

I N D E X

VOLUME 12

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PAGE

SUBJECT

RCMP2 9

CASE No.

C O P Y

May 30, 1971 - 5:15 P.M.

Statement of Maynard Vincent Chant - age 15 yrs., residing at Main St. Louisburg, C.B.

Friday night I was in town and I left the Bus Terminal on Bentinck St. about 11:40 P.M. I walked down Bentinck St. I came over Byng Ave. and started to cross the tracks. I got half way across the tracks - first I seen 2 fellows walking and 2 more were walking kind of slow talking. The 2 fellows who stabbed Donald Marshall and Sandy Seale - they talked for a few minutes over on Crescent St. One fellow hauled a knife from his pocket and he stabbed one of the fellow - so I took off back across the tracks to Byng Ave. and started to walk towards the bus terminal. Then I seen Donald Marshall coming down. I turned around and started to walk the other way. Donald caught up to me and said look what they did to me. He showed me a long cut on his left arm. Then he said help me - my Buddy is over on the other side of the park with a knife in his stomach. Then we started to look for more help. We met some boys and girls - one of the girls gave Donald a handkerchief - we got a car to take us over to where Seale was lying on the pavement. I took my shirt and put it around his waist and Donald went to a grey house and asked the man if he would call an ambulance.

About ten minutes later, I went up and asked the man in the house to call again and I knelt down beside Sandy Seale and he said it was hot. I unbuttoned his jacket. I then discovered his stomach was cut. I took my shirt and put it where the cut was and made him comfortable. Then the police arrived. They called for the ambulance. He was taken to the hospital.

Q. Did you know those other 2 men

A. No

Q. Did you know Donald Marshall

A. I knew him to see him

Q. Did you know Sandy Seale

A. no

Q. Could you give me a description of these other men

A. one man about 6'2 - light brown hair; dark pants; suit coat - over 200 lbs. the other fellow 6' tall - dark pants; dark hair - 165 lbs.

Q. Did you see their faces

A. No

Q. Would they be young or old

A. I was not that handy

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## CONTINUATION REPORT

RCMP 29

AGE

SUBJECT

CASE No.

page 2 - continued - statement of Maynard Vincent Chant -----

Q. Was there just 4 men there

A. Yes

Q. Did you see any knife

A. Yes it was a figure of a knife

Q. How far away would you be

A. 45 ft. or more down the tracks

Q. Could you tell if Marshall was drinking

A. I would not say he was

Signed: Maynard Chant

time 5:35 P.M.

Sergt. Det. J.F. MacIntyre

SUBJECT

CASE No.

COPY

June 4, 1971 - 2:55 P.M.

Statement of Maynard Vincent Chant, age 14 yrs., residing at Main St., Louisburg, C.B.

Last Friday night after 11:30 P.M., I left the Acadian Lines on Bentinck St. and walked down Bentinck St. to the tracks. Then I started down the tracks towards George St. I noticed a dark haired fellow sort of hiding in the bushes about opp. the second house on Crescent St.

Q. Did you know him.

A. No. I did not know his name but I seen him before out at the dances in Louisburg

Q. Did you see him since

A. Sunday afternoon at the Police Office in Sydney. I walked by this fellow on the track. I looked back to see what he was looking at. Then I saw 2 fellows standing about 1 1/2 ft. from each other on Crescent St. near the house with the railing up the middle of the steps. The same house which I called the police from. An old man with grey hair & glasses answered the door

Q. Were they the same size

A. One was taller than the other

Q. Which one was facing you

A. Short dark fellow was facing the tracks

Q. The taller man was facing the houses

Q. At this pt. did you recognize either of these men

A. The only man I recognized was Marshall

Q. What was he wearing

A. Dark pants and I think a yellow shirt with the sleeves up to the elbows. I wish to say that when he was arguing I mean Donald Marshall with the other men his sleeves were down to his wrist at that time.

SUBJECT

CASE No.

continued - page 2-----

Q. How long were you on the tracks watching them

A. About 5 minutes

Q. Could you hear what they were talking about

A. No. I just heard a mumbling of swearing. I think Marshall was the one who was doing most of the swearing. Then I seen Marshall haul a knife from his pocket and jab the other fellow with it in the side of the stomach.

Q. What side

A The right side - I seen him jab it in and slit it down

Q. How could you tell it was a knife

A. By the figure of it - it was shiny and long

Q. What happened then.

A. When Marshall drove the knife in, Seale, he bent over. Then I ran toward George St. down the ~~xx~~ tracks. I went into the Park, through the Park; then up to George St.; crossed the tracks and then on to Byng Ave.-about 3 houses over I met Donald Marshall and he said look at my arm. It was his left arm; his sleeve was up. The cut was on the inside of his arm - it was not a deep cut and it was not bleeding at that time-until we caught up to 2 boys & 2 girls who were walking. Donald said could you help us. One of the fellows said what is wrong. Then he said look what they done to me.

Then the other guy said "who" and Donald Marshall said the 2 fellows. He said my buddy is on the other side of the Park with a knife in his stomach. They ~~they~~ said they would try and help us. At the time a car came along and Donald stopped it and we asked for help. They picked us up and drove to the other side of the Park and we stopped about 6 ft. away from Seale. At this time, Seale was lying on the opp. side of the street. Donald Marshall got out; came over near the body of Seale and stood there. There was another man came along and knelt by Seale and then went over to a house and called an ambulance. Then he came back and knelt along side of me about 5 minutes. I asked this dark haired fellow to look

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SUBJECT

CASE No.

continued - page 3-----

after Seale while I went up and called again. I forgot to state that the minute I got to Seale, I put my white shirt on his stomach. I said hold it and he mumbled. Police and ambulance arrived and he was taken to hospital.

Q. Did Donald Marshall call the police or ambulance at any time

A. No

Q. Did you

A. Yes, first at the house with the railing coming down the center of the steps

Q. Who was with you

A. Marshall stayed on the sidewalk

Q. Was there any other conversation between you and Marshall at that time

A. He said - there were 2 men - tall one had brown hair done the stabbing.

Q. This of course is not true

A. No

Q. Did he know you were over the tracks

A. No - he did not.

Signed: Maynard Chant

3:45 P.M.

By: Sergt. Det. John McIntyre

Sergt. Det. Wm. Urquhart.

SUBJECT

CASE No.

Mrs. Beulah Chant - mother

Lawrence Burke - Probation Officer  
Juvenile Court

Chief Wayne R. McGee

Urquhart and myself.

Q. How long have you known him?

A. About a year.

Q. What was he wearing?

A. A light jacket and dark pants.

Q. After this conversation you had with Mr. Marshall, what did you do?

A. I walked Patricia home.

Q. Where is her home?

A. 5 King's Road.

By Mr. Khatter

Q. Mr. Gushue, did you see anybody else in the park the time you were there, other than the other person?

A. Yes, I saw four of my friends, Gussie Dobbin.

Q. Where was he?

A. He was in the park, he was walking down by the bandshell and I asked him for a match.

Q. How long were you at the bandshell, what were you doing?

A. Just talking and I had a cigarette.

Q. Was there anybody else there besides your friend?

A. Robert Patterson.

Q. Was he sitting with you and your girl friend?

A. No, I seen him walking back and forth.

Raynard Vincent Chant

BY THE COURT

Q. How old are you?

A. Fourteen.

Q. What grade are you in?

A. Six.

Q. What school do you go to?

A. Louisbourg.

Q. You live in Louisbourg, do you?

A. Yes.

TESTIMONY  
JULY '71  
DMPRE 13

Q. Do you know what it is to take an Oath on the Bible?

A. Yes.

Q. What does it mean?

A. To tell the truth.

Q. What happens to people who don't tell the truth?

A. They commit perjury.

Q. And what happens to people who commit perjury?

A. They have to pay a fine.

Q. Besides paying a fine, what else can happen to them?

A. They can be sent to gaol.

Q. They can be sent to gaol anywhere else?

A. No.

Q. You are in Grade 6, how old are you, four teen, have you missed any grades?

A. Yes.

Q. How many, are you still in school?

A. Yes.

Q. And you know what it means to take an Oath then, do you?

A. Yes.

Q. What does it mean let us have it again?

A. To tell the whole truth and nothing but the truth.

Q. If you don't tell the truth?

A. You will be charged for perjury.

WITNESS SWORN

By Mr. MacNeil

Q. What is your full name Mr. Chant?

A. Maynard Vincent Chant.

Q. And you reside, where?

A. Louisbourg.

Q. And how old are you?

A. Fourteen (14).

DMPRE 13

5

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Q. And were you in the City of Sydney on the evening of the 28th day of May, 1971?

A. Yes I was.

Q. What day of the week was that?

A. Friday.

Q. And where were you, I don't want to know all your activities, say about half past eleven on the evening of the 28th of May, 1971?

A. I had just come from the bus terminal and I was going down towards the park area.

Q. Now where is the bus terminal?

A. I took the street just down from the bus terminal.

Q. You walked down?

A. Yes.

Q. What time of the night would this be?

A. I guess around 12.

Q. Where did you go?

A. I went across the bridge like two sides of the park join, sort of, and I walked down there and I walked down the tracks.

Q. And you walked down the railway tracks in what direction?

A. East.

Q. Toward what street?

A. George Street.

Q. And as you walked along the tracks what did you observe?

A. The first thing I noticed was a guy hunched over in the bushes watching something.

Q. Did you recognize that man?

A. Not at first but after I did.

DMPRE 13

Q. Can you identify him today?

A. Yes.

Q. Do you know his name today?

A. I don't think I can remember.

Q. Would you point him out to the Court, please.

Witness points to John Fratico

Q. Is that the man?

A. Yes.

Q. That is the man you saw behind the bush watching something?

10 A. Yes.

Q. In which direction was he looking?

A. He was looking down that way, he was looking towards the street.

Q. Do you know which street?

15 A. I think it was Crescent Street.

Q. What did you do?

A. I looked back to see what he was looking at, then I saw two guys talking to one another.

Q. And do you know who these two guys were?

20 A. I didn't know Sandy Seale at the time but I didn't recognize Donald Marshall at the time either, until afterwards.

Q. After what?

A. After what happened.

25 Q. Tell me, what did you see take place, if anything?

A. Well first, the only thing I saw, I saw them talking and I guess they were using kind of profane language.

Donald said something to the other fellow and the other fellow said something back to Donald and I saw Donald

30 haul a knife out of his pocket.

He ...

DMPRE 13

Q. That's Ronald Junior Marshall who you see in Court here today? Would you point him out to the Court please?

A. Witness points to the accused

Q. You saw him what?

A. Haul a knife out of his pocket,

Q. What, if anything did he do with that knife?

A. Drove it into the stomach of the other fellow.

Q. What?

A. He drove it in the stomach of the other fellow.

Q. What did the other fellow do?

A. Well I just saw him keel over and I ran.

Q. In which direction did you run?

A. I ran down toward George Street.

Q. Where did you go?

A. I cut across, I didn't go exactly toward George Street, there was a path on the other side of the tracks, the bridge like, I went up that path up that way towards the bus terminal again.

Q. Can you read a plan, sir?

A. Yes.

Q. I show you Exhibit K/1, sir, now do you see what that is?

A. Yes tracks ...

Q. Would you explain to his Honor, please?

Q. You ran down, where did you get on the tracks?

Witness points to plan. That's at the corner of the

tracks and Bentinck Street. And which direction did you walk down?

A. Down this way (points to plan)

Q. How far down did you walk when you saw this man behind the bush.

A. Right about here (points to plan)

Q. Did you stand behind him?

A. Behind the man.

DMPRE 13

- 36 -

Q. Yes?

A. I was about 35 feet down below him.

Q. You walked past him that is where you stopped and made your observations?

A. Yes sir.

Q. After the incident took place?

A. I ran down the tracks crossed the bridge and started to walk up there.

Q. The area designated as being a walk on this plan?

A. Yes.

Q. And you got up to where?

A. Up to about there, I was going to go up there and I saw Donald Marshall running this way.

Q. Running North on Bentinck Street down to Byng Avenue?

A. Yes.

Q. What did you do?

A. I turned around and started to walk the other way and he caught up to me, right around here?

Q. Is that the area of a house which is marked there as being M. Matheson.

A. Yes.

Q. What took place there?

A. He told me, he said, "look what they did to me."

Q. What did he show you? any after the shooting?

A. He showed me his arm.

Q. What did you observe about his arm if anything?

A. It had a long cut from his wrist up his arm to his elbow.

Q. And was there any blood from this cut? then and he used

A. Not right at that moment but after a few minutes it started to bleed.

He got into the car and drove over to Crescent

DMPRE 13

Q. What did he tell you?

A. He told me, first, "look what they did to me," and I said, who, and he said, "the two fellows over at the park," then he said, "my buddy is over at the park with a knife in his stomach".

Q. What was Donald Marshall wearing that night?

A. Well it looked like to me that he was wearing a yellow jacket with the sleeves rolled up.

Q. And did you know Donald Marshall before?

A. I knew him to see him.

Q. Could you remember, sir, how the sleeves were in his jacket when you first observed him over on Crescent Street?

A. They were shoved up like that, I think they were up to there

Q. Up to the elbows?

A. Yes.

Q. Tell me, did you observe, after the incident that you have described, which direction Mr. Marshall ran in?

A. In which direction?

Q. Yes?

A. Well, he ran toward Bentinck Street... toward Bentinck Street west, I guess.

Q. Toward the Street that you had walked down?

A. Yes that is the only way I saw him coming over.

Q. But did you see him running after the stabbing?

A. No.

Q. What took place on Crescent Street?

A. After when he told me, we started to walk up and we met two girls and two boys and he stopped them and he asked them for help, they said they would try to help, as they walked on by there was a car, Donald Marshall flegged down the car and we got in the car and drove over to Crescent Street.

DMPRE 13

Q. And do you know who the driver of that car was?

A. No.

Q. What happened when you got to Crescent Street?

A. I got out of the car and he got out of the car, we  
 rushed over to where the other fellow was laying and I  
 knelt down beside him and I had my shirt and I put it  
 to his stomach.

Q. Did he say anything to you?

A. The only words he was saying that he was going to die  
he was just mumbling every word out.

Q. Where was Donald Marshall while you were kneeling beside  
 the wounded man?

A. He was on this side of the street and Sandy was lying  
 facing down there and I was around his feet a little  
 farther, maybe, to the other side of the street.

Q. Did he come right up beside the body where you were  
 standing?

A. He walked around and I guess he went up to a house or  
 something, I don't know if it was him that went up to the  
 house, I am pretty sure it was him that went up to the  
 house and he called the ambulance.

BY THE COURT

You don't know that.

By Mr. MacNeil

Q. You don't know that?

A. Not really.

By Mr. MacNeil

Q. Then what took place?

A. After the police came, like he sort of flagged the  
police down when they were coming over Crescent Street and  
he told them what happened. They told him to get in the  
car and they phoned for an ambulance to come over and  
they took Marshall to the hospital.

DMPRE 13

Q. They took Marshall away from that area, did you accompany the vehicle?

A. No.

Q. Did you stay there until the ambulance arrived?

A. Yes.

Q. What happened then, when the ambulance arrived?

A. The ambulance arrived and like Sandy Seale tried to get over on his stomach and I didn't want to move him so I asked a couple of other fellows to help me move him over on his stomach so he was moved over on his stomach, the ambulance came they wrapped the blanket over him and put him on the stretcher.

Q. Did you recognize the man at this time?

A. No sir.

Q. You didn't know Sandy Seale before this evening?

A. No.

Q. Tell me, are you familiar with this area that this took place?

A. No.

Q. Do you know if there were any lights in the area?

A. Yes sir.

Q. How many?

A. Two, maybe three, I guess there was a street light, fifteen or twenty feet away from where there were standing at.

No questions by Defence

John Pratico, sworn

By Mr. MacNeil

Q. What is your full name, please?

A. John Lawrence Pratico.

Q. Where do you live?

A. 2021 Bentinck Street.

DMPRE 13

-67- MAYNARD CHANT, Dir. Exam.

THE COURT:

Are there any witnesses present?

MR. ROSENBLUM:

Your Lordship if you make a ruling that they should be excluded, it will be complied with.

THE COURT:

So made!

MAYNARD CHANT, testified as follows:

(10)

BY MR. MacNEIL: (Dir.Exam.)

Q. What is your full name, sir?

A. Maynard Vincent Chant.

Q. How old are you?

A. Fifteen.

Q. What grade are you in?

A. Seven.

Q. What school do you go to?

A. Louisbourg High School.

Q. Where do you reside at the present time? Where do you live?

(20)

A. Louisbourg.

Q. Were you in the city of Sydney on the evening of the 28th day of May, 1971?

A. Yes, I was.

Q. Where were you?

A. I just come from church.

Q. And come from church to where?

A. Went down the park - down the Pier, at that time to go on the bus with a fellow from Louisbourg. He was at another house so I walked around for a while down the Pier. Getting kind of late so I decided well I better go up and call for him and see if he was there. I went up and he already left

(30)

Q. What did you do?

A. I started out towards the bus terminal.

Q. What bus terminal?

A. Think it was Canadian Lines.

-38-MAYNARD CUNNET, Dir. Exam.

Q. Acadian Lines - do you know what street that's on in Sydney?

A. Bentinck Street.

Q. I see. You went to Acadian Lines bus terminal on what you believe to be Bentinck Street in the city of Sydney, County of Cape Breton, Province of Nova Scotia? What time of the day or night was this?

A. It was late at night.

(10) Q. Well what do you mean, late at night?

A. Well it was around twenty-five to twelve.

Q. Did you get your bus?

A. No I never.

Q. Speak up good and loud now.

A. No, I never.

Q. Why?

A. Because the bus had already left.

Q. What did you do then?

A. I started down - I started to go down Beacon Street toward  
(20) the park -

Q. Beacon Street?

A. The street on the - the bus terminal street.

Q. Bentinck Street?

A. Yes, Bentinck.

Q. Yes.

A. And I crossed across the bridge and started to walk down  
the tracks.

Q. The railway tracks?

A. The railroad tracks, yes.

(30) Q. Can you read a plan?

A. Yes sir.

Q. Now I'll show you this plan, exhibit 5 - would you stand before the jury. There's Bentinck Street, sir. Can you tell us where you proceeded on that evening?

A. Proceeded down Bentinck Street and up onto the tracks.

-89-MAYNARD CHART, Dir. Exam.

Q. That's down Bentinck Street in a southerly direction?

A. Yes.

Q. And you came to the railway tracks?

A. Yes.

Q. Then what did you do?

A. I started to proceed down the tracks.

Q. In what direction? There's north there, sir.

A. Northwest -

(10) Q. Look at that again.

A. There is north -

Q. Yes.

A. East -

Q. Yes, in an easterly direction?

A. Yes.

Q. You started to walk along the railway tracks?

A. Yes.

Q. Did you notice anything as you walked along the railway tracks?

(20) A. I noticed a fellow hunched over into a bush.

Q. Good and loud now.

A. I noticed a fellow hunched over into a bush.

Q. Where would that be on this plan?

A. Right there.

Q. You're pointing to a bush that is opposite a light -  
(The Court directs to mark plan with "X")

A. (Witness marks plan) (Shown to the Court and Jury)

Q. The bush that you have marked with the letter "X" is the tenth bush from Bentinck Street when counting in an easterly direction along the railway tracks? That is the bush in front - between the houses marked E.P. MacDonald and N.A. McQuinn. Is that correct, the tenth bush?

(30)

MR. ROSENBLUM:

I think the witness has to do the demonstrating, My Lord and give the evidence instead of my learned friend who I know is trying to be helpful.

-90- HAYWARD CHAMBER, Linn. 2007.  
 BY MR. MCGHEE:

Q. When you observed this man did you recognize him?

A. No sir.

Q. Beg your pardon?

A. No sir.

Q. What did you do?

A. Oh, I kept on walking down a little farther. I walked down a little farther and looked back to see what he was looking at. He was looking over towards the street. So I looked over and saw two people over there.

(10)

Q. Did you recognize either of these people?

A. No. And I guess they were having a bit of an argument.

Q. Why do you say that?

A. I don't have no reason why.

Q. Could you hear what they were saying?

A. No.

Q. What took place?

A. Well one fellow, I don't know, hauled something out of his pocket - anyway - maybe - I don't know what it was. He drew it towards the left side of the other fellow's stomach.

(20)

Q. What took place, when then?

A. Fellow heeled over and that's when I ran.

Q. You ran from the scene?

A. Yes sir.

Q. Can you describe these two men, what they were wearing?

A. The fellow what had heeled over, he had a dark jacket and pants and that on. The other fellow had, I thought it was a yellow shirt at first but after a while he caught up to me and it was a yellow jacket.

(30)

Q. Tell me, sir, before you ran from the scene did you recognize either of these two gentlemen?

A. No sir.

Q. Then what did you do?

A. I ran down the tracks and out across the path right onto - I don't know the name of the street - the street up from George Street - I started to walk up towards the bus terminal and I saw a fellow running towards me. I turned

-91- MAYNARD CHANT, Dir. Exam.

around and started to walk up the other way. He caught up to me and by that time I recognized him and it was a Marshall - Marshall fellow.

Q. Donald Marshall?

A. Donald Marshall.

Q. That's the accused in this case here. Do you see him in court here today?

A. Yes.

(10) Q. Would you point him out to the court please?

A. There.

Q. Let the record show the witness points to the accused. Whereabouts did he catch up to you?

A. I guess it was about two houses down, maybe three.

Q. Can you point out on exhibit 5 where he met you on Byng Avenue?

A. Right there.

Q. Around the area in which is noted what?

A. Red house, Mattson.

(20) Q. The area of the house shown as Mr. Mattson's on exhibit 5, on Byng Avenue. Now what took place there, sir?

A. He caught up to me and I stopped and waited. He said, "Look what they did to me." He showed me his arm. Had a cut on his arm and I said, "Who" and he told me there was two fellows over the park. By that time another couple, like two girls and two boys come along and he stopped them and asked them for their help, you know. They said, "What could we do to help?" and the girl gave him a handkerchief to put over his arm. He showed his arm and it was bleeding.

(30) So they kept on going. A car come along and he flagged that down -

Q. Who flagged it down?

A. Marshall. And we got in the car and drove over to where the fellow was at.

Q. Where was that fellow was at?

A. Over - the body on Crescent Street I guess and the fellow was at Crescent Street.

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MAXNARD CHANT, Dir. ENRIS.

Q. Was this where you had seen the action you had described earlier in your evidence?

A. Yes sir.

Q. About the two men that were there and then one man kneeling over and so on, this area in which this took place?

A. Yes sir.

Q. Were there any street lights in the area?

(10) A. There might have been one or two. I think at least one, as far as I know of.

Q. Tell me, did you recognise Mr. Marshall as being the man that you had -

MR. ROSENBLUM:

No, wait now. Have to be very careful here.

MR. MacNEIL:

All right, let's have a ruling.

THE COURT:

I won't say any more except to say, don't lead the witness. What do you say as to such and such -

(20)

MR. MacNEIL:

I'll try not to lead him, My Lord.

BY MR. MacNEIL:

Q. You say you recognized Donald Marshall on Byng Avenue when he come up and talked to you?

A. Yes.

Q. What was he wearing?

A. He was wearing at that time a yellow jacket and dark pair of pants.

Q. I show you exhibit No. 3, what is that, please?

(30)

A. It's a jacket that Marshall wore.

Q. Jacket that Marshall wore and what colour is it?

A. Yellow.

Q. When Marshall caught up to you on Byng Avenue - I'm sorry, did you give us what he said - "Look what they did to me" did he say anything else?

-93-

MAYNARD CHEST, Det. EMER.

A. He said that his buddy was over at the park with a knife in his stomach.

Q. Then you say, sir, that Marshall flagged down a car and you went where?

A. Over to Crescent Street on the other side of the park.

Q. Back to Crescent Street?

A. Yes.

Q. Is this in the area in which you marked an "X" on exhibit 5?

(10)

A. Yes.

Q. What did you find there?

A. There was fellow keeled over on the street, he was laying down on the street. It was on this here street on the side where the tracks was at.

Q. Tell me, how long would this be after you saw the man keeled over that you mentioned, before you ran from the scene? How much time would have passed?

A. About ten minutes, fifteen minutes.

(20)

Q. What did you do?

A. I got out of the car, ran over to where the fellow was lying on the ground and jumped down beside him.

Q. Did you recognize that man?

A. No sir.

Q. You didn't know him before?

A. No.

Q. What took place?

A. Well, Donald Marshall got out of the car and come over to the body and at that time, he stood there for a minute; another fellow come over - I don't know if he or the other fellow went up and called the ambulance -

(30)

Q. Where did Marshall go when he came back? Did he go near the body?

A. No.

Q. Where did he stand?

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MARSHALL CHASE, D.S. LEON.

A. He stood behind the body for a minute and then he flagged a cop car down.

Q. Was he standing in front of Seale as he lay on the ground or the man that was laying on the ground or behind him?

A. Behind him.

Q. Behind him?

A. Yes sir.

Q. And did he assist you with Mr. Seale in any way?

(10)

THE COURT:

Mr. MacNeil -

MR. MACNEIL:

I'm sorry, My Lord.

BY MR. MACNEIL:

Q. - the man who was laying on the street?

A. Not that I know of.

Q. And what took place?

A. Well after he flagged the car down, the police got out and went over by the body and Marshall - Donald Marshall showed

(20)

'em his arm. He got in the police car and they took him to the hospital. And by that time the ambulance had arrived and they took the fellow up and put him into a - wait now,

a -

Q. Speak up now.

A. A stretcher and put him in the back of the ambulance.

Q. And then?

A. Then I started to leave to go home.

Q. Did you go home?

(30)

A. I was on my way going home when a truck picked me up and give me a drive far as the dance hall - St. Joseph's dance hall. I got out and started to hitch-hike, started to walk up Woodward Hill when a police car come along and stopped and asked me what my problem was and I said - I just got in the car and they said, "Was you down the park?" and I said "Yes". And they -

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MAYNARD CHANT, Dir. Exam.

MR. ROSENBLUM:

What was that?

MR. MacNEIL:

"Were you down the park?" and he said "Yes".

BY MR. MacNEIL:

- (10) Q. No more conversation though about what took place between yourself and the officers. What did you do then?
- A. The officers drove me down to the hospital and they said, "Wait for a minute" and they went out and got another police officer - forget his name - he came over in the car and sit down with me and asked me -
- Q. No, no - he asked you -

THE COURT:

No conversation, just what you did.

BY MR. MacNEIL:

- (20) Q. And what did you do then?
- A. After that, two policemen drove me down to the police station and the police officer called my father for me and my father come in and picked me up.

3:25 P.M. COURT RECESSED TO 3:55 P.M.

3:55 P.M. JURY POLLED, ALL PRESENT

BY MR. MacNEIL:

- (30) Q. Now Mr. Chant, let us return to the evening in question, 28th day of May, 1971, you said that you started to walk down the railway tracks?
- A. Yes sir.
- Q. And you saw - what was the first thing you observed as you walked along the tracks?
- A. A fellow into the bushes hunched over.
- Q. Did you recognize that man?
- A. No sir.

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MAYNARD CRISP, JR. EXHIBIT.

Q. Had you seen him before?

A. I might have.

Q. Do you know his name today?

A. Yes.

Q. Tell me, as you went down the tracks you stopped to look over to see what he was observing.

A. Yes.

Q. Now you say at that time you did not recognize either of the parties?

(10)

MR. ROSENBLUM:

Excuse me, My Lord. With all deference, My Lord, to my learned friend and yourself, we have already had this, Your Lordship, in direct examination. I don't think Crown Counsel has the privilege of having the witness examined in chief twice. Now this is the position we're in at this moment, My Lord, and whether repetition or emphasis will make it any stronger on the part of the Crown case, I leave to Your Lordship. But I feel that he is re-examining on evidence already elicited by his direct examination previous to the adjournment or recess.

(20)

MR. MacNEILL:

If Your Lordship please, I refer you to page 34 of the transcript of the evidence of the Preliminary Hearing. This is what I am laying the groundwork for.

THE COURT:

Are you asking that this witness be declared hostile?

MR. MacNEILL:

Yes, My Lord. Not necessarily hostile but hostile it may be or the previously sworn testimony that he gave in the court below.

(30)

THE COURT:

Inconsistent?

MR. MacNEILL:

Definitely what he is saying here today.

MR. ROSENBLUM:

Now, My Lord, we better have the jury out.

3:58 P.M. JURY WITHDREW

-97- MAYNARD CHART, Dir. DALL. (VOYE DIRE)

MR. MacNEIL:

Now, My Lord, on page 33 of the transcript of evidence of the Preliminary Hearing of this witness, I will read over to you what he said -

"As you walked along the tracks, what did you observe?  
First thing I noticed was a guy hunched over the bush watching something.

(10) Did you recognize that man?  
Not at first but after I did.  
Can you identify him today?

Yes.

Do you know his name today?

I don't think I can remember.

Would you point him out to the court, please?

The witness points to John Pratico.

Is that the man?

Yes.

(20) That is the man you saw behind the bush watching something?  
Yes.

In which direction was he looking?

He was looking down that way. He was looking towards the street.

Do you know which street?

I think it was Crescent Street.

What did you do?

I looked back to see what he was looking at. Then I saw two guys talking to one another.

And do you know who these two guys were?

(30) I didn't know Sandy Seale at the time but I didn't recognize Donald Marshall at the time either until afterwards.

After what?

After what happened.

Tell me, what did you see take place if anything?

Well first, the only thing I saw - I saw them talking and I guess they were using kind of profane language. Donald said something to the other fellow and the other fellow said something back to Donald and I saw Donald haul out a knife out of his pocket.

(40) That's Donald Junior Marshall who you see in court here today?

Would you point him out to the court please?

The witness points to the accused.

You saw him what - haul a knife out of his pocket-

DR. ROSENBLUM:

Excuse me. Now direct Your Lordship's attention for the purpose of the record that the witness who is about to be impugned by my learned friend is on the witness stand listening to what my learned friend has to say. I just cast that to Your Lordship's attention and for the record.

-92- MAYNARD CHANT, Dir. Exam. (VOIR DIRE)

MR. MacNEIL:

- "The witness points to the accused.  
 You saw him what?-  
 Haul a knife out of his pocket.  
 What if anything did he do with the knife?  
 Drove it into the stomach of the other fellow.  
 What?  
 Drove it into the stomach of the other fellow.  
 (10) What did the other fellow do?  
 I just saw him keel over and I ran."

I'm submitting if Your Lordship pleases-

THE COURT:

Wherein is the inconsistency?

MR. MacNEIL:

- Well he said that he recognized the man behind the bush, that he had seen him before; that he didn't know his name but he recognized him and he pointed him out as being John Pratico. Then he also said that he saw Donald Marshall haul a knife out  
 (20) of his pocket which my recollection of the evidence is that he didn't say today - plunged it into the stomach of the other man

THE COURT:

Question him now. Is John Pratico in the court room now?

MR. MacNEIL:

No, he is excluded, My Lord.

THE COURT:

All right, you question him again about the questions you were starting to ask him when Mr. Rosenblum objected.

BY MR. MacNEIL:

- (30) Q. Now you say that you - I believe I know where to pick it up. You started to walk down the railway tracks and you noticed this man behind the bush?  
 A. Yes.  
 Q. Did you recognize that man?  
 A. No.  
 Q. Did you know him by sight?  
 A. The only time I knew him by sight was when he was up the post station that Sunday, that following day.

-99- MYNARD CHANT, Dir. Exam. (VOIR DIRE)

Q. All right now, as you stood there and watched these two men on Crescent Street, what did you see take place?

A. Saw two man arguing and one fellow hauled an object from his pocket.

Q. What was that object?

A. I'm not sure.

Q. And what did he do?

A. He drove it into the other fellow's stomach.

(10) BY THE COURT:

Q. Who was that man?

A. Pardon.

Q. Who was the man that hauled out the object and drove it-

A. Donald Marshall.

BY MR. MacNEIL:

Q. Pardon.

A. Donald Marshall.

THE COURT:

Did he say that before?

(20) MR. MacNEIL:

No, my Lord. He did not say that before. In his evidence he said he did not recognize him. I think in his evidence at the Preliminary Hearing of this inquiry he named Donald Marshall, the accused, and pointed him out to the court as the man who hauled a knife from his pocket and plunged it into the abdomen-

THE COURT:

What were you about to say, Witness?

WITNESS:

I didn't recognize him at that time but after I recognized him.

(30) BY THE COURT:

Q. After, when?

A. After when he met me on the other side of the street after I ran.

Q. You recognized him-

A. When he come up to me.

-100- MAYNARD CHANT, Dir. Exam. (VOIR DIRE)

Q. -as being Donald Marshall?

A. Yes.

Q. But more, what do you say about the man that you recognized as Donald Marshall and the person who you saw doing something hauling out something and putting it into the stomach of the other person: what do you say about that?

A. The only thing I know is-

(10) Q. Never mind - tell me, do you or don't you - what do you say as to who that person was?

A. I don't know who that person was.

Q. You say you don't know who the person was who pulled out the knife and stuck it in Seale's body?

A. No, I didn't.

BY MR. MacNEIL:

Q. And you don't even know now if it was a knife or not-

MR. ROSENBLUM:

This is cross-examination, my Lord!

THE COURT:

(20) Wait a moment!

Read me back again - did he say that Donald Marshall stuck the knife in the other man's body?

BY MR. MacNEIL:

"Tell me, what did you see take place if anything?

(Line 25, page 34)

Tell me, what did you see take place if anything?

Well first, the only thing I saw - I saw them talking and I guess they were using kind of profane language. Donald said something to the other fellow and the other fellow said something back to Donald and I saw Donald haul a knife out of his pocket.

That's Donald Junior Marshall who you see here in court to Yes.

Would you point him out to the court please?

The witness points out the accused.

You saw him what?

Haul a knife out of his pocket.

What if anything did he do with the knife?

Drove it into the stomach of the other fellow.

-101- MAYNARD CHANT, Dir. Exam. (VOIR DIRE)

"What?

He drove it into the stomach of the other fellow."

BY THE COURT:

Q. Did you say that in the court below?

A. Yes, I did.

Q. You said that?

A. Yes.

Q. What are you saying today?

(10) A. The only reason I knew his name, I mentioned his name because I knew his name - well, I knew who it was after, but up the police station there - I don't know how to put it.

Q. The man you saw afterwards you recognized as Donald Marsha

A. Yes.

Q. Did you see him do anything to the other man?

A. Yes.

Q. You did?

A. Yes.

Q. What did you see him do?

(20) A. I saw him haul an object out of his pocket and drive it into the stomach of the other man.

THE COURT:

That's what you say he didn't say earlier?

MR. MacNEIL:

That's right, my Lord. I'm saying that he said distinctly and clearly in his evidence, as far as I can read it in plain English.

"Well, at first the only thing I saw - I saw them talking and I guess they were using some kind of profane language. Donald said something to the other fellow and the other fellow said

(30) thing back to Donald and I saw Donald haul a knife from his pocket. Not an object, a knife! This is unquote-

MR. ROSENBLUM:

May it please Your Lordship, I must protect the rights of the accused by placing my objection on the record. We are now, my Lord, going through a proceeding in the absence of the jury

-102- MAYNARD CHELST, Dir. Exam. (VOIR DIRE)

whereby, with all deference, My Lord, and as respectfully as I can say it, you yourself have interrogated the witness; my learned friend has interrogated and cross-examined the witness; my learned friend has read out aloud in the presence of the witness the testimony in the court below and I say, my Lord that my learned friend's conduct at any rate, is now attempted to condition the witness for his testimony when the jury is brought back into this room. That's the position I want to have on the record.

(10)

THE COURT:

I have to satisfy myself, Mr. Rosenblum, if this witness in my opinion proves adverse - by leave of the court may prove that witness made at other times a statement inconsistent with his present testimony. Has he made a statement inconsistent with present testimony?

MR. ROSENBLUM:

Not in my opinion, no.

THE COURT:

(20) I regret that I defer you.

MR. ROSENBLUM:

Thank you.

THE COURT:

I will allow you to draw - in the presence of the jury when return - to draw the testimony that this witness gave in the court below, read it to him and then ask him if he said that if it is true. Bring back the jury.

( 4:06 P.M. JURY POLLED, ALL PRESENT )

-103- MAYNARD CHANT, Dir. Exam.

BY MR. MacNEIL:

Q. Do you recall, Mr. Chant, giving evidence at the Preliminary Hearing of this trial on Monday, July 5, 1971?

A. Yes.

Q. And do you remember being asked the following questions and answers: I refer to page 34 - line 16 -

Q. What did you do?

(10)

A. I looked back to see what he was looking at. Then saw two guys talking to one another.

Q. And do you know who these two guys were?

A. I didn't know Sandy Seals at the time but I didn't recognize Donald Marshall at the time either until afterwards.

Q. After what?

A. After what happened.

Q. Tell me, what did you see take place if anything?

(20)

A. Well first, the only thing I saw - I saw them talk and I guess they were using some - were using kind of profane language. Donald said something to the other fellow and the other fellow said something back to Donald and I saw Donald haul a knife out of his pocket.

Q. That's Donald Junior Marshall who you see in the courtroom here today? Would you point him out to the court please? (The witness points to the accused). You saw him haul a knife out of his pocket. What did he do with that knife?

A. Drove it into the stomach of the other fellow -"

MR. ROSENBLUM:

(30) My Lord, is he going to read four or five pages and ask the witness, "did you say all that", or is he going to take it piece-meal?

MR. MacNEIL:

I can do it either way. Do you want me to do it individually questions, My Lord?

THE COURT:

It is up to yourself.

MR. MacNEIL:

I will do it individual questions, then.

(40) BY MR. MacNEIL:

Q. Do you recall giving evidence to the following questions that I am going to read to you -

-104- MAYNARD CHEST, DEN. EXHIB.

"Q. What did you do?

A. I looked back to see what he was looking at and then I saw two guys talking to one another."

Do you remember giving that evidence?

A. Yes.

Q. And do you remember the question,

"And do you know who these two guys were?

(10) A. I didn't know Sandy Seale at the time, but I didn't recognize Donald Marshall at the time until afterwards."

Do you remember that?

A. Yes.

Q. Yes.

"Q. After what?

A. After what happened."

Do you remember saying that?

A. Yes.

Q. Do you remember the question,

(20) "Tell me, what did you see take place if anything?" and following answer, "Well first the only thing I saw - I saw them talking and I guess they were using kind of profane language. Donald said something to the other fellow and other fellow said something back to Donald and I saw Donald haul a knife out of his pocket."

Do you remember giving that evidence?

A. Yes.

Q. Is it true?

A. Yes.

(30) Q. All right now, do you recall the following question: "That's Donald Junior Marshall who you see in court today. Would you point out to the court, please. (A witness points to the accused.)"

Do you remember doing that?

A. Yes.

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MAYNARD CHANT, Dir. Exam.

Q. And then the question was,

"You saw him what?"

A. Haul a knife out of his pocket."

Do you remember that question and that answer?

A. Yes.

Q. And is it true?

A. Yes.

(10)

Q. "Q. What if anything did he do with the knife?"

A. Drove it into the stomach of the other fellow."

Do you remember giving that -

A. Yes.

Q. - question and answer?

"What?"

He drove it into the stomach of the other fellow."

Do you remember that question and answer?

A. Yes.

Q. Is it true?

A. Yes.

(20)

Q. "Q. What did the other fellow do?"

A. Well I just saw him keel over and I ran."

Do you remember that question and answer?

A. Yes.

Q. Is it true?

A. Yes.

MR. ROSENELOH:

Now My Lord, has Your Lordship declared the witness to be adverse or hostile?

THE COURT:

(30)

I gave the Crown permission to do exactly what he has done.

-106- MAYNARD CHANT, Dir. EXAM.

MR. ROSENBLUM:

Well is this cross-examination, My Lord or not? I would like to have a ruling, My Lord, as to whether or not the witness has been declared to be hostile or adverse as the case may be so that I'll know how to treat the witness myself.

THE COURT:

(10) I would not have permitted Mr. MacNeil to read these questions if I did not in my opinion consider that by his contradiction, by his contradiction, from the evidence that he gave previously with the evidence that he gave in the court below that to that extent he was adverse and I gave leave to the Crown to prove that the witness made at other times a statement inconsistent with the testimony he gave this afternoon, but before such last mentioned proof can be given, circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or

(20) not he did make such a statement. And that's my ruling!

MR. ROSENBLUM:

Thank you.

THE COURT:

Any further questions?

MR. MACNEIL:

No further questions, My Lord.

BY MR. ROSENBLUM: (CROSS-EXAM.)

Q. Now Mr. Chant, you're fifteen years of age. You'll have to speak up because the jury have to hear you as well as His

(30) Lordship. And you're in grade seven?

A. Yes.

Q. Did you miss any grades in school or have to repeat any grades?

A. I repeated grade six and grade two and I think grade five.

-107- MAYNARD CHANT, CROSS-Exam.

- Q. So out of the seven grades that you're in, you repeated three grades, two, five and six?
- A. Yes.
- Q. What school is it that you've been going to?
- A. High school at Louisbourg.
- Q. I thought that the high school was for higher grades. Perhaps I'm wrong. It was in my day.
- A. The junior high -
- (10) Q. Oh, yes. Were you in grade six last year?
- A. Yes.
- Q. For the second time?
- A. I got promoted from grade six this year into grade seven.
- Q. Yes, but you had been repeating grade six?
- A. Yes.
- Q. Now, do I understand you to say - and anything that I ask you that you don't understand, don't answer me until you ask me again, will you. I want you to be sure of what I'm asking you?
- (20) A. Yes.
- Q. Now take your hand down. That's better. Now do I understand you to say that you recognized Donald Marshall when you met him on Byng Avenue as you were going toward George Street to try and get a lift to Louisbourg; is that correct is that what you're saying?
- A. Well -
- Q. Is that what you're saying?
- A. I don't understand.
- Q. Good, I'll ask you again. You met up with this man here,
- (30) Donald Marshall, Jr., when you were heading for George Street to try and get a lift to Louisbourg; is that right? Did you?
- A. After what happened?
- Q. Yes.
- A. Not - well I headed for the bus terminal.

-103- MARYLENE CHANT, Cross-Exam.

