

### CML Consultants

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#### FACSIMILE TRANSMISSION SHEET

TO: Susan Ashley

FROM: Carole

DATE: Aug. 26/88

TIME: 1:10

CLIENT FAX NO.: \_\_\_\_\_

WE ARE TRANSMITTING 2 PAGE(S) INCLUDING COVER PAGE.

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

NOTES: This is a draft of  
the ad for Sept. 7 - is it  
OK. -

### NOTICE OF INQUIRY

The Royal Commission on the Donald Marshall, Jr., Prosecution will reconvene Public Hearings on Monday, September 12, 1988 at 9:30 a.m. at St. Thomas Aquinas Church Hall, 6350 Cornwall Street, in the City of Halifax, Province of Nova Scotia.

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

The question in Nova Scotia these days isn't which party will win the election, but how we will explain it to our friends in the rest of the country if the incredible happens and *they* actually do get re-elected.

They, of course, are the Tories. You may have heard of some of them:

- Billy Joe MacLean ... convicted ... uttering forged documents;
- Greg MacIsaac ... convicted ... expense account fraud;
- Edmund Morris ... convicted ... violating the province's Freedom of Information Act.

There was also the Deputy Premier who had to resign over allegations of conflict of interest. And the Attorney-General who had to apologize for misleading the legislature.

Not to forget the Marshall Inquiry — where evidence is mounting the province's justice system may be unsafe for any but the politically well-connected.

And the government hasn't just been corrupt — it's been incompetent too. After 10 years of Tory rule, Nova Scotians are saddled with record high deficits and a record low credit rating.

You would expect the election result to be a foregone conclusion. Surely, the people will turf the rascals out.

But all three provincial political parties say their own polls indicate the election is too close to call. The rascals may indeed squeak back into power.

So local pundits are already trying to come up with reasons to explain — or explain away — that possibility.

Some suggest it would be one more indication the Liberal party is in disarray, or that Liberal leader Vince Maclean doesn't have the right stuff.

Others hypothesized that Premier John Buchanan — the bland bombshell of Canadian politics, who's built an incredibly successful career

substituting the saccharine of inoffensive niceness for the grit of political substance — is smarter than many of us believe.

There may be some truth in all of those explanations, but my own theory is that — for sound historical reasons — Nova Scotians just don't expect any better from their politicians.

Ideologically, there's never been much to choose between the province's two major parties. Neither has distinguished itself for its successful management of the economy or its superior ethical standards. As a result, it's easy to sympathize with voters who have difficulty distinguishing between the rascals in government and the rascals-in-waiting on the Opposition benches.

Anyone looking for evidence to support the belief that all politicians are created equally unsavory would need look no further than the appointment last week of NDP MLA Bob Levy to a Family Court judgeship.

That eve-of-election appointment was a crass transparent political manoeuvre to get the popular Levy out of politics, so a Tory candidate — most likely retiring Provincial Chief Judge and former Tory cabinet minister Harry How — can win his seat back for the Tories.

That the Tories would so blatantly use a judicial appointment for political gain — even after all the scandals — is bad enough.

That Levy would take the job is even worse.

The NDP had finally begun to achieve a measure of electoral credibility in Nova Scotia in recent years, in no small part because it has publicly proclaimed its own higher ethical standards. Levy himself was one of his party's most articulate spokesmen against patronage and the politicization of the judicial appointment process.

But then, when the carrot was dangled, Levy jumped for it too.

**Can you really blame Nova Scotians for wondering what difference it  
makes which rascals they elect?**

AUG 25 1988

# STEWART MacKEEN & COVERT

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OUR FILE REFERENCE:

RNP  
835-1524

August 25, 1988

George W. MacDonald, Q.C.  
Commission Counsel  
Royal Commission on the  
Donald Marshall, Jr., Prosecution  
Suite 1026, Maritime Centre  
1505 Barrington Street  
Halifax, Nova Scotia  
B3J 3K6

Dear George:

## Roland Thornhill Case

I would reiterate my request for a copy of the documents that you are going to file on September 12.

I would very much appreciate receiving same as soon as possible.

Thank you for your cooperation.

Yours very truly,

*Ronald N. Pugsley*  
Ronald N. Pugsley

RNP:dk

N0184082

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**Executive Director**  
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Cst. Roy Landry  
Halifax

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New Glasgow

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King's Corr. Centre

**Chaplin**  
Rev. Lloyd O'Neill

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



August 23, 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  
B3J 3K5

Dear John:

Thank you for your material of August 12, 1988. I am sorry I will be unable to attend the work shop on August 31, 1988 due to a previous commitment.

I would like to suggest that David Fisher, our in house lawyer, be able to attend.

Thank you for keeping us informed.

Yours truly,

*Joe Ross*  
J. W. "Joe" Ross  
Executive Director

JWR/brb  
pc: PANS Board of Directors  
Mr. David Fisher

AUG 25 1988

# STEWART MacKEEN & COVERT

BARRISTERS AND SOLICITORS

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OUR FILE REFERENCE:

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COUNSEL  
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

RNP  
2076-2

August 24, 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 Mr. MacDonald:

Position of Commission Counsel Concerning  
Deliberations of the Commission

Thank you for your letter of August 3.

I fully support the positions advanced in your letter on the first three pages. In particular, I would stress the following:

"If inquiry staff are to make a final submission, it may be preferable that inquiry counsel file it before the filing dates for submissions by other participants, thereby allowing others to comment on staff positions in the last public session before report writing." (Anthony and Lucas) ...

I have sought to overcome this by laying down a ruling that the recommendations that the Inquiry staff wish to develop should be presented to the Inquiry by Commission counsel at the formal hearings. In this way the Inquiry staff will be



George W. MacDonald, Q.C.  
August 24, 1988  
Page 2

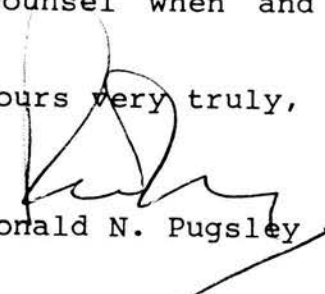
developing what they conceive to be the appropriate terms and conditions to be applied, but they will not be enabled to do so privately." ([1976] 3 Queen's Law Journal 14).

On page four of your letter you refer to the continued involvement of counsel. I see no problem as far as this continued involvement relates solely to research but where it would trespass on the area of recommendations to the Commission with respect to the interpretation of evidence or recommendations with respect to their final conclusions and submissions, I would take exception.

In the event you feel this latter approach is appropriate, I would appreciate it if you would raise the matter with the Commission and advise what would be an appropriate time to address argument with respect to this matter.

In that regard, and to assist in scheduling time commitments, is it possible for you to advise counsel when and where final summation will take place.

Yours very truly,



Ronald N. Pugsley

RNP:dk

c: All Counsel

N0183997

AUG 25 1988

LEONARD A. KITZ, Q.C., D.C.L.  
JOHN D. MACISAAC, Q.C.  
DOUGLAS A. CALDWELL, Q.C.  
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August 24, 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 would like to add one name to the list of those participants at the session on Public Policing in Nova Scotia. Ms. Kit Waters is the Director of Policy and Planning of the Solicitor General's Department and as you are aware, actively involved in the Solicitor General's task force on police training. She has already reviewed the Apostle/Stenning Report and I trust her attendance will not cause any difficulty.

Yours truly,



Darrel I. Pink

DIP/sm

cc: Ms. Nadine Cooper-Mont  
Ms. Kit Waters

AUG 25 1988

LEONARD A. KITZ, Q.C., D.C.L.  
JOHN D. MACISAAC, Q.C.  
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August 25, 1988

BY HAND

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

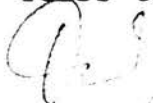
Dear Wylie:

Our File No. 9201/1

I acknowledge yours of August 23 to Jamie Saunders.

We shall advise regarding Mr. Donahoe's attendance on  
September 14, 1988.

Yours truly,



Darrel I. Pink

DIP/sm

cc: Mr. D. William MacDonald, Q.C.

MURRANT BROWN

Barristers & Solicitors

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AUG 24 1988

ROBERT MURRANT, Q.C.

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August 22, 1988

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

Dear David:

**RE: Marshall Inquiry - Michael Harris**

I write to advise that this morning I received Mr. Saunders' response concerning Mr. Harris.

I now wish to confirm that Mr. Harris will be available to testify, as anticipated, on Monday, September 12.

As matters stand, all counsel except Mr. Ross have indicated that they will abide by the Commission's earlier guidelines concerning Mr. Harris' testimony.

Yours truly,



Robert Murrant

RM\*dm

AUG 24 1988

MACINNES WILSON  
FLINN WICKWIRE  
Barristers and Solicitors

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JOHN P. MERRICK, Q.C.  
JOHN W. CHANDLER  
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COUNSEL  
W. J. MacINNES, Q.C.

August 23, 1988

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

ATTENTION: Ms. Susan Ashley,  
Executive Secretary

Dear Ms. Ashley:

We understand the Royal Commission on the Donald Marshall Jr. Prosecution intends to reconvene hearings on September 12, 1988, in Halifax. We have been retained by Mr. Thornhill to represent his interests in that regard.

We write to request that the Commission grant Mr. Thornhill full standing to participate at this portion of the inquiry, including the right to examine witnesses, present evidence if necessary and to make such submissions as he considers appropriate in relation to any of the issues that touch on Mr. Thornhill which may come before the Commission.

Commission counsel have advised that the inquiry is to be restricted to events subsequent in time to August 1980 and will primarily involve representatives of the Nova Scotia Attorney General's office and members of the RCMP. While we understand there is no suggestion that Mr. Thornhill himself interfered in any way with the RCMP investigation, there will inevitably be present the issue of whether Mr. Thornhill, among others, should have been charged with a criminal offence. His conduct will therefore, even if indirectly, be held up to public scrutiny. We note that to avoid unfair and unnecessary public exposure, the Commission documents will blank out the names of the Banks. Yet the same protection cannot be given to Mr. Thornhill. It would seem essential, therefore, in the interest of fairness, that he have the standing to deal with evidence that may affect his reputation.

We would appreciate you putting our request before the Commission and advising us, as early as possible, as to the decision. If there is anything further we can do in this regard please let us know.

Yours truly,

**MacINNES WILSON  
FLINN WICKWIRE**



**John P. Merrick**

JPM/ers



Law Reform Commiss  
of Canada

130 Albert St.  
Ottawa, Canada  
K1A 0L6

Commission de réforme du droit  
du Canada

130, rue Albert  
Ottawa, Canada  
K1A 0L6

AUG 23 1988

Your file    Votre référence

Our file    Notre référence

August 22, 1988

Mr. John Briggs  
Director of Research  
Maritime Centre, Suite 1206  
1505 Barrington Street  
HALIFAX, Nova Scotia  
B3J 3K5

Dear Mr. Briggs;

Mr. Cohen told me that you will be attending the Government Group Consultations organized by the Law Reform Commission of Canada.

The next meeting will be held on September 15 and 16, 1988 in St. John's, Newfoundland. I am enclosing the following:

1. Notice of Meeting
2. Remedies in Criminal Proceedings
3. The Control of Prosecutions:  
The Attorney-General and The Crown Prosecutor
4. Summary of Recommendations for Remedies in Criminal Proceedings
5. Summary of Recommendations for The Control of Prosecutions: The Attorney-General and The Crown Prosecutor
6. Agenda
7. Revised table of Contents for Remedies etc.
8. Notice of Public Meeting

.../2

*John has material  
included.*

Canada

- 2 -

Please call me at (613) 996-7845 if you have any questions.  
Please make your hotel bookings and flight arrangements as soon as possible.

