

I N D E X

EXHIBIT 1
VOLUME 1

MARSHALL PRELIMINARY-----PAGES 1 - 77
July, 1971
STATEMENT OF FACTS-----PAGES 78 - 83
Donald C. MacNeil
October, 1971
MARSHALL TRIAL-----PAGES 84 - 216
(VOL. 1)
November 2-5, 1971

EXHIBIT 2
VOLUME 2

MARSHALL TRIAL CONT'D-----PAGES 1 - 115
(VOL. 11)
November 2-5, 1971
MARSHALL APPEAL-----PAGES 116 - 215
January, 1972

EXHIBIT 3
VOLUME 3

MARSHALL REFERENCE-----PAGES 1 - 235
December, 1982

EXHIBIT 4
VOLUME 4

MARSHALL REFERENCE CONT'D
FACTUM OF RESPONDENT-----PAGES 1 - 43
FACTUM OF APPELLANT-----PAGES 44 - 79
REASONS FOR JUDGMENT-----PAGES 80 - 147

EBSARY PRELIMINARY-----PAGES 148 - 254
August, 1983

EXHIBIT 5
VOLUME 5

EBSARY FIRST TRIAL-----PAGES 1 - 240
September, 1983

EXHIBIT 6
VOLUME 6

EBSARY SECOND TRIAL-----PAGES 1 - 217
Book I and II
November, 1983

I N D E X C O N T ' D

EXHIBIT 7
VOLUME 7

EBSARY SECOND TRIAL-----PAGES 1 - 309
Book III and IV
November, 1983

EXHIBIT 8
VOLUME 8

EBSARY THIRD TRIAL-----PAGES 1 - 252
January, 1985

EXHIBIT 9
VOLUME 9

EBSARY THIRD TRIAL CONT'D-----PAGES 1 - 250
January, 1985

EXHIBIT 10
VOLUME 10

EBSARY THIRD TRIAL CONT'D-----PAGES 1 - 145
January, 1985
EBSARY APPEAL-----PAGES 146 - 178
May, 1986

EXHIBIT 11
VOLUME 11

ROY EBSARY -----PAGES 1 - 3
JAMES MACNEIL -----PAGES 4 - 168
ROBERT SCOTT MACKAY -----PAGES 169 - 170
MARVEL MATTSON -----PAGES 171 - 174

EXHIBIT 12
VOLUME 12

MAYNARD CHANT -----PAGES 1 - 162
RICHARD WALSH -----PAGE 163
JOHN MULLOWNEY -----PAGES 164 -169
HOWARD DEAN -----PAGE 170
MICHAEL B. MACDONALD -----PAGES 171 - 204
JOHN PRATICO -----PAGES 205 - 286
RAYMOND RUDOLPH POIRIER -----PAGE 287
DR. M. A. MIAN -- -----PAGES 288 - 289

EXHIBIT 13
VOLUME 13

DR. M. A. NAQVI -----PAGES 1 - 65
TERRANCE P. GUSHUE -----PAGES 66 - 78

I N D E X CONT'D

PATRICIA HARRISS -----	PAGES	79 - 173
MARY CSERNYIK (O'REILLEY) -----	PAGES	174 - 175
CATHERINE SOLTESZ (O'REILLEY) --	PAGES	176 - 177
BARBARA FLOYD -----	PAGES	178 - 180
SANDRA COTIE -----	PAGES	181 - 183
WAYNE MAGEE -----	PAGES	184 - 203
LAWRENCE BURKE -----	PAGES	204

EXHIBIT 14
VOLUME 14

BEUDAH CHANT -----	PAGES	1 - 2
ROY GOULD -----	PAGES	3 - 13
MARY EBSARY -----	PAGES	14 - 39
GREGORY EBSARY -----	PAGES	40 - 77
EUGENE SMITH -----	PAGE	78
WILLIAM URQUHART -----	PAGES	79 - 238

EXHIBIT 15
VOLUME 15

JOHN F. MACINTYRE -----	PAGES	1 - 296
DONNA EBSARY -----	PAGES	297 - 362

EXHIBIT 16
VOLUME 16

OCCURRENCE, CRIME, CONTINUATION REPORTS -----	PAGES	1 - 16
STATEMENTS - MAY-JULY, 1971 (in date and time order)-----	PAGES	17 - 89
MISCELLANEOUS -----	PAGES	90 - 104
SYDNEY POLICE RECORDS - EBSARY and MARSHALL and EBSARY'S MEDICAL RECORDS -----	PAGES	105 - 119
INFORMATION FROM MACINTYRE and ARREST WARRANT -----	PAGES	120 - 122
HANDWRITTEN NOTES - MACINTYRE -----	PAGES	123 - 143
HANDWRITTEN NOTES - MACNEIL -----	PAGES	144 - 158
SYDNEY CITY HOSPITAL RECORDS -SEALE -----	PAGES	159 - 164
BILL OF INDICTMENT and STATEMENT OF FACTS -----	PAGES	165 - 170
NOVEMBER 1971 INVESTIGATION -----	PAGES	171 - 210
POST 1971 DOCUMENTS -----	PAGES	211 - 222

I N D E X C O N T ' D

EXHIBIT 17
VOLUME 17

FRANK EDWARDS' NOTES -----PAGES 1 - 82
ESKASONI PRESS CLIPPINGS -----PAGES 83 - 86

EXHIBIT 18
VOLUME 18

DOCUMENTS RELATING TO
1971 R.C.M.P. INVESTIGATION -----PAGES 1 - 31
DOCUMENTS RELATING TO
ROY N. EBSARY -----PAGES 32 - 89

EXHIBIT 19
VOLUME 19

DOCUMENTS RELATING TO REVIEW
AND REINVESTIGATION
JANUARY, 1982 - MARCH, 1983 -----PAGES 1 - 150

EXHIBIT 20
VOLUME 20

DOCUMENTS RELATING TO REVIEW
AND REINVESTIGATION
MAY, 1983 - AUGUST, 1986 -----PAGES 1 - 104

EXHIBIT 21
VOLUME 21

R.C.M.P. - RED BOOKLET
ALL COMPILED BY STAFF SERGEANT
WHEATON - 1982 -----PAGES 1 - 221

EXHIBIT 22 Map of Wentworth Park

EXHIBIT 23 Drawing of Knife by Ebsary

EXHIBIT 24 Knife

EXHIBIT 25 Transcript of Ebsary Video Tape

EXHIBIT 26 Chef's Knife

I N D E X C O N T ' D

- EXHIBIT 27 8 Knives
- EXHIBIT 28 Original of Ebsary Statement
November 15, 1971
- EXHIBIT 29 Toronto Star Article (photocopy)
December 2, 1982
- EXHIBIT 30 Handwritten Statement (original) of Maynard
Chant - May 30, 1971
- EXHIBIT 31 Original Statement of Maynard Chant
June 4, 1971
- EXHIBIT 32 Map of Sydney (Tony Ross)
- EXHIBIT 33 Page from Notebook of Ambrose MacDonald
- EXHIBIT 34 Notes beginning "1. The Accused Person of 1971"
(Walsh - original)
- EXHIBIT 35 Notes beginning "Pg 8 What happened to the
Exhibits" (Ambrose MacDonald - original)
- EXHIBIT 36 Letter of Dr. Mian re John Pratico, dated
September 16, 1987
- EXHIBIT 37 Map of Sydney (Tony Ross)
- EXHIBIT 38 Handwritten notes from Detective Michael
MacDonald, 1971 (Saunders)
- EXHIBIT 39 Information dated May 3, 1971: M. B.
MacDonald - informant
- EXHIBIT 40 Notes from diary of M. Wood, May 29, 1971

I N D E X C O N T ' D

- EXHIBIT 41 Excerpt from notebook of Inspector Terry Ryan,
May 29, 1971 ff.
- EXHIBIT 42 Article from Cape Breton Post, May 29, 1971
- EXHIBIT 43 Letter to George MacDonald from Dr. O'Brien
September 16, 1987
- EXHIBIT 44 N. S. Hospital Medical Records - Roy Ebsary
- EXHIBIT 45 Cape Breton Hospital Medical Records - Roy
Ebsary
- EXHIBIT 46 Certificate of Service, Royal Navy - Roy Ebsary
November 4, 1940 - January 8, 1942
- EXHIBIT 47 Medical Records of John Pratico (*Vol. grey cover*)
- EXHIBIT 48
VOLUME 22 Informations and Documents re Donald
Marshall and Thomas Christmas
- EXHIBIT 49
VOLUME 23 Supplementary Medical Records of John Pratico
- EXHIBIT 50 Curriculum Vitae, Dr. Mian
- EXHIBIT 51 Cape Breton Post, Xerox, Friday, November 5th,
1971 "Marshall Denies Stabbing Seale" (Pugsley)
- EXHIBIT 52 Cape Breton Post, Xerox, November 4th, 1971
(Pugsley)
- EXHIBIT 53
VOLUME 24 Sydney City Hospital Records re Sandy Seale

I N D E X C O N T ' D

- EXHIBIT 54 Original Statement of Terrance Gushue,
dated June 17, 1971 (in Vol. 16:72)
- EXHIBIT 55 Original Statement of Patricia Harriss,
dated June 17, 1971 - unsigned (in Vol. 16:64)
- EXHIBIT 56 Original Statement of Patricia Harriss,
dated June 17, 1971 - unsigned (in Vol. 16:67-8)
- EXHIBIT 57 Criminal Record of Patricia Harriss (Sydney)
- EXHIBIT 58 Criminal Record of Patricia Harriss (Toronto)
- EXHIBIT 59 Letter of June 7, 1971 from Deputy Chief MacAskill
to Winn (BUF)
- EXHIBIT 60 Letter of December 24, 1973 from Donald Marshall,
Jr. to Sandra Cotie (MacNeil)
- EXHIBIT 61 Statement of Mary O'Reilley (Csernyik), dated June
18, 1971 (in Vol. 16:74)
- EXHIBIT 62 Statement of Catherine O'Reilley (Soltesz), dated
June 18, 1971 (in Vol. 16:80)
- EXHIBIT 63
VOLUME 25 Roy Gould documents
- EXHIBIT 64 Clippings re Membertou
- EXHIBIT 65 Complaints from Indian teenagers re police, signed
by Cameron Paul, 1970
- EXHIBIT 66 Application Proposal - Community Relations and the
Law
- EXHIBIT 67 Criminal Record - Roy Gould

I N D E X C O N T ' D

- EXHIBIT 68 Minutes of Advisory Committee Meeting - Native Courtworker Programme - November 18, 1974
- EXHIBIT 69 Parole Report signed by Kevin Link & Bernard MacNeil, March 2, 1978
- EXHIBIT 70 Parole conditions - Tom Christmas
- EXHIBIT 71 Criminal record of Tom Christmas
- EXHIBIT 72 Clipping - Cape Breton Post - October 6, 1971
- EXHIBIT 73 Diagram of Sydney Detectives' Offices, by Dave Ratchford (Ruby)
- EXHIBIT 74 Statement of Dave Ratchford, March 29, 1982
- EXHIBIT 75 Handwritten statement of Mary Ebsary, dated November 15, 1971
- EXHIBIT 76 Picture of Ebsary knives given to Sergeant Wheaton
- EXHIBIT 77 Handwritten statement of Greg Ebsary, dated November 15, 1971
- EXHIBIT 78 Clipping - Cape Breton Post - June 2, 1971
- EXHIBIT 79 Affidavit of Simon Khattar, dated August 9, 1982
- EXHIBIT 80 List of Crown Witnesses from Bill of Indictment, November, 1971
- EXHIBIT 81 Letter from Malachi Jones to the R.C.M.P. setting out principles regarding disclosure, dated March 23, 1961

November 16, 1987

SYDNEY HARBOUR



LEGEND

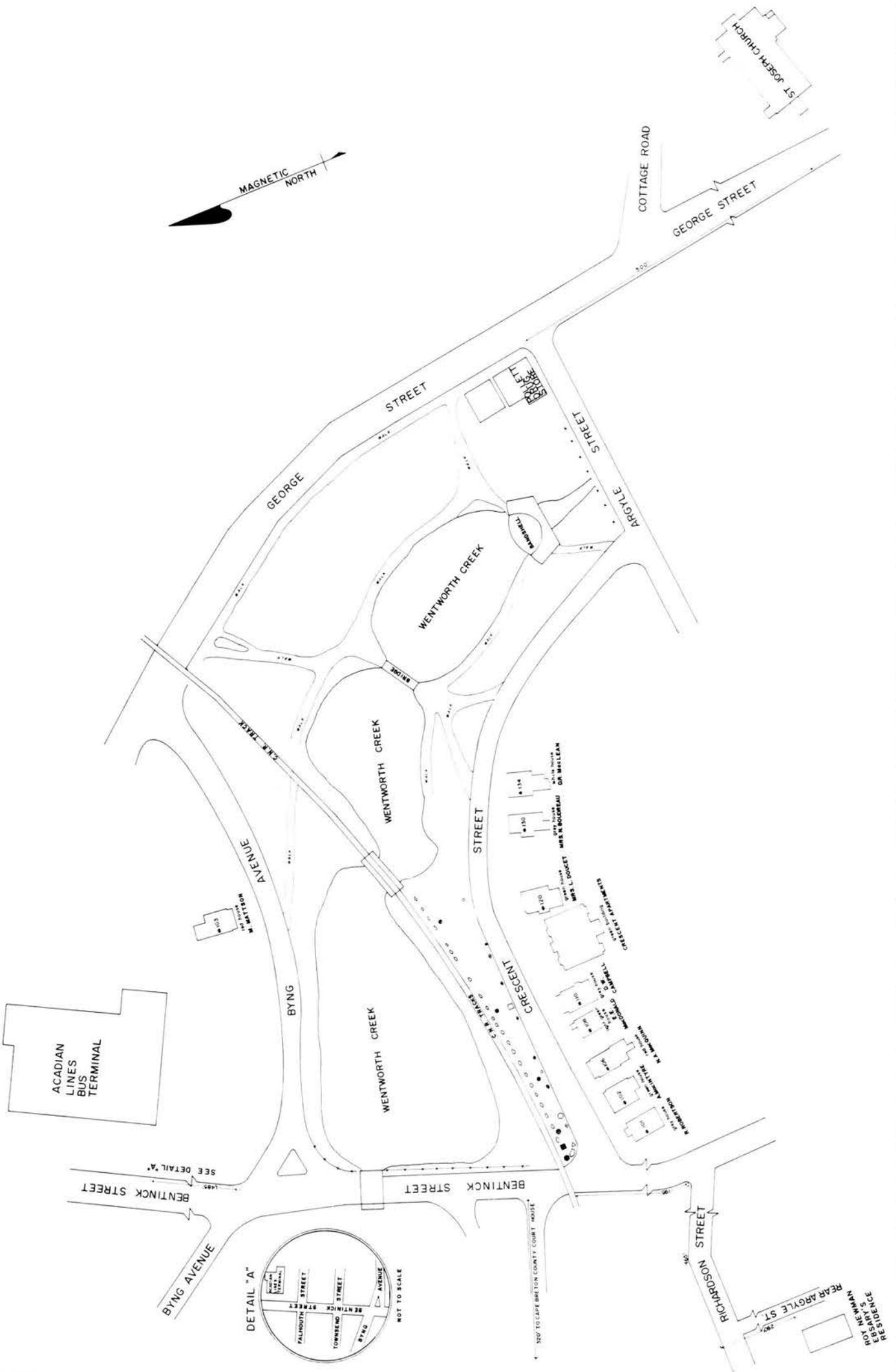
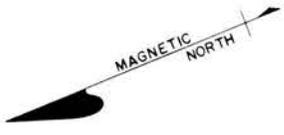
- BIRCH TREE
- POWER POLE (with 25 M.V. light)
- POWER POLE
- NO PARKING ANYTIME SIGN
- STOP AHEAD SIGN
- BUSH
- TREES
- HEDGE
- RAILWAY SIGNAL LIGHTS
- POWER BOX FOR RAILWAY SIGNAL LIGHT
- STOP SIGN
- FENCE LINE

SCALE 1" = 30'

— PLAN —
 SHOWING WENTWORTH PARK
 CITY OF SYDNEY,
 COUNTY OF CAPE BRETON,
 PROVINCE OF NOVA SCOTIA
 DATED JULY 27, 1987

J. CARL MACDONALD, N.S.I.S.
 NOVA SCOTIA LAND SURVEYOR

DRAWN BY: A. B. WATSON



SEE DETAIL "A"

DETAIL "A"



NOT TO SCALE

320' TO CAPE BRETON COUNTY HOUSE

REAR ARGYLE ST
 ROY NAWANAN
 EBBARD'S
 RESIDENCE

Exhibit Number: 23

Filed on: SEP 09 1987, 1987

At The Hearings of The
Royal Commission On The
Donald Marshall, Jr., Prosecution

Malcolm Williston,
Registrar



MEDIA POOL COPY

Q. 25
Gum

TRANSCRIPT OF ROY EBSARY VIDEO INTERVIEW
WITH DAVID RATCHFORD

Ebsary: ... I said good for you, by God.

Ratchford: Did he have any idea when you're going to go to trial?

Ebsary: No. Not soon.

Ratchford: No?

Ebsary: But I got two operations rolling up. What about that?

Ratchford: Hum. When are you going in for the operations?

Ebsary: I got to see Tommy tomorrow, about one, this Sniderman.

Ratchford: Sniderman.

Ebsary: I see Sniderman tomorrow and after I get through with Sniderman, Sniderman is going to decide what date to operate, he'll tell me that tomorrow, you see. And from that, Gaum is keeping in touch with Halifax, but he is getting no reply from Halifax. So he's going to have to, the fellow that mended the bloody neck when I broke the son of a bitch, you know. So

Ratchford: So, she's all a waiting game.

Ebsary: Yeah, it's all a waiting game. It's a waiting game of, it's bloody waiting, it's bloody brutal.

Ratchford: Five years.

Ebsary: Is it five years?

Ratchford: Just about five years.

Ebsary: Since this, this started again?

Ratchford: It's ah, well, for the initial case to break open, it's ah, what was that, '81?

Abbass: '81 - '82, wasn't it?

Ratchford: Yeah, '82.

Ebsary: Bloody right. Or else I haven't been to the Nova

Scotia Hospital, for Christ sakes, twice.

Ratchford: That's right, '82.

Ebsary: The bloody pyschiatrist told to the Judge of the bloody Court that man is absolutely insane. (laughs) Jesus. So he sends me back to the God damn Nova Scotia Hospital and I God damn well told you that I God damn well wasn't insane. They said well by Christ we'd like to have that, a head like you got. Geez, what a laugh. It was a laugh alright. Jumpin Christ.

Ratchford: So how do you feel about going up again?

Ebsary: Well, I feel lousy that there should be another bloody trial. Because you know to sit in that bloody court room is bloody murder. But if that bastard is lying, like they did at the last trial, I'm going to be on my God damn feet this time, irregardless of the lawyers and fuck all else, and I'm going to tell him he's a God damn liar.

Ratchford: Who?

Ebsary: Marshall.

Ratchford: Um hum.

Ebsary: And Seale, and uh, what's his name, O'Neil. But his lawyer says if I go and contend O'Neil, it's going to make it bad for the case.

Ratchford: You mean MacNeil.

Ebsary: MacNeil. The son of a bitch turned Judas, didn't he?

Ratchford: Um hum.

Ebsary: I tried to save his bloody life that night.

Ratchford: Um hum. And then he turned around

Ebsary: And he turned around and becomes state business, to save his bloody head.

Ratchford: Do you think they are going to have the same witnesses this time as they had the last time?

Ebsary: Right. There are no other witnesses. They claimed there was four men there, only four. They are forgetting Irving, that's five. He saw him, what he could see in the dark, but he heard MacNeil's screams. Darn right. Cause that one

was screaming like a banshee. Until he turned around and took us to court, said him and Marshall was standing by the side of the bloody road and saw me sticking, stick the bloody knife, or stick something in the guy. They asked him did you see a knife. They saw no bloody knife. How could they? I was wearing a cape.

Ratchford: That's right.

Ebsary: I was wearing my coats like a cape. After that, well, you take it now. Marshall was further away from me to that bloody house is over there. In the park on a dark night, and believe me it was dark, no lights. They saw nothing. So they are lying through their bloody teeth. It was impossible to see. Well, I couldn't see Seale in front of me. I saw a shape with a big afro hairdo. You know, bloody right. And I didn't take the hand out of the pocket. I didn't have to. The Burbury is made so you put your hand here. If you put it in, you can put it down in the pocket or you could put it right up there like that.

Ratchford: Um hum.

Ebsary: So it was bloody easy with the God damn, well he says, "Give me every fuckin thing you got". I said, "Well, you'll get everything I've got". I just put my hand in my bloody pocket like that, the hand went out there like that, between the bloody cape, when ... sixty bloody feet away in the dark. How in the hell could you see anything.

Ratchford: Roy, I'm thinking about the way you stabbed him. I'm trying to, is that coat here? Do you have a coat like that here?

Ebsary: No. You know, the Mounties took that coat and never brought it back. They must have been looking for blood stains or something on it.

Ratchford: Yeah.

Ebsary: But they were bloody foolish cause who in the hell would be foolish enough to put blood stains on the God damn clothes you were wearing?

Ratchford: Really.

Ebsary: Just like Donna saying she saw me wash blood off the knife in the sink, right?

Ratchford: Right.

Ebsary:

She didn't. She assumed it was blood I was washing off the knife. I was washing off the knife because I put the knife in the earth. After I cut Marshall in the bloody arm, I stuck the knife in the earth. That's what I automatically do to clean your knife.

Ratchford: Right.

Ebsary: Well, Christ. Geez, how in the Christ could Donna see me wash blood off the bloody knife. Fuck 'em. Assumptions was all it was, bloody assumptions.

Ratchford: When you stuck your hand out from the coat, okay, you had your hand inside the coat. Was the knife in the coat pocket or your pants pocket, and you pulled it out of your pants pocket or was it in the coat?

Ebsary: Yeah. It was in the pant's pocket. I put my hand down there like that, see?

Ratchford: Let's assume that I'm Sandy Seale standing right in front of you and we will re-enact this whole thing, okay?

Ebsary: Good. Dave, get my coat.

Ratchford: And I'll even get a

Abbass: Time out there, Dave?

Ratchford: Okay, I'm in a position, this is the position of Sandy Seale. What was he, arm's length away from you?

Ebsary: Now, I'm digging out and handing him this

Ratchford: Okay, so he's

Ebsary: Digging out and handing him that, and giving it to him. Now he got both hands are like that, right?

Ratchford: Yeah.

Ebsary: Okay. Now he says, "Give me everything you got." So, I dug down again like this.

Ratchford: What did he do with this stuff in his hands?

Ebsary: Put them in his pockets.

Ratchford: So he puts this in his pockets.

Ebsary: Right.

Ratchford: Now, he's standing there. Does he grab you or touch you?

Ebsary: No, because he's waiting for the rest of it. He wants everything I got.

Ratchford: Okay. So he has his hands stuck out.

Ebsary: So when he said, "I want everything you got", I dug down again and I hit the pocket knife. So I took it out like that, flipped it like that and did it like that.

Ratchford: And so, when you hit him, he did exactly what I did. He fell forward and then the knife then continued on up into the

Ebsary: Yes, like that.

Ratchford: So what happened then, did he fall flat down?

Ebsary: No, he didn't fall down.

Ratchford: So what happened?

Ebsary: The son of a bitch took off running like a son of a whore.

Ratchford: So he turned around and ran?

Ebsary: Yes.

Ratchford: Or did he run past you?

Ebsary: No. He, well

Ratchford: Did he hold his stomach?

Ebsary: No, he, he had his hands like this and he was running like old blazes. So I thought that the knife had only gone into his bloody clothes.

Ratchford: Oh yeah.

Ebsary: See? I didn't think the God damn thing had gone into his, and the God damn blade was only a God damn knife, like that.

Ratchford: Right.

Abbass: Can we see that again, Roy? Can we see how big the blade was again? Show us the length of that

thing. That's the length of it right there, eh Roy?

Ratchford: Then he turned and ran?

Ebsary: Right.

Ratchford: Like this?

Ebsary: And ran right down the bloody road and round the bend into the bloody park. And that's where he dropped, but that's pretty common.

Ratchford: Yeah.

Ebsary: So it stands to reason that he ran that bloody park. Now, the other fellow is screaming across the road.

Ratchford: Marshall had him on the ground?

Ebsary: Yeah. With his hands like this and his

Ratchford: Okay, so now I assume Marshall's position. You show me ah, you show me where, okay, you can stand over on this side over here.

Ebsary: Yeah, that's right, and Marshall was there.

Ratchford: Okay, am I on the ground or am I standing up?

Ebsary: No, you're standing up and you got your arm around the other fellow

Ratchford: Like this?

Ebsary: Right.

Ratchford: And MacNeil is on the ground?

Ebsary: MacNeil is on the ground.

Ratchford: So he's on the ground.

Ebsary: Right.

Ratchford: Is this the shoulder that's exposed to you or is it like this?

Ebsary: This one.

Ratchford: This one. Oh, so he's using his left arm then?

Ebsary: Right.

Ratchford: Okay, he's using his left arm to hold him.

Abbass: Okay, wait now, Dave, I can't see what you're doing over there.

Ebsary: You got a hold of both hands.

Ratchford: Oh yeah, so right around the neck.

Ebsary: And one arm here, like this, like that. So, I can't get that hand down, like that, you know, so I went strike (?) like that.

Ratchford: Stabbed him? Oh, I see, so you ripped him right down the arm, the left arm.

Ebsary: Right. Ripped him right down the arm like that. Then he dropped the arm.

Ratchford: So they said, and the authorities claimed that he inflicted that wound himself.

Ebsary: Oh yes.

Ratchford: Um hum. So, okay, so you slashed him on the arm, what did he do?

Ebsary: He dropped the young fellow then.

Ratchford: Yeah. And did he hit you or?

Ebsary: No, he took off running in the same direction.

Abbass: Move out of the way, Dave.

Ratchford: He ran in the same direction as Seale?

Ebsary: As Seale.

Ratchford: That's down toward the bandshell?

Ebsary: Toward the bandshell, right.

Ratchford: Yeah. Up on Crescent?

Ebsary: That's right.

Ratchford: And that was the last you encountered

Ebsary: That's, that's the last I encountered. Now, as I figured, neither one was seriously hurt, so MacNeil comes up to the house with me. We went into the house and he was yelling, "Roy saved my life, Roy saved my life." This is what he was yelling to the missus, you know, when we came

through the door, and I turned around and I said to him, "Shut up", like that. So I went to the bloody kitchen, I took the bloody knife, but there was no blood on it.

Ratchford: Want to follow that action, Chris, and we will do that, just as though you were coming in the house?

Abbass: Okay, show us again, Roy.

Ratchford: Okay, we can go out to the kitchen and have him go and actually do that.