- Q. Well where did you meet Donald Marshall after whatever you saw?
- A. I saw him coming - running over the bridge and I turned around and started to walk -
- Q. Where did you meet Donald Marshall?
- A. On -
- Q. Where did you meet him? You said you met him. You flagged down a car. You drove with him.
- (10) A. I don't know the street. Well you go down the street from the bus terminal and you turn off, the street towards George Street - it's on that street there -
- Q. Let me show you the plan because I think you told my learned friend that you can read a plan. Take the plan. You show us the street where it was that you met him. There's Bantnick Street over there.
- A. There -
- Q. All right, what's the name of it?
- A. Byng Avenue.
- (20) Q. Byng - B-Y-N-G - is that right?
- A. Yes.
- Q. All right. So I'm suggesting to you that you met - what you're saying is - at Donald Marshall on Byng Avenue as you were heading for George Street to try and get a lift to Louisbourg. Right?
- A. Yes.
- Q. And the first thing he said to you, was, "Look what they did to me!", isn't it?
- A. Yes.
- (30) Q. And there was blood on his arm then, wasn't there?
- A. No -
- Q. Well you saw -
- A. - a few minutes after there was blood.
- Q. A few minutes afterwards, okay. Now, this question, and you know you're under oath and I know you're not enjoying this. Under oath as you are, can you swear before God that Donald Marshall when you met on Byng Avenue is the man you saw previously: are you sure of that, under oath before God?

-105- MAYNARD CHANTZ, Cross-Exam.

A. Uh, you mean, like, uh - Donald Marshall, when I seen him on that there street that you were talking about, is the same fellow over on Crescent Street?

Q. Yes.

A. No, I'm not sure.

Q. You're not sure. So in other words, Maynard, that is your first name?

A. Yes.

(10) Q. When you were talking about the fact that you saw two men over there on Crescent Street arguing, you can't swear that one of those men was Donald Marshall, can you?

A. No sir.

Q. No! All right. Now, and as a matter of fact you can't swear under oath - just take your hand down and the jury will hear you better because a lot of people do this - that the man whoever he was, that he pulled out a knife; you didn't see a knife or anything like that, did you?

A. Well -

(20) Q. You didn't see a knife -

A. Listen -

Q. Go ahead.

A. I saw a long shiny object -

Q. Yes, but you can't say it was a knife, can you?

A. I appeared to myself that it was a knife.

Q. You thought it was.

A. Like the statement I gave here today -

A. Ah, I don't care what you said today. I'm asking you -

MR. MacNEIL:

(30) Let him answer the question, My Lord.

MR. ROSENBLUM:

I'll let him. I'll let him. I won't be unfair to him, My Lord. He is young and I was young once.

BY MR. ROSENBLUM:

Q. You thought it was a knife?

A. Yes.

Q. You thought it was a knife. All right. Well, as Donald Marshall met up with you or you met with him on Syng Avenue?

-110- MAYNARD CHANA, Cross-Exam.

- A. Yes.
- Q. And the first thing he did was, he said, "Look what they did to me!" and he showed you the scar on his arm and from which blood showed a few minutes later?
- A. Yes.
- Q. And then the next thing he did was he flagged down a car didn't he?
- A. No. There was a couple walking by -
- (10) Q. A couple walking by.
- A. And he stopped the couple and asked them for help.
- Q. For help?
- A. Yes.
- Q. And did you get a drive then in somebody's car?
- A. After a few minutes later -
- Q. Got a drive -
- A. After they left, yes.
- Q. A drive up to Crescent Street?
- A. Yes.
- (20) Q. And that's where you saw the body of Sandy Seale or the body of a man laying on the street?
- A. Yes.
- Q. All right. When you got there, when you got there - now we're up on Crescent Street, Donald Marshall then tried to - not only tried but he succeeded in flagging down a police car, didn't he?
- A. Yes.
- Q. He flagged down a police car?
- A. Yes.
- (30) Q. And he was telling them about these two men who had stabbed Seale and stabbed him, wasn't he?
- A. Yes.
- Q. And not only that, not only that, how many police were there?
- A. At that time?
- Q. At that time?
- A. I think there was only two.

-111- MAYNARD CHANT, Cross-Exam.

Q. Two police. All right. Then you tried to help the man on the ground?

A. Yes.

Q. Now how many police arrived after that?

A. Two more.

Q. Two more police. And the ambulance - were you there when the ambulance came?

A. Yes.

(10) Q. And the police were there then?

A. Yes.

Q. Now Maynard, at no time that evening, at no time that evening in the company of at least four policemen which you were, weren't you -

A. Yes.

Q. - did you say to any of those policemen, that this boy here stabbed the man on the ground, did you?

A. No, I didn't.

Q. And how long would you say that you were in the company of Donald Marshall that night?

(20)

A. Oh, 15, 20, 25 minutes, something like that.

Q. Maybe half an hour and then finally you saw Donald Marshall being taken to the hospital for attention to his wounds?

A. Yes.

Q. And then you headed for home?

A. Yes.

Q. And the police picked you up?

A. Yes.

Q. So you were brought back to the police station?

(30) A. Yes.

Q. About what time would that be, Maynard? You know, roughly I know you can't tell me for sure.

A. Between one and two.

Q. Between one and two and how long did you stay at the police station between one and two, how long were you there?

A. Oh, five minutes.

Q. And how many police talked to you there?

-112- MAYNARD CHANT, Cross-Exam.

A. Three.

Q. Do you see any of them here today? Stand up, Mike.

A. Yes, Mike.

Q. Would you say this was one of the officers here, he was one of them?

A. Yes.

Q. He was one of them. Det. Sgt. MacIntyre, here was he one of them?

(10) A. No.

Q. He wasn't. All right, do you know the names of the other two were speaking to you?

A. No.

Q. And at no time did you tell any of those officers on that occasion that this boy, Donald Marshall, Jr., was the one who stabbed the fellow who was laying on the ground, Sandy Seale.

MR. MacNEIL:

(20) Objection, if Your Lordship please, register it for the record.

MR. POSENBLUM:

Answer me first.

MR. MacNEIL:

Don't answer first!

MR. POSENBLUM:

All right.

MR. MacNEIL:

(30) If Your Lordship please, in connection with the argument that we had before, the presence or absence of the accused I know Your Lordship indicated before that you were going to overrule me but I would like to have it on the record that I object to any conversation that took place in the absence of the accused.

THE COURT:

He is now perfectly within his rights to cross-examine the witness on the subject matter that he was proceeding with.

-113- MAYNARD CHANT, CROSS-Exam.

MR. ROSENBLUM:

Thank you.

BY MR. ROSENBLUM:

Q. Now, your answer to my question.

A. No.

Q. You didn't tell them. And so, how did you get home - how did you get home the early morning hours of that morning?

A. My father.

(10) Q. Your father came in and took you home?

A. Yes.

Q. When did you next see any police officers?

A. I think it was Sunday.

Q. That would be the next day. You know it was early Saturday morning that you were at the police station -

A. Yeah, the next day then.

Q. Yes, so it would be Sunday. Where else did you see them?

A. They come out -

(20) Q. They come out to Louisbourg, yes. And how long were you talking to them Sunday?

A. Oh, wasn't too long.

Q. How many police officers were you talking to?

A. Two.

Q. And were they the same police officers that you were talking to in the police station in the early hours of Saturday morning?

A. No, it wasn't.

Q. They were two different police officers?

A. One was the same one.

(30) Q. Would that be Sgt. Michael MacDonald?

A. Yes.

Q. And at no time did you tell Sgt. Michael MacDonald or Sgt. [unclear] or the other officer or anybody else that it was Ronald [unclear] who stabbed Miss [unclear] the fall down on the [unclear]

-114- KAYNARD CHANT, Cross-Exam.

MR. MacNEIL:

Objection - for the record, My Lord!

THE WITNESS:

A. No.

BY MR. ROSENBLUM:

Q. All right. Now on Monday, did you see police again? You know, the following Monday. You see, we talked about Friday night, Saturday, Sunday in Louisbourg, and now we're  
(10) talking about Monday.

A. I can't remember.

Q. How about Tuesday?

A. (Response Inadmissible.)

Q. No. All right. Now just to clear up something and to help the court and the jury and everybody concerned with this case, the only reason, I'm suggesting to you, that you mentioned in the court below, in the magistrate's court, from which my learned friend read to you, that it was Donald Marshall who pulled out this object that looked to be a  
(20) knife was because the police told <sup>you</sup> it was Donald Marshall who did it.

A. No, I never.

Q. They're the ones who told you the name Donald Marshall. Don't look at them! Look at me!

A. No.

Q. What?

A. Uh -

Q. Is that the only reason you said that in your evidence in the magistrate's court, was because it was the police told  
(30) you it was Donald Marshall who did that?

A. Police didn't tell me Donald Marshall did it at all.

Q. No, and you didn't tell the police that he did it?

A. No -

Q. No -

A. Not until afterwards.

Q. Oh.

A. See, I told them a story that wasn't true.

-115- HAYWARD CHEIT, CROSS-EXAM.

Q. Oh! I'm coming to that. When did you tell this untruthful story? When did you tell them that?

THE COURT:

Now may I just make one point clear. This is not a TV program and if there will not be absolute decorum, the whole court room will be cleared. This is too serious a matter for any levity. Please keep that in mind. I don't mean to say that people can't speak and whisper if they wish but I do not want any expressions such as I have heard at this moment.

BY MR. ROSENBLUM:

Q. When did you tell that untrue story to the police, Haymax?

A. Sunday afternoon.

Q. When?

A. Sunday afternoon.

Q. That was in Louisbourg?

A. That was in Sydney.

Q. Oh, I thought you met them in Louisbourg Sunday -

(20) A. I did, but they took me in -

Q. Oh, they took you in to Sydney. How long did you stay at the police station in Sydney on Sunday afternoon?

A. Six o'clock.

Q. How long a period of time - a half hour, an hour, two hours?

A. Oh, approximately two hours.

Q. Two hours. And who was questioning you at the police station on Sunday afternoon after you had been speaking to the police in Louisbourg in the earlier afternoon? Who were the police then?

(20) A. I don't know the policeman's name.

Q. Do you see anybody here?

A. Yes.

Q. Would you point him out, please?

A. I'm not too sure but I think it was that one there.

Q. You mean Det. Sgt. John MacInyre here?

A. Yes.

-116- MAYNARD CHANT, Cross-Exam.

Q. Was he one of them?

A. Yes.

Q. Was that your first contact with him?

A. Yes.

Q. Sunday afternoon, in Sydney?

A. Well I met him earlier in the morning but I didn't tell him the story until the afternoon.

Q. It was in the afternoon you had the long talk with him?

(10) A. Yes.

Q. He was questioning you?

A. Yes.

Q. And another police officer was questioning you. There was two of them?

A. Yes.

Q. And for several hours?

A. Yes.

Q. That's all My Lord.

BY MR. MacNEIL: (Redirect Exam.)

(20) Q. You told my learned friend in your evidence that you told the police an untrue story. Why did you tell them an untrue story?

A. Because I was scared.

MR. ROSEBELUM:

Excuse me, just a moment. Now, My Lord, we're going into the recesses of a man's mind. There's an old saying that even the devil doesn't know what's going on in a man's mind, it's not tryable and for him how to give explanation as to why he did something or why he lied or why he lied or why he lied yesterday or why he lied in the police station -

(30)

THE COURT:

I know. Any further questions?

MR. MacNEIL:

No, no further questions but do I understand that Your Lordship won't allow that question.

-117- MAYNARD CHEWNT, Redir.Exam.

THE COURT:

That's right. Now I want to get something for my record.

BY THE COURT:

Q. When was it that you told them the untrue story?

A. On Sunday afternoon.

Q. On Sunday afternoon in Sydney?

A. Yes.

Q. Did you at any time tell them the true story?

(10) A. Yes.

Q. When was that?

A. I don't know what day it was.

Q. Was it after you had told them first the untrue story?

A. Yes.

Q. Now witness will you look at that - when you saw those two people, you saw one man do something to the other.

A. Yes.

Q. Do you recall anything about the clothing that was worn by the man who did that something to the other person?

(20) A. Yes.

Q. What do you recall?

A. That he had a yellow jacket on and a dark pair of pants.

Q. What if anything do you say as between the clothing that was worn by this man whom you saw do something and the clothing that was worn by the accused, Donald Marshall?

A. I don't understand.

Q. What do you say about the clothing that was worn by this man whom you saw do something as regards the clothing that was worn by Donald Marshall whom you saw a few

(30) minutes later?

A. They had the same clothing.

( THE WITNESS RESPONDED )

PL. OBJ. N

PAGE 1

Statement of: Maynard Vincent CHANT (B: 14 OCT. 56)  
Louisbourg

RCMP 2 7

Taken: 82-02-16

"ATTACHMENT # 18"

In 1971 I would have been 14 years old. I went to Sydney with my parents to church. I skipped out of church and went to the Pier. From the Pier I went to the bus station and the bus had left to Louisbourg; I walked down Bentick to the Park.

I was going to take a short cut across the Park to George Street and hitch hike home. I had not quite made it to the Park and a guy in a yellow jacket came running up to me. He showed me his arm where it was cut and told me his friend was stabbed over in the Park. We met some other people and he told them the same thing. We flagged down a car a brown Nova and went over to Crescent Street where the other guy was.

This was Sandy SEALE and he had been stabbed in the stomach. The fellow that I later learned was Donald MARSHALL did not go near the body. There was no blood from the cut on his arm and he showed several people. I thought his actions were quite suspicious at the time. SEALE was still alive and I put my shirt on the wound. The police interviewed me that night and I repeated what MARSHALL had told me. I don't know why; I had to say something, I told the Police I saw everything referring to the cut. I definitely did not see the murder. Everything was over by the time I got over where SEALE was.

Sometime later I was taken to the Park and they asked me where I was standing. I more or less showed them what they wanted to get it over with. I wasn't in the park around the murder. I was interviewed by 2 Detectives, my mother was also there. In the second statement I told the Detectives I saw the murder. They told me that another guy had seen me in the Park and I had to see it. So that's what I told them.

I really felt MARSHALL did it. During the time MARSEALL was in jail a friend told me that MARSHALL was gloating about killing SEALE. I also felt that the Indians were all out to get me. During the time I was giving evidence in Court, they kept going over and over it, the evidence. I remember once the Crown Prosecutor really

SI-08/77

Statement of: Maynard Vincent CHANT (B: 14 OCT. 56)

RCMP 7  
cont'd

was mad at me.

I can not explain what made me lie about this other than I was young and scared at the time.

Maynard CHANT

Louisbourg, Main St. at 6:16 P.M.

Witnesses: Cpl. J.E. CARROLL

This is the paper writing marked "B" referred to in the affidavit of Maynard Chant sworn before me this 14 day of July 1982  
*Elaine NePherse*  
 Justice of the Supreme Court of

STATEMENT OF MAYNARD VINCENT CHANT, DB: 56-10-04,  
TAKEN AT LOUISBOURG, N.S. 5:05 P.M. 82-04-20

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On the night of the SEALE stabbing, I was in Sydney at church. I missed the bus around 11:00 P.M. I went down into Wentworth Park. I was on Bentinck St. when I heard someone running up behind me. The fellow, later known to me as Junior MARSHALL, shouted to me, "Look what they did to me". He showed me a cut on his forearm, the underarm, there was no blood. He also said his buddy was over in the Park and had been stabbed. Patricia HARRIS was there and gave him a Kleenex. We flagged a car and went to SEALE. SEALE went to the hospital by ambulance. I started for home. By this time I was out past my curfew and probation. A police car drove up, we had a conversation, and I told him I had seen everything, meaning the wounds on SEALE and MARSHALL. They obviously thought I had seen the stabbing. I went to the Station with the policemen. I was in the waiting room for a while. MARSHALL came out of the office with two others, policemen, I believe. MARSHALL came over to me and said, "There was two of them, eh?". I said, "Yes". I didn't know what else to say. I don't remember if I gave a statement then. My father arrived and I went home with him.

Two policemen came to my home on Sunday. I gave a statement to them in their car, basically what MARSHALL had told me that night in the Park and in the car going to see SEALE. There was no pressure from the police at that time. I did not tell them my information came from MARSHALL. About a week later, I went to the Louisbourg Town Hall with my mother, there was at least one policeman there. I remember others present but can't recall who they were. The policeman was very aggressive, making statements that I had lied because a witness had told them he had seen me there in the Park that night. He told me he knew I was on probation and that I could get from two to five years for perjury. I didn't even know what perjury was and

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STATEMENT OF MAYNARD VINCENT CHANT - CONT'D

..just about crying, my mother was outside the room. There was something the witness had told the police that they mentioned to me at that time that caused me to give the second statement. I don't remember what it was now.

The Crown Prosecutor, I believe his first name was Danny, came to my home and drove me to his office which, at that time, was in the new court house on the ground floor. John PRATICO and two plainclothes policemen were with us in the same room. The Prosecutor kept repeating our stories until they were fresh in our minds. We went in to Court, I believe it was the same day after the meeting in the office. John and I repeated the same story in court. A couple of times before the jury trial, two detectives came to my home and drove me to Wentworth Park. They wanted me to show them where PRATICO had been hiding on that night, and where I had been standing on the tracks. They marked the spots in chalk, they were suggesting different spots and I agreed with them. Basically, I felt they were trying to help me rather than pressure me. I stayed one night at John PRATICO's house but didn't talk to him. John was in bad shape then. I believe that was when the trial was on. It was in cross-examination by ROSENBLUM that questions were asked about if I was sure the man Junior MARSHALL was the one I saw stab SEALE. At that point I realized I couldn't lie any further and said, "No". They had a recess and then they came back in the room. I had to stay in the witness chair. I was declared a hostile witness then and stepped down. I sat down outside. SEALE's brother came outside and told me MARSHALL was on the stand and was really getting his story mixed up. I felt relieved

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STATEMENT OF MAYNARD VINCENT CHANT - CONT'd

....because MARSHALL was hanging himself. I felt he was guilty at that time but didn't want to put him away on my false statement. That was it for my evidence. I had no further contact with the police.

In conclusion, I did not see the murder at all. I was not in the Park at the time. MARSHALL had told me the little bit I did know. He suggested there were two suspects at the police station in the presence of policemen. I was afraid to change my story. I was totally afraid of MARSHALL and the police at that time, and scared because I broke my probation.

(SGD) Maynard CHANT

WITNESS:

J.E. CARROLL, Cpl.

D. HYDE, Cst.

S.C.C. No. 00580

IN THE SUPREME COURT OF NOVA SCOTIA,  
APPEAL DIVISION

IN THE MATTER OF A REFERENCE PURSUANT TO SECTION 617 OF THE CRIMINAL CODE BY THE HONOURABLE JEAN CHRETIEN, MINISTER OF JUSTICE, TO THE APPEAL DIVISION OF THE SUPREME COURT OF NOVA SCOTIA UPON AN APPLICATION FOR THE MERCY OF THE CROWN ON BEHALF OF DONALD MARSHALL, JR.

AFFIDAVIT

I, Maynard V. Chant, of Main Street, in the Town of Louisbourg, County of Cape Breton and Province of Nova Scotia, make oath and say as follows:

1. That I was born on October 14, 1956 and on the date of the murder of Alexander (Sandy) Seale, May 28, 1971, I was fourteen (14) years of age and in Grade 6 at school.
2. That I was a witness at the Preliminary Hearing and subsequent Trial of Donald Marshall, Jr., who was convicted of the murder of Alexander (Sandy) Seale on November 5, 1971.
3. That on February 16, 1982, I was interviewed by R.C.M.P. Cpl. J.E. Carroll, and gave a free and voluntary written statement to the said Cpl. Carroll, a copy of which is produced herewith and marked Exhibit 'A', directly relating to my knowledge of events surrounding the murder of Alexander (Sandy) Seale on the night of May 28, 1971.
4. That on May 30, 1971, I was interviewed by then Det. Sgt. J.F. MacIntyre of the Sydney City Police and gave a written statement to the said MacIntyre, a copy of which is produced herewith and marked Exhibit 'B', concerning my knowledge of the circumstances relating to the murder of the said Sandy Seale.
5. That my statement, referred to herein as Exhibit 'B', is not entirely true and that the facts contained herein with reference to my having seen the murder of Sandy Seale are not

- 2 -

true, as I did not personally witness the said murder, nor was I present at the place and time of the murder.

6. That the facts relating to having seen the Seale murder as referred to in Exhibit 'B' herein were told to me by the Appellant, Donald Marshall, Jr. immediately after the murder occurred when I met the said Appellant running towards me, as I was approaching Wentworth Park in the City of Sydney, all of which occurred on May 28, 1971.

7. That on June 4, 1971, I was questioned in Louisbourg by Det. Sgt. J.F. MacIntyre and then Sgt. William Urquhart of the Sydney City Police and gave a second written statement to the said MacIntyre and Urquhart, a copy of which is produced herewith and marked Exhibit 'C', again relating to the events surrounding the murder of Sandy Seale and my knowledge thereof.

8. That my statement, referred to herein as Exhibit 'C', is not entirely true and that the facts contained therein with reference to my having seen the murder of Sandy Seale are not true, as I did not personally witness the said murder, nor was I present at the place and time of the murder.

9. That I gave the statement referred to in Exhibit 'C' herein, to the said MacIntyre and Urquhart, knowing its contents were not true, because of pressure from the said MacIntyre and Urquhart who insisted I had witnessed the Seale murder, although I had not in fact witnessed same.

10. That my testimony at the Trial of Donald Marshall, Jr. relating to the murder of Sandy Seale, at Pages 86-117 of the Transcript of the said Trial, is not true insofar as I stated I had witnessed the murder of Sandy Seale; the truth being that I was not a witness to the said murder.

11. That the reason for giving the testimony referred to in Paragraph 10 herein, was because I was afraid and because MacIntyre and Urquhart of the Sydney City Police told me that I had witnessed the murder and was seen by another witness, who I believe was John Practico.

12. That subsequent to the Preliminary Hearing in this matter in July, 1971, I spoke with the Crown Prosecutor, the late Donald C. MacNeil, Q.C., who informed me that if I changed my statement that I had seen Donald Marshall, Jr. stab Sandy Seale, that I would be charged with perjury.

13. That I did not know the said John Practico prior to the said murder and did not in fact see the said John Practico at any time on the night of May 28, 1971 contrary to my testimony at Page 89 of the Transcript of the said Trial of November, 1971.

14. That approximately two years ago, I informed my mother that I had lied at the Trial of Donald Marshall, Jr., as I had not in fact seen Donald Marshall and Sandy Seale together nor had I seen the actual stabbing of Sandy Seale.

SWORN TO at )  
 in the County of Cape Breton, )  
 Province of Nova Scotia, )  
 this 14<sup>th</sup> day of July, A.D. )  
 1982, before me, )

Elaine MacPherson )  
Elaine MacPherson )  
 A Barrister of the Supreme )  
 Court of Nova Scotia )

A Commissioner of the Supreme Court  
 for the Province of Nova Scotia

Maynard V. Chant  
 MAYNARD V. CHANT

- 171 - MAYNARD V. CHANT, by Mr. Aronson

MAYNARD VINCENT CHANT, being called and duly sworn, testified as follows:

BY MR. ARONSON: Direct Examination

Q. Would you state your full name to the Court please?

A. Maynard Vincent Chant.

Q. And where do you live?

A. Louisbourg.

(10) Q. When were you born?

A. October 14th, '56.

Q. I'm sorry?

A. October the 14th, 1956.

Q. Have you always lived in Louisbourg?

A. No.

Q. How long have you lived in Louisbourg?

A. Sixteen years.

Q. Sixteen years. Are you presently married?

A. Yes.

(20) Q. And do you have any children?

A. Yes.

Q. What do you do for a living, Mr. Chant?

A. I'm a fish filleter.

Q. And how long have you been employed in that occupation?

A. Three years.

Q. What education do you have?

A. Grade seven.

Q. And when did you complete that education?

Can you recall the year?

(30) A. '70.

Q. 1970? And can you recall how old --

A. No, excuse me, no. I really -- I can't recall right off hand.

Q. Okay. Do you recall how old you were when you completed your last grade?

A. Fifteen.

- 172 - MAYNARD V. CHANT, by Mr. Aronson

Q. Do you recall the night of May 28th, 1971?

A. Yes.

Q. Where had you been approximately eight or nine on that particular evening?

A. I was in church.

Q. And where is that church located?

A. Ashby Corner in Sydney.

10) Q. In Sydney, and do you recall the name of the church?

A. Pentecostal Church.

Q. And had you at the time attended that church before?

A. Regularly.

Q. I see, and subsequent to that night, did you have occasion to go back to that church?

A. Pardon me?

Q. Do you -- are you now a member of that church?

A. No.

Q. Do you still continue to go to a church?

20) A. Yes.

Q. And how long have you been regularly going to church or attending church?

A. About four and a half years.

Q. Now you've indicated that on Friday, May 28th, you were in church. What happened -- how long did you stay at church?

A. Just about until the service was over.

Q. And do you recall at approximately what time that took place?

30) A. About nine-thirty, I would say.

Q. And so you would have left shortly before nine-thirty?

A. Right after.

Q. Just after nine-thirty. Where did you go from church?

A. I went to Whitney Pier.

Q. And how long did you stay in Whitney Pier?

A. About an hour.

Q. And what were you doing in Whitney Pier?

A. I was supposed to meet a friend there and we were going from there to Louisbourg.

Q. And did you meet that friend?

A. No, I never.

Q. And what happened after you had gone to Whitney Pier to meet your friend or try to meet your friend?

A. Well after I couldn't get a hold of him, I hitch-hiked from the Pier up to the bus terminal to see if I could get home from Sydney to Louisbourg on the bus.

Q. And did you manage to get a drive from the Pier to the bus station?

A. Yes.

Q. What happened when you arrived at the bus station?

A. I found out that the bus had already left.

Q. Can you say what time that was when you arrived at the bus station?

A. Roughly about half past eleven.

Q. Is there any particular reason that you'd give that time as opposed to any other time?

A. I believe -- it's not really in my mind to remember but I remember there was a certain time after eleven o'clock that the bus would leave for Louisbourg which would be the last bus.

Q. And do you recall what time that bus supposedly left?

A. It was -- the best I could do for you would be between half past eleven and quarter to twelve.

Q. I see. Now you'd missed the bus. What did you do after you had missed the bus?

A. Well I thought since I had missed the bus I would have to hitch-hike to Louisbourg so I started down Bentinck Street.

Q. Is that where the bus station is located?

A. Yes.

Q. Continue.

A. I started down Bentinck Street and towards the park area. I was gonna cross over on the park side. That was when I met up with Mr. Marshall, Donald, and he explained to me that him and his friend had been -- should I say, his friend was stabbed and if I could give him some help.

Q. Okay, do you recall if I showed you a plan numbered, I believe it's R-2 -- would you take a look at that plan, Mr. Chant? Have you ever seen that plan before?

A. Yes, I have.

Q. Okay, do you want to take a look at it and see if you are able to mark where on that particular plan or if it's on that plan at all you bumped into or met Donald Marshall Junior? If you'd like, you could just put your initials. Again, if I could indicate, the witness has marked the letters MC on Byng Avenue near the intersection of Byng and Bentinck. Now you've indicated to the Court you had a conversation --

A. Yes.

Q. -- with Mr. Marshall? Can you say what the conversation concerned?

A. Well the conversation was mostly concerning Marshall's friend which would be Mr. Seale and it was mostly concerning of getting an ambulance or getting help to help his friend because of what had happened to him.

Q. Okay. Now did you know Donald Marshall prior to that night?

A. No, I -- no.

Q. You've mentioned the name Sandy Seale. Did you know Sandy Seale on that particular night?

A. No.

Q. Now can you say what if anything you noticed about Marshall's appearance on that particular night when you met him?

A. He had one -- he had both sleeves rolled up and he had a rather large gash on his arm inside of his arm, his forearm.

(10) Q. Now you've indicated he had his sleeves rolled up. What was he wearing? Do you recall?

A. He was wearing a jacket, like a parka.

Q. Do you recall the colour of the jacket at all?

A. All I knew -- all I know is that it was a light colour, really.

Q. With respect to the gash that you've described, what do you say as to whether or not that there was blood in or around that gash?

A. I didn't see any blood at the time.

(20) Q. You didn't. Are you saying that there was no blood or are you saying that you don't remember?

A. Well basically what I'm saying is what I met Donald, there was no blood and as we proceeded down the road, we met up with a girl and her boyfriend, another boy and her girl friend and that's I guess when his arm started to bleed because the young girl had given him a handkerchief for his arm.

Q. Now if we can go back to the point where you had met Marshall, what happened after you met Marshall and after you had your conversation with him?

(30) A. Well we proceeded down Byng Avenue, I believe. I'm not sure and -- to get help for his friend.

Q. And did you -- can you say whether or not you saw anyone as you were trying to get help?

A. Yes, we met up with two couples and just at that time

there was a car coming by and we had flagged that over and they took us over to where Mr. Seale was laying.

Q. I see. And what happened after that?

10) A. We had got out of the car. We went over to where Sandy was laying and I believe Donald ran up to call an ambulance at a nearby house. And he had come back and was rather behind the body about maybe fifteen feet on his shoulder side, I would imagine, and the ambulance was taking a little long so I went up to see if they had called the ambulance. They had reassured me that they had called the ambulance and that was when I went back to the body or to the --

Q. Can you show us on the survey if you're able to, the plan or survey, R-2?

A. It's right here.

20) Q. Can you recall approximately where you saw Seale's body on that particular night? Possibly you could mark it with "S.S.". For the record, the witness has marked the initials "S.S." on the plan or survey marked R-2 on Crescent Street approximately between the green apartment building and the house above which is written the words, "Gray house, D. W. Campbell". Now can you recall what happened after the ambulance arrived?

A. Yes, I can.

Q. What happened?

30) A. After the ambulance had came and they had got Mr. Seale safely into the ambulance, I had took my shirt and I proceeded to continue to hitch-hike to Louisbourg. Just as I got onto George Street, the police had stopped me and they saw the blood on my shirt and they asked me where was I. And I told them that where I was and they

- 177 - MAYNARD V. CHANT, by Mr. Aronson

asked me did I see anything and I said, yes, I'd seen everything.

Q. I don't know. I don't believe the Court wishes to go into any conversation concerning what was said to you.

A. Okay.

Q. Did you on that occasion provide the police with any statements at all?

A. Yes.

Q. Can you recall how many statements you provided the police with?

A. That night?

Q. All together.

A. Two.

Q. And can you recall when those statements were given?

A. One the night it happened and one -- one three days later.

Q. Are you sure?

A. No, I'm not.

Q. Can you recall at what location those statements were given?

A. Yes.

Q. Where was the first statement you've referred to given?

A. In Sydney at the police station.

Q. And the second statement?

A. Louisbourg at the Town Hall.

Q. Do you recall who was present while the second statement was being given?

A. My probation officer.

Q. What was his name?

A. Larry Burke. My mother, Beulah Chant; Chief of Police Wayne Magee. That's it.

BY THE COURT:

Q. That's of Louisbourg?

A. Yes.

BY MR. ARONSON:

Q. Now do you recall giving testimony at the trial of Donald Marshall Junior in 1971?

A. Yes.

Q. Do you recall generally what you said at the trial in 1971?

A. Yes.

Q. Are there any differences between what you said at that trial in 1971 in your testimony then and the testimony that you have given today in Court?

A. Yes, there is.

Q. What are the differences?

A. The differences are in that I recall witnessing the murder in '71 and the statement which I am now giving I did not witness the murder.

Q. How do you account for this particular discrepancy?

A. Excuse me, I don't understand.

Q. How do you account for the difference in the testimony that you gave at Donald Marshall's trial in 1971 and the testimony you have given today in Court?

A. First of all I was -- I was scared. The second of all, I felt pressured into giving a statement that I didn't normally want to give which caused me to give the different statement to what I'm giving today.

Q. I have some difficulty in following you. Could you please try and explain it a little better?

A. The statement that I gave in '71 --

Q. Now what statement are you referring to now?

A. The statement that I've given in '71, the first statement of the trial or the trial statement pertaining to seeing the murder was -- the reason why I said that was because as I have said I was scared and I was

pressured into giving a statement that I -- when I was being questioned at the town hall in Louisbourg I didn't want to give. And the statement that I'm giving today is actually or exactly what I saw pertaining that I didn't see the murder take place.

Q. Okay, so what you're saying is that you did not see Donald Marshall stab Sandy Seale. Is that correct?

(10) A. That's correct.

Q. And can you provide any other reasons for your failure to give the testimony that you have said today in Court and the testimony that you gave at the trial in 1971? Are there any other reasons?

A. When I had tried to begin to tell the truth, that I didn't see anything, the people that were taking the statements or that -- that I had given, wouldn't believe me so I didn't know what to do and resulting, I had given a false statement.

(20) Q. Can you say who those individuals were who -- I think I have your words correct, pressured? Who were the people who you say here today pressured you?

A. All I know is that they were two policemen. I don't remember their names.

BY THE COURT:

Q. This was in Louisbourg?

A. Yes.

Q. At Louisbourg?

A. Yes.

(30) BY MR. ARONSON:

Q. Subsequent to the trial in 1971 and Donald Marshall's conviction, did you ever have any occasion to tell anybody about the difference in your testimony?

A. No.

Q. Can you say when if ever you told someone about any

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DMKRF 6

discrepancy in your testimony?

A. Four years ago.

Q. Can you say who you said that to or who you indicated that to?

A. My parents.

Q. Anyone else?

A. About a year and a half later I told it to my pastor. That was it.

10) Q. Can you give any reason for having waited for such a length of time in indicating that you did not witness the Seale stabbing?

A. All that was going on and the talk, even though I didn't witness the murder, I -- I figured he was guilty because of what was -- what had been told to me and what I had acquired through friends that were doing time in the Correctional Centre the same time Donald Marshall was doing time.

20) Q. I see. Now can you give any reason to the Court today why you should be believed as to your testimony that you have given in Court today as opposed to the testimony you gave in Court in 1971?

A. Roughly four and a half years ago, I became a Born-Again Christian. I accepted Jesus Christ as my Lord and personal Saviour. And this book that is being or used today to swear truth I hold very sacred in my life and I vow my life to it and I act the will that is in the Bible according to the commandments that Jesus Christ has given. That's why I speak the truth today.

30) Q. Do you know an individual by the name of John Pratico?

A. Yes.

Q. When did you come to know him?

A. At the trial.

Q. Did you know him prior to the trial?

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A. No.

Q. Had you ever seen him prior to the trial?

A. No.

MR. ARONSON:

I have no further questions of this witness, My Lord.

BY MR. EDWARDS: Cross-examination

(10) Q. Mr. Chant, you say that the Court should believe you now because you're a Born-Again Christian. Is that what you've just finished saying?

A. Yes, it is.

Q. And isn't it true, didn't you also say that you were coming from church on the night of the stabbing?

A. Yes, I had skipped church.

Q. You had skipped church that night.

A. Just as soon as the service had ended, I had skipped church.

Q. But you were a church-goer at that time?

(20) A. Only because my parents made me go.

Q. I see. You really didn't believe in the teachings of Jesus Christ at that time?

A. Well, I really -- I believed in the teachings of Jesus Christ but I hadn't submitted myself to them.

Q. I see. Okay, so you are now saying with absolute certainty that you did not witness the stabbing.

A. Yes, I am.

Q. You're sure about that?

A. Yes.

(30) Q. You're sure you didn't know Donald Marshall before then?

A. No. Not personally, no.

Q. Did you know of him?

A. Not really.

Q. Well --

A. No, excuse me.

Q. Did you know him to see him then?

A. No.

Q. Do you recall giving evidence at the preliminary inquiry on July 5th, 1971?

A. Yes.

Q. You were being asked about the incident in question, about the stabbing. You were asked this question:

*You saw him what?*

*A. Haul a knife out of his pocket.*

And from the context, it's obvious you're referring to Donald Marshall at that time.

*Q. What if anything did he do with that knife?*

*A. Drove it into the stomach of the other fellow.*

*Q. What?*

*A. He drove it in the stomach of the other fellow.*

Do you recall giving that testimony?

A. Yes, I do.

Q. You were pretty definite at that time about what you had seen. Would you agree with that?

A. No.

Q. Well anyone reading those words would get the impression you were pretty definite, wouldn't they?

A. They probably would, yes.

Q. And you recall -- you may not recall the precise date but you recall that the preliminary inquiry was in July of '71?

A. Yes.

Q. And you recall that the night of the stabbing was May 28th, almost six weeks earlier?

A. I remember the incident.

Q. Well, if I suggested to you that it was May 28th, 1971, you wouldn't disagree with that?

A. No.

Q. And you told my learned friend that you gave a statement on the night in question?

A. Yes.

Q. And I suggest to you that you gave the next statement on the fourth of June, a few days later?

A. Yes.

Q. In 1971. So that after you gave that second statement you had about a five week period between that statement and the preliminary inquiry. Right?

A. Yes.

Q. And you thought about what you had said in the statement. You're nodding your head yes.

A. Yes, oh, excuse me.

Q. And you thought what -- about what you were going to say at the preliminary inquiry?

A. Yes.

Q. But yet you got on the stand at the preliminary inquiry and gave that evidence I just referred to?

A. Yes.

Q. And did you give that without any hesitation at all at that time?

A. No.

Q. You did hesitate? When did you hesitate?

A. At the last of it. When I was -- as I was all through the testimony, I knew I was doing wrong and --

Q. Now are you referring to the testimony at the preliminary inquiry or the trial --

A. The trial -- both.

Q. Direct your comments to the preliminary inquiry for a moment.

A. Okay.

Q. So you were saying -- you were telling me that you had hesitated at that time. Did you express that hesitation to anybody?

A. No, I never.

Q. No. I see. You were more nervous about having to get on the witness stand than anything at the time, weren't you?

A. I don't know.

Q. I mean you told my learned friend that you believed Mr. Marshall was guilty at the time. Right?

A. Yes.

Q. So you didn't really believe that your statement was the crucial factor in deciding what fate he was going to meet, did you?

A. Yes, I -- I thought my statement that I was giving was a very damaging piece of evidence pertaining to Donald Marshall.

Q. Right, but you believed he was guilty anyway?

A. Yes, I did.

Q. Okay. And the second, the second statement you gave when you changed your first one -- well, do you remember the differences between the two statements or do you wish me to refresh your memory on it?

A. No, I do remember them.

Q. Yes, and could you just tell --

A. Could I give you the difference?

Q. Yes.

A. Okay, they had -- could I start from the beginning or do you just want the two statements or --

Q. Just answer the question, Mr. Chant, as best you can.

A. The difference between the two statements are that the first statement that I had given in the police

(10)

(20)

(30)

station, I had given the story that Marshall or Donald had told me pertaining to what had happened to him in the park. The reason for this when the policemen had picked me up and I -- they asked me what I had seen, I said I seen everything. I was referring to the wound on Sandy Seale's stomach. They took me to the hospital first. Then they took me from the hospital to the police station where I was to give the statement. Just as I had arrived, Donald was coming out of the questioning room, came over towards me and stated: There was two of them, wasn't there?" I was very afraid and I said yes. That's why I gave the story to what Donald had told me. My parents came in and picked me up. They took me home. A couple of days later two policemen came out. They took me in a room in the Town Hall along with my mother and a gentleman that I've just mentioned or previous and they began to question me. As a matter of fact they told me that I had committed perjury pertaining to the statement that I'd given that night in the cop station and that they had a fellow or a young man that said that he saw me there and I had seen -- that he said I had seen everything that he had seen and --

Q. Who were they referring to at that point, do you know?

A. At that point I didn't know but now I know.

Q. Would that have been John Pratico?

A. Yes.

Q. Okay.

A. And that's when they -- just after that, they put my mother out of the room where I was being questioned and they begin -- my probation officer was there and they begin to tell me my record of probation and the trouble that I was into and they told me again about the young fellow that had seen me there. I told them

I -- that's when I opened up and begin to tell them I never seen nothing. One of the men leaned over and said: "You had to see something. Tell us what you saw." I told him again I didn't see nothing. It went on like that. Then they -- I said: "What did the other fellow see?" I don't remember if they told me what the other fellow seen but I remember somehow or another getting a statement -- giving a statement concerning what the other fellow had seen to correspond with the statement that I had given falsely that day.

- 10) Q. So to summarize, your first statement given on the night of the stabbing, that statement -- the gist of it is that you didn't see the stabbing. Right? And the gist of the second one is that you did see Donald Marshall do the stabbing. Now this conversation at the Louisbourg Town Hall, you said that your mother was there, your probation officer was there, Wayne Magee was there. He was then the Chief of Police of Louisbourg. Is that correct?
- A. Yes.
- Q. Yes. The two policemen whose names you don't know, do you know what police department they were from?
- A. City.
- Q. They were City -- Sydney City Police Detectives, weren't they?
- A. I would imagine.
- (30) Q. And isn't it fair to say that what they were trying to tell or what they told you at the time was they communicated to you the seriousness of telling lies about what you had seen? They were after your true statement, weren't they?
- A. They were after the truth.

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Q. Yes, there's no question about that. They were after the truth, right?

A. Yes.

Q. And so you gave them that second statement. You stuck to that at the preliminary inquiry and then

--

A. Yes.

(10) Q. -- at the trial, do you recall the sequence of events at the trial?

A. Not really.

Q. Do you recall that you were declared a hostile witness?

A. Yes.

Q. And your preliminary inquiry was put to you?

A. Yes.

Q. The part that I just read?

A. Yes, yes.

Q. Right. So --

(20) THE COURT:

Excuse me, Mr. Edwards. You referred to the first statement, the one on May 30th. I think you suggested to the witness that in it he said he didn't see anything. I think you'd better clarify --

MR. EDWARDS:

Yes, a point well taken, My Lord.

THE COURT:

-- just what he did say there.

MR. EDWARDS:

(30) Yes.

BY MR. EDWARDS:

Q. I'll just read you from your statement of May 30th, 1971, which is attached as exhibit "B" to the affidavit you swore on July 14th, 1982, Mr. Chant.

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Friday night I was in town and I left the bus terminal on Bentinck Street about 11:40 p.m. I walked down Bentinck Street. I came over Byng Avenue and started to cross the tracks. I got half way across the tracks - first I seen two fellows walking and two more were walking kind of slow talking. The two fellows who stabbed Donald Marshall and Sandy Seale - they talked for a few minutes over on Crescent Street. One fellow hauled a knife from his pocket and he stabbed one of the fellow - so I took off back across the tracks to Byng Avenue....

So in fact in your first statement, you were saying that you saw someone other than Donald Marshall do the stabbing. Right?

A. Is this referring to the statement that I had given at the police station, the first?

Q. Yes. Would you like to look at it?

A. I don't recall saying anything like that.

Q. Perhaps I should show it to you, then.

A. Okay, yeh.

Q. You recognize that statement?

A. Yes.

Q. And that is the one you gave on the night of the stabbing to the police?

A. Yes.

Q. Yes, so just to clarify and I'm sorry I misdirected you before, --

A. That's okay.

Q. -- but you said at that time you saw someone other than Donald Marshall do the stabbing?

A. The story that I had given at that time was one that I had gathered from what Donald had told me or Donald had explained to me when I had met him what happened and that's where I got that story at.

Q. I see so when you gave that statement, you were repeating what Donald Marshall had told you?

A. Yes.

Q. But you didn't say that in the statement, did you?

A. No, sir.

Q. And then on June 4th, that's when you gave this statement which is attached as exhibit "C" to your affidavit, and on page two of that statement, you were asked:

*Could you hear what they were talking about?*

A. No. I just...

*..I just heard a mumbling or swearing. I think Marshall was the one who was doing doing most of the swearing. Then I seen Marshall haul a knife from his pocket and jab the other fellow with it in the side of the stomach.*

Do you recall saying that in your second statement at the Louisbourg Town Hall on June 4th?

