

Gordon Gale

1

1965

Experience & Education

June

Trace Career in A-G Dept.

minimum to least Dec. 16/71

Ex. 148 : See note on Exhibit next page.

Organization of Dept.

Notes!!

Describe: Trace control & reporting

Control exercised over prosecutors.

Assistance to field people.

✓ why appeals done by Halifax ✓  
other provinces

Score sheets for performance. Quota?

Ex. 149 ✓

Role of Crown Prosecutor. ✓

TRAINING ✓

Emphasize discretion at all levels.

Cannot be subjected to control

## Province of Nova Scotia 159

## Position Description

Position: Director (Criminal)  
Incumbent: Gordon S. Gale, Q.C.  
Department: Attorney General  
Division: Legal Services  
Location: Halifax  
Date: November, 1985

General Accountability

This position is accountable for providing advice and assistance and ensuring consistency, through acquired expertise, in all aspects of the criminal justice system, directing and supervising criminal appeals, formulating policy in all matters related to policing and acting as inter-governmental liaison in all matters related to criminal law. ✓

Structure

This position is one of four reporting to the Executive Director (Legal Services). The others are Director (Civil Litigation), Director (Solicitor Services), and Director (Prosecutions).

There are three positions reporting to the Director (Criminal). These are Senior Solicitor (Young Offenders Act) who also reports to the Director (Prosecutions) in regard to Young Offenders Act prosecutions; Solicitor, of which there are four; Prosecuting Officer, of which there are seventeen prosecuting officers and forty-eight assistant prosecuting officers, who report only in regard to criminal appeals. }

Nature and Scope

The Attorney General is responsible for the administration of justice within the Province and included in this is the criminal justice system. The Director (Criminal) is the position responsible for ensuring the proper application of the criminal law. This involves ensuring uniformity of application of criminal law through appeal action, provision of advice on criminal law and

- 2 -

enforcement policy to police agencies, provision of advice to prosecutors on appeal requests, and advice to the Attorney General on the effect of proposed or actual legislation on the criminal law.

Due to the advent of the Charter of Rights the number and complexity of criminal appeals has increased requiring complex examination of cases to be considered for appeal to ensure that the possible impact of decisions is properly presented to the Courts. This requires greater direction and supervision of the solicitors presenting the appeals.

The functions of the Director (Criminal) are the formulation of policy to ensure consistency in enforcement. Through accumulated expertise advising and directing police in the investigation of specific cases and advising prosecutors on matters of criminal law. Through an overview of crime to ensure that investigatorial resources are used to best advantage. By reason of expertise, forming part of the provincial delegation to national meetings on justice to advise the Attorney General and Deputy on matters relating to criminal law and policing and to assist at implementing decisions made at such meetings. Negotiation with R.C.M.P. on contractual matters.

The Director (Criminal) is responsible for liaison with the Nova Scotia Police Commission and considering its requests to the Attorney General for the purpose of formulating policy and legislative considerations arising therefrom. In addition, the Director (Criminal) is responsible for liaison with the Nova Scotia Hospital and the Lieutenant Governor's Warrant Review Board to determine the disposition of persons remanded by Courts or placed on Lieutenant Governor's Warrants. The position is also responsible for pardons and transfer of probation.

The Director (Criminal) is responsible for specific matters assigned by the Deputy Attorney General including Nova Scotia Hospital Act, Fatality Inquiries Act, Horse Racing Commission, Liquor Control Act, Liquor License Board, Lottery Act and Gun Clubs.

Major challenges of this position are:

- Analysis of criminal law, to respond to or make recommendations, on charges.
- Analysis of law enforcement problems so that changes can be implemented in particular trouble areas consistent with ensuring uniformity of response on a province wide basis.

- 3 -

The Director (Criminal) functions without supervision and consults with the Executive Director of Legal Services where policy formulation would require the approval of the Attorney General.

There is need for constant contact with the Director (Prosecutions) to ensure that the both directorates act in concert.

There are frequent contacts with other areas of the Department in the course of management of the unit with the Director, Administrative Services, on personnel and budget matters, the Director, Court and Registry Services, concerning utilization of courts and court officials, the Director, Correctional Services in providing legal advice. To a lesser extent there is contact with the Director (Solicitor Services) and the Director (Civil Litigation) over matters which have arisen within departments that require police investigations but result in civil action being required rather than criminal action. Also, because this position is that of chief advisor on criminal law and enforcement frequent contact is had with the Attorney General and his Deputy.

Frequent contact is made with other provincial departments at the deputy minister and director levels in regard to violations of statutes administered by those departments. Nationally, there is frequent contact with deputy ministers and directors in justice departments of other provinces and the federal government for the purpose of exchange of information and procedures, developing positions on criminal law and policing, and also for discussion of specific cases which involve this or other jurisdictions.

Outside of government there is frequent contact by judges of all levels of courts seeking assistance and information on various facets of criminal law. Also, there are frequent contacts with the practising bar in relation to criminal matters.

The Director (Criminal) is a member of the following job related organizations:

- Uniform Law Conference, Criminal Section, the purpose of which is to recommend amendments to the criminal law and to review criminal law proposals made by the federal justice authorities.

- Criminal law consultation committee of the Law Reform Commission of Canada the purpose of which is to review and assist in that Commission's reports to Parliament.

- Atlantic Police/Academy Advisory Council the purpose of which is to offer advice and review their training programs and to keep the Attorney General apprised of its activities.

- Representative of the Deputy Attorney General on the Nova Scotia Chiefs of Police Association.

Dimensions

Head office staff - Four Solicitors  
Budgets - R.C.M.P. 22,000,000  
Indirect responsibility for 24 municipal police comprising 750 police officers.

Specific Accountabilities

Ensure that amendments and changes to criminal law are consistent with provincial laws and objectives and are responsive to criminal problems in the Province.

Through formulation of policy to ensure consistency and effectiveness in the enforcement of criminal law.

Through the application of expertise in criminal law to advise police and prosecutors on specific investigations.

By reason of expertise in criminal law and familiarity with government to act as a resource person on criminal and police matters to other levels of government, the courts, police and prosecutors.

To act as liaison between the Department and enforcement agencies to formulate new policies for enforcement and to act as legal advisor to agencies of government which have interaction between enforcement and criminal law matters.

Approved by:

Incumbent 

Date Nov. 4/85

Deputy Minister 

Date Nov 6/85

Position of Deputy A-G - Relationships ✓

Policy

Direction

Knowledge

Regular Meetings —

Court Appearance ✓

Coles + Pace (see attached)

drafting resolutions

POSITION A-G

Policy & Direction

Briefing papers

Knowledge ✓

Day to Day activity

Regular Meetings

Government direct contact.

Discuss law matter Government.  
Recommendation to him?

