

R. V. BENNETT
15 December 1971

29, 30 December
Trial 12, 3, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 December 1971

SC CR 71 005

1 THE COURT: Members of the jury, I think we will take your
2 verdict count by count, if that is acceptable,
3 so there will be less confusion.
4 THE CLERK: Members of the jury, have you arrived at your
5 verdict. If so, say so by your foreman.
6 THE FOREMAN OF THE JURY: We have. On count number one -----
7 MR. FROOMKIN: If I may make this suggestion, I think it is
8 easier if the clerk would ask the foreman whether
9 they find the accused guilty or not guilty on
10 count 1, that they find the accused Clifford James
11 Bennett guilty or not guilty, and then R.W. Bennett
12 -----
13 THE COURT: Well, let's try the foreman. I think they probably
14 know what they are doing.
15 THE CLERK: Count 1.
16 THE FOREMAN: Count 1, We have listed both defendants under each
17 count.
18 THE COURT: All right. I think if you would take each count,
19 may be we should use Mr. Froomkin's suggestion.
20 On count number 1, shall we take them in the order
21 that they are in the indictment, and have Richard
22 William Bennett mentioned first. What was the
23 verdict with respect to him on count number 1.
24 THE FOREMAN: Count number 1, Richard William Bennett (Bud)
25 guilty on count 1.
26 THE COURT: Now take the same count with respect to Clifford
27 James Bennett.
THE FOREMAN: Count number 1, Clifford James Bennett, guilty.

1 THE CLERK: Count number 2.

2 THE FOREMAN: Count number 2 Richard William (Bud) Bennett
3 guilty.

4 THE CLERK: On Clifford Bennett.

5 THE FOREMAN: Clifford James Bennett guilty.

6 THE CLERK: On count number 3.

7 THE FOREMAN: Count number 3 Richard William (Bud) Bennett
8 guilty.

9 THE CLERK: On Clifford Bennett.

10 THE FOREMAN: Clifford James Bennett guilty.

11 THE CLERK: And on count number 4.

12 THE FOREMAN: On count number 4 Richard William (Bud) Bennett
13 not guilty.

14 THE CLERK: And Clifford James Bennett.

15 THE FOREMAN: Clifford James Bennett guilty.

16 THE CLERK: Count number 5.

17 THE FOREMAN: Richard William (Bud) Bennett not guilty.

18 THE CLERK: And Clifford Bennett.

19 THE FOREMAN: Clifford James Bennett guilty.

20 THE CLERK: And count number 6.

21 THE FOREMAN: Richard William (Bud) Bennett guilty.

22 THE CLERK: And Clifford Bennett.

23 THE FOREMAN: Clifford James Bennett guilty.

24 THE CLERK: Now harken to your verdict as rendered by your
25 foreman and the court records it, you have found
26 the accused -----

27 THE COURT: May I just go over this and make sure we have it
right, and then ask on each one.

1 THE CLERK: I was just going to repeat it.

2 THE COURT: That's all right, you go ahead.

3 THE CLERK: You find the accused Richard William Bennett guilty
4 on count; Clifford James Bennett guilty on count
5 number 1. Richard William Bennett guilty on count
6 2; Clifford James Bennett guilty on count 2.

7 Richard William Bennett guilty on count
8 3; Clifford James Bennet guilty on count 3.

9 Richard William Bennett not guilty on
10 count 4; Clifford James Bennett guilty on count 4.

11 Richard William Bennett not guilty on
12 count 5; Clifford James Bennett guilty on count 5.

13 Richard William Bennett guilty on count
14 6; Clifford James Bennett guilty on count 6.

15 THE FOREMAN: We do.

16 THE CLERK: Do you all agree.

17 (EACH JUROR ANSWERED IN THE AFFIRMATIVE)

18 THE COURT: Thank you very much member s of the jury; yes?

19 MR. FROMKIN: My Lord, I was going to suggest perhaps after the
20 jury has been discharged by Your Lordship, we
21 might have, if My Friend's are ready to speak to
22 sentence, I would ask for about ten or fifteen
23 minutes only.

24 THE COURT: Does that suit everyone.

25 MR. PURDY: Yes My Lord.

26 THE COURT: Well then, members of the jury, I wish to thank you
27 on behalf of everyone here for what must have
been sometimes a tedious job and a difficult job.

1 THE COURT: You have performed your function for the state, for
2 your country, and for the accused. You are in
3 a position where you should not be called for jury
4 duty for at least two years now.

