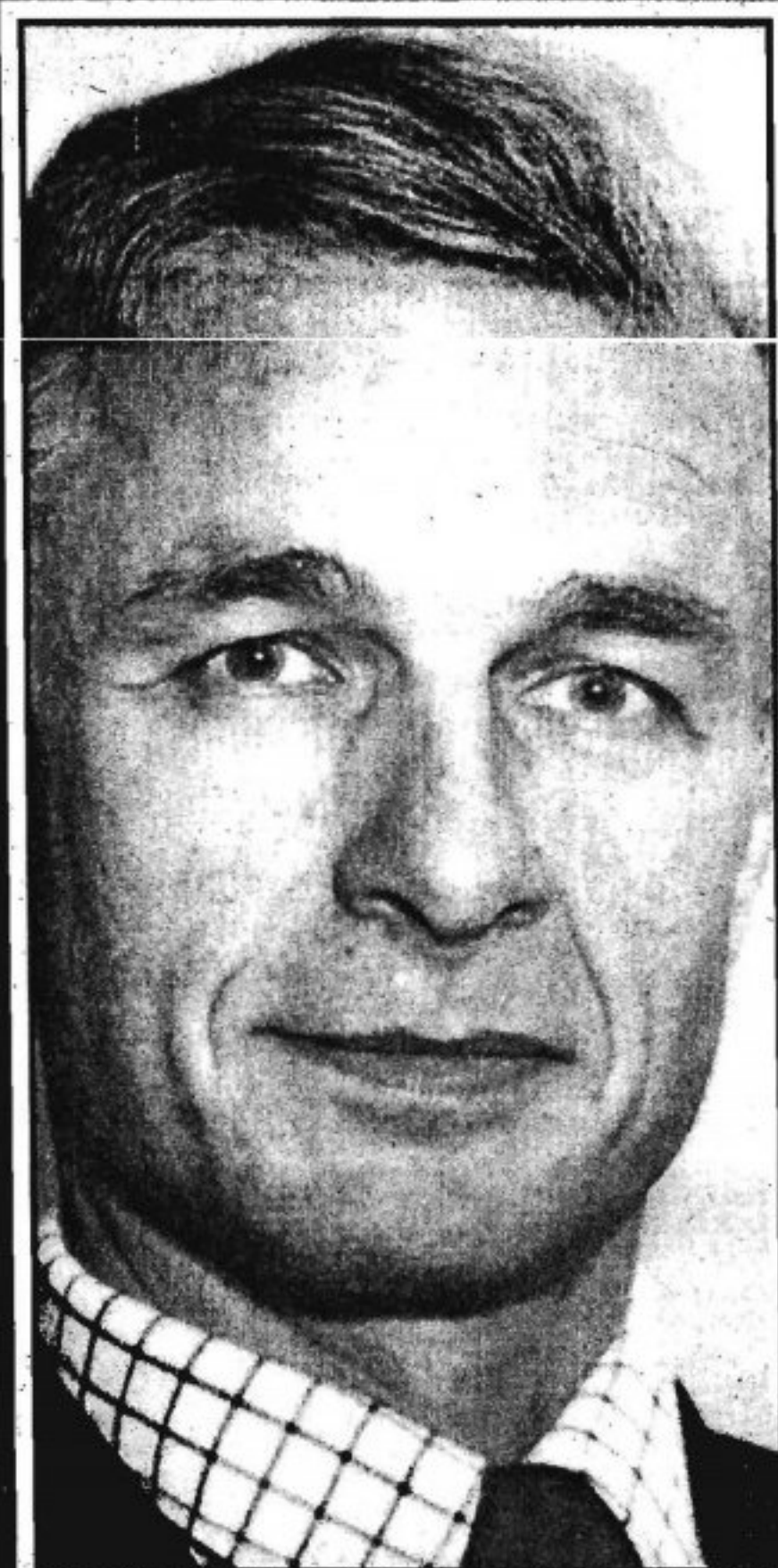


FETTES 'THIEF' CONS GAY JUDGES PROBE QC

Another
Sun
exclusive



Nimmo-Smith... conned into talking at length about his inquiry into an alleged gay conspiracy

By GRAHAM MACLEAN

A MAN suspected of breaking into Edinburgh's police HQ yesterday told how he made a mug out of Scotland's law chiefs.

Gay businessman Derek Donaldson conned his way into the home of the top lawyer who has been investigating an alleged gay conspiracy in Scots legal circles.

He tricked QC William Nimmo-Smith into spilling the beans on parts of his confidential inquiry.

And he taped Nimmo-Smith as the former Advocate Depute blasted police for thinking they can take over the roll of prosecutor from fiscals.

