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ROYAL COMMISSION ON THE  
DONALD MARSHALL, JR., PROSECUTION

VOLUME II

- Held: September 10, 1987
- At: St. Andrew's Church Hall  
Bentinck Street  
Sydney, Nova Scotia
- Before: Chief Justice R. A. Hickman, Chairman  
Assoc. Chief Justice L. A. Poitras, Commissioner  
Hon. G. T. Evans, Commissioner
- Counsel: George MacDonald, Q.C., Wylie Spicer, & David Orsborn:  
Commission Counsel
- Clayton Ruby, Ms. Marlys Edwardh, & Ms. Anne S. Derrick:  
Counsel for Donald Marshall, Jr.
- Michael G. Whalley, Q.C.: Counsel for City of Sydney
- Ronald N. Pugsley, Q.C.: Counsel for John F. MacIntyre
- Donald C. Murray: Counsel for William Urquhart
- Frank L. Elman, Q.C., & David G. Barrett:  
Counsel for the Donald MacNeil estate
- Jamie W. S. Saunders, & Darrel I. Pink:  
Counsel for Attorney General
- James D. Bissell: Counsel for the R.C.M.P.
- Al Pringle: Counsel for Correctional Services Canada
- William L. Ryan: Counsel for Evers, Green and McAlpine
- Charles Broderick: Counsel for Carroll
- S. Bruce Outhouse: Counsel for Wheaton & Scott
- Guy LaFosse: Counsel for Davies
- Bruce H. Wildsmith: Counsel for Union of N. S. Indians  
Assisted by Daniel Christmas
- E. Anthony Ross, & Kevin Drolet: Counsel for Oscar N. Seale
- E. Anthony Ross, & Jeremy Gay: Counsel for Black United Front

Court Reporters: J. Graham Robson, & Judith M. Robson, OCR, RPR

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INQUIRY RECONVENED AT 10:00 o'clock in the forenoon on Thursday, the 10th day of September, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia

1

2 MR. CHAIRMAN:

3 Before we commence this morning's proceedings, it's been indicated  
4 to the Commission that it may be more convenient and efficient if  
5 we sat from nine-thirty with the same lunch break and rose each day  
6 at four-thirty and with the exception of Fridays when we will sit  
7 from eight until eleven-thirty in the morning, that wwill be the  
8 scheduled sitting in the future -- unless something else comes up.

9 Now Mr. Ruby.

10 MR. RUBY:

11 Thank you, My Lord.

12 MR. ROY NEWMAN EBSARY, resumes testimony, as follows:13 BY MR. RUBY:

14 Q. Mr. Ebsary, I'm told that when one enlists in the Royal Navy  
15 one gets a service number. Is that correct?

16 A. What's that?

17 Q. I'm told that when one enlists in the Royal Navy, one is  
18 assigned a service number.

19 A. That's right.

20 Q. What is your service number, sir?

21 A. PJX 247943.

22 Q. PJX?

23 A. Right. 247943.

24 Q. Thank you, sir.

25 A. Now call me a bloody liar.

R. N. EBSARY, by Mr. Ruby

1 Q. Now one of the things that you suggested in your evidence is  
2 that first Mr. Seale, after you swiped at him, runs off  
3 around the corner.

4 A. Right.

5 Q. And that's the last you see of him?

6 A. Right.

7 Q. And Mr. Marshall runs off in the same direction --

8 A. In the same direction.

9 Q. -- and that's the last you see of him.

10 A. That's right.

11 Q. The body of Mr. Seale, however, according to police reports,  
12 was found approximately here in front of the house of Mrs.  
13 Doucette.

14 A. Well, he must have been brought there because he ran around  
15 that bloody corner the length of Crescent Street. Right.  
16 Hey, I'll show you something. You told me yesterday that I  
17 was hallucinating, right. There's the medication I'm taking.  
18 You find out what's causing the hallucinations.

19 BY MR. CHAIRMAN:

20 Q. Mr. Ebsary, I must draw your attention. You -- as I said  
21 yesterday, you're obliged to answer the questions. This is  
22 not a forum for argument at this time.

23 A. Well is he entitled to call me a --

24 Q. No.

25 A. -- bloody liar every time I open my mouth?

R. N. EBSARY, by Mr. Ruby

1 Q. I didn't hear Mr. Ruby call you a bloody liar this morning.

2 A. Well --

3 Q. Now, please listen.

4 A. All right.

5 Q. Mr. Ruby will put questions to you and you will answer them.

6 If they aren't relevant, the questions will be disallowed.

7 A. Good.

8 Q. The question that was just put to you then concerned the

9 location or the alleged location of Mr. Seale after he had

10 been found in an injured condition according to the police

11 report.

12 A. Right.

13 Q. And you were asked to respond to that question. Your response

14 was to refer to some medications that you're taking which is

15 not the answer to the question.

16 A. Because he alluded yesterday that I was hallucinating.

17 Q. But that's not the questions before you this morning.

18 Now will you please answer the question, if you can, that

19 was just put to you by Mr. Ruby? What is your response to

20 the police report?

21 A. Well, if young Seale ran the length of Crescent Street, how  
22 could his body be found on the other end of Crescent Street?

23 Now that don't make sense, does it, sir?

24 Q. Anyway I take it your answer is that from what you saw, he

25 went around the corner on Crescent Street?

R. N. EBSARY, by Mr. Ruby

1 A. Yes, sir.

2 Q. All right.

3 BY MR. RUBY:

4 Q. The next area I want to ask you about is what you showed us  
5 about how Mr. Marshall was strangling Mr. MacNeil. I  
6 remember when Commission Counsel showed it and you showed it,  
7 you showed one hand grasping the other, the wrist, like this.

8 A. Yes.

9 Q. And he had him from behind, I gather?

10 A. Right.

11 Q. Now if that's the case, and his -- holding him tight by the  
12 neck, I take it?

13 A. Yeh, that's right.

14 Q. Pulling back?

15 A. Right. Well, he was strangling him. How do you strangle a  
16 person?

17 Q. All right. This is correct, is it not, the way I'm showing  
18 it?

19 A. Yes.

20 Q. All right. How is it that you managed to strike Mr. Marshall  
21 -- Well, let me put it differently. What part of the arm  
22 did you strike Mr. Marshall?

23 A. On the forearm.

24 Q. What part of the forearm? Would you show me on your forearm?

25 A. From here down.

R. N. EBSARY, by Mr. Ruby

- 1 Q. You're talking about the top side of the forearm?
- 2 A. Right. Here.
- 3 Q. The inside or the top side?
- 4 A. This side.
- 5 Q. Now you're showing the inside. Which was it?
- 6 A. Now listen, he had his back to me and it was dark, right, and
- 7 I'm trying to get his arm off the other guys throat. So I
- 8 struck him on the arm.
- 9 Q. Do you know which side of the arm you struck him?
- 10 A. Well if he had his arms around the other fellow's neck, it
- 11 had to be either here or here, didn't it?
- 12 Q. That's right, and if it was on the inside, well, it's
- 13 impossible, isn't it?
- 14 A. Well, I don't know. I didn't see it.
- 15 Q. You were there, sir.
- 16 A. What?
- 17 Q. You did see it.
- 18 A. Well, when he went to the hospital, they told him it was a
- 19 superficial wound, and that he had inflicted it himself.
- 20 Q. Thank you. Now, as I understand your evidence yesterday,
- 21 you said that there was no conversations with Mr. Marshall
- 22 and Mr. Seale prior to the attack. Is that correct?
- 23 A. Not to my knowledge, no.
- 24 Q. All right.
- 25 A. Any more than Marshall was boasting what he would do to us

1 if we didn't dig out.

2 Q. And you've been asked twice now what that would be, what he  
3 said he would do and you've been unable to answer. Can you  
4 try it again?

5 A. I told you Marshall was -- the only thing that Marshall said  
6 to us was: "Dig out, and if you don't dig out, look at this."  
7 Right. In other words, he's going to put a beating on us.

8 Q. All right. The words were: "Dig out, and if you don't dig  
9 out, look at this.", waiving his muscles in the air.

10 A. That's right. Look what I got here.

11 Q. Now I suggest to you that that is the very first time in  
12 your life you've ever told that to anyone. Is that true?

13 A. Now I'm going to tell you you're a god damn liar because I've  
14 told that to everyone that I've spoke to.

15 Q. You told Carroll?

16 A: Yes, I told it to Carroll, too.

17 Q. Told it to Ratchford?

18 A. Yes.

19 Q. And told it to Sergeant MacIntyre in 1971.

20 A. I did -- Well, I saw Sergeant MacIntyre at that time or the  
21 time you state --

22 Q. Once again, sir, did you or did you not?

23 A. What?

24 Q. Tell Sergeant MacIntyre in 1971?

25 A. How the hell do I know?



R. N. EBSARY, by Mr. Ruby

1 Q. You're not sure?

2 A. No.

3 Q. All right. Now if there was no other conversation, can you  
4 assist me in understanding how it is --

5 A. Oh, yes, I was. Yeh, I remember correctly.

6 Q. Oh, there was more conversation.

7 A. Yes.

8 Q. What was it about?

9 A. I invited the boys to come up to the house because I was going  
10 to have a barbecue.

11 Q. You invited them to come to the house because you were going  
12 to have a barbecue?

13 A. Right.

14 Q. How did that arise, that exchange?

15 A. Well, I don't know.

16 Q. You must have had some talk before that. You wouldn't meet  
17 strangers and say, "Come on over to the house and have a  
18 barbecue."?

19 A. Why not? I often did.

20 Q. No, but you would have had to have some kind of small talk  
21 before that.

22 A. Well if there was, I don't remember what it was.

23 Q. You agree with me, though, that it's likely you had some  
24 talk before the invitation.

25 A. Well, if there was, there was damn little.

1 Q. But you would have had to decide they were nice boys before  
2 you'd invite them into your home.

3 A. Right. I thought they were nice boys.

4 Q. So you would have to have talked to them somewhat.

5 A. Well, for a moment or two, maybe, I don't know.

6 Q. You're not sure how long that conversation went on, are you?

7 A. No.

8 Q. All right.

9 A. But not too bloody long, I can assure you.

10 Q. Because Marshall, (I think you'll agree from what you've  
11 read about this case and heard about it.) he knows in rough  
12 measure the direction of your home and tells that to the  
13 police that day.

14 A. Yes. My home is only a few steps from where this accident  
15 happened.

16 Q. That's right, and you told Marshall -- you pointed to the home  
17 and told him where it was.

18 A. Exactly.

19 Q. Of course you did.

20 A. Exactly.

21 Q. You also must have told him that you were a priest because  
22 he said, the two men -- one of the two men told him that  
23 they were priests and he told that to the police when they  
24 questioned him.

25 A. That's a -- Now that's a damn lie because I never told anyone

R. N. EBSARY, by Mr. Ruby

- 1 down there that I was a priest.
- 2 Q. But, Reverend, I mean you call yourself Reverend.
- 3 A. Why not?
- 4 Q. So he would have known that.
- 5 A. How?
- 6 Q. He would have heard you refer to yourself as Reverend.
- 7 A. Ha! He said I was dressed like a priest but I wasn't. I
- 8 only had a blue Burberry coat on.
- 9 Q. True, but you wore it like a priest's cape, you've told a
- 10 number of people.
- 11 A. I always wore my coat over my bloody shoulders. I never
- 12 put my arms out through the sleeves.
- 13 Q. The way a priest wears a cape, correct?
- 14 A. Listen, my friend, have you ever seen a Spaniard walk the
- 15 streets? He wears his coat over his bloody shoulders. He
- 16 never puts it on.
- 17 Q. Let me come back to the Reverend issue. You habitually
- 18 refer to yourself as being a Reverend -- I call it a priest,
- 19 but a minister. Correct?
- 20 A. Right.
- 21 Q. If Marshall knew the next day that you were a priest, it's
- 22 likely that information came from you referring to yourself
- 23 as being a minister.
- 24 A. Well, it didn't come from me, I can assure you.
- 25 Q. All right, so you're certain that whatever the conversation

R. N. EBSARY, by Mr. Ruby

1 was, it didn't include that fact.

2 A. No, it did not.

3 Q. All right. Can you assist me then in how it was that Marshall  
4 would have known that fact?

5 A. No, I can't. I'm sorry. Well, I know you do need assistance.

6 Q. Yesterday, you told us that MacNeil had testified for the  
7 Crown because he was an accessory and had he not done that,  
8 he would have been in difficulty. I'm paraphrasing what  
9 you said.