5 You are free to go now, or you may
6 remain. We are going to adjourn for a few minutes,
7 and then you can remain for the sentencing if you
8 ← wish. That's entirely up to you. In
9 the meantime, I believe at least some members of the
10 jury have perhaps lost financially if I was to allow
11 them the normal per diem rate. Because of the
12 length of this trial I am going to make a direction
13 that for each day, whether full or partial that the
14 jury sat, they shall be awarded one and one half the
15 normal rate.

16 Similarly the jury guard has put in some
17 extra time with regard to the Exhibits and so on,
18 so he will be awarded twenty-five dollars per day,
19 and that in addition for the two partial days that
20 he worked he will be given a full twenty-five
21 for each of those days. Will that satisfy then?
22 I wanted to make those awards before we adjourn,
23 in case they want to leave.

24 Now is there anything else I have missed.

25 THE CLERK: For my records, My Lord, is that twenty-five
26 dollars for each partial day.

27 THE COURT: For each partial day, in other words -----

 THE CLERK: He came back for a few hours on Sunday.

1 THE COURT: If he did that to accommodate the lawyers he gets
2 a full day, he gets paid for a full day, each day.

3 MR. FROOMKIN: My Lord, I know I can speak on behalf of My
4 Friends with respect to the jury guard. He
5 performed admirably, and he came on Sunday and spent
6 some hours with My Friends and I, and I am grateful
7 to him.

8 THE COURT: Very well, we will adjourn.

9 (THE TRIAL RECESSED FOR FIFTEEN MINUTES, THEN RESUMED SESSION)

10 THE COURT: Mr. Froomkin?

11 MR. FROOMKIN: May it please My Lord. The jury have convicted the
12 accused Clifford Bennett of the six counts on the
13 indictment, and the accused Richard William on four
14 counts in the indictment, excluding counts 4 and
15 5, I think one can infer that the jury must have
16 felt that the accused Bud Bennett was not aware that
17 the prospectus was materially false. I say that
18 only in respect to sentence. My inference may not
19 be correct, but it seems to be a reasonable one,
20 bearing in mind -----

21 THE COURT: I don't think we have to speculate.

22 MR. FROOMKIN: Fine My Lord. Now the Crown's position in
23 respect of these offences is that they are
24 particularly heinous, bearing in mind that we have
25 two people from outside of the area who decided
26 out of obviously as desire for easy money, come
27 down to the Northwest Territories, or go up to
the Northwest Territories, and on the basis of

1 false documents and fraudulent representations to
2 obtain and to attempt to obtain monies from working
3 people in the area, in particular Your Lordship will
4 recall the evidence of Mr. Roy and Mr. Pelechaty,
5 who are two relatively humble working men. Your
6 Lordship will recall the approaches made by Bud
7 Bennett. Your Lordship will also recall some of
8 the documents which did not go in evidence, but
9 which Your Lordship saw, letters written by Bud
10 Bennett, and I just refer to one short paragraph
11 of the so called big Bennett story, which did
12 not get before the jury, and I am reading -----

13 MR. PURDY: I wonder if it's proper for you to consider it sir.

14 THE COURT: Just how deep were you going to go into it.

15 MR. FROMKIN: Just one two three four five lines as to what
16 the intentions of the accused were.

17 THE COURT: Well, you know I have heard the evidence for ten
18 days.

19 MR. FROMKIN: Fine My Lord. Then I will put it in my own words.

20 THE COURT: I think I have a pretty good idea.

21 MR. FROMKIN: In my own words My Lord the intention of the two
22 accused was, knowing that the stock market had
23 fallen badly, and that all kinds of small investors
24 and big investors had been hurt badly, found the
25 market was right for plucking, and came down here
26 like parasites to exchange worthless stocks I suggest
27 for failing stocks.

In respect of Mr. Paul Roy, perhaps I

1 should mention first the maximum penalties provided
2 by law in respect of count 1, which is two years
3 My Lord. In respect of count 2, 3, 4 and 5, ten
4 years, and in respect of count 6, five years.

5 THE COURT: Now count 6, is there a value established in count
6 6.

7 MR. FROOMKIN: No My Lord, the attempt section says any persons
8 convicted of an offence for which he
9 is liable to fourteen years or less, or one half
10 the maximum.

