered or denied by persons on the public payroll who are appointed and paid to protect the public.

We thank you for your interest, and we would like to remind you that, on some scale what happened to us could happen to you. We have in our files a great deal of information concerning assessment methodology and other surprises somewhat similar to those that we have shared with you. Should any of our readers wish to pursue this matter further, we would be pleased to share information gathered from our experiences.

In closing, we believe that such an abuse of power as we have shown to you surely merits an independent examination by an appropriate authority.

D. Porter & Son Limited

A handwritten signature in cursive script that reads "Clarence Porter". The signature is written in dark ink and is positioned below the typed name of the company.

MAY 06 1988

LEONARD A. KITZ, Q.C. D.C.L.
JOHN D. McISAAC, Q.C.
DOUGLAS A. CALDWELL, Q.C.
JAMIE W. S. SAUNDERS
ROBERT M. PURDY
RAYMOND F. LARKIN
S. RAYMOND MORSE
DARREL I. PINK
JACK A. INNES, Q.C.
DIANNE POTHIER
JANET M. CHISHOLM
PETER M. ROGERS

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

FRED J. DICKSON, Q.C.
DAVID R. HUBLEY, Q.C.
GERALD J. McCONNELL, Q.C.
RONALD A. PINK
LOGAN E. BARNHILL
JOEL E. FICHAUD
J. MARK McCREA
D. SUZAN FRAZER
BRUCE A. MARCHAND
ROONEY F. BURGAR
JANICE A. STAIRS
DENNIS J. JAMES

JAMES C. LEEFE, Q.C.
FRANK J. POWELL, Q.C.
CLARENCE A. BECKETT, Q.C.
GEORGE L. WHITE
DAVID R. FEINDEL
A. DOUGLAS TUPPER
DORA L. GORDON
LORNE E. ROZOVSKY, Q.C.
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

May 6, 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

This is further to yours of April 27, 1988, regarding Dr. Stenning's report.

I have some of the information requested on the "List of Additional Information Requested of Mr. Smith..." and shall deal with it using the numbers on your list.

1. Mr. Swim was a former member of the military police and then a member of the Fredericton City Police. He was an instructor and then Assistant Director at the Atlantic Police Academy before spending the last several years as a trainer in the Correctional Services Division of the Attorney General's Department. He was the successful candidate for his present position.
2. This information will be provided.
3. This information has been given previously to Dr. Apostle.

Mr. John Briggs
May 6, 1988
Page 2

4. Dartmouth. This was a short summary report provided to the Police Chief of Dartmouth prior to the city commissioning a detailed study by Professor Allan Grant of Toronto.
5. Middleton.
6. Will be provided.
7. Will be provided.
8. The information regarding public complaints and internal discipline will be provided. However, you should know the commission does not deal with complaints against the RCMP and maintains no information regarding complaints about that police force.

In Dr. Stenning's report there is a question mark on page 7 relating to Mr. Ronald Endres. Mr. Endres is a lawyer.

George Smith advises he should have the balance of the information available within a week or so. You must appreciate that in addition to providing the information for Dr. Stenning, the Police Commission must continue to operate with a very small staff. However, we are endeavouring to collect the information and I shall forward it along as soon as I have it.

Yours truly,



Darrel I. Pink

DIP/jl

c.c. Mr. George Smith

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

May 5, 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.

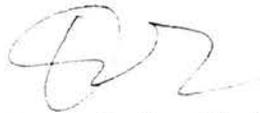
Dear John:

Our File No. 9201/1

The files from the Green Royal Commission are housed at the Nova Scotia Archives with reference number RG44 volume 104-106.

If Dr. Stenning wishes to have access to them, he should speak to John MacLeod at the Archives in the Government Records Division, to arrange for access.

Yours truly,



Darrel I. Pink

DIP/jl

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

MAY 06 1988

SMITH, GAY, EVANS & ROSS

BARRISTERS & SOLICITORS

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

604 QUEEN SQUARE
P.O. BOX 852
DARTMOUTH, NOVA SCOTIA
B2Y 3Z5
Telephone (902) 463-8100
Facimile (902) 465-2313

May 5, 1988

File #1085-01

ROYAL COMMISSION

ON THE DONALD MARSHALL, JR. PROSECUTION

Maritime Centre
Suite 1026
1505 Barrington Street
Halifax, NS
B3J 3K5

Attention: George W. MacDonald, Esq. Q.C.

