

NEWFOUNDLAND AND LABRADOR

BY ELECTION STATISTICS

1989

BY ELECTION HELD MAY 31, 1989
IN THE ELECTORAL DISTRICT OF
BAY OF ISLANDS

AND

BY ELECTION HELD OCTOBER 3, 1989
IN THE ELECTORAL DISTRICT OF
TRINITY NORTH



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PREFACE

BAY OF ISLANDS

On May 8, 1989 a Writ of Election ordering the election of a Member to serve in the House of Assembly was issued for the Electoral District of Bay of Islands.

The Writ ordered Nominations concluded by May 20, 1989, and the Election held on May 31, 1989.

Following the General Election of April 20, 1989, in which the leader of the Liberal Party, Clyde K. Wells was an unsuccessful candidate in the Electoral District of Humber East, this By Election was ordered for the Electoral District of Bay of Islands to permit the Premier to seek election. Edward Joyce, who had been elected in Bay of Islands, in the General Election, resigned. This caused the vacancy and Mr. Wells was elected by acclamation on May 20th, 1989.

Clyde K. Wells had been sworn in as the fourth Premier of Newfoundland on May 5th, 1989. He had led the Liberal Party to victory in the General Election. The subsequent By Election gave him a seat in the House of Assembly. Similar electoral results in the Provinces of Quebec and Alberta occasioned the election of Premiers Bourassa and Getty in By Elections when they were Premiers.

TRINITY NORTH

The resignation of Charlie Brett from the House of Assembly on July 5, 1989 resulted in a vacancy in the House of Assembly for the Electoral District of Trinity North.

Subsequently, on September 1, 1989 a Writ of Election ordering the election of a Member to serve in the House of Assembly for the Electoral District of Trinity North was issued.

The Writ ordered Nominations concluded by September 23, 1989 and the Election held on October 3, 1989.

Two Candidates were nominated, one representing the Liberal Party and one representing the Progressive Conservative Party.

Barry Hynes was declared elected after a Judicial Recount. The Recount revealed that in Poll 36 a ballot for Moore was found in the Hynes envelope and in Poll 37 another ballot for Moore was found in the Hynes envelope. The count changed. Moore gained two ballots while Hynes lost two.

The ballots reserved for argument were comprised as follows: 2 from rejected ballots which counsel for Hynes argued should be counted for Hynes; 8 from ballots cast for Hynes and 10 from ballots cast for Moore. When counsel for parties were concluding these arguments all except 4 reservations were withdrawn. Two of these reservations were for Hynes from the rejected ballots. One of these were counted and one was not. As a result the vote for Hynes increased by one and the number of rejected ballots decreased by one.

The other two reservations were for Moore from his own ballots. These were declared valid votes for Moore. As a result the Official Count was confirmed. This decision did not result in an increase of two in the total ballots cast for Moore. It simply affirmed the count in the polls concerned.

The specific disposition in respect of these 4 ballots are as follows: In Poll 14 Mr. Justice Halley concluded that the ballots reserved from rejected ballots for Hynes contained a mark that could identify the elector and he confirmed that the ballot was properly rejected. In Poll 22 the reserved ballot was from the rejected ballots for Hynes and it was ordered counted for Hynes to increase his total by one. This ballot was rejected on polling night and not added to the total for Hynes. Therefore the result was an increase of one vote for Hynes. In Polls 7 and 28 the reserved ballots from the ballots cast for Moore was confirmed as valid votes for him. This verified the election night count in Polls 7 and 28 for Mr. Moore. It did not add two ballots to his total.

Before the Recount began the Recapitulation of Votes Cast indicated Barry Hynes received 2439 votes. Two of these votes were lost because of miscounts in Polls 36 and 37 and it reduced the total to 2437. But when 1 rejected ballot was ordered counted for Hynes in Poll 22, his final total was 2438. Wendell Moore went into the Recount with 2423 votes to which were added 2 votes because of errors in Polls 36 and 37. His total increased to 2425. The ratification that ballots cast for Moore in Poll 7 and 28 did not affect the total. These ballots had been counted on polling night.

The number of rejected ballots, inasmuch as one was counted for Hynes, was reduced from 22 to 21.

Copies of the four ballots requiring judicial determination are contained in the appendix which documents the Judicial Recount.

The Grant of Poll is included in this document to help relate statistics to people and places.

Our thanks to the many officers who conducted the By Elections so very well.

Dermot F. Whelan
Chief Electoral Officer

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FORM NO. 24

**RETURN WHERE THERE ARE NO MORE CANDIDATES
THAN MEMBERS TO BE ELECTED**

(Section 50)

I, hereby certify that the member elected for the Electoral District of *Bay of Islands*
in pursuance of the within writ is

Clyde K. Wells, 3 Glenridge Crescent, St John's Lawyer
(insert name, address and occupation of member elected as stated on nomination papers).

Dated at *Corner Brook*
this *20th* day of *May*, 1989.

Elizabeth Pritchett
.....
Returning Officer

**By Election in the District of Bay of Islands
May 31, 1989**

**Report of the
Chief Electoral Officer**

**This booklet is published pursuant to the Election Act
R.S.N., 1970 as amended, at s.s.168 (1).**

RETURNING OFFICER

**MRS. ELIZABETH PRITCHETT
4 Ridgewood Avenue
Corner Brook, NF
A2H 6G1**

GENERAL STATISTICS

Date of Issue of Writ	May 8, 1989
Date of Nominations	May 20, 1989
Date of Election	May 31, 1989
Number of Candidates Nominated	1
Number of Ordinary Polling Stations	0
Number of Advance Polling Stations	0
Number of Special Polling Stations	0
Number of Valid Votes Cast at Ordinary Polls	0
Number of Valid Votes Cast at Advance Polls	0
Number of Valid Votes Cast at Special Polls	0
Number of Rejected Ballots	0
Total Number of Votes Cast	0
Total Number on List of Electors	7551
Percentage Voting	0
Total Votes Cast for Liberals	0
Total Votes Cast for New Democrats	0
Total Votes Cast for Progressive Conservatives	0

**By Election in the District of Trinity North
October 3, 1989**

**Report of the
Chief Electoral Officer**

**This booklet is published pursuant to the Election Act
R.S.N., 1970 as amended, at s.s.168 (1).**

RETURNING OFFICER

**MR. NATHAN G. PENNEY
P.O. Box 10
Shoal Harbour, NF
AOC 2L0**

GENERAL STATISTICS

Date of Issue of Writ	Sept. 1, 1989
Date of Nominations	Sept. 23, 1989
Date of Election	Oct. 3, 1989
Number of Candidates Nominated	2
Number of Ordinary Polling Stations	50
Number of Advance Polling Stations	2
Number of Special Polling Stations	25
Number of Valid Votes Cast at Ordinary Polls	4703
Number of Valid Votes Cast at Advance Polls	118
Number of Valid Votes Cast at Special Polls	42
Number of Rejected Ballots	21
Total Number of Votes Cast	4884
Total Number on List of Electors	7683
Percentage Voting	63.57
Total Votes Cast for Liberals	2425
Total Votes Cast for Progressive Conservatives	2438

