

1983

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IN THE SUPREME COURT OF NOVA SCOTIA
TRIAL DIVISION

BETWEEN:

HER MAJESTY THE QUEEN

- and -

ROY NEWMAN EBSARY

Mr. Justice R. MacLeod Rogers

F. Edwards, Esq., for the Crown

L. Wintermans, Esq., for the Defence

November 4, 1983

November 3, 1983

Court Opens.

Mr. Muggah calls Panel of Petit Jury

1. Q. Francis MacNeil?
A. Present.
2. Q. Greg Jennex?
A. Present.
3. Q. Daniel Rigby?
A. Here.
4. Q. John Hawley?
A. Here.
5. Q. Maxine Currie?
A. Here.
6. Q. Rosalie MacMullin?
A. Here.
7. Q. Carl Grechuk?
A. Here.
8. Q. Paul Finn?
A. Here.
9. Q. Bernard MacPhee?
A. Here.
10. Q. Willard Ball?
A. Here.
11. Q. Ross Pushie?
A. Here.
12. Q. Owen Craig?
A. Here.

13. Q. Joseph Larade?
A. Here.
14. Q. Gerard LeBlanc?
A. Here?
15. Q. Frank Young?
A. Here.
16. Q. Judith Townsend?
A. Here.
17. Q. Charles R. MacKinnon?
A. Here.
18. Q. Charles R. Olford?
A. (No answer).
19. Q. Peter Turnbull?
A. Here.
20. Q. William H. Jefferson?
A. Here.
21. Q. Martin Karrell
A. Here.
22. Q. John A. Church?
A. Here.
23. Q. Carol Vokey?
A. Here.
24. Q. Robert Fraser?
A. Here.
25. Q. Vaughn MacDonald?
A. Here.
26. Q. Harvey Jeans?
A. Here.

27. Q. Patricia Miller?
A. Here.
28. Q. Peter Campbell?
A. Here.
29. Q. Bryden MacKinnon?
A. Here.
30. Q. Alex Winstanley?
A. Here.
31. Q. William Wadden?
A. Here.
32. Q. Pius Trainor?
A. Here.
33. Q. Russell Kelloway?
A. Here.
34. Q. Jean Peach?
A. Here.
35. Q. Louis Boutlier?
A. Here.
36. Q. Clifford Doucette?
A. Here.
37. Q. William MacPherson?
A. Here.
38. Q. Christene McCall?
A. Here.
39. Q. Gerald Travis?
A. (No Answer).
40. Q. Judy Mackie?
A. Here.

41. Q. Gerald Currie?
A. Here.
42. Q. Joseph Lukeman?
A. Here.
43. Q. Donald Garnier?
A. Here.
44. Q. Brian Beckett?
A. Here.
45. Q. Delores Burton?
A. Here.
46. Q. John J. Hennessey?
A. Here.
47. Q. Ron Gillis?
A. Here.
48. Q. Stephen MacDonald?
A. Here.
49. Q. Pamela Durnford?
A. Here.
50. Q. Theresa Munroe?
A. Here.
51. Q. Gregory Currie?
A. Here.
52. Q. Alfred Chiasson?
A. Here.
53. Q. David Latham?
A. Here.
54. Q. Deborah Saulnier?
A. Here.

55. Q. Gerard Sampson?
A. Here.
56. Q. Dolena O'Neil?
A. Here.
57. Q. Donald Murphy?
A. Here.
58. Q. Michael Alteen?
A. Here.
59. Q. Carolyn Dawson?
A. Here.
60. Q. Brian Conrod?
A. Here.
61. Q. Ann Martinello?
A. Here.
62. Q. Wilfred Chiasson?
A. Here.
63. Q. Robert M. MacKillop?
A. Here.
64. Q. Robert Mullins?
A. Here.
65. Q. Joseph Gillis?
A. Here.
66. Q. Rita Rudderham?
A. Here.
67. Q. Peter Bren?
A. Here.
68. Q. Margaret Kokocki?
A. Here.

69. Q. Sarah Brophy?
A. Here.
70. Q. John A. MacKinnon?
A. Here.
71. Q. Richard Mombourquette?
A. Here.
72. Q. Sheila Kelly?
A. Here.
73. Q. Hugh Fraser?
A. Here.
74. Q. Lloyd Murphy?
A. Here.
75. Q. Shirley MacDonald?
A. Here.
76. Q. Jacklyn MacLennan?
A. Here.
77. Q. William Baillie?
A. Here.
78. Q. Clara MacKinnon?
A. Here.
79. Q. Donald MacQueen?
A. Here.
80. Q. John A. Lynk?
A. Here.
81. Q. Joseph C. Bishop?
A. Here.
82. Q. Raymond Kennedy?
A. Here.

83. Q. Dolena Matheson?
A. Here.
84. Q. Terrance Hollohan?
A. Here.
85. Q. Albert Wall?
A. Here.
86. Q. Stephen Dakai?
A. Here.
87. Q. Peter Hanna?
A. Here.
88. Q. Alvin Seymour?
A. Here.
89. Q. Sheila McInnis?
A. Here.
90. Q. Mary Steele?
A. Here.
91. Q. George Rudderham?
A. Here.
92. Q. David Gillis?
A. Here.
93. Q. Fred Snow?
A. Here.
94. Q. Florence MacDonald?
'A'. Here.
95. Q. Kenneth R. MacNeil?
A. Here.
96. Q. Maurice Thomas?
A. Here.

97. Q. Gerald Cole?
A. Here.
98. Q. The next three are not here Mr. Edwards, one hundred one, two and three.
Michael MacLean?
A. Here.
99. Q. Genevieve Allen?
A. Here.
100. Q. Kenneth MacIntyre?
A. Here.
101. Q. Neil MacKinnon (inaudible). Just two My Lord, eighteen and number forty.

By the Court: Check on those if you would Mr. Prothonotary.
The next step then I think would be to arraign the accused.

Mr. Edwards: My Lord, I move the arraignment of Roy Newman Ebsary.

Mr. Muggah: Roy Newman Ebsary, please stand please, hold up your right hand.

Mr. Ebsary: Can't raise my right hand.

Mr. Muggah: That's alright. You stand indicted by the name of Roy Newman Ebsary on the charge that you at or near Sydney, in the County of Cape Breton, Province of Nova Scotia, on or about the twenty-eighth day of May, nineteen seventy-one, did unlawfully kill Sandford (Sandy) Seale by stabbing him and did thereby commit Manslaughter contrary to Section two seventeen of the Criminal Code of Canada. How say you, are you guilty of this crime whereof you stand accused or not guilty?

Mr. Ebsary: Not guilty.

By the Court: Members of the jury panel, you have heard the Clerk of the Court read the charge against the accused, Mr. Ebsary, and you've heard him say he is not guilty. The next step in this trial is the selection of a jury of twelve who will decide whether the accused is guilty or not guilty. Now, it is Mr. Ebsary who is charged with the offence you have heard read out in the indictment. It is Mr. Sandford (Sandy) Seale who is the victim of the alleged offence and the Crown intends to call a number of witnesses and I am advised that those witnesses will be the following: Mary Ebsary, Donna Ebsary, Donald Marshall, James MacNeil, Doctor Mamood Naqvi, Constable Leo Mroz, Chief John F. MacIntyre, Deputy Chief Michael J. MacDonald and Corporal James Carroll. Now, if there is anyone on this panel who is related to or closely connected with the party to this case, the accused, the alleged victim or the police involved or any of the witnesses that I have named who is to testify or if there is anyone who has personal knowledge of the facts of the case, I would ask that you please come forward. Also, if anyone feels that because of the publicity given in this case that you just cannot be impartial and that you have formed an opinion to such an extent that you cannot give a fair and impartial verdict even after listening to the evidence, again, would you please come forward. Again, it is also essential that a juror be a Canadian citizen, be able to understand English and be able to hear properly. If any of you have any difficulties with these requirements or for

any other reason any of you feel you should have an exemption from jury duty, would you please come forward give your name and be sworn and I will listen to you.

By the Court: Mr. Edwards, I left my notes in my chambers, do you recall the tentative day of the next trial, was that the ninth?

Mr. Edwards: Yes it was My Lord, the ninth.

By the Court: When I'm excusing people, I'll excuse them until nine thirty on the ninth of November.

Mr. Edwards: My Lord, could I have the number of the man who was excused.

By the Court: Yes, I'm not advised of this and I think we'll have to have notification of the name of the person and the number. The last one was Mr. Alteen and I don't know the number.

Mr. Muggah: Fifty-nine

Mr. Muggah: Mr. Vaughn MacDonald, number twenty-five.

By the Court: Mr. MacDonald.

Mr. MacDonald: (Inaudible).

By the Court: I'll excuse you until November ninth then. I'll ask you to leave and Mr. Alteen should leave as well. He perhaps did so.

Mr. Edwards: I believe he did My Lord.

By the Court: The number of Carol Vokey?

Mr. Muggah: Number twenty-three.

Ms. Vokey: (Inaudible).

By the Court: So you are excused to November ninth, eighty-three for possible partiality and I'll ask you to leave

By the Court: Well then I'll excuse you for the whole term then on the account that you got to be present to look after your grandchildren -- number one, Mr. MacNeil.

By the Court: I think you're too close, so I'll excuse you to November ninth at nine thirty. Number thirty-eight.

Mr. Maurice Thomas (Number Ninety-nine) duly sworn

Mr. Thomas: (inaudible). Self-employed.

By the Court: This is likely to go on throughout November. Well I'll excuse you for the whole term then. That's number ninety-nine, Mr. Thomas.

Mr. Kenneth MacIntyre (Number One Hundred Six) duly sworn

Mr. MacIntyre: I'm asking to be excused as a juror because we had quite a bit of (inaudible) with the news and I already formed in my mind my opinion.

By the Court: Well, you may have formed your opinion, despite all that if you were sworn to give a true verdict according to the evidence, that is given in the witness box you feel you couldn't give a true verdict to the evidence under the law which I instruct you -- you don't think you could?

Mr. MacIntyre: (Inaudible).

By the Court: You mean to say you've formed an opinion all by yourself without listening to the evidence.

Mr. MacIntyre: Just from what I read in the papers and that, I don't think I would be able to give.....

By the Court: You would sit on the jury box and close your ears?

Mr. MacIntyre: No, no, I don't think I could do that. I don't know, form in my mind what I think.

By the Court: Well, it's a shame but I'll excuse you until the ninth -- what you are saying is that despite being under oath and listening to the evidence you couldn't give a fair and true verdict. Well, I accept that if you are telling me that, you're nervous. Alright, well you are excused then until the ninth of November. Okay Mr. MacIntyre. That's number one-o-six, Mr. MacIntyre.

Ron Gillis (Number Forty-Eighty) duly sworn.

Mr. Gillis: My wife is expecting our first child in December (inaudible).

By the Court: Is there any likelihood of premature birth?

Mr. Gillis: (inaudible).

By the Court: I'll excuse you, you better be there. You are excused for the term.

Mr. Gillis: Thank you. _____

By the Court: That's Mr. Ron Gillis, number forty-eight.

Martin J. Karrell (Number Twenty-One) duly sworn

Mr. Karrell: (Inaudible).

By the Court: Well what happens when you are not there?

Mr. Karrell: (Inaudible).

By the Court: Well, this -- you would be in the same situation throughout November?

Mr. Karrell: Yes.

By the Court: Well I'll excuse you then for the term. That number twenty-one, Martin Karrell.

Brian Conrod (Number Sixty-Two) duly sworn

By the Court: That's Number Sixty-Two excused to November ninth.

Joseph Larade (Number Thirteen) duly sworn

By the Court: That's Mr. Joe Larade number thirteen excused until November ninth.

Stephen M. Dakai (Number Eighty-eight) duly sworn

By the Court: That's Mr. eighty-eight, Mr. Dakai, excused to November ninth.

Robert Mullins (Number Sixty-six) duly sworn

By the Court: Sixty-six, Robert Mullins, excused to November ninth.

Mr. Albert Wall (Number Eighty-Seven) duly sworn.

By the Court: Number eighty-seven, Albert Wall, is excused for (inaudible) partiality until November the ninth.

Mr. Gerald Cole (Number One Hundred) duly sworn

By the Court: Mr. Gerald Cole, number one hundred, excused. The last two were at the hospital when the victim was brought in.

Mr. Terrance Hollohan (Number Eighty-Six) duly sworn.

By the Court: Excused until November the fourteenth at nine thirty in the morning.

Mr. Alex Winstanley (Number Thirty-One) duly sworn

By the Court: Excused for the term.

Mr. Peter G. Campbell (Number Twenty-Nine) duly sworn

By the Court: Number twenty-nine, Peter Campbell, excused for the term.

Mr. Charles MacKinnon (Number Seventeen) duly sworn

By the Court: Number seventeen, Charles MacKinnon, excused until November the ninth at nine thirty.

Mr. John Lynk (Number Eighty-Two) duly sworn

By the Court: Mr. Lynk number eighty-two excused for the term.

Mr. Muggah: (Inaudible)

By the Court: The ones that have been excused?

Mr. Muggah: Yes.

By the Court: Just the ones that have been excused.

Well, there is Mr. Alteen and I didn't get his number.

Mr. Muggah: Fifty-nine.

By the Court: Excused until November ninth.

Number twenty-five, Vaughn MacDonald, excused to November ninth, eighty-three. Number twenty-three, Carol Vokey, excused until November ninth.

Number one, Francis MacNeil, excused for the term.

Number thirty-eight, William MacPherson, excused to November ninth.

Number forty-seven, John Hennessey, he was not excused.

Number ninety-nine, Maurice Thomas, excused for the term.

Number one-o-six, Ken MacIntyre, excused to November ninth.

Number forty-eight, Ron Gillis, excused for the term.

Twenty-One, Martin Karrell, excused for the term.

Number sixty-two, Brian Conrod, excused to November ninth.

Number thirteen, Joe Larade, excused to November ninth.

Number eighty-eight, Mr. Dakai, excused to November ninth.

Number sixty-six, Robert Mullins, excused to November ninth.

Number eighty-seven, Albert Wall, excused to November ninth.

Number one hundred, Gerald Cole, excused to November ninth.

Eighty-six, Terrance Hollohand, excused to November fourteenth of this year.

Number thirty-one, Alex Winstanley, excused for the term.

Twenty-nine, Peter Campbell, excused for the term.

Number seventeen, Charles MacKinnon, excused to November ninth.

And finally, number eighty-two, John Lynk, excused for the term.

By the Court: Mr. Fraser was not excused, he may be at some future time but he is prepared to serve if called this time.

I think then we are in a position to begin the selection of the jury.

Mr. Edwards: Yes My Lord.

Mr. Wintermans: My Lord, first of all, I understand that under Section Five sixty-two (two), the accused has twelve pre-emptured challenges and I am applying under Section Five sixty-seven to challenge each and every proposed juror for cause as was done last time in this case, based on the heavy publicity this case has had.

By the Court: You are going to satisfy in each case that there is -- that that really has some affect. So, we can call each one. I'm not going to give a blanket authorization of each. Each person comes up to be challenged then you can tell me why that particular person is -- I may very well on the ground that of the publicity, but I like some specifics.

Mr. Wintermans: Has Your Lordship

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seen the file from the last time, it's not in this Court?

By the Court: No, I haven't got it here.

Mr. Wintermans: My Lord, I would like to have a five minute recess then in order to get it because I have a number of clippings from newspapers.

By the Court: You can pick those out if you want.

Mr. Wintermans: I don't think my learned friend is opposed to the challenging for cause (inaudible) on each and every proposed juror.

By the Court: Is that correct?

Mr. Edwards: That's correct My Lord.

By the Court: I won't press you on that point then.