George

Sunday

can you please get answers from Cole re:

- ① authority of A.G. office to stop police investigations
- ② auth of prosecutors re decision to lay charge  $\hat{=}$  police
- ③ any sense of Cles relationship  $\hat{=}$  Pace  
- see Giv at 12467  
(attached)

Thanks

W

A. Gordon Gale.

1 Q I see. Did you discuss the matter with him or seek his  
2 instructions?

3 A. No, I didn't.

4 Q Why not?

5 A. I ultimately phoned the Attorney General himself. I thought  
6 that this was an unusual position that I was going to have to  
7 take and an important one, I guess I can use that word. So,  
8 in one sense I wanted to get my instructions from the  
9 highest source. I also, I think, and it's hard to reconstruct  
10 this, but I think I thought that if I talked to Gordon Gale  
11 about it, I'd simply end up talking to the Attorney General  
12 anyway or at least someone higher up.

13 Q Did you discuss the matter with Mr. Coles?

14 A. No, not then and I haven't discussed it at any time with him.

15 Q Why not?

16 A. It's difficult to say. I...in the case of Gordon Gale I probably  
17 didn't even think of getting my instructions from him. In  
18 the case of Mr. Coles I actually did give it serious thought  
19 and decided that I wouldn't, that it was my view, whether  
20 it's right or not I don't know, that there was a prior  
21 association between him and Justice Pace and I felt that at  
22 the very least, given the nature of the submission I was  
23 making, and given that prior association, that it might be  
24 uncomfortable for him or might present some kind of  
25

MR. GIOVANNETTI, EXAM, BY MR. ORSBORN

problem. And, so I did think about it and decided not to.

1 Q. Was this a new venture for you having to consider an  
2 application in respect of perceived bias?

3 A. I had never done that before, I mean.

4 Q. I'm sorry.

5 A. I had never done it before.

6 MR. CHAIRMAN

7 Who was the Attorney General at the time, Mr. Giovannetti?

8 MR. GIOVANNETTI

9 Ron Giffin.

10 MR. ORSBORN

11 Q. And did you subsequently, prior to speaking to the Attorney  
12 General, did you subsequently form in your own mind an  
13 opinion on what you should do?

14 A. Yes. I think it eventually became clear to me that the right  
15 thing to do was to make that submission on Monday  
16 morning if, in fact, Justice Pace was on the panel.

17 Q. But was this all on the Friday that you found out that he was  
18 sitting?

19 A. Yes, I'm a little unclear as to times throughout. I don't  
20 recall exactly when I talked to the Attorney General. It  
21 might have been on that Friday later in the evening or it  
22 might have been on the Saturday morning. But it was in  
23 that time frame.

24 Q. You did, in fact, communicate with Mr. Giffin?  
25

Reporting Procedure:

Major Offences: RCMP

Investigation & Pre Charge

After Charge: Preliminary

Between Trial & Preliminary

After TRIAL Before Submission  
re SENTENCE.

Appeal:  
POSITION to be taken

Control of Field People

Manual

Directives



How followed up & monitored.

Discipline: Discussion re Policies

Reporting

INTERference (Consultation or Approval)

Before Charge  
Prelim. — withdraw  
TRIAL — stay  
          — witnesses  
          — submissions  
          — sentence

Appeal — POSITION ✓

diff in

come

Performance Appraisal (attached)

9.149

Quota

CONFIDENTIAL

GOVERNMENT OF NOVA SCOTIA  
PERFORMANCE APPRAISAL  
(MCP)

NAME: \_\_\_\_\_ POSITION TITLE: \_\_\_\_\_  
DIVISION: \_\_\_\_\_ CLASSIFICATION: \_\_\_\_\_  
DEPARTMENT: \_\_\_\_\_  
APPOINTED TO PRESENT POSITION: \_\_\_\_\_ TOTAL SERVICE \_\_\_\_\_  
REVIEW PERIOD: FROM \_\_\_\_\_ TO: \_\_\_\_\_

This form contains four sections:

- I Expected Results
- II Results Achieved
- III Analysis of Overall Performance
- IV Follow-up Action Plans

Part I, completed at the beginning of the review period, indicates the major accountabilities of the employee, and the performance goals which have been established in relation to each for the appraisal period.

Part II, completed at the end of the appraisal period, indicates the actual results achieved in relation to each goal.

Part III, provides an analysis of the individual's overall performance in terms of significant achievements, requirements for performance improvement, etc.

Part IV, indicates the follow-up action plans which have been developed in relation to each of the performance areas identified in Part III.

**PART I EXPECTED RESULTS:** For each major accountability identified, specify the performance goal(s) to be achieved and the standards by which success will be measured.

---

WHY!!

1. To consult with and be accessible to police forces operating in the county.
2. To keep abreast of developments in the criminal law which affect pending cases through perusal of available case reports and other legal materials.
3. To prepare and present cases in court in a thorough and professional manner.
4. To manage caseloads efficiently and facilitate the prompt hearing and disposition of cases.
5. To attend upon matters relating to witnesses including subpoenas, notice of adjournments, fees and exhibits.
6. To ensure that matters to be discussed with the Department i.e. plea bargaining situations, the entering of a stay of proceeding and recommendations for appeal are promptly raised with the Assistant Director or Director (Criminal).
7. To implement instructions issued from time to time by the Attorney General.

*If not doing so, result?*

---

**PART II RESULTS ACHIEVED:** Specify the results achieved in relation to each performance goal previously established.

---

---

PART III ANALYSIS OF OVERALL PERFORMANCE

(Summarize outstanding achievements; performance strengths; weaknesses; etc.)

PART IV FOLLOW-UP ACTION PLANS

(Specify action plans which have been developed in relation to each of the performance areas identified in Part III.)

SUMMARY COMMENTS

SIGNATURES

Manager

Employee

Senior Manager

# Sensitive Cases

Definite "one case" →

Difference in handling

- a) Discretion of Crown
- b) Direction & Interference

Does The A-G Office make decision whether to

- a) recommend charges ←
- b) proceed with prosecution

## Shoplifting Case

was to move?

Knowledge !!

DAG

Any thing wrong with exercise of discretion by

Prosecutor

Deputy A-G

✓  
✓  
✓

Knowledge of case where has happened?  
Reasons?  
Political?

# CLE for Staff

In-house Training ✓

Association of Courts. ✓

Membership in Associations ✓

- (a) Regional
- (b) Provincial
- (c) National CBA ✓

what would be helpful or useful to enable better performance of job?

# Relationship with Police

## RCMP:

Jurisdiction in N.S.

As N.S. Police Force under ultimate direction and control of A-G.

Julian Bennett

How exercised:

Regular Thursday meetings

Attendees? Vaughan  
Minutes

Report to Deputy? A-G.

