

402. A. (cont'd) story from her, if she was still sticking to that story or who was telling the truth. One of them wasn't telling the truth, her or Gushue, and that was my purpose of letting her out, knowing she'd discuss this with Gushue and Gushue, whatever Gushue told her I don't know, whatever her mother told her I don't know, but when she came back in that is the statement she gave.
403. Q. What's happening though to your theory of investigation? You've got reference to two other men in the park. You've got Marshall with a wound, which may or may not be self-inflicted, you've got this young lady who says that there was another man in the park with grey hair. I'm wondering why that gets discounted so quickly.
- A. Because there was two eyewitnesses to the murder. I notice you're not playing on that at all. When I get two eyewitnesses to a murder, and there's nothing to tell me otherwise, I have to believe that what they're saying, and the Crown believes it and they go ahead with it, you know. When you've got eyewitnesses, this wasn't an - I wasn't working on an eyewitness to the murder, I was working on this, as far as she was concerned, as to where they met Marshall on Crescent Stree that night, who was with him, getting this match or cigarette, whatever it was, and how many people were there, and the location. And those were the points that were very, that I was very concerned with in this

403. A. (cont'd) investigation as far as they were concerned. I think that she also says in her statement somewhere that we also put the leather to the boyfriend, Gushue, but Gushue's Affidavit says his statement was free and voluntary, and she says that her boyfriend, Gushue, deserved the, got the same treatment as she got. Did you see that there? You didn't notice that, did you Mr. Murrant?
404. Q. I didn't notice that.
- A. Well I think you'll find that. I am sure - let me see - Patricia Harriss, on page, what's that, 22, right here. Look at the bottom here, right here. At the bottom sir, the - "I'm sure that I saw Junior Marshall in the area of the green apartment building on Crescent Street. There were other men on Crescent Street in this area, two or three. I did not say this in Court but I did say this at the police station. I felt that I was obligated to stick with the statement the police were happy with. Terry Gushue was also browbeaten at this time when they took the statement from him".
405. Q. M-hm.
- A. So you know, I think she's a little far-fetched in her accusations.
406. Q. Well let's look at her evidence here in the Court of Appeal. I have the transcript at page 142 about line 12, it's her answer. "Through the long hours of being at the police station my statement was changed and I was scared and I

406. Q. (cont'd) didn't want to mention it. Question: Mention?

Answer: The two gentlemen I had seen. Question: Why were you afraid? There were long hours of going over it and the

word perjury was brought up a lot and they didn't seem to believe that I had seen those two characters. Question: Now when you're saying the word perjury was brought up, who

brought up that particular word? Answer: The detectives.

Do you recall who those detectives were? Answer: I recall

Sergeant Urquhart, the other I don't. Question: You've also indicated fear. Can you account for your feeling of fear?

Answer: I was young, I didn't understand. It was a long time of going over and over what had happened that night".

And she's saying that there was references to perjury when she was at the police station.

A. Well I don't recall any of that sir.

407. Q. Well could it be that Sergeant Urquhart may have -

A. No, I wouldn't say, I wouldn't say he did. I don't recall that.

408. Q. This is evidence that was given in Court in Halifax long prior to the broadcast. Surely it would have been referred to in the media and surely it would have come to your attention?

MR. PUGSLEY: Well, just - I'm sorry. There's two questions there. I certainly have no objection to whether or not it came to his attention. Whether or not it was referred to in the media.

MR. MURRANT: Okay.

408. Q. (cont'd) Let me ask whether it was? I mean wouldn't - didn't this come to your attention?

A. I don't recall it. I don't recall it.

409. Q. Did anybody, not the media, did anybody else mention to you what was being said in Court about this investigation?

A. No, I got a copy of the - you mean the report - the police investigation you're talking about our the Appeals Court Hearing, which one are you talking about?

410. Q. She's talking in the Appeal Court -

A. Yeah, in the Appeal Court.

411. Q. about the investigation that you headed in 1971?

A. Yeah.

412. Q. And she's saying that she was afraid, she was young, the word perjury was brought up a lot and they didn't seem to believe what I had seen, that I'd seen those two fellows, and she's saying some very nasty things about yourself and the Sydney Police, and I'm wondering if that came to your attention?

A. I did see the evidence of the Appeal Court, yeah, and I did see what the Appeal Court Judges said, they didn't pass very much on some of that stuff, they did pass some. They did pass their opinion on some of the witnesses. I also seen in that Appeal Court case there on questioning Marshall that he visited the Harriss girl before the trial, before the Appeal Court trial in Halifax. Did you see that part?

413. Q. Oh I noticed that, yes.

A. And they went to a house and there was no cross-examination on it. He just said hello and she said hello, but he went to a certain house and met her there before evidence was given.

414. Q. Part of what is in the script, and we haven't finished with it, but part or much of what's in the script are things that were public knowledge, that were brought out in a Public Court. Whether they were right or wrong they were said about you by people like Patricia Harriss were they not?

MR. PUGSLEY: Well could you be more specific in your question.

When you say the script, the script is many pages long and -

Q. (Cont'd) Well let's just take Patricia Harriss. You know, what she says at page 2 and 3 of the script about harping, going over it and telling what I should have seen, their actions were not proper. These's weren't news, I'm suggesting, in November of 1983, on broadcast.

MR. PUGSLEY: Well, I don't mean to interrupt, Mr. Murrant, but when you say they weren't news, the transcript was on file in the Prothonotary's office in the Supreme Court in Halifax, we agree with that, containing this Appeal Court evidence.

Q. (Cont'd) But I'm wondering from the Chief, I mean, whether or not these things came to his attention through discussion with friends, members of the force, politicians in Sydney, whether they were in the Cape Breton Post and -

A. Oh, there were several writeups in the Post in regard to this case, on radio and television and what have you.

415. Q. But would they not refer to similar things that are in the CBC script?

A. No, they didn't refer to it. They didn't refer to John MacIntyre in any of that stuff, and about - I don't recall hearing nothing about some of the things that are heard on that script on Sunday. Some of it was the most blatant that I had ever heard on this case.

416. Q. No, but let's, correct me if I'm wrong on this, this is a more elaborate question, but if the Cape Breton Post were covering this case, and I assume it was, I mean that's a daily newspaper that circulates throughout Cape Breton County, but naturally wouldn't that paper have something in there referring to the police conduct? Didn't they report on that? Didn't you get that in your daily paper at home?

A. It was in quite often where witnesses changed their stories but - at this time, to what they gave back in '71, and -

417. Q. Was it in there as to why they say they changed their stories?

A. I don't recall just how that was - there could have been - that could have been in there too but I just don't recall. There was so much. In every paper you picked up there was something in it, different people's views on what took place.

418. Q. Well I'm trying to think of what would have the most impact on you as an individual.

418. A. What I heard that Sunday morning, that's what had the impact on me, and that's the morning that I decided that I was going to do something about it, 'cause my name was mentioned that morning and I was head of that investigation, I took most of the statements and I was responsible for the investigation and I thought that - I took it quite serious.
419. Q. We appreciate that, but what I'm trying to do is get an understanding here and we're not following each other on this, but living in Sydney all your life as a police chief -
- A. Yes.
420. Q. if something were said, months prior to the CBC broadcast, about police conduct and the investigation, I mean all your friends and neighbours knew that you did this case in 1971, I mean wouldn't that have a greater impact on you as an individual than some broadcast several months later?
- A. No, no the broadcast several months later had the impact on me with my friends and neighbours, as you say, knowing that I handled this case in '71, and what Parker Barss Dunham had to say about my handling of that case, and in the community I had a very good reputation, in the Courts and with different people that I worked with, and police departments and what have you. That's what had - it had a big impact on that what was said that Sunday morning, and with me.
421. Q. Okay, let's pretend this broadcast never happened.
- A. Yeah.

422. Q. But there were other reports, there were other broadcasts, there was other coverage of court proceedings, some of which was not complimentary to you, and they must have had some impact?

A. Can you address any of them?

423. Q. I can go and dig out - I haven't dug out archives for everything that's been written about the Marshall case. I have some difficulty, you know, if someone were in Sydney -

A. I mean I know what you know, that the case differed at this time than it did in '71, and you must remember that - you must also remember that in '71 when Marshall was convicted I had eyewitnesses to the murder at that time and what I done when the Ebsary case came before me. It was handed over to another police department to handle.

424. Q. I appreciate that, but I'm trying to figure out -

A. I also - it was also said the three main witnesses all changed their stories, and I believe the word was used, pressured by the police, you know, along them lines, but they weren't naming me in it, you know. They didn't tie it up that way, and they didn't say the things - they didn't, that I can remember what was said on the radio that Sunday.

425. Q. What I'm trying to ask you, Mr. MacIntyre, is if you pretend this broadcast never happened, okay, we're not up to November of '83 yet, this hasn't been broadcast. You're still the chief of a police department and there is still reporting

425. Q. (cont'd) coming to your attention, I assume, to the effect that there was police pressure and changes of stories, and surely that had to have some impact on you did it not?
- A. Oh yes, it did have some, it did have some. I watched that case. I even wanted to go to Halifax to follow it, but I was told - then I was told that I was going to be called and I was never called.
426. Q. Mr. MacIntyre, at the recess we were about to turn to John Pratico, as well, as a witness in this matter. I understand that this witness, Pratico, again was an individual who gave two statemens?
- A. That's right.
427. Q. Perhaps if I can begin prior to his questioning. Was he known to the police prior to this incident?
- A. Yes, I would think, yes.
428. Q. In what sense?
- A. Well I don't know if he ever gave any - I don't think he ever gave any trouble to the police, but he was around a lot.
429. Q. Perhaps you misunderstood me. Naturally if he's around the City he'd be -
- A. Yeah, but I mean, you know - no, I can't recall of any -
430. Q. I mean known to the police -
- A. Yeah -
431. Q. in a pejorative sense.
- A. Yeah.

432. Q. Someone that the police would keep an eye on?
- A. No, no, I wouldn't say.
433. Q. Was he known to you in any sense? Would you have recognized him on the street?
- A. Could be, I'm not sure. I don't recall any dealings I had with him, put it that way.
434. Q. What about his family, did you know his family at all?
- A. I knew his - I knew of them, eh. His mother was a Hawco from Whitney Pier and I knew the Hawco family. The father worked at the steel plant and there was a couple of daughters there, or at least, and a son.
435. Q. Do you know Pratico Senior, the father of John?
- A. His father, yeah, he seemed to be a very quiet man.
436. Q. Can you tell me what his occupation is?
- A. Oh wait. Pardon me now, wait -
437. Q. I don't mean the Hawco father I mean Pratico.
- A. No Pratico, no, I don't know anything about Pratico Senior, no, no.
438. Q. In the community the size of Sydney, as a police officer, would you get to know generally most of the people in the community or what they're about?
- A. You'd have a fairly good knowledge, not of everybody, and usually people that you have dealings with. There's some people you don't ever have dealings with so you never come in contact with them, but you might know them through somebody

438. A. (cont'd) else or somebody else in the department would know them if you had any business with them.
439. Q. I always find everybody in Cape Breton knows everybody?
A. Well that's what they claim. They claim they're all related.
440. Q. Well let's deal with Pratico. He gave his statement apparently on the 30th of May, 1971. You may have a copy there.
A. Yes, I have the copy here, May the 30th, '71, yes.
441. Q. And signed John Pratico, May 30th, 6 p.m., Sergeant of Detectives J.F. MacIntyre?
A. That's right.
442. Q. And Pratico there, his stated age is 16 years?
A. M-hm.
443. Q. And he says, in part, "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."
A. Yeah.
444. Q. "I said no."
A. M-hm.
445. Q. Go ahead, you had a -
A. Well what he's saying there is I seen Junior Marshall and Sandy between the store and the dance hall. Well there's a store just as you come up by the park on George and Saint Joseph's Hall's on George, and they'd only be several hundred feet apart.

446. Q. So it'd between the dance hall -
A. And the store.
447. Q. It would be dance hall, store and then park?
A. And then park, yes, and Argyle Street cuts down just before you get to the store. It's on the intersection.
448. Q. And then he says, "I was over by the Courthouse when I heard a scream," and that puts him on the other side of the park.
A. On the other side of the track over - yes.
449. Q. "I looked, I seen two fellows running from the direction of the screaming."
A. Yes.
450. Q. "They jumped into a white Volkswagen, blue license, white numbers on it. One had a brown corduroy jacket, 5 foot 5, dark complexion, heavy set. The other, a grey suit, about 6 feet tall, husky, red sweater like a pullover. I started to run home." "Did you see the Volkswagen since?" "No, I saw the two fellows twice last night walking near the park." "Did you see them at the dance?" "Yes, I seen them walking around. Bobby Robert Patterson said they are from Toronto Saint's Choice Bike Gang." Now that's a bit sketchy to me. He's mentioning two fellows in a white Volkswagen.
A. Yes.
451. Q. Do you recall any consistency between the description that Pratico gave or Marshall or Harriss about these two individuals? Did that seem to come together at any point in time?

451. A. No, that seemed to be all different - different-

452. Q. All different people you mean.

A. That's right.

453. Q. And different descriptions.

A. Yeah, and different things they were wearing. I think, in the meantime, you know, Marshall - didn't Marshall, I think somewhere - Marshall was at Pratico's house on Saturday.

454. Q. Is that prior to this statement being taken?

A. Well May the 30th this statement was taken and the thing happened Friday night, yeah.

455. Q. And you knew they had spoken to each other?

A. Well it's in the testimony somewhere.

456. Q. Now the Volkswagen, did that mean anything? Was there anybody looking for a Volkswagen?

A. There was no evidence of a Volkswagen come up anywhere in the story. The police were all, you know, checking around and looking but, as you know, you had to take the statement that he give you and see what he had to say. That's why I called him back later for another one.

457. Q. But, you know, if you believed Marshall that there were two other people, and you believed Pratico's first statement about the Volkswagen, then naturally the course of the investigation would be to try to find that car and those persons would it not?

A. I think there was quite a bit difference, wasn't there,

457. A. (cont'd) between Marshall's statement - have you got Marshall's statement?
458. Q. Not right at my fingertips, but -
- A. No, but I mean if you get it take a look at the description of the men and the description he's given here. I don't think Marshall said anything about a Volkswagen either in my recollection.
459. Q. Was there any search that night by the police department?
- A. By the patrols, yes, there were.
460. Q. What were they searching for that night?
- A. Well I suppose they were trying to find out as best they could who was in the area, what was moving and who was on foot and what have you. As I said, I wasn't out that night so - there was another detective on duty.
461. Q. Was there any search for the two men that were mentioned or the car that was mentioned in the days that -
- A. Naturally they would have that report sir, but I wasn't out that night so I'm not going to -
462. Q. No, I'm thinking of that night and the following days. I'm wondering if there was a period of time in the investigation in which the perpetrator seemed to be these two men, that there may have been a search in Sydney for these two men, or looking around at the restaurants and places to see if there were two such strange men in the community?
- A. Well I'd have to have the police reports for you and I

462. A. (cont'd) haven't got those, the RCMP took them all. There were reports made out on what they done and what have you.
463. Q. Now Bobby Robert Patterson, is he a material person in this?
- A. There is a fellow by that name, but we couldn't come up with him, and I notice that the RCMP couldn't come up with him either. That's all we ever see is his name and, you know -
464. Q. Now the next item I've got here is the June 4 statement of John Pratico.
- A. Yeah.
465. Q. And he said, at the base of the first page, "I did not hear, I just seen Donald Marshall's hands going towards the left-hand side of Seale's stomach. He drove his hand in and turned it and pulled it back, and he said he saw Sandy fall to the ground." Then Pratico was saying that he witnessed this.
- A. That's right.
466. Q. So suddenly he becomes an eyewitness. He's a very important person in this?
- A. Well he gives a different statement, I'll put it that way, and then when you have others placing - here he places those two men on the sidewalk at the Green apartments. Chant places them there, Harriss and Gushue places them there.
467. Q. Two men meaning Marshall and Seale?
- A. Well I think - I don't think Gushue was sure who the other fellow was that was with Marshall was he? He said Marshall and another man.

468. Q. Right.

A. But that's all that was there. Then you have the Harriss girl saying there was three people there, you see? Then you have Pratico saying there was only two there, and where they were standing, which is very important, there was a driveway between the Green apartments and that grey haired man they're talking about in the grey house where the police - where the ambulance or police were called. They all point out that driveway there as to where they were standing. Now what I say is if they weren't there how could they have picked this location, you know, at that time.

469. Q. Okay, I'm with you on that. Incidentally, was Marshall ever polygraphed?

A. This I don't know. I did hear, and I didn't - I don't know - I did get it from somebody that one of the defense lawyers could have been approached on that and that he refused him. Now, you know, I have no direct evidence on that.

470. Q. Were you directly involved in that?

A. No, I had nothing to do with that.

471. Q. Okay, no, no, I thought you may have taken that step in the investigation?

A. What, about the polygraph?

472. Q. Yeah.

A. No, no. No, no, we didn't have a polygraph, you see, in - this was in the Ebsary case which I gave the Mounted Police. There's no polygraph here at all.

473. Q. And Pratico, when he changes his story between the two statements, what moves Pratico to change his story, his account?
- A. Well I would say himself because I wasn't there. I couldn't tell him what he seen. As you notice my statement was in to questioning and answering, okay?
474. Q. Right.
- A. And I think if you check most of my statements you'll find that's the way they're taken. That's the way I like taking statements, ask a question, get an answer and mark it down.
475. Q. Exactly. With Pratico, again would you say that this was the totality of your conversation with him?
- A. On this - what's written here.
476. Q. At the time the statement of June 4, '71 was taken?
- A. I wouldn't say that's the totality of it. I would say there must have been some opening remarks by myself that I wasn't satisfied with the story I got, and I just didn't take him in and probably start writing that - and let him think it over and then he started to talk and I started to write. As you notice here he says this and then I started here with the questions and answers.
477. Q. The words that are there, I'm trying to find an example. He said "I did not hear, I just seen Donald Marshall's hand going towards the - I just seen Donald Marshall's hand." That sounds like his language, not yours?
- A. Yeah, it is, it is, yeah.

478. Q. So we see grammatical mistakes and stuff there. That's Pratico talking.

A. Oh yeah, well he's not - he's not highly educated. He's a nervous type chap, and I think if you look over some of the evidence you'll have Marshall visiting him on Saturday morning before this was taken, and there was two or three of the Indian population at different times threatening him if he gave evidence what they were going to do with him. I think there was a chap - one chap was charged with interfering with the cause of justice. His name was Christmas. I think he was defended by Mr. Frank Elmon, lawyer, and he was, if I recall right, I remember his mother making out a complaint when she was in the store on George Street, one morning in the grocery store and two or three of them were in there and they came after him while she was there with him, and he was quite concerned that he was going to be shellaced over this, and then you got him coming and telling this story you see, and you have Marshall going to his house, somewhere in one of those statements, on a Saturday morning.

