

R. N. EBSARY, by Mr. Saunders, By Mr. Ross

1 | A. No.

2 | MR. SAUNDERS:

3 | Thank you. Those are all my questions, My Lord.

4 | MR. CHAIRMAN:

5 | Who's next?

6 | MR. BISSELL:

7 | My Lord, there'll be no questions from the R.C.M.P., Correctional
8 | Services or the National Parole Board.

9 | MR. CHAIRMAN:

10 | Who's next? Counsel for Sergeant Carroll?

11 | MR. BRODERICK:

12 | No questions.

13 | MR. CHAIRMAN:

14 | All right. Mr. Ross?

15 | BY MR. ROSS:

16 | Q: Mr. Ebsary, my name is Anthony Ross. R O S S.

17 | A. Mr. Ross, could you come a bit closer, please. My hearing
18 | is not to bloody good.

19 | Q. My understanding is that I'm wearing a microphone. Does
20 | it help now or you prefer me a little closer?

21 | A. Well, I can't hear you where you are.

22 | Q. Understandable. Thank you.

23 | A. Thank you.

24 | Q. Can you hear me now?

25 | A. Yes, thank you.

R. N. EBSARY, by Mr. Ross

1 Q. Mr. Ebsary, you would appreciate that this is not a trial.

2 Do you understand that?

3 A. Well, according to the C.B.C. broadcast last night, I'm

4 supposed to be at the moment mentally ill. So I was

5 asking my lawyer today if I disqualify myself as a witness

6 due to the statement that was made by the C.B.C. last night.

7 They claim that as the present moment Ebsary is mentally ill.

8 What would you do under the circumstances?

9 Q. I think that's a very unfortunate statement but I am coming

10 back to the Inquiry.

11 A. Okay.

12 Q. Do you recognize that this is not a trial?

13 A. Right.

14 Q. Do you recognize that you will neither be acquitted nor

15 convicted here?

16 A. Right.

17 Q. Do you recognize further that you're position to help

18 society?

19 A. Right.

20 Q. And I take it that you've been very helpful to many people

21 in the past. Am I correct with that?

22 A. Well, news gets around I suppose.

23 Q. For instance you've been helpful to Donald Marshall.

24 A. In what sense?

25 Q. Well, no. I do not propose to try to become argumentative

R. N. EBSARY, by Mr. Ross

1 If there's simple answers that you don't know, move on
2 to something else.

3 A. Okay. Go ahead.

4 Q. But you've tried to help Donald Marshall, haven't you?

5 A. Yes, I did.

6 Q. Sure you did. And as a matter of fact you tried to help
7 Michael Sarson?

8 A. Yes.

9 Q. And you also tried to help Irving Cameron?

10 A. That's right.

11 Q. And as a matter of fact this guy -- What is it Muggridge?

12 A. Yes.

13 Q. You tried to help him?

14 A. Right.

15 Q. And now I'm going to ask you to be good enough to try to
16 help us. Try to help the Inquiry.

17 A. Well, I'm trying to.

18 Q. Yes.

19 A. But people are supplying you with information and I
20 don't know where the hell they're getting the information.

21 Q. Well, I don't know that's a fair statement Mr. Ebsary, because
22 I've not started to produce any information at this time.

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JMK

R. N. EBSARY, by Mr. Ross

- 1 | A. Well, you see, I'm swimming in water and sometimes the water
2 | is too deep.
- 3 | Q. Well when that is so, would you please tell me that you do
4 | not understand because I am trying to get your assistance.
- 5 | A. Thank you.
- 6 | Q. Now, you're a very well-read person.
- 7 | A. So you say.
- 8 | Q. Well, you've told us that you read twenty-three hundred books.
- 9 | A. That's right. I had a library of twenty-three hundred books
10 | until the City put the ball to the apartment where I had --
11 | the apartment building where I was living. They destroyed
12 | the building. They put a ball through, like. My library
13 | went, my furniture went, and every bloody thing I owned went
14 | because I was in -- at the slammer at the time and there
15 | was nothing I could do about it so I lost my clothes. I lost
16 | every bloody thing but what I stand in.
- 17 | Q. Very unfortunate, but --
- 18 | A. Thank you.
- 19 | Q. Very unfortunate but as in any event, you will try to help the
20 | Commission?
- 21 | A. Oh, yes.
- 22 | Q. Yes. Now you recognize that there's more than one aspect
23 | to the Inquiry. The first is the circumstances of the death
24 | of Sandy Seale.
- 25 | A. Right.

R. N. EBSARY, by Mr. Ross

1 Q. Yeh, perhaps we'll just address that for a minute and I will
2 tell you when I am through dealing with the circumstances of
3 the death of Sandy Seale.

4 A. Right.

5 Q. I propose to get some of your views with respect to some other
6 aspects of the Inquiry.

7 A. Okay, go ahead.

8 Q. Now are you understanding me clearly?

9 A. Quite, I hope.

10 Q. Absolutely. Now by way of background, you were in the British
11 Navy?

12 A. Yes.

13 Q. And as a matter of fact, you were on the Rodney?

14 A. Right.

15 Q. Now I understand that the Rodney, along with the Nelson and
16 I think it might have been the Drake, was decommissioned
17 shortly after the War. Am I correct with that?

18 A. Yes, as far as I know.

19 Q. And as far -- And did you stay on these ships after they were
20 decommissioned?

21 A. Oh, no.

22 Q. I see. You just stayed on the Rodney during your war service?

23 A. I was sent home in 1942 after spending six months in a
24 hospital in Bermuda after the Bismark incident.

25 Q. Okay, fine. And that six months in Bermuda, it was after the

R. N. EBSARY, by Mr. Ross

1 Bismark incident which would have been after May of 1941.

2 Am I correct?

3 A. That's right, yes.

4 Q. So May is the fifth month, so you would have been from some
5 time -- Sorry, did you come out of the hospital in 1941 or
6 was it 1942, the hospital in Bermuda?

7 A. Just before Christmas (1941, it would have been.) they
8 transferred me from the hospital in Bermuda to Camp Hill
9 Hospital in Halifax.

10 Q. Okay.

11 A. Right?

12 Q. Yes. I'll tell you what I propose to do. I propose to
13 try to do this thing really step by step. I will tell you
14 my approach and if you understand my approach, you might
15 be able to assist me.

16 A. Thank you.

17 Q. So let us assume we are going on a ladder and I will take it
18 step by step. We'll start at one point and get to another.

19 A. Good.

20 Q. So we don't have to have a long exchange, a long dialogue;
21 perhaps short questions and short answers.

22 A. Thank you.

23 Q. Would that help you?

24 A. Yes.

25 Q. That would help me also.

R. N. EBSARY, by Mr. Ross

1 A. Thank you.

2 Q. Now, 1941, there's a sinking of the Bismark in May.

3 A. Yes, right.

4 Q. Yes, some time after that you're injured.

5 A. Yes.

6 Q. Could you recall what month? If you can't, just --

7 A. Yes. It was in June.

8 Q. Okay, so you were injured in June.

9 A. Look, at the time I had been transferred from the Rodney.

10 I had taken one of the crew boats as they call them there

11 and was transferred to Bermuda where we had all our --

12 Q. Yes, but could you -- And that was in June of 1941?

13 A. Yes.

14 Q. Right, and how long did you stay in Bermuda before being

15 transferred to Camp Hill Hospital?

16 A. Well I was in the hospital in Bermuda for -- from the time

17 I entered there in June and I got in Camp Hill Hospital just

18 before Christmas because I remember that they brought me in

19 Christmas gifts at Christmas at Camp Hill Hospital. Right.

20 So it had to be June to December.

21 Q. And you never went back to the military navy after that.

22 A. No, I was demobilized after.

23 Q. I see. Sure, sure. I've got some understanding of the back-

24 ground.

25 A. Thank you.

R. N. EBSARY, by Mr. Ross

1 Q. Now as far as you're living in Sydney is concerned, and I'm
2 moving very quickly up to the 1970's.

3 A. Right.

4 Q. I understand that you had been mugged on quite a few occasions.

5 A. I have, and I've been robbed on a few occasions as well.

6 Q. Yes. Well, let's deal with -- I'm going to try to deal with
7 matters before -- before May of 1971.

8 A. Okay.

9 Q. Now you'll recall May was the month in which Sandy Seale was
10 stabbed.

11 A. Right.

12 Q. I'm not talking about that yet. I'm talking about prior to
13 May.

14 A. Okay.

15 Q. Were you mugged prior to May, 1971?

16 A. Oh, yes, because I was working at the Isle Royale and lots of
17 times when I was coming home through the bloody park, I was
18 either held up and mugged and robbed and that was common
19 knowledge that I used to tell the wife when I got home.

20 Q. Sure. When did you start working at the Isle Royale? Could
21 you recall the year or approximately?

22 A. Well, wait a minute now. I don't exactly know. I know I was
23 transferred from the Isle Royale Motel out on Kings Road. Mr.
24 Elman fired the whole staff. He saved me and the boy who was
25 working with me and he transferred both of us to the Isle

R. N. EBSARY, by Mr. Ross

- 1 Hotel down the north end.
- 2 Q. Sure, but you don't recall the specific dates that you worked
3 -- You don't even recall the month. Is that fair to say?
- 4 A. No, I don't really.
- 5 Q. Do you recall the year?
- 6 A. No, but I know I was at the Isle Royale down there for about
7 eight years.
- 8 Q. No problem. As I said, we do short questions and short answers.
- 9 A. All right.
- 10 Q. Now were you working at the Isle Royale Hotel in 1970?
- 11 A. No, I couldn't have been.
- 12 Q. Were you working there in 1971?
- 13 A. Let me see.
- 14 Q. '71 was the year when Sandy Seale got stabbed.
- 15 A. No, I wasn't working at the Isle Royale then, no.
- 16 Q. You weren't working then?
- 17 A. No, I had retired.
- 18 Q. Okay, fine. Fine. So some time substantially before 1971
19 you worked at the Isle Royale Hotel.
- 20 A. That's right.
- 21 Q. And for about how long a period had you worked at the Isle
22 Royale Hotel?
- 23 A. Well, I'd say about eight years.
- 24 Q. For about an eight-year period, and over that eight-year period,
25 about how many times would you have been robbed?

R. N. EBSARY, by Mr. Ross

1 A. Say four or five times.

2 Q. And is there a difference in your understanding between being
3 robbed and being mugged?

4 A. Yes.

5 Q. Okay, perhaps you will tell me what's your understanding of
6 being mugged. When you said mugged, what do you mean?

7 A. When you're mugged, they put the fists to you, right, or
8 they work you over. When you're robbed, they demand your
9 money and you hand it over or else.

10 Q. Oh, I see. But in the mugging, would they also take your
11 money?

12 A. Oh, yes.

13 Q. I see, so your understanding of one situation robbery occurs
14 when the money is given and there is no beating.

15 A. That's right.

16 Q. Mugging occurs when there is a beating and the money is
17 given over.

18 A. And the money is taken, right.

19 Q. Okay, fine. So approximately how many times were you mugged,
20 that means you were beaten and lost the money?

21 A. Well, I lost the money a good many times so I was beaten once.

22 Q. Okay, so you were mugged once.

23 A. Right.

24 Q. And how many times were you then robbed?

25 A. Oh, my god, times without number.

R. N. EBSARY, by Mr. Ross

1 Q. Very many times?

2 A. Yes.

3 Q. Okay. And this was during the time when you worked, when you
4 were employed as a chef at the Isle Royale Hotel.

5 A. At the Isle Royale, yes.

6 Q. Now when you stopped working at the Isle Royale Hotel, were
7 you mugged after that?

8 A. No, because I never went through the park.

9 Q. I see, so you stopped going through the park.

10 A. Right, I didn't have to.

11 Q. I see. Now I'm going to move quickly now to the date, Friday,
12 the 28th of May, 1971. And so as we understand each other,
13 I am not going to go over a lot of the ground that has been
14 gone over by other persons questioning you.

15 A. Thank god.

16 Q. I think you've had enough of that, haven't you?

17 A. Yes, quite.

18 Q. And as a matter of fact I think that you'd like this to be your last
19 occasion to deal with anything with respect to what happened
20 in May of 1971.

21 A. No, I'd like to stick with it to the end because there's more
22 bloody lies being told one way and another and you people have
23 been supplied with what is called information but there's more
24 lies in the bloody stuff that you got in those books.

25 Q. Well as a matter of fact, sir, I can suggest to you that your

R. N. EBSARY, by Mr. Ross

1 | evidence at this Inquiry is just what you say here so let's
2 | not worry about the books and so on at this point.

3 | A. But hey, but I've had reporters come to the house and I'd make
4 | statements to those -- them, eh. They go home to their office
5 | and they write their own bloody account and it's published.
6 | There's not a damn thing there that I said because they've
7 | written their own story.

8 | Q. That's very unfortunate; however, as we get back now just to
9 | the activities, I take it you were not working. You had been
10 | retired in May of 1971.

11 | A. Yes, the doctor suggested I retire. I had had pneumonia. I
12 | wasn't in very good health. So even the Canadian Military
13 | authorities suggested that I retire and they give me an
14 | allowance which they did.

15 | Q. Yes, and you were getting this allowance in May of 1971.

16 | A. Right.

17 | Q. Yes. Now this was a Friday. Could you recall anything that
18 | you might have done that day? Is there any reason why anything
19 | should stick in your mind? And if the short answer is no,
20 | please, I'll accommodate that.

21 | A. Well, no. Actually I know I was home all day so I couldn't
22 | have done very much.

23 | Q. And we have two theories. We have two theories that we --
24 | which have been advanced. One of them is that you'd gone to
25 | the State Tavern and the other one is that you had gone to

R. N. EBSARY, by Mr. Ross

- 1 Jimmy MacNeil's father's house.
- 2 A. Right.
- 3 Q. Okay, fine. Before we get to this, how long had you known
- 4 Jimmy MacNeil?
- 5 A. I'd met him only several times.
- 6 Q. I see. Was this guy so to speak a friend of yours?
- 7 A. Well not a close friend.
- 8 Q. Was his father a closer friend than he was?
- 9 A. Yes, because the old man seemed to have more sense and he was
- 10 more sociable, really.
- 11 Q. I see. Now the other thing you indicated to one of my
- 12 learned friends was that Jimmy MacNeil used to come to your
- 13 house to study.
- 14 A. Right.
- 15 Q. And what was he studying? Do you recall?
- 16 A. No.
- 17 Q. Okay, fine.
- 18 A. I took it for granted he was going to school.
- 19 Q. I see. You thought he was a student.
- 20 A. Yes.
- 21 Q. And did you try to help him with his studies from time to time?
- 22 A. No, I left him strictly on his own.
- 23 Q. Absolutely.
- 24 A. Unless he asked me a question, of course, and I'd answer him.
- 25 Q. Very understandable. Very understandable. So on the 28th of

R. N. EBSARY, by Mr. Ross

- 1 May, you very likely spent the day at home.
- 2 A. I did.
- 3 Q. And around that time, were you a drinking man?
- 4 A. The only time I drank in those times -- When I worked at the
5 Isle Royale, for instance, right?
- 6 Q. Pardon me?
- 7 A. When I worked at the Isle Royale, I got two days off a week,
8 right.
- 9 Q. I appreciate that but --
- 10 A. Now wait a minute. Wait a minute. Let me interrupt. I got
11 two days off a week, right. On the first day I'd have a few
12 drinks of wine. The second day I sobered up completely so
13 that I could be sober going back on the job.
- 14 Q. Very understandable. As a matter of fact, very admirable.
- 15 A. There you go.
- 16 Q. But you see my understanding of the time that we're speaking
17 about now, you have already retired so I am not practically
18 interested in what happened at the Isle Royale Hotel. You
19 were at home and at that time, I take it -- were you a drinking
20 man at that time?
- 21 A. No.
- 22 Q. You were not a drinking man.
- 23 A. No, I was not.
- 24 Q. Oh, I see. Did your wife know that you were not a drinking man?
- 25 A. Well as far as I know, yes. Why not? She was living with me.