A. I don't recall saying it at Louisbourg. I recall saying it at the trial. A lot of it has slipped away from me.

Q. I'll show you exhibit "C" on your affidavit, page two, the second question on the page.

A. Still, I don't remember saying -- giving that statement. Not that particular -- not --

BY THE COURT:

Q. I'm sorry, would you speak up please?

A. Oh, I'm sorry. I -- I don't remember saying that. I don't know why.

BY MR. EDWARDS:

Q. Okay, but you do remember giving a statement on June 4th at the Louisbourg Town Hall?

A. Yes.

Q. And you do remember that in that statement you said that Donald Marshall did the stabbing. You remember that much?

A. Oh, yes.

Q. So are you denying that this is the statement or are you simply saying that you just don't remember whether this is --

10) A. Oh, I don't deny that that isn't the statement. I'm just saying that I --

Q. You don't recall --

A. Yeh.

Q. -- those exact words?

A. Yeh.

Q. So just to conclude, Mr. Chant, would it be fair to say that when you gave that statement on June 4th and when you testified as you did on the preliminary inquiry and then the trial, that you were doing it because you thought it was the right thing to do?

(20)

A. I knew what I was saying wasn't right. I don't know why I said it, probably because I was scared. I don't -- I don't know what to say. Excuse me.

Q. You can't go beyond that. Thank you, Mr. Chant.

MR. ARONSON:

Nothing arising out of that, My Lord.

THE COURT:

I'd like to ask a couple of questions, please.

BY THE COURT:

(30)

Q. In your first statement of May 30th, 1971, you were asked:

*Did you know Donald Marshall?*

And your answer:

*I knew him to see him.*

• That isn't what you said today. Today you've said you

didn't know, if I understood your evidence earlier.

A. Yeh, I didn't know either Seale or Donald.

Q. But you did know Donald Marshall to see him at that time.

A. I used to do a lot of hanging around in Sydney. I used to --

10) Q. So you -- I'm just asking about your statement there that you said that you knew him to see him.

A. I knew of them but I didn't know them. I knew the Marshall -- I used to -- well, --

Q. The statement of May 30th which you made to the police, not the one in Louisbourg but the one before that which Mr. Edwards has just read to you, that is not -- you say that is not a true statement?

A. It's -- it's true -- well, it's true up until the part where I had said that I had witnessed the stabbing of another man stabbing Seale.

20) Q. It was not true there. Why did you not tell the truth to the police at that time?

A. Well, I was -- I told them what Donald was telling me about what had happened. I don't know. I was -- I guess I was sort of scared then. Donald came out of -- when Donald came out of the questioning room, I guess, he -- he come over to me and he sort of -- I shouldn't -- yeh, I guess he was mad and he said: "There was two of them, wasn't there?" I didn't know what to say so I said yes. When he had said there was two of them, that's the reason why I give the statement that he had told me when we met up with one another on Byng Avenue.

30) Q. But in that statement, you didn't say that that was what Donald Marshall told you. You said it was what you saw?

A. Yes.

Q. That was not true?

A. Yes, sir.

Q. What did you see that night when you were in the park?

A. The only thing that I did see -- I didn't see nothing pertaining to the murder, the actual murder. The only thing that I seen was Donald, when I met Donald on Byng Avenue. We went over. He -- me and him both tried to help Seale, get to the or get an ambulance for him. That was all I seen, Your Honour.

THE COURT:

Any questions arising out of that?

MR. ARONSON:

Nothing arising out of that, My Lord.

(WITNESS WITHDREW)

COURT RECESSED: 12:32 p.m.

COURT RECONVENED: 2:00 p.m.

MR. ARONSON:

I believe the next witness is Gregory Ebsary.

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Mr. Maynard Chant, sworn, testified as follows:

EXAMINED BY R. MURRANT

1. Q. Your name is Maynard Chant?  
A. Yes.
2. Q. Middle name:  
A. Vincent.
3. Q. And you live in Louisbourg?  
A. Louisbourg.
4. Q. What's your address there, Mr. Chant?  
A. Do you want the box number and everything?
5. Q. Street address.  
A. Street address is Wolfe Street.
6. Q. Wolf?  
A. Yes.
7. Q. W-O-L-F-E?  
A. Yes.
8. Q. And how old are you now Mr. Chant?  
A. I am 27.
9. Q. Are you married?  
A. Yes.
10. Q. Employed?  
A. Yes.
11. Q. Where do you work?  
A. National Sea.
12. Q. And that's in Louisbourg?  
A. Louisbourg, yes.

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13. Q. Now what was your date of birth?
- A. October 14, '56.
14. Q. In the year 1971 you had some involvement in the matter of the murder of Sandy Seale and the trial of Donald Marshall?
- A. Yes I did.
15. Q. And what I want you to do this morning, Mr. Chant, you appreciate that I represent the Canadian Broadcasting Corporation in this proceeding. What I would like you to do is to take your time and I would like you to take me through the events beginning that evening and to explain to me on the record as fully as you can what happened with respect to yourself. What happened to you, what you did, who you spoke to and if we can begin the night of Friday, May 28, '71, I understand you were in Sydney that evening?
- A. I was in church.
16. Q. How is it that you went to church in Sydney from Louisbourg?
- A. There is no--our particular denomination which is Pentecostal, there is no Pentecostal denomination in Louisbourg so we use to travel to Sydney every week for church so that is basically how I ended up in church, do you want me to continue.
17. Q. Is this Friday evening you're in church?
- A. Sunday--maybe there might have been special meetings, it is not really clear with me.
18. Q. Is this the night that all the--that the murder happened?
- A. I don't know to be truthful with you. I don't know if it was a Sunday or a Saturday, I don't recollect.
19. Q. Whatever day it was tell us the next thing that happened that day?
- A. Well that evening while we were in church, I decided to skip church, I wasn't really following my family's beliefs so I decided I would meet

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19. A. a friend of mine down at the Pier and we'd go do a little bit of--what do you do when you're young, partying or whatever you want to call it, so...
20. Q. What did you do, sneak out of the church?  
A. Well I didn't sneak, I told my mother I was going. She told me not to go but you know how young people are, I said well I'm going and that is all there is to it so I left and I went down the the Pier to meet my friend and he never showed up so it was getting quite late while I was waiting around for him so I thought I would try to skip across town and catch the bus home. So when I got up to Bentinck Street to the bus station the bus had already left.
21. Q. This is the bus back to Louisbourg?  
A. Yes it is a run back and forth.
22. Q. I guess you assumed your parents had gone home?  
A. I didn't really care about them, I often hitchhiked so it didn't really bother me if I was to hitchhike. I had the money for the bus so I thought I would try the bus anyway.
23. Q. How old were you then?  
A. I was just about 15 I guess or 15 at the time.
24. Q. Before we get into the events further along that evening. What was your situation with the law?  
A. It wasn't good. I had--I was on probation at the time.
25. Q. What was that for?  
A. It was for theft.
26. Q. This is something that happened in Louisbourg?  
A. Yes.

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27. Q. Anything else?

A. I ran away from home. Basically that was pretty well it, I broke my curfew a couple of times, you know, basically stuff like that to keep me...

28. Q. What kind of curfew had you had?

A. I had to be in by 9:00 I believe.

29. Q. That's home by nine.

A. Yeah.

30. Q. If I follow your evidence correctly than this night in Sydney you would have been breaking your curfew?

A. Definitely. Like I was--like the way that it was put--I was under the influence of my parents, where ever they went I was allowed to go.

31. Q. When you snuck out of church that was...

A. When I snuck out of church well I was just..

32. Q. Okay, all right. So you left and you were going for the bus?

A. Right.

33. Q. Just pick it up there and tell us what happened?

A. Well I missed the bus so I decided I was going to hitchhike so I went down Bentinck Street and the street that runs parallel to that to go to George Street, I just entered that street and there was a fellow that came running, I guess, from the Bentinck Street across the bridge and started running towards me and caught up with me a couple of steps down that street. I can't remember what the name of the street was and he said you got to help me and I said what's the matter and he showed me arm where his arm was slit open and he said my buddy is over on the other side of the park, somebody stabbed him.

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34. Q. Did you know this man at the time?  
A. No.
35. Q. Did you see the stabbing or ..  
A. No I never.
36. Q. Or the wounding of this other guy that was showing you his arm?  
A. I seen the wound of the fellow that showed me.
37. Q. He showed you?  
A. I heard it to be Marshall later on that showed me his arm that it was cut.
38. Q. You didn't see how either of those things happened?  
A. No I never.
39. Q. Take it from there.  
A. That's when we met up with two couples walking. We were trying to flag down a car but in the meantime these two couples came and one had given him a handkerchief to put on his wound and so we flagged a car down and it was a brown Nova and then we turned around and went over towards where he said his friend was laying on the road stabbed.
40. Q. Who flagged the car down?  
A. I think I did.
41. Q. Did you know the driver of the car?  
A. No.
42. Q. Okay and then you went back to where the stabbed guy was?  
A. Yes.
43. Q. What happens next?  
A. Well we get--as we were approaching the car, like in the middle of the road laying over his stomach and we got out of the car immediately and ran over to him and I took my shirt off and put it to his side and then the fellow--Marshall ran up toward the house to get an ambulance so the

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43. A. ambulance  
A. /came and you know, whatever the procedure goes on and they took him then I proceeded on home.
44. Q. Do you remember anything in that period of time of anybody calling the police? So Marshall--the guy you now know as Marshall ran to a house to get an ambulance. You and he stayed there?  
A. Yes.
45. Q. Now tell me about your shirt, you said you put it on his side?  
A. Well he was bleeding so much so I had<sup>do</sup>/to something, I just had a jacket on so I just took my shirt off and put it at him so he wouldn't bleed, I tried to hold it up against his stomach so it wouldn't bleed so much but he was bleeding quite bad. He never really said anything, I just kept telling him to hold on. I think he was looking at me but never really said anything, I remember him mumble something like I'm cold or something like that, nothing where he was making, you know or saying anything.
46. Q. The ambulance came and after the ambulance people did whatever they do you left?  
A. Right.
47. Q. Where were you going now?  
A. I was going to continue home, I walked out to the street that he was on, I walked out to Argyle and I walked down Argyle to George Street and started to hitchhike.
48. Q. What about your shirt at this point in time?  
A. It was pretty bloody. I had to take it with me.
49. Q. Did you put it back on?  
A. No, no, I just carried it.

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50. Q. So you're now hitchhiking back to Louisbourg?

A. Right.

51. Q. What is next?

A. So two--car, you know, from the police station hauled over and asked me a few questions. They asked me, I guess they must have noticed on the shirt that I had and they said what did you see or something like that and I said I saw everything, well I meant, basically I was talking about--not the stabbing, but I was talking about the events around it and the stab wound and etc. stuff like that. First they took me up to the hospital.

52. Q. This is a Sydney Police Car?

A. Yes.

53. Q. And there is two officers in it?

A. Yes.

54. Q. Let me just back track a little bit, when they stopped you that night, you're on probation, your breaking you curfew and you got blood on your shirt?

A. Right.

55. Q. How did you feel when the police approached you all those things in mind?

A. It never really came to mind to be truthful, I never really thought of it, you know, it never even entered my mind, my curfew never use to bother me that much. Even probation never bothered that much, I was just that type of fellow, you know.

56. Q. Then you're going to the hospital with these...

A. I don't know why we went to the hospital for--I don't know really why we even went there, Marshall had went or something with the ambulance to the hospital and I don't know if they were going to pick him up and from there we went to the police station.

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57. Q. That night?

A. That night, the same night, the night after, like, coming from the hospital.

58. Q. Was there any conversation between you and the two officers going to the hospital and going to the police station?

A. Not that I can really remember or say what really happened, not that I can recall.

59. Q. Now take us to the--when you get to the police station?

A. Well I'm at the police station and I'm just sitting down waiting to go into see somebody, I don't know, I guess that would have been the Chief there at the time and the first thing I know who I learned to be Marshall came out of the office and came over to me and he was sort of, I was sort of sitting like down in the car, and he said there was two of them wasn't there, I said yeah there was two of them so I must have been scared at the time when he said it. He leaned over me as much--he was in quite a bit of anger I seen on his face and I said yeah there was two of them and I just pushed the pressure off at the time. So anyway they picked me up and I got up and they took me in and I sat down and gave a statement. I can't even remember to this day what the statement was I even gave. I believe the statement I did give was corresponding to Marshall's story.

60. Q. This is the night that this happened?

A. Yes.

61. Q. Do you know which officers you spoke to that night?

A. No I don't.

62. Q. I don't believe I have a copy of that statement?

A. I don't know where that statement went.

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63. Q. Have you seen It since?

A. No, I don't know where it went. I remember asking at one point in time about the statement and nobody even said anything to me about it so--I think the statement had to do with--like it was more or less holding up Marshall's story. I believe at a point in time he had begin to tell me what went on, like maybe between the drive in the car, to the car over to the scene, I know roughly between it all and I just basically told them what he had seen and parts of what I had seen.

64. Q. You used the word scared....

R. Pugsley: I don't think he did, did he. Oh I am sorry, did he use the work scared?

65. Q. Yeah. I was going to ask Mr. Chant who was scared of whom and for what reason that night you were there?

A. In which respect, me scared of Donald or scared of the police or scared of the....

66. Q. Or them scared of you..

A. I was just scared, a little kid and gets picked up by the cops and stuff like that. Just their appearance use to scare me just because of the fact of having run-ins with the law etc., etc. It was just my nature to be scared, I was tough, but actually I was just a little, I was scared just like everybody else I guess.

67. Q. Did this have anything to do with what you told them, the fact that you were scared?

A. I believe a lot of it was because--I remember Marshall when he came over me and stood over me and said, you know, there was two of them. I was scared then because I said there was two and I didn't even see that there was two and I got myself in a bind then, you know, probably I was more

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67. A. scared of the police than I was him that I just kept on going with the story that I....
68. Q. Now after you gave you statement that night, what is the next thing that happened to you?
- A. I don't know if it was a day later or two days later there was....
69. Q. Let me back track first.
- A. Go ahead.
70. Q. Giving your statement.
- A. I am sorry.
71. Q. It's late at night at the police station in Sydney?
- A. So they called my parents to come in and pick me up and took me home. There wasn't much discussed. I guess they had filled them in, Maynard was involved in--and stuff like that, my mother said to me I told you not to go and, you know, mothers stuff like that. Basically there wasn't too much more said than that. They understood that I was, you know, by that time my mind was gone, I was sort of a nervous wreck so they just wanted to get me home I guess.
72. Q. You go home to bed that night and what is the next thing that occurs with relation to this Marshall....
- A. In relation to this?
73. Q. Yes?
- A. There was two police officers that came to the door and said they would like to have a chat with me so mom asked if they were going to take me or whatever and they said yes, they wanted to take me down to the Town Hall. So she got dressed and came with me. So we went into one of the rooms there at the Town Hall, the old Town Hall and sat down and I remember the--my probation officer was there and the

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73. A. Chief of Police was there, Wayne Magee, my mother and I believe there was two other ones. I don't know if they were detectives or--I don't remember them being dressed in uniforms.
74. Q. Perhaps <sup>before</sup> you go on, I just want to clarify something here. Different statements that we have and there is one marked here May 30, 5:15 p.m. It says; "statement of Maynard Vincent Chant" and then--I'll get you to look at that and there is another one that is marked June 4th at 2:55 p.m.
- A. What was it, the other copy?
75. Q. I'll show you it's in a typed copy of June the 4th, 1971 at 2:55?
- A. That's in Louisbourg, yes.
76. Q. I know it's hard to reconstruct but I am trying to figure out which..
- A. I think--It didn't seem like it was around supper time. I was almost like it was around 2:55. I only gave one statement, that I can remember I gave. I never gave two statements, I only gave one statement.
77. Q. Did you sign one or more statement?
- A. The statments that I signed--I signed one the night of the crime and I signed one that afternoon in Louisbourg. This is the one I believe because I remember it was just after dinner when they took us down.
78. Q. Okay let's go to the one in Lousibourg. You were taken down to the Town Hall and you mentioned a number of people being there, Wayne Magee....
- A. I don't know if he stayed throughout the whole questioning but I remember him being there specifically at the time.
79. Q. Why was he there?
- A. I don't know why he was, maybe just because where he was the Chief of Police out there at that time. I don't know if he was there

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79. A. In my benefit or whose benefit he was there for. Maybe he was there for my benefit.
80. Q. You mentioned a probation officer?
- A. Larry Burke was there.
81. Q. Do you know why he was there?
- A. No, I don't know why he was there. All I know is that I was--by the sounds of things and by the looks of thing I was in pretty hard shape because when I got in the room they were all there, I don't know if they were all there at that time but they begin to come in.
82. Q. Okay the two officers were there?
- A. Yes.
83. Q. What about your mother?
- A. My mother was there for a little bit.
84. Q. Have you spoken with your mother since this about her involvement?
- A. Not really.
85. Q. So you go down to the Town Hall, various people are there, tell us exactly what happened?
- A. Well they began to say--I guess they must have acknowledged the fact that I was on probation and they said there was something about a couple of stories or something -- the story didn't quite add up or something and they had--basically the only thing that really--I don't remember a lot of the trivial talking. I just remember the things that were basically implanted into me and they said that they have a fellow who was there that said that--actually what they were telling me is that the story that I had given that evening at the accident or whatever happened, the stabbing, said that it wasn't accurate because the had a fellow who said he saw me there and I saw the same thing that he saw and right then and there I confessed up a bit, I said I didn't see

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85. A. nothing then.
86. Q. They said you had to see something because we got a fellow here that's--  
I remember them going over that a couple of times and saying, we got a fellow here, you had to see something because this guy said he was there and he saw such and such and you had to see it to because he said he saw you there.
87. Q. Who was this guy, do you know?  
A. I don't know if they gave me his name I came later to learn that it was John Pratico.
88. Q. But you didn't know this that day, did you?  
A. I don't know if they give me his name or not. I don't think they did but anyway I kept saying--they said they had me for perjury because of my first statement...
89. Q. That's because it was...  
A. Because like after I said I didn't see anything then they started saying that they had me for perjury because of my first statement and stuff like that and I could get into a lot of trouble, I could even go to jail or you know, I can't remember if they actually said two to five years but I know that they said I could be doing time because of where I was on probation and stuff, I think they brought the whole thing in. Well by then I was almost in tears, I was pretty scared so right then and there, they, I don't know why but they--I don't know if they put my mother out or they told her to go out, or , I know there was a point in time where she just got up and I don't know why she left but they put her out, I figured they put her out.
90. Q. You mentioned there that you were trying to confess up?

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90. A. I was just like, when it came head and head, I just wanted to get out of it and say hey man I didn't see a thing, you know.
91. Q. Is it true that you didn't see anything?
- A. Well I didn't see nothing, that's the point of it and I just--like having your mother by your side you feel a little more--so I said that, I made that statement to them, I said listen I did see nothing. It seems like a couple of minutes after that they begin to say what they said to me about doing time and being on probation and kept on stressing that I had to see something.
92. Q. After these things were said and after your mother left, just trying to figure this out but it seems that Mr. Magee was still there, Larry Burke was still there and two police officers?
- A. Yes.
93. Q. And you 15 years old?
- A. Yes.
94. Q. Tell us how you felt at that stage?
- A. Well I didn't--I was just at the point where I didn't know what to expect next. I didn't know what was going to--I heard so many stories, as your a kid, you know little guys getting beat up and etc., etc., but I knew I was sort of a little bit safe because my mother was just outside. Anyway they started the issue again about me having to see something. Surely this fellow wouldn't steal us wrong, this fellow said he saw you there and you saw what he saw and well you had to be there. I said something like where was he at and they said on the tracks, something like that. Like it seemed like the more I began to go a bit their way the less the pressure got me so in resulting that I just ended up giving a false statement and just wing the rest of it you know basically--I basically knew what was expected of me to

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94. A. say or you know. I don't know if they were seeking for the truth and they were trying to apply pressure to my to tell the truth but it ended up in me telling a lie anyway.
95. Q. If you could pass me back the second statement. This is the statement that you gave that afternoon which is the four page statement and just on page two it says; "I know I just heard a mumbling of the swearing. I think Marshall was the one that was doing most of the swearing and then I seen Marshall haul a knife from his pocket and jab the other fellow with it in the side of the stomach. Question: What side? Answer: The right side, I seen him jab it in and then slit it down. Question: How could you tell it was a knife? Answer: By the figure of it, it was shiny and long." That is part of a statement you gave, is that true, is that a true statement?
- A. It's not true, I don't know how I ever came up with it but it is definitely not true. I never seen any of that.
96. Q. Where did the information come from that went in that statement?
- A. I don't know I must have a real wild imagination or I don't remember if -- I don't know how the statement go to be the way they were basically. A lot of that stuff was pretty well away from me, I just can't grasp it, I can't recall how it came to be.
97. Q. When this interview was finished and when you completed that statement, did you appreciate that the statement was false?
- A. Pardon me.
98. Q. Did you know or appreciate or think of the fact that it was a false statement?
- A. Oh, yeah. I was pretty scared even after I'd given it. After I left or after I went home I was pretty, simply really screwed up, I really did something bad.

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99. Q. What were you afraid of?

A. Well I was, like I said, I was afraid of going into court and there was a lot of things going through my mind after I'd given the statement but I can say that after that, you know, I must say the cops and policemen made it pretty easy for me. They took me in and talked of the areas and I remember a few times where I said I was standing and they said well you couldn't have been standing there because you wouldn't have seen anything. There was a lot of things that helped, you know, that particular story to get into me. I remember sitting in the Crown Prosecutor's office with the other witness that said I was there and seen it, I guess it was Pratico and I remember them saying, what arm was it again and etc. etc., just drilling and drilling and drilling over and over again.

100. Q. What was this drilling for?

A. I don't -- I guess they didn't want us to make a ass of them up on the stand, I don't know. I guess they really wanted--maybe they didn't realize the age that we were at, they probably wanted to make sure that we got every down pat before we went into the....

101. Q. Was your mother there when you gave this statement?

A. No.

102. Q. After that day were there other references to perjury or changing your statement?

A. No, basically what was in my mind that I had done wrong.

103. Q. Now you testified at the Preliminary Inquiry with respect to Donald Marshall and how were you treated then, did you have contact with the police or the Crown Prosecutor?

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A. What do you mean at the appeal or at the...

104. Q. No, the first time around?

A. I've had--they treated me relatively good, they were, they did everything in my benefit that was possible to make me to get out, in and out of Sydney, etc., etc.

105. Q. And when you testified that time how did you evidence compare with your statement?

A. I don't know if it was accurate or not. There was--I guess the first time we went to court was pretty well, I was in and gave my statement and it was pretty well cut and dry and I was out of there.

The second time when I guess he was going to, there was two courts anyway and the second time I was in the court they held me there, I don't know if I refused to answer one of the questions or something. I think they asked me could you be certain this time that this was such and such a person that you met and I don't know if I said no or yes or something like that but I didn't want to answer it because you know-- I guess a lot of stuff that was going on began to sink in that I was doing quite a bit of injustice to this young fellow. I didn't even know him, I didn't know him personally and here he was, he had a life sentence, I didn't know if he did it or now. There was a lot of talk going on at the time that he did do it from the street, you know, a lot of fellows, a friend of mine that was in jail and he was in doing time while Marshall was in there and there was a lot of talk going on in there that he did do it, stuff like that, like it sort of eased my conscience a little bit but it was still, the thing that was there was hey man what are you doing to this fellow and you're really screwing this guy. Sort of like even, you know, when those thoughts use to come to me, it use to

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105. A. be the same thought that you're doing justice because you're putting away a fellow that's really guilty so it began to really screw me up inside, my mind and stuff like that.

106. Q. What, the trial itself, before the jury, you testified?

A. Yes.

107. Q. Did you have any contact with the police or crown prosecutor or any discussions with them before that trial to prepare your...

A. Like I said the only thing I can remember was being in the office, the first office you go in, the first court right across the isle, I guess it was the crown prosecutor's office and I remember me and John Pratico sitting down in there. I remember even one night I had stayed in, I stayed in at Pratico's place but we never really discussed anything, I guess we both/<sup>knew</sup> what we were doing, we didn't want to start talking it over because we knew how much we were screwing up, you know, so basically--the only thing up to the court that I can think of is being in the office and then--pinpointing a certain amount of questions so that we wouldn't, so that we would be really on to them, hit the nail on the particular things, you know, on the stabbing, on the knife and you know.

108. Q. You testified at that trial and Marshall was convicted or the trial itself?

A. The preliminary, there was the first court and then there was the second and he was convicted at the second.

109. ~~Q. You would have known that he was convicted? You would have heard that?~~

A. Yeah I was outside and Sandy Seale's brother came out and told me that Marshall was on the stand and that he was screwing things up for himself. I guess they were all kind of disappointed because me not answering the last question, I guess they thought it was--well I guess it was a pretty important question.

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110. Q. What was that question?

A. After identifying a yellow jacket or something they had asked me just at the end of it, would this be the jacket, you know, was it the jacket that he was wearing, was it the same color and the same jacket and etc. going on like that. At first I refused to answer it and I think out of that they adjourned or something and came back into court and called me a hostile witness. Not much of an attribute where a fellow spends a lot of time in prison for you know, like I say, I didn't know if <sup>was</sup> he/guilty or not.

111. Q. You knew--I take it from what you're saying, you knew what you were doing was wrong and I am just wondering why you did what you did through the first hearing and the trial, giving that statement?

A. Well like I say, a lot of it, a lot of it was just because of the--I guess you could say sort of like peer pressure type of thing from you peers. Like from the police and like almost--I grew up in that fear of the police bit all my life, being in trouble so much and being, you know, in trouble with the law and having them come down hard on me that its gone for me, I've always got the bad end of the stick sort of speaking. I just, like, I was automatically, anything inferior to me, I was scared, I was brought up in that respect too to fear those who have the authority over you and etc. etc., so you know when that pressure came on and just, whatever was just to ease the pressure from myself I would give anybody what they would want, more or less. As you grow older you get a little wiser to the things but at that time I just wanted to get a lot of the pressure away from myself and a lot of the times like I though back to when I was giving the statement or why I kept going or why didn't I, you know, the first time I had to confess up to somebody, I never really got that close to anybody, it was sort of like I was all by myself most of the time, I

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111. A. lost a lot of my friends through the trial, because they felt I was doing such an injustice.
112. Q. Did anybody ever come to you back in those days with a copy of your first statement and ask you why they were different?
- A. A lot of that stuff, like I say, it's gone away from me and I can't even recollect it but I remember something to that effect but I don't remember what it was about or anything like that.
113. Q. Now to get the timing right on this. Marshall is in jail, you don't say anything for a number of years about this?
- A. Right.
114. Q. When do you first speak about it?
- A. After everything was all calm down and I was growing up a little bit and I started getting involved in transporting drugs, stuff like that and my life started to go away with myself and I started to get really in deep with the world and doing things in the world, etc. etc. and then I came to a point in my life where I got ripped off one time for quite an amount of drugs and in which I was dealing through. I had connections through Montreal and they were sort of heavies, you know, they were going to come down and they were going to do a job on me sort of speak and at that time I went back to my father's and mother's faith and, you know, true christianity and I asked the Lord to forgive me and see if he could straighten this mess out and if he would that I would serve him and after I gave my life to him and became a christian, everything began to unfold for itself that I had following up. he told my brother, he said tell you--I was more or less in hiding then. There use to be a little camp I use to go to when I was a young fellow involved in the church and that, and that's where I

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114. A. went away, that's where my father sent me to sort of--he said he would give me a couple of days to figure out everything. So I went up there and while I was up there I'd given my life to the Lord and told him I would serve him if he would straighten this mess out because I said my life is in danger and etc, but I don't want to get into it, but, so things worked out for the best and from then on in I was more or less--like after I became a christian I began to pray about that situation, it's funny you know, when you grasp a bit of the truth and come in to a real purpose in life, things like that they begin to interrupt your life again because of the injustice and the more I began to pray and you know, I asked the Lord what do you think I should, should I tell somebody and what should I do and I remember about a couple of months afterwards I took my father out, we went for a drive and I explained to him what took place and I guess he more or less didn't really didn't understand, didn't grasp it so a couple of months after that and I was still praying, and I was saying--I often thought about writing a letter away to Marshall or his--I didn't know his lawyers, but his father or something like that because I was always haunted with the fact, I've always had people trying to--people of his race coming to try to kill me at dances or stuff like that for a number of years and so a couple of months previous to the detectives from Halifax coming down, I told my pastor I sat down and told him the whole store and about the injustice I did and stuff like that. He said just to keep it quiet for a little bit and if the opportunity came for you to do something about it then do something about it but he told me that God has forgiven me but it would be much better for me to tell somebody with great authority. You know the opportunity every come to do so. So these

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114. A. two detectives came down from Halifax and they were saying that Marshall had to this very day said that he was innocent of the crime so they asked me, they said were you ever threatened by his friends or anything like that and I explained to them yes and they were more or less on the lines that they wanted to keep him there in prison and that's when they hauled out the statements and they began to review my statement and what I had said and I just told them, I said, fellows I got something I got to tell you. So I got out the paper and I began to tell them my story and they just told me to keep quiet until they got everything squared away and things like that. Like he kept telling me, do you realize what you're doing, do you realize what you're saying, I said yes.
115. Q. Did you realize that when you talked to them that at that point in time you really could be charged with perjury?
- A. Like it didn't really--I didn't care--if there was injustice to be served I was willing to serve it because that's just the way I felt about the matter and there as a lot of things. I didn't know that he was--that there was a lot of things that were going on that I didn't know nothing about, I didn't know they had other witnesses, I don't know if I was the first one of not but I just knew that I was, you know it was that time for me to start trying to straighten this thing out. Not only did it ease my own conscience but you know they'd be of some assistance.
116. Q. You gave another statement to these officers? I think it's officer Weaton and Carrol.
- A. Yeah, Weaton and Carrol.
117. Q. I'll come back to that in a minute, then you testified in the rehearing for Donald Marshall, in Halifax?

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117. A. Right.

118. Q. And were you asked in that hearing or was it discussed in that hearing why you had given these false statement or just that you did?

A. I think it was discussed--I don't think it went into detail why I'd given-- why I was giving basically the same statement that I had given here was the same statement about the out, you know, that was saying you know the policemen or detectives, applying a certain amount of pressure to me to give it. I don't know if they were even trying to get me to give a false statement. What I was thinking is what I told them and they are pursued to the truth, they ended up with a bad statement on their hands.

119. Q. You appreciate Mr. Chant that this proceeding concerns a radio broadcast about the Marshall case?

A. Uh-hmm.

120. Q. What I'm going to do is just go to the part of your statement that was in the radio broadcast and I think that I understand correctly that you didn't hear this on the radio?

A. No, never.

121. Q. This is what was on the radio and I'll read it to you and this was from a portion of the statement that you gave?

A. I remember giving this statement on the radio and he might have told me that it was being taped right there at the station and it was going to go live or something like that.

122. Q. This is a different one, this is take from a statement that you gave to officers Weaton and Carol.

A. Okay.

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123. Q. I'll read it to you. "I did not quite make it to the park, a guy in a yellow jacket came running up to me. He showed me his arm where it had been cut and told me his friend was stabbed over in the park." Now that I take is true?
- A. Right.
124. Q. "The police interviewed me that night and I repeated what Marshall had told me." I think we discussed that earlier, am I right?
- A. Yeah.
125. Q. "I don't know why, I had to say something. I definitely did not see the murder." I guess it's true now that you didn't see this?
- A. Right.
126. Q. "Everything was over by the time I got over where Seale was" and I take it that's right?
- A. Yes.
127. Q. Then the last part says; "In the second statement" which is one taken at Louisbourg?
- A. Yes.
128. Q. "I told the detectives I saw the murder, they told me that another guy had seen me in the park so I had to see it so that's what I told them." With respect to those last to sentences in the second statement; "I told the detectives I saw the murder and they told me another guy had seen me in the park and I had to see it, so that's what I told them."
- A. Yeah, those statements were two different, like they were almost two different time periods. Like the first was having to do with the statement that I had given that night and basically said what Marshall was saying, that there were two fellows over in the park and one of the

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128. A. guys stabbed him and the second one was I told them etc., well that was having to do with the statement that was taking place at Louisbourg.
129. Q. The statement that you gave to officers Carol and Wheatman, let's see if I can get my hands on it.... There's a copy of it here, Mr. Chant, just take a moment and look at that to confirm to me that that is the statement that you gave to those officers?
- A. Yes.
130. Q. And the, just a part of it there, it's the end of the paragraph, paragraph four, the fourth paragraph that you've read, is that true that you say there?
- A. "That some times later" or "that he told me"?
131. Q. The whole thing?
- A. Yes.
132. Q. Now you also signed an affidavit with respect to the rehearing of Donald Marshall and it's three pages in length, I'll just give you a copy of it. Just take a moment and identify that for me. The third page has what I believe is your signature. Does your signature appear there?
- A. Yes.
133. Q. If you look, Mr. Chant, at paragraph eight, eight, nine, ten and eleven.
- A. Okay.
134. Q. Are they true as well?
- A. Yes.
135. Q. Paragraph 11 you say' "that the reason for giving the testimony referred to in paragraph 10 was because I was afraid and because MacIntyre and Urquhart of the Sydney City Police told me that I had witnessed a murder and was seen by another witness I believe was John Pratico. That's why you gave this statement."

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135. A. Basically what they were saying is that you had to see something. They never actually said the statement that I had witnessed it but they were saying that you had to see something, that was <sup>the</sup> thing that was mostly, you know that I remember.
136. Q. Paragraph 12 of what you have here, you may now have just read it but I'll read it to you, "that subsequent to the Preliminary Hearing in this matter in July of 1971, I spoke with the Crown Prosecutor, the late Donald C. MacNeil, Q.C. who informed me that if I changed my statement that I had seen Donald Marshall Jr. stab Sandy Seale, that I would be charged with perjury.
- A. That was--like basically that was what was in the--they were saying--that was probably worded a little bit different there. They were saying to me that where I was on probation and because of the false statement that I had given but it was almost like leading up to me before the second statement was to come into effect of the actual trial and murder that, you know, I could be charged with perjury, definitely.
137. Q This is between the two hearings?
- A. Yeah.
138. Q. Earlier in your evidence you described peer pressure, would you just explain that a little further for me, what do you mean by peer pressure?
- A. Well by--just by, like, somebody with a more important position than I am and just being a kid and being, you know, almost like, peer pressure meaning they could get you to say anything just by using their authority and the position they hold.
139. Q. In the script of the broadcast, the last reference is,--there is a comment here about the decision the Court of Appeal reached when they freed Donald Marshall?
- A. Right.

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140. Q. Do you remember that coming out or reading about it or hearing about it?

A. I remember reading something to my--that--about my statement not being reliable, I don't know what it was really, I just can't remember. It really bothered me what was said, I don't know who said it, I don't know if the Post said it or who said it but I mean they dragged me all the way up to Halifax for the Preliminary or the Appeal, excuse me and asked me to give a statement in court and I go all through that and it comes out in the paper and said that my statement was unreliable or didn't hold water or something to that effect.

141. Q. That you were not a reliable witness?

A. Yes.

142. Q. How did you feel when you heard that?

A. Well I mean here I am and it's eleven years later and certainly--I didn't know the decision of perjury was waived then to no perjury but I realized the circumstances that I was getting myself into and I was willing to discredit myself. I was willing to be humiliated to the public and I was going up to Halifax to give a statement that I relatively was haunted with all my life and here they got enough nerve to say, hey buddy, it's got no, irrelevant almost to the trial.

143. Q. Okay, those are all my questions, unless there is something else you would like to add.

A. No, I'm just waiting for whatever has to be done, back to work.

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Mr. Maynard Chant, examined by R. PUGSLEY

1. Q. You work at National Sea Products, Mr. Chant?  
A. Yes.
2. Q. What do you do there?  
A. I'm a fish cutter.
3. Q. And how long have you been there?  
A. I've been there about--going on five years.
4. Q. That's in the Louisbourg Plant?  
A. Yeah.
5. Q. You are a married man?  
A. Yes I am.
6. Q. Family?  
A. Two children.
7. Q. You're living with your wife?  
A. Yes.
8. Q. Does she work?  
A. Yes she works for Modern City Dairy, she's a secretary there.
9. Q. When did you have this turn to Christianity, when did that occur for you?  
A. I was-- '79.
10. Q. Seventy-nine, do you recall specifically when?  
A. It was in the summer, I don't remember, it would have to be July 18th, roughly something like that.
11. Q. A specific day it happened I take it?  
A. It was on a, I don't know if it was a Friday, it was in the evening, it was at night. Friday night or Saturday night.

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12. Q. And where were you at the time?

A. I was in Truro. The place is called Camp Evangaline, it's in Debert. It's a place where a group of, like, mixed denominations gather for spiritual growth, chance to relate with children or people your own age, stuff like that and they have christian activity, like sports that is really dominant to the sense of having fun and not particularly about winning the game but mostly just to get away, for people to get away and begin to take heed into what the Bible is saying and the truth that is really in it and applying it to your lives and morals and living it.

13. Q. Did God come to you at that time?

A. Actually I just went up there because as I was explaining I did a deal from Montreal to here and I got ripped off in the process of it but not for all of it, but most of it and my middle man, the fellow that was middling the deal for me gave a couple of days to try to figure out what had happened and if I didn't come up with -- if I didn't figure what was going on or who, I was going to possibly have a couple of legs broken or, you know, these guys that I was dealing with from Montreal were heavy enough to apply that type of force. So I, for the first time in my life I sat down one evening in my father's home began to explain everything to him, what I was involved in and he came to the conclusion that it would be good for me to get away for those couple of days to try to figure things out. So that's where I went. My brother was working for T.W. Curry at the time and he had a call to Halifax so I went up with him up there and booked a cabin up there to try to figure this thing out?

14. Q. There were other people there at the time, were there?

A. Oh, yes, there was a massive of about anywhere from a thousand, roughly

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15. Q. How many days were you there?  
A. I was there--Sheldon had another run at the end of the week and I went up in the middle of the week, I was there Tuesday, Thursday, Friday, Saturday, roughly about four days.
16. Q. And did God come to you at that time?  
A. I accepted Christ as my Lord and personal saviour on the last day there. I accepted him, you know, according to John 3 and 16 and according to Rome verse 10, 9 and 10.
17. Q. Did God speak to you?  
A. What do you mean verbally?
18. Q. Yes?  
A. No he didn't.
19. Q. Has he ever?  
A. No he hasn't.
20. Q. You were a very frightened man when you went there?  
A. I was very scared, I imagine anybody would be in that position. After I got things settled out in what had happened, it was just a matter of-- I was just basically waiting to go back, you know, catch the ride back from Halifax with my brother to explain everything to my middle man and he in return would sort of set up something that would account for what happened to the dope and things like that.
21. Q. You were purchasing dope, were you?  
A. Yes.
22. Q. What kind of dope?  
A. Hashish.
23. Q. What quantity?  
A. A couple of pounds.

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24. Q. How much money?
- A. Street value was around sixty-five hundred roughly. It was probably, it was black hash, it was one of the best on the market at that time, it was roughly selling for about fifteen or sixteen, maybe fourteen dollars a gram, around that.
25. Q. Had you purchased dope before?
- A. Yes, I was a courier for a couple of years.
26. Q. For a couple of years?
- A. Uh-hmmm.
27. Q. How much money would you make in a course of a month with couriering dope?
- A. Well I--the thing about drugs and about dealing with dope, stuff like that, basically the money you'd, I'd be moving around seven, eight thousand dollars at a time within the circle of the transaction. The money that would be in there would be my money, like, other people's money, you'd be working with that money so you know your expenses would be covered and if you did any dope at all or any amount of it, you wouldn't have to worry about that but basically your money is more or less always into that pot and in that circular transaction way you deal with it and you work with it.
28. Q. Did you ever deal in anything other than hashish?
- A. No, mostly pot and hashish, I did like dealing with chemicals.
29. Q. Did you in fact deal in chemicals?
- A. No.
30. Q. Did you ever deal in cocaine?
- A. No.
31. Q. Or heroin?
- A. No.

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32. Q. You first started getting involved in the dope business when, in 1977?
- A. Well I turned about 16 I guess and I started to do drugs.
33. Q. Shortly after the Marshall trial?
- A. Yes.
34. Q. And how did you first getting involved in doing drugs?
- A. Well like at first I--I got it at school. Got my first contact with it in school.
35. Q. And what did you do, you arranged to buy?
- A. No, at first, like anybody else, I was going around doing drugs, buying it and using it and etc, etc., and then after a while I begin to come and say hey, why should I pay for my dope and that is when I began to buy and sell a little bit and have a personal smoke and then after opportunities came for me to enter into that culture of transporting.
36. Q. Yes, would you have done this pretty well from 1972 onwards then to 1979?
- A. Pretty well, off and on.
37. Q. Were you regularly employed at all during that period of time?
- A. I'd held down a couple of jobs basically just to cover up the money that I was taking in and...
38. Q. I see, were you living at home at this time?
- A. From time to time, I was moving back and forth to Montreal, Ottawa, Toronto, where ever I was....
39. Q. You started going to Montreal, Toronto and Ottawa to arrange for the purpose of the dope?
- A. Well the transporting of it.

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40. Q. I see. Well would you actually bring it with you?  
A. Oh, yes.
41. Q. Would you go by car?  
A. I never had a license until after I was saved so....
42. Q. I see.  
A. I usually went by train or by plane or whatever.
43. Q. What did you carry the dope in?  
A. Usually, well sometimes I would carry it on my person, sometimes I carried it in bags or suitcases. Basically--I can't be telling you all this man. Basically that just the way it's done.
44. Q. Would you be involved in the purchase and sale once a month during this period of time?  
A. Oh, easy.
45. Q. What kind of money would you make out of these transactions?  
A. Like I say, I made enough money to feasibly keep myself and whatever, you know, quantity of clothes or whatever I wanted, I could spend, you know, roughly \$300 a day and just bar hopping or something, trying to pick up where I had taken a score because there was always people being busted and etc. so you're usually trying to hunt around picking new contacts. The force of the law was there continuously.
46. Q. Did you ever get picked up by the police?  
A. One time, yeah.
47. Q. Were you charged?  
A. Well I was charged here in Sydney.
48. Q. Of what, possession?  
A. Possession, yes.
49. Q. Were you convicted?  
A. With an intent to traffic. There was two charges given and I grabbed the two charges hoping that I'd get off--well I got off with possession

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49. A. anyway. I got a \$100 fine and that's about it.
50. Q. Needless to say you didn't declare any of this money as income, you didn't pay income tax on the money you made from selling dope?
- A. No.
50. Q. Would you give me an estimate of how much money went through your hands in that period of seven years?
- A. Oh, man, I don't know what to tell you.
51. Q. What would you be making, about twenty or thirty thousand dollars a year?
- A. Well I'd be carrying about maybe--no not at first, maybe the last going off I might have been handling maybe, anywhere from--like in the circular, pushing the dope roughly maybe between 15 to 20 thousand. Moving around all the time.
52. Q. How did you carry the money?
- A. I never use to be carrying the money, I use to have money held for me.
53. Q. I see. Did you ever carry a gun?
- A. No, never.
54. Q. Or any weapon?
- A. Never.
55. Q. And something happend in 1979, something went wrong with a drug purchase?
- A. Yeah, there was a lot of things that were going wrong the last couple of months.
56. Q. In what sense?
- A. Well I got involved in doing quite a bit of drugs and stuff like that.