Green Sites - Verbot

Confidential Files: Filing System used.

Knowledge of investigations being carried out by RCMP. ✓

Conflicts - How resolved.

Authority A-G office to stop investigations?  
Prosecutor's decision to lay charge

Relationship other Police Forces

Contacts

Complaints

Regular Meetings?

Courts

Regular contacts with various courts. Purpose

Provide legal service?  
why?



1 was charged with a variety of fraud-related offences. We  
2 went down to prosecute that. In those days the prosecuting  
3 office in Halifax had two part-time prosecutors, and whenever  
4 they got short they'd call the local office, rather the central  
5 office, and someone, usually me or Bill MacDonald would go  
6 up and fill in. So, yeah, I had some experience in that and I  
7 think I conducted myself more or less in the fashion I've  
8 indicated I should.

9  
10 Q. I'm going to ask you two questions concerning concerning the  
11 organization of files in the department. If you were working  
12 on a file, where physically would that file be kept?

13 A. There was a file room in a vault. I can't even remember what  
14 floor it was on and I think the department has moved a  
15 couple of times since then, but there was a large file room in  
16 which files were kept. I know there were files to which  
17 lawyers in the department did not have access and these  
18 would be files that would be sensitive for, I think, what you  
19 might call "political" or "politically-related reasons" Files that  
20 I think involved, I never got into any of them, but files that,  
21 they used to have a green stripe on them and they would be  
22 RCMP reports on sensitive matters. But the ordinary run of  
23 files were either kept in that vault or kept in a filing cabinet  
24 at the desk of the secretary who was working or were kept in  
25 other filing cabinets around the office.

Marshall

1971 :

His position :

May 1971

November 15, 1971

December 15, 1971

Knowledge Marshall case.

TRIAL

APPEAL

Knowledge J. MacNeil Statement

Request to RCMP to interview

How would it be done.

Knowledge of what done & results:

Expect to know

Expect Defense would know?

Should he told? What steps

taken to make certain Defense knew

DUTY?

PAGE  
MacLeod  
documents

Knowledge Marshall Report.

Who would get in ordinary course  
knew it was being done.

Would he be interested in result?

would ask if not forthcoming

Review Report: Vol 18/7

type of report he would expect to receive?  
Circulation

Refer p. 10 - duty of MacNeil?

!! Wardrop -  
given to Sale

Agreed - assigned my fa. counsel. Diff if personal  
person?

Knowledge 1971 - 1982

who should have disclosed.  
Injustice - Pace

MR. WARDROP - EXAM. BY MR. SPICER

1       you relied on that when Al Marshall went off to Sydney?

2       A. Exactly.

3       Q. Okay. What is your...what was your first knowledge of  
4       the situation in Sydney? How did it come to your  
5       attention?

6       A. I knew that there was a murder in Sydney. I knew that  
7       a certain person by the name of Marshall was convicted.  
8       I didn't follow the thing in the newspaper because I  
9       had my own function to perform here. I got word from  
10      the Attorney General's Department that there was a  
11      person by the name of MacNeil that was putting...that  
12      was maybe a slang expression "putting the finger" on  
13      Ebsary, and that he was saying Marshall hadn't  
14      committed the murder. I...

15     Q. Sorry. MacNeil was saying that Marshall committed it.

16     A. No, no. That Ebsary had committed the murder, not  
17     Marshall. Okay. And this came over to me from the  
18     Attorney General's Department. Now...

19     Q. Do you remember who in the Attorney General's  
20     Department?

21     A. This is exactly what I'm going to try to tell you. I'm  
22     not sure if Bob Anderson or Gordon Gale called me  
23     direct or if I might have been out of the office at the  
24     time and Burgess might have taken the call. If I was  
25     out of the office they had free...we had a very

MR. WARDROP - EXAM. BY MR. SPICER

1 informal relationship with the Attorney General's  
2 Department. Like if I was out and they wanted to talk  
3 to anyone else they would talk to one of my readers,  
4 and Burgess would be the one that would talk to them.  
5 So, I don't know. It was one of the two. But anyway,  
6 I was told that the Attorney General had received this  
7 information, they wanted an investigation.

8 Q. And Burgess is...

9 A. Is my...one of the chief readers there.

10 Q. What's the function of reader?

11 A. Well, they handle criminal files and they research them  
12 and they delve into them, and you know, they go into  
13 them pretty carefully.

14 Q. Are they commissioned?

15 A. No, no.

16 Q. No.

17 A. They're NCO's. Uh-hum.

18 Q. And in Halifax you had Mr. Burgess and others or.

19 A. Well, he was the one that I can recall handling that  
20 particular file. Every one had different particular  
21 duties. Some would handle Federal statutes and some  
22 would handle, you know, the Provincial Statutes,  
23 etcetera, etcetera.

24 Q. As a result of the request that you received from the  
25 Attorney General's office what did you do?

1 have. Now, normally, they would send a copy to the  
2 A.G. and whoever else. Maybe to Headquarters Ottawa  
3 and whatever else that they thought would be involved  
4 in it.

5 Q. If that were the case, sir, if the readers did, in  
6 fact, distribute various copies of this report to other  
7 places, should there be transmittal slips to indicate  
8 that that had been done?

9 A. Possibly, yes, but normally if it would have required  
10 any further dissertation, they would have put a  
11 footnote on there saying, you know, we believe this, we  
12 believe this, dit, dit, dit. But I don't see that on  
13 there. So I would say then that they must have put a  
14 transmittal slip on and said it's complete, it's  
15 concluded, there's nothing more to say. There's  
16 nothing we can add and let it go at that. Now on top  
17 of that, you're asking me about this report. When  
18 Marshall handed this report, it seemed to me this was  
19 coincidental with my visit to the Attorney General's  
20 visit and my best recollection is that the report that  
21 he gave me, I took over and handed to either Bob  
22 Anderson or Gordon Gale. Now I'm not sure which one  
23 was there at the time, but one of the two. Now when I  
24 say that, I can't tell you that I remember saying,  
25 "Here, this is the report." But I've been trying to

1 recall the many reports that I would take over on a  
2 weekly visit. If I was over there, if anything came  
3 across my desk that was coincidental with my visit,  
4 then I would take it across and talk to him about it,  
5 you know. Above everything else, lots of times I would  
6 go over there and we'd have nothing to talk about. And  
7 if I had a report that we had to discuss, we'd discuss  
8 it. So this is what I'm asserting, that this is  
9 probably what I...If I didn't do that, and I feel in my  
10 own mind as clear as I can, that I took that report  
11 over by hand. But if I didn't, it would have gone over  
12 in the routine mail, anyway. And if I did take it  
13 over, I would, Burgess or none of the readers would  
14 have known. I mean their mail would go out in the  
15 regular routine flow of mail and that would be it. They  
16 wouldn't know that I took it. I didn't, I wouldn't go  
17 and say, "I'm taking this over. You don't have to send  
18 it." So the normal course of mail would have gone  
19 anyway.

