



14
CITY OF SYDNEY POLICE DEPARTMENT
CONTINUATION REPORT

100-117-1

GE	SUBJECT	CASE No.
	RCMPA 22	

C O P Y

Nov. 15th, 1971 - 8:45 P.M.

Statement of Mrs. Mary Pratica Ebsary residing at 126 Near Argyle St. Sydney - Warned:

Q. Did you have a conversation with anybody in regard to the Sandv Seale case

A. Yes I did

Q. With whom

A. A boy called Jim. I don't know his second name

Q. Where does he live

A. He lives off George near the cemetery down over the hill

Q. Where did this conversation take place

A. It took place in my car on Kings Rd

Q. Where on Kings Rd.

A. At the front of the Wandlen Motel

Q. When was this

A. On or about 6 weeks ago

Q. What talk took place in the car

A. The conversation was about this boy Jim and my husband being attacked that night coming home by the park. Jim thought that it may be the same two. The Marshall boy and the Seale boy. I told him making statements like that - I would prefer to stay away from my house after that

Q. Was anybody else present

A. Yes

Q. Who

A. MY son.

Q. Did you see Jimmie before that night

A. Quite frequently

Q. Where

A. at my house

Q. What was he doing there

A. Drinking with my husband

Q. Do you remember the night that Seale was stabbed

A. Not particularly. I remember reading of it in the Paper.

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SUBJECT

RCMP 22

CASE No.

continued - page 2-----

- Q. Was Jimmie back and forth to your house at that time
A. Not after. He came about 15 times over a period of a couple of months.
- Q. How did Jimmie happen to meet you near the Wandlyn Motel
A. I sent for him
- Q. Why
A. My husband had not been drinking and Jimmie came to my house on Sunday . I was getting ready to go out and he told my husband he would return on the weekend and I did not want my husband on the booze again. I sent for him and told him to stay away from my house and it was at this time the conversation about the Seale boy came up. I don't think Jim or my husband would have anything to do with that. Roy only weighs about 115 lbs.
- Q. Was there any discussion about this affair by Jimmie or your husband
A. No
- Q. When Jimmie came with your son to the Motel were you working
A. I was
- Q. What time of the day was this
A. About 6:30 P.M.

Signed: Marv P. Ebsary

Witness: Sergt. Wm. Urquhart

Nov. 15th - 9:07 P.M.

By: Sergt. Det. J.F. MacIntyre.

RE OBJET:

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RCMP 2

Statement of: Mary P. EBSARY - 60 years
Gregory A. EBSARY - 28 years
 46 Mechanic St., Sydney, N.S.

Taken: 82-03-04

RCMP 2 21

Statement # 14B

Today we have talked with Harry Wheaton of the R.C.M.P. and discussed Roy Ebsary. I was married (common law) to Roy for 29 years and Gregory would have known him all his life. At the time of the Seale murder we were living as a family, 126 Rear Argyle St. That night Roy was out with Jimmie MacNeil.

I can tell nothing of the murder nor can Greg. At the time Roy was working at the Isle Royal Hotel or Esplanade Grill. Roy had a habit of carrying knives at that time always. He carried them in his belt. He would take a knife and grind it down like a stiletto. He also made knives out of canes that would fit in the handle. He had knives of all shapes and descriptions and would have carried one the night of the murder, I feel however I did not actually see it.

After the murder and him taking the polygraph Roy became a recluse. He went to his bedroom and literally stayed there. He would not leave the house and did not associate with anyone other than the immediate family. He quit going to the tavern and stopped drinking and became a hermit. When Mitchell Sarson came to live at our house Roy completely changed. He started drinking again and running around with Sarson. Roy was not as violent during this period as he was eleven years ago. In 1971, he was extremely violent in his tantrums he would break up the house. Today we have turned over a number of knives Roy would have had at the time of the murder.

In regards to this murder we can not say if he did it or didn't do it but we certainly feel he is capable of it.

H.F. WHEATON, S/Sgt.

(Signed by:)

Greg Ebsary

Mary Ebsary

Statement of: Mary Patricia EBSARY (B: 17 March 21)
46 Mechanic Street, Sydney, N.S.
19 April 1982

On the night of the SEALE murder, I was at our home at that time 126 Rear Argyle Street, Sydney. I was watching T.V. in the living-room, and I recall Roy and Jimmie McNEIL coming home. Jimmie stopped in the doorway of the livingroom and said "something like you saved my life" to Roy. Roy said "shut up". I recall Roy telling Jimmie to cut across the field going home not through the Park. He said something about they won't catch you.