R. N. EBSARY, by Mr. Ross

- 1 Q. Oh, absolutely. Absolutely. She knew that you were not a
2 drinking man.
- 3 A. That's right.
- 4 Q. Yes. As a matter of fact, did she ever try to encourage you
5 not to drink?
- 6 A. Did you ever see a woman that didn't?
- 7 Q. I take it that she was always encouraging you not to drink?
- 8 A. That's right.
- 9 Q. Yes. And on the other hand, did she at any time encourage
10 you to drink?
- 11 A. No, never.
- 12 Q. Did you find it a bit unusual that she would give you two
13 bottles of wine because your birthday was coming up?
- 14 A. No, that was nothing unusual.
- 15 Q. Oh. There was specific occasions which required specific
16 celebrations. Is that a fair assessment?
- 17 A. Right. That's it. You got it right.
- 18 Q. So you had our two bottles of wine and I take it that you
19 intended to share your wine with a man of good sense.
- 20 A. That's right.
- 21 Q. That's Mr. MacNeil, Senior?
- 22 A. Right.
- 23 Q. And what time would you have left home with your wine to visit
24 Mr. MacNeil, Senior?
- 25 A. After supper.

R. N. EBSARY, by Mr. Ross

1 Q. And around what time was supper?

2 A. Well usually around six o'clock.

3 Q. Around six. Now having had -- Having had a career of being
4 a chef, did you cook supper or did your wife cook supper?

5 A. Well, as a matter of fact, sometimes I used to do it --

6 Q. And sometimes she would.

7 A. -- because at that time, the wife was working, really, at --

8 Q. I see. The Wandlyn, was it?

9 A. I believe she was working at the Wandlyn, sure. So when
10 she was working, I cooked supper.

11 Q. Yes, but specifically as far as this Friday night is concerned,
12 I take it that you cannot recall whether or not you were the
13 one who cooked supper.

14 A. No, I can't. Not really.

15 Q. It's a long time ago.

16 A. The wife might have cooked supper that evening and I --

17 Q. Fine. But anyway after supper, you went to Mr. MacNeil,
18 Senior's?

19 A. That's right. I had a hell of a job to find his house.

20 Q. Sure, you had some difficulty but you got there.

21 A. Oh, I did. Yes. I always get what I go after.

22 Q. I'll remember that.

23 A. Thank you.

24 Q. I'll remember that. And having gone to Mr. MacNeil's house
25 and having consumed your wine, do you recall what you were

- 1 | doing apart from drinking? Were you looking at the T.V.?
2 | Were you discussing war stories? What were you doing?
3 | Do you recall?
4 | A. No, just --
5 | Q. You don't recall.
6 | A. Just an ordinary line of talking with the old man and myself.
7 | Q. Having general discussions.
8 | A. Yeh, that's right.
9 | Q. And this continued until around what time?
10 | A. Well, I'd say it was eleven or after eleven o'clock.
11 | Q. Okay, fine. Well, then I must ask you another question.
12 | Is there any reason why you became conscious of the time
13 | or is it just your sense of judgement?
14 | A. I took it it was around that time because when young MacNeil
15 | suggested that he'd go down to the State Tavern to meet a
16 | friend, --
17 | Q. I'm going to --
18 | A. Wait a minute now.
19 | Q. Remember the ladder.
20 | A. Wait a minute. Wait a minute. When we got to the State
21 | Tavern, the State Tavern had ceased serving beer. Now they
22 | cease serving beer at eleven o'clock. Well we'd only left
23 | the MacNeil house a few minutes before. So that's how I
24 | arrived at the time.
25 | Q. I see. Very good. So you have a bench mark and your bench

R. N. EBSARY, by Mr. Ross

- 1 mark and your bench mark was the fact that the Tavern stopped
2 selling beer at eleven.
- 3 A. Right.
- 4 Q. Was it a situation of last call at eleven or you stop at
5 eleven?
- 6 A. They stop completely at eleven and there is nothing served.
- 7 Q. And was it the -- Did they ask the patrons to leave or --
- 8 A. No, they could consume what they had on their tables.
- 9 Q. What they had.
- 10 A. Yes.
- 11 Q. I see. I see. So you then left Mr. MacNeil, Senior's house?
- 12 A. Yes.
- 13 Q. Now I am asking you to try to recall and I'll ask you to tell
14 me whether or not in your mind you can recall the route that
15 you travelled. If you can't recall it, yes or no first. If
16 the answer is no, I'll go no further. If it's yes, then
17 perhaps I'll take you along the route.
- 18 A. Well, I'll tell you this much. We did -- I didn't come
19 back by the same route that I went up to try to find the
20 house. There's a road -- There's -- They live at what they
21 call Rear George, see, right. Well, on the far side of them,
22 there's another road much nearer the house, right, so it was
23 that road that we went down.
- 24 Q. Now you came back with Jimmy, Jimmy MacNeil.
- 25 A. That we went down with -- That I went down with to the State --

R. N. EBSARY, by Mr. Ross

- 1 Q. Well toward the State Tavern.
- 2 A. Eh?
- 3 Q. You left the home of MacNeil?
- 4 A. Yes.
- 5 Q. And you and young MacNeil, Jimmy, headed toward the State Tavern.
- 6 A. Yes, because he wanted to meet a friend there, he says.
- 7 Q. Sure, sure. Now you must bear with me. As I recalled every
- 8 photograph I've ever seen of you, every interview, you've
- 9 always been wearing a cap, something like a seaman's -- a
- 10 sea captain's cap.
- 11 A. Yes, sometimes.
- 12 Q. Did you wear that cap that night?
- 13 A. No, not really.
- 14 Q. You didn't wear it that night.
- 15 A. No, I didn't have a cap on.
- 16 Q. Oh, I see.
- 17 A. Not that I recall anyway.
- 18 Q. All rhat you had on was your clothing and the raincoat --
- 19 A. Up over my shoulders.
- 20 Q. -- over your shoulders?
- 21 A. Right.
- 22 Q. Now do you recall whether it was buttoned or just hanging loose
- 23 and open?
- 24 A. It was hanging loose and open.
- 25 Q. And open over your shoulders?

R. N. EBSARY, by Mr. Ross

- 1 | A. Right.
- 2 | Q. And you walked that way and you got down to the Tavern, I
3 | take it?
- 4 | A. Yes.
- 5 | Q. And when you got to the Tavern, did Jimmy go in to look for
6 | this friend he was supposed --
- 7 | A. He did, really, yes.
- 8 | Q. He went in?
- 9 | A. Yes.
- 10 | Q. Did you stay outside or did you go in also?
- 11 | A. I stepped in the door and waited in the doorway for him to
12 | come back.
- 13 | Q. Sure. Did you recall -- Do you recall anybody, any old
14 | friends, any acquaintances, anybody that you might have
15 | recognized in the Tavern that night?
- 16 | A. No, I didn't recognize any of them.
- 17 | Q. And having not recognized anybody and Jimmy not finding his
18 | friend, I take it you left there to go home.
- 19 | A. Right.
- 20 | Q. Now how soon after eleven o'clock had you and Jimmy arrived
21 | at the Tavern?
- 22 | A. Well, possibly twenty after or half past eleven.
- 23 | Q. Twenty after to half past eleven. Did you take that long
24 | to come from Jimmy MacNeil's father's place down to the
25 | Tavern?

R. N. EBSARY, by Mr. Ross

- 1 | A. No. It doesn't take a heck of a lot of time.
- 2 | Q. Pardon me?
- 3 | A. It doesn't take a heck of a lot of time to come from the
4 | MacNeil home down the street to the Tavern, right.
- 5 | Q. Well my understanding and correct me if I'm wrong, my under-
6 | standing is that you'd have left the MacNeil home some time
7 | shortly before eleven. Am I --
- 8 | A. But that's quite --
- 9 | Q. Am I --
- 10 | A. That's quite --
- 11 | Q. Am I correct with that?
- 12 | A. That's quite possible, too.
- 13 | Q. Well, you see, sir --
- 14 | A. You see, I arrived at the time we left the MacNeil home because
15 | when we got to the State Tavern, the State Tavern had closed
16 | selling beer. You see the point?
- 17 | Q. Sure.
- 18 | A. So that's how I arrived at the time.
- 19 | Q. Sure. I appreciate that, sir, but you see, I'm trying to
20 | narrow time down as much as possible.
- 21 | A. Yeh, I don't blame you.
- 22 | Q. You see, because I would like the Commission to get a full
23 | understanding of the truth and the facts.
- 24 | A. Yes. Right.
- 25 | Q. You see, and I think you and I can assist them.

R. N. EBSARY, by Mr. Ross

1 A. Right.

2 Q. Yes. Now as far as the timing is concerned, you see, I wanted
3 to know whether you arrived just after they had stopped selling
4 beer or some substantial time after they had stopped selling
5 beer?

6 A. Well if there had been a substantial time after they were
7 selling beer, there wouldn't have been any beer left on the
8 table. It would have been drunk.

9 Q. Okay. So it was a fairly short time after eleven.

10 A. Yes, it must have been.

11 Q. Yes. And how long had you stayed looking for Jimmy's friend?

12 A. Oh, possibly five minutes.

13 Q. Five minutes. And from there I take it you were heading back
14 to your --

15 A. House.

16 Q. Your house.

17 A. Right.

18 Q. Did you in fact walk through the park or did you stay on the
19 street?

20 A. Well, we walked what was left of George's Street, right. We
21 crossed Byng Avenue.

22 Q. Perhaps I could --

23 MR. CHAIRMAN:

24 Mr. Ross, it's now close to one. I had optimistically anticipated
25 that this witness would be through this morning but unless you can

R. N. EBSARY, by Mr. Ross

1 give an indication that your cross-examination will be concluded
2 within the next ten minutes, I think I will have to break until
3 two.

4 MR. ROSS:

5 I don't know I could give such answer.

6 MR. CHAIRMAN:

7 All right, we'll rise until two.

8

9 INQUIRY ADJOURNED: 12:37 p.m.

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A handwritten signature in black ink, appearing to be 'J. Ross', is written across the diagonal line that spans from the bottom left corner of the page to the top right corner. The signature is positioned roughly between the 17 and 19 line markers.

GENERAL REMARKS, by Mr. Chairman

1 INQUIRY RECONVENED AT 2:05 P.M. IN THE AFTERNOON

2
3 MR. CHAIRMAN:

4 Before we continue this afternoon's proceedings, it's been brought
5 to the attention of the Commission that persons who will be called
6 as witnesses are being subjected to questioning and interviews by
7 the Press before they have been heard by the Commission.

8 MR. JUSTICE EVANS:

9 Press and T.V.

10 MR. CHAIRMAN:

11 Pardon?

12 MR. JUSTICE EVANS:

13 Press and T.V.

14 MR. CHAIRMAN:

15 And T.V. We consider that to be undesirable and not in accord with
16 good and responsible reporting by the media because it may create
17 a position where witnesses will feel intimidated or embarrassed
18 and their appearance may constitute more of an ordeal than they
19 had anticipated.

20 We have no objection as the Commission to the media, newspapers,
21 television, radio, interviewing any witness after he or she has
22 completed their testimony, but I would ask that in future there
23 not be any interviewing of witnesses prior to their completing
24 their testimony before this Commission and I realize that this
25 probably inadvertents on the part of the Press but I wanted to

GENERAL REMARKS, by Mr. Chairman

1 | bring it to their attention now so that we won't have any problems
2 | in the future.

3 | Mr. Ross.

4 | MR. ROSS:

5 | Thank you, My Lord.

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R. N. EBSARY, by Mr. Ross

1 BY MR. ROSS:

2 Q. My Ebsary, before we broke for lunch we were just -- Before we
3 broke for lunch we were just about to get onto what happened
4 after you were leaving the State Tavern with your friend
5 Mr. MacNeil on your way home.

6 A. Right. Mr. MacNeil is no friend of mine.

7 Q. Well, at that time, correct? He was your friend at that time?

8 A. Casual.

9 Q. Yes. Well, I'll call him Mr. MacNeil.

10 A. Okay.

11 Q. So you were leaving with Mr. MacNeil and you were heading for
12 rear Argyle Street?

13 A. Yes.

14 Q. And you'd come up George Street?

15 A. Right.

16 Q. To the intersection of George Street and Byng Avenue. You had
17 reached that point, hadn't you?

18 A. Yes.

19 Q. And up until then it was without incident?

20 A. Oh, yes.

21 Q. Yes, and from the intersection of Byng Avenue and George Street,
22 where did you go?

23 A. We cut down through the park to take the short cut home to my
24 house.

25 Q. I see. And you got through the park and you got over to Crescent

R. N. EBSARY, by Mr. Ross

1 Street I understand?

2 A. Yeh, that's right.

3 Q. And at Crescent Street, I understand that you heard footsteps
4 behind you?

5 A. That's right.

6 Q. Did there appear to be people walking, running, or merely walking
7 fast?

8 A. I think they were walking fast trying to overtake us.

9 Q. And has anything been said -- Did anybody say anything to you
10 at that point?

11 A. No, sir.

12 Q. And had you spoken then to MacNeil? Did you warn him?

13 A. No.

14 Q. I see.

15 A. I had no reason to really.

16 Q. Very much so. So you just continued walking?

17 A. That's right.

18 Q. And as far as this coat was concerned -- Was this a reversible
19 coat or just a plain blue raincoat?

20 A. No, it was just a plain blue Burberry.

21 Q. I see. It was not one that was reversible then?

22 A. No.

23 Q. I see, and you had it just slung over your shoulders?

24 A. Slung over my shoulders. That's the way I always wore it
25 really.

R. N. EBSARY, by Mr. Ross

- 1 Q. So I understand. So I understand. And at that point you said
2 that these people approached you and in your evidence today
3 you indicated that you had invited them to your house for a
4 barbecue?
- 5 A. Well, I did because I thought they were a couple of decent
6 guys.
- 7 Q. I see, and how did it happen that you invited them for this
8 barbecue?
- 9 A. I invited them a few minutes after we met them.
- 10 Q. I see.
- 11 A. I said, "We're going to have a barbecue and why don't you come
12 up to the house".
- 13 Q. Okay. Let's go back just slightly before you met them.
- 14 A. Right.
- 15 Q. Now you went through the park, did you meet anybody else or
16 did you speak to anybody when you were crossing the park?
- 17 A. Well, underneath a large tree as we entered the park there was
18 several girls and a couple of boys lying at the base of the
19 tree. I asked them for a match and they didn't have one.
20 That was the only people I saw. I didn't see Marshall and I
21 didn't see the other boy.
- 22 Q. Seale. And as a matter of fact at that time you would not
23 have known who Marshall was, would you?
- 24 A. No, I wouldn't.
- 25 Q. And at that --

R. N. EBSARY, by Mr. Ross

1 | A. I'd never met Marshall before.

