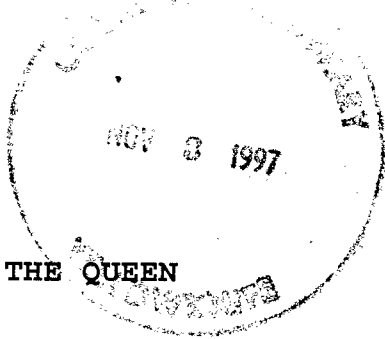


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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:



HER MAJESTY THE QUEEN

- v -

CANADIAN BROADCASTING CORPORATION

Transcript of the Sentencing Hearing held before The Honourable Judge R.M. Bourassa, sitting in Yellowknife, in the Northwest Territories, on the 25th day of November, A.D. 1996.

APPEARANCES:

Mr. L. Rose: Counsel for the Crown
Mr. J. Bayly: Counsel for the Defence

1 THE COURT: Mr. Rose, Mr. Bayly.
2 MR. ROSE: Good morning, Your Honour.
3 MR. BAYLY: Good morning, Your Honour.
4 THE COURT: This is the CBC matter?
5 MR. BAYLY: It is, Your Honour, and the matter
6 was set today for a sentencing hearing. And prior to
7 that commencing I would like to make an application to
8 Your Honour because as I understand what happened at
9 the last sittings, you had found the CBC guilty. You
10 had not proceeded to conviction and sentencing, as I
11 understand it, or to complete that process in any event
12 but had adjourned it today. It's my understanding, and
13 as I say I wasn't here, but that the constitutional
14 issues raised and the points and arguments 5, 11, and
15 27 in the document entitled "Points and Argument" filed
16 September may not have been addressed and may not have
17 been addressed because it was, from the outset, the
18 understanding, perhaps misunderstanding of the Crown
19 and the defence, that if you were to find guilt, we
20 might ask you to adjourn so we could have those dealt
21 with in the Supreme Court.
22 That does not appear to be the correct law. The
23 constitutional matters which we placed in the brief in
24 those numbered paragraphs are clearly within your
25 jurisdiction to deal with, and if I'm correct that we
26 led you otherwise then my apologies for having done
27 so.

1 In any event those points, it seemed to me,
2 require the option being given to the Crown with
3 respect to the calling of evidence with respect to
4 justification so that in the event that you were to
5 find, for example, as had been found in the Canadian
6 Newspapers case in 1988 that there was an abrogation of
7 the right to freedom of the press, nonetheless it might
8 be demonstrably justified if on evidence of a
9 legislative as opposed to adjudicative character the
10 Crown were to so persuade you. The option is there as
11 well, I believe, for the defence to lead any additional
12 evidence of an adjudicative nature in reply or
13 otherwise should that appear to be required. So it is
14 for that reason that I'm standing up before my friend
15 at this time.

16 In order to assist you, I hope, I have provided
17 several cases to, I hope, assist you with the point
18 which may have about been in your mind as to whether
19 you have jurisdiction at this stage of the trial to
20 entertain this. I believe you do, I do not believe
21 that you are functus and in that regard I've provided
22 the Bertucci case from the Court of Appeal of
23 Saskatchewan, a decision of Mr. Justice Tallis of that
24 court from 1984 filed at 11 C.C.C. (3rd) 83, and a case
25 which follows it out of Nova Scotia, a case called
26 McDonald found from the Court of Appeal of that
27 province found at Volume 107 of the Nova Scotia Reports

1 at page 374, a decision of their Court of Appeal
2 delivered by Chief Justice Clark. Both --

3 THE COURT: Both with new evidence that came
4 out and the trial judge refused to -- or indicated that
5 he couldn't adjudicate on the new issue that arose,
6 wasn't it?

7 MR. BAYLY: That's correct. But the real
8 issue that I wanted to focus in on both of those is as
9 to whether the trial court is functus notwithstanding
10 that it may have pronounced guilt but not yet have
11 disposed of the matter and I don't believe you would
12 be.