479. Q. The individual here, is it Kevin Christmas or another member of the family?

A. No, I believe it was Tom. I believe it was Tom. It was a Christmas anyway. Kevin would know.

480. Q. Did Pratico make this complaint to the police that he was being harassed?

A. What -

481. Q. I'm just wondering how this charge was laid, how it came up that some members of the Indian band were -

A. Well I'll tell you what, I met Frank Elmon on the street or somewhere not so very long ago and he said - he mentioned something about the case and he said I remember that case well. Johnny, said I remember he said defending a Christmas fellow, he said, that was charged that time he said, you know. It brought it back to me, you know, the charge was -

482. Q. I was wondering how the charge came up.

A. Well I guess he was threatening Pratico - my understanding is that he was threatening Pratico if he gave evidence they'd get him, against Marshall, and his mother was with him on another date when one or two other Indians in a store on George Street - she was present when they went after her son, her son was with her, and she was worrying.

483. Q. Is there anything said to Pratico along the lines of the allegations made by Chant or Harriss' references to perjury or what the police wanted to hear with consequence for him if he didn't follow a certain story?

A. No, I don't - we don't use - I never use that - what we wanted to hear. As I said before, I don't look for a statement of that type. What I want to hear, I want to hear what they know, and I want to get the truth if I can, and being a good investigator I think it'd be - you'd have to be on the button to - try to be on the button anyway to not let those fellows put over anything at all on you and you have to

483. A. (Cont'd) check those things out, and if they're not proper, or you can't see where they're proper, then you have to return and see what else you might pick up. It's part of our job.
484. Q. Looking at Pratico's statement that he gave to the RCMP in '82, and parts of it are underlined, he says here in the middle of the page, "I talked to MacIntyre alone at first. MacDonald came in a few minutes later and 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 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. Yeah.
485. Q. "MacDonald wasn't saying anything. I was scared. He said he knew what happened, for me to tell him. They told me about Marshall and Seale, that Marshall stabbed Seale. He put words in my mouth, so I just agreed with what they were saying. I told them I saw Marshall stab Seale from the bushes where I was drinking. They took a statement from me and I signed it." What do you say to that allegation?
- A. No, I didn't tell him what to say at any time.
486. Q. I'm just going over Pratico's Affidavit here. I think paragraph 9 is the allegation and it's on page 2, "When I stated that I had witnessed the murder of Sandy Seale as referred to in Exhibit C herein, as a result of the said

486. Q. (Cont'd) 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, for the fear, with them."

A. No, that's not properly presented as far as I'm concerned.

487. Q. And again this is an allegation that Pratico has sworn out in Affidavit form and filed with the Court of Appeal.

A. Further to - and this is in the Affidavit, "Further to the statement in 1982," and one of the police officers told me that I guess there was a statement taken during the day by the RCMP and then one of the reporters, I think it was CJCJB interviewed him that same afternoon and he made a statement to them that the statement he told the police in '71 was true and the one that he gave in '82 was false, so you know -

488. Q. Was it known in '71, the time of the first or second statement, that Pratico had mental problems?

A. He was a nervous type chap, I was asked that by Wheaton, but I wouldn't know what treatment he was taking anymore - as I told Wheaton at the time people take treatment for different things and the medical report is usually between patient and doctor, and I know we've tried to get information at times and we've been stopped on it. So, you know, I - and he was there for the Crown Prosecutor to look at and the Court and

488. A. (Cont'd) there was smart defense lawyers and he told the same story in Court that he told me. So that's all I can tell you at this time.

489. Q. Was he the type that would be intimidated by police questioning at 16 years of age, being, as you say, nervous, a nervous type?

A. He was a nervous person but, as I just told you, Marshall had visited him on Saturday morning and then he had other Indian chaps, friends of Marshall's, threatening him that if he gave evidence against him what they were going to do to him. So I think - then you're taking a stand after that and he still gave evidence against Marshall. So you figure it out.

490. Q. It was Pratico, wasn't it, during the trial who said he changee his mind? Do you recall that incident where he approached -

A. Yeah, after having a conversation with Donald Marshall Senior out in the hall in the Courtroom - pardon me, in the lobby.

491. Q. Then there was a discussion among several people?

A. And it was brought - you know, to his defense lawyer I understand, and then it was brought to the attention of the Crown Prosecutor, and then I think he went back into Court and told the same story that he told me. So what do you do?

492. Q. I understand that Pratico was treated at the Nova Scotia Hospital between the preliminary and the trial.

A. Yeah, could have been.

493. Q. And also that he was driven there in a vehicle that belonged to the Sydney Police Department?

A. Could have, that was a common occurrence at that time. I know that the police would get so much money, it was somewhere around forty dollars, to take a patient to Halifax and some weeks there'd be three or four or five go.

494. Q. You mean mental patients?

A. Well patients for - yeah, they wouldn't - they wouldn't be - yeah, mental patients, sure.

495. Q. Not other hospital patients?

A. No, they wouldn't be taking them, no, if they were that serious they'd be taken by ambulance.

496. Q. But what kind of patients would be taken -

A. To the Nova Scotia Hospital?

497. Q. Yeah.

A. For different reasons by papers made out by different doctors. Sometimes they'd be admitted by themselves. I think it was a big fee of forty or fifty dollars for them. They'd pay a policeman to drive somebody like that up.

498. Q. Was that to protect the public to have this person escorted to the hospital?

A. No, it's supposed to - I suppose that would be to see that he got there, for whatever reason I don't know.

499. Q. To ensure that he got there.

A. I imagine, I don't know. I would say so.

500. Q. But are you directly aware of his transportation and treatment?

A. Am I directly aware?

501. Q. Yeah.

A. No, I wouldn't have anything to do with that. I don't recall it. I was asked that question already.

502. Q. Now if I can go back to the script. This guy Pratico, he wasn't called at the Prehearing was he?

A. No.

503. Q. When was the last time you saw him?

A. When was his Affidavit taken? His Affidavit was taken on the 15th day of July, and what time was his statement taken - the date of the statement?

MR. PUGSLEY: His statement, I think, was the 25th of February.

MR. MacINTYRE: Of February?

MR. PUGSLEY: 1982.

A. (Cont'd) Right.

504. Q. Would you describe him as an unreliable witness then?

A. He was a nervous type and the way I looked at that when he - what he said in his second statement was corroborated by somebody else. You have to take notice of it, of what he said he'd seen and then what the story that Chant gave, and neither one of them are buddies, didn't know one another, were several hundred feet apart and lived 31 miles apart, and within a 10 - from quarter to 12 to 12 o'clock they have

504. A. (Cont'd) those two on Crescent Street, in the one spot, standing, and then the Harriss girl and Gushue, they come along at that time and they verify that, you know.
505. Q. But by himself he's not reliable I take it?
- A. Well that's the story I got from him, sir, and he went through the Courts with that. He went before a Preliminary Hearing, he went before a Grand Jury, he went before a judge and jury, two able defense counsel, which I think very highly of. Mr. Rosenbloom and Mr. Khattar had the chance of - privilege of cross-questioning there, and the judge and everybody else. He was there at their disposal, sir, and (inaudible) the evidence. So I -
506. Q. But you saw Mr. Pratico testify at the trial?
- A. I seen him testifying, yeah.
507. Q. And there was no reference there to the first statement he gave. Mr. Rosenbloom or Mr. Khattar didn't have that to put to him did they?
- A. No, no. I think, nor neither was I called, 'cause he told the same story as he gave me in the statement. So, you know, to keep that together and tell the same story in court, like a few months later, that he told me, his thinking ability can't be too bad.
508. Q. But in your experience in police work and in Court, I mean you expect the first thing to happen after Pratico's direct examination would be for defense counsel to get up with a

508. Q. (Cont'd) copy of his previous inconsistent statement, would you not, and say well, Mr. Pratico, this is your other version. That's the first thing you'd expect to happen at that case as you watched it, but it didn't happen.

A. No, there's was no - not that I recall.

509. Q. Did that surprise or concern you personally?

A. Well I -

510. Q. I realize it's for the Crown to give or not to give that.

A. That's right.

511. Q. But as a human being did that surprise or concern you?

A. Well it probably did, and I don't know what the reasons would be for not digging it out, I don't know. I think with Chant there - reading the evidence there, I think Mr. Rosenbloom at one point asked him at what day did he lie to the police and then where was the other one taken so, you know, wasn't that a perfect setup that he knew that Chant had talked with the police twice and probably gave them the two statements, right? He wanted to know which day he lied. Was it on Sunday or was it the following Wednesday in Louisbourg.

512. Q. Exactly. Now I was trying to get through this script and we stopped concerning those three people, and down to the part where it says "Heather Matheson: the third key witness was John Pratico. In 1971 he first told the Sydney Police that he hadn't seen the murder and then five days later he said he had seen Marshall stab Sandy Seale".

MR. PUGSLEY: Sorry, where are you Bob?

MR. MURRANT: Heather Matheson, it's page 3.

512. A. That's John Pratico, yeah, '71, yeah.

513. Q. Then it says "RCMP investigators discovered that Pratico had been under psychiatric care and, according to his doctor, was not a reliable witness." Now if that were determined by the RCMP in their reinvestigation 11 years later why was that not determined by the Sydney Police in their initial investigation?

A. Well I think, in answer to that, I think the mother told them that she'd prefer if they seen the doctor didn't she?

514. Q. Told the Mounties?

A. Yeah.

515. Q. Right.

A. Yeah.

516. Q. But I'm wondering why, you know -

A. The mother never suggested that to me.

517. Q. Okay, but I'm wondering if this information was known to the Sydney Police in 1971?

A. If it was known?

518. Q. Yeah.

A. I don't think we went into that. As I told you, I knew he had a nervous condition but the story he gave was backed up by others. There was nothing wrong with his eyes and nothing wrong with his story. He went through it three times after

518. A. (Cont'd) that over a period of months, and I think if the doctor had anything to say, he knew where we were at and could have contacted us.
519. Q. Let's just continue on. It says, "Ten days after Marshall was sent to prison, James MacNeil, the fourth man in the park the night in the murder, walked into the Sydney Police station," and I think you and I have discussed that.
- A. Yeah, that's right.
520. Q. "He told officers that Roy Ebsary had actually stabbed Sandy Seale. The Sydney Police called in the RCMP," and again those are things we've covered. They administered a lie detector test to both MacNeil and Ebsary", and I take it the "they" there is the RCMP?
- A. Yes.
521. Q. MacNeil's was inconclusive but Ebsary passed his, and I take it that that's your understanding of the results of those polygraph tests?
- A. I don't know what just - how far their investigation went at that time. I wasn't around. I didn't get involved in that at all, but the Crown knew what I had and what I done.
522. Q. Then it said, "So the Sydney Police closed the door on the affair." After the RCMP administered those tests it would still be within your jurisdiction, the case?
- A. If there was a case.
523. Q. If there was one.

523. A. Yeah.

524. Q. And it appearing there wasn't, and the Crown had the information, there was nothing further to do at that stage.

A. That's right.

525. Q. I guess you would have closed your file on the case for the time being, but closing the door would be a bit strong?

A. Well it wasn't me that closed the file, it was the RCMP that closed the file, and I must add something here that didn't come out. A couple of years, I can't just tell you the month, I think a couple of years later there was another RCMP man come in to see me, I think his name was Sergeant Coles, and he had a complaint from Ottawa or something that, you know how they write in to Ottawa, and he had a complaint regarding the Marshall case and I passed him over the files and he spent the most of the afternoon. I provided him with an office and all the stuff that I had there, and I don't know, he'd have to make a report back to Ottawa on that, and that's fine he said, he passed me everything back, he was happy with what he saw, and I told him about the RCMP being in on it and they checked with them to see what they had and I never seen any report or anything and he left my office, then I put the file away.

526. Q. Let's go down to Michael Harris' interview here. He says, "The fact that you get an inconclusive reading" -

A. Yeah.

527. Q. "when a person is coming to you with an eyewitness account of a murder, is not really grounds anywhere that I've heard of for closing a book on a case, and yet not a single interview by the RCMP with the original witnesses at the trial was ever conducted."

A. Sir I wouldn't know that, and I don't think he'd -

528. Q. Well he's not talking about you or your department here.

A. I know that.

529. Q. I think he's talking about the RCMP.

A. But he's still talking about the - he's still talking about this machine. It's used by many police departments. I don't know of how much knowledge he would have on a machine of that type, and I don't know who else they might have interviewed.

530. Q. And then it says, "He had not a single interview by the RCMP with the original witnesses that the trial was ever conducted," and of course you wouldn't know what they did or didn't do that was -

A. No, they were taking orders between them and the Crown.

531. Q. You would agree with me, as a matter of investigation, had they gone back to Harriss, Chant and Pratico at that stage and had they changed their stories again like they did at that stage, it would have made the polygraph quite inconsequential?

A. Yeah, if they had of give the stories that they're giving now.

532. Q. Right.

A. Had they given the stories they're giving now, but it seems that - according to the information we got now is that Chant told his mother three years ago about this, eh?

533. Q. M-hm.

A. His mother didn't do much about it and knew that Marshall was up there and didn't turn it over to - to us anyway. Whether she did to somebody else I don't know.

534. Q. I realize that you were not conducting this investigation that Michael Harris is talking about?

A. No.

535. Q. But if you had, you know, if you went and you said okay, I don't know what to do about this guy with this new story, we'll take polygraph tests. One seems okay, one seems inconclusive. Would it not be a standard police practice to perhaps question a few other witnesses, to go back to your Patricia Harriss or Maynard Chant and say now look, let's just take me through this again, wouldn't that - to corroborate that?

A. I never - you know -

536. Q. I guess what I'm asking you is did they do enough and that's all they did?

A. Sir, I wouldn't want to comment on that. You'd have to, that's up to them - you know, you'd have to ask them, I don't know.

537. Q. Oh no, but I want to get your opinion as an experienced police officer.

A. I imagine the Crown would be checking on what they done and if they wanted anything else done at the time I imagine they would have it done, or ask them to do it, in my opinion.

538. Q. What would you have done if it was your choice, given your experience. I'm just looking for your opinion on the situation?

A. I don't know, we never had a polygraph machine. I know it's been used frequently with the RCMP and other police departments. We never had one, and I don't know. I understand it can't be used in court. It's a device that's used to try and fathom different people out but we never had one and I wouldn't want to have - you know, I'm not qualified to speak on those things.

539. Q. Would you have followed up on it?

A. I would have went as far as I could on it, put it that way. I think I went pretty far the night that MacNeil come into the office, seeing that the Crown had that information the same night with all those statements that I took. I stayed out that night and worked all day, and I stayed out that evening quite late, got in touch with the Crown and turned over all that stuff and showed them what I had and they got in touch with Halifax and I think, you know, I went as far as I could at that time and I wanted somebody else to do it.

540. Q. But in your own experience as a police officer if you'd gone as far as the RCMP - say you had two polygraph tests, and you're really not sure of what that instrument is doing or not doing, and they said to you, Mr. MacIntyre, look, you've been investigating for years, what do you think we should do next? What would you have recommended? To stop there and say that's good enough or to -
- A. I'd have to weigh that with whatever else I had at the time, and I would have weighed also the type of person that they couldn't get a reading on. He was of very low mentality and the players in this case, there's a lot of them that - when you read the transcript there and you see just -
541. Q. How he speaks?
- A. Yeah, but the fellow did have something on his mind. At what point there and why he took so long to get it to somebody I don't know. I think it speaks for itself.
542. Q. Yeah. These two polygraph tests represent a full course of their reinvestigation, and you have to wonder what might have happened if, armed with James MacNeil apparently describing the same man Donald Marshall was describing in his evidence in Court, what would have happened if those RCMP guys had gone to the original witnesses and said, you know, did you lie, do you stick by your story. Is that a fair comment on what the RCMP did there by Harris?
- A. I wouldn't know sir. I don't know what they done.

543. Q. Well let's assume that they did the polygraph test.
- A. No, but I mean I can't pass judgement on another police department without knowing what was the full extent of their investigation. This is what Harris is saying, you know.
544. Q. Okay, but I mean let's assume that it's correct, that that's what they did, they took two polygraph tests. One was inconclusive, the other was positively against it.
- A. Yeah.
545. Q. And Harris here is being critical of the RCMP by saying -
- MR. PUGSLEY: Sorry, positively against what Bob?
- MR. MURRANT: Against Ebsary being the killer.
- A. Yes.
546. Q. And Harris is saying here, look, they should have done more. You have to wonder if they went out in the field and interviewed these people again what would have happened. I guess what I'm asking you, is Harris taking an unfair shot at the RCMP by his criticism? Is he being overly critical or fairly critical?
- A. Well again, you know, without knowing what else they looked into, what conversations they had with the Crown and what have you, it'd be unfair for me to pass judgement on them. They would have to answer for themselves. They were both men that were in the field and this Sergeant Marshall was an investigator and been in the force for years and so was the other chap.

547. Q. The last part there, they say 12 years later they completely welcomed the RCMP asking them that question and immediately volunteered that they, in fact, had lied and had felt very uncomfortable with it for years and no one went back to ask them. Well that's a matter of record now, unless you have some complaint about what was said there -

A. That's right.

548. Q. I won't go into it. Heather Matheson, "The Indian community has been following the case carefully. Donald Marshall was the son of their Grand Chief at Membertou Reserve. He was known as Junior. Kevin Christmas is a friend". Did you know Kevin Christmas from Sydney?

A. I don't know them apart, you know, there are several Christmases on the reservation there.

549. Q. And Christmas' comment here, "You know, you hear in this court system, you know, to be judged by your peers. I mean there were all kinds of Indians that were with him that night. There were all kinds of Indians who were with him after that night. I was with him after it happened that night. We knew deep down inside, in fact, we didn't even have to question Junior. We didn't have to say hey did you do it 'cause we knew he wasn't capable of doing it. Even if he wanted to he wasn't capable of doing it and we knew that the City had somehow turned that damn situation around." Now Christmas is giving a commentary there, the feeling in the Indian community, and I don't know if it's accurate or not,

549. Q. (cont'd) but their feeling as a community that they wouldn't get a fair shake in Sydney.

A. I wouldn't agree with that sir. I wouldn't agree with that.

550. Q. Let's assume that it is wrong, that they'd get the same treatment as anybody. Did they feel that way, rightly or wrongly?

A. It was never put across to me that way.

551. Q. "We had to hope that he would get off, but we all sort of looked at each other and knew that he was being set up and we knew that he was going to be gone, you know, and whenever we sat down when the trial was on, the original trial was on, I remember sitting down with Junior and saying boy, I said you know, it doesn't look good I said. I think they're going to get us again and he said, you know, Jesus, I hope not and it happened, and we just went, we withdrew back into our Reserve again and said they did it, they did it again," and Christmas is saying there that well, he was being set up, Marshall was being set up. Do you have any complaint on that part of the script or comment on that?