2 | Q. And at that time you would not have known who Seale was?

3 | A. I wouldn't.

4 | Q. As a matter of fact, even as far as this Saturday, this
5 | Saturday the 29th or even Sunday the 30th, you did not know
6 | who Seale was?

7 | A. No, I didn't.

8 | Q. And you did not know who Marshall was?

9 | A. No, I didn't.

10 | Q. I see, and as you came across -- I'm sorry, as you passed
11 | through the park I understand that you met one set of people
12 | that you had some discussion with when you spoke about getting
13 | a match?

14 | A. Right.

15 | Q. And that was the only group of people that you spoke with in
16 | the park?

17 | A. That's right.

18 | Q. And you continued minding your business -- your own business
19 | heading for your home?

20 | A. Right.

21 | Q. And you had already reached Crescent Street?

22 | A. Right.

23 | Q. Tell me when did you take your glasses off, was it before going
24 | through the park or after?

25 | A. Yes, before going through the park because it was kind of a

R. N. EBSARY, by Mr. Ross

- 1 foggy, bubbly night like and the glasses were getting fogged
2 up. Well, I can't see without them but I took them off anyway
3 because MacNeil had me by the arm.
- 4 Q. I see. So you took the glasses off and I take it that you would
5 have put them in your shirt pocket? Would that be the normal
6 place?
- 7 A. Yeh, that would be the normal.
- 8 Q. So you put them in your shirt pocket. Did you have on a coat,
9 a jacket, a suit jacket or a sport's jacket or anything like
10 that?
- 11 A. Yes, I did have a short suit coat underneath the Burberry.
- 12 Q. I see. Could you remember specifically what colour that was
13 or if you can't I don't think much turns on it?
- 14 A. Possibly blue.
- 15 Q. And I take it that you'd be wearing possibly blue because of
16 the old navy background?
- 17 A. That's right.
- 18 Q. I see.
- 19 A. Would you believe I was in the navy then?
- 20 Q. Sure. Would you believe I was in the cadets?
- 21 A. Yes, why not.
- 22 Q. Good. So anyway you put your glasses either in your jacket
23 pocket or in your coat pocket?
- 24 A. Right. Yes.
- 25 Q. And just to step back for a bit. As we look at the plan --

R. N. EBSARY, by Mr. Ross

1 As we look at the plan which is mounted on the board to your
2 right --

3 A. Yeh.

4 Q. --could you be good enough to identify approximately where in
5 the park you met these people from whom you asked a match?

6 A. Well, we were about three parts -- say you know the length
7 of Crescent Street --

8 Q. Well, it's on the map. Perhaps I could help you.

9 A. Well, come over then. We were almost at the end of Crescent
10 Street.

11 Q. Can you see from here?

12 A. Oh, yes.

13 Q. Okay. Here is the intersection of Byng and George.

14 A. Yeh.

15 Q. Now you went through the park. Did you walk through on this
16 walkway?

17 A. No, we climbed the hill. There's a bit of a hill there, like
18 a grassy hill.

19 Q. You just walked over the grass?

20 A. Right.

21 Q. You didn't walk toward the pathway?

22 A. No.

23 Q. So you cut straight --

24 A. Right. Yeh, we took a straight line right up.

25 Q. And did you come toward the railway track bridge or did you

R. N. EBSARY, by Mr. Ross

- 1 cross the other pedestrian traffic bridge?
- 2 A. We didn't come across any railroad tracks.
- 3 Q. You didn't come across --
- 4 A. No.
- 5 Q. You came down through this way?
- 6 A. Yes, we went up over a slope and on to Crescent Street.
- 7 Q. Yes, sir, but I'm crossing -- I'm speaking about crossing the
- 8 water. There's the water here in Wentworth Creek and I'm
- 9 suggesting to you that if you stayed in the park you would
- 10 have had to cross it on this section marked "bridge" or
- 11 on the railway track bridge?
- 12 A. Well, it must have been this one over here.
- 13 Q. It must have been this one?
- 14 A. Yeh.
- 15 Q. Now what about up near the band shell. Do you recall if you
- 16 went close to the band shell?
- 17 A. No, we were quite a distance from the band shell, yeh.
- 18 Q. Okay, fine. So you came across this marked "bridge"?
- 19 A. Right.
- 20 Q. And you continued up toward Crescent Street?
- 21 A. That's right.
- 22 Q. Now was it before you reached the bridge that you met these
- 23 people from whom you tried to get a light?
- 24 A. Well, they were underneath a tree just as we entered the
- 25 park.

R. N. EBSARY, by Mr. Ross

1 Q. So it was over near the Byng and George Street intersection?

2 A. Right. Yeh. That's right.

3 Q. And if I put that sticker --

4 A. Yeh.

5 Q. Would that sticker indicate the general place, the general
6 area where you met these people?

7 A. There was a very large tree there you see.

8 Q. I see. So if we find a very large tree you've got to mark
9 her.

10 A. Right.

11 Q. Very good. Thank you. So then you're on Crescent Street and
12 these people approach you from behind?

13 A. Right.

14 Q. Now from your evidence I'm a bit confused and perhaps you can
15 help me here. From the evidence I've got two understandings
16 which are different and perhaps you can help me to understand
17 which --

18 A. I don't blame you because I'm after hearing so many variations
19 here that I'm a bit puzzled too.

20 Q. I see. I see. But I'm asking you not to worry about what you
21 heard here but to put your mind back as well as you can.

22 A. Right.

23 Q. And perhaps if we go through this series of short questions
24 and short answers we might reach the truthful objective?

25 A. Right.

R. N. EBSARY, by Mr. Ross

1 Q. So you are on Crescent Street and the next thing, there are
2 footsteps that you hear coming?

3 A. Right.

4 Q. Yes, and I take it that these people caught up with you?

5 A. That's right. They overtook us as a matter of fact.

6 Q. They overtook you and had they passed you?

7 A. Well, as soon as they rounded us, they confronted us.

8 Q. Yes. That's the point. You see, I want to find out about
9 the invitation for the barbecue?

10 A. Well, I invited them up to the house because MacNeil and I
11 were bound for the house.

12 Q. Okay.

13 A. And the barbecue. So we bumped into the other two and I said,
14 "Why not come along"?

15 Q. I see. I see. But the problem I'm having is that if I was
16 to tell somebody I bumped into you I would get the impression
17 that I'm approaching you and we meet, but if somebody comes
18 from behind and passes me I don't know that I can say I
19 bumped into him.

20 A. Oh, yes.

21 Q. Do you understand the difficulty I'm having?

22 A. Oh, yes, quite.

23 Q. Well, perhaps you'd just assist me across that?

24 A. Now listen.

25 Q. Sure.

R. N. EBSARY, by Mr. Ross

1 A. We're walking along and we hear -- or I hear footsteps behind
2 us.

3 Q. Sure.

4 A. And they're approaching us rapidly, so I figure they're going
5 to try to pass us, right? Well, they came right up behind us,
6 right? One goes this way and the other fellow goes that
7 way and they turn around and confront us. Now does that
8 clear your mind?

9 Q. Well, that has cleared me up as far as the meeting and how
10 you became face to face.

11 A. Right.

12 Q. So now you're face to face. Then the invitation for the
13 barbecue, does that happen right then?

14 A. Right then.

15 Q. Just tell me if my understanding is correct. You come through
16 the park and you're walking along Crescent Street?

17 A. Right.

18 Q. You hear footsteps coming quickly?

19 A. Right.

20 Q. MacNeil is on your left side or right side, do you recall?

21 A. On my left.

22 Q. He is on your left and he is holding your hand?

23 A. Right.

24 Q. He is on your left and he is holding your arm?

25 A. Yes.

R. N. EBSARY, by Mr. Ross

1 Q. And these people come around and they stop in front of you?

2 A. Right.

3 Q. So they stop in front of you and you indicate to them, "Look,
4 I'm heading for my home for a barbecue; would you guys want
5 to come"?

6 A. Yeh, that's the idea. That's what was said and that's what
7 was done.

8 Q. Well, I had to have it that way because I put the words --
9 I advanced the words. I would really like to know what you
10 recall as the specific words. Now they are around and in
11 front of you.

12 A. Right.

13 Q. Who speaks first, you or they?

14 A. I think I did. I invited them up to the house.

15 Q. And at that point I take it you did not have your glasses on
16 still?

17 A. I didn't.

18 Q. You didn't?

19 A. No.

20 Q. Okay, and as I understand it the night was quite dark?

21 A. Yeh, it was really.

22 Q. And it was misty?

23 A. Yes, there was a fine rain falling.

24 Q. A fine rain falling?

25 A. Yes.

R. N. EBSARY, by Mr. Ross

- 1 Q. And did you identify the forms; did you identify the figures,
2 the people who were in front of you?
- 3 A. No, I didn't really.
- 4 Q. I see, but I think you could have identified the outline of
5 the individuals?
- 6 A. Yes, that's right.
- 7 Q. And having identified the outline like a silhouette did you
8 come to any conclusions as to who these people might possibly
9 be?
- 10 A. No, I didn't.
- 11 Q. None whatsoever?
- 12 A. No.
- 13 Q. I see. And, for instance, at that point could you have
14 identified that one person was black?
- 15 A. No.
- 16 Q. You did not?
- 17 A. Because it was so bloody dark you couldn't see anything really.
- 18 Q. I see, and I guess that's consistent with what you told the
19 police some time later that you thought they were two white
20 people?
- 21 A. That's right.
- 22 Q. So these people are now in front of you and you invite them for
23 a barbecue?
- 24 A. Right.
- 25 Q. Was there a response? Did anybody say anything?

R. N. EBSARY, by Mr. Ross

1 A. The only thing that was said was, "Dig man, dig", so they
2 refused to come to the house, right?

3 Q. I see.

4 A. And they wanted whatever we had in our pockets.

5 Q. I see. Were you offended by the fact that they had rejected
6 the invitation to come to your barbecue?

7 A. No, but I was a bit startled when they said, "Dig man, dig".

8 Q. I see. You were stunned?

9 A. No, I wasn't stunned but I was a bit startled.

10 Q. Oh, startled?

11 A. Well, after all I was generous enough to invite them to the
12 bloody house and they refused, so what --

13 Q. Oh, I understand. At that point you gave everything that was
14 in your pockets. Am I correct?

15 A. They said, "Dig man, dig", and Marshall grabbed MacNeil by
16 the throat, hey, and dragged him across the road, right?

17 Q. Yes.

18 A. And about sixty feet along the road this way.

19 Q. Along the road, was that toward Bentinck Street or towards--

20 A. Yes, toward Bentinck.

21 Q. Yes.

22 A. So he was much closer to Bentinck than I was.

23 Q. Now -- And I understand that you gave up the things -- Well,
24 perhaps you'd tell me. One of my learned friends asked you
25 about giving up your money --

R. N. EBSARY, by Mr. Ross

- 1 | A. Right.
- 2 | Q. --your watch --
- 3 | A. Right.
- 4 | Q. --your ring --
- 5 | A. And the ring off my finger.
- 6 | Q. --and a ring of keys?
- 7 | A. And a ring of keys. That's right.
- 8 | Q. That's what was raised today in Cross-Examination?
- 9 | A. Right.
- 10 | Q. But in your Direct Examination when you were telling
- 11 | Mr. MacDonald what they took, you said that they came around
- 12 | and you gave them what was in your pockets. Is that correct?
- 13 | A. I did give them what was in my pockets.
- 14 | Q. Sure, and which pockets-- Would these have been your two side
- 15 | pockets?
- 16 | A. Yes, both pockets.
- 17 | Q. What about your two rear pockets from your slacks?
- 18 | A. I never wore anything in my rear.
- 19 | Q. What about out over the pockets in your jacket, your suit
- 20 | jacket?
- 21 | A. No, there was nothing there.
- 22 | Q. Nothing there?
- 23 | A. No.
- 24 | Q. So all that you had was really in your two side pockets?
- 25 | A. Right.

1 Q. Yes, and then sometime after is when you came upon the pen
2 knife that was given to you by the French Immigrant?

3 A. That's right.

4 Q. And was this pen knife in one of your side pockets or was
5 it some place else?

6 A. It was in the side pocket of the inside coat.

7 Q. I see. The coat which you had strung over, you had a pocket
8 on the inside?

9 A. You see I had the Burberry over my brown short jacket, right?

10 Q. Yes.

11 A. If you put your hand into the pocket you could also put your
12 hand into the slit that was there and put your hand into
13 your coat pocket.

14 Q. Yes.

15 A. Do you see the point?

16 Q. Oh, absolutely.

17 A. Right.

18 Q. But I'm having a problem.

19 A. What's that?

20 Q. The problem is that if I have on the raincoat with my hands
21 through the sleeves, I can then put it through the slit and
22 into my pocket, but if I have the coat over my shoulders --

23 A. Yes.

24 Q. --like I'm showing you --

25 A. Right.

R. N. EBSARY, by Mr. Ross

- 1 | Q. --there's no way I'm going to be able to put my hand through
2 | the slit and into my pocket.
- 3 | A. You don't have to.
- 4 | Q. That's the problem I'm having.
- 5 | A. You don't have to. You see if you're wearing the coat like
6 | that, right?
- 7 | Q. Yes.
- 8 | A. All you have to do is put your hand here like this, put your
9 | hand down into the pocket of the top coat and into the coat
10 | that you're wearing underneath. It's quite simple.
- 11 | Q. I hear what you say.
- 12 | A. Right.
- 13 | Q. But I don't know that I understand you.
- 14 | A. Well, now, for instance, you put on that coat there, right?
15 | Now you put on a Burberry over that coat, but you just sling
16 | the Burberry over your shoulder, right? Your hands are free,
17 | aren't they?
- 18 | Q. Sure.
- 19 | A. Right.
- 20 | Q. I hear what you say. I do not understand you but I will move
21 | on.
- 22 | A. If you want to move on, go ahead.
- 23 | Q. Yes, I'll move on. Yes. So then after you proceed to get
24 | the knife, am I correct, your pen knife? After putting your
25 | hand in your pocket you get the pen knife?