CANDIDATE'S NOMINATED - BY ELECTION, 1989

DISTRICT	CANDIDATE'S NAME	POLITICAL AFFILIATION	PLACE OF RESIDENCE	OCCUPATION
TRINITY NORTH	HYNES, Barry	PC	P. O. Box 1232, Clarendville NF, AOE 1J0	Administrator
	MOORE, Wendell	I	Shoal Harbour, NF, AOC 2L0	Chartered Accountant

SUMMARY BY PARTY OF VALID VOTES CAST

ELECTORAL DISTRICT	L	PERCENT	PC	PERCENT	TOTAL VALID VOTES CAST
TRINITY NORTH	2425	49.87	2438	50.13	4863

SUMMARY OF RESULTS

Electoral District	Candidates (*Elected)	Political Affiliation	Ballots Counted For	Percentage of Votes Polled	Rejected Ballots	Total Names on Voters List	Percentage of Electors Voting
Trinity North	*HYNES, BARRY	P.C.	2438	50.13			
	MOORE, Wendell	L.	2425	49.87			
			<hr/> 4863	<hr/> 100.00	<hr/> 21	<hr/> 7683	<hr/> 63.578

Ballots cast for Liberals 2425 - 49.87%

Ballots cast for Progressive Conservatives 2438 - 50.13%

* RECAPITULATION OF VOTES
BY ELECTION OF OCTOBER 3, 1989
ELECTORAL DISTRICT OF TRINITY NORTH

POLLING STATION NO.	PLACE	BALLOTS CAST FOR CANDIDATE		REJECTED BALLOTS	TOTAL CAST	TOTAL VOTES	TOTAL NAMES ON LIST
		HYNES BARRY	MOORE WENDELL				
1.	Catalina	63	46	0	109	182	
2.	Catalina	46	57	1	104	182	
3.	Catalina	56	80	0	136	231	
4.	Catalina	72	51	1	124	201	
5.	Port Union	61	57	1	119	186	
6.	Port Union	35	35	1	71	94	
7.	Port Union	24	66	0	90	167	
8.	Melrose	148	50	1	199	298	
9.	English Harbour	30	26	1	57	80	
10.	Champney's East	22	17	1	40	59	
11.	Champney's West and Arm	54	33	0	87	129	
12.	Port Rexton	82	81	0	163	281	
13.	Trinity East	55	44	0	99	143	
14.	Trinity	49	69	1	119	188	
15.	Goose Cove	14	13	0	27	54	
16.	Dunfield	42	31	0	74	139	
17.	Trouty	20	24	1	44	71	
18.	Old Bonaventure	14	17	0	33	76	
19.	New Bonaventure	17	24	2	41	72	
20.	Burgoyne's Cove	57	50	0	107	163	
21.	Monroe	46	9	0	55	77	
22.	Harcourt	71	46	0	118	183	
23.	George's Brook	77	97	1	174	260	
24.	Milton	59	64	0	123	183	
25.	Shoal Harbour	55	84	0	139	244	
26.	Shoal Harbour	64	70	0	134	218	
27.	Shoal Harbour	47	69	1	117	188	
28.	Shoal Harbour	57	69	1	127	174	
29.	Clarenville	56	66	0	122	197	
30.	Clarenville	90	78	1	169	229	
31.	Clarenville	58	84	0	142	251	
32.	Clarenville	93	76	2	171	280	

RECAPITULATION OF VOTES
 BY ELECTION OF OCTOBER 3, 1989
 ELECTORAL DISTRICT OF TRINITY NORTH

POLLING STATION NO.	PLACE	BALLOTS CAST FOR CANDIDATE		REJECTED BALLOTS	TOTAL VOTES CAST	TOTAL NAMES ON LIST
		HYNES BARRY	MOORE WENDELL			
33.	Clarenville	38	52	1	91	174
34.	Clarenville	60	78	0	138	203
35.	Clarenville	71	53	1	125	191
36.	Clarenville	74	51	0	125	217
37.	Clarenville	76	61	0	137	177
38.	Deep Bight	44	53	0	97	163
39.	Elliot's Cove	38	34	0	72	118
40.	Snook's Harbour	7	16	0	23	50
41.	Aspen Brook	16	14	0	30	41
42.	Weybridge	20	17	0	37	41
43.	Lady Cove	22	34	0	56	74
44.	Hickman's Harbour	32	42	2	74	95
45.	Hickman's Harbour	61	43	0	104	168
46.	Britanna	40	69	0	109	178
47.	Petley	16	43	0	59	213
48.	Clarenville Hospital	2	4	0	6	141
49.	Clarenville	3	2	0	5	
	Correctional Centre	0	0	0	0	
	Clarenville R.C.M.P.	0	0	0	0	
	Advance Poll - Shoal Harbour	50	46	0	96	
	Advance Poll - Port Union	15	7	0	22	
	Special Polls	19	23	0	42	
	TOTALS	2438	2425	21	4884	7683

MAJORITY FOR BARRY HYNES (P.C.): 13
 * RESULTS BY POLL AFTER JUDICIAL RECOUNT

GRANT OF POLL

ELECTORAL DISTRICT OF TRINITY NORTH

TOTAL NUMBER OF POLLING DIVISIONS IN DISTRICT : 47

TOTAL NUMBER OF REGISTERED ELECTORS IN DISTRICT : 7683

POLLING DIVISION	BOUNDARY DESCRIPTIONS	NO. OF REGISTERED ELECTORS
1	CATALINA - FROM THE CENTRE OF CNT ROAD TO THE TIP OF EAST POINT.	182
2	CATALINA - FROM THE CENTRE OF CNT ROAD TO THE CENTRE OF THORBURN ROAD, INCLUDING ALL SIDE STREET.	182
3	CATALINA - FROM THE CENTRE OF THORBURN ROAD TO THE CENTRE OF ASTOR AVENUE.	231
4	CATALINA - FROM THE CENTRE OF ASTOR AVENUE TO THE BOUNDARY LINE OF CATALINA AND PORT UNION WHICH IS THE CENTRE LINE OF BAD FLOUR ROAD.	201
5	PORT UNION - FROM THE TOWN BOUNDARY AT THOMPSON POND PARK TO THE ROMAN CATHOLIC CHURCH.	186
6	PORT UNION - FROM THE ROMAN CATHOLIC CHURCH TO THE TOWN BOUNDARY, WHICH IS THE CENTRE LINE OF BAD FLOUR ROAD.	94
7	PORT UNION - FROM THE TOWN COUNCIL OFFICE, INCLUDING BLACKMORE'S COVE TO THE END OF SOUTH SIDE ROAD.	167
8	MELROSE - THE COMMUNITY OF MELROSE.	298
9	ENGLISH HARBOUR - THE COMMUNITY OF ENGLISH HARBOUR.	80
10	CHAMPNEY'S EAST - THE COMMUNITY OF CHAMPNEY'S EAST.	59
11	CHAMPNEY'S WEST - AND CHAMPNEY'S ARM - THE COMMUNITIES OF CHAMPNEY'S WEST AND CHAMPNEY'S ARM.	129
12	PORT REXTON - THE TOWN OF PORT REXTON.	281
13	TRINITY EAST - THE COMMUNITY OF TRINITY EAST.	143
14	TRINITY - THE COMMUNITY OF TRINITY.	188
15	GOOSE COVE - THE COMMUNITY OF GOOSE COVE.	54
16	DUNFIELD - THE COMMUNITY OF DUNFIELD.	139
17	TROUTY - THE COMMUNITY OF TROUTY.	71

