

Sydney, N.S. 17 April 82

RCMP 215

STATEMENT OF: DONNA ELAINE EBSARY,
B: 16 June 57, 287 Washington,
NEWTON, U.S.A.

I am the daughter of Roy EBSARY, and presently reside in Boston. I was born in Sydney and we lived at 126 Rear Argyle Street until I was 15 or 16 years old at which time we moved to 46 Mechanic St. Sydney. In 1971, I would have been 13 years of age and I remember the night of the SEALE Murder, vividly, as it made such an impression on me.

I was home when father and Jimmie McNEIL arrived home, and I can recall them facing me in the living room. My mother was there and we were watching T.V. Jimmie said to Roy, "you did good, or you did a good job", words to that effect: he was excited. He turned like he was going to tell us and father, said, "Shut up, don't say anything" They went down the hall to the kitchen and I followed along. Father was at the sink washing off something.

I know it was a knife and as I remember, it had a brown handle. He took it upstairs and it always bothered me and I used to hunt for it. At school everyone talked about the Murder, and I know they were looking for an old man with a goatee, white hair and a cape. Outwardly, to other kids, I pretended it was not my father, but inwardly I knew it was.

I feared my father and he disrupted the household. I always felt that if I could get the knife he would be put away. I remember going to the Police station with father, Greg, and myself. I stayed out in the car with the dog and was never spoken to by the Police. I can remember Detectives coming to my home during this time.

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The next thing I can recall, around 1974 I told Dave RATCHFORD that I knew my father did the stabbing in the park. We got a hold of the Sydney City Police and apparently they would do nothing. We also got a hold of Cst. Gary GREEN of the R.C.M.P. and they apparently got nowhere with the City Police either. I also talked to Diane LEWIS, who was with a group of people that was trying to get MARSHALL parolled. I didn't tell her I saw the knife, just that I knew MARSHALL was innocent. I also mentioned it to Debbie COUTOURE that father did it. She was with National Parks.

I felt totally frustrated to think MARSHALL was in jail and my father had committed this crime, and there was nothing I could do about it. While going to the College of Cape Breton, I mentioned it to one of my professors, Liz BOARDMORE.

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'll give you what I have". Father then made an underhanded stabbing motion as if he had a knife in his hand. As he was telling Uncle Bob this, he was acting it out as if 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.

During the period between 1971, at the time of the Murder, until I left home in late 1978 or early 1979, Father stayed completely in the house and mainly in his room. He wrote, read

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...and generally acted eccentric. He still had knives around all the time and still had an extremely violent side. He rambled on about killing during the war and the present like killing a neighbour. I don't think killing anything bothers father, human or animal. I know he killed a budgie of mine when I was a kid. He literally ripped its head off.

Father dressed like a Five-Star General with his coat over his shoulders. He read a lot and would act out the lives of the people.

(Sgd) Donna E. EBSARY

WITNESS:

H.F. WHEATON, S/Sgt.

DECEMBER '82.
DMREF 3

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DONNA ELAINE EBSARY, being called and duly sworn, testified as follows:

BY MR. ARONSON: Direct Examination

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

A. My name is Donna Elaine Ebsary.

Q. Where do you live?

A. I reside at 180 River Street, Apartment 5A, Waltham, Mass.

Q. When were you born?

A. June 16th, 1957.

Q. What education do you have?

A. I'm sorry?

Q. What education do you have?

A. I have three years of college at the College of Cape Breton.

Q. What is your marital status?

A. Single.

Q. Are you employed or otherwise occupied?

A. I'm employed.

Q. And what are you doing?

A. I'm manager of a furniture company in the States.

Q. How long have you lived in Waltham?

A. I have been living in Waltham approximately three months.

Q. Prior to that time, where did you live?

A. Prior to that I was living in Boston where I stayed for approximately three years.

Q. And before then?

A. Before then I was residing at 46 Mechanic Street, Sydney.

Q. And who resided with you at that particular address?

A. Residing there was my father, my mother, my brother, his wife and two children.

Q. Could you tell us the names of your father and brother?

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A. My father's name is Roy Newman Ebsary. My brother's name is Gregory Allan Ebsary.

Q. Now prior to living at that address, had you lived anywhere else?

A. We lived at 126 Rear Argyle Street in Sydney.

Q. And for what period of time did you live at that particular address at Rear Argyle?

(10) A. Approximately sixteen years. Not that long. When we moved down, I was about five so it would be about eleven years.

Q. And when did you move from that residence?

A. We moved from there when I was in about grade eleven so the year -- I don't know. Do you want a date that we moved from there?

Q. A rough year.

A. Rough year. '73.

Q. Okay. So you were living at Rear Argyle on May of 1971?

(20) A. Yes, we were.

Q. Now who lived with you at that particular address?

A. My father, my mother, my brother.

Q. Can you say whether your father was employed at that time?

A. Off and on.

Q. What occupation?

A. He was a chef.

Q. Where?

A. At the Isle Royale and also at a grill on the Esplanade.

(30) Q. I see. You would have been almost fourteen years old in May of 1971?

A. Closer to thirteen.

Q. Thirteen. Can you recall hearing of the murder of Sandy Seale in May of 1971?

A. Yes, I can.

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Q. When did you hear of the murder?

A. I started hearing stories about it probably the day after it happened. Stories that I recognized.

Q. Okay. Are you able to recall any of the events which took place the night before you heard of the murder?

(10) A. The night before I was at home. I was with my Mom and my father was out. He was out drinking with a friend which wasn't uncommon for him. We were sitting at home just kind of waiting for him to arrive. Late in the evening or I guess late in the night he arrived home with a friend. The two of them -- no, his friend was kind of excited and my father was trying to get his friend to quiet down. The two of them went into the kitchen where I followed them into the kitchen. My father had a knife in his hand. He put the knife in the sink and he washed it and that was -- that was the night prior to me hearing any stories about any murder taking place.

(20) Q. Okay, now, how late at night? You said it was late. Can you say approximately what time it would have been?

A. It may have been ten o'clock or later. It was just late. I know that I was up late so --

Q. Okay, so could it have been twelve o'clock?

A. It could have.

Q. You referred to the fact he came in with a friend. Do you know who that particular individual was?

(30) A. His name was Jimmy. MacNeil, I think.

Q. Okay. Had you ever seen Jimmy MacNeil prior to that time?

A. Yes, I had.

Q. How frequently?

A. I'd seen him a couple of times. He'd come to the house

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with my father and at one point I had been with Jimmy and the two of us had gone somewhere together. So I knew him to see him.

Q. Okay, now you've indicated that you saw your father come into the house with Jimmy MacNeil and go to the kitchen sink and wash a knife off. Is that right?

A. Yes, sir.

(10) Q. Can you describe the knife?

A. The knife is a small knife. It had a short blade and a brown handle with tape around the bottom of the handle.

Q. How certain are you of that?

A. I'm as certain as I am that I'm sitting here right now.

Q. Okay. Can you recall how your father was dressed on that particular evening?

A. He had on his blue coat, had it kind of draped over his shoulders. He wore dark clothes. That's just about it.

(20) Q. Can you recall how Jimmy MacNeil was dressed on that particular night.

A. I don't recall that Jimmy was dressed.

Q. Can you recall whether any conversation took place? I'm not asking you to say what was said but can you recall if any conversation took place between --

A. Yes, Jimmy and my father were talking when they came in.

Q. Okay. Were you able to overhear that conversation?

(30) A. Jimmy and my father came through the front door and they turned, stare into the living room where my Mom and I were. Jimmy turned to my father and said: "That's a good job...".

Q. Please. No indications as to what they said. I'm concerned as to whether they had a conversation.

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A. Okay.

Q. Now you've indicated your father was washing a knife off at the sink. Can you indicate to the Court what reason he would have for doing that?

THE COURT:

She can say what she saw.

BY MR. ARONSON:

(10) Q. Can you say whether you saw anything on that particular knife?

A. There was definitely something on the blade of the knife. I have -- It seems to me there was blood on the blade of the knife.

Q. I'm sorry?

A. I said there was blood on the blade of the knife.

Q. How certain are you of that?

A. I'm not as certain as I am of the fact that I'm sitting here but I'm pretty certain that that is what it was.

(20) Q. What happened after you saw your father washing the knife off?

A. My father took the knife, he turned from the kitchen, he went upstairs and he put the knife in his room.

Q. Do you know what ever became of that particular knife?

A. I looked for the knife for a long time after that because I felt that if I could find it, somebody would listen to what I had to say about this case and I could never find it. I can only say that maybe he hid it somewhere, but I could not find it after that.

(30) Q. How old was your father in 1971?

A. Around sixty years old.

Q. Could you describe him as he was in 1971?

A. He was a very difficult man to be around. He completely ruled the household he lived in and there was no lives for his family --

THE COURT:

It's his physical appearance.

BY MR. ARONSON:

Q. I had intended his physical appearance.

(10) A. I'm sorry. He was a small man. He was maybe five-two, kind of slight. He didn't have any amount of meat on him so he was like, I say very slight. He looked kind of -- let's see, how can I picture how he looked? Well, he looked like an average little old man, I guess. That's all I ever pictured him as.