Dear Mr. MacDonald:

Re: Marshall Inquiry

Enclosed herewith please find a photocopy of an article of January 30, 1975 which is self-explanatory.

The Black United Front is interested in reviewing whatever interim reports and field notes exist as these relate to the examination as mentioned.

It is my understanding that this was a three-year effort and that quite a few interim reports were filed, and that sometime in 1978 or 1979 the Attorney-General of the day directed the termination of the examination program.

Please be good enough to inquire from the solicitors for the Attorney-General and as appropriate, make the information available for review by the Black United Front.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:



E. ANTHONY ROSS

EAR/lms

cc: G. Taylor
A. Derrick
B. Wildsmith

Encl.

TOTAL EXAMINATION PLANNED

Findings could have national application

By DON MACDONALD
Staff Reporter

News Scotia has been chosen for a four-year independent study of its criminal justice system.

Mr. Sullivan admitted there are some weaknesses in the present system, but he also said there are many "great strengths."

It is "most important" both the strong and weak points be exposed.

See FINDINGS page 2

The study will permit officials to gain a better understanding of their own role in the general public in the review.

"The system is there for the protection of the public... we have to know how they feel about the system."

In the past, the general public has discussed the system "among themselves" because there has never been

Findings

(Continued from page one)

"a broad vehicle" for discussion, he said.

The four-year study will provide a means for the public as well as those involved in the system "to really say what they feel, and to get some response" to their suggestions.

Mr. Sullivan said the project will involve "the best people" in criminal justice circles. Expertise and data will be available from across the province as well as various parts of the country.

Assurance has been obtained from federal officials that the RCMP, penal services personnel and other experts will be made available at no cost to the project.

Mr. Sullivan said the first year will be used to launch the project and to get a public discussion going about the present system.

As the project progresses, specific findings will be developed by the public, representatives, service clubs and other responsible groups will have a simple opportunity to make their views known.

Mr. Sullivan said the project has been under consideration by the province for some time.

EEC relationship

An agreement has been signed by the province and the federal government for the study. The federal government will provide \$200,000 towards staffing the project, while Nova Scotia's share, estimated to be less than \$50,000 will be used towards costs of supporting research and administration of the project.

Mr. Sullivan said highlights of the project is it will involve an assessment of the "overall criminal justice system" in the province as opposed to studies of separate parts.

He described the project as "the most important study of criminal justice in the country."

All sectors of the present system, along with the general public will be involved in the project, Mr. Sullivan emphasized.

The study will solicit advice of judges, police, prosecutors, correctional officers and members of the general public, he said.

Sollicitor-General Warren Almond, in a statement announcing the project, said the study will lead to development of a comprehensive model for criminal justice in the province.

The study will take a broad look at the whole justice system, including new ways to prevent crime, and alternatives in imprisonment as constructive penalties for less serious offences, Mr. Almond said.

The project, if successful, could have wide-reaching implications, the federal minister said.

Mr. Sullivan said the project is based in part on the belief certain phases of the present system operate in

Canada must be more precise says Wilson

OTTAWA (CP) — British Prime Minister Harold Wilson with Canada, and while Brian Mulroney would act as an "interlocutor," Canada must be more precise in what it wants.

The two made their offer in a news conference following a long working lunch with Prime Minister Trudeau and other ministers during which everything from energy to economics was discussed.

Mr. Wilson told reporters that Britain would like to help Canada in its bid for a contractual relationship, a contract there are speculations, mostly procedural and resulting from the way the EEC does business.

Mr. Callaghan, who had discussed the matter earlier in a 45-minute talk with External Affairs Minister Allan Rock, said he thinks there is a strong possibility of a relationship with Canada.

He said Britain is prepared to act as an "interlocutor" on Canada's behalf but he added that "we all" have to make more precise the type of relationship desired, whether it be trading or political.

In that connection the external affairs department announced earlier Wednesday that talks will start shortly in Brussels between Canadian and EEC officials seeking to make the broad ideas presented by Canada more precise.

The contractual arrangement

Wilson, Ford planning two days of talks

WASHINGTON (AP) — British Prime Minister Harold Wilson arrived in Washington Wednesday for two days of extensive talks with President Ford.