Yours truly,

A handwritten signature in cursive script that reads "Sally Morrow". The signature is written in dark ink and is positioned above the typed name.

Sally Morrow  
Consultations Administrator

ENCLS.



AUG 23 1988



Department of Justice  
Canada

Ministère de la Justice  
Canada

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Our file  
Notre dossier AR-21,613

Your file  
Votre dossier

August 19, 1988

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

Dear Mr. MacDonald:

Re: Marshall Inquiry - Billy Joe MacLean

I acknowledge receipt of your letter dated August 3, 1988.


I wish to confirm that our clients have reviewed the proposed Agreement of Facts and documents identified by you relating to Billy Joe MacLean and consent to their use subject to the following:

1. that the Attorney General of Nova Scotia consents to the use of the documents;
2. that the material is not used to inquire into the practices, procedures, methods or internal management of the R.C.M.P., nor is our consent to the use of the material to be interpreted as a waiver of our right to object to the use of the material for any purpose outside the mandate and authority of the Commission; and
3. should Mr. MacLean or any party with standing tender other documents not yet identified by you at the Inquiry, we reserve the right to tender any other necessary documents or evidence to ensure that the Commissioners have all the material necessary to fairly assess the evidence.

Mr. George MacDonald, Q.C.  
August 19, 1988  
Page Two

We note that there were five investigation reports between April 30, 1985, and March 27, 1986. Would you amend the Statement of Facts to make reference to those interim reports. We do not think it is necessary to include the reports as documents.

Yours very truly,

*for*   
A. R. Pringle  
Senior Counsel  
Atlantic Region

ARP:wm

cc: Inspector L.F.W. McKiel  
R.C.M.P. Halifax

: Mr. Jamie Saunders  
Patterson Kitz



AUG 24 1988

---

295 Grafton Street Charlottetown P.E.I. Canada C1A 8W4 (902) 566-9610

1988 08 23

PERSONAL & CONFIDENTIAL

BY COURIER

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

RE: Dr. APOSTLE/Dr. STENNING's STUDY ON  
"Policing in Nova Scotia"-----

Dear Sir:

Please find enclosed three (3) copies of my review of the research conducted by APOSTLE/STENNING into Public Policing in Nova Scotia.

I look forward to meeting with you and the other reviewers on the evening of August 30th, and for the presentations scheduled for the 31st.

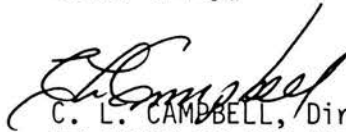
I would like to suggest a slight reorganization of the format. I found the inclusion of the questions contained on Page 240 to 248 distracting in reading the report and would suggest it might be better placed as an appendage. I also found it awkward to make reference to the recommendations and would suggest you consider a separate summary of the recommendations, identified in numerical or alphabetical sequence.

I did not comment with regard to GRANT's recommendations on a Central Police training establishment nor on the situation regarding Halifax conducting their own training.

I would certainly be prepared to make comments in regard to these two issues should your committee feel it necessary, but I assume my position in support of GRANT's recommendations and opposition to Halifax's plan would be well known.

I thank you for the opportunity to participate in this exercise.

Yours truly,

  
C. L. CAMPBELL, Director  
ATLANTIC POLICE ACADEMY

H. JAMES PUDDISTER, Q.C. \*  
DAVID B. ORSBORN, C.A.  
JEFFREY P. BENSON  
R. WAYNE MYLES  
PHILIP CHAPMAN, LL.M.  
AUGUSTINE F. BRUCE  
BEVERLEY A. BARTER

\* A Master of the Supreme Court

Articled Students  
DENES E. BAJZAK  
GARY F. PEDDLE, M.B.A.  
SHELLEY M. EVANS  
SEAN HANRAHAN

AUG 23 1988

XEROX 295  
TELECOPIER MESSAGE  
COVER PAGE

TO: ROYAL COMMISSION ON THE DONALD MARSHALL INQUIRY

ATTN: MR. WYLIE SPICER

FROM: PUDDISTER/ORSBORN

PER: DAVID ORSBORN'S SECRETARY

DATE: AUGUST 23, 1988

NUMBER OF SHEETS: THIS COVER PAGE + 0

COMMENTS:

RE: Your fax transmission of August 22nd, 1988: Mr. Orsborn is unable to attend any of the three meetings mentioned.

JME

1988

S.H. No. 63241

IN THE SUPREME COURT OF NOVA SCOTIA  
TRIAL DIVISION

BETWEEN:

Ian M. MacKeigan, Gordon L. S. Hart,  
Malachi C. Jones, Angus L. MacDonald  
and Leonard L. Pace

Plaintiffs

- and -

T. Alexander Hickman, Lawrence A.  
Poitras, and Gregory Thomas Evans

Defendants

- and -

The Attorney General for the  
Province of Nova Scotia

Intervenor

- and -

Donald Marshall, Jr.

Intervenor

---

PROPOSED QUESTIONING OF THE PLAINTIFFS

---

Submitted by:

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

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

Solicitors for Donald Marshall, Jr., Intervenor

Proposed Questioning of the Plaintiffs

The issues that concern Mr. Marshall, Jr., in addition to those the Commission seeks to raise, question broadly to the honesty and integrity of the judicial process in the Court of Appeal for Nova Scotia during the Marshall Reference.

Particular Questions will include:

Why did they decide not to hear evidence from the police at the Reference?

When and how did the Judges get the notion that Donald Marshall Jr. deceived his 1971 trial Lawyer?

Were there any secret communications, directly or indirectly, with the Attorney General's Office concerning Donald Marshall, Jr. or the case without telling Donald Marshall, Jr.'s lawyers.

Why did Mr. Justice Pace sit on the Reference despite his conflict of interest? When was this decided?

Did MacKeigan, C.J. and the other judges know that Mr. Justice Pace had been Attorney General at the time of the original Prosecution, i.e. Did Mr. Justice Pace disclose this?

How did the Court conclude that Donald Marshall Jr. helped secure own conviction?

Why did the Court feel it necessary to exonerate the judicial system "any miscarriage of Justice is more apparent than real"?

Who wrote the decision on the Reference? How many drafts were there?

Did Mr. Justice Pace insist on the "no miscarriage of justice" section of the judgement being inserted in the judgement in return for his agreement to make the decision unanimous?

Was the Court mindful of the possibility that Donald Marshall, Jr. would apply for compensation from the government and did it seek in its decision to influence that eventuality?

Was Donald Marshall, Jr.'s race a factor in the decision-making process?

What was the perjury Donald Marshall, Jr. supposedly committed? Did the Judges invent this perjury to accommodate the conclusion that "any miscarriage of justice was more apparent than real"?

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ALSO OFFICES AT  
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August 19, 1988

BY HAND

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

Dear Mr. MacDonald:


Our File No. 9201/1

This is further to yours of August 3, 1988, to Jamie Saunders regarding the Billie Joe MacLean matter.

I wish to confirm Jamie and I are representing the interests of the Auditor General and the Speaker before the Inquiry as it relates to the Billie Joe MacLean case.

I hope we shall speak soon about timing for interviews of Messrs. Cormier and Donahoe, both of whom have other commitments over the next couple of weeks but will make themselves available for an interview with you.

Yours truly,

  
Darrel I. Pink

DIP/jl

1A

c.c. Mr. Paul Cormier  
Honourable Arthur R. Donahoe, Q.C.



*Wylie*

### Appeal books

62.14 (1) Except in an interlocutory appeal or an appeal as to costs only or where otherwise ordered by a Judge, the appellant shall, within sixty days from the filing of the notice of appeal,

- (a) file with the Registrar five copies of the appeal book for the use of the Court; and
- (b) deliver to each respondent or his solicitor a copy of the appeal book.

(2) When an appellant files a notice of appeal he may give notice in writing to the Registrar and serve such notice on the other parties to the appeal, that, instead of an appeal book as prescribed by this rule 62.14, he will file and deliver a printed case in the form required by the Supreme Court of Canada Rules.

(3) Except in an interlocutory appeal, an appeal as to costs only or a tribunal appeal, or except where otherwise ordered by a Judge or agreed to by the parties, an appeal book shall consist of the following:

- (a) Part I - Pleadings and Related Documents
  - (i) index of the documents therein;
  - (ii) the notice of appeal, any notice of cross appeal or respondent's notice of contention;
  - (iii) the pleadings, including any particulars;
  - (iv) the decision and order appealed from;
- (b) Part II - Evidence:
  - (i) index of witnesses;
  - (ii) list of all exhibits;
  - (iii) transcript of the evidence at the trial;

inclusion of an agreed statement of facts in lieu of transcript or exhibits, with the object of avoiding undue expense or delay by reproduction of material not necessary for the appeal.

(6) If either party wishes to abridge the appeal book as provided for in rule 62.14(5), but without agreement of the opposite party having been secured, he may apply to a Judge who may give directions as to the form and contents of the appeal book.

#### Factums

62.15. (1) The appellant shall within fourteen days after the delivery of the appeal book, or within such longer time as the parties agree upon or a Judge allows, file with the Registrar five copies of a factum as prescribed by rule 62.15(3) and deliver a copy to each respondent.

(2) Each respondent shall within fourteen days after being served with the appellant's factum, or within such longer time as the parties agree upon or a Judge allows, file with the Registrar five copies of a factum as prescribed by rule 62.15(3) and deliver a copy to each other party to the appeal.

(3) A factum shall consist of:

- (a) Part I – Concise Statement of Facts;
- (b) Part II – List of the Issues;
- (c) Part III – Argument (summary of the submissions on each issue);
- (d) Part IV – Order or relief sought, including any Order as to costs;
- (e) Appendix A – List of citations referred to in Part III;
- (f) Appendix B – Statutes and Regulations (all relevant provisions shall be set forth in this appendix or in the appellant's factum; or offprints may be filed and served with the factum).

(4) If a cross-appeal involves matters not conveniently covered by a section of the respondent's factum, the respondent

**Civ. Proc. Rules [N.S.], Rel. No. 7-8/11/79**

- (iv) copies of affidavits, written admissions and discovery evidence if, and to the degree, that they have been admitted in evidence at the trial and are not reproduced in the transcript of evidence;
- (v) photocopies of documentary exhibits, if not reproduced in the transcript, but not exhibits or parts of exhibits not germane to the issues on appeal or which may more conveniently be summarized or described;
- (vi) a statement of facts agreed to by the parties in lieu of any or all of (iii), (iv) and (v).

[Amend 8/11/79]

(c) An appeal book shall be printed double-spaced on one side of letter size paper with the printed pages to the left and with each page numbered at the upper left. If Part II is not lengthy it may be bound in the same volume with Part I. Printing includes reproduction of copies by typing, offsetting, mineographing or any other process.

(d) The cover of the appeal book shall be grey and have marked thereon the number and short title of the appeal and each volume shall have marked thereon its number and the number of each Part therein, and where any Part contains more than one volume, each volume shall repeat the index and show on its cover the page numbers contained in it.

(4) In a tribunal appeal, an appeal book shall be prepared so far as possible as prescribed by rule 62.14(3), but if any question arises, or if, except where the appellant is the tribunal itself, any transcript, exhibit or other document is in the control of the tribunal, the appellant may apply for directions and assistance to a Judge, who may give directions as to the form and contents of the appeal book and may direct the tribunal to send to the Registrar any transcript, exhibit or other document for use on the appeal.