Mr. Wintermans: Just to satisfy Your Lordship, perhaps if he could look through some of these clippings just to give you an idea of the publicity involved. This one here could be extremely prejudicial, that is from the Cape Breton Post.

Mr. Edwards: If I may intervene here for a moment, My Lord, I caution my learned friend in mentioning any details of the articles and (inaudible) if he is going to get into that the panel should be excused.

By the Court: All right, I'll accept that. Mr. Wintermans you recall the ammunition I gave to a panel as a whole.

Mr. Wintermans: Yes.

By the Court: So, those that are here now feel they can give an impartial verdict but that does not deny you the right to challenge every time. But, they have been advised and a number have come up and said they couldn't

give an impartial verdict because of the publicity. So, with that I would ask you to consider where there may be some cases where that may not apply because it's not a fishing expedition.

Mr. Wintermans: I appreciate that, but this is not an ordinary case either in the standard of publicity.

By the Court: I didn't know any murder case that was not highly publicized.

Mr. Wintermans: I think it's interesting. Perhaps the Panel ought to be excluded at this point so I can make some other submission --I wouldn't want to have the Panel to hear, but perhaps some indication of what occurred last time may be of some interest to the Court.

By the Court: Well, if you feel I ought to hear you on that matter I will. Now, I'll ask the Jury Panel then to retire to the corridors while representations are made to me that ought not to apparently be heard by you. So, if you would like to just go out that door.

Mr. Wintermans?

Mr. Wintermans: Yes, My Lord, as I indicated, of course, the trial has proceeded one time before two months ago and the same request was made and granted to challenge for cause. I think it's interesting to note that there were many jurors who were judged by their fellow jurors to not be impartial between Her Majesty the Queen and the accused. As a matter of fact, it took all day to do it, and I realize it is somewhat time consuming but because of the unusually great publicity involved in this case and this

being a small community by some standards at least where people do a lot of talking about this sort of thing and I would submit that this is the exception and not the rule of a case where the proposed juror should be questioned briefly and the decision made by fellow jurors whether or not they are impartial under Section Five sixty-seven (b) and I have a series of questions I used last time, it's based on questions used by Mr. Joel Pink in the O'Donnell case in Dartmouth, (inaudible) manslaughter. I'll show you, it's quite brief. It shouldn't take more than five minutes.

By the Court: I'm not going to hold you to anything of that sort.

Mr. Wintermans: I'm not saying I'm asking exactly those questions because sometimes the answers will lead you to further questions, but that is general. I can pretty well promise Your Lordship that it won't be more than five minutes or so on any juror. It really was quite interesting to see the number of prospective jurors that turned out^{to}/be not impartial.

By the Court: Well, certainly we have to guard against that and that's your duty and the duty of the Court as a whole.

Mr. Wintermans: It's under the new Charter of Rights -- I think some arguments have been made that some cases that have a great amount of publicity that it is difficulty for a person to get a fair trial. However, (inaudible) tried to find an impartial jury and if we can't, we may have to take further steps.

By the Court: All right, that's fine, that gives me an idea of the approach you are going to take and maybe there will be very standard question that I'll put to the same witness and no doubt Mr. Edwards will want to do the same. I guess than--unless you have any reply to that Mr. Edwards?

Mr. Edwards: No My Lord, the Crown has no opposition to

By the Court: Perhaps we'll have a short recess and I'll retire and Mr. Muggah can get his tickets in order and re-call the Panel.

Mr. Edwards: Well just on the procedure to be followed from this point My Lord -- well first of all, the panel should not be a part as each juror is questioned because obviously that would tend to influence them and they can be called in as each name is drawn out of a box and as far as starting the process off the way it was done the last time and the way it is normally done is that Mr. Muggah would just draw two names at random from the box and those people would come in and they would be the triers.

By the Court: Well, I gather that is what was done the last time. I don't know whether it's necessarily customary, but I've agreed to follow that same procedure that Justice Clarke followed earlier. I have been in touch with him and there is no point going our separate ways -- we'll reach the same goal. That's alright with me. Did you leave the panel out and then call the first twelve in?

Mr. Edwards: Just one by one. It started off he drew two names and those people came in and sat down and were

given a short instruction by the Judge as to what their function was about being the triers and then the third name called was the first prospective juror, that person was brought in and sworn and put on the witness stand and questioned by my learned friend and in some instances questioned by myself and then the two triers were then asked to retire to the jury room to consider whether or not the proposed jury was--I forget the word suitable or not suitable.

By the Court: Acceptable.

Mr. Edwards: Yes acceptable or not acceptable.

They would come back -- if they said acceptable or when one of the triers.....

Mr. Wintermans: The first trier would go.

By the Court: That is not exactly the same method I would follow, but we reach the same end and certainly you people are accustomed to that technique so why don't we follow it.

Mr. Wintermans: The only problem I have with the way we did it last time is that as we get more and more jurors picked they stay and they listen as the afternoon goes on.

By the Court: As a matter of fact, I think generally speaking throughout the country, the Panel is here ^{during} the questioning. Be it our adopted practice they be removed not so much they be tainted by what is heard but because they might get into their idea a reason of getting of jury duty and that's a very real question to be considered as well. They are, the jury, once they are sworn, the jury people who are sworn must sit there. They sit in judgement on the other

that come forward as to whether they are acceptable or not, whether they can enter a true verdict and be impartial, that's all they are ruling on, they are not ruling on the evidence, just whether they can be impartial.

Mr. Edwards: It's only two My Lord, like say after we get ten jurors sworn well it's only the last two who are the triers the other eight they would have no.

By the Court: Oh no, it's only the last two.

(Court recesses).

By the Court: Number thirty-four, Mr. Kelloway is excused for the whole term because of medical reasons.

Ladies and Gentlemen of the jury panel now that I have heard the jury exemptions we are now in a position to proceed to select a jury. Now, the procedure will be and this may be a little bit different than I was talking with counsel before. First step at random, twelve people from the panel who will come into the box and as each rises to be sworn the opportunity will be presented to the Defense or the Crown to either stand aside or challenge. One by one those called for will face counsel who will then have the opportunity to exercise the statutory right to challenging the individual called forward or called to take the oath. In this case the Crown prosecutor has the right to challenge up to four potential jurors without giving any

reason. Counsel for the accused has the right to challenge up to twelve potential jurors in the same way; that is, without any reason at all.

In this particular case, of course, either side has the right to challenge for cause any number of jurors and I have been advised that, in fact, the Defense, Mr. Wintermans acting for Mr. Ebsary, will be challenging for cause every person who comes forward to be sworn as a juror to test whether a person is or is not impartial.

If a member of the jury panel is challenged is so challenged by either counsel he or she will please return at once to the body of the courtroom and if not challenged that juror will then be sworn. But, we know in this particular case, without (inaudible) any doubt, that there will be challenges in each case.

In addition to the Crown Prosecutor's limited right of challenge he has the right to ask up to forty-eight potential jurors to stand aside for the time being and if that occurs the individual just goes back to his place in the courtroom, I think, and probably can sit over here there seems to be enough room there now. I want to stress to you that in exercising a right of challenge or standing aside counsel are in no way casting any reflection on the individual concerned and such individual ought not to feel embarrassed thereby. Counsel know the nature of the case to be tried and from experience they believe that the type of person who would be eminently suitable as a juror in one type of case may for a number of reasons be less suitable

for another type of case. That's why our Criminal Code provides for this procedure. So, in result then the Clerk will begin to call members of the panel until some time when we are able to obtain twelve jurors to try this case.

Mr. Muggah: Members of the Petit Jury as your names are called and answer and proceed to the box.
Dolena Matheson, Whitney Avenue, Sydney, number eighty-five.

By the Court: What's that number.

Mr. Muggah: Number eighty-five. Hugh Fraser, Wallace's Road, Glace Bay, number seventy-five.

Sixty Nine, Peter Bren, Bay Street, Glace Bay.

Seventy-four, Sheila Kelly, Duke Street, Dominion.

Eighteen, Charles Oldford, R.R. One North Sydney.

Sixteen, Judith Townsend R.R. One North Sydney.

Twenty-two, John A. Church.

He's not here, he won't be here until (inaudible).

By the Court: Very well.

Mr. Muggah: Thirty-nine, Christene McCall, Marion Bridge.
Thirty-two, William Wadden, Main-a-Dieu.

One-o-five, Genevieve Allen, MacLeod Street, New Waterford.

Thirty-seven, Clifford Doucette, Duffell Drive, Sydney.

Fourteen, Gerard LeBlanc, Sunnydale Drive, Westmount.

Seventy-one, Sarah Brophy, Tartan Drive, Sydney.

Remember these here men and women who shall now be called

are the jurors (inaudible) if, therefore you challenge them or any of them you must challenge them as they come to about to be sworn and before they are sworn and you shall be heard.

Mr. Muggah: Dolena Matheson, Whitney Avenue, Sydney, number eighty-five.

Mr. Wintermans: Challenge for cause My Lord.

By the Court: On the ground of?

Mr. Wintermans: On the ground of.....

By the Court: Partial impartiality.

Mr. Wintermans: Five sixty-seven (b).

By the Court: You may sit down now.

Before these people are sworn, I want to explain to you what is happening. There has been a challenge for cause, I advised you that that was going to come. It is not I who determines whether this gentlemen or this particular lady is impartial or partial, it is for two triers of fact who must determine that after listening to the evidence produced by the Defense, by the Crown or both. It is those two triers who must determine whether the perspective juror who has been challenged is acceptable or not acceptable to sit in a jury and render an impartial verdict. So, what we are doing now is to -- we have chosen, the first instance, I have to choose two triers to determine the suitability of Miss Matheson to sit as a juror and we are selecting, I'm asking, the next two who are in the jury box to sit in that capacity so you will be sworn now and I'll advise you more briefly

on your duties, so you may be sworn now.

Hugh Fraser and Peter Bren duly sworn as triers

By the Court: Now, gentlemen, while this matter is being determined all those other members at the panel will have to retire from the courtroom and that includes -- not only all you people out there but those who have already sat in the jury box. So, while this matter is being determined I will ask you to retire for a few minutes.

Gentlemen, Miss Dolena Matheson has been challenged as a prospective juror as been provided by section five sixty-seven of the Criminal Code on the ground that she is not indifferent between the Queen and the accused. In effect, it is alleged that she is not impartial or in other words she is prejudiced one way or the other and would not a true verdict give according to the evidence if she was sworn as a juror of the trial. Now, your task is to listen to the evidence and determine whether the ground of challenge is true or not true or whether, in effect, she's acceptable to sit as a juror or not acceptable to sit as a juror and the ground of impartiality. So, Mr. Wintermans.

Mr. Wintermans: Has she been sworn?

By the Court: No, she hasn't been sworn.

Mr. Wintermans: I think she should be sworn.

By the Court: Yes.

Dolena Matheson duly sworn

Dolena Matheson examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Dolena Matheson, one-o-four Whitney Avenue.
2. Q. That's in the City of Sydney?
A. Yes.
3. Q. What's your occupation?
A. I manage a drapery store.
4. Q. A drapery store.
A. Drapery Shop, Mayflower Mall.
5. Q. And are you single or married?
A. Married.
6. Q. What's your husband do?
A. Sell real estate with Century Twenty-One.
7. Q. Now, you understand my client, Roy Ebsary, is charged with the manslaughter of Sandy Seale, have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Yes.
8. Q. What have you seen or heard?
A. Day before yesterday I saw in the paper -- it was coming up in the paper. Anymore than that, I don't watch television, heard very little on radio and I read the (inaudible) of the last trial and I don't remember what I read.
9. Q. Do you recall the Donald Marsahll case of a year or two ago, did you read the accounts in the Cape Breton Post concerning that?
A. Probably, was it that long ago.....

10. Q. Okay, well there was the trial in nineteen seventy-one

A. In nineteen seventy-one I lived in Port Hawkesbury.

11. Q. I'm talking about last year, a year or so ago, did you recall reading in the Cape Breton Post about that.

A. Probably, but nothing specific.

12. Q. You don't remember the details.

A. Not particularly (inaudible).

13. Q. Have you discussed this case with anyone?

A. (No answer).

14. Q. No?

By the Court: You have to answer, I know you are shaking your head but....

A. No.

15. Q. Now, having heard things on the radio and television and read newspaper articles do you believe what you read to be the truth?

A. I don't know if it's the truth or whatever you're asking, I don't really recollect reading very much of anything.

16. Q. I see. Have you expressed to anyone your opinion as to guilt or innocence in this case?

A. No.

17. Q. Do you know Sandy Seale or any member of his family?

A. No.

18. Q. Any of the witnesses involved in this matter?

A. Mr. Marshall Senior, I knew him.

19. Q. How did you know him?

A. Because we hired him in nineteen sixty-seven to do work in our home, which is a long time before (inaudible).

Dolena Matheson examined by Mr. Wintermans

30.

20. Q. Do you feel that that contact with Donald Marshall, Senior, might affect your judgement with respect to the evidence that you hear?

A. Is Mr. Marshall going to be here as a witness?

21. Q. No, his son is.

A. I never seen him.

22. Q. My question is do you know if your relationship with Mr. Marshall's father would have a bearing on whether or not you believe or disbelieve the evidence?

A. I don't know.

23. Q. Do you know the accused person, Roy Ebsary, or any member of his family?

A. No.

24. Q. Do you know of any jurors who may have sat on the trial?

A. No.

25. Q. Do you know any jurors who may have sat on the trial in nineteen eighty-one?

A. No.

26. Q. Do you know if you could put aside any rumors that you may have heard about this and make your decision solely on the evidence you hear in the courtroom?

A. Yes.

27. Q. You do?

A. Yes.

28. Q. Thank you, that's all.

Mr. Edwards: No questions.

By the Court: One more question to make certain....

are you in a position then, I take it then that you are,

that if you are sworn to give a true verdict according to the evidence that is given here in the witness box you feel you that you can give a true verdict according to the evidence and the law which I instruct you and you could put out of your mind you are saying yes?

Dolena Matheson: Yes.

By the Court: Do you wish to argue the matter?

Mr. Edwards: No. I have no objections to this juror being sworn.

By the Court: Gentlemen I must ask you if you will to retire for a moment to the jury room out here so you can discuss among yourselves the matter, the

Mr. Wintermans: Perhaps, My Lord, I could say one thing to the judges of this matter?

By the Court: That's what I asked before?

Mr. Wintermans: I thought my learned friend still had an opportunity to ask questions, but I would submit that her knowledge of Donald Marshall, Senior, might have affect one way or another and that she would not be acceptable.

Mr. Edwards: If I could respond to that, I submit to you it's pretty obvious that her association to Donald Marshall Senior is both very old, nineteen sixty-seven, and it's not a personal relationship -- he was hired to do the dry wall in her home at Port Hawkesbury, how that could possibly impair her impartiality in this matter, I submit to you it is completely out of the question. I also submit to you that she is or can be an impartial juror.

By the Court: The question you must determine upon the evidence you've just heard is whether the juror, Mrs. Matheson, stands indifferent; that is, whether or not she is impartial or prejudice. In other words, will she enter upon this case with an open, unprejudiced mind. I want to remind you that almost everybody ^{has} who/heard or read about this case has some opinion. This does not of itself disqualify him or her from being a juror. If you believe that she can give a honest verdict according to the evidence if she is sworn as a juror, you must decide, and your decision must be unanimous, whether the juror Mrs. Matheson is impartial or not. Whether she is in view acceptable or not acceptable. So, I will ask you now to retire for what time it takes, it may not take very long, but you will be in private in this/^{room}right here to determine whether Mrs. Matheson is acceptable or not acceptable as a juror in this case.

Mr. Muggah: Mr. Fraser have you agreed upon a verdict?

Mr. Fraser: We both agree that she is acceptable.