Q. I see. Are you able to describe whether or say whether your father had any particular interests in 1971 or in those years?

A. Interests in what way?

Q. Hobbies, things like that.

(20) A. Yeh, he liked to drink and he liked to read a lot and he liked to play with knives a lot.

Q. How can you say that he liked to play with knives? What do you mean by that?

A. Well he always had a lot of knives in the house. In his room. He owned canes that he had hollowed out and fitted knives into the handles of. He had a lot of knives in the basement where he kept a grinding stone where -- like, I'd come home from school in the afternoon and he'd be grinding them. Things like that, I guess, is how I base that.

(30) Q. Can you at all describe -- did you ever have occasion to tell the police what you have said in Court today subsequent to May 28th, 1971?

THE COURT:

When?

MR. ARONSON:

I asked her -- the question is whether she ever had occasion

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to speak to the police concerning the incident that occurred on May 28th.

BY THE WITNESS:

A. I myself did not speak with the police but I spoke with a friend who suggested that I --

Q. Okay, that's all.

A. -- go to the police.

(10) Q. Did you ever see Jimmy MacNeil after May 28th, 1971?

A. I did not.

Q. Can you give any reason as to why you would or would not have seen him after that particular time?

THE COURT:

No, no.

MR. ARONSON:

All right.

BY MR. ARONSON:

(20) Q. After May of 1971, can you say whether or not your father's behaviour changed in any way?

A. Yes, I would say that it did.

THE COURT:

I don't see the relevance of that.

MR. ARONSON:

(30) Well, with respect, My Lord, I believe the evidence is admissible and in support of it, I would put forward the MacMillan case where we're speaking of a third party -- the potential of a third party for the commission of this particular offence and --

THE COURT:

That's not what is on trial here.

MR. ARONSON:

Well, I appreciate that but as I say the case is -- certainly indicates that evidence offered by friends and relatives of

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a particular person to the effect that that person was capable of violence is certainly admissible. The Queen and MacMillan, 1975 --

THE COURT: (Justice Macdonald)

That's the Ontario Court of Appeal.

MR. ARONSON:

That's correct.

(10) THE COURT: (Justice Macdonald)

It goes to the credibility of those witnesses like Mr. MacNeil.

MR. ARONSON:

In part, it does, yes.

THE COURT: (Justice Macdonald)

In part, that's right.

MR. ARONSON:

Shall I state the question again?

THE COURT:

(20) Well you may ask a few questions.

MR. ARONSON:

Okay

BY MR. ARONSON:

Q. What can you say as to whether or not there were any changes in your father's behaviour subsequent to May 28th, 1971?

THE COURT: (Justice Pace)

She never said that there was any changes. You'd better establish --

(30) MR. ARONSON:

All right, the question should be rephrased.

THE COURT:

Excuse me just a moment.

MR. ARONSON:

I'll withdraw that question, My Lord. I'll try a different

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attack.

BY MR. ARONSON:

Q. What can you say as to your father's potential for physical violence?

A. He had a great potential for physical violence.

Q. In what sense? Are you able to support that with any particular instance or incident?

A. Can I say it from the past or does it have to be after 1971? Can it be prior to that?

Q. Just generally if you can site a particular instance.

A. Well my father was very easily enraged by things and at which point he would not stop at just like beating up the house. He would kill -- he would kill things and he would -- he had on occasions been stopped from going out and killing people.

Q. Now when you say killing things, what are you referring to when you're talking about things?

A. Well, when I was younger, I was more or less to myself and the only thing that I really related to were animals and he on one occasion came into the house, grabbed a budgie I had and ripped the head off it. And on another occasion I had a cat that I would relate to and he killed that. I had on several occasions had to leave home because of the violence that was going on and I didn't feel safe around him then.

MR. ARONSON:

I have no further questions.

THE COURT:

Mr. Edwards.

MR. EDWARDS:

My Lords, this time, just referring to what I was saying before the witness came in, I would like leave of the Court to elicit from the witness the conversation that she over-

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heard between MacNeil and Ebsary when they came in the house. As I stated, it's not -- it's not for the truth of what was stated but surely it would be a great assistance to this Court --

THE COURT:

Does it go to the credibility of Mr. MacNeil?

MR. EDWARDS:

Yes.

THE COURT: (Justice Macdonald)

How does it? He didn't give any evidence about a statement.

MR. EDWARDS:

Yes, he did, My Lord. With respect, as I recall he did say that: "You shoulda given him the money. You didn't have to kill him."

THE COURT: (Justice Macdonald)

When did -- he said that?

MR. EDWARDS:

Yes, that's what my notes show, My Lord.

THE COURT: (Justice Pace)

That was never -- it may be in your notes but it wasn't before this Court.

MR. EDWARDS:

I have in my notes, My Lord, that "that fellow died". This is what he told him. "You should have given him the money. You didn't have to kill him." But that -- that particular conversation, that's --

THE COURT:

That wasn't that night?

MR. EDWARDS:

No, I'm sorry, that was the next day.

THE COURT:

Yes, it wasn't that night.

MR. EDWARDS:

But it does -- you know, she was going to tell us about a

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conversation they had that night. Surely that has a bearing on Mr. MacNeil's believability about what was said. I really -- my submission, I guess, I suppose is that really I don't see the harm or the prejudice of it and in fact I can see where it would be of a very great assistance to the Court to allow that in. Now a very rigid application of the hearsay rule --

10) THE COURT:

We're not talking about that. We're talking about -- carry on and ask the question on the basis of exploring Mr. MacNeil's credibility --

MR. EDWARDS:

Thank you, My Lord.

THE COURT:

-- at a closely related time.

BY MR. EDWARDS: Cross-Examination

20) Q. Now, Miss Ebsary, you stated that you overheard some conversation on the night of the stabbing when Mr. MacNeil and your father came into the house. Is that correct?

A. That is correct.

Q. Can you recall that in as much detail as you can for the Court please?

30) A. When Jimmy and my father came in, Jimmy turned to my father and said: "You did a good job back there." My father turned around and said: "Shut up, be quiet, don't say anything." And from there the two of them just proceeded into the kitchen.

Q. I see. What was Mr. MacNeil's demeanour like at the time if you understand what I mean by --

A. He was like a kid with a new toy, sort of. He looked very elated. He looked very excited about something, like. His eyes were big.

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Q. How did that compare with his behaviour as you had observed it on prior occasions?

A. Jimmy was usually very placid, just, you know, he was there and that was all. He, like, didn't really affect one way or the other. Just to see him normally --

THE COURT:

Have you finished that question?

MR. EDWARDS:

Yes, My Lord.

BY MR. EDWARDS:

Q. How do you feel about your father right this day?

THE COURT:

That's not relevant. What's the relevancy of that?

MR. EDWARDS:

Well the relevancy is, My Lord, to establish whether the witness has any motives for implicating her father in the stabbing. I submit it bears directly on her credibility. I mean, like if the witness -- I hesitate to say too much in the presence of the witness lest she be influenced in her answer by what I say. But obviously if she has a grudge against her father, that bears on the believability of what she's saying. I submit --

THE COURT:

All right, one question.

MR. EDWARDS:

Yes. I don't think I can ask it in one, My Lord.

THE COURT:

You've already asked her a question. Perhaps she could answer it.

MR. EDWARDS:

Yes.

BY MR. EDWARDS:

Q. What -- how do you feel about your father now?

A. I don't -- I just -- there isn't any real feeling. It's just something I'm doing. I don't -- I think if anyone has asked me about him, I might tell somebody he was dead rather than admit he was my father. It's kinda the way I feel about him.

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

A. I said that if someone was to ask me right now about my father, I'd probably sooner tell them I didn't know him or that he was dead rather than have to go through these things all over again with him. I just don't really acknowledge him anymore.

Q. Okay. At the time in 1971 you indicated that you wished you could have found the knife so that you could have gotten somebody to listen to you. Is that what you said in your evidence?

A. That is what I said, yes. No, not in 19 -- yeh, in 1971, yes.

Q. Yes, so you said that you wished you could find the knife so you could get somebody to listen to your story.

A. Yes.

Q. Is that what you said?

A. Yes, I said that, yes.

Q. And the reason you wanted to do that, you wanted the authorities to know that your father had done the stabbing. Is that correct?

A. Yes, that is correct.

Q. So even at that time, there was no love lost between you and your father. Is that correct?

A. I grew up being afraid of my father. I wanted a stop put to him and I was tired of people telling me if I wait long enough something will happen and I won't have to put up with him any longer. I was a

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little bit tired of the misery he caused in our household and in other ones. I think -- I thought then and I think now that I deserved a life I never got.

Q. Okay. Did you bring this matter to the attention of any person or persons?

(10) A. I had occasion on several times to speak with people about my knowledge about what had happened. I spoke with a very close friend of mine about it, Dave Ratchford, who brought it to the Mounties and we were going to try to do something at that --

Q. Well, no, you can't -- okay. You told David Ratchford about it for one?

A. Yes, I did.

Q. What was your relationship with him at the time?

A. He was my teacher.

Q. And when was that?

(20) A. Maybe 1974.