(5) The parties to an appeal or their solicitors may by agreement (which should not be part of the appeal book) agree to omit part or all of the transcript of evidence or of any other material which would normally be included in an appeal book, or agree to the

AUG 28 1988

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ALSO OFFICES AT  
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August 18, 1988

BY HAND

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

Dear Mr. Briggs:

Our File No. 9201/1

I have just returned from holiday and I am pleased to enclose an update for the Prosecutors' blue binders which includes the disclosure guidelines as issued on July 18, 1988.

This should have been sent to me at that time but, because Mr. Herschorn's secretary was on vacation, I was not included in the normal distribution.

Yours truly,

  
Darrel I. Pink

DIP/jl  
Enc.

LEONARD A. KITZ, Q.C., D.C.L.  
JOHN D. MACISAAC, Q.C.  
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August 18, 1988

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

Dear Mr. MacDonald:

Our File No. 9201/1


This will confirm our conversation of August 17, 1988, wherein I advised we have completed our review of the "Statement of Facts with respect to the MacLean case" and the "MacLean documents".

We have no objection to either of these being provided to Mr. MacLean for purposes of advising him with regard to the Commission's intentions. However, we are not able to agree that the Statement of Facts can be used as an agreed Statement of Facts to be filed with the Commission.

We have no difficulty with any of the documents included in the "MacLean Documents Booklet".

So Jim Bissell is aware of our position, I am forwarding a copy of this letter to him.

Yours truly,



Darrel I. Pink

DIP/jl

c.c. Mr. James D. Bissell  
Mr. D. William MacDonald, Q.C.

AUG 19 1988



Department of Justice  
Canada

Ministère de la Justice  
Canada

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Our file  
Notre dossier AR-21,613

Your file  
Votre dossier

August 18, 1988

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

Attn: John E. S. Briggs, Director of Research

Dear John:

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

I acknowledge receipt, with thanks, of your letter of August 11, 1988.

I will be pleased to attend the all-day workshop on Wednesday, August 31, 1988, on the subject of Public Policing in Nova Scotia. Unfortunately, Al Pringle will be away on vacation at that time and so can not attend. The new Commanding Officer "H" Division, Superintendent Gerald Lahey, has asked that I convey his regrets that he will not be able to attend as he will be out of province on August 31, 1988. He had been anxious to attend; however, he has asked that Superintendent D. Bain, Officer in Charge of Administration and Personnel, and Inspector E. G. Grant, Acting Officer in Charge of Criminal Operations, attend as his representatives at the work shop.

I have had an opportunity to review the report on policing prepared by Dr. Apostle and Dr. Stenning, and there are a couple of observations which I feel it more appropriate to make by this letter to you than to raise on August 31.

Our first concern relates to the statement which appears Part I, at page 54, wherein it is noted that in 1987 monies included in the budget for other policing servi included an allotment of \$30,000.00 for professio services. The report goes on to state that "this invol grants in the form of cost of living bonuses to five or si

Canada

.../

Royal Commission on the  
Donald Marshall, Jr., Prosecution  
Attn: John E. S. Briggs, Director of Research  
August 18, 1988  
Page Two

R.C.M.P. officers to enable them to locate themselves within the rural communities which they were policing". This is factually incorrect in several respects. First of all, the payments that were made in the past were not bonuses, but rather Cost of Living Differentials. Secondly, the payments were not made to officers of the R.C.M.P., but rather to members of the R.C.M.P. Finally, there has not been any money paid to the members of the R.C.M.P. for Cost of Living Differentials since September 29, 1986. By way of background, on November 14, 1983, the Deputy Attorney General agreed that his department would pay a Cost of Living Differential to members of the R.C.M.P. in Nova Scotia who agreed to reside in designated rural communities which were located a considerable distance from the detachment to which they were assigned. Under this program, members were located in the following communities:

<u>Community</u>	<u>Host Detachment</u>
New Ross	Chester
River John	Tatamagouche
Weymouth	Digby
Caledonia	Liverpool

Accounts which qualified for reimbursement were forwarded by the members to the Officer in Charge, Finance Service and Supply Branch, who forwarded them to the Attorney General for payment after audit. This practice was discontinued on September 29, 1986, and no member from that date has received a Cost of Living Differential.

We do appreciate that the authors of the report were describing the budget of the Attorney General's Department in 1987/88, but since it gives the impression that payments were made that have not in fact been made, we are anxious to correct that error.

The second item to which I take very strong exception and which I think is unfair and unwarranted is the following comment which appears at Appendix "N" with respect to Data Collection:

Royal Commission on the  
Donald Marshall, Jr., Prosecution  
Attn: John E. S. Briggs, Director of Research  
August 18, 1988  
Page Three

"We would like to note that we did encounter considerable legal delays (between six weeks and two months) in carrying out our field work with the R.C.M.P. Although we eventually did receive all the information we believe necessary for this report, save for the returns on the R.C.M.P. information sheets OIS, the interruptions did not make our task of meeting project deadlines any easier. Neither did the interruptions permit us to consider other avenues of inquiry which might of naturally flowed from this initial work. It should be emphasised that delays like this can be the functional equivalent of refusal to co-operate when research projects have short, and publicly recognized, deadlines."

I find it shocking when I know the hours of work that have been put in by officers and members of the R.C.M.P. to assist the Commission, that such a comment would be made. It is disturbing to me to think that the authors of a report into the Criminal Justice System would ever take exception to the right of any individual to seek legal counsel and advice. The R.C.M.P. had no control over the deadline under which the authors were working. For the authors to suggest that such delay can be the functional equivalent of refusal to co-operate when, in fact, the R.C.M.P. co-operated fully, is wholly inappropriate. You will recall my letter to you of April 6, 1988, in reply to yours of March 31, 1988, and our telephone discussion thereafter in which I had thought that the suggestion that our client's response to the issue of interviewing detachment NCOs could result in any adverse comment on the federal force had been resolved.

I do, however, wish to put the matter into perspective. On the whole, my clients feel that the report is a valuable and



Royal Commission on the  
Donald Marshall, Jr., Prosecution  
Attn: John E. S. Briggs, Director of Research  
August 18, 1988  
Page Four

worthwhile contribution on the subject of Public Policing in  
Nova Scotia. We look forward to participating in the seminar  
on August 31.

Yours very truly,



James D. Bissell  
General Counsel  
Director, Halifax Region

JDB/wm

cc: Mr. George MacDonald, Q.C.  
Commission Counsel

AUG 16 1988

MURRANT BROWN

Barristers & Solicitors

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ROBERT MURRANT, Q.C.

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August 15, 1988

COPY FOR YOUR INFORMATION

Mr. Jamie Saunders  
PATTERSON KITZ  
Barristers and Solicitors  
P. O. Box 1068  
TRURO, Nova Scotia  
B2N 5B9

Dear Mr. Saunders:

**RE: Marshall Inquiry - Michael Harris**

I write in furtherance of our telephone conversation of Wednesday afternoon.

You will appreciate that an impasse is presently building concerning the testimony of Mr. Harris.

As discussed, I am today in possession of Mr. Murray's letter to Mr. MacDonald and myself. Subject to Mr. Ross's position, Mr. Murray's letter represents a significant development.

To date, we have confirmation from a preponderance of parties with standing at the Inquiry to the effect that they will not seek to apply for, or explore, additional areas of questioning should Mr. Harris attend voluntarily. Indeed, we understand the Commission Counsel would object to such attempts at this time.

Once again, and apart from the position of Mr. Ross, it appears that a concensus may be reachable whereby this item can be resolved without the necessity of the certiorari proceedings in the Supreme Court.

Because I have not heard from parties and because Mr. Ross's position is unresolved, I am not yet in a position to confirm Mr. Harris' voluntary attendance on September 12. We may, however, be moving in that direction.

Confirmation from yourself on behalf of the Attorney General of Nova Scotia would be most helpful.

...../2

MURRANT BROWN

We look forward to hearing from you in this regard at your very early convenience.

Yours truly,

Robert Murrant

SS

xc; David Orsborn

# COX, DOWNIE & GOODFELLOW

BARRISTERS AND SOLICITORS

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HALIFAX, CANADA

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

OUR FILE: 8118-1

August 10, 1988


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

Dear Mr. Spicer:

RE: MacKeigan et al. v. Hickman et al.

May I advise that the Order which was consented to by all of you has now been initialled and taken out and a certified copy of the same has been returned to me bearing date August 9, 1988 and certified on that date.

Yours very truly,

  
R. J. Downie

RJD:cmg  
cc. Mr. Jamie Saunders  
Ms. Anne Derrick

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  
JACKA. 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, Q.C.  
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. MCCONNELL, Q.C.  
RONALD A. PINK  
LOGAN E. BARNHILL  
JOEL E. FICHAUD  
J. MARK MCCREA  
D. SUZAN FRAZER  
BRUCE A. MARCHAND  
RODNEY F. BURGAR  
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JAMES C. LEEFE, Q.C.  
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CLARENCE A. BECKETT, Q.C.  
GEORGE L. WHITE  
DAVID R. FEINDEL  
A. DOUGLAS TUPPER  
DARA 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

August 10, 1988

BY HAND


Mr. R. J. Downie, Q.C.  
Cox, Downie & Goodfellow  
Barristers & Solicitors  
1100 Purdy's Wharf Tower  
1959 Upper Water Street  
Halifax, Nova Scotia

Dear Ron:

MacKeigan et al. v. Hickman et al.  
Our File Number 9201/1

Thank you for the copy of your letter to Wylie Spicer  
confirming that your Order was filed August 9.

Yours very truly,

  
Jamie W. S. Saunders

JWSS/sac

cc: W. Wylie Spicer  
Anne Derrick

# Gowling & Henderson

BARRISTERS & SOLICITORS  
PATENT & TRADE MARK AGENTS

SUITE 2600  
160 ELGIN STREET  
OTTAWA, ONTARIO  
CANADA K1N 8S3

TELEPHONE: (613) 232-1781  
TELEX: 053 4114 "HERSON-OTT"  
FACSIMILE: (613) 563-9869  
(613) 563-7936

2 FIRST CANADIAN PLACE  
TORONTO, ONTARIO  
CANADA M5X 1A4

50 QUEEN STREET NORTH  
KITCHENER, ONTARIO  
CANADA N2H 6M1

19 THORNE STREET  
CAMBRIDGE, ONTARIO  
CANADA N1R 5W1

August 8, 1988

Mr. George W. MacDonald, Q.C.  
McInnes, Cooper & Robertson  
Barristers & Solicitors  
P.O. Box 730  
Cornwallis Place  
1601 Lower Water Street  
Halifax, Nova Scotia  
B3J 2V1

Dear Mr. MacDonald:

Re: Donald Marshall Inquiry

It may interest you to know that the last per saltum appeal was made in 1978. I am enclosing a copy of the consent that was used in that case.

I do not think that the statute requires an affidavit in support, however.

Yours sincerely,



Brian A. Crane

BAC:he  
Encl.