10 A. Yeh, that's right.

11 Q. Correct?

12 A. Right.

13 Q. Explain to me again how MacNeil was an accessory. I didn't  
14 understand it.

15 A. I said suppose, for instance, that I had seriously injured  
16 young Seale, right, the fact that MacNeil was with me would  
17 have made him an accessory before or after the fact.

18 Q. Why is that?

19 A. Well, I heard the same bloody thing over the radio last night  
20 about people who were accused of being accessories before and  
21 after the fact.

22 Q. Did MacNeil do anything to harm Seale?

23 A. Who?

24 Q. MacNeil.

25 A. No.

1 Q. Did MacNeil do anything to encourage you to harm Seale?

2 A. No.

3 Q. Did MacNeil in any way shelter you after the fact?

4 A. No.

5 Q. Hide you?

6 A. No.

7 Q. How does he get to be an accessory?

8 A. Because he was with me.

9 Q. That's enough.

10 A. Right. That's enough to hang anybody. The mere fact because  
11 he was with me, he would have been accused of being an  
12 accomplice before and after the fact. Otherwise I'm all  
13 balled up.

14 Q. Thank you, sir.

15 A. Thank you for being so gracious. I didn't think you had it in  
16 you to say thank you.

17 Q. Did you buy a new car for Donna Ebsary just before the Seale  
18 killing?

19 A. No. I bought one for my son, though.

20 Q. Ah. And that was just before the Seale killing?

21 A. Well, I don't know if it was before or after.

22 Q. Around that time?

23 A. Yes, right.

24 Q. All right, and MacNeil was driving that car?

25 A. Well, not to my knowledge unless the wife let him drive it.

1 Q. You wouldn't have let him drive it.

2 A. I didn't know anything about it.

3 Q. What was your relationship with MacNeil?

4 A. What was my relationship with MacNeil?

5 Q. Yes, sir.

6 A. It was only a very friendly relationship.

7 Q. How close were you, you and young MacNeil?

8 A. Well, we weren't homosexuals, if that's what you're driving at.

9 Q. No. How close were you? How often did you see him?

10 A. I saw him -- I saw MacNeil about three times.

11 Q. That's all.

12 A. That's all.

13 Q. So he was a very casual acquaintance.

14 A. Yes, very casual.

15 Q. How many times was he at your house?

16 A. Possibly twice.

17 Q. How long? Five minutes, ten minutes, hours?

18 A. Well, he wanted to come down to our house because he said he  
19 could study better in our living room than he could in the  
20 shack he was living in.

21 Q. And how well did you know MacNeil, Senior?

22 A. I met him at a tavern twice.

23 Q. And that's it?

24 A. Yes, that's it.

25 Q. Okay. Where did you get the money to buy the car for Greg

R. N. EBSARY, by Mr. Ruby

1 Ebsary?

2 A. My government cheques.

3 Q. Okay.

4 A. From the Navy and an allowance that the Canadian Government  
5 allows me when I retired.

6 Q. All right. Let me take you to after the killing of Mr. Seale.  
7 You were together with Mr. MacNeil.

8 A. Right.

9 Q. The two of you have just had a very trying time, difficult  
10 time.

11 A. Yes.

12 Q. You two are the only ones in the world who know about it that  
13 were around.

14 A. Right.

15 Q. Surely you discussed it on the way home. You talked about it,  
16 what had happened.

17 A. We didn't.

18 Q. Not a word?

19 A. No.

20 Q. What did you talk about on the way home?

21 A. As far as I know we didn't talk about any bloody thing.

22 Q. Not a word?

23 A. No.

24 Q. All right. It wouldn't be the case that MacNeil when you did  
25 talk about it, it would be at the house -- When you did talk

R. N. EBSARY, by Mr. Ruby

1 about it, that would be at the house, I gather, the first  
2 time you discussed it.

3 A. It wasn't even discussed when we got at the house.

4 Q. You refused to discuss it.

5 A. The only -- the only things I told him was to shut up when  
6 he said I saved his life.

7 Q. Okay. Now had MacNeil known Marshall before, to your  
8 knowledge?

9 A. I wouldn't know.

10 Q. You have no idea?

11 A. No.

12 Q. Had you ever heard that Marshall had committed an act of  
13 violence on Mr. MacNeil?

14 A. Not -- No, not that I know of.

15 Q. You never heard his story?

16 A. No. Oh, yes, I did. MacNeil said that Marshall had beat him  
17 up one time going up George's Street.

18 Q. George or Georgia?

19 A. George. Up on George. You know where George Street is here  
20 in Sydney.

21 Q. Did MacNeil say when this took place?

22 A. No, he didn't really.

23 Q. When did you find out about this?

24 A. Who?

25 Q. That MacNeil had been beaten up by Marshall previously?



R. N. EBSARY, by Mr. Ruby

1 A. Because when he left me to go home that night, do you remember  
2 I told you, eh, he was afraid to go out across Argyle Street  
3 because the same two might attack him when he went across the  
4 Street. Did I say that or didn't I?

5 Q. Yes, you did.

6 A. Thank you. Now then it was at that time that he told me that  
7 he had been beaten up, eh.

8 Q. By Marshall before.

9 A. Right.

10 Q. So he knew Marshall?

11 A. Yes. Well, it stands to reason that he knew Marshall. He  
12 was able to identify Marshall. That's more than I could do,  
13 when it's the first bloody time I ever seen Marshall.

14 Q. So at that time you knew who Marshall was?

15 A. Who?

16 Q. You knew who Marshall was.

17 A. Listen, my friend, you can know a person for bloody years  
18 and still not know him. We're not that bloody clever.

19 Q. At that time you knew Marshall's name.

20 A. For instance, I've only met you once or twice. I don't know  
21 you and as a matter of fact, I wouldn't want to.

22 Q. Let me come back to my question which I want an answer for.  
23 At that time, you knew Marshall's name.

24 A. Who?

25 Q. At that time when MacNeil told you about Marshall and the

R. N. EBSARY, by Mr. Ruby

1 previous incident, you knew Marshall's name at that time.

2 A. Yes. Yeh, but this was after the accident.

3 Q. Is it true that you knew Marshall's name at that time?

4 A. After the accident, not before.

5 Q. All right.

6 A. Because I never saw the sky over Marshall.

7 Q. Where's Hardwood Hill?

8 A. Hardwood Hill. If you go along George's Street and continue  
9 along George's Street. George's Street goes up over the hill  
10 and they call it Hardwood Hill.

11 Q. Thank you. Now let me come back to the actual incident itself  
12 for a moment again. Tell me if I've got it correct: Seale  
13 confronts you.

14 A. What's that?

15 Q. Seale confronts you. Seale's in front of you just before he's  
16 swiped at, correct?

17 A. Yes, right.

18 Q. After the swipe, you look over and see MacNeil.

19 A. I didn't have to look over. I could hear his screams.

20 Q. All right, did you look over and see him?

21 A. I couldn't see him. It was too bloody dark.

22 Q. So all you could hear was the screams.

23 A. That's right.

24 Q. And then what did you do?

25 A. I went out after the young Seale left me and ran down around

1 Crescent Street and ran around the corner. I crossed the street  
2 to see what I could do to help MacNeil.

3 Q. Now if MacNeil was being strangled, you would expect, I take  
4 it, that he would know that.

5 A. Who would know it?

6 Q. MacNeil.

7 A. Yes, naturally.

8 Q. You heard him testify in your trials.

9 A. Right.

10 Q. And you'll agree with me he says that "I was not being  
11 strangled."

12 A. But he's a bloody liar.

13 Q. That's the answer?

14 A. Yes, that's the answer and that's the truth.

15 Q. All right. Let me come to the discussions you -- Excuse me  
16 just a moment, if you may.

17 A. There are times when you can be very polite.

18 Q. You've told us today that the conversation with MacNeil where  
19 MacNeil told you that he'd been beaten before took place after  
20 the Seale killing.

21 A. That's right.

22 Q. If you'll turn with me, and I'll get your copy of it, to what  
23 I have of the statement that you gave on the 23rd of  
24 February, 1982 to Corporal Carroll. Perhaps I'll show you  
25 my copy. What you say there -- I'll read it with you:

R. N. EBSARY, by Mr. Ruby

1 I've got it in the blue volume two -- Volume 19, page 138.  
2 It's a one-page statement, this one. The early one to  
3 Carroll. Let's try Volume 11, page 3. We can't go wrong.  
4 Now if you'll turn with me to that page, about one-third of  
5 the way down, you'll see the long answer there. In the  
6 middle of that answer you say: "Marshall was giving him  
7 a hard time. He had a reputation for that. All Sydney knows  
8 that." Carry on with me. "MacNeil told me before this  
9 happened.." Not after. "..before this happened, Marshall  
10 had robbed him before, beaten him up on Hardwood Hill."

11 A. Well, possibly -- Possibly he did.

12 Q. Well, do you remember whether or not he told you about this  
13 incident on Hardwood Hill before the incident with Seale or  
14 afterwards?

15 A. Well I don't remember exactly but I thought it was after.

16 MR. CHAIRMAN:

17 The interpretation put on there is certainly open to two inter-  
18 pretations.

19 BY MR. RUBY:

20 Q. Let's find out what your interpretation of this is. What  
21 do you take these words to mean as to when the location --  
22 when the conversation took place? Take a look at them  
23 again.

24 A. It says: "Marshall was giving him a hard time. He has a  
25 reputation -- He had a reputation for that." Well, Marshall

R. N. EBSARY, by Mr. Ruby

- 1 |       did have a reputation.
- 2 | Q. Right, the next line.
- 3 | A. He was robbing the -- He was robbing the Canadian National
- 4 |       Railway and the whole bloody works.
- 5 | Q. He was, was he?
- 6 | A. Naturally.
- 7 | Q. "MacNeil told me.." and then tell me when this refers to,
- 8 |       before or after.
- 9 | A. Well it doesn't say here, does it?
- 10 | Q. "MacNeil told me before this happened Marshall had robbed him
- 11 |       before, beaten him up on Hardwood Hill." What's your
- 12 |       interpretation as to when that refers to?
- 13 | A. Unless he told it to me after we left his father's house
- 14 |       on the way to the State Tavern. I don't know, really. I
- 15 |       can't say.
- 16 | Q. Okay. Do you agree with me that this language says and means
- 17 |       that he told you before the incident? Do you agree with that
- 18 |       or not agree with that?
- 19 | A. Well, if I don't know, I'm not going to agree with it.
- 20 | Q. Okay. You can't interpret this language?
- 21 | A. No.
- 22 | Q. And do you have any memory now of when the conversation took
- 23 |       place, or you're not sure?
- 24 | A. Ha! Let me -- Now I'll tell you one. Were you listening to
- 25 |       the CBC last night?

R. N. EBSARY, by Mr. Ruby

1 Q. Sir, we're not going to discuss anything that happened last  
2 night. Now you --

3 BY MR. CHAIRMAN:

4 Q. Mr. Ebsary, I don't want to have to keep reminding you that  
5 you have to answer the questions that are put to you and  
6 you just completed your answers to the last question --

7 A. Yes, sir.

8 Q. -- that was put to you by Mr. Ruby.

9 A. Right.

10 Q. That doesn't give you the right, then, to take on the role of  
11 an examiner.

12 A. No, but he turns around every damn thing, because if I can't  
13 remember but --

14 Q. Anyway, I've heard the answer to that question.

15 A. -- whatever comes from my head.

16 Q: I've heard the answer to that question. That's all I want  
17 to hear now.

18 MR. CHAIRMAN:

19 Proceed, Mr. Ruby.

20 MR. RUBY:

21 Thank you, sir.

22 BY MR. RUBY:

23 Q. The question I'm asking you is: Do you now have any memories  
24 which you can tell us whether that conversation took place  
25 before or after the Seale killing?

R. N. EBSARY, by Mr. Ruby

1 A. I -- and I asked you a question. I said, "Were you listening  
2 to the CBC --

3 Q. No, you may not do that.

4 BY MR. CHAIRMAN:

5 Q. I'm not going to tolerate that kind of response. Now will  
6 you answer question.

7 A. Well, it's the only thing, sir, that's going to clarify this  
8 whole thing.

9 Q. I'll decide what will clarify the whole thing, not you.

10 BY MR. RUBY:

11 Q. Would you try to answer with a yes or no? Do you now have  
12 a memory of whether this took place before or after?