Q. About 1974. Okay. Did you have any discussions with Elizabeth Boardmore about it?

A. I discussed it indirectly with Liz Boardmore.

Q. And what was her relationship with you?

A. She was an English professor of mine at the College where I went and we were discussing criminal justice at one point.

Q. I see. Now do you -- do you have an uncle, Uncle Bob Ebsary?

A. Yes, I do.

(30) Q. Do you recall him visiting you in 1975?

A. Yes, I do.

Q. Do you recall conversation between -- without getting into the conversation now -- between your Uncle Bob and your father at that time?

A. Yes.

MR. EDWARDS:

My Lords, here again I would like to elicit from the witness about that because the -- maybe we could ask the witness to leave for a moment, My Lord, lest she be influenced?

THE COURT:

Yes.

MR. EDWARDS:

(10) This is, I submit, of significance. It bears on the credibility.

THE COURT:

Credibility of whom?

MR. EDWARDS:

Well, again, MacNeil primarily.

MR. ARONSON:

(20) I have no reason to object because insofar as the case we are attempting to put before the Court in my view, it's not hurting the case. The difficulty I have is not altogether relevant to Jimmy MacNeil's credibility. I do not see that, where it has any relevance to the credibility but as I say, I leave it to the discretion of the Court.

THE COURT: (Justice Macdonald)

Where is Uncle Bob? Where is he?

MR. EDWARDS:

Well Uncle Bob is in Newfoundland now. I know what you're getting at, My Lord, and in view of my learned friend's objection, I'll drop it.

MR. ARONSON:

(30) I didn't object.

MR. EDWARDS:

Well, --

THE COURT:

Are there any other questions for this witness?

MR. EDWARDS:

Yes, My Lord, if I could just have a second please?

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If I could just have a moment, My Lord.

THE COURT:

Well would you like to -- if there's more than one or two questions, we'll --

MR. EDWARDS:

No, My Lord, I haven't got much left. I'm just looking for a picture that's buried in the papers here.

(10)

THE COURT:

You'll probably be some time. We'd better adjourn until ten o'clock. We'll adjourn until ten o'clock tomorrow morning.

COURT RECESSED: 4:00 p.m.

NOTE: Miss Ebsary advised not to discuss case during the recess.

(20)

(30)

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COURT RECONVENED: 10:03 o'clock in the forenoon on
the 2nd day of December, A.D., 1982

DONNA E. EBSARY, resumes testimony as follows:

BY MR. EDWARDS:

10) Q. When we left off yesterday, I was about to show you a photograph but before we get to that I'd like to ask you a few other questions. When did you stop residing in the family residence, Miss Ebsary?

A. About four years ago.

Q. About four years ago?

A. Yes, sir.

Q. So some time in 1978?

A. Yes, sir.

Q. All right, so you would have been present in or still been a part of the family unit when the move was made from Argyle Street to Mechanic Street. Is that correct?

20) A. That is correct.

Q. Yes, and you recall in what year that was? Approximately.

A. Might have been '74, '75. I'm not sure.

Q. So it would be three, maybe four years after the Seale stabbing. Is that correct?

A. Yes, sir.

Q. And in that period between the time of the stabbing and the time of the move to Mechanic, were you aware of any knives around the house?

A. Yes, sir.

30) Q. Yes. Belonging to your father?

A. Yes, sir.

Q. Yes. And were those knives kept in any one particular place in the house or were they at various locations?

A. My father had knives at various locations in the house.

Q. And would he keep several together in each of those locations or would there be one knife say in the -- in

his bedroom --

A. No, he had special areas for different knives.

Q. Yes. Can you describe some of those special areas for us?

(10) A. Some of his favorite knives he'd keep up in his bedroom mounted on a wall plaque. Or longer knives he kept in canes that he used for walking sticks. He had other knives that he had redesigned and kept in the kitchen for his own use and he had a group that he was in the process of redesigning he kept just like in a hall area, where he was in the process of changing them around.

Q. And would you recognize those knives if you saw them again?

A. I believe so.

Q. Can you describe in any detail any of the -- the types of knives that he kept around?

(20) A. Well he kept some long narrow ones that he had specially filed to fit inside a cane and so they were like kind of long and narrow type of knife. The ones that he had in the kitchen were ones that he had -- that were older knives that he had taken, like, the handles off them and put, like, brass-fitting handles on them with tape around them and then like a garden hose hooked onto that and the other knives he kept were for when he worked so they were like very large carving knives with wooden handles that had three steel pegs through them to hold the handles on.

(30) Q. I see, okay. Now around the time of the move from Argyle Street to Mechanic Street, did you witness the packing of the knives and the shipment of the knives from one location to another?

A. No, I did not.

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Q. After you moved to Mechanic Street, did you see any of the same knives that you had seen on Argyle Street in the Mechanic Street location?

A. Yes, sir.

Q. And can you say with any certainty whether or not they were --

A. They were from Argyle -- that they were my father's and they were from Argyle Street, yes.

MR. EDWARDS:

My Lords, yesterday I had a photograph marked as an exhibit and it was a photograph of approximately ten knives. After considering the matter last night, I felt that it would be preferable to actually show the witness the knives so with the Court's leave, I'd like to mark those knives now and they -- their relevance will be established through subsequent witnesses.

THE COURT: (Justice Hart)

Are we up to R-4 now?

MR. EDWARDS:

Yes, My Lord.

THE COURT: (Justice Hart)

Perhaps you could mark them R-4, a,b,c,d,e, and so on.

BY MR. EDWARDS:

Q. Miss Ebsary, as I put the knives there beside you, would you just examine them closely and I'll ask you a few questions on them in a moment. All right, Miss Ebsary, displayed before you are exhibits -- -- knives marked exhibits marked R-4a through to and including R-4j. Have you looked carefully at the knives?

A. Yes.

Q. Now what if anything can you say about the similarity between those knives and the knives you saw while

residing in the family home at Argyle Street and then later at Mechanic Street in Sydney?

A. These are all knives from my father -- that belonged to my father.

Q. You're sure about that?

A. Yes, I'm sure about that.

Q. Are there any distinguishing characteristics or marks on the knives that would indicate to you that they are definitely your father's?

A. Well from being around them and knowing them, I know that this --

Q. All right, let's identify them. You're pointing now to exhibit R-4g?

A. Okay, R-4g, h, j, and a are from the kitchen.

Q. Now how can -- how can you tell that, Miss Ebsary?

A. I know them from the brass handles that they are knives that were in the kitchen of the house. I mean they're not marked "kitchen". I just know that that's where they're from.

Q. The brass handles seem to be rather make-shift or home-made design.

A. He put them on himself.

Q. Did you ever witness him putting them on himself?

A. On one -- on a couple of occasions I saw him putting knives together.

Q. Yes, where would he have done that?

A. On Argyle Street he would have done it either in the kitchen or in the back yard or up in his room.

Q. I see. Did your father have any particular favorite knife or any knife that he carried with any more frequency than any others if in fact he carried knives?

A. Exhibit R-4i and exhibit whatever this is.

Q. Exhibit R-4i?

- 132 - DONNA E. EBSARY, by Mr. Edwards

A. And c would have been something like he would have carried or either one of those you might have found in a pocket.

Q. And c. I see. Yes. Now looking at all those knives and recalling the night of the stabbing, can you say with any certainty whether or not any of those knives resemble the knife you saw him wash off in the sink that night?

A. I would say that the blade on R-4i closest resembles the blade on the knife that he had but the handle does not go with what I remember the handle being.

Q. I see. Well the handle on R-4i just for the record has a piece of what appears to be cellophane foil over it?

A. Yes.

Q. Now if that were taken off and I'm just bending it back, would you examine the handle under the cellophane?

A. The handle is not the right colour for what I remember.

Q. I see. That handle -- the handle on R-4i is a greenish colour?

A. Yes.

Q. And you remember the colour of the knife -- the handle on the knife in question as being what?

A. Brown.

Q. Brown, okay. Miss Ebsary, could you tell the Court please if as far as your father's mode of dress at the time of the stabbing is concerned, whether there was any distinguishing features of the way he dressed at that the time -- whether there are any distinguishing features? Could you describe how he dressed at the time?

A. On that night or at that --

Q. Well how was he dressed that night if you can recall that?

- 133 - DONNA E. EBSARY, by Mr. Edwards

A. He had on his long blue I guess you'd call it a trench coat that he had hung over his shoulders when he went out --

Q. You say he had it hung over his shoulders?

A. He didn't put his arms in his sleeves. He kept it hung over his shoulders as if he was playing a captain or if he was something like that. He never put his arms in his -- in that jacket or in that long coat.

Q. You say as if he was playing a captain. What did he wear on his head? Did he have anything on his head that night?

A. I don't remember him wearing anything on his head that night.

Q. You may have described his facial features yesterday. I don't recall, but did you -- did you mention yesterday what colour hair he had at the time?

A. Probably had gray or white hair but it might have been green the night he went out.

Q. Okay, did he wear a beard or a goatee or anything?

A. He had a goatee, a little goat whisker, just a little chin whisker.

Q. And did he wear eye glasses?

A. He does wear glasses but he didn't wear them out. Like he'd have them in his pocket and he'd put them on if he had to read or something. He wore them on and off.

