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SDS Case Number 87-312

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

VOLUME II

Held: September 10, 1987

At: St. Andrew's Church Hall
Bentinck Street
Sydney, Nova Scotia

Before: Chief Justice R. A. Hickman, Chairman
Assoc. Chief Justice L. A. Poitras, Commissioner
Hon. G. T. Evans, Commissioner

Counsel: George MacDonald, Q.C., Wylie Spicer, & David Orsborn: Commission Counsel

Clayton Ruby, Ms. Marlys Edwardh, & Ms. Anne S. Derrick: Counsel for Donald Marshall, Jr.

Michael G. Whalley, Q.C.: Counsel for City of Sydney

Ronald N. Pugsley, Q.C.: Counsel for John F. MacIntyre

Donald C. Murray: Counsel for William Urquhart

Frank L. Elman, Q.C., & David G. Barrett: Counsel for the Donald MacNeil estate

Jamie W. S. Saunders, & Darrel I. Pink: Counsel for Attorney General

James D. Bissell: Counsel for the R.C.M.P.

Al Pringle: Counsel for Correctional Services Canada

William L. Ryan: Counsel for Evers, Green and McAlpine

Charles Broderick: Counsel for Carroll

S. Bruce Outhouse: Counsel for Wheaton & Scott

Guy LaFosse: Counsel for Davies

Bruce H. Wildsmith: Counsel for Union of N. S. Indians
Assisted by Daniel Christmas

E. Anthony Ross, & Kevin Drolet: Counsel for Oscar N. Seale

E. Anthony Ross, & Jeremy Gay: Counsel for Black United Front

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

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COURT REPORTER'S CERTIFICATE ..... BB

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

1

2 MR. CHAIRMAN:

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

10 MR. RUBY:

11 Thank you, My Lord.

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

13 BY MR. RUBY:

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

16 A. What's that?

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

19 A. That's right.

20 Q. What is your service number, sir?

21 A. PJX 247943.

22 Q. PJX?

23 A. Right. 247943.

24 Q. Thank you, sir.

25 A. Now call me a bloody liar.

R. N. EBSARY, by Mr. Ruby

1 Q. Now one of the things that you suggested in your evidence is
2 that first Mr. Seale, after you swiped at him, runs off
3 around the corner.
4 A. Right.
5 Q. And that's the last you see of him?
6 A. Right.
7 Q. And Mr. Marshall runs off in the same direction --
8 A. In the same direction.
9 Q. -- and that's the last you see of him.
10 A. That's right.
11 Q. The body of Mr. Seale, however, according to police reports,
12 was found approximately here in front of the house of Mrs.
13 Doucette.
14 A. Well, he must have been brought there because he ran around
15 that bloody corner the length of Crescent Street. Right.
16 Hey, I'll show you something. You told me yesterday that I
17 was hallucinating, right. There's the medication I'm taking.
18 You find out what's causing the hallucinations.
19 BY MR. CHAIRMAN:
20 Q. Mr. Ebsary, I must draw your attention. You -- as I said
21 yesterday, you're obliged to answer the questions. This is
22 not a forum for argument at this time.
23 A. Well is he entitled to call me a --
24 Q. No.
25 A. -- bloody liar every time I open my mouth?

1 Q. I didn't hear Mr. Ruby call you a bloody liar this morning.
2 A. Well --
3 Q. Now, please listen.
4 A. All right.
5 Q. Mr. Ruby will put questions to you and you will answer them.
6 If they aren't relevant, the questions will be disallowed.
7 A. Good.
8 Q. The question that was just put to you then concerned the
9 location or the alleged location of Mr. Seale after he had
10 been found in an injured condition according to the police
11 report.
12 A. Right.
13 Q. And you were asked to respond to that question. Your response
14 was to refer to some medications that you're taking which is
15 not the answer to the question.
16 A. Because he alluded yesterday that I was hallucinating.
17 Q. But that's not the questions before you this morning.
18 Now will you please answer the question, if you can, that
19 was just put to you by Mr. Ruby? What is your response to
20 the police report?
21 A. Well, if young Seale ran the length of Crescent Street, how
22 could his body be found on the other end of Crescent Street?
23 Now that don't make sense, does it, sir?
24 Q. Anyway I take it your answer is that from what you saw, he
25 went around the corner on Crescent Street?