Last night Donaldson said: "If

Raid suspect tapes inquiry boss

Nimmo-Smith had known I was the man named to the fiscal over the Fettes break-in he would have had a heart attack.

"The Fettesgate inquiry was a shambles. And an independent body should have been sent in to conduct Nimmo-Smith's investigation."

Nimmo-Smith was appointed to probe claims in a leaked police report which said judges and lawyers tried to protect their homosexual activities. He is believed to be handing in his 180-page report to Lord Advocate Lord Rodger next week.

Donaldson pretended he was a

journalist with a quality newspaper so he could grill Nimmo-Smith on his inquiry.

And in an amazing interview at Nimmo-Smith's plush Edinburgh home the QC revealed his report will dismiss the police allegations and find nothing wrong with Scotland's legal system.

FAILURE

He said vindictive police officers leaked the report on an alleged gay conspiracy to have a go at their seniors and the Crown Office.

And Nimmo-Smith said: "The

one thing you have got to keep right at the front of this is that prosecution decisions are not taken by the police and it is quite deliberate in that respect.

"The police report the results of their investigations to the fiscal and it is the fiscal who decides whether or not to prosecute on the basis of that report.

"If you get police officers who are aggrieved about the failure to get convictions that means you've got police who think they are entitled to take over the function of the prosecutor."

Nimmo-Smith, one of Scotland's top QCs, also:

- Named witnesses who have been quizzed during his inquiry. And he accuses one of them — gay ex-squaddie Terry Smith — of lying and being "manipulative."

- Revealed how he "interrogated" his own boss Lord Rodger and had powers to report him to the Prime Minister.

- Talked about the resignation of Lord Dervaird in December 1989 amid allegations of homosexuality on the bench.

- Told how some detectives have been demoted and transferred to uniform duties since the report was leaked.

- Admitted he had little help in his inquiry from rank-and-file policemen in the Edinburgh

Continued on Page Five

THE PLAYERS



SCOTS judge Lord Dervaird quit his £72,000-a-year post three years ago.

Dervaird, 56 — real name John Murray — had been the country's top civil court judge.

But he stepped down without explanation just before Christmas, 1989, after allegations were made about his personal life.

It was revealed that four other judges had been under investigation.

Dervaird, who lives with his wife of 33 years Bridget, 55, near Stranraer, Wigtownshire, fled to Cyprus to escape publicity after quitting.

The episode sparked demands from MPs that the reasons behind his departure should be made public — but they never were.

Aggrieved police who fail to get convictions think they are entitled to take

to get convictions think over the role of prosecutor

WILLIAM NIMMO-SMITH, QC

EXCLUSIVE

By SUN REPORTERS

BOGUS journalist Derek Donaldson spent an hour grilling top QC William Nimmo-Smith about his inquiry into an alleged gay legal ring.

He used a voice-activated recorder to tape their conversation. This is a transcript of the interview:

Donaldson: Mr Nimmo-Smith how do you do.

Nimmo-Smith: Fine, fine. You came by taxi I take it. I'll just lead the way shall I? You don't mind if I ask you for some form of identification do you?

D: Well, I'll see what I've got... Basically, we've been given so many different stories from so many different people who are not trustworthy.

NS: Who have you been talking to? You mention this man Terry Smith on the phone.

D: Well I've actually never spoken to Smith myself. I think he's...

NS: I think you would need a very long spoon to sup his story.

D: The way we're looking at it we don't really want to talk to the likes of Smith and there's another gentleman who contacted us, his name is Glenold or Glen.

NS: Michael Glen.

D: Yes. We spoke to Michael Glen who basically told us that he is working hand in hand with the Crown Office over this investigation.

Outline

NS: I am very interested in you saying that — it is completely untrue.

Let's have some half-on-the-record first. This stuff is unattributable but you can use it for background...

Nimmo-Smith then gives a broad outline of how the police investigation was carried out into an alleged gay conspiracy among the legal profession. It was prompted by MP Tam Dalyell and the report was later leaked to the press. NS admits a policeman must have copied and leaked it.

NS: Tam Dalyell MP wrote a letter to Sir William Sutherland Chief Constable. I know a great deal more but I'm not going to... (tape unintelligible). The Chief Constable decided to instruct an internal report.

D: A copy was obviously made by one of his own officers.

NS: Yes (unintelligible).

D: Do you want me to stop writing?

NS: No, no, no. On the 11th September in the Edinburgh Evening News which is our local paper... (unintelligible). Do you have a copy of the report?

D: I think everybody's got a copy...

NS: There's another case



WORDS TAPED BY 'GAY'

called Duncan the Rent Boy.

D: Robert or Neil Duncan?

NS: This is one called Robert Duncan, sorry Neil Duncan.