Mr. Wintermans: My Lord, I have the (inaudible) right to challenge (inaudible) I use one of my challenges.

By the Court: All right, she can be excused then to the ninth of November.

Mrs. Matheson: Ninth, thank you.

By the Court: Thank you very much for coming.

Mr. Wintermans: Are we, there is now different judges is there. There is a slight difference in the procedure we are following this time.

By the Court: I think perhaps we should use the same.....

Mr. Edwards: The same triers.

By the Court: The same triers until we get a juror.

Mr. Wintermans: That's what I thought so it would be Sheila Kelly would be the one who would be brought in for questioning.

By the Court: Yes.

Sheila Kelly duly sworn

Sheila Kelly examined by Mr. Wintermans

1. Q. Would you state your full name and address please?

A. Sheila Anne Kelly, Four Birch Street, Dominion.

2. Q. Perhaps you should sit in a witness box?

By the Court: Yes, I think it would be well to have each witness come up near a witness box, the last person was near enough to be heard, so I think we will make a practise of that.

3. Q. Your name is Sheila Kelly?

A. Sheila Ann Kelly. _____

4. Q. Where do you live?

A. Four Birch Street, Dominion.

5. Q. What do you do for a living?

A. I am a C.N.A. at Seaview Manor, Glace Bay.

6. Q. And do you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?

A. Yes.

7. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
- A. Yes.
8. Q. Have you discussed the case with anyone?
- A. Just my husband.
9. Q. Have you believed what you have read and heard concerning the case?
- A. Some of it.
10. Q. Have you stressed to anyone your opinions as to the guilt or innocence?
- A. No.
11. Q. Have you formed any opinion?
- A. No.
12. Q. Do you feel that the information that you have heard and read concerning this case is going to have any affect on your role as a juror?
- A. Not really, I didn't read all of the clippings and that, just some of them.
13. Q. Is there anything that stands out in your mind that you have read or heard?
- A. No.
14. Q. Do you remember any of the information?
- A. Just that Mr. Seale was stabbed and that was, I believe, something about robbery in the case.
15. Q. Do you know or did you know Sandy Seale or any member of his family?
- A. No.
16. Q. Do you know any witnesses involved in this case?
- A. No.

Sheila Kelly examined by Mr. Wintermans

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17. Q. Do you know any members of the previous jury?
A. No.
18. Q. Do you know any members of the jury in nineteen seventy-one in relation to the Donald Marshall case?
A. No.
19. Q. Do you think you could approach your duties as a juror without any prejudice one way or the other?
A. Yes.
20. Q. Thank you.

Sheila Kelly examined by Mr. Edwards

1. Q. Are you or your husband related to any members of the City of Sydney Police Department?
A. No.
2. Q. Do you know any members of the City of Sydney Police Department on a social basis?
A. No.

By the Court: I have no questions. Do you have any other Mr. Wintermans?

Mr. Wintermans: I would submit that she is acceptable.

By the Court: So, you are withdrawing your challenge then?

Mr. Wintermans: Yes.

By the Court: I guess this lady can be sworn?

Mr. Wintermans: Yes.

Mr. Edwards: The Crown is content.

Sheila Kelly duly sworn as a juror

Mr. Muggah: Hugh Fraser, Wallace's Road, Glace Bay, Number Seventy-five.

Mr. Wintermans: Challenge for cause My Lord.

By the Court: All right.

Mr. Muggah: (Inaudible).

By the Court: Yes, well, Mr. Bren has already been sworn so we'll swear Mrs. Kelly.

Sheila Kelly sworn as a trier

Mr. Hugh Fraser duly sworn

Mr. Hugh Fraser examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Hugh Ignatius Fraser, one thirty-one Wallace's Road, Glace Bay.
2. Q. And you -- now you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. I do.
3. Q. Have you read any accounts or seen anything on television or heard anything on television regarding the case?
A. I seen some on television, I read very little accounts of it.
4. Q. Have you discussed the case with anyone?
A. My wife.
5. Q. Have you seen and heard things about the case, have you formed any opinion as to the guilt or innocence?
A. Not really.

Mr. Hugh Fraser examined by Mr. Wintermans

37.

6. Q. Have you expressed any opinions as to guilt or innocence to anyone?
- A. No, you know, we talked about it but I didn't express if he was guilty or innocent.
7. Q. Do you know any of the witnesses involved in this matter?
- A. No, I don't.
8. Q. Do you know, or did you know Sandy Seale or any member of his family?
- A. No, I did not.
9. Q. Do you know Roy Ebsary or any member of his family?
- A. No, I don't.
10. Q. You are not related to any of the witnesses?
- A. No sir.
11. Q. Do you know any of the jurors who may sat on previous trials?
- A. No, I don't.
12. Q. Are you related to any police officers of the Sydney Police, do you know any of them?
- A. Well, I know there names but socially I don't know them.
13. Q. Do you feel you could approach the case objectively and decide solely on what you hear in court?
- A. Yes I can.
14. Q. Thank you, no more questions.

Mr. Wintermans: Again, I withdraw the challenge My Lord.

By the Court: So then this gentlemen can be sworn then.

Mr. Hugh Fraser sworn as a juror

Mr. Muggah: Peter Bren.

Mr. Wintermans: Challenge for cause My Lord.

Mr. Peter Bren duly sworn

Mr. Peter Bren examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Peter Bren, Sixty-seven Bay Street, Sydney.
2. Q. And you're retired?
A. Yes, I am.
3. Q. What was your former occupation?
A. I worked at Sysco.
4. Q. Pardon me?
A. Sysco.
5. Q. Doing what?
A. Crane operator.
6. Q. And you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes, I am.
7. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Read some accounts of the case.
8. Q. Where?
A. In the Cape Breton Post.
9. Q. And have you discussed this case with anyone?
A. No, I haven't.
10. Q. Have you expressed any opinions to anyone?
A. No. I never did.

Mr. Peter Bren examined by Mr. Wintermans

11. Q. Have you formed any opinions as to guilt or innocence?
- A. No. I haven't.
12. Q. Do you know any of the witnesses in this matter?
- A. No. I don't.
13. Q. Did you know Sandy Seale?
- A. No.
14. Q. Do you know any of his family?
- A. No. I don't.
15. Q. Do you know Roy Ebsary?
- A. No.
16. Q. Any members of his family?
- A. No.
17. Q. Do you know any jurors who sat on the previous trials in relation to this incident?
- A. No.
18. Q. Do you feel that you could approach your duties as a juror without any prejudice one way or the other?
- A. Yes, I can.
19. Q. And do you feel that you could make a finding on only the evidence that you hear in the courtroom?
- A. Yes.
20. Q. Put aside what you may have read or heard?
- A. Yes.
21. Q. In the past?
- A. Right.
22. Q. Thank you. So I will withdraw my challenge again.

Mr. Peter Bren examined by Mr. Wintermans

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Mr. Edwards: The Crown is content.

By the Court: Then this man will be sworn.

Peter Bren sworn as a juror.

Mr. Muggah: Charles Oldford, R.R. One, North Sydney, number eighteen.

By the Court: I guess the last, the first triers now become the last triers, Mr. Bren and Mr. Fraser, I believe. I think you'll have to be sworn again I guess.

Mr. Muggah: Peter Bren ...

By the Court: Well, wait has there been a challenge?

Mr. Wintermans: No, My Lord.

Mr. Edwards: I'm going to stand this man aside.

By the Court: So the stand asides, what is your wish on that? Ordinarily, they stand over there. All right?

Mr. Edwards: I would think so.

By the Court: All right. You can sit over there then, Mr. Oldford.

Mr. Muggah: Judith Townsend, number sixteen, R.R. One, North Sydney.

By the Court: You people can sit down, you don't have to stand up.

Mr. Muggah: Judith Townsend, R.R. One, North Sydney, number sixteen.

Mr. Wintermans: Challenge for cause.

Peter Bren sworn as a trier.

Hugh Fraser sworn as a trier.

Mrs. Judith Townsend duly sworn

Mrs. Judith Townsend examined by Mr. Wintermans

1. Q. Could you state your full name and address please?

A. Judith Ann Townsend, R.R. One, North Sydney.

2. Q. North Sydney?

A. R.R. One, North Sydney.

3. Q. I see. And where is that?

A. That's Edwardsville.

4. Q. Edwardsville.

A. Um-hmm.

5. Q. And you are a housewife, is that right?

A. Right.

6. Q. What does your husband do?

A. He's self-employed. He's a carpet layer.

7. Q. Carpet layer?

A. Um-hmm.

8. Q. And you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?

A. Yes.

9. Q. And have you read any accounts or seen anything on television or heard anything on the radio regarding this case?

A. Um-hmm, yes.

10. Q. You have?

A. Um-hmm.

11. Q. Have you discussed the case with anyone?
A. No, not really. Just what I read in the paper or had seen on the news.
12. Q. Do you feel that what you read in the paper may have some effect on...
A. No, I don't think so.
13. Q. On how you would decide the case?
A. No.
14. Q. Have you expressed your opinions, have you formed any opinion as to guilt or innocence...
A. No.
15. Q. Or who is telling the truth and who isn't?
A. No.
16. Q. Do you know or did you know Sandy Seale or any member of his family?
A. No.
17. Q. Did you know, do you know Roy Ebsary or any member of his family?
A. No.
18. Q. Do you know Donald Marshall Jr. or any member of his family?
A. No.
19. Q. You don't feel that anything that you ever heard is going to have any effect on your decision?
A. No, I don't think so.
20. Q. Do you think that you can put aside anything that you may have read or heard and only decide on the basis of what you hear in this courtroom and nothing else?

Mrs. Judith Townsend examined by Mr. Wintermans 43.

20. A. Yes. I think.

21. Q. Think you can do that?

A. Um-hmm.

22. Q. Do you feel that you can approach your duties as a juror without any prejudice to one side or the other?

A. Yes.

23. Q. Thank you. No more questions.

Mr. Edwards: No questions My Lord.

By the Court: Do you have any other witnesses?

Mr. Wintermans: No.

By the Court: Are there any witnesses on behalf of the Crown?

Mr. Edwards: No, Your Honour.

By the Court: Do you wish to speak to the matter?

Mr. Wintermans: My Lord, I'll withdraw the challenge.

Mr. Edwards: The Crown is content My Lord.

By the Court: This lady can be sworn then.

Mrs. Judith Townsend sworn as a juror

Mr. Muggah: Christine McCall, Marion Bridge, number thirty-nine.

By the Court: Mr. Bren, you're going to have to do it again. This'll be the last time. I think we're a little premature there's a...

Mr. Wintermans: I'll say I'm content My Lord.

Mr. Edwards: The Crown's standing this lady aside.

By the Court: All right. You'll have to be quicker on your feet gentlemen to get ahead of Mr. Muggah.

Mr. Muggah: William Wadden, Main-A-Dieu, number thirty-two.

Mr. Wintermans: Challenge for cause My Lord.

By the Court: All right.

Mr. William Wadden duly sworn

By the Court: Before we begin, I take it, Mr. Edwards that you know that at anytime any witness comes on you can accept or admit the challenge and the matter is over with.

Mr. Edwards: Oh, yes.

By the Court: Yeah, yeah. Right. So now we need triers of fact. So Mr. Bren and Mrs. Townsend.

Peter Bren sworn as a trier.

Mrs. Judith Townsend sworn as a trier

By the Court: Now before you went on your duties there, Mr. Bren has heard me say this before but Mrs. Townsend you have not. You are two triers of fact to determine whether this gentleman, Mr. Wadden, is an acceptable juror or not an acceptable. Whether he is impartial or not. The question you must determine upon the evidence you will hear will be based on that, as to whether there's partiality or not. So rather than, so I would ask you to listen to the evidence to determine whether the ground of challenge, that is of

By the Court:

partiality is true or isn't true. Whether he's an acceptable juror or not an acceptable juror. So you can now.

Mr. Wintermans: Thank you.

1. Q. Could you state your full name and address please?
A. William Terrance Wadden, Main-A-Dieu.
2. Q. You're a fisherman are you?
A. Yes.
3. Q. Are you working at the present time?
A. Yes.
4. Q. Are you missing work because you're here?
A. Well the forecast was bad for today, but if it was good I would have missed it.
5. Q. I see. So do you feel that that might have some effect on your ability to concentrate on the case and...
A. Well the weather is usually bad this time of year anyway.
6. Q. So you don't mind missing a few days work, do you, to serve on the jury?
A. No. That's right.
7. Q. Do you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale, do you?
A. Yes.
8. Q. And have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Seen it on t.v. and the radio.

9. Q. Have you read anything in the newspaper about it?
A. No, I don't think.
10. Q. You don't read the Cape Breton Post regularly?
A. Not very often, no.
11. Q. Have you discussed the case with any friends or relatives?
A. Just that we heard it on t.v. that's all.
12. Q. Have you formed any opinions as a result of what you heard?
A. No.
13. Q. Do you feel that you're already on one side or another in regard to the case?
A. No, I don't think so.
14. Q. Did you hear anything about the Donald Marshall case?
A. No. Just I heard he was released. I seen it on t.v. It was in Halifax there.
15. Q. Do you feel that would have any effect on your ability to be a fair and impartial juror?
A. I don't think.
16. Q. Do you know or are you related to any/witnesses in this matter?
A. No. I never heard of them before.
17. Q. Did you ever know Sandy Seale or any member of his family?
A. No.
18. Q. Roy Ebsary or any member of his family?
A. I don't know anybody by that name.
19. Q. Do you know any members of former juries in relation to this incident?

Mr. William Wadden examined by Mr. Wintermans

- 19. A. I don't believe so.
- 20. Q. Are you related to or do you know any members of the Sydney Police Force?
- A. No.
- 21. Q. Do you feel that you could put aside anything that you may have heard or read or heard, I should say, regarding this case and decide on the guilt or innocence of the accused solely on what you hear in this courtroom?
- A. Yes, I'd say.
- 22. Q. Would you approach your duties without any prejudice?
- A. Yes.
- 23. Q. No more questions. Thank you.

Mr. Edwards: I have no questions My Lord.

Mr. Wintermans: I'll withdraw the challenge again, My Lord.

Mr. Edwards: The Crown is content My Lord.

By the Court: This man may be sworn then.

Mr. William Wadden sworn as a juror

Mr. Muggah: Genevieve Allen, MacLeod Street, New Waterford, number one 0 five.

Mr. Wintermans: Challenge My Lord for cause.

Ms. Genevieve Allen duly sworn

By the Court: Mr. Wadden and Mrs. Townsend then you will be the triers to determine whether this lady will be a partial or impartial juror. She has been challenged as prospective jurors as is provided by

By the Court:

the Criminal Code on the grounds that she is not impartial, in other words, that she is prejudice one way or the other and would not a true verdict give according to the evidence if she were sworn as a juror in this trial. So your job will be to listen to whatever evidence is ... (Inaudible)... and determine whether the ground of challenge is true or not true, that is whether she is acceptable or not acceptable as a juror in this case. So I would ask now Mr. Wintermans... I guess, yeah, they should be sworn.

Mrs. Judith Townsend sworn as a trier.

Mr. William Wadden sworn as a trier.

Ms. Genevieve Allen duly sworn

Ms. Genevieve Allen examined by Mr. Wintermans

1. Q. Could you tell me your full name and address please?
A. Genevieve Allen, Thirty fifty MacLeod Street, New Waterford.
2. Q. Are you employed?
A. Yes.
3. Q. What kind of work do you do?
A. I'm a bookkeeper.
4. Q. Where?
A. At Maple Hill Manor in New Waterford.
5. Q. Where?
A. Maple Hill Manor.