GRANT OF POLL

ELECTORAL DISTRICT OF TRINITY NORTH

TOTAL NUMBER OF POLLING DIVISIONS IN DISTRICT : 47

TOTAL NUMBER OF REGISTERED ELECTORS IN DISTRICT : 7683

POLLING DIVISION	BOUNDARY DESCRIPTIONS	NO. OF REGISTERED ELECTORS
18	OLD BONAVENTURE - THE COMMUNITY OF OLD BONAVENTURE.	76
19	NEW BOAVENTURE - THE COMMUNITY OF NEW BONAVENTURE.	72
20	BURGOYNE'S COVE, NEW BURNT COVE, CLIFTON, AND HODDER'S COVE - THE COMMUNITIES OF BURGOYNE'S COVE, NEW BURNT COVE, CLIFTON, AND HODDER'S COVE.	163
21	MONROE, WATERVILLE, GINN COVE, AND WHITE ROCK - THE SETTLEMENTS OF MONROE, WATERVILLE, GINN COVE, AND WHITE ROCK.	77
22	HARCOURT - THE COMMUNITY OF HARCOURT.	183
23	GEORGE'S BROOK - THE COMMUNITY OF GEORGE'S BROOK.	260
24	MILTON - THE COMMUNITY OF MILTON.	183
25	SHOAL HARBOUR - FROM, BUT EXCLUDING HILL TOP DRIVE, TO THE TOWN BOUNDARY AT THE CAUSEWAY LEADING TO RANDOM ISLAND, INCLUDING ALL SIDE STREET.	244
26	SHOAL HARBOUR - ALL OF DRAKE'S HEAD, INCLUDING BOTH SIDES OF BALBO DRIVE TO AND INCLUDING HILL TOP DRIVE.	218
27	SHOAL HARBOUR - FROM HUNT'S HILL AT THE CLARENVILLE-SHOAL HARBOUR BOUNDARY INCLUDING ALL OF HARBOUR DRIVE AND ALL SIDE STREET TO, BUT EXCLUDING DRAKE'S HEAD ROAD.	188
28	SHOAL HARBOUR - BOTH SIDES OF HUNTLEY DRIVE INCLUDING ALL SIDE STREETS.	174
29	CLARENVILLE - FROM THE CLARENVILLE-SHOAL HARBOUR BOUNDARY TO AND INCLUDING SEWARD'S LANE AND MOUNTAIN VIEW HEIGHTS, ALSO TO INCLUDE ALL SIDE STREET.	197
30	CLARENVILLE - FROM BUT EXCLUDING SEWARD'S LANE AND MOUNTAIN VIEW HEIGHTS, TO AND INCLUDING LEGION LANE, OLD MILL ROAD AND ALL SIDE STREETS.	229
31	CLARENVILLE - FROM BUT EXCLUDING LEGION LANE AND OLD MILL ROAD TO AND INCLUDING VARDY'S AVENUE, CONTINUING UP BALBO STREET, AND ALL SIDE STREETS.	251

GRANT OF POLL

ELECTORAL DISTRICT OF TRINITY NORTH

TOTAL NUMBER OF POLLING DIVISIONS IN DISTRICT : 47

TOTAL NUMBER OF REGISTERED ELECTORS IN DISTRICT : 7683

POLLING DIVISION	BOUNDARY DESCRIPTIONS	NO. OF REGISTERED ELECTORS
32	CLARENVILLE - FROM BUT EXCLUDING VARDY'S AVENUE AND BALBO STREET, TO AND INCLUDING COUNTRY ROAD AND MOORES ROAD, AND ALL SIDE STREETS.	280
33	CLARENVILLE - FROM BUT EXCLUDING MOORES'S ROAD, TO AND INCLUDING MEMORIAL DRIVE AND OVER THE LOWER SHOAL HARBOUR BRIDGE, UP THE HILL, TO THE TRANS CANADA HIGHWAY THEN WEST TO INTERSECT WITH AN IMAGINARY EXTENSION OF MOORE'S ROAD AND THE TRANS CANADA HIGHWAY, AND TO INCLUDE THE ENCLAVE AT THORBURN LAKE.	174
34	CLARENVILLE - BOUNDED BY, BUT EXCLUDING, VARDY'S AVENUE, BOTH SIDES OF COUNTRY ROAD AND MEMORIAL DRIVE TO THE LOWER SHOAL HARBOUR RIVER, INCLUDING ALL SIDE STREETS.	203
35	CLARENVILLE - BOTH SIDES OF CORMACK DRIVE BEGINNING AT THE EAST SIDE OF MEMORIAL DRIVE, INCLUDING MUNICIPAL SQUARE AND CHOLOCK CRESCENT, AND SMITH PL. AND MERCER AVE.	191
36	CLARENVILLE - BOTH SIDES OF DROYER PLACE, GILBERT STREET, RANDOM CRESCENT, AND PRINCE STREET.	217
37	CLARENVILLE - BOTH SIDES OF VIKING STREET, ALEXANDER STREET; PARK AVENUE, AND EMERALD AVENUE.	177
38	DEEP BIGHT - THE COMMUNITY OF DEEP BIGHT.	163
39	ELLIOTT'S COVE AND RANDOM HEIGHTS - THE COMMUNITIES OF ELLIOTT'S COVE AND RANDOM HEIGHTS.	118
40	SNODK'S HARBOUR - THE COMMUNITY OF SNODK'S HARBOUR.	50
41	ASPEN BROOK - THE COMMUNITY OF ASPEN BROOK.	41
42	WEYBRIDGE - THE COMMUNITY OF WEYBRIDGE.	74
43	LADY COVE - THE COMMUNITY OF LADY COVE.	95
44	HICKMAN'S HARBOUR - FROM THE POST OFFICE TO AND INCLUDING THE NEW COMMUNITY OF ROBINSON'S BIGHT.	168
45	HICKMAN'S HARBOUR - FROM THE POST OFFICE TO MARTIN'S	178

GRANT OF POLL

ELECTORAL DISTRICT OF TRINITY NORTH

TOTAL NUMBER OF POLLING DIVISIONS IN DISTRICT : 47

TOTAL NUMBER OF REGISTERED ELECTORS IN DISTRICT : 7683

POLLING DIVISION	BOUNDARY DESCRIPTIONS	NO. OF REGISTERED ELECTORS
46	HILL AND TOPSAIL, INCLUDING THE SENIOR CITIZEN'S HOME. BRITANNIA AND LOWER LANCE COVE - THE COMMUNITIES OF BRITANNIA AND LOWER LANCE COVE.	213
47	PETLEY - THE COMMUNITY OF PETLEY.	141

APPENDIX

1989 ST. J.
IN THE SUPREME COURT OF NEWFOUNDLAND
TRIAL DIVISION

IN THE MATTER of the Election
Act, R.S.N. 1970 and Amend-
ments thereto.