1 A. Yes, sir.
2 Q. All right.
3 BY MR. RUBY:
4 Q. The next area I want to ask you about is what you showed us
5 about how Mr. Marshall was strangling Mr. MacNeil. I
6 remember when Commission Counsel showed it and you showed it,
7 you showed one hand grasping the other, the wrist, like this.
8 A. Yes.
9 Q. And he had him from behind, I gather?
10 A. Right.
11 Q. Now if that's the case, and his -- holding him tight by the
12 neck, I take it?
13 A. Yeh, that's right.
14 Q. Pulling back?
15 A. Right. Well, he was strangling him. How do you strangle a
16 person?
17 Q. All right. This is correct, is it not, the way I'm showing
18 it?
19 A. Yes.
20 Q. All right. How is it that you managed to strike Mr. Marshall
21 -- Well, let me put it differently. What part of the arm
22 did you strike Mr. Marshall?
23 A. On the forearm.
24 Q. What part of the forearm? Would you show me on your forearm?
25 A. From here down.

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

1 if we didn't dig out.
2 Q. And you've been asked twice now what that would be, what he
3 said he would do and you've been unable to answer. Can you
4 try it again?
5 A. I told you Marshall was -- the only thing that Marshall said
6 to us was: "Dig out, and if you don't dig out, look at this."
7 Right. In other words, he's going to put a beating on us.
8 Q. All right. The words were: "Dig out, and if you don't dig
9 out, look at this.", waiving his muscles in the air.
10 A. That's right. Look what I got here.
11 Q. Now I suggest to you that that is the very first time in
12 your life you've ever told that to anyone. Is that true?
13 A. Now I'm going to tell you you're a god damn liar because I've
14 told that to everyone that I've spoke to.
15 Q. You told Carroll?
16 A. Yes, I told it to Carroll, too.
17 Q. Told it to Ratchford?
18 A. Yes.
19 Q. And told it to Sergeant MacIntyre in 1971.
20 A. I did -- Well, I saw Sergeant MacIntyre at that time or the
21 time you state --
22 Q. Once again, sir, did you or did you not?
23 A. What?
24 Q. Tell Sergeant MacIntyre in 1971?
25 A. How the hell do I know?

1 Q. You're not sure?
2 A. No.
3 Q. All right. Now if there was no other conversation, can you
4 assist me in understanding how it is --
5 A. Oh, yes, I was. Yeh, I remember correctly.
6 Q. Oh, there was more conversation.
7 A. Yes.
8 Q. What was it about?
9 A. I invited the boys to come up to the house because I was going
10 to have a barbecue.
11 Q. You invited them to come to the house because you were going
12 to have a barbecue?
13 A. Right.
14 Q. How did that arise, that exchange?
15 A. Well, I don't know.
16 Q. You must have had some talk before that. You wouldn't meet
17 strangers and say, "Come on over to the house and have a
18 barbecue."?
19 A. Why not? I often did.
20 Q. No, but you would have had to have some kind of small talk
21 before that.
22 A. Well if there was, I don't remember what it was.
23 Q. You agree with me, though, that it's likely you had some
24 talk before the invitation.
25 A. Well, if there was, there was damn little.

1 Q. But you would have had to decide they were nice boys before
2 you'd invite them into your home.
3 A. Right. I thought they were nice boys.
4 Q. So you would have to have talked to them somewhat.
5 A. Well, for a moment or two, maybe, I don't know.
6 Q. You're not sure how long that conversation went on, are you?
7 A. No.
8 Q. All right.
9 A. But not too bloody long, I can assure you.
10 Q. Because Marshall, (I think you'll agree from what you've
11 read about this case and heard about it.) he knows in rough
12 measure the direction of your home and tells that to the
13 police that day.
14 A. Yes. My home is only a few steps from where this accident
15 happened.
16 Q. That's right, and you told Marshall -- you pointed to the home
17 and told him where it was.
18 A. Exactly.
19 Q. Of course you did.
20 A. Exactly.
21 Q. You also must have told him that you were a priest because
22 he said, the two men -- one of the two men told him that
23 they were priests and he told that to the police when they
24 questioned him.
25 A. That's a -- Now that's a damn lie because I never told anyone