11 THE COURT: Yes, then the maximum would be two years wouldn't
12 it?

13 MR. FROOMKIN: Well no My Lord, with respect I think the maximum
14 would be five years.

15 THE COURT: Why.

16 MR. FROOMKIN: Because it is one half the maximum amount.

17 THE COURT: Yes, but isn't the maximum amount two years if there
18 is no value? Don't I have to assume it's under
19 fifty? It may be relatively academic, but I
20 wonder if to be correct, if that isn't so. You see,
21 if it's possible to have one or other value, don't
22 I have to give the benefit to the accused, even in
23 sentencing.

24 MR. FROOMKIN: Yes of course My Lord.

25 MR. PURDY: Why not make it one year.

26 MR. FROOMKIN: I think if Your Lordship's interpretation is
27 -----

THE COURT: We ran into it on one case, I think Mr. Purdy was

1 on it, but involving a different matter where the
2 Crown had established guilt, but there was a
3 difficulty about value, and the law as I recall Mr.
4 Purdy saying and I accepted it, if there is any
5 doubt then you went in favour of the lower sentence

6 MR. FROOMKIN: That doesn't sound unreasonable My Lord.

7 THE COURT: So we will call it one year.

8 MR. FROOMKIN: On count six it is one year, one count 1 it's
9 two years and on the others, 2 3 4 and 5 it's
10 ten years.

11 THE COURT: And the other counsel agree on that?

12 MR. PURDY: Yes sir.

13 MR. FROOMKIN: My Lord, I stand corrected again, I am sorry.
14 I obviously was more rushed than I thought. Count
15 5, using the mails, is two years.

16 THE COURT: Count number five is two years, that's correct.

17 MR. FROOMKIN: Yes My Lord, counts 1 and five two years; counts
18 2, 3 and 4, ten years, and count 6 one year. I
19 think that's correct.

20 THE COURT: I think we are right; now you agree with my figures

21 MR. FROOMKIN: Pardon.

22 THE COURT: You agree with my reading.

23 MR. FROOMKIN: Fine My Lord. So that as I have said, we have
24 got these two individuals who, strictly out of a
25 desire to make easy, fast money by use of
26 fraudulent representation and fraudulent prospecti
27 financial statements, brochures, defrauded and
attempted to defraud citizens of the Northwest

1 Territories. The court I think must, having
2 heard the evidence over the past ten days, bear
3 in mind the scope of this operation. I don't think
4 it would be an overstatement to say it was an
5 International operation. Your Lordship has seen
6 the quantity of material that was sent down to
7 the Northwest Territories. We are not only talking
8 about four people who are named in the indictment.
9 Your Lordship also saw a list of other people who
10 had invested. Your Lordship has seen some hundreds
11 of application forms, some hundreds of prospecti,
12 hundreds of balance sheets, all obviously, patently
13 false.

14 Your Lordship must of course in sentencing
15 bear in mind the deterrents to these two gentlemen
16 who have been in the Mutual Fund business for many
17 years. You have heard evidence from Mr. Bud Bennett
18 through some of the documents that have been filed
19 that there were times when he sold millions of
20 dollars worth of funds, so one can see the scope
21 of operations like this. We know from the evidence
22 that he was drawing a commission of not less than
23 a thousand dollars a month. We know that Clifford
24 James Bennett in about four months drew about
25 sixteen thousand dollars in respect of one man alone
26 in respect of drawings from Select. We know that
27 there were management fees and custodian fees and
registrars fees.

1 THE COURT: Some of the evidence was that wasn't paid out.

2 MR. FROOMKIN: That's so My Lord, but I think one must bear
3 in mind it was shown on the balance sheet as being
4 a contingent liability, so that I am only asking
5 Your Lordship to bear in mind the scope of this
6 operation. It isn't some small town fellow who
7 defrauds three or four people out of a few thousand
8 dollars, and we mustn't, we must not forget this
9 is a fund of International scope, and the intention
10 was obvious to flood the Yukon and the Northwest
11 Territories. We have got all those documents here.