AND IN THE MATTER of a By
Election in the Provincial
District of Trinity North
on the 3rd day of October,
A.D., 1989

AND IN THE MATTER of the
Application of Wendell Moore
of Shoal Harbour,
Newfoundland.

ORIGINATING APPLICATION
(INTER PARTES)

The Application of Wendell Moore (hereinafter "Mr.
Moore") says,

1. THAT Mr. Moore was a duly nominated candidate in
the By-election held in the Electoral District of
Trinity North on 3 October 1989.
2. THAT Mr. Moore was one of the two candidates in
the By-election. The other was Mr. Barry Hynes.
3. THAT, on 4 October 1989, the Returning Officer
for the Electoral District of Trinity North,
Nathan G. Penny, in accordance with the

provisions of Section 77(2) of the Election Act, conducted the official count of the votes and at the completion thereof declared the number of votes cast for each candidate to be as follows:

Barry Hynes	2439
Wendell Moore	2423
Rejected Ballots	22
Spoiled Ballots	0

4. THAT Myra Moore, Mr. Moore's official Agent, was present at the official count of the votes and observed the condition of the ballot boxes and the contents of same, and saw the Statements of each Poll, and other election documents or material taken from the ballot boxes by the Returning Officers and required to be perused or inspected by her for the purpose of ascertaining the number of votes cast at each polling station in the said Electoral District for the respective candidates.

5. THAT attached hereto (and identified as A-1) is the Affidavit of Mr. Moore, in which he deposes that the Deputy Returning Officers for numerous Polling Divisions in the Electoral Districts of Trinity North improperly counted or rejected ballot papers properly cast for him.

6. THAT annexed hereto (marked B1 through B12) are the Statements of the Poll from the Deputy Returning Officers for Polling Stations numbered 4, 4(#2), 10, 11, 12, 14, 22, 27, 31, 33, 31, 37 respectively.

7. THAT each of these Statements contains errors or omissions of information needed to arrive at an exact determination of the votes cast, or failed to account for all the ballot papers received by the Deputy Returning Officer; and such errors, omissions, and other inaccuracies appearing on the Statements of the Poll show that the votes have been miscounted, or that the Deputy Returning Officers have made incorrect statements of the number of ballots cast for the respective candidates.

8. THAT Mr. Moore's Affidavit also deposes that to the best of his knowledge, information and belief the Statements of Polls contain such errors, omissions and inaccuracies.

9. THAT section 82 of The Election Act, R.S.N., 1970 No. 106 states,

"If within ten days after that on which the returning officer has made the addition of the votes for the purpose of declaring any candidate elected, upon the application of a candidate or a voter, it is made to appear by affidavit to a Judge that a deputy returning officer has in counting the votes,

(a) improperly counted any ballot paper;

(b) improperly rejected any ballot paper; or

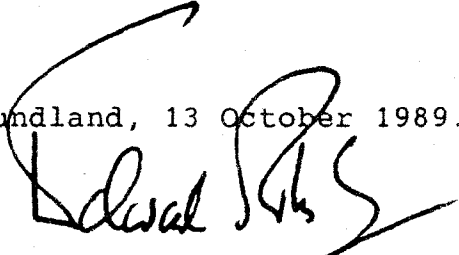
(c) made any incorrect statement of the number of ballots cast for any candidate,

or that the returning officer has improperly added up the votes, and if the applicant deposits within that time with the Registrar of the Supreme Court the sum of one hundred dollars in legal tender as security for the costs in connection with the recount or final addition, the Judge may appoint a time and place to recount or finally to add up the votes cast at the election."

10. Mr. Moore asks for the appointment of a time and place to recount the votes cast in the By-election held on 3 October 1989 and also requests an Order

directed to the Returning Officer to attend at that time and place and there to produce the parcels containing the used and counted, the unused, the rejected, and the spoiled ballot papers, and other election material relevant to the recount.


DATED at St. John's, Newfoundland, 13 October 1989.



Edward Roberts, Esq.
Halley, Hunt
235 Water Street
Suite 1000, Scotia Centre
P.O. Box 610
St. John's, Newfoundland
A1C 5L3
Solicitor for the Applicant

- TO: Nathan G. Penny, Esq.
Returning Officer for the
Electoral District of
Trinity North
- TO: Ms. Velma Percy
Election Clerk for the
Electoral District of
Trinity North
- TO: Barry Hynes, Esq.
A duly - nominated candidate
for the Electoral District of
Trinity North in the
By-election of 3 October 1989

ISSUED, at St. Johns, 13 October 1989.


~~Assistant Deputy Registrar~~
Clerk of the Supreme Court

FILE COPY

CANADA
PROVINCE OF NEWFOUNDLAND
CITY OF ST. JOHN'S

THIS IS EXHIBIT "A" TO THE AFFIDAVIT OF <u>WENDELL MOORE</u> Sworn before me This <u>13TH</u> day of <u>Oct</u> <u>1989</u>

TO WIT:

AFFIDAVIT

I, Wendell Moore, of Shoal Harbour in the District of Trinity North, make oath and say as follows:

1. THAT I was a duly nominated candidate in the Electoral District of Trinity North in the By-election held on Tuesday, 3 October 1989.
2. THAT, on 4 October 1989, the Returning Officer for the Electoral District of Trinity North, Nathan G. Penny, pursuant to the provisions of Section 77(2) of the Election Act, conducted the official count of the votes and at the completion thereof declared the number of votes cast for each candidate to be as follows:

FILE COPY

Barry Hynes	2439
Wendell Moore	2423
Rejected Ballots	22
Spoiled Ballots	0

3. THAT only sixteen votes separated the two candidates.

4. THAT, to the best of my knowledge, information and belief, a substantial number of the 22 rejected ballots were cast for me and were improperly rejected by the respective Deputy Returning Officers, in particular but not limited to ballots rejected at Polls 10, 14, 27 and 33. (Statements of these Polls are annexed hereto)

5. THAT, to the best of my knowledge, information and belief, a substantial number of the Statements of the Poll prepared by the Deputy Returning Officers either contained errors or omissions of information needed to arrive at an exact determination of the votes cast or failed to account for all ballot papers received by the Deputy Returning Officer, and such errors, omissions and other inaccuracies appearing on the Statements of the Poll show that the votes have

been miscounted, or that the Deputy Returning Officers concerned have made incorrect statements of the number of votes cast for the each of the candidates.

6. THAT in Poll 4 for Catalina the statement of Poll prepared by the Deputy Returning Officer on 3 October 1989 (annexed hereto) shows that 72 votes were cast for Mr. Moore and 51 for Mr. Hynes. The Statement of Poll used by the Returning Officer for the official count (annexed hereto) says that Mr. Hynes won 72 votes and that I won 51. A discrepancy exists between the Statement of Poll prepared by the Deputy Returning Office, Deanne Hiscock, on the night of the election and the Statement of Poll purportedly prepared by Deanne Hiscock and used for the official count.