D: Did he not get a period of imprisonment?

NS: He got four years but the Crown let a number of the accused off.

D: Are they not supposed to be involved in some sort of homosexual ring?

NS: Yes that's right. D: Is Mr Duncan still in prison?

NS: ...Conroy tends to muddle it, I've some idea that the Crown were being induced to throw its hand in. If you've got the leaked report look at paragraphs 5.10 and 5.13.

D: I don't have the report on me.

NS: Well I don't either. We are the only people who are keeping it confidential (laughing).

NS: I hope to report early next year.

But we have not set ourselves any deadline, we are conducting this inquiry entirely in our own way.

(At this point NS hands over a copy of his confidential remit from the Lord Advocate. This outlines who he may interview for his own inquiry including the Lord Advocate, Solicitor General and any Fiscal or Crown Office staff).

I'll hand you a photocopy, I think I've got a spare one. Really our approach to this has developed since this was drawn up.

Mr Friel had an identical letter... you can read it in light of what I have

to go and see him. He went along to see Conroy and Conroy basically told him that he wants to come clean and that he has an appeal that's coming up in December, January.

NS: It's the end of December. He's appealing against his sentence. He got six years for fraud.

D: That's right. And I think he's looking for some sort of result with that and he wanted to come clean. He wanted the newspapers to report what he had said to the police. What he had done subsequently and said to other members of the judiciary with the exception of yourself

been saying to you. So really we have had complete autonomy. Our powers include the power to interrogate the Lord Advocate himself.

D: Lord Rodger?

NS: Yes.

NS: You can take it we have interrogated him. Indeed if we thought he was part of this conspiracy we would report him to the Prime Minister instead of Lord Rodger... We've interviewed 90 or so people...

D: In the difficult circumstances that you find yourself in. That's a colleague of mine who's actually not involved with our particular newspapers who had a request from Mr Conroy for him

were lies and that he was forced to say what he said, he was blackmailed, threatened and had all sorts of inducements on charges. And we actually, we're looking at that and we think that's nearer the mark...

The Scottish Sun had it emblazoned over its front page for several days about this report and its implications etc. And quite frankly we don't contribute to that at all. We simply don't believe it.

NS: I have to keep my sense of humour in working order. I call people who make these allegations alligators. There's enough alligators here to fill a swamp.

D: You've got the alligators but do you have the evidence. Is there evidence?

NS: I don't think I should comment on that other than to make an observation... (unintelligible)

NS: I don't know what he did or didn't do but the mere fact of his resignation speaks for itself. We are yet to find any plausible explanation for why he should go. But the position remains we haven't yet reached a conclusion.

Donaldson later quizzes the QC on the conclusions of his inquiry.

D: This is a personal impression and you can correct me if I'm wrong but at the end of the day it's going to be inconclusive.

NS: Inconclusive? (Startled)

D: Well I think it may be inconclusive in as much as that what is it you say up here in courts? Not proven perhaps?

NS: What's not proven about it?

D: The allegations.

NS: What allegations? This is a conspiracy to

pervert the course of justice...

D: I would be extremely surprised if you found these alleged conspirators guilty as charged. I'm not writing anything, I'm not I would be extremely surprised, would I be on the right tracks?

NS: I have no idea. As I say, why should one not be able to come in with a verdict of not guilty?

D: Absolutely.

NS: You seem to think I would come out with a verdict of not proven.