1  
IN THE SUPREME COURT OF CANADA  
ON APPEAL FROM THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

10 THE ATTORNEY-GENERAL  
OF BRITISH COLUMBIA

(Applicant)  
DEFENDANT

AND:

20 THE CANADA TRUST COMPANY and  
OLGA ELLETT, Executors and Trustees  
of the Estate of Francis Ely Ellett,  
deceased

(Respondents)  
PLAINTIFFS

A F F I D A V I T

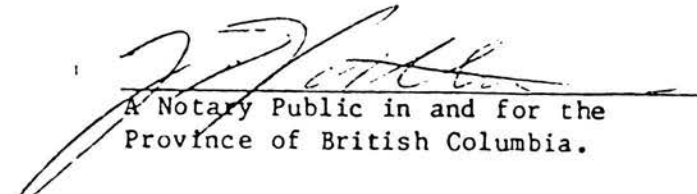
30 I, JOHN CHARLES SCOTT-HARSTON, of 202 - 2340 Oak Bay Avenue,  
in the City of Victoria, in the Province of British Columbia, one of Her  
Majesty's Counsel, MAKE OATH AND SAY AS FOLLOWS:

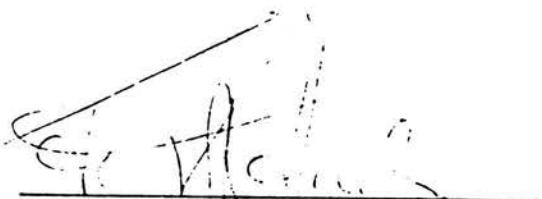
1. THAT I am a member of the firm of Messrs. Crease and Company  
of 1070 Douglas Street, in the City of Victoria, in the Province of  
British Columbia, who are solicitors for the Executors and Trustees of  
the will of Francis Ely Ellett, deceased, and as such I have knowledge  
of the facts to which I have herein deposed.

40 2. THAT the facts set out in the Consent which is now produced  
and shown to me and marked as Exhibit "A" to this my affidavit are true,  
and that the Respondents, the Executors and Trustees aforesaid, are  
willing to allow the Applicant to appeal directly to the Supreme Court

1 of Canada from the decision of The Honourable Mr. Justice Berger, of the  
Supreme Court of British Columbia, pronounced on the 13th day of April,  
1978, without the necessity of first taking an appeal to the Court of  
Appeal for the Province of British Columbia.

10 SWORN BEFORE me at the City of )  
Victoria, in the Province of )  
British Columbia, this 5<sup>th</sup> )  
day of June, A.D. 1978. )

20   
A Notary Public in and for the )  
Province of British Columbia. )

  
\_\_\_\_\_  
JOHN CHARLES SCOTT-HARSTON

30

40



IN THE SUPREME COURT OF CANADA  
ON APPEAL FROM THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE ATTORNEY-GENERAL  
OF BRITISH COLUMBIA

(Applicant)  
DEFENDANT

AND:

THE CANADA TRUST COMPANY and  
OLGA ELLETT, Executors and Trustees  
of the Estate of Francis Ely Ellett,  
deceased

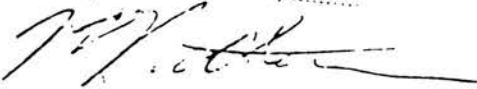
(Respondents)  
PLAINTIFFS

This is Exhibit "A"  
referred to in the Affidavit of

John Charles Sutt-Houston

sworn before me this 5<sup>th</sup> day

of June 1978



CONSENT

The Canada Trust Company and Olga Ellett as Executors and Trustees of the Will of Francis Ely Ellett, deceased, Plaintiffs below, hereby consent to the Applicant, The Attorney-General of British Columbia, appealing per saltum to the Supreme Court of Canada from the decision of The Honourable Mr. Justice Berger of the Supreme Court of British Columbia, pronounced herein on the 13th day of April, 1978.

*Grease Company*

Solicitors for The Canada Trust Company and Olga Ellett, Executors and Trustees of the Will of Francis Ely Ellett

AUG 17 1988



Dalhousie University

Dalhousie Law School  
6061 University Avenue  
Halifax, Nova Scotia  
Canada B3H 4H9

August 5, 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, N. S.  
B3J 3K5

Dear John:

Re: Wrongful Conviction and Imprisonment: Proposals  
for an End to the Compensatory Obstacle Course

I am enclosing a copy of my paper as it was submitted for publication. The earlier version which I sent has been revised considerably, but I hope that at least it stimulated some interest in Commission counsel.

Of course, further changes may be required by the editors of the journal which finally accepts it, but I believe that the present edition is certainly suitable for consideration by the Commission.

Yours sincerely,

H. Archibald Kaiser  
Associate Professor of Law

HAK/m

encl.

AUG 18 1988

HONOURABLE GREGORY T. EVANS

Apt. 1221, ManuLife Centre  
44 Charles St. West  
Toronto. M4Y 1R8

August 12, 1988.

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

Dear Susan:

I enclose copy of letter from Brent Cotter. I am always prepared to meet with law students if something can be worked out to fit into our schedule. Will discuss the matter with you in Digby or Halifax.

Sincerely,

*Greg Evans*

*/s.*

encl.



July 5, 1988

The Hon. Gregory T. Evans  
C/o Royal Commission  
on the Donald Marshall, Junior Prosecution  
1505 Barrington Street  
Suite 1026  
Halifax, Nova Scotia  
B3J 3K5

Dear Mr. Evans:

Re: Ethics Commission/Conflict of Interests

In a recent conversation with Susan Ashley, she advised me that upon your retirement you have accepted a position as Ethics Commissioner with the Government of Ontario. (I hope I have got that right.) I am the professor at our Law School responsible for implementing a compulsory course in the Legal Profession and Professional Responsibility. This course is being offered to our Third Year students during the Fall term of 1988 and it was both Susan's and my judgment that, if you are able to participate in the course in some way, we would be much honored by such participation and the students would much benefit from it.

My understanding is that you are likely to be in Halifax periodically during the Fall term. Would you be interested in participating in the course? My preliminary thoughts in this regard were that if you were interested and available, it might be appropriate for you to make a presentation on Conflict of Interests or possibly on the topic of the lawyer's duty to client/duty to court/etc. The schedule for the course calls for presentations to the whole group of students on Tuesday mornings from 10 - 11 o'clock (and occasionally from 10 - 12 o'clock). The students then have the opportunity to meet in small groups later in the week to discuss issues related to the topic presented on the Tuesday. My present plans for the presentation of Conflict of Interests would have this topic dealt with on a Tuesday in November. The topic of the lawyer's duty to various constituencies is likely to form one of the topics in a two week section called

The Hon. Gregory T. Evans  
July 5, 1988  
Page 2.

"Lawyering Conduct Dictated by the Adversary System" and would likely occur on the last two Tuesdays in October.

If you would be interested in participating in the way I have suggested or in some other way, I would be pleased to adjust the schedule of topics to accommodate your timetable. I will be out of the country for the next five or six weeks but would be very pleased to discuss this further on my return. I can be contacted at the above address or by telephone at (902) 424-1041. I hope you will not regard this as presumptuous of me, but rather an indication of our enthusiasm of your possible participation in the course. It is a major and important initiative at Dalhousie Law School that we have established this as a major course. We want to have the students take these matters seriously and your participation in the course would help to drive that point home.

Thank you in advance for your consideration of this suggestion.

Yours truly,

*Brent Cotter, me*  
W. Brent Cotter,  
Associate Dean.

/mgw

c.c.: Dean Christie

AUG 17 1988



Dalhousie University

Dalhousie Law School  
6061 University Avenue  
Halifax, Nova Scotia  
Canada B3H 4H9

August 5, 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, N. S.  
B3J 3K5

Dear John:

Re: Wrongful Conviction and Imprisonment: Proposals  
for an End to the Compensatory Obstacle Course

I am enclosing a copy of my paper as it was submitted for publication. The earlier version which I sent has been revised considerably, but I hope that at least it stimulated some interest in Commission counsel.

Of course, further changes may be required by the editors of the journal which finally accepts it, but I believe that the present edition is certainly suitable for consideration by the Commission.

Yours sincerely,

H. Archibald Kaiser  
Associate Professor of Law

HAK/m

encl.

AUG 16 1988

# BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

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

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

August 15, 1988

DELIVERED BY HAND

Mr. Wylie Spicer  
Maritime Mall  
Suite 1026  
1505 Barrington Street  
Halifax, N.S.

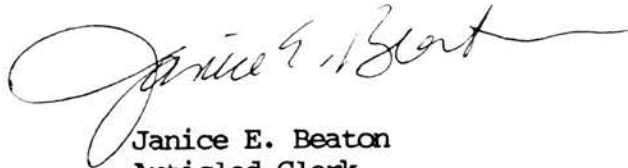
Dear Mr. Spicer:

RE: Her Majesty The Queen v. The Royal Commission  
Into The Donald Marshall, Jr., Prosecution  
and Donald Marshall, Jr. - S.C.A. No. 01908

Enclosed please find the Factum of the Respondent, Donald Marshall, Jr.

Yours very truly,

BUCHAN, DERRICK & RING



Janice E. Beaton  
Articled Clerk

JEB/arm

Enclosure

AUG 16 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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J. MARK MCCREA  
D. SUZAN FRAZER  
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DARA L. GORDON  
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WYMAN W. WEBB  
GORDON N. FORSYTH  
KIMBERLEY H.W. TURNER

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

ALSO OFFICES AT  
TRURO, NOVA SCOTIA  
BEDFORD, NOVA SCOTIA

August 16, 1988

BY HAND

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

Dear Mr. Briggs:

Our File No. 9201/1

I acknowledge yours of August 11, 1988, enclosing copies of the report prepared by Dr. Apostle and Dr. Stenning.

I confirm both Darrel and I will be in attendance at the workshop on August 31, 1988, but as yet, we have not had confirmation from Ms. Cooper-Mont, indicating who will be attending from her Department. I shall advise once I have this information.

Mr. D. William MacDonald of the Attorney General's Department will also be attending this workshop.

With regard to the workshop addressing the issue of the role of the Attorney General, the following individuals will be attending from the Attorney General's Department:

D. William MacDonald, Q.C.  
R. Gerald Conrad, Q.C.  
Bruce E. Davidson, Q.C.  
Martin E. Herschorn, Q.C.

Yours truly,



Jamie W.S. Saunders

/jl  
c.c. Mr. D. William MacDonald, Q.C.



5324 Morris Street  
Halifax, N.S. B3J 1B8

August 10, 1988

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

Dear Susan:

I was not surprised to receive your letter giving me notice. I was surprised that my opinion piece caused you 'dismay'. It has been apparent to me for some time that you would have been happy to find a way to get rid of me sooner.

The unexplained decision to remove me from the role of assisting in the drafting and revising of the Commission's report after you failed to remove me from the position of preparing the daily summaries was clearly the handwriting on the wall. Your first attempt to open my position, for whatever the reason, were frustrated and so now you have found an excuse.

I should like to point out for the record that my opinion piece in the Chronicle Herald was:

1. Not identified as coming from a person connected with the Commission.
2. Not about an issue before the Commission.
3. Not about any witness or testimony before the Commission.
4. A direct response to an article previously written and published.
5. Not expressing any view beyond what commission counsel expressed in their submission to Justice Glube.
6. Submitted during a long period of recess when I was in fact not working for the commission.
7. Not a violation of any confidence or special knowledge but was about a matter of public record and public interest.

It has been a distinct pleasure for me to be associated with the Commission throughout the hearing phase. I have found the preparation of the daily summaries a challenging writing experience. And I believe that I have demonstrated both competence and initiative in the performance of those duties.

I look forward to following the activities of the Commission in another capacity when the hearings resume.

Should you have any need of my services in the future, do not hesitate to call upon me.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'BWA' or 'Bob Wall', written in a cursive style.

Bob Wall

cc: Chief Justice Hickman  
David Orsborn

AUG 16 1988

MURRANT BROWN

Barristers & Solicitors

SUITE 401  
PURDY'S WHARF  
P.O. BOX 2626  
HALIFAX, CANADA  
B3J 3P7

ROBERT MURRANT, Q.C.