I didn't pay much attention to Roy as he was always bringing someone home with him. Roy drank heavily and was violent so I never said anything to him. He always carried a knife and when he got angry that was his favourite weapon. I recall one night he took an axe and completely chopped up the furniture downstairs. This would have been during this period in 1971.

I recall I called the Sydney City Police on numerous occasions when Roy was in one of his destructive violent rages and nothing was done. The Sydney City Police were well aware of Roy as I turned him in in 1970 for carrying a knife as he was going to stab the chef at the Isle Royale Hotel. His exact words refering to Toni the chef were "when he opens the door, I'll gut him".

I have read the statement shown to me tonight by Harry WHEATON. I was only at the Station once and this must have been it. I notice the time on this satement is from 8:45 P.M. to 9:07 P.M. or twenty-two minutes. This is not so. I was interviewed for at least two hours. I also notice Sergt. URQUHART was supposed to be present. There was a man there for about five minutes, and he left. I don't recal exactly what the specific questions were but I do know I answered truthfully and honestly. I can not say I saw Roy stab the SEALE boy as I was not in the Park that night. I certainly would not hide anything from John MacINTYRE any more than I would hide anything from you.

Witnessed:
H.F. WHEATON

(Signed by:) MARY EBSARY

Mary EBSARY

RCMP 219

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, Mary P. Ebsary, of 46 Mechanic Street, in the
City of Sydney, County of Cape Breton and Province of Nova
Scotia, make oath and say as follows:

1. That I was the common-law wife of Roy Newman Ebsary for a period of 29 years and that two children were born to our marriage, namely, Gregory Allan Ebsary, born December 16, 1953, and Donna Elaine Ebsary, born June 16, 1957.
2. That I am aware of the fact that Donald Marshall, Jr. was convicted in November of 1971, of the murder of Alexander (Sandy) Seale, the said murder having taken place on Friday night, May 28, 1971.
3. That on May 28, 1971, my family - Gregory, Donna and Roy, resided together in Sydney at 126 Rear Argyle Street in Sydney.
4. That on the night of May 28, 1971, my husband Roy Newman Ebsary was in the company of James William MacNeil.
5. That on the night of May 28, 1971, I was at home watching television and at or about 12:00 midnight Roy Newman Ebsary and James William MacNeil came home together and had a conversation concerning a recent event, portions of which conversation I recall.
6. That my husband, Roy Newman Ebsary, was in the habit of carrying a knife on his person during the time

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period that included May 28, 1971, and, indeed, the said Roy Newman Ebsary maintained a collection of knives, some of which were made by him.

7. That I and my son, Gregory, were interviewed by R.C.M.P. S/Sgt. H.F. Wheaton on March 4, 1982 and gave to the said Wheaton a free and voluntary written statement, a copy of which is produced herewith and marked Exhibit 'A', concerning my knowledge of the matters referred to therein, and that to the best of my knowledge and belief the facts contained therein are true.

8. That on March 4, 1982, my son, Gregory and I gave to the said S/Sgt. Wheaton ten (10) knives which had been in the possession and control of the said Roy Newman Ebsary during the time period which included May 28, 1971, and that produced herewith and marked Exhibit 'B' is a photograph of the said knives.

9. That I would be surprised if the said Roy Newman Ebsary were not carrying one of the knives depicted in Exhibit 'B' herein on the night of May 28, 1971, and note that the knife marked with an 'X' on Exhibit 'B' herein, was a particular favorite of the said Roy Newman Ebsary .

10. That I was interviewed by then Det. Sgt. John F. MacIntyre of the Sydney City Police on November 15, 1971 and gave to the said MacIntyre a written statement, a copy of which is produced herewith and marked Exhibit 'C' and that to the best of my knowledge and belief the facts contained therein are true.

11. That I was interviewed by R.C.M.P. S/Sgt. H.W. Wheaton again, on April 19, 1982, and gave to the said Wheaton a free and voluntary written statement, a copy of which is produced herewith and marked Exhibit 'D', concerning my knowledge of the matters referred to therein, and that to the best of my knowledge and belief the facts contained therein are true.

