

DENIED JUSTICE

review by lois corbett

"On May 28, 1971, a black teenager, Sandy Seale, was stabbed to death in a park near Sydney, Nova Scotia. Several days later, the police arrested his companion, seventeen-year-old Donald Marshall, Jr., a Micmac youth. The people of Sydney, outraged by Seale's vicious murder, and the local police, under pressure to solve the case quickly, were exultant at having found the killer. Only one detail clouded this tidy ending to a brutal crime: Donald Marshall was innocent."



With *Justice Denied*, Donald Marshall tells his story. Through Michael Harris, once Atlantic Bureau Chief for the *Globe and Mail*, and currently publisher and editor-in-chief of the *Sunday Express*, in St. John's, Newfoundland, we get what the publisher heralds as "the first, the complete, behind-the-headlines story" of the events that robbed Marshall of eleven years of his life.

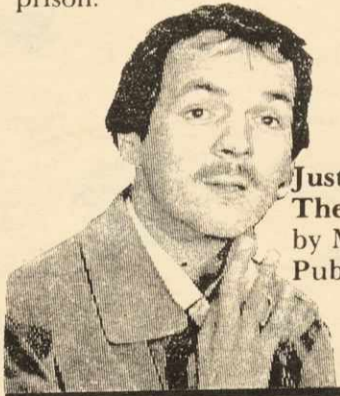
In the book, Harris says he first met Marshall in the spring of 1982. "I was not prepared for the person I met, a soft-spoken young man who talked about his Kafkaesque ordeal in wispy generalities, as though it were the unfortunate experience of some distant acquaintance. It was inconceivable to me that he was just eight weeks out of Dorchester Penitentiary after having served a life sentence for a crime it would soon be established he had not committed," writes Harris.

The author provides a humble and honest interpretation of the events of Seale's murder, Marshall's arrest, the years Marshall spent in Dorchester and Spring Hill as "inmate 1997" and the investigation that eventually led to the youth's release. Much of the detail concerning the story came from Marshall himself, and Harris says the man who described himself as "just a toad in God's pocket" did not "cast self-serving lights and shadows over the past, but spoke as freely about his faults as about his sufferings. This frankness was a great boon to a writer who believed that Marshall's story required a chronicler, not a champion."

But don't let that distinction — a somewhat artificial separation between reporting and advocating change — fool the reader. Harris' account documents the Marshall story

thoroughly but with sensitivity and with a great use of irony, techniques usually forgotten in the commercial press' attempt at scattered information. *Justice Denied* is sympathetic without being patronizing, sensible without being sensational and graphic without holding back any criticism that the "justice" system in Nova Scotia that sent the innocent Marshall to jail in 1971 and then blamed him for the travesty in 1983, deserves.

Harris takes us through the troubled Sydney where Marshall was born in 1953, through the city to Wentworth Park where Roy Ebsary stabbed young Sandy Seale on May 28, 1971. We follow the so-called investigation of the murder by the Sydney police force and read with horror the transcripts of the November trial where the twelve men of the jury found Marshall guilty and Justice Louis Dubinsky sentenced him to life in prison.



Justice Denied
The Law Versus Donald Marshall
by Michael Harris
Published by MacMillan of Canada

"I heard his words but they seemed to come apart, they made no sense. I felt like I did sometimes when I got lost in the woods. I didn't know where I was. Then it hit me: I was going away for life," recalls Marshall.

With that, in fateful chapter number thirteen, and almost exactly halfway through *Justice Denied*, Harris begins a different story, one most aptly

entitled "The Truth." Through the rest of the book, we see how the justice system ignored an eye-witness account of the murder, in favour of two witnesses who ten years later would admit they had never seen the man who had killed Seale. We follow Harry Wheaton and Jim Carroll, the two RCMP officers who were assigned to the Donald Marshall case on February 3, 1982 and who uncovered valuable information that would lead the accused to freedom two months later.

The story doesn't end the day Marshall walks out of Dorchester in the new blue suit his mother, Caroline, had bought him with the money she earned by weaving and selling baskets at her Whycomagh home. The battle Marshall fought with the province's attorney general's office for compensation would take him through two lawyers and many months of legal wrangling. All told, Marshall received \$315,000 for

Harris doesn't miss the irony of the small settlement. "It was a far cry from what one very prominent Canadian had earlier said he would like to see done in the unprecedented case. 'If I were prime minister, I would give Donny Marshall a cheque for \$1,000,000 and I wouldn't care if he spent it all suing the system, because we owe it to him. When you see the young man, you tell him that and give him my best wishes.' These sentiments once belonged to Brian Mulroney. He passed them along to the author during an informal chat in his room at the Heather Motel outside Stellarton during the Nova Scotia by-election that sent the Conservative leader to Parliament as the member for Central Nova in the summer of 1984. Later that same year, after Mr. Mulroney was elected prime minister, his government's contribution to Donald Marshall's cause was something less than the campaigning politician had envisaged.

"The federal government declined to pay Marshall's legal bill . . . Instead, federal justice minister John Crosbie reimbursed Nova Scotia for half of the \$270,000 ex gratia payment made to Marshall."

Harris' description of the characters that played important parts in the Marshall saga are real, and detailed. Readers can meet the shy young Marshall, understand the feelings of the two families touched most by the tragedy — Marshall's and the Seale family — and cheer the attempts, if somewhat belated, of Wheaton and Carroll.

"The Attorney General of Nova Scotia came to our annual officers' mess dinner," recalls Wheaton, "and said that he didn't understand why

the press was making all the fuss over the Marshall case. I had to be restrained from leaving the room in the middle of his speech. The man simply didn't realize the suffering and heartache in this thing, nor the immense social issues that are still at play. I just couldn't stomach the trivializing of a case that changed so many people's lives, and my whole outlook as a policeman."

If there is one problem with *Justice Denied* it is the author's failure to deal with racism, and how it is institutionalized in the justice system. While that is probably more of a deliberate omission than an oversight on the part of the man that sees himself as a chronicler and not a champion, it is an important part of the story he wants to tell in its entirety. And it is not as if racism in our society has not been documented: in Nova Scotia, the *Micmac News*, who faithfully covered Marshall's cause, has contributed greatly to our understanding of how a white majority treats minorities.

Harris dedicates *Justice Denied* to Donald Marshall, Jr., with these words: "To Junior, a brave man dogged by old ghosts, with every wish for deliverance." The author ends the book with Marshall explaining where he had met Sandy Seale on that spring night almost sixteen years ago. Marshall took Harris to the spot where Seale was murdered and said, "You know, when Sandy died, a big part of me went with him." Harris writes that he waited in the gloom, but Marshall offered no more words, until he finished lighting his cigarette:

"C'mon, let's get out of here. I'm cold as hell."