7. THAT in Poll 11 for Champney's West the Statement of Poll (annexed hereto) says that two voters were sworn in at the Poll while to the best of my knowledge, information and belief four voters were sworn in at Poll 11.

8. THAT I am informed, and believe, that the Deputy Returning Officer for Poll 22, of Harcourt, telephoned the Returning Officer with

instructions to alter the Statement of Poll. (annexed hereto) This change was neither approved nor initialed by my agent.

9. THAT at Poll 12 the Statement of Poll (annexed hereto) indicates that 163 people voted. I am informed that, and believe, 164 votes were cast.

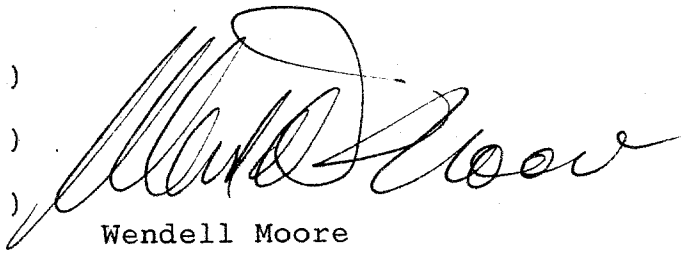
10. THAT at Poll 34 the statement of Poll (annexed hereto) indicates that I received 78 votes and that 137 votes were cast. I am informed, and believe, that Mr. Hynes received 60 votes on polling day. The implication of this is that at Poll 34 there is at least one vote unaccounted for.

11. THAT at Polls 31 and 37 (annexed hereto) discrepancies existed between the vote tally prepared by my agent and that prepared by the agent for Mr. Hynes. In each instance, I am informed, and believe, the matter was resolved by deducting one vote from my total and adding it to that of Mr. Hynes, having a combined effect of 4 votes. In the result there was an incorrect statement of the number of ballots cast for each

FILE COPY

candidate.

SWORN TO at
in the Province of
Newfoundland, this
day of A.D. 1989
before me:

)
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)

Wendell Moore

)
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)

CANADA

PROVINCE OF NEWFOUNDLAND

ST. JOHN'S

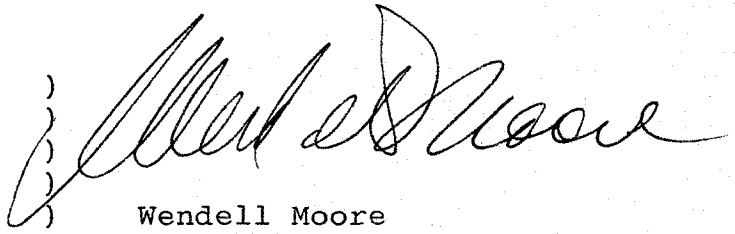
TO WIT:

AFFIDAVIT

I, Wendell Moore, of Shoal Harbour, in the Electoral District of Trinity North, make oath and say as follows:

1. That I am the Applicant named in the foregoing Application.
2. That the several matters contained therein are just, correct, and true to the best of my knowledge, information, and belief.

SWORN TO at St. Johns
Newfoundland, this 13th
day of October, A.D. 1989
before me:

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Wendell Moore

FILE COPY

FORM NO. 49
 STATEMENT OF THE POLL
 (Section 760)

Returned from Returning Officer 36

Electoral District of TRINITY NORTH

Polling Station No. 4

"B1"

Number of ballot papers received from returning officer	250
Number of ballot papers cast for <u>MOORE, WENDELL</u>	72
" " " " " <u>HYNES, BARRY</u>	51
" " " " "	
" " " " "	
" " " " "	
Number of *rejected ballot papers	1
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)	
Total number of ballot papers found in ballot box	124
Number of unused ballot papers	126
Number of **spoiled ballot papers	0
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)	
Total	250

THIS IS EXHIBIT '57 TO THE AFFIDAVIT OF WENDELL MOORE
 Sworn before me
 This 13th day of Oct.
 1989

Number of names on official list of electors used at the poll..... 321
 Number of names on supplementary list of electors taken at the poll..... 8

I hereby certify that the above statement is correct.

Dated at CATALINA this 3rd day of October, 1989.

Jeanne Vislock
 Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

STATEMENT OF THE POLL
(Section 76)

From 11/11/38
over agent

Electoral District of TRINITY NORTH

Polling Station No. 4(2)

"B2"

Number of ballot papers received from returning officer		250
Number of ballot papers cast for <u>HYNES BARRY</u>	72	
" " " " " " <u>MOORE WENDELL</u>	51	
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	1	
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box	124	
Number of unused ballot papers	126	
Number of **spoiled ballot papers	0	
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	250	250

THIS IS EXHIBIT "B2" TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This 13th day of Oct.
1989

Number of names on official list of electors used at the poll 201
Number of names on supplementary list of electors taken at the poll 8

I hereby certify that the above statement is correct.

Dated at CATALINA this 3rd day of October, 1989.

George Nislock
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

FORM NO. 49
STATEMENT OF THE POLL
(Section 76)

Cheryl Harrison 36

Electoral District of Trinity North

Polling Station No. 10

"B3"

Number of ballot papers received from returning officer	100	100
Number of ballot papers cast for <u>BARRY HYNES</u>	22	
" " " " " " <u>WENDELL MOORE</u>	17	
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	1	
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box	40	
Number of unused ballot papers	60	
Number of **spoiled ballot papers		
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	100	100

THIS IS EXHIBIT 'B3' TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This 13th day of Oct.
1989

Number of names on official list of electors used at the poll..... 38
Number of names on supplementary list of electors taken at the poll..... 2

I hereby certify that the above statement is correct.

Dated at Champion's East this 3 day of October, 19 89

Sarah Long
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

STATEMENT OF THE POLL
(Section 76)

"B4"

Electoral District of TRINITY, NORTH Polling Station No. 11

Number of ballot papers received from returning officer		150.
Number of ballot papers cast for <u>BARRY HYNES</u>	54.	
" " " " " <u>Wendell Moore</u>	33.	
" " " " "		
" " " " "		
" " " " "		
Number of *rejected ballot papers	Nil	
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box.....	87.	
Number of unused ballot papers.....	63.	
Number of **spoiled ballot papers.....	Nil	
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	150.	

THIS IS EXHIBIT 'B4' TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This 13th day of Oct
1989

Number of names on official list of electors used at the poll 131
Number of names on supplementary list of electors taken at the poll 129

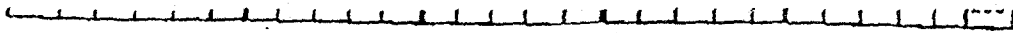
I hereby certify that the above statement is correct.

Dated at Champroy's west this 3rd day of October, 1989.

Lillian Glesford
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.



FILE COPY

FORM NO. 49
 STATEMENT OF THE POLL
 (Section 76)

35
 "B5"

Electoral District of TRINITY NORTH Polling Station No. 12

Number of ballot papers received from returning officer		300
Number of ballot papers cast for <u>HYNES BARRY</u>	82	
" " " " " " <u>MOORE WENDELL</u>	51	
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	0	
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box.....	143	
Number of unused ballot papers.....	137	
Number of **spoiled ballot papers.....	0	
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	300	300

THIS IS EXHIBIT 'B5' TO
 THE AFFIDAVIT OF
WENDELL MOORE
 Sworn before me
 This 13th day of Oct.
 1989

Number of names on official list of electors used at the poll..... 281
 Number of names on supplementary list of electors taken at the poll..... 5
 I hereby certify that the above statement is correct.