Abbass: Okay, if you like.

Ratchford: Can you carry the gear, have you got it?

Abbass: Yes, oh yes.

Ratchford: Let's assume that the hallway here is where you and Jimmy MacNeil were coming in. We will re-enact this.

Ratchford: Where the family and all that is, and that will be the living room, wouldn't it.

Ebsary: Yes.

Ratchford: Okay, so Jimmy MacNeil is ahead of you coming in the door?

Ebsary: Yeah, right. ahead of me.

Ratchford: So, he coming in the door?

Ebsary: Like that, and he's yelling, and he looked in there, and he sees the wife, see? So, he says, "Roy saved my life tonight, Roy saved my life tonight". Right? And I said, "Shut up, you fool", and I headed for the kitchen.

Ratchford: Oh yeah.

Ebsary: Now I head for the kitchen and I head for the sink, but the knife is clean because I ran the knife down to the earth so there was nothing on the knife. But I took it like that and I washed it. ... and I washed it. That was it.

Ratchford: So, what happened after that now? What did you say? What did you do with the knife first of all?

Ebsary: Put it back in my pocket.

Ratchford: Yeah?

Ebsary: After I washed the knife, I put it back in my pocket again.

Ratchford: Okay.

Ebsary: Cause it's only a small knife.

Ratchford: Right.

Ebsary: You know, I'd imagine putting it in but can I get it out? There we are.

Ratchford: So, did you go in the room and speak to Mary?

Ebsary: No.

Ratchford: And what did Donna do?

Ebsary: She stayed there, well, she's says that she came into the room, the kitchen.

Ratchford: So, we can sit back down now. I guess there's no need of, that was great, Roy. That was a good re-enactment of that too. That was good.

Ebsary: So, MacNeil and I head out to the backyard.

Ratchford: Both of you, did you tell him to get out the door or?

Ebsary: No, first I went to the fridge. I took out some meat that I had. New York cut sirloin, you know, for steaks.

Ratchford: Um hum.

Ebsary: So, this is when she saw the blood on the knife. I used that small knife again for cutting the steak, the small steak, like that.

Ratchford: Oh yeah.

Ebsary: So, I cut the small steak, and I says to him, "MacNeil, we'll have a barbecue out back. But what I didn't realize was a light rain was falling and the barbecue was wet, so the bloody thing wouldn't ignite. So, MacNeil says, "I think I'll go home." Well, I says, "I'll walk up the street with you." He says, "No, because them two", he says, "might be waiting for me when I get up on Argyle Street". Now, he never figured that either of them was there..., eh?

Ratchford: No, he couldn't have

Ebsary: Because if he did, why would he be afraid that they would be waiting on Argyle Street for him?

Ratchford: Really.

Abbass: Excuse me, Roy. This MacNeil fellow, was he a bit of a drinker?

Ebsary: Yes, he was.

Abbass: Was he drunk at that time?

Ebsary: Yes, cause I'll tell you. He claimed that we were down to a tavern that night. We were to a tavern, but I wasn't to a tavern drinking. I spent that evening up at his father's, off George Street, some street off George Street, or like. And we waited for MacNeil to come home. Well, the old man and I had finished a bottle of wine, but there was still a full one there, so MacNeil

Abbass: Who's the old man, Roy?

Ebsary: Eh?

Abbass: Who's the old man?

Ratchford: Jimmy MacNeil's father.

Ebsary: Jimmy MacNeil's father.

Abbass: Okay.

Ratchford: So, you had finished off that bottle of wine with him?

Ebsary: Right. Now then, MacNeil said, "Let's go down to the", what's the name of the tavern?

Ratchford: At that time, on the corner, it was the ah, Steel, City

Ebsary: No.

Ratchford: No, it wasn't, it was the, what the heck did they call that tavern.

Ebsary: The Helm?

Ratchford: Not the Helm, that was on ah,

Ebsary: The Helm was down on the Esplanade.

Ratchford: Gosh, I

Ebsary: What the hell is the name of the tavern? ... just at the bottom of the street.

Ratchford: Yeah, right.

Ebsary: Right. He said, "Let's go down there". He wanted to see some fellow, a friend, you know. So, I said, "I'll walk down with you".

Ratchford: It was the State Tavern.

Ebsary: The State Tavern. "I'll walk down with you". So, we went into the State, but the State was closed. So, how could we have drank any God damn amount of beer if the God damn tavern was closed?

Ratchford: Really.

Ebsary: You couldn't. It was impossible.

Ratchford: Um hum.

Ebsary: So, he's lying there. He said I drank at least about eight. He saw me drinking at least eight, and the tavern closed. Is this right? So, he's lying like a bastard. And the D.A. asked him, "Do you figure if you had been drinking before?" How many beer has he had before. MacNeil said he didn't know. But they assumed that I spent the God damn night at the Helm Tavern. I didn't. I spent the night up with MacNeil's father. This is right.

Ratchford: That man is still alive today and living at the, is it, the MacGillvray Guest Home.

Ebsary: Why don't you go see the old bastard?

Ratchford: We went up to see him, but he was asleep when we went there.

Ebsary: He was asleep?

Ratchford: Yeah. So, I think that might be a good idea. We'll go and interview him.

Ebsary: You are bloody right.

Ratchford: Yeah, and ah, we'll get that story from him.

Ebsary: Because I spent the night with that man, right up until I went to the, the tavern was closed when we

got out here, and the tavern closes at 11:00 o'clock, right?

Ratchford: Um hum.

Ebsary: The tavern was closed.

Ratchford: Yeah.

Ebsary: So, I didn't hang around. I head out and we took the shortcut through the park. The the shortest way home was through

Ratchford: The park.

Ebsary: Through the bloody park.

Ratchford: Was it raining, by the way, that night?

Ebsary: Yeah, it was.

Ratchford: Um hum. There's was one

Ebsary: It was raining, it was raining cause I was wearing a raincoat, you see?

Ratchford: Um hum. We checked with the Sydney Weather Office and, indeed, it was overcast and raining that night. Yet one witness on the stand said that it was a clear night.

Ebsary: No, it was not a clear night.

Ratchford: And that was an authority.

Ebsary: Yeah.

Ratchford: You know, that was one of the law enforcement.

Ebsary: Go away?

Ratchford: The authority said it was a clear night that night.

Ebsary: It wasn't a clear night. It was a God damn, a kind of a foggy, hazy and rain.

Ratchford: Yeah. The Sydney Weather Office confirmed that, they confirmed that.

Ebsary: Bloody right, sure.

Ratchford: So, after that stabbing, Roy, after that whole incident, was there much tension around your place the days following that?

Ebsary: No.

Ratchford: Did it, was it ever brought up in the family again?

Ebsary: No. Never.

Ratchford: Did Mary know that you had stabbed that boy?

Ebsary: I told her. I told her the next bloody morning.

Ratchford: Um hum. And um, did she have any contact with Jimmy MacNeil after that?

Ebsary: She met MacNeil coming up to the house and she told him, "Look, don't come near the house any bloody more". So that finished him. So, then he went to the police and told the police about the stabbing. That was when he went to the police. When the wife prevented him to come to the house anymore, to hit back, he went to the City Police and told what happened down in the bloody park, and they wouldn't believe him. And then they come up and pick me up and they brought me down there like, and they questioned me about blood on the hands and all that. And I said, "By geez", I said, "There was never any blood on the hands", and there wasn't.

Ratchford: Um hum.

Ebsary: Well, about a month after that, the R.C.M.P. stepped in. And they brought down an expert from Ottawa with his lie detector apparatus. And we went down to the Wandlyn Hotel, took a room, set up the apparatus, and they put me through that machine three fuckin times. Because the fellow who was like this. But they never asked me one fuckin They said, "Did you see MacNeil? Did you see Seale stabbed?" I didn't. It was too bloody dark.

Ratchford: So, you justified that immediately with

Ebsary: I justified it immediately. I didn't. It was too bloody dark.

Ratchford: What other questions did they ask you and how did you answer them?

Ebsary: They asked me if I saw who killed Seale. I said no. I didn't.

Ratchford: Did they ask you, did anyone, did the police or anyone ask you, "Did you kill Sandy Seale?"

Ebsary: Right.

Ratchford: Did any of them ask you that?

Ebsary: Oh yes.

Ratchford: And what did you say?

Ebsary: Well, they asked me, when they had me on that lie detector test?

Ratchford: Um hum.

Ebsary: I said no. I didn't.

Ratchford: Yeah.

Ebsary: Because, I said, the last time I saw Seale that night, he was running the length of the bloody park. And if you kill a man, he don't run the length of the park.

Ratchford: Did you tell them that he had accosted you?

Ebsary: Oh yes, sure.

Ratchford: Did you tell them that you did pull a knife?

Ebsary: I told them, when he demanded "all you got", "I want everything you got", so I started to empty the pockets and then finally when I put my hand in the what-do-you-call-it pocket, I came across this small pocket knife. So, I just slipped it open, like that. It was a small knife and I twisted it like, it was a small knife. There's a young French fellow had given it to me, like you know? Like that.

Ratchford: And did you tell the police, when they asked you, that you drove the knife into him? Did you, how did you

Ebsary: I told them, I said, I made a swipe, whether I connected or not, I don't know. And when I saw Seale run through the park, I still didn't know that I had gone into him.

Ratchford: Yeah.

Ebsary: I thought, the clothes he was wearing, I'd only got the clothes.

Ratchford: Did you tell them that you ripped Marshall in the arm?

Ebsary: Oh yes, I told them that.

Ratchford: And yet in the Court they tried to say that that was a self-inflicted wound.

Ebsary: Um hum.

Ratchford: You mean they literally completely ignored your own testimony?

Ebsary: Right.

Ratchford: After that, after the lie detector tests, and after Marshall went to Court, during that trial, did it ever occur to you that, that, you know, that you might have done something wrong?

Ebsary: No.

Ratchford: Did you feel that whatever happened to Marshall was his own fault?

Ebsary: It was his own bloody fault. God damn it, they attacked us. So, what do you do, you bloody fight back. And that first Judge, when I had the first trial, right? That Judge, the jury come out and they asked him to define, give them the definition of self-defence, and he turned around and he explained to them. He said, "If you are attacked, like Ebsary was attacked, under the circumstances, you are justified in using anything at hand to defend yourself. Anything. Now, he emphasized that. So, they came back with a hung jury.

Ratchford: Um hum.

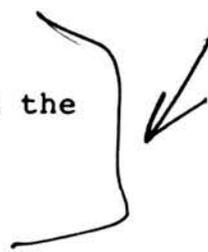
Ebsary: But it was that explanation of self-defence that hung that jury.

Ratchford: Yeah.

Ebsary: You're bloody right.

Ratchford: So, somebody, some people, or some of the testimony said that after that happened, well, it was shortly after that you moved to Mechanic Street, wasn't it?

Ebsary: Yeah, right.



Ratchford: So, if Donna said that you became almost a complete recluse and that you kind of stayed just within the house, etc. and so forth.

Ebsary: I've always been a bloody recluse.

Ratchford: Yeah.

Ebsary: I've been alone all my life. I've been all over the bloody world, but I was a loner. I went to tour alone. I went to see sites alone. I went to my cabin alone. I God damn slept alone. Now, I've changed my mind. (laughs)

Ratchford: So, during those years at Mechanics Street, did you, was there any feeling of guilt or anything within you? Cause you are a man of esoteric arts.

Ebsary: Yeah.

Ratchford: You are a man who dwells in theology and everything else. You know the Bible just as well as any clergyman. You are a Minister in the Universal Life Church. Did you ever contemplate after that, for one minute, that maybe you were wrong?

Ebsary: No, I didn't.

Ratchford: And did you

Ebsary: Mind you, it's entered my mind lots of bloody times, but not that I was bloody wrong.

Ratchford: Yeah, yeah.

Ebsary: I could justify it. I figured it out like this. With one stroke, I put away two bloody crooks. I'd eliminated two bloody crooks from society. And I had. One was dead, that wasn't my God damn fault. That was the fault of the God damn hospital and the God damn doctors on the case when they bloody operated. So, I exonerated myself from any God damn guilt there. The other put in jail. I said fuck it. He fuckin well deserves it. So, I killed two birds with one God damn stone. Now that's the way I figured it.

Ratchford: So, now at this stage now, after all these years, and after this thing finally blown open again and them trying so hard to condemn you for the crime, and trying, in a lot of ways I guess, to try to ah

Ebsary: Crucify me.

Ratchford: Right. How do you feel about yourself as a warrior, first of all, as a fighter-back? Are you like they say, a senile retired recluse?

Ebsary: Are you kidding?

Abbass: Roy, can we get a look at some of the drugs that the doctor has you on?

Ebsary: Yes.

Abbass: How many different doctors do you have, Roy?

Ebsary: How many do I have?

Abbass: Yeah.

Ebsary: Jesus, how many have I got?

Abbass: Are these Court appointed doctors, Roy?

Ebsary: Oh no.

Abbass: These are all doctors that you got yourself, on your own?

Ebsary: Yes. These are doctors that I, I've had those doctors for the past 14 years. Gaum, Caddeux(?)

Abbass: Why do they have you on so many different drugs, Roy?

Ebsary: To try to keep me going.

Ratchford: Do you think that without the drugs, that you would die?

Ebsary: Yes. And they know. told me, he said, "You can fool the world, but God damn you", he said, "You're not going to fool me". He said, "You're dying in your bloody tracks. I know it.", and he said, "You know it".

Ratchford: How do you feel about that? What does it mean to you?

Ebsary: Without the bloody drugs, I kick the fuckin bucket.

(318 at Tape)

Ebsary: Ask me what nationality I am.

Ratchford: What nationality are you?

Ebsary: I'm a bloody Newfoundlander, and anybody who calls me a God damn Canadian, I might do what I did to Seale. (laughs)

(the video tape continues on discussing his Will and other things, but nothing more concerning the stabbing incident)

CITY OF SYDNEY POLICE DEPT.

STATEMENT

#28

Q How old were these fellows?
 A Young men one fellow was tall I don't know
 Q What were they wearing?
 A I would not be able to tell you.
 Q What nationality were they?
 A I believe Canadian I asked them where
 they were from when they asked us for the money
 and they said France.
 Q Were they white or colored?
 A Well the tall fellow I saw his face
 I thought he was white.
 Q What about the short fellow?
 A I would say he was white too.
 Q Where did you go then?
 A I went home.
 Q Where did you go?
 A He went to my place for a few minutes
 and then he went home to Hardwood Hill.
 Q Where did you see him again?
 A The next day he and his father
 and another person.
 A They just dropped but I was the
 first time I actually met his father.
 Q Did I meet him the first time?
 A Well you know I don't know.
 A Yes I believe I was.
 Q What was he talking about?
 A They asked me to take a picture of
 him and his father.
 Q Did he tell you the scale they had
 died?
 A No. I can't recall.

MEDIA POOL COPY

Witness [Signature]

Date 2-1-18 Time 1:00 PM

Signed [Signature]

2
Nov 1/83
L.H.C.

CITY OF SYDNEY POLICE DEPT.

STATEMENT

12 Nov 1911 9:15 PM

Statement of Roy Ekman age 51,
residing at 136 Victoria Street Sydney
NSW

I remember one night in 1911
I was in the street near the
me were going home down George St
across the bridge in the West Park
up to Crescent St.

What happened
when we were almost over to the corner
of Bond Street near Robbie
Robinson on Crescent St 2 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 1st fellow
tried to take my watch off my finger
while the other fellow had his hand
around the other fellow's throat (Jimie)
and had him on the ground. When
he tried to get my watch I was not
willing. I tried to wrestle him he
slung me onto the ground I made a
kick but he had. He got up and ran off.
I went next to see how Jimie was getting
along with the other fellow and he
dropped Jimie and ran off with the other
fellow.

Did you stop the man you were
wrestling with
A fellow who was called I think his
name was Jimie?

Nov-15th Time 10:11 PM

Signed Roy Ekman

CITY OF SYDNEY POLICE DEPT.

STATEMENT

Q Do you carry a knife?
A No.

Q Does Jimmy still come to your house?

A No. I had not seen him for a long time. He was not a regular caller at my house.

Q Had you been to his house?

A Once.

Q Can you tell me when this disturbance took place on Lisson St?

A After 11 P.M.

Q What month?

A In May, the same night this boy was shot.

Q What were you wearing that night?

A A Rem-sithle T-shirt, Blue.

Ray, H. Eckersley.

Ray, H. Eckersley

Time 10.10.74

Signed

N. #25

C O P Y

CITY OF SYDNEY POLICE DEPARTMENT

Nov.15th,1971 - 9:15 P.M.

Statement of Roy Ebsary, age 59 years, residing at 126 Rear Argyle St.
Sydney - Warned.

I remember one night myself and Jim McNeil were at the State Tavern. We were going home down George St. across the bridge in Wentworth Park up to Crescent St.

Q. What happened?

A. When we were about over to the corner of South Bentinck St. near Robbie Robertson on Crescent St., 2 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 pocket. 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 (Jimmie) 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.

Q. Did you stab the man you were wrestling with?

A. Hell no, why would I stab him.

Q. How old were these fellows?

A. Young men - one fellow was tall - I had to look up at him.

Q. What were they wearing?

A. I would not be able to tell you.

Q. What nationality were they?

A. I believe Canadian. I asked them where they were from when they asked us the money and they said Iruro.

Q. Were they white or colored?

A. Well the tall fellow I seen his face, I thought he was white.

Q. What about the short fellow?

A. I would say he was white too.

Q. Where did you go then?

A. I went home.

Q. Where did Jimmy go.

A. He went to my place for a few minutes and then he went home to Hardwood

Q. When did you see Jimmy again?

A. The next day, him and his father.

Q. For what reason.

A. They just dropped in. It was the first time I actually met his father.
No, it was not the first time.

continued.....page 2

Q. Were you in bed that day?

A. Yes, I believe I was.

Q. What was Jimmy talking about?

A. They asked me to have a drink of wine, him and his father.

Q. Did he tell you the Seale boy had died.

A. No. I can't recall.

Q. Do you carry a knife?

A. No.

Q. Does Jimmy still come to your house?

A. No. I have not seen him for a long time. He was not a regular caller at my house.

Q. Have you being to his house?

A. Once.

Q. Can you tell me when this disturbance took place on Crescent St.?

A. After 11 P.M.

Q. What month.

In May. The same night this boy was stabbed.

Q. What were you wearing that night.

A. A reversible top coat - blue.

Signed: Roy N. Ebsary

Witness: Det. Sgt. M.J.McDonald

Nov.15th - 10:10 P.M.

By: Sergt. Det. John MacIntyre

Just another incident says man named killer

Continued from page A1

Mugridge was stabbed in Ebsary's Sydney flophouse. The knife missed his heart by a few millimetres; Mugridge almost died. Ebsary was charged with assault causing bodily harm.

While Ebsary was found guilty in March and then officially found innocent in September, reports of the stabbing in the local newspaper reached Marshall inside Dorchester penitentiary in New Brunswick.

It wasn't the first time Marshall had heard Ebsary's name. Several years earlier, Mitchell Sarson of Pictou County, N.S. — a brother of Marshall's girlfriend, Shelly — had moved to Sydney to live, by chance, in the same house as Ebsary.

One night as Sarson listened, Ebsary started talking about the Seale murder and his role in it.

Sarson got the information back to Marshall inside Dorchester. So in December, 1981, Marshall remembered Ebsary's name and

contacted his lawyer, Stephen Aronson. A Royal Canadian Mounted Police re-investigation of Seale's murder began.

Temper flares

This week, almost a year to the day later, the results of the RCMP investigation are starting to come out in court testimony.

Who is the real Roy Ebsary? It's not easy to find out. One minute he seems, on the surface, a jovial and spry grandfatherly man. The next minute his temper flares and he can get very angry, as he did once during our interview.

— Dave Ratchford, of Sydney — who has known Ebsary almost a decade and who is planning, with a radio news reporter, to write a book on his life — Ebsary "has an air of mysticism about him."

"He's a 70-year-old man who, until last year, had gone through life unnoticed and now has suddenly stopped the Canadian legal machinery in its tracks," Ratchford says.

— It's hard not to notice Ebsary's

most distinctive appearance. He's only 1.58 metres (5 feet, 2 1/2 inches) tall and walks with a cane more for show than necessity.

Except when appearing in court, he's always wearing, at a rakish tilt, some type of sailor's or captain's hat over his white hair. In his right ear he has a large gold earring.

He's the portrait of an old sea dog. "I love the sea, had many adventures aboard ships," he says.

But it's his face you never forget. He's almost a ringer for the late Col. Saunders of fried chicken fame. He has a tiny white goatee, a full moustache and bushy brows. He wears big glasses over a wringing oval face.

Ebsary's mind is nimble, his movements quick. "I'm the fastest blade in Canada," he says proudly.

Ebsary remembers the night of May 28, 1971, very well.

Both Marshall and a number of youths who were in Wentworth Park that night, but were never called to testify, gave police descriptions of a man seen there that night that fit Ebsary.

Ebsary had another close call the week after Marshall's trial in November, 1971. Ebsary's companion in the park, Jimmie MacNeil, felt badly about Marshall being convicted and told Sydney police the whole story.

'Don't die'

Ebsary was also brought in for questioning.

"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."

Donald Marshall was certainly never told. If he had been, he might have identified Ebsary and MacNeil and history would have been very different.

What will happen now to Roy Ebsary? His health is failing after a life of admitted heavy drinking. A broken marriage, years at sea and years in Sydney's streets and run-down rooming houses.

He will be kept in the correctional centre until March 8. "My doctor keeps telling me, 'Don't die on me, Roy.'"

Man jailed 11 years denies stabbing pal

Continued from page A1

MacNeil remembers it — and Ebsary pulled out his knife.

Asked why he failed to mention the robbery attempt during his 1971 trial, Marshall replied: "The robbery probably would have been used to cover up the murder."

Donna Ebsary described her father as a man with "a great potential for physical violence." She testified that MacNeil and her father came home late on the night of May 28, 1971, and MacNeil was "very excited."

MacNeil told Ebsary he "did a good job back there" but Ebsary told him to "shut up" the daughter said.

Her father went to the kitchen, washed off a knife he was carrying, and put it on a table in his room, she said. MacNeil told the court that what Ebsary washed off the knife was blood.

On the news the next day, Donna Ebsary heard Seale was stabbed in the nearby park. She said she knew her father did it.

Only 15 years old at the time, she said yesterday she could not find the knife. "If I could have found it, somebody might have listened to me."

Testimony barred

She said she has no feelings for her father, a man "who liked to drink a lot, liked to read a lot and liked to play with knives."

The hearing, scheduled to last two days, continues today. Two youths who testified against Marshall in 1971 were to testify again, along with a Royal Canadian Mounted Police fibre specialist and Roy Ebsary's son, Greg.



Jimmy MacNeil: Tells the court that Roy Ebsary "took out a knife and slit Mr. Seale up."

The judge heard 4 1/2 hours of detailed testimony about Ebsary, Marshall and the events in the park. But Chief Justice Ian MacKeigan ruled out any testimony about the Sydney police force's investigation of the murder.

Marshall testified in a quiet voice and often was asked to speak up. For over an hour he was intensively cross-examined by Crown prosecutor Frank Edwards, mainly about the robbery.

Marshall first refused to answer whether he robbed anyone before May 19, 1971. But then he admitted he confessed to such crimes in an earlier statement to the Mounties, when that statement was read out in court.

As the cross-examination continued, Marshall said: "I'm dealing with a murder here, not a robbery," and "I'm burnt out, I'm tired of answering questions."

I can't say if Hambleton

Birds' best friend: Retired sailor Sym Square flock to him regularly to enjoy group of pigeons have come to depe

Deal was se

Continued from page A1

lo's rent review laws allowed a new owner to pass on to tenants increased financing costs as long as the financing did not exceed 85 per cent of the purchase price. So by raising the costs of the Cadillac Fairview properties, the new owners required additional mortgage loans and the increased finance costs could have legitimately been passed on to the tenants.

But under the intense political

Justin's parents w ruling he's mental

The parent of cerebral palsy victim Justin Clark will not appeal a county court judgment declaring their son mentally competent.

Greg Kelly, the parents' lawyer in Ottawa, said the decision was taken yesterday not to appeal. He refused further comment.

Justin's lawyer, David Baker, of

CLASSIC CAMERA
YOUR FULL LINE

APOLLO PRODUCTS

Complete darkroom section — digi paper and chemistry.
308 Yonge St.
Dist. E. of Gerrard 897-1741

\$100
per couple for
Fri. & Sat.
Night
Until Jan.
31/82
(subject to availability)
ENQUIRE ABOUT OUR SPECIALS.

My time is special.
My friends are special.
So my life is special.

Man who served 11 years hears another named as real killer

MURKIN — After spending 11 years in a Sydney prison for a murder he did not commit, Donald Marshall is told someone else committed the crime.

Marshall, a 29-year-old Marine Indian from Sydney, was released from Dorchester penitentiary March 30. He served 16 years and 10 months for the murder of Seale, his friend.

In his testimony yesterday, Marshall admitted for the first time in court that he and Seale intended to rob Ebsary and MacNeil.

"I'm not denying I was out for money that night," he said.

Marshall and MacNeil said they were standing aside by side when Seale said "dig, man, dig" — as

See MAN/page 44



Back to court: Donald Marshall (left) and his father, Donald Sr., take a cigarette break during Nova Scotia Supreme Court hearings yesterday. Court was told someone else committed the murder in Sydney for which the younger Marshall was jailed almost 11 years.

Just another incident' says accused, aged 70

Special to The Star

SYDNEY, N.S. — To the 70-year-old Cape Bretoner named in court yesterday as having stabbed Sandy Seale 11 years ago, the stabbing was just another "blooming fuckin' day."

But Ebsary also has a few words on the arrest of Donald Marshall, who spent 11 years in prison for that murder. "It's material to me whether Marshall spent 16 years or 25 years in prison. I didn't put him there."

Met The Rev. Capt. Roy Newson Ebsary, as he likes to be called. Sealing and psychic, fanatical Bible collector and supposed co-author of seven Vanity Press books, retired chef and minister in the Universal Life Church Inc., father of two children and stepfather of four others, a mysterious man well-known in Sydney for walking the streets in a black cape and a caplain's hat.

lie's also the person who was implicated in Seale's stabbing death by a man who was with Seale in Sydney's Wentworth Park on the night of May 24, 1971 — and by his daughter.

But Ebsary wasn't in the Halifax courtroom yesterday when the evidence against him came out in the Donald Marshall appeal hearing. Instead, he's locked in the maximum-security section of the Cape Breton County Correctional Centre, just outside Sydney, he's serving six months for a Nov. 4 charge of possessing a concealed weapon.

The Star interviewed him inside the prison Monday afternoon.

Ironically, it was another criminal charge in December, 1961, involving Ebsary that helped reopen the Marshall case.

On Dec. 4, Willard (Goody) MacNeil, 70, was named yesterday as the man who stabbed Sandy Seale in 1971.