TELEPHONE (902) 421-2121

XEROX-FAX (902) 421-2125

August 15, 1988

COPY FOR YOUR INFORMATION

Mr. Jamie Saunders  
PATTERSON KITZ  
Barristers and Solicitors  
P. O. Box 1068  
TRURO, Nova Scotia  
B2N 5B9

Dear Mr. Saunders:

RE: Marshall Inquiry - Michael Harris

I write in furtherance of our telephone conversation of Wednesday afternoon.

You will appreciate that an impasse is presently building concerning the testimony of Mr. Harris.

As discussed, I am today in possession of Mr. Murray's letter to Mr. MacDonald and myself. Subject to Mr. Ross's position, Mr. Murray's letter represents a significant development.

To date, we have confirmation from a preponderance of parties with standing at the Inquiry to the effect that they will not seek to apply for, or explore, additional areas of questioning should Mr. Harris attend voluntarily. Indeed, we understand the Commission Counsel would object to such attempts at this time.

Once again, and apart from the position of Mr. Ross, it appears that a consensus may be reachable whereby this item can be resolved without the necessity of the certiorari proceedings in the Supreme Court.

Because I have not heard from parties and because Mr. Ross's position is unresolved, I am not yet in a position to confirm Mr. Harris' voluntary attendance on September 12. We may, however, be moving in that direction.

Confirmation from yourself on behalf of the Attorney General of Nova Scotia would be most helpful.

...../2

MURRANT BROWN

We look forward to hearing from you in this regard at your very early convenience.

Yours truly,

Robert Murrant

ss

xc; David Orsborn

AUG 16 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

August 12, 1988

File #1085-01

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

Dear Mr. Spicer:

**Re: Black United Front - Inquiry/Witnesses**

I acknowledge with thanks your letter of July 25, 1988.

Pursuant to instructions from the Black United Front after your letter had been discussed at length, I am instructed to advise you that the Black United Front would like to make application directly to the Commissioners, and accordingly, I ask that you accept this as notice of such application and that you give me some indication of the probable hearing date of the application.

May I hear from you at your very earliest convenience.

Yours very truly,

SMITH, GAY, EVANS & ROSS

PER:

  
E. ANTHONY ROSS

EAR/ceb  
cc: Y. Atwell

**THOMAS R. BERGER**

Barrister & Solicitor

Thomas R. Berger  
Gary A. Nelson

Suite 300 - 171 Water Street  
Vancouver, British Columbia V6B 1A7

Telephone: (604) 684-1311  
Fax No. 604/684-6402

August 15th, 1988

Fax to: 902/424-2709

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

Dear Susan:

Thanks for your letter.

I think the Statement of Purpose is very good.

In general terms, I have no criticism to make of the agenda. The idea of devoting one day to Native people in the justice system, and one day to blacks in the justice system, seems entirely appropriate.

I think I know something about the problems that Native people face in the justice system, and very little about the situation of blacks in the justice system.

On the Native side, I think it might be useful if I were to show your proposed program to Michael Jackson and to Sam Stevens, both of whom are here at the Law School, and whom I know well. Michael, in particular, has done a great deal of work in the justice system. I think we might benefit from any suggestions he was prepared to make.

As regards the U.S. experience, I have some suggestions to make. When I conducted the Alaska Native Review Commission, I got to know some of the leading figures, not only in Alaska, but in the Lower 48, who deal with questions of Native law and Natives in the justice system. We might consider inviting one or two of the following to attend:

- 2 -

Ms. Susan M. Ashley

August 15th, 1988

Professor Ralph Johnson  
College of Law  
University of Washington  
Seattle, Washington.

Ralph is an outstanding scholar in the field of Native rights. He is the leading authority on tribal courts in the U.S., indeed, he gives a seminar for Native Tribal Court judges every year, and has written a book for them. He would, I am sure, be willing to discuss the problems of tribal courts as well as the advantages.

Prof. Charles Wilkinson  
School of Law  
University of Colorado  
Natural Resources Law Center  
Campus Box 401  
Boulder, Colorado 80309

Charles is the pre-eminent U.S. scholar in the field of Native law. His most recent publication is "Indians, Time and the Law."

David S. Case  
Attorney at Law  
#1380, 550 West 7th Avenue  
Anchorage, Alaska 99701

David was counsel to my Commission in Alaska. He went there as part of the "bush justice project", a sort of domestic corps initiative. He is the author of "Alaska Natives and American Laws".

You might also want to talk to the people in Ian Scott's office. Ian spoke to me a year ago about doing a Royal Commission on Natives in the Justice System for the Government of Ontario. Nothing came of it, but it is a subject that has concerned him and his staff. It might be useful to invite someone from his staff.

As well, Ian sponsored a conference two months ago on Access to Civil Justice. I was one of the speakers, and noticed that it seemed to cover a good deal of ground in the field of criminal justice as well. Alan Hutchinson of the law school at York organized the conference for Ian, it might be useful for you to talk to Alan.

- 3 -

Ms. Susan M. Ashley

August 15th, 1988

On the black side, I suggest that it might be useful to have someone on the panel discuss the history (briefly) and present composition of the black community in Nova Scotia. I realize that there is a black community in Montreal and another in Toronto. Some comparative references might be made to them. I say this because conference participants, including myself, may feel themselves just a bit at sea when discussing the black side of the question, that is to say, while the Native side has in a sense a national focus and is well known to most of us, the same is not true of the black side.

I notice you have Rosemary Brown down on the list. If you think it appropriate, I would like to speak to Rosemary and show her the proposed program, so that we would have some idea what she thinks of it.

Two final matters of no importance. I should not be referred to as "The Honourable", as I gave up that designation in order to return to the bar. Neither am I a Q.C.; I have turned down that honour twice now because I don't believe in the idea, though I don't make a fuss about it. I am afraid I am just one of the ordinary folks.

Please give me a call about these matters.

I expect to be in Toronto and Ottawa about September 8th. We might be able to get together then.

Yours truly,



Thomas R. Berger

TRB:VC



AUG 12 1988

August 9, 1988

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

Dear Mr. Saunders:

Re: Cabinet Appeal

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

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

Yours very truly,

Wylie Spicer  
Commission Counsel

WWS/fm  
Encl.

AUG 11 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  
RAYMOND F. LARKIN  
S. RAYMOND MORSE  
DARREL I. PINK  
JACK A. INNES, Q.C.  
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J. RONALD CREIGHTON  
J. RONALD CULLEY, Q.C.  
NANCY J. BATEMAN  
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WYMAN W. WEBB  
GORDON N. FORSYTH  
KIMBERLEY H.W. TURNER

BANK OF MONTREAL TOWER  
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TELEX 019-22893

ALSO OFFICES AT  
TRURO, NOVA SCOTIA  
BEDFORD, NOVA SCOTIA

August 5, 1988

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

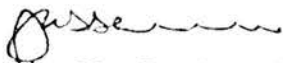
Dear George:

Thornhill Matter

Thank you for your letter to Jim Bissell and me dated August 3 with enclosure.

Are you now able to indicate the authorship of those two hand-written pages and what they mean?

Yours very truly,



Jamie W. S. Saunders

JWSS/sgr  
Encl.

cc James D. Bissell

THE SUPREME COURT OF NOVA SCOTIA

APPEAL DIVISION

TO: Ms. Anne S. Derrick,  
Buchan, Derrick & Ring,  
Barristers and Solicitors,  
Sovereign Building, Suite 205,  
5516 Spring Garden Road,  
Halifax, Nova Scotia.  
B3J 1G6 (Counsel for Appellant,  
Marshall)

Mr. George W. MacDonald, Q.C.,  
MacInnes, Cooper & Robertson,  
P.O. Box 730,  
Halifax, Nova Scotia.  
B3J 2V1 (Counsel for Appellant,  
Commission)

Mr. R. J. Downie, Q.C.,  
Cox, Downie & Goodfellow,  
Barristers and Solicitors,  
P.O. Box 2380, Station M,  
Halifax, Nova Scotia.  
B3J 3E5 (Counsel for Respondents,  
MacKeigan et al.)

Mr. Jamie Saunders,  
Patterson, Kitz,  
Barristers and Solicitors,  
P.O. Box 247,  
Halifax, Nova Scotia.  
B3J 2N9 (Counsel for Respondent,  
Attorney General of Nova  
Scotia)

Mr. James D. Bissell,  
Regional Director,  
Department of Justice,  
Royal Bank Building, 4th Floor,  
5161 George Street,  
Halifax, Nova Scotia.  
B3J 1M7 (Counsel for Attorney  
General of Canada)

RE: Donald Marshall, Jr., and T. Alexander Hickman,  
Lawrence A. Poitras and Gregory Thomas Evans  
v. Ian M. MacKeigan, Gordon L. S. Hart,  
Malachi C. Jones, Angus L. Macdonald, and  
Leonard L. Pace, and Attorney General of  
Nova Scotia - S.C.A. 01991

---

Please take notice that the above appeal will be heard by the Appeal Division at The Law Courts, Halifax, Nova Scotia, on Thursday, December 8, 1988, and Friday, December 9, 1988, at 10:00 A.M.

Yours faithfully,



A. Martin Smith, Q.C.,  
Registrar, Appeal Division

Notice mailed: August 4, 1988.

Note: Appeal Book to be filed by August 22, 1988.

Factums of both Appellants to be filed by September 15, 1988.

Factums of both Respondents, and as well the Attorney General of Canada should he intervene, to be filed by October 14, 1988. Mr. Downie to incorporate in his Respondents' Factum the material respecting the Contention.

Replies by Counsel who wish to respond to Mr. Downie's Contention to be filed by November 15, 1988.

AUG 09 1988

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

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

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 9, 1988

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

Dear Susan:

Re: Cabinet Appeal

I am sending along a copy of our Factum which  
has been filed today.

Yours very truly,



Wylie Spicer  
Commission Counsel

WWS/fm  
Encl.

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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WYMAN W. WEBB  
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KIMBERLEY H.W. TURNER

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ALSO OFFICES AT  
TRURO, NOVA SCOTIA  
BEDFORD, NOVA SCOTIA

August 5, 1988

George W. MacDonald, Esq., Q.C.  
Commission Counsel  
Royal Commission on the  
Donald Marshall, Jr., Prosecution  
Maritime Centre, Suite 1026  
1505 Barrington Street  
Halifax, N.S.  
B3J 1Z2

Dear George:

Billy Joe MacLean  
Marshall Inquiry  
Our File 9201/1

Thank you for your letter dated August 3 with enclosure.

I will seek instructions and get back to you and Jim as quickly as I can.

Yours very truly,



Jamie W. S. Saunders

JWSS/gmm

c.c. James D. Bissell, Esq.



# Halifax Sheraton

August 10, 1988

Ms. Carole McDougall  
CML Consultults  
1586 Queen Street  
Halifax, NS  
B3J 2J1

Dear Ms.

The Royal Commission choosing the Halifax Sheraton as a Royal

As per your reservation with you, I have effectively blocked

November inclusive of 1988

The price for the block of rooms is \$1.00 a night or double occupancy. Since all attendees will be a block with us directly, your room block will be reviewed 30 days prior to the event to ensure the appropriate number of rooms are being held. We need 30 days prior to the event at which time the hotel has the right to re-sell any rooms not sold for general sale.

If this agreement meets with your approval please sign and return this copy to me as soon as possible.

We look forward to seeing the Royal Commission and should you need any further assistance please do not hesitate to contact me.