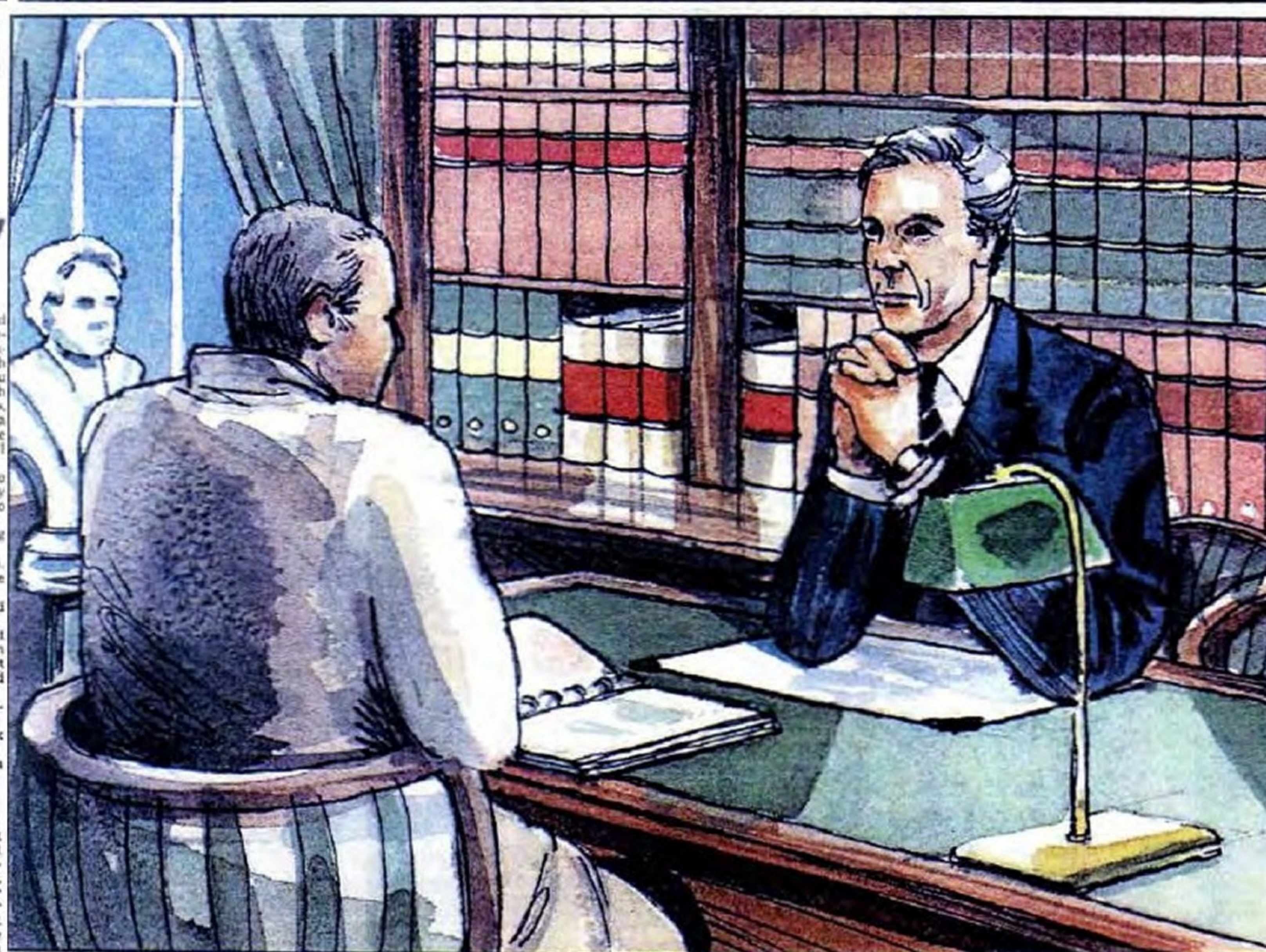
D: I was just trying to get a reaction from yourself.

NS: But I'm not going to tell you what I think.

D: No, I understand that. NS: I think you'll find in the report that it will be pretty conclusive.

D: You will be fairly conclusive in your report?

Donaldson later refers to various policemen who he says interviewed Conroy.



Interview... bogus reporter Donaldson interviewed Nimmo Smith in the elegant study Artists impression by JOHN O'DONNELL

Brown. I think he's a fraud squad officer.

NS: He's a sergeant now.

D: Is that the one who was transferred to uniform duties (unintelligible) I've got Brown, a Scout, he's in the same branch as Brown was NS: Was. He's off sick at the moment in Australia and he's not back yet.

Time

D: He's in Australia? An extended holiday perhaps. And Hiddleston. He retired, resigned or whatever. Does he have any role in this at all?

NS: I don't think I can comment.

NS: I tell you what I've been finding. A number of journalists are working on the story.

You do appreciate there are aspects of the so-called Fettesgate, the leak business, the break-in at police headquarters some people say is connected. But it is not our

function equally (unintelligible).

D: The so-called Fettes raid.

NS: That is not our problem.

D: It's not connected at all then?

NS: No. It is not part of our investigation. Indeed, if you read our remit...

Later the pair return to the subject of Terry Smith. NS says Smith claims he was "fitted up."

And the pair discuss further allegations about Conroy and Michael Glen.

D: I really don't want to see the man (Smith). I don't like my time being wasted.

NS: He is so unquestionably manipulative. He will manipulate people.

Later still referring to Smith.

NS: (Laughing) I'm not going to tell you what he said. I am not going to confirm whether or not we've seen him.

D: Have you received

the co-operation you have been expecting from the police? The nonsense about policemen being caged and what they are saying to you, have they been very co-operative?

NS says they have helped at the top but adds: On an individual basis that has been another matter.

D: What about the troops (lower ranks)?

NS: Well the troops are a lot of individuals.

D: Do you get the impression, I get the impression that the report was leaked as an act of vindictiveness not just against the senior command of Lothian and Borders Police but also to have a damn good go at this was an excellent opportunity to have a damn good go at Regent road. (Crown Office address).