See JUST/page 44

Also naming Ebsary were his daughter, Donna Ebsary, 24, from Westport, N.S.; and Marshall, who gave up his name at the time.

Out for money

Marshall, a 29-year-old Marine Indian from Sydney, was released from Dorchester penitentiary March 30. He served 16 years and 10 months for the murder of Seale, his friend.

In his testimony yesterday, Marshall admitted for the first time in court that he and Seale intended to rob Ebsary and MacNeil.

"I'm not denying I was out for money that night," he said.

Marshall and MacNeil said they were standing aside by side when Seale said "dig, man, dig" — as

See MAN/page 44

I never spied for the Soviets

Hambleton says

LONDON (CP-AP-UPI) — Canadian agent defence in cross-examining the Scotland Yard Special Branch officer who interrogated Ottawa-born Hambleton, 60, after his arrest in London last June.

"Are you aware the defence in this case would be that Hugh Hambleton was at all material times a Canadian and French agent who successfully penetrated the Russian espionage organization?" Llewellyn-Jones asked.

Det-Supt Peter Westcott replied that the

professor Hugh Hambleton, a former NATO economist on trial in a British court on charges of spying for the Soviet Union, denied today that he ever spied against Canada or Britain.

Taking the witness stand after "the prosecution completed its case," Hambleton said he never communicated any information to the

Exhibit Number: 29

Filed on: SEP 15 1987, 1987

At The Hearings of The
Royal Commission On The
Donald Marshall, Jr., Prosecution

Malcolm Williston,
Registrar

STATEMENT

May 30th 1991 5:15 PM

#30
 Statement of Raymond Vincent Chan
 age 15 yrs residing at ~~65~~ Main St Lonsbury
 Q.B.

Friday night I was to run and I
 left the Bus terminal on Bentinck St at
 about 11:40 PM I walked down Bentinck St
 I crossed Byng one and started to cross
 the tracks. I got home way across the tracks
 just I seen 2 fellows walking and 2
 more was walking kind of slow talking
 the 2 fellows who stabbed Donald Marshall
 a study table they talked for a few minutes
 over on Crescent St one fellow hauled a
 knife from his pocket and he stabbed one
 of the fellows. so I took off back across
 the tracks to Byng one and started to
 walk toward the Bus terminal then
 I seen Donald Marshall coming down I
 turned around and started to walk the
 other way Donald caught up to me and said
 look what they did to me. He showed
 me a long cut on his left arm. then he
 said help me my buddy is over on the other
 side of the track with a knife in his stomach
 then we started to look for some help
 we meet some Boys & Girls one of the
 girls gave Donald a bandage. we got a
 car to take us over to where Seale was
 sitting on the pavement I took my shirt
 and put it around his waist and Donald
 went to a drug house and asked them
 if he would call an ambulance

MEDIA POOL COPY

Witness _____

Date _____ Time 5:35 PM

Signed Raymond Chan

STATEMENT

about 10 minutes later I went up and asked the man in the house to call again and I knelt down beside Sandy Seale and he said it was hot I unbuttoned his jacket I then discovered his stomach was cut. I took my shirt and put it where the cut was and made him comfortable then the police arrived. They called for the ambulance. He was taken to the Hospital.

Q Did you know these other 2 men
A No.

Q Did you know Donald Marshall

A I knew him to see him

Q Did you know Sandy Seale

A No

Q Could you give me a description of the other men

A one man about 6 ft 2" light brown hair
Dark Part. Suit Coat on 200 lbs.
The other fellow 6 ft tall Dark Part
Dark Hair 165 lbs.

Q Did you see their faces

A No.

Q would they be young or old
I was not that handy.

Q was there just 4 men there

A Yes

Q Did you see any knife

A Yes it was a figure of a knife

Q How far away would you be

A 45 ft or more down the tracks.

Q Could you tell if Marshall was drinking

A I would not say he was

Witness

Date

Time 5:35 PM

Signed Wagnor (Obert)

Then the other guy said W/H and Donald Marshall said the 2 fellows. He said my Buddy Don the other side of the Park with a knife in his stomach. Then they said they would try and help us at the time a Car came along, and Donald stopped it and we asked for Help.

They picked us up and drove to the other side of the Park and we stopped about 6 ft away from the car. At this time the car was lying on the opposite side of the street. Donald Marshall got out of the car near the body of the car and stood there. Then there was another car along and I went by the car and the car went to a house and called an ambulance. Then he came back and went along side of me about 5 minutes. I asked the Park Patrol fellow to look after the body while I went up and called again. I forget to state that the minute I got to the car I put my shirt in his stomach. I said Hold it and he mumbled. Police and ambulance arrived and he was taken to Hospital.

Q Did Donald Marshall call the Police or ambulance at any time

A No

Q Did you

A yes just at the house with the Bailey Congdon the Patient of the steps

Q who was with you

A Marshall stayed on the sidewalk.

Q When was any other conversation between you & Marshall at that time.

A He said I see two men told me had been there about the stabbing

Q This of course is not true

A No

Weymouth Mass 3:45 PM 4/27/20

Det. J. M. Heffernan

I wish to say that when he was
arguing I mean Donald Marshall
with the other man his sleeves were
down to his wrist at that time.

Q How long were you on the tracks watching
them

A About 5 minutes

Q Could you hear what they were talking about

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

Q What side

The Right side I seen him jab
it and slit it down

Q How could you tell it was a knife

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

Q What happened then

when Marshall drove the group to
leave he ran over the ground
toward my camp along the tracks
I went to the Park through the Park
then up to my camp crossed the tracks and
then on to my camp about 3 houses over
I met Donald Marshall and he said
look at my arm it was his left arm
his sleeve was up. The cut was on
the inside of his arm it was not a deep
cut and it was not bleeding at that time
until we caught up to 3 Boys & 2 girls
who were working. Donald said could you
help us. One of the fellows said what the
hell. Then he said look what they
done to me

Maynard L. Baird

Sherman M. McFarland
345124 45th St N. Wash DC

June 1879

Beulah Grant Mather.
Laura Burdette - Probate Officer
June Court
Chief Justice R. L. Lee
Vigilant at myself.

File No. 33
Filed on: _____
At The Hearings of The
Royal Commission On The
Donald Marshall, Jr., Prosecution.
Mr. J. W. Walsh
Reporter

3 June 1971 Loc # 3
P.C. Walsh.

1969 CHEV - WHITE

PH 17 22-14-56 - N-S(71)

Centennial Park - 11:15 P.M.

4 June 1971 Loc # 3
P.C. Walsh

Tom CHRISTMAS - Ch. 05/06/71 WA/W
John CHRISTMAS } juveniles
- LAWRENCE PAUL. } juveniles

As seen from and Ch.
Sec. 119(1) C.C.C.

MEDIA POOL COPY

① The accused persons of 1971 appearing in court in 1982 could almost be considered a hostile witness. He was reluctant to answer questions and when compelled to answer by the court he was evading, and the truth had to be extracted from him by the crown. He was cautioned over a dozen times to speak up to be heard.

Observation: The credibility of this witness was a total loss, he was unable to function in any question and answer situation. His testimony was in direct conflict with statements given to the RCMP a short period of time before the hearing. I would suggest that he had been coached as to the evidence he would give but was unable to play the role. The only conclusion the court can arrive at is that the actions of this man were not consistent with those of a man trying to proclaim his innocence to the world.

② James W MacNeil states they had never seen Marshall before the incident in 1971 and had never seen the scene that night or thereafter he was able to identify Marshall in court in 1982. Mr Edmond did not pursue this evidence but the appearance of Donald Marshall today at 29 years of age with short hair and neat appearance is in complete contrast to the 17 year old youth with long hair to his shoulders in 1971 and after eleven years it would be virtually impossible for anyone to identify any person seen in the dark conditions of the park on that night May 28/71. MacNeil was drinking heavily on that night and in a state of fear. MacNeil by his testimony contradicted Marshall's evidence. MacNeil is the only person to testify that someone other than Marshall stabbed Seal. The question here is after the court seeing and

Walter Robbery

the individual Max Neil put together they place any credence in what he had to say.

Patricia Harris,

Appears to be unsure of her evidence in 1971, also is not consistent with her evidence in this hearing as it relates with the affidavit she gave the RCMP in 1982. It would seem that she was relating what she was told rather than what she remembered. The court would have to consider her background at 14 years of age, drinking, keeping company with a man 20 years her senior, and the home life in that the situation existed for a period of time ranging from one to two years.

Chief

After reading the evidence very carefully, I see nothing that could reflect on the investigation conducted in 1971, or on the Police Officers who conducted the investigation. The matter was most serious (Murder) and the hearing in Halifax and the testimony given at the time by the accused Donald Marshall, and the witnesses, Max Neil, Harris and Chant only served to inform the Sealed Judges that the investigation was thorough, that the truth was the subject of the investigation, and if the truth was not forthcoming at that time that counsel must weigh heavily upon those who distorted the facts. It is not possible now to shift the burden of perjury to any other source but themselves.

In conclusion I would say that if the court does not accept James Max Neil's testimony then the only decision they can reach is to uphold the conviction of 1971.

- 8 - What happened to the exhibits
- 15 - He pointed to a house and said he
lived there.
- 20 - A car stopped, he knew the people.
21 - They all got out of the car but he
didn't know the people.
- 21 - Lied at trial.
- 1913 - ^{walked} Talked with Harris & Gushue in the park
for 5 min. He was alone
- 34 - Not sure where he met the Alton
- 38 - Harris met Jr. saw Creed about
two male persons with him - not sure
- 34 - Marshall saw Gray and was walking
two in park with the others. Not
suggested by witnesses.
- 73 - 79 ^{stated in court} Complete with final testimony.
- Seals saw and screamed, flapped - very
wildly from distance of the wound.

MEDIA POOL COPY

- pg. 93 - Knife described as pocket knife,
folding type 6" in length.
- pg. 94 - Mr. Neil repeats Joe's testimony re
tripping on curb.
- pg. 98 - Denies any conversation with acc.
- pg. 163 - O'Reilly statement ???

Patricia Harris was not questioned
re conversation with Marshall in Henry

- pg. 185 - Mr. Neil put out of room - Burke
allowed to remain.
- pg. 186 - Chant stated Fry was after the truck
- pg. 189 - Chant was relaying Joe's story
what he observed. Later denied his
statements.
- pg. 190 - Denied knowing Marshall - questioned
by Court.
191

204 - Guy Gibson Senior Training Center
Gibson went on trial after the
accident. Gibson testified he

211-212 - Edwards establishing expertise of
deputy witnesses - ???

214 - Segments on jacket sleeve were
connected with found on Marshall
account of the accident.

Lab Examination - a sample blood on the
jacket sleeve jacket
(pages 8 & 9 106-107)

Exhibits poorly packaged - red ED's procedure.

Edwards - inconsistent in cross-examination
many questions not answered. He was
several times coached and
admonished by the court.

Cape Breton Hospital

P. O. BOX 515

PHONE 539-3370

SYDNEY, NOVA SCOTIA

B1P 6H4

September 16, 1987

Mr. Wylie Spicer
Commission Counsel
Royal Commission on the
Donald Marshall, Jr., Prosecution
Maritime Centre, Suite 1026
1505 Barrington Street
Halifax, N.S. B3J 3K5

Dear Mr. Spicer:

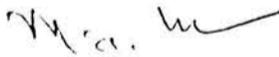
Re: John Pratico

Considering John's past history and his present clinical condition, in my opinion, it will be detrimental to his mental health and his testamentary capacity if he is given television exposure.

I hope you will consider this, and I would appreciate if this could be avoided, if at all possible.

Thanking you, I remain,

Sincerely yours,



M.A. Mian, M.D., F.R.C.P.(C)
Medical Director

/pm

Exhibit Number: 36
Filed on: SEP 18 1987, 1987
At The Hearings of The
Royal Commission On The
Donald Marshall, Jr., Prosecution
Malcolm Williston,
Registrar

MEDIA POOL COPY

I was called at home by
got ten more letters, and I
proceeded to the City
Hospital in my own car, on
arriving they were taking in
many heads. Leo Conroy was
I was etc. I noticed

I could remember in another
small room and he had a
cut on the inside of his left
arm, about 10 in from his wrist
I questioned him as to what
happened and he said two men
stopped them in the park
and asked for a cigarette,
and asked - he gave them a

Then one of the men pulled
out a knife and asked me
to take them in the park.
~~and asked me to take them in~~
Black Man, and when he
drew it into his hand, he
then made a circle of
and I covered up, but he
cut me, I then made a
circle of him around the
head, and then I ran
away to Blackish
I hit the man
when I ran.

MEDIA POOL COPY

4.32

Ann

thin coat to the room
 where dead trees, and
 passed that I could ask him
 questions, as to what
 happened I was asked to leave
 by Ben
 The Ben, more and could
 in light black from one
 mistake to another and
 he was nervous to
 2. 3 3 red 3 brown,
 Dandel pinkish trees
 white hat up, and green a
 needed, and some brown

heavy set
 short -
 Dark Blue Coat. To R W E E D
 Hair - Grey
 Black face shawl
 on evening black shawl
 # Tall - 5-11
 Dark Hair
 Clean Shaven
 Coney Coat $\frac{3}{4}$ length
 Brown in Coat
 204

Ms Jean Jackson

815 [unclear]
Luffe

Jackson B

D-14 E-er

~~Fabric~~
Linen

Fabrics

#39

CANADA
MAGISTERIAL DISTRICT OF THE PROVINCE OF NOVA SCOTIA

This is the information and complaint of **Sergt. M.R. McDonald**
of **Sydney** in the County of **Cape Breton**
for and on behalf of Her Majesty the Queen,
hereinafter called the Informant.

The Informant says that he has reasonable and probable
grounds to believe and does believe that

DONALD MARSHALL
of Membertou, Sydney
in the County of **Cape Breton** at or near **Sydney**
in the County of **Cape Breton**, Nova Scotia, on or about the
1st day of May 1971

Did without legal justification or excuse and
without color of right unlawfully and wilfully
damage one "No Parking Sign" to an amount not
exceeding \$50.00, the property of the City of
Sydney, contrary to Section 378 of the Criminal
Code.

Sworn before me this
3rd day of **May**
1971 at **Sydney** in
the County of **Cape Breton.**

[Signature]

JUSTICE OF THE PEACE
MAGISTERIAL DISTRICT OF THE PROVINCE OF NOVA SCOTIA

[Signature: M.R. McDonald]
Informant

I HEREBY CERTIFY THIS TO BE
A TRUE COPY OF THE ORIGINAL
COURT RECORD.

[Signature]
DAVID A. BURKE
CLERK OF THE PROVINCIAL COURT

Date of Birth: 13.9.53

No. A. 637

Master Number:

Registration No.:

Address:

DATE: May 3 1971

THE QUEEN

vs

Oliver Prasad

Owner:

Occupation: Plumber

Marital Status: 1

52302

INFORMATION

SECTION

Prosecutor:

Defence Counsel:

Court Reporter:

Date of Cert
Date Fine Pd
Date of W/C
Date Committed

Date Summoned Adjournments

Place of Trial St Mary

Date of Trial May 12/71

Plea not guilty

Grade in School 5

Date not guilty

WITNESSES:

DISPOSITION

Name Sentence
Address Fine
Name Court Costs
Address Police Costs
Name Penalty
Address Witness Fees
Name Restitution
Address TOTAL
In Default
Pay on/before
Liquor Seized

18/8/52

Staff Sgt.
Wood.

#40

Handwritten notes in a rounded rectangular box, containing several lines of cursive text that is mostly illegible due to fading and bleed-through.

MEDIA POOL COPY
MEDIA POOL COPY

27 - May - 71 ✓

9³⁰ AM - 11 AM office & Sydney
City Police Station Re.

Slabbing in Warburton Park
early AM this date
Two youth - Seal &
Marshall.

Conversation with Edward
Mrs Neil & Det Mrs Dinty

Feeling at the time Marshall
was reasonable and incident
happened as a result of argument
between both Seal & Marshall.

Warburton Park
incident two auto previous
where knife was used.

Thought at the time to be
no connection.

only description received
from Marshall was
"man 45/50 yrs with
grey hair."

30 May 71

9 AM - 10 AM office ✓
Discussion with Elwood

Mr. Neal & Wilson Young

both Dept. City Police

Robbing and resulting

murder. Both of opinion

murderer responsible.

names

of 2 who given to them
as possible suspect.

has grey hair
recently released. Do not
believe living in Dept.
on parole.

31 May 71

8 AM - 9 AM office R.

General Duties. Meet

discussion of Sub marker

9 AM - 11 AM Local R. General

contacting of merchant

observed at New York

parked on Pitt street near

Chickney Postman

N Y Lic 9993-OR.

Noticed grey haired man
with grey beard 35 years
standing in front of
Royal Leaf restaurant appeared
to be stranger.

Later observed man 33/38 yrs
brown hair receding hair
line wearing brown T shirt
driving slow noted talks.

Sydney Shopping centre about
went to food & pharmacy purchased
breakfast bar & left walked
down toward bowling alley
at about corner books store
at mall. Didn't purchase
anything walked out got
into walkway slow out
toward toward H. Mart.
Sydney City Police advised

10m - 3³⁰m Local Rep. departure
- Seal - member of Wankworth
park. Photo - to Westmead Edge

3³⁰m - 4⁰⁰m office

4⁰⁰m - 6⁰⁰m Local Athletic
Club Race Contacting
Informer R. Seal - member
Resumes with Dept. C.P.
Petroleum contact with Ryan
Dinner - Bristol on night

8⁰⁰m - 12⁰⁰m Patent Shopping
Contacting Inf. for Egan
and Samuel G.C.

700 office Dunbar St. Wash
N.C. 23500 P.O. Box 1111
500 off 12th St
Dunbar

29-5-71 - RTD
30-5-71 - RTD

31-5-71 - Ls. Bus 4/10.
Passion 9993-OR - N.Y.
Dunlop & Ls. Bus. 9²⁵ km.
Cannon Pass + Charlotte -
Gnd - 5'11 - Army Hms,
Army band - 30 → .

Eyemore - 814800 on
Census. 63 Point - B/W
2 quans.

31-5-71 - 8³⁰ - 5⁰⁰ Point
Luddy with 1104-37
N. West. City Bell
Dr. Thunke. Ls. 1/2
Ls. white 4/10 km.
on Ring;

1-6-71 - 8³⁰ - 5⁰⁰ Point
min. 93. 183 km.

MEDIA POOL COPY

3/6/71

8³⁰ AM - 12 N. W. - Opus dula
 N 5-183, regina on
 [redacted] - 281-CC 0
 AM 2) Opus dula
 1⁰⁰ - 6⁰⁰ Latin Society
 AM. Latin Society
 S-32 - Country Club at
 Muller Lawrence.
 8⁰⁰ - 12³⁰ AM - Latin Society
 AM. new w. adjoined with
Sydney City Police etc.
Seal Number - Pacific
Club.

3/6/71

8³⁰ AM - Latin Society Latin Society
 and Latin Society Latin Society
 [redacted] - 281 C.C.
 1⁰⁰ - 5⁰⁰ Latin Society
 AM. Latin Society Latin Society
Latin Society Latin Society
Latin Society Latin Society

29-5-71 - RTO
30-5-71 - RTO

31-5-71 - to Buss 4/4.
Pass to 9953-OR - N.Y.
Smye & to Bus. 9²⁵ am.
Cura pas + cigarette -
Ind - 5'11 - Amy Hani,
Amy band - 30 → .

Eyemore - 814800 on
Cous. 63 Point - B/W
2 quinn.

31-5-71 - 8³² - 5⁰⁰ Point
Kady in 1104-37
N. Auto. City Bell
to. Munkh. auto
Lute white 4/2 am.
on. Big;

1-6-71 - 8³² - 5⁰⁰ Point
Jan. 93. 183 Ein.

#41

MEDIA POOL COPY

PROTEST INCREASES

- DISPUTE CONTINUES -

Union Must Produce 57 Membership Cards

The long-simmering dispute over union representation for trawler fishermen in the Canso Strait area moved into another stage Friday with the announcement that the Canadian Food And Allied Workers will be required to prove it represents a majority of the men.

The announcement came from Homer Stevens, president of the rival United Fishermen and Allied Workers, after he met with five members of the Provincial Labor Relations Board here. Mr. Stevens said after the two hour meeting that the board had told him the FAW will be required to produce the 57 membership cards it claimed it had when it received certification to represent the trawlermen earlier this year.

Acadia Fisheries Ltd. of Canso signed a voluntary agreement with the CFAW March 9 that was later ratified by the Labor Relations Board. The UFAW challenged the contract, claiming that the CFAW did not (repeat not) represent a majority of the men. However, the contract was upheld by the board.

Earlier this month, the UFAW received permission to re apply for certification to challenge the CFAW's pact with Acadia. Friday's announcement that the CFAW would be required to show membership cards is the first step in that process.

Mr. Stevens also told a news conference Acadia will be asked to provide a list of the men employed when the contract with the CFAW was signed.

Labor Relation Board members and CFAW officials were not immediately available for comment on the decision to require the CFAW to produce the membership cards.

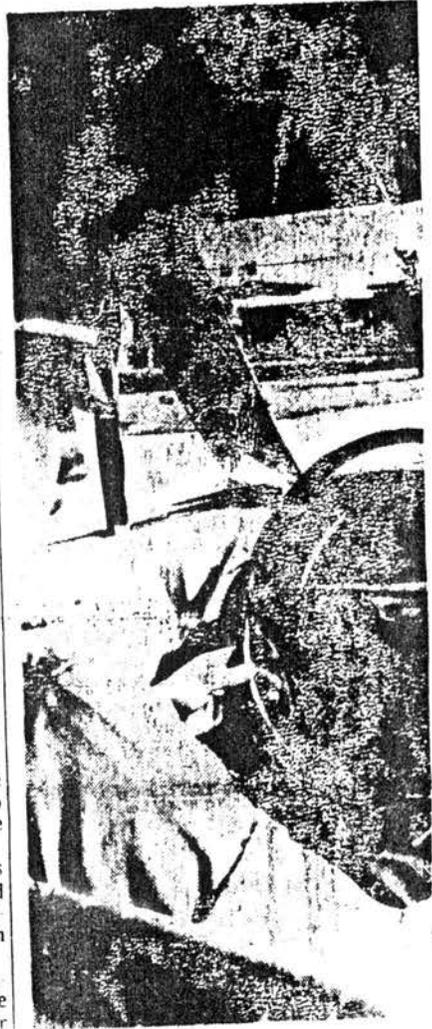
In Canso, an official of Acadia said he did not think the company would object to providing the employment lists.

Both unions have claimed to represent a majority of the trawlermen. The UFAW claims 51 men were fired by Acadia when they refused to join the CFAW after the contract was signed.

Mr. Stevens said there "can't be any industrial peace" in the Canso area until fishermen are represented by the union of their choice. He said the Labor Relations Board did not place a time limit on when the CFAW will have to provide the membership cards.

He also said that trawlermen who refused to join the CFAW are having a difficult time receiving unemployment and welfare benefits. "People are being forced by starvation to move out of the province," he charged.

Mr. Stevens, who was accompanied by about 10 UFAW members, also expressed "concern" over the removal of Rev. Ron [Name] from his position.



MEDIA POOL COPY

PARK INCIDENT

Two Men Injured

City Police, led by Detective Sergeant Michael R. MacDonald, are seeking a knife-wielding assailant who attacked two men in Wentworth Park early today.

One of the men, Sandy Seale, of Westmount, underwent emergency surgery in City Hospital for a wound in the abdomen.

The second man, Donald Marshall, Jr., was released from hospital after treatment for a gash in the left arm.

The men were taken to hospital shortly after 12:45 a.m.

United Appeal Rally Monday

The Cape Breton County United Appeal holds a campaign organization rally Monday evening in the Wandlyn Motel, it will be the final gathering until September when the annual campaign is launched. The meeting begins at 6:30 p.m. with a reception.

All county chairmen and deputy chairmen are expected to attend. It is stressed that an additional \$90,000 is required to meet the needs of member organizations.

- TO CHECK RCMP To I

With the advent of the summer tourist season bringing with it anticipated increases in motor vehicle traffic and thereby the increased potential for highway accidents, the R.C.M. Police in Nova Scotia are preparing to intensify their efforts in the enforcement of the provincial traffic laws with a view to reducing accidents. Effective June 1, the R.C.M. Police Highway Patrols will officially adopt the use of "VASCAR" as a part of the total traffic enforcement program.

VASCAR (Visual Average Speed Computer And Recorder) is an electronic speed calculating device which enables police officers to check the speed of motor vehicles whether they are approaching or travelling away from. Behind moving police at right street and irrespective of the police in motion.

VASCAR proven practical equals distance. With VASCAR can measure a moving vehicle specified these mechanical devices computes the following and the speed of appropriate and confirm police per has been with other checking past seven.

Cape Breton Hospital

43

P. O. BOX 515 PHONE 539-3370

SYDNEY, NOVA SCOTIA

B1P 6H4

#43

September 16, 1987

Mr. George MacDonald, Q.C.
Commission Counsel
The Royal Commission on the
Donald Marshall, Jr., Prosecution
St. Andrew's Church Hall
Bentinck Street
Sydney, Nova Scotia

MEDIA POOL COPY

Re: Roy Newman Ebsary

Dear Mr. MacDonald:

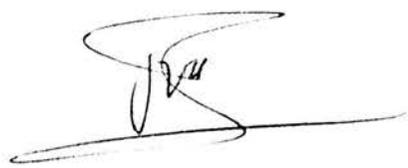
At your request I saw the above-named at the Cape Breton Mental Health Clinic on Tuesday, September 15, 1987, and spent approximately 1 1/2 hours with him.

I have also read the transcript of his testimony before the Royal Commission and reviewed his psychiatric records from both the Nova Scotia Hospital and the Cape Breton Hospital.

I have also discussed my findings with you in person.

At your request, I will give a summary of his background and history, and try to answer the four questions you specifically posed for me.

Roy Newman Ebsary is a 77-year-old, separated male, the oldest in a sibship of 10 or 11 who was conceived out of wedlock by his stepfather's older brother (killed in 1916 in World War I) and who only discovered his illegitimacy in late middle age. He was reared largely by his grandmother and lived a rather isolated existence with this probably a rather imaginative old lady throughout most of his



Early
life. He has a Grade IX education, but has read quite widely, he says.

He lived common-law with one woman for 30 years and has two children by her and adopted her four children by her first husband. They are currently separated. He admits to being bisexual, but does not admit any specific homosexual activities. He denies abuse of alcohol or other substances, but his psychiatric admissions would surely suggest that this is not the case. He has had several admissions both to the Cape Breton and the Nova Scotia Hospitals. When last discharged from the Nova Scotia Hospital (July 30, 1982), his final diagnosis was (1) Chronic Brain Syndrome (reversible and in remission); (2) Chronic Alcoholism; (3) Congestive Heart Failure; (4) Chronic Obstructive Lung Disease; (5) Peptic Ulcers.