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57. Q. You mean doing them yourself?

A. Well actually what I was doing is I was doing some chemicals and stuff like that to try to keep me going. Your insight on that stuff is just money, money, type of thing.

58. Q. Were you hooked yourself?

A. Definitely.

59. Q. You were a drug addict?

A. Yes.

60. Q. I see?

A. I wasn't what you would call a heroin addict but I was just--I was what people would call on the streets, like a pot head, basically.

61. Q. What kind of money would this cost you a day?

A. Well I was--it all depends on what type of drug, it would cost me anywhere from \$50 to \$100 or some days--some days I was like an alcoholic, some days you'd go without anything because of--you'd try to clean yourself a little bit and try to get your head together.

62. Q. From what period of time do you think you were a pot head, do you think you were a drug addict?

A. Well from the time I started smoking. I think anybody that relatively-- from the time they begin to smoke.

63. Q. Do you mean smoke marijuana or ...

A. Smoke marijuana or hashish, I think they come to the point where they do abuse it to the point where they are smoking it every day and a lot of them say they just need it to get them going and need it to make them happy, etc. I use it to escape sometimes, and use it to keep me going a lot.

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64. Q. Would you be out of it for days at a time?
- A. Not out of it. My mind was always--I was capable of circulating because, you know, I successfully pushed dope for a number of years, a couple of years without being busted so not that it rendered me mentally, like in captivity as far as working around me or not having the sense of awareness of what I was doing but physically it would wear quite bad. I would get down in the dumps every now and again.
65. Q. Who were you selling the dope to? Who were the purchasers?
- A. Various amounts of people, I can't say who they were.
66. Q. I'm not going to ask you to name names, but were they basically young people?
- A. No, no, you know, businessmen, people with a little bit of higher authority than that too sometimes.
67. Q. Some high school students?
- A. I never really, I was more or less like a turn over man, I never really got down to selling joints on the street. When I first started I did but after a while I was just like a turn over man. Just bring, you know, point A to point B.
68. Q. And you'd sell it to another guy and he would distribute it?
- A. Right.
69. Q. And he would distribute it to whoever he could sell it to?
- A. Yeah.
70. Q. Presumably some of the high school students?
- A. Possibly, I don't have an awareness of who it would be. Mostly I know-- I don't think the circular of drugs was that--I wouldn't allow--I never ever sold to the high school students. Most of the people that it was sold to, that my dope had any circular or went to was mostly to people in bars and if there was a student that got into the bar well that's...

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71. Q. His tough luck?  
A. Yeah.
72. Q. Okay, so something went wrong and the boys from Montreal said they were going to break you legs?  
A. Well they came down.
73. Q. They wanted money?  
A. They wanted to know what was happening?
74. Q. They wanted money?  
A. They wanted money for their dope.  
much
75. Q. How/money did they want?  
A. I think it was around \$2,500.
76. Q. Had you had that money?  
A. No, well I had it backed up in some other dope but I wasn't willing to give that to them.
77. Q. So what did you do?  
A. Well I actually--I asked the fellow who was middling the deal for me I met up with him and I arranged a meeting and asked him if they'd give me a couple of days to see if I could figure what was going on and they believed my story that I was ripped up, that I wasn't to haul a fast one but if I couldn't come up with any type of evidence to say that I was ripped well I was going to have to pay the consequences because you just don't let stuff like that slip.
78. Q. Did you come up with the money or provide them with a...  
A. Nothing, like I said, I went away to try--I got it all figured out.
79. Q. Figured out in your own mind, you mean?  
A. Well I figured out exactly what happened.

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80. Q. I see, someone screwed up somewhere?

A. Who did me in and etc.

81. Q. Did you get after him?

A. Well after the acknowledgement of receiving Christ as my personal saviour through the redemption of the cross to the sharing of the blood, I went home and my brother Roger came home and said to me. He said listen, such and such said don't worry about nothing, everything has all been taken care of. Apparently that fellow had confessed up to it.

82. Q. Your prayers had been answered, correct. That makes you a true believer I take it?

A. It never made me a true believer, well there is a lot more that happened that transpired in my life between that dramatic experience. When I first accepted the Lord, like I told you, I was quite a heavy drug user and...

83. Q. When you first accepted the Lord was I take it at this meeting in Debert?

A. Right.

83. Q. In July of 1979?

A. Right.

84. Q. And it was a couple of days after that acceptance that your brother Roger advised you that the guy had confessed?

A. Right.

85. Q. That was a very fast answer to your prayers?

A. Very fast. Pretty fast.

86. Q. Did you pray for the resolution of that problem?

A. Well this is the way I made my plea to God was that I was in quite a mess. I was in a mess not in the drug culture but I was in a mess

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86. A. physically and mentally because of the drugs and stuff and the abuse that I was causing to my body and I was down. Like I was up to smoking two and a half packs of cigarettes a day and plus like I say I was doing in drugs and drinking and everything else and partying, what people considered having a good time, I don't anymore but-- so I just said look at me man, I'm in a big mess and I said if you clean me up, I said if you really clean me up and take care of me, I'll serve you and from that point in time, I never went back to drugs or cigarettes or drinking or anything. From that point in time God had come in and cleaned my life up sort of speak, he gave me a bucket of wash, white wash and just cleaned me up.
87. Q. When you asked the Lord to clean you up and clean up the mess you were in, did you ask him to resolve the problem you had with the Montreal drug dealers who were going to break your legs?
- A. No, I just told him if , you know, I'd take it one step at a time and what he--like I wasn't really worried about that because I figured out and like I had, my name was well known enough that what I said was through the--like you know your name is--like when you do something good, right, you're a good lawyer, you present so many cases, you win so many cases, it is just like drugs, when you push drugs and you push a certainly of quantity of good drugs well you...
88. Q. You had a good reputation?
- A. A good reputation for what I said and what it is so basically I had that all straightened out but there was something more that I needed in my life. I had to straighten my own life out, that was all I was concerned about up there.

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89. Q. Did you tell the Lord about the problems you had with the Montreal Mobsters?
- A. Oh, yeah. I tell him every day about everything I do.
90. Q. Do you speak to the Lord every day?
- A. Well I pray to him every day.
91. Q. Well do you speak ..
- A. In prayer, and you know, in meditation and stuff like that?
92. Q. And does he answer?
- A. Through his words.
93. Q. You mean through the Holy Bible?
- A. Right.
94. Q. Does he answer you in any other way?
- A. He answers me through circumstances, like, remember what we were just saying. About--if you had a drug addict--if you had a drug problem and if you sought--say AA say there is a certain amount, you have to be taken down through a certain period of time, etc., etc., to get off, to kick this habit, right. Okay you kneel before God and you ask him to clean you up and forgive you of your sins and come in to straighten out your life and you don't go through any withdraw you can just kick the habit just like that, wouldn't you say that's an answer?
95. Q. I would say that's extraordinary.
- A. It would have to answer, not verbally but through circumstances that I was answered.
96. Q. What if he hadn't?
- A. I would probably be in worse circumstance than <sup>what</sup> I am today.

97. Q. I take it you would not have stayed with him too long if he hadn't answered your prayers?
- A. Well I wouldn't have believed in him I guess. We all have a general idea of who God is and it is like the President of the United States, we know him, we know of the President of the United States but we don't know him personally. Well I grew up with the general idea of who God is all my life. It was that specific evening I began to know his son personally Jesus Christ.
98. Q. You got to know God through out your life, I guess because of your parents and they're Petecostal experience.
- A. Well my grandfather was an Evangelist.
99. Q. Yes, from Cape Breton?
- A. Well he built chruches all over the place, North Sydney. One in Nova Scotia, out West, P.E.I.
100. Q. Which grandfather is that, is that your mother's?
- A. Sheldon Myers, yes my mother's father.  
it one
101. Q. Is/your mother who is the religious/between your parents or are both of them?
- A. No, they both are.
102. Q. My father at the age of 14 was completely healed of TB. As a matter of fact he was just healed--he was due for surgery on a tumer, well he was going for a little bit of therapy but they registered him for a-- they had to take everything out from the prostrate gland right down to the testicles, etc., etc., because he had cancer to such an indept so through the prayer of faith, like he went up to go for his final examination and they couldn't find anything so he was just unbelievably healed these last couple of--within the last monthhe just received a healing.
103. Q. How old is your father now?
- A. My father is 53.

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104. Q. Really, that young?

A. Yes.

105. Q. And how old is your mother?

A. Pardon?

106. Q. How old is your mother?

A. Roughly about the same age, about 48.

107. Q. They are living together?

A. Yes.

108. Q. Is your father working now?

A. Yes.

109. Q. Where does he work?

A. He just started back to work at National Sea Products.

110. Q. Same place?

A. Yes, he's a cutter.

111. Q. You mentioned a brother Roger, do you have other brothers?

A. Yes I have one fellow who is a Minister up in New Brunswick.

112. Q. Minister of what Petecostal?

A. Petecostal, Church of God.

113. Q. Is he--to become a Minister in the Petecostal Church, do you go to  
(inaudible) school?

A. You go to a Bible College. You follow the same type of structurally  
leading as you would to apply to a degree in Art or something else.

114. Q. Just give me a few details now. You're Maynard and Maynard you  
are 27, are you not?

A. Yes.

115. Q. And your brother Roger is how old?

A. My brother Roger is about 31.

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116. Q. Any your brother the Minister is how old?  
A. There is one in between which would be Sheldon.
117. Q. And Sheldon is how old?  
A. Sheldon is 25.
118. Q. And...?  
A. Wayne is 22.
119. Q. Yes?  
A. Jamie 19.
120. Q. Yes?  
A. And there is two sisters in there somewhere.
121. Q. And they are between Wayne and Jamie, are they?  
A. Well one is between me and Sheldon and one is after Jamie.
122. Q. Are you particularly close to any one of your brother or sisters?  
A. We are very close.
123. Q. You're very close?  
A. All close.
124. Q. Have you always been close?  
A. Yes.
125. Q. Since your childhood?  
A. Yes.
126. Q. When you were born did you share a room with one of your brothers?  
A. Yes.
127. Q. Who would that be Maynard?  
A. Roger.
128. Q. I am sorry, Roger, of course.  
A. Yes.
129. Q. And you were living in Louisbourg at the time you were born?  
A. Well we were born in Lockport.

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130. Q. Lockport, Nova Scotia?

A. Yes. And we lived there for...

131. Q. Is Lockport near Shelburne or is it?

A. Yes, right next to it, about 30 miles. We lived there for a while and my father was an undertaker.

132. Q. Was an undertaker?

A. Is an undertaker and was an undertaker and the job opportunity came for them to come up--my grandfather was Ministering in North Sydney at the time so we all moved up here and he got work at the Fish Plant in North Sydney and and was helping out a Dooley's Funeral Home.

133. Q. When would that have been that you moved to this area?

A. I don't know.

134. Q. How old were you?

A. Nine, eight.

135. Q. How was your relationship with your mother as you were growing up?

A. My mother and father's relationship was excellent.

136. Q. Yes their relationship. But how was your relationship to them?

A. I don't, what can I say, you'll have to ask them that.

137. Q. I mean how did you feel about them?

A. How did I feel about them? I had a great deal of respect for them.

138. Q. Did you love them?

A. Definitely.

139. Q. Did you have a close relationship with them?

A. Yes.

140. Q. Is your father a fine and honourable man?

A. Oh, very much so.

141. Q. And have you always thought indeed in that way?

A. Yes.

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142. Q. So the night this occurred, you had gone to church with your parents in Sydney to the Petecostal Church?
- A. That's right.
143. Q. It is my understanding that this was a Friday night. Was it your practise...?
- A. I must have been a special meeting. There must have been a speaker in or something.
144. Q. Would you normally have spent Friday night at church?
- A. Ah..
145. Q. If there was a speaker?
- A. Well up until the age, you know, until I started doing for myself, I was more or less under their jurisdiction to do what they felt was right was for as spiritual matters or earthly matters. They were--they are very musical and they, at that time, were in the music for the church, they played the music for the church and stuff like that, you know, there was no, you go to church and that's it. Like a young boy, catholic fellow, you go to church son, that's it, bang, you just go to church.
146. Q. You were expected to go every week?
- A. That's right. Anything special coming up, well I was expected to go to that too.
147. Q. This occurred in the month of May in 1971, were you going to school at that time? I mean were you in school in the year 1971?
- A. Oh, yes.
148. Q. What grade would you have been in at that time?
- A. I don't know six or seven I guess.

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149. Q. How far did you go in school?

A. I went to grade seven, that was it. It seems like after everything happened, you know, about 15½, 16, everything just started to...

150. Q. Okay?

A. I started to follow my own influence, everything started to start to just, you know, I became a high school drop out, through the influence probably of drugs.

151. Q. Did you start using drugs at all before this incidence in Wentworth Park on May 31st?

A. No.

152. Q. How had you done in school up to that period of time, had you always passed?

A. I was fairly, I was what you'd call a regular student. School wasn't-- it never used to excite me but I was very smart when it came to art and math, that was basically my only two subjects that I really liked.

153. Q. Had you passed every year up to that point in time?

A. In those specific subjects I was very high. I passed--well I failed maybe once or twice, maybe I failed in grade six or something.

154. Q. Did you fail any other grades?

A. I don't know, grade six or seven or something. The year I failed I quit.

155. Q. Had you failed any earlier year? \_\_\_\_\_

A. Not that I remember.

156. Q. Now you say that you were on curfew at that time, that meant you had to be home at 9:00 or in the care of your parents?

A. Right.

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157. Q. And Wayne Magee, was he your probation officer?

A. No, Larry Burke.

158. Q. Burke, is it?

A. Yes.

159. Q. And Wayne Magee was who?

A. He was the town police, chief.

160. Q. The Town of Louisbourg Police Chief.

A. Yes.

161. Q. What kind of fellow was he?

A. All right, I guess.

162. Q. A decent fellow?

A. Well I have my thoughts about the law, people that I've been encountered with so I just like to keep (inaudible).

163. Q. Well I would like to have your thoughts about Wayne Magee.

A. You guys are hard. He was a pretty square level headed fellow but my objective of the law is like he was like anybody else man, like they could pressure you into doing something and they'd do it and that's all. I've <sup>up</sup>grew/under that influence all my life.

164. Q. Was the law the enemy?

A. To a point. Just like cowboys and Indians I guess.

165. Q. What kind of problems had you been in, what had you done to get yourself into problems with the law?

A. Just like--theft.

166. Q. Is that from a store you mean?

A. No from--is this very relevant to the case?

167. Q. I think it is and I'll tell you why I think it is and because I realize you're here without a lawyer and there is really no way at this hearing that I can compel you to answer any questions I put to you, I can apply to a court order to try and convince the judge to compel you to answer

167. Q. to my questions but there is no way that you have to respond to anything I ask you today. I'll tell you why I think it is relevant. I think everything about you is relevant. I'm acting for Chief MacIntyre and we're suing the CBC because we say that on this program the CBC said things about the Chief that are untrue. The CBC, I'm not going to try summarize what their case is but to some extent they are relying on you and John Pratico and Patricia Harris. I think it is important for me to know as much about you as I possibly can and so that is why I've gone this way and another reason to, I'll tell you why, Wayne Magee was present, he gave evidence yesterday here. He was present at the Town Hall in Louisbourg when you gave the second statement and I want to know what you think of him or what you've thought of him at that point in time, that's why I asked you that question.
- A. No, I don't mind answering a few questions but like, what I'm saying is you're going way indepth into my personal life between my parents and stuff like that that I don't feel is relevant to this case. I feel personally and I don't mind telling you as much as I can tell you, you know what I mean but when you start like you're--if you go back on that tape, you're way off.
168. Q. I'm way off, okay, I see. I'll try and keep on the track.
- R. Murrant: Maybe if we can take ten minutes
- R. Pugsley: Certainly, would you like to take a short break?
- Maynard Chant: No problem.
- R. Murrant: Then we can deal with the events of--I don't know if you're finished that part anyway. I leave it to you.
- R. Pugsley: Would you like to take a break.
- Maynard Chant: Go for it, I'd say go right through.
- R. Pugsley: Maybe we should take a few minutes then.

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169. Q. A long time has elapsed since May 28, 1971, time plays its tricks on peoples memories, do you agree?
- A. To a point.
170. Q. I take it you don't recall all the things that occurred in that period of time, May, June, July, August, clearly?
- A. A lot of thing that I've said--A lot of things that are really stuck out in my life are the things that have been more or less really have held me, you know, the principal things that have happened to me personally and what happened relatively speaking through fear and stuff like that, things like that, they just erase.
171. Q. Was the first time you were frightened that night when Donald Marshall came to you at the police station and stood over you and told you what to say?
- A. Well he basically--he must have told me something either between getting in the car and going over to the place where the murder was explained, it seems I remember some of it them, but when he stood over me I was pretty scared, I thought he was a big strap of a man but like I say, I'm grown up now and is about a big strapping of a man now.
172. Q. You are what, six?
- A. Six foot.
173. Q. What do you weigh?
- A. Me?
174. Q. Two ten, 220?
- A. Two fifty.
175. Q. Two fifty, you're a big boy now. How big were you then?
- A. I was about a 160 I guess and 5'6.
176. Q. And you were sitting in the police station and Marshall came up to you and leaned over you did you say?

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176. A. Well I was sitting like in the chair like this here and there was almost like there was--like I was sort of sitting like this and it was like almost like a kneeling thing in Church that you come up kneel up against, he was more or less had his arms over that and he was more or less looking down over me.
177. Q. With his face very close to your face?  
A. Pretty close, about, about like there.
178. Q. And you and I are about two feet apart at the present time I would say?  
A. Yes.
179. Q. And what did he say to you?  
A. He said, there was two of them, wasn't there and I just said yes.
180. Q. You got the message?  
A. Yeah.
181. Q. When you were talking to Mr. Murrant about this you said that he looked angry or he was angry or...  
A. He was like he was on fire.
182. Q. Like he was on fire?  
A. Yeah, he was pretty wound up.
183. Q. And then the police asked you in and you gave them a statement I take it?  
A. A police statement, yes.
184. Q. And you told them what Marshall had told you to say?  
A. Well I had told them basically what we had talked about. There was another police officer there at the time when he had come over and said that to me. I guess I should have said to him, hey man, I didn't see anything but I just went from there--everything happened so fast.
186. Q. Yes because when the police had first stopped you that night when you were leaving the park going out to hitch-hike and they stopped you and you told them you saw everything, I saw everything I think are the words

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186. Q. you used?

A. Yeah.

187. Q. And then you gave the police a statement and you gave them a statement as well and I don't believe you recall giving them this statement at least I don't think you recall in the course of your discussion with Mr. Murrant. This is a statement that is dated the 30th day of May, 1971 at 5:15.

A. Yeah...

188. Q. You don't recall that at all?

A. Did they say it was taken at, it just says Louisbourg.

189. Q. It doesn't say where, it's on a City of Sydney Police Department, it's apparently signed by you and I'll try to find a photostat of your signature and it's witnessed by Sergeant Detective MacIntyre.

A. Basically is that saying that he was the only one there.

190. Q. Just a second, I'll let you read it in just one moment. I'll just identify it for you. May 30, 1971, 5:15 p.m. and that's the beginning time and the ending time was 5:35 p.m. Now you just take a moment to read it.

A. Okay.

191. Q. I don't know if you've seen the second page, there is just a little bit on the second page, have you seen that Mr. Chant?

A. Yeah.

192. Q. Having read that two page statement, do you have any recollection about giving that statement?

A. Is the statement at 2:15 relatively the same as that statement.

193. Q. Let me show that to you. Do you mean the statement that you gave on June the 4th in Louisbourg?

A. Uh-hmmm.

194. Q. Let me just show that to you and here it is. That is a four page statement dated June 4, 1971, 2:55 p.m. Just take your time to read that.

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194. A. It seems like I remember this statement but this one...

195. Q. You remember the June 4 statement, yes.

A. I remember this June 4 statement, this one seem to--I don't know if I gave it that night or if....

196. Q. It's dated May 30th, now May 30th would be the Sunday. The 28th was the Friday.

A. Let me think, let me think now. I think after this statement, I think there was...

197. Q. After the Louisbourg statement, the June 4 statement?

A. Right. I don't know if one of the detectives came out, I think on a Sunday and we went for a drive or something, I don't remember.

198. Q. Well May 30th was a Sunday.

A. I don't know if we went to Sydney or where we went.

199. Q. Let's just go back to this for a moment, this statement of May 30th. It says; "May 30th, 1971, 5:15" -- well assuming that the statement is correct when it says May 30th, that's two days after the incident in the park. Had you heard from Marshall since you last saw him in the police station in the early hours of the Saturday morning. When did you next hear from Marshall, did you hear from him ever again?

A. No.

200. Q. Never did?

A. No.

201. Q. Okay, fine. It says: "statement of Maynard Vincent Chant, age 15 years residing at Main Street, Louisbourg, C.B. Friday night I was in town and I left the bus terminal on Bentinck Street about 11:40 p.m. " That would be roughly right, would it?

A. Uh-hmmm.

202. Q. Answer, yes?

A. Yes.

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203. Q. "I walked down Bentinck Street, came over Byng Avenue and started to cross the tracks. I got half way across the tracks. First I seen two fellows walking and two more were walking kind of slow, talking."  
Now that I take it is not accurate I take it?  
A. Read it again.
204. Q. Sure, of course. "I got half way across the tracks. First I seen two fellows walking and two more were walking kind of slow talking."  
A. That would have to be inaccurate because I never even seen that.
205. Q. That was untruthful?  
A. Right.
206. Q. Okay. "The two fellows who stabbed Donald Marshall and Sandy Seale, they talked for a few minutes on Crescent Street." Now that was...  
A. You know, that there statement reminds me on the statement that I gave on that night.
207. Q. I see, on the night of--you mean in the early hours of the morning?  
A. That statement is pretty close.
208. Q. That statement--that night would have been May the 29th?  
A. Yeah because I can't remember that actual--I don't even know a lot of what went on but that statement seems to bring, you know, recalling about, you know, something about what was said to me in the office or something, giving that type of a statement.
209. Q. The only assistance I can be to you is that it is witnessed by Sergeant MacIntyre and he apparently was not at the station that night on the 29th.  
A. Wasn't he.
210. Q. No he wasn't and there is some evidence from one witness we examined earlier who says that he believes they went down on a Sunday to Louisbourg to have a chat with you, he and MacIntyre.

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211. A. Yeah, I remember going for a drive with them but I don't remember giving them a statement that I can recollect but this must be the statement that I had given on that day.
212. Q. I assume that it is, that's all I can tell you. "The two fellows who stabbed Donald Marshall and Sandy Seale, they talked for a few minutes over on Crescent Street." Now that was not truthful, was it?
- A. Right.
213. Q. "One fellow hauled a knife from his pocket and he stabbed one of the fellow." That wasn't truthful?
- A. No.
214. Q. "So I took off back across the tracks to Byng Avenue and started to walk towards the bus terminal. Then I see Donald Marshall coming to down. I turned around and started/walk the other way. Donald caught up to me and said, look what they did to me." Is that truthful?
- A. Yes.
215. Q. "He showed me a long cut on his left arm." Is that truthful?
- A. Uh-hmmm.
216. Q. Was his arm bleeding, do you know?
- A. Not really, not that bad.
217. Q. "Then he said help me, my buddy is over on the other side of the park with a knife in his stomach."
- A. Right.
218. Q. Was that truthful?
- A. Uh-hmmm, yes.
219. Q. "Then we started to look for some more help. We met some boys and girls, one of the girls gave Donald a handkerchief, we got a car to take us over to where Seale was laying on the pavement. I took my shirt and put it around his waist and Donald went to a grey house and asked the man if he would call an ambulance." Is that accurate.

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219. A. Yes.

220. Q. "About ten minutes later I asked the man in the house to call again and I knelt down by Sandy Seale and he said that it was hot." I think you said it was cold?

A. Yes

221. Q. He mentioned something about being either cold or hot I take it?

A. Yes.

222. Q. "I unbuttoned his jacket, I then discovered his stomach was cut, I took my shirt where the cut was and made him comfortable. Then the police arrived, they called for the ambulance. He was taken to the hospital." That's accurate?

A. Uh-hmmm.

223. Q. Answer yes.

A. Yes.

224. Q. "Question: Did you know those other two men? Answer: No.

Question: Did you know Donald Marshall. Answer: I knew him to see him." Was that correct, did you know Donald Marshall?

A. Well not like, you know, to know him to see him now I know him, like basically there was a lot of Indians around like going to dances and stuff so like it was--you know, basically to see, I don't know that fellows name but I know him after I seen him to know him. What more can I say there.

225. Q. "Question: Did you know Sandy Seale? Answer: No. Question: Could you give me a description of these other man." It says man meaning men, I take it. "Answer: One man about 6'2, light brown hair, dark pants, suit coat, over 200 pounds. The other fellow 6 feet tall, dark pants, dark hair, 165 pounds." Now you made that up completely?

A. Must have.

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226. Q. "Question: Did you see their faces? Answer: No. Question: Would they be young or old. Answer: I was not that handy. Question: Was there just four men there? Answer: Yes. Question: Did you see any knife? Answer" Yes it was a figure of a knife. Question: How far away would you be? Answer: 45 feet or more down the tracks. Question: Could you tell if Marshall was drinking? Answer: I would not say he was." Why did you give to the police this statement when you knew it was wrong?

A. Well basically I was more or less just repeating what Marshall had told me. You know, more or less because I got myself in a bind when he come out and said there was two of them. That statement reminds me of the statement I had given that night. That sounds like the identical thing that went on. Now I don't know--people say there was--you told me that there was--that statement that I had given that night was never ever recovered or never ever used or was never....

R. Murrant: Haven't seen one with that date on it.

A. Ever seen anything like that statement. That reminds me of the actual statement that I have given that night. Now I don't know if--maybe the statement that I had given that night wasn't accurate and he came out or that certain police officer came out later on that day and asked for the same statement again but this was the statement that--I don't remember this one but the only thing--the only recollection I can come to that statement would be the night that I had given him the statement.

227. Q. You don't recall the statement of May 30th?

A. No.

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228. Q. Now the statement of June 4th. The statement was given at the Town Hall in Louisbourg?
- A. Yes.
229. Q. And how did you get to the Town Hall?
- A. I believe the detectives took me and my mother down in the car.
230. Q. It is my understanding that Wayne Magee took you there?
- A. Well....
231. Q. Could well be?
- A. Could well be.
232. Q. And your mother?
- A. Uh-hmmm, yes.
233. Q. And you went in and it is my instruction, this is what I am told that detective MacIntyre said that he wanted to ask you some questions, he was interested in the truth and that it was important for you to tell the truth and I think he spoke those last few words to your mother and your mother said yes, or she agreed with that and then Detective MacIntyre started to ask you questions. Do you recall any of that?
- A. The only thing I can say I recall is sitting down with my mother there and I don't remember a lot of the conversation. Most of the conversations that would be trivial to me would be something like that type of a conversation that wouldn't have no bearing on me at all. I mean...
234. Q. Why is that?
- A. Well it's just so long ago, you know.
235. Q. I see, okay. Are you certain that your mother did not remain present throughout the entire....
- A. I am positive.

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236. Q. Because both Chief MacIntyre and Magee have sworn that your mother did remain throughout?
- A. I don't care what they say.
237. Q. That's what they testified?
- A. You can ask my mother, she'll tell you that she was put out.
238. Q. That she was put out?
- A. I don't know--she wasn't booted out but she was asked something, would you leave or something. I don't know what the circumstances were, maybe they wanted to talk to me alone or....
239. Q. How long after your mother was there was she asked to leave?
- A. I don't know. I think she was just there after to the point where they were saying that they had a witness there or something like this. That's when I told them, I said, look, I didn't see nothing.
240. Q. And you think she was asked to leave at that point?
- A. She was asked to leave at that point.
241. Q. And she agreed to leave, did she? Did she make any fuss about it?
- A. I don't know, I don't think she was aware of what was going on. She just went out under the instruction of the detectives I guess because--possibly something they had said to her, maybe relevant to me.
242. Q. Did you object to her leaving?
- A. Like I say I was scared, I didn't...I was to the point I was so dumb-founded, I didn't know if I was coming or going I guess at that point, to the point to say, you know, to speak up for, hey buddy where are you taking my mother, she has a right to be here, you know.

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243. Q. And your mother didn't...

A. To look at me now and you were to put me in the same circumstance, I'd say listen, I'm not talking to you at all without my mother, etc. Being back then, you know, I just couldn't speak for myself.

244. Q. And your mother raised no objection either?

A. No, maybe they must have said something to her to cause her to have no objection.

245. Q. Was Wayne Burke there throughout?

A. Larry Burke?

246. Q. Yes.

A. Yes.

247. Q. He was there throughout the statement?

A. That I can recall.

248. Q. Yes. Now you gave a statement in 1982 before Corporal Carrol and in addition to that you swore an affidavit on July th 14th, 1982 and in that affidavit you say; "subsequent the the Preliminary Hearing in this matter in July, 1971, I spoke with the Crown Prosecutor, the late Donald MacNeil who informed that if I changed my statement that I had seen Donald Marshall stab Sandy Seale that I would be charged with perjury." You recall Donald MacNeil telling you that, do you?

A. I recall that on the day of questioning at the Town Hall when we were going to the questioning and I said I didn't see nothing and they were saying, they were implying that--something like, you know, you could be up for perjury or something like that because of the first statement you've already given.

249. Q. You're saying that occurred at the Town Hall?

A. I believe, yes.

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250. Q. Are you certain of that because you didn't mention it in the affidavit?  
A. Didn't I.
251. Q. No, take a look at it.  
A. Oh, I thought...
252. Q. Having read your affidavit which refers explicitly to the conversation you had with the Crown Prosecutor where the word perjury was mentioned to you, I say to you could you be mistaken?  
A. The reason why I said the crown prosecutor because I thought the crown prosecutor was the fellow that came out with the detective at that time to give that statement in Louisbourg, right and ....
253. Q. Well no, it says subsequent to the Preliminary Hearing and that means after the Preliminary Hearing?  
A. That means on the....
254. Q. That means after the Preliminary Hearing in this matter in July, 1971.  
A. Uh-hmmm.
255. Q. You see the Louisbourg/<sup>statement</sup> was in June of 1971.  
A. Oh, I see. okay.
256. Q. It says; "subsequent to the Preliminary Hearing in this matter in July, '71, I spoke with the Crown Prosecutor, the late Donald MacNeil."  
A. Yeah right, no problem, yeah.
257. Q. "Who informed me that if I'd changed my statement I'd be charged with perjury." You recall him telling you that?  
A. Yes.
258. Q. I suggest to you that there was no mention of perjury at the Louisbourg Town Hall meeting in June, that if there was any reference it was only at the meeting with MacNeil?  
A. Oh, is that right.

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259. Q. Well that's what I am suggesting to you and I want to have your comment on it?
- A. I--like the whole area of me being on probation was discussed to the reflection that I could be doing time if I didn't come up with a bit of truth.
260. Q. Are you saying that that occurred on June 4th?
- A. That occurred when they were having me questioned in Louisbourg.
261. Q. In Louisbourg at the Town Hall?
- A. Yes.
262. Q. Was your mother present at that time?
- A. No, she was put out.
263. Q. She was put out again.
- A. Well I should use the term put out because you seem to be expressing that word put out so ...
264. Q. Well I'm not here to...
- A. Let's say that she was--yeah I'm sorry, just a bad choice of words, she was--at that time she was out of the room.
265. Q. I see, okay. Was the word perjury mentioned at that time?
- A. I don't know if the actual word was mentioned at that time, you know, you can play on words to say--you know, was that specific word mentioned, well I couldn't say it was and I couldn't say it wasn't.
266. Q. The fact is that the police were not satisfied that your statement of May 30th was true?
- A. Right.
267. Q. And indeed your statement of May 30th, was not true?
- A. That's right.

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268. Q. So they were right in that suspicion?

A. They were definitely right.

269. Q. How big was the room in the Town Hall that you were in?

A. It was about twice the size of this room.

270. Q. I would say this would be oh, seven or eight feet wide and it is probably about 15 feet long, it would be twice the size of that, would it?

A. Yeah.

271. Q. And you were sitting at a table, were you?

A. Ah, yeah, a long table.

272. Q. A long table?

A. Right.

273. Q. And where were you at one end of the table?

A. I was on one side and I think my mother was next to me or around that area. My probation officer was on the other side, Wayne Magee and I think the two detectives or police officer was something like we are, abreast of one another.

274. Q. I see, they were opposite you, were they?

A. Yeah.

275. Q. Did both of them ask questions or just one?

A. I don't remember.

276. Q. When your mother left or was asked to leave, did Wayne Magee say, she shouldn't be put out, she has a right to be here?

A. Not that I can remember.

277. Q. Did the probation officer?

A. Nope, not that I can remember.

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278. Q. Do you recall signing the statement?  
A. No, I don't, but I must have.
279. Q. Well let me show you a signature that appears on a document 000025 which says: "June 4th, 1971, 2:55 p.m., statement of Maynard Vincent Chant" Is it?  
A. Uh-hmmm.
280. Q. "Age 14 years residing at Main Street, Louisbourg, Cape Breton." And then on the second page at the bottom is Maynard Chant, is that your signature?  
A. Definitely.
281. Q. Definitely your signature?  
A. Yeah.
282. Q. Do you recal signing that?  
A. It's vague, but it's there, I think I do recall.
283. Q. Did you read those two pages over before you signed it?  
A. Well I wasn't much of a reader then.
284. Q. You weren't much of a reader?  
A. I don't remember reading it over.
285. Q. Could you have read them over?  
A. I don't think.
286. Q. Again...  
A. It wasn't my writing, it wasn't--I'd probably have a hard time reading it.
287. Q. You say you're not much of a reader, did you read english then?  
A. Oh, yes.
288. Q. Yes, you were in grade seven in school?  
A. Yes.

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289. Q. This was on June 4th, 1971. The Preliminary Inquiry was in July, 1971.  
That was, I assume at the Court House in Sydney, the Preliminary Inquiry
- A. Yes.
290. Q. You gave evidence at that Preliminary Inquiry?
- A. Yes.
291. Q. You were sworn to tell the truth?
- A. Yes I was.
292. Q. The evidence you gave was false?
- A. Yes.
293. Q. You gave evidence at the trial in November, 1971?
- A. Yes.
294. Q. Do you recall being before a Grand Jury? Do you recall being...
- A. Yes.
295. Q. Yes and you gave evidence before the Grand Jury?
- A. Yes.
296. Q. And that evidence was false?
- A. Yes.
297. Q. And you gave evidence before the Petit Jury, the small jury and do you recall that and you were sworn to tell the truth?
- A. Between the two courts, yes, both statements were lies.
298. Q. Both statements were lies, yes. And -- when is your birthday?
- A. Fourteenth of October, '56.
299. Q. During the course of the giving of evidence, did you go up to Donald Marshall, senior?
- A. What do you mean?
300. Q. Did you speak to him?
- A. Where?

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301. Q. At the Court House?

A. In '71?

302. Q. Yes?

A. No.

303. Q. Did you speak to Donald Marshall's lawyers?

A. No.

304. Q. The police did not tell you that Donald Marshall committed this crime, did they?

A. I remember, I don't remember when exactly it was said to me that he had tried, Donald Marshall had tried to skip out or take off somewhere and the police had caught him in Whycocomagh or something like that, but I don't remember when exactly that was but they never specifically said listen, Marshall is guilty and we want him.

305. Q. During the course of the Appeal Court Hearing in December of 1982, you remember giving evidence there?

A. Yes.

306. Q. You never made any suggestion at that time that the police threatened you with jail or threatened to charged you with perjury?

A. At the trial.

307. Q. At the hearing in Halifax?

A. At the hearing. I thought I'd given a complete, when they were asking me the questions I thought I'd given the story that I was....

308. Q. This was in 1982, this was after you had your conversion to Christianity and this was in Halifax before five judges?

A. Right.

After I had given my statement I thought they asked me the question why did I lie or why did I do this or why did I do that.

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309. Q. Let's see the statement you gave.  
A. Is this the trial statement?
310. Q. No, this is just a statement and first of all let's take a look at the statement. This is a statement that you gave in 1982 before Corporal Carrol.  
A. Oh, yeah, okay.
311. Q. Carrol came to Louisbourg, did he?  
A. Right.
312. Q. And saw you for some period of time, did he see you on more than one occasion?  
A. I think he saw me twice.
313. Q. For what period of time?  
A. He saw me--I think I seen him, one day he come down to the plant looking for me, I didn't have a chance to talk to him then that night he came over to the house.
314. Q. That would have been the same night you gave the statement?  
A. Right.
315. Q. And how long was he at your house would you say?  
A. Oh, about an hour I guess.
316. Q. When were you married?  
A. I was married in '80 I think.
317. Q. In 1980?  
A. Yes.
318. Q. Had you been going out with your wife for a period of time before you were married?  
A. We knew one another.
319. Q. But were you going out?  
A. We went together for about three weeks.

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320. Q. Just before you were married?

A. I see.

321. Q. In the statement you say and bear with me I guess it would be best if I read the whole thing. "In 1971 I would have been 14 years old. I went to Sydney with my parents to Church. I skipped out of Church and went to the Pier. From the Pier I went to the bus station and the bus had left for Louisbourg. I walked down Bentinck to the park. I was going to take a short cut across the park to George Street and hitch-hike home. I had not quite made it to the park and a guy in a yellow jacket came running up to me. He showed me his arm where it was cut and told me his friend was stabbed over in the park. We met some other people and he told them the same thing. We flagged down a car, a brown Nova and went over to Crescent Street where the other guy was. This was Sandy Seale and he had been stabbed in the stomach. The fellow that I later learned was Donald Marshall did not go near the body." He wouldn't go near the body?

A. No.

322. Q. Did you think that was strange?

A. Yeah.

323. Q. "There was no blood from the cut on his arm and he showed several people." That's accurate, is it, there was no blood from the cut on his arm?

A. Not, not right at that time. I know right after she gave--even when she gave him the hanky it didn't seem like, you know, it was bleeding that bad.

324. Q. "It thought his actions were quite suspicious at the time." What actions were those?

A. Like he never went near the body or nothing. I don't know if it was shock or what it was. I thought at the time, like, even I remember when

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324. A. I was giving the--that I was in the court and stuff like that, that was the thing that really puzzled, like you know, he was saying it was his friend but he wouldn't--like he stood about as far as the wall away from him and I was over Sandy's shoulder away from him.
325. Q. And Sandy was still conscious at this time, was he?  
A. Yeah.
326. Q. "Seale was still alive and I put my shirt on the wound. The police interviewed me that night and I repeated what Marshall had told me. I don't know why, I had to say something. I told the police I saw everything." Referring to the cut?  
A. Right.
327. Q. Now I just want to make sure. Were the words that you used to the police, were they, "I saw everything."  
A. Yeah, that's what I said.
328. Q. Yeah, okay. "I definitely did not see the murder. Everything was over by the time I got over where Seale was. Sometime later I was taken to the park and they asked me where I was standing, I more or less showed them what they wanted to get it over with. I wasn't in the park around the murder. I was interviewed by two detectives, my mother was also there." You don't say anything in that statement about your mother being absent from the room.  
A. No, I just, they never came to that point in question. I guess I could have said something.
329. Q. "In the second statement I told the detectives I saw the murder. They told me that another guy had seen me in the park and I had to see it, so that's what I told them."  
A. That's right.
330. Q. But there is nothing there with threatening you with perjury or threatening you with jail?

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330. A. Because it didn't come up. I--I think we talked about it afterwards, after the statement was given, they were asking me a few questions, they : never put anything down on record but they were asking me a few questions because I remember them saying to me, hey, you know, we're not, you know, I said something relatively speaking about all cops, I guess I was probably still a bit hurt, like this bit, you know, after coming out and saying what I said and stuff and I said, you know, I thought they were all like that, pressuring you to do things and stuff and he said, we're not like that, so you know, you could probably talk to him and he'll probably give you that suggestion to the conversation.
331. Q. Yes. Did you tell those fellows you were threatened with jail and threatened with perjury and your mother was ordered out of the room?
- A. Yes, as a matter of fact my father was there.
332. Q. You told Carrol?
- A. Yes.
333. Q. But he didn't put that down, obviously not?
- A. No.
334. Q. "I really felt Marshall did it."
- A. Yeah, I did, that's why I didn't think that I was--for sometime I didn't think that I was doing such and injustice.
335. Q. "During the time Marshall was in jail a friend told me that Marshall was gloating about killing Seale. I also felt that the Indians were all out to get me. During the time I was giving evidence in Court, they kept going over and over the evidence. I remember once the Crown Prosecutor really was mad at me. I cannot explain what made me lie about this other than I was young and scared at the time." You acknowledged in Mr. Murrant's questions to you that the police legitimately and honestly could have been trying to get at the truth?

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335. A. Yes, I told that to Carol.

336. Q. Did you?

A. Yes. I also said about an interview I had on radio.

337. Q. I see, you were on radio, were you?

A. Yes.

338. Q. You say in the evidence you gave before the Appeal Court on Page 186, "Question: Isn't it fair to say that what they were trying to tell or what they told you at the time was they communicated to you the seriousness of telling lies about what you had seen. They were after your true statement, weren't they? Answer: They were after the truth."

A. Yes.

339. Q. And that's accurate?

A. Yes.

340. Q. And again the next question is "Question: Yes, there is no question about that, they were after the truth, right? Answer: Yes."

A. Definitely, that's what I thought. That's what I thought all along even though I thought I was pressured I still felt that they were just doing that to get at the truth.

341. Q. Yes. Just one second Mr. Chant?

A. No problem.

342. Q. I take it that when Detective Carrol saw you which I think is February of 1982, the only people you had talked about, sorry--you had talked to or attempted to talk to up to that point in time was your father?

A. Yes.

343. Q. That's the only person?

A. My father and my pastor.

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344. Q. And your pastor, right. And you first tried to speak to your father, when?

A. I don't know a couple of months before I tried to speak with my pastor which was a couple of months previous to when I was speaking to Carrol, the detective.