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

1 was, it didn't include that fact.
2 A. No, it did not.
3 Q. All right. Can you assist me then in how it was that Marshall
4 would have known that fact?
5 A. No, I can't. I'm sorry. Well, I know you do need assistance.
6 Q. Yesterday, you told us that MacNeil had testified for the
7 Crown because he was an accessory and had he not done that,
8 he would have been in difficulty. I'm paraphrasing what
9 you said.
10 A. Yeh, that's right.
11 Q. Correct?
12 A. Right.
13 Q. Explain to me again how MacNeil was an accessory. I didn't
14 understand it.
15 A. I said suppose, for instance, that I had seriously injured
16 young Seale, right, the fact that MacNeil was with me would
17 have made him an accessory before or after the fact.
18 Q. Why is that?
19 A. Well, I heard the same bloody thing over the radio last night
20 about people who were accused of being accessories before and
21 after the fact.
22 Q. Did MacNeil do anything to harm Seale?
23 A. Who?
24 Q. MacNeil.
25 A. No.

1 Q. Did MacNeil do anything to encourage you to harm Seale?
2 A. No.
3 Q. Did MacNeil in any way shelter you after the fact?
4 A. No.
5 Q. Hide you?
6 A. No.
7 Q. How does he get to be an accessory?
8 A. Because he was with me.
9 Q. That's enough.
10 A. Right. That's enough to hang anybody. The mere fact because
11 he was with me, he would have been accused of being an
12 accomplice before and after the fact. Otherwise I'm all
13 balled up.
14 Q. Thank you, sir.
15 A. Thank you for being so gracious. I didn't think you had it in
16 you to say thank you.
17 Q. Did you buy a new car for Donna Ebsary just before the Seale
18 killing?
19 A. No. I bought one for my son, though.
20 Q. Ah. And that was just before the Seale killing?
21 A. Well, I don't know if it was before or after.
22 Q. Around that time?
23 A. Yes, right.
24 Q. All right, and MacNeil was driving that car?
25 A. Well, not to my knowledge unless the wife let him drive it.

1 Q. You wouldn't have let him drive it.
2 A. I didn't know anything about it.
3 Q. What was your relationship with MacNeil?
4 A. What was my relationship with MacNeil?
5 Q. Yes, sir.
6 A. It was only a very friendly relationship.
7 Q. How close were you, you and young MacNeil?
8 A. Well, we weren't homosexuals, if that's what you're driving at.
9 Q. No. How close were you? How often did you see him?
10 A. I saw him -- I saw MacNeil about three times.
11 Q. That's all.
12 A. That's all.
13 Q. So he was a very casual acquaintance.
14 A. Yes, very casual.
15 Q. How many times was he at your house?
16 A. Possibly twice.
17 Q. How long? Five minutes, ten minutes, hours?
18 A. Well, he wanted to come down to our house because he said he
19 could study better in our living room than he could in the
20 shack he was living in.
21 Q. And how well did you know MacNeil, Senior?
22 A. I met him at a tavern twice.
23 Q. And that's it?
24 A. Yes, that's it.
25 Q. Okay. Where did you get the money to buy the car for Greg

1 Ebsary?
2 A. My government cheques.
3 Q. Okay.
4 A. From the Navy and an allowance that the Canadian Government
5 allows me when I retired.
6 Q. All right. Let me take you to after the killing of Mr. Seale.
7 You were together with Mr. MacNeil.
8 A. Right.
9 Q. The two of you have just had a very trying time, difficult
10 time.
11 A. Yes.
12 Q. You two are the only ones in the world who know about it that
13 were around.
14 A. Right.
15 Q. Surely you discussed it on the way home. You talked about it,
16 what had happened.
17 A. We didn't.
18 Q. Not a word?
19 A. No.
20 Q. What did you talk about on the way home?
21 A. As far as I know we didn't talk about any bloody thing.
22 Q. Not a word?
23 A. No.
24 Q. All right. It wouldn't be the case that MacNeil when you did
25 talk about it, it would be at the house -- When you did talk

1 about it, that would be at the house, I gather, the first
2 time you discussed it.
3 A. It wasn't even discussed when we got at the house.
4 Q. You refused to discuss it.
5 A. The only -- the only things I told him was to shut up when
6 he said I saved his life.
7 Q. Okay. Now had MacNeil known Marshall before, to your
8 knowledge?
9 A. I wouldn't know.
10 Q. You have no idea?
11 A. No.
12 Q. Had you ever heard that Marshall had committed an act of
13 violence on Mr. MacNeil?
14 A. Not -- No, not that I know of.
15 Q. You never heard his story?
16 A. No. Oh, yes, I did. MacNeil said that Marshall had beat him
17 up one time going up George's Street.
18 Q. George or Georgia?
19 A. George. Up on George. You know where George Street is here
20 in Sydney.
21 Q. Did MacNeil say when this took place?
22 A. No, he didn't really.
23 Q. When did you find out about this?
24 A. Who?
25 Q. That MacNeil had been beaten up by Marshall previously?