NS: Probably, yes.

D: Yeh, that's a personal impression. It's like I've said at the beginning

you've said no comment to quite a lot of my questions and I understand that and I am not even going to think of pressing you on it. But I think, although I have not been personally involved, I think I shive got a good gist of what's going on. I think I know what the backbone of this is.

Important

NS: I wouldn't do anything to discourage you in your line of thought let me put it that way.

D: I appreciate that. NS: It's just that I am reluctant. I wouldn't have kept talking to you if I thought you were on the wrong beam.

The pair then talk about why the police may have made the allegations about a gay conspiracy.

NS: I think the question that should be addressed is why the rumours, why the public appetite for rumours, how so such

rumours originate and why a willingness by people who should know better to have an appetite for such rumours?

D: Is there anything we can do to help? I'm being perfectly serious.

NS: Perfectly serious... I think it's been a great trouble to us...

You do not spend quarter of a century nearly as I have done working with a system which you are very proud under the rule of law and not feel two things. Firstly, there is something far more important than... Even if you happen to tread on someone else's toes.

D: It's just a pity the police didn't think the same way.

NS: Of course.

In the next passage, NS drops another bombshell. The laws regarding homosexuality are not being enforced. The Lord Advocate is not encouraging.

Continued on Page Five

THE PLAYERS



EX-HAIRDRESSER Stephen Conroy claimed he had a homosexual relationship with a Sheriff.

He believed his revelations would help him escape a lengthy jail sentence for a string of mortgage frauds.

But Conroy, 22, of Edinburgh, ended up with a six-year sentence for swindling banks out of £260,000.

FETTES police raided the home of gay Michael Glen in Edinburgh but found nothing.

While they were there a package dropped through the letterbox with nicked documents in it.

Post-bellied Glen tried to sell gossip about fellow gays to newspapers. He is currently on remand in Barlinnie on fraud charges.

BENT ex-squaddie Terry Smith, 35, threatened to blow the lid off alleged gay activity in the legal system.

The warning came as he appealed against a conviction and four-year jail sentence for molesting an 18-year-old boy.

Smith, of Edinburgh, was granted temporary freedom to gather evidence for his appeal.

RENT boy king Neil Duncan, 32, was behind a massive gay sex-for-sale racket smashed in a police operation.

He was jailed for four years but the Crown Office dropped 47 out of 57 charges arising from the case.

The leaked police report said it was rumoured one rent boy due to give evidence could point the finger at top lawmen.

