

Marshall inquiry focus on judge

By CLAYTON BURNS

THE DONALD MARSHALL JUDICIAL INQUIRY should look at why Mr. Justice Leonard Pace of the Nova Scotia Supreme Court Appeal Division did not disqualify himself from hearing the Donald Marshall appeal in 1983, according to journalists who attended the Marshall public debate and seminars at Dalhousie University and Kings College.

Parker Donham, who is writing for *Reader's Digest* on the Marshall case, says Pace should have disqualified himself even if as Attorney General he had nothing to do with the Marshall case in the early 1970s.

Since Pace was Attorney General in 1971, his failure to disqualify himself from the 1983 Appeal Division judgment was a conflict of interest, because the judgment absolved the Attorney General's office of blame, journalists say.

The Nova Scotia Supreme Court in 1983 said Marshall perjured himself at his original trial, and said any miscarriage of justice was more apparent than real.

Another journalist says the judicial inquiry should ask the justices of the Supreme Court Appeal Division which of them most wanted to include in the 83 judgment statements that cleared police, the Attorney General's department, and the judicial system of any blame for Marshall's 11-year wrongful imprisonment.

Also, the inquiry should look into why some of the Attorney General's records on the Marshall case were destroyed, journalists say.

The Attorney General's office says its records on the Marshall case from the early 1970s were routinely destroyed.

Any records that exist could be obtained by the judicial inquiry well before the hearings start next year, according to Kings College journalism professor Stephen Kimber. But it would be difficult for the inquiry staff to get a warrant to examine the Attorney General's records, he said.

The judicial inquiry should have the full cooperation of the Nova Scotia Government, according to Dalhousie criminal law professor Bruce Archibald. The Attorney General's department should turn over all its records on the case to the inquiry and should not rely on governmental privilege to hold things back, he says.

Some journalists say the judicial inquiry was called only because of pressure put on the provincial government by the national press.

But Parker Donham and several of the Micmacs at the public debate and seminars were critical of Michael Harris' book on the Marshall case, *Justice Denied*.

Donham, who writes out of Cape Breton, says some of the descriptions of Cape Breton Indian life in the book seem fabricated. Micmacs such as Alex Christmas, president of the Union of Nova Scotia Indians, say descriptions of gang life among young Indians are untrue. He says the judicial inquiry should focus on racism in the justice system.

Claude Vickery of the CBC says that when Harris wrote for the *Globe and Mail* he did Marshall a great disservice by painting him as an "innocent martyr." Vickery says that when Marshall later blundered by showing up 15 minutes late for his 1983 appeal at the Supreme Court, and also later on

got into trouble because of what Vickery calls his drinking problem, reporters were turned off.

Some journalists said policeman John MacIntyre's prejudice against Donald Marshall should be the focus of the judicial inquiry.

Robert Murrant, a Halifax libel lawyer, said he hoped MacIntyre's libel suit against Parker Donham and the CBC would have been the best forum to find out the truth about the Marshall conviction.

MacIntyre sued Donham because he said on the CBC that Sydney police bullied witnesses into lying at the 1971 Marshall trial.

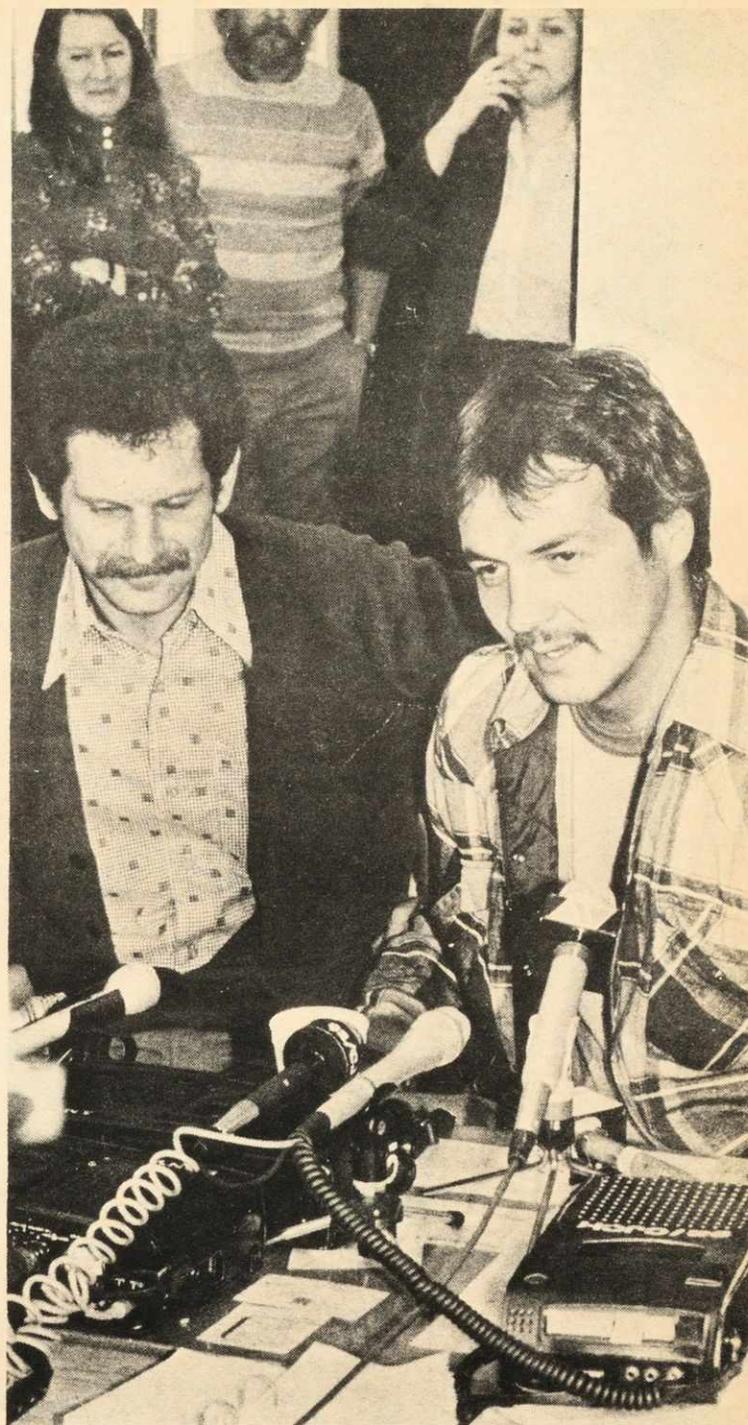
MacIntyre dropped his suit when it became clear an RCMP officer would support Donham's version of events, says Murrant.