A. No, I don't think Marshall was set up. This Christmas, I don't know where he came into it at on that particular night. This fellow was down the north end of the city, Marshall first, and he was in a car down there, I think, having one or two drinks with some others, Tobins and some other names that we got out there. Then he disappeared for those people down on Dorchester Street and he lands up at the dance hall. Then

551. A. (cont'd) he's hooked up with young Seale and he's down in the park and others see him and this thing occurs, and I don't know when Christmas is with him.
552. Q. Was it ever a consideration as to whether or not Marshall was capable of murdering someone?
- A. Capable?
553. Q. Yeah.
- A. Of stabbing somebody?
554. Q. Yeah.
- A. I suppose that it wouldn't alarm me if he stabbed somebody.
555. Q. Because of your previous knowledge of him?
- A. That's right.
556. Q. And what about the motive for this crime? Did there ever appear to be a motive why Marshall would stab Seale?
- A. Well, of course, at the time it looked like they were in an argument on Crescent Street and Marshall was supposed to be doing - the fellow who was doing the loud talking if you recall.
557. Q. M-hm.
- A. From the other witnesses there.
558. Q. So I don't forget, I must ask you about the murder weapon. There must have been a search for a murder weapon?
- A. There was and we drained the creeks and had the engineering department drain them for us and had to drain them out of the reservoir, and we came out early in the morning, I think, some of us, Sunday 4:30 or 5 o'clock to get ready for our

558. A. (cont'd) search of the weapon 'cause, as you know, Marshall went around the creek and over to the other side, and somebody had gone to the reservoir and cut the chain and let the locks down on us and it was starting to reflood at that time.
559. Q. Let the water back in?
- A. Yeah.
560. Q. And then you have to drain it out again?
- A. And I had the whole thing done by the City Engineer's Department, the scene of the crime, they have a very nice map of the area drawn and, to scale, for the jury we had all that done.
561. Q. Did they actually search the bottom of the ponds there?
- A. You couldn't actually search everything because it was too black and a muddy situation. Just relying on it being on top of a - on a drain low enough to probably see it sticking in or laying down or -
562. Q. Okay, I know what you mean. Now Heather Matheson comes back on here in the script. "The brutality of the murder of Sandy Seale came as a shock to the people of Sydney." Was it a shock to the community that there was this murder, purportedly in the park, we know it's on the sidewalk.
- A. Yeah, well I suppose that would be taken very seriously by the majority of the people. Many people look at a thing like that that they could be next.

563. Q. "Sydney is a quiet town, a mining centre with Devco, and Sydney Steel its main employers," and I guess that's right, Devco is on the outskirts?

A. Yeah.

564. Q. And then Parker Dunham again, "I think it's crucial to understanding the story is the fact that there is almost no crime in Sydney. It's a town where, at least until very recently, it's safe to send your child down to a corner store at 10 o'clock at night for a bottle of milk or something."

A. Well we have crime in Sydney like you have everywhere else. We have muggings and we have thefts and we have break and enters and we indecent assaults and we have purse snatching and what have you. We're not a city of crime but we have our share of crime like they do everywhere else, in the towns, and every city has it and it's a little more with more population.

565. Q. "Back in '71 if you lived on George Street you wouldn't hesitate to send your child of 8 or 9 years of age down to the store at a park at night to get -

A. Well your child could be picked up there by - we've had small children picked up in cars and molested and assaulted, you know. I'd think twice before I'd send a child down by himself or herself. We've had little girls and little boys picked up in cars and molested, sexually molested.

566. Q. Then he says, "And this murder was a phenomenally traumatic event." What about those words, traumatic event, phenomenally

566. Q. (cont'd) traumatic event? Would that describe the mood in Sydney?

A. I didn't get much reaction. As I told you, I got a letter from the United Black Front. As I said when a thing like that happens like it happened in Ottawa over the weekend, an awful lot of people, whether you know the party or not, feel bad about the situation happening to think that such a thing could happen, but those things do happen, and all the police can do is try to do their best to solve it, and sometimes those things are not solved.

567. Q. Then it says "more so than you would think in a city of 30 thousand that is the center of an industrial area of 125 thousand people. People were appalled that a 16 year old could be murdered in a downtown park and there was enormous pressure on the police to solve the case." Was there enormous pressure?

A. Well there was nobody after me to - putting heavy pressure on me to solve the case. I knew I had a job to do and I tried to do it. I suppose if I didn't do my work there would be pressure on me.

568. Q. I'm speaking of Parker Dunham, he had done another piece of reporting on the Sydney Police concerning an escaped suspect, the fellow from BC, do you recall that?

MR. PUGSLEY: Recently Bob?

A. Oh, the fellow that also murdered children there at Hope. What was his name - Olsen.

569. Q. Olsen, Clifford Olsen.

A. Yeah, what about it?

570. Q. Do you remember him doing a story about the Sydney Police about Clifford Olsen?

A. I don't recall, but I know Olsen was in the City.

571. Q. Olsen was in the City and apprehended and escaped.

A. He wasn't apprehended now. He was in the hotel, when the police went in one door he went out the other and disappeared in a taxi but, you know, you don't call that apprehended do you? You call that police pursuit and didn't get the party they were after, but -

572. Q. It's a sidetrack here, but what I'm trying to get at is whether or not - whether you recall Mr. Dunham doing a story about that?

A. I'll say this that somebody was doing a story, somebody was trying to get information on it. I think there was some correspondence with - I don't know if it was the police department or we had a request on that. Where did he come - Vancouver I believe.

573. Q. M-hm.

A. But, yeah, he was over around the park area there. He took out - or there was some little girl I think he was talking to and the mother or a parent, one of the parents came along and hollered and she run for the car, and I think that they traced him to the Isle Royale Hotel, if I recall right, and when they went in one door he went out the other and he took

573. A. (Cont'd) a taxi, I believe, to North Sydney which would eventually get him out of the island. There was no charge against him, they were going to take him in for questioning at that time and they didn't know who he was or anything else.
574. Q. And Mr. Dunham just -
- A. I believe he was there under another name, but I'm not sure. I wasn't in on that.
575. Q. And you don't recall Mr. Dunham doing a story about that?
- A. No, I - no, honestly, no. Somebody was called in regard to that. Of course the police departments were busy. There was, I believe the name - what happens there you see, if they got a name at the hotel and aliases there, what they'd do they'd run them through on our system. That system would go into Ottawa and it would hold it there for 72 hours in their bank, and then if another police department comes in and they - with your name and they run it through it would go back to them that Sydney was checking on this party at such and such a time and such a date. Anyhow there was some correspondence from away on it. Does that answer your question?
576. Q. Yeah, I think, 'cause I believe there was a piece done on the thing and I'm just wondering if it raised any -
- A. I believe Richard Walsh was on that, I believe was one of the officers.

577. Q. I was wondering if it raised any animosity between yourself and Mr. Dunham, but obviously -

A. Oh no, no, no. I have no animosity against him.

578. Q. And Heather Matheson is there again saying, "Down the street from Wentworth Park, less than a mile from the RCMP headquarters in Sydney, is Membertou Reserve. 400 Mic Mac Indians lived there. Until 1967 there was no running water, no electricity and only shacks." Is that a fair description of the Reserve before '67?

A. '67, no, there's some nice homes up there. I don't think some of them would like that too well. There's some nice homes on the reservation up there in '67. They've had sewer and water up there for years now, and garbage collection. What year they got it I don't know, but it's back a few years. They have police protection, policed by the City. They have garbage removal and they have sewer and water, and they're well looked after by the government in regard to housing and other needs. There might be the odd dilapidated place out there like you'd find anywhere else in any locality that -

579. Q. Okay, and then it says, "For the Indians it was a source of embarrassment and resentment. Kevin Christmas says there's always been an uneasy relationship between the races in Sydney. We would come into town and we would - disgraced at the town for lack of a better term, you know, we would look

579. Q. (Cont'd) "poor. We would look dirty. I guess we would - no, we would ah, we would ah, I guess perform within a certain stereotypical image that existed in that community." I guess he's saying there that he and the other young men felt like that they came from the wrong side of the tracks and always came to town dirty and weren't treated very well in Sydney?
- A. Well you get that with the - I don't think - if he's saying that they were unjustly handled by the police or charged by the police - I mean, if the police charge with something they got to prove the charge. They wouldn't get any more breaks than anybody else would get. On the other hand, I don't think the police would be out there looking to arrest them if they were behaving themselves.
580. Q. Let's forget about the police altogether. What about in the community? Did these young men come to town dirty and look shabby and receive a -
- A. We have all different nationalities at times here. Some would fall in that category, but you have that in every town and city across Canada, and the majority of them are well dressed and well presented. If you go into town, go and get a few drinks and figure you're going to tear the place apart your're bound to get in trouble. Other than that I don't know - I never - I was born and brought up in the City there and quite handy to the reservation, to be honest with you,

580. A. (Cont'd) and my son, as I said, who's a lawyer today, went to school with a lot of those fellows and I never heard him coming home with any stories. I think the majority behaved themselves and they're running a pretty shop out there but, like everywhere else, every section of your community you have one, two or three or four that's got to be plucked now and again and looked after.
581. Q. The next portion here is Heather Matheson, "The man in charge of the city police investigation back in 1971 was Detective Sergeant John MacIntyre." I take it you were in charge of that investigation?
- A. M-hm.
582. Q. "He was responsible for taking statements from the witnesses." I guess that was your responsibility whether or not Inspector Urquhart did part of it?
- A. Urquhart or whoever else was called upon in my absence would take statements.
583. Q. But you were the man responsible for the investigation.
- A. On that particular investigation yes, I was. I worked long hours on that case.
584. Q. And it says, "And today his detractors want him to account for his handling of the case."
- A. Who are my detractors?
585. Q. I was going to ask you.
- A. Yeah, well I'm asking you the question, sir. I didn't get

585. A. (Cont'd) that anywhere else. I know there was a lot - not a lot, but some reporters were wondering whether there was going to be a public inquiry or what have you but I didn't see - and politician - the odd politician, but I didn't hear anything from the public. There's - I don't know just what he's getting at there, who the detractors are.
586. Q. Then it goes on to say, "According to a memorandum from an RCMP investigation officer there was no complete record of the investigation." Now let's stop there. Would you say there is a complete record of it?
- A. Well we had a better record than anybody did and we had a file and we had a lot of statements and we had a lot of what the police done in that particular night and we had - I think we had quite a bit of evidence in the file. I wouldn't say it was complete, because there might have been a few things missing there, and when a file like that is handled by the Crown and - things could have been - went in another file, and this I don't know. Well in autopsy he says - well after all the doctors, I think, had three different operations or somewhere around three operations trying to stop the bleeding and what have you, and they knew the damage was done and they knew what was done and I don't think any of the doctors, or the specialists that worked on that - on the late Sandy Seale, that they'd know what the cause of death was.
587. Q. Just back in the record of the investigation, you say some of the parts may have been missing out of that file.

587. A. Well it's in here no photographs you see. Well, what were we going to photograph at the time? See, I had the drawings and the plans made of the area there, and again, if we needed photographs at that time we had no ident section, and we were at the mercy of the RCMP, and most of the time they've always co-operated with us providing they weren't tied up in their own work.
588. Q. But it talks about the record of the investigation. I think you mentioned, at that point in time, it wasn't the practice to make up a Crown sheet like you would today?
- A. No, that's true.
589. Q. But I'm wondering if something like that was made up?
- A. Well you see there's occurrence reports for things that happen and crime reports, and if it's in the category of crime it goes on crime reports at that time, if it's occurrence reports it goes on the occurrence sheets, and they're signed by the constables that was on it and the time and the date and any data or information that they get all goes on them. Now it's another type of thing today that the Crown Prosecutor wants, but the Crown Prosecutors at that time never asked for those or didn't demand that they get them.
590. Q. But was one done, a crime report?
- A. Well there's reports on what they done that night, yes.
591. Q. Okay, what about reports on what you did after that night?

591. A. I turned whatever-I had over to the Crown, and I turned statements over to them.

592. Q. I know you gave the statements to the Crown -

A. Yeah.

593. Q. but I'm wondering whether you gave a written report saying -

A. Oh, the full report?

594. Q. Yeah.

A. No, I never done that, didn't usually do that. You see, we were a smaller department and all the work that comes in is handled by the detective department and it was never required by the Crown and we stayed with the Crown and gave them whatever information they wanted and the Crown then decided what they wanted and what they didn't want.

595. Q. Then it goes on to say, "No list of who was in the police lineup." I take it from that that Marshall was the subject of a police lineup?

A. No, I wouldn't - you know, I can't say who was in that lineup and I don't recall. I told Wheaton that and I'm telling you that. I can't say that morning, and I wasn't called in the regular trial, and if I had've been, you know, it would have been down in evidence.

596. Q. But to re-examine the lineup you'd have to know who was in it?

A. Yeah, but at that time though if I had've been asked. Nothing in my files show it.

597. Q. If you had've been asked way back then you would have known.

A. Yes, and it would have been in the evidence too, yeah, sure.

598. Q. And it says, "John MacIntyre today is the Chief of the Sydney Police. He refused to discuss the matter and has ordered his men not to comment."

A. M-hm.

599. Q. Now first of all have you ever discussed this with the press?

A. This case here?

600. Q. Yeah.

A. No, once I gave that case over to the Mounted Police there's been several people calling me on that, reporters. I told them and they'd wee that I wasn't talking. My men are under an obligation there also, that I - the news - any news going out should be given by the Chief or person authorized by him. In this particular case here it was handled by the Mounted Police at this time and I wanted it to stay that way.

601. Q. You had the opportunity to comment but you elected not to do so?

A. It wasn't my place to comment sir.

602. Q. Oh no, I understand that.

A. Yeah.

603. Q. I'm saying that the opportunity was given to you.

A. By people that called wanting me to discuss the case and I would no way get into that at that time because the case,

603. A. (Cont'd) when it was being investigated, it wasn't before the Court and it - I think if I was looking for problems all I'd have to do was start doing that.
604. Q. Do you recall Heather Matheson trying to contact you prior to this broadcast?
- A. No, I don't recall that.
605. Q. Getting a message, talking to her?
- A. No, I don't recall that, no.
606. Q. You don't dispute that you may have done so?
- A. Well there were several called - there were several people called. Toronto was calling and different other people called.
607. Q. Okay, so Sydney Police Department has never made a statement to the press on this?
- A. On the Ebsary case?
608. Q. Or the Marshall case?
- A. Oh, the Marshall case, the press were in the courts when that case was going on. They got all the information they want.
609. Q. Then it says, "Ordered his men not to comment." Okay, I appreciate what you say about them discussing things. Were they ever ordered not to talk about it?
- A. Not to talk about it?
610. Q. Yeah.
- A. I can't stop people from talking, but when it comes to giving reports to the press that is up to the Chief or, as I said before, or somebody else designated by him.

611. Q. Now next we've got Mayor Manning MacDonald and he's says "Well there's no question about it that the reputation of some fine police officers in the City of Sydney has been somewhat tarnished over the past few years." Now the Mayor of Sydney is saying that in an interview he gave -

A. M-hm.

612. Q. obviously before this was ever put on the air. Is he right in saying that the reputation of some fine police officers was tarnished over the past few years?

A. You'd have to ask him that sir, what he meant by that.

613. Q. He says, "Back in '71 the original investigation - our officers acted at the time when the information was presented to them. It's certainly unfortunate the situation ended up the way it did, but this is not going to be the last one if you are a police officer. You are going to run into these altercations with the public from time to time. We see it almost on a daily basis now where police officers are being challenged and many, many more inquiries are coming forth all the time, but I think the Police Commission, and especially the Nova Scotia Police Commission, are going to have to take a hard look at that," and I guess what he's saying there is that if you're a police officer you can expect certain criticisms?

A. Yes, and what he's really saying, I think, is in respect to unfair criticism at times too, that every time you arrest somebody, you know, it could present a problem.

614. Q. That's the day-to-day part of police work isn't it?
A. That's right.
615. Q. Now let's take this particular situation. You headed an investigation that resulted in a man spending 11 years, 10 years and 8 months, whatever it was, in jail for a murder he didn't commit. I take it you'd expect a certain amount of criticism to flow from that would you not?
A. Criticizing me?
616. Q. Yeah.
A. If I done something wrong, but the evidence was there at the time.
617. Q. Okay, well let's separate that -
A. And I had no problem with it.
618. Q. assuming the evidence is there, I mean, you didn't do anything wrong okay? You did nothing wrong, but you'd still expect some criticism if something that bizarre had happened would you not?
A. I suppose people'd be talking about it I suppose, or some people be talking about it. They'd be wondering what took place I suppose.
619. Q. But police officers do get criticized even if they're acting totally properly don't they? It's part of the job.
A. Well yes, it depends who you're dealing with.
620. Q. Then Heather Matheson says again, "Supporters of Donald Marshall are calling for a public inquiry into the case from

620. Q. (Cont'd) from the police investigation up to the way the case was handled at trial." Now in terms of a call for a public inquiry would that have anything to do with you either in your last months as Chief of Police or in retirement? Have you had any dealings with anybody on that?
- A. I don't know what you're getting at there. If there was a public inquiry into the Marshall case you mean?
621. Q. Right.
- A. Would I have to give evidence?
622. Q. No, I don't mean that. I mean has any public official asked you whether or not you're in favour or against it, whether you have any position on it?
- A. I'm not against anything that is good for the public, no.
623. Q. I take it though since this all happened, the re-trial, that in terms of a public inquiry you'd have simply been down in Sydney and had nothing to do with whether it happens or not, is that right?
- A. No, who'd you get that from?
624. Q. I'm just trying to pose a -
- A. You are? Well I think you'd better get off that because I never gave that any consideration. If there's a public inquiry tomorrow I'd be glad to give evidence if I'm called.
625. Q. No, that's what I mean, if there is there is, if there's not there's not, but -
- A. Yeah, that's not up to me either, sir, I'm just in this side of the - I'm down here in the criminal justice system.

625. A. (Cont'd) There's others that make that decision and whatever decision they make I go along with it.

626. Q. Now the next part is Parker Dunham and he said, "The Supreme Court Justices who handled that case in Nova Scotia may have more to answer for than anyone. Their decision was an entirely political decision and they went out of their way to give Nova Scotia an out, to make it possible for Nova Scotia to abdicate its responsibility. They took a kid who had been sent to the slammer for 11 years for something he didn't do and basically they said it's really not the system's fault. It was the kid's fault because on that particular day he didn't confess to a crime the Judges have apparently concluded that he committed." Now would that have made a difference in your investigation if Marshall said that these people were robbing him?