12. That I do not know now, nor have I ever known Donald Marshall, Jr., nor to the best of my knowledge has the said Donald Marshall, Jr. ever been in any residence in which I and my family have resided.

13. That Roy Newman Ebsary and I have not resided

together since 1979.

SWORN TO at *Sydney*)
 in the County of Cape Breton,)
 Province of Nova Scotia,)
 this 15th day of July, A.D.)
 1982, before me,)

S. Aronsa)
 _____)
 A Barrister of the Supreme)
 Court of Nova Scotia)

Mary P. Ebsary)
 _____)
 MARY P. EBSARY)

September 12, 1983

89.

Mary Ebsary, Direct Exam. by Mr. Edwards

Mary Ebsary is duly sworn.

1. Q. Your name is Mary Ebsary?
- A. Yes it is.
2. Q. You're the wife of the accused, Roy Newman Ebsary?
- A. Yes I am.
3. Q. For how long have you been his wife?
- A. Approximately thirty years.
4. Q. About thirty years?
- A. Hmm-mm.
5. Q. Okay. So you and he would have been cohabiting in May of
nineteen seventy-one?
- A. Yes.
6. Q. And where did you reside around that time?
- A. Rear Argyle Street.
7. Q. And that's in the City of Sydney?
- A. Yes it is.
8. Q. Yes. And who resided with you and Mr. Ebsary at that time?
- A. Just my son and my daughter.
9. Q. Your daughter's name being Donna Ebsary?
- A. Donna, hmm-mm.
10. Q. And your son's name?
- A. Gregory.
11. Q. Gregory Ebsary?
- A. Hmm-mm.

September 12, 1983

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Mary Ebsary, Direct Exam. by Mr. Edwards

12. Q. Okay. Do you recall the time when Sandy Seale was alleged to have been stabbed in Wentworth Park?
- A. Yes I do.
13. Q. Do you recall that time as being in or about May twenty-eighth, nineteen seventy-one?
- A. Yes.
14. Q. And do you recall your husband, Roy Ebsary, coming home with another person on the night of the alleged stabbing?
- A. Yes I do.
15. Q. With whom, or who was with him on that night when he returned home?
- A. Mr. MacNeil.
16. Q. Do you recall his first name?
- A. James.
17. Q. It was James MacNeil?
- A. Hmm-mm.
18. Q. And do you recall what time Mr. MacNeil and your husband returned home that evening?
- A. Not accurately, some time between eleven and twelve.
19. Q. That's in the p.m.?
- A. Yeah.
20. Q. Alright. And do you recall what, if anything, occurred when they got home?
- A. Well Mr. MacNeil was quite aggitated, excited. So was my husband. He went in the kitchen and Mr. MacNeil stayed

September 12, 1983

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Mary Ebsary, Direct Exam. by Mr. Edwards

standing in the hallway. He -- am I allowed to say this?

21. Q. Yes. Was your husband able to hear what Mr. MacNeil said at that time?
- A. Yes.
22. Q. Yes?
- A. Mr. MacNeil stayed in the hallway and he kept repeating "Roy saved my life tonight" and Donna got up and she was in the living room with me and she went out in the hallway and she spoke some words with Mr. MacNeil.
23. Q. Was your husband still within earshot?
- A. He was in the kitchen, I presumed, I don't know accurately whether he could hear but I presumed he could.
24. Q. Do you recall what Donna said to Mr. MacNeil at that point?
- A. No I don't know what Donna said.
25. Q. Where did Donna go from there?
- A. She went in the kitchen.
26. Q. How old would Donna have been at that time?
- A. Thirteen, fourteen.
27. Q. Thirteen or fourteen years old?
- A. Ahh-ha.
28. Q. Did your husband say anything during this period?
- A. I didn't speak with my husband that night.
29. Q. Okay. Now, do you recall how long after it was before Mr. MacNeil left the residence?