Dated at PORT BELTON this 3rd day of October, 1989.

Lorraine Peacey
 Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

STATEMENT OF THE POLL
(Section 76)

"B6"

Electoral District of TRINITY NORTH Polling Station No. 14

Number of ballot papers received from returning officer		250
Number of ballot papers cast for <u>HYAES BARRY</u>	49	
" " " " " " <u>MARKEWENDELL</u>	69	
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	19	
(*A rejected ballot paper means a ballot paper which has been handed by the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box	119	
Number of unused ballot papers	131	
Number of **spoiled ballot papers		
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	250	250

THIS IS EXHIBIT 'B6' TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This 13th day of Oct.
1989

Number of names on official list of electors used at the poll..... 188
Number of names on supplementary list of electors taken at the poll..... 2

I hereby certify that the above statement is correct.

Dated at Trinity this 3rd day of October 1989

Sylvia Hancock
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

STATEMENT OF THE POLL
(Section 76)

"B7"

Electoral District of Trinity North

Polling Station No. 2

THIS IS EXHIBIT TO THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This 13th day of Oct
1989

Number of ballot papers received from returning officer	
Number of ballot papers cast for <u>HYNES, BARRY</u>	<u>70</u>
" " " " " <u>MOORE, WENDELL</u>	<u>46</u>
" " " " "
" " " " "
" " " " "
" " " " "
Number of *rejected ballot papers	<u>2</u>
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)	
Total number of ballot papers found in ballot box	<u>118</u>
Number of unused ballot papers	<u>81</u>
Number of **spoiled ballot papers	<u>1</u>
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)	
Total	<u>200</u> <u>200</u>

← CORRECTION MADE HERE
B.O. 200
K.P. 20
→

Number of names on official list of electors used at the poll 183

Number of names on supplementary list of electors taken at the poll 7

I hereby certify that the above statement is correct.

Dated at HARCOURT this 3rd day of October, 1989.

Blanche Dalton
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

FORM NO. 49
STATEMENT OF THE POLL
(Section 76)

36

"B8"

Electoral District of TRINITY NORTH

Polling Station No. 27

*Mitchell
Muscott*

Number of ballot papers received from returning officer		200
Number of ballot papers cast for <u>HYNES, BARRY</u>	47	
" " " " " " <u>MOORE, WENDELL</u>	69	
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	1	
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box.....	117	
Number of unused ballot papers.....	83	
Number of **spoiled ballot papers.....	0	
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	200	200

THIS IS EXHIBIT 28 TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This 13th day of Oct.
1987

Number of names on official list of electors used at the poll..... 178

Number of names on supplementary list of electors taken at the poll..... 12

I hereby certify that the above statement is correct.

Dated at SHOAL HARBOUR this 3rd day of OCTOBER, 1987.

Ruby Brown
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

STATEMENT OF THE POLL
(Section 76)

Claver
Strongman

Electoral District of *Trinity* North Polling Station No. *31*

"B9"

Number of ballot papers received from returning officer		300
Number of ballot papers cast for <i>Barry Hynes</i>	58	
" " " " " " <i>Wendell Moore</i>	84	
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	0	
(*A rejected ballot paper means a ballot paper which has been handed by the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box	142	
Number of unused ballot papers	158	
Number of **spoiled ballot papers	0	
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	300	300

THIS IS EXHIBIT 'B9' TO THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This *13th* day of *Oct* 19*89*

Number of names on official list of electors used at the poll..... *251*
Number of names on supplementary list of electors taken at the poll..... *19*

I hereby certify that the above statement is correct.

Dated at *Claverhill* this *3rd* day of *October*, 19*89*.

Barbara Barton
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

STATEMENT OF THE POLL
(Section 76)

*Abelard
Blaum*

Electoral District of TRINITY NORTH

Polling Station No. 33

"B10"

Number of ballot papers received from returning officer		200
Number of ballot papers cast for <u>WENDELL MOORE</u>	52	
" " " " " " <u>BARRY HYNES</u>	36	
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	(1)	
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box.....	91	
Number of unused ballot papers.....	169	
Number of **spoiled ballot papers.....	(8)	
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	200	200

THIS IS EXHIBIT B10 TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This 13th day of Oct
1989

Number of names on official list of electors used at the poll..... 174
Number of names on supplementary list of electors taken at the poll..... (21)

I hereby certify that the above statement is correct.

Dated at CHIRENVILLE this 3rd day of OCTOBER, 1989.

J. A. Williams
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

[Handwritten signature]

STATEMENT OF THE POLL
(Section 76)

from R.O. [unclear] 41

Electoral District of *TRINITY NORTH*

Polling Station No. *34*

"B11"

Number of ballot papers received from returning officer	<i>250</i>	<i>250</i>
Number of ballot papers cast for <i>WENDELL MOORE</i>	<i>78</i>	
" " " " " "		
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers		
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box	<i>151</i>	
Number of unused ballot papers	<i>113</i>	
Number of **spoiled ballot papers		
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total		<i>250</i>

THIS IS EXHIBIT "B11" TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This *13th* day of *Oct*
1989

Number of names on official list of electors used at the poll *263*

Number of names on supplementary list of electors taken at the poll *13*

I hereby certify that the above statement is correct.

Dated at *Llanelli* this *3* day of *Oct*, 19 *89*.

Josephine [unclear]
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

STATEMENT OF THE POLL
(Section 76)

"B12"

Electoral District of *TRINITY NORTH*

Polling Station No. *37*

Number of ballot papers received from returning officer		<i>250</i>
Number of ballot papers cast for <i>HYNES, BARRY</i>	<i>77</i>	
" " " " " " <i>MOORE, WENDELL</i>	<i>60</i>	
" " " " " "		
" " " " " "		
" " " " " "		
" " " " " "		
Number of *rejected ballot papers	<i>0</i>	
(*A rejected ballot paper means a ballot paper which has been handed by the the deputy returning officer to an elector to cast his vote but which, at the close of the poll, has been found in the ballot box unmarked or so improperly marked that it cannot be counted.)		
Total number of ballot papers found in ballot box.....	<i>137</i>	
Number of unused ballot papers.....	<i>13</i>	
Number of **spoiled ballot papers.....	<i>0</i>	
(**A spoiled ballot paper means a ballot paper which, on polling day, has not been deposited in the ballot box but has been found by the deputy returning officer to be soiled or improperly printed, or which has been handed by the deputy returning officer to an elector to cast his vote, and (a) has been spoiled in the marking by the elector, and (b) has been handed back to the deputy returning officer and exchanged for another.)		
Total	<i>250</i>	<i>250</i>

THIS IS EXHIBIT "B" TO
THE AFFIDAVIT OF
WENDELL MOORE
Sworn before me
This *13th* day of *Oct*
1989

Number of names on official list of electors used at the poll *177*

Number of names on supplementary list of electors taken at the poll *22*

I hereby certify that the above statement is correct.