20 Q. All right, I just wanted to be certain of one thing  
21 arising out of what you just said. Are you telling us  
22 today that you have a recollection that you took this  
23 report over to somebody in the Attorney General's  
24 Department or are you assuming that that's what you did  
25 because that's what you would normally do?

1 A. No, no, no, I'm telling you that my best recollection  
2 is that I took it over, and when I say that, I'm  
3 thinking back of all of the other reports that I took  
4 over and it seems to me, in my best recollection,  
5 that's the only thing I can say, that I took this  
6 report over at the same time. Now I can't tell you,  
7 and can't tell you any conversation that ensued as a  
8 result of me taking it over, like anything. But I can  
9 only tell you that the Attorney General's Department  
10 never asked me for any further investigation on this  
11 matter at all.

12 Q. And you're telling us today that you have a  
13 recollection of that happening. You're not just  
14 putting the pieces together and assuming that it  
15 happened.

16 A. No, no, this is my best recollection, and, you know,  
17 piecing that with the other pieces of correspondence  
18 that I took over, I'm, it seems to me that this is one  
19 piece of correspondence that I took over.

20 Q. Do you remember, after having taken it over, do you  
21 remember discussing it with anybody in the A.G.'s  
22 department?

23 A. That's what I simply just got through telling you. I  
24 do not recall discussing it but my purpose of a weekly  
25 trip over there was to discuss current events and if I

1 I'm completely clear that I took it over but my best  
2 recollection is I did. But I'm telling you absolutely  
3 for sure that that report got over to the Attorney  
4 General's Department in one way or the other. You  
5 know, it just doesn't make any sense to me whatever and  
6 I'm very surprised, I'm very surprised that you would  
7 bring this up because of all the times that I've been  
8 here, there's never been any question about a flow of  
9 reports over at the Attorney General's Department.  
10 There's something absolutely, a weird wall put up here,  
11 saying that that report didn't get over there. I'm  
12 telling you that now.

13 Q. Mr. Wardrop, I'm only trying to understand what your  
14 accurate and best recollection is.

15 A. Well, I'm just telling you. Our routine, and it hasn't  
16 failed me yet, that mail got over to the Attorney  
17 General's Department and you tell me that Bob Anderson  
18 or Gordon Gale, who asked for this investigation,  
19 didn't get the report and weren't querying me and  
20 asking me where it was? Come on.

21 Q. Mr. Wardrop, your testimony today is based on what your  
22 normal practice was at the time, correct?

23 A. No, no, I have a recollection, faint as it may be, with  
24 age and time, but I have a recollection.

25 Q. The report that you received from Inspector Marshall,

1 A. That's right. But I'm not to...I'm...as I say I'm not certain  
2 how much of that was adapted as Department policy at that  
3 time.

4 Q. Again, you have indicated that it was your view that that  
5 was appropriate policy in '71.

6 A. Oh, I think so.

7 Q. And the...and the fact of Mr. MacNeil coming forward with  
8 this eyewitness information on November the 15th, 1971,  
9 this fact was known by Mr. Matheson, Mr. MacNeil and Mr.  
10 Anderson, all Crown counsel. In your view, leaving aside  
11 any issue of the RCMP coming in, but in your view as  
12 Attorney General, was there an obligation on the Crown to  
13 disclose that information to the defence with the appeal  
14 pending?

15 A. I think I've answered that, yes.

16 Q. Yes.

17 A. I think.

18 Q. And that would be an obligation that should be fulfilled  
19 even in the absence of any request from defence counsel  
20 because they wouldn't have any way of knowing about it,  
21 would they?

22 A. They wouldn't have any way of knowing about it, no.

23 Q. And, the evidence is that defence counsel was not aware of  
24 that evidence, and is it your view then that Crown counsel  
25 were in breach of their obligation to provide that evidence?

1 A. What obligation are you referring to?

2 Q. The obligation to disclose it to defence.

3 A. I'd have to say, yes, because I think that was their general  
4 thrust of trying to give full disclosure.

5 Q. And in that sense you would be then in agreement with Mr.  
6 MacLeod and Mr. Anderson who have already testified that  
7 in their view, yes, it should have been disclosed?

8 A. Yes, I have no difficulty with that.

9 Q. Are you able to indicate, My Lord, who you believe should  
10 have disclosed it? We understand that, you know, appeals  
11 were not carried by the local Crown, but were forwarded to  
12 Halifax at that time, and indeed still are. So, you've got the  
13 local Crown aware of it, but the matter being transferred to  
14 Halifax, at least one counsel in Halifax being aware of it, but  
15 he's not the guy who's looking after the appeal. Can you  
16 give us any help and suggest who, on whom specifically the  
17 responsibility rested?

18 A. I suppose it would be Mr. Anderson because he's the  
19 director and he must designate the counsel who will be  
20 doing the work.

21 Q. To summarize then this discussion, My Lord, we have fresh  
22 eyewitness evidence coming to the attention of the Crown,  
23 the matter is still before the Courts. It's evidence which,  
24 certainly if you believe it, which would cast some doubt on  
25 the conviction. And I take it from your evidence, it's your

1 view that it was the obligation of the Crown to ensure that  
2 that was disclosed to defence and to the Court.

3 A. It should have been revealed to the defence.

4 Q. Yes. And in not disclosing that evidence to the defence, is  
5 the Crown not in breach of its fundamental obligation to see  
6 that justice was done?

7 A. If it, and in this case it did result in injustice, the wrong man  
8 being convicted and the conviction upheld, yes.

9 Q. Yes. And, I guess in our parliamentary system the  
10 responsibility for that ends up finally at the desk of the  
11 Attorney General.

12 A. Exactly. I have never had any doubts on that, except if it's a  
13 criminal matter then, of course, some Crown Prosecutor  
14 carries out the criminal deed or act.

15 Q. Of course.

16 A. Then I don't feel that I have to be responsible for that. I  
17 may be responsible for the discipline of it but...

18 Q. Yes. But you would agree then, as Attorney General, that a  
19 conviction which continued, or at least the appeal was  
20 unsuccessful, perhaps because of failure by the Crown to  
21 disclose this evidence would be an injustice?

22 A. Would be what?

23 Q. The fact that Mr. Marshall's appeal was unsuccessful in  
24 1972, if that can be attributed to a failure of the Crown to  
25 disclose this fresh eyewitness evidence.