You posed four questions for me to attempt to answer, and I will endeavour to do so at this point.

First question was, "Can any credence be given to what he says at all?"

The answer to this, in my opinion, is that there probably is. My impression from what he says, and from reading over the different accounts he has given over a number incidents in his life, is that though some of the details may change, the outline remains remarkably consistent, as indeed do some of the details. However, I think he gives us a kind of caricature of the truth, which tends to reflect glory on himself and ignominy on others. I think that his I.Q. level is most likely that indicated by the psychological testing that has been done in the past, i.e., in the upper limits of normal range. However, his ready wit, his considerable vocabulary and his lack of inhibition before a crowd, probably conveys to onlookers an exaggerated idea of his intelligence. You asked specifically concerning his stories about sinking the Bismarck, etc. Again as mentioned previously, this is probably a caricature of the truth, in that it is most likely an exaggerated account of something that is essentially based on facts. He does appear to have been in the Royal Navy in World War II. It is not at all impossible that he was a crewmember on one of the ships that was involved in sinking the Bismarck. He may even have been a member of a gunnery crew. My suspicion, however, was that his rank was a relatively minor one, but as the years have gone by, his role in the action has become



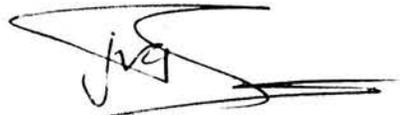
greatly exaggerated in his mind to reflect glory on himself, as previously mentioned, as has become his habit in other episodes of his life.

You asked if he was actively psychiatrically ill at present. I do not think that this is the case. He may have some remnant of an Organic Brain Syndrome, but indeed his mind is remarkably clear, and there is really very little evidence of this in my view at this time. It is of note, even when he was tested twice by psychologists in the past few years, that on neither occasion could they unequivocally diagnose an organic brain syndrome. For a 77-year-old man with Obstructive Lung Disease, in my view his sensorium at present is remarkably clear.

In my view, rather than being psychiatrically ill, he is a rather eccentric, curious, old man with a number of quite nasty traits (and a number of good ones also), which almost certainly become exaggerated when he is under the influence of alcohol. He has a peculiar cognitive style, which though it may be different from most other people's, does not of necessity make him mentally ill.

In brief, I do not think that either his stories or the record of his behaviour in the past can be explained away on the grounds of his being psychiatrically ill.

Sincerely yours,



J.V. O'Brien, M.B., D.P.M.
F.R.C.P.(C)

km

CURRICULUM VITAE

Dr. J.V. O'Brien had graduated from Trinity College, Dublin, in 1961. He worked as a General Practitioner in Canada, Ireland and the U.K. for approximately 10-11 years.

He first immigrated to Canada in 1965 and worked in general practice.

He commenced psychiatry in 1972 in Dublin and obtained the diploma in psychological medicine of the Royal College of Physicians and Surgeons of Ireland in 1974.

Returned to Canada in February 1975 and joined the Dalhousie Residency Training Program. Obtained fellowship of the Royal College of Physicians and Surgeons of Canada (F.R.C.P.(C)) in 1977.

Appointments:

Staff Psychiatrist (Civilian), Statacona, in March 1976 to March 1977.

Staff Psychiatrist, Nova Scotia Hospital, March 1977 to December 1979.

Staff Psychiatrist, Abbey Lane Hospital, January 1979 to December 1981.

Staff Psychiatrist, Nova Scotia Hospital, January 1981 to the end of August 1987.

Currently working part-time at the Cape Breton Hospital and in private practice.

Acting Director of the Forensic Unit of the Nova Scotia Hospital from September 1984 to September 1985.

Consultant Psychiatrist at the Halifax County Correctional Center from 1979 to 1987.

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary
CASE NUMBER 7059

Date
er 15/87

PSYCHIATRIC SURVEY:

This consultation was requested by Mr. George MacDonald, Q.C., counsel for the Royal Commission on the Donald Marshall Jr., prosecution.

Mr. Ebsary was brought to the Cape Breton Mental Health Clinic by Mr. Horne. He was warned prior to the interview that this was not an ordinary psychiatric interview, but had been requested by the Commission and anything he said might possibly be brought up before the Commission.

On first seeing Mr. Ebsary he said he had requested the interview because "the C.B.C News mentioned me naturally, they said Ebsary was mentally ill. I was never mentally ill, they proved that, they said you are saying that I have 23,000 books in my Library. A lawyer tried to prove I was senile. He was senile, I cut him down as the highest paid lawyer there. I have no trouble with the old bean".

Asked if he found being before the Commission stressful, he said "I didn't really, it was the waiting and in between. When I was in the Nova Scotia Hospital, they used to have me address a whole group of doctors and nurses about different subjects. What subject that I gave was Do you believe that when the conscious mind comes against something it can't solve, the conscious mind looks to the sub-conscious for help. The duty of the sub-conscious is to control the body, the conscious mind would destroy the body. I learned that from an old time U.S. Gunnery Officer Quotodomine. He taught me the way to immortality. The lawyer said I was hallucinating. I had been into the Cape Breton Hospital and the Nova Scotia Hospital, they asked me what I was doing there, do I make myself clear?"

Asked as to how it was that the lawyer suggested he was lying, he said "they are inveterate liars, I called them liars. I was reared to tell the truth, mine was the only story not told, and I stood through three judges, three trials and one lawyer. I think Ross was afraid I would blame him (he means Jimmy MacNeil), the custom is to blame the other". "The bloomin' British Navy".

He went on to describe how he was in the Merchant Navy, and because of this they refused to let him into the R.N. in England, so he came back to Newfoundland and volunteered for the R.M., and got into it from there. He then described where he got his stripes in England, though I did not recognize the names.

As concerns the CBC, he said I want a written statement to that effect, that there is nothing wrong with me.

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

-2-

Date
ember 15/87

Specifically, he related that his nerves were bad, by this he meant that he was easily irritated, if thing did not work out the way he wanted them or if he was kept waiting. He said this was because he had got used to giving orders in the Navy, which were obeyed at once. He found it irritating on shore if the same thing didn't happen.

He says he is sleeping well, perhaps too much, but said he was not eating well and has lost a lot of weight, but he ascribes this to ulcers, but then went on "unless I got AIDS, you lose a lot of weight when you get AIDS". When asked if he had this, he just said "no!".

Past History:

(a) Physical: He maintained that his only two serious illnesses have been a fractured neck and bronchitis. Nevertheless his past record shows that in 1972 he was diagnosed as having prostatism in Camp Hill. In 1982, on discharge from the Forensic Unit of the Nova Scotia Hospital he was diagnosed as having Organic Brain Disease and entrogastritis with duodenitis, moderate obstructive lung disease and possible benzodiazepine withdrawal. On discharge from the same Unit in July, 1982, the final diagnosis by Dr. Akhtar was (1) Chronic Brain Syndrome (2) Chronic Alcoholism (3) Congestive Failure (4) Chronic Obstructive Lung Disease (5) Peptic Ulcer. In January, 1985, he was discharged from the Cape Breton Hospital with a diagnosis of Organic Brain Syndrome and Urinary Tract Infection. This diagnosis was repeated on his discharge from here on February 27th, 1985 (Dr. A.K. Munshi).

On this admission he had a Brain Scan, the result of which states as follows - there is evidence of a previous pantopaque myelogram. Mild to moderate cerebral atrophy is noted, some widening of the sulcal marking and slight dilation of the lateral ventricles. - .

(b) Psychological Testing: In June, 1982, he was tested by M.A. O'Hara, at the Nova Scotia Hospital, specifically with regard to organicity, she states "the results of the Bender Gestalt indicate mild organic impairment...the overall reproduction would appear to be within keeping with Mr. Ebsary's chronological age group and does not suggest serious organic dysfunction.

Testing. - Kaiser Sarwar, Ph.D. January, state "in summary the above tests do indicate moderate and mild form of short term memory deficits ...such memory losses are often seen in many neuro-behavioural disorders but they can also occur

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

-3-

Date
ember 15/87

when a person is under considerable anxiety and stress... The present tests are not conclusive in their results.

As far as psychiatric admissions go:

- (a) Nova Scotia Hospital: He seems to have had two admissions to the Forensic Unit of the Nova Scotia Hospital, the first from March 30th to April 29th, 1982 (Dr. N. Akhtar). Final Diagnosis was (1) Organic Brain Syndrome
(2) Antral gastritis with duodenitis
(3) Moderate chronic obstructive lung disease
(4) Possible benzodiazepam withdrawal
- (b) He was readmitted on May 10th under a Lt. Governor's Warrant, when he was found unfit to stand his trial. He was discharged on July 30, 1982. Final Diagnosis not given on the discharge summary. It was noted that he had improved enough for the Warrant to be lifted.
- (c) Cape Breton Hospital: His first contact seems to have been on March 22, 1982. He was referred from the Forensic Unit at the Nova Scotia Hospital. His first admission was on December 12, 1984. Impression was an Acute Confusional State probably secondary to an organic brain syndrome. Alcohol and drug abuse were mentioned as probable causes.

He was readmitted on December 11, 1984. Discharged on December 21, 1984. Diagnosis (1) Organic Brain Syndrome
(2) Urinary tract infection

Next admission January 7, 1985. It would appear that the previous diagnosis were maintained, this is not entirely clear from the chart. At this time his CAT Scan showed some abnormality as previously mentioned. At this time it was mentioned that he had a confusional episode secondary to physical problems and the use of drugs, mainly pain killers. It was noted that he was liable to become confused if he abused pain killers or drugs

When he was asked specifically about his prior history, he indicated that he had always been told he was perfectly normal and he had never really needed to be in hospital really. It was impossible to get any kind of an accurate history about his drinking as he down played it markedly. He claims to not having had a drop to drink for years. He admits to having the occasional smoke of Marijuana, but denies abuse of any other substances.

At the present time he says he is on 13 different medications, but he was unable to recall what medications he was on.

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

-4-

Date
ber 15/87

Other items in his past history:

1. Fractured neck five years ago, pneumonia a few times, and bronchitis for years he says.

He also mentioned being in Bermuda where he said he had a ruptured appendix, but didn't have.. it was his nerves and he was sent to Camp Hill. They would not take him back into the Royal Navy after that.

Family History:

He was born and bred in Newfoundland, only discovering shortly before his stepfather died that his real father was his stepfather's older brother, whom he claims was killed in 1916 in France. According to him his real father was a Regimental Sergeant Major who had just been promoted to a Lieutenant and was killed in battle.

He indicated that it was a bit of a shock to discover he was not his stepfather's son.

He was reared largely by his grandmother. His grandfather being mostly at sea. This seems to have been quite an isolated existence as on the whole his grandmother did not approve of most of the friends he brought to the house, and he spent much of his time with her. He does seem to have been reared almost as an only child by this older woman. She was, he says, high up in the Orange Order and was preoccupied with history. She apparently had an encyclopediacal knowledge of the Royal Family and of all their relatives and where they came from. Historically however his interests were widespread and he grew up hearing all kinds of historical stories.

He himself says the Ebsarys probably came to England *William II* in the Crusades. They came from Exeter, England and his family are the only Ebsarys in Newfoundland. He claims they were given special lands by the Royal Family "for duties they did for the Royal Family".

Given his origins, he describes himself as a bit of a "bastard" but he says he doesn't care, at least it make him different.

School & Work Record:

He got as far as grade nine, leaving when he was sixteen to work in a bowling alley. He subsequently worked in a lumber company for eight years before going to Sea at the age of 27.

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

-5-

Date
Number 15/87

After spending 40 years at sea, he claims he worked for eight years at the Isle Royal as a Chef. He has been retired for some years.

He seems to have lived common-law with a woman for 31 years and had no sexual liaisons or other liaisons prior or to this relation or after it. It is unclear however if he ever actually was married, he says "we used to talk about it, she would put it off", her first husband treated her bad, you can't say that about me"

He describes his marriage break-up as follows: "I walked out on a matter of principle. The Sweeney Trust used to pick up young men and give them to different people, they gave one to me to train him as a Gentleman's gentleman. One night we were smoking some marijuana, she said get rid of that weirdo, I said I am keeping my promise to the Sweeney Trust" and he claims he walked out with this young man.

He goes on to say that Dick Sweeney, President of the Sweeney Trust was bi-sexual like him.

Asked specifically what he meant by bi-sexual he said "you don't care if it was a boy or a girl" - "I lived with so many of them it rubbed off on me. I think it started when I met Dick Sweeney, he was 'an awfully nice chap'..it was the last year of the War. We didn't have anything to do with each other. Asked if he had specific sexual activity with other young men he said "I don't think I ever did really. You don't make a move unless the other man does you know". He goes on to indicate that homosexual activities are very common in the Cape Breton Correctional Centre, and says that he informed the Attorney General and the warden. Though he has been found guilty of sexual assault, he said it was a bloody lie.

He gives an ambivalent account of his sexual activities other than with his wife.

Personality: He sees himself as always being a loner, and repeats what he said previously about being "allergic to people".

He says he has never trusted anybody, and this may be related to the way he was brought up.

Criminal Record: He says with a laugh, that he never got into any legal trouble until he came to Sydney, and was into his 70's. He says he was never in trouble when he was younger.

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary ✓

CASE NUMBER 7089

-6-

Date
Number 15/87

"I was in my bloomin' seventies when I got into trouble. If you don't sow your wild oats when you are young you sow them when you are older" and he laughed.

He denies that he ever stabbed Mr. Mugridge. He also denied the allegation that he once tried to stab Mr. Toney Trafnick.
Hobbies & Interests:

He spoke at great length about his interest in writing and how he wrote to people all over the world. He said he used to write the Queen Mother on her birthday and send her two four leaf clovers. He used to get a letter back and he was told by her Secretary that the Queen Mother got a great kick out of it.

He repeatedly wrote books along with Quotodomine. He repeated the titles of four of them (1) Immortality (2) Immortality & Creative Powers (3) In Time of Duty (4) Heaven and Earth. He says that these were published privately by Quotodomine, and his name was on them. When they were written he and this man Quotodomine, would send them to all the leaders of the world, presidents, etc. including Indera Gandhi of India. He said they would get letters of thank back from them.

He apparently spent some eighteen months living with this Quotodomine in Argentinia, Newfoundland. He seems to have met him because his younger sister was a companion of the Quotodomine's young fourth wife.

Mental Status:

He appears a bright cheerful old man with a pointed goatee (beard). His clothes were dirty and he looked somewhat neglected. He was quite markedly thin. He had considerable difficulty getting up. His affect was neither depressed nor elated and quite appropriate to his thinking. His behaviour was quite pleasant and cooperative, and as Dr. Donovan once noted "he is quite a charming old man in some ways".

His flow of speech was well organized and to the point.

Cognition:

(a) Content of thought: He may be delusional. He certainly has beliefs that are incompatible with the descriptions others give of his actions and behaviour, and even descriptions he has given of his own actions and behaviour in the past.

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

-7-

Date
September 15/87

Nevertheless, the impression that the undersigned gets is not so much that he is delusional, but that he exaggerates and somewhat distorts the past largely in order to excuse and glorify himself. My impression is that the outline of most of the thing he said and indeed the detail of many of the things he describes, is accurate. Nevertheless, his underlying tendency to distort and exaggerate seems prominent - thus even right to the present time, when he was actually told that as far as the undersigned could see at the present time he has no active psychiatric illness, this man said that he had never been psychiatrically ill in any way.

The Form of his thought - nothing abnormal whatsoever.

Perception. There is no evidence of hallucinations, visual, auditory or otherwise. As mentioned previously his affect seems quite normal.

He gave the day as Thursday (it is Tuesday), the 17th (15th) of September, 1987. He could not remember my name. He gave the place as the Cape Breton Hospital. Given a name and address to learn he learned in one attempt and scored 10/11. General knowledge score 41/70. Mathematical Score 10/12 done in a minute and a quarter. He reversed the months correctly in 15 seconds. Serial Threes correctly in 15 seconds. Digit Span 6/3.

Differences & Similarities:

(a) a bush and a tree, "a bush is smaller"; a lie and a mistake, he could not really differentiate; an apple and a pear, "both have stalks".

Judgement: \$1,000.00 "I would give it to one of the boys in the slammer. I am always paying fines and so on for them".

Proverb Interpretation: movie, fire.. "I would go out quietly, I would not shout fire".....enveloped .. "I would put it in the mail box".

Spilt milk... "if something has happened it has happened, it is no use crying over spilt milk"... silver lining.. "everyone does, its on the fact that the sun can't penetrate a thick cloud".. sauce for the gander.. "unless it is what you feed them"... glass houses "it means people should be particular when they criticize others".

Impression from Mental Status:

Certainly his appearance does not suggest good health. His

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

-8-

Date
ember 15/87

affect is normal. His behaviour is pleasant. The flow of his speech is quite normal.

Content of his thinking is certainly distorted but one has to suspect that this is a life long trait, rather than any evidence of a mental illness.

There is remarkably little evidence of any organic brain deficits. His concentration is good, his memory is quite good, and he abstracts somewhat poorly but certainly not in all cases. His judgement is good and as I mentioned previously abstratced two of the four proverbs quite adequately but he was quite concrete on others.

Summary of history and mental status:

This is a 77 year old separated male, the oldest of a sibship of ten or eleven, who was conceived out of wedlock by his stepfather's brother, and who only discovered his bastardy in his own words, in late middle aged. He was reared largely by his grandmother and lived a rather isolated existance with this rather imaginative and possibly somewhat abnormal old lady. He has a grade nine education, but has read quite widely.

He lives common-law with one woman for thirty years and had two children by her. He openly admits to being bi-sexual, but hesitates to mention specific homosexual activities. He denies abuse of alcohol or other substances but his psychiatric history would tend to indicate quite otherwise. he has had admissions both to the Cape Breton and Nova Scotia Hospitals

Current Mental Status:

He is not psychotic, he is not depressed. There are minimal signs of organic brain deficits. He does not seem to have any obvious neurotic traits, he does appear to have been a substance abuser in the past and may still be. His personality at the present time strongly suggests that of an antisocial personality disorder, or strongly antisocial personality traits.

Psychodynamic Note:

Though it is difficult at this stage to be sure why this man should distort the truth mercurially as he does, nevertheless this is not that uncommon, though eccentric and perhaps not socially acceptable, does not indicate any psychiatric illness. The origin of this way of thinking probably go back to his curious isolated existance in early life, his old grandmother,

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

- 9 -

Date
ber 15/87

and her preoccupation with history and the Royal Family, probably with an underlying theme that they were of royal descent in some ways.

Much of his speech has an English flavour and many of his phrases, some of them underlined, suggest his association with working class Englishmen, which of course he associated with in the Royal Navy. What is peculiar about his antisocial behaviour is that it does not seem to have started until his late sixties or early seventies. It is also to be noted that he has had a CAT Scan and some psychological abnormalities but his current mental status suggest these may well be minimal.

Nevertheless, the fact is that he has abused alcohol and possibly other substances, and seems to have had some kind of personality changes in his late seventies which involve some considerable degree of disinhibition, which suggest that his changes in behaviour may be accounted for on an organic basis, possibly frontal lobe changes.

Diagnostic Impression:

AXIS I Essentially no diagnosis. However, he may have mild organic changes, possibly some frontal lobe type syndrome. He may also be abusing substances, he certainly seems to be an alcoholic in remission.

AXIS II: ??? Antisocial Personality Disorder

AXIS III: Peptic Ulcer
 Obstructive Lung Disease

With regard to the questions asked by Mr. George MacDonald, Q.C.

(1) Is there any credence to what he says at all?

The answer to that I think, is that there is in a sense that the outline of much of what he says is probably true as indeed is much of the detail. However, most episodes in his life seem to be presented in a way that reflects glory on him and ignomy away from him. Nevertheless, this does not mean that they are entirely invented.

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7089

-10-

Date

pt. 15/87

- (2) I.Q. is as most likely indicated by the psychological testing in the upper limits of normal. However, his ready wit, his quickness of words, and his lack of inhibition before a crowd, probably conveys to the onlookers an exaggerated idea of his I.Q. level.
- (3) His stories concern the sinking of the Bismarck, etc. Again as mentioned previously, this is probably an exaggerated account of something that is essentially based on facts. He does appear to be in the R.N. in the war. It is not at all impossible that he was a crewmember on one of the ships that was involved in sinking the Bismarck. My suspicion is that this was in some very minor rank, but as the years have gone by, his role in action has become greatly exaggerated, as it has become in other episodes of his life.
- (4) "Does he have a psychiatric diagnosis (is he crazy)?" I do not think that he has a psychiatric diagnosis at all at the present time, except perhaps possibly a Mild Organic Brain Syndrome or possibly Alcoholism or Substance Abuse in Remission.

He is quite an eccentric, curious man with a number of quite nasty traits, which may well become more exaggerated when under the influence of alcohol. (This tends to be confirmed by what his family says). Nevertheless, I do not think that explaining his behaviour away on psychiatric grounds solves anything very much.



J.V. O'Brien, M.B., D.P.M.,
F.R.C.P.(C)

:pam

Audit Checked: Yes No

#45

CAPE BRETON HOSPITAL RECORDS

ROY N. EBSARY

MEDIA POOL COPY

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER YOB: 1912

(1)

Date

rch 22/82

This 69 year old man, who lives by himself at 68 Falmouth Street, Sydney, was referred here to see me by his lawyer Mr. A. Nicholson and also by Mr. Frank Edwards, Crown Prosecutor.

There are a whole lot of angles in this case which I need not go into here.

I found him rambling, multi-delusional, (most of his delusions were of the grandiose type).

He has been charged with stabbing a drunken friend.

Mr. Ebsary also describes a certain giddiness and ataxia when he walks and his recent memory is poor. Apart from that his story varies from time to time, and I have vague doubts about this man's sequential memory.

Rather surprisingly to me, given the nature of his charge, he was released from the Correctional Centre on his own recognizance.

I do not feel that Mr. Ebsary has much insight into Courtroom procedure, though he understands "due process".

From time to time he gives a history of visual hallucinations in the past, I consider these as occurring in periods when he was coming off heavy wine use.

Possible diagnosis in this man's case are:

- 1) Chronic Brain Syndrome - arteriosclerotic in type
- 2) G.P.I.

I shall be in touch with the Forensic Unit at the Nova Scotia Hospital in Halifax.

CAPE BRETON HOSPITAL
PRIVATE & CONFIDENTIAL

Newt Donovan
C. Donovan, M.D.,
Psychiatrist

This report is confidential and for your
/pam information only.

Not to be released, copied or published in
whole or in part without written consent of
the Cape Breton Hospital.

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary
CASE NUMBER YOB: 1912

(1)

Date
ch 22/82

This 69 year old man, who lives by himself at 68 Falmouth Street, Sydney, was referred here to see me by his lawyer Mr. A. Nicholson and also by Mr. Frank Edwards, Crown Prosecutor.

There are a whole lot of angles in this case which I need not go into here.

I found him rambling, multi-delusional, (most of his delusions were of the grandiose type).

He has been charged with stabbing a drunken friend.

Mr. Ebsary also describes a certain giddiness and ataxia when he walks and his recent memory is poor. Apart from that his story varies from time to time, and I have vague doubts about this man's sequential memory.

Rather surprisingly to me, given the nature of his charge, he was released from the Correctional Centre on his own recognizance.

I do not feel that Mr. Ebsary has much insight into Courtroom procedure, though he understands "due process".

From time to time he gives a history of visual hallucinations in the past, I consider these as occurring in periods when he was coming off heavy wine use.

Possible diagnosis in this man's case are:

- 1) Chronic Brain Syndrome - arteriosclerotic in type
- 2) G.P.I.

I shall be in touch with the Forensic Unit at the Nova Scotia Hospital in Halifax.

Newt Donovan
C. Donovan, M.D.,
Psychiatrist

/pam

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER

(2)

Date

2, 1984

This 73-year-old white ^{separated} ~~widowed~~ male was referred to this hospital as a formal person under observation by Dr. T. Krzyski. He was referred here because of his agitated, bizarre, and destructive behaviour at his apartment. For example, Roy was trying to burn his food and his lodgings, and the police arrived at the request of his landlord. There is a history of mental illness in the past, although we have no access to his chart.

Dr. Krzyski, at the time of his home visit, found three empty syringes, which he thinks Dr. Gaum may have left there. Roy was brought into the Cape Breton Hospital via ambulance on a stretcher.

On Examination: He appeared dishevelled and was inappropriately clothed. He was foul smelling, and was wearing a neck collar. He was ambulatory, although he walked with a shuffling gait. There was no odour of alcohol noted on his breath, and he denied any alcohol or drug abuse.

Multiple scratch marks were noted on all four extremities, and there were also burn marks on his fingertips. There was a three centimeter swelling on the right side of his forehead. Pupils were equal and reacting to light and accommodation. Blood pressure was 120/76; pulse was 104/minute (regular, good volume). Rhomberg's =.

Mr. Ebsary was grossly confused. When asked his date of birth, he replied "July 2, 1984". He was unable to carry on a conversation. Speech was rambling and slurred. He was partially alert and fully disorientated to all three spheres. He was unable to answer any questions. Mr. Ebsary looked withdrawn, but there was no evidence of catatonia. A further mental status examination was not possible at the time.

Impression: Acute Confusional State, probably secondary to Organic Brain Syndrome
Rule Out Alcohol and Drug Abuse or other Psychotic State

Recommendations: He was admitted to Diagnostic Assessment Unit for assessment and observations, as it was felt he can be a danger to himself or others.

EX. 112


A. Klonar, M.D.
Psychiatrist

/pm

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER

(3)

Date

17/84

Today I spoke with Mrs. John O'Day who lives in the apartment building on Falmouth Street where Mr. Ebsary also has an apartment. Mrs. O'Day stated that she had been providing meals for Mr. Ebsary while he was living downstairs from her. She stated he had been eating well and that she provided three meals a day for him. They have an agreement that he would pay her \$250 a month. She said, however, that he had given her \$150. Mrs. O'Day also stated that she would tidy up his apartment, if she knew when he was going to be discharged. She asked if the hospital would notify her so they could pick Mr. Ebsary up; their phone number is 539-0439. Mrs. O'Day would not comment on whether Mr. Ebsary was drinking or into drugs. She did say however that some of his visitors were not very helpful to him.

Evelyn O'Leary
Evelyn O'Leary, R.S.W.
Social Work Department

/ew

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

E Roy Ebsary

NUMBER

(4)

ite

85

Roy Ebsary, aged 73, was initially seen by me on December 18, 1984 while he was at the Cape Breton Hospital on referral from Dr. A. Munshi, M.D. He was later seen by me again on January 7, 1985. The purpose of this referral was to examine if he was showing any memory and sensory-perceptual deficits, or deficits of adaptive abilities on brain functions.