A Royal Air Force plane brought Wilson and his party from Ottawa where he had spent the night with Pierre Trudeau, but Canadian counterparts.

Wilson's plane was more than two hours late arriving at Andrews Air Force Base near Washington. The departure was delayed because of freezing rain.

There were no ceremonies because officials Wilson will arrive this morning to be welcomed at the White House by Ford.

Presidential Press Secretary Ron Nease said Ford and Wilson will discuss the latest affairs of the Atlantic alliance, East-west relations and international financial

Mer LCL cancellation

As we're concerned we want to have a maximum of new national transportation contracts for the country," he said.

Yesterday's actions also dealt with trucking rates. Mr. Rumphey said further on rail freight rates, trucking and as a consequence claimed

That's not the end as far as we're concerned. Freight rate increases had

Driving conditions hazardous

A snowstorm which struck the province last night, leaving the roads in the St. Lawrence Valley and the Ottawa Valley hazardous, has caused the Halifax International Airport to close.

The storm created hazardous driving conditions and police reported a rash of minor accidents from the area.

Rail

OTTAWA — Minister of Railways and Transport Jean Marchand was invited to appear before the Atlantic Liberal caucus, after the party's MPs and senators Marchand in the Atlantic provinces.

The LCL, which was scheduled to be dropped, is a service which will cost shippers up to three times more.

Special meetings of the Atlantic Liberal caucus yesterday would make representatives of the companies concerned the LCL rate structure, which has already been phased out in all other parts of Canada.

At the same time, Mr. Marchand struck by his earlier decision of about the freeze

Mer LCL cancellation

As we're concerned we want to have a maximum of new national transportation contracts for the country," he said.

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Details page 1

Talks held to prevent collapse of St. Lawrence Canal

Mer LCL cancellation

As we're concerned we want to have a maximum of new national transportation contracts for the country," he said.

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MAY 06 1988



AUSTRALIAN INSTITUTE OF CRIMINOLOGY

28 April 1988

The Commissioner
Royal Commission on
Donald Marshall Jnr
Prosecution
Maritime Centre
Suite 1026
1505 Barrington Street
Hallifax
Nova Scotia B3J 3K5
CANADA

Dear Sir,

I am researching the incidence of wrongful conviction and I understand your Royal Commission is currently examining the case of Donald Marshall Jnr. Could you possibly place me on your mailing list so that I may receive a copy of the Commission's Report when this is available? Also I would be most interested in references to other cases involving wrongful conviction and any references to this would be greatly appreciated.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'Ivan Potas', is written above the typed name.

Ivan Potas
Criminologist

Halifax, Nova Scotia
Canada
B3H 3C3

Faculty of Arts
Office of the Dean



May 3, 1988

Mr. John Briggs
Director of Research
Maritime Centre
Suite 1026
1505 Barrington Street
HALIFAX, Nova Scotia
B3J 3K5

Dear Mr. Briggs:

Thank you for your letter of May 5. I regret I am unable to act as a reviewer for Dr. Head's study but I am afraid I have other research and administrative commitments.

I have booked all day June 15, for the in-house workshop-seminar and barring anything unforeseen, I will attend.

Thank you for inviting me.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'James H. Morrison'.

James H. Morrison
Dean of Arts

JHM:jw

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

May 5, 1988

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

Dear Wylie:

RE: Draft Order

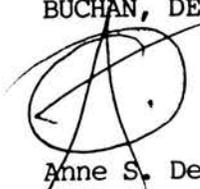
Please find enclosed the draft Order which I have prepared, specifically with respect to Mr. Marshall's application. I understand it is your intention to incorporate this in the final Order you will be preparing for submission to Chief Justice Glube.

I submitted a draft Order with the material forwarded to you when I filed Mr. Marshall's application. I did not re-recite the paragraphs from this original draft Order relating to relevancy, the public interest, etc. because Chief Justice Glube is not directly stating this in her decision although, I suppose, it was implicit in her finding. I refer you to this previous draft in case it of any assistance to you.

Please call me if I can be of help. I look forward to receiving a copy of the Order when it has been taken out.