Yours sincerely,

*Stephan Bennett*

Jerome Sampson  
Sales Manager Corporate

J6:eb

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

August 8, 1988

BY COURIER

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

Dear Wylie:

Cabinet Appeal  
Our File 9201/1

I have just seen your letter to Darrel of August 3. I don't believe he had the chance to respond in writing before leaving on vacation, but I know you discussed it with him by phone.

I take great exception to your assertion that our Factum:

... violates the undertakings given  
on behalf of the Attorney General's  
department . . ."

and I register a strong objection to your contention.

I hope you recall the meeting attended by George, David, you, Darrel and I at the conclusion of the hearings where you specifically asked if we would be withdrawing the first, second and third grounds of our notice of appeal, and I replied that we would not.

The prepared statement read into the record by George MacDonald on June 28 - to which I added my concurrence (Transcript page 14473) - was a clear indication that we would not seek to delay the hearings on September 12, nor impede the Commission's declared intention "to look at cases other than the Donald Marshall Jr. incident" when the hearings resumed on that date.

The five of us knew that the "other cases" were the Roland Thornhill and Billy Joe MacLean matters. We gave you our undertaking that by appealing the decision of Chief Justice Glube we were not objecting to these hearings - the so called second phase - reconvening in September.



We never undertook to waive or abandon any arguments relating to the Commission's mandate to question members of the Cabinet concerning the details of discussions, if any, which occurred in Executive Council. That is the thrust of our appeal. We do not challenge earlier matters or evidence considered by the Commission. I refer you to page four, paragraph number nine of our Factum.

We say:

"The issue raised by the Crown is the propriety of questions to members of the Cabinet concerning details of discussions which occurred in Cabinet. The Crown has never waived its right to make this argument. The Crown does not ask this Court to make any ruling respecting any other evidence, matter or topic before the Commission."


Further, I refer you to the concise statement made by George MacDonald on June 28th (pp. 14472-3) which isolates the subject of this Appeal:

"The only issue to be argued on behalf of the Attorney General in the Appeal Division on September 14th relates to the right of this Commission to question members of the provincial Cabinet concerning the details of discussions which occurred in Cabinet on any topic whatsoever."

You have asked that we withdraw portions of our Factum; in effect to rewrite it. This is a very peculiar request. I have never heard of such a thing.

My instructions are that we will not withdraw the arguments made and if you continue to have concerns then these ought to be addressed in September before the Court of Appeal.

Yours very truly,

  
Jamie W. S. Saunders

JWSS/gmm

AUG 08 1988

STEWART MACKLEN & COVERT  
BARRISTERS AND SOLICITORS

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

J. WILLIAM E. MINGO, Q.C.  
J. THOMAS McQUARRIE, Q.C.  
DONALD H. OLIVER, Q.C.  
DONALD H. McDOUGALL, Q.C.  
JOHN S. McFARLANE, Q.C.  
CARMAN G. McCORMICK, Q.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, Q.C.  
DAVID A. STEWART, Q.C.  
G. DAVID N. COVERT, Q.C.  
J. GERALD GODSOE, Q.C.  
WILLIAM L. HYAN, 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

RONALD N. PUGSLEY, Q.C.  
GEORGE A. CAINES, Q.C.  
JAMES S. COWAN, Q.C.  
JOEL E. PINK, Q.C.  
RICHARD K. JONES, Q.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, Q.C.

COUNSEL  
BRIAN FLEMMING, Q.C.

HUGH K. SMITH, Q.C.

August 5, 1988

DELIVERED

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

and

Mr. Robert Murrant,  
Murrant Brown,  
Suite 404, Purdy's Wharf Tower,  
1959 Upper Water Street,  
Halifax, Nova Scotia

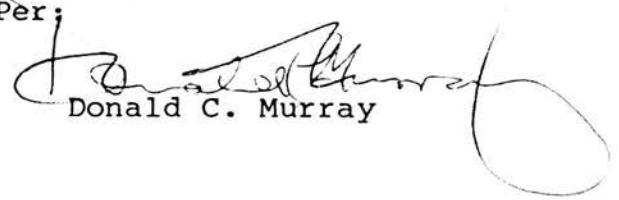
Dear Mr. MacDonald and Mr. Murrant:

RE: Michael Harris

Further to telephone conversations with Mr. Murrant and Mr. Orsborn, we wish to confirm on behalf of John MacIntyre that Mr. Pugsley proposes addressing questions to Mr. Harris consistent with the guidelines set forth by the Commissioners in their decision to seek testimony from Mr. Harris.

Yours very truly,  
STEWART, MACKLEN & COVERT

Per:



Donald C. Murray

DCM/dmb  
c.c. All Counsel  
N2061951



DALHOUSIE UNIVERSITY  
HALIFAX, N.S.  
B3H 1T2

AUG 08 1988

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

August 8, 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 the report which Philip Stenning and I agreed to prepare for the police study.

Yours sincerely,

Richard Apostle

Enclosure

cc.:

Professor Philip Stenning  
Centre of Criminology  
University of Toronto

PATTERSON KITZ  
BARRISTERS & SOLICITORS

AUG 04 1988

BANK OF MONTREAL TOWER  
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HALIFAX NOVA SCOTIA  
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TELEPHONE (902) 429-5050

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

August 2, 1988

BY HAND

Ronald J. Downie, Esq., Q.C.  
Messrs. Cox, Downie & Goodfellow  
Barristers and Solicitors  
1100 Purdy's Wharf Tower  
1959 Upper Water Street  
Halifax, Nova Scotia

Dear Ron:

MacKeigan et al  
v. Hickman et al  
Our File 9201/1

Thank you for the copy of your letter to George MacDonald  
dated July 26.

I agree with the change you have suggested.

Yours truly,

  
Jamie W. S. Saunders

JWSS/gmm

✓ c.c. George W. MacDonald, Q.C.  
c.c. Anne S. Derrick

AUG 04 1988

BANK OF MONTREAL TOWER  
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HALIFAX, NOVA SCOTIA  
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TELEPHONE (902) 429-5050

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

August 2, 1988

COPY BY HAND

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

Dear Anne:

Donald Marshall, Jr. (Appellant)  
v. Ian M. MacKeigan et al (Respondents)  
S.C.A. No. 01991  
Our File 9201/1

---

Thank you for your letters dated July 21 (with enclosure), July 25 and the copy of your letter to Ron Downie dated July 25. I also acknowledge receipt of a copy of Marlys Edwardh's letter to George MacDonald dated July 27. All of this correspondence arrived while I was out of the office on vacation.

I plan to be in attendance in Appeal Court chambers this Thursday, August 4 at 10:00 a.m. in response to your application.

Yours truly,



Jamie W. S. Saunders

JWSS/gmm

✓ c.c. George W. MacDonald, Q.C.  
c.c. Ronald J. Downie, Q.C.

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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FAX (902) 429-5215  
TELEX 019-22893

ALSO OFFICES AT  
TRURO, NOVA SCOTIA  
BEDFORD, NOVA SCOTIA

August 3, 1988

BY HAND

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

Dear George:

Marshall Inquiry  
Our File 9201/1

In order that we may plan our schedule and make preparations for witnesses during the September - October phase would you kindly indicate as soon as possible the list of witnesses whom you intend to call and the proposed dates?

I would also appreciate being advised of the documentation you propose to submit relating to the Billy Joe MacLean case?

Yours truly,



Jamie W. S. Saunders

JWSS/gmm



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

AUG 04 1988

Our file  
Notre dossier

AR-21,613

Your file  
Votre dossier

August 03, 1988

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

Dear Mr. Spicer:

Re: Roland J. Thornhill

This will confirm our telephone conversation of July 28, 1988, concerning the booklet of material from the Attorney General's file and the RCMP file under Roland J. Thornhill which you propose to show to the counsel for the various banks concerned. I would advise that we have no objections to disclosure of the material contained in the booklet you have prepared on the following conditions:

- (1) that counsel for the Attorney General of Nova Scotia consents to the process since the evidence was gathered by the RCMP as a part of its provincial police contract;
- (2) that counsel for the bank examine the documents but that no copies are made;
- (3) that any counsel given access explicitly agrees to the confidentiality of the material.

I trust that you will find the foregoing satisfactory.

Yours very truly,

James D. Bissell  
General Counsel  
Director, Atlantic Region

cc: Darrell Pink  
Inspector L.F.W. McKeil

Canada

AUG 04 1988

July 30, 1988.

Mr. Scott Clark,  
G.S. Clark and Associates Ltd.,  
Suite 712,  
151 Slater Street,  
OTTAWA, Ontario.  
K1P 5H3

Dear Scott:

Re Marshall Inquiry

This is in reply to our recent discussions and your letter of July 25.

I would be prepared to undertake the work outlined in your letter, within the timeframes indicated.

The proposed fixed fee for completion of the work as outlined in your letter, and in accordance with the draft outline of the actual paper attached, would be \$4,500.00. I am anticipating that the paper would take longer than we have projected, but that the consultations on recommendations might be a little shorter.

It might be helpful for me to review the most recent draft of the report.

It would also be desirable for us to schedule the time to discuss the recommendations as soon as possible given that I will be travelling for a good part of August.

Finally my intent would be to leave the material as short and crisp as possible. My feeling is that the Commissioners will probably not have a lot of time to review extensive written material of a background nature. However we should discuss this to ensure that any stylistic incompatibility is minimal.



Perhaps you could give me a call at your earliest convenience to discuss whether or not the proposal as outlined is acceptable to you, and for me to answer any questions that you might have.

Best regards;

A handwritten signature in black ink, appearing to read 'Ian B. Cowie', with a stylized flourish at the end.

Ian B. Cowie and Associates Inc.

July 30, 1988.

MARSHALL INQUIRY

ABORIGINAL CRIMINAL JUSTICE ISSUES

THE HISTORICAL, LEGAL AND POLITICAL ENVIRONMENT

OBJECTIVE

The objective of the paper will be to provide an overview of key issues and environmental factors that have a bearing on the broader issue of Aboriginal peoples and the Criminal Justice system.

OUTLINE OF THE PAPER

The paper would cover key issues in point form and at a fairly high level of generality. The intent would be to provide an accurate understanding of the major issues and historical, legal and political factors relevant to understanding and developing recommendations for the future in relation to Aboriginal peoples and the criminal justice system.

These inputs to the broader paper in development would cover more general issues related to the overall situation of Canada's Aboriginal peoples, and issues more specific to Indian involvement with the Criminal Justice system.

TENTATIVE OUTLINE

PART "A"  
CANADA'S ABORIGINAL PEOPLES  
ENVIRONMENT AND MAJOR ISSUES

(1) WHO ARE CANADA'S ABORIGINAL PEOPLES?

- \* The groups defined - (Status/Non Status/Metis/Inuit);
- \* Population and key characteristics;
- \* Nova Scotia figures.

(2) THE LEGAL STATUS OF CANADA'S ABORIGINAL PEOPLES

- \* Constitutional provisions.
- \* Key court decisions.

(3) PROFILE OF FEDERAL - PROVINCIAL RESPONSIBILITIES FOR CANADA'S ABORIGINAL PEOPLES.

- \* Federal;
- \* Provincial;
- \* Positions, program and financial involvement;
- \* For Status Indians (on and off reserve); Non Status; Metis and Inuit.

(4) HISTORICAL PERSPECTIVE

- \* Chronological historical overview.
- \* Point form - key political, legal and policy developments. (Note: - this will put in context a number of the more specific issues described below).