13 A. I don't remember, really.

14 Q. You're not sure?

15 A. No.

16 Q. All right, and yet just a minute or two ago you testified  
17 quite positively that it happened afterwards.

18 A. Well, I took it for granted that it did happen afterwards  
19 because it's the only time that I remember that we had any  
20 conversation.

21 Q. All right. How are we to know when you're merely taking  
22 things for granted and when you are telling us what you  
23 actually remember? How are we to tell?

24 A. Well if you had human intelligence, you'd know the difference,  
25 wouldn't you.

R. N. EBSARY, by Mr. Ruby

1 Q. All right. I'll move to another area. Yesterday you told  
2 us that you did not tell your wife about the stabbing of  
3 Marshall, for example, the next morning.

4 A. Not that I know of.

5 Q. Though the Ratchford tape, as was put to you by my friend,  
6 Mr. MacDonald, it was pointed out to you that there you had  
7 said that you did. Do you remember that? Do you remember it?

8 A. No, I don't remember it.

9 Q. We'll get to the other issues in just -- You don't remember that?

10 A. No.

11 Q. Let me show you the transcript of the Ratchford tape,  
12 (Exhibit 25, My Lord.) to the top of page 15. You start at  
13 the bottom of page 14. Then at the top of page 15: "Did  
14 you tell them.." and then is Donna and her mother. "..that  
15 you ripped Marshall in the arm?" "Oh, yes, I told them that."  
16 Do you remember being referred to that yesterday?

17 A. Oh, yes, it's possible.

18 Q. No, do you remember being referred to that by Mr. MacDonald  
19 yesterday?

20 A. Well, I think I was asked what part of the arm.

21 Q. No, no.

22 MR. PUGLSEY:

23 He refers to the (inaudible [microphone not activated]). Maybe  
24 I'm wrong but --

25 MR. RUBY:

Let me look again because I may have misinterpreted. Thank you



R. N. EBSARY, by Mr. Ruby

1 | for your help.

2 | BY THE WITNESS:

3 | A. That's not the only thing you misinterpreted.

4 | MR. RUBY

5 | Can you tell me what page that's on?

6 | MR. MacDONALD:

7 | On page 13. The top of the page.

8 | MR. RUBY:

9 | Thank you very much, I appreciate it, both of you.

10 | BY MR. RUBY:

11 | Q. Look at this passage and tell me if you remember it.

12 | A. Right.

13 |

14 |

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R. N. EBSARY, by Mr. Ruby

- 1 Q. Page 13, near the top.
- 2 Ratchford: "Did Mary know that you had  
3 stabbed that boy"?
- 4 Ebsary: "I told her"! "I told  
5 her the next bloody morning".
- 6 A. Well, probably I did. I don't know.
- 7 Q. Do you remember being referred to that passage by Mr. MacDonald  
8 yesterday?
- 9 A. No.
- 10 Q. Okay. Which is true, what you told us yesterday, namely that  
11 you didn't tell her the next morning --
- 12 A. Right.
- 13 Q. (That would be about the Seale stabbing, I take it, and the  
14 Marshall stabbing.) -- or that you did as you told Mr. Ratchford?
- 15 A. Well, I can't remember clearly, but I can't remember telling  
16 her the next morning because when I woke I had a hangover and  
17 I was in no condition to talk I can assure you.
- 18 Q. Tell me about the hangover the next morning, sir?
- 19 A. Pardon?
- 20 Q. Tell me more about the hangover the next morning?
- 21 A. Why should I?
- 22 Q. Let me try again.
- 23 A. Yes.
- 24 Q. I want to know about the hangover the next morning, how bad was  
25 it and what kind of hangover was it?
- A. Did you ever have one?

R. N. EBSARY, by Mr. Ruby

- 1 Q. You can't ask me questions, sir. What kind of hangover?
- 2 A. Well, for instance, we'd had a few drinks the night before,  
3 right, and I'm allergic to alcohol anyway, so when I woke in  
4 the morning I had a hangover.
- 5 Q. How sick were you?
- 6 A. Sort of like this.
- 7 Q. Explain to me -- Describe the symptoms?
- 8 A. Christ! Well, I was too sick to get out of bed. How does  
9 that impress you.
- 10 Q. That would be a rare occurrence I take it?
- 11 A. Yeh, it would be a rare occurrence for me because I don't like  
12 the bed unless there's somebody in it with me.
- 13 Q. Can you describe any other symptoms?
- 14 A. Any other symptoms? No, I don't think I had any other symptoms.
- 15 Q. So if this was a rare occurrence for you to be this sick from  
16 alcohol --
- 17 A. Yeh.
- 18 Q. -- you must have been very drunk the night before?
- 19 A. No, not necessarily.
- 20 Q. Why not necessarily?
- 21 A. Because I never drank to the point that I didn't know what I was  
22 doing.
- 23 Q. I quite understand that, sir, but you clearly did not drink  
24 after MacNeil left, you went to bed, correct?
- 25 A. Right.

R. N. EBSARY, by Mr. Ruby

- 1 Q. The only thing you had to drink was earlier with MacNeil, Sr.,  
2 correct?
- 3 A. Yes.
- 4 Q. So whatever you drank, it was enough to make you sick -- so sick  
5 that you rarely get that you couldn't get out of bed, correct?
- 6 A. Did you ever try drinking a bottle of wine and not get sick?
- 7 Q. All right. Let's talk about alcohol just a little bit.  
8 Were you a heavy drinker?
- 9 A. No, I wasn't really.
- 10 Q. You said that you don't drink to the extent that you don't know  
11 what you're doing.
- 12 A. That's right.
- 13 Q. Do you have blackouts and fail to remember what happens sometimes?
- 14 A. No.
- 15 Q. That never happens?
- 16 A. The only time I had blackouts was when a severe pain struck me  
17 here in the side and the pain was so severe that it blacked me  
18 out. Twice that happened. I called my doctor's attention to  
19 the fact and they examined me up at the Sydney Hospital, and they  
20 gave me needles in the hip.
- 21 Q. If others, such as, your wife and your son describe you as a  
22 person was chronically drunk during this period, would that be  
23 accurate or inaccurate, a lie or the truth?
- 24 A. The only time I ever had a drink was on my two days off from  
25 the Isle Royale Hotel, right?

R. N. EBSARY, by Mr. Ruby

- 1 Q. Were you drunk on those two days off?
- 2 A. Of course I wasn't.
- 3 Q. All right. The -- I suggest to you that, in fact, you saw  
4 a doctor named Binney in 1972, do you remember him?
- 5 A. What's his name?
- 6 Q. Binney.
- 7 A. No, sir, I don't recall. Where did I see him?
- 8 Q. The Cape Breton Hospital. Do you remember him?
- 9 A. Well, there was several doctors in there.
- 10 Q. All right. Did you report to him that you were at that time  
11 somewhat suspicious of your wife and children?
- 12 A. Well, why would I say a thing like that?
- 13 Q. Well, you were having what I would call if you understand the  
14 words "paranoid symptoms" at that time.
- 15 A. No, I went in there because my lawyer Luke Winterman  
16 suggested that I go into the Cape Breton Hospital and have  
17 them access whether I had all my marbles or not before the  
18 trial.
- 19 Q. I'm talking about 1972, sir. I'm sorry, I might not have made  
20 it clear. In 1972, quite early. I'm not certain as it  
21 turns out that he was in the Cape Breton Hospital, it may have  
22 been another hospital.
- 23 A. The only other hospital I was to was the Nova Scotia Hospital  
24 in Halifax.
- 25 Q. With regard to this incident you told us that you drank one

- 1 of the bottles of wine that you carried over to MacNeil, Sr.'s  
2 residence.
- 3 A. I didn't say I drank the bottle. I said that I helped drink  
4 a bottle.
- 5 Q. Helped drink the bottle. But you said you weren't sure what  
6 happened to the second bottle of wine?
- 7 A. No, I'm not really.
- 8 Q. Do you recall telling Mr. Ratchford that, in fact, you finished  
9 off the second bottle, the two of you?
- 10 A. My dear boy, what I told Ratchford could have been any bloody  
11 thing.
- 12 Q. Why would you want to lie to Mr. Ratchford?
- 13 A. I didn't say I lied to Ratchford, did I?
- 14 Q. Why would you want to tell him, to use your language, "any bloody  
15 thing"?
- 16 A. Repeat that question.
- 17 Q. Why would you want to tell Mr. Ratchford, "any bloody thing"  
18 to use your language?
- 19 A. Because he'd believe it.
- 20 Q. And is that what you do, if someone will believe it you'll tell  
21 them any bloody thing?
- 22 A. Right, why not?
- 23 Q. Even now?
- 24 A. Even now.
- 25 Q. Even today?

R. N. EBSARY, by Mr. Ruby

1 A. Even today.

2 Q. Let me come to the question of knives, if I may. Did you stab  
3 "Goodie" Mugridge with a knife?

4 A. No, I got blamed for that, but it was proved in the Court that  
5 I didn't.

6 Q. You didn't do it?

7 A. No.

8 Q. All right. Did you sexually assault or assist in a sexual  
9 assault upon a boy in jail?

10 A. Did I what?

11 Q. Did you sexually assault or assist in a sexual assault on a  
12 boy in jail?

13 A. No, but I know who did, and it was the boy who was looking after  
14 me and I at the time had gone to sleep in my cell when the  
15 five other boys got this boy who was looking after me into a  
16 cell and orally, you know -- sex, oral, oral sex, the five  
17 of them because the boy told me when he came back in the cell.

18 Q. I'm sorry. I missed the rest of that.

19 MR. CHAIRMAN:

20 Well, I don't really want to hear the rest of that either, Mr. Ruby,  
21 because it's not relevant to this issue. This appears to be some  
22 evidence relating to other persons who are not before us.

23 BY MR. RUBY:

24 Q. All right. Well, let me try and put it so it doesn't offend  
25 against that ruling. Were you convicted of a sexual assault or

1 an assault?

2 A. No, never.

3 Q. Concerning this incident in jail?

4 A. No. I tell you there was a case that arose in the --

5 Q. When you were in jail. Were you charged?

6 A. Hey?

7 Q. Were you charged?

8 A. Yeh, we were charged.

9 Q. Did you go to Court?

10 A. Yes.

11 Q. Were you found guilty or not guilty?

12 A. Well, we were found guilty but my lawyer explained to the judge  
13 the fact that I wasn't even out of bed that bloody morning, so  
14 how in the hell could I have sexually assaulted one of the other  
15 inmates.

16 Q. What penalty was imposed upon you for this assault?

17 A. Two months extra time.

18 Q. All right. I don't propose to go any further, My Lord.

19 A. And there was no sexual assault anyway.

20 Q. In 1984, in December of 1984 were you in the Cape Breton  
21 Hospital?

22 A. I don't know. Was I?

23 Q. Do you remember an incident where you tried to burn up your food  
24 and your lodgings and they sent you to the psychiatric hospital  
25 in December of 1984, around December 12th?



- 1 A. I tried to do what?
- 2 Q. Burn up your food and lodgings.
- 3 A. What for?
- 4 Q. I don't know.
- 5 A. Well, I certainly didn't.
- 6 Q. It never happened?
- 7 A. No.
- 8 Q. All right. Were you married to Mary Ebsary?
- 9 A. No, she was my common-law wife for thirty years.
- 10 Q. You never married?
- 11 A. No.
- 12 Q. Do you recall telling on an Exhibit Book 18, page 38,
- 13 do you recall telling Doctor Akhtar shortly before April 26
- 14 of 1982 while you were remanded by Judge O'Connell from Sydney
- 15 for observation?
- 16 A. Right.
- 17 Q. At page 38, the first complete paragraph:
- 18 "Roy lived with his wife in a common-law
- 19 relationship for many years before
- 20 finally marrying her".
- 21 A. We were never married because anytime the question of marriage
- 22 came up the old girl kept putting it off.
- 23 Q. I take it you don't remember saying that to him and it's not
- 24 true?
- 25 A. What's that?