1 A. Because when he left me to go home that night, do you remember
2 I told you, eh, he was afraid to go out across Argyle Street
3 because the same two might attack him when he went across the
4 Street. Did I say that or didn't I?
5 Q. Yes, you did.
6 A. Thank you. Now then it was at that time that he told me that
7 he had been beaten up, eh.
8 Q. By Marshall before.
9 A. Right.
10 Q. So he knew Marshall?
11 A. Yes. Well, it stands to reason that he knew Marshall. He
12 was able to identify Marshall. That's more than I could do,
13 when it's the first bloody time I ever seen Marshall.
14 Q. So at that time you knew who Marshall was?
15 A. Who?
16 Q. You knew who Marshall was.
17 A. Listen, my friend, you can know a person for bloody years
18 and still not know him. We're not that bloody clever.
19 Q. At that time you knew Marshall's name.
20 A. For instance, I've only met you once or twice. I don't know
21 you and as a matter of fact, I wouldn't want to.
22 Q. Let me come back to my question which I want an answer for.
23 At that time, you knew Marshall's name.
24 A. Who?
25 Q. At that time when MacNeil told you about Marshall and the

1 previous incident, you knew Marshall's name at that time.
2 A. Yes. Yeh, but this was after the accident.
3 Q. Is it true that you knew Marshall's name at that time?
4 A. After the accident, not before.
5 Q. All right.
6 A. Because I never saw the sky over Marshall.
7 Q. Where's Hardwood Hill?
8 A. Hardwood Hill. If you go along George's Street and continue
9 along George's Street. George's Street goes up over the hill
10 and they call it Hardwood Hill.
11 Q. Thank you. Now let me come back to the actual incident itself
12 for a moment again. Tell me if I've got it correct: Seale
13 confronts you.
14 A. What's that?
15 Q. Seale confronts you. Seale's in front of you just before he's
16 swiped at, correct?
17 A. Yes, right.
18 Q. After the swipe, you look over and see MacNeil.
19 A. I didn't have to look over. I could hear his screams.
20 Q. All right, did you look over and see him?
21 A. I couldn't see him. It was too bloody dark.
22 Q. So all you could hear was the screams.
23 A. That's right.
24 Q. And then what did you do?
25 A. I went out after the young Seale left me and ran down around

1 Crescent Street and ran around the corner. I crossed the street
2 to see what I could do to help MacNeil.
3 Q. Now if MacNeil was being strangled, you would expect, I take
4 it, that he would know that.
5 A. Who would know it?
6 Q. MacNeil.
7 A. Yes, naturally.
8 Q. You heard him testify in your trials.
9 A. Right.
10 Q. And you'll agree with me he says that "I was not being
11 strangled.".
12 A. But he's a bloody liar.
13 Q. That's the answer?
14 A. Yes, that's the answer and that's the truth.
15 Q. All right. Let me come to the discussions you -- Excuse me
16 just a moment, if you may.
17 A. There are times when you can be very polite.
18 Q. You've told us today that the conversation with MacNeil where
19 MacNeil told you that he'd been beaten before took place after
20 the Seale killing.
21 A. That's right.
22 Q. If you'll turn with me, and I'll get your copy of it, to what
23 I have of the statement that you gave on the 23rd of
24 February, 1982 to Corporal Carroll. Perhaps I'll show you
25 my copy. What you say there -- I'll read it with you:

1 I've got it in the blue volume two -- Volume 19, page 138.
2 It's a one-page statement, this one. The early one to
3 Carroll. Let's try Volume 11, page 3. We can't go wrong.
4 Now if you'll turn with me to that page, about one-third of
5 the way down, you'll see the long answer there. In the
6 middle of that answer you say: "Marshall was giving him
7 a hard time. He had a reputation for that. All Sydney knows
8 that." Carry on with me. "MacNeil told me before this
9 happened.." Not after. "..before this happened, Marshall
10 had robbed him before, beaten him up on Hardwood Hill."
11 A. Well, possibly -- Possibly he did.
12 Q. Well, do you remember whether or not he told you about this
13 incident on Hardwood Hill before the incident with Seale or
14 afterwards?
15 A. Well I don't remember exactly but I thought it was after.
16 MR. CHAIRMAN:
17 The interpretation put on there is certainly open to two inter-
18 pretations.
19 BY MR. RUBY:
20 Q. Let's find out what your interpretation of this is. What
21 do you take these words to mean as to when the location --
22 when the conversation took place? Take a look at them
23 again.
24 A. It says: "Marshall was giving him a hard time. He has a
25 reputation -- He had a reputation for that." Well, Marshall