1 A. Yes.

2 Q. You're talking there about the November investigation by  
3 Ebsary and, of Ebsary and MacNeil...

4 A. Yes.

5 Q. By Inspector Marshall.

6 A. Right.

7 Q. Should the defence have been advised of that?

8 A. Absolutely.

9 Q. And given the way your system works now, that the case is  
10 under appeal and it's in Halifax, who should have advised  
11 them?

12 A. That is a question that I've thought of many times in the last  
13 few years and the short answer is Donald MacNeil.

14 Q. And would you like to explain why you make that statement  
15 having, it's obviously one you've given serious thought to.

16 A. This was a criminal matter that took place in his jurisdiction.  
17 He is the prosecuting officer for Cape Breton County. Was  
18 responsible for criminal prosecutions in that county. He had  
19 personally had carriage of the case and at the appeal stage,  
20 although it was being handled by a solicitor in Halifax, it was  
21 still information that he was personally aware of. And that,  
22 no doubt, knew it would be of great interest, at least to the  
23 defence. And I really don't think that he could have taken it  
24 for granted that it would be disclosed in Halifax. I think he  
25 was the one primarily responsible to get that information to

MR. EDWARDS, EXAM. BY MR. MacDONALD

1 the defence.

2 CHAIRMAN

3 Who could have disclosed it in Halifax unless Mr.  
4 MacNeil...yes, well Halifax would have known, wouldn't they.  
5 They knew the...

6 A. Yes.

7 MR. MacDONALD

8 Halifax, well...

9 CHAIRMAN

10 Well, I'm not sure of that.

11 MR. MacDONALD

12 I guess one of the questions is whether they did get  
13 Marshall's report, but assuming they did.

14 A. I'm operating on the premise, My Lord, that Halifax knew.  
15 And I'm saying notwithstanding that fact I would put the  
16 initial responsibility, or the basic responsibility to disclose on  
17 the Chief Prosecutor in that county.

18 COMMISSIONER EVANS

19 Wouldn't there be a joint responsibility?

20 A. Yes.

21 COMMISSIONER EVANS

22 The Crown is indivisible.

23 A. Of course. Yes. But I guess I would say the initial  
24 responsibility would be MacNeil's...

25

Jan. 1982.

Aware RCMP called in again?  
How? when? what expected

Diary?

Notes?

First Retollection?

Unusual case?

17/3 (A) why briefed by Chester?  
what told?  
Refer (A) p. 3  
what expected?

(B) told this by Edwards?

Significance.

Knew that had recanted?

why RCMP believe Marshall  
is innocent

would he be receiving reports  
every Thursday from Chester?  
Briefing Dep.? A-G?

what type of reports or updating  
from Frank? written?

RCMP Report.

34/9

Frank's notes 17/7 memo 28/82

Knowledge of radio & media break?  
(17/6)

RCMP Report.

- p. 141 ① Agree with this?
- ② Would this be proper
- p. 18 ③ note this?
- ④ Is this Chester?
- p. 19 ⑤ Comment
- ⑥ Appeal report to go to A-G

Request Report for Edwards?  
why?

40/31/22

agree recommendation p. 24  
when request?

Jul 31 / 13

See copy?

Arrange to meet Aronson?

31/36  
net mail  
5/182

Contacts Feds. Why?

families not  
stated

31/17

① what co-operation being sought  
by Aronson?

Why not give Aronson copy of  
The RCMP Report? Statements?

31/20 In Detail!

Believe Marshall innocent? !!

~~Support~~

go 31/34

31/36

- (1B) was that his understanding also
- (1D) comment
- (1E) what done with this request?
- (1F) —

also 31/38

See this?

- p. 40 (4) "innocent" miscarriage of justice?
- (5) Accurate?
- (6) comment? contacted? answer

Request Report from Edwards?

Why? When?

Vol 31 / 22<sup>21</sup>

Agree <sup>Comment 24</sup> Recommendation p. 24 (1)

Define "miscarriage of justice"

Request Update?

31/26 29

no backing off Recommendation?

"miscarriage of justice"

ultimate panel of prosecutors + A-6 office  
Edwards (evidence)

1 Q. Well the system, you're telling us the system can't.

2 A. No, I'm not. I'm not.

3 Q. The criminal system now.

4 A. No, I think you have to dissect it. What I'm telling you is that,  
5 in my opinion, and my logic may be all wet, but you have it  
6 such as it is, in my opinion, John MacIntyre can't be held  
7 criminally responsible.

8 Q. Neither should Harriss.

9 A. He is deserving of criticism for the way in which he conducted  
10 the investigation but not a criminal charge. The system, you  
11 know, the next logical progression is to say, well, if it's not  
12 John MacIntyre where do we go from there. And I am of the  
13 view, and I know that a contrary theory has been proffered  
14 through questioning here but I am of the view that the first  
15 statements of Chant, Pratico and Harriss were never disclosed  
16 to the defence.

17 Q. And that's...

18 A. And if fault is to be assessed anywhere, then it is on that non-  
19 disclosure.

20 Q. Okay.

21 A. Okay?

22 Q. All right.

23 A. Because my view, and again, that's all it is, is that the  
24 disclosure of those statements would have prevented the  
25 conviction. And then to carry it right through, that after the

1 conviction the 11-year incarceration could have been  
2 prevented had the re-investigation been disclosed.

3 Q. Or had it been carried out in the same manner as the 1982  
4 re-investigation.

5 A. Or had it been carried out in the same manner as the 1982  
6 re-investigation.

7 Q. With all of these...

8 A. So, you know, to get back to your point, in view of what I've  
9 just said, I don't think I'm throwing up my heads to Donald  
10 Marshall and saying, "Too bad, pal. You know, you spent 11  
11 years in jail."

12 Q. But the system has, the Court told him. "In spite of all that,  
13 it's your own fault. You're the guy who is to blame."

14 A. And the Appeal Court said that, yes.

15 Q. Okay.

16 COMMISSIONER EVANS

17 May I just ask one question dealing with MacIntyre and the  
18 witnesses. The witnesses didn't tell him the truth to start with  
19 and as you say he was a little aggressive. But leaving aside...

20 MR. EDWARDS

21 Well Chant didn't...

22 COMMISSIONER EVANS

23 Well leaving aside the aggressiveness...

24 MR. EDWARDS

25 Or, and Pratico.

F.E. notes 17/7

In detail: discussion with Mc Intyre.  
Why there? unusual?

length of meeting? what said?  
Standing? Sitting?

Chief belief Marshall quiet?

Notes:

- ① Saxon etc. being employed?
- ①A Did F.E. compare this
- ② what is letter April 1982 from Amonson?