R. N. EBSARY, by Mr. Ruby

1 Q. That you married her. You don't remember saying it to him  
2 and it's not true?

3 A. I lived common-law for thirty bloody years, right? Any time  
4 the question of marriage came up it was always put off to a  
5 later date and a later date and that later date never came.  
6 That was her fault, not mine.

7 Q. You never married?

8 A. No.

9 Q. And you don't remember saying that?

10 A. Repeat the question.

11 Q. Do you remember saying to Doctor Akhtar or someone at the  
12 hospital in that remand that you lived with her common-law  
13 and then married her?

14 A. No, sir.

15 Q. It's not true and you didn't say it?

16 A. Well, I don't know that I did. I can't remember saying it.

17 Q. You may have said it but it's certainly not true?

18 A. Well, it's certainly not true.

19 Q. Thank you.

20 A. Because we lived common-law for thirty bloody years.

21 Q. Now I want us to talk briefly about your relationship with  
22 the police. You've been in this area a long time.

23 A. Pardon?

24 Q. You've been in this area a long time?

25 A. I can't hear you really.

R. N. EBSARY, by Mr. Ruby

- 1 Q. Sorry. You've lived in this area a long time?
- 2 A. No.
- 3 Q. How long?
- 4 A. Well, I lived here since I retired from the boats.
- 5 Q. What year would that be?
- 6 A. Somewhere around 19 -- probably in the late '60's maybe. I was  
7 sixty anyway at the time.
- 8 Q. All right, and you would -- You knew the park well?
- 9 A. No, not too well.
- 10 Q. Had you often gone to the park?
- 11 A. Well, I used to pass through the park on the way home from work.
- 12 Q. Yes, so daily you would go through the park?
- 13 A. Pardon?
- 14 Q. Daily you would go through that park?
- 15 A. Daily? It would be night time when I left the Hotel to come  
16 home.
- 17 Q. But it would have been at least five or six days a week --
- 18 A. Yes.
- 19 Q. -- you would walk through that park?
- 20 A. Yes, that's right.
- 21 Q. And you knew the police officers in that area fairly well from  
22 the sound of it?
- 23 A. No, I did not. I didn't know any of the police officers fairly  
24 well.
- 25 Q. Well, you knew some of them well enough to have them offer to

R. N. EBSARY, by Mr. Ruby

- 1 | hire you to kill Chief MacIntyre?
- 2 | A. Well, there again I didn't know either one of those officers
- 3 | that night.
- 4 | Q. You don't know their names?
- 5 | A. They got in the car. There was no names exchanged.
- 6 | Q. All right.
- 7 | A. Well, I can assure you that that's what I was asked to do.
- 8 | Q. Yes.
- 9 | A. Right. What else? There were no names exchanged.
- 10 | Q. Yes.
- 11 | A. They simply asked me to get rid of the Cheif, do them a favour.
- 12 | I said, "How can I do you fellows a favour"? They said, "Get
- 13 | rid of the Chief". "You could do it easy".
- 14 | Q. And was there any proposed payment for this task?
- 15 | A. No.
- 16 | Q. You were to do it as a favour?
- 17 | A. That's right.
- 18 | Q. Would you from time to time have occasion to talk to other
- 19 | police officers when you were walking home, say good evening,
- 20 | how are you, the way people do from time to time?
- 21 | A. No. If they offered to give me a lift home I sat in the back
- 22 | of the car and I kept my mouth shut.
- 23 | Q. Say it again.
- 24 | A. I said --
- 25 | Q. I just didn't hear it.

R. N. EBSARY, by Mr. Ruby

- 1 A. No, well, that's all right. I'll try and speak a bit louder.  
2 I have trouble with my voice at times.
- 3 Q. Thank you, sir.
- 4 A. If they offered to give me a lift home, right, I'd sit in the  
5 back of the car and I'd keep my bloody mouth shut. What was  
6 there to talk about?
- 7 Q. How often would they give you a lift home? How often would that  
8 happen?
- 9 A. Well, each time that I went over to visit the wife after I  
10 left her she called the police and had me removed as an intruder.
- 11 Q. In what years would that have been, through the '60's and '70's?
- 12 A. Let me see. I guess it'd be about ten years ago really.
- 13 Q. I'm sorry, I can't hear again.
- 14 A. I guess it was about ten years ago. Do you hear that?
- 15 Q. Thank you, sir.
- 16 A. I have trouble with my bloody voice. I can't help that.
- 17 Q. If you want to break, I'm sure his Lordship would be kind and  
18 maybe we could have a break. If you want some water, we'll  
19 get some more water for you. I don't want to push you.
- 20 A. I wouldn't mind having a drink.
- 21 Q. Go ahead.
- 22 A. Thank you. I have one.
- 23 Q. Would the police on other occasions than the times your wife  
24 called them, speak to you or give you a lift home or things  
25 of that nature?

R. N. EBSARY, by Mr. Ruby

1 A. No, because I wasn't familiar with the police really.

2 Q. All right. Did you have friends in the area? Did you know  
3 people in the area?

4 A. I have very few friends. I made that a policy because there's  
5 no such thing as a friend.

6 Q. You said that you carried that knife home with a twelve inch  
7 blade. Did the restaurant have knife sharpening equipment or  
8 not?

9 A. Oh, yes, it did.

10 Q. And the other Chefs, I take it, would use that equipment?

11 A. Yes.

12 Q. Why would you not use that equipment too?

13 A. Well, if I wanted to go sharpen a knife what was to stop me  
14 from going and sharpening the knife?

15 Q. I was wondering why you did it. Why take it home in your belt  
16 rather than use the restaurant's equipment?

17 A. I don't know really.

18 Q. I suggest the reason is because you like to carry a knife?

19 A. Now listen, I'm sick and tired of calling you a liar, but I  
20 did not at any time carry a concealed weapon.

21 Q. You made sword canes by yourself, did you not?

22 A. Pardon?

23 Q. You made sword canes by yourself at your home, did you not?

24 A. The sword cane?

25 Q. The sword canes, plural.

R. N. EBSARY, by Mr. Ruby

- 1 | A. No, not sword canes, plural; sword cane, singular.
- 2 | Q. And you carried that sword cane?
- 3 | A. Where?
- 4 | Q. Sometimes when you were walking.
- 5 | A. No, it was hung on the wall as a souvenir.
- 6 | Q. That's all?
- 7 | A. That's all.
- 8 | Q. How often would you bring this knife home to sharpen it?
- 9 | A. Once in awhile.
- 10 | Q. One a week, twice a week, once every five weeks?
- 11 | A. Now listen, I can't be that specific. When I wanted the knife
- 12 | sharpened I had it sharpened, right? You can't use a dull knife.
- 13 | Q. Every day? Because if I know butchers, you have to sharpen
- 14 | your knife every single day?
- 15 | A. Where?
- 16 | Q. If you're using a knife --
- 17 | A. Yeh.
- 18 | Q. --in trade, you have to sharpen it every day?
- 19 | A. Right.
- 20 | Q. So you took that knife home every day?
- 21 | A. No, not necessarily.
- 22 | Q. You let it get dull?
- 23 | A. We used the steel and give it a few rubs like that and your
- 24 | knife is okay.
- 25 | Q. How often do you think you would have taken it home to sharpen

R. N. EBSARY, by Mr. Ruby

1 | it properly?

2 | A. Probably once a month.

3 | Q. All right. You've told us (I'm paraphrasing again and tell  
4 | me if I've got it correctly.) that you collected books and you  
5 | loved your books?

6 | A. Right.

7 | Q. And that you collected art and you loved your art collection?

8 | A. That's right.

9 | Q. And in just the same way you collected knives and you loved your  
10 | knives?

11 | A. Right.

12 | Q. I'm suggesting to you that there's a difference in that you  
13 | used your knives and you loved to use your knives?

14 | A. For what?

15 | Q. Anything.

16 | A. For Christ sake are you ever going to wise up? I had twenty-three  
17 | hundred books. I could only read one at a time, right?

18 | I never removed those knives from the bloody house with the  
19 | exception of that one that I carried to work. The knives were  
20 | there because I made them and I used to have them on shields.

21 | Q. Did you ever boast of your ability with a knife, the ability  
22 | to use a knife?

23 | A. Well, they said I was a good swordsman.

24 | Q. Do you remember having a conversation with this gentleman  
25 | Mr. Storey?



R. N. EBSARY, by Mr. Ruby

1 MR. RUBY:

2 Would you come forward for a moment?

3 BY MR. RUBY:

4 Q. This is Alan Storey. He's a Journalist for the Toronto Star.

5 A. Oh.

6 Q. You can stand there. Take a good look at him. Do you  
7 remember having conversation with him in jail?

8 MR. STOREY:

9 Yes, I do.

10 MR. RUBY:

11 No, not you, him. You're just the Exhibit.

12 BY THE WITNESS:

13 A. You're Exhibit one and I'm Exhibit two. No, I don't recall.

14 No, I don't recall really.

15 BY MR. RUBY:

16 Q. I suggest --

17 MR. CHAIRMAN:

18 We seem to have lost the answer in the shuffle. The answer is he  
19 doesn't recall having --

20 BY THE WITNESS:

21 A. I know there was quite a few people there visiting me while  
22 I was in there.

23 BY MR. RUBY:

24 Q. I suggest, and tell me if you remember it, that you boasted  
25 to him as reported in the Toronto Star of December 2 of 1982:

- 1 "I'm the fastest blade in Canada".
- 2 A. Yeh.
- 3 Q. You said it proudly?
- 4 A. I'm the best blade in Canada.
- 5 Q. What do you mean by that?
- 6 A. Well, you take a sword and give me one and let both of us go  
7 down to the end of the hall there and I'll show you which one  
8 is the best, I mean if you've got guts enough.
- 9 Q. We're talking about using a blade to stab people, correct?
- 10 A. We're talking about using a blade to what?
- 11 Q. To stab people.
- 12 A. Bull. I don't know why you keep harping on this stabbing  
13 business, but I'm getting sick and tired of hearing it.
- 14 Q. Well, sir, I harp on it because there's a dead boy and it's  
15 important to us.
- 16 A. Well, if that boy is dead, don't blame me.
- 17 Q. Do you not boast of your ability to use a knife?
- 18 A. Who?
- 19 Q. You.
- 20 A. No, I do not boast of my ability to use a knife.
- 21 Q. That's not what that quote meant: "I'm the fastest blade in  
22 Canada"?
- 23 A. That's right. That's what I said.
- 24 Q. You weren't building on the fact that you'd killed Seale?
- 25 A. No, I did not kill Seale and the next goddamn time you says

R. N. EBSARY, by Mr. Ruby

1 that, you and I are going to be in trouble.

2 Q. Let me suggest to you what happened is this, you've been mugged  
3 before that night?

4 A. Right.

5 Q. Three times you told us today?

6 A. Yes, and possibly more than three times.

7 Q. You were expecting a mugging and it was misty that night and  
8 you didn't have your glasses on and you couldn't see properly?

9 A. That's right.

10 Q. You couldn't see anything in your own language. You'd been  
11 drinking heavily?

12 A. No, I had not been drinking heavily.

13 Q. So heavily that you had one of your rare hangovers the next  
14 morning that was so bad you couldn't get out of bed?

15 A. My dear boy, if I drank a couple --

16 Q. Hear my question. Hear my question. It's a long question and  
17 I'll give you a chance to reply to it. In that drunken,  
18 confused state, unable to see, fearful of a mugging, you  
19 simply struck too soon. You said, "I swore by my Christ  
20 that the next man that struck me would die in his tracks".

21 A. That's right.

22 Q. But Seale never struck you?

23 A. I didn't say he did.

24 Q. You struck him first?

25 A. Who did?

R. N. EBSARY, by Mr. Ruby, by Mr. Pugsley

1 | Q. You, sir.

2 | A. No, I did not. I never struck Seale at all.

3 | Q. Because you thought you were going to get mugged although  
4 | Seale did nothing.

5 | A. My dear boy, do you know what you are, you're a moron. You're  
6 | a moron.

7 | MR. RUBY:

8 | Thank you, My Lord.

9 | MR. CHAIRMAN:

10 | Maybe Mr. Pugsley before you start your Cross-Examination it would  
11 | be an opportune time to give the witness a ten minute break.

12 | MR. PUGSLEY:

13 | Yes.

14 |

15 | INQUIRY ADJOURNED: 10:53 a.m., AND RECONVENED: 11:16 a.m.

16 |

17 | MR. CHAIRMAN:

18 | Mr. Pugsley.