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

1 Q. Sir, we're not going to discuss anything that happened last
2 night. Now you --
3 BY MR. CHAIRMAN:
4 Q. Mr. Ebsary, I don't want to have to keep reminding you that
5 you have to answer the questions that are put to you and
6 you just completed your answers to the last question --
7 A. Yes, sir.
8 Q. -- that was put to you by Mr. Ruby.
9 A. Right.
10 Q. That doesn't give you the right, then, to take on the role of
11 an examiner.
12 A. No, but he turns around every damn thing, because if I can't
13 remember but --
14 Q. Anyway, I've heard the answer to that question.
15 A. -- whatever comes from my head.
16 Q. I've heard the answer to that question. That's all I want
17 to hear now.
18 MR. CHAIRMAN:
19 Proceed, Mr. Ruby.
20 MR. RUBY:
21 Thank you, sir.
22 BY MR. RUBY:
23 Q. The question I'm asking you is: Do you now have any memories
24 which you can tell us whether that conversation took place
25 before or after the Seale killing?

1 A. I -- and I asked you a question. I said, "Were you listening
2 to the CBC --
3 Q. No, you may not do that.
4 BY MR. CHAIRMAN:
5 Q. I'm not going to tolerate that kind of response. Now will
6 you answer question.
7 A. Well, it's the only thing, sir, that's going to clarify this
8 whole thing.
9 Q. I'll decide what will clarify the whole thing, not you.
10 BY MR. RUBY:
11 Q. Would you try to answer with a yes or no? Do you now have
12 a memory of whether this took place before or after?
13 A. I don't remember, really.
14 Q. You're not sure?
15 A. No.
16 Q. All right, and yet just a minute or two ago you testified
17 quite positively that it happened afterwards.
18 A. Well, I took it for granted that it did happen afterwards
19 because it's the only time that I remember that we had any
20 conversation.
21 Q. All right. How are we to know when you're merely taking
22 things for granted and when you are telling us what you
23 actually remember? How are we to tell?
24 A. Well if you had human intelligence, you'd know the difference,
25 wouldn't you.

R. N. EBSARY, by Mr. Ruby

1 Q. All right. I'll move to another area. Yesterday you told
2 us that you did not tell your wife about the stabbing of
3 Marshall, for example, the next morning.
4 A. Not that I know of.
5 Q. Though the Ratchford tape, as was put to you by my friend,
6 Mr. MacDonald, it was pointed out to you that there you had
7 said that you did. Do you remember that? Do you remember it?
8 A. No, I don't remember it.
9 Q. We'll get to the other issues in just -- You don't remember that?
10 A. No.
11 Q. Let me show you the transcript of the Ratchford tape,
12 (Exhibit 25, My Lord.) to the top of page 15. You start at
13 the bottom of page 14. Then at the top of page 15: "Did
14 you tell them.." and them is Donna and her mother. "..that
15 you ripped Marshall in the arm?" "Oh, yes, I told them that."
16 Do you remember being referred to that yesterday?
17 A. Oh, yes, it's possible.
18 Q. No, do you remember being referred to that by Mr. MacDonald
19 yesterday?
20 A. Well, I think I was asked what part of the arm.
21 Q. No, no.
22 MR. PUGLSEY:
23 He refers to the (inaudible [microphone not activated]). Maybe
24 I'm wrong but --
25 MR. RUBY:
Let me look again because I may have misinterpreted. Thank you

1 for your help.

2 BY THE WITNESS:

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

4 MR. RUBY

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

6 MR. MacDONALD:

7 On page 13. The top of the page.

8 MR. RUBY:

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

10 BY MR. RUBY:

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

12 A. Right.

13

14

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1 Q. Page 13, near the top.

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

3

4 Ebsary: "I told her"! "I told her the next bloody morning".

5 A. Well, probably I did. I don't know.

6 Q. Do you remember being referred to that passage by Mr. MacDonald

7 yesterday?