A. Well he seems to know a lot today that he knew then and didn't tell it. We'd have to look at it.

MR. PUGSLEY: Sorry, would you phrase your question just again? Did you say that would it have made a difference in the police investigation?

MR. MURRANT: If Marshall had said what he said, and in addition said that he was there to attempt a robbery?.

MR. PUGSLEY: That he, Marshall, was there to attempt a robbery?

MR. MURRANT: Right, yes.

627. Q. I'm wondering if that would have made any difference, given your skepticism about the cut, the wound, all the other

627. Q. (Cont'd) factors that you had. I mean, wouldn't that simply have made Donald Marshall's story even more ludicrous?

A. Well it would give the police something else to look at and investigate.

628. Q. But you've got all these people. You've got eyewitnesses, as you say?

A. Well that's what they were, with the evidence they gave.

629. Q. Right. I'm trying to find out where it would make a difference. I mean, you were the man directly responsible and involved with the investigation, and I'm at a loss to know how Marshall could have helped himself by saying that he was down there to commit another crime, i.e. a robbery.

MR. PUGSLEY: I don't mean to interrupt, but you're not suggesting the Chief has said that, you're referring the Chief to this comment that Parker Dunham makes about the Supreme Court Judges, is that correct?

MR. MURRANT: No, I'm asking him and, you know, he investigated the case, you know, had Marshall told him that, as the Court of Appeals says he should have, would it have made a difference, and I guess I'm asking, you know, what conceivable difference would it have made?

A. Well I would have to look into that - we'd have to look into that.

630. Q. But can you think of anything offhand that would have changed the course of your investigation?

630. A. Would have changed?

631. Q. M-hm.

A. It would add to our investigation which naturally would change the course if there was any proof to it.

632. Q. Marshall gave you a statement in 1971 -

A. Yes.

633. Q. telling his version of the events? He did not confess to a murder.

A. No.

634. Q. As a police officer you would be interested in obtaining a confession if at all possible, would you not?

A. Well at that time, you see, he claimed that somebody else done it at the start, when he gave a description of the men you see, and it was a quick thing to happen as far as he was concerned, and it happened down, called him up from the bridge in the park, those two men standing up on Crescent Street, as I told you this morning.

635. Q. I take it when you were talking to Marshall, or reading his statement over the next few days trying to figure this out, that you basically didn't believe Marshall's story?

A. I was examining all the avenues I had, and the people that I was talking to.

636. Q. Yeah, but as you pursued your investigation you became more and more skeptical of Marshall's story?

A. I was dealing with facts sir, and facts appeared in this case.

637. Q. Yes, but I mean, did you lay the charge against Marshall?
Did you swear the Information?

A. Yes.

638. Q. And when you did you had to have reasonable grounds to
believe that he committed the murder?

A. I did.

639. Q. And at that time -

A. There was two eyewitnesses too, at that time, and I was
ordered to lay the charge for the Crown Prosecutor, and it
was laid the same afternoon as he had instructed.

640. Q. And to swear the Information saying that you had reasonable
grounds to believe that he committed this crime -

A. M-hm, yeah.

641. Q. you'd have to sincerely and honestly not believe his
version?

A. No, at that time, no, that's right.

642. Q. Do you still feel that Marshall may have committed this
murder?

A. Well we'll leave that to the Court at this time.

MR. PUGSLEY: Is that really relevant to the issues in this
lawsuit?

MR. MURRANT: I think it's material to the flexibility of the
investigative method.

MR. PUGSLEY: Well I'll object to the question, but go ahead and
answer sir.

642. A. (Cont'd) Your question again?

643. Q. Is whether or not you, at this date, still believe that Marshall committed the murder.

A. I still feel that Marshall had something to hide, and that wound and that jacket, the description he gave and what have you, he definitely wanted to throw the police off. Now if he had of come ahead with this robbery, that would be have been investigated, sir, and I would have went further with it. I would have looked at that avenue and checked it out.

644. Q. Have you ever extended an apology to Donald Marshall or sent one on what happened?

A. No. I suppose you have the idea that it was me that put him away have you? Why would I be doing -

645. Q. No, I don't mean anything -

A. No, wait now.

646. Q. pejorative about that. I don't mean anything smart.

A. No, no, but it was - he was tried through the proper channels, through the criminal justice system, and all I did in this case was bring the evidence that I got before them, and the witness gave the evidence and the jury convicted him, and he stayed quiet for 11 years, if you then tell - it took him 11 years to tell it, and I didn't know anything about this robbery.

647. Q. No, I don't mean -

A. I feel, you know, I feel - sure I feel bad if he was innocent, that he had to do that time.

648. Q. I didn't mean that question in a smart sense, I mean -

A. You know, there's two sides to me too. I've helped out criminals at times after they get back from the penitentiary, and the way I look at it, we're in a ball game, there are criminals on one side and the police are on the other, but when they serve their time, and if there's any way of straightening them out, I've gave a lending hand and it worked at times.

649. Q. I didn't mean by my question to be smart or to put something in there that's not there. I mean whether or not you had ever, by an apology, not say that you did anything or set him up or anything, but whether or not you've ever extended an apology in terms of saying well look, I'm sorry this whole mess happened?

A. No, in fact I've met Marshall's father and I got the impression he doesn't even want to look at me. So that's his decision sir.

650. Q. Dealing with Dunham, I want to skip a part there where he's talking about the Judges, okay? Then he says, "It's really this young punk that caused it all." Was Marshall, back when he was 16 or 17 in the streets of Sydney, could you describe him as a young punk?

A. Well he was very frisky as a young fellow and he seemed to be at the root of some trouble every now and again. The police would have to go after him.

651. Q. Then he says, "It wasn't the police who bullied three witnesses into lying on the stand."

A. M-hm.

652. Q. Now I think we've discussed that business of those three people, and then it says, "It wasn't the police and the Attorney General and the RCMP and the Crown Prosecutor who covered up contrary evidence of eyewitness evidence that someone else had committed the murder." Now I guess that the first time it says there police refers to the City, Sydney Police. Then it does mention the Attorney General and the RCMP and the Crown Prosecutor. Is it fair to say that - let's take out the Sydney Police, take yourself out of that, that what I find astonishing here is that between the Attorney General, the Crown Prosecutor and the RCMP no one ever told Marshall or his lawyer about these developments. Wouldn't you call that a covering up of evidence?

A. It depends what - it depends what they arrived at after they went over it. You're talking about very learned men here, and I don't think that any of them would cover up. I can't see it. I know one thing, I didn't do any covering up. I passed everything over the day that it came to my attention.

653. Q. Okay, I'm not including you in this as you know.

A. I know, no, and I can't see honourable men in that position doing it either.

654. Q. But wouldn't it be fair if Marshall had the same opportunity

654. Q. (Cont'd) to investigate that the police had? Why not give Marshall James MacNeil's statement and say here, try your own polygraph and make your own checks, wouldn't that be fair?

A. He might have been offered that sir, I wouldn't know.

655. Q. Whether or not, I mean just in general terms, wouldn't you consider that fair to somebody?

A. It could have been done and it might have been done, might have been offered, and they had the case at that time, so I'm not going to get into that part of it. It would be fair, yes.

656. Q. Now I go to the next part of what Dunham is saying. He says, "If the situation rests now the final word will be the word of the Supreme Court of Nova Scotia which says well, yes, he shouldn't, "excuse the language here, it's awkward," he shouldn't, he can't be sure he was guilty of murder, but any injustice is more apparent than real because he was the author of his own misfortune and that'll be the final, the legal system's final word on this case. Well that's a lie, that's not true. He wasn't the author of his misfortune." Now let me stop there. Marshall, as you know as an investigator, had no obligation to give a statement or to testify did he?

MR. PUGSLEY: Sorry, say that again.

Q. (Cont'd) Marshall, as an accused person, had no legal obligation to give the police a statement or to testify at his trial did he?

656. A. No, he didn't, but -

657. Q. And if it weren't for Pratico, Chant and Harriss, correct me if I'm wrong on this question but I think it's right, if it weren't for those three people at the close of the Crown's case there'd be no case for Marshall to answer to would there?

A. No, if there wasn't eyewitnesses there they - and they were eyewitnesses at that time.

658. Q. Then it says, "Racism was the author of his misfortune." Do you know of anybody that had a racist attitude towards the Indian community and/or Donald Marshall in this case?

A. In this case?

659. Q. Yes.

A. No.

660. Q. Now Mr. MacNeil, who was the Prosecutor, had been brought before the Human Rights Commission of Nova Scotia. Are you familiar with that?

A. That was out of our territory. I don't know what the story was there.

661. Q. And had been reprimanded by the Human Rights Commission. You are aware of that?

A. I heard somebody saying it, but I didn't have anything to do with that and I don't know really just what took place there. You've asked me and I wouldn't know.

662. Q. Oh no, it wouldn't come under you. I'm wondering what you do know.

662. A. I think that was up in around Escasonee or somewhere up there.
663. Q. And it had to do with complaints -
- A. I don't know the story on it.
664. Q. Did it have to do with complaints lodged by the Indians about his attitudes that were upheld by the Human Rights Commission?
- A. I don't know, I didn't follow that. I wouldn't know that.
665. Q. In your course of dealings with MacNeil, as Prosecutor of this, did he say anything of a racial nature about Marshall, about Indians, about blacks?
- A. No, no, he didn't. That never entered the picture here sir.
666. Q. I would presume that Mr. Matheson certainly wouldn't say anything like that?
- A. Indeed he wouldn't, no.
667. Q. Then it's got "Police coverups were the author of his misfortune," and that I think we've covered, all right?
- A. Yeah.
668. Q. "Police forcing witnesses into lying on the stand is the author of his misfortune. It was the whole judicial system that put him jail and it's the whole judicial system that now needs to be called into account." I think the last part of that, he says, "It's the whole judicial system that put him in jail," it's essentially true isn't it?
- A. I think it was the evidence that put him jail, not the

668. A. (Cont'd) judicial system. They tried the evidence.

669. Q. Well what if you include the police forces in that?

MR. PUGSLEY: Well I think he's answered the question. I think you asked him whether or not it was the judicial system that put him in jail and the Chief said it was the evidence that put him in jail. I think that's an answer to the question.

MR. MURRANT: Well that's good enough for now.

Q. (Cont'd) Now Heather Matheson says, "Since Donald Marshall was set free his case has become a political hot potato, the Federal and Provincial Governments have refused to pay legal expenses or to compensate him for the time spent behind bars." You've heard comments from Federal and Provincial politicians about this case?

A. I read of some, yes.

670. Q. And it's a matter that has attracted national attention to Sydney and its police force and to yourself, is that fair?

A. Police, I guess, could have been mentioned.

671. Q. Then it talks about compensating Donald Marshall, that's been in the news, and there's an Inquiry going on at the present time, correct?

A. I know about that, yeah.

672. Q. You would agree with me that the fact the man has spent 11 years in jail for a murder he didn't commit would be of high degree of interest to the public, wouldn't it, and concern to the public?

672. A. Doesn't seem to be too much talk about it, if you want the truth, around our city, and I didn't discuss it with anybody, but I think the Reverend Mr. Hussey, I think, that's taking up a collection for him, I think he stated that didn't he, when he came into the Hearing there didn't seem to be too much.
673. Q. But it's fair to say that -
- A. When he was asked if he was getting any donations from here, and it was more on the other end of the province. It's too bad - as a policeman or as a citizen I think of something else too, it's too bad that if it was robbery that he set that up and that there's a boy dead that never had a criminal record because of it too, isn't it. He's doing more than 11 years isn't he, eh?
674. Q. You mean if Marshall -
- A. If Marshall didn't suggest what he's saying he suggested now that boy'd be living today wouldn't he, eh?
675. Q. I suppose, that's right.
- A. And then Marshall took the stand in the Supreme Court, if what he's saying today is true, and he perjured himself eh, the story he told the judge and jury and his defense lawyers led them down the garden path, and the police eh?
676. Q. Oh, I appreciate the sad aspect of it. Do you know the Seale family?
- A. Do I know the Seale family? I didn't know this boy. I know the father over a period of years. The father is a - he was

676. A. (Cont'd) an athlete in his younger years and they're a good family, and he works for the Department of - for the Motor Vehicle Branch, I think, 20 some odd years. He's out on the highway, something to do with weights and measures, and a very nice chap.
677. Q. What is the father's name?
- A. Oscar.
678. Q. Oscar.
- A. Yes.
679. Q. Did he used to be a hockey player at one time?
- A. He could have been. He was a ball player, he was a good ball player and probably played hockey, but he's the type of fellow that you would like a conversation with 'cause he's a very nice chap.
680. Q. Well known around Sydney I take it?
- A. Well known and well liked, yes.
681. Q. The last part, the very last part of the script, it says, "Today Donald Marshall is working at Halifax, he rarely goes back to Sydney. Roy Newman Ebsary was sentenced Thursday to five years in prison. His lawyer's appealing that conviction." Of course, that's something that you knew took place?
- A. Yeah.
682. Q. "Chief John MacIntyre is due to retire soon," and you were and you did I take it?

682. A. I did, yes.

683. Q. "And now it's up to the Nova Scotia Attorney General to decide whether to hold a public inquiry. So far he has remained silent, and there were requests for public inquiry and nothing has come of that." You don't have any difficulty with the accuracy of that last part of the script?

A. I knew that, as I said before, some politicians were asking for it, one or two, and I think one or two reporters were making inquiries if there was going to be one.

684. Q. Now I understand that, again correct me if I'm wrong, that you have taken steps to initiate other libel actions as a result of things said about this case which relate to yourself, is that correct?

A. No, I don't think that's correct.

685. Q. Well have you ever written or sent a notice to any publisher concerning anything that was said about you by other publications or broadcasters about this case?

A. Yes, there was a letter sent to a party in Toronto, yes.

686. Q. Is that the CBC or who is it?

MR. MacINTYRE: I think I discussed that with you didn't I?

MR. PUGSLEY: Yes, I'm sorry, I'm drawing a bit of a blank. The question is whether or not an action has been started or a letter has been sent?

MR. MURRANT: Letter, demand, notice, action or anything with respect to any other publication.

MR. PUGSLEY: I'm sorry, I forget Chief. Anything else - I don't think any other action's been started.

MR. MacINTYRE: Oh, no, no, just a letter was sent out - I showed you that.

MR. PUGSLEY: Is that so? Yes, I guess that's right. I guess there was something else Bob. I'm not directly familiar with -

686. Q. (Cont'd) Perhaps the Chief can tell me. I just want to know if there were other complaints lodged about other publications and what they were.

MR. PUGSLEY: What was the publication Chief?

A. I'd have to look it up. I haven't got that now.

MR. PUGSLEY: We'll do that and provide that for you.

687. Q. Is it the Toronto Star perchance?

A. Could be.

688. Q. Do you recall the gist of what they may have said?

A. Not at this time, but I can get it I think.

689. Q. I'm just going to turn to the involvement of Donna Ebsary, and she gave a statement the 17th of April, 1982, witnessed by A. Jeff Wheaton. Now this lady apparently resides in the State of Massachusetts, and she talks, in the first part of her statement, about some of the characteristics of her father. If I can go to the second page she says, "The next thing I can recall, around 1974, I told Dave Ratchford that I knew my father did the stabbing in the park." First of all, do you know Dave Ratchford?

689. A. Just - no, I had no dealings with Dave Ratchford.
690. Q. Is he involved in harness racing?
- A. No, he's involved in - he could be, but he runs judo classes and stuff like that.
691. Q. "We got ahold of the Sydney City Police and apparently they would do nothing. We also got a hold of Constable Gary Green of the RCMP and they apparently got nowhere with the city police either." Now let me backtrack a bit. Did this lady get hold of you concerning this?
- A. Not that I recall. I don't recall anything about her.
692. Q. Do you know who she may have gotten hold of?
- A. No.
693. Q. When did this first come to your attention?
- A. This here, I read it.
694. Q. When you saw the documents in this case?
- A. Yeah.
695. Q. Do you know for a fact now that she spoke with somebody on the Sydney Police Force?
- A. I think it was - it might have been before that because Billy Urquhart, I think, said something to me that somebody was supposed to be in to see him, Gary Green, and he said that he didn't remember Gary Green coming to see him, or something about it. I didn't see her at the time that the rest of the Ebsarys were taken in either, she was 13 years of age at the time. I don't think - I didn't see her anyway.

696. Q. She says here, "I didn't tell her," referring to this other lady, "I saw the knife. Just that I knew Marshall was innocent. I also mentioned it to Debbie Couture that father did it, she was with National Parks." But in any event, she goes on in her statement here, "Around 1975 Uncle Bob Ebsary was over from Newfoundland. Father and Uncle Bob were drinking and I heard father tell Bob about the attempted robbery. He said they asked me for my money and I said I would give you what I have. Father then made an underhanded stabbing motion as if he had a knife in his hand. After he was telling Uncle Bob this he was acting it out as he said he put his hand in his coat pocket, pulled out a knife and stabbed forward with it. He also said you should have seen the look on the other fellow's face, meaning the person accompanying the person he stabbed. He explained that people had tried to roll him before in the park and he always carried a knife." Now this is the daughter of Ebsary coming forward, apparently 1974, to the Sydney Police and saying look, I think my father committed this murder, and I believe she says in her evidence -

MR. PUGSLEY: Does she say that? She doesn't say that does she, in that statement anyway?

MR. MURRANT: Well let's sift through it. Let's check her Affidavit. Well she said, "The next thing that I can recall around 1974 I told Dave Ratchford that I knew my father did the

MR. MURRANT (Cont'd) "stabbing in the park. We got a hold of the Sydney City Police and apparently they would do nothing," and that only tells me that she came with that information to the police.

MR. PUGSLEY: It doesn't say that, and it doesn't say what she told the Sydney City Police.

696. Q. (Cont'd) I can't read the interpretation of her statement, and it may not matter if the witness doesn't know, but I guess what you're saying is that Donna Ebsary did not come to you in 1974 or '75?

A. No, and another thing that surprises me, if she knew anything about that on that particular night that she talks about now, what struck me when I read what she had to say, was that a girl 13 years of age didn't confide with her mother and her brother, who would be 19 or 20 at the time, and 6 months had elapsed before I questioned them on this murder, and a girl 13 living thre with those other two people never told them anything about it? And in their statements they didn't know anything about it? I'd say it seems strange doesn't it?

697. Q. It makes you wonder, I agree.

A. No, but, you know, uh?

698. Q. It makes you wonder.

A. You take your 13 year old daughter seen something went on in the house, eh, the first thing they do is run to mom and tell her, eh?