19 | MR. PUGSLEY:

20 | Thank you, My Lord.

21 | BY MR. PUGSLEY:

22 | Q. Mr. Ebsary, I'm acting for Chief MacIntyre, the fellow you  
23 | were asked to get rid of?

24 | A. Well, he sure needs a friend like you.

25 | Q. Thank you. You like to act, sir?

R. N. EBSARY, by Mr. Pugsley

- 1 | A. Pardon?
- 2 | Q. You like to act?
- 3 | A. Who?
- 4 | Q. You.
- 5 | A. Thank you.
- 6 | Q. You're a good actor.
- 7 | A. Pardon?
- 8 | Q. You're a good actor.
- 9 | A. Am I?
- 10 | Q. Yes. You're good enough to fool the lie detector.
- 11 | A. Now I wouldn't go so far as to say that.
- 12 | Q. Well, the R.C.M.P. did.
- 13 | A. Did they?
- 14 | Q. Yes, they asked you about it.
- 15 | A. They didn't tell me that.
- 16 | Q. They asked you how you did fool the lie detector.
- 17 | A. Who? Not the R.C.M.P.
- 18 | Q. You told us that yesterday.
- 19 | A. No, there was other people who asked me, the people who were --
- 20 | I think it was the investigators.
- 21 | Q. I thought it was the R.C.M.P. you said.
- 22 | A. Well, the R.C.M.P. haven't been around my place lately but
- 23 | the investigators were around the house, so those are the
- 24 | only ones that could have asked me.
- 25 | Q. The R.C.M.P. were around your place a good deal in 1982, weren't

R. N. EBSARY, by Mr. Pugsley

- 1 | they?
- 2 | A. Oh, yes.
- 3 | Q. Sergeant Carroll was there a great deal?
- 4 | A. Oh, yes, he hounded me.
- 5 | Q. Hounded you?
- 6 | A. Yes.
- 7 | Q. But you're very fond of him?
- 8 | A. I liked him.
- 9 | Q. You liked him?
- 10 | A. That's right.
- 11 | Q. You thought he was a good egg?
- 12 | A. Yes.
- 13 | Q. You loved him. I think it's a word you used yesterday.
- 14 | You loved him in a nice sense. I don't mean that in any
- 15 | improper sense.
- 16 | A. Are you insinuating that I'm a homosexual?
- 17 | Q. Not at all.
- 18 | A. Are you?
- 19 | Q. Not at all.
- 20 | A. Well, thanks. I thought you might be.
- 21 | Q. The words you used yesterday was that "you loved him and you
- 22 | thought he was a good egg".
- 23 | A. When I was a bit younger I was what you would call a bi-sex.
- 24 | Do you understand?
- 25 | Q. Yes.

R. N. EBSARY, by Mr. Pugsley

1 | A. Do you?

2 | Q. You like to use your imagination, Mr. Ebsary?

3 | A. Oh, yes. That's what made our world, man's imagination  
4 | and not hallucination.

5 | Q. When you use your imagination, sir, you use it for a purpose,  
6 | to create something?

7 | A. Only when it's necessary.

8 | Q. You were interested in getting Donald Marshall out of prison?

9 | A. Yes, I was.

10 | Q. You wanted to meet with his parents?

11 | A. Pardon?

12 | Q. You wanted to meet with his parents?

13 | A. Yes.

14 | Q. And when the R.C.M.P. suggested to you that you would never  
15 | get a second trial for him --

16 | A. Yes.

17 | Q. --what did you say?

18 | A. I said you watch my smoke. I get him the second trial.

19

20

21

22

23

24

25

*gmm*

R. N. EBSARY, by Mr. Pugsley

1 Q. And did you use your imagination to help Donald Marshall get  
2 a second trial?

3 A. It wasn't necessary to use my imagination.

4 Q. I see.

5 A. I have plenty of facts to go on.

6 Q. Yes.

7 A. So it wasn't necessary to use my imagination.

8 Q. You sometimes have been lonely and emotional?

9 A. Pardon.

10 Q. You sometimes have described yourself as being lonely and  
11 emotional?

12 A. I've been a loner all my life but I've never felt lonely.

13 Q. Yes. When you wrote Donald Marshall the letter in February  
14 of 1982 you were lonely?

15 A. Well, I told him I was living alone. And if he was alone up  
16 there, I was alone down here.

17 Q. Yes. You said to him, and I'm referring to Volume 19 at Page  
18 96, I'll just show you my copy that's perhaps the fastest way  
19 to show you Mr. Ebsary. Is that a copy of the letter, Sir,  
20 that you wrote to Mr. Marshall.

21 A. Well, I'm going to have a hell of a job to read this.

22 Q. I know it's very difficult for you to read.

23 A. Right.

24 Q. Does that look like your writing?

25 A. Yeh, it does, really.



R. N. EBSARY, by Mr. Pugsley

- 1 Q. Yes.
- 2 A. But it doesn't look like my writing.
- 3 Q. I'm sorry, it looks like typing, yes. And near the bottom of  
4 the letter, are these your words, "I too have spent in  
5 solitude".
- 6 A. That's right. I lived, well, I lived alone most of the time.
- 7 Q. Yes.
- 8 A. Because I used to pick my friends with discretion.
- 9 Q. Yes.
- 10 A. And unless there was something special about the friend. He  
11 had to have something on the bloody ball or I wouldn't have  
12 him for a friend. Do I make myself clear?
- 13 Q. You do.
- 14 A. Thank you.
- 15 Q. You go on to say, "I listen to no one".
- 16 A: That's right.
- 17 Q. Yes. "I have no crimes".
- 18 A. That's right. As a matter of fact, I've been told even by  
19 the doctors, "Ebsary you trust nobody". I said you're correct.  
20 They said, "Are you allergic to anything?". I said yes only  
21 one thing. They said, "What's that?". I said, people.
- 22 Q. Yes. Bad friends. You say, "I have no friends"?
- 23 A. That's right.
- 24 Q. Yes. And you had no friends when you wrote Donald Marshall  
25 that letter in February of '82, did you?

R. N. EBSARY, by Mr. Pugsley

- 1 | A. No, no intimate friends. No.
- 2 | Q. Did you tell Sargent Carroll that you had no friends?
- 3 | A. Not that I remember, I didn't have to.
- 4 | Q. Did he know that you were lonely?
- 5 | A. Well, he knew I was living alone there at the blooming shack.
- 6 | Q. He knew that you were emotional because you cried during the  
7 | taped interview you had with him?
- 8 | A. Do you have to remind me of that?
- 9 | Q. No, but I'm simply trying to make a point that you were  
10 | emotional when you were in the presence of Sargent Carroll.  
11 | And that you cried during the interview and in response to  
12 | my friend yesterday, you said words to this effect, "if you  
13 | had the R. C. M. P. coming to tell you Marshall had turned  
14 | into a plaster saint in Dorchester".
- 15 | A. That's right.
- 16 | Q: "You would have cried too", or something to that effect?
- 17 | A. Right. But we know darn well that single men in barracks  
18 | don't turn into plaster saints.
- 19 | Q. Yes. Corporal Carroll knew that you liked to drink?
- 20 | A. Pardon.
- 21 | Q. Corporal Carroll knew you liked to drink?
- 22 | A. Oh, yes.
- 23 | Q. Yes. And indeed when you and Corporal Carroll went to look --?
- 24 | A. No, he didn't know I liked to drink. But nearly everytime  
25 | he came to the house, I was half plastered.

R. N. EBSARY, by Mr. Pugsley

1 Q. You were half plastered, yes?

2 A. Yes.

3 Q. Yes, thank you. And indeed you made the point that Carroll  
4 knew the morning you went to look for the knife blade in the  
5 garden.

6 A. Yes, right.

7 Q. You went at a time when you were sober?

8 A. Right.

9 Q. Early in the morning?

10 A. Right.

11 Q. Yes. Whose idea was it to go early in the morning, yours or  
12 Carrolls?

13 A. Well, it might have been both our ideas, but I was sober at  
14 the time and I thought it was a good time to go.

15 Q. Yes. Did Carroll say anything to you about your drinking?

16 A. No. And he would say sometimes when he'd come to the house,  
17 "you're having a few again".

18 Q. Yes.

19 A. That's right.

20 Q. I'm going to refer you to a report that Corporal Carroll has  
21 prepared and I don't think you've seen it before or -- but  
22 I'll show a comment to you and I want to get your evidence  
23 on it. It's in Volume 19 at Page 129.

24 A. Right.

25 Q. And the only part that I really wish to direct your attention

R. N. EBSARY, by Mr. Pugsley

1 to is the part that I've underlined in red.

2 A. Right.

3 Q. Could you read that for the record, please, the part that I've  
4 underlined?

5 A. "It is not uncommon for him to go without food for two weeks.  
6 Drinking heavily everyday." I never drank heavily. I didn't  
7 have to drink too much to get plastered.

8 Q. I see.

9 A. "He will resume his previous --

10 Q. No, I'm sorry. Just before the "drinking heavily everyday",  
11 and the next few words are?

12 A. "He is normally drunk by noon."

13 Q. "He is normally drunk by noon."

14 A. Right.

15 Q. Apparently that was an opinion expressed by Corporal Carroll?

16 A. Yes. An opinion. And we were warned by the best of people  
17 never to form an opinion because the moment you form an  
18 opinion you block your mental processes.

19 Q. Yes. "Normally drunk by noon". Corporal Carroll took a  
20 statement from you in February of 1982 which was found in  
21 Volume 11 at Page 3. Do you remember that statement? Do  
22 you remember giving Corporal Carroll that statement?

23 A. Let me have a look at it.

24 Q. Of course.

25 A. I don't see anything the matter with that.

R. N. EBSARY, by Mr. Pugsley

- 1 Q. Fine. What time was the statement taken? What time of day  
2 was the statement taken?
- 3 A. Well, I suppose Carroll used to home to the house around  
4 mid-day.
- 5 Q. Yes. Do you see a time at the bottom of the statement?
- 6 A. Well, there's writing here, but I can't understand it.  
7 Probably you could do it.
- 8 Q. Is there a 12:15 or a 12:16 something like that at the bottom?
- 9 A. Oh, yeh, 12:16 p.m.
- 10 Q. 12:16 p.m. yes.
- 11 A. Right.
- 12 Q. Just after noon.
- 13 A. Right.
- 14 Q. Right. Were you drunk then?
- 15 A. Well, it was around noon anyway, wasn't it?
- 16 Q: That's right, around noon?
- 17 A. Yes.
- 18 Q. And Carroll says you are normally drunk by noon?
- 19 A. Yeh, but I wasn't at that time.
- 20 Q. I see. Carroll took a tape recorded interview from you as  
21 well, didn't he?
- 22 A. Well, I suggested the tape interview because there was something  
23 the matter with my blooming typewriter at the time. So I  
24 suggested to Carroll that we get a tape recorder. Now I had  
25 tape recorders but they had been robbed out of the arpartment

R. N. EBSARY, by Mr. Pugsley

- 1           So Carroll said that his son had a tape recorder and that he'd  
2           bring the tape recorder down to the house and we'd use that.  
3           So that's what we did.
- 4   Q.   And what time of day did Corporal Carroll take this taped  
5           statement from you?
- 6   A.   Probably around mid-day maybe.
- 7   Q.   Around mid-day. Well let's just check. I think we will find  
8           it in Volume 19, Page 138. And I think the time is expressed  
9           at the top.
- 10  A.   Yes, 11:50 a.m.
- 11  Q.   Shortly before noon?
- 12  A.   Yes, right.
- 13  Q.   He was cutting it a bit fine that day, wasn't he?
- 14  A.   Who?
- 15  Q.   Corporal Carroll?
- 16  A.   He always cut things fine.
- 17  Q.   Were you drinking that day?
- 18  A.   No, I wasn't really. I didn't make it a habit to drink  
19           every bloody day, you know.
- 20  Q.   You, you had suffered two nervous breakdowns?
- 21  A.   Yes, that's right.
- 22  Q.   Did Corporal Carroll know that?
- 23  A.   I didn't tell him.
- 24  Q.   Did you tell him that you heard voices?
- 25  A.   Oh, yes.