1 | A. After I dug out all I had and I gave them all I had I put
2 | my hand into the other pocket to see if there was anything
3 | there and discovered that I had the pen knife there.

4 | Q. Yes, and this pen knife, could it be opened with one hand
5 | or you needed two hands to open it?

6 | A. You needed two hands to open it.

7 | Q. And you opened it and you made at one point what you call
8 | a swipe?

9 | A. That's right.

10 | Q. Yeh. Now in dealing with the swipe, I have another problem.

11 | A. Yeh, what's that.

12 | Q. You see I saw the video.

13 | A. Yes.

14 | Q. And on the video I saw you and I saw Ratchford.

15 | A. Right.

16 | Q. You were looking at the video yourself.

17 | A. Yes.

18 | Q. And you saw yourself and you saw Ratchford.

19 | A. Right.

20 | Q. You saw that you claimed that you came up in a stabbing
21 | motion.

22 | A. Now I did exactly as Ratchford directed me to do.

23 | Q. I see. So what was on the video was really a production in
24 | which you were the performer or the artist and Ratchford was
25 | the director?

R. N. EBSARY, by Mr. Ross

1 | A. Exactly.

2 | Q. I see. But that was not what happened on the street that
3 | night?

4 | A. No.

5 | Q. On the street you took a swiping motion?

6 | A. That's right.

7 | Q. And you specifically recall the swiping motion? Pardon me?

8 | A. Pardon?

9 | Q. And do you specifically recall the swiping motion?

10 | A. Yes.

11 | Q. I see. Now after the incident you went home?

12 | A. Right.

13 | Q. Yes, and you went to bed?

14 | A. Not immediately because I tried to start the blooming barbecue
15 | and the bloody thing was wet.

16 | Q. It was wet?

17 | A. Right.

18 | Q. And subsequently you went to bed?

19 | A. So when MacNeil went home he wouldn't go up George Street.
20 | He said he went up to -- he'd take a short cut --

21 | Q. So he took the short cut and he went home?

22 | A. Right, and I went to bed.

23 | Q. And is it correct, and please, please, this is very important,
24 | and I think you should correct me if I'm wrong, is it correct
25 | that you stayed in bed until the time when MacNeil came to your

R. N. EBSARY, by Mr. Ross

1 house and indicated that the guy who got stabbed in the park
2 had died?

3 A. Well, you see --

4 Q. Am I correct?

5 A. Yes.

6 Q. I am correct?

7 A. Yeh.

8 Q. Now it's very, very important. This is extremely important,
9 Captain Ebsary, that you got to bed --

10 A. Yes.

11 Q. --and you stayed in bed --

12 A. Right.

13 Q. --and it was after the report of the death that you came out
14 of bed. Is that correct?

15 A. If-I got out of bed when MacNeil came to the house and came up
16 in my bedroom and woke me. That's when I got out of bed.

17 Q. Okay, and at that time you had a conversation with MacNeil?

18 A. Yes.

19 Q. And at that time MacNeil indicated to you that the person who
20 was stabbed had died?

21 A. Right -- No, he didn't indicate that the person I had stabbed
22 had died.

23 Q. Somebody who got stabbed in the park had died?

24 A. Right.

25 Q. Okay?

R. N. EBSARY, by Mr. Ross

- 1 | A. Good.
- 2 | Q. Now that creates a problem for me again.
- 3 | A. Why.
- 4 | Q. And I'll tell you why.
- 5 | A. Explain.
- 6 | Q. Because the medical records indicate that Sandy Seale died
7 | Saturday night. There is confirmation that he was taken
8 | to the hospital early Saturday morning shortly after mid-night
9 | Friday?
- 10 | A. Right.
- 11 | Q. So that if, in fact, you were in bed and MacNeil woke you to
12 | tell you that somebody who had been stabbed in the park had
13 | died, it would mean that you had stayed in bed all Saturday,
14 | all Saturday night and this was Sunday morning.
- 15 | A. Well, this is what puzzled me too because I didn't know
16 | whether MacNeil had come to the house immediately the next
17 | morning or -- like some people said it was the morning after.
- 18 | Q. Wouldn't you agree with me that it wouldn't really matter
19 | if whenever he came he would be able to tell you that the
20 | person who was stabbed in the park had died?
- 21 | A. Right.
- 22 | Q. Yes, but you see the person who was stabbed in the park died
23 | Saturday night around eight o'clock and it was not on the
24 | news until around eleven o'clock Saturday night?
- 25 | A. Well, this is how I couldn't understand how MacNeil knew

R. N. EBSARY, by Mr. Ross

1 | anything about what had happened. You see I figured that
2 | MacNeil had come to the house the following morning. You see--
3 | Say, for instance, the accident happened around twelve
4 | o'clock --

5 | Q. Twelve o'clock mid-night Friday night?

6 | A. Right.

7 | Q. Yes.

8 | A. And we'd gone home and I'd gone to bed, but the following
9 | morning would have been Saturday morning.

10 | Q. Yes.

11 | A. And I often wondered how MacNeil got the information so
12 | early in the morning and come over and tell me?

13 | Q. Except that it would all add up if when he came to see you
14 | it was Sunday morning because by that time the information
15 | is released?

16 | A. Yes, right.

17 | Q. Yes, and that would suggest then --

18 | A. Yeh.

19 | Q. It would then suggest that the drinking you had been doing --

20 | A. Yeh.

21 | Q. --on Friday night, it may not have been a lot, it may not
22 | have been a little (I don't know.) and I don't know that
23 | it really matters yet, but it made you sufficiently sick
24 | that you remained sick throughout Saturday and got this
25 | information Sunday morning. Is that very likely what happened?

R. N. EBSARY, by Mr. Ross

- 1 A. But you see I thought it was Saturday morning.
- 2 Q. Yes, I appreciate that.
- 3 A. Do you see the point?
- 4 Q. Yes.
- 5 A. Because you see MacNeil said to me, do you mind if I bring
6 my father down, so I figured it was Saturday morning. Well
7 the old man got two quarts of wine. Where did he get the
8 two quarts of wine Sunday morning?
- 9 Q. I see.
- 10 A. You see this is how I got all balled up.
- 11 Q. Sure. Just step back a bit about the stabbing itself and
12 MacNeil's rescue. There are two theories that are given.
- 13 A. Yes.
- 14 Q. One of them according to the Police Statement of November,
15 1971 --
- 16 A. Right.
- 17 Q. --indicated that a kick -- you attempted to kick at somebody
18 and that there was no mention of a stabbing?
- 19 A. No, there was no mention of the stabbing.
- 20 Q. That's true because when you spoke with MacIntyre --
- 21 A. That's right.
- 22 Q. --you didn't mention the stabbing?
- 23 A. No.
- 24 Q. Now I'm confused because sometimes you indicate that you
25 did not mention it because you were not asked?

R. N. EBSARY, by Mr. Ross

- 1 | A. That's true.
- 2 | Q. But then you also indicate that you mentioned it to Sarson?
- 3 | A. Yeh, but Sarson was then staying with me at that time.
- 4 | Q. I see, so then I take it then that when you're dealing with
5 | the authorities you only answer what you're asked and otherwise
6 | you'd speak freely?
- 7 | A. That's right.
- 8 | Q. So then after this stabbing and rescue incident --
- 9 | A. Yeh.
- 10 | Q. --is it fair then to say that you really didn't consider it
11 | your business during the first trial of Junior Marshall --
- 12 | A. I didn't see it was my business.
- 13 | Q. You didn't consider that that was your business?
- 14 | A. No, I didn't.
- 15 | Q. Surely it was your business?
- 16 | A. Because I didn't figure the boy was hurt.
- 17 | Q. And you maintained your silence. You just distanced yourself
18 | from everything until such time as you were asked about it
19 | by the police in November of 1971?
- 20 | A. That's right.
- 21 | Q. And at that time you gave a statement?
- 22 | A. Right.
- 23 | Q. The year after you gave another statement to the R.C.M.P. by
24 | way of polygraph analysis?
- 25 | A. That's right.
- Q. And the results of the polygraph analysis were consistent with

R. N. EBSARY, by Mr. Ross

1 | the statement that you had given to the Sydney Police?

2 | A. Right.

3 | Q. It was to the effect that you knew nothing about the stabbing?

4 | A. That's right.

5 | Q. I'm then a bit concerned because in 1982 you are writing
6 | to Donnie Marshall --

7 | A. Yes.

8 | Q. --and indicating that you're cooperating with the R.C.M.P. to
9 | get him out of that mess?

10 | A. That's right because the R.C.M.P. at that time were coming
11 | to my igloo or --

12 | Q. Your place of abode.

13 | A. --almost every day see. Well, they were at the house every
14 | day, two at one time and then one fellow gave up coming and
15 | Carroll used to come on his own.

16 | Q. That's something that I'm going to get to also. I've
17 | got to discuss something about Carroll. In one of the police
18 | reports, the R.C.M.P. reports which is found in Volume 19 at
19 | page 54, there is one matter that I want to raise and I
20 | want to discuss with you, Staff Sergeant Wheaton right in
21 | Paragraph 28 and because I'm not really testing you on what
22 | he wrote I wouldn't bother to bring it to you. I'll just
23 | read it and --

24 | A. Good enough.

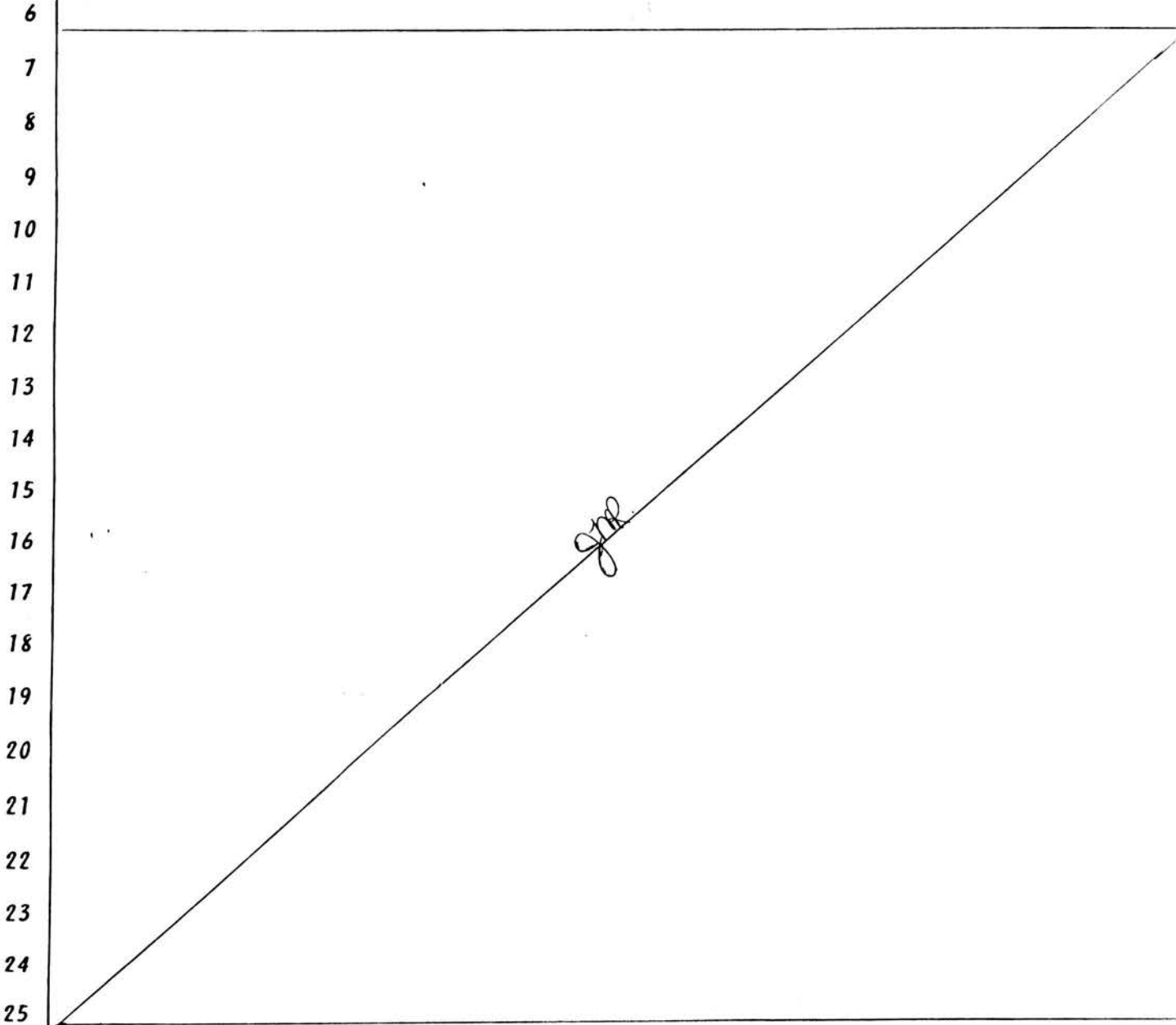
25 | Q. It says:

1 "Ebsary indicated to the Marshalls..."

2 I take it that's Donald's father and mother.

3 "...and the investigator that everything
4 hinged on what happened to him on his
5 5th of March Court appearance".

6 Now that would be the 5th of March, 1982?



R. N. EBSARY, by Mr. Ross

- 1 | A. That's right, yes.
- 2 | Q. And that was the court appearance with respect to the stabbing,
3 | the accusation of stabbing Mugridge, right?
- 4 | A. Mugridge?
- 5 | Q. Yes, was it.
- 6 | A. No.
- 7 | Q. Oh, sorry. Then perhaps you can tell me about the court
8 | appearance?
- 9 | A. You see, the only conversation I had with Marshall was the
10 | correspondence we had dealt with the Marshall and the Seale
11 | episode.
- 12 | Q. Oh yes, I appreciate that, captain.
- 13 | A. Right. The Mugridge thing was long forgotten.
- 14 | Q. Well, perhaps I'm moving -- am I moving along a little too
15 | quickly?
- 16 | A. Well you sort of got the two cases tangled up.
- 17 | Q. Well sure. They appear to be entangled. You see, that's the
18 | problem I'm having, so you're going to help me here again.
- 19 | A. Right.
- 20 | Q. Okay. Staff Wheaton you remember him? He was working with
21 | Carroll?
- 22 | A. Oh, that's who it was. No I didn't --
- 23 | Q. Staff ~~Sergeant~~ Wheaton don't you remember him. He was the guy
24 | who came with Carroll from time to time?
- 25 | A. Yes, but I didn't know it because he was in plain clothes. He

R. N. EBSARY, by Mr. Ross

1 | didn't introduce himself, so I didn't know him.

2 | Q. Sure. Well let me give you this statement. He writes this,
3 | this is his statement.

4 | A. Yeh.

5 | Q. And perhaps to bring it into a little bit of context, I think
6 | I might as well read to you the entire paragraph numbered 28.
7 | It reads as follows: "On the afternoon of the 23rd of
8 | February, 1971, a meeting was held with Mr. and Mrs.
9 | Donald Marshall, Senior, and Roy Ebsary was present."