Ms. Genevieve Allen examined by Mr. Wintermans

6. Q. What's that?

A. It's a home for the aged?

7. Q. And are you married?

A. Yes.

8. Q. What does your husband do?

A. I'm divorced.

9. Q. Oh, you're divorced are you? All right. And you're aware that Roy Ebsary is charged with the manslaughter of Sandy Seale?

A. Yes.

10. Q. Have you heard anything or read any accounts or seen anything on television, heard anything on the radio regarding this case?

A. A bit.

11. Q. A bit?

A. Um-hmm.

12. Q. Do you feel that what you heard may affect your ability to be objective and to decide the case solely on what you hear in court? In other words, do you think that what you read or heard may have some effect on the way you consider the...

A. Well, I didn't form an opinion on what I heard or what I read.

13. Q. You haven't. I see. Have you, sorry, do you know, did you know Sandy Seale or any member of his family?

A. No.

14. Q. Do you know Roy Ebsary or any member of his family?

A. No.

Ms. Genevieve Allen examined by Mr. Wintermans

15. Q. Do you know any of the witnesses in this matter?

A. No.

16. Q. Are you being paid while you're away from work?

A. Yes.

17. Q. So it's not causing you any financial hardship then to be here?

A. No.

18. Q. Do you feel that you could set aside everything that you've heard or read in the past and decide on the guilt or innocence of the accused solely on the evidence that you hear in court?

A. I think so.

19. Q. You think so?

A. Yes.

20. Q. Are you sure?

A. More sure than not sure.

21. Q. I see. Is there a doubt in your mind perhaps?

A. No.

22. Q. Do you feel that you could approach your duties as a juror without any prejudice?

A. Yes.

23. Q. Do you know any members of the Sydney Police Department?

A. No.

24. Q. Do you know any members of former juries that considered this case?

A. No.

25. Q. No. Okay. No more questions.

Mr. Edwards: Prepared to admit the challenge My Lord.

By the Court: All right. So therefore, there's nothing for you triers then to consider in this matter and the challenge is accepted and Miss Allen, you're now released until the ninth of November.

Mr. Muggah: Clifford Doucette, Duffell Drive, Sydney, number thirty-seven.

Mr. Edwards: Content, My Lord.

Mr. Wintermans: Stand aside please.

Mr. Muggah: Gerard LeBlanc, Sunnydale Drive, Westmount, number fourteen.

By the Court: Care to challenge?

Mr. Wintermans: Challenge for the cause My Lord.

Mr. Muggah: Mr. Wadden and Mrs. Townsend were already sworn as triers.

By the Court: Yes, they were already and they have heard my preliminary instructions as to the nature of this examination so I think now Mr. Wintermans, it's up to you.

Mr. Gerard LeBlanc duly sworn

Mr. Gerard Leblanc, examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
- A. Gerard Leo LeBlanc. There's a change in address, that's One Thirty-three Broadway, Sydney.
2. Q. In Sydney?
- A. Yeah. One Thirty-three Broadway.
3. Q. What's your occupation?
- A. Inspector at the Heavy Water Plant for Atomic Energy of Canada.

Mr. Gerard LeBlanc examined by Mr. Wintermans

4. Q. I see. Is that some sort of police type?
A. No. Quality control really of the plant.
5. Q. Um-hmm. I see. You understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes, I do.
6. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Yes, I have.
7. Q. Have you, what have you read?
A. Just probably more or less highlights. I knew it was involved, I knew it was coming up.
8. Q. I see.
A. That's about it.
9. Q. Did you see or hear or read anything concerning the Donald Marshall case?
A. Same thing. When he, I think when had come out of jail, I saw a thing on television, that was about all.
10. Q. Now have you formed any opinion as a result of what you heard or read?
A. No. No, I haven't.
11. Q. Did you know Sandy Seale or any members of his family?
A. I grew up in the Pier and he used to go to school down the Pier but I just knew of him. He was younger than I was, I didn't know him.
12. Q. Do you feel that that knowledge of him might have some effect on you as an objective juror?
A. I don't think so, no.

Mr. Gerard LeBlanc examined by Mr. Wintermans

13. Q. Do you feel that it might prejudice you against the accused?
- A. No, I don't.
14. Q. Would you know any members of his family, Sandy Seale?
- A. No, I don't.
15. Q. What about Donald Marshall Jr.? Did you know him?
- A. No, I didn't.
16. Q. Did you know any members of his family?
- A. No, I don't.
17. Q. Do you know Roy Ebsary or any members of his family?
- A. No. Just from the picture I saw of him, that's all.
18. Q. Picture you saw of what?
- A. Well, just the picture in the paper and I seen him in court today, that's all.
19. Q. So you haven't formed any opinions as to who's guilty and who's innocent or who's telling the truth and who isn't?
- A. Pardon?
20. Q. You haven't formed any opinions on guilt or innocence or truth or falsity?
- A. No.
21. Q. Do you know any other witnesses involved in this case?
- A. No. Not by the names I heard this morning, no.
22. Q. Do you know any members of the Sydney Police Force?
- A. I know one of the Detectives, Sergeant Roy Young.
23. Q. How do you know him?
- A. He used to board at our house many years ago. That's a long time ago. He comes down to the house maybe

Mr. Gerard LeBlanc examined by Mr. Wintermans

once every couple of weeks.

24. Q. Has he ever said anything about this case?

A. No he hasn't.

25. Q. Do you feel that your close tie with a member of the Sydney Police Force might have some affect on your ability to be objective?

A. I don't think so, it was never discussed so I don't think that would be of concern.

26. Q. You don't think it would make you lean one way or another?

A. No, he was just a friend of the family.

27. Q. Are you being paid when you are away from work?

A. Yes I am.

28. Q. Do you feel you could approach your duty as a juror without any prejudice?

A. I believe so, yes.

29. Q. Are you related or do you know any members of the former jurors involved in this case?

A. I didn't even hear who they were.

30. Q. No more questions.

Mr. Edwards: No questions My Lord.

By the Court: Do you have any other witnesses?

Mr. Wintermans: No.

By the Court: Do you wish to speak to the matter?

Mr. Wintermans: A couple of points, well one really, he had some knowledge of Sandy Seale, grew up in the same neighbourhood and also the point that his family

is friends with one of the police officers of the Sydney Police Force -- I'll leave that with you to decide whether perhaps that might at some later point may have some bearing one way or another and I would ask that you as judges of fellow jurors be very careful and make sure that there is absolutely no question as to any prejudice or (inaudible) one way or another.

Mr. Edwards: I would submit to both the triers that there is absolutely nothing in the testimony he has given to indicate any impartiality. He was very forthright that he did know Sandy Seale, they went to the same school, there is nothing in that that (inaudible) one way or the other. Also very forthright in admitting that he knew one of the police officers and I submit to you that he should be believed when he says that no time was this case ever discussed. Therefore, I submit to you that there is really nothing which should keep him off the board (inaudible).

By the Court: Well triers you must determine upon the evidence you just heard whether this juror stands indifferent that is, whether or not he is impartial or is prejudice. In other words, will he enter upon this case with an open unprejudiced mind. Almost everybody who has heard or read about the case has some opinion. This does not disqualify him from being a juror if you believe that he can give an honest verdict according to the evidence if he is sworn as a juror. So, you must decide

and your decision must be unanimous whether the juror is impartial or not, whether he is in your view acceptable or not acceptable. So, I will ask you now to retire, if you would, the jury room is right here and to consider the matter and to let us know your decision whether he is acceptable or not acceptable. You may be excused then Mr. LeBlanc until the ninth of November at nine thirty.

Mr. Muggah: Sarah Brophy, Tartan Drive Sydney, number seventy-one.

By the Court: Gentlemen, is there a challenge?

Mr. Wintermans: Yes, My Lord for cause.

Mr. Edwards: I admit the challenge.

By the Court: You admit the challenge?

Mr. Edwards: Yes.

By the Court: You then Ms. Brophy are excused to November ninth at nine thirty. Thank you very much.

Mr. Muggah: Rosalie MacMullin, Maple Street, River Ryan, number six.

By the Court: What's that number?

Mr. Muggah: Six.

Mr. Wintermans: Challenge for cause My Lord.

Rosale MacMullin duly sworn

Rosalie MacMullin examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Rosalie Winifred MacMullin, one hundred Maple Street, Scotchtown.
2. Q. That's Scotchtown in the New Waterford area?
A. New Waterford.
3. Q. What is your occupation?
A. Nurse's aid.
4. Q. Where do you work?
A. Spring Garden Villa.
5. Q. Where's that?
A. It's up on Argyle Street, nursing home.
6. Q. In Sydney here?
A. Yes.
7. Q. Are you married?
A. Yes.
8. Q. What does your husband do?
A. He is a Devco worker, a miner.
9. Q. A miner. Now, you're aware that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.
10. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. I haven't really paid that much attention, no.
11. Q. What about the Donald Marshall case, do you know anything about that?
A. Not really, no.

Rosalie MacMullin examined by Mr. Wintermans

12. Q. Have you heard anyone express any opinions as to guilt or innocence?
- A. No, no one has talked about it to me, anyway.
13. Q. Do you know any members of Sandy Seale's family?
- A. No.
14. Q. Donald Marshall's family?
- A. No.
15. Q. Or Roy Ebsary or his family?
- A. No.
16. Q. Do you know any of the witnesses in this matter?
- A. No.
17. Q. Do you know any members of the Sydney Police Force?
- A. No.
18. Q. Are you being paid if you are here?
- A. No.
19. Q. Are you losing money if you are on the jury?
- A. Well, it depends I work shift work, I can exchange shifts with other people.
20. Q. I see, so you could get around that problem?
- A. I think so.

Mr. Edwards: I admit the challenge at this point My Lord.

By the Court: Mrs. MacMullin you are excused and I will ask you to return November ninth at nine thirty in the morning.

Mr. Muggah: Margaret Kokocki, East Broadway, Sydney, number seventy.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Dolena O'Neil, Cabot Street, Sydney, number fifty-seven.

Mr. Wintermans: Challenge for cause My Lord.

Dolena O'Neil duly sworn

Dolena O'Neil examined by Mr. Wintermans

1. Q. Would you state your full name and address please?
A. Dolena Marie O'Neil, three-seven-seven Cabot Street.
2. Q. Where's that?
A. Sydney.
3. Q. Do you work?
A. Yes.
4. Q. What kind of work do you do?
A. I'm a cashier.
5. Q. Where?
A. Woolco.
6. Q. Whereabouts?
A. Sydney River.
7. Q. Are you married?
A. Yes.
8. Q. What does your husband do?
A. He's on a grant, a laid off steel worker on a grant right now.

Dolena O'Neil examined by Mr. Wintermans

9. Q. Now, you are aware that Roy Ebsary is charged with the manslaughter of Sandy Seale?
- A. Yes.
10. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
- A. Yes.
11. Q. Have you discussed the case with anyone?
- A. No, not really.
12. Q. Have you formed any opinions on the basis of what you have seen or heard or read?
- A. No.
13. Q. Have you heard about the Donald Marshall case?
- A. Yes.
14. Q. Do you feel you would have any prejudice or sympathy as a result of what you heard about that?
- A. No.
15. Q. Sure?
- A. Yeah.
16. Q. Have you ever known Sandy Seale or any member of his family?
- A. No.
17. Q. Do you know Roy Ebsary or any member of his family?
- A. No.
18. Q. Do you know any of the witnesses involved in this case?
- A. No.
19. Q. Do you know any people who were jurors in former trials?
- A. No.
20. Q. Do you know any members of the Sydney Police Department?
- A. One, yes, Dave Wilson.

Dolena O'Neil examined by Mr. Wintermans

21. Q. Dave Wilson, and how do you know him?
A. A friend of my husbands.
22. Q. Do you feel this relationship might cause you to lean in favour one way or the other in relation to this case?
A. No.
23. Q. Why do you say that?
A. I don't know him that well, I know of him, I met him before but I'm not personally involved or anything or that with him.
24. Q. Is he still a friend of your husband's?
A. Well, distant friend I should say.
25. Q. Any other members of the police force?
A. No, no.
26. Q. Are you being paid while you are serving as a juror?
A. From work you mean -- no, I only work nights.
27. Q. I see so this isn't going to affect your work then?
A. No, no, I hope not.

Mr. Edwards: I admit the challenge.

By the Court: Well Mrs. O'Neil you are excused until the ninth of November at nine thirty in the morning.

Mr. Wintermans: Excuse me My Lord, it's five after twelve, I am just wonder when Your Lordship...

By the Court: I usually go at twelve thirty and then come back at two.

Mr. Edwards: That's fine My Lord.

By the Court: What about Mr. Ebsary?

Mr. Wintermans: Well, the reason I brought that up was Mr. Ebsary a few minutes ago was not feeling too well, he

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is taking medication and is not too well anyway.

Mr. Muggah: Can he go for another twenty-five minutes.

By the Court: All right if there is any concern let me know.

Mr. Muggah: Willard Ball, R.R. One, North Sydney, number ten.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Donald MacQueen, Douglas Avenue Glace Bay, number eighty-one.

Mr. Wintermans: Challenge for cause My Lord.

Donald MacQueen duly sworn

Donald MacQueen examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Donald Robert MacQueen, thirty Douglas Avenue, Glace Bay.
2. Q. What do you do for a living?
A. Pattern maker, central shops.
3. Q. What's that?
A. They make wooden patterns for the foundry, the molds.
4. Q. What shop is that?
A. Central Devco Shops.
5. Q. I see. You understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.

Donald MacQueen examined by Mr. Wintermans

6. Q. Have you read any accounts or seen anything on television or heard anything on radio regarding this case?
A. Yes.
7. Q. Have you followed it in detail?
A. Not quite in detail.
8. Q. Do you read the Cape Breton Post?
A. Yes.
9. Q. Regularly?
A. Fairly regularly.
10. Q. Do you feel what has been stated in the newspaper is true?
A. I really don't know.
11. Q. Have you formed any opinions as to the guilt or innocence?
A. No, I can't say I have.
12. Q. Have you expressed any opinions with anyone else?
A. No.
13. Q. Have you discussed the case with anyone else?
A. No, not really.
14. Q. Do you know Sandy Seale or any members of his family?
A. No.
15. Q. Donald Marshall Junior or any members of his family?
A. No.
16. Q. Do you know Roy Ebsary or any members of his family?
A. No.
17. Q. Do you know any of the witnesses involved in this case?
A. No.
18. Q. Do you know any members of the Sydney Police Department?
A. A couple.

Donald MacQueen examined by Mr. Wintermans

19. Q. Who are they?
A. Sheldon MacLeod, Edgar MacLeod.
20. Q. How do you know them?
A. They grew up close to me.
21. Q. Do you feel that relationship may have some affect on your authority to be objective? Do you think you may lean in favour of the testimony of one witness or the other?
A. I don't see that, I don't see why.
22. Q. Are you getting paid while you are here?
A. Yes.
23. Q. Do you think you could approach your duties without any prejudice?
A. I would say so, yes.
24. Q. Are you related or do you know any jurors from former trials in this incident?
A. No.
25. Q. Do you think you could put aside, out of your mind, all the things that you may have read or heard about and decide the case solely on what you heard in this courtroom?
A. I would say so.
26. Q. No more questions.

Donald MacQueen examined by Mr. Edwards

1. Q. Have either of the MacLeod brothers ever discussed this case with you?
A. No.

Donald MacQueen examined by Mr. Edwards

2. Q. To your knowledge have either of them ever been involved in the case?

A. I wouldn't know, I'm not familiar with them really.

3. Q. Do you see either the MacLeod brothers socially now or do you just know them....

A. No, one lives across the street from me, but I don't socialize.

4. Q. Okay, no further questions.

By the Court: Do you have any other witnesses.

Mr. Wintermans: No, no.

Mr. Edwards: I'm not calling any witnesses.

By the Court: State your argument.