R. N. EBSARY, by Mr. Pugsley

- 1 Q. And what voices did you tell him you heard?
- 2 A. They burnt Joan of Arc at the stake.
- 3 Q. Yes.
- 4 A. Because she refused to deny her voices, right?
- 5 Q. Yes.
- 6 A. So who speaks to us?
- 7 Q. Has Joan of Arc spoken to you?
- 8 A. No, but God Almighty has.
- 9 Q. Yes.
- 10 A. As a matter of fact he said, "I will go with you all the way
- 11 always". And you can wipe that smile off.
- 12 Q. Has Moses spoken to you?
- 13 A. Who?
- 14 Q. Moses?
- 15 A. No, I wasn't a Jew.
- 16 Q. No, all right. In Volume 19, Page 12 and 13, there is what
- 17 appears to be, and I only say appears to be because I don't
- 18 know this to be a fact.
- 19 A. Right.
- 20 Q. A statement taken, a statement prepared by either Wheaton
- 21 or Carroll, I believe.
- 22 A. Right.
- 23 Q. And at the bottom of the page and this is the only -- this
- 24 is apparently an interview with you that was held --
- 25 A. Yes, but whose writing is it?

R. N. EBSARY, by Mr. Pugsley

- 1 Q. I can't tell you. I think it's either Wheaton's or Carroll's?  
2 I'm not sure of that.
- 3 A. It's certainly not mine.
- 4 Q. No, it's not yours. And I'm not suggesting that. It would  
5 appear to have taken place on February the 22nd of 1982 which  
6 was a critical day because I think that they had many  
7 interviews with you that day.
- 8 A. Did they?
- 9 Q. I believe so. And --
- 10 A. Well, they lived -- they practically lived at my blooming  
11 apartment.
- 12 Q. I can believe it.
- 13 A. Yes.
- 14 Q. At the bottom of the page it says, "voices heard Joan of Arc,  
15 Moses history". Do you recall telling Carroll about that or  
16 Wheaton about that?
- 17 A. No, I don't -- I might have referred to Joan of Arc being burnt  
18 at the stake because she wouldn't deny her voices.
- 19 Q. Yes. Do you deny your voices?
- 20 A. No.
- 21 Q. What do you voices tell you to do?
- 22 A. Play the game, man. Play the game.
- 23 Q. Yes.
- 24 A. And keep your cool. Which I seldom fail to do.
- 25 Q. And at the top of the next page it says, "girl comes to home



R. N. EBSARY, by Mr. Pugsley

- 1 | demons, hears voices, fights them off, black flash takes over".
- 2 | What's the black flash?
- 3 | A. Satan's --
- 4 | Q. I beg your pardon?
- 5 | A. Wait a moment please.
- 6 | Q. Of course, certainly.
- 7 | A. Oh well, this is a girl reporter that used to come to the
- 8 | house.
- 9 | Q. Is that so?
- 10 | A. Yes.
- 11 | Q. I misunderstood it then?
- 12 | A. Well, you did because she worked with the Post Record.
- 13 | Q. And the black flash was the description of her.
- 14 | A. Right.
- 15 | Q. I see.
- 16 | A. Right, she used to dress in black, all black. She worked
- 17 | with the Post Record.
- 18 | Q. Yes.
- 19 | A. They transferred her to North Sydney. The guy over there
- 20 | that she went to work for put the make on her. And they
- 21 | transferred her back to Sydney.
- 22 | Q. Yes. Now my understanding that the first -- one of the
- 23 | earliest -- first occasions that Wheaton and Carroll saw you,
- 24 | was on February 22nd of 1982?
- 25 | A. Well, I don't remember, really.

R. N. EBSARY, by Mr. Pugsley

- 1 Q. I don't expect you to recall the date. The information we have  
2 in our files, and I refer again to Volume 19, Page 29.  
3 Indicates that -- and I'll just read along. If I'm too close  
4 to you and that bothers you, please tell me.
- 5 A. You'll never get too close to me.
- 6 Q. On -- at the top of Page 29 it says, --
- 7 A. You're actually blushing.
- 8 Q. I'll lift my head for the camera.
- 9 A. I didn't ask you to put your little shoes under my bed.
- 10 Q. No, no you didn't. "On 82/02/22, which I believe is February  
11 22nd '82, Roy Newman Ebsary was picked up and brought to our  
12 Sydney Office. He was interviewed from 10:17 a.m. until 1:41  
13 p.m. Do you --
- 14 A. Which office are you referring to?
- 15 Q. I believe that to be the R. C. M. P. office.
- 16 A. Well, the only time I was to the R. C. M. P. -- oh, wait a  
17 minute, I was there one time.
- 18 Q. Yes.
- 19 A. The boys out at the slammer had run out of pills, right. And  
20 I had been discharged from the centre, right.
- 21 Q. No, I'm just talking about the time that you went down to  
22 talk about the Marshall case. That's --
- 23 A. The only time I went down there was to request to meet  
24 Marshall's father and mother.
- 25 Q. I see, all right. You don't have any recollection of going to

R. N. EBSARY, by Mr. Pugsley

1 the R. C. M. P. station where you were interviewed by Carroll  
2 and Wheaton for several hours?

3 A. What for?

4 Q. To discuss this incident in the Park?

5 A. No. Not that I remembered.

6 Q. All right. Apparently or according to this memo, it says,  
7 "at 4:30 p.m.", I presume that it was on the same day.

8 A. Right.

9 Q. "I received a message", and this memo was prepared by Wheaton.

10 A. Wheaton.

11 Q. "I received a message to call Ebsary which I did with a  
12 conversation going as follows". And apparently Wheaton had a  
13 tape recorder on the phone and taped the conversation. Do  
14 you recall having any conversation with Wheaton that was taped  
15 or that he told you that it was being taped?

16 A. No, but he must have been a very wise man because I used to  
17 have tape recorders too.

18 Q. I see. All right. In any event, you allegedly said, "all  
19 our talking today was not in vain. And Wheaton says, 'what  
20 do you mean by that'? And you respond, 'well you know I'm a  
21 British officer and a gentleman'.

22 A. That's right.

23 Q. And Wheaton said, 'yes'.

24 A. Right.

25 Q. And you go on to say, 'you called me a homosexual', and Wheaton

R. N. EBSARY, by Mr. Pugsley

- 1 |       says, 'yes'.
- 2 | A. That's right, yes.
- 3 | Q. And Ebsary, 'all our talking was not in vain you know'. And
- 4 | Wheaton said, 'why is that'? Ebsary, 'well I did it'. Wheaton,
- 5 | 'Are you admitting to stabbing Seale?' Answer, 'yes'. Wheaton
- 6 | 'Would you like to speak to me?' And you say, 'No, the other
- 7 | fellow'. And the other fellow I guess was Carroll?
- 8 | A. That's right.
- 9 | Q. Yes. And Wheaton says, 'Okay, I'll send Jim down'.
- 10 | A. Right. Because I wanted to take the heat off Marshall.
- 11 | Q. Yes, of course. But it was Carroll you wanted to talk to?
- 12 | A. Yeh, right.
- 13 | Q. Yes, right. And did Carroll come down that afternoon to talk
- 14 | to you?
- 15 | A. I don't remember, really. But I suppose he did. Because he
- 16 | practically lived at the place.
- 17 | You know you're not a hard person to look at, but you're a
- 18 | hard person to live with.
- 19 | Q. Mr. Ebsary --
- 20 | A. I'm referring to you, Mr. Ruby.
- 21 | Q. Mr. Ebsary, you were remanded to the Nova Scotia Hospital
- 22 | on March 23rd of 1982, about a month after you had this
- 23 | first interview with Carroll and Wheaton. And you were
- 24 | declared unfit to stand trial on April 26th of 1982?
- 25 | A. Yes.

R. N. EBSARY, by Mr. Pugsley

- 1 Q. Those are facts, are they?
- 2 A. Yes, right.
- 3 Q. Yes. Did you Carroll about this, about the fact that you were  
4 remanded to the Nova Scotia Hospital and that you were declared  
5 unfit to stand trial? At any time?
- 6 A. I don't think so.
- 7 Q. I see.
- 8 A. I didn't think it was necessary really.
- 9 Q. The taped interview you had with Carroll as I've indicated  
10 was on the 29th of October, 1982, and you mentioned on Page  
11 145 of Volume 19, you reportedly say -- Corporal Carroll  
12 says about four lines from the top, "What stage if at any  
13 stage did you realize that Seale probably died as a result  
14 of the incounter you two had?"
- 15 A. Right.
- 16 Q. And your response, "No, no because I'll tell you why. Why  
17 didn't Marshall go for assistance right away when he realized  
18 that Seale was wounded, why?"
- 19 A. Right, that's right. Why didn't he?
- 20 Q. And Carroll responds, "I don't know". And you say, "You don't  
21 know, I don't know. If you had a pal and that pal was hurt,  
22 would you go look for help. Would you? You're that type of  
23 man to me?"
- 24 A. Yes.
- 25 Q. And you felt that Carroll was that kind of fellow?

R. N. EBSARY, by Mr. Pugsley

- 1 | A. Right.
- 2 | Q. A decent fellow?
- 3 | A. Right. Well, he wouldn't leave a man lying in the bloody road
- 4 | if he was seriously injured.
- 5 | Q. Yes. The video tape.
- 6 | A. Yes.
- 7 | Q. The video tape that we saw yesterday that Mr. Ratchford and
- 8 | Mr. Abbass prepared. What time of day was that video tape
- 9 | taken, do you recall?
- 10 | A. It was taken in the evening.
- 11 | Q. In the evening. Had you been drinking that day?
- 12 | A. Well, Ratchford usually brought a drop of stuff to the house when
- 13 | he came and it's possible we all had a drink or two.
- 14 | Q. Yes, and what kind of liquor would he bring? A bottle of rum?
- 15 | A. No, usually a drop of scotch.
- 16 | Q. Ratchford had been at your house on more than one occasion, had
- 17 | he?
- 18 | A. Oh, numerous occasions. Ratchford and I was supposed to be the
- 19 | best of friends.
- 20 | Q. I see.
- 21 | A. I used to go down to his Kung Fu club and he used to come to
- 22 | the house.
- 23 | Q. Did you have a few drinks before the video was taken?
- 24 | A. It's quite possible we did.
- 25 | Q. Yes. Why was the video taken?

R. N. EBSARY, by Mr. Pugsley

- 1 | A. Well, at the time the video was taken, Dave Ratchford had  
2 | got permission from the Attorney General to come out and  
3 | visit me in the slammer where I was incarcerated. And make  
4 | tape recordings, right. They wanted my whole life history  
5 | on tape. They were -- they told me they were writing a book  
6 | and at the same time they were making the video. And I  
7 | agreed.
- 8 | Q. I see. Well, did they wait til you got out of the slammer  
9 | before they did the tape?
- 10 | A. Pardon.
- 11 | Q. Did they wait until you got out of the slammer before the  
12 | tape was done?
- 13 | A. Oh, yes, right.
- 14 | Q. You said yesterday that you were putting on an act?
- 15 | A. Well, naturally that was an act. That video that was taken  
16 | in the -- my apartment that night.
- 17 | Q. That's right.
- 18 | A. Well we were acting a part.
- 19 | Q. You were acting a part, of course. Right.
- 20 | A. Right.
- 21 | Q. Okay. Was it real?
- 22 | A. Well let's put it this way, Ratchford was directing and I was  
23 | doing exactly what he suggested.
- 24 | Q. I see. During the course of the video, you made a comment,  
25 | "They're forgetting Irving"?

R. N. EBSARY, by Mr. Pugsley

- 1 A. Forgetting who?
- 2 Q. Irving, you mentioned the word Irving?
- 3 A. Irving.
- 4 Q. Yes, and that's the second time you mentioned Irving yesterday.  
5 The first time was with -- in response to a question from my  
6 friend Mr. MacDonald, and you said that "put a beating on  
7 Irving Cameron".
- 8 A. That's right, Irving Cameron.
- 9 Q. Who is Irving Cameron and what did you mean by that?
- 10 A. Well Irving Cameron is serving time now somewhere, I don't  
11 know if he's in Dorchester. But he evidently pulled an armed  
12 holdup after he left the slammer up there. That's where I  
13 met him. He was pushing dope, right.
- 14 Q. He was what?
- 15 A. He was pushing dope.
- 16 Q. Pushing dope, I see.
- 17 A. Right. So when he got out of the slammer, he still was going on  
18 pushing dope. He started imbibing the stuff and drinking  
19 heavily, right.
- 20 Q. Yes.
- 21 A. I bought, I have a car. I sold the car to Cameron for a  
22 dollar, understand.
- 23 Q. Yes.
- 24 A. For a dollar the car changed hands. And he put the car in  
25 his name.