(5) CONSTITUTIONAL ISSUES/THE CONSTITUTIONAL PROCESS

- \* The Constitution Act 1982 (as it relates to Aboriginal matters);
- \* Brief review of the Aboriginal Constitutional Conferences 1983 - 1987.
- \* Brief analysis and conclusions.

**(6) THE ISSUE OF ABORIGINAL SELF GOVERNMENT.**

- \* What does self government mean?
- \* How are Indian communities currently governed?
- \* Roles of the federal and provincial governments.
- \* Constitutional discussions of self government.
- \* The Indian political position on self government.
- \* Past federal policies and approach.
- \* Current federal policy.

**PART "B"****ADMINISTRATION OF CRIMINAL JUSTICE AND INDIAN PEOPLES****(7) INDIAN INVOLVMENT WITH THE CRIMINAL JUSTICE SYSTEM**

- \* Review of basic data re crime rates and Canadian correctional institutions.

**(8) LEGAL CONTEXT**

- \* Federal/Provincial constitutional/legal responsibilities. Distribution of powers in relation to Administration of Justice as it affects Indians.

**(9) INDIAN SPECIFIC JUSTICE PROGRAMS.**

- \* General;
- \* Law enforcement/policing;
- \* Legal representation;
- \* Courts/judges.
- \* General descriptions only.

**(10) CURRENT INDIAN GOVERNMENT AUTHORITY/CONTROL**

- \* Current legal regime (primarily the Indian Act);
- \* The James Bay and Northern Quebec Agreements - the Cree Naskapi Act.

**(11) CURRENT INDIAN PROPOSALS RE ADMINISTRATION OF JUSTICE**

- \* General indication of Indian positions in this area.

PART "C"  
SOME CONCLUSIONS AND COMMENTS ON FUTURE DIRECTIONS

- \* Complexity of the agenda.
- \* The future re constitutional issues.
- \* The future re self government - prospects.
- \* The Indian agenda/priorities - manageability.
- \* Impact of the fiscal environment.
- \* Summary.

\*            \*            \*            \*            \*

# BUCHAN, DERRICK & RING

BARRISTERS · SOLICITORS

AUG 04 1988

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

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

August 3, 1988

BY COURIER

George MacDonald  
Barrister and Solicitor  
Royal Commission on the  
Donald Marshall Prosecution  
Maritime Center  
Suite 1026  
1505 Barrington Street  
Halifax, NS  
B3J 3K5

Dear George:

RE: Public Hearings

I am writing to request that you provide us with a response to our inquiries concerning the Commission's position regarding funding of Donald Marshall, Jr.'s, Counsel for attendance at public hearings scheduled in the next phase of the Inquiry. I am also writing to request that you provide us, as soon as possible, with the materials to be used during the next phase of the Inquiry. Could you please give me some immediate indication as to the state of readiness of these materials, as we must commence our preparation and are anxious to do so.

Yours sincerely,

BUCHAN, DERRICK & RING

  
Anne S. Derrick

ASD/jc

George  
ASD 2A

LEONARD A. KITZ, Q.C., D.C.L.  
JOHN D. MACISAAC, Q.C.  
DOUGLAS A. CALDWELL, Q.C.  
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RAYMOND F. LARKIN  
S. RAYMOND MORSE  
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JACK A. INNES, Q.C.  
DIANNE POTHIER  
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RICHARD N. RAFUSE, Q.C.  
J. RONALD CREIGHTON  
J. RONALD CULLEY  
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R. MALCOLM MACLEOD  
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ALSO OFFICES AT  
TRURO, NOVA SCOTIA  
BEDFORD, NOVA SCOTIA

August 3, 1988

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

Dear Ms. Ashley:

Our File No. 9201/1

In Friday's Chronicle Herald there was a piece on the op-ed page authored by Mr. Bob Wall. I believed this was the same person who has been employed by the Royal Commission in preparing witness summaries and who has participated in other events including at least one of the seminars to review research papers.

On Friday I called you and registered my concern both about the content of the article and the fact that a person holding these views was potentially in a position to influence the work of the Commission.

I appreciate the article was not authorized by you or the Commission and was written without your knowledge. However, the fact that an employee of the Commission would deal with such a matter in a public forum is a cause for concern for me personally.

Ms. Susan Ashley  
August 3, 1988  
Page 2

I have not discussed this matter with my client but as counsel to the Attorney General, I wanted you and Commission counsel to know of my concerns.

I trust this will not recur and you will deal appropriately with Mr. Wall.

Yours truly,



Darrel I. Pink

DIP/jl

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



AUG 03 1988

**MURRANT BROWN**

Barristers & Solicitors

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B3J 3P7

ROBERT MURRANT Q.C.

TELEPHONE (902) 421-2121

XEROX-FAX (902) 421-2125

2 August, 1988

**WITHOUT PREJUDICE**

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


Dear Mr. Orsborn:

I have your letter of July 27, 1988.

If, for the moment, we adopt your position that the initial ruling of the Commission is the only outstanding order, then our suggestion would naturally be that it be followed. It provided that Mr. Harris was to answer, on one topic, in a manner similar to Mr. Story. This would involve advance disclosure of the questions and a written response. If the Commission is relying on this particular Order, it should avail itself to the procedure seemingly adopted in the Order.

We attempted to do so but met no success in our discussions with Mr. Pugsley and his associate as they were apparently not satisfied with any concessions we were prepared to make.

We then attempted to have Mr. Harris attend voluntarily in order to resolve this matter and expedite the hearings of the Commission. It may be that Commission counsel do not feel that they are in a position to arbitrate the meaning of the Commission's Order nor to collect clarifications from counsel to the effect that they will not seek to apply for additional areas of examination--be that as it may--we tried to perform this function and were in the process of getting clarification from various parties that they would not "ambush" Mr. Harris were he to appear in Halifax voluntarily. In that endeavor we enjoyed some success.



## MURRANT BROWN

I remember it was a Friday afternoon that I attempted to reach the last of counsel involved only to determine that most of them had left their offices rather early. Although, at the time, I was rather exhausted and recovering from major surgery, I continued the effort to the very last moment but was unable to reach a compromise.

On Monday morning when I appeared on behalf of the CBC and ATV, I had no knowledge of any discussion to be carried out with respect to Mr. Harris. Prior to the session that morning I attempted to convey to Mr. Spicer the suggestion of another solution. He walked away from the conversation in mid-sentence.

After Mr. MacDonald made his suggestion to Mr. Justice Hickman (in my absence), I complained to him and he indicated to me that I "had long enough".

With a bit of courtesy and cooperation, Mr. Harris would have testified last spring and that would have been the end of the matter.

Presently, if there is one Order outstanding, we would appreciate the Commission's views as to its application and interpretation in hope that we might, as you suggest, accelerate the work of the Commission.

We look forward to hearing from you at your early convenience.

Yours very truly,



Robert Murrant

ss

xc: Michael Harris  
Carol McCall

AUG 03 1988



FACULTY OF LAW,  
UNIVERSITY OF TORONTO

78 Queen's Park  
Toronto, Canada M5S 2C5

July 27, 1988

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

Dear Chief Justice Hickman: *Alex,*

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

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

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

With kindest personal regards,

Sincerely,

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

encl.

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

FACULTY OF LAW  
UNIVERSITY OF TORONTO  
78 QUEEN'S PARK  
TORONTO, CANADA M5S 2C5

THE DEAN

(416) 978-3718

July 22, 1988

Professor John Edwards  
Faculty of Law  
University of Toronto  
78 Queen's Park

Dear John,

I am writing concerning financial support for your secretarial needs in the course of your work for the Marshall Inquiry.

After discussion with our Director of Administration and our Senior Secretary I am concerned that your work for the Marshall Inquiry has created substantial demands for secretarial support. I am aware of the payments that you have made to the Faculty of Law by way of compensation pursuant to your provision for 10% overhead on your compensation from the Inquiry. Unfortunately, these amounts fall well short of the actual costs being incurred.

As you know, the current University of Toronto overhead figure on personnel costs is 65%. That is, for any personnel budgeted for in research budgets an additional 65% for overhead and infrastructure costs must be recovered. This percentage is some indication of the very high cost of maintaining an adequate infrastructure. In your case those costs include secretarial, reception, telephone, photocopying, library and other costs. In particular, I estimate that 20% of your secretary's time has a cost to the Faculty of Law on a monthly basis of \$500.00. Our understanding is that your demands within the past year would clearly have exhausted 20% of your secretary's time on an ongoing basis and indeed may be an understatement of your needs.

I would be very grateful if you were able to make some arrangement for the Inquiry to compensate the Faculty of Law for the difference between the amounts previously compensated and a minimum of 20% of your secretarial cost for the past year. In addition I hope you might be able to ensure that any future work that you do for the Marshall Inquiry is accompanied by such payments.

I should close by expressing my regret that I did not raise this matter with you earlier. I hope that the late notice of our needs in this respect does not cause you or the Inquiry any difficulty.

Warm regards,



J. Robert S. Prichard

cc. Mary-Ellen Yeomans

AUG 03 1988

# STEWART MacKEEN & COVERT

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OUR FILE REFERENCE:

RNP  
835-1524

July 29, 1988

W. Wylie Spicer, Esq.  
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: Roland Thornhill Case

Pursuant to our telephone conversation the other day, this will confirm that I have been retained by The Royal Bank of Canada.

I refer to your letter of July 25, 1988, with enclosure addressed to Mr. R. J. Sutherland.

I would appreciate your advice as to the following:

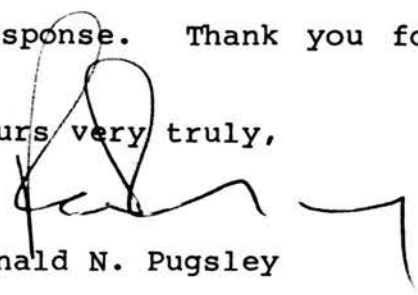
1. The names of the witnesses you intend to call;
2. A précis of the evidence you expect will be adduced from them;
3. Copies of any documents you propose introducing.
4. The basis on which the allegation was made in the report of August 29, 1980, "that there is evidence that the four chartered banks, Mr. Thornhill ... (et al) ... have conspired to have Mr. Thornhill receive a benefit and should be charged with conspiracy, sec. 421(1)(d) C.C.";

W. Wylie Spicer, Esq.  
July 29, 1988  
Page 2

5. Basis for the allegation in the report of August 29, 1980, "that the four chartered banks involved in the settlement have violated the Criminal Code - sec. 110(1)(c) by virtue of sec. 21(1)(b) C.C.".

I look forward to your earliest response. Thank you for your cooperation.

Yours very truly,



Ronald N. Pugsley

RNP:lw  
c.c. Mr. S.A. Middaugh

N0183078

July 26, 1988

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

Attention: Susan K. Ashley  
Commission Executive  
Secretary

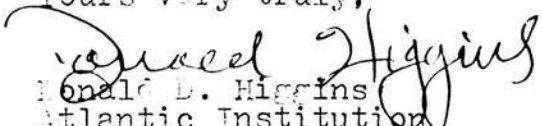
Dear Madam Ashley:

In sincerest appreciation I wish to acknowledge receipt of your letter dated July 20, 1988, and enclosures.

As I have filed a complaint against Ms. Debbie Gass with the Nova Scotia Barristers' Society, it would be helpful if I could obtain a copy of her Inquiry testimony.

Thank you.

Yours very truly,

  
Donald D. Higgins  
Atlantic Institution  
P. O. Box 71  
Renous, N. B.  
B0C 1L0

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

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

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

August 2, 1988

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

Dear Ron:

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

I acknowledge your letter of July 29, 1988.