13 THE COURT: But the issue in that case was a
14 mistrial.

15 MR. BAYLY: That's correct, yes, but the --

16 THE COURT: It wasn't reopening the case or
17 dealing with an issue that arose in the case.

18 MR. BAYLY: No, and I'm not suggesting you do
19 that because I believe you have all the adjudicative
20 facts and you have found on those facts after weighing
21 them that the, that the defendant is guilty. The issue
22 then is whether a conviction should be entered or
23 whether the Charter, Section 2(b), saves the defendant
24 from conviction on the basis that Section 486(4) might
25 overreach in applying, as it appears on the face of it
26 to do, to people who have since the order was made died
27 or even died before the order was made, and that if, in

1 fact, the section prima facie overreaches or is --
2 abrogates a constitutional or charter right, then you
3 must, it seems to me, weigh whether that is a justified
4 overreaching and that should be done as the cases seem
5 to indicate on a proper evidentiary base. And, for
6 that reason, I had laid the other cases before you out
7 of the Supreme Court of Canada, Vikery (phonetic),
8 Danson, and Brown and I believe McKay. Those being
9 cases in which the issue really was whether there was a
10 sufficient evidentiary base for the Court to make a
11 proper adjudication on constitutional questions. Those
12 are properly not to be made in what's called a factual
13 vacuum and I'm not suggesting that there is an
14 adjudicative factual vacuum, there is not. I think
15 we've provided that in a satisfactory way to enable you
16 to adjudicate on the issue of whether there is a breach
17 of a section prima facie and you have done that. What
18 I'm saying is there is another class of facts which if
19 Section 1 were to be invoked, would have to be placed
20 before you so that it would -- so that you would be in
21 a position to judicially weigh whether any
22 constitutional infringement actually was justified
23 under Section 1 of the Constitution.

24 When I spoke to Mr. Rose he indicated that if you
25 were to take that view that he would require some time
26 to assemble whatever evidence or even to determine
27 whether he would assemble evidence on that point, and

1 it seemed to us that it must be raised by the Court of
2 record; in other words if we were to go to another
3 court for that, that court would not be one that would
4 ordinarily hear evidence except in a special situation,
5 and we also wanted to make sure that, that it was not
6 left to appear that we had somehow tried to avoid the
7 jurisdiction of the trial court on this issue where it
8 is plainly responsible, as the trier of fact and law in
9 the first instance to weigh that along with other --

10 THE COURT: But you agree that this argument
11 should have been made during the trial or at the end of
12 the trial?

13 MR. BAYLY: Well, except that it was made in
14 the points in arguments which were filed on the 17th of
15 September. The one thing that does not appear to have
16 been done was to say, Your Honour, if you were to find
17 guilt would you stop at that point so that we can make
18 an application.

19 THE COURT: Well, I don't believe I was ever
20 requested to rule that Section 486 was
21 unconstitutional.

22 MR. BAYLY: Well I'm not sure whether that is
23 specific, but if you look at Point 27 of the points in
24 argument for example it reads as follows:

25 In the alternative, if the Court finds
26 that the CBC published information with
27 respect to the identity of the late Carol
Kalluk while there was one or more valid
and enforceable publication bans in
effect with respect to the identity of

1 the complainants named in informations
2 and for the Indictment charging Maurice
3 Cloughley with sexual assault because the
4 said publication occurred after the death
5 of Carol Kalluk, the publication ban
6 ceased to have effect with respect to her
7 identity from the date of her death.
8 After her death, there could be no valid
9 legislative purpose to the publication
10 ban with respect to the identity of Carol
11 Kalluk. It is thus that the section
12 should be interpreted in the context of
13 Charter Rights protected in Section
14 2(b). The ban should be found,
15 therefore, not to have been in effect in
16 March 15, 1996 when the Trailbreaker
17 publication was broadcast.