Yours sincerely,

BUCHAN, DERRICK & RING


Anne S. Derrick

ASD/arm
Marshall/
Spicer
ASD 6A

MAY 04 1988



DALHOUSIE UNIVERSITY
HALIFAX, N.S.
B3H 1T2

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

May 3, 1988

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

Dear Mr. Briggs:

I am writing to inform you that we have received only 112 of the approximately 500 possible Officer Information Sheets from the RCMP (for provincial and municipal members). This represents a completion rate of less than 25 per cent. This is a disappointing response rate because it will make it very difficult (if not impossible) to do meaningful scientific analysis of the data for the RCMP itself, or to compare the RCMP data with that collected from the municipal police departments (MPDs). One normally obtains completion rates of 75 per cent or better for this type of survey in the Maritimes. Given the brevity of the questionnaire, the simple and straightforward nature of the questions, and the importance of the Inquiry, I frankly anticipated obtaining an 80 per cent completion rate from both the MPDs and the RCMP. We already have an 80 per cent completion rate for the MPDs, and it will probably be in excess of 85 per cent when all our MPD returns are tabulated. I appreciate that completion of these forms must be treated as a voluntary matter in the RCMP (as it was in the MPDs). However, I think increased emphasis on the significance of this data for the Inquiry should be able to improve the RCMP return rate.

I would, at the same time, like to emphasize that I am not making, or implying, any criticisms of Inspector Murphy or Corporal Shaw in this matter. Both men have been very helpful and direct in sending out and collecting the Sheets.

Yours sincerely,

Richard Apostle

MAY 04 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

AR-21,613

Our file
Notre dossier

Your file
Votre dossier

426-7592

May 4, 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 Inquiry

Mr. Douglas Rutherford has asked me to deliver to you a copy of the Honourable Ray Hnatyshyn's letter to Mr. Clayton C. Ruby dated April 21, 1988.

I accordingly enclose a copy of same for you.

Yours very truly,


James D. Bissell
General Counsel
Director, Atlantic Region

JDB/vpc
Encl.

Canada

Minister of Justice
and Attorney General of Canada



Ministre de la Justice
et Procureur général du Canada

The Honourable L'honorable
Ray Hnatyshyn, P.C., O.C., M.P., C.P., C.R., Député

Minister's File: 12-00-04(YD88-0969)
Dept'l File:

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

APR 21 1988

Dear Mr. Ruby:

Thank you for your letter of March 18, 1988, asking me to order a reference to the Supreme Court of Canada pertaining to the validity of orders, issued by the Commission of Inquiry into the Marshall case, to certain members of the Nova Scotia Court of Appeal seeking to compel them to be examined.

The issue has already been referred by application to the Supreme Court of Nova Scotia. A review of the materials filed in that application shows that the issue which appears to be raised is one which the courts in Canada and abroad have considered on a number of occasions. I have no doubt that the matter will be dealt with in a responsible way by the courts in Nova Scotia and I do not believe that a reference to the Supreme Court of Canada is advisable in the circumstances.

I appreciate having been provided with the benefit of your views.

With kindest regards, I remain,

Yours sincerely,

Original Signed By
Original Signé par

Ray Hnatyshyn

D. Rutherford/J. LaRocque/G. Racicot/ss3

Ruby & Edwardh
barristers

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

May 3, 1988

Chief Justice Constance Glube
Nova Scotia Supreme Court
Trial Division
The Law Courts
1815 Upper Water Street
Halifax, Nova Scotia

COPY
FOR YOUR INFORMATION ONLY

My Lady:

Re: Donald Marshall, Jr. the Royal Commission
S.H. 64118

I do not understand how, without invitation from the Court, parties write to you with argument once a decision is reserved and under consideration after full argument in open court. You should have ignored Mr. Murray's letter to you of April 27, 1988, and I would ask that you equally ignore mine, but on reflection I thought it inappropriate to call you and ask you whether you wished for their submissions.

The significant aspect of Jewitt is its adoption of the general language in Connelly v. DPP by the Supreme Court of Canada after many years in which this English authority had been subordinate in Canada to the long line of authority that Mr. Murray cited that decisions of the Attorney General cannot be reviewed by the Courts. The passage adopted in Jewitt at p.14 was:

"Are the courts to rely on the Executive to protect their process from abuse? Have they not themselves an inescapable duty to secure fair treatment for those who come or are brought before them? To questions of this sort there is only one possible answer. The courts cannot contemplate for a moment the transference to the Executive of the responsibility for seeing that the process of law is not abused."