September 12, 1983

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Mary Ebsary, Direct Exam. by Mr. Edwards

- A. It could have been possibly fifteen minutes.
30. Q. Yes?
- A. Fifteen, twenty minutes, no more than that.
31. Q. And when did you next see Mr. MacNeil?
- A. The next afternoon he was at the house but they weren't there too long. Now this I'm not too accurate about, I don't remember too clearly.
32. Q. Yes, okay.
- A. But he was there at the house again in the afternoon, some time during the afternoon.
33. Q. Was your husband present at that time?
- A. Yes.
34. Q. Do you recall if they had any conversation at that time?
- A. I don't know if the conversation took place, or if a conversation took place I wasn't there.
35. Q. You weren't?
- A. No.
36. Q. Okay, thank you very much Mrs. Ebsary.

MR. WINTERMANS:

Just a couple of questions Mrs. Ebsary.

1. Q. Your the wife of the accused, Roy Newman Ebsary, correct?
- A. No answer.
2. Q. Is it true that Mr. Ebsary was around sixty years old at that time?

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Mary Ebsary, Cross Exam. by Mr. Wintermans

- A. Hmm-mm.
3. Q. In nineteen seventy-one?
- A. Yes.
4. Q. And that he is approximately five foot two?
- A. Hmm-mm.
5. Q. Weighed at that time approximately a hundred and fifteen pounds?
- A. Possibly, I wouldn't say yes or no to that, I don't know his weight.
6. Q. I see. Thank you, that's all the questions I have.

MR. EDWARDS:

Nothing further My Lord.

BY THE COURT:

Thank you Mrs. Ebsary.

Donna Ebsary is called.

Mrs. Mary Ebsary duly sworn and examined.

Mrs. Ebsary, Direct Examination, by Mr. Edwards

1. Q. Your name is Mary Ebsary?
- A. That's right.
2. Q. And your present address Mrs. Ebsary?
- A. Forty-six Mechanic Street.
3. Q. That's in Sydney is it?
- A. Yes it is..
4. Q. And you're the wife of the accused Roy Newman Ebsary?
- A. That's right.
5. Q. And how long have you and he been living together as husband and wife?
- A. Thirty years.
6. Q. Thirty years. So you would have been living with him throughout the year nineteen seventy-one?
- A. Yes I was..
7. Q. And during that year nineteen seventy-one what was the address, the family address?
- A. 126 Rear Argyle Street.
8. Q. And that is also in the City of Sydney?
- A. Yes.
9. Q. And in nineteen seventy-one, as you do now, you have two children.
- A. Yes I have.
10. Q. And, and, a son Gregory?
- A. Yes.
11. Q. And his present age is what?
- A. Ah, twenty-eight.

Mrs. Mary Ebsary, Direct Examination, by Mr. Edwards.

12. — Q. And a daughter Donna. 112.
A. Yes, that's right.
13. Q. And her present age?
A. Twenty-five.
14. Q. And Gregory and Donna resided with you and your husband on Rear Argyle Street in nineteen seventy-one?
A. Yes, they did.
15. Q. Do you recall the night of the Seale stabbing in nineteen seventy-one?
A. Yes, I do.
16. Q. And on that night, where were you?
A. I was at home.
17. Q. You were at home?
A. Yes.
18. Q. And who was at home with you?
A. Donna.
19. Q. Donna. Where was Greg then?
A. Gregory was out.
20. Q. And where was your husband Roy Newman Ebsary?
A. He wasn't home.
21. Q. He wasn't home?
A. No.
22. Q. Did he arrive home that night?
A. Yes he did.
23. Q. About what time?
A. I can only guess about the time. It was possibly some time

Mrs. Mary Ebsary, Direct Examination, By Mr. Edwards. 113.

23. A. between eleven thirty and twelve o'clock.
24. Q. Eleven thirty and twelve o'clock.
- A. Um-hmmm.
25. Q. And you say you are guessing at the time he came in, you are giving an approximate.
- A. I'm taking that from the fact that I was watching the late news cast. So it would be between eleven thirty and twelve o'clock.
26. Q. And when he arrived home, was he alone or was there someone with him?
- A. No, he had a companion with him.
27. Q. Yes, and who was that?
- A. Mr. MacNeil.
28. Q. And do you know Mr. MacNeil's first name?
- A. Yes, James.
29. Q. James MacNeil. Um-hmmm.
- A. Um-hmm.
30. Q. And what can you tell us about the entry that Mr. Ebsary and Mr. MacNeil made?
- A. Well their entry was very agitated, or excited, or whatever, and Mr. MacNeil stood in the hallway and Roy proceeded into the kitchen area.
31. Q. And where were you at this time?
- A. I was sitting in the living room watching television.
32. Q. From where you were sitting could you see into the kitchen?