12 Your Lordship has heard their representat
13 ns made. I don't have to go over them again, and
14 I don't intend to, but not only must Your Lordship
15 impose a sentence which may be deterrent upon these
16 two individuals but more important I think in a case
17 of this sort, there must be a deterrent upon
18 others who will come to the Northwest Territories
19 where people perhaps in many areas are relatively
20 remote from communications, and perhaps not as
21 sophisticated as southerners, and who come here
22 for the obvious purpose of selling phony mining
23 stocks, phony mutual funds, securities, so there
24 must be a deterrent to the outside of Canada, when
25 I say outside I mean outside of the Northwest
26 Territories, that this is not going to be tolerated

27 THE COURT: We sometimes feel we are outside Canada.

MR FROOMKIN: Yes, I am hoping that I am now going to be part

1 but My Lord, with these offences, I think it
2 is most important to deter others as well as these
3 two accused, There is no alcohol involved here,
4 it is not a mitigating factor, it is strictly
5 greed, out and out greed. The fact that a false
6 prospectus is used is particularly heinous My
7 Lord. The legislature has seen fit to impose
8 a maximum imprisonment of ten years, and no
9 proof being needed that anyone even acted on the
10 prospectus, just publishing or circulating or
11 making a false prospectus is punishable with a
12 sentence up to ten years, and that is how serious
13 the legislature intended the matter to be.

14 In the case which was in
15 my brief case My Lord, Justice Maclellan said
16 and I may have the date of this judgment, 1970,
17 January the 28th, almost two years ago now, His
18 Lordship said at page 19, amongst other things,
19 that the judgment, he says "I realize the effect
20 of this judgment on count number 1 is to require
21 the person filing a prospectus to be scrupulous
22 about the information contained, and to be absolute
23 certain that no member of the public may be
24 misled by the statements contained in the
25 prospectus or by the omission of any material
26 from it. It is my view this is exactly what the
27 Parliament of Canada intended when they passed
Section 643", so that I say that the false

1 prospectus for which only the accused Clifford
2 James Bennett was convicted and the using of
3 the mails for a fraudulent scheme, are
4 particularly serious offences, and that again
5 there must be a deterrent to others who see
6 fit to publish this kind of questionable
7 material to be put before the public, because
8 that's really what the public sees when they
9 are buying stock or securities from salesmen.

10 I say My Lord that there are no
11 mitigating factors here, none whatsoever,
12 and the fact that the accused or that someone
13 on behalf of either one or both of the accused,
14 after the charges were laid, paid back the
15 four investors here or any other investors,
16 has no bearing on the seriousness of the offence
17 or the deterrent to this accused or others.
18 I suggest to the court that it was obvious that
19 the accused felt they could buy their way
20 out, because Clifford James Bennett said in
21 his statement "even though I am no longer
22 associated with AFCA the company would make
23 up their losses". I say that was an attempt
24 to buy their way out. The court must impress
25 on these accused, and more important upon
26 others that on these financial frauds the
27 Northwest Territories is not going to be a
haven.

1 Accordingly, I would ask Your Lordship
2 to impose a sentence of such magnitude as to perhaps with
3 some hope deter these two, and to deter others so that it
4 is not worth their coming up here to defraud the people
5 of the Northwest Territories.

6 Thank you My Lord.

7 THE COURT: Is there any record.

8 MR. FROMKIN: Each accused has a record, but they are unrelated.

9 THE COURT: I don't want to go back past five years anyway. All
10 right Mr Purdy.

11 MR. PURDY: Just to clear that up sir in case any lingering
12 impression might be left on your mind, I would like to
13 refer to the record of Mr. Clifford J. Bennett.
14 Sixteen years ago he was convicted of obstructing a
15 Peace Officer and fined twenty-five dollars.

16 THE COURT: I am going as though there was no record.

17 MR. PURDY: That is the only thing he has ever been convicted of
18 sir.

19 My Lord, Mr. Clifford Bennett is forty-
20 seven years of age, and he has been connected with
21 the investment business for some twenty years. The
22 Crown prosecutor found he is a bachelor, and up until the
23 time of this trial was living with his mother in North
24 Bay, Ontario, who is an elderly lady there. You have
25 heard the evidence of course, and know that in the previous
26 few years he had been spending considerable of his time
27 in Europe.

 The Crown prosecutor referred rather

1 Sweepingly to operations like these in connection with
2 his past activities.

3 THE COURT: Well, I am only going to deal with the one.

4 MR. PURDY: Yes sir, I was going to make that point, because there
5 is no evidence before the court or evidence elsewhere that
6 I know of that these other matters in which Mr. Bennett
7 has been connected for twenty years were in any way
8 a fraudulent scheme.