18 So in that sense, Your Honour, we did raise it in that
19 paragraph, perhaps less clearly in Paragraph 11 which
20 says,

21 The non-discretionary order which a court
22 must grant when a proper application has
23 been made by the complainant or by the
24 prosecutor on her behalf is not only a
25 limitation imposed on the
26 Charter-protected right of freedom of the
27 press and other media of communication,
but is also an important though limited
exception to the principle of open and
public trials. That principle of open
and public trials is essential to ensure
the protection of the rights of everyone
in Canada to fundamental justice and fair
impartial hearings. When the protected
rights of individuals come into conflict,
as can occur in the case of publication
bans, Charter principles require a
balance to be achieved that fully
respects the importance of both sets of
rights. Only by addressing the
limitation of Charter-protected rights by
using the prescribed procedures in the
statute, are courts given the authority
to impose the mandatory bans limiting
those rights as permitted in Section
486(3) of the Criminal Code.

So in that sense we did raise it, although as I say we

1 did not at the oral part of argument say that here is
2 the procedure we would recommend that you follow.

3 THE COURT: But isn't -- so going down the
4 road hypothesizing for a moment, we could have a guilty
5 verdict but an acquittal because the section is
6 unconstitutional.

7 MR. BAYLY: We could have, yes, and that, it
8 seems to me, is the appropriate thing to do. Why would
9 we ask you to rule in advance of finding that there was
10 a breach of the statutory provision because you'd be
11 ruling in the abstract, it would almost be a reference
12 question kind of situation.

13 So the concern is that -- for example if you were
14 to have found that there was no actual breach, for us
15 to then say, Well then fine, the charter section -- or,
16 sorry, the section overreaches the Charter. You would
17 rightly say, Mr. Bayly, why would I do that in that
18 case, I've found your client not guilty on the facts.
19 So we had to deal with the questions of whether there
20 was guilt on the facts under the section before we
21 could say, But then would you look at the section to
22 see whether it should be read down with respect to a
23 balancing of those -- the rights that it protects
24 against those of freedom of the press set up in Section
25 2(b) of the Charter.

26 So my submission is that that is the proper
27 approach, the mistake we made was by thinking perhaps

1 that was not a matter within your jurisdiction. But
2 we've clearly placed it in our brief as though it was
3 and what we failed to do was to alert you at the end of
4 the hearing of evidence and in oral argument that we
5 would recommend a two-stage process for the next phase
6 of the trial.

7 That, in a nutshell, is what I wanted to say and
8 request that this matter be dealt with in that way.

9 THE COURT: Thank you, Mr. Bayly. Mr. Rose?

10 MR. ROSE: Sir, with the greatest of respect
11 to my friend, I would submit that it is not relevant
12 whether Section 486 suffers from Charter overbreadth or
13 overreach. The issue we're dealing with here and dealt
14 with the trial was a breach of a court order. And
15 indeed, Sir, even if that court order was made with
16 respect to a section that suffered from Charter
17 overbreadth, I would submit that -- and I don't want to
18 again say my friend, but even my friend would admit
19 that the issuing judge had jurisdiction ad initio. So
20 where does even a successful Charter application get my
21 friend? I would submit nowhere. That's not the
22 issue. The issue that we went to trial with was not --
23 was not the validity of Section 486.

24 THE COURT: No, but it's an issue that can be
25 raised in a trial, can it not?

26 MR. ROSE: It can, Sir, but --

27 THE COURT: And --

1 MR. ROSE: -- with the greatest respect, the
2 issue isn't whether 486 is or is not -- is or is not
3 charter flawed, but whether the judge, whether the
4 issuing judge, the judge who issued that order had
5 jurisdiction ad initio? Because even if the section
6 was charter flawed, would there still not be an
7 offence? And I would submit, yes, there would be.
8 That's the issue.

9 THE COURT: What's the name of the case in the
10 Supreme Court where the individual -- was it a prisoner
11 was arguing that he was entitled to early release or
12 entitled to some kind of early release as a result of a
13 recent Charter interpretation but the Supreme Court of
14 Canada said no, he was going to serve time according to
15 the law at the time.