As far as I am concerned, Rod Jellard is  
the author of his own misfortune"

17/17

JOHN F. MacINTYRE, by Mr. MacDonald

1 MR. MacDONALD:

2 Thank you. We'll try to accommodate you on that.

3 BY MR. MacDONALD:

4 Q. Just a couple of things to clear up, Chief MacIntyre. A couple  
5 of times yesterday you made reference to the Marshall file and  
6 the Ebsary file, at least that's what I understood. Did you  
7 have a separate file for each of those; that is, in 1982 when  
8 the R.C.M.P. were doing the re-investigation?

9 A. No, I think I -- My opinion on that and my recollection would  
10 be I'd keep everything together. It was all connected.

11 Q. So when you said you were reviewing with, do you remember --  
12 with Scott and Frank Edwards?

13 A. Yes.

14 Q. You were reviewing, you said, the Marshall and Ebsary files.  
15 You meant you were reviewing the Marshall case leading up to  
16 his conviction and then the November incident when the Ebsary  
17 matter came up, is that correct?

18 A. That's right. That's my recollection, yes.

19 Q. Thank you. The other point I wanted to just confirm with you  
20 is the reference that was in Frank Edwards' notes to the Deputy  
21 Attorney General putting his hand on your shoulder and saying,  
22 "That fellow was the author of his own misfortune." I just  
23 wanted to confirm the timing on that. You visited Gordon Gale  
24 in April -- on April 16th, 1982.

25 A. Yes.

G. McD

Ref. to

Sydney Discover

Gale by  
MacIntyre

re: Author of  
misfortune



JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. The note about the laying on of hands is dated January, 1983,  
2 which is --

3 MR. CHAIRMAN:

4 Only the best attorney could put the question that way.

5 BY MR. MacDONALD:

6 Q. January of 1983. Were you in Halifax at the Attorney General's  
7 Office -- Is it possible you were there on a couple of occasions.

8 A. Speaking about Mr. Gale -- he was talking about or Mr. --

9 Q. Or Mr. Coles -- or the Deputy?

10 A. No, this was the meeting that I had with Mr. Gale.

11 Q. Okay. Thank you. Now, I had said yesterday, Chief, that I  
12 wanted to just give you an opportunity again with respect to  
13 certain conflicts that I think exist and get your comment. Would  
14 you agree with me that the conviction of Donald Marshall, Jr.,  
15 initially was based primarily on the fact that there was evidence  
16 of two independent witnesses, who were eyewitnesses, that those  
17 witnesses, as far as everyone knew, had no opportunity to  
18 collaborate and did not collaborate, and that they would have  
19 no motive to lie and to -- to lie and say that Junior Marshall  
20 had stabbed someone. That was at the basis of the decision,  
21 wasn't it?

22 A. I would say so, yes.

23 Q. Now, before this Commission, both Mrs. Harriss and Mrs. Chant  
24 have testified that you asked them to leave the room while their  
25 children were being interrogated because -- somewhat to the

Sydney Police Files

Aware of position of France  
↓ RCMP

17/8 ① Agree. why delaying

② F.E. advise you of this?  
April 16.

Should Police be treated differently  
than anyone else.

Obstruction charge? why not more  
or since RCMP do so.

Was there a meeting of brass? Did  
he hear from Chester.

April 19/82 17/10 ①

"Briefed Thoroughly"

17/9

- ① A) Whelan + Davies contact Police  
 ② B) Donna Elmore  
 ①A C) Hidden papers.

17/10

- ② D) wanted Police file

17/10 ① Agree with Frank - Investigation should focus on Sydney Police

Discussions with A-G

Meet with Chidley? (17/11 ① told me?)

- ③ Awareness of this?

Letter from A-G to Chief ordering  
 turn over of file. April 20/82 31/27

Unique? ?

How delivered? When

CONVERSATION WITH GORDON GALE,  
NOVA SCOTIA ATTORNEY GENERAL'S DEPARTMENT  
(PROBABLY ON OR ABOUT APRIL 23, 1982)

- A.G. has taken case from Sydney police and given it to R.C.M.P.
- Sydney police playing games.
- Mrs. E. and daughter say they saw this stuff and recall it with great clarity.
- E. not yet sentenced - still under observation by psychiatrists.
  - is he fit to stand trial???
- Harris - new statement from her.
  - she describes E. to a t
    - old man with flowing white hair and cape.
- Aronson referred by A.G. to Legal Aid.
- compensation not decided
  - but may be given because of Sydney police
- perjury - it may not be...
- toss up between new appeal or pardon
- (I made an editorial note here saying "have distinct impression that he feels E., not Marshall did the stabbing")
- I asked him to write me to advise if they feel a remedy is warranted, and if so, which they would recommend.
- He said he hoped to have a letter for me the week after next.
- Hirshorn.

CONVERSATION WITH GALE MADE 20/82

- letter on the way
- not making a decision
- considerations:
  - pardon perhaps not expedient
  - [because there would be] no public airing of matter
- E. found unfit and in all probability won't recover
- will lay charge against Ebsary.

31/48

Colo  
Is Sale only one with authority?

✓ Discussed with Sale?

Any examples of Dept. authorizing  
payment to other counsel? rates?

Hire own counsel? rates.

Legal aid rates?

31/52

recall conversation

Report: 34/64 ft  
76  
88

p. 89 - "obeyance"

ever release the "hold"??

ever authorize or request investigation  
of Sydney Police Dept or any members

Did RCMP need to carry out?

31/54

Did he draft this letter.

Did he have discussions: ~~Rutherford~~, F.E.

- ① Marshall innocent? (Ref<sup>n</sup> p. 40)
- ② what about 617(c)
- ③ Had it already been determined that no perjury charge would be laid?
- ④ Review this paragraph

31/56 Review.

~~Surprise?~~

met E Rutherford + F.E. June 9<sup>th</sup>  
(Rutherford evidence 9701 ft)

Best way to proceed under 617(c)

Know C.J. MacKeigan to be contacted

MR. RUTHERFORD, EXAM, BY MR. G. MacDONALD

1 the 16th.

2 A. I think so.

3 Q. "A classical 617(B) as if it were an appeal by Donald Marshall.  
4 MacKeigan spoke to Rutherford on June 15, 1982." Did you  
5 have conversations with Chief Justice MacKeigan about the  
6 setting up of the reference?