9 THE COURT: I will assume that everything except the one he has
10 been found guilty of were completely legal.

11 MR. PURDY: It is interesting to note I think too during this
12 relatively short while on the remarks made by the Crown
13 prosecutor that if the market was failing, and if the
14 AFCA stocks were worthless, that it would seem that
15 Bud Bennett at least and the company was prepared to
16 accept failing stocks, rather than money.

17 THE COURT: Well, of course I don't want to get into that
18 argument, but I am sure if Mr. Froomkin, if he was
19 replying would say "If you take a failing stock and
20 cash it in, and then the assets can't be found, it's your
21 problem", but let's not get into that.

22 MR. PURDY: It is also interesting to note that of the hundreds
23 of documents that were sent to Bud Bennett in the
24 Northwest Territories suggesting he was to quote for the
25 Territories, that the evidence is clear that he was
26 instructed by the company on October the 8th to cease
27 his activities, and further, that Colin Alexander was
instructed not to take instructions from Bud Bennett
or anyone on his behalf, and to cease advertising.

1 I understand sir that the total sum of money dealt with
2 in the charges amounts to six thousand six hundred and
3 eighty-two dollars and twenty cents. Further, the
4 evidence is clear that this money has been returned,
5 and that no investor in the Northwest Territories has
6 suffered a loss in connection with this matter. Mr.
7 Bennett's statement to the effect that "I am confident
8 or sure the company will reimburse anybody who wants
9 their money back" was made before he knew that he was
10 to be arrested, although he was arrested very shortly
11 after that. He did not have any indication that he
12 himself was in trouble although he had been asked
13 to make a statement.

14 I am advised sir that the indication at
15 the time of the statement was that his brother in the
16 Territories was being asked to make a statement in that
17 regard.

18 It's difficult of course to decide what it
19 was that influenced the jury, it was the falsity in the
20 prospectus, whether it was the Guardian Custody, or some
21 other statement, or the addresses or companies or
22 whatever. It is clear however My Lord that there was
23 no falsity, none was referred to in the evidence, as
24 to surely the vital matters which the Crown now presses
25 on for the matter of sentence.

26 THE COURT: Self-serving.

27 MR. PURDY: That is to say, the charges be made.

THE COURT: Mr. Purdy, I don't think we should indulge in

1 speculations. There was evidence before the jury
2 that indicated that every detail on the prospectus
3 was equally -----

4 MR. PURDY: But there was no evidence and no suggestion that the
5 charges set out in the prospectus which the Crown now
6 refers to and says this shows that they were trying to
7 make more money. The charges were clearly set up,
8 that these charges would be made against the monies
9 invested in the fund. There was no misrepresentation
10 in that regard.

11 THE COURT: We are not going to re-try it here.

12 MR. PURDY: No sir, but the Crown is now pushing this point on the
13 matter of sentence. Now it may be useful sir to remind
14 the court of one or two other cases of a similar nature
15 that have been in this jurisdiction. A very recent
16 one was the Lorraine Scott case, where she was convicted
17 I believe on five counts of defrauding her employee.¹
18 She was not dealing at arms length as these people were,
19 with various people. She was in position of trust with
20 her employers, and I believe that on the five charges
21 there was five or six thousand dollars taken over a period
22 of some months from her employers. There had been no
23 restitution, there were two related previous convictions
24 and in that case the court imposed a sentence of -----

25 THE COURT: There were no convictions before me.

26 MR. PURDY: And in that case the court imposed a sentence of one
27 year. The court may also recall the case of -----

THE COURT: Which of course is being appealed by the Crown.

1 MR. FROMKIN: Yes, I am informed there is only three thousand
2 dollars, by the way.

3 THW COURT: Well, does it matter.

4 MR. PURDY: The court will also no doubt recall the rather
5 colourful case of Pete Earhope, alias Mr. Cottrell,
6 who was convicted under the same section as presently
7 before the court, who sold a mining stock in a company
8 known as Yukon Epohrab Mines. He had a criminal record
9 stretching back to 1932, with repeated convictions on
10 related offences. He had been out of jail on the same
11 matter only two or three months when he was re-charged
12 with the same section. The evidence indicated that he
13 was operating under a number of different names, alias,
14 and in an attempt to deceive people who dealt with him.
15 He was charged also of course with the use of the mails,
16 the same charge there, and was convicted on two or three
17 counts, and in spite of his criminal record and repeated
18 offences of the same nature, and the attempt to deceive
19 people as to who they were dealing with and this sort
20 of thing, with the same volume of documents I believe that
21 were listed here, correspondence and shares and so on

22 THE COURT: These are documents he typed out while he was
23 in jail under the first offence.

24 MR. PURDY: There was quite a few of them, I believe he was
25 supplied with a typewriter while he was in jail.

26 THE COURT: But you persuaded me because he was over seventy or
27 eighty I wouldn't see him again.

MR. FROMKIN: I was ~~going~~ just going to say that My Lord, I

1 believe it was seventy-five or eighty, and there
2 obviously wasn't a deterrence.