Q. Do you recall what he was wearing under the blue trench coat?

A. I don't remember the colour of the shirt he had on. I know he had a shirt on and that he was wearing dark pants but --

Q. You recall the period immediately following the stabbing very well, do you?

(
A. Fairly well.

Q. Were you aware of the preliminary inquiry and the trial?

A. Yes, I was. I was aware of it.

Q. Even at that age? You were thirteen years old at the time now.

(10) A. I was aware of it going on. It was a prime topic around the town and it was unusual to have detectives coming to my home so I was aware of them coming.

Q. Yes, now that's what I want to focus on. Between the time of the stabbing and the time of the trial, did any detectives come to your home, or was it after the trial?

A. I think it was after the trial the first time I saw a detective come to my house.

Q. So to the best of your recollection you -- no detectives or police of any kind came to your home before the trial?

(20) A. I don't recall any being there at that time.

Q. Okay, thank you, Miss Ebsary, I have no further questions.

MR. EDWARDS:

Thank you, My Lord.

MR. ARONSON:

No questions arising out of that, My Lord.

(WITNESS WITHDREW)
EXCUSED

(30) MR. ARONSON:

The next witness, Patricia Harriss.

AUGUST '83
EBPRE 20. DONNA EBSARY - SWORNBY MR. EDWARDS - DIRECT EXAMINATIONQ. Your name is Donna Ebsary?

A. Yes sir it is.

5. Q. And your present address is?

A. 46 Mechanic Street, City of Sydney, that is
where I am now. I reside in the United States.

Q. Where in the United States?

10. A. 180 River Street, Waltham, Mass.

Q. And how old are you now?

A. 26.

Q. And in 1971 you would have been how old?

A. 13 or 14.

15. Q. You are the daughter of Roy Newman Ebsary, the
Accused?

A. Yes I am.

Q. Is your father Roy Newman Ebsary here today?

20. A. Yes sir.

Q. Would you indicate for the record please where
he is sitting?

25. A. Identifies the Accused Roy Newman Ebsary.

Q. Now in May of 1971 where would the family
residence have been?

A. 126 Rear Argyle Street.

Q. And who resided at the residence?

30. A. At the time my father, my mother, my brother
and myself.

0. DONNA EBSARY - Direct Examination

Q. And do you recall an incident in late May of 1971 concerning your father and James MacNeil?

A. Yes I do sir.

5. Q. And prior to that night did you know James MacNeil?

A. Yes I did.

Q. And how long had you known him before that night?

10. A. A couple of months probably.

Q. And on how many occasions would you have seen him prior to that night?

A. On several occasions prior to that night.

Q. So on the night in question who was at home?

15. A. My mother and myself were at home.

Q. And when if at all that night did you see James MacNeil and your father?

20. A. It was late, very late in the night, my mother and I were in the front room watching the late news when my father and James MacNeil arrived at home.

25. Q. When you say late at night could you be any more specific? When in relation to midnight would it have been?

A. I think around 11:30, 11:40 something like that, it was like that general time.

30. Q. And you say James MacNeil and your dad came in?

0. DONNA EBSARY - Direct Examination

A. Yes.

Q. And where did they go when they came into the house?

5. A. They came into the house and they stopped at the front room for a second and then they went down the hallway into the kitchen. When they stopped at the living room where my mom and I were James turned to say something to us, my dad told him to be quiet and the two of them went into the kitchen.

10.

Q. Did you hear any further conversation or did you hear any conversation at all between the two of them?

A. Well when they stopped at the front room James had said to my father "you did a really good job back there", my father turned and said "shut up, be quiet" and the two of them went into the kitchen after, at which point I didn't hear them talk any more after that.

15.

20.

Q. Now where did you go after they went into the kitchen?

A. I followed behind them.

25. Q. And what if anything did you observe them doing when they went into the kitchen?

A. My father went to the kitchen sink where he was washing his hands and a knife in the sink.

30. Q. Could you describe his hands and the knife.

0. DONNA EBSARY - Direct Examination

A. There was blood on his hands and on the knife that he had with him.

Q. And did you see what he did with the knife after
5. he finished washing it?

A. After he finished washing it he put the knife away, he took it and he went upstairs.

Q. Now after that night can you recall how long after
10. that night it was when you became aware that somebody had been stabbed and killed in Wentworth Park?

A. I would say the next day I was aware that a person had been stabbed in Wentworth Park.

Q. And did you see James MacNeil around the house
15. any more?

A. I think he came once to the house after that.

Q. How long after that?

A. I am not certain how long it was after that he
20. came to the house.

Q. On that night when he and your father came into the house around midnight we'll say, how would you
25. describe James MacNeil's condition at that time?

A. He was very hyper, he was like just really, really excited like something had happened or he had been doing something that was a lot of fun or wasn't a lot of fun, like very hyper.

30. Thank you.

0. DONNA EBSARY

BY MR. WINTERMANS - CROSS EXAMINATION

Q. You say that you saw this knife that he was watching in the kitchen?

5. A. Yes sir I did.

Q. Can you describe the knife?

A. The knife had a short blade, had a brown handle, that's as best I can describe it for you.

10. Q. And when you say you saw blood on the knife what you are really saying is that you saw a substance that you thought was blood on the knife?

A. I did not take the knife to a lab and have it examined.

15. BY THE COURT

Just answer the question.

BY MR. WINTERMANS

20. Q. Can you describe the substance that you saw on the knife?

A. There was a red substance that looked to me like blood at the time.

25. Q. Did you notice if there was any blood on your father's hands?

A. There was blood on my father's hands yes.

Q. What you thought was blood?

30. A. Right.

0. DONNA EBSARY

BY THE COURT

Q. He was washing his hands and the knife at the same time?

5. A. Yes sir he was.

BY MR. WINTERMANS

Q. Did you notice any of what appeared to be blood on any of his clothes?

10. A. I did not notice.

Thank you.

BY THE COURT

Q. The knife you saw would it be consistent with a pocket knife?

15. A. Not like a pocket knife, it would be a little larger than a pocket knife.

20.

25.

30.

September 12, 1983

94.

Donna Ebsary, Direct Exam. by Mr. Edwards

Donna Ebsary is duly sworn.

1. Q. Your name is Donna Ebsary?
A. Yes it is sir.
2. Q. Where do you reside Donna?
A. One eighty River Street, Waltham, Mass.
3. Q. That's Massachusetts, United States of America?
A. Yes it is sir.
4. Q. You are how old Donna?
A. Twenty-six years old.
5. Q. And you're the daughter of the accused, Roy Newman Ebsary?
A. Yes I am sir.
6. Q. And you resided with your mother and father and brother Greg at Rear Argyle Street in nineteen seventy-one, is that correct?
A. That is correct.
7. Q. Were you attending school at the time?
A. Yes I was.
8. Q. Do you recall what grade you would have been in at that time?
A. About grade seven.
9. Q. What's your employment now Donna?
A. What do I do?
10. Q. Yes.
A. I'm a manager of a furniture company.
11. Q. Manager of a furniture company?
A. Yes.

September 12, 1983

95.

Donna Ebsary, Direct Exam. by Mr. Edwards

12. Q. What education do you have?
- A. I've got a grade twelve diploma and I've got four years of University, three years at the College of Cape Breton and a year with a college in the States studying acupuncture.
13. Q. Do you recall in nineteen seventy-one the stabbing of Sandy Seale?
- A. Yes I do sir.
14. Q. Or news of that stabbing being in the media?
- A. Yes I do.
15. Q. When did you first learn of that?
- A. Ah-h, do you mean . . .
16. Q. Well do you recall the night of May twenty-eighth, nineteen seventy-one?
- A. Yes sir, I recall the night.
17. Q. How long was it after that before you learned that Sandy Seale had been stabbed in Wentworth Park?
- A. It might have been like the next day or -- I would say it was the next day.
18. Q. I see, okay. Now that night, where were you?
- A. I was at home with my mom.
19. Q. With your mother?
- A. Yes, sir.
20. Q. That was the previous witness, Mary Ebsary, is that correct?
- A. That is correct.

September 12, 1983

Donna Ebsary, Direct Exam. by Mr. Edwards

21. Q. Yes, and what do you recall happening that night?
- A. I recall, ah - I was at home in the living room with my mom and my father and another gentleman, James MacNeil, came home.
22. Q. About what time did they come home?
- A. It was very late, I know the late news was on.
23. Q. Yes?
- A. So it would make it like eleven thirtyish or maybe a little later than that. Whatever time the late news comes on.
24. Q. Right?
- A. They came in and they stopped at the front room door where I was with my mother. Jimmy seemed to be kind of excited and he was telling my dad that he had done a good job and my father told him "oh be quiet, don't, you know just be quiet". Then they went into the kitchen and I followed them in there.
25. Q. Yes, and what, if anything, did you observe when you went into the kitchen?
- A. In the kitchen my father went to the kitchen sink and he was washing blood from a knife in the sink.
26. Q. Yes, and what happened then?
- A. I left the kitchen then, he left and I believe he went upstairs. I know that I went back with my mom.
27. Q. Did James MacNeil come to the house anymore after that night?
- A. I don't recall him being at the house after that.