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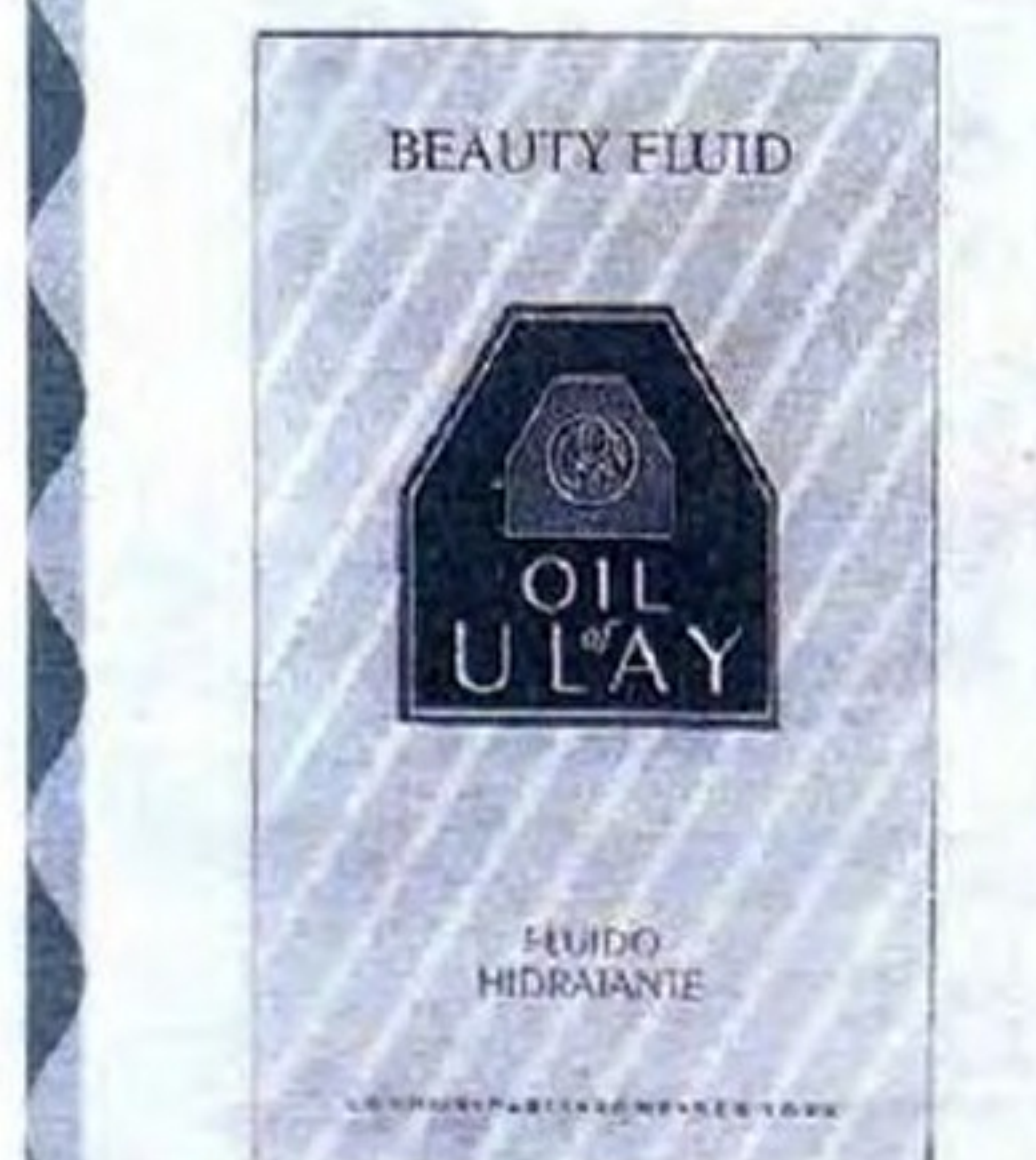
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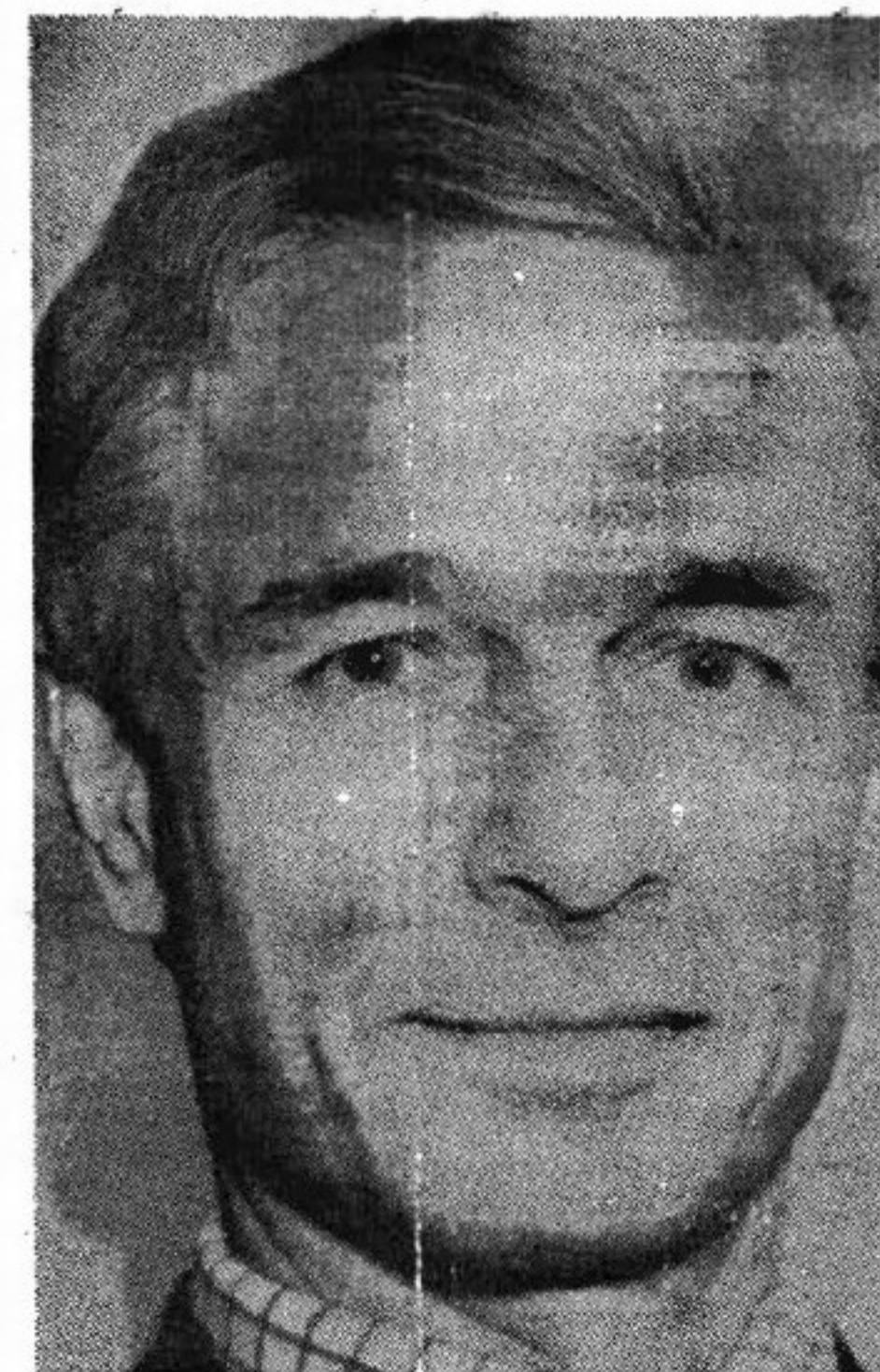
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HOW I MUGGED MAN FROM THE CROWN OFFICE