Dated at *Clareville* this *3rd* day of *October*, 1989.

Thida Balaam
Deputy Returning Officer.

NOTE

One copy to be handed to agents of candidates if any and one copy to be mailed to candidates in the envelopes provided.

FILE COPY

1989 ST. J. *No. 3047*
IN THE SUPREME COURT OF NEWFOUNDLAND
TRIAL DIVISION

IN THE MATTER of the Election
Act, R.S.N. 1970 and Amend-
ments thereto.

AND IN THE MATTER of a By
Election in the Provincial
District of Trinity North
on the 3rd day of October,
A.D., 1989

AND IN THE MATTER of the
Application of Wendell Moore
of Shoal Harbour,
Newfoundland.

NOTICE TO DEFENDANT

You are hereby notified that the foregoing
Application will be heard by the Judge presiding in
chambers at the Court House at St. John's, Newfoundland,
on *Tuesday*, the *31st* day of *October*, A.D. 1989, at the
hour of 10:00 o'clock in the *fore* noon, or so soon
thereafter as the application can be heard.

AND FURTHER TAKE NOTICE that on hearing the
application, the Judge may issue an order in favour of the
plaintiff in your absence, and without further notice
unless you or your solicitor:

- (a) cause to be delivered to the plaintiff or the
plaintiff's solicitor at the address named herein
for service, not later than two clear days before
the hearing of the application, a true copy of any
affidavit or other material that you or your
solicitor intend to read on the hearing of the
application, and
- (b) appear on the hearing of the application at the
time and place appointed for the hearing.

TO: Nathan G. Penny, Esq.
Returning Officer for

FILE COPY

1989 ST. J.
IN THE SUPREME COURT OF NEWFOUNDLAND
TRIAL DIVISION

IN THE MATTER of the Election
Act, R.S.N. 1970 and Amend-
ments thereto.

AND IN THE MATTER of a By
Election in the Provincial
District of Trinity North
on the 3rd day of October,
A.D., 1989

AND IN THE MATTER of the
Application of Wendell Moore
of Shoal Harbour,
Newfoundland.

ORDER

UPON HEARING Roberts Q.C., of Counsel for the
Applicant, AND UPON READING the Application and the
Affidavits of the Applicant attached thereto, IT IS
ORDERED THAT Nathan Penny, of Shoal Harbour, in the
District of Trinity North, and his election Clerk, Ms.
Velma Percy, do attend before a Judge of the Supreme Court
of Newfoundland, at the Court House, Duckworth Street, St.
John's, on _____, October 1989, at 1000 hours, AND
THAT they there produce all the envelopes containing the
ballot papers, (used, counted, unused, rejected, and
spoiled, utilized in the By-election held on 3 October
1989) and other election material relevant to the recount
and that the same be then and there inspected AND THAT the
votes recorded therein be recounted.

FILE COPY

IT IS FURTHER ORDERED that the Applicant deposit \$100 with the Registrar of the Supreme Court, as security for costs of a recount, as required by Section 82 of The Election Act.

DATED at St. John's, October 1989.

A Judge of the Supreme Court

FILE COPY

1989 ST. J. 3047

IN THE SUPREME COURT OF NEWFOUNDLAND
TRIAL DIVISION

IN THE MATTER OF the Election
Act, R.S.N. 1970 and Amendments
thereto

AND IN THE MATTER OF a By Election
in the Provincial District of Trinity
North on the 3rd day of October, 1989

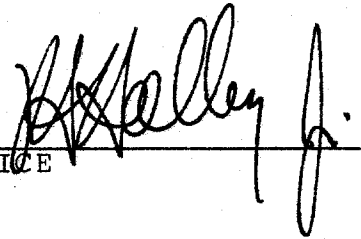
AND IN THE MATTER OF the Application
of Wendell Moore of Shoal Harbour,
Newfoundland

C E R T I F I C A T E

Pursuant to the Provisions of Section 93 of The Election Act, 1970, I, Raymond J. Halley, a Judge of the Supreme Court of Newfoundland, hereby certify the result of the recount of the votes cast at the poll held on the 3rd day of October, 1989, in the by-election in the Electoral District of Trinity North by me at the Court House at St. John's on the 27th and 28th days of November, 1989 as follows:

Votes counted for Barry Hynes	2438
Votes counted for Wendell Moore	2425
Rejected	21

IN WITNESS WHEREOF I have hereto subscribed my hand at the
Supreme Court of Newfoundland at St. John's this 29th day of
November, A.D., 1989.



JUSTICE

TO: Nathan Penny, Esq.
Returning Officer

POLL 2

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

X.

WITHDRAWN



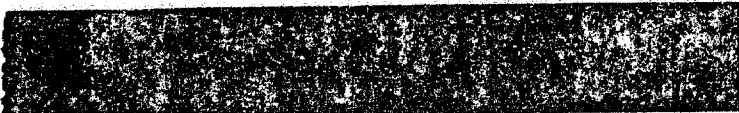
HYNES, Barry
CLARENVILLE
ADMINISTRATOR

4

WITHDRAWN



MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT



HYNES, Barry
CLARENVILLE
ADMINISTRATOR

WITHDRAWN



MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

✓



POLL 5

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

~~X~~ ✓

WITHDRAWN

POLL 7

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

X

DISPOSITION: COUNT FOR MOORE



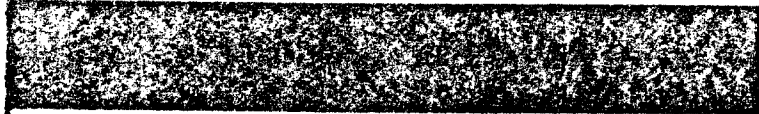
HYNES, Barry
CLARENVILLE
ADMINISTRATOR

X

WITHDRAWN



MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT



HYNES, Barry
CLARENVILLE
ADMINISTRATOR

X

WITHDRAWN



MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT



POLL 14

HYNES, Barry CLARENVILLE ADMINISTRATOR	711 X
MOORE, Wendell SHOAL HARBOUR CHARTERED ACCOUNTANT	

DISPOSITION: FROM THE REJECTED BALLOTS THIS BALLOT WAS ORDERED REJECTED

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

WITHDRAWN

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

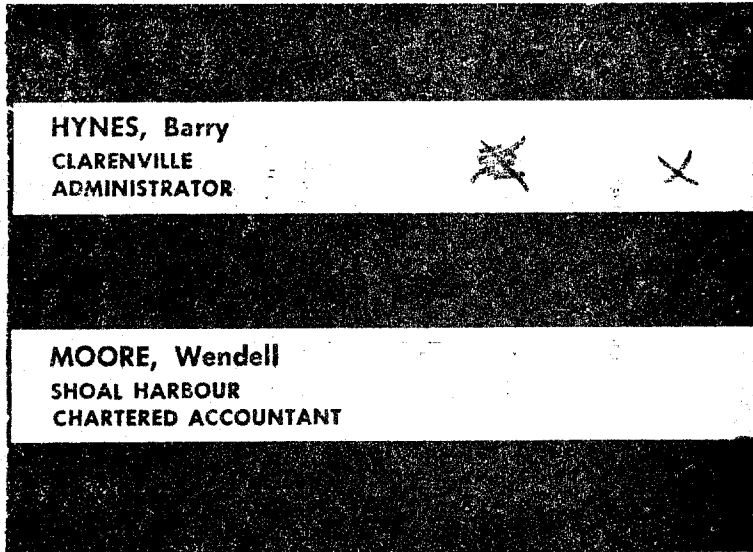
X

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

WITHDRAWN

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

X



DISPOSITION: FROM THE REJECTED BALLOTS THIS BALLOT WAS ORDERED COUNTED FOR HYNES.