16 MR. ROSE: That's right, Sir.

17 THE COURT: What case is that, I can't
18 remember?

19 MR. ROSE: The name slips my mind too, the
20 formal cite, but I mean it's tautological, Sir. I mean
21 if individuals challenged a law at the time and either,
22 either -- and there is another case too dealing with
23 obstruct justice that basically went the same way, the
24 issue here is not the breach of a section, it's respect
25 to the law and respect with respect to a court order.
26 That's the issue, that's the gravamen of the offence.
27 So I would submit that, with the greatest respect,

1 that whether or not the section is charter flawed is
2 irrelevant and we should proceed to sentencing.

3 THE COURT: Well, the defence wants me to
4 consider further argument at this stage.

5 Stepping back for a moment, there has been a
6 trial. Evidence was adduced by way of consent and
7 documents filed with respect to the evidentiary
8 matters. I considered the matter and oral reasons were
9 given finding the accused, The Canadian Broadcasting
10 Corporation, guilty of the offence of broadcasting the
11 identity of a complainant contrary to Section 486 of
12 the Criminal Code.

13 The matter was adjourned to today's date for
14 sentencing and defence now argues or urges the Court to
15 consider dealing with an argument that Section 486(3)
16 is unconstitutional which will obviously involve
17 extensive arguments and an option of the Crown to call
18 evidence.

19 The charter issues, if I can use that word, or the
20 charter matters that were originally brought to the
21 Court's attention were not put in that fashion, ie.
22 directly. During the trial, at the end of the trial or
23 during argument, this Court was not asked to rule
24 specifically that Section 486 is unconstitutional.

25 On November 12th I gave my decision. I made my
26 rulings and findings and dealt with the issues that I
27 believed or was of the view were appropriate to deal

1 with, including relevant Charter matters, and it seems
2 to me there is an element in the defendant's request
3 that I provide, in effect, further explanations and
4 further considerations of arguments already dealt
5 with.

6 It seems to me that if arguments are going to be
7 made or challenges are going to be made with respect to
8 the law, it should be clear and unequivocal in the
9 trial court that that is one of the issues to be
10 considered. Over and above that, or what I've just
11 said, I think I agree with the Crown that the
12 compliance or noncompliance of the section of the
13 Charter is irrelevant in the matter before me.

14 This matter is for sentencing. It's set for
15 sentencing today and I don't believe it's appropriate
16 for me now to, in effect, re-open the matter. I'll
17 deal with sentencing.

18 MR. ROSE: Thank you, Your Honour. First let
19 me submit that I will not take issue with what I would
20 anticipate my friend's submissions that the offending
21 corporation is indeed an outstanding corporate
22 citizen. I also want to acknowledge that the offending
23 corporation admitted the Crown's case without the
24 necessity of the Crown calling witnesses, and I would
25 submit, Sir, that the Court may, that the Court may
26 take that circumstance into consideration in
27 sentencing.

1 That being said, let me cut to the chase without
2 indulging in a whole lot of prelude or editorial
3 comment.

4 Now, Sir, with respect to the offence itself, I
5 want to submit emphatically -- I want to submit
6 emphatically that this offence has nothing, nothing to
7 do with the exercise of the offending corporations or
8 freedom of expression or freedom of the press and
9 everything to do with the sanctity, the sanctity of
10 court order. For it's the sanctity of the Court order,
11 the respect for the Court order upon which the
12 integrity of our judicial system is largely founded.

13 Further, Sir, this offence is not about the harm
14 done to a victim who died tragically, whose name was
15 disclosed by an offending corporation and breach of the
16 court order, it is not the harm done to -- the gravamen
17 of the offence has nothing to do with the harm done to
18 the victim's family; indeed the gravamen of the offence
19 is the profound lack of judicial respect, it's about a
20 contempt of a court order.

21 Public, be it witnesses, be it complainants, be it
22 victims, must continue, must continue to maintain a
23 high degree of confidence that court orders will
24 continue to be respected and confident that Courts will
25 deal severely with those who knowingly breach such
26 orders.