September 12, 1983

97.

Donna Ebsary, Direct Exam. by Mr. Edwards

28. Q. I see. Did you ever make any efforts to report this matter to the police?
- A. I talked it with a friend of mine and my friend went to the police but I myself did not.
29. Q. Okay, I have no further questions Donna, thank you.

MR. WINTERMANS:

1. Q. You would have been thirteen or fourteen at the time?
- A. About that.
2. Q. Is it true that you didn't notice any blood on your father's clothes that night?
- A. I did not notice, no.
3. Q. Thank you.

MR. EDWARDS:

No re-direct My Lord.

BY THE COURT:

Thank you Miss Ebsary.

Dr. Naqvi is called.

Miss Donna Ebsary duly sworn and examined.

Miss Donna Ebsary, Direct Examination by Mr. Edwards

1. Q. Your name is Donna Ebsary?

A. Yes, sir.

2. Q. Your present address, Donna?

A. Three eighty River Street, Waltham, Mass.

3. Q. Massachusetts?

A. Yes, sir.

4. Q. And ah, your occupation?

A. I'm a furniture maker.

5. Q. And ah, your age Donna?

A. Twenty-six.

6. Q. Twenty-six.

A. Yes, sir.

7. Q. And you're the daughter of the accused, Roy Newman Ebsary?

A. Yes, I am.

8. Q. And ah, in nineteen seventy-one you would have resided on one twenty-six Rear Argyle Street in Sydney with your Mother, father and your brother Gregory?

A. That is true.

9. Q. What education do you have Donna?

A. I have a Grade Twelve from Sydney Academy. I have two years at the College of Cape Breton and two years at the New England School of Acupuncture in Massachusetts.

10. Q. Now in nineteen seventy-one you would have been in school, I take it?

A. Yes, sir.

Miss Donna Ebsary, Direct Examination by Mr. Edwards

11. Q. Do you recall what grade you were in then?
- A. Would have been about thirteen years old. Ah, about seven or eight.
12. Q. About seven or eight years old?
- A. No. In grade seven or grade eight.
13. Q. Grade seven or eight, I'm sorry. All right. Now do you recall the night of the Seale stabbing in May, nineteen seventy-one?
- A. Yes, sir I do.
14. Q. And how did you become aware of that stabbing?
- A. Oh. I was at home on the night in question. Ah, and as far as knowing there was a stabbing, through the news in the media I knew. Ah, I knew because it related to my father.
15. Q. Well, on the night of the stabbing. You said you were home that night?
- A. Yes, sir.
16. Q. Who was home with you?
- A. My mother.
17. Q. Your mother?
- A. Yes, sir.
18. Q. That's the previous witness, Mary Ebsary?
- A. Yes, sir.
19. Q. Right. And ah, do you recall your father getting home that evening?
- A. Yes, I do.

Miss Donna Ebsary, Direct Examination by Mr. Edwards

20. Q. What time did he arrive home?
- A. Around eleven I would say. Eleven, eleven thirty. The late news was on.
21. Q. Yes. And ah, was there anyone with him when he arrived home?
- A. Yes. Ah, Jimmy MacNeil was with him.
22. Q. Jimmy MacNeil?
- A. Yes, sir.
23. Q. I see. And he was one of the previous witnesses?
- A. Yes, sir.
24. Q. All right. And how long had you known Jimmy MacNeil prior to that evening?
- A. I'd known him for a while prior to that. He'd been coming to the house previously with my father and I had had occasion to go with Jimmy to a few places so I knew him.
25. Q. Okay. Do you recall if he came to the home after that?
- A. I don't recall him being at my home after that.
26. Q. Now, when you father arrived home that night do you recall how he was dressed?
- A. Ah, he had on his blue overcoat. I recall he had had on and just ah, I think he may have had on his dark dress pants.
27. Q. Now blue overcoat. Was it light blue or dark blue?
- A. It was a dark, kind of a navy blue overcoat.
28. Q. And what length was it?
- A. Ah, it hung like mid-way between ah, I think it hung just below his knee, sorry, yeah, maybe.

Miss Donna Ebsary, Direct Examination by Mr. Edwards

23. Q. Okay. And when your father and Mr. MacNeil arrived home that evening, can you describe what if anything took place as they came in the house?
- A. Ah, they came in and Jimmy appeared to be pretty excited. And Jimmy turned to my dad and said "Gee, you did a good job back there" and my father turned around and said "Oh, be quiet". And the two of them left and went farther into the house, went into the kitchen.
30. Q. Toward what room?
- A. They went into the kitchen of the house.
31. Q. Into the kitchen. Now when they came in what room in the house were you in?
- A. We were sitting in the living room, where T.V. was on and they stopped by the doorway of the living room.
32. Q. Right. And ah, when they went into the kitchen area, where were you?
- A. I had followed them into the kitchen. I left the living room, went behind Jimmy. And Jim and Dad were, had gone into the kitchen.
33. Q. And could you tell the Jury please what you observed when you went into the kitchen?
- A. Ah, my father had ah, he was over the sink and ah, he was washing a knife off in the sink. The knife had the, had blood on it and was cleaning it up..
34. Q. Do you recall the, the size of the knife? Can you describe it for us?

Miss Donna Ebsary, Direct Examination by Mr. Edwards

34. A. Ah, it was a small knife that Dad could carry, my father could carry in his pocket. Had a brown handle with a short blade.
35. Q. Now when you say a short blade, could you estimate the length of the blade?
- A. Ah,
36. Q. Well, could you hold your fingers and show us the...
- A. Well, the whole knife maybe yeah and maybe the, you know like the handle would be maybe about this big and the blade about this big.
37. Q. All right. Well, just let's get that for the record. Show me the size of the handle again.
- A. About yeah. About maybe it's...(inaudible)maybe six inches.
38. Q. All right. About six inches?
- A. Maybe it's more. Whatever that is. I'm not carrying my tape measure, I don't know.
39. Q. Okay. And the length of the blade?
- A. About equal.
40. Q. I see. Do you remember what color the handle was on the knife?
- A. I recall the handle of the knife being brown.
41. Q. So you saw your father wash this knife in the sink?
- A. Um-hmm. Yes, sir.
42. Q. Did you recall what he did with the knife after he washed it?
- A. I recall him taking the knife upstairs. Into his, into his room.

Miss Donna Ebsary, Direct Examination by Mr. Edwards

43. Q. I see. And did you see the knife anymore after that?
- A. No, I could never. I couldn't find the knife after that.
44. Q. What do you mean you couldn't find it?
- A. I looked for the knife after that. I couldn't find, I, the knife was nowhere in his room that I could see.
45. Q. And, why, why were you particularly interested in finding the knife?
- A. Because I was aware of what had happened. I knew of ah, the situation that was going on at the time. I felt that some, that it was wrong. That somebody else was being accused for something that they hadn't done.

Mr. Wintermans: Objection. I don't see that, that her opinions should be, ah, heard.

By the Court: No, I, I must say that I was engrossed in taking some notes and thinking about a question I want to ask myself but if there were opinions, they ought not to come out.

Mr. Edwards: I'll try to avoid getting into opinions.

46. Q. I was asking the witness why she was interested in finding the knife. Perhaps I could ask you, Donna, when did you start looking for the knife in relation to that night?
- A. It was a while after that.
47. Q. What do you mean by a while?
- A. Ah, let's see, ah, I know that like it wasn't the same night and I know that maybe a few months passed before I really started to get really interested because I want, well, for whatever.

Miss Donna Ebsary, Direct Examination by Mr. Edwards

42. Q. In any event, you did, you didn't find them?

A. No.

43. Q. Okay. Can you describe your father's condition when he got home that night? Can you recall?

A. My father seemed to be in command of the situation that was going on. He seemed to know what he wanted to be doing. He knew, I think that ah, a matter of fact, he turned to Jimmy and told Jimmy to be quiet, not to say anything. He was following something that he had pre, had already determined that he should do.

Mr. Wintermans: Again, Your Honor, that's getting ...

By the Court: (Inaudible)... somebody else and describe their intentions. Just describe what you heard.

A. Well. Well, he seemed to be in command, in control of what he was doing.

Mr. Wintermans: I, again...

Mr. Edwards: Well that doesn't say anything really, I don't think...

By the Court: Well if it doesn't say anything that you're concerned about it. The, I think she can go that far.

Mr. Edwards: Was that all your questions?

Mr. Wintermans: No.

Mr. Edwards: Is that your objection?

By the Court: Ah, Let me, let me say this. When you get up to cross-examine you can ask her why she said that and on what she based it. So that, you can keep that in mind.

Mr. Edwards: No further questions, thank you.

Miss Donna Ebsary, Cross-Examination by Mr. Wintermans

1. Q.

Ah, did you notice any, anything which may have appeared to be blood on your father's clothing that evening?

A.

No, I did not, sir.

Mr. Wintermans: Thank you, no more questions.