Fake journalist spent £3 on business cards

CRAFTY Derek Donaldson revealed last night how he set about duping top QC William Nimmo-Smith.

The gay businessman devised a simple but effective plan to trick his way into the home of the lawman probing an alleged homosexual plot in Scots legal circles.

He posed as a national newspaper reporter — and even had fake business cards printed on a railway station machine for just £3.

Then he listened in astonishment as Nimmo-Smith gave him details about parts of his top-secret inquiry — with a tape recorder hidden in his jacket pocket.

He revealed last night: "I sussed him out first from various sources.

"I knew he was approachable, so my only problem was to work out how to approach him.

"I decided I would pose as a journalist, so I discovered what his favourite paper was, then phoned the Crown Office to try for an appointment."

"I said my name was Alan McDonald, that I was a roving reporter

with the paper, and that I was doing background on the sex allegation case.

"I was quite surprised when he made a date to see me on the Friday. "But I decided not to go then. I thought it would be better if I left it over the weekend to see if he would check up on me."

Donaldson phoned the Crown Office again on the Monday and was told the QC had left a message for him.

It asked the fake reporter to phone Nimmo-Smith at his home in posh Edinburgh's New Town.

He was even given Nimmo-Smith's private home number and was asked to contact him later that day.

Prepared

When Donaldson phoned him, he said: "I'm reluctant to see you on my own but with a



degree of caution I suppose I could.

"If you want to come to my house, which is fairly central in Edinburgh, that's where I am at the moment."

Donaldson told The Sun: "I was well prepared for the visit.

"I went to Waverley station and spent £3 getting fake business cards printed. I also bought a notebook and wrote the name of the paper on the front.

"I put a voice-activated tape recorder in my inside left jacket pocket.

"I was wearing a grey check suit I had made for me when I was on holiday in Thailand a couple of years ago.

"Then I went to his home. Nimmo-Smith lives in a large, four-storey terraced house — I

would think it's worth about £300,000.

"He answered the door himself and showed me into his study on the ground floor.

"It was all very elegant, with period furniture. His study had books all round the walls and he sat behind a mahogany desk.

"Then he asked me for identification. I was all ready to show him one of the fake business cards, but when he saw the notebook with the paper's name written on it he said that would do.

Kick

"By then I wasn't worried about being found out. All he could have done was kick me out.

"Instead, I spent more than an hour in his study talking about the case."



Luxury... Nimmo-Smith's £300,000 house in Edinburgh's New Town. The top advocate invited Derek Donaldson there

AGGRIEVED POLICE

Continued from Page Three aging prosecutions unless they involve teenagers below the age of 18.

D: Can I ask you a question? It's more a personal-type question as to whether being a homosexual should be a bar, pardon the pun, to be a number of the legal establishment in Scotland?

NS: Certainly not. D: Would it help if the age of consent for homosexuals — I believe it is

20 or 21 — would it help if it was reduced. From a purely personal point of view.

NS: I can't really express a view about that not whilst I'm engaged to this inquiry. Well, the Lord Advocate can issue guidelines to the procurator fiscals although the law says 21. The guidelines currently say 18 and I know that there are respectable arguments for saying that boys and girls should be

treated the same (i.e. down to 16). NS finishes with a devastating attack on the police. He backs D's assertion that the gay conspiracy allegations are nonsense but the police still deliberately leaked them. And he agrees action should be taken against them.

D: Well I mean I've sat here and listened to everything you've said. You've been very helpful, you haven't said a lot but what you have said has been extremely helpful.

