

FORUM

REPORT TO THE CANADIAN JUDICIAL COUNCIL

[The Donald Marshall Jr. Affair]

EDITORIAL INTRODUCTION

The Forum section in each edition of the *U.N.B. Law Journal* is dedicated to the review of a current legal issue of vital political and social import. Through the Forum section the *Journal* aspires to act as a catalyst for open and frank discussion of these topics. Past Forum topics have included critiques of the Meech Lake Accord and submissions on New Brunswick language policies.

Few Canadians would dispute the significance of the Donald Marshall Jr. Saga. The history of this epic has negatively impacted on the public's perception of and confidence in the administration of justice in this country. Questions such as these touch the very foundation of Canadian society.

The most recent event in this unfolding drama has been the release of the Report to the Canadian Council of the Inquiry Committee established pursuant to the *Judges Act*, R.S.C. 1985, c. J-1, in August 1990. The editorial staff was delighted when the Canadian Judicial Council permitted the *Journal* to re-print this Report and elicit commentaries on its contents.

The commentators come from various backgrounds and represent a variety of perspectives. It was the editorial staff's belief from the outset that a thorough review of the Inquiry Report had to take a multi-disciplinarian face in order to do justice to this multifarious issue. The *Journal* is therefore, most honoured to present the comments of these highly esteemed individuals.

Worthy of some explanation is the inclusion of a 1982 letter marked "confidential" from then British Columbia Supreme Court Justice Thomas Berger to the late Chief Justice of the Supreme Court of Canada, Bora Laskin. When contacted to participate in this discussion, Mr. Berger responded by providing us with this letter that has never officially been made public. The highly publicized "Berger Affair" resulted in Mr. Berger's departure from the British Columbia judicial ranks, after being accused of conduct inconsistent with his judicial office by Mr. Justice Addy of the Federal Court of Canada. Mr. Berger's criticism of the Canadian Judicial Council, albeit in his case, brings his letter clearly within the mandate of the Forum discussion of the Inquiry Committee Report to the Canadian Judicial Council.

We wish to thank all those who have come together to make this section one of the surprisingly few critiques of the Report to the Canadian Judicial Council arising out of the Donald Marshall, Jr. affair.