Mrs. Mary Ebsary, Direct Examination by Mr. Edwards 114.

32. A. No, I couldn't.
33. Q. But you could see into the hallway?
A. Just partially.
34. Q. And what, if any conversation passed between Mr. MacNeil and Mr. Ebsary at that time?
A. When they came in, there wasn't any conversation at all between them, until Roy came back out of the kitchen, and he told Jimmy to shut up and go home. That was the only conversation I heard between them.
35. Q. Do you know what prompted him to say that?
A. Well Jimmy was saying something like Roy saved my life tonight. And he kept repeating that.
36. Q. Who was he saying that to?
A. He was saying it to nobody in particular, just, Roy saved my life tonight. And then Roy came out of the kitchen and he told him to shut up and go home.
37. Q. And how long had Roy, when you say Roy referring to the accused - Roy Newman Ebsary, how long had he been in the kitchen before he came out?
A. Ah, I would put it at possibly five minutes.
38. Q. About five minutes?
A. Um-hmmm.
39. Q. And did Mr. MacNeil, in fact, leave then?
A. Yes, he did.
40. Q. And where did your husband go?

Mrs. Mary Ebsary, Direct Examination, by Mr. Edwards 115.

40. A. I presume he went to bed because...
41. Q. But do you recall, you can't presume.
A. Oh! Well I'll say he went to bed.
42. Q. When did you next see Mr. MacNeil?
A. I don't remember if it was the next day or the following day that I saw him.
43. Q. And was that at your home?
A. Yes.
44. Q. Could you tell us how many times he came to your home after that evening?
A. Well he came..., I can't tell you how many times he came to my home, but it was quite a few times.
45. Q. Now, that's after that evening?
A. Yes.
46. Q. How long had you known Mr. MacNeil before that evening?
A. Before that..., You mean before he knew Roy, I didn't know him at all.
47. Q. No, well I'll put it this way - how long had he known Roy to your knowledge?
A. Oh, I don't know. I don't know how long Roy and Mr. MacNeil were acquainted before he came to my house.
48. Q. Could you tell whether your husband was drinking or not that evening.
A. Yes, he was.
49. Q. And how would you describe his condition when he arrived home that evening?

Mrs. Mary Ebsary, Direct Examination, by Mr. Edwards

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49. — A. His condition was very excited, agitated, I couldn't say any more than that because I didn't talk with him, and other than see him go into the kitchen, and noting his condition as he passed the doorway, I didn't talk to him and I didn't go... I didn't follow him. So he went up to bed so I knew he had been drinking.
50. Q. O.K. Thank you. How old was Roy at that time?
A. Oh, probably fifty eight, fifty nine.
51. Q. And how tall was he?
A. I think he is approximately five foot three, five foot two and a half - five foot three.
52. Q. And how much did he weigh?
A. Oh, possibly one hundred and thirty-five pounds.
53. Q. A.hundred and thirty-five pounds?
A. Yes, at that time.
54. Q. Do you recall having given a statement to Sergeant Detective, as he was at that time, John F. MacIntyre...
A. Yes, I do.
55. Q. Oh the... November fifteenth, nineteen seventy-one.
A. Um-hmmm.
56. Q. Do you recall having said at that time "Roy only weighs about a hundred and fifteen pounds"?
A. Yes, I possibly did... say that.
57. Q. Is that accurate, or... what happened?
A. It was just a statement. He probably said to me, how much does your husband weigh, I would probably go a hundred and
-

Mrs. Mary Ebsary, Direct Examination, by Mr. Edwards

57. A. Fifteen or a hundred and twenty-five I don't really know.
58. Q. All right. So are you now saying that he could be a hundred and fifteen or could be a hundred and twenty-five pounds?
- A. No, I'm saying that he could be a hundred and thirty-five pounds at that time.

59. Q. Do you recall having given evidence in the previous trial to this?

A. Yes, I do.

60. Q. In September...

By the Court: How necessary is it to go into this?

Mr. Edwards: Maybe we should have the Jury out while we discuss this matter...

By the Court: Yes, I think so.

Mr. Edwards: I'll with, I'll withdraw the question.

By the Court: It's inconsequential.

Mr. Edwards: It's not that important.