345. Q. All right, let's put it this way then. If the statement, yeah, the statement if February 16, 1982, middle of February, '82; probably in December that you would have spoken to you pastor and probably say something like September that you spoke to your father?

A. No, I spoke to my father first.

346. Q. Yes. That's right.

A. I think it was....

347. Q. In the summer was it of '81 or something?

A. Yeah, roughly about there.

348. Q. And what did you say to your dad?

A. Well like, you know, we were just talking back and forth and sharing some personal things and I just said, you know, do you remember the time about the trial, Sandy Seale, I really didn't see anything at all, because we were talking about a certain individual who was a friend of mine, who became a friend of mine through Christianity which his name is Bill Paulette, he was one of the councillors with the Indian Affair and we weren't talking about the case but I guess he was kind of interested about what was going on and we were just taking, like if you were ever approached what I would tell him. Basically I was telling my old man, excuse me, my father that I would tell him what I was going to tell my dad which was I didn't see the murder.

349. Q. You and your wife live in your own accomodations now, do you?

A. Yes.

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350. Q. Did you and you wife ever live with your parents?

A. Yes we did.

351. Q. For the first part of your marriage?

A. Yeah well I guess about a half of year or something.

352. Q. And you were married in '81, did you say?

A. Yeah.

353. Q. And then you moved...

A. I must have been married in '81 or '80. I think it was in '80 I believe.

354. Q. I see, you lived with your parents for about six months?

A. Yes.

355. Q. And then moved up to your own place?

A. Well we moved, yeah, like two, two dwelling places. Now we're in our permanent residence.

356. Q. What did your father say when you said this to him?

A. Well I guess, just, you know, he's a good man, he sort of took it to heart and said you know. He never said what are you going do about it, he just said--he more or less took it in. I guess I wasn't being responsive enough for him to give advice. It was just sort of having somebody to you know--you talk to a phone the phone doesn't answer you back.

357. Q. He didn't give you any advice I take it?

A. No, not really, he just more or less just beared the burden with me.

358. Q. Are you a member of the Petecostal Church now?

A. Yes I man, I'm one of the...

359. Q. You're a Preacher, are you?

A. To a point and that I'm the president of the Church that I am with now, I one of the deacons of the church.

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360. Q. What church is that?

A. The Pentecostal, the Church of God in Louisbourg.

361. Q. Yes. One of the deacons would be in charge of the spiritual life of the church I take it?

A. Spiritual life, yes, and also like the major decision, you know, the council, the church council.

362. Q. How many members do you have in the Church?

A. We have 4 and the secretary, she would be..

363. Q. I am sorry, how many people come to the church?

A. How many people, between 30 and 60.

364. Q. You have services, what, once a week on Sunday?

A. yes.

365. Q. And then you spoke to your pastor of the church after you had spoken to you dad?

A. Yes.

366. Q. And what had your pastor tell you?

A. He told me to really make it a matter of prayer and if opportunity would arise for me to do something about it to <sup>be</sup>sure enough do something. He said just for now, he said, just really keep it in prayer and talk to the Lord about it and let him sort of work it out for you and maybe you might be able to fix it up a little later down the road, you know, if the opportunity ever came, but he was more or less, you know, he was like my father, he was more or less just bearing the burden of me telling him about the tragic mistake I made in my life.

367. Q. Did you discuss with your mother after you left the Town Hall what you told the police?

A. I don't remember.

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368. Q. You don't remember?

A. Not really, something about it but not would stick out in my mind right now.

369. Q. And you said, I believe, it was at the Louisa Town Hall, I think you said that the police said to you, you had to see something, am I correct that it was the Louisa Town Hall?

A. Well they'd say the exact words, "you must have seen something."

370. Q. You must have seen something. Okay, I suggest to you that that was not surprising that they would say that to you in view of the fact that you had told the police the night of the incident, I saw everything.

A. That's right, but they at that--I guess through that--what made me say, I didn't really mean like I seen everything, the murder. Basically what I was talking about was the scene of the accident, more or less having to do with being stabbed and stuff like that.

371. Q. You may not have meant that you saw it everything?

A. Right.

372. Q. But the police may well have assumed from your comment.

A. Basically, yeah. That's probably why I guess why, I don't know why they said what they said, basically I guess they must have said it because they realized that I didn't tell the truth in the first statement that they had taken that night so basically they were figuring, I suppose, holding out I guess.

373. Q. And in fact you were?

A. Oh, definitely.

374. Q. Thank-you very much.

A. Thank-you very much.

R. Murrant: No questions, you're free to go.

270.

0. MAYNARD CHANT duly called, sworn, testified:

DIRECT EXAMINATION

MR. EDWARDS: Sir, would you give your name, address and occupation to the jury, please?

5. A. My name is Maynard Chant, I live in Louisbourg, I work for National Sea Products. I'm a fish cutter.

Q. How old are you, Mr. Chant?

A. I am 28.

Q. So that would have made you how old in 1971?

A. 14.

Q. And at that time you were a school student?

10. A. Yes.

Q. What grade were you in?

A. I was in grade 6.

Q. And did you reside in Louisbourg at that time?

A. Yes.

Q. With your family.

15. A. Yes.

Q. Now I want to direct your attention to the night of May 28th, 1971. Do you recall where you were that evening?

A. Yes.

Q. Where were you?

20. A. On that specific evening we were having special services in Sydney. I went in with my family in the church. Do you want me to continue?

Q. Yes.

25. A. And a little later on in the evening I had asked would it be all right if I went down to meet a friend of mine in the Pier in Sydney and well, after a little bit, after the service, maybe around 9 or so I decided to take off from church and go down to the Pier and meet one of my friends, that we had planned earlier.

30. Q. Yes?

271.

10. MR. CHANT, Direct Examination

A. I couldn't locate him when I got down there so I had to hitchhike back from the Pier, I was going to try to catch the bus that goes out to Louisbourg from the bus terminal on Bentinck, and by the time I had got up there I had missed the bus so I decided  
5. well, I better find a way home so I walked down Bentinck and went out to George Street. Well, I never got out as far as George Street. As I walked down Bentinck Street . . .

Q. Bentinck Street is on the perimeter of  
10. Wentworth Park in Sydney, is that right?

A. Yes.

Q. So you were walking on Bentinck Street towards  
George.

A. Yeah.

Q. And George Street forms another boundary of  
Wentworth Park.

15. A. Um-hmm.

Q. All right.

A. And just as I got down to the corner of  
Bentinck And the street that runs parallel to Bentinck,  
which I don't remember the name of it, I just barely  
20. turned the corner and I was walking on this side of the  
park, I seen a fellow running from the bridge side  
towards me and I didn't know who it was, I just kept  
walking and he hollered to me and I turned around and he  
ran up to me and he just - he had his arms on his  
25. jacket rolled up and - the sleeves of his jacket rolled  
up - and he said . .

Q. No, you can't tell us what he said.

A. Oh, I'm sorry.

Q. But do you know who that person was?

A. Not at the time. I didn't know.

30. Q. Have you learned since who he was?

272.

0. MR. CHANT, Direct Examination

A. Yes.

Q. Who was it?

A. It's Donald Marshall.

Q. Donald Marshall Junior.

5. A. Junior.

Q. Yes. Now what if anything did you notice about his arms other than the fact that his sleeves were up?

A. He had a gash on his arm, it looked fairly deep and he told me what had happened and he wanted to know if I could help him. Can I go into detail what he said what happened?

10.

THE COURT: You cannot tell what he said.

MR. EDWARDS: You cannot tell us what he said.

A. Okay.

15.

Q. But you can tell us as a result of the conversation at the time with Donald Marshall Junior what did the two of you do?

A. Well, we flagged down a car. First we met- as we were walking towards to get a hold of somebody to help us out, to help his friend out, we flagged down a car. Just before that we met a girl, two girls and like two couples and they had given Marshall a handkerchief for his arm so at that . .

20.

THE COURT: Sorry, you're going a little too fast. I'm trying to write this down.

A. I'm sorry.

25.

THE COURT: You met a girl, and then you said two girls and then you said two couples.

A. I meant two couples, two boys and two girls, I'm sorry.

30.

MR. EDWARDS: And they gave him a handkerchief for his arm?

273.

0. MR. CHANT, Direct Examination  
 A. Yes.  
 Q. Yes?  
 A. So at that time we had flagged down a car and we drove around like to George Street up to where Sandy Seale was hurt.
5. Q. Do you know what street that was?  
 A. After you come off of George Street you turn onto Argyle.  
 Q. Yes.  
 A. You go up Argyle a way. Now the street that runs along the perimeter of the park, on the left side . . .
10. Q. Would Crescent Street. . .  
 A. Crescent Street, yeah, sounds familiar. So we got just about almost all the way like to the end of the road and there was a young man laying down on the pavement like, all hunched up and. . .
15. Q. Did you know that person?  
 A. No.  
 Q. Have you learned since who he was?  
 A. Yes.  
 Q. Who was he?  
 A. Sandy Seale.
20. Q. Describe his condition.  
 A. He wasn't saying much. After we got out of the car we went over to him. Marshall, Donald said that he would go for the ambulance and he ran up a couple of houses and went up the stairs and tried to get an ambulance and while I was there Sandy never said much, he just murmured a few words and said that he was cold.
25. Q. You can't tell us what he said. He was conscious.  
 A. Yes.
30. Q. And did you observe any injuries on him?

274.

0: MR. CHANT, Direct Examination

A. I noticed he had a lot - a lot of blood. I took my shirt off and put it to where the cut was on his almost like on his stomach.

Q. You're indicating your abdominal region.

5. A. Yes. And I didn't actually see the cut but there was a lot of blood at the time. We just waited there, I just told him to hold on. I just . .

Q. All right. So you're waiting with Seale. You say that Marshall went where?

10. A. He went to a house up the road, not very far, just a couple of houses.

Q. Yes.

A. And he said that he would call an ambulance.

Q. Well, you can't tell us what he said.

A. Okay.

Q. How long was he gone?

15. A. It wasn't very long, maybe five minutes.

Q. Yes.

A. And then he came back and sort of stood in back of Seale. He never said very much, he was just sort of standing there, I guess he was in a bit of a shock.

20. THE COURT: Look, I'll have to tell you at the beginning, all that you can tell us are facts that you saw or observed, you can't give us any opinions as to what you may think nor can you give us any evidence of what anybody said to you. All right?

25. A. Okay.

MR. EDWARDS: All right, so Mr. Marshall returned about five minutes later, you and Seale are there on the road on Crescent Street, he's standing behind. What happens then? Marshall, that is, is standing behind.

30. A. Marshall is standing behind. About a couple

275.

0. MR. CHANT, Direct Examination  
of minutes later the ambulance comes.

Q. Yes.

A. And they just picked Seale up to take him to the hospital. And I proceeded on my way home and I got out to George Street and . . .

5. Q. Excuse me, before we leave Crescent Street you say the ambulance came and took Seale away.

A. Seale.

Q. What about the police? Did they arrive at that time?

10. A. I never really - I never really saw or seen the police there. All I remember is the ambulance and I don't even remember where Marshall went after that.

Q. Do you remember where Marshall was when the ambulance arrived?

A. He was right in back of Sandy standing up. Like I say he was just standing there waiting, I guess.

15. Q. So after Sandy is placed in the ambulance and taken away, you proceed where?

A. I proceeded to go home.

Q. By what route?

A. Well, I walked back Crescent, out Argyle and then from Argyle to George and I was walking up George Street there, up towards Hardwood Hill.

20. Q. How did you intend to get home to Louisbourg?

A. Hitchhike.

Q. Yes.

25. A. And just at the bottom of Hardwood Hill the police car rolled over and I guess they seen the blood on my shirt.

Q. Well, you can't say what they - what you guessed they thought. Anyway what did the police do?

A. So they picked me up and took me up to the hospital. I don't know why they took me to the hospital.

30.

276.

0. MR. CHANT, Direct Examination

They asked me . . .

Q. Well, you can't -

A. Okay.

5. Q. Before we leave this sequence do you recall approximately what time it would've been when you were first hailed by Donald Marshall towards the intersection of George and Bentinck?

A. It would be close to midnight. I think the last bus left the depot at 11:45 so it would be handy between 11 and 12.

10. Q. And about how many minutes or whatever had elapsed by the time the police picked you up at the base of Hardwood Hill?

A. Anywhere from a half hour to an hour.

Q. So the police picked you up and they took you to the City Hospital.

15. A. Right.

Q. And where from there?

A. From there they took me up to the police station.

Q. How long were you at the hospital?

A. Just a short amount of time.

20. Q. Did you see anyone there? Of course you saw someone, but did you see Donald Marshall there?

A. Not that I can remember.

Q. Did you see Sandy Seale?

A. No.

25. Q. So then you went to the police station.

A. Right.

Q. And who among the principals in this matter did you see there?

30. A. I don't remember the names of any of the detectives who I came in contact with to give a statement

277.

MR. CHANT, Direct Examination

0. depending upon what happened that night. I had just given a statement and my parents came and picked me up and took me home.

Q. And then subsequently did you testify at the preliminary inquiry and trial of Donald Marshall?

5. A. Yes.

Q. How if at all does your testimony given then differ from the testimony you just gave now?

10. A. Back in the '71 trial I had said that I had seen Marshall murder Seale and I never seen nothing bearing that at all. The actual sighting - anything I seen was to where I met Seale on Bentinck - the corner - Marshall on the corner of Bentinck Street. That was the only thing I seen involving the murder.

Q. Can you explain to the jury why you would have given that testimony at that time?

15. A. Well, the reason was because the police had - after I went home, a couple of days later or a day later, they came out and they said that hte statement that I had given . .

Q. Well, you can't say what the police told you. Without telling what anyone told you can you explain?

20. A. Well, the only thing that I can say is they took me down to a room in the Town Hall in Louisbourg and the thing was that I was on probation and first . .

Q. For what?

25. A. I was on probation just through personal crime, like, and that I - that they had information that . .

Q. Again, if you can't explain it without getting into what somebody said to you . .

A. Well, I could give up to it anyway. It came to the point where I had given a falst statement the first time and . .

30. Q. Why had you done that?

278.

0. MR. CHANT, Direct Examination

A. Mostly because I was scared, I guess. The night that I had given the first statement, when I went up to the police station Marshall was coming out and he had come over to me and leaned over to me.

5. Q. And you and he had conversation?

A. Yeah. And so that's why I gave the statement that I gave so they - I don't know how to explain this. So anyway resulting in I ended up giving a false statement and when I tried to tell the truth they wouldn't accept it.

Q. They - the police?

10. A. The police wouldn't accept the story when I begin to confess up to say I never seen nothing and they just kept pressing and like I was more or less saying it was rough for me where I had perjured and I could really get into a lot of trouble.

Q. Those were your fears.

15. A. Those were my fears. Those were the -

Q. Okay. When did you decide to come forward with the story that you told the jury in the first instance today?

A. Two detectives approached me in '82 - between '82 and . . .

20. Q. Who were they?

A. One was Jim - I don't remember.

Q. Would you know him if you saw him?

A. Oh yes. Yes. That was one of the gentlemen.

25. Q. I just had Corporal Carroll stand up and you said that's one of them. Do you remember the other name?

A. No.

Q. Okay. And why did you decide to tell them the story you told us?

30. A. They were very level. I had - between the time of the '71 trial and '82 or coming up to where they came

279.

0.

MR. CHANT, Direct Examination

to question me, I had become a Christian and it seems like the principals or the tragedy that happened way back I wanted somehow to straighten it out because I knew then that I did wrong and I just felt that it was time that I should tell the truth.

5.

Q. The jacket Mr. Marshall was wearing on the night in question, do you recall its condition? Do you recall anything about it?

A. All I remember is that it was a windbreaker and when he got to me the sleeves were rolled up even with the elbows. Other than that it seemed like it was in half decent . . .

10.

Q. I have no further questions, Mr. Chant, but Mr. Wintermans may have some.

CROSS-EXAMINATION

15.

MR. WINTERMANS: When this incident occurred back in 1971 you say you were 14 years old and in grade 6 at the time?

A. Um-hmm.

Q. And I believe that you had repeated grades 2, 5 and 6 at that time?

20.

A. Yes.

Q. Donald Marshall Jr., when you returned back to where Mr. Seale was lying, where did you say that Mr. Marshall went? You say he went to a house?

A. Yes.

25.

Q. Did you see that or were you looking at Mr. Seale?

A. I seen him run up the steps towards the house.

Q. But as to what he did you don't know for sure.

A. Not that I could remember.

30.

Q. And when he came back you say that he was standing behind where Mr. Seale was?

back?

0. 280.

MR. CHANT, Cross-Examination

A. Yes.

Q. How far behind?

A. Just a couple of steps.

5.

Q. Was it rather dark in that spot?

A. It seemed to be fairly dark.

Q. Fairly dark. And when you say behind

Mr. Seale do you mean if Mr. Seale were lying on the ground, above Mr. Seale's - in the direction of behind Mr. Seale's head or behind his back or what?

10.

A. Between like his back, between like his shoulders and his head, around that area. Up that way.

Q. Could you indicate as to whether or not Mr. Seale appeared to look towards Mr. Marshall at that point?

A. No.

15.

Q. Was Mr. Marshall positioned in such a way that Mr. Seale wouldn't have been able to see him?

A. See.

Q. Is that right?

A. Yes, that's right.

Q. Did Mr. Seale say anything as to what had

20.

happened to him?

A. No.

Q. He was conscious, though.

A. Yes.

Q. He could talk at that time.

25.

A. Yes.

Q. You remained there until the ambulance arrived?

A. Yes.

Q. How long a period was that, do you recall?

A. Like I really couldn't say because you know, maybe five, somewhere around that area. It was - it all

30.

| mins.

281.

0. MR. CHANT, Cross-Examination

happened pretty fast.

Q. Five minutes you say?

A. At the longest anyway.

Q. That's the longest?

5. A. Like I really couldn't say as far as time.

Q. Thank you.

THE COURT: Any re-examination?MR. EDWARDS: No re-examination.WITNESS WITHDREW

10.

15.

20.

25.

30.



Statement of: Insp. Richard Joseph WALSH (BD: 32-03-04)

Taken: 2:19 PM on 82-05-11 at Sydney City Police Station

In 1971 I was employed on general duties with the Sydney City Police as constable. There was a dance at St. Josephs Hall and I came on duty at midnight. Cst. Leo MROZ was my partner, I believe the call about the stabbing came in while I was still at the office. We proceeded to Crescent Street where we found a youth lying on the pavement on Crescent Street who appeared to have been stabbed. The body was lying with the head toward the centre of the street and facing the harbour. I went to him and bent over him, I spoke to him but he just kept moaning, "Oh Jesus, Oh Jesus" I reached down and lifted his shirt, his intestines were coming out, I pulled his shirt down and I think a jacket to protect that area. Shortly after he was removed by CURRY'S Ambulance to City Hospital. At the scene I spoke with Cst. Howard DEAN and Donald MARSHALL, Jr., his arm was cut I noticed, Cpl. Martin MacDONALD who is now deceased was also present. I might have gotten CHANT's name there that night. At the hospital I helped undress SEALE he went for immediate surgery, Dr. NAQUI was there.

Inspector Richard J. Walsh

Witnesses: Cpl. J.E. CARROLL  
2:40 P.M.



JULY '71  
DMPRE QTissue tendered and marked Exhibit M/5

Q. Did you receive any other exhibits?

A. Yes a facial tissue.

Q. I show you Exhibit M/5 that is an envelope what does that contain?

A. This exhibit contains a facial tissue, I can identify it as one which I received and examined, it bears my initials I received this exhibit from Sgt. MacDonald on June 16, 1971. I examined it for the presence of human blood, I found human blood of group "O" to be present.

Q. Did you examine any other exhibits?

A. No sir I did not.

By Mr. Rosenblum

Q. Would you be able to tell on the date of your examination of these exhibits just approximately how long these blood stains were on the exhibits in question?

A. No sir, we are unable to tell the age of a stain.

Q. Was it a week old?

A. No sir, we cannot determine that.

Q. So these blood stains on all these exhibits that you are talking about might have been present for six months before you saw them?

A. I am sorry, I am unable to determine.

Q. They could have been?

A. It could be a day, a week, a month.

Q. A year?

A. Yes.

Officer Mallowney, sworn

By Mr. MacNeil

Q. What is your name?

A. Constable John Mallowney.

Q. What is your occupation please?

A. Police constable for the City of Sydney.

Q. And how long have you been acting as such?

A. Going on to sixteen years.

Q. Were you acting as such on the 28th of May, 1971?

A. I was.

Q. Do you know where the area in the City of Sydney known as Wentworth Park and Crescent Street is?

A. I do.

Q. Did you on that date have occasion to search that area?

A. I did.

Q. And what was the result of your search?

A. Myself and Cst. Wyman Young, Crawford were detailed to the area to do a thorough search of it. We checked the complete area considerably, with the result of information I received I found a Kleenex tissue, what appeared to be a Kleenex tissue on the lawn of a house, may I refer to my notes. On a lawn in front of house number 130 Crescent Street.

Q. I show you an envelope marked Exhibit M/5, would you tell me what is in that envelope?

A. It is a Kleenex that was ... this is the Kleenex with blood on it similar to the one I had given to Sgt. M.R. MacDonald.

Q. You had turned it over to Det. Sgt. M.R. MacDonald?

A. Yes sir.

By Mr. Rosenblum

Q. You searched the grounds and found a Kleenex, when was that, that you found the Kleenex?

A. The 29th in the morning.

- 65 -

Q. Was that the only piece of kleenex you could find after scouring the premises of this house?

A. It was the only piece of kleenex that interested me at that time.

Q. Was there other kleenex?

A. There was other debris, paper and kleenex also all over through the other side of the park, on the grounds and garbage boxes.

Q. Was this the only piece of kleenex on the lawn of the house, 130 Crescent Street?

A. It was.

Det. Sgt. MacIntyre, sworn

By Mr. MacNeil

Q. What is your full name?

A. John Fraser MacIntyre.

Q. What is your occupation?

A. Sergeant of Detectives, City of Sydney Police Department, Sydney, Nova Scotia.

Q. Were you acting as such during the month of May, 1971?

A. I was.

Q. Do you know the accused?

A. I do.

Q. Do you see him in Court today?

A. I do.

Q. Would you point him out to the Court?

A. Witness indicates the accused.

Q. Did you see him on the 28th day of May, 1971?

A. Not on the 28th.

Q. When did you see him?

A. I interviewed him on the 30th day of May, 1971.

-178- CST. JOHN MULLOWNEY, Dir. Exam.

CST. JOHN MULLOWNEY, being called and duly sworn, testified as follows:

BY MR. MacNEIL: (Dir. Exam.)

Q. Your full name, Constable?

A. John Hugh MULLOWNEY.

Q. And you are a member of the City of Sydney Police Force?

A. I am.

Q. And were you acting as such during the month of May, 1971?

(10) A. I was.

Q. And did you have occasion - are you familiar with the Wentworth Park area?

A. I am.

Q. And where is Wentworth Park area?

A. In the City of Sydney.

Q. County of Cape Breton, Province of Nova Scotia?

A. Yes.

Q. And also Crescent Street is in the City of Sydney, are you familiar with that?

(20) A. I am.

Q. And that is in the City of Sydney, County of Cape Breton, Province of Nova Scotia?

A. Yes.

Q. I will show you Exhibit 5. Are you familiar with that area as set out in that plan?

A. Yes, I am, the Wentworth Park area.

Q. Did you have occasion to search the Wentworth Park area subsequent to the 28th day of May, 1971?

A. Yes sir.

(30) Q. When did you search the area?

A. On the 29th of May, the morning of the 29th.

Q. And as a result of your search, what were the results of your search?

A. Searched the whole area and I found a piece of tissue on it which was on the lawn of 1-0 Crescent Street.

- CST. JOHN MULLOWNEY, Dir. Exam.

Cross-Exam.

Q. And could you show me please, on Plan, Exhibit 5, where that is located?

A. Right here, 130 Crescent Street.

Q. Now when you say right there, is there any marking on there that would indicate which house it is?

A. Yes, this house on the plan is numbered as 130 and the name-

THE COURT:

0) Louder, please.

WITNESS:

-The number of the house is indicated on the plan as 130.

The house is owned by a Mrs. H. Boudreau by the plan here.

BY THE COURT:

Q. Witness, will you mark on that plan, the exhibit, with a circle where the tissue was found? Then will you show it to the jury.

A. (Witness complied.) Approximately two feet in on her property from the curb, south curb. (Shown to the jury.)

BY MR. MacNEIL:

0) Q. I show you an envelope marked Exhibit 2, what are the contents of that envelope?

A. This is the piece of kleenex that I picked up on that lawn on Crescent Street and took it into the station and tagged it.

Q. Louder.

A. I took it into the police office and I tagged it and I passed it over to Cst. - Sgt. M. R. MacDonald.

BY MR. ROSENBLUM: (Cross-Exam.)

Q. You searched the park grounds, did you not?

A. Yes sir.

0) Q. When was that, Cst. Mullenwey, when you did this searching?

A. In the morning of the 29th.

Q. But what time?

A. We were detailed there approximately quarter to nine-

30- CST. JOHN MULLORNEY, Cross-Exam.

Q. In the morning -

A. -Sgt. MacDonald - yes.

Q. And I suppose all over the park grounds there was lots of debris?

A. Yes sir.

Q. Kleenex tissue, napkins, empty pop bottles, empty liquor bottles?

A. In the park area, yes.

Q. All over the place?

(10) A. Not on this particular lawn.

Q. No, I'm coming to the lawn. What you say is you found a piece of kleenex which you identified on the lawn in front of 130 Crescent Street?

A. Yes sir.

Q. Is that right?

A. Yes.

Q. Now that is the only piece of kleenex you saw there?

A. On that particular lawn?

Q. On that particular lawn.

A. Yes sir.

( THE WITNESS WITHDREW )

C.S.



Statement of Howard Leslie DEAN (BD: 32 JUN 13)  
Taken at 144 Buckingham Drive, Sydney, Nova Scotia  
11:03 A.M., 82 MAY 20

BCMP2 12

On the night of the SEALE stabbing, I was on car patrol with Cpl. Martin MacDONALD, now deceased. We were in the vicinity of St. Joseph's Hall when the call came to us. We proceeded to Bying Street and then to Crescent Street, I was driving, there was a man in the middle of the street. We later found to be Junior MARSHALL, he was waving his arms to stop us. I saw a male lying on the street, his head was towards the centre of the street, and his legs near the right side or curb. Cst. Richard WALSH and Leo MOROZ arrived just about the same time. I did not have any conversation with SEALE, I could see his intestines were rolling out of his chest cavity. The ambulance was on its way. MacDONALD and I took MARSHALL to Sydney City Hospital for treatment of a wound on his arm. He said he had been stabbed at the same time SEALE was. We left MARSHALL and went back on patrol. I don't remember MARSHALL giving any description of who had stabbed him. I had no further dealings with the investigation.

signed by:

Witness; Cpl. J.E. CARROLL

: Cpl. Howard DEAN



Q. Did you see that jacket before?

A. Yes I did.

Q. Where did you see it?

A. Roy Gould had the jacket on every once in awhile.

Q. Did you see it with your son?

A. Not on him, no.

Q. Did you see him with it?

A. No.

NO QUESTIONS BY DEFENCE

Det. Michael R. MacDonald, sworn

By Mr. MacNeil

Q. What is your full name?

A. Michael MacDonald.

Q. What is your occupation Mr. MacDonald?

A. Detective Sergeant with the City of Sydney Police Department

Q. How long have you been acting as such?

A. Six (6) years.

Q. Were you acting as such on the 28th day of May, 1971?

A. Yes sir.

Q. And also on the 22nd day of June, 1971?

A. Yes sir.

Q. Do you know Mr. Roy Gould?

A. Yes sir.

Q. And did you see him on the 22nd day of June, 1971?

A. I did.

Q. What took place between you and Mr. Gould?

A. Mr. Roy Gould landed at the Police Station in the City of Sydney Police Station and turned over to me one jacket belonging to himself.

Q. Describe the jacket? Who commit the injury?

A. Yellow, outside yellow, white strips, inside white.

- Q. And what did you do with this jacket?
- A. The jacket was in my care until I went to the F.C.M.F. Lab. in Sackville with it and turned it over to them.
- Q. And do you know to whom you turned over this jacket?
- A. At the time, I just forget his name. I have it marked.
- Q. Where do you have it marked?
- A. Mr. Duff, F.C.M.F. Lab in Sackville.

BY THE COURT

- Q. A sergeant?
- A. No Mr. Duff is a civilian

NO OBJECTION BY DEFENCEPatricia Ann Harris,By the Court

- Q. How old are you?
- A. Fourteen (14)
- Q. What grade are you in, in school?
- A. Grade VIII.
- Q. Are you going to school now?
- A. Yes sir.
- Q. You are in Grade VII?
- A. Going into Grade VIII.
- Q. What school do you go to?
- A. Central.
- Q. Do you know what it means to take an Oath on the Bible?
- A. Yes.
- Q. What?
- A. To tell the truth.
- Q. What happens to people who don't tell the truth?
- A. Perjury.
- Q. What happens to people who commit perjury?
- A. Go to a home.

NOVEMBER '71  
DMI 20

- 54 - SGT. MICHAEL MacDONALD, Dir. Exam.

SGT. MICHAEL MacDONALD, being called and duly sworn, testified as follows:

BY MR. MacNEIL: (Dir. Exam.)

Q. Your full name, sir?

A. Michael MacDonald.

Q. And you are a detective sergeant with the City of Sydney Police Force?

A. Yes sir.

(10) Q. And were you acting as such during the Months of May and June 1971?

A. I was.

Q. And with regard to this case, did you come into possession of any exhibits?

A. I did.

Q. What were they?

A. One jacket.

Q. Just hold it there, please. I show you Exhibit 3, do you recognize that jacket?

(20) A. Yes sir. This is the jacket that was on June 2, 1971, this jacket was turned over to me by Mr. Roy Gould. It was kept in a lock and key in my possession.

Q. Until when?

A. Until June 16 when I proceeded-

Q. 1971?

A. 1971 where I proceeded to the Crime Lab in Sackville, New Brunswick. Turned this jacket over to Mr. Evers.

Q. Any other exhibits?

A. Yes sir. Brown coat and a pair of overalls.

(30) Q. I show you Exhibit 4, what is that, please?

A. This is a coat that was turned over to me on June 3, -

Q. By whom?

A. Mrs. Seale living in Westmount. It was kept in my possession until June 16 when I proceeded to Sackville, New Brunswick, the Crime Lab with it.

- 55 - SGT. MICHAEL MacDONALD, Dir. Exam.

Q. To whom did you turn it over at the Crime Lab?

A. Mr. Evers.

Q. Any other exhibits?

A. Pair of overalls.

Q. I show you Exhibit 1. Tell me what that is please.

A. It's a pair of overalls. On June 3 it was turned over to me -  
1971 - it was turned over to me by Mrs. Seale, Westmount. June  
16 I proceeded to Sackville, New Brunswick, with this and turned  
(10) it over to Mr. Evers at the Crime Lab.

Q. Any other exhibits?

A. Piece of tissue, kleenex.

Q. I show you an envelope marked Exhibit 2, would you look at the  
contents of that and tell me what that is?

A. This is tissue turned over to me by Cst. John Maloney on  
May 29, 1971. On June 16, 1971, I proceeded to the Crime Lab  
in Sackville, New Brunswick, and turned this over to Mr. Evers.  
BY MR. ROSENBLUM: (Cross-Exam.)

Q. Now Sergeant, you have been a member of the City of Sydney Police  
(20) Force for how long?

A. Twenty-five years.

Q. And Sergeant, on this particular night, Friday, May 28 of 1971,  
did you attend on Crescent Street in the City of Sydney, where  
Mr. Seale was involved as we've heard here from witnesses this  
morning?

A. No sir, I did not.

Q. Did you attend at the City of Sydney Hospital later that night?

A. Yes sir, I did.

Q. At what time did you get there?

(30) A. 12:10 A.M.

Q. Just shortly after midnight. Who was there when you got there  
Mr. MacDonald?

A. Cpl. Martin MacDonald; Cst. Rich Walsh; Mr. Leo Curry and  
another young chap who helped them. I forget his name.

- 56 - SGT. MICHAEL MacDONALD, Cross-Exam.

Q. Who else?

A. Dr. Naqvi.

Q. Yes, Dr. Gaum.

A. Dr. Gaum wasn't there.

Q. All right. Dr. Naqvi, yes.

A. Dr. Virick.

Q. Now was there a young fellow there by the name of Chant?

A. Not at that time, sir.

(10) Q. All right, when did you see him? Maynard D. Chant, I'm speaking about.

A. 2:00 A.M. in the morning.

Q. 2:00 A.M. - where did you see him?

A. At the City Hospital.

Q. So you stayed there from ten after twelve until what time?

A. I left there five minutes to three in the morning.

Q. So you saw Maynard Chant there about two o'clock in the morning?  
Now who was there when you saw him there?

A. Cst. Jackie Johnstone and Cst. Howard Dean.

(20) Q. Both of the City of Sydney Police Force?

A. Yes sir.

Q. All right, were you talking to Chant?

A. For a moment.

Q. How long did he stay there in your company?

A. Two or three minutes.

Q. So you just had a short conversation with him?

A. Very short. I sent him down to the police station.

Q. Quite all right. You never wear a uniform, do you Sergeant?

A. No sir.

(30) Q. Did you make yourself known to Mr. Chant as to your position?

A. The police officers brought him right in to me where I was and identified-

Q. The police officers were in uniform, that is Walsh and who else?

A. No. Howard Dean and Cst. Jackie Johnstone.

- 57 - SGT. MICHAEL MacDONALD, Cross-Exam.

Q. And you notified Mr. Chant that you were a sergeant with the City of Sydney Police Force?

A. That's right.

Q. And then, did you see him later that day, Chant?

A. Again that morning.

Q. Where at?

A. At the police station.

Q. What time would that be?

(10) A. Quarter after three, twenty after three.

Q. Who was present on that occasion?

A. Sgt. Len MacGillivray, myself, Cpl. Martin MacDonald, and Mr. Chant's father.

Q. Did you see him again after that day?

A. Again?

Q. Yes, later that day?

A. No sir.

Q. When did you next see him?

A. Sunday, following Sunday.

(20) Q. Following Sunday, who was present on Sunday?

A. That would be-

Q. Yes, that would be May 30. Who was present then and where was that that you saw him?

A. Det. Sgt. John MacIntyre and myself.

Q. Now going back to midnight, ten after twelve, at the City of Sydney Hospital when you saw Mr. Chant and you had a brief conversation, was Donald Marshall present?

A. No sir. He was in the building.

Q. Did Chant tell you anything-

(30) MR. MacNEIL:

Objection, if Your Lordship please. Conversation took place between the officer and Mr. Chant is inadmissible unless the accused is present.

- 58 - SGT. MICHAEL MacDONALD, Cross-Exam.

MR. ROSENBLUM:

Oh no, quite the contrary. Any statement - I'm not asking for the words that were used, my Lord. I'm asking the question as to whether or not Chant made any accusation to this witness concerning Donald Marshall, at any time-

THE COURT:

Mr. Foreman and gentlemen, will you kindly step out, please.

(12:16 P.M. JURY WITHDREW)

(10) ( VOIR DIRE )

MR. ROSENBLUM:

Cross-examination of the witness, my Lord.

THE COURT:

And you're asking him about-

MR. ROSENBLUM:

Whether any statement was made to him by Chant on that occasion in the hospital and I will lead him down to the other contacts that he had with Chant concerning Donald Marshall. My Lord, this is of such great importance to the case that I ask your usual serious consider-

(20) THE COURT:

Every piece of evidence is important.

MR. ROSENBLUM:

This goes to the nub of the case, My Lord.

THE COURT:

Actually you are asking him in your question, you are of course asking the witness what the other man had said.

MR. ROSENBLUM:

No. I'm asking what he didn't say. I'm asking what he didn't say my Lord, not what he said.

(30) THE COURT:

You have put to him something about making an accusation.

MR. ROSENBLUM:

As to whether or not he did - as to whether or not he did.

- 59 - SGT. MICHAEL MacDONALD, Cross-Exam. (Voir Dire)

THE COURT:

In effect you're asking him what he said.

MR. ROSENBLUM:

No, my Lord. I'm putting it in a negative way.

MR. MacNEIL:

I'm saying, of course, he is making it with the word "accusation" that he is asking what the witness said. And I am submitting to you that it is completely inadmissible unless the accused was present  
 (10) And I know of no rule that would allow a conversation to go in that may work to the detriment of the accused when he wasn't present. Now take for example - I don't know what my learned friend expects to get from this answer - but let us suppose the answer came back like this, "Yes, he said that Donald Marshall Jr. stabbed Sandy Seale on Crescent Street." Then my Lord, I suggest that it wouldn't take two minutes for the Appellate Division of the Supreme Court to rule on that.

MR. ROSENBLUM:

I will be responsible for my questions.

(20) MR. MacNEIL:

I'm saying it is inadmissible regardless of who asks it.

MR. ROSENBLUM:

If I was foolish enough to ask a question like that, I would be bound by the answer. I wouldn't ask a question unless I know what it's going to be - what he has to tell me. I don't ask a foolish question. I got to know the answer before I ask the question. If Your Lordship would like time to deliberate on it, we're going to the heart of the case.

THE COURT:

(30) You are asking him, Mr. Rosenblum, to give you a conversation which he had with Mr. Chant with respect to an accusation. You're asking him about conversation which he had with Mr. Chant and however you may phrase it, it gets to what Chant said to him.

MR. ROSENBLUM:

Or didn't say - or didn't say! This is the point. Silence!

- 60 - SGT. MICHAEL MacDONALD, Cross-Exam. (VOIR DIRE)

THE COURT:

And isn't that also applicable, the matter of silence-

MR. ROSENBLUM:

The only way I can bring it out, My Lord, is to ask him whether Chant told him anything. That's how you prove silence.

THE COURT:

It is now near recess and I will take the time to look into it. But I would say, Mr. Rosenblum, that: my inclination is that you  
(10) cannot ask this witness anything about conversation.

MR. ROSENBLUM:

Or the lack of it!

THE COURT:

Anything that has to do with the conversation inasmuch as the accused man was not there.

MR. ROSENBLUM:

I'm well aware of that, my Lord. However, I will await your final ruling and I will put the question to him directly for the purposes of the record, My Lord, that we will have the record to  
(20) show the question and either its admissibility or inadmissibility.

THE COURT:

Give me your question. Take your time in phrasing it.

MR. ROSENBLUM:

I'm leading up to the question now, my Lord.

Q. You say you had a conversation with Maynard Chant at about ten minutes after midnight on May 28 - no, May 29, Saturday morning at City Hospital.

A. (Witness indicates negatively.)

Q. 2:00 A.M. - you got there ten after twelve?

(30) A. That's right.

Q. About 2:00 A.M., Saturday morning, May 29?

A. That's right.

Q. And you talked to him for a few minutes?

A. That's right.

- 61 - SGT. MICHAEL MacDONALD, Cross-Exam. (VOIR DIRE)

Q. Is that what you said, two or three minutes?

A. Two or three minutes.

Q. Was Mr. Marshall there or not?

A. Not in person, no. He was in the building.

Q. He wasn't present when you were talking to Maynard Chant?

A. That's right.

Q. And Maynard Chant was aware of the fact that you were a Sergeant of the Sydney Police Force?

(10) A. Yes sir.

Q. And he had been escorted into your presence by two other police officers?

A. Yes sir.

Q. Did Maynard Chant on that occasion say anything to you to implicate Donald Marshall Jr., the accused in this case, in connection with the injuries which had been sustained by the late Sandy Seale?

THE COURT:

Don't answer that question!

(20) MR. ROSENBLUM:

There's the question.

THE COURT:

That's your question. Have you any other questions?

MR. ROSENBLUM:

Yes, My Lord.

THE COURT:

Assuming that I rule that you cannot ask that question.

MR. ROSENBLUM:

Yes, I have other questions. Naturally not in defiance of any

(30) ruling.

THE COURT:

No, but nothing to do with this particular aspect of the case.

If I rule-

MR. ROSENBLUM:

I have other questions aside from that.

- 62 - SGT. MICHAEL MacDONALD, Cross-Exam. (VOIR DIRE)

THE COURT:

As I said before, my inclination at first blush is to say you cannot ask this question. In deference to yourself and Mr. Khattar I will utilize some of the time allotted to lunch to look into it.

MR. MacNEIL:

I would, of course, just like to have noted on the record my objection to the question, if Your Lordship pleases.

THE COURT:

(10) You have.

MR. MacNEIL:

I had before but then he rephrased it.

THE COURT:

Have the jury brought in.

( 12:28 P.M. JURY POLLED, ALL PRESENT )

THE COURT:

Mr. Foreman, gentlemen, during the course of a criminal trial, from time to time points of law arise which must be discussed and decided upon in the absence of the jury. There are points arising quite frequently which we dispose of in your presence but when we come to something that is crucial, it is better, you understand, to have it dealt with in the absence of the jury. And when you are called in, if it is allowed, you will hear it. Now we are in the midst of one of these now. You will go to your lunch. Come back but don't come in the court room. Stay in your room. We will continue in your absence as we would have done had we not had the break until we make a decision on the point which has been raised. You, Sgt. MacDonald, of course, will not discuss the case with any one in the interval - with no one. I can rely on you.

( 12:30 P.M. JURY WITHDREW

AND COURT RECESSED )

- 63 - SGT. MICHAEL MacDONALD, Cross-Exam. (VOIR DIRE )

(2:15 P.M. COURT RESUMED: SGT. MacDONALD RESUMED THE STAND)

THE COURT:

In connection with the matter which took up our attention prior to adjournment, may I say now something which I omitted to say before, to those who are here and interested in this case from the point of view of the news media. May I caution them against reporting anything of this case which is not in the presence of the jury. Whatever is said in a trial within a trial must not  
(10) be reported by the press in any way.

Now as to the point which was well raised by Mr. Rosenblum and Mr. Khattar and I wish to commend counsel for the Defence for the care in which they have proceeded with this matter as is to be expected of them. I said prior to recess that I was of the opinion that the question could not be put to the witness. In the interval I have had an opportunity to go into the law and I may say too that I have now looked over the cases which the Defence counsel have submitted to me. From Phillipson, which is one of the leading authorities, we find, Eleventh Edition, at p.268, enunciate  
(20) of fundamental rule -

"It is a fundamental rule of evidence at common law that hearsay evidence is inadmissible. In criminal proceedings the rule continues to prevail although there are many exceptions, both statutory and at common law, to it."

No doubt during the course of this trial we may have occasion to perhaps deal with some exceptions to the hearsay rule.