8 A. No.

9 Q. Okay. Which is true, what you told us yesterday, namely that

10 you didn't tell her the next morning --

11 A. Right.

12 Q. (That would be about the Seale stabbing, I take it, and the

13 Marshall stabbing.) -- or that you did as you told Mr. Ratchford?

14 A. Well, I can't remember clearly, but I can't remember telling

15 her the next morning because when I woke I had a hangover and

16 I was in no condition to talk I can assure you.

17 Q. Tell me about the hangover the next morning, sir?

18 A. Pardon?

19 Q. Tell me more about the hangover the next morning?

20 A. Why should I?

21 Q. Let me try again.

22 A. Yes.

23 Q. I want to know about the hangover the next morning, how bad was

24 it and what kind of hangover was it?

25 A. Did you ever have one?

R. N. EBSARY, by Mr. Ruby

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

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

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

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

1 A. Even today.
2 Q. Let me come to the question of knives, if I may. Did you stab
3 "Goodie" Mugridge with a knife?
4 A. No, I got blamed for that, but it was proved in the Court that
5 I didn't.
6 Q. You didn't do it?
7 A. No.
8 Q. All right. Did you sexually assault or assist in a sexual
9 assault upon a boy in jail?
10 A. Did I what?
11 Q. Did you sexually assault or assist in a sexual assault on a
12 boy in jail?
13 A. No, but I know who did, and it was the boy who was looking after
14 me and I at the time had gone to sleep in my cell when the
15 five other boys got this boy who was looking after me into a
16 cell and orally, you know -- sex, oral, oral sex, the five
17 of them because the boy told me when he came back in the cell.
18 Q. I'm sorry. I missed the rest of that.
19 MR. CHAIRMAN:
20 Well, I don't really want to hear the rest of that either, Mr. Ruby,
21 because it's not relevant to this issue. This appears to be some
22 evidence relating to other persons who are not before us.
23 BY MR. RUBY:
24 Q. All right. Well, let me try and put it so it doesn't affend
25 against that ruling. Were you convicted of a sexual assault or

1 an assault?
2 A. No, never.
3 Q. Concerning this incident in jail?
4 A. No. I tell you there was a case that arose in the --
5 Q. When you were in jail. Were you charged?
6 A. Hey?
7 Q. Were you charged?
8 A. Yeh, we were charged.
9 Q. Did you go to Court?
10 A. Yes.
11 Q. Were you found guilty or not guilty?
12 A. Well, we were found guilty but my lawyer explained to the judge
13 the fact that I wasn't even out of bed that bloody morning, so
14 how in the hell could I have sexually assaulted one of the other
15 inmates.
16 Q. What penalty was imposed upon you for this assault?
17 A. Two months extra time.
18 Q. All right. I don't propose to go any further, My Lord.
19 A. And there was no sexual assault anyway.
20 Q. In 1984, in December of 1984 were you in the Cape Breton
21 Hospital?
22 A. I don't know. Was I?
23 Q. Do you remember an incident where you tried to burn up your food
24 and your lodgings and they sent you to the psychiatric hospital
25 in December of 1984, around December 12th?

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

1 Q. That you married her. You don't remember saying it to him
2 and it's not true?
3 A. I lived common-law for thirty bloody years, right? Any time
4 the question of marriage came up it was always put off to a
5 later date and a later date and that later date never came.
6 That was her fault, not mine.
7 Q. You never married?
8 A. No.
9 Q. And you don't remember saying that?
10 A. Repeat the question.
11 Q. Do you remember saying to Doctor Akhtar or someone at the
12 hospital in that remand that you lived with her common-law
13 and then married her?
14 A. No, sir.
15 Q. It's not true and you didn't say it?
16 A. Well, I don't know that I did. I can't remember saying it.
17 Q. You may have said it but it's certainly not true?
18 A. Well, it's certainly not true.
19 Q. Thank you.
20 A. Because we lived common-law for thirty bloody years.
21 Q. Now I want us to talk briefly about your relationship with
22 the police. You've been in this area a long time.
23 A. Pardon?
24 Q. You've been in this area a long time?
25 A. I can't hear you really.