Mr. Wintermans: Once again, there's a question as to whether or not this person, if he were sitting as a juror, might be influenced one way or the other because of his association with members of the Police Department. I'll leave it with you to decide once again and once again I will caution you that we'll have to be very careful and there is absolutely no question of any (inaudible) ideas or prejudice coming into this case.

Mr. Edwards: I'll be content with whatever decision.

By the Court: Well, before you retire just to remind you what you must find in the unanimous way is whether or not this prospective juror is impartial or not and if you do find him to be impartial than you will find him as an

acceptable juror. If not, then you will find him not an acceptable juror. So then I will ask you to retire to the jury room and consider the matter if you will.

Mr. Muggah: Judith Townsend, William Wadden, have you reached a decision?

Judith Townsend: Not acceptable.

William Wadden: Not acceptable.

By the Court: Mr. MacQueen you are excused then you will not have to serve on the jury for this matter, but I will ask you to come back on the ninth of November at nine thirty when we are going to commence another trial.

Mr. Muggah: William Jefferson, R.R. Six, Poushal Avenue, Sydney, number twenty.

Mr. Wintermans: Challenge for cause My Lord.

William Jefferson duly sworn

William Jefferson examined by Mr. Wintermans

1. Q. Would you state your full name and address please?
A. William Horace Jefferson, Coxheath.
2. Q. What do you do for a living?
A. I work for VIA Rail, I'm a ticket agent.
3. Q. That's here in Sydney.
A. Sydney.

William Jefferson examined by Mr. Wintermans

4. Q. You understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.
5. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. At the time happened, I was living in the United States but within the last few months I have heard about it.
6. Q. Do you read the Cape Breton Post?
A. Yes.
7. Q. Did you read it quite extensively?
A. Yes.
8. Q. Did you read the accounts about the Donald Marshall case?
A. Not extensively, but I have read about it.
9. Q. Do you feel what you read there or what you may have heard would have some effect on your decision?
A. No I do not.
10. Q. Do you feel that you could put that all out of your mind and decide solely on what you hear in this courtroom?
A. Yes I do.
11. Q. Have you formed any opinions one way or another on the basis of what you heard?
A. No, I have not.
12. Q. Do you know Roy Ebsary or any member of his family?
A. No, I do not.
13. Q. Have you known Sandy Seale or any member of his family?
A. No, I do not.

William Jefferson examined by Mr. Wintermans

14. Q. Or Donald Marshall and his family?
A. No.
15. Q. Do you any of the witnesses involved in this matter?
A. No, I do not.
16. Q. Do you know any members of the Sydney Police Force?
A. No, I do not.
17. Q. Do you know anybody who was a juror on previous trials into this incident?
A. No, I do not.
18. Q. Are you being paid while you are not at work?
A. Yes, I will be. Well, today is my day off but if I am selected I will be paid.
19. Q. So, you have one of the good employment contracts. Do you think you could approach your job as a juror without any prejudice?
A. Yes I do.
20. Q. No more questions.

Mr. Edwards: I have no questions My Lord.

By the Court: No more witnesses from either one.

Mr. Wintermans: No more witnesses.

By the Court: Do you wish to argue the point?

Mr. Wintermans: Perhaps I'll just state that having heard the answers to the questions posed can you on the balance of probability say that this person will try the accused without favouring one side or the other.

Mr. Edwards: I have no (inaudible).

By the Court: Well, again, as I have advised you before you have to consider whether this witness is impartial or partial, prejudice that is. So you will retire, if you will, again, and consider whether this witness on that basis is acceptable or not acceptable as a juror in this case.

Mr. Muggah: Judith Townsend and William Wadden have you reached a decision?

Judith Townsend: Acceptable.

William Wadden: Acceptable.

Mr. Wintermans: Content then My Lord.

Mr. Edwards: The Crown is content.

William Jefferson sworn as a juror

Mr. Muggah: Pius Trainor, R.R. One Louisbourg, number thirty-three.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

By the Court: Well, perhaps one more.

Mr. Muggah: Florence MacDonald, MacArthur's Lane, Sydney, number ninety-seven.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

By the Court: Well, I wonder, it's close enough to the time and I think what we better do is adjourn until two o'clock and we've completed half the work and then ladies and gentlemen who have been stood aside, I'll

ask you to be back at two o'clock and this is where you will be sitting and the jurors who have already been picked will be coming in here and the panel--what was the practise last time, did they come back when court resumed?

Mr. Muggah: Just when called.

By the Court: I think they better come in now because I'm going to have to adjourn. The poor people, they're earning their pay today.

Well the ranks are thinning but there is still a goodly number here. Ladies and gentlemen of the panel I advised those in the courtroom that we will be adjourning until two o'clock. We have picked as you can probably see half of the Petit Jury. We will start at two o'clock to attempt to choose the other half. When you return, I think you are going to have to stay outdoors and follow the same procedure; that is, within hailing distance of the doorway but outside the courtroom and one by one you will be called in to be considered as a juror in this case. I want to thank you for your infinite patience. It's a procedure we have to go through and I thank you for your cooperation and I ask you for your continued cooperation. So, the court will then adjourn until one thirty, two o'clock, I'm sorry.

Court Adjourns.

Mr. Muggah: Gerard Sampson, Castle Drive, number fifty-six.

By the Court: Number fifty-six did you say.

Mr. Muggah: Gerard Sampson, Castle Drive, Sydney River.

Mr. Wintermans: Challenge for cause My Lord.

Gerard Sampson duly sworn

By the Court: Well we may have one new trier who hasn't, in fact.....

Mr. Muggah: Mr. Jefferson and Mr. Wadden.

By the Court: Perhaps you could swear the first.

William Jefferson sworn as a trier

William Wadden sworn as a trier

By the Court: Now, Mr. Sampson has been challenged as a prospective juror as you heard. There is a provision for that in the Criminal Code and the ground upon which he is challenging this man is that he is not indifferent between the Queen and the accused, in effect, what he is saying is that he is not impartial. In other words, he is prejudice one way or another and would not a true verdict give according to the evidence if he were sworn as a juror of the trial. So, your task gentlemen as one of you least knows is listen to the evidence as it comes out and determine whether the ground of challenge is true or not and whether this man will be an acceptable juror or not.

Gerard Sampson examined by Mr. Wintermans

1. Q. Would you state your full name please?
A. Gerard Sampson, sixty Castle Drive, Sydney.
2. Q. Your occupation?
A. I'm a sales manager.
3. Q. Where?
A. Ramsay's Honda, Sydney.
4. Q. That's a car dealership?
A. Right.
5. Q. Do you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Right.
6. Q. Have you read any accounts or seen anything on television or heard anything on radio regarding this case?
A. A bit, not too much.
7. Q. And have you discussed the case with anyone, friends or relatives?
A. No.
8. Q. Have you formed any opinions as a result of what you may have read or heard?
A. No.
9. Q. Do you know Roy Newman Ebsary or his family?
A. No.
10. Q. Did you know Sandy Seale or any members of his family?
A. His father, I know his father.
11. Q. How do you know his father?
A. Through business.

Gerard Sampson examined by Mr. Wintermans

12. Q. Do you know Donald Marshall and his family?

A. I know his father, yes.

13. Q. No more questions.

By the Court: Mr. Sampson, you are therefore excused from serving on any jury in this matter, but I would ask you to come back November the ninth at nine thirty when another jury will be chosen.

A. Fine, thank you.

Mr. Muggah: Donald J. Garnier, R.R. 4 Sydney, number forty-four.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Ann Martinello, Union Street Sydney, number sixty-three.

Mr. Wintermans: Challenge for cause My Lord.

Ann Martinello duly sworn

By the Court: I think these gentlemen had sufficient from me so you may continue.

Ann Martinello examined by Mr. Wintermans

1. Q. Could you state your full name and address please?

A. My phone number and address?

2. Q. No, no, your full name and address?

A. Ann Martinello.

Ann Martinello examined by Mr. Wintermans

3. Q. Your address?
A. Four-one-seven Union Street, Sydney.
4. Q. Are you employed?
A. Yes.
5. Q. Where.
A. Saint Rita's Hospital. I have the T.V. rental in there.
6. Q. Are you married?
A. Yes.
7. Q. Is your husband employed also?
A. No, he is ill. He is in a nursing home right now.
8. Q. What type of work did he use to do?
A. He was a steel worker.
9. Q. Now, you understand that my client, Roy Ebsary, is charged with the manslaughter of Sandy Seale?
A. Yes.
10. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Yes, I guess like the ordinary citizen, I didn't follow it up much.
11. Q. Did you read the newspaper accounts in the Cape Breton Post?
A. Yes.
12. Q. Have you discussed the case with anyone?
A. No, I would just read it, I never did dwell on it.
13. Q. Have you formed any opinions as a result of what you have read?
A. No.

Ann Martinello examined by Mr. Wintermans

14. Q. Has anyone ever expressed an opinion to you?
A. No.
15. Q. Do you know Roy Ebsary or his family?
A. No.
16. Q. Sandy Seale or his family?
A. No.
17. Q. Do you know any of the witnesses involved in this matter?
A. I don't think so.
18. Q. Do you know any members of the Sydney Police Department?
A. No.

By the Court: As we continue, I'm giving thought to that question as we continue. I don't know how relevant it is from your point of view, it doesn't seem to be in the face of it, you are claiming impartiality because of the publicity. Now, if you feel that somebody is prejudiced for some other reason then I think you ought to let me know that rather than fish.

Mr. Wintermans: Perhaps using the word publicity in its widest meaning, you know, perhaps if there was discussions, it's the kind of case that I know a lot of people have expressed various opinions, in my circle at least, and perhaps if the juror associates with someone on the police department they may have been told certain things or whatever that may affect their association.

By the Court: I don't know how that's different from

Ann Martinello examined by Mr. Wintermans

any criminal case. I will leave it with you because
I certainly permitted you to question/ⁱⁿthat manner before
and I'm not going to stop you now.

19. Q Did you know any jurors who served on previous trials
in relation to this case?
- A. No, I never did.
20. Q. Now, are you aware of the Donald Marshall case?
- A. Yes, whatever I read in the Cape Breton Post, not that
much.
21. Q. Do you feel that whatever you read or heard concerning
that will have any bearing on your ability to/^{be}objective
and decide this case solely on what you hear in the
courtroom?
- A. No, just probably what I hear courtroom, probably
I could decide -- no, not from what I read in the paper,
I couldn't judge anything.
22. Q. You don't feel that would have any affect on you?
- A. No.
23. Q. You think you can approach your duties as a juror without
any prejudice?
- A. Yes.
24. Q. Do you think you could try this case without favouring
one side or the other?
- A. Yes, I would try.
25. Q. Thank you.

Mr. Edwards: I have no questions My Lord.

By the Court: Any other witnesses from either of you?

Mr. Wintermans: No.

By the Court: Do you wish to argue the matter?

Mr. Wintermans: Well gentlemen you have to decide whether or not based on what you heard if you feel that this juror could try the accused without favouring one side or the other and without basing the decision on what she might have read or heard about and it's very important that the trial be decided simply on the evidence that the court (inaudible) and not on what might have been said to a person out of the courtroom or what she has read in the papers. So, I'll leave it with you and I emphasize that it's very important that we have jurors who are not going to be influenced-- there is no question at all that (inaudible) influenced by what they may have read or heard and I will leave that with you to decide.

Mr. Edwards: I have no submission My Lord.

By the Court: Gentlemen, you now must determine upon the evidence you heard whether this juror or prospective juror stands indifferent. That is, whether or not she is impartial or is prejudiced. In other words, will she enter upon this case with an open and unprejudiced mind. Almost everybody who has heard or read about this case has some opinion, This does not of itself disqualify him or her from being a juror if you believe that she in this case can give an honest verdict according to the evidence, if she is sworn as a juro

So, you must decide and your decision must be unanimous whether Mrs. Martinello is impartial or not. Whether she is in your view acceptable or not acceptable as a juror. So, I will ask you both if you would to retire to the jury room to my right and to discuss the matter and when you are ready to come back in.

Mr. Muggah: William Wadden, William Jefferson, have you reached a decision?

Mr. Wadden & Mr. Jefferson: Yes we have.

Mr. Muggah: What is your decision?

Mr. Wadden & Mr. Jefferson: Acceptable.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Content.

By the Court: This juror may be sworn then.

Ann Martinello sworn as a juror

Mr. Muggah: Fred Snow, Donkin, number ninety-five.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Pamela Durnford, South Bentick Street, Sydney, number fifty.

Mr. Wintermans: Challenge for cause My Lord.

Pamela Durnford duly sworn

By the Court: Mrs. Martinello you've been added to a body of people who decide on other people as to whether they should be sworn or not. Most of these others have gone through the same routine so I will just outline to you what you have to consider. Now, Mrs. Pamela Durnford has been challenged as a prospective juror which is a procedure provided for in the Criminal Code on the ground she is not indifferent between the Queen and the accused and in affect it is alleged that she is not impartial or in other words that she is prejudiced one way or another and would not give a true verdict according to the evidence that will be produced at the trial if she were sworn as a juror at the trial. So, your task along with Mr. Jefferson will be to make that determination to listen to the evidence, whatever comes out and to decide whether this lady is acceptable or not acceptable as a juror. Now, Mr. Wintermans will be asking some questions.

Mr. Wintermans: Don't we have to swear her -- Mrs. Martinello?

By the Court: I'm sorry.

Ann Martinello duly sworn as trier

Pamela Durnford examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
- A. Pamela Durnford, one-o-two South Bentick Street.

Pamela Durnford examined by Mr. Wintermans

2. Q. That's in Sydney?
A. Yes it is.
3. Q. Your occupation?
A. I'm a secretary.
4. Q. For who?
A. University College of Cape Breton.
5. Q. Are you married?
A. Yes I am.
6. Q. What does your husband do?
A. He's a student.
7. Q. At the College of Cape Breton?
A. At the College, yes.
8. Q. And you understand that my client, Roy Ebsary, is charged with manslaughter of Sandy Seale?
A. Yes.
9. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Not in any great detail.
10. Q. Do you read the Cape Breton Post?
A. Not that often.
11. Q. Have you formed any opinion one way or another?
A. No.
12. Q. Have you discussed the case with anyone?
A. No.
13. Q. Have you expressed any opinions?
A. No.

Pamela Durnford examined by Mr. Wintermans

14. Q. Have you heard anyone else express any opinions?
A. No.
15. Q. Do you know Roy Ebsary or his family?
A. No.
16. Q. Do you know the family of Sandy Seale?
A. No.
17. Q. Do you know Donald Marshall?
A. No.
18. Q. Have you ever heard of Donald Marshall?
A. Just on the radio.
19. Q. Did you feel that what you have heard about him may have some affect on your ability to be a fair juror?
A. No.
20. Q. Do you think it might make you feel sorry for him?
A. No.
21. Q. Do you know any of the other witnesses involved in this matter?
A. No.
22. Q. Do you know any members of the Sydney Police Department?
A. No.
23. Q. Are you paid if you are here as a juror?
A. Yes.
24. Q. Do you feel that you could approach your duties as a juror without any prejudice entering into it.
A. Yes.
25. Q. Do you know any jurors who served on previous trials in relation to this incident?
A. No.

Pamela Durnford examined by Mr. Wintermans

26. Q. I withdraw my challenge.

Mr. Edwards: The Crown is content with this witness
My Lord.

By the Court: Then Mrs. Durnford can be sworn then.

Pamela Durnford sworn as a juror

Mr. Muggah: Paul Finn, Waterford Lake, number eight.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Neil MacKinnon, Meadows Road, one-o-seven.

Mr. Wintermans: There is a provision under section
five fifty-seven (a) that prosecutor or an accused is
entitled to any number of challenges on the ground
that a name of a juror does not appear on the panel.