3 MR. PURDY: He was about seventy sir.

4 THE COURT: I think it was his beard that appealed to me.

5 MR. PURDY: And he received a sentence of one year.

6 In this case sir I would submit to you
7 for your consideration that what happened was that
8 these people were, firstly, may I say that on charges
9 1,2,3, and 6 that these surely must overlap and in
10 effect form part of charges 4 and 5, in respect of
11 Clifford Bennett in that his only connection with
12 charges one, two, three and six was his connection
13 with the ~~pre~~ printed material, and the printed material,
14 the circulation of it, the prospectus, and the use
15 of the mails for the delivery of it is dealt with in
16 four and five, so I would submit that surely the
17 sentences in 1,2,3, and 6 should be concurrent with
18 those in 4 and 5, which in the case of Clifford
19 Bennett of course surely must be the main charges.

20 Now if the court veivs this as being
21 a scheme, taking it as a whole, I would submit that
22 5 follows on 4 because the use of the mails to circulate
23 the prospectus surely overlaps with that charge. He
24 simply used the mails to circulate the prospectus and
25 the financial statement, and the evidence is clearly
26 before you in the case My Lord. I don't think there
27 is any need for me to repeat it in any detail. I would
point out this is a first offence, the man has

1 not been in trouble for the forty-seven years of his
2 life. He would appear to have failed to comply
3 adequately with the standards required for the
4 production of the prospectus. The intent I suppose
5 you must accept from the verdict as being fraudulent,
6 but in any event My Lord I would suggest that in spite
7 of the urging of the Crown, and bearing in mind the
8 remotness of this accused person from the operations
9 in the Northwest Territories, ~~th~~ bearing in mind
10 further that the money has all been refunded, and
11 that there has been no loss here, and there is no
12 evidence that anyone else has lost elsewhere, that
13 you should seriously consider whether Justice would
14 not be adequately served in this case by a suspended
15 sentence, considering it as a first offence.
16 Secondly, that if you do not consider a suspended
17 sentence appropriate, that you consider the nature
18 of the sentences imposed in the other cases I have
19 referred to, which I would suggest are more lenient
20 than this. Thirdly, that you remember that the
21 six charges really intertwine into one, which is
22 basically count 4, and that you impose your
23 sentences accordingly. Oh, I might add that Mr.
24 Bennett has spent seven day sin custody in connection
25 with these charges, and of course has been present
26 during about thirteen, plus I think twenty-six days
27 here.

THE COURT: Mr. Finall, thank you, Mr. Purdy, Mr. Finall.

1 MR. FINALL: Your Lordship, Mr. Bud Bennett is forty-four years
2 old. He was born in North Bay Ontario, and went to
3 school there and attained grade nine. He has been
4 a salesman for a large portion of his life in various
5 areas of selling, and then later on afterwards he
6 was in the Canadian forces actually for a short while
7 in 1944 I understand, and more recently in 1960 he
8 purchased a Department store, which he ran until it
9 was destroyed in a fire in 1965, and at that time
10 he joined his brother Clifford Bennett as a salesman
11 for a mutual fund that his brother was distributing
12 at that time. Prior to that in 1959, I gather he
13 had also been involved in selling activities, and since
14 1965 he has been involved in selling mutual funds
15 in these sort of investments .

16 Your Lordship, the defendant is
17 separated, he has a grown up family now, and intends
18 to marry a lady that he has met more recently, when
19 his marital situation is resolved.

20 Your Lordship, I don't intend to go
21 into the evidence. As you have already indicated,
22 it is difficult to comment on it, but I would like
23 to make one or two comments on the approach taken by
24 Mr. Froomkin, particularly the stressing of the
25 deterrence factor in consideration of sentence.
26 Your Lordship, perhaps one of the things that will
27 deter this sort of episode arising again will be
the recent securities legislation, which I believe

1 has been enacted up here, which brings the requirement
2 for selling and dealing in funds, and investments of
3 this nature, more in line with the sort of provisions
4 that are required elsewhere in Canada.