7 A. Yes.

8 Q. What would be the purpose of those discussions?

9 A. On...after the exchange of correspondence, the page before  
10 this, page 60, which has Mr. Chrétien writing back to Mr. How  
11 and proposing that we get together, Rutherford and Gale, well,  
12 "Rutherford work out with your officials," I in fact met on  
13 June 9th, as I think I said earlier this morning, with Mr. Gale  
14 and Mr. Edwards. We discussed options and potential  
15 questions that could be asked of the Court, how to deal with  
16 this, we discussed whether or not the compensation issue  
17 could or should or could not or should not be wound into it in  
18 one way or another. We discussed what would happen if the  
19 Court of Appeal ordered a new trial. All those issues were  
20 discussed. The conversation ended or the meeting ending  
21 with Mr. Gale expressing the desire to be able to consult his  
22 Minister on the things we had discussed and make final  
23 comments. On Monday, June the 14th, I telephoned Gordon  
24 Gale for those final comments and I then called Mr. Aronson  
25 and told him, and I assume that phone call slip at the middle

1 of page 62, which is dated the 14th, is a reference to my  
2 having called him. I did speak to him on that day and I told  
3 him that as between the Nova Scotia Attorney General's  
4 Department and officials in Justice we were of the view that  
5 we would propose a reference as the right remedy to the  
6 Minister for his ultimate decision, and that it would be a  
7 reference under 617 (C) asking for the opinion of the Court.

8 Q. Two particular questions.

9 A. Two par...yeah, that's correct.

10 Q. Had you given any thought to the question that would be  
11 put?

12 A. Yes, there was a lot of thought...there was a lot of thought to  
13 put to a number of different questions and ultimately I think  
14 it came down to probably one question.

15 Q. Yeah. What would that be?

16 A. I'm not sure whether I've got it. I may have a copy of what  
17 we were working with at that time. I have a copy of what  
18 has reference as a draft. There were several drafts, in fact.  
19 One of the questions we were considering followed a  
20 preambulatory sort of language that sounded like this, that it  
21 asked the Court, referred the conviction to the Court for its  
22 opinion and determination in the light of the existing record,  
23 the evidence to be adduced by counsel for Donald Marshall,  
24 for the Attorney General of Nova Scotia and any other  
25 evidence which the Court in its discretion received and

1 consider, the question being, "Does the additional evidence  
2 warrant any action being taken in relation to the conviction  
3 and, if so, what in the opinion of the Court should be the  
4 nature of that action?" That was one question and I think  
5 that was one of the ones that we were thinking of most  
6 seriously at that time. Other forms of the questions we  
7 discussed were of this order "Does this additional evidence  
8 warrant any action being taken in relation to the conviction  
9 and if so should Donald Marshall, Jr., be granted, (a) a new  
10 trial, (b) a free pardon, or (c) some other form of relief alone  
11 or in conjunction with the above?" Those were the kind of  
12 things we were discussing.

13 Q. Now, had that followed through, if you had proceeded under  
14 617 (C) the Court is being asked really to assist the Minister,  
15 to give the Minister some...its opinion so he can make a  
16 decision, is that correct?

17 A. Yes. Under (C) it would have left, in all likelihood, some  
18 executive action to be taken by the Minister, either to refer  
19 the matter to a new trial or possibly a free pardon. It led  
20 most likely to some further ministerial action. I should say  
21 the significance at least to me at that time, and I think to Mr.  
22 Gale, was also that it avoided the possible awkward situation  
23 of a new trial being ordered, a trial which the Attorney  
24 General of the province may have no desire to take at all.

25 Q. Was it then the, at that stage anyway, the preferred option of

- 1 the officials in the Ministry of Justice and the Attorney  
2 General that the best way to proceed would be under 617 (C)?
- 3 A. That's correct.
- 4 Q. What...
- 5 A. And I specifically appreciate your term of preferred option,  
6 that was...that's exactly what it was at that point.
- 7 Q. What changed that position?
- 8 A. After the final discussions on the telephone with Mr. Aronson  
9 and Mr. Gale on Monday the 14th, the options including the  
10 preferred option were put to Mr. Chrétien on Tuesday the  
11 15th in the morning, 15th of June, 1982. Mr. Chrétien agreed  
12 with the preferred option and gave us instructions to finalize  
13 the paperwork, that is including letters of transmission to the  
14 Court, to counsel, informing Mr. Marshall through his counsel,  
15 the related paper work. It was and the best of my  
16 recollection is that it was the executive assistant of the  
17 Minister at that time suggested to me that it might be  
18 appropriate, as a courtesy, to inform the Chief Justice of Nova  
19 Scotia, to whom this case in all its public ramifications was  
20 about to be referred, presumably later that afternoon, in  
21 advance by telephone. In fact, the executive assistant, to the  
22 best of my recollection, said to me, "Wouldn't it be a good idea  
23 as a courtesy to advise the Chief Justice of what's coming?"  
24 My reaction at the time was that that was a good idea. It  
25 hadn't occurred to me. Minister's staffs think of those things

Initially Feds. proposed having  
compensation in reference. 9714

Bale requested it not be done in that way  
9715

who leads that shifted to 617(b)  
only concern? what type of questions  
to be considered by court?

compensation

records for perjury

Guilt or innocence of Marshall

Wide congressional Inquiry

all possible under 617(c)

MR. RUTHERFORD, EXAM, BY MR. G. MacDONALD

1 quantum for the Government of Nova Scotia to decide?  
2 A. Yes, in the same sense that the Criminal Law is left to the  
3 provincial Attorneys General to deal with in their discretion,  
4 we felt that the compensation issue in this case prosecuted,  
5 investigated, dealt with completely by provincial officials was  
6 properly theirs to deal with.

7 Q. Let's look at the reference...

MR. CHAIRMAN

9 If you had gone under Sec. 617(c) with, under your draft  
10 reference, the question of compensation would have been  
11 included.

MR. RUTHERFORD

13 It was one of the, I guess when Mr. Chrétien proposed that I  
14 go down and work out details with the officials here in the Nova  
15 Scotia Attorney General's Department, my first telephone call to  
16 Mr. Gale established that for the meeting, I would bring some  
17 draft questions to look at and that question, one of the draft  
18 questions I obviously prepared included having compensation  
19 addressed specifically as part of the Sub (c) reference.

MR. CHAIRMAN

21 But when you returned to Ottawa and received instructions  
22 from your Minister to prepare the final draft, this was before your  
23 conversation...

MR. RUTHERFORD

25 Yes.

MR. RUTHERFORD, EXAM, BY MR. G. MacDONALDMR. CHAIRMAN

1       The Chief Justice of Nova Scotia, in that draft, were you  
2 instructed to include in that reference under (c), the question of  
3 compensation?  
4

MR. RUTHERFORD

5       No, on the basis of the discussions I had had with Mr. Gale, it  
6 was not part of the preferred option to address the question of  
7 compensation. They had requested it not be addressed in that  
8 matter.  
9

COMMISSIONER EVANS

10       Following up on that, was the, did the A.G. for Nova Scotia  
11 have any input in the decision of the Federal Government to  
12 proceed under 617(b) instead of (c)?  
13

MR. RUTHERFORD

14       Only to the extent that we were able...I'll answer it directly, I  
15 think this way, sir, there was no further communication between  
16 the conversations that I had with Chief Justice MacKeigan and the  
17 actual signing of the reference. I read, I should say, into the  
18 situation on the basis of the discussions I had that they would not  
19 be opposed or terribly concerned about it, and in fact, when I  
20 called on the morning of the 16th to Gordon Gaie to tell him we  
21 were changing our tack slightly, changing the style of the  
22 reference, and was unable to get him, I was only mildly concerned  
23 that I didn't have an actual discussions with him and I just left  
24 the message saying we were doing it. I felt on the basis of the  
25

3/1/59

met with Petherford. Kept A-G  
advised.