By the Court: That's true, except that he was on the
panel when this matter began.

Mr. Wintermans: I see, he wasn't on my list.

By the Court: He wasn't on anybody's list, but I
noted that Mr. Muggah raised the point at the beginning
and maybe you, I thought you were paying attention, and
I noted it was added to this list by the prosecutor
Mr. Edwards. I'm not sure whether the list means the
list when it should have gone out or whether there is
a list that we deal with when we are here. Now, if
you wish to make a challenge on that on that ground....

Mr. Wintermans: I just thought I would raise it.

By the Court: I'll challenge for cause then under section (b).

Mr. Edwards: To remove any doubt My Lord, I'll stand aside.

By the Court: That's Neil MacKinnon, isn't it.

Mr. Muggah: Neil MacKinnon, number one-o-seven.

Mr. Muggah: Harvey Jeans, Kenwood Drive, Sydney, twenty-six.

Mr. Wintermans: Challenge for cause My Lord.

Harvey Jeans duly sworn

By the Court: Mrs. Durnford and Mrs. Martinello you will both now be triers of fact to determine whether this gentlemen, Mr. Jeans, is impartial or otherwise and he has been challenged as you heard as a prospective juror and in affect it is alleged that he is not impartial, that he is prejudiced one way or another and would not give a true verdict. So, your part is to listen to the evidence which will come out and determine whether the ground of challenge is true or not true. That is whether he would be an acceptable juror, an impartial juror or not. So, with that I'll ask the last one to be sworn.

Pamela Durnford sworn as a trier

Harvey Jeans examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Harvey Jeans, ninety-eight Kenwood Drive, Sydney River, Nova Scotia.
2. Q. Your occupation?
A. Store manager for Sobey's stores, North Sydney.
3. Q. And you are aware of the fact that Roy Ebsary is charged with the manslaughter of Sandy Seale.
A. Yes I am.
4. Q. Have you read any accounts or seen anything on television or heard anything on radio regarding this case?
A. Probably just as much as everybody else has.
5. Q. Have you discussed the case with anyone?
A. No.
6. Q. Have you formed any opinions in relation to the incident as a result of what you read or heard?
A. Not really, no.
7. Q. Has anyone expressed any opinions to you?
A. Over the last few years I suppose, yes.
8. Q. Do you feel those opinions may affect you as a juror?
A. Possibly, yes.
9. Q. I'll admit the challenge.

By the Court: Mr. Jeans, that last question put you out of the picture--your answer I mean. So, you are excused as a possible juror in this case and I will ask you to return on the ninth of November of this year at nine thirty in the morning for jury selection in another trial.

Mr. Muggah: Peter Hanna, Saint Alban's Avenue, Sydney, eighty-nine.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Gerald Currie, Centerville Street, Reserve, forty-two.

Mr. Wintermans: Challenge for cause My Lord.

Gerald Currie duly sworn

Gerald Currie examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Gerald Eldrich Currie, Centerville Street, Reserve Mines.
2. Q. Your occupation?
A. Time keeper.
3. Q. Where?
A. Twenty-six, Devco.
4. Q. That's -- okay, and are you aware of the fact that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes sir.
5. Q. Have you read any accounts or seen anything on television concerning this case?
A. Well I saw a bit and I heard a bit, but not too much.
6. Q. Have you discussed the case with anyone?
A. Not really, no.

Gerald Currie examined by Mr. Wintermans

7. Q. What about the Donald Marshall case, are you familiar with that?
- A. Not really, I heard a bit about it; but I never read all that much about it.
8. Q. Do you feel that you formed any opinions as a result of what you may have read or heard?
- A. I don't think, no.
9. Q. Did you know Roy Ebsary or any member of his family?
- A. No.
10. Q. Did you know Sandy Seale?
- A. No.
11. Q. Do you know any member of his family?
- A. No, no.
12. Q. Do you know Donald Marshall or any member of his family?
- A. No.
13. Q. Do you know any of the witnesses involved in this case?
- A. No, I don't know any of them, no.
14. Q. Do you know any members of the Sydney Police Department?
- A. No.
15. Q. Do you know anyone who served on previous juries in relation to this matter?
- A. No, I don't know any.
16. Q. Are you paid when you are here sitting as a juror?
- A. Yes I am.
17. Q. Do you feel you could approach your duties without prejudice?
- A. I think so, yeah.

Mr. Wintermans: I have no more questions.

Mr. Edwards: I have no questions.

Mr. Wintermans: I'll withdraw my challenge.

Mr. Edwards: The Crown is content.

By the Court: This person may be sworn then.

Gerald Currie sworn as a juror

Mr. Muggah: Sheila MacInnis, International Street,
Glace Bay, ninety-one.

Mr. Wintermans: Challenge for Cause My Lord.
I'll withdraw that My Lord and say I'm content.

Mr. Edwards: Stand aside please.

Mr. Muggah: Patricia Miller, MacDougall Heights,
Sydney, twenty-eight.

Mr. Wintermans: Challenge for cause, My Lord.

Patricia Miller duly sworn

By the Court: Now, Mr. Currie, you are the new trier of fact in this twosome that must decide whether this lady is impartial or not as a prospective juror. The question you have to determine upon the evidence and only upon the evidence is whether or not this lady is impartial. She has been challenged for cause on the ground that she is impartial, that she is prejudiced one way or another and would not give a true

verdict if she were sworn as a juror in this trial. So, your job is to listen to the evidence that will come out and determine whether the ground of challenge is true or not true; that is, whether this lady is impartial or not impartial -- whether she is acceptable as a juror or not acceptable.

So, Mr. Wintermans you have some questions.

Gerald Currie sworn as a trier

Patricia Miller examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Patricia Elizabeth Miller, forty-five MacDougall Heights, Sydney River.
2. Q. Are you employed?
A. Not right now.
3. Q. Were you recently?
A. Yes I was.
4. Q. Doing what?
A. I was a bookkeeper.
5. Q. Where?
A. Miller Rentals.
6. Q. Are you married?
A. Yes I am.
7. Q. Is your husband employed?
A. Yes.
8. Q. What does he do?
A. He's a boom truck operator.

Patricia Miller examined by Mr. Wintermans

9. Q. Whereabouts?
A. Miller Rentals.
10. Q. Oh yes, your name is Pat Miller you must be part of the family, are you?
A. Yes.
By the Court: Whose family?
Mr. Wintermans: Miller, Miller Rentals.
By the Court: I was wondering if it was your family.
11. Q. I take it that it's a family business is it?
A. Yes it is.
12. Q. Do you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes I do.
13. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Well, I have read the papers.
14. Q. The Cape Breton Post?
A. Yes.
15. Q. Have you read any detailed accounts?
A. No.
16. Q. Have you read anything in relation to Donald Marshall?
A. Yes I have.
17. Q. Have you discussed that matter with anyone?
A. No, I have not.

Patricia Miller examined by Mr. Wintermans

18. Q. Have you formed any opinions as a result of what you may have read or heard?
- A. None whatsoever.
19. Q. Do you know Roy Ebsary or his family?
- A. No, I do not.
20. Q. Do you know Donald Marshall or his family?
- A. No.
21. Q. Did you know Sandy Seale?
- A. No.
22. Q. Do you know any members of his family?
- A. No.
23. Q. Do you know any witnesses connected with this case?
- A. No.
24. Q. Do you know any members of the Halifax Police Department -- sorry, Sydney Police Department?
- A. No.
25. Q. You don't know any members of the Sydney Police Department?
- A. No.
26. Q. Do you know any members of juries that considered this matter in the past?
- A. No.
27. Q. Do you ~~think~~ you could approach your duties as a juror without any prejudice?
- A. I do.
28. Q. Do you feel you could try this case without favouring one side or the other?
- A. Yes.

Patricia Miller examined by Mr. Wintermans

23. Q. And only decide on the guilt or innocence of the accused based on what you hear in this courtroom and nothing else.

A. Yes.

Mr. Wintermans: I'll withdraw my challenge My Lord.

Mr. Edwards: The Crown is content.

By the Court: Swear the juror then.

Patricia Miller sworn as a juror

Mr. Muggah: Owen Craig, Fairmount Street, Westmount, twelve.

Mr. Wintermans: Challenge for cause My Lord.

Owen Craig duly sworn

By the Court: I guess I've been following a little bit of wrong procedure. Perhaps we -- a little premature but the witness might just sit in the witness box. Two people have to decide whether you are impartial or not. Those two people are the last two people that ~~became~~ became jury members. I'll think what I'll ask you to do though is to swear first and then I'll speak to them, I think we've been doing it the wrong way. I don't think it matters that much.

Patricia Miller sworn as a trier

By the Court: Miss Miller and Mr. Currie you have been, you are now triers to determine whether this gentleman, Mr. Craig, is impartial or not. He has been challenged as a prospective juror on the ground that he is not indifferent as between the Queen and the accused. In effect, that it is alleged that he is not impartial that he is prejudiced one way or another and would not give a true verdict according to the evidence if he were sworn as a juror at this trial. So your task is to listen carefully to the evidence as it comes out and determine whether the ground of challenge is true or not, whether or not Mr. Craig is impartial or not impartial, whether he is acceptable or not. That's what you have to determine, whether he's acceptable or not acceptable as a juror. So Mr. Winterman I think has some questions of the witness.

Owen Craig examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Delbert Owen Craig, Westmount.
2. Q. That's in the Sydney area?
A. Yeah, across the harbour. Sixty-three Fairmount Street.
3. Q. I see. Right. And what's your occupation?
A. General Chemist, Sydney Steel Plant
4. Q. And are you aware that Roy Ebsary is charged with the manslaughter of Sandy Seale?

1. A. Only what I've read in the paper.
5. Q. Which leads me to my next question. Have you read any accounts or seen anything on television or heard anything on the radio regarding the case?
A. Just like everyone else. Not to remember anything specifically.
6. Q. Have you discussed the case with anyone, friends, relatives, associates?
A. Not really, no.
7. Q. Have you formed any opinions as to the guilt or innocence, the truth or falsity of any of the accounts of it?
A. I wouldn't say so, no. Because I don't take particular notice of it anyway.
8. Q. I see. Has anyone expressed any opinions to you concerning the case?
A. Not seriously.
9. Q. Do you feel that what you've heard or read will have any effect on your ability as a juror to decide only on what you hear in this court room and put aside what you may have read or heard outside of the court room?
A. I really don't know that much about it so I don't think I would be affected one way or the other.
10. Q. Do you know Roy Ebsary or any member of his family?
A. No.
11. Q. Did you know Sandy Seale?
A. No.

12. Q. Do you know any member of his family?

A. Not personally, no.

13. Q. What do you mean by that?

A. Well I know that he lived in Westmount, down the road. My wife teaches school and through that I know of the family. That's about it. I don't know them personally, just the fact that they are there.

14. Q. I see. Your wife is a school teacher is she and perhaps taught Sandy Seale at one time?

A. I don't believe, no. I don't believe.

15. Q. Do you feel that the fact that you might have been from roughly the same neighbourhood may have some effect on the way you look at the evidence in this case?

A. I don't think so, no.

16. Q. No more questions.

Mr. Edwards: I have no questions.

By the Court: Do you have any other witnesses, either one?

Mr. Edwards: No, Your Honor.

By the Court: Any arguments Mr. Wintermans?

Mr. Wintermans: Well Ladies and Gentleman, I would submit that there maybe some subconscious effect upon this juror. The fact that his wife may have had some knowledge of, or association with the alleged victim and his family in this case and that, as I've said before, we have to be very careful to make sure.

Mr. Wintermans:

that there's no question of any prejudice or leaning one way or the other with respect to each and every one of you. We've spent a lot of time carefully handpicking each of you because we thought that you would be totally objective and I'm just a little bit concerned that even though this person says that he can put that out of his mind that it may have some underlying effect on him and I'm asking you to consider that, that's all.

Mr. Edwards: It is my submission to you that there's absolutely nothing in what the man has said which would indicate a possibility of bias one way or the other. So I would submit that he is unbiased and should be accepted as a juror, however that decision is yours.

By the Court: Mrs. Miller and Mr. Currie, the question that you must determine upon the evidence which you very recently heard, is whether Mr. Craig does stand indifferent, that is, whether or not he is impartial or prejudiced. In other words, will he enter upon the case with an open unprejudiced mind? As I have told others in your place, almost everybody has heard or read about this case and has some opinion. This does not of itself disqualify him from being a juror if you believe that he can give an honest verdict according to the evidence if he is sworn as a juror. So you must decide and your decision must be unanimous whether this juror or prospective juror Mr. Craig is

By the Court:

impartial or not, whether in fact he is acceptable or not acceptable as a juror just like you. So I would ask you then to retire to this jury room to my right and to think and consider about the matter and when you're ready, return and let us know your thoughts.

Mr. Muggah: Gerald Currie, Patricia Miller, have you reached a decision?

Mr. Currie: Yes. We decided to accept him.

Mrs. Miller: Acceptable.

Mr. Wintermans: Challenge, My Lord.

By the Court: Well, you've been challenged peremptorily. That's a prerogative of the Defence, so you're excused Mr. Craig from Juror duty for this trial. But I would ask you to come back on the ninth of November at nine thirty to stand in line for the possibility of being chosen.

Mr. Currie: Thank you very much.

By the Court: You may be lucky.

Mr. Muggah: Maxine Currie, Patrick Street, Scotchtown, number five.

Mr. Wintermans: Challenge for cause My Lord.

Maxine Currie duly sworn.

Maxine Currie examined by Mr. Wintermans

1. Q. Could you state your full name and address please?

Maxine Currie examined by Mr. Wintermans

1. A. Maxine Currie, Thirty Patrick Street, Scotchtown.
2. Q. And are you employed?
A. No. Not right now.
3. Q. Were you?
A. Yes.
4. Q. As what?
A. I've been out of work since June.
5. Q. And what were you doing before that?
A. I worked in a store as a seamstress.
6. Q. I see. And are you married?
A. Yes.
7. Q. Is your husband employed?
A. Yes.
8. Q. What does he do?
A. He works for the Department of Highways.
9. Q. Doing what?
A. Construction.
10. Q. I see. And are you aware that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.
11. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Yes.
12. Q. Have you discussed the case with anyone?
A. No.
13. Q. Have you formed any opinions as to guilt or innocence?
A. I don't think.

Maxine Currie examined by Mr. Wintermans

Mr. Edwards: Crown is admitting the challenge My Lord.

Mr. Wintermans: Okay. ... (Inaudible).

By the Court: Well, that saves you from jury duty this time. I'll excuse you, Mrs. Currie until the ninth of November next at nine thirty at which time I would ask you to come back here and serve on the panel again.

Mrs. Currie: Thank you.

Mr. Muggah: David Gillis, Fatima Drive, Sydney, ninety-four.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside.

Mr. Muggah: Kenneth MacIntyre, Sydney Forks, One O Six.

Mr. Wintermans: What was that?

Mr. Muggah: Kenneth MacIntyre, One O Six.

Mr. Wintermans: I thought he was scratched. I have him scratched on my list.

By the Court: He's excused until November ninth.

Mr. Muggah: Oh, is he. I'm sorry.

By the Court: Oh, wait. I don't think you'll find him out there.

Mr. Muggah: Robert Fraser, R.R. Three, Sydney, number twenty-four.

Mr. Wintermans: Challenge for cause My Lord.

Robert Fraser duly sworn

Robert Fraser examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. R. P. Fraser, Robert P. Fraser, Rural Route Three,
Howie Centre.

2. Q. And what's your occupation?
A. I'm with Metropolitan Stores, General District
Manager, Eastern Canada.

3. Q. I see. Are you related to Hugh Fraser by any
chance?
A. I beg your pardon?

4. Q. Are you related to Hugh Fraser, the second person
in front here?
A. No.

5. Q. Okay.

By the Court: Lots of Frasers around I think.