5 There is no previous record before
6 you sir, at the age of forty-four years. I submit that
7 serious consideration should be given, not so much
8 to the deterrent factor, but to the rehabilitation
9 of this accused, and in again considering that of course
10 you will sir consider the significance in your own
11 mind of the acquittal of this accused in respect to
12 counts four and five. Your Lordship, the amount
13 involved, as Mr. Purdy mentioned, appears to total
14 something in the region of six thousand and six
15 hundred dollars, and of course you have already heard
16 from my friend on that, that amount has been refunded
17 to the investors concerned. I understand from Mr.
18 Bennett, Mr. Bud Bennett that he spent two days
19 in custody in Whitehorse, a day from his recollection
20 in Watson Lake, and two days in Yellowknife, and a
21 further two days of course recently, totalling seven
22 days in custody, plus the period he has been in court
23 on the preliminary, and this hearing.

24 Your Lordship, in view of the circumstances I submit
25 respectively that this is a case where you can
26 consider a suspended sentence for this accused, and
27 I earnestly request you to consider that sentence
as being the appropriate one in this case.

1 THE COURT: Mr. Froomkin?

2 MR. FROOMKIN: No My Lord.

3 THE COURT: I have listened to the evidence and to the remarks of
4 counsel here today.

5 In reaching a conclusion as to what
6 sentence to hand down in respect to each accused and
7 each offence, I am aware that I must keep in mind the
8 gravity of each offence as it is indicated by the
9 penalty, the maximum penalty shown in the statute,
10 and the Criminal Code. I must bear in mind the
11 character of the act, of each act, which forms the
12 basis of the charge. I must consider the deterrent
13 effect, and I must take into consideration the
14 reformation factor. I must also take into consideration
15 extenuating circumstances, such as perhaps here, as
16 pointed out by Defence counsel the fact of re-payment
17 after the event.

18 This is the type of case however where
19 although my general sympathies are well known to
20 first offenders, to give them another chance in the
21 sense of a suspended sentence, and my sympathies are
22 well known I think where a first offender comes before
23 me, who has perhaps been a poor person and has stolen
24 something, I think most people can feel a certain
25 sympathy for that type of thing.

26 Unfortunately, in this case I don't
27 think the word unfortunately is the right phrase, but
in this case however, there is an element that I think

1 I have to pay a great deal of attention to, and that
2 is the deterrent effect both in respect to the two
3 accused and in respect to others who may be encouraged
4 to try to make crime pay. This is not a group of
5 one or two people who are hard up, and are desperate.
6 This was, as I view it, a series of deliberate efforts
7 which could have resulted in, and might have resulted
8 in ordinary working people being cheated out of the
9 sweat of their labours by deceit or false pretences.
10 This is the very type of case I think where the
11 deterrent factor is more important, and must be
12 given a higher accent than some of the other factors,
13 not that I am not taking the other factors into
14 consideration. I think it is - I don't use the word
15 heinous as the Crown counsel used - but I don't think
16 that the Parliament of Canada considers that people
17 should be permitted by false documents and false
18 representations to take anything from the general
19 public, or take securities from the general public
20 as was done here. Not only must the public, the
21 ordinary John Doe be protected, particularly in the
22 Northwest Territories where there are vast resources
23 to be developed, and private enterprise will be
24 expected to develop some of those resources by
25 presumably calls on people to invest in shares, and
26 the public must be protected as much as possible.
27 Taking all those things into consideration
I am now prepared to sentence each accused.

1 Mr. Robert William Bennett, would
2 you stand up. On count number 1 I sentence you to
3 one year. On count number 2 I sentence you to three
4 years to be served in the penitentiary at Prince
5 Albert, or such other institution as they may see
6 fit to send you. I hope they won't place you in
7 Prince Albert. I made a personal check of that
8 place, and I am not happy with it. On count
9 3, three years. On count 6, six months, all
10 concurrent.

11 Mr. Clifford Bennett, would you
12 stand up. On count 1, one year. On count number
13 2, three years. On count number 3, three years.
14 On count number 4, five years. On count number
15 5 one year. On count number six, six months.

16 On counts 2,3,4, and I suppose the
17 effect is that the others will also be served
18 in the Prince Albert Penetentiary, or such other
19 institution as you may be sent to. All sentences
20 concurrent. Sit down.

21
22 (THE TRIAL TERMINATED)
23
24
25
26
27