With respect to the various comments you made I would note as follows:

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

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

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



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

While I can understand the various concerns you have raised, I suggest that each of them can be overcome. In those circumstances I would invite you to once again consider the question and hopefully advise your clients that a consent should be given in order that an Application for Leave can be heard at an early date and hopefully the issue can be put to rest in the quickest time.

Yours very truly,

George W. MacDonald  
Commission Counsel

GWMacD/fm

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

# COX, DOWNIE & GOODFELLOW

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CORRESPONDENCE  
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OUR FILE: 8118-1

July 29, 1988

Mr. George W. MacDonald  
McInnes, Cooper & Robertson  
Barristers & Solicitors  
Cornwallis Place  
1601 Lower Water Street  
HALIFAX, N.S.

*Dear George*

RE: MacKeigan et al. v. Hickman et al.

I refer to my letter to you of July 4 and yours of July 26.

Respecting the request from the Defendant Commissioners to the Plaintiffs that the Plaintiffs consent to a per saltum appeal to the Supreme Court of Canada, I would make the following comments:

1. We now have an appeal underway in this Proceeding. The Appeal is to the Appeal Division in the normal way on the Notice of Donald Marshall, Jr. The hearing has been tentatively set for November 18, 1988. I have not received a request from Ms. Derrick for a Sec.39 consent although such may have been implied in an earlier letter of Mr. Ruby to you.

I am assuming that the matter will be carried forward by Mr. Marshall in the Court of Appeal. I am not certain what this action does either practically or jurisdictionally to your request.

2. Possibly of more importance is the fact that I have filed a Notice of Contention on behalf of the Respondents (Plaintiffs). The Notice raises for consideration by the Court of Appeal matters opened in my Originating Notice, but specifically reserved

Page 2 Mr. George W. MacDonald July 29, 1988

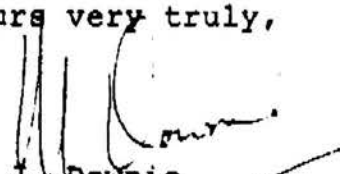
from argument before Chief Justice Glube. These items are now before the Court of Appeal. I do not know if they could be raised as such on a per saltum appeal. This issue alone might well be conclusive with respect to your request.

3. I have a concern that some might see in the comments made by the Commission respecting the Sec.39 request, an implication that a Court of Appeal panel in Nova Scotia would not deal with an Appeal judicially and appropriately. As counsel to the Plaintiffs, I reject any such implication and hesitate to give any credence whatever to it by agreeing to a per saltum appeal.
4. Finally, I have some difficulty determining the precise meaning and effect of Section 39 of the Supreme Court Act. There seems to be very little by way of recorded judicial statement about it. One of my concerns is that if consent was given under Section 39, it might well be thought that such constitutes agreement by the parties that the Supreme Court of Canada should hear the Appeal, rather than simply agreement (or consent) that the application for leave may be made. I refer you to the comment by Wilson, J. (dissenting) at p.518 in MacDonald v. City of Montreal 25 C.C.C. (3d) 481:

"It would also apply to appeals arising under S.39 of the Act, i.e., where the parties have agreed to appeal a judgment of a lower court directly to the Supreme Court of Canada instead of to the Provincial Court of Appeal".

In summary then, for the reasons and considerations set forth above, and others, I am not prepared to advise the Plaintiffs to accede to the request of the Defendants to consent to a per saltum appeal.

Yours very truly,

  
R. J. Downie

RJD:cmg

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

# COX, DOWNIE & GOODFELLOW

BARRISTERS AND SOLICITORS

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W. R. E. GOODFELLOW, Q.C.  
ROBERT G. MACKEIGAN, Q.C.  
JOHN ARNOLD  
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THOMAS P. DONOVAN  
ANTHONY L. CHAPMAN  
J. CRAIG MCGREA  
JAMIE S. CAMPBELL  
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A. JAMES MUSGRAVE  
JOCELYN M. CAMPBELL

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1100 PURDY'S WHARF TOWER  
1955 UPPER WATER STREET  
HALIFAX, CANADA

CORRESPONDENCE  
P. O. BOX 2980, STATION M  
HALIFAX, NOVA SCOTIA B3J 2E5

OUR FILE: 8118-1

July 29, 1988

COPY


Registrar  
Court of Appeal  
Office of the Prothonotary  
The Law Courts  
1815 Upper Water Street  
HALIFAX, N.S.

Dear Sir:

RE: MacKeigan et al. v. Hickman et al.  
1988 S.C.A. No. 01991

I enclose herewith for filing on behalf of the Respondents (Plaintiffs) MacKeigan et al. a Notice of Contention bearing today's date. Copies of this letter together with copies of the Notice are going to Ms. Anne Derrick and Messrs. Jamie Saunders, George MacDonald and James D. Bissell.

Yours very truly,



R. J. Downie

RJD:cmg  
cc. Ms. Anne Derrick  
Mr. Jamie Saunders  
Mr. George MacDonald  
Mr. James D. Bissell

- 2 -

are entitled to total judicial immunity and are neither competent nor compellable to appear before the Defendants to testify on matters which came before them in their judicial capacity, specifically the Reference 1982/83, and further found that the Orders to Attend issued by the Defendants are ultra vires and beyond the authority of the Commission and the Commissioners (the Defendants), be affirmed:


1. On the grounds given by Chief Justice Glube; and in addition
2. On grounds that the Defendants (Commissioners) do not have the power, and having been constituted by the Province of Nova Scotia cannot have the power, under the Constitution of Canada to inquire into the criminal law procedure and substance of the Donald Marshall, Jr. Trial, Appeal and Reference, and specifically, such Defendants do not have the power under the Constitution to inquire into and examine the judicial performance of their duties (criminal law procedure and substance) by these Respondents (Plaintiffs), they being Federally appointed Justices presiding on a Sec. 617(b) (Criminal Code) Reference - no such matters constituting the administration of justice within the Province.
3. Further, on the appeal, the Respondents (Plaintiffs) will contend that the Public Inquiries Act R.S.N.S.,

1967, c.250, under which the Defendants (Commissioners) were constituted and appointed, limits the inquiry power to matters "in relation to which the Legislature of Nova Scotia may make laws". This enabling legislation does not authorize an inquiry into areas of federal jurisdiction; namely, criminal law procedure and substance.

4. Further, on the appeal, the Respondents (Plaintiffs) will contend that the judgment should be affirmed on the additional ground that the object and purpose for which the Orders to Attend were issued by the Defendants, and the act of issuing the Orders to Attend to these Respondents, were outside of the Defendants' (Commissioners') Terms of Reference as set forth in and by the October 28, 1986 Order-in-Council.
5. Further, on the appeal, the Respondents (Plaintiffs) will contend that to allow the appeal and require the attendance of these Plaintiffs before the Commission to give evidence with respect to the questions proposed by the Defendants (Commissioners) would be an abuse of process and of the administration of justice because the questions proposed are already answered in the judgment of the Court on the Reference, by the Rules of Court which were applied, and in the evidence given before the Court on the Reference. With respect to some of the questions proposed to be asked by the

Appellant, they are scandalous aspersions upon the honesty and integrity of the Respondents (Plaintiffs) and have no basis in fact, and disregard the evidence and judgment on the Reference.

DATED at Halifax, Nova Scotia, this 29th day of July, 1988.

  
R. J. Downie, Q.C.  
Cox, Downie & Goodfellow  
Barristers & Solicitors  
1100, 1959 Upper Water Street  
Halifax, N.S.  
B3J 3E5  
  
Solicitor for the Respondents  
(Plaintiffs)

TO: The Registrar  
  
Ms. Anne S. Derrick  
Buchan, Derrick & Ring  
Barristers & Solicitors  
205-5516 Spring Garden Road  
Halifax, N.S.  
  
Solicitor for the Appellant  
(Intervenor)

Jamie Saunders  
Patterson, Kitz  
Barristers & Solicitors  
1600, 5151 George Street  
HALIFAX, N.S.  
  
Solicitor for the Attorney  
General of Nova Scotia (Intervenor)

George MacDonald  
MacInnes, Cooper & Robertson  
Barristers & Solicitors  
1673 Bedford Row  
Halifax, NS  
  
Solicitor for the Defendants

James D. Bissell  
Regional Director  
Department of Justice  
4th Floor, Royal Bank Building  
5161 George Street  
HALIFAX, NS

Solicitor for the Attorney  
General of Canada

JUL 29 1988

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

July 28, 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:

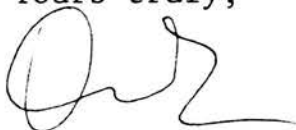
Thornhill  
Our File No. 9201/1

This will confirm our discussion of this afternoon. You have indicated that the Royal Bank of Canada has requested an opportunity to see the material which the Commission has put together in a booklet for use at the Thornhill portion of the hearings. You have asked us to agree to releasing this material to Ron Pugsley who is acting as counsel for the Royal Bank of Canada.

We have no objection to the bank seeing the material on condition that they are only given access to the material without copies being made and on the further condition that there is an explicit understanding that the material is confidential and its contents are not to be disclosed.

I understand Jim Bissell has agreed on the same terms and, accordingly, I am forwarding a copy of this letter to him.

Yours truly,



Darrel I. Pink

DIP/jl

c.c. Mr. James Bissell  
Mr. D. William MacDonald, Q.C.



JUL 29 1988

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ALSO OFFICES AT  
TRURO, NOVA SCOTIA  
BEDFORD, NOVA SCOTIA

July 28, 1988

BY HAND

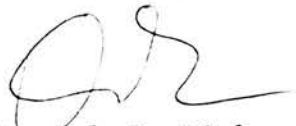
Mr. John Briggs  
Director of Research  
Royal Commission on the  
Donald Marshall, Jr. Prosecution  
Suite 1026  
1505 Barrington Street  
Halifax, N.S.

Dear John:

Our File No. 9201/1

I enclose further material for insertion in the Advice to Prosecutors binder.

Yours truly,



Darrel I. Pink

/jl  
Enc.

JUL 29 1988

LEONARD A. KITZ, Q.C., D.C.L.  
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BEDFORD, NOVA SCOTIA

July 28, 1988

BY HAND

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

Dear John:

Our File No. 9201/1

Further to earlier correspondence, I am pleased to enclose copies of submissions received by the Department of the Attorney General in response to its discussion paper on the Police Act. Submissions from the following are enclosed:

1. City of Dartmouth;
2. Police Association of Nova Scotia;
3. Town of Middleton - Board of Police Commissioners;
4. Town of Middleton;
5. Nova Scotia Chiefs of Police Association;
6. Town of Sydney Mines;
7. Town of Trenton;
8. Town of New Glasgow;
9. Town of Kentville.

*John Briggs  
has material  
referred to.*

Mr. John Briggs  
July 28, 1988  
Page 2

As well, a letter from the Minister of Labour in reply to the discussion paper is enclosed.

Yours truly,



Darrel I. Pink

DIP/jl  
Enc.

c.c. Mr. D. William MacDonald, Q.C.  
Mr. R. Gerald Conrad, Q.C.

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

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

CHIEF JUSTICE T. ALEXANDER HICKMAN  
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS  
COMMISSIONER

THE HONOURABLE  
MR. JUSTICE GREGORY THOMAS EVANS  
COMMISSIONER

July 29, 1988

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

Dear Ron:

**Re: Thornhill - Royal Bank of Canada**

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

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

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

Kind regards,

Yours very truly,

W. Nylie Spicer  
Commission Counsel

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