Usual to deal directly with A-G?

4/1/62

re fees

evidence

being urged by Feds to be  
generous? Any suggestion  
of help?

3/1/63

① Key compensation end

② Anson has carried the ball.  
Requires all the information to  
do so properly.

See 29/6

obligation & duty to give him  
everything.

MR. RUTHERFORD, EXAM. BY MR. G. MacDONALD

1 arrangement Justice will do what it can." Did you discuss with  
2 Mr. Aronson the payment of his fees that would be incurred  
3 as a result of a reference to the Appeal Division?

4 A. Well, it was certainly discussed with him and I know I wrote  
5 to Mr. Aronson and got copies of his accounts, but again I  
6 think, subject to finding that correspondence, that that was  
7 after the reference. But there was some discussion as I  
8 alluded to earlier about how he would be paid if there was a  
9 reference and as I recall discussing that with Mr. Gale at some  
10 point and finding out that the tariff was a pretty skinny one  
11 for a pretty important court proceeding.

12 Q. Do you...

13 A. I don't recall...I don't recall ever, I should put that more  
14 positively, I was never in a position to make any commitment  
15 that Justice would pay anything. As I say, we're...our cost  
16 sharing of Legal Aid in some ways militates against making  
17 special agreements when somebody wants more than Legal  
18 Aid can provide in a province. But I don't...I think it would be  
19 fair to suggest that I at least went so far as to raise the matter  
20 with Mr. Gale and say can't...can't... whatever is the most  
21 suitable arrangement possible be made for Mr. Aronson.  
22 After all this is a pretty major appellate proceedings we're  
23 contemplating.

24 Q. Okay. Now, let me take you to the other notes on page 62.  
25 And I take this to be notes of a conversation with you on June

31/68      Annou of Mrs Meeting  
Instructions to F.E.

31/77      annou of June 9 application  
Kept annou of situation?  
Does F.E. report to him normally?  
Was it to be addressed?

17/14      annou visit Cole by Whalley?  
what told.  
Speak to Cole? F.E., any concerns?

consideration to lift the hold  
on RCMP?

Oct. Court Appearance

Answer of Mrs

Answer of position being taken

Jury Case 39/<sup>179</sup>~~185~~

Vol. 39 183

① should defence have been given  
these first statements

② Should Court be looking  
at Mrs. How determination of a  
"miscarriage"

185

Agree?

189

Agree?

Decision 39/190

Surprise.  
not going to hear Police  
not going to be second inquiry

## Reference

Prior instructions to Edwards

Aware of <sup>Panel</sup> ~~Constitution~~ Members.  
Should there be an objection

What was issue?

Did Donald Marshall Jr. Stop  
Sandy Seale.

Could he be convicted of murder  
of Sandy Seale

Has he ever read Transcript of  
Reference Hearing.

Statement used without a voir dire  
to prove voluntariness 3/69  
70

Why should Court be concerned with the  
Marshall & Seale engaged in a robbery  
attempt? why relevant to "miscarriage of  
justice"

17/16 ① Review of these comments. why concerned about Police image

② why DAG concerned about taking a stand?

Discussion with him?

17/17

McIntyre evidence. "Gole did it" (Get evidence)

In 18/83

31/126

Did he see this? Was it requested complete flip-flop compared to April 5/82 3/1/32

p. 127 if no evidence how could a new trial be ordered

17/17 Jan 24/83 what "reasonable  
compromise"??

"Professional Integrity"

Can argue on appeal & not take  
any position?

Was A-G involved in discussions

17/18 Are notes accurate?

what was Gale position. He  
believed Marshall innocent. told  
Rudolph - Aronson - Edwards

Wanted to discuss with A-G office  
the pt to be taken on an appeal -  
or before Court.

Factum  
Vol 4/1

Did he see in advance of argument  
Was A-G office in agreement?

Being Fair to Marshall?

Discussions with Frank re the  
attitude of Court?

Decision

4/80

Review?

Agree?

Surprise?            145       146

!!

Conciled of robbery without  
TRIAL (Get Frank evidence)

FAIR?

32/152 + May 1983 - aware of their  
request to F.E.  
were charges being considered?

Opinion 154 Review? Agree?

157, 158 told Police what he believed  
they wanted to hear.

Police conduct reprehensible?

Refer F.E. evidence re ultimate  
blame with Prosecutor. i.e. A.G.

only one ever blamed was Marshall

32/59 Review in detail

what done & by whom?

what role played by him in  
the composition phase?

Vol 20 / 4

Why is this being done?

Were you restricting this to a review of file?

Had told RCMP to hold the interviews / investigation in abeyance.

What reply received? 20/20

When report 20/15

Insert 20/23

What done at that time?

If obstruction expected to be told?

If not ~~obstruction~~ view what action.

Wes  
\* Cole normally involved in  
day to day activities on command  
low matters

37/131

178  
32/179

Review? For what purpose?  
why is A-6 Dept. involved?  
what is wrong with satellite?  
Broadcast?

32/190 + Review.

would bring proceedings if  
Court insisted?  
why?

32/203

See Mrs?

205

Ague?

207

209

272

20/55

32

20/57 Knows of Mrs. of Locken  
told in 1983 what action?  
Discuss with Vaughton?

20/72 Start to Mrs + go to suggesting  
mem

20/60 Vaughton memo - First to be heard  
of Mrs?

20/62 Discuss? Review?

20/63 Ever see? Discuss to  
Vaughton?

What would he do?

20/70 Some thing

20/72 In detail

20/97 review, Discuss with Dale

never had seen interviews of  
martyr + U by Police

Count Worker Program

His involvement. Refer Job description

Vol. 41

1. Agree with assessment?

8		
11	23	
27	++	31
43		
75		
79		
146		4161
178		

Policing

41/	134
	202

continue today

Vol. 28/

1. why asking Mrs. Expected everything to go to Aronson. 29/6
2. Remains page 2 for his convenience
3. Agree with this as policy?
6. In detail 3rd para.
7. Agree?
8. Discuss with Cole?
9. Refer to his "none"
16. In this Policy would reports be given to Aronson?

why not introduce during your time & anyone can acknowledge fault.

X Vol. 20/55

no problem turning mat'l over to Buckley.

turn over files to her lawyer

20/55