An RCMP officer recommended that obstruction of justice charges be laid against MacIntyre for his handling of the Marshall case.

After the public debate, Donald Marshall Sr. said that Donald Jr. was railroaded by the courts before the 1971 Seale murder in a supplying liquor to a minor case. Donald wanted to plead not guilty but the judge refused to accept his plea and found him guilty without a trial, the elder Marshall says. The family could not obtain a transcript of those trial proceedings, he says.

The Marshall family say they are still victims of Sydney police prejudice against them.

One of the younger Marshalls says police recently shoved him up against a police car and said, "We hope you're not a fucking Marshall."



Donald Marshall and his lawyer Steve Armstrong who went broke defending him against the Nova Scotia justice system.

SMU drops SUNS

St. Mary's student council voted Sunday night to pull out of the Students' Union of Nova Scotia and are now waiting for the organization to restructure before they decide if they want to rejoin.

The motion passed 13 to 4 with one abstention.

Sean Dolter, vice-president of student affairs at St. Mary's, says SMU decided to leave because SUNS needs to be more representative of Nova Scotia students.

"We've been debating the issue (whether to withdraw) for the past three years. Now we're waiting for them to restructure," says Dolter.

The last SUNS conference was a disappointment for most of the participants, with one of the vice-presidents resigning.

At that conference, the St. Mary's delegation presented proposals to the presidents' caucus aimed at changing the fee scale so that more small schools could join.

The fee restructuring proposal was well-received but some of the participants were hesitant about

changing the organization from its present executive structure to a council of student union presidents.

Dolter says he thinks SUNS would be taken more seriously as a presidents' council than as an executive lobby group.

Barney Savage, chair of SUNS, says, "nobody on the SUNS executive was contacted about SMU's intentions. We only found out about it after the decision was reached."

St. Mary's pulled out because their suggestions for change were not immediately accepted, Savage says. "They only presented their proposals for change to the presidents' conference and not to the general meeting," he says.

Dolter thinks they will have more of an effect on the organization from the outside because he doubts the executive would have changed on their own.

"Three years ago when they set up a committee to look at reorganizing SUNS nothing was done."

Savage disagrees: "I don't think the best way to effect a change in an organization is to pull out of it."

Yes, but is it tax-free?

By LIZ NEVE

DALHOUSIE STUDENTS ARE venting their frustration as they forfeit cash for a book "reshelving fee" when they return books to the university bookstore.

Students who return unused books to the store must pay a fee of 50 per cent of the price up to a maximum of three dollars. The policy has been in effect for two years.

Although bookstore manager Robert Bagg is quite sure that everyone returning books this year is aware of the policy, a quick survey of students in the bookstore revealed that 12 of 14 didn't know about the fee.

The policy is clearly outlined on the yellow slips stapled to store receipts and is, according to Bagg, standard procedure in most university bookstores.

"It helps to pay for the costs of the employee who handles returns, filling in return slips, transferring that to the cashier who rings it in and gets it authorized, checking the balance at the end of the day... it gets so busy at certain times that we have to hire two students just to put books back."

Three dollars is a rough estimate of what it costs per book returned and he says "this is a more fair policy than the old policy the bookstore had of charging a flat ten percent whether the book cost \$3.95 or \$100.00. One pays 40 cents, the other ten dollars for the same reshelving."

Bagg emphasizes the bookstore works with a very small profit margin — "there ain't no money in textbooks" — and that this policy is designed to keep bookstore losses down so university

and student fees are affected as little as possible.

"And, of course, I try to give the student a break if possible. There are certain exceptions, like if a prof decides not to use the book, or if the class time is changed and it conflicts with your schedule... I emphasize go to class first," says Bagg.

The majority of the students asked did not agree with the policy.

"Given the financial constraints of students, I think the fee is unfair," said one shopper. The response of another was "For three bucks, I'll reshelve it myself."

Another student summed the situation up by concluding philosophically "It's not a bad thing. I mean, I wouldn't want to be in the position of having to pay, but I wait and buy when I know what I want." Buyer beware.