Mr. Wintermans: That's true. That's true.

By the Court: Without being related to him.

6. Q. Now have you, we'll withdraw that. You understand
that Roy Ebsary is charged with the manslaughter of
Sandy Seale?

A. That's what I understand, yes.

7. Q. Have you read any accounts or seen anything on
television or heard anything on radio regarding
this case?

A. When it was active yes. Just smatterings of it.
Yes. I'm away most of the time. I'm out of the
city about two weeks of every month. But I recall

Robert Fraser examined by Mr. Wintermans

7. A. reading excerpts from the paper and there was news on it.
8. Q. What do you mean by it when you say excerpts in the paper?
- A. Well, I would say that publications are the press and what would come out in television release and looking at the news, just whatever would come across.
9. Q. Are you familiar with the Donald Marshall case?
- A. Not very familiar, no.
10. Q. Do you know what I'm talking about?
- A. Yes. I know what you're talking about. I know that he was ...
11. Q. Have you read any accounts in the paper about that?
- A. I likely have if it was in the local papers here. I believe I did, yes.
12. Q. Have you discussed the case with anyone? Friends, relatives, associates?
- A. No. It's never been a topic of conversation with me.
13. Q. And do you feel that what you've read and heard may have an effect on how you look at the case?
- A. No. I wouldn't say so. I didn't have that much interest in it, frankly.
14. Q. Do you know Roy Ebsary or any members of his family?
- A. No.
15. Q. Did you know Sandy Seale or any members of his family?

Robert Fraser examined by Mr. Wintermans

15. A. No.
16. Q. Do you know Donald Marshall or any members of his family?
- A. No.
17. Q. Do you know any of the witnesses involved in this matter?
- A. No. None of them.
18. Q. That you're aware of, I guess I should say.
- A. No.
19. Q. Do you know any members of the Sydney Police Department?
- A. I would recognize the Chief on the street. But I don't know any of them personally.
20. Q. And how would you describe your relationship then with the Chief?
- A. Oh, that I've seen him and he's been pointed out to me. I've never talked with him or never met him personally.
21. Q. I see. So you don't socialize with him?
- A. No. Never socialized with him.
22. Q. Because he is one of the witnesses, as I understand.
- A. Beg your pardon?
23. Q. If I tell you that he is one of the witnesses in this case, would that have any ...
- A. No. I happened to mention the Chief because he's, I've seen him, you know, in the city. He's picture's in the paper, but other than that I don't know him personally.

Robert Fraser examined by Mr. Wintermans

24. Q. Do you lose money when, if you're here serving as a juror?

A. Beg your pardon?

25. Q. Does it cost you money to be here as a juror?

A. It would if it was a length of time, yes.

26. Q. Do you feel that you could approach your duties as a juror without any prejudice?

A. Yes.

27. Q. Do you know any jurors who sat in previous trials into this...?

A. No. No association.

Mr. Edwards: Crown is prepared to admit the challenge Your Honour.

Mr. Wintermans: Thank you.

By the Court: That excuses you from this jury duty this time Mr. Fraser. So you're excused until the ninth of November at which time I'll hear any further applications you may have for exemption, but you're excused now.

Mr. Fraser: Thank you very much.

Mr. Muggah: Gregory Currie, Marborough Drive, Sydney, number fifty-two. _____

Mr. Wintermans: Challenge for cause My Lord.

Mr. Gregory Currie duly sworn

Mr. Gregory Currie examined by Mr. Wintermans

1. Q. Could you state your full name and address please?

Mr. Gregory Currie examined by Mr. Wintermans

1. A. Gregory Currie, twenty-six Marlborough Drive,
Sydney.
2. Q. And your occupation?
A. Civil servant.
3. Q. Doing what?
A. Revenue Canada Taxation.
4. Q. By any chance are you related to Gerald Currie,
who's on this jury?
A. No.
5. Q. You understand that Roy Ebsary is charged with the
manslaughter of Sandy Seale?
A. Yes.
5. Q. Have you read any accounts or seen anything on
television or heard anything on the radio regarding
this case?
A. Not recently no.
7. Q. Never?
A. In the papers when it was in the papers.
8. Q. Do you read the Cape Breton Post, for instance?
A. Yes.
9. Q. Do you read it carefully?
A. Ah, some days.
10. Q. Are you familiar with ~~the~~ Donald Marshall case?
A. Yes.
11. Q. Did you read accounts in the paper about that?
A. Yes.
12. Q. Have you discussed this case or the Donald Marshall
case with anyone ever?

Mr. Gregory Currie examined by Mr. Wintermans

12. A. Not to any degree.
13. Q. Have you formed any opinions in relation to this case or that case?
- A. No.
14. Q. Do you know any of the parties involved, the witnesses?
- A. No.
15. Q. The accused, their families?
- A. No.
16. Q. Do you know any members of the Sydney Police Department?
- A. Ah, no I don't.
17. Q. How about the R.C.M.P.?
- A. No. Not personally.
18. Q. Are you paid when you're serving as a juror?
- A. Yes. I'm regular salary.
19. Q. Do you know any jurors who sat in previous trials in relation to this?
- A. No, I don't.
20. Q. No more questions.

Mr. Edwards: No questions My Lord.

By the Court: No rebuttal witnesses. (Inaudible)... all the evidence. Well, Mrs. Miller then and Mr. Currie, I've already instructed you earlier on your duties now that you have the evidence. So I would ask you to retire again if you would to consider whether this gentleman is acceptable or not acceptable as a juror in your opinion. So would you...

Mr. Muggah: Gerald Currie, Patricia Miller, Have you reached a decision?

Mary Steele examined by Mr. Wintermans

5. Q. Does your husband work?
A. Yes. He does.
7. Q. What does he do?
A. He's the manager of the Nova Scotia Liquor Commission in New Waterford.
8. Q. And do you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes. I do.
9. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding the case?
A. Yes, I have.
10. Q. Have you discussed the case with anyone?
A. Not really.
11. Q. Have you formed any opinons on the basis of what you've heard and read?
A. Not really.
12. Q. No?
A. No.
13. Q. When you say, not really, what do you mean by that?
A. It's just that, it's been in the papers and naturally, if you don't get the Cape Breton Post everyday, you think you're going to miss something so you read it and that's as far as it goes.
14. Q. Are you familiar with the Donald Marshall case?
A. Just from the papers.
15. Q. And do you read the paper pretty much from cover to cover?

Mary Steele examined by Mr. Wintermans

15. A. It depends. I can go three or four days without reading it at all.
16. Q. But if there's something as interesting as Donald Marshall or Roy Ebsary?
- A. Actually, it's a matter of time. If I have time to read it I read it. If I don't I ...
17. Q. Did you read the lengthy account in relation to the Donald Marshall case?
- A. Yes. I did.
18. Q. Did you feel that might have some effect on your outlook on this case?
- A. I don't really think so.
19. Q. Have you formed any opinions with respect to Donald Marshall?
- A. To be honest I never thought about it.
20. Q. Have you formed any opinions with respect to Roy Ebsary?
- A. No.
21. Q. Do you feel sorry for Donald Marshall?
- A. In a way.
22. Q. No more questions.

Mr. Winters: I'll admit the challenge Your Honor.

By the Court: Now, Mrs. Steele, you are excused then from this trial and I would ask you to come back on the ninth of November at nine thirty in the morning if you will.

Mrs. Steele: Very good.

By the Court: Thank you very much.

Mr. Muggah: Joseph Lukeman, Dundee Drive, Sydney,
Number forty-three.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside.

By the Court: Stand aside.

Mr. Muggah: Stephen MacDonald, Esplanade, Sydney,
Number forty-nine.

Mr. Wintermans: Challenge for cause My Lord.

Stephen MacDonald duly sworn

Stephen MacDonald examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Stephen Leonard MacDonald, Five Six One Esplanade,
Sydney.
2. Q. And your occupation?
A. I'm retired.
3. Q. What did you do before...?
A. I was a salesman.
4. Q. For what?
A. Well I was actually a broker-salesman on my own.
Self-employed.
5. Q. I see. What types of sales?
A. Food products. You know such as...
6. Q. Pardon me?
A. Potato chips and snacks, you know.
7. Q. I see. Do you understand that Roy Ebsary is charged
with the manslaughter of Sandy Seale?
A. Yes.

Stephen MacDonald examined by Mr. Wintermans

8. Q. Have you read any accounts or seen anything on television or heard anything on radio regarding this case?
- A. Not really I have been aware of the case being on, but I can't say that I did any sort of reading on it.
9. Q. What about Donald Marshall Junior, are you familiar with that name?
- A. I'm familiar with that name, yes.
10. Q. Have you read anything about him?
- A. When he was released I did.
11. Q. Have you discussed this case or that case with anyone?
- A. I wouldn't say so, no.
12. Q. Have you formed any opinion?
- A. No I haven't.
13. Q. In relation to those people?
- A. No.
14. Q. Do you know Roy Ebsary or his family?
- A. No.
15. Q. Did you know Sandy Seale?
- A. No.
16. Q. Did you know his family?
- A. I knew the father.
17. Q. In what capacity?
- A. Well, he was a sportsman, the same as myself, and I was an opponent of his playing ball.
18. Q. Would you say that you are friends?
- A. Well, you know, if we meet we speak.
If I meet him on the street I say hi, you know.

Stephen MacDonald examined by Mr. Wintermans

19. Q. No more questions.

Mr. Edwards: I'll admit the challenge My Lord.

By the Court: Mr. MacDonald I'll excuse you to nine thirty, November ninth.

Mr. MacDonald: Thank you.

By the Court: Thank you for waiting around.

Mr. Muggah: Jean Peach, Peach Street, Port Morien, thirty-five.

Mr. Wintermans: Challenge for cause My Lord.

Jean Peach duly swornJean Peach examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Jean Shirley Peach, Port Morien.
2. Q. Are you employed?
A. Yes.
3. Q. As what?
A. Nurses Aid, Glace Bay General Hospital.
4. Q. And are you married?
A. No, I'm not.
5. Q. Do you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes I do.

Jean Peach examined by Mr. Wintermans

6. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
- A. Yes.
7. Q. Have you discussed the case with anyone?
- A. Not that I remember.
8. Q. Are you familiar with the name Donald Marshall Junior?
- A. Yes.
9. Q. Have you read anything or heard anything about him?
- A. Yes, I have.
10. Q. Have you discussed that with anyone?
- A. Uh Hmmm.
11. Q. Now, do you feel your knowledge of hearing or reading about these people may have some affect about the way you look at this case?
- A. It probably would.
12. Q. Thank you, no more questions.

Mr. Edwards: I'll admit the challenge.

By the Court: You are excused Miss Peach until the ninth of November, this year at nine thirty at which time I think choosing another jury.

Mr. Muggah: Clara MacKinnon, Manse Street, Glace Bay, number eighty.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

By the Court: It's just about halfway through what would ordinarily be an afternoon. I think it might be well to give those people who were involved in the procedure a break, including myself and you people. So, we'll adjourn for ten minutes.

Court Recesses

Mr. Muggah: Bryden MacKinnon, Marion Bridge, number thirty.

Mr. Wintermans: Challenge for cause My Lord.

Bryden MacKinnon duly sworn

Bryden MacKinnon examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. John Bryden MacKinnon.
2. Q. Your address?
A. Grand Mira.
3. Q. Are you employed?
A. Yes I am.
4. Q. What do you do?
A. I'm a store manager.
5. Q. Where?
A. Glace Bay.
6. Q. What store?
A. Town and Country.

Bryden MacKinnon examined by Mr. Wintermans

7. Q. You understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
- A. Yes I do.
8. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
- A. Quite a bit, yes.
9. Q. And what about the Donald Marshall case?
- A. I've followed that to.
10. Q. Do you feel that what you have read and heard concerning these matters may have some affect on how you look at this case?
- A. Do you mean would I have a formed opinion?
11. Q. Yes.
- A. Yes.
12. Q. You would?
- A. Yes.
13. Q. No more questions.

Mr. Edwards: Admit the challenge My Lord.

By the Court: You are excused Mr. MacKinnon until November the ninth at nine thirty at which time another jury will be picked for another matter. So, you are excused until then.

Mr. Muggah: William MacPherson, Reservoir Road, thirty-eight.

Mr. Wintermans: He's scratched on my list.

Mr. Edwards: He's excused.

Mr. Muggah: Judy Mackie, Gardiner Mines, forty-one.

Mr. Wintermans: Challenge for cause My Lord.

Judy Mackie duly sworn

Judy MacKie examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Judy Ann Mackie, R.R. One New Waterford, Gardiner Mines.
2. Q. I see. Are you employed?
A. Yes.
3. Q. Where?
A. Modern Building Cleaning.
4. Q. Are you married?
A. Uh Hmmm.
5. Q. Is your husband employed?
A. Yes.
6. Q. Where?
A. Bernie Murphy's Aluminum Siding, Glace Bay.
7. Q. Do you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes, I know that now.

Judy Mackie examined by Mr. Wintermans

8. Q. Have you read any accounts or seen anything on television or heard anything on radio regarding this case?
- A. No.
9. Q. Nothing?
- A. I never paid any attention to it.
10. Q. What about Donald Marshall Junior have you ever heard of him?
- A. No.
11. Q. Have you discussed these cases with anyone ever?
- A. No.
12. Q. Do you know Roy Ebsary or his family?
- A. No.
13. Q. Do you know any of the other parties involved, the witnesses?
- A. No.
14. Q. The alleged victim or his family?
- A. No.
15. Q. Do you know any members of the Sydney Police Department?
- A. No.
16. Q. Are you paid if you are here as a juror by your employer?
- A. No.
17. Q. So you are losing money as a result of being here?
- A. Uh Hmmm.
18. Q. Do you feel that you could approach your duties as a juror without any prejudice?
- A. Uh Hmmm.

Judy Mackie examined by Mr. Wintermans

19. Q. Do you know any jurors who served on the previous trials in relation to this incident?

A. No.

20. Q. No more questions.

Mr. Edwards: No questions My Lord.

By the Court: Any further evidence?

Mr. Edwards: None for the Crown.

Mr. Wintermans: I'm going to use one of my challenges.

By the Court: So you're going (inaudible) early challenge.

Mr. Wintermans: Yes.

By the Court: Well, Mrs. Mackie you are excused, but I will ask you to come back at nine thirty in the morning on November the ninth.

Mr. Muggah: David Latham, Glenda Crescent, Sydney, fifty-four.

Mr. Wintermans: Challenge for cause My Lord.

David Latham duly swornDavid Latham examined by Mr. Wintermans

1. Q. Could you state your full name and address please?

A. David George Latham, eighteen Glenda Crescent, Sydney.

2. Q. Your occupation?

A. Engineering assistant.

David Latham examined by Mr. Wintermans

3. Q. Where?
A. Nova Scotia Power.
4. Q. Are you aware that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.
5. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Yes.
6. Q. What about Donald Marshall Junior, are you familiar with that name?
A. Yes.
7. Q. Have you read anything or heard anything about him?
A. Yes.
8. Q. Have you discussed either of those matters with anyone else?
A. Yes.
9. Q. Do you feel that you have formed some opinion as a result of what you have read or heard?
A. I believe I have, yes.
10. Q. No more questions.

David Latham examined by Mr. Edwards

1. Q. The opinions that you hold are they tentative opinions or have you made up your mind as far as the case is concerned?
A. Tentative.

David Latham examined by Mr. Edwards

2. Q. Could you put those opinions out of your mind and judge the case solely on the basis of the evidence you hear in this courtroom?

A. Yes.

3. Q. Without any influence from anything you have heard outside?

A. I believe I could.

4. Q. No further questions.

By the Court: No further evidence.