10 | A. Yeh, they took me up to meet the, to meet Marshall's family.

11 | Q. Sure, so that statement is correct. There was a meeting
12 | and you were present?

13 | A. Yeh, right.

14 | Q. "At this meeting he assured Mrs. Marshall that her son did
15 | not stab anyone and that he would get him out of prison."

16 | A. That's right.

17 | Q. You gave that assurance?

18 | A. Sure, I intended to.

19 | MR. CHAIRMAN:

20 | That obviously is a mistake in the first line of paragraph 28.

21 | It couldn't have been --

22 | MR. ROSS:

23 | I didn't even spot it until my learned friend helped me. I think
24 | it meant -- instead of --

25 | MR. CHAIRMAN:

It would be 1982.

R. N. EBSARY, by Mr. Ross

1 | MR. ROSS:

2 | 1982.

3 | MR. CHAIRMAN:

4 | I should think.

5 | BY MR. ROSS:

6 | Q. That "On the afternoon of February the 23rd.." The report
7 | says 1971, but I think it meant 1982.

8 | A. Oh, yeh. But it's immaterial anyway.

9 | Q. Sure, but you did meet?

10 | A. Oh, yes. Well, I requested to see Marshall's father and
11 | mother.

12 | Q. And you gave them the undertaking that you were going to
13 | get their son out of prison?

14 | A. That's right, I was going to do my damndest.

15 | Q. Sure, sure. Now the last sentence in that paragraph it was
16 | very important to me and I need your help on.

17 | A. Good.

18 | Q. It says that, "Ebsary indicated to the Marshalls and the
19 | investigators, that everything hinged on what happened to
20 | him on his fifth of March court appearance".

21 | A. Right.

22 | Q. That was the fifth of March 1982?

23 | A. Yeh. Well, I didn't get to make the appearance because I
24 | got sick and they put me in the hospital. And I wrote
25 | Marshall and I told him I'm in the hospital and I can't make

E.N. EBSARY, by Mr. Ross

1 the move that I wanted to make on the fifth.

2 Q. I appreciate that but I think I understand what is happening.

3 A. Thank you.

4 Q. Tell me if I'm correct. You're a well read man.

5 A. Yes.

6 Q. You've done a lot of reading?

7 A. Yes.

8 Q. As a matter of fact that is a quality of yours that I envy. I
9 wish I did that myself; however, did you read modern novels
10 or did you read anything you got your hands on just about?

11 A. Historical novels. Novels that covered the whole episodes
12 in Rome, the Vatican and all that. They were educational
13 books.

14 Q. I see.

15 A. And the novels were first-class novels.

16 Q. For instance, Mario Puzo, you remember he wrote the Godfather.
17 Did you read that?

18 A. Yes, I read the Godfather.

19 Q. You read the Godfather?

20 A. And I read the Black Godfather.

21 Q. Pardon.

22 A. The Black Godfather.

23 Q. I didn't meet him.

24 A. However, did you read it?

25 Q. No. I didn't know it existed.

R. N. EBSARY, by Mr. Ross

1 | A. It's a damn good book.

2 | Q. I will try to get it. However, you see, as I look at this
3 | about the fifth of March that something is hinging on a
4 | court appearance for the fifth of March?

5 | A. Right.

6 | Q. Why couldn't you do what you were going to do before the fifth
7 | of March?

8 | A. I couldn't because I was sick at the time. And I was
9 | sweating whether to go to the hospital or not.

10 | Q. Yeh, but I think Captain Ebsary, what I'm saying here is
11 | that the meeting that you had in February.

12 | A. Yes.

13 | Q. In February of 1982. You were at that time undertaking to
14 | Mr. and Mrs. Marshall, Senior, that you were going to do
15 | something?

16 | A. Yes.

17 | Q. But you have it a special date. You said, "until after,
18 | it depends on what happens with your fifth of March court
19 | appearance"?

20 | A. Right

21 | Q. Now that would suggest to me that if your court appearance
22 | went one way, you wouldn't upset things. And if it went
23 | another way, you'd do another set of things?

24 | A. Yes, that's right. You see, because I didn't figure on
25 | having to go to hospital and I was in the hospital on the

R. N. EBSARY, by Mr. Ross

1 fifth. And I wrote young Marshall and I gave him to understand
2 what happened and why I couldn't act on the fifth.

3 Q. Oh sure.

4 A. Do you see the point?

5 Q. Yes. But what was the act that you were going to do on or
6 about the fifth? Or did you know what you were going to do --

7 A. I knew what I was going to do.

8 Q. Well, did you or were you just coming up with the fifth as a
9 date to which you intended to give meaning until a later time?

10 A. No. On the fifth as I told young Marshall, I intended to act.
11 The mounties told me I couldn't get young Marshall out of
12 Dorchester and get a second trial. I told them I bloody well
13 could. And that I would. They said you won't do it alone.
14 Well, you watch my smoke. So I wrote and I told Marshall
15 the same thing.

16 Q. That's exactly the point Captain Ebsary and I think our minds
17 are getting close to it. How were you planning to get --
18 remember it's all over now and what we're having now is an
19 inquiry. We want to make sure that as well as you can help
20 us, that we don't run into problems in the future.

21 A. Right.

22 Q. Would you tell us how were you going to get him out?

23 A. Well, I was going to suggest to Marshall that the swipe that
24 I made at young Seale might have connected and that I might
25 have been young Seale's killer.

R. N. EBSARY, by Mr. Ross

1 Q. I see.

2 A. Now, that's the part I was going to tell Marshall.

3 Q. You see. I tell you that's why I asked about the Godfather.

4 You remembering -- you remember the book the Godfather?

5 A. Yes, I do. I read it.

6 Q. Do you remember young Michael having shot the police officer
7 in the Bronx was in Rome?

8 A. Yes.

9 Q. And they were going to try to bring him back to the United
10 States?

11 A. Right.

12 Q. And his parents got somebody who was going to be in trouble for
13 one thing to take the blame for two?

14 A. That's right.

15 Q. Is that the same pattern that you were adopting?

16 A. Exactly.

17 Q. Is that where you got the idea?

18 A. Right.

19 Q. You say right too quickly? Is that where you got the idea?

20 A. When I went out to the slammer just a few days after that
21 to sweat out an appeal, right. The boys out there said,
22 "Listen Ebsary, you're going to take the rap for somebody.
23 You're an old man and you think you're on the hand of dying.
24 So you're going to go to bat for Marshall and get Marshall
25 out of prison".

R. N. EBSARY, by Mr. Ross

- 1 Q. Reverend, Reverend as a man of God, a man of the cloth, you're
2 an ordained person. The Bible must mean a lot to you?
- 3 A. Yes.
- 4 Q. Are you telling this Commission right here and now that you
5 were prepared whether or not you swipped at Seale and
6 connected?
- 7 A. That's right.
- 8 Q. To admit that in order to get Marshall out of jail?
- 9 A. Exactly. Why not? It was a long shot but it would have
10 paid off.
- 11 Q. And did you discuss this plan with anybody?
- 12 A. No, I didn't really.
- 13 Q. You didn't discuss it with Irving Cameron?
- 14 A. Well, up to that time I hadn't met Irving. I didn't met
15 Irving until I went out into the slammer.
- 16 Q. I see. What was Sarson? Did you discuss this with Sarson?
- 17 A. Sargeant?
- 18 Q. Yeh.
- 19 A. You mean Michael Sargeant?
- 20 Q. Michael, yes.
- 21 A. No, he had gone home. By that time he had gone home.
- 22 Q. You see, there's a very, very strange intersection of lies
23 here. For instance, this guy; what's his name Mugridge?
- 24 A. Yes.
- 25 Q. Mugridge, he has a daughter?

R. N. EBSARY, by Mr. Ross

1 A. I don't know.

2 Q. You don't know that?

3 A. No.

4 Q. You don't know that he's got a daughter that's married to
5 Maynard Chant?

6 A. No.

7 Q. Oh, you didn't know that?

8 A. Oh, this is the connection. I knew there was a connection
9 there somewhere.

10 Q. But you didn't know that he had a daughter married to
11 Maynard Chant?

12 A. No, I didn't.

13 Q. I see. Okay fine. But then the other set of circumstances
14 here is this: Marshall broke out of jail sometime around
15 1979 or 1980.

16 A. Right. And he went to Marshall -- he went to young Sargeant's
17 home to get the details from Marshall's own lips. Because --

18 Q. From Marshall's or Sarson's?

19 A. Sargeants. Sargeants I'm sorry.

20 Q. Okay, fine. What did --

21 A. Sargeant's sister made it a habit to visit Dorchester to --
22 because she was rather fond of young Marshall. She told
23 young Marshall what her brother had told her about what I
24 had told him.

25 A. And what did you tell him?

1 A. Who? I told him what happened in the Park that night.

2 Q. What did you tell that happened in the Park?

3 A. I told him the same thing as I told the court here.

4 Q. Yeh, but there are many versions. What did you tell Sarson
5 happened in the Park? For instance, did you tell him that
6 you stabbed Sandy Seale?

7 A. I told him that I took a swipe at Sandy Seale; whether I
8 connected or not I didn't know. But I had been talking to
9 my father confessor in the side room here like. And he said
10 "If I were you Ebsary, I tell the people out there that the
11 swipe you took at young Seale did connect." You see the point.
12 So that would have got Marshall out of Dorchester.

13 Q. I see. I see. So you had this -- am I to understand, Sir,
14 that you had discussed that whole plan with Sarson?

15 A. No, I hadn't. I hadn't consulted, I hadn't told anybody
16 but the Marshall family.

17 Q. So you had told the Marshall family of your plan?

18 A. Not of my plan, but I told them that I was going to act on
19 the fifth and I would have acted on the fifth. And I would
20 have acted on the fifth if they hadn't have rammed me in
21 the hospital.

22 Q. Sure, I understand.

23 A. Now you see the point.

24 Q. Yes. So as far as the chronology is concerned, you had the
25 meeting on the 23rd?

R. N. EBSARY, by Mr. Ross

1 | A. Yes.

2 | Q. The 23rd of February, 1982, was when you met with Mr. and
3 | Mrs. Marshall?

4 | A. I see, yes.

5 | Q. And on the 24th is when you wrote the letter to Donald?

6 | A. Right.

7 | Q. I would like to go to that letter with you to get an
8 | understanding of what the letter means in full. I'm trying
9 | to get a good understanding of what was in your mind with
10 | the letter. The first -- I'll go through sentence by
11 | sentence. You wrote, "Dear Don: I've have tried to reach
12 | you by phone but no luck".

13 | A. That's right. I did try to telephone him.

14 | Q. "I'm collaborating with the R. C. M. P. to get you out of
15 | that mess".

16 | A. That's right. I wasn't only collaborating with the R. C. M. P.
17 | I was fighting with the R. C. M. P. Because I told them I
18 | was going to get Marshall out of Dorchester. They told me
19 | I would get him a second trial. They told me I couldn't
20 | do it. And I told them I'd bloody well could.

21 | Q. I see. So you were working with them to get him out of the
22 | mess, that mess?

23 | A. Right.

24 | Q. Now when you say that mess, how was it a mess?

25 | A. Well, it was a mess.

R. N. EBSARY, by Mr. Ross

- 1 Q. Why?
- 2 A. Because nobody knew what was what. There was all kinds of
3 yarns going this way and that way and the other bloody way.
- 4 Q. And you recognized that, but you never came forward?
- 5 A. I didn't have to.
- 6 Q. Why not?
- 7 A. Why should I, I wasn't asked.
- 8 Q. I see. You said, "I can't do anything until after the fifth
9 of March".
- 10 A. That's right.
- 11 Q. "Yesterday at my request, I met your dad and mom".
- 12 A. Right.
- 13 Q. And then you go on, now this is February the 24th the day
14 after you met Mr. and Mrs. Marshall, you say, "I've been
15 beaten up. Can't walk. Can't see too well". Do you know
16 who beat you up?
- 17 A. That's right. No, I don't.
- 18 Q. Did you report it to the police?
- 19 A. What's the good of reporting it to the police?
- 20 Q. Well, I don't know, but did you?
- 21 A. No.
- 22 Q. You didn't?
- 23 A. Because it was perfectly useless to report it to the police.
24 I'd been beaten up, unconscious and left for dead in my
25 own bloody apartment.

R. N. EBSARY, by Mr. Ross

1 Q. And did you report that to the police?

2 A. Yes, I reported to the police. They came up. They took
3 fingerprints and they did nothing about it. It was swept
4 under the rug.

5 Q. Sure. And as far as that mugging, when you were coming from
6 work that one time and you were mugged, did you report that
7 to the police?

8 A. No, because it was pointless. The police weren't doing
9 anything to help me.

10 Q. And as far as the many robberys that occurred that you were
11 the victim of, did you report those to the police?

12 A. Yes.

13 Q. And was anything done?

14 A. No.

15 Q. I see. Okay. So you were beaten up so you couldn't walk
16 and see too well. Then you continue, "Having failed to
17 reach you by phone, the R. C. M. P. suggest that I drop
18 you a line".

19 A. Yes, they did.

20 Q. Today you said that in the hospital you were asked about
21 allergies and you indicated that your only allergy was to
22 people?

23 A. That's right.

24 Q. Do you recall saying that?

25 A. Yes.

R. N. EBSARY, by Mr. Ross

1 Q. Are you a suspicious man?

2 A. Yes, very.

3 Q. Did you come suspicious when the R. C. M. P. suggested that
4 you write to Marshall?

5 A. No.

6 Q. You did not?

7 A. No, I didn't care really. I had my mind made up and I was
8 going -- when I make up my mind to do something, I do it.

9 Q. I see, that's admirable. So you went on to say to him
10 that "his letter was stolen and so was a sum of money while
11 you were unconscious".

12 A. That's right.

13 Q. "Police were investigating, no favourable results".

14 A. That's right.

15 Q. You see, I thought a minute ago when I asked you about being
16 beaten up is if you had reported to the police and you told
17 me that it was no point?

18 A. No. But the people upstairs who have the apartment up top
19 it was they who called the police and reported the bloody
20 beating that I got. I didn't do it personally.