POLL 23

HYNES, Barry
CLARENVILLE
ADMINISTRATOR



WITHDRAWN

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

POLL 28

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT



DISPOSITION: THIS BALLOT WAS ORDERED
COUNTED FOR MOORE

POLL 32

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

WITHDRAWN

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

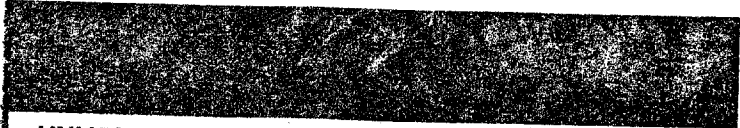
WITHDRAWN

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

WITHDRAWN

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT





HYNES, Barry
CLARENVILLE
ADMINISTRATOR



WITHDRAWN



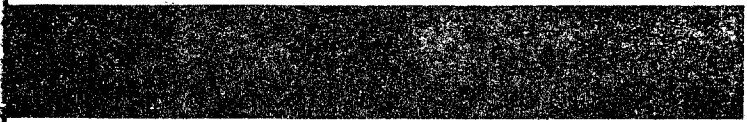
MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT



HYNES, Barry
CLARENVILLE
ADMINISTRATOR



WITHDRAWN



MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT



HYNES, Barry
CLARENVILLE
ADMINISTRATOR

WITHDRAWN

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

HYNES, Barry
CLARENVILLE
ADMINISTRATOR

WITHDRAWN

MOORE, Wendell
SHOAL HARBOUR
CHARTERED ACCOUNTANT

IN THE SUPREME COURT OF NEWFOUNDLAND
TRIAL DIVISION

IN THE MATTER of the Election
Act, R.S.N. 1970 and Amend-
ments thereto.

AND IN THE MATTER of a By
Election in the Provincial
District of Trinity North
on the 3rd of October, A.D., 1989

AND IN THE MATTER of the
Application of Wendell Moore
of Shoal Harbour,
Newfoundland.

Heard: November 27th and 28th, 1989

Decision: November 29th, 1989

DECISION OF HALLEY, J. (ORALLY)

This is an Application by Wendell Moore of Shoal Harbour, a candidate in the Provincial By-Election in the Electoral District of Trinity North for an Order that this Court conduct a recount of the votes cast in the election in that district.

The issue is whether four of the ballots cast in the Electoral District of Trinity North were valid.

On October 3rd, 1989 a By-Election was held in the Electoral District of Trinity North (the "District"). There were two

candidates namely; Barry Hynes, an Administrator from Clarendville, who was the Progressive Conservative candidate and the Liberal candidate who was the Applicant, Wendell Moore, a Chartered Accountant.

On October 4th, 1989, Nathan G. Penney, the Returning Officer for the District, declared that Barry Hynes was the successful candidate with 2439 votes followed by the Applicant with 2423 votes. There were twenty-two ballots that were rejected by the various Deputy Returning Officers.

After the Applicant had an opportunity to examine the statements of the poll provided by the Returning Officer, the Applicant alleged that there were several irregularities. Upon application to this Court it was ordered that the Returning Officer and Velma Percy, the Election Clerk, attend before this Court on Monday, November 27th, 1989 with the envelopes containing the ballot papers and the original statements of the poll in order to permit a judicial recount.

The count of every poll was reviewed by the Court. This review included the number of ballots supplied to the poll, the number of spoiled ballots and the number of unused and used ballots. The number of votes for each candidate were recorded as well as those ballots that were rejected and not cast pursuant to

the provisions of the Act. This procedure was followed for each of the twenty-five special polls, the two advanced polls and the fifty regular polls.

The Applicant and Barry Hynes through their lawyers agreed that there were 2423 votes cast for the Applicant and 2437 votes cast for Barry Hynes and that twenty ballots were properly rejected. There were four ballots set aside as "reserves" for determination as to whether they were valid ballots. The parties agreed that the other sixteen ballots that were originally set aside as "reserves" were in fact valid.

Under the Election Act it is provided that a ballot is cast when an Elector has made a "mark". In a recount the Court must consider firstly whether the Elector clearly made a choice of candidates. Both the Applicant and Hynes conceded that with respect to these four "reserves" the Elector made a clear choice of candidates.

The contention is that all four ballots are invalid because the marks contained on the ballots "could reasonably identify the Elector in each case" and therefore should be rejected as being contrary to the provisions of Section 72(2A)(b) of the Act.

RESERVE NO. 1 (POLL 37)

This ballot contains an "X" in the Wendell Moore box, however, there is also in the Moore box another mark which bears no resemblance to marks ordinarily made by an Elector i.e. an "X", a "✓" or an "O". It is a series of four lines crossing each other in no clear pattern.

I find that the mark is so non-descript that it is not a mark that could reasonably identify the Elector. The ballot is a valid ballot for Wendell Moore.

RESERVE NO. 2 (POLL # 14)

This ballot contains an "X" in the Barry Hynes box. The Elector has already placed the letter "M" in the Hynes box immediately adjacent to the "X".

I find that the distinctive manner in which the letter "M" is formed and the use of a specific letter could reasonably identify the Elector and therefore this ballot is declared invalid.

RESERVE NO. 3 (POLL # 22)

This ballot contains two "X's" in the Hynes box. The Elector in this case obviously made an "X" in the Hynes box, changed his or her mind and attempted to obliterate the "X" by putting squiggly lines through it, changed his or her mind again and then put another "X" in the Hynes box.

I do not find that these markings could reasonably identify the Elector and therefore this is a valid ballot for Barry Hynes.

RESERVE NO. 4 (POLL # 28)

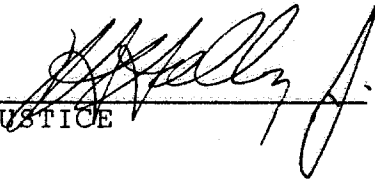
This ballot contains a rather fancy "X" in the Moore box. The "X" is not formed in such a way that it could reasonably identify the Elector. This is a valid ballot for Wendell Moore.

The result of my consideration of the four "reserves" is that I find that two ballots were cast for Moore, one for Hynes and one ballot is rejected.

The following are the results of the recount of the votes cast for the election of a candidate for the Electoral District of Trinity North in the By-Election held on October 3rd, 1989:

Votes cast for Barry Hynes -----	2438
Votes cast for Wendell Moore -----	2425
Rejected ballots -----	21
Total votes cast -----	4884

There is no order as to costs.



JUSTICE