"Simple as this fundamental is, in principle if not in application, there nonetheless exists 'a superstitious awe ...about having any truck with evidence which involves A's telling the court what B said.' Conspicuous uncertainty exists amongst practitioners, magistrates and judges as to what evidence does and does not fall within the hearsay rule. The reasons for this widespread misunderstanding are threefold.

The author goes on to give the reasons. Then he goes on to say:

"The exact scope of the rule is therefore patently unclear. It would appear however that the general statement of the rule which appears at the commencement of this section (which I'm reading) represents the essence of the rule and is well supported by authority."

- 64 - SGT. MICHAEL MacDONALD, Cross-Exam. (VOIR DIRE)

THE COURT: (cont'd.)

I have read the case of Rex v. Rewniak cited in C.R. 1949, p.127 and the other cases cited by the Defence and I have particularly read the reference to the very famous case at the time, Rex v. Dean 1947, which went to the Supreme Court of Canada. While I repeat again that I appreciate very much the reasons for the submission, both the legal reasons and the practical reasons from the point of view of the Defence, I have come to the conclusion that in

(10) this particular case, in the circumstances of this case, my ruling is that the witness cannot be questioned about the conversation which he had with Mr. Chant. That he had conversation with Mr. Chant or with anybody else is a verbal fact which can be brought out but what the conversation was or alternatively, what it did not consist of, is in my opinion inadmissible in this case.

Now Mr. Rosenblum, you said it was a very material point in the case. I say I appreciate very much your position. Nonetheless, Crown Counsel in his opening remarks made it quite clear that

(20) the person was going to be called and undoubtedly will be called. Indeed, it would be unthinkable that he wouldn't be. Therefore that witness will be available and will be subject to cross-examination as to things he said at the time and any point you may very well have in regard to his testimony can be established and brought out at that time.

MR. ROSENBLUM:

But My Lord, the difficulty following Your Lordship's ruling is that I will be bound to follow the same with regard to the witness Chant.

(30) THE COURT:

No, no-

MR. ROSENBLUM:

But my Lord the accused was not present either!

THE COURT:

No, Mr. Rosenblum. What Mr. Chant said or did not say, coming

- 65 - SGT. MICHAEL MacDONALD, Cross-Exam. (VOIR DIRE)

from Chant will be available, will be open to you in cross-examination: the story that he will no doubt tell, when he first told it; why he did; what he said - as to these matters I don't know but it's not going to come out from the mouth of the present witness.

MR. ROSENBLUM:

But may through Chant, notwithstanding the absence of the accused

THE COURT:

(10) Notwithstanding the absence-

MR. ROSENBLUM:

Thank you!

I take exception to Your Lordship's ruling for the matter of the record, My Lord.

THE COURT:

Mr. Rosenblum, it is the right of counsel, both counsel for the Defence and for the Prosecution, to raise all matters of law. It is my lonely responsibility to rule upon them and for the conduct of this trial, my ruling will prevail.

(20) MR. ROSENBLUM:

I accept it, my Lord.

THE COURT:

Whether I am right - who is there in this world who can say that he never made mistakes, is a matter which may, may, if necessary be looked into at some future time.

So that as to the fact that Mr. Chant was questioned in the hospital and subsequently, you have that if you wish. But the conversation

I rule is not-

MR. ROSENBLUM:

(30) I will certainly obey Your Lordship's ruling.

( 2:25 P.M. JURY POLLED, ALL PRESENT )

- 66 - SGT. MICHAEL MacDONALD, Cross-Exam.

BY MR. ROSENBLUM: (Cross-Examination continued)

Q. Now Sgt. MacDonald, you told us before the jury retired that you went to the City Hospital in the City of Sydney about ten after twelve and who was present and that at about two o'clock in the morning, which would be Saturday morning, the 29th day of May, Maynard Chant arrived: right?

A. That's right.

Q. Now when did you next see Mr. Chant?

(10) A. Approximately three o'clock.

Q. In the afternoon?

A. In the morning, an hour later.

Q. Where did you see him?

A. At the police station.

Q. And for how long a period were you in his company?

A. Oh, ten minutes.

Q. Who else was present?

A. Cpl. Martin MacDonald, Sgt. Len MacGillivray, Mr. Chant's father.

Q. Mr. Chant's father - do you know how it came about that Mr.

(20) Chant's father was there? Do you personally know?

A. I believe he was called to the station.

Q. Called?

A. Yes.

Q. All right. We're into three o'clock in the morning, right?

A. Right.

Q. When did you next see Mr. Chant, Maynard Chant?

A. On May 30.

Q. May 30, the following day, Sunday?

A. Yes sir.

(30) Q. Where at?

A. In the town of Louisbourg.

Q. Where at in the town of Louisbourg?

A. Well I don't know the names of the streets out there.

Q. Well was it on a street?

A. It was on a street, yes.

- 67 - SGT. MICHAEL MacDONALD, Cross-Exam.

Q. Who was with you?

A. Det. Sgt. John MacIntyre.

Q. What time of the day?

A. In the afternoon.

Q. Was there any particular reason you met him on the street or was that by arrangement or-

A. No sir, no.

Q. You just happened to meet him on the street?

(10) A. We went to Louisbourg to-

Q. To see him and you met him on the street?

A. Yes sir.

Q. Was he walking?

A. He was with some other fellows.

Q. Walking?

A. In the area.

Q. Walking or driving?

A. No, he was walking, on foot.

Q. Did he get into the police car?

(20) A. Yes sir.

Q. And how long were you and Sgt. John MacIntyre in the company of Maynard Chant on that particular occasion?

A. Maybe a couple of hours.

Q. So now we're up to about what time?

A. Five o'clock Sunday afternoon.

Q. Five o'clock Sunday afternoon-

A. Five-thirty.

Q. All right, when did you next see him?

A. Can't recall now, not right off-hand.

(30) Q. The next day?

A. I couldn't say.

Q. Well you did see him later?

A. I might have seen him once more during the week. I don't know which day it was.

- 68 - SGT. MICHAEL MacDONALD, Cross-Exam.

Q. Where would it have been?

A. Could have been up the police station.

Q. In Sydney?

A. Yes sir.

Q. Were you talking to him?

A. No, I wasn't.

Q. Were there other police officers talking to him at the time you saw him?

(10) A. No.

Q. Well, what was he doing?

A. He was in the front <sup>office</sup> of our detectives' office.

Q. Detectives' office?

A. Yes sir.

Q. How long was he there?

A. I couldn't say, sir; I was back and forth, in and out. He was sitting there.

Q. Over what period of time did you observe him in the detective's office of the city hall?

(20) A. Sometime in the afternoon-

Q. Yes, over what period of time - would you say you were in and out over what period of time?

A. Well from two o'clock to five.

Q. What day of the week would that have been?

A. I couldn't say.

Q. How long after this particular Sunday you and Sgt. MacIntyre were talking to him in Louisbourg from two o'clock until five o'clock?

A. I couldn't give you the exact date.

(30) Q. Would you try to put your mind to it now because we may not have you on the witness stand again? This is the time to extract all the information from you. Just think about it.

A. No, I couldn't give you the exact day, sir. I was on other work pertaining to this-

- 69 - SGT. MICHAEL MacDONALD, Cross-Exam.

Q. Well I'm sure you had other work-

A. -I was in and out so I couldn't give you the exact day.

Q. Would it have been two days later?

A. I couldn't say, sir.

Q. Tell me Sergeant, when was Marshall arrested on this charge that he is facing trial today?

A. I believe it was June 4.

Q. June 4?

(10) A. I believe, on Friday.

Q. What day of the week would that have been?

A. June 4 on Friday, I believe. I wasn't in on the arrest.

Q. No, but you became aware of it. You were involved in the investigation.

A. Yes, but I was away at the time of the arrest.

Q. Yes, but you knew about it after it happened?

A. Oh yes, yes.

Q. That would have been a week after the events on the night of May 28: right?

(20) A. Yes.

Q. Had you seen the accused, Mr. Marshall, during that week?

A. The week of-

Q. During the time from the night of May 28-

A. Oh yes, I seen him several times.

Q. Tell us about the times you saw him.

A. On May 29, he was at the police station.

Q. That was on a Saturday morning.

A. Saturday morning.

Q. How long was he there?

(30) A. Four or five hours.

Q. And who was talking with him?

A. Nobody in particular.

Q. What was he doing, just sitting there looking at the walls for four or five hours?

A. He was there.

- 70 - SGT. MICHAEL MacDONALD, Cross-Exam.

Q. He was there, I know, but what was he doing there? What was he doing there? Who was talking to him? Were you?

A. No sir.

Q. You didn't speak to him the whole time he was there?

A. No, I didn't have any conversation.

Q. Well did you see anybody else having a conversation with him?

A. No sir.

Q. Well where was he? Was he standing for four hours or five hours

(10) A. He was sitting around.

Q. Where at? Sitting around where?

A. In the Detectives' office, outside the front office and out in the alleyway, the driveway where the police cars are, he was smoking out there, back and forth.

Q. What was he doing there? For four or five hours, what was he doing there?

A. He was asked to be there by Sgt. MacIntyre.

(20) Q. Yes, so he came there as a result of that. Now he got there, in response to a request by Sgt. MacIntyre. What happened when he got there? He stayed there four or five hours. What happened during that four or five hours?

A. I couldn't say sir. He was there.

Q. All right. When did you see him again?

A. Sunday morning.

Q. Where did you see him?

A. At the police station.

Q. How long was he there then?

A. Four or five hours.

Q. Was anybody talking to him?

(30) A. Ah-

Q. Or was he all alone for four or five hours and speaking to nobody as he was the day before, in your opinion. On Sunday, what happened when he was there for four or five hours?

A. On Sunday, we had him for a line-up Sunday morning.

- 71 - SGT. MICHAEL MacDONALD, Cross-Exam.

- Q. Who was talking to him was my question.
- A. Sgt. MacIntyre might have spoke to him.
- Q. Well did you see anybody talking to Marshall?
- A. No sir.
- Q. On Sunday when he was there for four or five hours?
- A. That's right.
- Q. Nor on Saturday when he was there for four or five hours?
- A. That's right.
- (10) Q. All right. What about Monday? Monday, now let's get the date.
- A. Monday would be the 31st.
- Q. Yes, 31st of May, that's right. What about Monday?
- A. No, I didn't see him any more, sir, until - I think that's the last time I saw him.
- Q. Last time you saw him until after he was arrested?
- A. Yes.
- Q. Now were you up on Crescent Street at around midnight on the night of April 28, Sergeant, when the ambulance arrived, Curry's ambulance?
- (20) A. No.
- Q. What officers were there to your knowledge? I understand Richard Walsh was there.
- A. Cpl. Martin MacDonald; Cst. Howard Dean; Cst. Jack Johnstone. Two police cars, two men in each car.
- Q. Now if I inadvertently mentioned April 28, my learned friend draws my attention to it, I meant May 28. You understand that?
- A. Yes.

( THE WITNESS WITHDREW )

C.P.

Michael Bernard MacDonald, sworn, testified as follows:

EXAMINED BY R. MURRANT

1. Q. First of all sir, I would like to get your name straight. Your name is actually Michael B. MacDonald?  
A. Right.
2. Q. And the B. stands for?  
A. Bernard.
3. Q. Bernard?  
A. Yes.
4. Q. And you are presently a member of the Sydney City Police?  
A. Yes.
5. Q. And your rank is?  
A. Deputy Chief.
6. Q. How long have you been with the force, sir?  
A. Thirty-nine years.
7. Q. And in 1970, '71, what rank or position did you hold?  
A. Detective Sergeant.
8. Q. Now I was asking the previous witness about a statement that was taken by the RCMP and there is reference to a Michael R. MacDonald..  
A. It's M.R. on police records, M.B. is my original.
9. Q. Just explain to me to me why it's M.R. on the..  
A. ~~I don't know~~--well there was two M.B.'s, maybe John can tell you all that, he knows more. There was two M.B's and there was a little friction, he was an Inspector and I was just a Constable and there was friction so the Chief of Police Vince Campbell at that time just changed the initials and it stayed that way down through the years?

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10. Q. Does that tie into your nickname, the M.R.?  
A. Well some people call me M.R. and someone people call me just Michael. It's not a nickname really.
11. Q. No well I thought you were known as the Red Michael?  
A. Well at one time.
12. Q. What I am interested in is a statement and I'll show you a copy of it. This statement of John Lewis Pratico, his date of birth?  
A. No, I had nothing to do with John Pratico.
13. Q. In reference to the statement, we really don't need the statement but what the statement says, this is Pratico's statement. "In 1971, May, I was questioned by John MacIntyre and I believe Michael R. MacDonald." Now at that point in time in 1971 in May were you the only Michael R. MacDonald on this force or the only person known as that?  
A. Yes I imagine I would be. In May of '71?  
Q. May of '71?  
A. May of '71. I was transferred that next to fill in for retired Sergeant Len MacGillivray so I don't know how I could be in on a statment with John talking to Pratico.
14. Q. This is the day after the murder you changed?  
A. I was changed by Chief of Police, Gordon MacLeod to fill in for Sergeant Len MacGillivray who was retiring.
15. Q. Just to go through what it says here. Can you read that with those?  
A. Did I sign any of these statements.
16. Q. This is an RCMP statement that refers to you, now I don't know.  
A. I don't recall talking to John, I see the man out there, I don't recall talking to that man with John MacIntyre. I don't recall it at all.
17. Q. Did you know John Pratico?  
A. Oh, yes.

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19. Q. Did you know him back in this point in time?

A. Yeah.

20. Q. Do you know his family?

A. No.

21. Q. What did you know John Pratico as back in ....

A. Just as being around the city, he didn't seem to be--something wrong somewhere that his actions or whatever it was, we had problems with him. The name came up a couple times on the charge books.

22. Q. Didn't appear to be fully competent?

A. Yeah, right.

A. I didn't know any of his background or his family but I knew John Pratico if that is the way you pronounce it.

23. Q. To come to the point, there is an allegation here, it says Pratico saying a part and I'll read it to you. "A couple of days later the police came, I wasn't home, my mother took me to the Sydney Police Station around one or two o'clock I think. I talked to MacIntyre alone at first, MacDonald came in," reference being Michael R. MacDonald. "a few minutes later. I sent my mother home to look after my sister. MacIntyre asked me what happened in the park that night. I said I didn't know. I'd heard of the stabbing at the time, not who did it or who had died. MacIntyre said I did know and if I didn't tell I would be put in jail. MacDonald wasn't saying anything. I was scared. He said he knew what happened and for me to tell him. They told me about Marshall and Seale, that Marshall stabbed Seale, they put words in my mouth so I just agreed with what they were saying." This is the allegation that Pratico has given to the RCMP obviously, the taking of this statement.

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23. A. That was in May of 1971?
24. Q. May 1971 and what puzzles me is the reference there to a Michael R. MacDonald which I can only conclude is you?
- A. Yeah.
25. Q. And whether or not you were involved in that process?
- A. I don't recall taking statements from Pratico with John MacIntyre.
26. Q. Is it possible you did?
- A. Well it's possible I could have been called in the office with nobody else there on account of--see the first night of the stabbing I was the original officer at the hospital. John MacIntyre was asked to come out that night and he didn't come out, or he wouldn't come out so I was left alone on that. Sergeant Len MacGillivray called him and I spoke to him then we had a conference with the Chief of Police, Gordon MacLeod and that was the issue for that night.
27. Q. Why didn't he or wouldn't he come out?
- A. I don't know, he was in charge of the detective division, he didn't tell me why, I guess he figured he didn't have to tell me but he didn't come out anyway.
28. Q. What was the conference with the Chief about?
- A. I needed some help and he was in charge of the detective division.
29. Q. And you were at the hospital at the time?
- A. Yes.
30. Q. Did you ....
- A. Not at the time, no, I was at the police station.
31. Q. You were at the police station when it happened?
- A. No when I called John MacIntyre. I was home when it happened.

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32. Q. Let's not test your memory, let's just take what you do recall, you were home when it happened?
- A. I worked four to twelve shift that evening, I went home at 12:00, I was only in the house a little while when I received a phone call.
33. Q. All right?
- A. And I came back down to the station and <sup>went</sup> we/out to the park, I forget at the moment who was with me but--and then we were informed that somebody went to the hospital so I went up to the hospital and I was informed by the doctor that Seale was in the hospital ready to be operated on but they wouldn't allow me in to see him then.
34. Q. Do you remember Marshall being in the hospital at the same time?
- A. I believe he was, yes. He has a scar or cut on his arm.
35. Q. Now is that St. Rita's Hospital?
- A. City.
36. Q. City Hospital. Let's just try to reconstruct from there. You're at the City Hospital, you'd like to speak to Seale obviously but you can't.
- A. No the doctors wouldn't allow me.
37. Q. He probably couldn't anyway.
- A. They wouldn't allow me in anyway.
38. Q. Then what is the next thing you remember doing?
- A. I think we took Seale down to the Police Station from the hospital--I am sorry, not Seal, Marshall.
39. Q. Marshall that night?
- A. Yes.
40. Q. And did you...
- A. And we asked him a few questions and he was released.

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41. Q. That night?

A. Uh-hmmm.

42. Q. As I reconstruct it that evening, the latter part of the evening, members of the force were looking for two men who had been described as being in the park?

A. During the course of the evening?

43. Q. After the murder?

A. Oh.

44. Q. That the original theory of the investigation was to attempt to locate to.

A. I am not sure of the conversation we had with Marshall except that he was cut on the arm by somebody in the park -- I believe on of the cars I don't know who was in the cars at the time, I couldn't tell you, I believe one of the cars went to the park area just to check around, you know.

45. Q. When you spoke to Marshall that night at the police station did you believe what he was telling you?

A. Well I didn't know Marshall, you know, he was a friend of Seale's from what I gather, I couldn't disbelieve or believe I just said we'll put it on hold until the morning and see what would happen.

46. Q. Is it after this that you had your meeting with the Chief?

A. No, I had the meeting--the telephone call before I went to the City Hospital because I heard a person was stabbed and taken to the hospital.

47. Q. But did you meet face to face with the Chief that night?

A. No.

48. Q. Whatever discussion you had was on the phone?

A. Right.

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49. Q. Anything else that you did to follow this up?
- A. No. That was it, once we got Marshall, we put it on hold to see what happens at City Hospital.
50. Q. So the next morning or the next day when Seale died, were you out of the picture then?
- A. Pretty well, Pretty well, I didn't take any part in the -- I was out a couple of--I think on a Sunday if I -- did we go to Louisbourg on the Sunday or can I ask you that question or what is the....
- R. Pugsley: You have to do the best you can, sir.
- A. Well I think on a Sunday I was out working day shift and John asked me if I would go to Louisbourg with him to see a fellow by the name of...
51. Q. Chant?
- A. I thought there was two fellows in Louisbourg, I am not sure. Some fellow in Louisbourg he went to his house and his mother told us that, his mother or father, I just forget told us that he was visiting down on the Louisbourg Highway towards Sydney and we went to that house and we spoke to this fellow. I think his name was Chant.
52. Q. Do you remember what that...
- A. I'm pretty sure it was--yeah, I thought there might have been two fellow in Louisbourg but I'm....
53. Q. Do you remember what that interview was about?
- A. Well John was doing the talking to him, I guess it was pertaining to the Seale, or what he knew, he was supposed to be on George Street that night hitchhiking to Louisbourg at the time of the so called incident. His first name, I couldn't tell you his first name, I'm pretty sure it was Chant now. It was on a Sunday anyway, Sunday afternoon, the date I couldn't tell you.

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54. Q. Okay, anything else that you remember doing?
- A. No that's about the last. I think John and Bill Urquhart took over after that and they got into it.
55. Q. I just want to go back a little bit and if you don't recall, that's, I can appreciate that but initially it appeared that the Police Department were looking two men and that there had been some checks made at the water front and hotels and....
- A. Like I say, there was no statement taken from Marshall but during the course of taking to him, you know, it was suggested that there was a couple of fellows faced them in the park and I don't know was in the car, what Constables went or not but I understand there was a car that went out with two men in it and went through the park area, you know, now I couldn't tell you who they were, who the men were.
56. Q. Do you remember the force looking for these two men or looking for two men?
- A. The force?
57. Q. The police department?
- A. Like I say the car went out with two men that night into the park area.
58. Q. Yeah but I'm thinking as a result of what Marshall may have said or someone said about these two guys, whether steps were taken by the police force?
- A. That would be up to John.
59. Q. But he wasn't there that night?
- A. No, I imagine during the night they might have been around, I think I went home after Marshall was released. They might have been around looking, you know whoever these fellows were, there was no names mentioned. That's to the best of my knowledge anyway.

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60. Q. Don't guess, it's been a long time.

A. Yeah there was a lot of water under bridge since '71 and I didn't have too--John had the most of the doings with it all. Him and Bill Urquhart.

61. Q. No, I am just wondering if you recall?

A. I don't recall--I might have, it's possible, went in with the office, and nobody else there and maybe John might have called me in or something because there was a statement taken but I don't think I was involved in the taking of a statement. I might have been just sitting there as you do when your taking a statement, just listen when somebody else is taking it.

62. Q. Of course. The other--the last thing to clarify here. The other Michael MacDonald is now retired?

A. Yes.

63. Q. Yeah, he was an inspector?

A. Yeah, he was an inspector, Michael B. MacDonald again, see, here's where you run into the...

64. Q. What was his middle name now?

A. Michael Bernard.

65. Q. Bernard? When did he retire?

A. Michael B. anyway. When he retired, I couldn't tell you?

66. Q. Is he still in Sydney?

A. No, he's dead today.

67. Q. There are no other Micahel MacDonald's other than the three we've?

A. The Chief today.

68. Q. But in 1970, '71, those were the three....?

A. We had M. MacDonald, you know, different Martin MacDonald's but he'd go on as Michael MacDonald.

Page 164

69. Q. There was another M. was there?  
A. Yes there was two or three of them.
70. Q. Any of those gentlemen still with the police force?  
A. No, Martin is dead. M MacDonald was killed in a motorcycle accident. But like I say, getting back to that Pratico, I might have been asked to go in the office with John, Might have been, but I didn't take any part in any questions or anything else, it says right there I didn't say anything. I might have been in there just was a--which is if you're taking a statement you got to have a witness there with you.
71. Q. Okay, that's all the questions I have.

235.

0.

MIKE MacDONALD duly sworn, testified:

DIRECT EXAMINATION

MR. EDWARDS: Sir, your name is Mike MacDonald?

A. Yes, Sir.

5.

Q. And you're recently retired Deputy Chief of the Sydney - City of Sydney Police Department?

A. Yes, Sir.

Q. And how long were you with that department, Mr. MacDonald?

A. 38 years.

10.

Q. Mr. MacDonald, you were involved in the original investigation into the death of Sandy Seale in 1971?

A. Yes, Sir.

Q. And following that incident in Wentworth Park you took possession of certain exhibits?

A. Yes, Sir.

15.

Q. Among them were two jackets.

A. Yes, Sir.

Q. Would you tell the jury, please, where you got the jackets and what you did with them?

A. On June 2nd, 1971 I received a jacket from Mrs. Oscar Seale.

20.

Q. What colour was that jacket, Mr. MacDonald?

A. It was a dark colour jacket, brown or black.

Q. Yes.

A. And on June the 3rd I received a jacket from Mr. Roy Gould.

25.

Q. Do you remember the colour of that jacket?

A. Not at the moment, Sir.

Q. And then what did you do with the jackets after that?

A. They were placed in my locker at the Sydney Police Department.

30.

236.

0.

MR. MacDONALD, Direct Examination

Q. Yes.

A. And on June the 16th I took both jackets . .

Q. This is in 1971?

A. 1971. I proceeded to the Crime Lab in

5.

Sackville, New Brunswick where both pieces of clothing were turned over to Mr. Evers at the Crime Lab.

Q. That's Adolphus J. Evers?

A. Yes, Sir.

Q. Of the Hair and Fibre Section of the Crime Lab?

A. Yes, Sir.

10.

Q. Okay. Thank you very much. My learned friend may have a couple of questions.

THE COURT: Cross-examine.CROSS-EXAMINATION

MR. WINTERMANS: Mr. MacDonald, do you recall having given evidence at the preliminary inquiry into the Donald Marshall trial back in July 5th, 1971?

15.

A. Yes, I believe I did, yeah.

Q. And on page 16 you were asked the question at the top of page:

Q. What did you do with this jacket?

20.

A. The jacket was in my care until I went to the R.C.M.P. Lab in Sackville and turned it over to them.

Q. Do you know to whom you turned over this jacket?

A. At the time I just forget his name, I have it marked.

25.

Q. Where do you have it marked?

A. Mr.D.. R.C.M.P. Lab in Sackville.

Q. (The Court): A Sergeant?

A. No, Mr. D.. is a civilian.

Do you recall those questions and answers? At that time back in 1971?

A. No, I don't believe.

30.

Q. How is your recollection of those events at this

237.

0. MR. MacDONALD, Cross-Examination

time?

A. Well, I recall receiving them and I placed them in my care in my own locker at the Sydney Police Department until the day I was ordered to Sackville, New Brunswick with them.

5.

Q. You went to Sackville. You don't recall exactly who it was that you gave them to there.

A. Well, I had marked down Mr. Evers.

Q. Where are those jackets now, do you know?

A. I couldn't say, Sir.

10.

Q. Thank you. That's all the questions I have.

THE COURT: Re-examine?

RE-EXAMINATION

MR. EDWARDS: My learned friend just referred you to the preliminary inquiry which was held in July of 1971, right?

15.

A. Right.

Q. You also testified on the trial in November of 1971.

A. I just had one appearance in court, Sir.

Q. Well, I'm referring to the transcript of the trial, page 54, Sergeant Michael MacNeil being duly called and sworn, testified as follows:

20.

A. Michael MacNeil?

Q. Michael MacDonald, I'm sorry. I'll show you the page. Do you want to read that over? Would you say that was a transcript of testimony given by you?

25.

A. Yes, Sir.

Q. Yes. I want to refer you to lines 20 to 30 which reads:

Q. Just hold it there, please. I show you Exhibit 3. Do you recognize the jacket?

30.

A. yes, that is the jacket.

238.

0.

MR. MacDONALD, REDIRECT

Q. 1971. You held it until  
June 16th, 1971.

A. Yes. Where I proceeded  
to the Crime Lab in  
Sackville, New Brunswick.  
I turned this jacket over  
to Mr. Evers.

5.

A. Right, Sir.

Q. So at the trial you said . .

A. I turned it over to Mr. Evers.

Q. And that is your recollection now.

A. Yes, Sir.

10.

Q. Thank you, Mr. MacDonald.

WITNESS WITHDREW

15.

20.

25.

30.



205

SUBJECT

CASE No.

RCMP2 74

C O P Y

May 30, 1971

Statement of John Pratico, age 16 yrs., residing at 201 Bentinck St., Sydney

Friday night I was at St. Joseph's Dance. I left there around 12 P.M. I seen Junior Marshall and Sandy Seale between the store and dance hall. I was talking to them. They wanted me to walk through with them. I said no. I went down Argyle St. and went over Crescent St. I was over by the Court house when I heard a scream. I looked. I seen 2 fellows running from the direction of the screaming. They jumped into a white volkwagon; blue lic. and white no. on it. One had a brown cordroy jacket - 5'5 dark complexion; heavy set. The other grey suit about 6 ft. tall; husky; red sweater -like a pullover. I started to run home.

Q. Did you see the Volkswagon since

A. No. I saw the 2 fellows twice last night walking near the park.

Q. Did you see them at the dance

A. Yes. I seen them walking around. Bobbie Robert Patterson said they are from Toronto Saints Choice ~~BIM~~ Bike Gang.

Signed: John Pratico

May 30th - 6 P.M.  
Sergt.Det. J.F.MacIntyre

CITY OF SYDNEY POLICE DEPT.  
CONTINUATION REPORT

206

CASE No.

RCMP2 73

C O P Y

June 4, 1971  
10:45 A.M.

Statement of John Louis Pratico, age 16 yrs., residing at 201 Bentinck St., Sydney.

Last Friday night I went to the dance at St. Joseph's Hall, George St., Sydney. I went with Bobbie Christmas; Donald Gordon and I met Bob Janes from Alexander St. there. He gave me money to get in. This was about 9:30 P.M. I was at the dance till about 10 or 5 to 12. Then I walked out by myself.

I met Donald Marshall and Sandy Seale. We walked to the corner of Argyle St. Donald said John come down to the Park in a rough voice. I said No. I went down Argyle St. and over Crescent St. I was walking on the park side. I seen Sandy and Donald on the other side of the bridge stopped. I did not pay much attention to them. I kept walking for the tracks. On the tracks, I stopped where I showed you. Then Donald Marshall and Sandy Seale were up where the incident happened. I heard Sandy say to Junior, you crazy Indian and then Junior called him a black bastard. They were standing at this time where the incident happened. They were still arguing. They were talking low. I could not make out what they were saying.

- Q. Which way was Sandy Seale facing
  - A. Facing the tracks
- Q. Which way was Donald Marshall facing
  - A. The street
- Q. ~~xxxxxxx~~ How close were they
  - A. Arms length
- Q. what did you see or hear next
  - A. I did not hear. I just seen Doald Marshall's hand going towards the left hand side of Seale's stomach. He drove his hand in -turned it and pulled it back.
- Q. what happened then
  - A. I seen Sandy fall to the ground and Donald Marshall running up crescent St. towards Argyle St.

continued - page 2----

## CITY OF SYDNEY POLICE DEPARTMENT

## CONTINUATION REPORT

207

SUBJECT

CASE No.

RCMP2 73

COPY

---continued - page 2

Q. what did you do

A. I run home up Bentinck St.

Q. were you standing on the track at the time Sandy Seale fell to the ground

A. Yes. I was.

Q. Why were you standing there

A. I was drinking a pt. of beer

Q. Was there anybody else around the scene

A. Nobody - not a soul

Q. Did Seale scream when Donald Marshall struck him in the stomach

A. He screamed - aah

Q. How long did you know Sandy Seale

A. 4 or 5 years

Q. How long did you know Donald Jr. Marshall

A. Since last summer

Q. Did you ever quarrell with either boy

A. No

Q. were you talking to Sandy Seale at the dance

A. Yes outside about 10:30 P.M.

Q. How far away would you be from Sandy Seale and Donald Marshall when they were on Crescent St.

A. 30 to 40 ft.

Q. How long were they standing there

A. About 10 minutes. They were arguing over something

Q. How is it you did not come down where they were at

A. I was scared

Q. Did they notice you on the tracks

A. I don't know

Q. would ~~xxxx~~ there be any obstruction between you and Sandy Seale and Donald Marshall when you were on the tracks from them seeing you

A. Bushes between them and me - blocking the view on them. It was easier for me to see them.

Q. Did you see Donald Marshall since

A. Yes, Saturday or Sunday.

Signed: John Pratico

JULY '71  
DMPRE 8

Q. They took Marshall away from that area, did you accompany the vehicle?

A. No.

Q. Did you stay there until the ambulance arrived?

A. Yes.

Q. What happened then, when the ambulance arrived?

A. The ambulance arrived and like Sandy Seale tried to get over on his stomach and I didn't want to move him so I asked a couple of other fellows to help me move him over on his stomach so he was moved over on his stomach, the ambulance came they wrapped the blanket over him and put him on the stretcher.

Q. Did you recognize the man at this time?

A. No sir.

Q. You didn't know Sandy Seale before this evening?

A. No.

Q. Tell me, are you familiar with this area that this took place?

A. No.

Q. Do you know if there were any lights in the area?

A. Yes sir.

Q. How many?

A. Two, maybe three, I guess there was a street light, fifteen or twenty feet away from where there were standing at.

No questions by Defence

John Pratico, sworn

By Mr. MacNeil

Q. What is your full name, please?

A. John Lawrence Pratico.

Q. Where do you live?

A. 2201 Bentinck Street.

Q. In the City of Sydney?

A. Yes.

Q. How old are you?

A. Sixteen (16).

Q. Do you know Donald Junior Marshall?

A. Yes.

Q. How long have you known him?

A. About a year.

Q. Do you see him in Court here today?

A. Yes.

Q. Will you point him out to the Court?

Witness indicates the accused.

Q. Did you see him in the late hours of the 28th of May 1971?

A. Yes.

Q. Where?

A. In Wentworth Park.

Q. Did you see him before you saw him in Wentworth Park?

A. I don't recall.

Q. Where about did you meet him in Wentworth Park?

A. I went up around Crescent Street, I went down Argyle over to Crescent Street.

Q. Pardon me, before you did that, did you see Donald Marshall?

A. I don't remember.

Q. Did you have any conversation with him?

A. I don't remember, I believe I seen him up on the street.

Q. What street?

A. George Street.

Q. What was that conversation? Tell me on that.

A. Just talking, then I left him, I had a little bit of talk

and then I left him and I went down Argyle Street.

Q. Did he suggest anything to you?

A. I don't recall, I believe he did, coming down to the park or something like that.

Q. Are you nervous Mr. Fratico?

A. Yes.

Q. Would you tell us what happened and what took place?

A. I went down Argyle Street, eh.

Q. No you never got there yet, I am not finished where you met him up on George Street, where about on George Street did you meet him?

A. By the store.

Q. What store.

A. I don't know the name of the store.

Q. Do you know where Argyle Street is?

A. Yes.

Q. How far away were you from Argyle Street?

A. Five feet, a little more.

Q. What was that conversation?

A. I believe he said something about coming down to the park or something.

Q. What did you say?

A. I said, no.

Q. What did you do?

A. I left and went down Argyle Street turned up Crescent Street and I walked up the railway tracks, I went down and went into the bush and started to drink a pint of beer.

Q. Tell me, can you read a plan?

A. Yes.

Q. I show you Exhibit M/1, can you tell me on that, where in the bush you were?

A. Right here (indicates on plan)

Q. That would be opposite the house that is designated as D.W. Campbell, and what did you see take place?

A. I seen Marshall and Seale talking.

Q. Where were they talking?

A. First, Marshall was on the sidewalk, Donald Marshall was on the sidewalk, and Seale was facing him. They were talking for awhile and I could hear mumbling they were arguing there about something and I seen Marshall haul something from his pocket and stab Seale.

Q. What happened to Seale when he was stabbed?

A. He dropped.

Q. Did you know Sandy Seale before this right?

A. Yes sir.

Q. Sandy Seale dropped, did he?

A. Yes sir.

Q. What did Donald Marshall do then?

A. I don't know sir, I started to run.

Q. Where did you run?

A. Down the tracks by the bridge there and up Bentinck right up Bentinck Street.

Q. You live on Bentinck Street?

A. Yes sir.

Q. Did you see the man that you refer to as Donald Marshall you saw on the 28th of May, in the Court room today?

A. Yes sir.

Q. Will you point him out to the Court, please?

A. Witness indicates the accused.

No questions by Defence

Q. What did you do as a result of what you saw,

did you do anything to her?

and I was in the opposite direction

Robert MacKay, swornBy Mr. MacNeil

Q. Your full name, please?

A. Robert S. MacKay.

Q. How old are you?

A. Sixteen (16).

8 Q. Where do you live?

A. 225 Fulton Avenue, Westmount.

Q. Were you attending a dance at St. Joseph's Parish Hall on the 28th of May, 1971?

A. Yes.

10 Q. What time did you leave that dance?

A. About twenty to twelve.

Q. Were you accompanied by anyone?

A. Yes.

Q. Who?

15 A. Debbie MacPherson, Coxheath.

Q. What direction did you travel as you left the dance?

20 A. We came down and went around the bandshell, a little way from, like you know from Argyle, we came down and were sitting on the benches for five or ten minutes, she wanted to get a bus home so I was going to walk her to the bus stop. We walked up Crescent Street away and I saw Sandy Seale lying on the side of the road. She noticed him first and then I walked over.

25 Q. What did he say?

25 A. Help me, I was stabbed.

Objection to answer by Mr. Rosenblum

Q. What did you do then?

A. I saw my girl home

30 Q. No, what did your girl do as a result of what you said, you said something to her?

A. She went to get a bus and I ran in the opposite direction.

Q. And where did you go?

A. I ran up across the park, I ran up by Pollets store there and got ... I saw a fellow with a girl?

Q. What did you do?

A. We came back together, like you know, we were getting up so far we saw a car pulling up and I saw Donald get out of the car.

Q. Donald Marshall the accused?

A. Yeah, So we went to a house to call the police, so we came back and the police was coming down, the guy wouldn't let us use the phone, so when we were getting down off the steps and off the lawn a police car came by, the police questioned me and told me to go home.

Q. Did you know Sandy Seale before?

A. Yes.

Q. And was this Sandy Seale you saw lying on the road?

A. Yes sir.

Q. Do you know the accused, Donald Marshall?

A. I just know him to see him, I don't know him to talk to.

Q. Do you see him in Court today?

A. Yes.

Q. Point him out to the Court, please?

Witness indicates the accused. (fellow with him.)

Brian Doucette, sworn By Mr. MacNeil

Q. Your name?

A. Brian Doucette.

Q. Where do you reside?

A. 120 Crescent Street, still in ambulance.

Q. What time was it?

A. I don't know what happened and they said there was a fellow lying down there hurt, please call an ambulance. I said I will call the police first and ask for an ambulance. After they called.

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DMI 12

-118- JOHN L. PRATICO, Dir. Exam.

JOHN L. PRATICO, being called, came forward.BY MR. MacNEIL:

What is your age, sir?

MR. PRATICO:

Sixteen.

[THE COURT QUESTIONED MR. PRATICO]

THE COURT:

(10) This young man is of age and has an appreciation of the significance and nature of an oath. I am satisfied that he should be sworn.

MR. MacNEIL:

Thank you, My Lord.

JOHN L. PRATICO, being duly sworn, testified as follows:BY MR. MacNEIL: (Dir. Exam.)

Q. What is your full name, sir?

A. John Lewis Pratico.

Q. Where do you live?

A. 201 Bantrock Street.

(20) Q. That's in the City of Sydney here?

A. Yes sir.

Q. County of Cape Breton, Province of Nova Scotia. And you were present in court since this term opened?

A. Yes.

Q. Until you were excluded as a witness in this case a few minutes ago - when I say a few minutes ago, when His Lordship ordered all witnesses to leave the court room. When you left this court room did you discuss this case with anyone?

(30) A. Yes.

Q. With whom?

A. Mr. Khatman.

Q. Anyone else?

A. Mr. Marshall.

Q. Mr. Marshall.

A. His Lordship discussed the case with him. I was talking to him.

-119- JOHN L. PRATICO, Dir. Exam.

MR. ROSENBLUM:

A little louder, please.

WITNESS:

Mr. Marshall.

BY MR. MacNEIL:

Q. With Mr. Donald Marshall, Sr.?

A. Yes.

Q. The father of the accused?

(10) A. Yes sir.

Q. And as a result of this conversation that you had with Donald Marshall, Sr., what did you do?

A. Went and asked Mr. Khattar -

Q. Simon Khattar, Q.C., solicitor for the defence?

A. Lawyer.

Q. Yes, lawyer. And with anyone else?

A. No, besides Mr. MacNeil, you and Mr. MacIntyre and Mr. MacDonald.

Q. That was after an adjournment though that we had here -

(20) THE COURT:

I -

MR. MacNEIL:

There's a purpose in this, My Lord. My learned friends are perfectly aware of it.

THE COURT:

Is this man to tell about what happened? That may come later.

MR. MacNEIL:

That will be coming later.

(30) THE COURT:

That may come later. I don't know. I think, Mr. MacNeil, for the moment you better confine yourself to the evidence concerning the events on May 28, 1971. Then later if for any good reason you have for bringing up the events of today, we will go into it.

-120- JOHN L. PRATICO, Dir. Exam.

MR. MacNEIL:

Well, My Lord, in view of the time element, I won't be able to -

THE COURT:

Proceed with the evidence of - I have nothing before me that would warrant my listening to what has been up to now your questioning. So proceed with the questioning of the events of that night.

(10) MR. MacNEIL:

As Your Lordship pleases.

THE COURT:

I will give you every opportunity if necessary to bring up what happened today.

BY MR. MacNEIL:

Q. Do you know Donald Marshall, Jr.?

A. Yes sir.

Q. Do you see him here in court today?

A. Yes.

(20) Q. Would you point him out to the court, please. Let the record indicate the witness points to the accused. Did you see him on the 28th day of May, 1971?

A. Yes.

Q. Where?

A. By Wentworth Park

Q. And where did you first see him that evening?

A. Up by St. Joseph's Hall.

Q. Up by St. Joseph's Hall?

A. Around that area.

(30) Q. Who was with him?

A. Sandy Sasio.

Q. Did you know Sandy Sasio?

A. Yes, I did.

Q. Tell me, Mr. Pratico, what did you do when you joined up with Sasio and Donald Marshall, Sr.?

A. Walked down the road as far as, like around the park.

-121- JOHN L. PRATICO, Dir. Exam.

Q. Do you know the streets in the city of Sydney?

A. Yes.

Q. There's a drugstore there on what corner?

A. Corner George and Argyle.

Q. George and Argyle. Tell me, sir, what took place there if anything?

A. They went down in the park. I went the other way.

Q. Which way did you go?

(10) A. Argyle to Crescent.

Q. You went up Argyle St. To Crescent Street?

A. Yes sir.

Q. Then where did you go?

A. I went over Crescent, down Crescent Street, as far as the railway tracks, there on the railway tracks and went up behind a bush and I stayed there and I went and sat down in a squat position, kind of behind the bushes where I was sitting.

Q. What time of the day or night would this be?

(20) A. I wouldn't know.

Q. I beg your pardon.

A. I wouldn't know what time it was. What I'm thinking, it would be 11:30, quarter to twelve. I wouldn't know for sure.

Q. What were you doing behind the bush?

A. Drinking.

Q. Tell me sir, what did you observe if anything?

A. Well soon as I observed Donald Marshall and Seale talking, it seemed like they were arguing.

(30)

THE COURT:

I can't hear you!

THE WITNESS:

It seemed like they were arguing.

BY MR. PRATICO:

Q. Where was that?

A. On Crescent Street.

-122- JOHN L. PRATICO, Dir. Exam.

Q. I'll show you plan exhibit No. 5. Are you familiar with this plan?

A. Yes.

Q. Would you point out please where on the exhibit 5 that you saw the two gentlemen.

A. There. This would be the drugstore.

Q. You'll have to speak up loud now,

A. This would be the drugstore here.

(10) Q. Louder, please.

A. I went down this way here.

Q. Down Argyle Street?

A. Down Argyle to Crescent and come up here and stopped around here.

Q. Stopped in the area marked "X" on the plan.

A. In that area.

Q. Stopped in the area marked "X" on the plan. (Shown to Jury).

A. Tell me, before this evening did you know Donald Marshall?

A. Yes.

(20) Q. How long did you know him?

A. Known him ever since last summer.

Q. Did you Sandy Seale?

A. Yes sir.

Q. How long did you know Sandy Seale?

A. A couple of years.

Q. When you got behind the bush, you say you were at in the park there that you pointed out at approximately the point marked "X" on the plan, what did you observe if anything?