21 Q. I see. But the police were investigating not on your
22 initiative but on the initiative of your neighbours?

23 A. That's right.

24 Q. Then you go on to say, "I'm not running kid".

25 A. That's right.

R. N. EBSARY, by Mr. Ross

- 1 Q. What do you mean by that?
- 2 A. Well, you see Marshall had insinuated that by not telling
3 what I knew, I was running away.
- 4 Q. Well, how did he insinuate that to you? You said that
5 you didn't get to him by phone?
- 6 A. No. But I was getting letters from him.
- 7 Q. But I would suggest to you that at that point you had
8 only received one letter from him. Am I correct?
- 9 A. What makes you think that?
- 10 Q. Well, I'll tell you what, I'm not trying to be argumentive.
11 Please recognize I wasn't --
- 12 A. No, I'm not. But I know that I got several, possibly three
13 or four letters from Marshall.
- 14 Q. Were they before this reponse? Or aren't you sure?
- 15 A. I'm not quite sure. But I know if -- I was working on the
16 plan that I was going to get Marshall out of Dorchester.
- 17 Q. I see. So you said you're not running kid and that was in
18 response you say to Marshall who was suggesting that --
- 19 A. That I was running by not telling what I knew and all the
20 bloody rest of it.
- 21 Q. I see. And you go on to say, "I promised your mom and dad
22 that yesterday, I can't see too well but I trust you get
23 the message".
- 24 A. Right.
- 25 Q. What was the message?

R. N. EBSARY, by Mr. Ross

1 A. The message was that if necessary I'd turn my bloody self
2 in. And take the complete blame for what happened down
3 in the Park and get Marshall a second trial. Because
4 Marshall was due a second trial. Because Marshall's first
5 trial he was condemned on circumstantial evidence. Right
6 or wrong?

7 Q. I see.

8 A. Circumstantial evidence was all they had to go on when they
9 sent Marshall to Dorchester.

10 Q. I see.

11 A. Canadian justice. I swore by my Christ that no matter what
12 happened to me I'd rock the Canadian judiciary system from
13 Saint John's to Vancouver. And I've had a bloody good go at
14 it. Because it's putrid.

15 Q. When did you make up your mind to rock this system?

16 A. Pardon.

17 Q. When did you make up your mind that you were going to rock
18 the Canadian justice system?

19 A. When I, when I got writing with Marshall and began to think
20 of the rotten deal Marshall got. You see, the point is it
21 was quite a while before I even considered that. I never
22 read a paper. I used to read my own bloody books and all
23 the bloody rest of it. And I took nobody into my bloody
24 confidence.

25 Q. Well, wasn't Marshall --

R. N. EBSARY, by Mr. Ross

1 A. Because, no, because you can operate better alone.

2 Q. I see. Then you go on you say, "I'm in your corner anyhow".

3 A. Yes, that's right. I was to.

4 Q. "I'm sorry kid things turned out the way they did".

5 A. Right.

6 Q. What did you mean by that?

7 A. I was going to act on the fifth. I gotten beaten up and I
8 couldn't act on the fifth. Does that explain it?

9 Q. Sure, now I understand it. And you said, "But it is written
10 that truth shall set you free".

11 A. That's right.

12 Q. And where is that written?

13 A. It's written in the Bible.

14 Q. I see, I see. Well, you say the truth shall set you free?

15 A. Right.

16 Q. Now whose truth was it supposed to be?

17 A. Mine.

18 Q. Your truth?

19 A. Right.

20 Q. And your truth is just what you told us was this plan to
21 go and take the blame and get Marshall out?

22 A. Right.

23 Q. But was it true that you stabbed Sandy Seale?

24 A. Well I was just talking to one of the investigators here in
25 the room, and he said, "Roy, let's look at it this way," he said,

R. N. EBSARY, by Mr. Ross

1 "Suppose when you made that slash, you did connect and the
2 three-inch blade did go into the boy's abdomen." He said,
3 "You'd be surprised what a three-inch blade can do." I
4 never considered the bloody lot in that line. But in talking
5 to him in there, he convinced me that the three-inch blade
6 could do a hell of a lot more damage than I figured it could
7 do.

8 Q. I see. So then as we step backward.

9 A. Yes.

10 Q. In May of 1971, you were fully convinced that you had not
11 stabbed Sandy Seale?

12 A. Right. Because even Seale's father convinced me that no one
13 would ever convince him that I had done his son in and that
14 Marshall was the guilty person. And I, like a bloody fool,
15 believed it too.

16 Q. You believed what?

17 A. I believed what everybody's believing. That Marshall had the
18 opportunity, right, that night in the Park.

19 Q. It is fair to say that you also had that opportunity?

20 A. Right.

21 Q. Yes. I see. So anyway you are saying -- just that I get you
22 clear again. Whose truth was supposed to set Marshall free?

23 A. My truth.

24 Q. Your truth?

25 A. Right.

R. N. EBSARY, by Mr. Ross

- 1 | Q. And honestly, Sir, honestly, Reverend, Reverend Captain, what
2 | was the truth? Was the truth that you stabbed Marshall or --
3 | you stabbed Seale or you did not stab him? The truth?
- 4 | A. The truth is this: Like somebody just explained it in there
5 | to me. He said, "You made a slash at Seale. You're not sure
6 | or you've never been sure that you penetrated his abdomen.
7 | Now he said, suppose Roy, you did penetrate his abdomen, you'd
8 | be suprised what a three-inch blade can do." So I said,
9 | "Father confessor, when I go outside, I'll bring it up".
- 10 | Q. I see, so when you spoke about speaking with your father
11 | confessor, I thought you were meaning the Good Lord. But
12 | you really meant the R. C. M. P. officer?
- 13 | A. I meant Jim.
- 14 | Q. Carroll?
- 15 | A. No, Jim, what's his name. What's your name, Jim?
- 16 | Q. I see. It was somebody else that you had spoken to?
- 17 | A. Yes, right.
- 18 | Q. Was that recently or was that in 1982 around the time of
19 | this plan? That's what I'm talking about.
- 20 | A. I had that plan in my mind several years ago, right. Well,
21 | I never got a chance; I've been in and out of bloody
22 | hospitals that bloody much it's not even funny.
- 23 | Q. I see.
- 24 | A. But like I told yah, I was talking to Jim -- he's got an
25 | Irish name -- what is it Jim?

R. N. EBSARY, by Mr. Ross

- 1 Q. Maloney?
- 2 A. Maloney, right.
- 3 Q. I see.
- 4 A. Jim Maloney. And Jim was explaining to me exactly what a pen
5 knife could do if it was used with force. So he said, "How
6 much force did you use". Do you see the point? He said
7 "Roy --
- 8 Q. I see the point, but except for one. You see, if all that
9 happened?
- 10 A. Yes.
- 11 Q. In 1982 around the time that you were going to write this
12 letter, it would be relevant.
- 13 A. Right.
- 14 Q. If that discussion happened within the last year or two years,
15 it doesn't matter?
- 16 A. What doesn't matter?
- 17 Q. That -- I'll say again. This discussion that you're just
18 relating -- your relationship with your father confessor,
19 if that happened, if that discussion took place in 1982 --
- 20 A. The discussion that we had took place when I went in there
21 to get a smoke.
- 22 Q. Just recently?
- 23 A. Just a few minutes ago.
- 24 Q. I see, I see.
- 25 A. Now do we understand each other?

R. N. EBSARY, by Mr. Ross

1 Q. Unfortunately, we do.

2 A. Well, what do you mean unfortunately?

3 Q. Now then, may I call you Roy?

4 A. Yes, why not?

5 Q. Okay, Roy. Let's go back. Do you remember writing the
6 letter?

7 A. Yes.

8 Q. Do you remember sitting in your house typing the letter?

9 A. Yes.

10 Q. Yes. And around that time had you discussed your plan
11 with anybody when you were typing that letter?

12 A. Yes, with the R. C. M. P. And they were trying to tell me
13 that I couldn't get Marshall out of Dorchester. They said
14 you can't do it on your own. And I said I bloody well
15 can. And I said you watch my smoke.

16 Q. And are you asking the Commissioners here to believe that
17 you went and got Marshall out of jail to prove a point to
18 the R. C. M. P.?

19 A. Right. The R. C. M. P. challenged me, right. I accepted
20 their challenge. Right or wrong?

21 Q. I don't know if it's right or wrong, but I'll never challenge
22 you.

23 A. Why not?

24 Q. I don't want you to accept my challenge.

25 A. Thank you.

R. N. EBSARY, by Mr. Ross

1 Q. But as we move on. You say here as I'm coming down to the
2 last part --

3 A. I told you that when I make up my mind to do, I'll do.

4 Q. I perceive that thought.

5 A. And I don't give a damn about the consequences.

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JMR

1 Q. I see. So you say here: "You see old boy, I only
2 reacted as I was trained."

3 A. That's right.

4 Q. And I take it that training was military training?

5 A. Exactly.

6 Q. And when you say: --

7 A. It would take every son of a bitch in this bloody
8 auditorium to believe I was in the Armed Forces.

9 Q. Well --

10 A. So what have we got here? A bunch of morons.

11 Or like I told the last Supreme Court. They put me away
12 for twelve months. Wouldn't listen to my appeal. I said
13 do you use your heads for hatracks? And the Warden out
14 at the Centre said to me, by Christ -- he said you told them.
15 They use their heads for hatracks.

16 Q: So when you said, sir, that you only reacted as you were
17 trained --

18 A. That's right.

19 Q. What did you mean about the reaction? I only reacted
20 as I was trained. What did you mean by that and tell
21 the Commissioners.

22 A. Now, listen, when we were in the Armed Forces, right?

23 Q. Yes, sir.

24 A. If we were attacked we were taught how to protect ourselves.

25 Q. Precisely.

R. N. EBSARY, by Mr. Ross

1 A. Right.

2 Q. And by this you are saying that you were attacked and you
3 protected yourself?

4 A. Exactly.

5 Q. I see. You said: "There's a lot to be taken in to
6 consideration. I'm a loner. The months you spend in
7 solitude I too, have spent in solitude."

8 A. Because I live practically alone up in the bloody apartment.

9 Q. I see. But around the time in 1971 you were living on
10 rear Argyle Street. Am I correct?

11 A. Oh, yes. Yes.

12 Q. And when you moved from rear Argyle Street where did you
13 move to?

14 A. Mechanic Street.

15 Q. And when you moved did you family moved to Mechanic Street --

16 A. Oh, yes.

17 Q. -- or just you?

18 A. Oh, no. The whole family moved.

19 Q. The whole family moved to Mechanic Street. And from
20 Mechanic Street where did you move to?

21 A. I moved out. I got fed up with the wife and I said I'm
22 getting out. I'm general -- oh, I got the certificate
23 where they ordained me and the wife kicked up hell because
24 she's an R.C. and I'm a Black Protestant. Right.

25 Q. A what?

R. N. EBSARY, by Mr. Ross

- 1 A. She's an R.C. and I'm a Black Protestant.
- 2 Q. A Black Protestant?
- 3 A. Right.
- 4 Q. I see. What else have we got in common?
- 5 A. I meant no insult to you.
- 6 Q. Pardon me?
- 7 A. I meant no insult to you.
- 8 Q. Oh, absolutely none was taken sir.
- 9 A. Well, we are called Black Protestants.
- 10 Q. I see. I understand.
- 11 So when you moved from Mechanic Street where did you go to?
- 12 A. Let me see, where did I go to? I went to Art -- in one
- 13 of Art MacVicar's apartments up on Falmouth Street.
- 14 Q. On Falmouth.
- 15 A. They put the ball to it recently, the like.
- 16 Q. Sure. And when you went to Falmouth Street --
- 17 A. Destroyed my library, twenty hundred books, gone all my
- 18 bloody clothes, gone all -- all I got is what I got
- 19 on my bloody back.
- 20 Q. And when you moved to Falmouth Street did Michael Sarson
- 21 move with you?
- 22 A. Oh, yes. I took him with me.
- 23 Q. And he lived with you for how long?
- 24 A. For possibly a month or so.
- 25 Q. And when you were living at Mechanic Street, was he living

R. N. EBSARY, by Mr. Ross

1 with you then?

2 A. Yes, because I was asked -- The Saint Sweeney Trust --
3 He was a ward of the The Saint Sweeney Trust. And they
4 sent him down for me to train him to be a gentleman's
5 gentleman and they could place him well. The Saint
6 Sweeney Trust --

7 Q. What's a gentleman's gentleman?

8 A. A gentleman's gentleman is a gentleman who looks after
9 a gentleman.

10 Q. I see.

11 A. Because he's trained to look after a gentleman and he
12 is a gentleman himself or he tries to be.

13 Q. Sure. And this is what you were training Michael Sarson
14 to be?

15 A. Well, that's what they wanted me to do.

16 Q. And did he succeed in his training?

17 A. No.

18 Q. Was he trainable?

19 A. No.

20 Q. I see.

21 A. But I had instructions from the Trust Company that if he
22 did measure up I was to give him the axe. In other words
23 I was to tell him plainly that the Trust was through with
24 him and he wasn't to put his foot in Pictou anymore.
25 Well I couldn't be that drastic with the boy so I hung on to him.

R. N. EBSARY, by Mr. Ross

1 Q. You hung on to him and you spoke with him -- is it fair --
2 and I'm asking you tell me I'm wrong if I'm wrong. Is it
3 fair to say that you used Sarson as a conduit, a link,
4 from you to him to his sister to Marshall?

5 A. Right.

6 Q. Was that a conscious thing that you did or did you plan
7 it?

8 A. I plan it.

9 Q. Why?

10 A. I had nothing else to do.

11 Q. You've got a mischievous mind sometimes haven't you?

12 A. Oh, have to.

13 Q. Yeh. Anyway you spoke about being in solitude you
14 said:- "I listen to no one. I have no friends. Every
15 moment you spend alone. I too have been alone. Alone
16 we get to know ourselves." And that's --

17 A. Right. Now, the Greeks will turn around and tell you
18 know thyself. And when you know yourself thoroughly then
19 god damn it try and live with it. So few of us do. You
20 for instance, because if you knew yourself you wouldn't
21 be able to live with yourself.

22 Q. Tell me something --

23 MR. CHAIRMAN:

24 May we move away from theology for a while?

25 MR. ROSS:

Pardon me?

R. N. EBSARY, by Mr. Ross

1

2 MR. CHAIRMAN:

3 May we move away from theology for a while and get back to --

4 MR. ROSS:

5 I'm finished with that.

6 BY MR. ROSS:

7 Q. Tell me something please Reverend Captain, --

8 A. I'm pretty good at fairy stories too.

9 Q. When you were mugged, did you recognize whether the people
10 who robbed you -- who mugged you were tall, short, black,
11 white, anything at all about them?

12 A. I didn't get a chance even to look at them before they
13 -- one time I reached for the -- I heard strange steps
14 coming in and of the chap that just left the house. Right?
15 I thought he'd forgotten something and he was coming back.
16 But when I looked out the door to see who was coming it
17 was a tall fellow that I didn't recognize. So I reached
18 for the telephone to call the police and that was the
19 last bloody move I made.

20 Q. Did you get to see his face?

21 A. No, because he --

22 Q. Nothing at all about him?

23 A. He had a thirty-eight gun in his hands and he belted me over
24 the bloody head and I went out. I blacked out.

25 Q. And with all the other robberies, did you recognize whether or

R. N. EBSARY, by Mr. Ross

1 not these people were black, white or otherwise?