By the Court: I have ...(Inaudible) clarification if you're able to provide it Miss Ebsary. You've described the knife as having a handle and a blade and you described it in terms with your fingers which I took to be about three inches each way. That's three inches of handle and three inch blade. Now can you tell, tell us what kind of a knife, was it a pocket knife or was it a solid knife. A kitchen type of knife but, but smaller. What kind of a knife was it or, or did you tell us.

A.

Ah, the knife is not, was not a pocket knife like you would go to the store and buy a pocket knife with a, you know like, that would have a fold up blade. It's not, not that type of a knife. It was more of a...

By the Court: Well was it a, did it have a fold up blade or not?

A.

No. I would say that it didn't.

By the Court: Are there any questions arising out of that, Counsel.

Mr. Edwards: No.

Mr. Wintermans: Just a couple. Where were you when you were observing this knife?

Miss Donna Ebsary, Cross-Examination by Mr. Wintermans

A. If the sink was in front of me and my father was here and Jimmy was here I would be like, a little bit to the side of that.

2. Q. How far away from the knife?

A. Like from here to the stenographer's pen.

3. Q. Were you behind Jimmy or your father then?

A. No, I was kind of to the side of my father.

4. Q. How long did you have to observe it?

A. How long did I have to observe it -- I don't know how long I observed it. I seem to recognize the knife when I saw it -- when I saw the knife in his hand it was one that I recognized from him having, that's the picture that I captured in my mind, that I have in my mind that night.

5. Q. I see. That's all the questions I have.

By the Court: Well I could hurry you up even, but if there is something else only arising out of what I asked though. That's it.

Mr. Wintermans: There is something I can't seem to locate in all these files.

Mr. Edwards: Not on re-direct, but there is one matter that should be clarified for the record. When my learned friend asked her how far she was from the knife at the time the accused was washing it, she said from about here to the stenographer's pen. Perhaps we could just have the record show that that is a distance of about three feet, three to four feet.

Mr. Wintermans: That's all the questions I have My Lord.

By the Court: How's.....

Mr. Edwards: I think that's as far as we intended to go today My Lord.

By the Court: Alright, what about Constable....

Mr. Edwards: Yes, Constable Mroz, I took the liberty of telling him that I wouldn't be calling him this afternoon.

By the Court: Well then, that completes the evidence for this afternoon ladies and gentlemen of the jury. We will adjourn until Monday morning. Now, I been advised by counsel both for the Crown and the Defense that there will be a matter they wish to discuss with me without you being present, so we might do that first thing Monday morning and I'll ask you to come back for ten thirty. If you could be back here and ready to go at ten thirty, that would be just fine. So, we will then adjourn this court until Monday morning at nine thirty, but you don't have to be back until ten thirty.

Mr. Edwards: Possibly they could go directly to the jury room on Monday instead of.....

By the Court: I have instructed them already with that and I do again, but I really want to impress upon you that there will be a whole lot of people, no doubt, milling about and the more quickly you can get in the jury room and outside of the view of conversation of these people the better so I put you on your honour to do that.

Court Adjourned

JANUARY '85
EB 3112

383.

0. D. EBSARY, called, duly sworn, testified:

DIRECT EXAMINATION

MR. EDWARDS: You're Donna Ebsary?

A. I am.

Q Where do you reside, Donna?

5. A. I'm residing at #9 Signet Street, Brighton,
Mass.

Q. And you are formerly of Sydney?

A. Yes, I am.

Q. And your age at the present time?

A. 27.

10. Q. 27. Now Donna, you are the daughter of the
accused, Roy Newman Ebsary.

A. Yes, I am.

Q. And for the record would you point him out,
please?

15. A. He's sitting over there with the medals on
his chest, just behind and to the left of Mr. Wintermans.

THE COURT: The record will show she identifies
the accused.

MR. EDWARDS: And you resided with the family until
when, Donna?

20. A. I left here about six years ago, so about ..

Q. '79?

A. Yeah.

Q. And prior to 1979 you lived continuously with
your parents.

A. Yes, I did.

25. Q. Your mother's name is Mary Ebsary?

A. Yes.

Q. And you have one brother Gregory Ebsary.

A. Yes.

Q. Now in 1971 where was the family resident?

30. A. 126 Rear Argyle Street, Sydney.

384.

0.

D. EBSARY, Direct Examination

Q. And that would be approximately what distance from Wentworth Park? Or let me put it this way, how long would it take you to walk from your residence to Wentworth Park?

5.

A. Oh, maybe 10, 15 minutes.

Q. 10 or 15 minutes?

A. Yeah, 10 or 15 minutes.

Q. Now Rear Argyle Street is the family address between what years? Can you recall, approximately?

10.

A. Well, we moved there when I was I think about two years old when we moved up there, so 1959 maybe we moved in there and we moved out of there I think in high school, so I graduated from high school in '75 and in 1972, 1971 - no, '72 we moved out of there, I think.

Q. '72?

A. Yeah, I think so.

15.

Q. And after you moved from Rear Argyle Street where was the family home after that?

A. 46 Mechanic Street.

Q. All of those addresses are in the City of Sydney, is that correct?

A. Yes. They are.

20.

Q. All right. You would have been how old in May of 1971? I'll try you on that.

A. About 13 years old, around that.

Q. About 13 years old. Do you recall what grade you were in in school?

25.

A. Probably grade 8.

Q. Grade 8. Donna, what is your present occupation?

A. Manager of a furniture company.

Q. And what formal education do you have?

30.

A. I got my grade 12 from Sydney Academy and went

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D. EBSARY, Direct Examination

on to the College of Cape Breton for three years, then from there I went to the New England School of Acupuncture for a year and a half.

Q. When did you graduate from school?

5.

A. '75.

Q. In Sydney. In 1975. And that was with senior matriculation, Nova Scotia grade 12?

A. Yes.

Q. Did you ever fail any years in school?

A. No.

10.

Q. Now would you describe eyour father's physical condition in 1971?

A. He was healthy. He went to work every day. He got up every morning and did the normal kind of things. He wasn't sick.

Q. How would you rate his physical strength say on a scale of 1 to 10?

15.

A. Oh, 9, 9½.

Q. Okay. One being weak and 10 being strong.

A. Yeah.

Q. Yes. Now where did he work at that time, Donna?

20.

A. The Isle Royale.

Q. At the Isle Royale, as a what?

A. As a cook.

Q. As a cook. And how long did he work there?

A. As long as I can remember. He used to go to the Isle Royale Motel, Isle Royale Hotel, he worked other places cooking but at that time he was at the Isle Royale.

25.

Q. And prior to working at the Isle Royale, did you say Hotel or Motel?

30.

A. Either one. He used to work at both. I

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D. EBSARY, Direct Examination

don't know exactly which one he worked at.

Q. Well, prior to working at the Isle Royale where did he work before that, how did he make a living most of his life?

5.

A. As far as I know most of his life he was a cook. I don't know before that.

Q. Now what if any titles did your father affix to his name around that time?

MR. WINTERMANS: My Lord, might I ask that the jury be excluded. Perhaps the jury could go home for lunch.

10.

THE COURT: Well, all right.

JURY RETIRED (12:20 p.m.)

MR. WINTERMANS: My learned friend is asking questions that he's never asked before and I just want to say that it sounds to me like he may be getting perilously close to character evidence which he cannot do. Now what is the point of these questions is what I would like to know and how far is Mr. Edwards . .

15.

THE COURT: Is it any different than asking him if he had a nickname at the time?

20.

MR. WINTERMANS: I suppose it might depend on what the nickname was.

THE COURT: Well, I presume the answer that he was seeking is that he would be called Reverend or something of that nature. Now what problem do you have with that?

25.

MR. WINTERMANS: I'm just worried that my learned friend is getting close to character evidence here, that's all.

30.

THE COURT: Well, let's not have the jury on a string. So that they're going back and forth all the time. Let's wait till the questions are asked and object where you feel there is a proper objection but not all the

404.

0. DONNA EBSARY RECALLED, testified:
DIRECT EXAMINATION (Cont'd)

MR. EDWARDS: Donna, when we left off this morning I was asking you whether or not your father appended any titles to his name and I'd like you to answer that now.

5. A. Well, he used to call himself Reverend or Captain or Reverend Captain or some combination thereof.

Q. Reverend Captain or Captain. Yes. And what would be the basis for the name Captain, do you know why he'd call himself that?

10. A. He used to serve - he used to work on the ships so he called himself Captain.

Q. Why would he call himself Reverend?

- A. Him and another gentleman used to spend a lot of time researching the bible and during the course of time he was on the naval base with my father, they spent a lot of time in bibles in research and background materials on the bible and he just called himself Reverend. Then quite awhile after that he received some sort of documentation from the church that had his name on it as Reverend. That was later on.
- 15.

- Q. Can you tell us whether or not your father usually carried a knife in 1971?
- 20.

A. He used to carry a knife on him.

Q. And would you describe the type of knife he would carry on him at that time?

- A. It had a short handle and you could hold it in your hand comfortably and a blade that was fixed, it was like a one piece, it had nothing you could fold up, it was a one piece knife.
- 25.