A. I seen Sandy Seale and Donald Marshall talking, more or

(30) less seemed like they were arguing.

Q. Did you recognize them at that time?

A. Yes.

Q. Were there any street lights in that area?

A. (Inaudible response.)

Q. Take your hand down.

A. Yes, sir.

-123- JOHN I. FRATECO, Dir. Exam.

Q. And you could recognize them at that time?

A. Yes.

Q. What if anything did you see them do?

A. Well they stood there for a while talking and arguing and then Marshall's hand come out, his right hand come out like this -

Q. What do you mean this way?

A. Come out like that, you know, and plunged something into

(10) Sasic's - like it was shiny and I -

Q. Pardon me. You're confusing me. The hand came out of his pocket and, you said something about shiny. Now how does that connect in there?

A. Well it looked like a shiny object. Come out this way, you know.

Q. What did he do with the shiny object?

A. Plunged it towards Seale's stomach.

Q. Into whose stomach?

A. Seale's.

(20) Q. What did Seale do?

A. He fell. And that's the last I seen.

Q. What did you do?

A. I started running. I run up Bentinck Street.

Q. And tell me, can you tell me what Donald Marshall, Jr., the accused, was wearing the night he -

A. He was wearing a yellow jacket or shirt.

Q. And was he wearing that when you first saw him up at St. Joseph's Hall?

A. I'm not sure now. I can't remember that.

(30) Q. Where did you remember him wearing the yellow -

A. In the park.

Q. Pardon.

A. In the park.

Q. I will show you exhibit No. 3. Do you recognize that exhibit?

A. Yes sir.

-124- JOHN L. PRATICO, Dir. Exam.

Q. Beg your pardon?

A. Yes sir.

Q. What is that?

A. Jacket he was wearing.

MR. MacNEIL:

That's all, My Lord.

(Mr. Khattar requested adjournment)

BY THE COURT:

(10) Q. Where do you live?

A. 201 Bentinck Street.

Q. Listen carefully to me. I'm not going to have you locked up tonight, but I want you to remember that if anyone apart from your family - your own family - talks to you tonight, between tonight and tomorrow about this case, you are tomorrow morning to give me the name of every person who says anything to you about the case.

A. Yes sir.

(20) Q. And as far as your family, only to the effect that you were in court and you gave evidence. Is that clear?

A. Yes sir.

Q. If anyone should come hear you to tell you what to say, or to persuade you, no matter who it is, you will tell me?

A. Yes sir.

Q. Do you understand fully what I'm saying?

A. Yes sir.

Q. On that condition, I will not have you placed in safekeeping between now and tomorrow. Is that clear?

A. Yes sir.

(30) THE COURT:

Mr. Foreman and gentlemen of the jury, we will now adjourn. Needless to say, I ask you again to make sure, of course I'm quite sure that no one will, in any way come near any member of the jury in this case. We all recognize the great importance of this matter.

( 4:50 P.M. COURT RECESSED )

-125- JOHN L. PRATICO, Cross-Exam.

10:00 A.M. NOVEMBER 4, 1971 COURT PROPERLY OPENED

10:00 A.M. JURY POLLED, ALL PRESENT

MR. PRATICO RESUMED THE STAND

BY MR. KHATTAR: (Cross-Exam.)

Q. Your friends call you John?

A. Yes.

Q. I'll call you John. Do you remember May 27 of this year?

(10) A. I think it was May 28.

Q. I asked you if you remember May 27, of this year. Do you remember that date?

A. Yes.

Q. You do?

A. Yes.

Q. How old are you, John?

A. Sixteen.

Q. When were you sixteen?

A. December. Last December.

(20) Q. This past month?

A. No, last December.

Q. September of last year?

A. December!

Q. Do you drink intoxicating liquor?

A. Yes.

Q. Were you drinking on the 27th of May this year?

A. Yes.

Q. You were?

A. Drunk.

(30) Q. You were drunk on that day. On the day previous to that, the 26th of May, were you drinking on that day?

A. No.

Q. Well the day after the 27th, the 28th of May, were you drinking?

A. Yes.

Q. Were you drunk on that day too?

A. Yes.

-126- JOHN L. PRATTICO, Cross-Exam.

Q. Did you go to a dance on the evening of the 28th of May?

A. Yes.

Q. You pretty well remember do you the 27th of May of this year?

A. Not pretty well.

Q. Just as well as you remember the 28th?

A. The same.

(10) Q. About the same. Did you see Donald Junior Marshall, the accused, on May 27 of this year?

A. Not the 27th.

Q. Did you see him on the 28th?

MR. MacNEIL:

Can't hear him.

THE WITNESS:

I said not on the 27th, no.

BY MR. KHATTAR:

Q. Did you see him on the 26th of May?

(20) A. I can't remember.

Q. When did you last see him before May 28 of this year?

A. I think it was the day before.

Q. That would be May the 27th. Now you're correcting your evidence are you. I asked you originally if you had seen Donald Marshall, Jr., the accused, on May 27 and your first answer as I recall, was, no. Now what is your answer, did you see him on May 27?

A. Maybe I did. I'm not sure.

Q. You're not sure. But you saw him at the dance on May 28?

(30) A. No!

Q. Oh, you didn't see him at the dance May 28. You say no?

A. No.

Q. Did you see him outside the dance hall?

A. Not near the dance hall; down the road. I believe it was him.

Q. Were you talking with him?

A. I'm not sure if it was him or not.

-127- JOHN L. PRATICO, CROSS-EXAM.

Q. This was on May 28?

A. Yes.

Q. 1971?

A. Yes.

Q. Approximately what time was it?

A. I wouldn't know the time.

Q. Do you have any indication - any knowledge of the time of any of the events of May 28, 1971?

(10) A. No.

Q. Were you sick at the dance on May 28 -

A. Sick?

Q. Sick, ruzsick?

A. Liquor sick, yes.

Q. Were you taken into the washroom and given some help by some of your friends?

A. Yes.

Q. You don't recall that time either?

A. No, my mind -

(20) Q. Was it out near the area of St. Joseph's Hall, is that the place where the dance took place?

A. Yes, St. Joseph's Hall.

Q. Where is St. Joseph's Hall located?

A. George Street.

Q. On Cottage Road?

A. I wouldn't know the road.

Q. You don't know the road. Is it some distance from Wentworth Park?

A. A little distance.

(30) Q. Approximately what distance is it?

A. I wouldn't know for sure.

Q. How long would it take you to walk, normal walk, from St. Joseph's Hall to Wentworth Park?

A. About five minutes.

Q. Did you see Oscar - Sandy Seale at the dance on that evening?

A. Yes.

-129- JOHN L. PRUITICO, Cross-Exam.

Q. Did you see him outside the dance hall? When I say dance hall, I'm referring to St. Joseph's Hall.

A. No.

Q. You didn't see him? But my recollection is you told the Court you saw him later with Donald Marshall, Donald Junior Marshall?

A. That's what I said.

Q. They were walking together on George Street -

(10) THE COURT:

Just let him answer. Mr. Khattar, until I hear his answer.

MR. KHATTAR:

He had answered, My Lord, probably you didn't hear him.

THE COURT:

What was it?

THE WITNESS:

I said I saw him. I supposedly seen them but they were on George Street.

(20) BY MR. KHATTAR:

Q. You had seen them on George Street. Where on George Street?

A. Just as you come down, you come down from the dance hall St. Joseph's Hall, you come down from St. Joseph's Hall you know -

Q. Together?

A. No. Here's how it is. I walked over from St. Joseph's Hall, eh, me, and I come down - I wouldn't know how far it is, near a house, and I met them and I walked so far and I went down Argyle Street.

(30)

Q. Let me get it clearly. You walked which way, on what street did you walk from St. Joseph's Hall?

A. George.

Q. George Street?

A. Yes.

Q. From George Street what street did you walk?

A. Argyle.

-129- JOHN L. PERRICO, COURT-REPORTER.

Q. Argyle?

A. Yes.

Q. Where did you see Mr. Seal? and Mr. Marshall?

A. Up the road on George Street.

Q. Up the road on George Street?

A. Well on George Street, like -

Q. Do you know where Pollett's Drugstore is located on the corner of George and Argyle?

(10) A. I think that's the name of it, yes.

Q. Was it there -

A. We walked that far -

Q. You had walked that far?

A. Yes.

Q. Before you saw them?

A. No. I seen them a little before that.

Q. Well where were they? Were they on the other side of the street?

A. No, they were on the same side of the street.

(20) Q. On the same side, were they across that intersection of Argyle and George?

A. Well you know where Argyle and George are, come off -

Q. Don't ask me the questions. Just answer them.

A. Well they were on the other side of it, you know what I mean, like Argyle and George, Argyle cuts off George and they were on the other, off the intersection -

Q. They were across that intersection?

A. Not when I seen them first.

Q. They had not crossed the street?

(30) A. They had not crossed.

Q. Well what distance would separate you and them when you saw them?

A. I wouldn't know.

Q. Roughly? The same distance as separating you and me?

A. Might be a little more.

Q. They were walking together?

-130- JOHN L. PRATICO, Cross-Exam.

A. Yes.

Q. Did you have them under observation for any particular length of time after you first saw them?

A. Not at that time till I got down.

Q. Did they remain together until some time later that evening?

A. Well I wouldn't know that. I left them. I wouldn't know.

Q. Well then, do I take it you didn't talk to them?

A. Oh yes, I said "Hi" to them.

(10) Q. You said "Hi" to them where?

A. By the park, just before you get to the park, you know.

Q. Before you come to the park?

A. Yes.

Q. Was that on George Street, Argyle Street?

A. George Street, and Argyle Street, I believe it was them. George Street and Argyle.

Q. And you said "Hi" to them?

A. Yes. I think it was them two. I'm not sure.

Q. You're not sure it was them?

(20) A. No.

Q. At that point what distance would be separating the two of them, the same distance separating you and me?

A. No, I can't remember that.

Q. You can't remember that?

A. No.

Q. Were you closer to them than the first time you saw them?

A. I think I was.

Q. You were. Are there lights on George Street?

A. Yes.

(30) Q. Was the street well lighted?

A. Pretty well.

Q. Isn't that these vapour lights - you know what a vapour light is?

A. No.

Q. Isn't that where they're at - big yellow lights shining on the pavement?

-131- JOHN L. PRATICO, CROSS-EXAM.

A. I'm not sure if they're yellow lights or not.

Q. But it's well lighted?

A. Yes.

Q. Your conversation then with Mr. Marshall was "Hi"?

A. (Witness indicates affirmatively.)

Q. That's the extent of your conversation?

A. That's the extent, just that much.

Q. You didn't talk to him again until about when?

(10) A. I didn't talk to Donald Marshall any more.

Q. You didn't talk to Donald Marshall any more?

A. Nor Scale.

Q. Do you remember giving evidence before Judge John F. MacDonald?

A. Yes.

Q. Do you remember being asked this question -

MR. MacNEIL:

(20) Objection if Your Lordship please, until I find out where, when, why and under what circumstances. This witness is entitled to know if this was at the Preliminary Hearing or not. I don't know what it is.

MR. KEATTAR:

You don't. But I asked the witness and he says he remembers. My Lord, My learned friend I'm not concerned with. It's the witness.

MR. MacNEIL:

(30) He may have given evidence many times before Judge John F. MacDonald. And Your Lordship, if I understood you reading the law yesterday, the witness has to be associated with when, where, how he made the statement.

MR. KEATTAR:

In the interests of full disclosure, My Lord, I will associate the witness with the statement.

BY MR. KEATTAR:

Q. Do you remember Monday, July 5, 1971?

A. No.

-132- JOHN W. FRATICO, Crown Exam.

Q. Don't remember the date. Do you remember giving the evidence in the Preliminary Inquiry concerning this particular charge before Judge John F. MacDonald?

A. Yes.

Q. In this court house?

A. Yes.

Q. You remember that?

A. Yes.

(10) Q. And do you remember being examined by my learned friend, Mr. Donald C. MacNeil, Q.C., present in court?

A. What do you mean? Do you mean Mr. MacNeil?

Q. Yes. The gentleman on whom I place my hand.

A. Yes.

Q. Do you remember, question, page 40.

"Q. Do you know Donald Junior Marshall?"

A. Yes, I remember that.

Q. You remember that question. Your answer was, "Yes".

Is that answer correct?

(20) A. (Witness indicates affirmatively.)

Q. I'm going to ask you the questions, give you the question and give you the answers and I'm going to ask you if you remember the statement, question and answer - and I'm going to ask you if the answer you give is correct.

A. Yes sir.

Q. "Q. How long have you known him? About a year." Is that answer correct?

A. Yes.

Q. The questions are correct. "Q. Do you see him in court

(30) here today? A. "Yes." And then you're asked to point him out in court.

Would you recall you did or didn't?

A. I did.

Q. Take your hand away from your mouth, please.

-133- JOHN L. FORTICO, CROSS-EXAM.

"Did you see him in the late hours of the 28th of May, 1971?" The answer was "Yes." "Where?" The answer, "In Wentworth Park." "Did you see him before you saw him in Wentworth Park?" Answer, "I don't recall." Do you recall that question and answer?

A. I don't recall the question and answer.

Q. Is the answer correct? - "I don't recall."

A. I don't remember.

(10) Q. You don't remember that question and answer?

A. No.

Q. I'll come back to that later. "Where did you meet him in Wentworth Park?" Answer, "I went up around Crescent Street. I went down Argyle over to Crescent Street." Do you remember that question and answer?

A. Yes.

Q. Is that correct?

A. Yes.

(20) Q. Pardon me, before you did that, - this is a question put to you. "Did you see Donald Marshall?" Answer, "I don't remember."

Do you recall the question and answer?

A. Yes.

Q. Is the question and answer correct that you gave?

A. Yes.

Q. "Did you have any conversation with him?" A. "I don't remember. I believe I saw him up on the street."

Do you remember the question and answer?

A. Yes.

(30) Q. Is the answer correct?

A. Yes.

Q. "What street?" Answer, "George Street."

Do you remember that question and answer?

A. Yes.

Q. "What was that conversation" - do you remember that question?

A. No.

CROSS-EXAMINATION

Mr. I'll give you the answer.

then I left him. I had a little bit of  
left him and went down Argyle Street." -

on page 40, question is line 29 and the answer  
how do you remember that answer?

answer.

the answer, So you say at that time on June 5,

answer you gave it as I have read to you?

states affirmatively.)

Pratico, you say that you didn't do anything

to Mr. -

can remember what I said.

you can remember?

to talk with Mr. Marshall as I understand you,

after May 28, 1971?

on Saturday or Sunday.

on a Friday?

condition on Saturday, May 29, 1971?

Mr. Now you saw Mr. Marshall on that day?

if it was Saturday or Sunday. It was the day

he picked me up.

MacIntyre sent for me.

you?

what day that was.

Saturday or Sunday I believe.

MacIntyre sent for you on more than one

he sent for me.

Oh, I take it, on that day?

there, when you talked with

my Theresa Paul?

remember if she was there or not.

It was Saturday or Sunday.

since May 28, 1971, didn't

what date after May 28?

was.

by following -

1971?

now I was talking to her. It

of days after, but what day.

and that Marshall didn't do

pleases, for the record if the  
in the remarks were made by the

of your own ruling in which you  
don't by my learned friend.

-136- JOHN L. PRATICO, Cross-Exam.

THE COURT:

Mr. MacNeil, the situation is not similar. It is not similar. He is now cross-examining the witness as to something which the witness said or didn't say. It is not what somebody told him. If he were asked, what did Mary Theresa Paul say - that would be different.

MR. MacNEIL:

Yes, I realize, My Lord.

(10) THE COURT:

I made the ruling on that yesterday.

MR. MacNEIL:

I just want my objection on the record.

THE COURT:

You have drawn to his attention the place and the time where this conversation took place.

MR. KHATTAR:

I'm going into that detail, My Lord.

BY MR. KHATTAR:

(20) Q. Where did you see Mary Theresa Paul?

A. Oh, the day I seen her she was at my place. She was coming with Gordie Lynch.

Q. She was with whom?

A. Gordie Lynch.

Q. Gordie Lynch. Where is your place, Mr. Pratico?

A. 201 Bantick Street.

Q. That is in the City of Sydney, County of Cape Breton, Province of Nova Scotia?

A. Yes.

(30) Q. While there, did you make a statement to her that Marshall, that is, Donald Junior Marshall, the accused in this case, didn't do the stabbing?

A. I don't remember that.

Q. Are you prepared to say you did not make the statement?

A. I'm not saying I didn't make it. I'm just saying I can't remember.

-137- JOHN L. PESTICO, Cross-Exam.

Q. Was there any particular reason why you wouldn't remember making such a statement?

A. No.

Q. There isn't. Do you know one Tom Christmas?

A. Yes.

Q. Did you make a statement to him -

THE COURT:

(10) Now Mr. Khatlar, you cannot question the witness on cross-examination about a previous statement unless you bring home to him the time and the place.

MR. KHATTAR:

I propose to do that. I asked the question too quickly.

BY MR. KHATTAR:

Q. Do you know Tom Christmas?

A. Yes.

Q. When did you see him first after May 28 of this year?

A. I believe it was on a Saturday.

Q. Where did you see him?

(20) A. In Wentworth Park.

Q. In Wentworth Park?

A. Yes.

Q. Were you sober on that occasion?

A. Yes.

Q. Was Mr. Christmas sober on that occasion?

A. I believe so.

Q. Did you talk with him?

A. Yes.

(30) Q. Did you tell him that Donald Junior Marshall did not stab Sandy Seale?

A. Yes.

MR. PESTICO:

Objection, if Your Lordship please, on the same basis -

-138- JOHN L. PRATICO, Cross-Exam.

BY MR. KEATTAR:

Q. Did you give the answer as "yes"?

A. Yes.

Q. Do you know Sheriff James MacKillop?

A. Yes.

Q. Mr. Pratico, after you say you saw Mr. Marshall, the accused, you say on George Street, where did you go?

A. Down Crescent Street, down Argyle to Crescent.

(10) Q. Was there anyone with you?

A. No.

Q. Did you see anybody and talk with them on that occasion?

A. No sir.

Q. At any time that evening of May 28 of this year did you talk with anybody while you were at the park if you were at Wentworth Park?

A. No, I didn't.

Q. Did you say no?

A. Yes.

(20) Q. Did I understand you earlier in your evidence to say that you had been drinking on that day, that is, May 28 of this year?

A. Yes sir.

Q. What time did you start to drink on that day?

A. I don't know. I think it was seven or eight o'clock.

Q. Eight o'clock.

A. Seven or eight.

Q. Seven or eight o'clock in the morning or evening?

A. Evening.

(30) Q. What did you first drink on that evening?

A. I think it was wine.

Q. Wine - what kind of wine?

A. Seventy-four.

Q. How much is that wine, do you know?

A. \$1.75.

-139- JOHN L. FANTICO, Cross-Exam.

Q. Where did you get that wine?

A. I went to the liquor store for it.

Q. You went to the liquor store for it. How much was in the bottle?

A. Well I only - I drank half of it.

Q. Half of it but how much is half? How many ounces?

A. I wouldn't know.

Q. At seven o'clock you drank the -

(10) A. Seven or eight -

Q. Seven or eight. What else did you drink?

A. Beer.

Q. Beer - how much beer did you drink?

A. Maybe half a dozen quarts I drank and pints.

Q. Half a dozen quarts and how many pints?

A. Two or three.

Q. About two or three pints. When did you have this beer?

A. I don't remember the time I had it.

Q. Some time after seven?

(20) A. Yes.

Q. What else did you drink?

A. I can't remember what else I drank.

Q. Did you drink anything else besides beer and wine?

A. I think so.

Q. Was it rum?

A. I'm not sure.

Q. Did you have any vodka?

A. Can't remember.

Q. Have any gin?

(30) A. Gin, I don't even know what the stuff is - lemon gin you're talking about.

Q. It doesn't matter what kind of gin. Did you have any kind of gin?

A. I can't remember.

Q. Well if there was doubt in your mind about the type of gin that you may have had?

-140- JOHN L. PRATICO, Cross-Exam.

A. I don't know if I drank gin or not. I don't know if I drank gin.

Q. You were drinking anything you could get your hands on was it you on that day?

A. No.

Q. Or were you confining it merely to wine and beer?

A. Well I would've drank rum if I had it.

Q. If you had it when, what time?

(10) A. That night.

Q. That night, at what time that night?

A. I wouldn't know.

THE COURT:

What was that, would what?

MR. KHATTAR:

"I would've drank anything if I had it."

MR. ROSENBLUM:

Rum -

BY MR. KHATTAR:

(20) Q. Would you give His Lordship the answer you were giving me?

BY THE COURT:

Q. You wouldn't have drank rum?

A. I would have.

Q. You would have drank rum if you had had it.

A. Yes.

BY MR. KHATTAR:

Q. At what time did you get sick in St. Joseph's Hall?

A. I don't know.

Q. Was that just immediately before going to the park?

(30) A. I don't know.

Q. You don't remember that. Do you know Donald Jew?

A. Yes.

Q. Did you see him on that evening? May 28, 1971?

A. Yes. We were drinking together.

Q. You were drinking together. Did you have the drinks together?

-141- JOHN L. PRATICO, Cross-Exam.

A. No. I don't remember really.

Q. You don't remember what?

A. Leaving together.

Q. You don't remember leaving the dance?

A. Together, I said.

Q. Do you remember leaving the dance?

A. Yes.

Q. Do you remember the time you left the dance?

(10) A. No.

Q. You have no idea of the time at all?

A. No.

Q. Were you wearing a wristwatch or a watch of any kind, time piece of any kind?

A. No. (Witness indicates negatively)

Q. You have to answer "yes" or "no". Don't nod your head.

A. No.

Q. I'm not being smart because it has to get on the record if you say "yes" or "no". In any event, you went to the

(20) park somewhere?

A. I didn't go into the park.

Q. You didn't go to the park.

A. I went down Myrtle - like I guess you would call it the park, the tracks there.

Q. The tracks - what tracks?

A. On Crescent Street.

Q. Tracks on Crescent?

A. By the park, you know where the park is, well the tracks that goes - the C.N.R. tracks that go along there.

(30) Q. Were there people in the area where you were?

A. I can't remember seeing anybody.

Q. You didn't see anybody?

A. I can't remember seeing anybody.

Q. Are you prepared to say there was nobody there?

A. No.

-142- JOHN L. PRATICO, CROSS-Exam.

Q. Was the fact that you couldn't use them because you were so intoxicated?

A. Might have been.

Q. Were you carrying some liquor on your person?

A. One pint of beer.

Q. On pint?

A. Yes.

Q. What kind of beer was it?

(10) A. I believe it was Oland's.

Q. You're not sure of that either?

A. No.

Q. Where did you get that pint of beer?

A. Well I had - some fellows gave me some beer by, I think it was Stephens lumber mill there.

Q. Somebody gave it to you by Stephens lumber mill. Where is Stephens lumber mill located?

A. Townsend.

Q. Townsend Street?

(20) A. Yes.

Q. Townsend Street, is that right?

A. Yes.

Q. Well what did you do? Did you leave the dance and go to Townsend Street?

A. No. I got that before and I saved it.

Q. What time did you get it before?

A. I wouldn't know the time.

Q. Was it at seven o'clock, after seven -

A. I think it was after seven.

(30) Q. Was it after ten?

A. I wouldn't know.

Q. You wouldn't know. It was sometime after seven but you don't know in between?

A. Yes.

-143- JOHN L. PRATICO, Cross-Exam.

Q. And you went to Stephens lumber mill on Townsend Street. Is there a liquor store there?

A. No, that's where I was passing through, like, you know, the tracks, towards the park, that's when we received the stuff.

Q. And some individual that you know or didn't know -

A. Didn't know them. They were pretty drunk and they gave us it.

(10) Q. They?

A. There was two or three there.

Q. Two or three. Do you remember their names?

A. I didn't know their names. I wouldn't even know - I don't even know them.

Q. You didn't know them and apparently they didn't know you.

A. Yes. Well I don't know if they knew the fellow I was with or not.

Q. Oh, there was somebody with you?

A. Yes.

(20) Q. Who was with you?

A. Donald Joe and a few others.

Q. Who were the others?

A. I don't know who the others were.

Q. Is there any reason you wouldn't remember those people?

A. I just can't remember.

Q. You just can't remember. And this is sometime between seven and ten o'clock?

A. Yes.

Q. What were you drinking at eleven o'clock?

(30) A. I don't think I was drinking anything at eleven o'clock.

Q. Nothing at eleven; when were you drinking the quarts of beer?

A. That was - I told you between seven and ten.

Q. Between seven and ten. Now to get back to the park area. You said you walked along the tracks, you called the track on Concord Street; is that what you said?

A. Tracks, yes.

-244- JOHN L. PRATICO, Cross-Exam.

Q. There were people on the park or you don't know?

A. I don't know.

Q. You don't know if there was one or a number there?

A. I know Marshall and Seale was -

Q. You noticed Marshall and -

A. Seale.

Q. Where did you notice them?

A. Crescent.

(10) Q. On Crescent Street, and were those the only two people you noticed?

A. Only two people I noticed.

Q. And you spoke to them?

A. No.

Q. How did you get by without speaking to them? You spoke to them earlier?

A. No, I spoke to them earlier but I went the other way.

Q. Oh, you mean you went what way?

A. Argyle, down Argyle Street, onto Crescent.

(20) Q. Now you didn't enter onto Crescent Street at all, is that what you're telling me?

A. I said I went on the railroad. I went around on the railway. I walked down Crescent so far and got on the railway.

Q. You walked down to Crescent so far -

A. And got on the railway tracks.

Q. And you got on the railroad tracks. Well why is it that you wouldn't go by Seale and Marshall.

A. There's no reason.

(30) Q. But you didn't run into them at all?

A. No.

Q. And you went up the tracks. You did something, did you?

A. Yes.

Q. You're familiar with exhibit 5?

-145- JOHN L. FRATECO, Crown-Witness.

A. Yes.

Q. And you're able to locate your position on the evening of May 29, 1971 - May 28, I'm sorry, 1971. And you say you walked along the track.

A. I came down this way -

Q. You'll have to refer to the area in which you say you came down.

A. I came down Argyle Street and walked down this way -

(10) Q. You walked down Crescent?

A. Yes. Down Crescent so far, then I went -

Q. How far?

A. Well I'd say -

Q. Identify the spot where you were walking, the distance you walked on Crescent Street.

A. I walked down to here -

Q. Put a mark - letter "B" so it identifies - red pencil. Mark the letter "B" the point on which you last walked on Crescent Street on the evening of May 28, 1971.

(20) A. I walked about as far as there, I'd say.

Q. And that's identified by the letter "B" on exhibit 5?

A. Yes. Then I got on the tracks there, C.N.R. tracks. And walked to about that "X".

Q. And what did you do at point "X"?

A. Stayed there in the bushes.

Q. You stayed in the bushes how long?

A. Oh, I didn't know how long I stayed there. It was quite a while.

(Plan shown to jury.)

(30) Q. How long were you in the bushes, did you say?

A. I wouldn't know how long I was there. It was quite a while.

Q. Do you remember the condition of the ground there?

A. No.

Q. Were you lying down, sitting down or what were you doing?

-146- JOHN L. FERTICO, Cross-Exam.

A. I was in squat position. I was in the type of a squat position.

Q. Were your knees on the ground or -

A. No.

Q. They weren't. You were in a squatting position?

A. Yes.

Q. And you were behind a bush that had foliage or no foliage?

A. It had kind of bushes there.

(10) Q. Kind of bushy. And while there what did you see?

A. I seen Mr. Marshall and Mr. Seale talking for a while.

Q. How long?

A. I wouldn't know how long it was.

Q. How long were you crouched?

A. I don't know how long I was crouched.

Q. Did you drink the beer while you were there?

A. Yes.

Q. Did you drink the full bottle?

A. Yes.

(20) Q. How long after you got behind the bush did you start to drink the beer?

A. Well I opened it as soon as I got there, to the bush.

Q. And did you take your time drinking it?

A. No, I drank it kind of fast.

Q. And while you were drinking the beer, what was going on between Mr. Seale and Mr. Marshall?

A. When I seen them on Crescent Street they were talking to one - more or less arguing.

Q. They were arguing. What were they arguing about?

(30) A. I wouldn't know what they were arguing about. Then I seen Mr. Marshall's hand come out like this here and go towards Mr. Seale's approach and that's all I seen.

Q. Give us the details of that now. Mr. Seale was standing where that you say?

-147- JOHN L. BRARCO, Cross-Exam.

A. His back would be facing like towards me -

Q. His face -

A. He'd be facing me like you are .

Q. Yes.

A. And Mr. Marshall would be standing like, sitting like I am facing you.

Q. Mr. Seale was facing -

A. Me.

(10) Q. - Facing you?

A. Yes.

Q. And the other man was facing the opposite way?

A. Facing that way.

Q. Were they standing one in front of the other?

A. Arm's length away.

Q. Pardon me.

A. Arm's length.

Q. Arm's length but they were facing each other as you and  
ars?

(20) A. Yes.

Q. You are seated and I am facing directly opposite you?

A. Yes.

Q. So you could observe Mr. Seale fully, is that right, but  
Mr. Marshall may not have been in the same position?

A. No.

Q. Now what did you see? What did Mr. Seale do with his  
hands?

A. I think he put his fists up.

Q. He put his fists up?

(30) A. I think so.

Q. How far did he get with his fists?

A. Didn't get too far. Just got 'em up like that.

Q. While he was doing that, what was Mr. Marshall doing?

A. He took his hand and -

Q. What hand did he use?

-148- JOHN L. PRATICO, Cross-Exam.

A. I think he used the right hand.

Q. And what did he do?

A. Took it out like that and plunged it into Mr. Seale's stomach.

Q. Now let me get that clearly. You say your first observation was that Mr. Seale had his fists up?

A. Yes.

Q. And then the next, both fists, right and left?

(10) A. Yes.

Q. And then the next move that you observed was that Mr. Marshall raised his right hand - you know the difference between right and left?

A. Yes.

Q. And it is right you say?

A. Yes.

Q. Now Mr. Pratico, were you here yesterday?

A. Yes.

Q. And do you recall talking with me yesterday afternoon?

(20) A. Yes.

Q. Do you remember what time that was?

A. No.

Q. Was there anyone else present?

A. Yes.

Q. Who was present?

A. The sheriff.

Q. The sheriff? What did you say to me in the presence of the sheriff?

A. I said that Mr. Marshall didn't stab Mr. Seale.

(30) Q. That Mr. Marshall didn't stab Mr. Seale - now just to qualify that, before you started to talk, you were talking to the sheriff?

A. Yes.

Q. By me.

A. Yes.

-149- JOHN L. PRATICO, Cross-Exam.

Q. And didn't I indicate to you that I didn't wish to talk with you without the sheriff being present?

A. Yes.

Q. And isn't it correct that there was no conversation until the sheriff was present?

A. Until he was present, yes.

Q. What else did you say to me in the presence of the sheriff?

A. I think that's all I said.

(10) Q. You just said that Marshall didn't stab Mr. Seale. Did you say anything further about - tell us all the conversation that took place then?

A. (No response.)

THE COURT:

No, Mr. Khattar -

MR. KHATTAR:

Q. Tell us what you said.

THE COURT:

(20) No, Mr. Khattar. Your cross-examination is directed to something he said at a time which is inconsistent with what he says today. Now confine yourself to that statement.

MR. KHATTAR:

It's only to that that I have any interest and it is only to that that the conversation took place.

THE COURT:

That's the purpose, otherwise, you confine yourself to the events of May 28.

BY MR. KHATTAR:

(30) Q. Let's take it so we will be clear, Mr. Pratico. The conversation you had with me in the presence of the sheriff concerned the evidence that you gave before Judge John P. MacDonald on June 5, in this court house this year. Is that right?

A. Yes.

-150- JOHN L. PRATICO, Cross-Exam.

Q. Now you tell His Lordship and the jury about that conversation, every part -

A. I -

Q. - concerning the evidence that you had given on June 5, of 1971.

A. What I said yesterday -

THE COURT:

Wait now, Mr. Khattar -

MR. KHATTAR:

- and confined with respect -

THE COURT:

Wait now, Mr. Khattar. Will the jury please step out.

10:50 A.M. JURY WITHDREW

C.S.

-151- JOHN L. PRATICO, Cross-Exam. (VOIR DIRE)

THE COURT:

Now, have we resolved that one?

MR. KHATTAR:

My Lord, what I was about to do with the witness, was to question him on statements he made which are inconsistent with his testimony here today, number one-

THE COURT:

You did that.

(10) MR. KHATTAR:

That's only part of it, My Lord.

THE COURT:

You did that. You questioned him about statements that he made to Mary Theresa Paul, Mr. Christmas - Tom Christmas-

MR. KHATTAR:

And now I'm on the sheriff.

THE COURT:

(20) Now, you have asked him whether he made these statements - in one case he said no and another case he said yes, and before the sheriff, he says yes.

MR. KHATTAR:

To the sheriff he made a different statement.

THE COURT:

Isn't that all? Isn't that as far as you can go?

MR. KHATTAR:

No, My Lord, I think now I'm going to credibility.

THE COURT:

The whole exercise is credibility.

MR. KHATTAR:

(30) Yes, I know. I submit-

THE COURT:

The whole cross-examination is credibility. You cross-examined him on a previous statement and you have elicited from him that he said this. Now I'm not interested in bringing up again the whole previous lower court proceedings. You can only, as I can

-152- JOHN L. PRATICCO, Cross-Exam. (VOIR DIRE)

to you, you can only question the witness about a previous statement by bringing <sup>it</sup> to his attention and asking him if he made it. Now he said that he made the statement that you have asked him. Isn't that so?

MR. KHATTAR:

That's right.

THE COURT:

(10) How much further do you want to go? I don't see where he has said anything very different today from what he said in the court below.

MR. KHATTAR:

Oh My Lord, with all respect, the witness said that he told the sheriff, told me in the presence of the sheriff-

THE COURT:

I know! That's what I understood him to say, he said yesterday he told an untrue story.

MR. KHATTAR:

-that Donald Marshall - that he had told an untrue story.

(20) THE COURT:

He gave his evidence yesterday. Today he has told you that he made a different statement to the sheriff.

MR. KHATTAR:

That's different from the court below, My Lord. This statement here today is completely contradictory to what he had said in the court below.

THE COURT:

And to what he said yesterday - from what he said yesterday!

MR. KHATTAR:

(30) From what he said yesterday, yes, completely contradictory.

THE COURT:

Then you just merely wish to refer to the transcript - what he said in the court below about that. But you started to ask him "what else did you say in the court below" and that's

-153- JOHN L. PRATICO, Cross-Exam. (VOIR DIRE)

why I stopped you. If you want to limit yourself to, did you in the court below, say such and such, if you want to put that to him, fine. But you were saying to him, "what else did you say in the court below" and I say we are not having a re-hearing of what went on in the court below.

MR. KHATTAR:

With all respect, My Lord, I'm in error there.

MR. MacNEIL:

(10) Well My Lord, I would like to have on the record, of course, my objection to this questioning concerning a statement that was made to the sheriff.

THE COURT:

Why!

MR. MacNEIL:

Well because of the same old argument that I used at the original that Your Lordship overruled. But I do want it on the record.

THE COURT:

(20) Mr. MacNeil, it is absolutely proper for the witness to be cross-examined on a previous statement made by him irrespective, irrespective of where he made it. This is not hearsay. This is going basically and essentially to the credibility of the witness - is this a truthful witness.

MR. MacNEIL:

I understand Your Lordship's viewpoint on that and I abide by it but I simply say that it is perfectly proper for the Crown to register an objection because that's all I'm doing. I'm not arguing the objection.

THE COURT:

(30) All right. To the extent that you are objecting to the cross-examination on the statement because the conversation was not in the presence of the accused, to that extent, you are overruled. The ruling remains throughout. Now Mr. Khattar, you will confine yourself only to that one statement in the evidence in the court below if you wish to do so. Then you go on to matters which are

-154- JOHN L. PRATICO, Cross-Exam. (VOIR DIRE)

relevant, namely, what took place on the night of May 28, if you want to do so.

MR. KHATTAR:

Yes. Before the jury comes back, My Lord, I propose to question this witness on this same statement as to it being made to other persons immediately after speaking with me. In other words, I propose to ask him about whether the same statement was repeated in the presence of my learned friend, Mr. MacNeil and the sheriff  
(10) and any other persons immediately after he mentioned it to me.

THE COURT:

So there will be no doubt -

"Where a witness upon cross-examination as to a former statement made by him relative to the subject matter of the case and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion,  
(20) shall be mentioned to the witness, and he shall be asked whether or not he did make such statement."

So you have the right to ask him about any statement which he made to anyone inconsistent - but Mr. Khattar, let us limit ourselves to anything that he said that was inconsistent.

MR. KHATTAR:

Yes, My Lord. Otherwise, we will be into a great deal of irrelevant matter.

THE COURT:

Bring in the jury.

11:00 A.M. JURY POINED, ALL PRESENT

(30) BY MR. KHATTAR: (Cross-Exam. cont'd.)

Q. Mr. Pratico, immediately after you made the statement in my presence and the presence of the sheriff, "Donald Marshall didn't do it, didn't do the stabbing," did you make the same statement to my learned friend, Mr. Donald C. MacNeil, the

-155- JOHN L. PRATICO, Cross-Exam.

learned Crown Prosecutor?

A. Yes.

Q. And to whom else did you make the same statement?

THE COURT:

No, no, no!

BY MR. KHATTAR:

I'm sorry.

Q. Did you make the same statement to the sheriff again?

(10) A. The sheriff was there when you were there.

Q. And wasn't the sheriff present at the time you made the statement to Mr. MacNeill?

A. I think he was.

Q. And was Det. Sgt. MacIntyre present?

A. Yes.

Q. Did you make the statement to him?

A. Made it there when he was there.

Q. How many times did you make the statement?

A. Just the one statement.

(20) Q. These statements to which I have been referring, that is with the sheriff in my presence, with Mr. Donald C. MacNeill, learned Crown Prosecutor, Det. Sgt. MacIntyre, were they made in this court house?

A. Yes.

Q. Yesterday afternoon?

A. Yes.

Q. Thank you. That's the cross-examination.

BY MR. MacNEILL: (Redirect Exam.)

(30) Q. Mr. Pratico, my learned friend read to you from the transcribed evidence taken in the court below on July 5, 1971, and he read from the bottom of page 40. I would like to read to you the questions and answers on the top of page 41. It just continues on where he left off.

MR. KHATTAR:

Now is this re-examination, My Lord?

-156- JOHN L. PRATICO, Redirect Exam.

MR. MacNEIL:

This is clarification. This is re-examination on cross-examination.

BY MR. MacNEIL:

Q. "Q. Did he suggest anything to you? A. I don't recall. I believe that he did coming down into the park or something like that -

MR. KHATTAR:

Objection!

THE COURT:

(10) What has this got to do with re-examination?

MR. MacNEIL:

My learned friend took it out in cross-examination, if Your Lordship please.

THE COURT:

(20) All he did was he drew to his attention previous statement which was made. He drew to his attention a statement which he made which was inconsistent with what he said yesterday, and he questioned him about that as he had a right to do, and I can't see where you can come in now with further evidence from the court below.

MR. MacNEIL:

Well, My Lord, I am suggesting that what was read to the court was read out of context. The following question that I just posed to the witness explains exactly what was brought out on cross-examination.

THE COURT:

(30) Mr. MacNeil, if you would be good enough to address yourself to re-examination which you have a right to do without any reference to what went on in the court below; if you have anything that arises from the cross-examination, you have a right to re-examine but please do it without any reference to the court below.

-157- JOHN L. PIETICO, Redirect Exam.

MR. MacNEIL:

I can't, My Lord, because cross-examination was on the evidence in the court below.

THE COURT:

Can't you ask the witness anything you want to ask him relative to statements that he gave -

MR. MacNEIL:

(10) I will be getting to that in a moment, My Lord. That's not the point -

THE COURT:

Get to it! Mr. MacNeil, I'm sorry but that's not possible for you to do.

MR. MacNEIL:

Well, My Lord, mark on the record that the Crown has been overruled in not referring to the evidence that was referred to my my learned friend in cross-examination.

THE COURT:

Do you want to re-examine him on anything?

(20) MR. MacNEIL:

Yes, My Lord, I have many things to re-examine him on.

THE COURT:

Proceed to do so!

MR. MacNEIL:

That's one point that I wanted to re-examine on.

BY MR. MacNEIL:

Q. Now, with reference to the statement my learned friend referred to that you made to the sheriff, to myself, and to Johnnie MacIntyre; that took place yesterday afternoon?

(30) A. Yes.

Q. And that took place after His Lordship excluded the witness from this court room, is that not true?

A. Yes.

Q. All right. Did you discuss this case with anyone from the witness stand or from the court room on His Lordship's order?

-158- JOHN L. PRATTICO, M.D.; et al. v. ILL.

MR. KHATTAR:

This is objected to.

BY MR. MacNEILL:

- and making that statement?

THE COURT:

Why? Isn't he going to a matter that you brought up?

MR. KHATTAR:

Yes.

(16) THE COURT:

All right! Give me an authority why he can't -

MR. KHATTAR:

Well, I submit, My Lord, subject to your ruling that he is now cross-examining this witness.

THE COURT:

He is not cross-examining!

MR. KHATTAR:

He has asked if he discussed the case with someone else.

THE COURT:

(20) Maybe his voice is a little bit - he naturally has a brusque manner. Not everybody is like Cassius, lean and hungry. But he is directing his questioning to the cross-examination that you brought out.

MR. KHATTAR:

All right, My Lord.

MR. MacNEILL:

Thank you, My Lord.

BY MR. MacNEILL:

(30) Q. My question was, I believe, after you were excluded by His Lordship from the case -

THE COURT:

That was the point that Mr. MacNeill's re-examination to which you are referring has been permitted; your objection has been noted on the record.

-155- JOHN L. PRATICO, Redirect Exam.

MR. KHATTAR:

I'm not concerned about that part.

BY MR. MacNEIL:

Q. All right, now as I said, after His Lordship excluded the witnesses, did you discuss with anyone this case between the time you were excluded yesterday afternoon and the time that you made the statement to my learned friend Mr. Khattar?

(10) A. Yes.

Q. With whom did you speak?

A. Sgt. MacIntyre, Crown Prosecutor MacNeil -

Q. No, no before you made the statement to my learned friend, after you were excluded from the courtroom - you remember that?

A. Yes.

Q. And before you spoke to either Mr. Khattar or Mr. Rosenblum, did you speak -

MR. ROSENBLUM:

(20) He didn't speak to me at all.