27 Witnesses come to court, Sir, with expectations

1 that if indeed a court order is made with -- it will be
2 respected. And if that expectation, Sir, that
3 expectation is diminished, it can not but have anything
4 but a killing effect on victims of sexual assault
5 disclosing such offences to the police.

6 Now, Sir, with respect to the specific offence
7 here, the offending corporation is not an
8 unsophisticated player and indeed it did not commit
9 this offence through recklessness. No, the offending
10 corporation knew what it was doing. It knew that it
11 was breaching a court order, but it was driven by what
12 I would respectfully submit, characterize as an
13 institutional conceit that freedom of the press,
14 freedom of expression is not, is not a limited right,
15 but rather a license, a cart blanche to ignore a court
16 order that it took issue with, that it disagreed with.
17 A cart blanche to ignore a court order -- an order of
18 this court and, Sir, to put it bluntly, damn the
19 consequences.

20 Indeed it is this very conceit, it is this very
21 conceit that had to have driven the offending
22 corporation to breach the Court order as opposed to,
23 Sir, and I emphasize this, as opposed to availing
24 itself with other remedies available.

25 Indeed there were other remedies available, Sir,
26 this -- the offending corporation might have approached
27 the Crown and asked the Crown if it would be amenable

1 to have the order either amended or vacated. It did
2 not do that. There is no evidence that it did that.
3 The offending corporation might have gone to court and
4 made an order either to amend or void the order, it did
5 not do that. And, Sir, I would respectfully submit
6 that it is this conceit, this institutional conceit
7 that can only be characterized as a highly aggravating
8 factor, a highly aggravating feature in sentencing.

9 Sir, the offence before the Court is summary in
10 nature and as I read Section 719(b) of the Criminal
11 Code, the maximum penalty for such an offence when a
12 corporation is the accused is \$25,000, as opposed to
13 the maximum penalty for an individual in terms of
14 summary conviction offences which is six months
15 imprisonment and a \$2000 fine. And I submit, I submit
16 that the inference -- there is an inference that can be
17 drawn, the inference is this; that because a
18 corporation can not be imprisoned and deprived their
19 freedom, Parliament has provided a fine that would
20 provide sufficient deterrence to corporations,
21 significant enough that would create a financial
22 disincentive as opposed to something that could be
23 absorbed, a nominal fine that could be absorbed by the
24 corporation as a cost of doing business; that could be
25 internalized, let's say in this matter, as a production
26 expense for running such a story and breaching and
27 ignoring and having no respect for the Court order.

1 Given all the circumstances, Sir, the dominant
2 sentencing principle here is both specific and general
3 deterrence, and I would submit that a fine in the
4 middle of that range, and when I say in the middle of
5 that range I'm talking about a 10 to 15 thousand dollar
6 fine would only -- a fine of that nature would only go --
7 be adequate in terms of satisfying these sentencing
8 imperatives that I have referred to. Subject to any
9 questions Your Honour may have, those are the Crown's
10 submissions.

11 THE COURT: Thank you. Mr. Bayly?

12 MR. BAYLY: Your Honour, the Crown is not
13 alleging a record against this corporation. The agreed
14 facts indicate a single occurrence of a publication.
15 You have that in the agreed facts, actually Tab 9, that
16 on the particular day in question, March 14, 1996, the
17 publication, itself, published a link between C
18 K and Maurice Cloughley. No evidence was
19 published, there was a publication of a name linking
20 her with that convicted person.

21 The background of this, so that you are aware, the
22 defendant corporation had, prior to broadcasting,
23 sought legal advice from its counsel as to whether
24 broadcasting the name of C K , after she had
25 died, would offend Section 486. There is no claim that
26 there was ignorance of either the fact of the orders
27 having been made, whatever they may have meant; or

1 C K having been, at least at one time, a
2 complainant. The advice they received is that it would
3 not be a breach of the order.