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

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

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

1 A. No, because I wasn't familiar with the police really.
2 Q. All right. Did you have friends in the area? Did you know
3 people in the area?
4 A. I have very few friends. I made that a policy because there's
5 no such thing as a friend.
6 Q. You said that you carried that knife home with a twelve inch
7 blade. Did the restaurant have knife sharpening equipment or
8 not?
9 A. Oh, yes, it did.
10 Q. And the other Chefs, I take it, would use that equipment?
11 A. Yes.
12 Q. Why would you not use that equipment too?
13 A. Well, if I wanted to go sharpen a knife what was to stop me
14 from going and sharpening the knife?
15 Q. I was wondering why you did it. Why take it home in your belt
16 rather than use the restaurant's equipment?
17 A. I don't know really.
18 Q. I suggest the reason is because you like to carry a knife?
19 A. Now listen, I'm sick and tired of calling you a liar, but I
20 did not at any time carry a concealed weapon.
21 Q. You made sword canes by yourself, did you not?
22 A. Pardon?
23 Q. You made sword canes by yourself at your home, did you not?
24 A. The sword cane?
25 Q. The sword canes, plural.

R. N. EBSARY, by Mr. Ruby

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

1 it properly?
2 A. Probably once a month.
3 Q. All right. You've told us (I'm paraphrasing again and tell
4 me if I've got it correctly.) that you collected books and you
5 loved your books?
6 A. Right.
7 Q. And that you collected art and you loved your art collection?
8 A. That's right.
9 Q. And in just the same way you collected knives and you loved your
10 knives?
11 A. Right.
12 Q. I'm suggesting to you that there's a difference in that you
13 used your knives and you loved to use your knives?
14 A. For what?
15 Q. Anything.
16 A. For Christ sake are you ever going to wise up? I had twenty-three
17 hundred books. I could only read one at a time, right?
18 I never removed those knives from the bloody house with the
19 exception of that one that I carried to work. The knives were
20 there because I made them and I used to have them on shields.
21 Q. Did you ever boast of your ability with a knife, the ability
22 to use a knife?
23 A. Well, they said I was a good swordsman.
24 Q. Do you remember having a conversation with this gentleman
25 Mr. Storey?

1 MR. RUBY:
2 Would you come forward for a moment?
3 BY MR. RUBY:
4 Q. This is Alan Storey. He's a Journalist for the Toronto Star.
5 A. Oh.
6 Q. You can stand there. Take a good look at him. Do you
7 remember having conversation with him in jail?
8 MR. STOREY:
9 Yes, I do.
10 MR. RUBY:
11 No, not you, him. You're just the Exhibit.
12 BY THE WITNESS:
13 A. You're Exhibit one and I'm Exhibit two. No, I don't recall.
14 No, I don't recall really.
15 BY MR. RUBY:
16 Q. I suggest --
17 MR. CHAIRMAN:
18 We seem to have lost the answer in the shuffle. The answer is he
19 doesn't recall having --
20 BY THE WITNESS:
21 A. I know there was quite a few people there visiting me while
22 I was in there.
23 BY MR. RUBY:
24 Q. I suggest, and tell me if you remember it, that you boasted
25 to him as reported in the Toronto Star of December 2 of 1982:

1 "I'm the fastest blade in Canada".

2 A. Yeh.

3 Q. You said it proudly?

4 A. I'm the best blade in Canada.

5 Q. What do you mean by that?

6 A. Well, you take a sword and give me one and let both of us go

7 down to the end of the hall there and I'll show you which one

8 is the best, I mean if you've got guts enough.

9 Q. We're talking about using a blade to stab people, correct?

10 A. We're talking about using a blade to what?

11 Q. To stab people.

12 A. Bull. I don't know why you keep harping on this stabbing

13 business, but I'm getting sick and tired of hearing it.

14 Q. Well, sir, I harp on it because there's a dead boy and it's

15 important to us.