Scandal

You really confirmed what I have personally thought right from the beginning that the whole thing as far as I can see and I'm looking at it from a distance is nonsense, it is scandalous that the press latched on to this. It's scandalous that the police have leaked it. I think some backside

should be severely kicked. I think the people who have helped fuel the fire should have some action taken against them and this is basically what I'm looking to do and if I can help in any way I fully propose to do it.

NS: Well if those are your personal views I would like to see your paper come out strongly with them. I have to say, after the report is public.

D: I know several members of the Scottish legal profession, several senior members, I'm not going to mention their names. No comment. And I'm absolutely convinced this is a scurrilous report. It was disgraceful. It's not true. I think that, um, this Brown and Souter and Hiddleston have got a lot to answer for.

NS: Careful with Hiddleston. I think I've said too much already. D: No I understand. But what I would say to

you Mr Nimmo-Smith is Hiddleston's name is at the bottom of the report. He was head of CID. He should never have put his name on a report without checking the facts.

NS: Em. D: He should have made absolutely sure and I'm also convinced that there are a number of officers in police headquarters in Edinburgh who are homophobic, vindictive, having a wee go at their boss Sir William.

Failure

They're having a wee go, or should I say a big go, at the legal establishment because they are incompetent, because they couldn't get the convictions that they wanted. They need someone to blame.

NS: Yes, the one thing you have got to keep right at the front of this is that prosecution decisions are not taken by

the police and it is quite deliberate in that respect. The police report the results of their investigations to the fiscal and it is the fiscal who decides whether or not to prosecute on the basis of that report.

Plus any further investigations the prosecutor may see fit. And if you get police officers who are being aggrieved about the failure to get convictions or have cases not proceeded further by the prosecution that means you've got police who think that they are entitled to take over the function of the prosecutor which is one of the greatest safeguards we have under our system of justice and that is something that's well worth thinking about.

NS: I think that's my wife opening the door to the taxi.

An expert at Strathclyde University has confirmed that the voice on Donaldson's tape is William Nimmo-Smith.

Probe QC is conned

Continued from Page One force. Nimmo-Smith said on the results of his own inquiry: "Why should one not be able to come in with a verdict of not guilty?"

And he insisted later: "I think you will find the report will be pretty conclusive."

WAIT

Nimmo-Smith also admitted that the present Lord Advocate Lord Rodger is allowing the law to be bent on the age of consent for homosexuals.

Homosexual activity under 21 is currently an offence but Nimmo-Smith said the Lord Advocate has told fiscals not to prosecute unless it involves under 18s.

He said: "The Lord Advocate can issue guidelines to the fiscals although the law says 21."

"The guidelines currently say 18. And I know there are respectable arguments for saying that boys and girls should be treated the same."

Donaldson said: "It is ridiculous the man entrusted with investigating a police report containing so much speculation and innuendo should indulge in exactly the same thing himself."

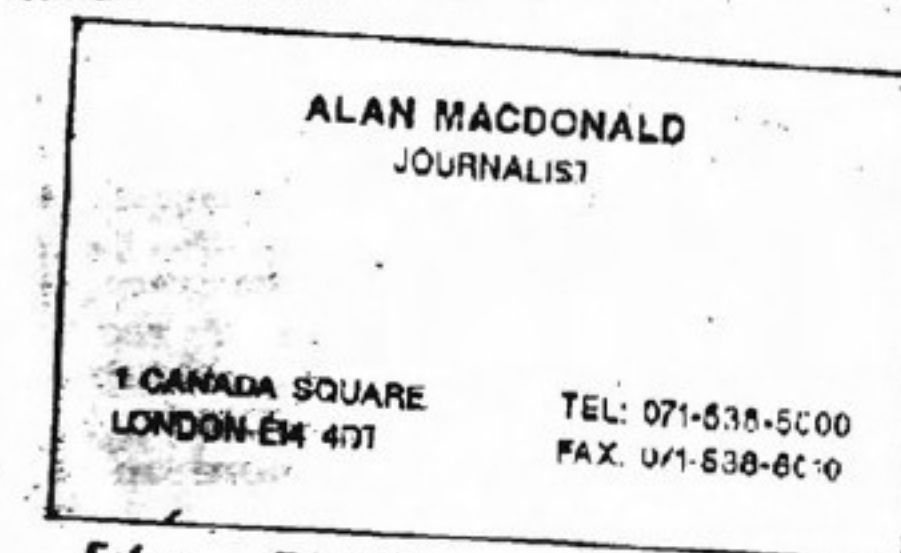
CHECK

"He didn't know me, didn't check my credentials properly and still talked."

But he insisted: "I think Nimmo-Smith is an honourable man asked to do a dishonourable task in impossible circumstances."

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Fake... Donaldson ran off business cards