4 The advice you have found was incorrect, but it is
5 important and mitigating, in my respectful submission,
6 that they sought the advice, they did not sail ahead in
7 the absence of that. They were actually provided with
8 two of the cases we put before you, including the Les
9 Publications Photo Police decision which appeared to
10 indicate to their legal advisor that this publication
11 could be made without offending the order. So I take
12 issue with Mr. Rose's characterization of corporate
13 conceit, if I have the phrase correct, in fact they
14 took what I would respectfully submit was a responsible
15 and cautious approach. You found they were mistaken or
16 their advice was mistaken.

17 They did not publish immediately upon receiving
18 the advice, the publication -- the advice was sought in
19 the context of an inquest which had been announced into
20 the death of the young woman who had died in police
21 cells, the broadcast was several months later in the
22 context of a wrap-up story on treatment that was or
23 wasn't available to people who had been victims of a
24 serial sexual assault convict. And so it wasn't, in my
25 respectful view, exploited for its own use, but it was
26 placed in the context of a broadcast.

27 You will recall that it came about in the context

1 as well, and Mr. Rose is not taking issue of a
2 situation where the complainant and others had already
3 made some public knowledge available within their own
4 community so as in terms of harm done to either the
5 late complainant or her family, there appears to have
6 been none. You have the evidence of the mother of the
7 late complainant with respect to no particular interest
8 in anonymity.

9 As the Crown has stated, there was no avoidance of
10 the facts, they were admitted and worked out in advance
11 so no evidence had to be called and the matter was left
12 to you to deal with on the basis of agreed facts or
13 admitted facts and legal issues to be argued.

14 We have one case in this jurisdiction to guide us,
15 it is a decision that you, yourself, made in a matter
16 involving the CJCD radio station, it's called Regina
17 and CJCD Radio Limited, it's found in the 1987 volume
18 of the Northwest Territories reports at page 36.

19 In that particular case there was a corporation,
20 in that case pleaded guilty to an offence under the
21 preceding section and there were two, there were two
22 breaches, two publications. There was a claim of
23 ignorance of the statutory provision. There was a
24 survey of the authorities with respect to penalty. You
25 imposed for the two breaches a fine in the amount of
26 \$1,200. Admittedly the section with respect to the
27 maximum penalties was different in 1987 where the

1 maximum was a -- the lower maximum was the same as the
2 personal maximum is to this day in summary matters.

3 There may be a temptation to say a larger
4 corporation should receive larger fines. That, in my
5 respectful view, is not a fair principle. One should
6 look at the offender, one should look at the nature of
7 the breach, one should look at the context within the --
8 in which the breach was made and sentence accordingly.

9 In my respectful submission a fine in the lower
10 range would be justified. A fine appears to be the
11 only penalty available and in that respect some time to
12 pay to arrange for payment will be sought.

13 It should be of significance to the Court that
14 there hasn't been an appearance on this case where
15 corporate management of the CBC has failed to appear.
16 Today Joan Merrill, who is the director of CBC Radio,
17 is here for management of the corporation as is Ian
18 Hanna, who is producer of the Trailbreaker series which
19 you have found has offended the publication ban. It
20 was he who had sought the legal opinion in the first
21 instance, and he has been present at every appearance
22 on this case for the record.

23 THE COURT: I have to sentence the Canadian
24 Broadcasting Corporation (CBC) on a charge of breaching
25 a court order made pursuant to Section 486(3) of the
26 Criminal Code.

27 The facts were agreed upon and submitted to the

1 court by way of Agreed Statement of Facts. That step
2 expedited matters and is a factor to be taken into
3 account.

4 The trial, such as it was, became an issue with
5 respect to the law and the procedures that took place
6 in various courts. Of course, guilty pleas can be
7 taken into account -- there was no guilty plea here. A
8 guilty plea is sometimes discussed in cases as an
9 indication of remorse, which is not present here.

10 It's stated that the defendant requested and
11 received legal advice to the effect that it was not
12 illegal to publish the name of a protected individual,
13 notwithstanding the Court order, as a result of her
14 death following the making of the original court
15 order. I have no knowledge and no information as to
16 how the opinion was phrased or the manner in which it
17 was requested.