699. Q. Either that or the last thing.

A. Well I mean no, but a thing as serious as that, you know, it strikes me as if that would be the proper channel, either the brother to confide in him, or the - but she was looking for this knife upstairs and she was going to turn it in if she got it. She seen certain things going on in her house that night and still she didn't tell her mother, up to November the 15th when I took a statement from her mother and her brother, anything about this at all, 6 months later.

700. Q. Then when she surfaces in '74, so I can understand that?

A. I don't recall ever seeing her to be honest with you.

701. Q. And obviously if she'd come to you it's something that you'd remember?

A. Yeah, you know - I want to correct something before I - go ahead. You asked me if I read this - wasn't this the document you asked me if I read before, I'm not sure?

MR. PUGSLEY: You mean that 39 pages of the RCMP report?

A. (cont'd) Yeah, well I notice here, and we weren't over this far, on page 10 - no, 19 I should say, down the bottom of the page, Inspector Wheaton, "Chief John MacIntyre, Sydney City Police Department, came to my office at which time I allowed him to read the statements of Chant and Pratico, which they state they lied at the trial of Marshall in '71. I also advised him in general terms the investigation we had conducted at that date. You asked me if I seen any of this. I don't know what your purpose was, but -

702. Q. Right.

A. that is true that I was - we had a - what would you call it, a bull session at that time to - and the Inspector and I got along very well, we were discussing things. "Chief MacIntyre brought up several points that we both thought should be clarified to determine the accuracy of this investigation. As a result of this meeting I requested all witnesses to be interviewed, and in particular the Harriss girl, to determine the accuracy of her statement that only Marshall and Seale were present, as this seemed critical in Chief MacIntyre's mind that this proved Marshall was lying. You'll note the Harriss statement is quite revealing, and as a result of her remarks it would appear to strengthen Marshall's claim," and he goes on you see, but he did discuss a couple of those with D.B. Scott, their commanding officer. I just want to have that on the record and you asked me if I seen anything on this book. I remember when I was discussing this.

703. Q. He's got there, paragraph 3 on page 20, "It would appear from this investigation -

A. Yeah.

704. Q. "that our two eyewitnesses to this murder lied on the stand, that the other main witness, Harriss, lied as well under pressure from the Sydney City Police."

A. Yeah.

705. Q. "We have statements from Marshall and MacNeil stating that

705. Q. (Cont'd) Ebsary is the person responsible for Seale's murder, as well as a verbal admission to our investigators that he was responsible." Now again we can quibble with interpretations, and someone else can deal with it, but it seems to me that paragraph is saying that two eyewitnesses to the murder lied on the stand, as did the other witness, Harriss, and that the three of them lied under pressure from the Sydney City Police?
- A. Well that's what the witnesses, at the time, were saying.
706. Q. Right.
- A. Yeah.
707. Q. And it appears that the inspector is accepting that. He's accepting and acting upon the grievance from the witnesses that they lied under pressure from the police?
- A. No, I think he's going according to what he's picking up in the statements there. I don't - unless you have your own interpretation of it.
708. Q. Well I take it, as an investigator, he's making a conclusion it would appear, from this investigation?
- A. Well he's not the investigator is he, he's the head of the detachment?
709. Q. Right, but he's not saying this is what they allege. He's saying it would appear from the investigation, which is, as you know, an RCMP investigation, that these witnesses and Harriss, who is not an eyewitness, lied under pressure from the Sydney City Police?

MR. PUGSLEY: Well it's capable of, I guess, of several interpretations. One is that Harriss lied under pressure from the Sydney City Police, but that the others lied, but not necessarily anything linking up with them to lying under pressure from the Sydney City Police. It's certainly capable of that interpretation.

709. Q. (Cont'd) Well perhaps, apart from interpretation, Mr. MacIntyre, if you had a report like that from the RCMP, from Inspector Scott, the senior officer, would you place a great degree of trust in it?
- A. A report like that? Well I imagine he's been shown what the others have been picking up from the statements, and I think in the statements they were saying that they had to tell what we want to hear at this time.

710. Q. Right.

MR. PUGSLEY: Is the question you're asking the Chief, if you saw a statement like this in the report would you broadcast it to 500 thousand people across the Dominion of Canada, would he, the Chief, do that or, you know, what is the question? Are you asking him from a journalistic point of view if he should rely on that before he broadcasts this to the world, or -

- Q. (Cont'd) Well from a police point of view, if he had that report from Inspector Scott, as a police officer would you rely and act upon that report?
- A. Well I don't think the Appeal Court paid too much attention

710. A. (Cont'd) to any of those witnesses. What did they say about them in their report?

711. Q. They said nothing about Harriss. Pratico wasn't called.

A. No, they didn't call Pratico. The Harriss girl?

MR. PUGSLEY: I'm sorry, Mr. Murrant, if I can just ask you, when you say would he rely on it, would he rely on it to do what?

MR. MURRANT: I suppose what I'm driving at, to call a spade a spade here, is that generally speaking if someone has something, investigative report from the Royal Canadian Mounted Police you can place a high degree of reliance of it.

MR. PUGSLEY: For what purpose? I mean, to go out and charge someone with murder, to broadcast it on radio, to what? I mean to rely on it for what purpose?

MR. MURRANT: As a police officer would you place high reliance on their work? You know, it's suggested in this action that the broadcast was done maliciously, and I suppose one of our answers is to say well look, we relied upon the national police force and reports composed by inspectors, and surely we can place some good faith and reliance of what they say, and surely any police force would, and I'm asking the Chief in the context of police work wouldn't a police force place high reliance on material from the RCMP?

MR. PUGSLEY: To do what though, reliance on it to do what? I mean to carry on an investigation, to go out and see people?

MR. MURRANT: Well let me ask the question in a partially hypothetical sense.

712. Q. If Inspector Scott were writing to you, and you were reinvestigating a case in New Waterford, okay, and he said to you it would appear from this investigation that our two eye-witnesses to the murder of this man in New Waterford lied on the stand, and that the other main witness, Harriss, lied as well under pressure from the Town of New Waterford Police, I take it that you would place a high degree of reliance on the inspector's conclusions and report to you and would act accordingly?
- A. But that doesn't bother me too much when I look at Harriss there, who has made some statements already that weren't true. You have to look at that too. It appears, he said, from this investigation. She lied to me didn't she? Is that who you believe now? When do you believe them, then or now? I think one of the defense lawyers said that, when were they lying, in '71 or now?
713. Q. Well let's not get into that issue, but I -
- A. No, but I mean you're getting in an issue, you're talking about this Harriss girl. She made that statement at the bottom of the page over there that I showed you that we harassed her and we harassed her boyfriend also, and her boyfriend signed an Affidavit that it was voluntary. What do you take from that sir?
714. Q. Well I appreciate, hold on, there's a lot of fine distinctions -

714. A. It's the type of people that you're dealing with too that you take into consideration.
715. Q. No, well I'm talking about a different type of people.
- A. Yeah.
716. Q. I'm talking about the Royal Canadian Mounted Police.
- A. Yeah.
717. Q. That's the type of people I'm talking about, and I'm trying to ask you a very simple question, that's -
- A. As far as honesty and integrity is concerned, do you put them above a municipal police department, is that what you're trying to get at?
718. Q. No.
- A. I think my honesty and integrity is just as good as any RCMP officer sir.
719. Q. No, I'm not saying it's not. I'm just saying that as an experienced -
- A. No, but you're thinking because that's in there that they're God, that's what you're trying to get across to me from what I can see.
720. Q. I didn't say they were God sir.
- A. You have a national police force.
721. Q. I'm simply trying to pose a very simple question that's becoming a very difficult one.
- A. Yeah.
722. Q. As to whether or not, in your experience as a police officer

722. Q. (Cont'd) and police chief, you place a high degree of reliability and credibility in work furnished to you by the Royal Canadian Mounted Police?

A. To this point I did, yes.

723. Q. Now if I can go to Donna Ebsary before we conclude her end of it. When this thing occurred in 1974 it did not come to your attention, and I believe what you told me was that the statement that we have here from Donna Ebsary we're referring to, didn't come to your attention until it was produced in this proceeding?

A. I might have seen that up there, I'm not sure, you know, because I knew that they were bringing her back from Boston or somewhere, and Inspector Scott was talking to me up there, but we did have quite a conversation over the - over a couple of the witnesses, things we didn't agree on and what have you.

724. Q. No, I'm not trying to trap you on this particular point, I'm trying to find out what happened in 1974.

A. 1974, the only thing I remember -

725. Q. She's saying that she came to a police station -

A. Yeah. _____

726. Q. and we can quibble about what she said, but basically let's take the drift, for it to be that she saw her father washing blood off the knife and tried to tell the police that her father did the stabbing in the park. It didn't come to your

726. Q. (Cont'd) attention and I'm wondering, if it came to the attention of say Inspector Urquhart or someone else, would it not then logically, in the chain of command, come to your attention?

A. It should be discussed with me, yes.

727. Q. But it wasn't?

A. Not that I can recall. I don't recall anything about that.

728. Q. Do you know what happened to it?

A. No, I don't know anything about it.

729. Q. What should happen - I don't understand the mechanics of the force but you explained to me before what happened when James MacNeil came forward, the steps you took to inform the Crown Prosecutor, the RCMP, what should have been the situation if this came to your attention in '74, what would be the way to handle it?

A. The way to handle that would be to take a statement and look into it, and also advise the Crown of any new evidence. I know there was a couple of things came to the police's attention of things that were said and they brought it to the Crown's attention.

730. Q. You mean verbal things?

A. Yeah, they discussed it with the Crown, yeah. And somebody else came in, I think, one day to see Urquhart and gave him a story, and he said you bring me back the name - and he couldn't tell him the name of the party giving it - bring me

730. A. (Cont'd) back the name of the party that give it to you and we'll look into it. He never came back but - and I think John Maloney had something and he seen the, I think that was Williston, the Assistant Crown Prosecutor, and discussed the thing with him, and there was nothing.
731. Q. John who?
- A. Maloney.
732. Q. Is he a member of the force?
- A. Yeah.
733. Q. Now if Donna Ebsary had come to you or to come to another officer I guess a statement would be taken, it should come to your -
- A. It depends, yeah, and of course you're telling me at this time what -
734. Q. No, I'm trying to wonder -
- A. just what she was supposed to have said.
735. Q. I'm just trying to get at the day-to-day operations within the police department.
- A. Yeah.
736. Q. Okay, whether it's this case or another case. If somebody came in with this type of information it should have gone to you sooner or later, is that not right?
- A. Well in '74 I would be Deputy Chief at that time, I wouldn't be down in the crime section.
737. Q. In '74 would it be considered within the department that you were no longer responsible for this particular case?

737. A. No, it wouldn't, the man in charge would be.
738. Q. That would still be you?
- A. No, the man in charge of the detective department, which would be Inspector Urquhart at that time.
739. Q. So it would be Urquhart's case, not MacIntyre's case, at that stage?
- A. Well I mean any new fresh evidence, yes. I'd be in uniform at that time and the Deputy Chief would have other responsibilities.
740. Q. Then the person responsible would take a statement if the person were prepared to give and sign a statement, am I right?
- A. That's what should be done, yeah.
741. Q. And then that statement should be sent on to the Crown?
- A. Discussed with the Crown, yeah.
742. Q. Or let's say brought to the Crown's attention, and the Crown would then exercise its judgement as to what to do about it?
- A. Yeah, what ingredients they have at that time, the Crown would look at it and make a decision on it.
743. Q. Would there be discussion about what other investigation might follow up the statement?
- A. What other investigation might follow up -
744. Q. What else might be done? Would that be discussed with the Crown?
- A. Well if he wanted some other things connected with it, or if

744. A. (cont'd) the police decide that something else should be followed up then they would follow it up.
745. Q. In your experience as a police officer, Mr. MacIntyre, this information about stabbing, knives and blood would certainly give you good grounds to get a search warrant for the Ebsary residence in 1974?
- A. Yeah, it would if you had his name, eh?
746. Q. Yeah.
- A. I wasn't thinking about Ebsary sir.
747. Q. And I realize this lady didn't -
- A. In '71.
748. Q. No, no, '74.
- A. And this lady, I didn't see her.
749. Q. No, no, but I'm saying if you had this information - I realize you didn't see her, okay, I'm trying to get at the practice, how a police department works here. If you had that information from Donna Ebsary it's the kind of thing in which an experienced officer would say well let's obtain a search warrant for this residence and see if we can find this murder weapon. That's the kind of thing that would occur as a result of that information, right?
- A. Yeah, but if - yes, that's right, but in that particular case that evidence there still should have went to the RCMP because the Ebsary case was turned over to them by me in 1971, and assist if we could, but I mean it should be discussed with them, and one of their members it was discussed

749. A. (Cont'd) with too, according to her, and he done nothing about it. So I dōn't know what truth is in that.

750. Q. Yeah, but she's saying that Constable Gary Green of the RCMP, and they apparently got nowhere with the city police?

A. Yeah.

751. Q. It seems to say that Green didn't have any luck with the city police?

A. Yeah, funny I didn't have a call on it as Deputy Chief, or the Chief.

752. Q. So whatever happened here went by without directly involving you or coming to your attention?

A. If it did happen.

753. Q. Sure, if it did happen, that's right.

MR. MURRANT: Now there's another item - I don't know if you've seen this, Ron, it's a letter from a deeply concerned citizen?

MR. PUGSLEY: I don't believe I have seen that Bob.

MR. MURRANT: To the Minister of Justice?

MR. PUGSLEY: No, I have not seen that. Where does this come from?

MR. MURRANT: I can't think of where it came from. I don't know, it must have come from Mr. Cacchione or somebody.

MR. PUGSLEY: Do you want to question the Chief about it?

MR. MURRANT: Yeah.

MR. PUGSLEY: All right, then I guess perhaps we'd better take a look at it.

ADJOURNED

CANADA
PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

1984 S.S.N. No. 03224

IN THE SUPREME COURT OF NOVA SCOTIA
TRIAL DIVISION

BETWEEN:

JOHN F. MACINTYRE

PLAINTIFF

- and -

CANADIAN BROADCASTING CORPORATION,
a body corporate

DEFENDANT

This is the evidence taken by way of Discovery with the consent of all parties, held at Halifax in the County of Halifax, Province of Nova Scotia on the 5th and 7th days of September, 1984 of JOHN F. MacINTYRE, KEVIN BERNARD CHRISTMAS and MICHAEL TERRY HARRIS.

R.N. Pugsley, Q.C., Solicitor for the Plaintiff

R. Murrant Esq., Solicitor for the Defendant

PERRON & SONS
214 Albro Lake Rd.,
P.O. Box 1136, North, N.S.
B2Y 4B8

SEPTEMBER 5th, 1984 9:30 a.m.

185.

JOHN MacINTYRE, having previously been sworn, testified as follows:

EXAMINATION BY MR. MURRANT:

755. Q. Mr. MacIntyre yesterday at the recess I was going to deal with what I described as an anonymous letter, and I left a copy with your counsel at the end of the day. This, as you know, is an anonymous letter and to use it as a framework for some questions, it purports to be directed to Mr. Chretien who I presume was the Minister of Justice at the time, and in reference to paragraph 2, it says "the real murderer of Sandy Seale is Roy Ebsary. The police in this area feel that Ebsary is responsible for many unsolved murders in this area, including a Chinese man who owned a restaurant on Charlotte Street in Sydney". May I ask, first of all, was there a murder of a Chinese man who owned a restaurant?

A. There was, yeah.

756. Q. And can you tell me who that individual was and when this crime occurred?

A. Well he was one of the employees of the New Era Cafe.

757. Q. New Era?

A. Yeah, the New Era Cafe, he was a man in his 70s, early 70s I believe.

758. Q. Do you know his name?

A. It's just skipping me for the minute. Deputy Chief Norman MacCaskill was on that case and I took an active interest

758. A. (cont'd) in it also. At a later stage I had a session with the Royal Canadian Mounted Police, a full session, went over what I'd done and what I found and what I knew, and they assisted in searching the premises for a weapon. We had carpenters taking down partitions in the basement area looking for the murder weapon. We went over all the evidence and both departments were satisfied that everything that could be done, unless new evidence came to light, was done.
759. Q. Do I take it by that that it was an unsolved murder?
- A. It was an unsolved murder, yeah.
760. Q. Can you tell me when it happened?
- A. This goes back 15 years ago now.
761. Q. That puts us in the area of 1969 or '70?
- A. Somewhere around there, yeah.
762. Q. I'm not asking you -
- A. I have - the file is at the station but I can't just -
763. Q. Was this a stabbing murder?
- A. No, hit by some instrument on the side of the head.
764. Q. And was Roy Newman Ebsary connected in any way with that business, did he work there or -
- A. No, no, his name never came up there.
765. Q. Never came up in the investigation is what you're saying?
- A. No, never.
766. Q. It says in paragraph 3, "The police have known that Junior Marshall was innocent for 8 years". Can I get your response to that statement?

766. A. I never thought he was innocent, no.

767. Q. Then it goes on to say "Donna", I think we - it says previously Roy Ebsary's daughter Donna, so I guess it's Donna Ebsary, "told present Police Chief John MacIntyre about her father, and he said he wasn't interested". Again we may have covered that yesterday but I think your evidence was that if Donna Ebsary came to the police she did not come to you.

A. Yeah.

768. Q. It goes on to mention that you had worked on the case and were considered a hero for solving the murder so quickly. Did you receive any praise or accolades or what have you as a result of solving this murder?

A. There might have been some mention about it, in counsel or police commission, I wouldn't know at this time. Nothing more than they pass word of praise around every now and again on different things.

769. Q. Is it fair to say you were considered a hero for solving it?

A. No, I wouldn't say that, I was doing my job. If you're, you know, I didn't have any letters or anything like that on it. We're dealing with a document here that has a lot of things in it and not signed eh?

770. Q. Of course, I appreciate that. It mentions as well on page 2, "Pratico was intoxicated when he claimed to have seen the crime committed", and I'm wondering, quite apart from the document, was Pratico intoxicated that night?