Q. Yes.

A. And he carried that with him.

- Q. If I were to get you to look at a group of
- 30.

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0. DONNA EBSARY, Direct Examination

knives do you think you'd be able to select one that was similar to the one that he usually carried at the time?

A. Probably.

5. Q. I want you to look at the knives here on the table which are in the folder marked EXHIBIT 1.

A. The knife he carried was something like this one.

Q. You are referring now to a knife, #8, is that correct?

A. Yes.

10. Q. All right, Donna, you can get back on the stand. How did your father usually dress around that time, Donna? Like if he was going out.

A. He'd get dressed up if he was going out. He'd put on a pair of dress slacks and a shirt, and he'd put a scarf on and tie it and flip over around his neck and he had a blue like trench coat that he'd wear and he'd put it over his shoulders, he wouldn't put his hands out in the arms, he'd just put it over his shoulders and he'd go wherever he was going.

15. Q. Okay. And what about your father's hair at the time, what colour was it? Well, how was it compared to his hair colour today?

A. I don't know. I can't remember what his hair looked like.

Q. Okay. What about facial hair at the time?

25. A. He used to have a goatee.

Q. A goatee.

A. Chin whisker.

Q. Now did you know James MacNeil at that time?

A. I knew him. I didn't know him personally but he had been to the house with my dad.

30.

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D. EBSARY, Direct Examination

Q. On how many occasions had he been to the house?

A. I couldn't give you an exact number. A couple of times. Enough that I knew him to see him.

5.

Q. Now Donna, were you home on the night of the Seale stabbing?

A. Yes, I was.

Q. Who was home with you?

A. My mom and I were at home.

Q. That's Mary Ebsary.

10.

A. Yes.

Q. Yes. And when did you last see your father that evening? Put it this way. Was your father at home at all that day?

A. He was home earlier, like earlier in the day and then he came home late in the evening.

15.

Q. I see. Do you recall what time he left the house earlier in the day approximately?

A. I don't know.

Q. Now when he came back later in the evening approximately what time was it then?

20.

A. It was around 11 o'clock in the evening. I know the news was on television when he came in so whatever the late news would be on he came in.

Q. Yes. And who was with him when he came in?

A. Himself and James MacNeil.

25.

Q. Just before we go any further do you know what your father's age would've been in '71, approximately?

A. 62, 63.

Q. Now you say that he and Jimmy MacNeil came in.

A. Um-hmm.

Q. Now what did they do when they came in?

30.

A. Well, they came in and they stopped at the door,

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D. EBSARY, Direct Examination

in the room where my mom and I were and there was - Jimmy turned in to say to myself and my mom, or kind of saying it to my father and saying it to us at the same time, 'Look, you did a good job back there.' Dad told him to shut up and the two of them went into the kitchen.

5.

Q. How was your dad dressed when he got home that night, do you recall what he was wearing?

A. He still had his trench coat on when he came in.

10.

Q. And it was what colour?

A. Blue.

Q. Light or dark?

A. Dark.

Q. Okay. How would you describe MacNeil's condition at that time when they returned?

15.

A. He was excited, that's the best way to describe it. He was very excited.

Q. I see. And what about your dad?

A. I couldn't say. He was sort of excited, he was kind of like he was telling Jimmy something. I don't know quite how to describe what it would be.

20.

Q. All right. So after Jimmy made this comment about you did a good - how did you put it?

A. You did a good job back there.

Q. Um-hmmm. Where did your father go then?

A. He went into the kitchen.

25.

Q. He went into the kitchen.

A. Yeah.

Q. Where did you go?

A. He went into the kitchen, Jimmy went into the kitchen, I followed behind them.

30.

Q. You followed behind them.

A. Yes.

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D. EBSARY, Direct Examination

Q. Now what if anything did you observe your father doing when you got to the kitchen?

A. Dad was washing a knife off in the sink.

Q. Could you see what he was washing off it, if anything?

5.

A. It appeared to me that there was blood on the knife that he was washing.

Q. Now could you describe the knife for us?

A. The knife had a brown handle and it was kind of a short blade on it. It wasn't really a big knife, just a small knife that he carried in his pocket.

10.

Q. A fixed blade or folding?

A. Fixed blade.

Q. How did it compare in size to knife #8 that you picked out earlier?

A. It's about the same size.

15.

Q. So he washed the knife off. Where was Jimmy MacNeil while your father was washing the knife?

A. He was with dad. Everybody was in the kitchen at that time. Well, not everybody. Jimmy and my father and myself were in the kitchen at that time.

20.

Q. I see. So after your father washed the knife what did he do with it?

A. I recall him going upstairs.

Q. Um-hmm.

A. I figured he had the knife with him.

Q. I see. Did you ever look for that knife?

25.

A. I did, after that. Yes.

Q. Did you ever find it?

A. No, I did not.

Q. When did you first become aware of the Seale stabbing after that night, or the Seale death?

A. The next day, probably.

30.

Q. Do you know when if at all your father first had

409.

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D. EBSARY, Direct Examination

contact with the Sydney City Police after that night?

A. The only time I recall was around November when the police came to the house and we all went down to the police station.

5.

Q. In November, '71.

A. Yes.

Q. Who went to the police station? You say we all went.

A. My brother, myself, our dog and my father.

10.

Q. Donna, would you again step down from the stand and look at those knives which are contained in EXHIBIT 1 and tell us whether or not you recognize those knives?

A. Yes, they all belong to my dad. Or they all belonged to the household at the time that we were all living together.

15.

Q. And could you cite us a couple of examples of how you're able to say that with a fair certainty?

A. Well, the knives, I'm used to seeing them. We used to use them in the house, like.

Q. You're picking up knife #10.

A. Well, #10 we used to use in the kitchen.

20.

Q. Perhaps you'll just stand aside so that the jury can see.

A. A kitchen knife. We had it in the kitchen for cutting different things with.

Q. Yes.

25.

A. These knives here, there's four, a set of steak knives that we had that dad took the handles off and he put some copper pipe on them instead. He was good at fixing or repairing or readjusting knives. A brown handled knife, it's a bread knife that used to be in the house.

30.

Q. You're picking up knife #5. Yes?

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D. EBSARY, Direct Examination

A. This knife here is . .

Q. This is knife #7.

A. It's sharpened on both sides. Dad had a grinding wheel and he'd sharpen them on it. It's got a piece of garden hose on it.

5.

Q. Do you have any idea why he'd grind them on both sides?

A. Well, he used to use them out in the garden sometimes like for digging things out of the ground or he'd use them for sharpening different things like, whatever he wanted the knife for at the time he'd adjust it so it worked.

10.

Q. Um-hmm. I see. That night after your father took the knife upstairs, was Jimmy MacNeil still in the home or had he left?

A. Dad ran upstairs, Jimmy was still there, but I believe Jimmy went shortly after that.

15.

Q. And do you recall how long Jimmy was there altogether? That night?

A. I don't know exactly, no.

Q. No further questions. My learned friend may have some.

20.

THE COURT: Cross-examine?CROSS-EXAMINATION

MR. WINTERMANS: Donna, you indicated that in November of 1971 the whole family, it sounds like, went down to the police station. The Sydney police. Is that right?

25.

A. I recall myself, my brother and my father being there. I don't recall if my mother was there or not.

Q. Isn't it true that you were left out in the car?

A. That is true.

30.

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D. EBSARY, Cross-Examination

Q. You were how old, 13 or so at the time?

A. That's right.

Q. So you stayed outside in the car with the dog, is that right?

5.

A. That's right.

Q. And so you're not really sure exactly what transpired of your own personal experience inside since you weren't there. But your recollection of this particular night, is it clear in your mind or is it a little bit foggy after all these years?

10.

A. It's pretty clear. Those particular things are pretty clear.

Q. Now I'm going to suggest to you that you might not be absolutely correct on what you say James MacNeil said to your father when they first walked into the house. You say now, 'you did a good job back there' or words to that effect. I suggest to you that James MacNeil said 'Roy saved my life tonight.'

15.

A. No, that's not what I recall him saying.

Q. You don't recall that. You're sure that you haven't just thought about this so much that you've kind of got your pat memory of it now and that your - really your imagination might be filling in some of the details here.

20.

A. No, my imagination is not filling in the details.

Q. Okay. Now you say that you followed them into the kitchen, followed your father into the kitchen. And this is where you observed the washing of this knife.

25.

A. Yes.

Q. Is that right?

A. Yes.

30.

Q. Okay. And he was washing something off this

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D. EBSARY, Cross-Examination

knife, is that right?

A. Yes.

Q. I suggest to you that perhaps it was dirt that he was washing off the knife.

5.

A. There was a red substance on the knife.

Q. There was a substance on the knife.

A. We had this discussion the last time, you and I, you asked me questions and I told you that I did not have the knife analyzed and I have not since had the knife analyzed, but as far as I can recollect there was blood on the knife.

10.

Q. Okay. That's what you're testifying today. And the knives that you see on the table before you, there's 10 knives.

A. Um-hmm.

Q. Which have been the only pen knives referred to. None of those knives exactly fit the description which you've given, would you agree with that?

15.