MR. MacNEIL:

Q. I'm sorry. Mr. Khattar, before you spoke to Mr. Khattar, did you discuss this case with anyone?

A. No, just Mr. Khattar.

Q. Do you know Donald Marshall Sr.?

MR. KHATTAR:

Now -

THE COURT:

(30) No, just a moment, Mr. Khattar, Mr. Rosenblum. There was some evidence given yesterday. You proceed to question him as you were about to because he gave evidence yesterday and mentioned the name of some person who had spoken to him. If my recollection of that evidence is not correct, I will ask the court reporter to check. My recollection is that this witness said yesterday - he mentioned the name.

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BY THE COURT:

Q. Now Withers, do you understand what Mr. MacNeil has asked you, whether somebody was talking to you outside the courtroom after you went out with all the other people?

A. Yes.

BY MR. MACNEIL:

Q. All right now, who was that person?

A. I spoke to Mr. Marshall.

(20) Q. Which Mr. Marshall?

A. Senior.

Q. That is the father of the accused?

A. Yes.

Q. You knew him?

A. I knew him to see him.

Q. Where did this conversation take place?

A. Just spoke out in the hall for a couple of minutes.

Q. And as a result of that conversation -

MR. ROSENBLUM:

(20) No -

BY THE COURT:

Q. You spoke to Mr. Marshall, Sr. in the hall, you say?

A. Yes.

Q. How long did you speak?

A. Just for a couple minutes.

Q. What?

A. Just for a couple minutes.

Q. Spoke for a few minutes?

A. Yes.

(20) BY MR. MACNEIL:

Q. After you had this conversation with Donald Marshall, Sr., what did Donald Marshall, Sr., do?

A. He got Mr. Ruston.

Q. Did you talk to Donald Marshall, Sr. after the conversation with my friend, Mr. Ruston, myself and Sgt. Ruston?

-161- JOHN L. PERRICO, Redirect Exam.

A. What did you mean -

Q. Pardon.

A. What did you say after -

Q. Did you talk to Donald Marshall after the conversation you had with Mr. Khattar, myself and Sgt. MacIntyre?

A. Just for a minute or so. He told me to -

MR. ROSENBLUM:

Oh -

(10) MR. KHATTAR:

The ruling, Your Lordship has made with respect to conversations in the absence of the accused, statements made by others -

BY THE COURT:

Q. You talked with Donald Marshall, Sr. afterwards again?

A. Yes.

Q. Did you talk with him last night?

A. No.

Q. You didn't?

(20) A. No.

Q. With anyone?

A. No.

Q. Did anyone come near you?

A. No.

BY MR. MacFILL:

Q. Now, my learned friend asked you about a conversation that you had with Thomas Christensen. Do you recall a conversation that you had with Thomas Christensen on Bentinck Street in the city of Sydney?

(30) A. Yes. Is that the night they arrested him?

Q. That's the night, yes. And tell me, I'll ask this question. My Lord -

THE COURT:

Don't answer it.

-162- JOHN L. PRATICO, Medicoct Exam.

MR. MacNEIL:

Don't answer it until His Lordship rules.

- what did you say -

MR. KHATTAR:

I think the jury should be out, My Lord.

MR. ROSENEUM:

The question may be prejudicial, My Lord.

THE COURT:

- (10) Mr. MacNeil, I dislike very much having to ask the jury to leave so often. I dislike that gentlemen. I can tell you that it is happening not only before me but before the other members of the court and I'm sure the jury understand. Perhaps, Mr. Foreman, once again you will step out. We trust that there won't be too many more of these interruptions.

11:12 A.M. JURY WITHDREW

C.D.

-163- JOHN L. PRATICO, Redirect Exam. (VOIR DIRE)

MR. MacNEIL:

If Your Lordship plesses, my questions relating to a conversation that took place with Thomas Christmas on Bentinck Street in the City of Sydney at which time Mr. Christmas threatened the witness; the witness also-

THE COURT:

Just ask him.

BY MR. MacNEIL:

(10) Q. What was the nature of that conversation?

A. He come to my house and he asked for me and I was coming out the door at the time he knocked on the door. So Mr. Marshall - I mean Mr. Christmas, said, "Come on down the park, I want you." I said, "No." He said, "Why". I never told him. He said, "I know why" and he told me, he said, "You're going to get it now." He said, "You squealed on Junior," which is Donald Marshall.

Q. All right, now, were you the recipient of any other threats?

A. Well, Artie Paul, he come up to me down the circus. He told me, he said, "Don't you squeal on Junior." He said, "You go up to

(20) the court house" he said, "and you say that Junior never did it. And he said that if I didn't, he would make sure that I was kill

MR. MacNEIL:

Now My Lord, I say that this is extremely material as to this witness, that this witness's life has been threatened.

THE COURT:

Is Thomas Christmas here?

MR. MacNEIL:

No, he is a resident of another province for a period of time, My Lord.

(20) THE COURT:

Is this man Paul here?

MR. MacNEIL:

I do not know, My Lord.

-164- JOHN L. PRANTICO, Redirect EXAM. (VOIR DIRE)

MR. MacNEIL:

I think this is vitally important, My Lord.

THE COURT:

Mr. MacNeil, I would agree with you that it is vitally disturbing and may very well be the subject of another proceeding. I would think amazing if a witness's life was threatened or his well-being, and the Crown/<sup>did</sup> not take steps against the person who made these threats.

(10) MR. MacNEIL:

An information was laid, My Lord.

THE COURT:

But insofar as this case is concerned, notwithstanding the gravity of what you say, I can only rule according to the rules that pertain to this case, and whether or not the threats against him are such that one can overrule the basic fundamental rule of hearsay evidence cannot be given-

MR. MacNEIL:

(20) Perhaps you will allow me to ask him in the absence of the jury a few more questions that you may take into consideration at the same time.

THE COURT:

I will take a few minutes to consider the matter. I am of the opinion that I can't. You may bring out from the witness his state of mind. That is material, his state of mind.

MR. MacNEIL:

That is just what I was going to bring out. I asked permission to ask further questions for that very purpose.

BY MR. MACNEIL:

(30) Q. Now Mr. Pratico, You say that you were threatened on two different occasions?

A. Yes.

Q. How did these threats affect you?

A. Made me right nervous, scared, and I still am.

-165-JOHN L. PRATICO, Re direct Exam. (VOIR DIRE)

Q. Tell me sir, did you also have three or four conversations with me yesterday morning-

MR. KHATTAR:

This is objected to, My Lord. There was no reference in my Cross-examination to any conversations with my learned friend yesterday morning or any other morning. I assume he had many with my learned friend.

THE COURT:

(10) All right.

MR. MacNEIL:

So I will let it rest with that, the effect that these threats had on the witness.

BY MR. MacNEIL:

Q. What effect if any - what actual effect if any-

MR. KHATTAR:

This is objected to.

THE COURT:

Why?

(20) MR. KHATTAR:

He says, "what effect if any did these statements have"-

MR. MacNEIL:

I didn't get the words out of my mouth, yet. I find it very difficult.

BY MR. MacNEIL:

Q. What effect if any did these threats have on your conduct?

A. What do you mean?

Q. What do I mean?

A. Yes.

(30) BY THE COURT:

Q. Why did you tell the story to Mr. Khattar and Sheriff Mack/llip-

A. I don't understand.

-166-JOHN L. PRATICO, Redirect Exam. (VOIR DIRE)

Q. Why did you tell what you said out there yesterday? Why?

A. I was scared.

THE COURT:

"I was scared" - do you wish to pursue that?

MR. MacNEIL:

No, that's it. If I am allowed to ask that question before the jury, that's all I will request.

MR. KHATTAR:

(10) Possibly Your Lordship would like to have a few minutes recess and we can argue the point.

THE COURT:

I'm ready to hear your argument now.

You had brought out as was your right, your undoubted right, that this man, this witness, made statements contrary to and inconsistent with the statement he made in court yesterday and in the court below. Now then, that gives the Crown the right to ask him surely, it seems to me, as to why he made the statement that he did. Why did he make the statement that was

(20) inconsistent - that seems to me to be not only good from the legal point of view but is good from common sense which generally you find them both together. Now do you have authority that that can't be? If you have, I am ready to look at any authorities. But otherwise, I have to as I said before, trying to keep the balance between you gentleman is not an easy task and I appreciate/<sup>the</sup>depth of work that both sides have put into this thing. I can only make my ruling as I see it which may certainly not be in accord with people - as we call it - "upstairs". I am prepared to rule at the moment that Mr. MacNeil may ask the

(30) witness why he made this inconsistent statement yesterday.

MR. MacNEIL:

And just on the supposition of his answer, may I ask him - if he gives the answer that he gave Your Lordship a moment ago that he was frightened-

-167-JOHN L. PRATICO, Redirect Exam. (VOIR DIRE)

THE COURT:

I will instruct him to give us no conversation, what anybody told him. You will ask him why he gave the inconsistent statements.

MR. MacNEIL:

Supposing, My Lord, for a moment, the answer was, "because I was in fear", am I allowed to ask him, "Why were you in fear?"

THE COURT:

- (10) No, because then he must tell you why. You can bring out, as indeed you have now, with whom he had been in contact, with Tom Christmas, with Paul and with somebody else. He had been in contact with somebody else.

MR. MacNEIL:

Would I be allowed to ask if he was threatened by any of these people?

THE COURT:

No.

MR. MacNEIL:

- (20) I just wanted to clarify that because I didn't want the jury to come in here again and pose that question and have them go out. So the only question I am allowed to ask him is, why did he make that-

THE COURT:

Why did he make those statements.

MR. KHATTAR:

- Necessary statement, My Lord, will be a question of the same nature and kind to the witness as to why he made the statement to me and he made a different statement here in court, that
- (30) is following the statement made to me and the sheriff and the conversation with my learned friend, as to why-

THE COURT:

Would you like to know - do you really want to know the answer why he did?

-169-JOHN L. PRAFICO, Redirect Exam. (VOIR DIRE)

MR. KHATTAR:

Yes, I do!

THE COURT:

In direct examination-

MR. KHATTAR:

Not in direct, no.

THE COURT:

You don't want that answer, Mr. Khattar!

(10) ( 11:25 A.M. COURT RECESSED to 11:30 A.M.)

MR. MacNEIL:

My Lord, before the jury comes in, I plan also to put to this witness two questions, one of which the answer is obvious, was he under oath when he made any of these inconsistent statement and secondly, a conversation he had with the accused -

THE COURT:

Isn't it obvious, Mr. MacNeil?

MR. MacNEIL:

(20) I want it for the record, My Lord. The other is, I want him to disclose the conversation my learned friend was talking about between the accused, Donald Marshall, and this witness on Saturday morning. My learned friend asked him if he saw Donald Marshall, talked to Donald Marshall Sr. on Saturday morning after the event took place.

THE COURT:

You had the opportunity for that. You had him in direct examination. This is re-examination.

MR. MacNEIL:

(30) I know, My Lord, but it came up in cross-examination, the fact that he had a conversation with Donald Marshall Sr. on Saturday, May 29.

THE COURT:

Donald Marshall Sr.?

MR. MacNEIL:

Yes, Donald Marshall Sr., My Lord, on Saturday, May 29.

-169- JOHN L. PRATICO, Redirect Exam. (VOIR DIRE)

THE COURT:

Relative to this particular matter?

MR. MacNEIL:

Event, yes.

THE COURT:

No, no, relative to the question of why he made these inconsistent statements?

MR. MacNEIL:

(10) Yes, My Lord, that will be the explanation that I expect.

THE COURT:

The accused said something to him, leading to his making this statement?

MR. MacNEIL:

Right. Making the inconsistent statement, yes.

THE COURT:

What do you say, Mr. Khattar?

MR. KHATTAR:

(20) My Lord, I merely wish to point out to my learned friend in case he may have forgotten, at the Preliminary Hearing held on July 5, 1971, and the reference to sworn testimony would only - I assume, unless there is something that my learned friend is going to introduce to the court which he has not before - this is the only sworn testimony apart from this hearing.

MR. MacNEIL:

That's right.

MR. KHATTAR:

And the conversation with the accused is alleged to have been May 29.

(30) THE COURT:

Mr. Khattar, the witness you examined yesterday and today was subjected to a very searching and careful cross-examination and I found your cross-examination to be in order. But you have brought up the matter of inconsistent statements and now the law is, that in re-examination a witness may explain -

-170- JOHN L. PRATICO, Redirect Exam. (VOIR DIRE)

- may explain - the reasons why he gave this inconsistent statement. That is the law, Mr. Khattar. Now then, he cannot tell in court what somebody said to him because it was not in the presence of the accused. He cannot say what Donald Marshall Sr. said to him or Mary Theresa Paul or Tom Christmas. But there is no such prohibition relative to the reason why he gave this inconsistent statement affecting the accused himself. You see, Mr. Khattar, as was your right to bring out the inconsistent statement, now surely the law is that in re-examination the witness can explain why he gave an inconsistent statement.

MR. KHATTAR:

On so many occasions!

THE COURT:

Thus the right to re-examine exists only where there has been cross-examination and must be confined to explanation of matters arising thereon. Thus if a witness has admitted making a former inconsistent statement, he may in re-examination explain his motives for so doing. Now I haven't the cases here. But it is possible that courts may have allowed even conversation between people but I won't go that far. I won't go that far but I will pause to give you <sup>and</sup> Mr. Rosenblum, because it is a very crucial matter - I will continue our recess another ten, fifteen minutes so that you may show me an authority which will prevent me allowing Mr. MacNeil to ask the witness relative to the inconsistent statement, you follow me, not anything about what happened that night. But let us assume the accused said to this witness, "Don't you dare say that I did this", it seems to me with great deference, that is proper.

(30) MR. KHATTAR:

My Lord, up to that point, no quarrel. But may I submit, My Lord that my learned friend is making reference to an occasion prior to the Preliminary Inquiry. Now mind you, that's what he's asked. He wants an opportunity to-

-171- JOHN L. FRANTICO, Redirect Exam. (VOIR DIRE)

THE COURT:

It matters little! It matters little! The threat if at any time may have been made the night of the incident but only by the accused.

Now you understand, Mr. MacNeil, and I rely upon you that you are not going for any fishing expedition.

MR. MacNEIL:

(10) I know what answer I expect, 'My Lord. I'm not going on a fishing expedition. I am instructed-

THE COURT:

At this moment we are concerned with an explanation of one thing - why the inconsistent statement. What somebody told him is not relevant unless that somebody said that to him in the presence of the accused. For the moment I am holding that if the accused said anything to him, he may answer. I am saying that Mr. Khattar and Mr. Rosenblum, not with such a dogmatic attitude that I know it all. Like yourselves, we are all endeavouring to do what is justice in this case and we may make mistakes.

(20) No judge is known not to have made a mistake.

MR. MacNEIL:

Just one other question for clarification, My Lord. Supposing-

THE COURT:

You're not asking me to help you with your case.

MR. MacNEIL:

No, My Lord.

THE COURT:

Then don't bring up hypothetical questions!

MR. MacNEIL:

(30) Fine.

THE COURT:

Sheriff, may we have the jury.

(11:45 A.M. JURY POINED, ALL PRESENT)

-172- JOHN L. PRATICO, Redistrict Exam.

(TRIAL IN CHIEF RESUMED)

BY MR. MacNEIL:

Q. Now I believe, sir, that we were at the point when we adjourned where I was posing the question, why did you make the inconsistent statement in this court house yesterday, that is, inconsistent with your evidence here today. Yesterday, I'm sorry. Given in this courtroom anyway at this trial?

(10) THE COURT:

Q. Do you understand the question, Witness?

A. Yes.

Q. You understand what Mr. Macneil has asked you? Why did you - what is your answer?

A. I was - well, Artie Paul got to me down the circus -

MR. MacNEIL:

No, No.

THE COURT:

(20) I don't want you to say - you can tell Mr. MacNeil people that you saw or who came to see you, but don't say anything what they said. Who came to see you?

BY MR. MacNEIL:

Q. Who came to see you?

A. I seen Tom Christens and Theresa Mary Paul, and I seen Artie Paul.

Q. Was this yesterday?

A. No.

BY THE COURT:

Q. Did you see anybody else?

(30) A. When, yesterday?

Q. Not yesterday.

BY MR. MacNEIL:

Q. Any time?

A. No.

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Q. All right, yesterday did you see anyone else, discuss this case with anyone else?

A. Mr. Khattar.

Q. No, before you discussed it with Mr. Khattar?

MR. KHATTAR:

Witness, please speak up so I can hear you.

THE WITNESS:

Mr. Marshall.

(10) BY MR. MacNEIL:

Q. Donald Marshall. All right now why did you - Senior - that's Donald Marshall, Sr.?

A. Yes.

Q. Now why did you make that statement yesterday that Mr. Khattar referred to as being made - why did you make that statement which is inconsistent with your evidence as given before those gentlemen and His Lordship in this trial?

A. Scared.

(20) BY THE COURT:

Q. What's that?

A. I was scared.

Q. Scared of what?

A. Of my life being taken.

BY MR. MacNEIL:

Q. All right now sir, Mr. Khattar also referred to a conversation that you had with Mr. Donald Marshall, Jr., the accused, in this case -

MR. KHATTAR:

(30) I beg your pardon, My Lord, I rise at this point. I'm rising, of course, on my own recollection and I don't recall and I say this with respect, My Lord, because my memory may not be as good as I think it is - I don't recall having referred to any conversation. I do recall having asked the witness if he saw Mr. Marshall, but I don't recall asking

-174- JOHN L. PRATICO, Redirect Exam.

whether he had a conversation. I could be in error, My Lord, and I make my objection on that basis.

THE COURT:

We will clarify that. Mr. Khattar says he doesn't recall and at the moment, I must say, looking at my hurried notes, I don't recall. Ask him what did he say about the accused, clear that up.

BY MR. MacNEIL:

- (10) Q. What did you say about the accused on Saturday morning, on this Saturday morning at your home?

THE COURT:

He said something to Mr. Khattar when Mr. Khattar was cross-examining about the accused.

BY MR. MacNEIL:

Q. All right, you heard His Lordship. You said something to Mr. Khattar - did you say anything to Mr. Khattar about the accused on Saturday morning, May 29, 1971?

A. 29th of May?

- (20) Q. Yes.

A. No, I just told Mr. Khattar that the accused was down to my place. The accused was down to my place May 29 or May 30, one of them days.

BY THE COURT:

Q. Mr. Pratico, Mr. MacNeil asked you why you made the statement outside yesterday to Mr. Khattar, to the sheriff. You now say you made it because you were scared of your life.

A. Yes.

- (30) Q. Now, your being scared of your life, is that because of anything the accused said to you at any time?

A. No.

MR. MacNEIL:

I take it that concludes that line of questioning on that meeting on Saturday.

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THE COURT:

I'm sorry that I had to take over but I had to put an end to this.

MR. MacNEIL:

That's all right.

THE COURT:

Any further re-examination.

MR. MacNEIL:

(10) There is a question that is bothering me, My Lord.

MR. ROSENBLUM:

Perhaps we better approach the Bench rather than have the jury go out.

THE COURT:

No.

He is going to ask you a question, don't answer it.

MR. MacNEIL:

The question, My Lord, would be to the witness, what is the basis for his fear. He said that he had fear.

(20) THE COURT:

He answered not due to anything the accused said. Now if anybody else said anything to him, I'm not interested. He has given you an explanation, namely, he was scared of his life.

MR. MacNEIL:

I was perusing the matter just for the basis of whether his fear was justified or not but I accept your Lordship's ruling. That's all.

BY THE COURT:

(30) Q. That man's name was Tom Christmas, was it?

A. Yes.

MR. ROSENBLUM:

And Mary Theresa Paul.

THE WITNESS:

Artie Paul.

( THE WITNESS WITHDREW )

IN THE SUPREME COURT OF NOVA SCOTIA,  
APPEAL DIVISION

IN THE MATTER OF A REFERENCE PURSUANT TO SECTION  
617 OF THE CRIMINAL CODE BY THE HONOURABLE JEAN  
GHERCIEN, MINISTER OF JUSTICE, TO THE APPEAL  
DIVISION OF THE SUPREME COURT OF NOVA SCOTIA UPON  
AN APPLICATION FOR THE MERCY OF THE CROWN ON  
BEHALF OF DONALD MARSHALL, JR.

AFFIDAVIT

*J. L. P.*  
I, John Louis ~~Prattico~~, of ~~331~~ <sup>324 Arthur</sup> MacKay Street, New  
Waterford, in the County of Cape Breton and Province of Nova  
Scotia, make oath and say as follows:

1. That I was born on December 31, 1954 and on the date of the murder of Alexander (Sandy) Seale, May 28, 1971, I was sixteen (16) years of age.
2. That I have been continuously treated by a psychiatrist, Dr. M.A. Mian of Sydney, since August of 1970 to date.
3. That on the evening of May 28, 1971, I attended a dance at St. Joseph's Hall in the City of Sydney, and during the course of that evening from 7:00 or 8:00 P.M. I drank a quantity of wine, approximately six quarts and three pints of beer together with, I believe, some rum or gin and that I was intoxicated.
4. That on February 25, 1982, I was interviewed by R.C.M.P. Cpl. J.E. Carroll, and gave a free and voluntary statement to the said Cpl. Carroll, a copy of which is produced herewith and marked Exhibit 'A', concerning my knowledge of the events surrounding the murder of Alexander (Sandy) Seale on the night of May 28, 1971 and that the facts referred to in that statement are true to the best of my knowledge and belief.
5. That on May 30, 1971, I was interviewed by then Det. Sgt. J.F. MacIntyre of the Sydney City Police and gave a

written statement to the said MacIntyre, a copy of which is produced herewith and marked Exhibit 'B', concerning my knowledge of the circumstances surrounding the murder of Sandy Seale.

6. That on June 4, 1971, I was again interviewed by the said John F. MacIntyre and then Det. Sgt. William Urquhart, both of the Sydney City Police, and gave a written statement to the said MacIntyre and Urquhart, a copy of which is produced herewith and marked Exhibit 'C', concerning my knowledge of the events relating to the Sandy Seale murder.

7. That my statement, referred to herein as Exhibit 'C', is not entirely true, and, in particular, the facts contained therein with reference to my having seen the murder of Sandy Seale are not true, as I did not personally witness the said murder, nor was I present at the scene of the murder at the time it occurred.

8. That prior to May 28, 1971, I was acquainted with Donald Marshall, Jr., and that on the morning of May 29, 1981, I met Donald Marshall, Jr. briefly and we spoke about the Seale murder.

9. That I stated I had witnessed the murder of Sandy Seale, as referred to in Exhibit 'C' herein, as a result of the said John F. MacIntyre accusing me of having been a witness to the murder and threatening to jail me unless I stated I did witness the murder and I was further informed by the said MacIntyre and Urquhart as to what I had purportedly witnessed of the murder and agreed, out of fear, with them.

10. That I testified at a Preliminary Hearing and subsequent trial of Donald Marshall, Jr., who was convicted of the murder of Sandy Seale on November 5, 1971.

11. That my testimony at the trial of Donald Marshall, Jr. relating to the murder of Sandy Seale, at Pages 118-175 of the Transcript of the said trial, is not true insofar as I stated I had witnessed the murder of Sandy Seale; the truth being that I was not a witness to the said murder.

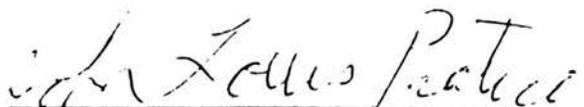
12. That on August 31, 1971, between the Preliminary Hearing in this matter, held in July of 1971, and the Trial in this matter, held in November of 1971, I was admitted as a patient to the Nova Scotia Hospital in Dartmouth, Nova

Scotia for treatment of my mental condition.

13. That I did not know Maynard V. Chant on or before May 28, 1971 and did not see the said Maynard V. Chant on the night of May 28, 1971 or at any time thereafter until the time of the Preliminary Hearing in July, 1971.

SWORN TO at )  
 in the County of Cape Breton, )  
 Province of Nova Scotia, this )  
 15<sup>th</sup> day of July, A.D. 1982, )  
 before me, )

  
 A Barrister of the Supreme )  
 Court of Nova Scotia )

  
 JOHN LOUIS PRATICO

DOUGLAS R CROWE  
 A COMMISSIONER FOR THE SUPREME  
 COURT OF NOVA SCOTIA

AUGUST '84  
CBC 7

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R. Pugsley: I understand the next witness Mr. Murrant proposes calling is Mr. Pratico. I object to the taking of his evidence if you--what would appear to be the medical evidence that he is not fit to give evidence and that's why I wish to record an objection to the record.

R. Murrant: Okay.

Mr. John Pratico, sworn, testified as follows:

EXAMINED BY R. MURRANT

1. Q. Mr. Pratico, you're here today as a result of receiving a subpoena type of document?  
A. Right.
2. Q. And this is a proceeding between John MacIntyre, the former Chief of Police of Sydney and the Canadian Broadcasting Corporation.  
A. That's right.
3. Q. You saw that on the document?  
A. Yes, sir.
4. Q. Have you discussed this with any of the person involved in this particular case?  
A. No sir.
5. Q. We appreciate that I represent the Canadian Broadcasting Corporation?  
A. Yes, sir.  
R. Pugsley: I am sorry I didn't hear you.  
J. Pratico: I said: "yes sir."  
R. Pugsley: I am sorry, I didn't hear what you said after that?  
J. Pratico: I didn't say nothing after that.  
R. Pugsley: I am sorry.
6. Q. This concerns a radio broadcast?  
A. Yes.

7. Q. Mr. Pratico what is your address at the moment?  
A. Twenty-nine Main Terrace.
8. Q. Main?  
A. Terrace. Twenty-nine May Terrace.
9. Q. May Terrace?  
A. Yeah, that's where I, you know, but I am not there all the time.  
That's my mailing address, do you know what I mean.
10. Q. What part of Sydney is that in?  
A. Pardon?
11. Q. What part of Sydney is that in?  
A. The Pier.
12. Q. The Pier? How long have you lived down there?  
A. All my life. I was born and raised in the Pier.
13. Q. How old are you now, Mr. Pratico?  
A. Twenty-nine.
14. Q. Are you married?  
A. No, sir.
15. Q. Are you working at the moment?  
A. No, sir.
16. Q. Are you working at the moment?  
A. No, sir.
17. Q. Now in the year 1971--let me ask you what your birth date was?  
A. Thirty-first day of December, '54.
18. Q. Do you recall in 1971 having some involvement with the death of  
Sandy Seale and the case against Donald Marshall?  
A. Yes, sir.

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19. Q. You do?  
A. I was involved in it, yeah.
20. Q. Pardon me?  
A. I was involved in it, yeah.
21. Q. Before that case every happened, did you have any involvement with the Sydney Police?  
A. No, sir.
22. Q. None?  
A. None.
23. Q. Had you ever been in trouble with the police?  
A. Once, but that was the first time.
24. Q. Did you know any of the police officers or did they....?  
A. I knew a few of them from living in Sydney.  
R. Pugsley: I am sorry I can't hear.  
J. Pratico: I said I knew a few from living in Sydney.  
R. Pugsley: Thank you.
25. Q. Did you know John MacIntyre?  
A. Not really, sir, I heard of him but I really didn't know him, do you know what I mean.
26. Q. What about William Urquhart, did you know him?  
A. Well yeah, but not as close.
27. Q. Would you know each other if you met in the street?  
A. Well yeah--well maybe, I'm really not sure.
28. Q. Now with respect to the murder of Sandy Seale the record indicates that you gave a statement to the Sydney Police a few days later, May 30, 1971?  
A. Yes.
29. Q. And I have a copy of it here, Mr. Pratico, it's typed out. May 30, 1971.  
A. You want me to read that do you?

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30. Q. Have a look at it so you know what we're talking about.  
A. I can't remember saying this, you know, that is, I can't (inaudible) corduroy jacket, I don't remember nothing about that.
31. Q. Do you remember talking to the police, the police talking to you?  
A. When.
32. Q. In May, May, June, 1971?  
A. Yes.
33. Q. That statement you have there, I'll walk over there so we can both see it, I only got one copy.  
A. Okay.
34. Q. Bobby Robert Patterson?  
A. I don't know him.
35. Q. You see his name and nobody else knows him?  
A. I never heard tell of him.
36. Q. You say; "I seen two fellows running from the direction of the scream and they jumped into a white volkswagon?  
A. I can't remember this here stuff, I can't remember that.
37. Q. Brown corduroy...  
A. Jacket, I can't remember saying that.
38. Q. That statement is dated the 30th of May, do you remember how it was the police got you to sign that statement?  
A. A little bit, I can remember a bit. I remember a bit of it.
39. Q. Perhaps you could--there is another one here a few days later, June the 4th and then later on you testified in court, did you not?  
A. Yes sir.
40. Q. Perhaps if you could just take your time, Mr. Pratico, and tell me how you came to be involved?  
A. Like it is a long story, I don't know--I can't remember back that far but Sergeant MacIntyre, not Sergeant MacIntyre but one of the

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40. A. sergeants come down the house, you know and took me up there and they questioned, and you know...
41. Q. Right?
- A. A few questions asked and then I was let go and called back again and....
42. Q. You were let go...?
- A. You know, sent home and then come back, do you know what I mean?
43. Q. And when you came back again what happened?
- A. A couple of questions asked, you know, and it was just, you can go for now and there was no more for a few weeks. Like this is not too clear to me, do you know what I mean but I can't remember all that took place.
44. Q. There is another statement here which is June 4th, 1971, maybe I'll let you have a look at that because this is five or six days after the first one you looked at and that's a statement of John Lewis Pratico age 16 years.
- A. Oh, I see that, yes.
45. Q. Just look through it and see if you can recall this one?
- A. I don't recall anybody giving me money, I had my own money for the dance, I had my own money. I had my own money for the dance because my mother gave me the money. Well I can remember some of this, I can remember going to the dance and I paid my own way into the dance. Like some of this stuff ain't too clear to me eh, not all of it. I can remember this part here.
- R. Pugsley: What part is the witness looking at Bob.
46. Q. "I heard Sandy Seale say to Junior, you crazy Indian and Junior called him a black bastard, they were standing."
- A. I can't remember saying that but I can remember saying this.

47. Q. "They were standing at this time where the incident happened."  
A. I can't remember that part. All I remember is this and this.  
R. Pugsley: Sorry, what is he....  
A. I remember black bastard and crazy indian.
48. Q. Black bastard and crazy indian.  
R. Pugsley: Does he recall that or does he....?  
A. I recall that.
49. Q. If you look at the second page, Mr. Pratico, this talking here about Donald Marshall struck him in the stomach, he screamed.  
A. I don't remember saying that, really, you know. I was drinking and that I wasn't used to drinking, you know, because you know after taking seven and after 1:00, I don't know, you're memory is not the best.
50. Q. Did you see that night of the dance, you were drinking that night?  
A. Yes, quite heavily.
51. Q. Would you say you were pretty drunk?  
A. Yes, pretty well.
52. Q. Did you tell the police that?  
A. Well I told them I was drinking but I didn't say I was totally drunk but I said I was drinking, that I was pretty drunk at the time.
53. Q. Did you see anybody stab Sandy Seale?  
A. No.
54. Q. But you indicate in that statement that you saw Marshall strike him in the stomach?  
A. I take it there was a few threats made to me, but I really didn't know.
55. Q. You take there was a few....?  
A. I said there was a few threats to me but I really didn't understand. They said if you don't tell us what happened, it's the county jail!! I was scared of anybody when you're threatened to go to jail at a young age.

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56. Q. There is another statement here, Mr. Pratico, this is a statement of John Lewis Pratico and the address is MacKay Street in New Waterford?
- A. Yes sir.
57. Q. Taken at New Waterford, 82/02, February 25, '82, it's two pages and the witness is Corporal J.E. Carrol?
- A. J. Carrol, yes sir.
58. Q. Do you remember Corporal Carrol as an RCMP officer?
- A. Yes sir.
59. Q. And you had a talk with him?
- A. Yes sir.
60. Q. And I'm going to give you this statement to look at?
- A. This is the one of Corporal Carrol, is it?
61. Q. There is two pages of it. The yellow marks are mine, okay. Just look and tell us if that is the....
- A. I'm not finished reading it yet.
62. Q. You take your time, whatever time you need.
- A. Yes sir.
63. Q. Is that the statement you gave Corporal Carrol?
- A. Yes sir.
64. Q. And on the front page there, the part--you see where I put some yellow marking?
- A. Yes sir.
65. Q. You say: "a couple of days later the police came, I wasn't home. My mother took me to the Sydney Police Station around one or two o'clock, I think. I talked to MacIntyre alone at first, MacDonald came in a few minutes later. I sent my <sup>mother</sup> home to look after my sister." Do you have a sister?
- A. Yes sir.

66. Q. Do you remember your mother going to the station with you?  
A. Yes sir.
67. Q. "MacIntyre asked me what happened in the park that night. I said I didn't know." I guess it is true that you didn't know?  
A. Yes sir.
68. Q. "I had heard of the stabbing at this time but not who did it or who had died. MacIntyre said I did know and if I didn't tell I would be put in jail."  
A. I told that to Carrol in '82 or whenever it was.
69. Q. Is that what was said to you?  
A. Yes sir.
70. Q. Why would the police say that to you?  
A. I can't answer that question. That's something I don't know the answer to.
71. Q. Why they would do it?  
A. I don't know, that's right. I don't know an answer for that one.
72. Q. But you're telling me, Mr. Pratico that they did do it?  
A. Yeah, they said well if you don't tell us what happen you're going to go to jail.
73. Q. Did you tell them that you didn't see anything?  
A. At first I did, yes and they let it go and they questioned me some more.
74. Q. It says here MacDonald wasn't saying anything, I guess that's the other officer?  
A. Yeah.
75. Q. "I was scared." Were you scared?  
A. Yes sir.
76. Q. What were you scared of?  
A. Well I guess, you know, some of the things that took place I was scared, you know, it was just a frightening experience, do you know what I mean.

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77. Q. Uh-hmmm?
- A. I'm not any good at explaining to you, but it was a frightening experience
78. Q. Okay. Then you go on to say, "they told me about Marshall and Seale, that Marshall stabbed Seale" did they tell you that Marshall did it?
- A. Well in a round about way. They didn't just come right out, here is what was said. They said, we know what happened and so do you, this what was said to me. We know what happened and so do you and I said what do you mean--we know and we know you know.
79. Q. But you didn't know?
- A. No.
80. Q. Okay. Then you say; "they put words in my mouth so I just agreed with what they were saying."
- A. Yeah, I was a little bit frightened, you know and young and they said you're nerves are bad, you do this right and it's easy.
81. Q. "I guess Marshall would be in trouble for what I said but I was being badgered by the police and scared what they would do to me" I guess that was what, put you in jail?
- A. Well whatever.
82. Q. "My nerves were really bad then.?"
- A. I believe they were.
83. Q. Now you talk about going to court. "The lawyers gave me a hard time. I saw Chant there but I wasn't allowed to talk to him."
- A. Right.
84. Q. Did somebody tell you you couldn't?
- A. Like I say I can't remember everything, it was so long ago and I was so mixed up that I don't remember everything.

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85. Q. You said your nerves were bad?  
A. Yeah.
86. Q. Were you under any treatment in those days for your nerves?  
A. Yes, I was in the Nova Scotia Hospital a few different occasions.
87. Q. A number of...?  
A. On a few different occasions I was in the Nova Scotia Hospital.
88. Q. That's before this came up?  
A. No--well my nerves were bad before that but when all this started my nerves went altogether.
89. Q. I understand that between giving this statement and between the-- after the Preliminary Hearing, before the trial you were in the Nova Scotia Hospital again and the Sydney Police drove you there?  
A. Yes sir.
90. Q. Well why would they drive you all the way to Halifax?  
A. Well that was what Doctor Guam arranged.
91. Q. Doctor?  
A. Gaum.
92. Q. Guam?  
A. Yes, sir he arranged to have the police to take me up.
93. Q. Did they bring you back?  
A. No sir, I stayed there for quite the time and I came home on the train.
94. Q. Did you -- was there two officers that took you or the one or...?  
A. One.
95. Q. One?  
A. And my mother came with me, she had to sign the papers, and my mother took the bus back to Sydney.

CBC7

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96. Q. So this officer that drove you up there, he'd know that you were going for treatment wouldn't he?
- A. Yes sir.
97. Q. You talked about it in the car?
- A. No, I tell you there wasn't too much talking going on, there wasn't much talking.
98. Q. Now this statement that you gave--you gave a second statement that you said you saw Marshall striking Seale and as I understand the record, you went to court and you said that again?
- A. Yes sir.
99. Q. At a couple of different hearings, the Preliminary Hearing and the trial with the grand jury. Did you know it was wrong to do that?
- A. Yes sir.
100. Q. I am kind of wondering why you didn't change that?
- A. I really can't answer why I didn't change it.
101. Q. Maybe I should ask you why you did it?
- A. I really can't explain it, do you know why I mean.
102. Q. When the Donald Marshall case came up again in 1982, you signed an affidavit?
- A. For Jim Carrol?
103. Q. No, I'll show it to you. I guess this would be after, let's see when did you talk to Jim Carrol, that was in February. This is the 15th of July, '82, is that your signature?
- A. Yes sir, that's my signature.

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104. Q. It was sworn in front of Douglas....  
A. Oh, okay, I did sign it, yeah, I recognize that.
105. Q. The affidavit is three pages long and the--they spelled Pratico wrong?  
A. It's a strange name anyway.
106. Q. Then on page two there is a couple of things I marked there, paragraph nine, just read that paragraph nine for us.  
A. That's where that yellow spot is.
107. Q. Yes. Was true?  
A. Yes it was true, to me it was true, the jail business came up, you know.
108. Q. I'm just going to read paragraph nine so everyone knows what we're talking about. "That I stated I had witnessed the murder of Sandy Seale as referred to in Exhibit "C" herein as a result of the said John F. MacIntyre accusing me of having been a witness to the murder and threatening me to jail unless I stated I did witness the murder and I was further informed by the said MacIntyre and Urquhart as to what I had purportedly witnessed of the murder and agreed out of fear with them."  
A. That true.
109. Q. Is what you say there true?  
A. Well pretty close to it, yeah.
110. Q. Is there anything you'd change now?  
A. No, not really.
111. Q. Did you know Donald Marshall before this night?  
A. Yes sir.
112. Q. Did you know Sandy Seale?  
A. Yes sir.
113. Q. If I understand correctly you knew a lot of the young people around Sydney and a lot of them knew you?  
A. Well I was young myself, you know, when you're young you meet a lot of young people.

114. Q. Was Marshall the kind of fellow who would--knowing both those young people, Sandy Seale and Donald Marshall was it possible for Marshall to have killed Seale?
- A. I can't answer that now, how am I suppose to answer that question, I can't answer that.
115. Q. Were the two of them friends?
- A. Yeah, I guess so.
116. Q. Were you friends with both of them?
- A. I wasn't friends with Seale but I was friends with Marshall.
117. Q. How did the--do you recall how the police first contacted you?
- A. No I don't.
118. Q. You didn't see any of this happen?
- A. I don't know how--I don't remember, you know...
119. Q. I am wondering why they ever went to you in the first place?
- A. I don't remember that.
120. Q. They just sort of showed up one day and asked you about it?
- A. Well I was out (inaudible) I can't answer that.
121. Q. Okay, those are all the questions I have, Mr. Pratico.
- R. Pugsley: I decline to cross-examine this man for the reasons I advanced earlier.



SUBJECT

CASE No.

RCMP2 70

C O P Y

July 2nd, 1971 - 10:10 A.M.

Statement of Raymond Rudolph Poirier, age 20 yrs., residing at 209 Bentinck St., Sydney:

Sunday after the stabbing at the park, I was sitting on John Pratico's steps on Bentinck St. with Glen Lamson and John Pratico. Jr. Marshall came along walking; he stopped and talked to us. He asked for a smoke. He said he was nervous. He appeared to be. Somebody asked him what happened. He showed us his arm (left). He pushed the bandage down and showed us the ten stitches.

Q. Did he say what happened

A. He told all of us that him & Sandy were walking together in the park. 2 guys came up and asked Sandy for a cigarette and a match. Sandy said he did not smoke. The guy had the knife up his sleeve and stabbed Sandy in the stomach.

Q. Did he say what this guy looked like

A. He said one guy was about 50 yrs. old with grey hair and he said that was the fellow that stabbed Sandy. He said the other fellow tried to stab him - he was about 35 yrs. old. He said that he Jr. when he seen Sandy being stabbed he turned around and said what is going on here. He said the other fellow 35 yrs. old came at him with a knife. Jr. said he got his arm in the way of the knife and was stabbed in the arm. He said then the two men took off and jumped in a white Volkswagon. He said he did not recognize them at all. He said he was at the Police Station talking to the Police.

Signed: Rudy Poirier

July 2nd - 10:12 A.M.

Sergt. Det. John F. MacIntyre.



IN THE SUPREME COURT OF NOVA SCOTIA  
APPEAL DIVISION

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IN THE MATTER OF A REFERENCE PURSUANT TO SECTION  
617 OF THE CRIMINAL CODE BY THE HONOURABLE JEAN  
CHRETIEN, MINISTER OF JUSTICE, TO THE APPEAL  
DIVISION OF THE SUPREME COURT OF NOVA SCOTIA UPON  
AN APPLICATION FOR THE MERCY OF THE CROWN ON  
BEHALF OF DONALD MARSHALL, JR.

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A F F I D A V I T

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I, M. A. Mian, Medical Doctor, of Sydney, in the County  
of Cape Breton, Province of Nova Scotia, make oath and say as  
follows:

1. THAT I am a Psychiatrist and presently the Medical Director of the Cape Breton Hospital, an institution for the treatment of the mentally ill.
2. THAT I know John Louis Pratico, who testified at the Preliminary Hearing in July 1971, and Trial of Donald Marshall, Jr., who was subsequently convicted of the murder of Sandy Seale.
3. THAT the said John L. Pratico has been a psychiatric patient of mine from August 1970, to date.
4. THAT my medical diagnosis of the said John L. Pratico since August 1970, is that he suffers from a schizophreniform illness manifested in his case by liability to fantasize and thereby distortion of reality and rather childish desire to be in the lime-light or center of attraction.
5. THAT in order to function outside of a psychiatric institution, the said John L. Pratico has, since August 1970, to date, been on continual medication under my direction.
6. THAT on August 31, 1971, the said John L. Pratico was admitted to the Nova Scotia Hospital, in Dartmouth, Nova Scotia, for psychiatric treatment.

RCMP 60

7. THAT it is my medical opinion that the said John L. Pratico was, in 1971, and has been continuously to date, a wholly unreliable informant and witness with regard to any subject or event, but more particularly in the Sandy Seale murder case in 1971.

SWORN TO at Sydney, in the County )  
of Cape Breton, Province of Nova )  
Scotia, this 19th day of July, )  
A.D., 1982, before me: )

*m a mian*

*J. G. K...*

A BARRISTER OF THE SUPREME COURT )  
OF NOVA SCOTIA )  
)  
)  
)  
)

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M. A. MIAN, M.D.