2 A. No, I didn't boy.

3 Q. I see.

4 A. I didn't get a chance. Well, they even robbed me when
5 I was in bloody bed asleep.

6 Q. In where?

7 A. In bed asleep.

8 Q. Oh, I see. Okay.

9 A. And my neighbours who had the apartment above they can
10 confirm it or they can confirm what I'm telling you.
11 I was out of the slammer two days, only recently, and the
12 second day I was out of the slammer I went down to the
13 Credit Union and I drew two thousand bucks to pay the
14 fines of a few guys to keep them from going out in the
15 slammer. Right? I was taken by motor car to Sydney
16 Mines where there was supposed to be an apartment for me.
17 Right? Like a bloody fool I got in the car and I went to
18 Sydney Mines. When I reached Sydney Mines I had a severe
19 pain in the gut --

20 Q. We're missing the point Reverend Captain.

21 A. Go ahead.

22 Q. The Sydney Mines -- that doesn't matter. Don't worry about
23 Mr. Ruby for the time. Just speak to me.

24 A. Yeh, but it was in Sydney Mines that I was robbed of two
25 thousand bucks.

R. N. EBSARY, By Mr. Ross

1 Q. I see. And at this -- and you didn't know anything about
2 these people who robbed you?

3 A. No.

4 Q. You couldn't give a description to the police?

5 A. No.

6 Q. No. I see. Did you ever have any altercations, any
7 problems, dealing with black people or black people
8 with you?

9 A. I always got along well with black people. I been out to
10 the West Indies. I've met black people all over the bloody
11 world.

12 Q. I see. Again we have something in common.

13 A. And I've found them to be a god damn sight better than the
14 bloody whites.

15 Q. No comment. So then our only time of the actual altercation
16 on Crescent Street -- are you suggesting that race was no
17 motivating factor one way or another?

18 A. Certainly not.

19 Q. Thank you.

20 A. Well, if there had been any -- as you suggested. Why
21 the blazes would I have invited the two of them to the
22 bloody house?

23 Q. Tell me something about these associates of yours. We've
24 listed a few of them. We've listed Cameron. We've listed
25 MacNeil. We've listed Sarson. Muggridge.

R. N. EBSARY, By Mr. Ross

1 A. Right. Now Muggridge had nothing to do with this
2 bloody hell --

3 Q. Well, no -- we're just listing some of your associates.
4 It appears as though you were always helping these people
5 is that correct?

6 A. Oh, yes.

7 Q. It appears as though they were generally classified as
8 losers that you were trying to help. Is that correct?

9 A. That's right.

10 Q. And as far as all of you were concerned would you agree
11 that this proverb --birds of a feather flock together would
12 apply to you all?

13 A. When I was out in the slammer --

14 Q. No, would you answer just the question, you see.

15 A. What's that?

16 Q. I'm asking about you and your associates. I'm suggesting
17 that you were all alike. Birds of a feather. Would
18 you agree with that?

19 A. No.

20 Q. Why not?

21 A. Because I was a bloody loner.

22 Q. You were a loner. And what's your view of this concept
23 of birds of a feather flock together? Do you believe that?

24 A. Oh, yes. Naturally.

25 Q. You believe that. Perhaps you could read something here for

R. N. EBSARY, by Mr. Ross

1 me.

2 A. Why do you mean there's another bird around like me?

3 Q. This is taken from -- this is taken the --

4 A. I like you.

5 Q. I married.

6 A. Oh. Well, I won't ask you to put your little shoes under
7 my bed.

8 Q. Well, thanks for not asking.

9 However this is taking from the reports from the reports
10 from the Nova Scotia Hospital. The psychological services
11 section.

12 A. I gotta go in there Tuesday again for a checkup.

13 Q. Remember you were assessed there from time to time.

14 A. But the C.B.C. last night, in their broadcast --

15 Q. Don't worry about the C.B.C.

16 A. -- broadcast to the nation -- they broadcast to the nation
17 that I'm now mentally sick.

18 Q. Don't worry about them for a minute please.

19 Just let's deal with this.

20 A. What is it?

21 Q. Could you perhaps read the section that I've marked there
22 in red? This is about you.

23 A. Yeh.

24 Q. Could you perhaps read it on to the record?

25 A. What do you want me to read it out loud?

R. N. EBSARY, by Mr. Ross

1 Q. Pardon me?

2 A. Read it aloud?

3 Q. Yes, please.

4 A. I don't know if I can but I'll try.

5 "Performance of complex problems is poor. Total points

6 31. 7 - 12 Literal interpretations 2 - 12

7 Adequate abstraction 2 - 12 False. Interpretations 1 - 10

8 Intentions tend to be very concrete. In addition, there

9 is much vagueness and --" what is that? "-- looseness

10 of " -- necessarily true -- no -- "-- associations --"

11 Right. "For example, birds of a feather flock together.

12 Mr. Ebsary's response --" not necessarily to --

13 Q. No. Response was --

14 A. Yes.

15 Q. And then you continue. What was your response?

16 A. "--was not necessarily true. I've seen other birds flying

17 and sparrows get mixed up in the flock. Flock together

18 for support."

19 You don't have to flock together for support.

20 Q. Well, just read on please. I'm going to talk to you about

21 it.

22 A. "--Not man enough to stand alone. To stand up and be

23 counted. --"

24 Q. Continue please.

25 A. "-- White scum."

R. N. EBSARY, by Mr. Ross

1 Q. Do you recall giving that response when you were being
2 psychologically tested at the Nova Scotia Hospital?

3 A. Well I don't recall it clearly but I might have.

4 Q. Yes. But this response, is that consistent with
5 your thinking?

6 A. Oh, yes. Actually.

7 Q. I see. What did you mean was I am not man enough to
8 stand alone? What did you mean by that?

9 A. Because there are, god damn few who are man enough to
10 stand alone.

11 Q. Are you man enough to stand alone?

12 A. Yes.

13 Q. I see.

14 A. I always was and I always bloody well will be.

15 Q. Is there any reasons, Mr Ebsary, why you gave so many
16 different accounts of the same events of one night?

17 A. Well, according to my father confessor, I listened
18 to every tale that was told me. I became influenced
19 by what others were thinking and that led me to think
20 the way I was thinking. He explained that to me clearly
21 Now, he said, Roy, do your own thinking.

22 Q. But isn't it true that as far as all of these statements
23 are concerned you'll say anything at anytime if it's
24 convenient to you?

25 A. No, not necessarily. Because I was always taught to make

1 | sure that what ever you said or what ever you did was
2 | the bloody absolute truth. Don't make a move unless
3 | it's a true move and don't open your bloody mouth unless
4 | you're going to tell the truth.

5 | Q. So that when you indicated to the police officers in
6 | 1982 or 1983 that you had stabbed Sandy Seale, was
7 | that also the truth?

8 | A. Yes. But I didn't tell them. It was MacNeil who went
9 | to the police and told the police about the stabbing and
10 | they wouldn't believe MacNeil.

11 | Q. But I'm speaking about you.

12 | A. All right.

13 | Q. I'm asking you if when you told the police, yes, that
14 | you had stabbed Sandy Seale, was that the truth?

15 | A. Yes, why not.

16 | Q. And when you told them earlier that you did not stab
17 | him was that also the truth?

18 | A. Yes, because as far as I was concerned --

19 | Q. And both are inconsistent. Right? One is right and one
20 | is wrong.

21 | A. Yes, but wait a minute. I wasn't sure that I had stabbed
22 | Sandy Seale.

23 | Q. Well, then why would you say so?

24 | A. I did say so. I said I wasn't sure.

25 | Q. Mr. Ebsary, is it not true that you're enjoying this. That

R. N. EBSARY, by Mr. Ross

1 you just see it as a performance. You're just having
2 fun?

3 A. No. Far from it.

4 Q. Well, why is it that your stories are so very inconsistent?

5 A. Why?

6 Q. Pardon me?

7 A. I told you I'm a good story teller.

8 Q. Is that what you been -- telling a story?

9 A. Who?

10 Q. You.

11 A. Hey Mike, come out here.

12 BY THE CHAIRMAN:

13 Mr. Ebsary, you must get back to answering questions and I think -
14 I trust that we've -- this cross-examination is getting close
15 to the end, Mr. Ross.

16 MR. ROSS:

17 Absolutely.

18 BY THE WITNESS:

19 A. Now, if you think for one blooming moment that I'm enjoying
20 telling stories here, you got another guess coming.

21 BY MR. ROSS:

22 Q. But what are you doing? You seem to be all over the place.
23 You seem to be totally confused. Well, you tell me first
24 that you did not stab Sandy Seale. You later tell me, yes
25 you stabbed him. You tell another story to Mr. Ruby. You

R. N. EBSARY, by Mr. Ross

1 tell another to Mr. Pugsley. I'm suggesting to you that
2 you don't really care what you're saying. Am I not correct?

3 A. You're wrong.

4 Q. Do you care what you're saying?

5 A. Yes.

6 Q. And as a matter of fact as far as being ordained is concerned
7 what are you going to speak to your parishioners about?

8 Have you got any?

9 A. No.

10 Q. So you've got nobody to account to?

11 MR. CHAIRMAN:

12 That sort of questioning, I don't intend to permit. It's
13 totally irrelevant and it's not adding to the evidence which
14 we are trying to sift in this mass testimony.

15 MR. ROSS:

16 I am just about through, My Lord.

17 BY THE WITNESS:

18 A. But if you think for one minute that I'm enjoying it this,
19 I'm not. But I had a conversation with Mike --

20 BY MR. ROSS:

21 Q. Please, don't tell me about that yet Mr. Ebsary. Just
22 give me a half a minute, please.

23 MR. ROSS:

24 Thank you very much. No more questions.

25

R. N. EBSARY, by Mr. Wildsmith

1 BY THE WITNESS:

2 And now I suppose you're pissed off at me, are you?

3 MR. CHAIRMAN:

4 With that rider and nebulous qualification, Mr. Wildsmith,
5 do you have any questions?

6 MR. WILDSMITH:

7 Just a couple, My Lord.

8 MR. CHAIRMAN:

9 Well, maybe if you can up here. You can use the same podium.

10 BY MR. WILDSMITH:

11 Q. Captain Ebsary, my name is Bruce Wildsmith and I'm here
12 on behalf of the Union of Nova Scotia Indians.

13 A. Oh, yes.

14 Q. I just have a couple of little questions I'd like to
15 ask you about and I'll be mercifully brief for the benefit
16 of the Commission and everyone this afternoon.

17 Let me take you back for a few moments to the statement
18 that you originally gave to the Sydney Police Department on
19 November the 15th, 1971. Do you recall giving that
20 statement?

21 A. It's been so long ago and I've given so many bloody
22 statements I don't know really.

23 Q. Well, I believe this is the first statement that you
24 gave to the police and it's contained in our exhibit book
25 volume eleven at page one. You've seen this several times

R. N. EBSARY, by Mr. Wildsmith

1 in the testimony.

2 A. But probably you're more accurate than I am.

3 Q. Perhaps you could just take a look at it to make sure
4 that you recall the incident that I'm referring to.

5 A. Thank you. Why not?

6 Q. Take a look.

7 A. I will. Do you have to lean over my shoulder?

8 Q. I'll give you all the time you need.

9 A. Thank you.

10 Q. I don't really want to ask you about the contents of this
11 statement. I just want to make sure that you have your
12 mind set upon the first time that the Sydney Police
13 Department interviewed you.

14 A. Are you sure I got a mind?

15 Q. I don't believe it's my role to answer your questions.

16 A. Well, your not a psychiatrist.

17 Q. Certainly not.

18 A. What a pity.

19 Q. Do you recall, Captain Ebsary, the first time that you
20 were interviewed by the Sydney Police Department?

21 A. Yes, they told me I had blood on my hands and I said
22 there was never any blood on those hands.

23 Q. This is just after Mr. MacNeil came forward?

24 A. Yes, that's right.

25 Q. Now, you've told us a lot about a Burberry. A navy blue

R. N. EBSARY, by Mr. Wildsmith

1 Burberry that you were wearing on the night of the stabbing
2 incident?

3 A. That's right.

4 Q. Do you recall if you were wearing that Burberry at the
5 time that you first visited the Sydney Police Department?

6 A. Yes, I was really.

7 Q. And would you have kept that Burberry on all the time
8 that you were being interviewed by the police officers?

9 A. Yes.

10 Q. And would you have worn that in the same way that you
11 described wearing it on the night of the incident?

12 Draped over your shoulders?

13 A. That's the only way I ever wore it.

14 Q. And do you recall which police officers you were interviewed
15 by that evening?

16 A. No, I don't really.

17 Q. Do you recall whether John MacIntyre was one of them?

18 A. The only time I heard John MacIntyre's name mentioned
19 was one night when the two police officers were giving
20 me a lift home in the car -- in their car. The driver
21 of the car --

22 Q. Yes, I've think you've already related to the Commission
23 that incident sir. If you don't recall that John MacIntyre
24 was one of them that evening that's all the questions I have
25 for you that I'm going to ask.

R. N. EBSARY, by Mr. Wildsmith

1 A. Well, I didn't --

2 Q. Fair enough.

3 A. I don't know John MacIntyre. I never seen the sun over his
4 head. Not that I know of.

5 Q. The secondary I'd like to ask you about in relation
6 to that time period in 1971 when you gave that statement,
7 is whether or not you had ever been treated in a
8 psychiatric hospital or had an assessment done --
9 psychiatric assessment of yourself?

10 A. Well, my lawyer thought it was absolutely necessary that
11 I have an assessment done --

12 Q. And your lawyer you're referring to is Mr. Wintermans--
13 Luke Wintermans?

14 A. Yes, that's right.

15 Q. And that was about in 1982 approximately?

16 A. Right, yes.

17 Q. So it wasn't in 1971?

18 A. No.

19 Q. Thank you. I'd like to show you another statement which
20 appears in volume nineteen at page eleven. This isn't
21 a statement that you have made and I don't believe you've
22 seen this before.

23 A. I'm sure I haven't.

24 Q. It's notes made by then Corporal Carroll about a meeting
25 with you.

R. N. EBSARY, by Mr. Wildsmith

1 A. Oh yeh.

2 Q. And I'd like to direct your attention to one particular
3 portion towards the end of this series of notes made
4 by Corporal Carroll. Now, that's the portion here that
5 says: "Ebsary said he didn't want to give a written
6 statement until he met Junior Marshall's mother. He
7 wanted to see her face and judge her. He wanted to
8 see where they lived. The type of house they lived
9 in. I agreed to arrange a meeting between Ebsary and
10 the Marshall family and advise him of the time and
11 date." Does that, to your recollection, accurately
12 summerize the conversation you had with Corporal
13 Carroll?

14 A. That's right.

15 Q. And you in fact did meet with the Marshall family --

16 A. Pardon?

17 Q. You did in fact meet with the Marshall family I believe --

18 A. Yeh, but not at the home. I think they brought the two
19 people to the R.C.M.P. Headquarters and that's where
20 I met them.