18 Section 486(3), in my respectful view, is very
19 straightforward, using unambiguous language and a most
20 modest intrusion on the defendant's freedom of
21 operation. The only thing the defendant had to do to
22 avoid liability was to make application to the
23 appropriate court for an order terminating the
24 publication ban. That's all it had to do.

25 There is, I suppose, a resistance in some
26 institutions and individuals to acknowledge
27 responsibility to a power greater than their own which

1 is implicit in requesting permission, but, we are all
2 subject to the law.

3 In my view, this offence goes to the integrity of
4 the legal system. The issue isn't whether or not
5 family members or neighbors or good friends of the
6 victim whose name was published were offended or hurt -
7 although the presence of such kind of evidence in my
8 view would be highly aggravating - the issue is that a
9 court order was made and it was ignored deliberately
10 and pusposefully by the defendant. That action attacks
11 the integrity of the legal system.

12 The system may not be perfect, but in my view, as
13 I've already indicated, Section 486 is clear-cut and
14 provides for minimal protection for victims and
15 witnesses who come to testify about sometimes very
16 very difficult personal matters. I don't disagree with
17 the Crown who states that having someone's name
18 splashed all over the press or the media including the
19 sordid details of crimes visited upon them is something
20 that is properly to be prevented.

21 Not that that occurred in this case. I don't, I
22 suppose, disagree to a certain extent with the
23 arguments of defense that the publication here occurred
24 some time well after the events that led to the
25 publication ban, that it's not as though her name was
26 taken and trumpeted in the piece; however, in terms of
27 a goal of sentence, is has to be understood that we are

1 all subject to the law and the integrity of the legal
2 system is in everyone's interest.

3 In terms of a fine, which is the only disposition
4 available to me, the maximum is \$25,000. The same
5 principles that apply in sentencing generally apply in
6 this case; that is to say that there be proportionality
7 between the offence and the penalty. The factors that
8 I've indicated have to be taken into account as well as
9 the nonexistence of a record, the presence of corporate
10 officials throughout the matter, and the particulars of
11 the offence which I think I've touched on and the
12 particulars of the offender.

13 In my view a fine of \$6,000 is appropriate, in
14 default distress, but I take it the Crown will be
15 taking no action for a period of time?

16 MR. ROSE: Yes, Sir.

17 THE COURT: Now, I have another information
18 before me as well alleging an offence on the 24th of
19 June?

20 MR. ROSE: Sir, does the victim of crime
21 surcharge apply, Sir?

22 THE COURT: Yes, that would be appropriate.

23 MR. ROSE: Okay.

24 THE COURT: What am I to do with this
25 information?

26 MR. BAYLY: Your Honour, you I think had
27 indicated that a plea should be entered at this time

1 and I am prepared as agent, as well as counsel, to
2 enter a not guilty plea at this time to that charge. I
3 wonder if we might put the matter over to speak to a
4 trial date so that I can obtain instructions and may I
5 suggest that we might do that perhaps two weeks from
6 today?

7 THE COURT: December 10th?

8 MR. BAYLY: That would be satisfactory, yes
9 Sir.

10 THE COURT: To set a trial date then.

11 MR. BAYLY: Thank you.

12 THE COURT: Thank you counsel.

13 MR. ROSE: Sir, may I be excused from counsel
14 table?

15 MR. BAYLY: That's the only matter I'm
16 involved in this morning.

17 THE COURT: Thank you, Mr. Bayly.

18 MR. BAYLY: Thank you, Sir.

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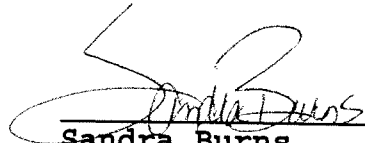
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Certified correct to the best of my skill
and ability (Subject to Rule 723 of The
Rules of Court).



Sandra Burns
Court Reporter