I was able to examine him on the Cognitive Capacity Screening Examination, Stroke Mental Status Examination, Reitan-Aphasia Examinations, Lateral Dominance Examinations, Sensory-Perceptual Examinations, Strength of Grip, Finger Tapping Tests and Wechsler Memory Scale.

The results of the tests carried out generally indicate that his overall cognitive capacity was within the normal range of variations with the exception of short term memory deficits especially under distraction and delayed recall-mode.

The Stroke Mental Status Examination showed that he was well oriented to place, time, and sphere. His social comprehension was average. His ability to carry out simple arithmetical computations were average. He was able to carry out pretended actions on command. No significant loss of long term memory was noted in these tests. But, he showed span of attention deficits.

The Aphasia examinations showed no spelling, naming, or copying problems. Some tremors in the drawing were noted, which might be related to his right hand motor problem. He is right handed. There were no obvious signs of right hand and left hand orientation problem.

The Sensory-Perceptual Examination showed some noticeable deficits. He showed severe auditory imperception, moderate tactile imperception of the left hand fingers and mild tactile imperception of the right hand fingers. Similarly he showed sensory-perceptual deficits of both right and left hand of varying degrees on finger-tip number writing and coin recognition. His strength of grip on the dominant hand was 9 kgs. and on the non-dominant hand was 15 kgs. Both the hand grip strengths are below the normal level of function. His average finger tapping speed on the right hand was assessed as 22, which is far below that of the normal speed of say 50, while his left hand tapping speed was assessed as 54.

The Wechsler Memory Scale test results indicate mild personal and current memory deficits, and mild mental control. On the first memory passages, he did fairly well. But, on the second, he showed moderate recall of logical memory deficits. Also, he got tired easily and became nervous. He also showed a tendency to fill up the "forgotten" lines or words of the memory passages with his own version without admitting that he had forgotten. He did very poorly on the paired associate learning. His ability to learn hard or difficult lists of paired words such as "baby-inch" was found to be

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER

(15)

Date

7/85

moderately impaired as compared with easy paired words such as "rose-flower". Also he performed poorly under interference. He was unable to learn or remember words or digits under even a delayed mild interference of say 9 to 18 seconds.

In summary, the above tests do indicate moderate and mild form of short term memory deficits (unable or difficulty in forming new memories, remembering or recall problems under interference, and difficulty with paired associate learning). Such memory losses are often seen in many neuro-behavioural disorders but they can also occur when a person is under considerable anxiety and stress. The present tests are mainly for screening purposes, and are not conclusive in their results. I have another appointment with him on January 15, 1985 to do further testing.

K. Sarwar

Kaiser Sarwar, Ph.D.
Clinical Psychologist

/bb

an. 15/85

He failed to show up for the appointment today.

K. Sarwar

Kaiser Sarwar, Ph.D.
Clinical Psychologist

/bb

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7059

(6)

Date

8/85

Mr. Roy Ebsary who is a 73-year-old, separated male living by himself was admitted on December 11, 1984, as a formal person at the request of Dr. Krzyski and assessed at the time of admission by Dr. Kumar.

Dr. Krzyski in his formal papers states, "This man tried to burn some food and with it his lodgings. Police arrived at the request of his landlord, the patient does not know what he is doing, he is a danger to himself and to others. In his lodgings, there were found three empty syringes." Dr. Kumar (Psychiatrist) who assessed him at the time of admission found Mr. Ebsary as inappropriately clothed, dishevelled, foul smelling and walked with a shuffling gait. There was no odor of alcohol noted on his breath and he denied use of the same. Also at the time of admission, he was found grossly confused--when asked about his date of birth, he replied July 2, 1984, --and he was unable to carry on a rational conversation, speech was described as rambling and slurred. He was also described as disorientated in all three spheres. Diagnosis of Acute Confusional State was made at the time of admission.

My first contact with Mr. Ebsary in the Cape Breton Hospital was on December 12, 1984, and I found him agitated, disorientated in all three spheres, unable to give his age, date of birth and address. He appeared to be visually hallucinating and was unable to answer questions. In the meantime he was also assessed by Dr. Archibald for his physical problems and he made a diagnosis of Acute Brain Syndrome, Drug Abuse and Fracture Cervical Spine.

Mr. Ebsary was again seen a day later (December 13, 1984) and at this stage his sensorium was clear, gave a reasonable account of himself, was orientated to all three spheres, but complained of being forgetful at times, denied hallucination of any modality (auditory, visual or tactile), did not show any paranoid ideations and his affect was appropriate.

Mr. Ebsary continued to maintain his improvement in his sensorium, speech was coherent and he was able to give detailed background information. There was slight problems in his attention and concentration but clinically he did not show any problems in his short-term memory, for example, he was aware of his surroundings, knew what he had for breakfast that morning, number of days he had been in the hospital and the doctor who he had seen that morning. He also knew about his appointment with Dr. Malik on December 28, 1984.

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

FILE NUMBER 7059

(7)

(Cont'd)

85 While he was on the Diagnostic Unit he complained of a pain in the right side of the abdomen for which he was investigated by Dr. Archibald who treated him for urinary tract infection with antibiotics.

Background Information

Mr. Ebsary was born in St. John's, Newfoundland, left school after completing Grade VIII and later up-graded himself. After working for a few years with a lumber company he joined the Merchant Navy and during World War II he was in the Canadian and possibly the British Navy. He claims that he was gun captain in the Royal Navy and seems to be giving conflicting stories about his experience in the second World War, for example he mentioned that he spent six months in a hospital in Bermuda in 1941 and was also in Camp Hill Hospital in 1942 for a wound in his right leg. He also stated that Sir Winston Churchill personally decorated him with the distinguished conduct medal on May 26, 1941 after sinking the Bismarck. He also states that between 1941 and 1942 he trained boys for about 12 months. He also claims to have received the Distinguished Medal in 1941 in France by rescuing the french army. He was declared physically unfit in 1942 and went back to the Merchant Navy until 1960. He then worked at the Isle Royal Hotel for about 8-10 years as a chef. He finally retired in the early 1970's.

Mr. Ebsary lived common-law for about 30 years and has been separated from his common-law relationship for the last 7-8 years. There are two children, a son and a daughter, with this union. His son lives in Sydney and his daughter lives in Boston. At this stage he has no contact with his family and has been living by himself for the last four years in an apartment.

Mr. Ebsary has a history of heavy alcohol abuse for which he was initially seen in 1972 by Dr. Binnie. In his report Dr. Binnie states that Mr. Ebsary has been a very heavy wine user, although his consumption had tailed off following a chest infection. He was reported to be depressed on and off, poor appetite and would act suspiciously towards his wife and children. Dr. Binnie also noted problems in his recent memory at the time and felt that he could be showing early signs of Korsakoff's disease.

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7059

Date

8/85

(Cont'd):

From the information available, it seems that there was no contact until 1982 when he was seen in March 1982 by Dr. Donovan at the request of the court to judge his fitness to stand trial. Dr. Donovan recommended transfer to the Nova Scotia Hospital to determine his fitness to stand trial and also found his stories as bizarre, some deficiency in recent memory and found him unsteady on his feet.

He was admitted to the Nova Scotia Hospital between May 7, 1982, to July 30, 1982, and he was assessed by Dr. Akhtar in the Forensic Unit. The diagnosis at the time was:

- (a) Chronic Brain Syndrome (reversible and in remission)
- (b) Chronic Alcoholism
- (c) Congestive Heart Failure
- (d) Chronic Obstructive Lung Disease
- (e) Peptic Ulcer

Mr. Ebsary was seen by myself at City Hospital at the request of Dr. Gaum in May 1984. At that time he was disorientated to all three spheres, was unable to give his date of birth, did not know how long he had been in the hospital, had problems with recognition (for example he told me that he had met me in Halifax), had problems in attention and concentration and showed defects in memory. At that time it was suggested that Mr. Ebsary be further investigated, for example, CAT Scan and be transferred to the Geriatric Unit in Halifax for further investigations.

There was no further contact with Mr. Ebsary until he was admitted to this hospital on December 11, 1984.

Following his discharge from the hospital, Mr. Ebsary was reassessed on January 7, 1985, re his mental status and if there was any confusion which he presented at the time of admission.

ON EXAMINATION: He was rational, coherent, orientated to all three spheres, there was some mild impairment in concentration, but clinically did not show any problems in his short-term memory, for example, he remembered that he had been to City Hospital on Sunday, January 6, 1985, where he was at the outpatient department from 10:00 a.m. to 5:00 p.m., (this was confirmed with Medical Records Department at City

Audit Checked: Yes No

CUMULATIVE THERAPEUTIC RECORD

NAME Roy Ebsary

CASE NUMBER 7059

(1)

Date

(Cont'd):

8/85

Hospital on the telephone. Mr. Ebsary was aware of current events and appeared somewhat anxious possibly due to his forthcoming court trial.

DIAGNOSIS: (1) Organic Brain Syndrome (in remission)
(2) Urinary Tract Infection (treated and currently under investigation by Dr. Schneiderman)

Prognosis:

It has been noted from his history that Mr. Ebsary becomes confused easily, secondary to his physical problems like a combination of pulmonary problems and alcoholism in the past and this time his confusional episode was possibly secondary to abuse of pain killers like Tylenol #3.



A.K. Gunshi, M.D.
Psychiatrist

km

Audit Checked: Yes No

Exhib number: 46

Filed on: SEP 25 1987, 1987

At The Hearings of The
Royal Commission On The
Donald Marshall, Jr., Prosecution

Malcolm Williston,
Registrar

#46

DEPARTMENT OF DEFENCE

St. John's, Newfoundland,
August 30th. 1945.

CERTIFICATE OF SERVICE

The bearer (No) JX 247943 (Rank) O.S.

(Name) Ebsary, R. Newman

(Address) 89 South Side Rd. East, St. John's, Nfld.

(Whose signature appears below) was attested in the

Royal Navy 4th Nov. 1940; He served

Overseas from 28th-11-40 to 8th-1-42 when he
was repatriated to Newfoundland.

His discharge is affective from 5-2-42.

W.F. Rendell

W.F. Rendell, Colonel:
Secretary for Defence

Roy H. Ebsary
Signature of R.N. Ebsary

CERTIFIED TRUE COPY

Copy.
JC/WFR.

MEDIA POOL COPY

#48
(See Volume 22)

3 June 1971 Loc # 3
P.C. Walsh.

1969 CHEV - WHITE

Plat 22-14-56 - N-S(71)

Centennial Park - 11:15 P.M.

4 June 1971 Loc # 3
P.C. Walsh

Tom CHRISTMAS. - Cir. 05/06/71 adult

John CHRISTMAS. } juvenile

Lawrence PAUL. }

If seen must and log.
sec. 119(1) C.C.C.

MEDIA POOL COPY

CURRICULUM VITAE

Maqbul A. Mian
20 Churchill Drive
Sydney, N.S.

#50

I am a registered medical practitioner with the Province of Nova Scotia since 1963. I received my medical degree from Pakistan and did rotating internship and psychiatric training at Presbyterian St. Luke's Hospital (affiliated with University of Illinois, Chicago) and Dalhousie University, Halifax, N.S.

I have been Medical Director of Cape Breton Hospital since 1969.

I am a certified psychiatrist with the Fellowship of Royal College of Physicians and Surgeons of Canada. I am a member of the Royal College of Psychiatrists, London, and am a Diplomate of the American Board of Psychiatry.

I am a consultant to the Department of National Health and Welfare, the Department of Veteran Affairs, and the Department of Social Services. I have testified as an expert witness in the courts of the Province of Nova Scotia.

MEDIA POOL COPY

IN MURDER TRIAL

Marshall Denies Stabbing Seale

The Crown's case of murder against Donald Marshall Jr. of Membertou goes to a Supreme Court jury in Sydney today for a verdict ending a three-day trial.

The court room was crowded yesterday as the 17-year-old Marshall denied that he stabbed Sandy Seale of Westmount in Wentworth Park last May.

The accused testified that one of two men who looked like priests, stabbed Seale with a knife.

Marshall said he had known Seale as a friend for the past three years. He said he met him in the park late on the night of May 23. But he testified, they were not in an argument.

He said the two youths were talking near the bridge when two men appeared asking for a cigarette and a light.

Marshall said they gave the men what they asked for. They said they were from Manitoba. Marshall testified, "I said to them they looked like priests the way they were dressed," Marshall said.

"The younger one said we are," Marshall said. Then they asked if there were any women in the park, and I told them there were a lot.

"One of them replied, 'we don't like niggers or Indians,'" Marshall said.

The older fellow took a knife out of his pocket and drove it into Seale's stomach," Marshall said, "then he swung it at me hitting my arm."

Marshall said, "I didn't stab Seale or lay hands on him."

Mr. Justice J. E. Doherty will address the jury when the trial resumes this morning. Mr. Justice said the jury deliberates on its verdict.

C. M. Rosenblum, Q.C., and Crown Prosecutor Donald MacNeil, Q.C., addressed the jury yesterday afternoon.

The defence counsel said only two of the Crown's 18 witnesses were important and the whole case hangs on their testimony.

Both, he said, acted contrary to what one would expect eye-witnesses to do.

They were at the scene, along with Marshall, when the ambulance and police arrived. Yet neither even hinted to police they knew who had done the stabbing, Mr. Rosenblum said.

It was a week before police arrested Marshall and they had not had a word from the two key witnesses, whose testimony was described by the defence counsel as unbelievable. One of them admitted to being drunk the night of the stabbing, he said.

Crown Prosecutor MacNeil said it was clear why the two teenagers had not told police what they saw earlier. "They were scared." And like many other people these days in Canada and the United States, they didn't want to get involved.

Mr. MacNeil said city police detectives spent long hours of hard work, day and night to bring the case to court. He described the efforts of the Detective Division as brilliant.

The prosecutor said the accused was a good enough actor to fool what he did.

But, he said, when the injured Seale was being placed in an ambulance the accused stayed far enough away so as not to be identified.

Mr. Justice Doherty said in his charge to the jury that Marshall's testimony was unbelievable.

He said the jury should believe the truth. Mr. Justice said.

Health Care Is Discussed

Some 60 members of the community voiced their grievances about the health care they receive at Thursday night's Town Meeting at the Metrocentre. Dr. M. A. MacFellan of St. Francis Xavier University and Willie A. Rudy, consultant with Kalev, Prof. Marswick & Co., were principal speakers at the meeting which centered on the work of the Cape Breton Regional Health Planning Project.

Public health nurses have noted respiratory illnesses in young children. Mr. Rudy said and many concerned persons present asked about the extent and cause of such illness. Air pollution was cited as a major contributing cause and information was requested about where the pollution is coming from.

It was noted that classes for pregnant mothers, which help to inform mothers about the needs of their infants, have been poorly attended in the past. But several mothers pointed out that such classes need to be located in more accessible areas for them to be able to attend.

Mr. Rudy broke down present health programs into preventive health, ambulatory care, active treatment, extended care and rehabilitation. The idea of preventive health, a crucial part of health care, is to inform people of the steps they can take to prevent illness.

"We are looking for alternatives to active treatment, which is the most expensive to society," Mr. Rudy said. Many people now kept in active treatment beds in hospitals could better recover, and at less cost, in chronic care and rehabilitation centers.

The lack of specialists who have expert knowledge in different areas of medicine was raised as an important problem of health care in Cape Breton. In 1979, about 2,500 Cape Bretoners went to Halifax to obtain services of different kinds of specialists, Mr. Rudy said.

One woman complained that doctors in certain areas were reluctant to refer patients to specialists, and that some specialists could not be seen without a referral.

Dr. MacFellan stressed the need for continued involvement by the community in making their feelings and priorities known to the project organizers.

Use dental floss to sew the buttons on the clothes that you make for your school children. It is stronger than ordinary thread and will stand the rough play of children's hands.

BONUS PHOTO
EXCLUSIVE AT
ABBASS STUDIOS
AND THEIR DEALERS
Bring your exposed film to Abbass Studios or any of their dealers. You receive over \$2.00 worth of wallet pictures extra with every 12 exposure roll of Kodacolor Film you have processed.



new faces on City Council last night as the first meeting after electing the oaths of office on the successful candidates in Tuesday. Shown are, left to right, Angus MacKay, Tony Gale and Archie MacLurey. (Abbass Photo)

WHITNEY PIER - Action To Air Pollution

from the minister, I was informed that there could be danger to health from particulate matter and that monitoring together with the province if a site is now being carried out in the Sydney area to collect data with regard to this problem.

Mr. Muir said it was not good force should be established by either the federal government or in cooperation with the province to immediately determine health hazard.

"People of Cape Breton have a right to know how serious the problem is, and what they should be doing about it."

NEW ALDERMEN - New Method In Naming Deputy Mayor

The fact that he's a Protest-ant or Catholic in what part of the city he lives in should be brought to the attention of the city council, Ald. Miller said.

Deputy Mayor Palmer agreed with the others. He said he hoped council would select the man they think most suited to do the job. It's not a religious or geographic thing, he said.

NONE SERIOUSLY Seven Injured In Separate Mishaps

Seven persons were injured in two separate accidents on Sydney streets yesterday.

Six persons were injured last night when a car went out of control and struck a power pole on King's Road on the city side of St. Rita Hospital. Some of the injuries were considered serious.

The car involved was driven by Donald Charles MacNeil, 40, of RR 1, East Bay. Passengers were Vince Gillis, East Bay, and James MacNeil, East Bay.



#58
MEDIA POOL COPY

#39
#52



...ation being held here, met the chairman ...ppment, Ian Watson, M.P., before Mr. Wat- ...ol Martin, president of United Indian Youth ...olumbia, a ... his son, Delbert Jr.; Chief ... Frazer District, Vancouver, B.C.; and Ian ... (Abbass Photo)

HERE - r s Outlined

tain its teachers, real—rather than for the areas ... program designed in which Indians live, ... of Indian and Esk- ... He stressed that the regon ... imentations require pres-ure ... from Indian groups across Can- ... ada before the government will ... consider passing legislation to ... for jobs in big ... Toronto and Mont- ...

nda Pageant

press up to date on ... nes and locations, ... went along quite ... nder of the day fea ... elcoming of contes ... aff, a session with ... ist - Giancarlo De ... and an interview ... dith Seret esethe- ... ay was concluded ... t dinner in the Park ... ollowed by a film ... En route they stopped to visit ... CFTO-TV studios of ... Andre Wery, where they saw ... on last year's ac- ... Upon arrival in Niagara

SUPREME COURT

C.B. POST
NOV. 4/71

16 Witnesses Give Evidence

A Sydney teenager testified in Supreme Court yesterday he was hiding behind a bush in Wentworth Park late on the night of May 29 when he saw two youths arguing.

John Pratico, 16, said he re-
cognized them as Donald Mar-
shall, Jr., of Memberton and
Sandy Seale of Westmount.
He testified that Marshall had
a "shiny object" in his right
hand which he plunged into the
other youth's stomach.
"That's the last I saw. I ran
up Bentinck Street," Pratico
said.
Donald Marshall is charged
with murder arising out of the
death of Sandy Seale, which oc-
curred next day at City Hospi-
tal.
Pratico was named evidence
for the Crown when the trial
was adjourned yesterday after-
noon.

assisted in the operations and
he described bleeding from an
abdominal wound caused by a
half inch puncture of the aorta,
main artery from the heart.
Dr. M. S. Varick said he treat-
ed Marshall for what he describ-
ed as a superficial laceration
four inches long on the inside
of his left arm. The wound re-
quired 10 stitches, the doctor
said.
The doctor testified he went
to County Jail later to remove
the stitches and found them al-
together.

(Continued On Page 9, Col. 1)

Mr. Justice J.L. Dubynsky ad-
vised the teenage witness he
would be allowed to return to
his home but outside of his
family he was to report to
court if anyone attempted to
talk to him about the trial.
The trial goes into its third
day with the jury expected to
deliberate later today.

Pratico testified he saw
Marshall and Seale at a dance
at St. Joseph's Hall, near the
park.
The three youths walked to
the corner of George and Ar-
zule Street, Pratico said, he
walked up Arzule to Crescent
Street while the other youths
went into the park.
The witness said he went be-
hind a bush in the park and
was drinking. He said he look-
ed up and saw Marshall and
Seale talking, "they seemed to
be arguing."

Pratico will resume his evi-
dence as the trial continues to-
day. Marshall is represented
by C.M. Rosenblum, QC and
S.J. Khalifa, QC who cross-ex-
amined most of the 16 witnes-
ses already called by Crown
Prosecutor Donald MacNeil, QC
and Assistant Crown Prosecutor
D. Lewis Matheson.

The 12-man jury under fore-
man James J. Townsend was
required to leave the courtroom
on several occasions yesterday
as legal argument took place.

Three doctors gave evidence
at yesterday's session. Dr. Ma-
hammad Ali Naqvi testified he
treated Seale from midnight
until 4 p.m. next day.

He said the youth was on the
verge of death when he first
saw him in the hospital em-
ergency room.

Dr. Naqvi testified the in-
juries were caused by a sharp-
pointed object penetrating the
abdomen all the way to the
back. The hotels and blood tes-
tels were torn, he said, and a
mass replacement of the
in place of blood was used
the coroner taken to the
courtroom.

Dr. David Green testified he

Red Cross Awards To Be Presented

His Honor Victor deB. Oland,
the Lieutenant-Governor of
Nova Scotia, will present Red
Cross awards this evening at
Branch 12 of the Royal Cana-
dian Legion, corner of Dorch-
ester and George Sts. in Sydney.
Bringing greetings from the
Nova Scotia Division will be
Justice J. L. Dubynsky, Chair-
man of the Nova Scotia Blood
Transfusion Board.

Recipient of awards should
be there at seven o'clock so
that registration may take place
and final arrangements made
in plenty of time. Guests should
be seated by 7:45.

Following the ceremony, a
lunch will be served.

Will Use St. Mary's Church

Parishioners of St. Nicholas
Church at Whitney Pier, which
was destroyed by fire early last
September, will meet next
Sunday at 10:30 a.m. in St.
Mary's Parish Church, for the
reconstruction Mass by Rev. F.L.
Doherty, pastor of St. Nicholas
Church.

Red Cross awards will be
presented to the people
of St. Mary's Parish who
will be

MEDIA POOL COPY

CITY OF SYDNEY POLICE DEPT.

54

STATEMENT

June 17th 1971 11:40 PM

Statement of Clarence Petrich
Suspect age 20 yrs residing at 2 Tully
St. Sydney

Q On May 28th I went to the
Dance at St. James Hall Sydney
St. Sydney.

Q Who did you go with?
A With Elda Richs.

Q How long did you stay there?
A Well I saw a fight starting about
10.30 PM I was trying to break it up
and as a result I was asked to stand
by the Police which I did. When I was
getting my jacket I seen Patricia Har-
lowe I said they picked me out and
asked her to come along with me
she did. we went to the store and from
there to the Park. we stopped there for
while we were talking to Robert Patterson
He came down from the Park with us
we walked behind the Bandshell
and started to walk up to Crescent St.
I remember seeing Donald Joe Mowbray
on Crescent St with another man.

Q Did you speak to Joe Marshall?
A Yes I asked him for a match

Q Did you receive it?
A Yes.

Q Did you have any other conversation with him?
A No.

MEDIA POOL COPY

Witness *[Signature]*
Date June 17th Time 12:03 AM

Signed *[Signature]*

CITY OF SYDNEY POLICE DEPT.

STATEMENT

Q Did you know the other man
 A No.
 Q Did you know Judy Hale, the deceased.
 A No.
 Q How long have you known Mr. Marshall
 A 1 year or so
 Q What way were you walking on Crescent St
 A Towards King Rd
 Q What time was this.
 A Between 11.30 P.M. and 12 P.M.
 Q What was the weather like
 A It was nice and
 Q When you met Mr. Marshall and the
 other man were they standing or walking
 A Standing
 Q on the street or sidewalk
 A on the left hand side of street going
 towards King Rd.
 Q were you drinking that night
 A 2 pts. of beer & some wine.

James Huchel

Witness *[Signature]*
 Date June 17th Time 1203 AM

Signed.....

CITY OF SYDNEY POLICE DEPT.

STATEMENT

June 17-71 8:15 PM

#55

Statement of Patricia Harris
 5 Kings Rd, Boerw. Neeris
 I with my friend Jerry
 May 28-71 my boyfriend Jerry
 of us two, 2 Dulip Terrace left
 the dance at 11:45 PM. We sat
 on a bench near the Grandstand
 We sat on a bench. Robert Patterson
 was on the grass. I took a cigarette
 We smoked a cigarette. Jerry and I
 left. Walked back of the Grandstand
 to present street front of the
 big green building we saw and
 talked to Jim Marshall with
 Marshall was two other men

Q
A

Q Describe the other men to you
 A One man was short with a long
 coat. Gray or white hair, with a
 long coat. I was talking to Jerry
 Jerry got a match from Jim
 and he said they are crazy
 they were asking him for a
 cigarette

Q
A

Q Did you see anybody else in
 the park?
 A No.

Q
A

Q Was there any bar in the
 park?
 A Yes, boys and girls walking
 through the park. Music
 Daffin and Henry Barron
 they left when we were
 on the bench

MEDIA POOL COPY

CITY OF SYDNEY POLICE DEPT.

STATEMENT

June 18th 1971 1:30 P.M.

#56

Statement of Patricia Ann Harris
age 14 yrs residing at 5 Kings Rd Sydney

on May 28th 1971 I went to St Josephs Dame Hall. I met Terry Blushie there. we danced for awhile and then a fight started Terry got mixed up in it and he was asked to leave. So I went with him. I got mad at him for drinking & fighting we went to the Park and sat on a bench and started arguing. Robert Patterson came to the Park with us after a while we crossed the Park back of the Bandshell then we went up to Crescent st and by the green apt. building we met J. Marshall Terry got a match of him

Q was there anybody with J. Marshall

A yes

Q who was it

A He had a dark jacket on

Q wasnt hardly dark Do you know him

A yes I know hardly and it looked like him

Q Did he speak to you

A no

Q Did J. Marshall say anything else

A He was drinking.

Q How was he dressed

A he had a light jacket on

MEDIA POOL COPY

Witness.....

Date June 18 Time 12:25 P.M.

Signed Patricia Harris

CITY OF SYDNEY POLICE DEPT.

STATEMENT

Q Were they standing or walking when you meet them

A Standing facing one another but when we came closer they sort of parted and Sandy Seale moved back we talked to Jim got a match and left for home.

Q Did you see anybody else in the area

A No not on Crescent St.

Q Did you notice anybody on the Railroad tracks

A No.

Q Where did you learn about the stabbing

A My mother told me.

Q Did you see any weapons on either Jim Marshall or Sandy Seale

A No.

Q How were they facing

A Sandy was facing the house and Jim Marshall was facing the Park.

Q What time would this be

A I would say about 12 PM and left the Park about 11:30 PM.

Katrice Harris

Witness.....

Date June 18th Time 1225/14

Signed.....