R. N. EBSARY, by Mr. Pugsley

1 Q. Was Irving Cameron in Wentworth Park on the night of this  
2 incident?

3 A. Yes. Marshall, Marshall had beaten Irving Cameron up a  
4 few minutes before he tackled me.

5 Q. And how do you know that?

6 A. Because Cameron told me. And Cameron was no liar.

7 Q. Now you gave a statement to the police on November the 15th  
8 of 1971?

9 A. Quite possible.

10 MR. PUGSLEY:

11 If I may, Mr. Chairman, I would like to get this marked as the  
12 next exhibit. It's the original statement of Roy Ebsary November  
13 15th, 1971. This is for the purposes of the record. Exhibit 28  
14 is a document consisting of three/two and a half hand-written  
15 pages together with one and a half of typewritten pages or a  
16 total of five pages.

17 COMMISSIONER EVANS:

18 By whom and to whom.

19 MR. PUGSLEY:

20 It's a statement of Roy Ebsary given on November 15th, 1971, 9:15  
21 p.m. and it is witnessed by Detective Sergeant M.J. MacDonald and  
22 Sergeant Detective John MacIntyre.

23 MR. CHAIRMAN:

24 Is that in any of the exhibits?

25 MR. PUGSLEY:

Yes, it is and I'll give you the reference, My Lord.

R. N. EBSARY, by Mr. Pugsley

1 The typewritten is Volume 11, Page 2 or 1 rather. And the hand-  
2 written is in Volume 16 on Page 188.

3 BY MR. PUGSLEY:

4 Q. I just want you to take a moment Mr. Ebsary and read --

5 A. Well, actually I can't read this. How about you reading  
6 it for me?

7 Q. Well, let's take a look at the typewritten?

8 A. I write bad, but that's desperate.

9 Q. Yes, okay. I think Mr. Ruby pointed out yesterday there was  
10 some discrepancy between the two but let's take the type-  
11 written one which was on the second last page.

12 A. I don't want to be a bloody nuisance.

13 Q. Not at all.

14 COMMISSIONER EVANS:

15 Mr. Pugsley, the statement in Volume 1 or Volume 11, Page 1, is the  
16 same as you have on the hand-written one in Volume 16, 188.

17 MR. PUGSLEY:

18 That's my understanding, My Lord. When I say it's the same, Mr.  
19 Ruby pointed out yesterday that there was a slight discrepancy  
20 about a street name and I haven't really compared them verbatim.  
21 In fact I haven't really compared them at all. But I assume  
22 they are identical with that exception.

23 BY THE WITNESS:

24 A. Very good, I've read it.

25 BY MR. PUGSLEY:

Thank you.

R. N. EBSARY, by Mr. Pugsley

1 Q. Now if I can turn you to the front page. And I realize that  
2 that you have difficulty reading it.

3 A. That's right.

4 Q. But I want to direct your attention to the signature that  
5 appears at the bottom of the first page. Is that your  
6 signature, Sir?

7 A. It looks like it really.

8 Q. And again at the bottom of the second page. Again is that  
9 your signature?

10 A. I say it was, yes.

11 Q. Yes. And again at the bottom, half way down the third page,  
12 is that your signature?

13 A. I'd say it was.

14 Q. Now turning to the typewritten statement, in the response  
15 to the first question after what happened.

16 A. Yeh.

17 Q. You say, "when we were about over to the corner of South  
18 Bentinck Street near Robbie Roberston on Crescent Street,  
19 two chaps who were behind us, came around the sides of us  
20 and asked us if we had cigarettes and if we had any money".

21 A. Right.

22 Q. "We told them we didn't."

23 A. Right.

24 Q. "They asked us to turn out our pocket, so we turned out our  
25 pockets. The short fellow tried to take my ring off my finger."

R. N. EBSARY, by Mr. Pugsley

1 | What ring was that?

2 | A. Well, it was a ring the wife had given to me. It had a couple  
3 | of stones in it.

4 | Q. Yes. And what hand did you wear that on?

5 | A. This one, the left hand, really.

6 | Q. Yes. And what finger did you wear it on?

7 | A. The little one.

8 | Q. The little one, yes. And did he succeed in getting the  
9 | ring off your finger?

10 | A. Yes.

11 |

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R.N. EBSARY, by Mr. Pugsley

- 1 Q. 'While the tall fellow had his arm the other fellows throat --
- 2 A. That's right.
- 3 Q. -- Jimmy --
- 4 A. Yes.
- 5 Q. -- and had him on the ground.
- 6 A. Right.
- 7 Q. When he tried to get my ring I was not well." What did
- 8 you mean by that comment? "I was not well."
- 9 A. Well, I just got out of the hospital after a bout of
- 10 pneumonia.
- 11 Q. I see.
- 12 A. And that's when the Canadian Veterans -- the people who
- 13 look after veterans affairs.
- 14 Q. Yes.
- 15 A. Suggested that I'm -- retire.
- 16 Q. I see.
- 17 A. You see. So I had retired early.
- 18 Q. I see. "I tried to wrestle him. He slung me on to the
- 19 ground."
- 20 A. Right.
- 21 Q. "I made a kick at him and he got up and ran off."
- 22 A. Right.
- 23 Q. Is that true?
- 24 A. Yes.
- 25 Q. Yes. "I went over to see how Jim was getting along with

R. N. EBSARY, by Mr. Pugsley

1 the other fellow and he dropped Jim and ran off with the  
2 other fellow."

3 A. Right.

4 Q. Now, the next question is: "Did you stab the man you were  
5 wrestling with?" And you responded --

6 A. No.

7 Q. "Hell, no. Why would I stab him?"

8 A. That's right.

9 Q. And there's reference in that statement that you took  
10 swipe at or attempted to stab Seale?

11 A. No, because Seale was standing when I made the swipe  
12 at him.

13 Q. Yes. You did not tell Detective MacIntyre that you made  
14 an attempt to stab Seale?

15 A. Well, I certainly told him that I took a swipe at Seale.

16 Q. That is not in the statement.

17 A. Well, I told him. That's for bloody sure.

18 Q. Did you tell him anything about Marshall? About taking  
19 a swipe at Marshall?

20 A. Yes, I did.

21 Q. But that is not in the statement either.

22 A. No, well there you are.

23 Q. I see.

24 A. But I did.

25 Q. Yes. Did you stab the man you were wrestling with? "Hell,

R. N. EBSARY, by Mr. Pugsley

1 no, why would I stab him?"

2 A. That's right. Why would I?

3 Q. Yes. Okay. You also were asked on the second page:

4 "Do you carry a knife?"

5 A. That's right.

6 Q. Answer: "No"

7 A. No.

8 Q. But you were carrying a knife that night?

9 A. Well, I had a small pocket knife but I told him I always  
10 carry a small pocket knife.

11 Q. I see. Is not a pocket knife a knife?

12 A. Well, in a sense, yes.

13 Q. Yes.

14 A. But here when their applying your carrying a knife,  
15 their talking about something about that bloody length.

16 Q. I see. When you saw the R.C.M.P. when you had the lie  
17 detector test, did you tell them that you took a swipe at  
18 Steele -- Seale?

19 A. I don't know really. Did I?

20 Q. Well, I'm asking you?

21 A. Well, I don't remember really.

22 Q. I see. Did you tell them that you took at swipe at Marshall?

23 A. Yes, I did.

24 Q. You did tell them that?

25 A. Yes.

R. N. EBSARY, by Mr. Pugsley, by Mr. Murray

1 Q. Yes, I see. You indicated that you were told that you were  
2 by someone that under no circumstances were you to tell any-  
3 one that you had a lie detector test.

4 A. That's true.

5 Q. Who told you that?

6 A. The two men that gave me the lie detector test. Actually  
7 I -- they got me to swear that I'd never tell anyone that  
8 they'd taken me to the hotel to take the lie detector test.  
9 So I didn't tell anyone.

10 MR. PUGSLEY:

11 Thank you Mr. Chairman.

12 BY MR. MURRAY:

13 Q. Mr. Ebsary, my name is Donald Murray. I here representing --

14 A. If you come over a bit closer I'd be able to hear what  
15 you're saying.

16 Q. My name is Donald Murray and I'm representing Mr. Urquhart.

17 A. Oh, Urquhart? Who's that guy?

18 Q. Well, that was my first question to you, sir. In all the  
19 years since 1971 and previously you haven't known and haven't  
20 gotten to know William Urquhart at any time?

21 A. Well, I didn't know any Urquhart.

22 Q. But you do know a Mitchell Bain Sarson?

23 A. Oh, naturally.

24 Q. He, in fact, lived at your house for a period of time  
25 did he not?



R. N. EBSARY, by Mr. Murray

1 A. That's right, yes.

2 Q. How long did he live at your house?

3 A. Possibly a month.

4 Q. And was that on Mechanic Street in Sydney?

5 A. Yes, that's right.

6 Q. You and he would spend the evenings swapping stories?

7 A. Doing what?

8 Q. You would spend the evenings swapping stories with Mr.  
9 Sarson?

10 A. That's right. Yes.

11 Q. Now, is it during this period of time when Mr. Sarson  
12 was staying with you that you began to communicate with  
13 Donald Marshall, Junior?

14 A. Oh, no. I was up on -- in my apartment -- what do  
15 you call the street? I was in the MacVicars apartment when  
16 I started corresponding with -- Marshall wrote me first.

17 Q. Yes.

18 A. Right. And then I wrote him back and then the correspondence  
19 started.

20 Q. How much of the correspondence continued?

21 A. Well, I must have had three or four letters.

22 Q. I see. Do you still have those three or four letters?

23 A. No, I haven't. I got one -- one or two but you see  
24 the R.C.M.P. came and they confiscated every bloody  
25 thing that I had in the way of papers, diaries, everything

R. N. EBSARY, by Mr. Murray

1 |       like that. When I came back it was in a mess so I don't  
2 |       know where the letters went really.

3 | Q. So, it's your recollection that there should be three  
4 |       or four letters?

5 | A. Oh, yes. There should have been really.

6 | Q. From Mr. Marshall?

7 | A. Right.

8 | Q. When you began to discuss the matter with the R.C.M.P.  
9 |       in 1982 I suggest to you it -- that it was your design  
10 |       to tell them as much as needed to be told to have  
11 |       Marshall released?

12 | A. That's right.

13 | Q. But as little as necessary so that you would not get  
14 |       yourself in a trouble?

15 | A. That never entered my mind.

16 | Q. I see. Other counsel have referred you to a statement  
17 |       that you gave to Corporal Carroll in volume eleven at  
18 |       page three.

19 | A. Right.

20 | Q. And I refer you after -- to the third question.

21 | A. Third question.

22 | Q. Corporal James Carroll:-- "Are you going to implicate  
23 |       yourself?"

24 |       Answer: "If necessary, yes."

25 | A. Right.

R. N. EBSARY, by Mr. Murray

1 Q. So you weren't necessarily going to implicate yourself  
2 if that was not necessary?

3 A. I was prepared to go all the way and the bloody mounties  
4 knew I was prepared to go all the way.

5 Q. If you had to?

6 A. If I had to, yes.

7 Q. And you were doing that because in your words you were  
8 in Donald Marshall's corner?

9 A. That's right. When Marshall wrote me and asked me for help  
10 I turned around and I said, "okay old boy," "I'll help you."

11 Q. In your first letter to Marshall, and I take it there were  
12 more than the one letter?

13 A. Right.

14 Q. Which is reproduced at volume nineteen, page ninety-six.  
15 In the second line of that: "I'm collaborating with the  
16 R.C.M.P. to get you out."

17 A. Yes, I was.

18 Q. Yes. Is there any reason why you used the word collaborating?

19 A. Well, the R.C.M.P. were giving me a rundown on Marshall?  
20 How he'd changed. How he'd become a plaster saint. The  
21 trouble they were having with him and all that sort of thing.  
22 And the fact that this was the first time that Marshall had  
23 told them it was robbery with violence. They asked  
24 him why and he said he was afraid he'd be charged.  
25 But at the same time the R.C.M.P. and I were working

R. N. EBSARY, by Mr. Murray

1 together. It was then I said, "why not give Marshall  
2 a second trial." They said, "he can't get a second trial."  
3 I said, "he bloody well can get a second trial."