770. A. Well I think we have it in the statement there, I didn't see him on that night, that he was drinking beer at the time wasn't it, in the statement. I think that was asked of him in the statement if you refer back to his statement.
771. Q. Was he found by the police to be intoxicated? The officers must have had contact with him.
- A. When, that night?
772. Q. Yes.
- A. I don't think the officers had contact with him that night, the night of the stabbing.
773. Q. There's another reference there "that Chant and other witnesses since confessed that he lied at the Marshall trial because John MacIntyre told him he was going to be sent to Dorchester if he didn't help him get a conviction". Was Chant ever told that?
- A. I think we went through that yesterday as how the second statement was taken in the Town of Louisberg and I went through that, I think, very thoroughly at the time, and I deny that sir.
774. Q. Was Chant known to the police authorities, and particularly yourself, as someone possibly involved with selling drugs?
- A. I did hear that he was involved in drugs, yes. Not at that time though, not in 1971.
775. Q. Oh I meant '71, yeah.
- A. No, no, no. I knew nothing about Chant, as I told you

775. A. (cont'd) before, in 1971. I took him to be a clean-cut youth, except that it was passed along to me somewhere along the line at that time that he did steal milk money. I don't know anything else about him at that time but since that time I've heard that remark.
776. Q. And then it says, "Anyone in Sydney can tell you Donald MacNeil was a racist, he made many racist remarks about indians".
- A. I have nothing to say about that sir.
777. Q. You're a life-long citizen of Sydney?
- A. I am, yes.
778. Q. Could you agree or disagree with that proposition?
- A. I wouldn't know, I just dealt with him as a Crown Prosecutor sir and I never got that impression.
779. Q. Referring to page 3 it said that "John MacIntyre was breathing down Alex Goldie's neck", now I take it Alex Goldie was the Chief of Police prior to your appointment as Chief of Police?
- A. That's right, yes.
780. Q. And it says "MacIntyre wanted his job, and talked about being the hero on the case that we've discussed". Were you interested in obtaining the Chief's position at the time of this investigation?
- A. In 1971, the Chief's position was coming up, yes, I was interested in it, yes. I wasn't breathing down Alex Goldie's neck.

781. Q. No, and I didn't ask you that, we passed over that. Then item 2, it said "Ebsary might have been valuable to the police, he may have been a squealer and been useful in terms of providing information". Was Ebsary ever a police informant in Sydney?

A. No, not that I know of.

782. Q. Now you say not that you know of, could he have been for other officers?

A. Never brought to my attention sir.

783. Q. Then it goes on to say "Originally the police were looking for a man of Ebsary's description for this murder", and I take it that's correct, and I say other references that we can come back to but I understand that there was a description somewhat similar to Ebsary and the police were looking for such a person initially, is that accurate?

A. No, there was different descriptions given by different people that were at the scene that night and none of them were - no two people told the same story, put it that way.

784. Q. Okay, I know the description -

A. You know, and then you have Marshall calling up people that were around the area of the dance, the park, and what have you that night, telling them if they were interviewed by the police to talk about a gray haired man you see.

785. Q. But did the police ever take positive action to search for someone?

785. A. The police in 1971, as I said before, we had eyewitnesses to the murder.

786. Q. No, I think you misunderstand me Mr. MacIntyre. Prior to the eyewitness statements, in the period between the actual crime and the discovery of the eyewitness evidence, was there a search for a party other than Donald Marshall as a suspect?

A. We were taking all information sir, and looking over any information that came in.

787. Q. No, no, I still think you're misunderstanding me. Did the police search for a party other than Donald Marshall?

A. The police examined the evidence sir, and interrogated a lot of people and came up with the results that we come up with in '71.

788. Q. It said "They asked Junior to look in a lineup and they had older men who fit a close resemblance to Ebsary." Was there such a lineup?

A. As I said before, in the preliminary hearing I said I have learned that, but as I told you my mind is blank on that, I just can't recall what happened, and then I wasn't called in the original trial.

789. Q. No, but we talked about one lineup in which Marshall was in the lineup?

A. No, we didn't.

790. Q. Well perhaps let me clarify that. I thought you were telling me -

790. A. No, there was only one lineup mentioned and I told you that my recollection of that - there was nothing, as you recall, in my file on it and it's just a blank to me.
791. Q. Can you recall what - well was this a lineup containing Donald Marshall or a lineup containing -
- A. I said my mind is a blank to the lineup sir, and I said there was only one lineup according to the preliminary hearing that I gave evidence in, and I wasn't called in the trial later on.
792. Q. Okay, but I'm wondering if, if you don't know it's fine but was this a lineup in which Donald Marshall was present?
- A. That again sir, I'm telling you I can't just get onto that.
793. Q. Then it mentions that Ebsary was a homosexual, was that known to the police?
- A. Are we talking about Ebsary in 1971?
794. Q. Yes.
- A. I knew nothing about that, no.
795. Q. Now in the normal part of police work, and I think we mentioned this yesterday, would be to obtain a confession from an accused person, if that person was willing to provide a free and voluntary statement, and in this case I trust there was an attempt to obtain a confession from Donald Marshall?
- A. I took a statement from Donald Marshall.
796. Q. And in that statement, which I have read, he does not confess to the murder?

796. A. No, have you got the statement there sir?

797. Q. Yes.

A. Can I see it.

798. Q. I'm not sure, Mr. MacIntyre, if we need that statement for what I'm about to ask you. I've seen it and you've seen it and I wasn't going to ask you about that. I'm wondering, apart from the statement that you took, which is available to all of us, there were other attempts to obtain a confession from Marshall, and we found the one statement - 1971 May 30th, 4:50 p.m. statement of Donald Marshall, age 17, residing at 38 Micmac Street, Sydney, and I believe - let me show you that, that's the statement that you took from him. You have before you the statement that you took from Donald Marshall?

A. I have it here, yes.

799. Q. And that was taken on -

A. May the 30th, 4:50 p.m.

800. Q. Was that the first occasion in which you interviewed Marshall?

A. That I took a statement from him, yes. Yes, it was May the 30th I was working on this.

801. Q. After the taking of that statement were there attempts to take other statements from Donald Marshall, to reinterview him?

A. Not to my knowledge, no.

802. Q. Now there's a gentleman by the name of Bernie Francis, are you aware of him?-

A. I know the name, yeah.

803. Q. He, at the time, was a worker at the Reserve, was he not?

A. I couldn't say just what he was doing there. I know he is connected with the Reserve, with the Band Counsel, what have you.

804. Q. My instructions are that Mr. Francis went to the Cape Breton County Correctional Centre the night before Mr. Marshall's trial and informed Mr. Marshall that the murder weapon had been found and that he should change his plea to guilty. Do you recall that happening?

A. No, indeed I don't, no.

805. Q. Did you have anything to do with any such thing?

A. Go over that again.

806. Q. Bernie Francis, who was a worker or a social worker at the Reserve, going to see Mr. Marshall in jail the night before his trial informing him that -

A. Are you talking before the preliminary hearing, or are you talking about the Supreme Court trial?

807. Q. The Supreme Court trial.

A. Yeah.

808. Q. And informing Marshall that in fact the murder weapon had been found and is suggesting to him that he should change his plea to guilty.

808. A. Francis went and did?
809. Q. Yes.
- A. On whose instructions did he do that?
810. Q. This is what I'm attempting to determine.
- A. I never heard about anything like that sir.
811. Q. Mr. MacIntyre there's a letter, and you've provided me a copy of it, from Harry How, April 20th, 1982 in which Mr. How is writing to you, Mr. John MacIntyre, Chief of Police, Civic Centre, Esplanade, Sydney, and he's saying pursuant to Section 31(2) of the Police Act I hereby request you to deliver to Staff Sergeant H.F. Wheaton of the Sydney Subdivision of the R.C.M. Police all warrants, papers, exhibits, photographs, and other information, or records in your possession or under your control, dealing with the Donald Marshall Jr. case commencing with the initial investigation in 1971, and I understand you received that correspondence from Mr. How, then acting as the Attorney General of Nova Scotia?
- A. That's correct.
812. Q. And perhaps you can help me on this, I'm a little confused. You had indicated to me that you had turned over your entire file to the R.C.M.P. as early as November 1971 and brought them in to do an impartial investigation. I'm wondering why it is Mr. How would be writing to you -
- A. In 1971, this is in regard to material that I had in my possession in 1982, not '81.

813. Q. Right, but I had thought, I was given to understand that you had turned it all over to the R.C.M.P. for an impartial investigation.
- A. No, I didn't say that at all. I think what I said was that the information that I had at the time was turned over to the Crown Prosecutor and he, at my request, had the - we're talking about '82 now?
814. Q. Right.
- A. '71 we didn't have the Ebsary until November, then the statements that I took at that time, I made them available to the Crown the same night that I took them.
815. Q. So what you turned over in '71, 'cause I think I'm quite confused here. In November of '71 when James MacNeil came forward -
- A. Yeah.
816. Q. And Ebsary and members of Ebsary's family, you took statements?
- A. That's right.
817. Q. It is that information, those statements that you turned over to the Crown and to the R.C.M.P.?
- A. To the Crown, I'll leave it at that.
818. Q. To the Crown, okay.
- A. I'll leave it at that. The Crown were knowledgeable of all those statements the night that I took them, which was November what, the 15th, I think, 1971.

819. Q. Let me get this straight. What you would have given to the Crown are those statements we just discussed, not your entire file, like here's something new and here's the whole file, but -

A. I gave them what was new.

820. Q. You gave them what was new?

A. Yeah.

821. Q. And then in '82 the Attorney General is writing to you requesting you deliver these various items to the R.C.M.P.

A. Yeah.

822. Q. I'm wondering what prompted the Attorney General to write that letter?

A. Well I turned over everything at that time, the Marshall case in '71 and any - they wanted all files, documents, pictures, anything that I had connected with the case because they were going over it.

823. Q. Yes, but surely that doesn't require a letter from the Attorney General, couldn't you just give it to Sergeant Wheaton?

MR. PUGSLEY: I'm sorry, what is the question, why the Attorney General wrote.

Q. (cont'd) I guess my question would be this. Why couldn't you simply give the material to Sergeant Wheaton?

A. It was there for the asking.

824. Q. Now in the document Mr. Pugsley gave me which contained that

824. Q. (cont'd) letter from Harry How, and there's another document that seems to have been prepared by you, Sydney Police Department, April 26th, 1982, and has a list of various items, I take it you're familiar with that -

A. That's items that were in the file we turned over to Staff Sergeant Harry Wheaton.

825. Q. This was a listing that would have been made by yourself, I take it?

A. Well it wasn't typed by me but the documents were initialled by the Staff Sergeant that he received them from me.

826. Q. And on page 2 it's got statements of George Wallace MacNeil and Roderick Alexander MacNeil.

MR. PUGSLEY: I'm sorry, which one is page 2?

MR. MURRANT: The Sydney Police Department, page 2 continued.

MR. PUGSLEY: Right, thank you.

Q. (cont'd) And it says two in one, and I don't know what two in one means.

MR. PUGSLEY: I'm sorry, what was your question again Bob, I've got page 2 now.

Q. (cont'd) It says statements of George Wallace MacNeil, Roderick Alexander MacNeil and then it's got two in one and ~~it~~ looks like H.W. Staff Sergeant?

A. That's Harry Wheaton, Staff Sergeant.

827. Q. What does two in one mean?

A. Two in one, them two young fellows were probably taken in and

827. A. (cont'd) told what they knew and probably one didn't know any more than the other but they were together at the time, I don't know, I'd have to look at the statement to tell you that, but it looks like the two were on the one, you know, they were in there -
828. Q. Gave one statement?
- A. That's what it looks like, yeah.
829. Q. I may have that here and we may check that in a minute. Then the last page of that list it says original statements, and it's got May 29th - statement of Chant missing, bunch of question marks, original of Chant 4 June 71, H.W. again, which is Harry Wheaton's initials I guess.
- A. Yes.
830. Q. Was the May 29th statement of Maynard Chant missing?
- A. You mean May 30th. I have the May 30th statement here, I have that.
831. Q. May 30th, 1971, 5:15 p.m. statement of Maynard Vincent Chant?
- A. Yeah.
832. Q. Then on this list, is that part of the list prepared by you?
- A. The documents were dictated to a party to type it and as the Staff Sergeant received them he initialled the pages.
833. Q. But in typing up this page of original statements you would have dictated that to somebody?
- A. I would have?

834. Q. Yeah.

A. I would have had the list typed.

835. Q. So you would have put in statement of Chant missing, question mark, question mark, question mark?

A. Yeah, that was done when the R.C.M.P. came in, I think I had that done, yeah, he didn't type it, put it that way.

836. Q. Okay, and original of Chant, 4 June 71, I guess is Chant's second statement and Wheaton got that so he acknowledged it?

A. Yeah.

837. Q. Now if you go done further it's got Marshall and a bunch of question marks, not present, so do I take it from that that the original statement of Donald Marshall was not there either?

A. No, I don't think it was if it's not marked in.

838. Q. Then it's got Mattson, question marks, not present, who was Mattson?

A. Mattson was an ex-R.C.M.P. officer who lived on Byng Avenue, and he gave evidence that on that particular night that his window was up, his bedroom window, and he heard a conversation on the sidewalk about a stabbing, and I believe he called the police on that occasion, I believe that's how -

839. Q. What type of a conversation?

A. I said he heard them talking about a stabbing.

840. Q. Them meaning?

A. Them meaning people talking on the sidewalk. His window was

840. A. (cont'd) up, you see, and this would be midnight or so probably when he went to bed eh, I don't know.

841. Q. So his evidence would probably establish the time of the incident?

A. Yeah, this was around the midnight hour.

842. Q. Then down below it's got police, and then it's got question marks again. That seems to tell me that that statements of the officers involved were missing as well?

A. Well the statements of Constable Walsh, Mroz, Howard Dean, Amherst, MacDonald, Sydney Police Department, May the 29th and the early morning of May the 30th, 1971, the officers were on duty at that time, signed Staff Sergeant Wheaton.

843. Q. What are you referring me to?

MR. PUGSLEY: Page 1.

A. Page 1, at the bottom of the page. I think we went over that yesterday.

844. Q. Okay, well then why do we have police question marks on original statements, maybe because the originals weren't there and they were copies?

A. This I don't know.

845. Q. Help me, I'm puzzled.

— A. He's got what I had anyway at that time.

846. Q. Now sir I understand that you never testified in any of the proceedings against Donald Marshall?

A. I don't believe I was called, no. No, I think the evidence

846. A. (cont'd) says that. I think the only time that I would be called if they went back on their statements that they gave me, and when they took the stand and gave the same evidence that they gave me in statements there was no need of calling me because it was them that was there not me. I suppose if they told a different story then there would have been -

847. Q. You may have been called?

A. I might have been called as to the validity of the statement and to check into the story that they gave me.

848. Q. Now there's an Affidavit that you submitted in the proceedings, Supreme Court of Nova Scotia, Appeal Division, in the matter of a reference pursuant to Section 617 of the Criminal Code, which is the Marshall re-hearing, and you signed an Affidavit in that proceeding on the 26th of July, 1982 apparently.

MR. PUGSLEY: Wait one second until we get that. Perhaps if you have a copy there we could take a look at it Mr. Murrant.

MR. MURRANT: Yeah, it's 5 pages.

Q. (cont'd) Is that the Affidavit that you executed, the date I referred to?

A. Yes sir.

849. Q. The part I'm interested in ~~is~~ the 4th page, I guess, paragraph 25. "That I am aware of the statement attached hereto as Exhibit I of George MacNeil and Sandy MacNeil", I take that is George MacNeil and Alexander MacNeil, "wherein

849. Q. (cont'd) they describe two men whom I now know could have been the above-named Ebsary and the MacNeil referred to in the next paragraph hereof, but which statement appeared at the time to have been superseded in importance by those subsequently taken from the aforementioned Chant, Pratico, and Harriss", so you're saying that the statements of the MacNeils, George and Sandy, were superseded in importance by what these three young people said as you investigated, and I'm wondering why were their statements discounted?

MR. PUGSLEY: Well just a second, I'm sorry, I don't mean to interrupt, but does the following paragraph shed any light on timing, the 26th?

MR. MURRANT: "The above named Mr. Ebsary did not come to my attention until after the appellant Marshall's conviction when, on or about the 15th of November one MacNeil came forward and gave me a written statement, a typed copy of which is attached, wherein he indicated that Ebsary had stabbed Seale".

MR. PUGSLEY: And perhaps just because of my unfamiliarity with the Affidavit you referred to but, I'm sorry to interrupt, but the two people who were referred to in paragraph 25 were who?

MR. MURRANT: George MacNeil and Alexander MacNeil.

MR. PUGSLEY: I'm sorry, I've lost track, who are these people?

MR. MURRANT: That's what I'm trying to find out.

MR. PUGSLEY: Are they James MacNeil?

MR. MURRANT: No.

MR. PUGSLEY: These are other people are they?

MR. MURRANT: Well I think in the list prepared by Chief MacIntyre. I referred earlier to statements of George Wallace MacNeil, Roderick Alexander MacNeil two in one.

MR. PUGSLEY: Are those statements next to that Affidavit the statements of George MacNeil and Alexander MacNeil?

MR. MURRANT: They might be, no. This is from the Courthouse file and there's mention of many many exhibits but I don't see those.

MR. PUGSLEY: Could the Chief just read that paragraph again that you're referring to Mr. Murrant, number 25. Do you have any objection if I take a look beyond this Affidavit, you don't think Exhibit I, these statements are attached here?

MR. MURRANT: I found a statement here, 1971, May 31st, 6:30 p.m., the City of Sydney Police signed George MacNeil, Sandy MacNeil, and we copied the Affidavit from the Court file.

MR. PUGSLEY: Where is that Affidavit from, do we have that statement? No. Do you mind if the Chief just refreshes his memory by taking a look at that?

MR. MURRANT: Sure.

MR. PUGSLEY: Is that the court file as well, Bob, that you're looking at?

MR. MURRANT: It's the Affidavit of George Wallace MacNeil, marked Exhibit A "concerning my knowledge of the events", so I take it that this statement is Exhibit A from his Affidavit.

MR. PUGSLEY: I presume it was Exhibit I too, Chief MacIntyre's Affidavit, I assume. - Now you were referring the Chief to paragraph 25 of his Affidavit, and I presume that Exhibit I there is the statement we've just seen given May 31st, 1971.

849. A. M-hm.

MR. PUGSLEY: Thank you, and what's your question Mr. Murrant?

850. Q. I believe in your Affidavit, Mr. MacIntyre, you said that the statement of George and Sandy MacNeil et cetera, was superseded in importance by those subsequently taken from the aforementioned Chant, Pratico, and Harriss, and I presume, correct me if I'm wrong, that Mr. George MacNeil and Sandy MacNeil only gave you one statement, is that right?

A. That would be right.

851. Q. And you've seen here a statement of May 31st, 1971, 6:30 p.m., purportedly a joint statement of both of these gentlemen, and they say "we left the dance at Saint Joseph's Hall Friday night 11:40 p.m., we walked through the park and seen two men hanging around, description as follows: one man, gray haired, gray or white top coat, 5'9", weight 180 pounds, hair flat on his head, no wave, straight back, round fat face, trampish looking, late 50s, second man, tall 6 feet, or better than average size, dark hair, late 30 or early 40s, thin face, brown jacket, short", and you say that what MacNeils told you was superseded in importance.