A. I would agree with that.

Q. All right. Would you also agree that those knives were in constant use or frequent use between May 28th, 1971 and several years afterwards?

20.

A. They were in use as long as we lived up on Argyle Street. They were around the house.

Q. And when was it that you moved form Argyle Street?

A. I believe it was in 1972.

25.

Q. 1972?

A. Well, I graduated from high school in '75 and we moved up to Mechanic Street just prior to that and I thought that what I had said earlier that it was around '72 that we moved.

30.

Q. 1972. The coat that you described your father

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D. EBSARY, Cross-examination

usually wore, it was a long blue coat, is that correct?

A. Yes.

Q. Coming down perhaps around the knees or something like that on him?

5.

A. Yes.

Q. And you say he often wore it over his shoulders so that his arms weren't through the sleeves, is that what you're saying?

A. I rarely ever saw him with his arms out in the sleeves, yes.

10.

Q. And do you agree that your father would often remove his glasses when he was outside?

A. I wasn't with my father when he was outside.

Q. Are you saying that your father didn't remove his glasses?

15.

A. He may have in the home but I did not accompany my father on his journeys out of the house, so I cannot answer the question you asked.

Q. All right. The coat, when you were a girl of 13 did you ever examine that coat or put it on or put your hand in the pockets or anything like that?

20.

A. I never examined it for the purpose of going over it, no.

Q. Okay. Well, can you answer this? Did it have slits in it so that if you were to put your hands through the outside pockets would your hands go right through the coat?

25.

A. I don't know.

Q. You can't recall that? Who's the first person that you ever talked about this incident with?

A. The first person might've been the person I was studying with at the time, Dave Ratchford.

30.

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D. EBSARY, Cross-Examination

Q. David Ratchford?

A. I think so.

Q. And when would that have been, approximately?

A. I don't know. I couldn't put a date on it.

5.

Q. It was a few years later, right?

A. Um-hmm.

Q. And did you - could you describe your relationship with David Ratchford at that time?

A. He was my teacher.

Q. And you confided in him, did you?

10.

A. Yeah.

Q. You trusted him?

A. Um-hmm.

Q. What was he your teacher, what did he teach at that time?

A. He was Martial Arts instructor.

15.

Q. Martial Arts?

A. Um-hmm.

Q. And was he also your school teacher?

A. No.

Q. And did you go to the police after that conversation with David Ratchford?

20.

A. No.

Q. Do you recall having testified in 1982 in Halifax before the Appeal Court?

A. Yes.

Q. And you recall having been asked the question:

25.

"Q. Can you describe the knife?

A. The knife is a small knife, it had a short blade and a brown handle with tape around the bottom of the handle.

Q. How certain are you of that?

30.

A. I'm as certain as I am that I'm sitting here now."

415.

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D. EBSARY, Cross-Examination

Q. Do you recall having said that?

A. Um-hmm.

Q. And on page 16, 116, you were asked the following questions and gave the following answers:

5.

"Q. Can you say whether you saw anything on that particular knife?

A. There was definitely something on the blade of the knife. I have - it seems to me there was blood on the blade of the knife.

Q. I'm sorry?

A. I said there was blood on the blade of the knife.

10.

Q. How certain are you of that?

A. I'm not as certain as I am of the fact that I'm sitting here but I'm pretty certain that is what it was."

Q. Do you recall having said that?

A. Yes.

15.

Q. Are you more certain now than you were in 1982?

A. I'm as certain.

Q. As certain.

THE COURT: I'm sure those statements were inconsistent with anything, Mr. Wintermans.

20.

MR. WINTERMANS: Fine. Just the question of the degree of certainty, I guess, My Lord.

THE COURT: She sounded pretty certain when she said it here.

25.

MR. WINTERMANS: Would you agree that with respect to your father's physical appearance that he was a small man, he was maybe 5'2, kind of slight, he didn't have any amount of meat on him . .

THE COURT: What are you referring to?

MR. WINTERMANS: I'm just asking the question.

30.

MR. EDWARDS: No, you're not. You're reading from the transcript.

0. D. EBSARY, Cross-Examination

THE COURT: You're reading in something.

MR. WINTERMANS: Okay, I'm going to ask her whether she agreed or disagreed with a description, that's all.

THE COURT: Well, ask her to describe him or do it properly, and again you don't have to . .

5. MR. WINTERMANS: Describe your father's physical appearance as far as size and - exact size?

A. Well, he's a few inches taller than I am and I'm 5 feet tall, so that'd make him around 5'3 and he weighed about 160 lbs and I'd say he weighed around that much. He used to wear - he filled out his clothes all right, you know, he looked okay. I don't know, I didn't weigh him or pick him up at any time so . .

10.

Q. Did you say 160 lbs?

A. I'd say he weighed about that much, yeah.

Q. Do you recall having testified at the Appeal Court in Halifax in 1982 being asked to describe his physical appearance, page 117:

15.

"He was a small man, he was maybe 5'2, kind of slight. He didn't have any amount of meat on him so he was like I say very slight. He looked kind of - let's see, how can I picture how he looked? Well, he looked like an average little old man, I guess. That's all I ever pictured him as."

20.

Q. Do you recall having said that then?

A. No, not in that manner.

25.

Q. You don't recall having testified that at the Appeal Court in Halifax?

A. I don't recall making it exactly that way, no. Of course I don't have the transcripts to study them before I come in here either.

30.

Q. Are you questioning the accuracy of that

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0. D. EBSARY, Cross-Examination
description?

A. If you say I said it, I must have.

Q. Okay. So therefore you're not questioning the accuracy of that description?

A. If you say . .

5. MR. EDWARDS: The Crown admits the accuracy of the transcript, My Lord.

MR. WINTERMANS: You indicated that the time that your father and Mr. MacNeil came home that night was 11 o'clock, did you say?

10. A. It was late in the evening. I did say 11 o'clock. I know the late news was on but I'm not 100 per cent certain it was exactly 11 o'clock.

Q. Could it have been 10 o'clock?

A. The late news didn't come ^{on} at 10 o'clock.

15. Q. You indicated that you recall testifying in Halifax at the Appeal Court in 1982 and I'm going to ask you to comment on this question and answer:

Q. Okay now, how late at night . . .

MR. EDWARDS: Page?

MR. WINTERMANS: 114.

20. "Q. Okay now, how late at night? You said it was late. Can you say approximately what time it would've been?

A. It may have been 10 o'clock or later. It was just late. I know that I was up late, so . .

25. Q. Okay, so could it have been 12 o'clock?

A. It could have."

Q. Do you recall having said that?

A. Um-hmm.

Q. Is that true?

A. It's no different from what I just said.

30. Q. Okay. So what you're saying is it could have

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0. D. EBSARY, Cross-Examination

been sometime between 10 and 12.

A. It was late in the night. The late news was on television. We were sitting there watching it. I don't know exactly what time it was. I didn't look at the clock, I did not write it down.

5.

Q. Do you recall having given a statement to the R.C.M.P. to Sergeant Wheaton on April 17th, 1982?

A. Yes.

Q. And do you recall having stated:

"Jimmy said to Roy 'You did good or you did a good job' words to that effect?"

10.

Do you recall having said that?

A. Yes.

Q. Now you're certain that it was . .

A. You did a good job.

Q. What?

15.

A. You did a good job. Are you sure, Donna, that you're not just kind of giving the gist of what you heard rather than exact words?

A. What I recall Jimmy saying is that 'you did a good job.' That is what I recall.

20.

Q. Did you notice any blood on your father's clothing that night?

A. No, I did not.

Q. Would you agree that James MacNeil was very hyper, really, really excited when they came in?

A. Yes.

25.

Q. Now do you remember having testified last time November the 4th, 1983 here in the Supreme Court, page 121, question 29?

THE COURT: What page?

MR. WINTERMANS: 121. Being asked the question and given the answer. First the question:

30.

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D. EBSARY, Cross-Examination

Q. Okay. And when your father and Mr. MacNeil arrived home that evening, can you describe what if anything took place as they came in the house?

5.

A. They came in, Jimmy appeared to be pretty excited. Jimmy turned to my dad and said "Gee, you did a good job back there." My father turned around and said: "Oh, be quiet."

10.

MR. EDWARDS: My Lord, I'm going to enter an objection. This is about the 4th or 5th time he's put that very point to her. I don't question his right to ask it but surely there's a limit on how many times he can trot over the same ground. There's no inconsistency whatever.

MR. WINTERMANS: I would suggest that she's saying today what she . .

15.

THE COURT: I don't want to hear your argument. I don't want to hear your argument. I don't think there's any prior inconsistent statement that would warrant the continual putting of those questions to her. Get on with it.

20.

MR. WINTERMANS: Now when you spoke to David Ratchford, did you tell him truly about your recollections of May 28th, 1971?

A. What are you asking? What do you mean, did I tell him truly?

25.

Q. Did you tell him the truth?

A. Yes.

Q. That's all the questions I have.

THE COURT: Re-Examination?

MR. EDWARDS: No re-examination, My Lord.

THE COURT: All right, then. Thank you, witness.

30.

WITNESS WITHDREW. (3:13 p.m.)