Mr. Wintermans: Nothing arising out of that, no further evidence.

By the Court: Would you like to argue the matter?

Mr. Wintermans: Well, I think we have to make very sure that the jurors that we have who we have been trying very hard to pick very carefully ought to come into this trial/with as little by way of opinion, if possible.

And even that this person thinks he can decide on just what he hears in court/^{there maybe a question and}I ask that you be very careful in whom you feel is acceptable and not acceptable for the jury.

Mr. Edwards: I have no summation.

Mr. Muggah: Gerald Currie and Patricia Miller have you reached a decision?

Gerald Currie and Patricia Miller: Not acceptable.

By the Court: David Latham you are excused from jury duty for this trial, but I would ask you to come back on November ninth at nine thirty for possible further duty.

Mr. Muggah: Lloyd Murphy, Reserve Street, Glace Bay, seventy-six.

Mr. Wintermans: Acceptable.

Mr. Edwards: Stand aside please.

Mr. Muggah: Carl Grechuk, Columbus Street, Glace Bay, number seven.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Alfred Chiasson, Columbia Street, Sydney, number fifty-three.

Mr. Wintermans: Challenge for cause My Lord.

Alfred Chiasson duly sworn

Alfred Chiasson examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Alfred Chiasson, three twenty-seven Columbia Street, Sydney.
2. Q. Your occupation?
A. One of the senior administrators in the Cape Breton District School Board.

Alfred Chiasson examined by Mr. Wintermans

3. Q. And you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
- A. Yes I do.
4. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
- A. I have seen accounts in the newspapers.
5. Q. The Cape Breton Post?
- A. Probably the Cape Breton Post and the Halifax Herald on occasion.
6. Q. Are you aware of the Donald Marshall case?
- A. Yes I am.
7. Q. You have read accounts of that in the paper?
- A. Yes I have.
8. Q. And have you discussed either of these matters with any friends or relatives or associates?
- A. Yes I have.
9. Q. Have you formed any opinions as to the guilt or innocence or truth or falsity of the situation?
- A. Some.
10. Q. Do you know Roy Ebsary or his family?
- A. No, I don't.
11. Q. Did you know Sandy Seale?
- A. I knew his father, but I didn't know him.
12. Q. How did you know his father?
- A. From playing baseball.
13. Q. No more questions.

Mr. Edwards: I'll admit the challenge.

By the Court: Mr. Chiasson, you are excused from jury duty this time, but I'll ask you to come back in the morning on November ninth for further possible duty.

Mr. Muggah: Richard Mombourquette, Broadway Street, Sydney, number seventy-three.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Delores Burton, Grand Lake Road, Sydney, forty-six.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Jacklyn MacLennan, Casey's Lane, Glace Bay, seventy-eight.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside please.

Mr. Muggah: Daniel Rigby, Lingan Raod, New Waterford, number three.

Mr. Wintermans: Challenge for cause My Lord.

Daniel Rigby duly sworn

Daniel Rigby examined by Mr. Wintermans

1. Q. State your full name and address please?
A. Daniel Rigby, R.R. One, Lingan.
2. Q. Where is that located?
A. New Waterford.
3. Q. Are you employed?
A. Self employed.
4. Q. Doing what?
A. Store-owner.
5. Q. What kind of store?
A. Meat market.
6. Q. You understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.
7. Q. Have you read any accounts, or seen anything on television or heard anything on the radio regarding this case?
A. I heard about it, I never read anything on it.
8. Q. I see. Have you heard of Donald Marshall Junior?
A. Heard of him.
9. Q. Have you read anything on him?
A. No.
10. Q. Have you discussed the matter then with friends?
A. No.
11. Q. Where did you hear about it?
A. Pardon.
12. Q. Where did you hear about it?
A. Radio, television.

Daniel Rigby examined by Mr. Wintermans

13. Q. Have you formed any opinions as to guilt or innocence?
- A. No.
14. Q. Do you know Roy Ebsary or his family?
- A. No.
15. Q. Do you know Donald Marshall or his family?
- A. No.
16. Q. Did you Sandy Seale or his family?
- A. No.
17. Q. Do you know any of the witnesses involved in this matter?
- A. No.
18. Q. Do you know any members of the Sydney Police Department?
- A. No.
19. Q. Do you know anybody who was a juror on previous trials in this matter?
- A. No.
20. Q. Are you losing money when you are here as a juror?
- A. That's right.
21. Q. You are -- do you think that would affect your ability to carefully consider?
- A. Well I work ten hours a ~~day~~, seven days a week.
22. Q. Does that bother you having to be a juror?
- A. Yeah.
23. Q. Do you feel that you might feel pressured in trying to decide too quickly?
- A. Well, my partner would have to work twenty-four hours a day, that's not too good.

Daniel Rigby examined by Mr. Wintermans

21. Q. No more questions.

Mr. Edwards: Challenge is admitted My Lord.

By the Court: Thank you very much you are excused Mr. Rigby and I'll ask you to come back on the ninth of November, this year. At that time time you may want to consider making an application to me for exemption from jury duty on the basis of what I just heard. You are excused until that time.

Mr. Muggah: Deborah Sauliner, Benson Drive, Sydney, fifty-five.

Mr. Wintermans: Challenge for cause My Lord.

Deborah Sauliner duly swornDeborah Sauliner examined by Mr. Wintermans

1. Q. Would you state your full name please?
A. Deborah Irene Sauliner, seventy-three Benson Drive, Sydney.
2. Q. Where's that?
A. Sydney.
3. Q. Are you employed?
A. No.
4. Q. Have you worked recently?
A. I'm a substitute teacher, but I haven't worked recently.
5. Q. Are you married?
A. Yes I am.

Deborah Sauliner examined by Mr. Wintermans

6. Q. Is your husband employed?
A. Yes he is.
7. Q. What does he do?
A. He is with the Canadian Armed Forces.
8. Q. I see, in what capacity?
A. He's a radar technician.
9. Q. You understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.
10. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
A. Yes.
11. Q. Have you heard of Donald Marshall Junior?
A. Yes.
12. Q. Have you read anything or heard anything about his situation?
A. Yes.
13. Q. Have you discussed these matters with anyone -- friends, relatives or associates?
A. Not really.
14. Q. Do you feel that you informed some opinion as a result of what you have read or heard?
A. No, I haven't.
15. Q. Do you feel any sympathy for any particular person as a result of what you may have read or heard?
A. No.

Deborah Sauliner examined by Mr. Wintermans

16. Q. Do you feel that you could serve as a juror without prejudice?
- A. Yes I do.
17. Q. Without considering what you have read or heard in the past?
- A. Yes.
18. Q. Do you know any of the parties involved, do you know Roy Ebsary?
- A. No, I don't.
19. Q. Do you know Donald Marshall or his family?
- A. No.
20. Q. Did you know Sandy Seale?
- A. I knew his sister years ago.
21. Q. Yes.
- A. His sister and I went to school together.
22. Q. When was that?
- A. Well from the time I started school in fifty-six until about sixty-six, but I haven't seen her since then.
23. Q. Do you feel your relationship with her might cause you to sympathize?
- A. No, we weren't close friends we were just acquaintances through school that was all.
24. Q. No more questions.

Mr. Edwards: I have no questions My Lord.

By the Court: There is no more evidence from either side.

Mr. Wintermans: No, I'll use another pre-emptory challenge My Lord.

By the Court: You are excused, but you must come back, if you will, on November the ninth at nine thirty.

Mr. Muggah: Joseph Gillis, Loyola Crescent, Sydney, number sixty-seven.

Mr. Wintermans: Challenge for cause, My Lord.

Joseph Gillis duly sworn

Joseph Gillis examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Joseph (inaudible) Gillis, thirty-five Loyola Crescent, Sydney.
2. Q. And your occupation?
A. School teacher and vice-principal of Riverview High School.
3. Q. And you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yes.
4. Q. Have you read any accounts or seen anything on television or have you heard anything on the radio regarding this?
A. I have read the paper, yes.
5. Q. What about Donald Marshall Junior, are you familiar with that name?
A. I heard the name, yes.

Joseph Gillis examined by Mr. Wintermans

6. Q. Have you read accounts and heard about his situation?
A. A bit over the years, yes.
7. Q. And have you discussed these matters with anyone?
A. Not really.
8. Q. Have you formed any opinions?
A. Not really, no.
9. Q. Do you know Roy Ebsary?
A. Not a bit, first time I saw him in my life was this morning.
10. Q. Any members of his family?
A. None.
11. Q. Did you know Sandy Seale?
A. Not a bit.
12. Q. Any members of his family?
A. Raymond is in our school, but I don't know him. He is in our school.
13. Q. Raymond?
A. Seale, his brother.
14. Q. Do you think that would have an affect on your.....
A. None whatsoever.
15. Q. What about Donald Marshall or his family?
A. Never set eyes on the person in my life.
16. Q. You don't know anyone in his family?
A. Don't know anyone in his family.
17. Q. Do you know anyone you believe to be a witness in this matter?
A. No.

Joseph Gillis examined by Mr. Wintermans

18. Q. Do you know any members of the Sydney Police Department on a personal basis?
- A. No, none. The Melski, Butch Melski. I know Butch Melski?
19. Q. In what capacity?
- A. He coached my son in atom hockey last year, he is also a cousin of my wife.
20. Q. Have you discussed this matter with him?
- A. Not a bit, no.
21. Q. Do you know anybody who sat on previous juries involving this incident?
- A. No.
22. Q. Do you feel that you could put out of your mind what you may have read or heard regarding this incident?
- A. I know I could.
23. Q. And decide the case without any prejudice?
- A. Yeah I go by facts.
24. Q. And put out of your mind anything you may have read or heard and only decide on the basis of what you heard in this courtroom and nothing else?
- A. I'm sure I could.
25. Q. No more questions.

Mr. Edwards: No questions My Lord.

By the Court: Do you wish to argue the matter?

Mr. Wintermans: No comment.

Mr. Edwards: I have no summations.

By the Court: Now,

Mr. Wintermans: Perhaps, I'll withdraw my challenge.

By the Court: What do you mean "perhaps"?

Mr. Wintermans: I will.

By the Court: We don't want to be tentative.

Mr. Wintermans: I will withdraw my challenge.

By the Court: This witness can be sworn as a juror.

Joseph Gillis sworn as a juror

Mr. Muggah: Peter Turnbull, R.R. Number Six Sydney, .
number nineteen.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside.

Mr. Muggah: Kenneth MacNeil, Bridgeport, Reserve,
ninety-eight.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside.

Mr. Muggah: John Hawley, David Street, River Ryan,
number four.

Mr. Wintermans: Content My Lord.

Mr. Edwards: Stand aside.

Mr. Muggah: Joseph C. Bishop, Columbia Street, Sydney,
number eighty-three.

Mr. Wintermans: Challenge for cause My Lord.

Joseph C. Bishop duly sworn

By the Court: I'll think we'll just swear the new trier of fact.

Joseph Gillis sworn as a trier

By the Court: Perhaps that came as sort of a surprise but that's what has been going on while you were absent, I should have advised you. But, you and the lady sitting to your left have the duty now to determine whether this man, Mr. Bishop, is partial or impartial. The defense attorney, Mr. Wintermans, has challenged him on the grounds that he is impartial, that he is prejudiced for some reason or other and it is for you to determine on the evidence that will come out whether you think he is right or not and you will have to -- so, listen carefully and reach a decision after the evidence. I will speak to you after the evidence is completed.

Joseph C. Bishop examined by Mr. Wintermans

1. Q. Could you state your full name and address please?
A. Joseph C. Bishop, one-five-six Columbia Street?
2. Q. Where's that?
A. Sydney.
3. Q. And your occupation?
A. Steel plant foreman.
4. Q. And you understand that Roy Ebsary is charged with the manslaughter of Sandy Seale?
A. Yeah.

Joseph C. Bishop examined by Mr. Wintermans

5. Q. Have you read any accounts or seen anything on television or heard anything on the radio regarding this case?
- A. Not that I paid too much attention to.
6. Q. What about Donald Marshall Junior, have you ever heard of him?
- A. Yes.
7. Q. Have you read anything or heard anything?
- A. Not really.
8. Q. Pardon me?
- A. Not really.
9. Q. Have you discussed these matters with anyone?
- A. No.
10. Q. Have you formed any opinion as to the guilt or innocence, truth or falsity?
- A. No.
11. Q. Do you know Roy Ebsary or his family?
- A. No.
12. Q. Do you know Donald Marshall or his family?
- A. No.
13. Q. Did you know Sandy Seale?
- A. No.
14. Q. Do you know his family? _____
- A. No.
15. Q. Do you know anyone you believe to be a witness in this matter?
- A. No.

Joseph C. Bishop examined by Mr. Wintermans

16. Q. Do you know any members of the Sydney Police Department on a personal basis?
- A. Not really, a few acquaintances.
17. Q. Like who?
- A. I don't even know his second name, what do you call him?
18. Q. In what capacity do you know him?
- A. Just to say hi.
19. Q. Have you ever discussed these matters with him?
- A. No.
20. Q. Are you being paid from work if you are here as a juror?
- A. Hopefully.
21. Q. Hopefully--do you think you could approach your duties as a juror without any prejudice?
- Do you think you could put aside from your mind anything you may have heard or read concerning this case?
- A. Yes.
22. Q. And decide the case only on what you hear in this courtroom?
- A. Yes.
23. Q. Do you know any jurors who sat on former trials in relation to this incident?
- A. No.
24. Q. Do you feel that you could try this case without favouring one side or the other?
- A. Yes.

Joseph C. Bishop examined by Mr. Wintermans

25. Q. No more questions, I'll withdraw my challenge. I will withdraw my challenge.

By the Court: Clerk, swear this man.

Mr. Edwards: The Crown is content My Lord.

Joseph C. Bishop sworn as a juror

By the Court: Ladies and gentlemen of the jury it's been a long day and we have taken a long time, a relatively long time, to choose you from a large panel of jurors but now you have been selected and you do form a jury to try the accused Mr. Ebsary. The first task I am going to ask you to perform to choose a foreman or forelady or foreperson whatever you wish to call it from among yourselves and since the hour is late I think what I will do is ask you to retire when we adjourn court to this room out here and maybe at that time choose a foreman and then you can just retreat from there to your homes and then come back fresh tomorrow at nine thirty. Ordinarily there would be (inaudible) about don't talk about this case to anybody, but you haven't heard any evidence yet so I will leave that until tomorrow. So I will ask that court be adjourned now until nine thirty.

Mr. Edwards: I think My Lord we should have the balance of the panel brought in and instructed in regards to the ninth.

By the Court: Well, there can't be too many, but there must be some.

Yes, you might just ask the balance of the panel to return for just a moment.

Gentlemen, can I see you in my chambers immediately after adjournment just for a minute or two.

You people must have felt, all day, out of things. You still nevertheless weren't part of the procedure and the system that governs jury trial. I now just want to advise you that you are about to adjourn we have picked a jury and you are released, but you are only released until nine thirty on November the ninth. I would ask you to come back at that time to again stand as panel members from which a jury will be chosen for another case. So, we can then adjourn and the jury will choose a foreman before they leave and then tomorrow advise us who that person is.

Court Adjourns.

C E R T I F I C A T E

I, Ruth McNeil, of Sydney, in the County of Cape Breton, Province of Nova Scotia, certify that the transcript of evidence hereto annexed is a true and accurate transcript of evidence given at Sydney, in the County of Cape Breton, Province of Nova Scotia in this matter of Her Majesty the Queen and Roy Newman Ebsary, recorded on tape, taken down in shorthand by Mrs. B. Munroe, transcribed and checked by me.

Ruth McNeil

Sydney, Nova Scotia

April 10, 1984