A. Well you have the meeting, seeing those two fellows in the

851. A. (cont'd) park, this is all the dance hall crowd that you're talking about, I think they all pretty well knew one another, everybody was giving a different description of what they seen, you see what he says there about the older man, what he was wearing, a gray or a white coat, and he was 180 pounds and his height. Ebsary's about 5'1 or 2 and very slight built. Then Marshall says the man had a blue topcoat on him, this fellow here says that the other man had a short brown coat on, the other chap, and his height, which what's his name, MacNeil is not that tall. MacNeil says that he had a light jacket on him with white strips on it. You see it's a very confusing, and don't forget this is back 13 years ago and everybody was giving different stories and everything is not matching up.

852. Q. Well certain things are though, I mean -

A. What are the certain things sir?

853. Q. Well you have these two individuals, are these young people?

A. Yeah, they're all young people, that's right, they were all over at Saint Joseph's, the dance that night.

854. Q. George MacNeil says in his Affidavit -

A. I believe they were - where were they coming from, Bungalow Road and Coxheath or -

855. Q. Well let me see. I, George Wallace MacNeil, 3536 Ellsworth Avenue, Town of New Waterford", of course that's his address in '82, "was born on July 21, 1953, and on the night of

855. Q. (cont'd) May 28th, 1971 I was 17 years of age". No, I don't see a reference here to the age of the other MacNeil. I guess what I'm asking you is why did you discount what these two individuals said, you know, were they drinking, were they -

A. I don't think it was a matter of discounting, it was a matter of gathering evidence and then taking a look at the whole picture at the time, and then when I came up with eyewitnesses to the stabbing, and I came up with the Harriss girl and Gushue pinpointing those people on Crescent Street, where it happened, not in Wentworth Park but over on Crescent Street.

856. Q. The Harriss girl initially describes two men to you, you know, if you take -

A. She said there was more than two men there if you recall.

857. Q. If you take the trouble to make a visit to certain witnesses why didn't you take the trouble to go back to the MacNeil's?

A. I had two eye - wait now, you're down in Wentworth Park, in the Park and I'm up on Crescent Street. We had two eyewitnesses to the murder that it happened on Crescent Street by the green apartments where the stabbing took place, the stabbing at that time. Then we have Gushue and the Harriss girl walking over Crescent Street and Gushue identifies Marshall and this other chap and only two of them there standing by the green apartments where Chant and

857. A. (cont'd) Pratico said that they were standing. The only difference is you have the Harriss girl saying, in her first story, that there was three there. Now either her or the other fellow, or Gushue, this 20 year old boyfriend on that particular night, one of them I wasn't getting the correct story from.
858. Q. Or George MacNeil. I guess what I'm wondering is if, you know, if you took the effort to go to Louisbourg to reinterview Maynard Chant why didn't you take the effort to go to New Waterford, Coxheath, or wherever and reinterview George MacNeil concerning the size, weight, description, clothing -
- A. I was an investigator at the time and my thoughts on it at that time, after taking the statement from Pratico, was to go out to Louisbourg and see what Chant had to say about it that afternoon, and I thought that I carried out a proper investigation on that afternoon, the Wednesday afternoon with those other people present, and I wanted to get the truth and that's what he told me, so at that time I had eyewitnesses to the murder, and those people weren't up on Crescent Street, those people were around the Park over there, but they identified Marshall as the fellow that done it.
859. Q. This statement of the MacNeil's, to your knowledge, George MacNeil and Alexander MacNeil, was that ever provided to Defense Counsel for Donald Marshall?

859. A. To the Defense, I can't tell you that.

860. Q. Now I'm looking here at an Affidavit of C.M. Rosenbloom, Q.C., which again is 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 Honorable John Chretien, Minister of Justice, and this is signed by Mr. Rosenbloom, hard to tell, it looks like the 9th day of August, 1982, I don't know if you're familiar with this Affidavit but there's only one part and I'll read, perhaps we can take it from that paragraph 11 of page 2. "That every possible effort was made at trial to obtain the truth from the witnesses Maynard V. Chant, John L. Pratico, and Patricia Ann Harriss but there was no indication at that time that they were willing to change their original testimony, and I believe that if evidence of the contents of the statements and Affidavits referred to herein had been introduced to trial then the jury might reasonably have been induced to change its views regarding the guilt of Donald Marshall Junior". I take it by that, and if you don't know you don't know, but that Mr. Rosenbloom was not familiar with any of these other statements, they were never provided to him?

A. I don't know anything about that, that would be the Crown.

861. Q. From the reports that Inspector Scott, probably the original list of documents that was dated 82-05-05, Inspector Scott is saying, now I'll read it to you, you can look at it if you

861. Q. (cont'd) like, "No one can tell us who was in the lineup or who viewed it". Then he says "Pratico, who was a key witness, comes to light two days after the murder. No one can tell us how he was discovered to be a witness to the murder". How was Pratico discovered to be a witness to the murder?
- A. From information received, you're talking back 14 years ago now and there's a number of men in the police department and somebody came up with his name and he was taken in for questioning, you know, that's a - I don't think - the same thing as if we heard that John Brown was in the area that night and he might know something about it and, well, we send out and get John Brown, bring him in and see what he does know. I don't think that's too complicated, like any other investigation.
862. Q. But can you tell -
- A. At this time, no, I can't tell at this time, no, who took him in or -
863. Q. Did you take him in?
- A. I can't tell you who took him in.
864. Q. Can you tell me how he was identified as being at or near the scene?
- A. When he was questioned.
865. Q. Yeah, but someone had to put him there.
- A. Well yeah, but well what I'm trying to get across to you, all

865. A. (cont'd) those people you are talking about there, they were at Saint Joseph's Hall that night or they were in the park area. They all belong to a block, they all knew one another, you know. Marshall was on the phone calling them the next morning, Saturday morning, if the police call you - you've seen the O'Reilly statement there did you?

866. Q. Yes.

A. Did you see tht? Isn't that proper, wasn't that what's in that. If the police call you you talk about a gray haired man, you know, what's his motive, tell me, you know.

867. Q. Maybe he was afraid of going to jail for something he didn't do.

A. Probably, yeah. If the police call you, so he must have thought that the O'Reilly girl had something to offer. And how many more did he call, he was up to Pratico's house, isn't that in the evidence, on the Saturday morning after the murder, or the stabbing Friday night. What took him to Pratico's house Saturday morning?

868. Q. Well I -

A. No, but I asked those, you know, I wonder.

869. Q. But you can't tell me -

A. Is that the, you know -

870. Q. as you sit here how Pratico came to light as a witness?

A. No, I would say through the efforts of some of the men that were on patrol that night that picked up his name. His name

870. A. (cont'd) was picked up, like others, that we found out were in the park, and I interviewed everybody that I could in that investigation.
871. Q. And my next reference is a statement given by Wayne McGee, Wayne Robert McGee, Sheriff, Cape Breton County, Nova Scotia, taken Sydney, N.S. 2 March 1982 and witnessed by H.F. Wheaton, Staff Sergeant, and I don't know if you've seen this document, I can show it to you if you like. He's talking about the interview of Maynard Chant in Louisbourg. He says "I don't recall any hesitation on Chant's part. He admitted seeing the stabbing. John did all the talking", and from what's above that's obviously yourself, "and after the statement was taken we all signed it". I show you Mr. McGee's statement, I put a bracket and underlined there where McGee is saying "and we all signed it".
- A. I think if you look at the statement, and again this is 13 years later, they knew at that time that I was putting their names down on the back of the, on that form which is attached to the statement, it's in my handwriting, the full names, and the man that took that statement, Staff Sergeant Wheaton, it was explained to him how that statement was taken and it's funny that there wasn't a question there as to why those other people were there because I requested that the mother or father of that boy accompany him on account of his age to the questioning room, and as you can see they were there but

871. A. (cont'd) you can see that - and again that's 1982 that they took that from McGee.
872. Q. So are saying Mr. McGee is in error here?
- A. Well he's in error that he didn't sign the statement, I put their names on the back of the statement in my handwriting that they were present.
873. Q. Now Lawrence Burke has given a statement, Lawrence Thomas Burke, Floral Heights, Howie Centre, Nova Scotia, taken at 2:13 p.m. 82-04-21, witnessed by J.E. Carroll, Corporal. Now he's a corporal with the R.C.M.P.
- A. That's right.
874. Q. And Burke is saying, again in the context of the Chant interview, "I believe Judge Edwards suggested to me that Chant's parents could attend the interview and I wouldn't be needed. I don't recall being present when Chant was interviewed by the police. I don't recall signing a statement as a witness and don't remember seeing Mrs. Chant on that day".
- A. What did he say about Judge Edwards there?
875. Q. I'll read the whole thing through slowly. "Maynard Chant was under my supervision in Louisbourg in 1971. I was aware of him being interviewed at the Town Hall. We were in court there at the time. Judge Louis Edwards of the Family Court was also there. I knew the Sydney City Police were interested in questioning Chant about the Seale stabbing.

875. Q. (cont'd) I believe Judge Edwards suggested to me that Chant's parents could attend the interview and I wouldn't be needed. I don't recall being present when Chant was interviewed by the police. I don't recall signing his statement as a witness. I don't remember seeing Mrs. Chant on that day". I guess your evidence would be that Mr. Burke -

A. Have you any statement there sir from Judge Edwards?

876. Q. No, I don't.

A. Being interviewed in 1982 in regard to that?

877. Q. I haven't seen one.

A. Well my recollection of my conversation with Staff Sergeant Wheaton who told me, I think came to my office and told me about what Burke had to say, and I told him that Burke was definitely there, but what he did tell me also that when Burke told him that he wasn't, that he don't remember being there, he didn't say he wasn't there but he said he didn't remember being there, so he said I went to see Judge Lou Edwards, who is a juvenile judge and he told him that he had seen Burke, his probation officer, he doesn't remember being at the Town Hall on that particular date when I took the statement from Chant and could he throw any light on it. Well he said, I think the judge's words were something to this effect, I don't know what my probation officer would be doing in on a police statement in Louisbourg, and he said when was that, and Wheaton provided him with the date and the

877. A. (cont'd) year. Now just a minute, he said, and he went over to wherever he keeps his notebooks and he plucked his notes of 1971 and he looked up that particular month and he said just a minute, he said, I was in court in Louisbourg on that date and that's very possible that Burke could have been there. Now that was taken from his notebook, so you say you have nothing from Judge Edwards?

878. Q. I haven't seen it.

A. Now I ask again, and it's not given to me clear there. Was Chant in court in Louisbourg on that day and put on probation that date and the date that I - and he had no record before that when I was questioning him, 'cause all I knew in Louisbourg there was something about some milk money. Now was the Judge in Louisbourg on the same day as I was taking the statement, was Chant before the Judge that day for theft of the milk money and put on probation that day to that probation officer, because he says there, what's his name, says there, the probation officer, that he was on probation to him in 1971. Now was it the date that I was in Louisbourg taking that statement?

879. Q. Someone would have to check because it says "Maynard Chant was under my supervision in Louisbourg in 1971" - so, you know -

A. Well I mean we're taking a statement, you see, on June the 4th, 1971, you've got the juvenile judge in Louisbourg on

879. A. (cont'd) that day trying cases, you have Burke, the probation officer, that day that I definitely seen him, he was there, and I have his name on the back sheet and Chant's mother.
880. Q. We don't know.
- A. Well I do know sir.
881. Q. That he was in court that day?
- A. Who, Burke?
882. Q. Chant.
- A. I don't know anything about that, I wasn't over to the courtroom, that's the question that I was asking when you had that much on it. There's Judge Edwards that contributed what he could to it and now that you say that he was on probation in '71, was he before the court on that date for that reason, because the Judge was out on that date trying cases when he looked over his diary. It's all I can add to that sir.
883. Q. I notice in Pratico's statement in '82 he says, "I gave", something about the trial, "I gave my evidence and the lawyers gave me a hard time. I saw Chant there but I wasn't allowed to talk to him". Were Pratico and Chant - let's take Pratico, was he disallowed, did someone tell him he was not allowed to talk to Chant?
- A. I couldn't answer that at this time sir, you know, you're talking about Supreme Court there are you?
884. Q. Yes.

MR. PUGLSEY: I suppose it could have been the court.

884. A. It could have been the court just as well.

MR. PUGSLEY: The Judge might have told witnesses not to discuss their evidence.

MR. MURRANT: It could have been the Crown, it could have been the police.

MR. PUGSLEY: It could have been anybody.

885. Q. Do you have any recollection of that Mr. MacIntyre?

A. No, I have no recollection of that, no.

886. Q. Now Barbara Floyd, do you recall her at all?

A. Do I recall, I recall a girl by the name of Floyd, yeah.

887. Q. I have here a statement, 29th of March 1982, 121 Inglis Street, Sydney, Nova Scotia, Barbara Mary Floyd, and do you recall having any dealings with her, Barbara Floyd?

A. I believe I questioned her.

888. Q. She said in part, and I'll read this to you, she talks about going to the dance, she talks about going down George Street, et cetera, "We continued down George and went a short distance up Argyle taking Joan home. Sandra and I then walked to our homes on Townsend and Inglis Streets. The next day John MacIntyre and a uniformed policeman came to my home. They questioned me about where I was and who I had seen at the dance. I told them what I had done, and I don't believe I told them I saw John Pratico by the dance, as it didn't mean anything. The next thing I can recall is that the

888. Q. (cont'd) trial was on and Pratico was a key witness. I found this unbelievable as Pratico was up around the dance and never mentioned the stabbing. I saw Pratico around and always felt that he was rather strange. I discussed this with my girlfriends and we thought it would be reported. I called one of the lawyers and told them I couldn't see why Pratico was a main witness as we had seen him in the parking lot at the dance. He just said you're too late and that's the end of the conversation". Now sir do you have any recollection of this gal making this report to any of the counsel involved at that trial?

A. What lawyer did she call?

889. Q. Well it doesn't specify here but I'm -

A. Well she's very clear on everything else in 1982, you'd think she'd know what lawyer she called wouldn't you. You know, is it a lawyer at the trial she called or was it some other lawyer.

890. Q. She said she called one of the lawyers, and my question is -

A. No, I know nothing about it sir.

891. Q. Do you know anything about this at all?

A. No, no.

892. Q. Did she tell you in her interview where Pratico was?

A. She says there that she neglected to talk about John Pratico to me, isn't that right?

893. Q. M-hm, as it didn't mean anything.

893. A. Yeah, I don't know, is there a statement from her?

894. Q. Just the one she gave in 1982.

A. No, no, but in '71.

895. Q. I haven't seen it.

A. You see anything I had was turned over, as you know, to the R.C.M.P. and that's where they got all those names. All those people you see there, I interviewed those people in '71. The only new name that I see, the two I see there would be Doctor Mian and this Sarson from Pictou County that made the complaint a few years later to Aronson in Dartmouth. But all those people were at the dance on that particular night, of May the 28th, 1971, they were all young at the time.

896. Q. And I see a reference here, Doctor Mian, February 19th, 1982, and he's giving a statement saying "I am a medical director of a Cape Breton Hospital and I have treated John Pratico since August of 1970. I found him to be a very unreliable informant. He tends to manipulate and fantasize, distort, according to his needs and wishes. During the time of the murder trial in 1971 I would have been treating John. He was admitted to the Nova Scotia Hospital on 31st of August, 1971. At that time he expressed concern about the trial and the outcome. He was glad to be in the hospital and the results from the N.S. Hospital were the same as my own findings. John L. Pratico tends to fantasize and I would consider him to be a very unreliable witness". Was this known to the police in 1971?

896. A. We had nothing to do with doctors and there's still no medical record there given, just a statement from Doctor Mian, and you'd think if he knew that much in '71 that Pratico shouldn't give evidence that he would have got in touch with the authorities.
897. Q. Even though it's possible the Sydney Police drove Pratico to the Nova Scotia Hospital?
- A. It could be, yes. I'm not disputing that. How long was he there, Mian doesn't say that does he?
898. Q. I don't see that. There's another document here that's difficult to read. It looks like, you know, you'll have to look at this Mr. MacIntyre, it says "R.C.M.P" something "CIS, November 17th, priority", it says "NPSIC" a series of numbers "Roy Newman Ebsary" a number, "Sydney, N.S. One, breach LCA", which is the Liquor Control Act".
- A. Liquor Control Act.
899. Q. Police terms, the section "was fined ten dollars and costs, 10 days. Two, possession of concealed weapon 8300, fined one hundred dollars" and then it goes on "unable to associate James MacNeil with FPS file, no outstanding warrants", and I don't know if you recognize that but that looks like a police communication. It looks to me as though on November 17th, 1971 when Ebsary's name surfaced that a record check was done on the CPIC to see if this man had any previous record?
- A. Who, Ebsary?

900. Q. M-hm.
- A. Yeah, and MacNeil?
901. Q. And MacNeil, and MacNeil was negative and Ebsary showed a violation.
- A. MacNeil was not negative with our department.
902. Q. No?
- A. No, he's not negative.
903. Q. Does he have a previous record?
- A. Well I don't - he's got something with our department.
904. Q. Ebsary -
- A. I believe it's something in the line of attempted theft, he's got several charges of intoxication.
905. Q. Ebsary, if I follow this communication correctly, November 17th, 1971, your police department would have received confirmation from the R.C.M.P. that Ebsary had a previous conviction for carrying a concealed weapon, am I right on that?
- A. When was that communique?
906. Q. It's hard for me to read this, it's a poor copy -
- A. Then what you telling me about - what are you saying about November 1971?
907. Q. Well this is suggesting to me that November 17th, 1971 your department, your police department requested from the Royal Canadian Mounted Police a computer search as to whether or not Roy Newman Ebsary had a criminal record and it further

907. Q. (cont'd) suggests to me that the response was yes, a violation of the Liquor Control Act and secondly possession of a concealed weapon, Section 83 - well it's got 83CC, Section 83 of the Criminal Code.

A. Yeah.

908. Q. And I guess my question to you sir is did you procure that information on November 17th, 1971 when Ebsary became a part of your investigation?

A. Ebsary didn't become part of my investigation at that time.

909. Q. When did he become?

A. November the 15th, '71 Ebsary, yeah, on the 15th, November 15th, '71, that's when I took the statements.

910. Q. Let's understand each other.

A. Yeah.

911. Q. November 15th James MacNeil comes in and says Ebsary could be the man that did the stabbing.

A. Yeah, all right.

912. Q. November 17th you learn that the man has a previous conviction for carrying a concealed weapon, does that -

A. I didn't - who sent that communique out, I don't know who sent that out.

913. Q. Well let's forget about that, I'm just using that as a reference to try and figure this out.

A. At that time I turned this over the Crown on the 15th. Now I don't know just who sent that communique out.

MR. PUGSLEY: Do we know that communique went to the Sydney Police Department.

A. (cont'd) or was it R.C.M.P., I don't know.

MR. MURRANT: We can't tell from this.