61. Q. Thank you, I have no more questions.

Mr. Wintermans: Nothing from me on Direct, Your Honor.

By the Court: Thank you very much, Mrs. Ebsary.

A. Thank you.

Mr. Edwards: My Lord, I'm prepared to call more witnesses but it may be an appropriate time to break for the...

By the Court: Well, if you're thinking of me, ah, I've got time.

Mr. Edwards: Okay, Donna Ebsary, please.

By the Court: Thank you for your consideration.

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DISCUSSIONMR. WINTERMANS: Okay.

THE COURT: He's not giving expert opinion on anything. I have to wait until he testifies. I don't know what a witness will say.

5.

MR. EDWARDS: Well, My Lord, so we don't have to send the jury out, one example, one quote of what he's saying is at p. 94 of the reference in 1982. He says:

10.

"The next day I went to Ebsary's house and I told him that the fellow died. I said, I said you didn't have to kill him, you know. You should've given him the money, you know, I told him. I told his son that and his son just said well, if you say anything well, he said, so . . ."

that conversation is a little ambiguous because he's saying to eBsary but he's also in a portion there he's talking to his son later too.

15.

THE COURT: Isn't he able to say what he said?

MR. EDWARDS: Of course. I can't understand the objection. You talk about wanting your cake and eat it too. All he wants is that he said it was self-defence.

20.

THE COURT: I don't see any difficulty with that. All right. Now there are no more preliminary motions at this stage, are there?

MR. WINTERMANS: No, My Lord.

THE COURT: All right, then we will recall the jury.

25.

JURY RECALLED. (1:45 p.m.)

JURY POLLED. All present.

THE COURT: All right. Call the next witness.

MARY EBSARY called, sworn, testified:

DIRECT EXAMINATION

30.

MR. EDWARDS: You are Mary Ebsary?

A. I am.

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0. MRS. EBSARY, Direct Examination
Q. And you were formerly the wife of Roy Newman Ebsary, the accused?
A. Yes, I was.
5. Q. And in 1971 you and Mr. Ebsary and your son Greg and daughter Donna resided on Argyle Street, Rear Argyle Street in the City of Sydney, is that correct?
A. That's right.
Q. And you had lived there sometime prior to that?
A. Yes.
10. Q. Now I want to direct your attention, Mrs. Ebsary, to the night of the Seale incident?
A. Yes.
Q. May 28th, 1971. Where were you that night?
A. I was at home.
Q. And who was at home with you, Mrs. Ebsary?
A. My daughter Donna.
15. Q. And was your husband home that evening?
A. No.
Q. What time had he gone out?
A. He had gone out possibly around five. I don't remember the time but I think yes, around five o'clock in
20. the afternoon.
Q. How was he dressed when he went out, Mrs. Ebsary?
A. He had on his coat.
Q. Would you describe the coat?
25. A. It was a blue, navy blue or black long Burberry type coat.
Q. I see. And how did he wear it?
A. Usually he wore it just draped over his shoulders.
30. Q. Now what was your husband's physical condition in 1971, Mrs. Ebsary?

493.

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MRS. EBSARY, Direct Examination

A. His condition was very good.

Q. Um-hmm. And as far as his health was concerned . .

5. A. Well, apart from being a chronic complainer his health I don't think was too bad.

Q. Mrs. Ebsary, I'm going to show you a photograph which is marked EXHIBIT 10(a).

A. Yes.

Q. Okay. Do you know who took that photograph, Mrs. Ebsary?

10. A. Yes, I did.

Q. And the person in the photograph is obviously your husband, is that correct?

A. That's right.

Q. Now on the side of the print it has June, '76.

15. A. That '76 is possibly when this picture was reprinted.

Q. To your recollection when was the photograph actually taken? Approximately what year?

A. Possibly '70 or '71.

Q. '70 or '71.

A. Yes.

20. Q. I see. And where was this photograph taken?

A. It was taken on Argyle Street, Rear Argyle Street.

25. Q. On Rear Argyle. And just for the record I'm showing you photograph 10(b) and that's simply an enlargement of 10(a).

A. That's an enlargement of this, yeah.

Q. Yes. Now Mrs. Ebsary, around that time did your husband ever complain about having been mugged?

A. Twice.

30. Q. Yes?

A. He said that coming home through the park, it

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MRS. EBSARY, Direct Examination

would be late at night, that he had been accosted and I advised him to stay away from the park, which of course he didn't do, but - yes, he did mention it to me.