LAST NAME

HARRIS

PATRICIA ANNE

ADDRESS

5 Kings Road

Nov. 15, 1956 AGE

#57

MARRIED
SINGLE
DIVORCED

V

WEIGHT 130

HEIGHT 5'6

COMPLEXION Med.

RELIGION

NATIONALITY

HAIR Brown

EYES Brown

FACE

OCCUPATION

Unemployed

DATE

CHARGE

GOODS

VALUE

DISPOSITION

BOOK NO.

MAGISTRATE

June 3, 1978

Sec. 235(2) C.C.

June 26th-\$200.00 and costs i/d 30 days

#59308

J.F.McDonald

July 6, 1978

Sec. 294 B C.C. (Private) AAL349 - \$100.00 i/d 30 days

J.F.McD.

July 19, 1978

Sec. 238(3) C.C. \$250.00 and costs i/d 30 days

#59346

J.F.McDonald

Dec 21 '85

Sec 3(1)NCA

\$50 i/d 5 days

#325

Exhibit Number: 57

Filed on:

1987

At The Hearings of the
Royal Commission On The
Donald Marshall, Jr., Prosecution

Malcolm Williston,
Registrar

MEDIA POOL COPY

08OCT87/09:12/32

#58

0006
RE: 0006

Q CR LANG: E
REM: SHAW

LVL: 2

*ROYAL CANADIAN MOUNTED POLICE - IDENTIFICATION SERVICES

*RESTRICTED - INFORMATION SUPPORTED BY FINGERPRINTS SUBMITTED BY LAW
*ENFORCEMENT AGENCIES - DISTRIBUTION TO AUTHORIZED AGENCIES ONLY

FPS: 925971A

HARRIS, PATRICIA ANN
HARRISS, PATRICIA ANN

*CRIMINAL CONVICTIONS AND RELATED INFORMATION

1976-08-10	THEFT UNDER \$200	SUSP SENT & PROBATION FOR 1 YR
TORONTO ONT		
1986-01-07	POSS OF NARCOTIC	\$50. I-D 5 DAYS
SYDNEY NS	SEC 3(1) NC ACT (PD SYDNEY NS)	

*END OF CONVICTIONS

*SUMMARY OF POLICE INFORMATION - NOT INTENDED FOR SENTENCING PURPOSES

NO ENTRIES PRESENT

MEDIA POOL COPY

Ev 59
B4D
SPDF

#59

June 7, 1971.

Mr. P.A. Winn
Supervisor
Black United Front
of Nova Scotia
Suite 430 Trade Mart
Scotia Square
Halifax, N.S.

Dear Sir:

Re: Sanford William Seale
and your letter of June 1, 1971

You are no doubt aware at this time that one Donald Marshall, age 17 years, has been charged with Non-capital Murder of the above mentioned Sanford William Seale.

My reason for not replying to your letter immediately was that this case was under intensive investigation, and we were momentarily expecting a break in the case.

Marshall appeared in Court this morning and was remanded without plea until June 14, 1971 at 10:00A.M. for Preliminary Hearing; that is, if the Crown is prepared to go ahead with the Trial at that time.

Yours very truly,

N.D. Macaskill
Deputy Chief of Police

MCA:K

MEDIA POOL COPY

Page I

#60

Procheta M.E

Box 29-1

Dec 24 73.

Dear Gordon

I did, but a time ago to say
 that I must go home. Pic,
 I hope you don't get mad because
 I wrote. I'm sure still healthy,
 even if you. The trouble I'm writing
 if you because I'm some sick &
 cough, so I must go away from
 some of my friends. I wish if I
 have anything you writing to you?
 I'm writing to you but I never
 heard from you in a long time.
 I'll love you always. She was
 ya, to see me in you. I think
 that you're still in your going to
 send me a card of what do you
 birthday but I'm not allowed to
 send it out. I'm not allowed to
 go it. Did you see in when she
 come home?

MEDIA POOL COPY

It's pretty boring in here but I
guess I'll have to take it until
I get my new hat which is
supposed to come up in Feb. I think.
If I can't heat it this time, I
won't know what to do. String
myself in. Tell you one thing, you
may not like me or care. Right?
But I'll tell you something bad.
I never told you, but she
wrote to me & said something on
the letter which made me feel
like a son of a bitch. I won't
tell you what she said. ^{But}
when I read it, I took my knife
& stuck it in my ^{side} out. If you
don't believe me, I'll show you
it if I want you to. I
& remember me that when I
saw her, I'll see ~~her~~ what she
one man though I hated her
like a dirty dog. But I was

4. him, it - court. Remember that!
But it wasn't his fault. The
reason I want back with him
I really liked him & I still do,
even more. But the sounds in
this letter, I guess you think I'm
stupid he. I'm not. That's news to
tell Barbara I said "Hi" & ask in
which is his gonna write? O.K.
I said I got to go ~~to~~ church
society - can't get into mass that
day man, I hope you don't turn
me down because I wanna hear
from you & besides it took me
6 months to get your address.
little friend

T.S. JUNIOR MARSHALL
Don't see where P.O. BOX 29-1 = No 1997
my other friends P.O. BOX 29-1 = No 1997
write to me to DORCHESTER, N.B.

MERRY XMAS

HAVE A
NICE N.Y.

Best for you -
I
in the season -

How tall
are you now?
4 feet.
SORRY
only joking.

STATEMENT

#61 June 18th / 1971 9.30 AM

Statement of Mary Patricia O'Rielly
age 14 yrs residing at 33 Cross St Sydney

on May 28th 1971 I was at
St Josephs Home Hall Sweep St by day
I was with Theresa Linn 43 Cross
St Sydney. I left there about 11.45 PM
with Steve Chasmeck Green Rd.
we went to the Park. we came
back around 11.55 PM to the Park
we were just outside talking Frank
Frank and noise took in about 12.25 AM
we seen the ambulance go by.
we got a drive home.

Q Did you know the late body male

A No

Q Did you know Donald J Marshall

A yes

Q How long

A 1 yr

Q Did you see him that evening

A No.

Q when did you see him

A He called Saturday morning He
was looking for Peter my sister
He talked to me @. He said

Q what was the conversation

A about what happened down at the
Park the stabbing

Q what did he say

A He said there was a grey haired man

MEDIA POOL COPY

Witness.....

Date June 18th Time 9.50 AM

Signed Mary O'Rielly

CITY OF SYDNEY POLICE DEPT.

STATEMENT

down there. He said 2 men, one
 man asked him for a Cigarette. Then
 lady asked didn't have a Cigarette
 then he said that one fellow - said
 o.k. Blackie and he stopped him

Q Did you ask them what they looked like

A One had grey Hair He said he
 was 30 to 40 years old and when it
 happened he said he tried to Call
 from a messans house and he said
 he Called

Q Did you know those fellows

A He said they were pretty nice first

Q Did he Call anyone

A He Called again my sister I said

Q How did he get your phone no. He is
 unlisted.

A When I was going with Pius Marshall
 Dr. Swartz I gave it to Pius

Q Did you discuss this matter with
 Patricia Harness

A yes

Q Did you tell her about the grey Hair man

A I told her there was supposed to be
 a grey Hair man there I told her
 if she was questioned by the Police she
 should tell about the grey Hair man
 that I told me about.

Q Did he say anything about his
 own injury

A He said the guy with the grey Hair
 stopped him & the arms

Witness.....

Date June 18th Time 9.50 A.M.

Signed Mary O'Reilly

CITY OF SYDNEY POLICE DEPT.

STATEMENT

#62

June 18th 1971 10.15 AM.

Statement of Catherine Ann O'Reilly
age 16 yrs residing at 23 Cross Street Sydney.

Q Do you know Donald Joe Marshall
A yes

Q How long
A since last summer

Q Do you keep in touch with him
A Several times this year. The last time
about 1 week before the stabbing took place
Q How you talking to him since the stabbing
A yes

Q Where
A on the phone almost every day.
until he went to jail. He got his telephone
no. changed.

Q What was the conversation

A He told me he was down the Park
with Andy Seale and 2 guys came over
and asked him for a cigarette and when they
said no, the men started to call them
blackie & that. He said one man was
a good guy. He said he got stabbed
in the arm. He said he wanted to get
help. He went to a house to use a phone
the man did not want him to use
it but then he let him use it.

Q Did he know these fellows

A No.

Q Did you ever see Joe Marshall with a wife

A yes last year down at the Park

Witness *Sgt M. McFarlane*

Date *June 18th* Time *10.15 AM*

Signed *Catherine O'Reilly*

MEDIA POOL COPY

CITY OF SYDNEY POLICE DEPT.

STATEMENT

Q wasn't a large one
A about 5 1/2 inch Block
Q what was he doing with it.
A striking it with the trees.
Q Did you see Joe Marshall the night of May 28
A yes I was sitting in a Car in John's yard
at the end of St. with Frankie French
Morse John, Marge & Beilly my sister
Joe Marshall, Ardie Paul, Donald Donald
Q what time was this
A Everyone was there till 1245 AM except
Morse John, Frank French & Joe Marshall
they left about 1030 PM.
Q where did they go
A they said they were going to St Josephs Park
Q Did you or anybody else have anything
to drink that night in the Car
A I never saw it.
Q Did John, French and Marshall come back
to the Car
A John and French
Q where did they part from Marshall
A they said they lost him and never found
Q why did Joe Marshall leave you and go
to the Park by himself
A Because I was with Ardie Paul
Q Did anybody have anything to drink in your
presence that night
A yes Ardy Paul, Morse John and Joe Marshall
got a drink
Q Did you see Joe Marshall fighting at any time
A yes with his brother Pico. and the first
time the Park the guys were from Westmount
this was last summer

Witness

Date

Time

Signed

[Signature]

June 18th

10.50 AM

[Signature]

Ex 64

vigilantes vs. vandals if police don't police

Vigilantes will be meeting vandals head on at Memberton unless police protection on the Indian Reserve is stepped up. Former chief Lawrence Paul told City Council last week vigilante action is being seriously discussed at Memberton because of mounting problems with vandals.

Chief Roy Gould suggested special Indian constables to patrol the small reserve. Paul disagreed. He said making constables out of reserve residents would flop because of patronage and favoritism. He wanted regular city police patrols and charged that Memberton residents weren't being taken seriously by police when they make complaints.

In a letter sent to the Justice Department and Nova Scotia Attorney-General as well as to the Police Commission. Paul and a group of Memberton residents faulted the band council as well as the police. (Earlier 46 residents signed a council-approved petition for better police protection.) The group charges in the letter that in a tightly-knit little community like Memberton (54 families), good behavior and citizenship could be successfully encouraged by the chief and council. They say Roy Gould and his council hadn't held a public meeting for a year and a half, despite vandalism and other problems. Poor street lighting, one of the major factors contributing to vandalism, is one of the problems that has remained unattended.

The group says home-brew is making a comeback on the reserve and calls on the RCMP to nip this in the bud. They say they would not like to take a step toward vigilante action unless absolutely necessary. (The letter, accompanied by a band council-approved petition was first cleared by Chief Gould for presentation to Police Commission. After conferring with advisors, the Chief reversed his decision and had the item removed from Police Commissioner's agenda at the last minute. Paul



Lawrence Paul

went ahead on his own at Thursday's council meeting.)

The Police Commission ordered an investigation into the alleged police disinterest in Memberton complaints and set up a committee to talk over the problem with reserve residents and authorities. There was some confusion as to whether or not city police actually had jurisdiction on Memberton which is a federal Indian reserve located within Sydney's boundaries. City solicitor Michael Whalley said the Indian Act makes it clear the RCMP has jurisdiction and that he was unable to come up with any evidence of an agreement on police services between the city and the Indian Affairs Department.

Former Chief Paul had observed that it was always

believed at Memberton that some agreement reached and a document signed. But he told T lander he's only been able to find signed agreements on garbage collection and water and sewer Nothing on fire or police. The regulations to the Act designate the RCMP as the police of Indian reserves but does allow for appointing Indian Constables or special agreements with police departments.

COPY

September 7, 1970

Mr. Gordon McLeod
Chief of Police
City of Sydney
Sydney, Nova Scotia

Re: Confidential, Special Constable Progress Report

Dear Chief:

It has come to our attention that they are areas Constable Fred Googoo may need clarification for the best interests of the community.

- Constable Googoo has apparently been informed at several occasions by a desk sergeant that he should not answer house calls. A number of families have complained to the Council and feel any police constable's job is to answer all calls whether they be family disturbances or calls similar.

Therefore, Constable Googoo has at several occasions refused to answer the calls. I personally feel that these calls should be answered and a proper assessment be made at the scene whether an arrest or not. But at least, it would put a stop to whatever disturbance is going on.

- There was also a complaint received from several persons who had the opportunity to see Constable Googoo using his fists on another person. Most recent is a case at a ball game on the reserve. Constable Googoo was not in uniform as he was playing on the team. A fight was engaged with him and a fellow member of the same team. It created some controversy which was reported to me on my return from Halifax.

There were no charges laid by either party.

Any police constable to my sense must act accordingly anywhere. They are police officers twenty-four hours a day and in Constable Googoo's case especially. I am inclined to think that Const

September 7, 1970

Googoo may tend to push his weight around rather than lay a charge when necessary. This may be caused by the time element of his training. If daily contact is made by your staff (Dept. Chief MacNeil) This would, I think, clear up most of the knots that are increasing in his profession.

-One other item and that is calling the station for assistance. When Constable Googoo was appointed, it was felt this could lessen the police calls to the station. Constable Googoo at several occasions called the station for assistance when I personally feel he could have answered the call or investigate a complaint. This may be good, I don't know, but I feel that if he should need assistance, myself or anyone of my Councillors are available to assist him. There is, however, a question of authority. Does the Council have authority to answer a call - especially when the Constable is not available or if he should refuse to answer a call. Most recently, we have been asked if we had the arresting power and would it stand in the court if ever there was a protest. There may be a need to at least carry a county constable's position and duties if required.

I hope that I have made a good summary for you in relation to Constable Googoo's position to date. He has done a good job except for these most recent incidents. I hope that this will lead to a "fresh start" class for Constable Googoo and a consideration for the Council to carry a "County Constable's" position in order that we may be able to assist Constable Googoo more effectingly.

This report, I hope, will remain strictly confidential as I have not informed Constable Googoo of my writing to you in form of a progress report. I would appreciate also if he didn't know about it.

Yours respectfully,


Roy Gould
Chief

/jcm

Sydney Reserve



Band Council

February 13, 1970

*Chief of Police, Sydney
Sup. 200. [unclear]
The [unclear] [unclear]
The [unclear] [unclear]*

RE: Sydney Reserve Policing

Gentlemen:

We received word from the Dept. of Indian Affairs, Ottawa, in regards to policing and the possible availability of financial assistance for the hiring of one part time reserve Police Constable.

There are, however, several items of importance which the Council suggested on our request for the assistance required. Briefly, I will out-line the most important items:

1. That the Reserve Constable be of Indian decent and that such a position be advertized as a competition and those persons would be screened by the representatives of the Council, representative from the City Police (preferably the Chief Police), and the R.C.M.P.
2. That the Constable be under the direction of the Council and for that person to be trained on all aspects of police work by the City Police Staff, and for that Constable to work and assist the City Police in carrying out the policing on the reserve.
3. The Constable will also be requested to enforce Band By-laws that are existing presently; such as, school curfew, ordinance By-laws, and the enforcement of disorderly conduct on the reserve.
4. The Constable will work out of the Band Administration Office and shall be paid semi-monthly from the Band for his services.
5. (City Police, however, will patrol and carry out its duties in a normal manner using the Band Constable when necessary.)

February 13, 1970

It is suggested here that we meet sometime in the near future for a more meaningful discussion concerning the policing and the hiring of such a Constable.

I would suggest that the meeting will be held at the Band Administration Office at Membertou for February 20th at 2:00 p.m. A reply to this request would be appreciated. This should give you enough time to discuss the above suggestions with your colleagues for a meaningful and interesting meeting.

Yours truly,

Roy Gould
Chief

/jm

c.c.

65

Sunday Oct 11/70. We walked out of the Paramount Theater for some ~~fresh~~ fresh air and took a stroll around the theater. At the corner six police with two police cars stepped out and asked where we were going. They also inquired about our names. Then they left. Then we continued to the fence of the Y.M.C.A. and stood there to have a smoke and then the police again came about two minutes later and wrote down our names. We asked why and one officer stated, "It's none of your business." "Was this none of our business?"

Wed 14/70: On Wednesday one of the two boys was picked up at the park, in fact the other boy was picked up and they were taken to the graveyard by St. Anthony Daniel and was asked several questions. One of the boys was kicked in back and in a sense manhandled. "Had the police had the right to take student to someplace where nobody could see them and give them a rough going over?"

Sunday Oct 11/70 - After the police found out the girlfriends of the boys were with them, they went to the parents and told them not to go with the Indian boys because we were bad. "This I see, the cops are prejudiced towards us or either they planning a trick that will make all of us hauled in."

MEDIA POOL COPY

Also in several occasions the police checked
the park every or practically every fifteen minutes
to see what the Indian boys what they were
doing and what were the names of the people
that we were involved.

This comes to the conclusion that police are
losing most of our friends because most
of them say to the police are always on our
tail tail and it is not safe to hang
around the Indian boys.

Also one incident that occurred a few
weeks ago that one of the boys who seen
the police car coming ran away because
he feared they might take his name down
and one of the policeman threw a belly club
at him and knocked him down. This
boy was not intoxicated and the police charged
for resistance arrest. They were ignored
story but took him in because he was on
dian. Is this justice



Exhibit # 66

COMMUNITY RELATIONS
AND
THE LAW

SUBMITTED BY:

NATIVE COMMUNICATIONS SOCIETY OF NOVA SCOTIA

MEDIA POOL COPY

INTRODUCTION

POPULATION FIGURES FOR INDIANS IN THE CAPE BRETON-SYDNEY CONSTITUENCY TOTAL AROUND 1900 FOR ESKASONI AND 400 AT MEMBERTOU. FOR SMALL POPULATED INDIAN COMMUNITIES THE CRIME RATE IS NOT CONSIDERED SERIOUS BUT IN MANY CASES INDIAN PEOPLE ARE MAJOR USERS OF POLICE LOCK-UPS AND JAILS. MANY INDIAN PERSONS PRESENTLY IN JAIL ARE THERE FOR OFFENCES THAT MIGHT BE BETTER DEALT WITH IN OTHER WAYS AND THEY ARE NOT, ON THE WHOLE, REHABILITATED AS A RESULT OF THEIR SENTENCE. MOST, IN FACT, REFLECT THE "REVOLVING DOOR" ASPECT OF THE JAILS: THEY GO IN, SERVE THEIR TIME LEAVE THE INSTITUTION, AND ARE SOON BACK IN JAIL AGAIN.

WHEN NATIVE PEOPLE FACE THE COURTS, MANY FACE JAIL TERMS BECAUSE THEY CANNOT AFFORD TO PAY FOR THE FINE. MORE OVER, MANY INDIAN PEOPLE WOULD RATHER PLEAD GUILTY RATHER THAN BE REMANDED FOR SENTENCE LATER. SOME PLEAD GUILTY BECAUSE THEY ARE ENCOURAGED BY POLICE OFFICERS ON THE GROUNDS THAT THE COURT WOULD BE MORE LENIENT.

FOR A GREAT NUMBER OF INDIANS, THEY ARE CONSTANTLY PICKED UP BY POLICE OFFICERS. THEY DON'T HAVE TO BE DRUNK...THEY COULD BE STANDING ON A STREET CORNER, DRIVING AROUND THE CITY OR HIGHWAYS AND THEY LOOK INDIAN. POLICE OFFICERS OFTEN FEEL THREATENED BY MINORITY GROUPS AND THEREFORE SINCE THEY HAVE THE UPPER HAND, THEY ENFORCE THEIR AUTHORITY.

.....

.....2

IN GENERAL, RELATIONSHIPS BETWEEN THE POLICE AND THE INDIAN PEOPLE HAVE REACHED A STAGE WHERE BITTERNESS PREVAILS ON BOTH SIDES. THE CONSTANT SURVEILLANCE SOMETIMES REQUIRED BY THE INDIAN PEOPLE CAN, UNDER THE CIRCUMSTANCES HARDEN INTO OPEN DISLIKE ON THE PART OF THE POLICE. WHERE THIS OCCURS, THE INDIAN PEOPLE, IN TURN MAY RESPOND BY BEING WITHDRAWN, AND UNCOMMUNICATIVE WHEN SOBER AND HIGHLY BELLIGERENT AND AGGRESSIVE WHEN DRUNK.

THIS UNFORTUNATE COMMUNITY ATTITUDE IS OFTEN ACQUIRED BY THOSE WHO SEE THE INDIAN PEOPLE AT THEIR WORSE. IT IS ALL TOO TRUE IN THAT INDIAN PEOPLE, LIKE OTHER MINORITIES, DRAW POLICE ATTENTION BECAUSE OF DRESS, PERSONAL HYGIENE, PHYSICAL CHARACTERISTICS MAKING THEM CONSPICUOUS.....RESULTING IN MORE FREQUENT ARRESTS. THE FEELING IS WIDE SPREAD AMONG INDIANS....POLICE PUSH THEM AROUND AND ARREST THEM ON THE SLIGHTEST PROVOCATION.

PROGRAM

THE PURPOSE OF THIS SIX MONTH RESEARCH STUDY WILL BE MULTI-PURPOSE WITH AN AIM THAT A POSITION MAY BE OPEN FOR A COMMUNITY RELATIONS WORKER (NOT A COURT WORKER) WHO WILL WORK BETWEEN INDIANS AND LAW ENFORCEMENT OFFICERS.

FIRST STAGES OF THIS PROJECT WILL ENTAIL A SURVEY WHICH WILL BE CONDUCTED ON THE MEMBERTOU AND ESKASONI INDIAN RESERVES ON NATIVE PEOPLE WHO HAVE TROUBLE WITH THE LAW. (THE SURVEY WILL BE GEARED SO THAT INFORMATION RECEIVED WILL BE USED TO ACCESS COMMUNITY-POLICE RELATIONS AND/OR POSSIBLE RACIAL DISCRIMINATION CHARGES WITH NO PLANS OF TAKING ANY ACTION.) HOWEVER AS A RESULT OF THE SURVEY AND INFORMATION RECEIVED, FACTS WILL BE PUT TOGETHER AND PRESENTED TO LAW ENFORCEMENT AGENCIES, THE NOVA SCOTIA HUMAN RIGHTS COMMISSION, JOHN HOWARD SOCIETY AND TO THE BAND COUNCILS INVOLVED.

THE SECOND STAGE OF THIS PROJECT AND AS A RESULT OF THE FINDINGS PUBLIC EDUCATION SEMINARS WILL BE CONDUCTED WHERE POLICE AND INDIANS WILL BE BROUGHT TOGETHER TO DISCUSS COMMON PROBLEMS AND FUTURE GOALS OF BETTER COOPERATION AND UNDERSTANDING OF THE POLICE WORK AND THE VARIED PROBLEMS OF INDIAN PEOPLE. BY BRINGING THESE PEOPLE TOGETHER, THEY MAY GET BETTER UNDERSTANDING OF LEGAL RIGHTS, COURT PROCEDURES OR OF RESOURCES AVAILABLE SUCH AS LEGAL AID OR THE INDIAN COURT WORKERS PROGRAM AND THE WORKS OF THE HUMAN RIGHTS COMMISSION. IT WILL NOT BE THE PURPOSE OF THIS PROJECT TO PROVIDE LEGAL AID OR A COURT WORKERS SERVICE. IT WILL MAINLY BE PUBLIC EDUCATION WITH ITS AIMS GEARED AT PROVIDING A CLOSER WORKING RELATIONSHIP WITH POLICE OFFICIALS, COURT OFFICIALS AND INDIANS.

.....7

.....4

IT WILL HOPEFULLY BRING POLICE OFFICERS TO UNDERSTAND THE INDIANS AND THEIR PROBLEMS AND AVOID POSSIBLE RACIAL DISCRIMINATION WHICH COULD EXPLODE IF NOT BROUGHT INTO THE OPEN.

IN CONCLUSION, THE OLD SAYING " INDIANS ARE WORTHLESS DRUNKS" COULD EASILY CHANGE AROUND TO THE NON-INDIANS OLD SAYING: "THE REAL SWINGERS."

IT IS OUR ANTICIPATION THAT A CROSS SECTION OF PEOPLE WILL BE INVOLVED DURING THIS RESEARCH. E.G. CITY POLICE, R.C.M.F., INDIAN CONSTABLES, NATIVE WOMEN, URBAN INDIANS, SOCIAL WORKERS, HUMAN RIGHTS OFFICERS, THE OFFENDERS, COURT WORKERS AND OTHERS WHO FEEL THAT THERE IS A PROBLEM.....A PROBLEM THAT CAN BE OVERCOME. WHO KNOWS THE RESULTS FROM THIS PROJECT COULD RESULT IN FUTURE EMPLOYMENT FOR INDIANS WHO CAN BE CAPABLE OF WORKING IN COURTS, THE HIRING OF MORE INDIAN POLICEMEN OR SPECIAL CONSTABLES FOR INDIANS. LONG TERM OBJECTIVES OF THIS PROJECT WILL BE THE APPOINTMENT OF INDIANS TO THE POLICE COMMISSION OR THE APPOINTMENT OF A COMMUNITY WORKER.



NOVA SCOTIA

#68

Department of Social Services

P. O. BOX 696, HALIFAX, N. S.

November 28, 1974

MEMORANDUM

TO: Hon. Allan Sullivan - *minutes of SS*
 Dr. F. R. MacKinnon - *dep "*
 Mr. Gordon Coles - *" "*
 Mr. Gerri Bell
 Mr. Ronald MacDonald
 Mr. J. B. Marshall ✓
 Mr. Bernard Francis
 Mr. Peter Christmas
 Mr. William Greatorex
 Mr. Dave Gourley
 Mr. James L. Crane

RE: Minutes of the Advisory Committee,
Native Courtworker Program

The attached Minutes are of the meeting of the Advisory Committee, Native Courtworker Program, which took place in Halifax on November 18, 1974.

E. B. S. Miller

E. B. S. Miller, *pal pal*
 Prov. Government's
 Liaison Officer,
 Indian Affairs

EBSM/pal
 Attach.

MEDIA POOL COPY



MINUTES OF THE ADVISORY COMMITTEE, NATIVE COURTWORKER PROGRAM,
HELD IN THE BOARD ROOM, ADULT PROBATION SERVICE, 1521 DRESDEN
ROW, HALIFAX, NOVA SCOTIA, ON NOVEMBER 18, 1974, AT 10:00 A.M.

Those present were: Mr. E. B. S. Miller
Mr. Bernard Francis
Mr. Peter Christmas
Mr. J. B. Marshall
Mr. William Greatorex
Mr. James L. Crane

Mr. E. S. B. Miller was nominated and acted as Chairman of the meeting. Mr. Miller expressed reservation accepting the Chairmanship as he felt that a native should possibly act as Chairman. It was unanimous, however, that Mr. Miller accept the Chairmanship.