914. Q. Forgetting about the communication, did you know?

A. I don't recall my recollection of that.

915. Q. Now my next reference is the statement of Mary Patricia Ebsary, 46 Mechanic Street, Sydney, given April 19th, 1982 to H.F. Wheaton, and she's saying in part "I recall I called the Sydney City Police on numerous occasions when Roy was in one of his destructive violent rages, nothing was done. The Sydney City Police were well aware of Roy, as I turned him in in 19 -

MR. PUGSLEY: I'm sorry, Bob, could you just give me - when was that statement given?

MR. MURRANT: The 19th of April 1982.

MR. PUGSLEY: How does it start off?

MR. MURRANT: It begins with "On the night of the Seale murder I was at our home.

MR. PUGSLEY: Thank you.

Q. (cont'd) In the third paragraph she says "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 Royal Hotel. His exact words, referring to Tony the chef, were 'when he opens th door I'll gut him'", do you recall him being turned in for that in 1970?

915. A. No, if there was a call of that nature it would be the patrols looking after that, carrying a concealed weapon, we have sometimes several during the year charged with that same offense.
916. Q. Okay, but let's deal specifically with -
- A. And by the look of your communique there that that might be the charge, that's a concealed weapon there.
917. Q. Were you aware of this incident?
- A. Was I aware of that incident, that call, no.
918. Q. Can you tell me whether or not another member of the force?
- A. I can't tell you, no.
919. Q. Would the Sydney City Police keep records of an incident such as this?
- A. I imagine they're gone now.
920. Q. No, but back in '71 they would have been kept, records would have been kept -
- A. Well if they had a call about you carrying a concealed weapon, the patrols would watch for you and if they picked you up and you did have a knife on you, strapped to your belt or where the place might be, and it was a violation of the code, they would just take you in and book you, you see, and that's probably what happened there. You remember me interviewing this lady on November the 15th, '71 and she didn't tell me anything about any of this stuff at that time eh, in her statement. Do you recall that?

921. Q. That's between you and her sir, I guess she says -
- A. No, no, but I took a statement from her and asked her if she knew anything about it, she's saying at this time Jimmy stopped at the door of the living room and said something like you saved my life.
922. Q. Well she says at the end "I cannot 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". I don't know, that's someone's version of it. I wanted to ask you as well the statement that Roy Ebsary gave on November 15th, 1971. This would be a statement taken by yourself - no, let me check that, it's two pages in length, November 15th, 1971, you see over on the second page it's got witness, Detective Sergeant M.J. MacDonald?
- A. That's correct, yeah.
923. Q. And the time?
- A. Yeah.
924. Q. And then it's got by -
- A. Sergeant Detective John MacIntyre.
925. Q. What's that mean?
- A. What's what mean?
926. Q. Does that mean that you took the statement?
- A. I took the statement sir, yes.
927. Q. And he witnessed it?

927. A. That's correct, it's marked witness.

928. Q. Is he a member of the Sydney -

A. He's the Chief of Police right now.

MR. PUGSLEY: I'm sorry, which statement is that, Bob.

MR. MURRANT: Ebsary, November 15th.

MR. PUGSLEY: Of Roy Ebsary.

A. (cont'd) He was a detective at that time.

929. Q. Now his statement, he said "I remember one night myself and Jimmy MacNeil were at the State Tavern, we were going home down George Street across the bridge in Wentworth Park up to Crescent Street. What happened? When we were almost over to the corner of South Bentinck Street two chaps who were behind us came around the sides of us and asked us if we had cigarettes and if we had any money. We told them we didn't. They asked us to turn out our pockets, so we turned out our pockets. The short fellow tried to take my ring off my finger while the tall fellow had his arm around the other fellow's throat (Jimmy's) and had him on the ground. When he tried to get my ring I was not well. I tried to wrestle him, he slung me onto the ground, I made a kick at him and he got up and ran off. I went over to see how Jim was getting along with the other fellow and he dropped Jim and ran off with the other fellow. Question: Did you stab the man you were wrestling with? Answer: Hell no, why would I stab him". Now correct me if I'm wrong but Ebsary is saying that he's in the park that night?

929. A. No, he's saying in that statement, I think on the one in there, that it was over on Crescent Street by Robbie Robinson's house, which is on the corner of Crescent and Bentinck, and so that's a piece away from the park bridge and that section of the part. I think that's in there, isn't it, when I asked him the location?

930. Q. I'll check.

A. He said over by Robbie Robinson's house on Crescent Street. That's the last house over on the corner of Bentinck and Crescent, Crescent and Bentinck.

931. Q. I don't see it there.

MR. MacINTYRE: We haven't got that statement have we?

MR. PUGSLEY: Yeah.

A. "Question:", that would be just up near the top - when the statement started, "Question: What happened? Answer: When we were about over to the corner of South Bentinck Street near Robbie Robinson's on Crescent Street, two chaps who were behind us came around the sides of us", is that what you've got there?

932. Q. Right, yes.

A. "and asked", so that's what I'm pinpointing, that's where they said it took place on Crescent Street near Bentinck Street, and Robbie Robinson, who was a radio announcer, he lives in the first house on that street, over that corner. Now you've got the others saying that it happened over at the

932. A. (cont'd) green house apartments, which is over about 6 houses over towards the park.
933. Q. Tell me if there's a common thread here. MacNeil is saying he was in the park, he's indicating that Ebsary did the stabbing. Ebsary in his statement is saying he was in the park, that there was an altercation with two chaps, he calls them.
- A. Not in the park, over on Crescent Street.
934. Q. Wherever, in the neighborhood, in the vicinity.
- A. Yeah.
935. Q. And then you asked Ebsary "Can you tell me when this disturbance took place on Crescent Street?", and he says "After 11 p.m.", and then you say "Question: What month? Answer: In May, the same night this boy was stabbed." So now you've got Ebsary at or near the park the same night, according to that statement, is that a fair synopsis of it?
- A. That is, yeah. That's why I took the action I took on that night.
936. Q. Now there's another statement here signed by Constable Walsh and Mroz, and I'll read it to you, you can have a look at the whole thing if you like. "The only remarks made by Seale other than moans of pain, was in the hospital on the table in the outpatient room and he said I can't breathe. After we left the hospital Constable Mroz and I went to all open restaurants to check for two suspects described by Donald

936. Q. (cont'd) Marshall. I checked the Wandlyn Motel, Cape Bretoner Motel, and the Isle Royal Motel re and parties checking in through the night but to no avail. Also checked some of the taxis as to whether two men had been taken anywhere. At the scene on Crescent Street I was unable to come up with an eyewitness as to what had taken place. Sandy Seale had been at the dance at Saint Joseph's and observed there by Constable John Maloney", is it?
- A. John Maloney, yes.
937. Q. So he'd be on -
- A. He'd be on special duty there.
938. Q. At the dance?
- A. Yes.
939. Q. And Mroz and Walsh have signed a statement saying that they were looking for two suspects described by Donald Marshall and they checked out things around the city that night looking for them. Do you recall that happening?
- A. Well they were on duty that night, that would be their job to do that, just what they're saying they done.
940. Q. And they said as well "I was unable to come up with an eyewitness as to what had taken place." Do you know what they did that night? Wouldn't it be their job to identify and interview those persons present?
- A. If they didn't have their names and if they didn't know, if Pratico took off from the scene how were they going to know

940. A. (cont'd) unless somebody told them who he was that particular night that he was up there, you know.
941. Q. Mr. MacIntyre what was the height and weight of both yourself and Sergeant Urquhart in 1971?
- A. '71, I don't know, I suppose Urquhart must be 170, I don't know what Urquhart would be - a 175 pounds, he's about 5 foot 10 or 11. I'm around 6 feet, I suppose I weighed - I did weight a lot one time but I took a lot of weight off - I took a heart attack in 1964 and lost a lot of weight, you know, and I tried to keep it down, somewhere, probably about 260 or so, might have been more.
942. Q. At that time?
- A. It might have been more, yeah. I was much heavier than that before.
943. Q. Is it the standard practice in police work to keep notes of investigations?
- A. To keep notes?
944. Q. Yes.
- A. Well you keep notebooks for a while, yes, steno.
945. Q. I'm wondering where the notes of this investigation are?
- A. I had a file on that and I had names in that file, I had statements in that file, I had it at the police station.
946. Q. Wouldn't you also have notes that you would make as you progressed in the investigation?
- A. Well any papers or slips would be in the file until I was closing it.

946. A. Well any papers or slips would be in the file until I was closing it.
947. Q. Would any notes that you made have gone to the R.C.M.P.?
- A. They took a bunch of papers, I don't know what they took. I think it's listed there other, yeah.
948. Q. Do you have any papers that they didn't take?
- A. No, I gave them everything.
949. Q. Does the Sydney City Police have any records of this that they didn't take?
- A. No, not that I know of sir.
950. Q. Now the last thing I want to ask you about are some newspaper articles that have been collected here and if they didn't come to your attention, that's fine, if they did you may have a comment on them. First of which is March 31st, 1982, this is by the Toronto Star and it says in part, these are the ones that were in the reference library, this is composed by Martin Cohen, Toronto Star, and it says in part "Chant testified he saw someone stab Seale and admitted saying, in a preliminary hearing, that Marshall was the assailant, but during the trial he said he couldn't swear that the man was Marshall. In an interview with the Star last night Chant, now a born again Christian, said I think the cops are underhanded. When asked to elaborate he replied, say, What I can say would do a lot of damage. It's like opening up old wounds, wounds are hard enough to heal." Did that article come to your attention?

MR. PUGSLEY: Perhaps you could pass it over to him, Bob, and just let him look at it for a second.

MR. MURRANT: They're marked in yellow there, the center of the passage.

MR. PUGSLEY: This was in the Toronto Star was it?

MR. MURRANT: Yes.

A. I think I recall seeing that article, yeah. I read so many of them.

951. Q. Did you take any action against the Toronto Star for what they said there?

A. No.

952. Q. Would you agree with me that that quote "I think the cops are underhanded" is referable to you in your community of Sydney?

MR. PUGSLEY: I'm sorry, I'm not interrupting, is it referable to him because he's identified in the article or what do you mean?

MR. MURRANT: In his community would he consider that referable to him, given the fact that most people in Sydney know Mr. MacIntyre know he handled that case. You couldn't help but conclude that that comment applies to him.

MR. PUGSLEY: Would that depend to some extent on what the circulation of the Toronto Star is in the Sydney Community?

MR. MURRANT: It may. Perhaps I'll leave my question as being did he take any action with respect to that comment.

952. A. No.

953. Q. Now there's another reference that, you don't have to refer to this article, but it talks about there being a conference in Sydney of - I'll find the reference here, Indian National School Conference occurring in Sydney at the same time as the trial", and then it says "for several days headlines about the militant conference and the trial of the young Micmac competed for attention on the front pages of the Sydney Daily".

A. I can't recall that.

954. Q. And there's a reference here to Mr. MacNeil saying in court that the crime was solved as a result of the brilliant investigation under the direction of Detective Sergeant MacIntyre, did he say that in court?

A. I can't recall that. I don't know why he'd say that in court unless he was summing up - I don't know why he'd say it, I don't recall it.

955. Q. Now there's another reference here "For several days headlines about the Militant Conference and the trial of the young Micmac competed for attention on the front pages of the Sydney Daily, The Cape Breton Post. Sydney had not been the scene of a murder trial for 5 years. Prosecutor MacNeil told the jury", that's summing up, I guess, "Prosecutor MacNeil told the jury Mr. Marshall had been arrested as a result of 'brilliant police work' under the direction of Detective

955. Q. (cont'd) Sergeant MacIntyre, now Chief of Sydney Police Department".

A. Who was making that statement?

956. Q. This is as reported -

A. No, but who was writing the article?

957. Q. Allen Story, specialist with Globe and Mail.

MR. PUGSLEY: When was the article, Bob?

MR. MURRANT: April 1st, 1982.

Q. (cont'd) Apart from the article, do you remember Mr. MacNeil saying to the jury that -

A. No, not at this time, I don't remember that at this time.

958. Q. There's another thing here you can help me with, this says "I understand there were threats against the life of Donald Marshall and that he had changed his residence at the request and direction of the Sydney Police".

A. I don't know anything about threats on his life, and as far as changing his residence, who made that statement also?

959. Q. Well I'm asking you.

A. Yeah, but I mean the thing is this, I don't recall it, as I remember reading that or seeing that somewhere, you know, lately.

MR. PUGSLEY: Do you mean since his release or do you prior to trial or -

MR. MURRANT: I mean prior - I mean subsequent to the murder but prior to the trial.

959. A. (cont'd) And I think what I read was that the police had driven Marshall and his family up to Whycocomagh, where he was at.
960. Q. Did they?
- A. And that the police knew this - well if they knew it John MacIntyre didn't know it. I have no recollection of it because when I got the warrant I went up the Marshall's home at the Reservation and his brother came out of the house, and when I asked him where Donald was he told me where the family was, they were up there just - thought that it would be good if they moved up there for a term, and I didn't tell him I had a warrant or anything, I left and from there I picked up an R.C.M.P. officer in Baddeck and went on to Whycocomagh where I found Donald and that his father and the rest of the family were there. That's when I knew that he was up there, so you know -
961. Q. Can I ask you if there were death threats during that period of time against Donald Marshall?
- A. Death threats, I don't recall any death threats.
962. Q. Could it be that there were reported, or brought to the attention of other members of the Sydney City Police?
- A. Well I think I would have known about it if there were death threats made against anybody.
963. Q. Can you tell me whether or not the Sydney City Police transported Donald Marshall from Membertou to Whycocomagh?

963. A. I have no recollection of that sir, no recollection. As I said before I wouldn't go up to his house in the Reserve with a warrant if I knew he was up in Whycocomagh, you know, that was the first time I knew that he had changed accommodations.
964. Q. Did the Sydney Police ever claim to have arrested Marshall at a secret hiding place?
- A. No, there was nothing secret about it, the man moved and given the address I went to the address and arrested him.
965. Q. There's another piece here in an article, this is the Globe and Mail, Saturday, June 12th, 1982, and it says in part, and I'll read you the part I'm interested in. "He", meaning Marshall, "continued to protest his innocence to anyone who would listen. He wrote letters to the Sydney Police and the Mayor of Sydney, Prime Minister Pierre Trudeau, Federal Minister of Justice. Only Joe Clarke answered advising him to pursue his request for a new trial through legal channels". Are you aware of letters being written by Donald Marshall to the Sydney Police and the Mayor of Sydney protesting his innocence?
- A. No, I don't recall, no, I don't recall that.
966. Q. Can you say that there were not such letters?
- A. No, I won't say that sir.
967. Q. Did it come to your attention that Marshall couldn't get parole because he wouldn't admit to murder?

967. A. There could have been some talk about that, that's a long time ago.
968. Q. Another article, the Globe and Mail, August 19th, 1982, composed by Michael Harris, and the by-line is "Slaying witness say they were lying", and there's a reference to Maynard Chant, it says "Mr. Chant says he tried to change his false testimony between Mr. Marshall's preliminary hearing and trial. He was told by Town Prosecutor, Donald MacNeil, now deceased, that if he did so he would be charged with perjury". Were you privy to any such discussions?
- A. I don't quite know.
969. Q. Is that something Mr. MacNeil would say?
- MR. PUGSLEY: I'm sorry, would say to Maynard Chant you mean?
- MR. MURRANT: Yes.
- A. That he'd be charged with perjury if he didn't -
970. Q. If he didn't stick to the story he gave in the preliminary inquiry.
- A. I can't say sir if he made that statement or not.
971. Q. Have you, Mr. MacIntyre, taken any action against the Toronto Globe and Mail for articles they published concerning this matter?
- A. Have I taken any action?
972. Q. Yes, against the Toronto Globe and Mail.
- A. I think I answered that yesterday.
973. Q. I think you said you directed -

973. A. Well I haven't got back to it yet, you know I can't talk to counsel at this point.

MR. MURRANT: Perhaps you could let me know if there were any letters or demands?

MR. PUGSLEY: Certainly.

974. Q. The next one is Toronto Star, December 2, 1982, and I'm referring to something here that Ebsary is quoted as saying "Ebsary was also brought in for questioning", this is in context November 1971, I can show you the article, "I told the police I didn't know anything Ebsary said Monday. They completely exonerated me, but they also made me swear never to tell anyone I had been questioned". Was that request made of Roy Ebsary in 1971?

A. I don't know.

975. Q. You don't know?

A. Well I took the statement from him and turned everything over that particular night if you recall. He wasn't through with the police at that time, yeah, for another police department to carry on the investigation.

976. Q. Did you request of him not to tell anyone?

A. No.

977. Q. Did the R.C.M.P.?

A. I don't know, you'd have to ask them, I don't know. When did he make that comment? In '82, is it?

978. Q. Let me check here. Toronto Star, December 2, '82, yeah, in '82.

978. A. And you no doubt know of his medical history.

979. Q. M-hm. Another one is December 8th, 1982, Toronto Star by Mr. Allen Story, "Two say they lied at 1971 Marshall Trial. Two people who testified against Donald Marshall at his 1971 murder trial have returned to court to say they lied after police put pressure on them. 'I was told what to say in court', Patricia Harriss, 26 told the the Nova Scotia Supreme Court yesterday 'and if I didn't they, the police, said I would be charged with perjury', and then later in the article it says "The two Sydney officers investigating the Seale murder in 1971 were John MacIntyre, now Chief of the Sydney force, and William Urquhart, now Chief of the Detective Division". Did that article come to your attention sir?

A. I'm not sure, I read many articles on that in between.

980. Q. But Miss Harriss is saying -

A. Excuse me, that was in what paper?

981. Q. The Toronto Star, December 8th, 1982.

A. I don't get the Toronto Star very often, I get the Harold and I get the Cape Breton Post, but I do occasionally, probably once in a while, get the Toronto Star.

982. Q. This particular article is quoting what Miss Harriss said in court, and it also is -

A. At the Appeal Court?

983. Q. Yes, and it's also adding the information that you and Bill Urquhart were the investigating officers.

983. A. M-hm.

984. Q. Was there a lawsuit filed against yourself and Mr. Urquhart and the City of Sydney in this matter?

A. Yes.

MR. PUGSLEY: I don't believe an action was instituted.

A. (cont'd) That's true, that was dropped.

MR. PUGSLEY: I don't think the documents were ever served.

A. (cont'd) Nothing served on me, no.

985. Q. Was this filed in Sydney?

A. No but -

MR. PUGSLEY: It was filed in Halifax.

A. (cont'd) The Notice of Intention, or something.

MR. PUGSLEY: Yeah, I think it was instituted in Halifax, I think.

A. (cont'd) Then it was dropped.

MR. PUGSLEY: We've certainly heard nothing further about it.

MR. MURRANT: We have no further questions.

MR. PUGSLEY: I have no questions, thank you.