21 Q. All right. You did not meet with them in their home?

22 A. No.

23 Q. Their home is on the Membertou Indian Reserve.

24 A. Well, they wouldn't take me out there.

25 Q. Have you ever been to the Membertou Reserve?

R. N. EBSARY, by Mr. Wildsmith

1 A. No.

2 Q. But you did in fact meet then with the Marshall family and
3 I believe the testimony just elicited by Mr. Ross was you
4 met with them the next day after these notes were made or
5 this interview took place.

6 A. It's quite possible.

7 I asked to see the two people --

8 Q. Yes, that's what I'm coming to --

9 A. And I wanted to meet them at their home.

10 Q. Why is it that sir?

11 A. Well, I just wanted to meet the people and see what made
12 them tick.

13 Q. It refers in here to wanting to particularly see Mr.
14 Marshall's mother.

15 A. Pardon?

16 Q. It particularly refers to wanting to see Mr. Marshall's
17 mother. And I understand that she was there with Donald
18 Marshall, Senior.

19 A. That's right. I wanted to meet both the people.

20 Q. And I understood --

21 A. His father and his mother.

22 Q. I understand that you held her hand at the time.

23 A. Did I?

24 Q. Is that true?

25 A. I wouldn't -- I didn't make any love to her.

R. N. EBSARY, by Mr. Wildsmith

1 Q. No. Do you recall holding her hand?

2 A. No, I don't really.

3 Q. All right.

4 A. Probably I did.

5 Q. I'm particularly interested in the portion here that says
6 that you wanted to judge her. Did you, in fact, judge her?

7 A. Yes, I did.

8 Q. And what do you mean by judge her? What is it you were
9 looking for?

10 A. Well, I didn't like what I saw.

11 Q. You did not like what you saw?

12 A. No.

13 Q. I see. Would you elaborate?

14 A. No, I won't elaborate. I met the old gentleman, Marshall.

15 Q. Yes, the father.

16 A. And he was a fine looking old guy but the mother didn't --
17 I didn't get the same impression from the mother.

18 Q. What impression?

19 A. That she was a fine old girl.

20 Q. I see. Why did you want to see the type of house they
21 lived in? Where they live?

22 A. Because I wanted to see their circumstances. You see, because --

23 Q. What difference would their circumstances make to you?

24 A. Because there had been published in the paper due to the
25 old girl Marshall, that they were hard up, that they had

R. N. EBSARY, by Mr. Wildsmith

1 a hell of a job to make a living or to live and all that
2 sort of rot so I wanted to find out the truth.

3 Q. And if they were in fact hard, it would make you more
4 inclined to be helpful?

5 A. Yes. Why not?

6 Q. I see. Was the fact that Marshall was an Indian, did
7 that play any role in why you wanted to meet his parents
8 and see where they lived? What kind of house they
9 lived in?

10 A. Well, I wanted to find out if Marshall was a half-breed
11 or your true blooded Indian.

12 Q. I see. What difference would that particular point
13 make?

14 A. Well, I would have known the difference wouldn't I.

15 Q. What difference would it make to you though if they
16 were half-breed as you put it or a full blooded Indian?

17 A. Well, I would have had the knowledge and that's all
18 I wanted.

19 Q. Well, what use would that be to you sir?

20 A. Well, you'd be surprised.

21 Q. Well, I'm asking you now to tell us.

22 A. Well, I -- listen I haven't got to answer all your questions
23 and tell you every bloody thing you want to know. I'm
24 your educator.

25 A. Well, my --

R. N. EBSARY, by Mr. Wildsmith

1 A. If you missed out going to school, kid, don't blame
2 me and perhaps I'll need the Commissions' assistance
3 on this, is what difference would it make whether
4 Marchall's family were full blooded Indians or half-breeds?

5 A. Well, there would have been a distinction wouldn't there.

6 Q. They're not quite the same.

7 A. No, they are not.

8 Q. So would you help them if they were full blooded and not
9 if they were half-breed or is it vise virsa?

10 A. I would have helped them anyway.

11 Q. You would have helped them anyway?

12 A. Sure.

13 Q. So why did you want to know? How were you going to
14 use this information?

15 A. How do I know every time I make a move to help somebody.
16 I don't go around and dig and ask a pile of bloody questions.
17 If a person tells me they're in need I do what I can to
18 help them.

19 Q. Okay. When did you first learn that Marshall was an
20 Indian?

21 A. Well, Carroll told me.

22

23

24

25

R. N. EBSARY, by Mr. Wildsmith

- 1 Q. At this meeting in February of '82?
- 2 A. Yes, right.
- 3 Q. And you did not realize that up to that point in time?
- 4 A. No.
- 5 Q. You had not been following the -- You said you don't read
6 the newspapers. You hadn't heard any reports that referred
7 to Mr. Marshall as being an Indian?
- 8 A. That's true.
- 9 Q. And Mr. MacNeil didn't tell you that?
- 10 A. Not that I know of.
- 11 Q. No one told you that.
- 12 A. No.
- 13 Q. You had no knowledge until February of '82 that Marshall was
14 an Indian.
- 15 A. That's right.
- 16 Q. All right. You mentioned that you'd never been up to the
17 Membertou Indian Reserve?
- 18 A. That's right.
- 19 Q. Did you ever have occasion to work with or socialize or meet
20 Indians?
- 21 A. No. White Indians, yes.
- 22 Q. Okay. What do you mean by a white Indian?
- 23 A. Just exactly what I said.
- 24 Q. Somebody who is in fact a white person, who pretends they're
25 an Indian?

R. N. EBSARY, by Mr. Wildsmith

1 | A. Yes, right. There are white Indians.

2 | Q. Now, I think we have learned from you over the last couple
3 | of days, sir, that you're a person who states frankly what's
4 | on your mind. You don't beat around the bush about things.

5 | A. Not necessarily. I use discretion at times.

6 | Q. Well, my question to you which I expect you to answer truthfully
7 | and frankly is: What views if any do you have about Indians?

8 | A. Pardon?

9 | MR. CHAIRMAN:

10 | ... (Inaudible) ... question and totally irrelevant to this part of
11 | the Inquiry, Mr. Wildsmith, and I don't propose to allow that one
12 | answered.

13 | MR. RUBY:

14 | May I speak to that issue?

15 | MR. CHAIRMAN:

16 | Pardon?

17 | MR. RUBY:

18 | May I speak to that issue?

19 | MR. CHAIRMAN:

20 | What issue?

21 | MR. RUBY:

22 | Whether you should be ruling on the application.

23 | MR. CHAIRMAN:

24 | I've made the ruling.

25 | MR. RUBY:

I know but you haven't heard me, so I'd ask for a moment so I

R. N. EBSARY, by Mr. Wildsmith

1 | can speak to it.

2 | MR. CHAIRMAN:

3 | All right, go ahead.

4 | MR. RUBY:

5 | It may not be relevant to this portion of the Inquiry but this
6 | witness is not going to be back for the second part of the
7 | Inquiry --

8 | BY THE WITNESS:

9 | What makes you think I'm not.

10 | MR. RUBY:

11 | And in the light of that, depending on the answer -- I don't know
12 | what the answer is going to be but it could be very relevant in
13 | connection to the second part of the Inquiry.

14 | MR. CHAIRMAN:

15 | It couldn't conceivably be relevant in my view. This evidence is
16 | to help the Commission in ascertaining the facts surrounding the
17 | death of Sandford Seale and the subsequent re-opening of the case.
18 | The -- Mr. Ebsary's views on -- toward Indians or toward any
19 | minority groups in my view is not relevant to his evidence.

20 | MR. WILDSMITH:

21 | I'll certainly accept Your Lordship's ruling on this and I don't
22 | propose to ask the -- this particular witness any further questions
23 | on that point but I would like to make the point to Your Lordship
24 | that I think in general that this question can be relevant to the
25 | motivation of a particular witness and the particular course of

R. N. EBSARY, by Mr. Wildsmith, by Mr. MacDonald

1 | action followed by the witness as for example, and I'm not making
2 | this point for Mr. Ebsary and I'm happy with his responses, but
3 | possibly the reason that he had not come forward earlier was
4 | because Mr. Marshall was an Indian. Now I'm not making that as
5 | a statement of fact. I'm just suggesting that there is a possible
6 | relevance between that question and somebody's course of conduct
7 | but I'm satisfied with Mr. Ebsary and I have no further questions
8 | for him.

9 | MR. CHAIRMAN:

10 | Mr. MacDonald, do you anticipate being very long?

11 | MR. MacDONALD:

12 | No, My Lord. Five minutes at the very longest.

13 | MR. CHAIRMAN:

14 | All right.

15 | COMMISSIONER EVANS:

16 | Nobody else has to cross-examine the witness? I've kind of lost track.

17 | MR. MacDONALD:

18 | I believe we've gone through all the various parties, My Lord.

19 | BY MR. MacDONALD:

20 | Q. Mr. Ebsary, I think it was Mr. Wildsmith, the last lawyer
21 | who asked you when you went to the police station in November
22 | and told them your story, if you were wearing your Burberry and
23 | you said yes, you were and you kept it on the whole time.

24 | A. That's right.

25 | Q. What about when the R.C.M.P. picked you up and took you out

R. N. EBSARY, by Mr. MacDonald

- 1 | to take the lie-detector test? Would you have been wearing it
2 | then? This was in November.
- 3 | A. Yes, I was.
- 4 | Q. And would that have been the same? You would have kept it
5 | on the whole time?
- 6 | A. Yes, right. By the way, somebody swiped that jacket out of
7 | my hall and I always blamed the R.C.M.P. for it.
- 8 | Q. Is that right. This morning Mr. Ruby asked you what your
9 | service number was in the services and I didn't get it.
10 | Could you tell that to me again?
- 11 | A. Yes, PJX --
- 12 | Q. Yes, I'll copy it down this time.
- 13 | A. PJX 4 -- god damn, wait a minute now. PJX 4 -- PJX 457943.
- 14 | Q. 457953.
- 15 | A. Yes, 547943.
- 16 | Q. Okay, just let me get it again now. PJX 547943.
- 17 | A. 547943. Now the P stands for Plymouth or Portsmouth where
18 | I was stationed before joining ship. The JX comes before the
19 | numerals, right?
- 20 | Q. And do I have it correct now, 547943?
- 21 | A. Have you got OJX in front of it?
- 22 | Q. Oh, yes, but the numbers.
- 23 | A. Well, you're okay. Yeh, that's it. You got it.
- 24 | MR. MacDONLD:
- 25 | Those are all the questions, My Lord, that I propose to ask Mr.

1 Ebsary.

2 MR. MURRAY:

3 Mr. Chairman, Donald C. Murray, for William Urquhart. I understood
4 that we were going to re-see a portion of the tape.

5 MR. MacDONALD:

6 Oh, I'm sorry. Mr. Ruby, I think is going to speak to that, My
7 Lord.

8 MR. RUBY:

9 I have a suggestion, My Lord. We tried last night and we did
10 in fact listen to the balance of the tape, Ms. Edwardh and I.
11 Maybe because of our Upper Canada background but much of it is
12 difficult to interpret or understand. Rather than have someone
13 sit around with these machines which have no counter, may I
14 suggest that we'll be content at least if Commission counsel
15 would take the tape, take it to a machine somewhere else where
16 there's a counter, confirm if that statement's in fact on it,
17 and if so, we'll accept it as having been made.

18 MR. CHAIRMAN:

19 We only have to worry about four lines.

20 MR. RUBY:

21 That's correct.

22 MR. MacDONALD:

23 All right, we'll undertake to do that, to check it.

24 MR. CHAIRMAN:

25 Is that satisfactory to counsel.

Conversation between Court and Counsel

1 MR. MURRAY:

2 Well, I don't see once it's been found with a counting machine
3 that it can't be stopped and relayed here.

4 MR. CHAIRMAN:

5 If we still have the equipment available to set it up and the
6 time.

7 COMMISSIONER EVANS:

8 Do I understand that you will not be satisfied to accept the
9 comment of --

10 MR. MURRAY:

11 No, I just think it's appropriate that if all the evidence is
12 going to be dealt with by the Commission that's come out at
13 the Hearings, then that's the proper way to go but whether or
14 not they can accept --

15 MR. CHAIRMAN:

16 When that piece of tape is found, Commission counsel will show
17 it to any counsel who are interested and if any counsel have --

18 MR. MacDONALD:

19 We'll check the transcript --

20 MR. CHAIRMAN:

21 -- any doubts as to whether the four lines shown in the transcript
22 are not correct, then I guess we'll have to look at it. On the
23 assumption that the lines in the transcript, as we have it, are
24 correct, then I see no good purpose being served in re-running
25 that tape.

Conversation between Court and Counsel

1 MR. RUBY:

2 Thank you, My Lord.

3 MR. MacDONALD:

4 That's the evidence, I believe, of Mr. Ebsary, My Lord.

5 BY THE CHAIRMAN:

6 Q. That's all. Thank you Mr. Ebsary. I suspect it's been a bit
7 of a trying day for you and yesterday.

8 A. Thank you, Your Honour or My Lord. (WITNESS WITHDREW)

9 MR. CHAIRMAN:

10 We'll rise for ten minutes.

11 INQUIRY ADJOURNED: 3:39 p.m.

12 INQUIRY RECONVENED: 3:59 p.m.

13 MR. MacDONALD:

14 My Lords, just before we get to the next witness who will be Mr.
15 MacNeil, I wanted to advise Your Lordships and counsel that
16 reference has been made throughout the examination of Mr. Ebsary
17 by various people to various psychiatric records and hospital
18 records relating to Mr. Ebsary. We have made arrangements for
19 an up-to-date psychiatric assessment to be made of Mr. Ebsary
20 next week, Tuesday, and he has consented to undergo that examina-
21 tion and ultimately we will be bringing that psychiatrist to these
22 hearings to give his evidence of that assessment.

23 The next witness is going to be examined by Mr. Orsborn.
24
25

JAMES MacNEIL, being called and duly sworn, testified as follows:

1 | BY MR. ORSBORN:

2 | Q. Mr. MacNeil, you're name I think is spelled M-a-c-?

3 | A. M-a-c-N-e-i-l.

4 | Q. My name is David Orsborn and we've met before.

5 | A. Yes.

6 | Q. I'll be asking you some questions this afternnon. I might
7 | ask you to answer them to the best of your ability and if
8 | I go too fast for you at any time, just stop. On occasion
9 | if you want to, you know, think about your answer for a few
10 | seconds, that's fine. Take your time and relax.

11 | A. Yeh, right.

12 | Q. Are you feeling a bit nervous?

13 | A. Yeh.

14 | BY MR. CHAIRMAN:

15 | Q. Well, let me relieve you of your nervousness, Mr. MacNeil,
16 | and there really is no cause to be nervous. I don't have
17 | your first name. What is your first name?

18 | A. Jim.

19 | Q. James, is it?

20 | A. Yeh.

21 | Q. James. M-a-c?

22 | A. M-a-c.

23 | Q. N-e-i-l-l. All right.

24 | BY MR. ORSBORN:

25 | Q. Your full name is James William MacNeil, I believe, is it?