Mr. Bernard Francis informed representatives of the Committee that Mr. Michael A. Francis, Courtworker for the Micmac, Truro, Pictou and Afton area, with headquarters at Shubenacadie, resigned his position. Mr. Bernard Francis is currently seeking candidates for the position, and it is expected a replacement will be appointed in the very near future. The name of the newly-appointed person will be forwarded to the Committee members at the earliest possible date.

Those presently employed as Courtworkers are:

Mr. Fred Phillips, Cambridge, Hantsport and Wildcat Reserve, with headquarters at Shubenacadie.

Ms. Eva Bernard, Membertou, Eskasoni, Barra Head, with headquarters at Sydney.

Mr. Bernard Francis, Whycomagh, Wagnatkook, with headquarters at Sydney.

It was requested of Mr. Bernard Francis that he submit a financial statement to Mr. James L. Crane within the next week, who, in turn, will forward it to the Department of the Attorney General. The statement was requested in order that arrangements can be made to advance moneys to cover operating expenses incurred by Courtworkers in this endeavour. It was stated by Mr. Francis that no previous financial report was filed because funds have only been made available since October, 1974.

It was decided by the Committee that Mr. James L. Crane and Mr. R. A. MacDonald, Department of the Attorney General, will draft a letter for the signature of the Attorney General, which will be sent to all judges in the Province outlining briefly the nature of the Courtworker Program, the identity of the Courtworkers, their role and the objectives inherent in the program. *

Considerable discussion took place in the area of monitoring the program, and it was generally decided that this question did not refer to the Province of Nova Scotia controlling the program, but the Advisory Committee would request from time to time an evaluation of the program, cost analysis, problem areas encountered, etc., in order that the Advisory Committee would act as a meaningful and effective resource. It was generally agreed that the Committee would receive from time to time a report on the effectiveness of the Native Courtworker Program, need for additional resources; such as, training needs and any concern which may develop in future, which would impede the continued effectiveness of the program. The Advisory Committee made it known that it was quite prepared to assist the Coordinator of the program in every way possible.

In relation to the composition of the Advisory Committee, some concern was expressed that there was no representative from the Federal Government, who, in part, is financing this program. Committee representatives decided that there would be no need for federal representatives but that conditions of the Agreement would be fulfilled by simply providing requested information; such as, financial statements.

The Committee members were informed during the closing stages of the meeting that Mr. Bernard Francis, Coordinator of the Native Courtworker Program, would resign his position in the near future. Members expressed their regret, and were informed by Mr. Francis that a replacement would be made in the near future. Mr. Francis has a candidate in mind and upon finalizing, the name will be forwarded to Committee members.

In closing, Mr. Bernard Francis, provided the Advisory Committee members with the background of the development of the Courtworker Program and its existing role in relation to native peoples and the courts. Representatives felt that this information provided some insight into the program and that sometime in the future, they would like to meet the Courtworkers in person.

With no other matters to be discussed, a further meeting date was set for January 14, 1975, at 10:00 A.M., in the Board Room, Adult Probation Service, 1521 Dresden Row, Halifax. Prior to the next meeting, notice will be sent out to all members by the Chairman.

The meeting adjourned at 11:15 A.M.

Respectfully submitted,

Alice Dempsey
.....
Alice Dempsey
Recorder

APPROVED:

E. B. S. Miller
.....
E. B. S. Miller
Chairman

Ex 69

MEMORANDUM

NOTE DE SERVICE



SECURITY - CLASSIFICATION - DE SECURITE
OUR FILE - N/REFERENCE
YOUR FILE - V/REFERENCE
DATE March 2, 1978

TO
A N.P.S., Sydney

FROM
DE Diahann McConkey
N.P.S., Truro

SUBJECT
OBJET MARSHALL, Donald Jr.
FPS 410491A

Please refer to the writer's Lifer's Project Report dated October 21, 1977 for background information on this case. The situation has changed little since that time. Marshall continues to protest his innocence and has been in contact both with his lawyer and with penitentiary legal services in an attempt to get support for an appeal. From preliminary indications, it would appear that an appeal will not be forthcoming in this case.

On February 28th, 1978, a rather lengthy case conference was held at Springhill Institution involving Marshall, the writer, Marshall's Range Officer, Chuck Stonehouse, and his LUDO, Kim Thompson. The purpose of the case conference was to attempt to pin down the present status of the case and to reach some agreement as to future management of the case. It was decided that once all avenues of appeal are eliminated, the case will be discussed with the Parole Board in order to ascertain if they would, at some future date, be willing to consider a gradual release program possibly leading up to full parole for Marshall even though he persists in maintaining that he is innocent of the murder charge. However, prior to doing so, it was felt that some community input is required. Consequently, the writer agreed to request a Community Assessment from the Sydney area. The proposed Community Assessment would in part be a Post-Sentence one as neither a Post-Sentence Community Assessment nor a Pre-Sentence Report were completed at the time of the offence and would also in part take into consideration the possibility of future T.L.A.'s to the Sydney area.

In conducting the Community Assessment, contact should be made with:

1. Marshall's parents, Mr. & Mrs. Donald Marshall, 38 Mic Mac Street, Sydney, N.S. We would be particularly interested in knowing Mr. & Mrs. Marshall's feelings about the guilt or innocence of their son as well as their present feelings towards him and the possibility of him eventually returning home.
2. Chief Alex Christmas, Membertou Reserve Band Council, 111 Membertou Street, Sydney. Chief Christmas has previously requested that any Community inquiry conducted in this case in the Sydney area include contact with the Band Council.
3. Contact with Marshall's lawyer, C. M. Rosenblum, 197 Charlotte Street, Sydney. Mr. Rosenblum acted for Marshall at his trial and has written a letter to the parole board supporting Marshall for release on parole. However, according to Marshall, Mr. Rosenblum is unwilling to handle an appeal of his case.

MEDIA POOL COPY

N.P.S., Sydney
Page 2
March 2, 1978

4. According to Marshall, a lawyer by the name of Murphy has expressed interest in handling an appeal of his case. Mr. Murphy's address could likely be obtained from Marshall's parents as Marshall's information came through them.
5. Chief MacIntyre of the Sydney Police Department. Chief MacIntyre was the Detective involved in the investigation of the murder offence. According to Marshall, he has always had trouble with Chief MacIntyre and in fact Chief MacIntyre recently expressed strong opposition to the possibility of Marshall returning home for his grandmother's funeral.
6. Contact should also, if possible, be made with Burnie Francis, court worker. Mr. Francis was a court worker at the time of Marshall's trial and to the best of our knowledge still is. Thus he might perhaps be able to shed some light on the subject.

The writer realizes that completion of this Community Assessment may well take quite some time. However, in view of the fact that Marshall is not presently involved in a T.A. program there is no urgency involved. Rather, we are requesting the Community Assessment in order to get as much community input as possible for our assistance in the future management of this case.


Diahann McConkey
Parole Officer

DMcC:ifk

Dictated March 2, 1978 - Typed March 3, 1978

cc N.P.B., Moncton
Springhill Institution - Att: Kim Thompson, Unit 11

0	FPS - SED	NAME - NOM	DATE COMPLETÉ DATE DE COMPLETION
		FAMILY - FAMILLE	DIV - M
05	4 10 4 91 A	MARSHALL, Donald Jr.	0 50 67 3
CASE AND PAROLE FOR A. PREPARE EN ALY DE		NPS OFFICE - BUREAU DE SMLC	DATE OF RECD. DATE DE LA CLASSE
1. NAME - NOM		2. DIVISION - DIVISION	3. CODE - CODE
4. MARSHALL		5. DATE	6. DATE
7. DATE		8. DATE	9. DATE
10. DATE		11. DATE	12. DATE
13. DATE		14. DATE	15. DATE
16. DATE		17. DATE	18. DATE
19. DATE		20. DATE	21. DATE
22. DATE		23. DATE	24. DATE
25. DATE		26. DATE	27. DATE
28. DATE		29. DATE	30. DATE
31. DATE		32. DATE	33. DATE
34. DATE		35. DATE	36. DATE
37. DATE		38. DATE	39. DATE
40. DATE		41. DATE	42. DATE
43. DATE		44. DATE	45. DATE
46. DATE		47. DATE	48. DATE
49. DATE		50. DATE	51. DATE
52. DATE		53. DATE	54. DATE
55. DATE		56. DATE	57. DATE
58. DATE		59. DATE	60. DATE
61. DATE		62. DATE	63. DATE
64. DATE		65. DATE	66. DATE
67. DATE		68. DATE	69. DATE
70. DATE		71. DATE	72. DATE
73. DATE		74. DATE	75. DATE
76. DATE		77. DATE	78. DATE
79. DATE		80. DATE	81. DATE
82. DATE		83. DATE	84. DATE
85. DATE		86. DATE	87. DATE
88. DATE		89. DATE	90. DATE
91. DATE		92. DATE	93. DATE
94. DATE		95. DATE	96. DATE
97. DATE		98. DATE	99. DATE
100. DATE		101. DATE	102. DATE

PLEASE REFER TO INSTRUCTIONS ON BACK - PRIERE DE VOUS REFERER AUX INSTRUCTIONS AU VERSO

CONTACTS:

- Mrs. Donald Marshall - Subject's Mother - Personal Interview
- Chief Alex Christmas - Membertou Band Council - Telephone Interview
- Mr. C. M. Rosenblum - Defense Lawyer - Telephone Interview
- Chief John MacIntyre - Sydney City Police - Personal Interview
- Mr. Dermie Francis - Union of Nova Scotia Indians - Personal Interview

FINDINGS:

Mrs. Donald Marshall was interviewed at her home at 38 Micmac Street on the Membertou Indian Reserve in Sydney, Nova Scotia. Mrs. Marshall is extremely defensive of her family in general and in particular, our subject Donald. Mr. & Mrs. Marshall have 12 children, 8 of which are living at home at this time. The oldest, Pius, is 23 years old and is unemployed. David, 20, is in grade 12 at Sydney Academy, and Josephine, 19, is in the same grade. Terry, age 16, quit school and is now unemployed. John, age 14; Laura, age 13; and Simon, age 11, are all in grade school. A grandchild, Steven, also resides in this home.

This office has had a considerable amount of contact with the Marshall family over the past few years, as Mr. Marshall is Honorary Chief of the Micmac Tribe in the Province of Nova Scotia and is a well-respected individual. One of the Marshall's sons, David Peter, who has mentioned above was recently an inmate at the Cape Breton County Correctional Center and received a Parole to return to high school. The involvement with the Marshall family through David left us with the impression that Mrs. Marshall is an overprotective mother to the point where she will not accept reality and maintains all of her children are innocent of any wrongdoing whatsoever. She becomes high-strung and emotional and will not accept the truth under any circumstances.

At the time of my interview, Mr. Marshall was not at home, but my name and telephone number were left with Mrs. Marshall. The band council elections had taken place just the day before, and there was a great deal of drinking and celebrating on the Reserve the night before. Our subject's brother, Pius, arrived home during my visit suffering from the after effects of the previous night's celebration and quickly helped himself to a couple of pints of beer in the refrigerator. He indicated, at this time, that he had been involved in a brawl the night before but was not sure who he was involved with. Even though Pius himself did not know much of the details about the night before, Mrs. Marshall immediately advised me that somebody must have hit him and provoked him and immediately took Pius home without knowing any more detail than I did.

Needless to say, the Marshalls would be willing to accommodate our subject if he were released under any release program. Our subject seems to have both parents convinced that he is innocent. Although the father did not attempt to return my call, it seems as though he accompanies his wife on various visits to lawyers, police, etc., proclaiming our subject's innocence, and if he does not believe he is innocent himself, he is completely dominated by his wife in this matter.

Chief Alex Christmas could not be reached on the day of my visit as he also was celebrating his re-election to the position of Chief of the Membertou Reserve. He subsequently telephoned me, however, as I had left a message and indicated that there would be positive support and no negative reaction from anyone on the Reserve to MARSHALL'S returning there. He could foresee no problems.

Mr. C. M. Rosenblum who represented MARSHALL during his trial in 1971 was contacted. Mr. Rosenblum was quite cynical in discussing this case and indicated that the mother and father were still trying to appeal the case and that they had set up an appointment with him about two weeks ago and then did not show up. As far as an appeal goes, Mr. Rosenblum stated that there were no grounds whatsoever for appeal, and he had attempted an appeal to the Supreme Court of Nova Scotia, but this was turned down. In Mr. Rosenblum's opinion the case was proven conclusively by the Crown and in this instance there were two eye-witnesses. He states that they may as well have had the incident on videotape. Mr. Rosenblum indicated that there was absolutely nothing that can be done, and he is, quite frankly, sick of hearing Donald MARSHALL'S name mentioned. I see no benefit in continuing any contact with Mr. Rosenblum from our point of view.

Chief John MacIntyre was the investigating detective. He was contacted at his office at the Sydney City Police Department and recalled the incident quite clearly. There is no doubt in his mind whatsoever about the guilt of our subject. The case was proven conclusively in Court with two eye-witnesses and also conclusive evidence from the Identification Section of the Royal Canadian Mounted Police. According to Chief MacIntyre the cuts on our subject were self-inflicted and were not inflicted by either party at the scene of the murder. Chief MacIntyre would be opposed to MARSHALL coming to this area on a three-day Temporary Leave of Absence. He feels that there might still be some reprisals from the black community and recalls that the entire MARSHALL family had to move out of Sydney because of possible reprisals. During my house visit at the Marshall home, Pius recalled that he had to sit in the upstairs window alone with a shotgun while his family resided in M'koccomach.

Mr. Bernie Francis who was a court worker at the time of the murder was contacted. He indicated that at the time he obtained the transcripts of the case but could not get anyone to take an interest in the case, as there was apparently no grounds for appeal. He is convinced that MARSHALL is guilty of the offence.

According to Mr. Francis, who has known our subject from childhood, the mother is a key problem area in this instance. He remembers our subject as a rather bold kid who needed more attention than others in the family. He recalls one instance when our subject was about 12 years old, he damaged a pop machine at the community center on the Reserve in front of about 12 adults. When Mrs. Marshall was advised of subject's actions, she denied that he did this as did our subject and incidents such as this continued and became more serious as time went on. Mr. Francis recalls MARSHALL as being an excellent liar and is able to convince almost anyone of his innocence. He agrees that MARSHALL should not be released from the Institution until he comes to grips with reality and admits to the murder. He sees no point in his returning to the Reserve proclaiming his innocence and making everyone believe that he was an unfortunate victim of the white-man's law. He feels that returning in this manner would do no one any good.

From a security point of view, however, Mr. Francis does not foresee any problems with MARSHALL'S coming to the Reserve. The offence was not committed against anyone on the Reserve and, in fact, was not even committed on the Reserve at all. He does not feel that anyone on the Membertou Reserve would oppose such a release. He does not feel that MARSHALL would harm anyone during a Temporary Leave of Absence.

I would suggest that Mr. Francis was one of the better and more reliable contacts in this community assessment, and he is a well-respected individual both on the Reserve and in the Sydney area, in general.

The lawyer mentioned in the request for a community assessment, Mr. Murphy, could not be contacted as no one seemed to be aware of such a person.

APPRAISAL:

While there appears to be support for MARSHALL in the community and little or no negative reaction to his case on the Membertou Reserve, there still remains the problem of MARSHALL himself denying his guilt and being supported in this by an overprotective mother. Time does not appear to diminish their feelings in this regard, but I would suggest that it is quite important for MARSHALL to open up and discuss the offence before he is considered for Temporary Leaves of Absence or Parole. I feel that as time nears his P.E.R. Date, he will feel some pressure and perhaps begin to speak honestly and openly about the offence. Until he does so, it will be difficult to supervise him on Temporary Leaves of Absence or Parole as he will have the opinion as will his mother that he has done no wrong. If and when MARSHALL comes to grips with the offence in realistic terms, there would appear to be more than adequate support for him in this community.

With regard to MARSHALL'S interest in Atlantic Challenge I would suggest from reviewing the file that he has not been a settled inmate. Unless his attitude and behaviour has recently taken a turn for the better I would not see him as a good candidate for Atlantic Challenge. If he should be considered, however, I would suggest that he take part in the program in an area removed from Cape Breton Island. As stated above, I would suggest that our efforts in this case be more directed towards bringing MARSHALL face to face with the offence for which he is incarcerated and in so doing provide him with the necessary guidance and counselling to help him cope with this.


R. Kevin Lynk
Parole Service Officer


J. Bernard MacNeil
A/District Director

RKL/ds

cc: Regional Secretary - Atl.
Systems Co-ordinator - Ott.
D.D. Truro
Springhill Institution
File

RECEIVED
COMMUNICATIONS
SECTION
JUL 10 1978

JUL - 7 - 7 PM 9 45

BOARD

PROGRESS SUMMARY / RAPPORT RÉCAPITULATIF
SUR L'ÉVOLUTION DU CAS

1. Name - Nom MARSHALL, Donald John, Jr.			2. FPS No. - N° S.E.D. 410491A			3. Inmate No. - N° du détenu 1997			4. Institution - Etablissement Dorchester								
5. Length of sentence Durée de la peine Life			6. Date of admission Date d'admission 72 06 20			7. T.A. exp. date Date d'admissibilité à l'A.T. 75 06 20			8. Parole exp. date Date d'admissibilité à la p.c. 81 06 04			9. M.S. date Date de S.O. N/A			10. W.E. date Date d'expiration du mandat N/A		
Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J		
11. Purpose of report - But du rapport												12. Date completed Date de rédaction 81 10 19					
A. <input type="checkbox"/> Transfer Transfèrement			B. Temporary Absence Absence Temporaire			<input type="checkbox"/> Escorted Sous escorte			<input type="checkbox"/> Rehabilitative Resocialisation			12. Date completed Date de rédaction 81 10 19					
<input type="checkbox"/> Parole L.C.			<input type="checkbox"/> Day De jour			<input checked="" type="checkbox"/> Unescorted Sans escorte			<input type="checkbox"/> Humanitarian Humanitaire								
<input type="checkbox"/> Full Ordinaire			<input type="checkbox"/> Mandatory supervision Surveillance obligatoire			<input type="checkbox"/> Medical Médicale			13. Operational Unit Unité d'opérations Dorchester								
14. Work location - Pay level Endroit de travail - niveau de paye School				15. Date of last C.A. Date de dernière E.C. 80 09 24				16. Med./Psych clearance required Certificat méd./psych. requis <input checked="" type="checkbox"/> No Non <input type="checkbox"/> Yes Oui				17. T.A. experience - A.T. précédente <input type="checkbox"/> No Non <input checked="" type="checkbox"/> ETA Sous escorte <input checked="" type="checkbox"/> Yes Oui <input type="checkbox"/> UTA Sans escorte					
18. Earned Remission during current sentence Réduction méritée de peine au cours de la peine actuelle				19. Institutional Offence Convictions during current sentence Condamnation pour infraction Institutionnelle au cours de la peine actuelle													
Earned remission Réduction de peine méritée <input type="checkbox"/> Full Entière <input checked="" type="checkbox"/> Partial Partielle				None Aucune <input type="checkbox"/> Yes Oui <input type="checkbox"/> 15 Number - Nombre													

20. SUMMARY OF PROGRESS - RÉCAPITULATION DU PROGRÈS ATTEINT

EDUCATIONAL/VOCATIONAL TRAINING - Junior upgraded his education to grade 10 in Dorchester. He has taken Plumbing and Welding trades, and is now working on getting his ticket for Plumbing. He has been in the School for the past 7 weeks, studying the math he will need to write the examination.

EMPLOYMENT - He has worked in several shops over the years, and has received good work reports. Since his most recent admission to Dorchester he has been with Maintenance Plumbing, and his current work placement is at the School.

PERSONAL DEVELOPMENT - During the past 9 years Junior has been preoccupied with his appeal - working for it, trying to get money to pay for it, giving up on it, following up new leads for it. He denies committing the offence and consequently has not put much effort into the area of personal development. Besides being immersed in his appeal, Junior has been a bit too active in institutional life at Springhill. He was a high profile inmate whom other inmates, and staff as well, turned to because of his control over a large part of the population. He was involved in muscling inmates for debts and drugs. He did well and followed case plans for periods of time, but would become frustrated and end up in Dissociation and Segregation. Because of this he will probably never be able to return to Springhill (see Memo dated 81-06-24 for notes on the Case Conference held at Springhill). The realization that he has cut off one (probably the best) avenue of release seems to have made him a lot more serious about working on himself. He has contacted the psychologist and is scheduled for another interview in the near future, and he is finally taking the necessary steps to prepare for his plumbing exam. Unfortunately, his abandonment of hope for his appeal was short-lived. A visitor has been talking about proof that one of the witnesses lied, and Junior is once again hard at work.

FAMILY/COMMUNITY - Junior has maintained contact with his family and friends. They correspond, he phones, and they visit him.

TRANSFER/RELEASE/SUPERVISION - MARSHALL was admitted to Dorchester 72-06-20 and transferred to Springhill 74-11-04. He was granted a day parole to attend the Atlantic Challenge Program in 1979. The first time (August 8 - 18) went well. Ten days after his release the second time (September 14), he was declared Unlawfully At Large. He was returned to Springhill, then transferred to Dorchester (81-02-11), transferred back to Springhill (80-04-22), and once again transferred to Dorchester (80-10-31).

LEISURE - Junior is involved in sports activities and goes to Church. Early in this sentence he was involved with the Native Brotherhood.

CURRENT TEMPORARY ABSENCE PLANS - Junior has applied for an Unescorted T.A. to visit his family for Christmas. He plans to leave the institution at 0900 hours December 23. His family will provide transportation.

INTERIM ASSESSMENT - Junior MARSHALL, 28 years old, is serving a Life sentence for Non-Capital Murder. He has served 10 years. His F.P.S. sheet dates back to 1970, when he was charged with Theft under \$50. He was Unlawfully At Large in 1979. According to his file, he also has a juvenile record.

Junior is certainly a high risk case because of his escape history, but it should be noted that he did it in order to check into his appeal. He still maintains that he is not guilty, and he has renewed hopes of an appeal.

On the positive side, his institutional performance has been very good. He is not suspected of being involved in the sorts of things that led to his downfall at Springhill. He has begun to take an interest in his personal development, and is following a case plan that should lead to a parole to Carlton Centre. A UTA at this time might give an indication of the extent of his commitment.

A Community Assessment is being requested.

M. MacWilliam
M. MacWilliam
C.M.O.I.

Date 81-10-19

J. P. F. [Signature]
A/Case Management Supervisor

Date 20 Oct 1981

/bp

157. MARSHALL, Donald John, Jr. FPS 491A

APPRAISAL - MARSHALL's CMT is supporting his application for a 3 day Unescorted Temporary Absence to visit his family for Christmas for the following reasons:

1. The Community Assessment is reasonably positive. Mr. Alex Christmas, Chief of the Membertou Indian Reservation, has no objections. Junior's mother is looking forward to having him visit and has a place for him to stay.
2. Junior has volunteered to take Antabuse, and has agreed to abide by any restrictions placed on him.
3. His institutional behavior has been very good. He has settled down considerably since his return to Dorchester. He has been preparing to write his journeyman plumber's examination.
4. He is involved in case planning and is making plans for a Day Parole for the near future.
5. He has recently placed his Appeal in the hands of his lawyer and is optimistic because of a new witness.
6. While U.A.L. for 2 days in 1979, he did not commit new offences.

Of course there are concerns with an Unescorted Temporary Absence:

1. Police Chief MacIntyre, who was the investigating officer in MARSHALL's case, is strongly opposed to the visit. His concern is for public safety.
2. Junior escaped while on Day Parole in 1979. According to file material, he claimed at the time that he was on his way home to check into his Appeal. He now admits that he was heading for the United States.
3. Junior has not spent alot of time dealing with his main problem areas, alcohol and violence.

However, his CMT believes that he is in a good frame of mind and will be able to handle an Unescorted Temporary Absence.

19. Recommendation - Recommandation

CMT recommends that the Christmas UTA be granted. The following restrictions are also recommended:
 (1) No use of alcohol or drugs.
 (2) Remain on the Membertou Reserve.
 (3) No contact with witnesses at his trail.

Completed by - Complé par <i>M. MacWilliam</i> M. MacWilliam	Title - Titre CMOI	Date 81-11-16
Offender's signature Signature du délinquant	Date	Case Management Supervisor Surveillant, gestion des cas <i>[Signature]</i>
		Date 11/16

T
♦
PAROLESVC MCTN

PAROLE BRD SYD

NOV 12, 1981.

ATTN: MAUD HODY

RE: MARSHALL, DONALD JOHN JR.

FPS: 410491-A

PRELIMINARY INVESTIGATION REVEALS STRONG REACTION FROM
CHIEF OF POLICE SYDNEY TO A PROPOSED UTA.

CHIEF ALEX CHRISTMAS HAS NO OBJECTION TO SUBJECT VISITING
THE MEMBERTOU RESERVE.

SUBJECTS MOTHER MRS DONALD MARSHALL WOULD LIKE TO HAVE HER
SON VISIT AT XMAS. MRS MARSHALL INDICATES THAT HER SON IS
INNOCENT OF THE CRIME.

ALTHOUGH THE SUBJECT HAS CONFIRMED ACCOMMODATION ON THE
MEMBERTOU RESERVE IN SYDNEY I FEEL CHIEF MACINTYRE'S
CONCERN ABOUT THE SAFETY OF OTHER CITIZENS SHOULD BE
CONSIDERED. CHIEF MACINTYRE HAS BEEN INVOLVED AS AN
INVESTIGATING OFFICER IN THE OFFENCE OF NON CAPITAL MURDER.

ARCHIE L WALSH
PAROLE OFFICER

JOHN D MACDOUGALL
DIST DIRECTOR
CSC SYDNEY NS

♦
PAROLESVC MCTN

PAROLE BRD SYD

MEDIA POOL COPY

PS: 16,202
FPS: 441932A

CONDITIONS OF PAROLE CONDITIONS DE LA LIBERATION CONDITIONNELLE

The parolee shall abide by the conditions of his parole and all instructions which may be given by his supervisor from time to time.

Le libéré conditionnel doit se conformer aux conditions de sa libération et à toutes les directives que peut lui donner à l'occasion son surveillant.

and shall abide by this special condition:
et il doit se conformer à cette condition spéciale:

To abstain from the use of
all intoxicants.