5.

Q. Now on those two occasions do you remember approximately when they were, in relation to this event?

A. It was prior to that.

Q. How much prior? Do you know? A month, years?

10.

A. It could be months.

Q. Okay.

A. I don't know, I don't remember.

Q. No, it's a long way back. We appreciate that.

A. It would probably be months, or a year.

Q. I'm sorry, I didn't follow you.

A. It would be months.

15.

Q. It would be months rather than years, or years rather than months?

A. No, it would be months.

Q. Okay. Now at the time that he complained about having been mugged on these two previous occasions what if any outward sign of injury did you observe?

20.

A. No, there was never any physical sign that he had been attacked or whatever. He had no bruises or anything, just that he said 'I was attacked coming home.'

Q. I see. And that was it.

25.

A. Yes.

Q. Now I want to direct your attention to the night in question, the night of the Seale incident. You say he went out around five. What time did he come home?

A. It was before 12 but I don't know what time. I don't know how much before 12 but it was before 12.

30.

Q. Could you give us an at most? 15 minutes or...

495.

0. MRS. EBSARY, Direct Examination
 A. Quarter to 12.
 Q. Now was he with anyone at the time he came home?
 A. Yes, he had Mr. MacNeil with him.
5. Q. That's James MacNeil?
 A. Yes.
 Q. Now what can you tell us if anything about your husband's habits at the time, as far as bringing guests home at that hour of the night?
 A. It wasn't unusual.
10. Q. And what about Mr. MacNeil, had he been there prior to that night?
 A. Yes, he had.
 Q. On how many occasions?
 A. Oh, probably six or more.
 Q. And other than Mr. MacNeil, were there others?
15. A. There had been others, yes.
 Q. Now when he - your husband and Mr. MacNeil arrived you say around quarter to 12 . .
 A. Well, that's just an approximate time.
 Q. Yes, it was somewhere between 11 and 12.
20. Would you describe Mr. MacNeil's condition? How would you describe his behaviour at the time?
 A. Mr. MacNeil was very excited at the time, very talkative. I wasn't paying too much attention to what he was saying.
 Q. You weren't paying too much attention to what he was saying.
25. A. No, but he was very talkative and he came over to my living room door and he was talking to me at that time.
 Q. And what about your husband, how would you describe his demeanour or outward bearing at the . .
- 30.

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0. MRS. EBSARY, Direct Examination

A. Well, he rushed in through the door in what I would call an agitated manner.

Q. Yes?

A. And rushed into the kitchen area.

5.

Q. Um-hmm. You were in the living room area, I take it.

A. Yes, I was. I didn't follow him or I didn't go in with him.

Q. So you didn't see what he did.

A. No, I didn't.

10.

Q. And your daughter Donna, she was up at this time?

A. Um-hmm. Yes, she was.

Q. I see. Okay. So how long was it before Mr. MacNeil then left?

A. Oh, 20 minutes. From the time he arrived it would've been about 20 minutes, when he left.

15.

Q. Now after that night, Mrs. Ebsary, how long was it to the best of your knowledge before you, your husband or son and daughter for that matter, had contact with the City of Sydney Police?

20.

A. I don't remember, not accurately, it would be some months.

Q. Months later.

A. I don't know how many, or how long.

Q. Okay. Thank you very much, Mrs. Ebsary. My learned friend may have one or two questions for you.

25. CROSS-EXAMINATION

MR. WINTERMANS: Mrs. Ebsary, you testified that your husband and Mr. MacNeil came home together on the night of May 28th sometime before midnight and that Mr. MacNeil said something to you?

A. Yes.

30.

497.

0.

MRS. EBSARY, Cross-Examination

Q. What was it that he said to you?

A. He said 'Roy did a good job on that fellow tonight. He saved my life.'

5.

Q. Thank you. Do you recall what your daughter Donna did after these two came home? You say she was in the living room with you?

A. She was in the living room with me.

Q. Did she leave the living room?

A. Yes, she did.

10.

Q. And could you see from where you were sitting where she went?

A. No, I couldn't.

Q. I see. Thank you very much.

WITNESS WITHDREW.

15.

20.

25.

30.