4 Q. "You watch my smoke."

5 A. You watch my smoke.

6 Q. We spoke a moment ago about you would implicate yourself  
7 if necessary.

8 A. That's right.

9 Q. And if necessary you would use your imagination?

10 A. I'd use anything that I had to use.

11 Q. And in fact for some of the details of what happened on that  
12 evening you did use your imagination.

13 A. What evening? What evening are referring?

14 Q. May 28, 1971.

15 A. Repeat that please?

16 Q. Have you filled in details from your imagination about  
17 what happened on May 28, 1971?

18 A. No, not necessarily. Why?

19 Q. Not necessarily but have you on occasion?

20 A. No.

21 Q. Are you suggesting to this Commission that you have not  
22 -- or that you have always limited yourself to precisely  
23 what your memory tells you about that evening?

24 A. No, because I've gone over this case for the past  
25 eleven or twelve years. I've got over it. Rehashed it.

R. N. EBSARY, by Mr. Murray

- 1           What possibly could have happened.
- 2   Q.   Yes.
- 3   A.   And I went over the same thing with Dave Ratchford.
- 4           Right.
- 5   Q.   Yes.
- 6   A.   I went over the same thing with the R.C.M.P. and I told
- 7           the R.C.M.P. that Marshall was entitled to a second trial.
- 8           They said he wasn't and I said he was. Because Marshall
- 9           was convicted under circumstantial evidence.
- 10   Q.   In your various interviews with Mr. Ratchford and the
- 11           R.C.M.P. and even Sydney City Police in 1971 and the
- 12           R.C.M.P. in 1971 --
- 13   A.   Yes.
- 14   Q.   Would it be fair to say that you told them what you
- 15           choose to say rather than what your memory tells
- 16           you to say?
- 17   A.   I told them the bloody truth.
- 18   Q.   Each time?
- 19   A.   Yes. Right.
- 20   Q.   The complete truth each time?
- 21   A.   As far as I know, yes. Are you trying to imply that
- 22           I'm a chronic liar?
- 23   Q.   Not at all, sir.
- 24           What I am suggesting is that on occasion you will adjust your
- 25           story to meet the circumstances in which you're telling it.

R. N. EBSARY, by Mr. Murray

1 A. Not necessarily.

2 Q. Not necessarily but perhaps you could?

3 A. There's no -- listen, we're not dealing with assumptions  
4 and we're not dealing with anything perhaps. We're dealing  
5 with facts.

6 Q. Facts that you've created with your imagination?

7 A. This -- why did God give man an imagination? To use.  
8 And through using it man has built the world around him.  
9 Right?

10 Q. Yes.

11 A. But if God had filled his head with illusions as our  
12 friend over here suggested yesterday, like, what  
13 kind of a bloody world would we living in? It's imagination  
14 that has created everything that surrounds us.

15 Q. That would include your testimony here to the Commission?

16 A. Yes, naturally. Why not?

17 MR. MURRAY:

18 I have no further questions, My Lord.

19 MR. CHAIRMAN:

20 Mr. MacNeil?

21 MR. ELMAN:

22 On behalf of the estate of Donald MacNeil, My Lord, we have  
23 no questions to ask this witness at this time. However we  
24 wish to reserve our right in the event that something should  
25 come out of other cross examination that would be of interest

R. N. EBSARY, by Mr. Saunders

1 | to us

2 | MR. CHAIRMAN:

3 | Counsel for the Attorney General of Nova Scotia.

4 | MR. SAUNDERS:

5 | Thank you, My Lord.

6 | MR. CHAIRMAN:

7 | Maybe before you go, I can't recall your name.

8 | MR. ELMAN:

9 | Frank Elman, My Lord. Frank Elman.

10 | MR. CHAIRMAN:

11 | Yes. Mr. Elman, at the outset of the Hearings, I laid down the  
12 | practice that will be followed on examination and the order of  
13 | cross-examination. I think I ought to point out to you that  
14 | despite your intervention that your right to cross-examination  
15 | is now and not later.

16 | MR. ELMAN:

17 | All right. No questions then.

18 | MR. CHAIRMAN:

19 | Counsel for the Attorney General.

20 | MR. SAUNDERS:

21 | Thank you, My Lord.

22 | BY MR. SAUNDERS:

23 | Q. Mr. Ebsary, my name is Saunders and I represent the Attorney  
24 | General's Department.

25 | A. Right-oh.

R. N. EBSARY, by Mr. Saunders

1 Q. There's one thing that puzzles me, Mr. Ebsary, and I'm  
2 wondering if you can help me out and that pertains  
3 to the personal belongs that you say were taken from  
4 you?

5 A. That's right.

6 Q. In Wentworth park? Now, by your account, Mr. Ebsary, you  
7 were suddenly and without warning confronted by two  
8 thugs as you put it in Wentworth Park?

9 A. That's right.

10 Q. And you were asked to turn over the effects that you  
11 had on you.

12 A. That's right.

13 Q. And when we watched the video yesterday that Mr. Ratchford  
14 took of you, you were asked by Ratchford, what happened  
15 to the stuff?

16 A. Yeh.

17 Q. And you told Mr. Ratchford that Mr. Seale had the stuff  
18 in his hands and he put the stuff in his pockets.

19 A. That's right. As far as I know he did.

20 Q. Yes. Now, let's just ask ourselves, Mr. Ebsary, what  
21 that stuff was. You and Mr. MacNeil were heading to the  
22 State Tavern, correct? And you --

23 A. Heading from the State. We were -- the State Tavern was  
24 closed when we got there.

25 Q. Yes, I heard you say that.



R. N. EBSARY, by Mr. Saunders

- 1 | A. Right.
- 2 | Q. But you assumed that it was open when you were heading  
3 | towards it?
- 4 | A. No.
- 5 | Q. You knew it was closed?
- 6 | A. You see it was late when we left the MacNeil home.
- 7 | Q. Yes.
- 8 | A. And I knew that the tavern was closed.
- 9 | Q. Sure. But you had money on you did you not, Mr Ebsary?  
10 | You had some money?
- 11 | A. Well, I might have had a bit of money, yes.
- 12 | Q. Should,eh. So you had that in your pockets --
- 13 | A. Yes.
- 14 | Q. -- and you also indicated that you had a ring on your  
15 | hand -- on your left hand?
- 16 | A. That's right.
- 17 | Q. Yes. And is it true, Mr. Ebsary, that you had a watch on  
18 | your arm --
- 19 | A. That's right.
- 20 | Q. Was it on your arm or in you pocket?
- 21 | A. On my arm.
- 22 | Q. Yeh. In any event, by your account Mr. Seale deprived you  
23 | of the money you had and the ring you had and the watch  
24 | you had.
- 25 | A. That's right.

R. N. EBSARY, by Mr. Saunders

1 Q. And the last thing you saw of those belongings that were taken  
2 they disappeared in Mr. Seale's pockets?

3 A. Right.

4 Q. And that's the account that you gave to R.C.M.P. Corporal  
5 Carroll --

6 A. Yes.

7 Q. -- when he interviewed you in 1982?

8 A. Right.

9 Q. Indeed if we turn to volume nineteen, page one hundred  
10 and forty and I'll show my copy Mr. Ebsary.  
11 And would you look, sir at the portion of the statement  
12 that you gave on tape recording to Corporal Carroll and  
13 read in to the record what I've highlighted in green  
14 please. Would you read that sir?

15 A. Yes.

16 Q. Can you read it out loud?

17 A. Right. "So when this bastard said to me: Give me everything  
18 you got in your pocket. I said: Listen, you bugger, you  
19 don't --" I didn't say anything like that.

20 Q. Well, just read what is here as recorded by Corporal Carroll.

21 A. Well, where the hell did you get it to? That's a bunch  
22 of bloody lies there.

23 Q. Well, you just read in the record sir what is --

24 A. I'd like to know who supplied you with all the -- well, with  
25 all this phoney information?

R. N. EBSARY, by Mr. Saunders

1 Q. Well, if you would just listen to my question and read  
2 in to the record what I have highlighted in green ink please.

3 A. "So when his bastard said to me: Give me everything you  
4 got in your pocket. I said: Listen you bugger, --" I  
5 never used that bloody word.

6 Q. All right.

7 A. "You're going to get everything I got in my pocket. So I  
8 gave him everything I had in my pocket. Everything. My  
9 watch, my ring but this -- what? But this -- I can see  
10 very well.

11 Q. Yes. My watch, my ring.

12 A. Right. Pocket. "And I said: Brother you asked for everything,  
13 you're going to get everything."

14 Q. Thank you.

15 A. "And I gave him everything."

16 Q. All right. And so you told Corporal Carroll when he  
17 interviewed you and took this recorded statement that you  
18 were asked to remove those items from your pocket and  
19 you did and you turned them over to Mr. Seale.

20 A. Right.

21 Q. And that's true?

22 A. Right.

23 Q. Now, tell me, Mr. Ebsary, why was it that you didn't tell  
24 the Sydney Police Department and the prosecution to assist  
25 them in 1971? That information?

R. N. EBSARY, by Mr. Saunders

1 A. Because they didn't ask me.

2 Q. Is that your answer?

3 A. Yes.

4 Q. Because they didn't put to you the specific question --

5 A. That's right.

6 Q. -- whether you were taken -- deprived of a watch or  
7 deprived of your money or deprived of a ring --

8 A. That's right.

9 Q. -- you didn't see fit to tell them?

10 A. Why would I? They didn't ask me the question, I didn't  
11 answer them.

12 Q. Well, in fact Mr. Ebsary, I suggest to you that you had  
13 the opportunity to tell them. I want to show you volume  
14 sixteen, page one hundred and eighty-six.

15 MR. CHAIRMAN:

16 What number was it?

17 MR. SAUNDERS:

18 Volume sixteen, page one hundred and eighty six, My Lord.

19 BY MR. SAUNDERS:

20 Q. And as we've already seen, Mr. Ebsary, this is the  
21 typed version of the statement that you gave to the  
22 police --

23 A. Right.

24 Q. -- in Sydney on November 15, 1971?

25 A. Right.

R. N. EBSARY, by Mr. Saunders

1 Q. And you see the date recorded at the top of that page?

2 A. Right.

3 Q. And on the first page, Mr. Ebsary, about three inches  
4 the way down you get in to a long answer that takes  
5 a full paragraph.

6 A. Well, let's see this.

7 Q. Certainly.

8 And you'll see that this is the answer that you gave to  
9 the investigating police officers in describing what occurred  
10 to you that evening. Correct?

11 A. Yes.

12 Q. And you say in part, quote: "The short fellow tried to  
13 take my ring off my finger while the tall fellow had his  
14 arm around the other fellows throat, Jimmy's, and had  
15 him on the ground. When he tried to get my ring I wasn't  
16 -- I was not well. I tried to wrestle him."

17 And so for.

18 A. Right.

19 Q. So I suggest to you, Mr. Ebsary, that you had the opportunity  
20 in giving that answer to the investigation police officers  
21 to tell them that you were deprived also of your money and  
22 your watch. But you did not.

23 A. Well, they didn't ask me.

24 Q. The impression I have, sir, in reading that, is that the  
25 person was not successful in taking your ring away.

R. N. EBSARY, by Mr. Saunders

1 A. Oh, he was.

2 Q. He was?

3 A. Yes.

4 Q. That's what you say -- said to one of the other counsel  
5 earlier today.

6 A. That's right.

7 Q. But you didn't tell the officer that on November 15, 1971?

8 A. He didn't ask me.

9 Q. I see. In any event, Mr. Ebsary, the whole truth as to  
10 what was taken from you on November 15, 1971 was that it  
11 was you money and your watch and your ring?

12 A. And a ring of keys.

13 Q. And a ring of keys.

14 A. Right.

15 Q. But you did not impart that information to either the  
16 prosecution or the police in November of 1971?

17 A. I wasn't asked and I only answered the questions that  
18 were asked me.

19 Q. Okay. And you did not impart that information to the  
20 investigating police or the prosecution in November of  
21 1971?

22 A. If I wasn't asked why -- why did I have to say it?

23 Q. You did not impart that information, sir?

24 A. I wasn't asked.

25 Q. And so you did not?