Date: July 7/72
Signature - Parolee/Libéré: Sam Christinas

PAROLE CERTIFICATE
CERTIFICAT DE LIBERATION
CONDITIONNELLE

NATIONAL PAROLE BOARD
COMMISSION NATIONALE DES
LIBERATIONS
CONDITIONNELLES

Parole Act - Loi sur la libération conditionnelle de détenus
S.R.C. 1970 c. P-2

This is to certify that Thomas J. CHRISTINAS
Le présent certificat atteste qu'Thomas J. CHRISTINAS
who was serving a term of imprisonment in Boringhill
qui purgeait une sentence d'emprisonnement à
Boringhill Institution was granted
a libération conditionnelle

on June 28, 1972
provided parole is not suspended, revoked, annulled or terminated,
à condition que cette libération conditionnelle ne soit pas suspendue,
il will expire on October 4, 1973
révoquée, frappée de déchéance ou terminée, elle prendra fin le

Issued on - Délivré le June 28, 1972
Secretary - Secrétaire: George Vincent

INSTRUCTIONS

You must proceed directly to
vous devez vous rendre directement à Sydney, Cape Breton, Nova Scotia
and report to your Parole Supervisor
vous rapporter à votre surveillant Mr. D. F. Smith, Executive Secretary,
The John Howard Society,
100 St. John's St., SYDNEY, Nova Scotia.

Pursuant to the conditions of your parole you must obey these instructions. Failure to do so may result in suspension and revocation of parole.
En conformité avec les conditions de votre libération, ces instructions doivent être suivies. Tout manquement peut amener la suspension et la révocation du certificat.

Mr. J. W. MacLean,
District
Representative - Représentant

Mr. D. F. Smith, J. H. Soc.,
Parole Supervisor - Surveillant

ACKNOWLEDGEMENT - RECONNAISSANCE

I understand that the parole certificate is the property of the National Parole Board and must be delivered on demand of the National Parole Board or of my supervisor. I also understand that I am still serving my term of imprisonment and that parole has been granted to allow me to resume my activities as a citizen at large in the community under supervision.

I fully understand and accept all the conditions (including the conditions printed overleaf), regulations and restrictions governing my release on parole. I will abide by and conform to them strictly. I also understand that if I violate them I may be recommitted.

Je comprends que le certificat de libération conditionnelle appartient à la Commission Nationale des Libérations Conditionnelles et doit être retourné sur demande de la Commission Nationale des Libérations Conditionnelles ou de mon surveillant. Je comprends aussi que je continue de purger ma sentence mais que je suis libéré conditionnellement et sous surveillance afin de ne permettre de poursuivre dans la société mes activités de citoyen.

Je comprends parfaitement et j'accepte toutes les conditions (y compris les conditions imprimées au verso), les règles et les restrictions auxquelles est assujettie ma libération conditionnelle. Je m'y conformerai complètement. Je comprends également que si je ne les respecte pas, je puis être réincarcéré.

Certificate Dated Date du certificat <u>June 28, 1972</u>	Released on - Date libéré <u>July 5, 1972</u>	Paroled Inmate - Libéré <u>Sam Christinas</u>	Witness - Témoin <u>[Signature]</u>	Date <u>July 7/72</u>
---	--	--	--	--------------------------

Report To Police

W. J. [unclear] July 4-72.

Report To Superior

R. J. Smith July 7/72

FPS # 441932A

NAME CHRISTMAS TOM JOSEPH

ADDRESS 27 Maillard St. Membertou

MAY 4, 1954 AGE

RIED
GLE V
ORCED

WEIGHT 134

HEIGHT 5'5

COMPLEXION Dark

RELIGION R.C.

RIONALITY

HAIR Black

EYES Brown

FACE

OCCUPATION Unemp.

CHARGE GOODS

VALUE

DISPOSITION

BOOK NO.

MAGISTRAT

pt. 25, 1970

Sec. 110 C.C.

\$20.00 and costs or 20 days

#55014 J.F. McDonald

v.17, 1970

Sec. 373 C.C. Two Years Probation-Nov. 24th

#55099 R.J. McDonald

c. 11, 1970

Sec. 85 L.C.A.

\$10.00 and costs or 10 days

#11818 R.R. MacIntyre

Feb. 26, 1971

Sec. 160 (a)(1) C.C. \$20.00 and costs or 30 days

#55226 J.F. McDonald

June 5/71 Dec 11/81 100 - Superior Court #55407 (withdrawn)

June 5, 1971

Sec 119-1 C.C.C.C.

2 Years Dorchester Pen *(withdrawn) (Appealing - see below)*

#55553 J.F. MacDonald

Nov. 4, 1972

Sec. 85 L.C.A.

\$10.00 and costs or 10 days

#376 R.R. MacIntyre

Jan. 26, 1973

Sec. 85 L.C.A.

\$10.00 and costs

#597 J.F. McDonald

Jan. 26, 1973

Sec. 85 C.C. - Feb. 19th-3 months County Jail

#56006 J.F. McDonald

April 28, 1973

Sec. 85 L.C.A.

\$10.00 and costs or 10 days

#744 R.R. MacIntyre

May 11, 1973

Sec. 85 L.C.A.

Bail \$15.00

#769

Nov. 18, 1974

Sec. 228 (a) C.C. Dec. 20, 1974 - 3 yrs. Dor. Pen. *(Appealing)*

#56835 J.F. McDonald

Oct. 13, 1974

Sec. 86(a) C.C. (2 chgs.) March 3-County Court-3 mos. on sec. chg. to run conc. to sen. being served by Judge Morrison *(over)*

MEDIA POOL COPY

11 #

April 6, 1976 Sec. 421 C.C. Withdrawn and Sec. 388(1) C.C.
laid - arrested in Fredericton, N.B. -
May 12, 1976 2 Months C.B.C. Centre #57744 J.F.

Oct. 12, 1976 - Assault-Aug. 20th-Eighteen Months C.B.C. Centre
#58120 R.J. McDonald

May 19, 1978 - Sec. 245(1) C.C. June 1st-\$75.00 and costs
i/d #59233 R.J. McDonald

Nov. 18, 1978 - Sec. 3(1) N.C.A. \$100.00 i/d 20 days #1186 O'Connell

July 21, 1983 Sec 3(1)NCA Aug 8'83 \$50.00 i/d 5 days #1455
O'Co-nnell

Oct 9'85 Sec 41(1)FDA Oct 22'85 \$400 i/d 50 days #302
O'Connell

April 18'86 Sec 245. CC May 26'86 \$900 i/d 70 days
2 yrs probation-~~probation~~ #63958 O'Conn.
terms

C.B. Post, Oct. 6, 1971 - pg. 3

#72

Sentenced To Penitentiary

Thomas Joseph Christmas of Membertou was sentenced to two years in Dorchester Penitentiary Tuesday for breaking into a dwelling house with intent to commit indecent assault.

He pleaded guilty to the charge before Provincial Judge John F. MacDonald after his lawyer, Frank Elman, said he wished to re-elect trial in lower court. Christmas had previously elected trial in Supreme Court.

Crown Prosecutor Donald MacNeil, Q.C., offered no evidence on a second charge against the youth.

The second charge, which alleged Christmas obstructed justice by threatening witnesses in a murder case now before the court, was dismissed by the court.

The prosecutor told court that Christmas was on probation when he forced entry into the home of a Membertou woman.

MEDIA POOL COPY

29 Mar 82

Statement of: David F Ratchford
#14
Biggs Ave, 49, 2961 Charlottes
St Sydney N.S. - 539-9502.

974
During the period of Approx
Donna Ebsary began attending
my Marshall Arts Studio here in
Sydney. We became rather good
friends over a period of time. She
had a rather turbulent relationship
with her father. She appeared to
get along with her mother.
I recall that one evening
she told me an amazing story about
her father. She said that at
the time of the Seal murder she
was home when her father and
another guy came home. She stated
that her father had blood on his
shirt and a knife in his belt.
She saw him wash blood off
his hands and he mentioned
stuffing a rag in the back.
Donna hated her father
but still had a strange respect for
him.

MEDIA POOL COPY

I felt that this
should be reported to the police
immediately in Sydney. The
City Police was talked to

Bill Traubart, I believe. He
said that the case was over and
they were not prepared to re-open
the case. I believed this girl and
felt this was most improper. friend
St. Gary Green was ~~attending my classes~~
so I reported it to him. I understood that he
also ran into a blank wall with
the City Police. In the years
following Dozma occasionally brought
it up and found it strange that
the Police were not doing anything.
Dozma, and I discussed the possibility
of her father admitting to me;
that he committed the murder. I
got to know him but he never
admitted it to me.

Off Wheeler
David L. Patch York

Donna Ebsary - 1-617-2449645

- Tiger Crane Kung
Fu Club
P O Box 114
Essex Station, Boston

STATEMENT

Nov 15th 1971 845 PM

Statement of Mrs Mary Patricia Elsary residing at 126 Beaumont St Sydney NSW.

Q Did you have a conversation with anybody in regard to the Sandy Seal Case

A yes I did

Q With whom

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

Q where does he live

A He lives off Leury near the Country Down near a hill

Q where did this conversation take place

A It took place in my car on Kings Rd

Q where on Kings Rd

A at the front of the road by 200th

Q when was this

A on or about 6 weeks ago

Q what took place in the car

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

Q was anybody else present

A yes.

Q who

A my son

MEDIA POOL COPY

Witness Sgt M. J. Hart

Date Nov 15 1971 Time 8:45 PM Signed Mary P. Elsary

CITY OF SYDNEY POLICE DEPT.

STATEMENT

Q Did you see Jimmie before that night?

A quite frequently.

Q Where?

A At my home.

Q What was he doing there?

A Drinking with my husband.

Q Do you remember the night that Seale was stabbed?

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

Q Was Jimmie Bucha present to your knowledge at that time?

A Not after he came about 15 times over a period of a couple of months.

Q How did Jimmie happen to meet you near the warehouse district?

A I sent for him.

Q Why?

A My husband had not been drinking and Jimmie came to my house one day I was getting ready to go out and he told my husband he would return on the weekend and I did not want my husband on the Barge again I sent Jimmie and told him to stay away from my home and it was at this time the conversation about the Seale Boy came up. I don't think Jimmie or my husband would have anything to do with that. I only weigh about 115 lbs.

Witnessed by Sgt. M. J. McHugh

Date 2/15/54 Time 9:20 PM

Signed Mary P. Elsbary

CITY OF SYDNEY POLICE DEPT.

STATEMENT

Q was there any discussion about this affair by Jimmie or your husband?

A No.

Q when Jimmie came with you son to the hotel near your work?

A I was.

Q what time of the day was this?

A about 6.30 P.M.

Mary P. Elsey

RECEIVED
POLICE DEPARTMENT
CITY OF SYDNEY
JUN 15 1957

Witness *[Signature]*

Date JUN 15 1957 Time 9:07 P.M.

Signed

#76



MEDIA POOL COPY

CITY OF SYDNEY POLICE DEPT.

STATEMENT

12-15th 1971 P. 5.5 P.M.

Q Detention of Greg Allan Elbury
age 17 residing at 126 Bearcamp
by law named -

Q Do you know James L. Neil
A yes.

Q where does he live
A off Hardwood hill near The Centenary
A were you ever at his house

Q yes
Q what for
A I had to go up and get him for my mother
Q where did you take him

A to the road you noted
Q what took place there
A my mother and him talked she told him
not to come back any more because
a bit of drinking

Q He goes to your home quite often
A He has not been there for a long while
Q when did you pick him up at his house

A about 2 months ago. I don't remember
Q what was the conversation about in the
Car

A subject said it would be better if
he did not come back any more
Q was there any conversation about a
disturbance at the Park

A no.
Q did you tell James L. Neil if he told
the Police what happened he would have
to go to Court
A I can remember saying that

Witness Ge H A Singh

Date 2-15-72 Time 10.20 PM

MEDIA COPY
Signed Greg A Elbury

CITY OF SYDNEY POLICE DEPT.

STATEMENT

Q was there any talk in the car what Roy done

A I said - there would be trouble. (Court) I meant that Jimmie would go back to the house anyway.

Q Did you see Jimmie when he came to your house the following day after the Seale stopping

A yes

Q Did he talk to your father

A yes.

Q Did he tell him what was dead

A I don't know what they talked about.

Q Did you know your father and Jimmie were attacked that night in Crown St the last night as the Seale stopping

A I found out about a week after

Q who told you

A my mother said they were attacked

Q by whom

A 2 fellows were going to beat them up for cigarettes or something

Q Did you ask your father

A no I never said anything about it

Greg A. Ebsary.

Witness Glenn A. Fayk

Date Nov 15th Time 1:20 PM

Signed _____

Hig
#78
Cos

Education Minister Nicholson says it would be "listen to the risk demand for proof that education we have to offer is the high cost."

Mr. Nicholson said today that this proof can be limited to the sounding finality of nation grading, a fact makes it the more obtain and the more that it be creible evidence.

"One has to hesitate the Legislature for more money for education Nicholson said in an the Sydney Rotary Club.

He said education risen 419 percent since that this year's project is \$142.3 million.

"I have to consider output has expanded rate — or whether we afford to let it do so Rotarians.

Mr. Nicholson said Commission on education public services has pointed to help a system of accountability administrative structure.

He told Rotarians government cannot financial prospect of if "we act as though nothing wrong."

MORE MONEY

"The process of whereby the solution legems and failure is more and more hopes of improvement to all good principles," he said.

The minister said ment cannot control the taxpayers' motivation unless the tax self is satisfied of is obtaining for his.

"Apparently, he filed at present. This be quite so serious Nova Scotia where citizen retains a he for education, but lake warning. I think is happening in other and states of North.

The minister said istation of the education must be changed if be accountable to er.

"We must explore tual, use teacher resources as wisely and try to evaluate mance constantly of our education be made very co to the public ter abilities, and soc sourced by graduate



NICHOLSON SPEAKS—Education and Finance Minister Nicholson was guest speaker Tuesday at the regular luncheon meeting of the Sydney Rotary Club. Shown here are, left to right: John MacNeil, Q.C., Mr. Nicholson, Club President Bruce McDonald and Roland MacIntyre, Q.C. (Abbass Photo)

Criminal Negligence Case Is Nearing End

23 Jun 71

#78

The Crown's case of causing death by criminal negligence against Roderick Joseph MacGillivray, 32, of 5 Cassey's Lane Glace Bay, will go to a Supreme Court jury this morning for verdict.

The Crown and defence completed evidence before Mr. Justice F. M. Bissett yesterday afternoon after summations are scheduled as the trial resumes this morning.

Charge against MacGillivray

was laid by RCMP following a two-car crash at Kyte's Hill on the Sydney-Glace Bay highway the evening of Oct. 30. Helen Rita McNamara, driver of one of the vehicles, was killed in the accident.

Chief witnesses for the Crown were Miss Florence McNamara, sister of the victim and driver of the car in which she was a front seat passenger and Miss Marguerite McNeil, another passenger.

They both testified the second car was travelling on their side of the highway and approached from the opposite direction without its headlights on.

The McNamara car was travelling from Glace Bay towards Sydney about 6:30 p.m.

Miss McNeil, a passenger in the rear seat, said she saw the approaching car just before the impact — "there was the car with no lights on and on our side of the road."

Under cross-examination by defense counsel S. J. Khattar, Q.C., she said she was not able to say where the McNamara car was in relation to the white line "but we were on our right

side of the road." RCMP officers testified it was raining on and off the evening of the accident and the pavement was wet.

Cpl. H. L. Wilson said driving conditions were not good, but when questioned by Mr. Khattar he said he "wouldn't say it was dangerous."

C.M. Rosenblum, Q.C., appeared with Crown Prosecutor Donald MacNeil, Q.C., as special prosecutor.

MacGillivray testified he had no recollection of the accident and the last he could remember was travelling by the bypass highway, about a mile from the accident scene.

He testified he heard many

stories about the accident that people tell him "but I can't say for sure what happened."

Court heard evidence the Glace Bay man went to the Ashby Legion after work at the Rockcliffe development on Welton Street. He was waiting for a garage to complete work on his car.

McGillivray said he had two drinks while at the Legion, the second he did not finish before leaving to go get his car.

He testified he remembered backing his car out of Cape Breton Chrysler and turning onto Welton Street.

Dr. James R. Tomkins of Dominion testified MacGillivray was his patient and he examined him after the accident at St. Joseph's Hospital.

He said the man could have suffered a concussion and could have suffered loss of memory as a result.

Questioned about the man's condition after the accident, particularly about liquor, Dr. Tomkins testified he did not notice any effects — "the thought of liquor never entered my mind."

Convicted Of Causing Damage

Earl Skinner, 22, of 92 Tupper Street, was convicted Tuesday of causing damage at the Chicken Coop Restaurant, scene of an early morning fight last month.

Provincial Judge R. J. MacDonald, Q.C., fined him \$50 and costs and assessed \$65 of the total damage against him.

Union Found

2-Month Term

#79

26
27
28

S.C.C. No. 00580

IN THE SUPREME COURT OF NOVA SCOTIA,
APPEAL DIVISION

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

FILED...
CHARGES...
SEP 14 1982
ENTERED...

AFFIDAVIT

I, Simon J. Khattar, Q.C., Barrister, of 378 Charlotte Street, Sydney, in the County of Cape Breton and Province of Nova Scotia, make oath and say as follows:

1. That I have personal knowledge of the matters herein deposed to, except where otherwise stated.
2. That C.M. Rosenblum, Q.C., and I were retained by Donald Marshall, Jr., the Appellant herein, to act as his counsel with respect to his indictment for the non-capital murder of Sandford William (Sandy) Seale, contrary to S.206(2) [then] of the Criminal Code, said murder having occurred on or about May 28, 1971.
3. That C.M. Rosenblum, Q.C., and I acted as counsel for the said Donald Marshall, Jr., at the trial on the said charge of non-capital murder which took place from November 2 to November 5, 1971.
4. That Maynard v. Chant, John L. Pratico and Patricia Ann Harris were Crown witnesses who testified at the said trial.
5. That I have now been provided by Stephen J. Aronson, present counsel for Donald Marshall, Jr., with copies of the Affidavits of: Maynard v. Chant, sworn to July 14, 1982, produced herewith and marked Exhibit 'X'; John L. Pratico, sworn to July 15, 1982, produced herewith and marked Exhibit 'Y'; and Patricia Ann Harris, sworn to July 22, 1982, produced herewith and marked Exhibit 'Z'.

MEDIA POOL COPY

6. That I have read the Affidavits referred to in Paragraph 5 herein and the Exhibits attached to the said Affidavits.

7. That I was not provided with copies of any of the Statements referred to in the said Affidavits, purportedly taken by the Sydney City Police prior to the said trial in November, 1971, nor was I, at the time of the said trial aware of the Statements.

8. That the Affidavit of Maynard V. Chant, referred to as Exhibit 'X', indicates that the said Maynard V. Chant did not in fact witness the murder of Sandy Seale by Donald Marshall, Jr. or any other person on May 28, 1971.

9. That the Affidavit of John L. Pratico, referred to as Exhibit 'Y', indicates that the said John L. Pratico did not in fact witness the murder of Sandy Seale by Donald Marshall, Jr. or any other person on May 28, 1971.

10. That the Affidavit of Patricia Ann Harriss referred to as Exhibit 'Z', indicates, inter alia, that the said Patricia Ann Harriss saw Donald Marshall, Jr. and two other men, neither of whom was Sandy Seale, on the night of May 28, 1971.

11. 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 adduced at trial, then the jury might reasonably have been induced to change its views regarding the guilt of Donald Marshall, Jr.

SWORN TO at Sydney, in the County)
of Cape Breton and Province of)
Nova Scotia, this 9th day of)
August, A.D., 1982, before me,)

Leo A. MacPhee)
A Barrister of the Supreme Court)
of Nova Scotia)
Leo A. MacPhee)

Simon J. Khattar)
SIMON J. KHATTAR, Q.C.)

26.
27.
28.
29.
30.

#80

WITNESSES

CANADA,
PROVINCE OF NOVA SCOTIA,
COUNTY OF CAPE BRETON

IN THE SUPREME COURT
CROWN SIDE

HER MAJESTY THE QUEEN
against

DONALD MARSHALL, JR.

- clif* Dr. Mahomad Naqvi •
- clif* Dr. David Gaum •
- clif* John Carl MacDonald •
- Roy Gould •
- Donald Marshall, Sr. •
- clif* Sgt. Michael R. MacDonald •
- clif* Patricia Ann Harris •
- clif* Terrance Patrick Gushue •
- clif* Maynard Vincent Chant •
- clif* John Lawrence Pratico •
- clif* Robert S. MacKay •
- Brian Doucette
- Leo Curry •
- Pearl McMillan, R.T. •
- clif* Dr. Mohan S. Virick •
- Mrs. Merle Faye Davis, R.N. •
- Adolphus James Evers •
- Sandra Catherine Mrazek •
- Cst. John Mallowney
- clif* Det.-Sgt. John F. McIntyre
- M. D. Mattson •

THE BILL

William B. Johnson
Foreman of Grand Jury
Criminal Sitings,
November 1971

MEDIA POOL COPY

EAH-81

16 Nov 87

Daniel Pink
(Lou Matthews)

Halifax, March 23, 1961.

CC "H" Division, R. C. M. P., Halifax.

Re: H T S (B: - -33)
Louisdale, N. S. - et al -
Conspiracy to Commit Fraud (408-1-d C.C.)
Louisdale, Richmond County, N.S.
(ST. PETERS ATTACHMENT CASE)

This will acknowledge receipt of your letter of March 20th. As a number of cases have arisen recently where requests have been made for release of information received as the result of Police inquiries, I believe that it is desirable to outline briefly the general views of the Department on this question.

Co-operation between the Police, the Department and practising Solicitors has always been at a very high level in this Province and needless to say we have every desire that this should continue. Additionally, the Crown has an obligation to assist the Courts in the administration of justice not only in criminal but also in civil cases.

The problem is limited, I think, to statements given to the Police either by a person accused of a crime or by persons having information which may be material to a particular inquiry. These statements can only be used in judicial proceedings in very limited circumstances. In the case of parties to a civil action or the accused in criminal proceedings, statements may be used as admissions of liability or of guilt and, therefore, can be produced as such. Where a person who is not a party to proceedings has given a statement, it can only be used where he gives evidence to the contrary, to show that he has stated something different on a previous occasion. This can be very material, of course, on the issue of credibility.

No sufficient reason of privilege or otherwise can be put forward for refusing the production of any statement in a Court which may be material in determining the issue before the tribunal. Whether any document or statement is material must generally be determined by the courts as arbiter between individual litigants or the Crown and the subject. Even assuming that it

MEDIA POOL COPY

March 23, 1961.

were desirable to withhold information at the complete discretion of the Crown, it is doubtful whether any privilege exists in the Crown to prevent the production of evidence in view of the decision of the Supreme Court of Canada in the case of Regina v. Snider (1954) 4 D.L.R. 483. As pointed out by Rand, J. the privilege against disclosure requires as its essential condition that there be a public interest recognized as overriding the general principle that in a court of justice every person and every fact must be available to the execution of its supreme function. In view of this decision, it is very doubtful whether privilege extends beyond matters affecting a very limited field of government activity such as national defence. While these general observations are particularly applicable to civil actions they also apply in the case of criminal proceedings.

Where a subpoena is received in a civil action by a member of your force, there is no alternative but to comply with the order of the Court. While an order to appear may require the production of reports, I do not believe that any difficulty will be experienced if original statements are kept separate from the reports. The member producing the evidence can explain to the Court that the report only contains, in addition to copies of statements, the observations of the witness as to his own investigation. The report is inadmissible not by reason of any privilege which may be claimed but because it is not a document which a Court will generally accept as evidence of matters therein contained.

In criminal proceedings additional considerations apply because the Crown is a party and accordingly has a greater duty to see that justice is done. In some jurisdictions such as Ontario and in England, it is the practice in many courts for the Crown to make copies of all statements made by witnesses to the Police available to defense counsel. While the courts have not gone so far as to order the Crown to produce statements before trial, I do not think there is any doubt that the Courts have the authority to do so after the arraignment of the accused. While Section 512 has reference to statements obtained under Section 454 (2), it does not refer to statements which have not been produced by the Crown. While the Courts have not ordered the production of documents before trial, they have left little doubt as to what the duty of the Crown is in the exercise of its discretion in this matter or what the consequences will be if the failure to produce leads to a miscarriage of justice.

The duty of the Crown is thus set forth by Richards, C.J., in Regina v. Cunningham 15 C.R. 167 at page 175:

" As a measure of fairness and justice the Crown ought to furnish to the accused in some form the names of the witnesses intended to be called in chief in support of the Crown's case. As a general rule this information is sufficiently given by the

depositions taken on the preliminary hearing. Any witness there examined should be made available to the defence if the Crown does not intend to call him unless his evidence is unquestionably immaterial. And the name of any additional witness not examined at the preliminary inquiry which the Crown proposes to call in chief ought, as a matter of fairness at a reasonably early period, at any rate if asked for, to be made known to the accused. But there is no law laying down any definite rule in this matter, which must be left to the presiding judge to deal with in such a way as to give all necessary protection to the accused and to give him a fair opportunity to defend himself against the charge."

In his book The Road to Justice, Sir Alfred Denning, L.J., states at page 41:

"The duty of counsel to see that justice is done is, however, best shown by what is expected of prosecuting counsel. If he knows of a credible witness who can speak of facts which go to show the prisoner's innocence, he must himself call that witness. Moreover, if he knows of a material witness who can speak of relevant matters, but whose credibility is in doubt, then although he need not call him himself, he must tell the prisoner's counsel about him so that he can call him."

In Baksh v. The Queen (1959) A.C. 167 the Privy Council ordered a new trial where the Crown failed to give defence counsel statements of witnesses which varied from oral testimony. To the same effect is the decision in Mahadeo vs. R. (1936) 2 A.E.R. 813. From these authorities, it is clear that the Crown must either introduce evidence which is material to the charge whether for or against the Crown or else make the same available to the defence.

Different considerations apply in the case of a statement made by the accused. If the Crown does not consider it desirable to introduce such a statement in evidence, then it may be withheld for the purposes of cross-examination, although even in this case there may be instances where a copy should be given to the defence. Generally, no miscarriage of justice can occur in these circumstances as the accused is in the best position to know the truth so far as his own actions are concerned and accordingly should have nothing to fear from any previous statement which he may have given to the Police.

It is clearly a matter for the Crown to decide, guided by these principles, as to what action should be taken in each particular case. No general proposition prohibiting the production of statements can therefore be safely relied upon in all

March 23, 1961.

cases. This is entirely a matter for the Prosecuting Officers to determine, subject to the instructions of the Attorney General, and they should be guided by their advice in each particular case where criminal proceedings have been instituted.

In the present case, the matter should again be referred to the Prosecuting Officer for Richmond County for his instructions.

Malachi C. Jones,
Senior Solicitor.

MEJ:AJN

See also: 1955 Criminal Law Review 700;

Regina vs. Silvester & Tracy 31 C.R. 190;

Regina vs. Finland 31 C.R. 364;

R. vs. Summers 2 Criminal Law Quarterly 452;

1953 C.B.R. 509.

(1959) 31 CR 364
125 C.C. 186
31 CR 190