Donald Marshall has "come before" you. The judicial "duty to secure fair treatment" for him, in the context of the present application, is to apply

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the rules of certiorari and jurisdictional error to the decision of the Royal Commission respecting Cabinet confidentiality.

ErteI supports the view that the Courts are not powerless to intervene and assess, by Constitutional standards, decisions of the Attorney General--decisions which not so long ago were thought, pursuant to the line of cases cited by Mr. Murray, to be examinable only in Parliament.

But all of this is irrelevant to the central concern. Whatever might be the limitations of the Court in examining the decision making process exercised by the Attorney General--and we maintain that there are none that are relevant to the issues before you--there is nothing in the case law to suggest that when the government of the day established a Royal Commission and included within its mandate an examination of the conduct of members of the cabinet in relation to the subject matter at issue, it would be right to exempt the decision making by the Attorney General from this assessment.

Indeed, the idea of an immunity from Royal Commission Inquiry for the Attorney General alone is sufficiently surprising that one would wish high authority for the suggestion indeed!

And it is even more surprising that, if such an immunity existed, the Attorney General's own counsel did not think to claim it when he was before the Court!

Yours very truly,



Clayton C. Ruby

/ms

cc Donald Murray, Esq.
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1959 Upper Water Street
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✓Wylie Spicer, Esq.
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MAY 03 1988

MEMORANDUM

DATE: 03 May 1988

TO: The Honourable Mr. Justice T. Alexander Hickman
The Honourable Mr. Justice Lawrence A. Poitras
The Honourable Mr. Justice Gregory Thomas Evans
Susan M. Ashley ✓
George MacDonald
Wylie Spicer
David B. Orsborn
John Briggs

RE: Media Policy

As we head into the next phase of public hearings, I want to remind you of the media policy established in September. At that time and subsequently, members of the media were given a general information package when they registered. This included a tentative witness list, scheduled hearing dates, and a description of policy and procedures.

Members of the media are all aware that the commission secretary is the official spokesperson on all matters. However, in the informal environment that has developed, this policy has been informally altered on a few occasions.

It is fair to say that in the final analysis "off the record" does not exist in the media world. Journalists owe as much to their profession as lawyers do to theirs.

Aside from anything else, it is extremely unfair to speak "off the record" to any member of the media unless the same privilege is extended to all reporters. Obviously that is impossible. Therefore, I strongly recommend that the original policy be followed in order to be as fair as possible to all representatives of the media.

Please leave all media contact to the commission secretary.


I. S. Fraser



MAY 03 1988

78 Queen's Park
Toronto, Canada M5S 2C5

MEMORANDUM

TO: The Commissioners
Commission Counsel
Director of Research
Executive Secretary

FROM: Professor J.L.J. Edwards

DATE: May 2, 1988

SUBJECT: An Opinion outlining a series of alternative approaches to the office of D.P.P.

I enclose for your perusal an opinion which is intended to complement the previous memoranda on the same central subject of why a statutory office of Director of Public Prosecutions is called for in Nova Scotia.

In my next opinion I propose to relate these comparative experiences to the numerous other issues surrounding the Office of Attorney General.

John Edwards.

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

MAY 02 1988

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April 27, 1988

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

Further to my last letter to you concerning the impropriety of putting before the Commission information obtained by experts, I would ask you to take a look at a decision called Pfizer Company Limited v. Deputy Minister of National Revenue for Customs in Excise (1977), 68 D.L.R. (3rd) 9 at p.15 where Mr. Justice Pigeon, speaking for the Supreme Court of Canada said:

"While the Board is authorized by statute to obtain information otherwise under the sanction of oath or affirmation..., this does not authorize it to depart from the rules of natural justice. It is clearly contrary to those rules to rely on information obtained after the hearing was completed without disclosing it to the parties and giving them an opportunity to meet it."

This underscores the submission I have made to you that you will be placing the decision of the tribunal in jeopardy if you proceed in this way.

Will you please remember that Sinclair Stevens is taking the Parker Royal Commission to the Federal

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Court alleging violations of natural justice. There is no point in giving unhappy parties an invitation to do the same thing.

Yours very truly,

A handwritten signature in dark ink, appearing to be 'Clayton C. Ruby', written in a cursive style.

Clayton C. Ruby

/ms
Enclosure