16 A. Well, if that boy is dead, don't blame me.

17 Q. Do you not boast of your ability to use a knife?

18 A. Who?

19 Q. You.

20 A. No, I do not boast of my ability to use a knife.

21 Q. That's not what that quote meant: "I'm the fastest blade in

22 Canada"?

23 A. That's right. That's what I said.

24 Q. You weren't building on the fact that you'd killed Seale?

25 A. No, I did not kill Seale and the next goddamn time you says

1 that, you and I are going to be in trouble.
2 Q. Let me suggest to you what happened is this, you've been mugged
3 before that night?
4 A. Right.
5 Q. Three times you told us today?
6 A. Yes, and possibly more than three times.
7 Q. You were expecting a mugging and it was misty that night and
8 you didn't have your glasses on and you couldn't see properly?
9 A. That's right.
10 Q. You couldn't see anything in your own language. You'd been
11 drinking heavily?
12 A. No, I had not been drinking heavily.
13 Q. So heavily that you had one of your rare hangovers the next
14 morning that was so bad you couldn't get out of bed?
15 A. My dear boy, if I drank a couple --
16 Q. Hear my question. Hear my question. It's a long question and
17 I'll give you a chance to reply to it. In that drunken,
18 confused state, unable to see, fearful of a mugging, you
19 simply struck too soon. You said, "I swore by my Christ
20 that the next man that struck me would die in his tracks".
21 A. That's right.
22 Q. But Seale never struck you?
23 A. I didn't say he did.
24 Q. You struck him first?
25 A. Who did?

1 Q. You, sir.
2 A. No, I did not. I never struck Seale at all.
3 Q. Because you thought you were going to get mugged although
4 Seale did nothing.
5 A. My dear boy, do you know what you are, you're a moron. You're
6 a moron.
7 MR. RUBY:
8 Thank you, My Lord.
9 MR. CHAIRMAN:
10 Maybe Mr. Pugsley before you start your Cross-Examination it would
11 be an opportune time to give the witness a ten minute break.
12 MR. PUGSLEY:
13 Yes.
14
15 INQUIRY ADJOURNED: 10:53 a.m., AND RECONVENED: 11:16 a.m.
16
17 MR. CHAIRMAN:
18 Mr. Pugsley.
19 MR. PUGSLEY:
20 Thank you, My Lord.
21 BY MR. PUGSLEY:
22 Q. Mr. Ebsary, I'm acting for Chief MacIntyre, the fellow you
23 were asked to get rid of?
24 A. Well, he sure needs a friend like you.
25 Q. Thank you. You like to act, sir?

R. N. EBSARY, by Mr. Pugsley

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

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

R. N. EBSARY, by Mr. Pugsley

A. Do you?

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

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

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

A. Only when it's necessary.

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

A. Yes, I was.

Q. You wanted to meet with his parents?

A. Pardon?

Q. You wanted to meet with his parents?

A. Yes.

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

A. Yes.

Q. --what did you say?

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

1 Q. And did you use your imagination to help Donald Marshall get
2 a second trial?
3 A. It wasn't necessary to use my imagination.
4 Q. I see.
5 A. I have plenty of facts to go on.
6 Q. Yes.
7 A. So it wasn't necessary to use my imagination.
8 Q. You sometimes have been lonely and emotional?
9 A. Pardon.
10 Q. You sometimes have described yourself as being lonely and
11 emotional?
12 A. I've been a loner all my life but I've never felt lonely.
13 Q. Yes. When you wrote Donald Marshall the letter in February
14 of 1982 you were lonely?
15 A. Well, I told him I was living alone. And if he was alone up
16 there, I was alone down here.
17 Q. Yes. You said to him, and I'm referring to Volume 19 at Page
18 96, I'll just show you my copy that's perhaps the fastest way
19 to show you Mr. Ebsary. Is that a copy of the letter, Sir,
20 that you wrote to Mr. Marshall.
21 A. Well, I'm going to have a hell of a job to read this.
22 Q. I know it's very difficult for you to read.
23 A. Right.
24 Q. Does that look like your writing?
25 A. Yeh, it does, really.

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

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

1 Q. You were half plastered, yes?
2 A. Yes.
3 Q. Yes, thank you. And indeed you made the point that Carroll
4 knew the morning you went to look for the knife blade in the
5 garden.
6 A. Yes, right.
7 Q. You went at a time when you were sober?
8 A. Right.
9 Q. Early in the morning?
10 A. Right.
11 Q. Yes. Whose idea was it to go early in the morning, yours or
12 Carrolls?
13 A. Well, it might have been both our ideas, but I was sober at
14 the time and I thought it was a good time to go.
15 Q. Yes. Did Carroll say anything to you about your drinking?
16 A. No. And he would say sometimes when he'd come to the house,
17 "you're having a few again".
18 Q. Yes.
19 A. That's right.
20 Q. I'm going to refer you to a report that Corporal Carroll has
21 prepared and I don't think you've seen it before or -- but
22 I'll show a comment to you and I want to get your evidence
23 on it. It's in Volume 19 at Page 129.
24 A. Right.
25 Q. And the only part that I really wish to direct your attention

1 to is the part that I've underlined in red.
2 A. Right.
3 Q. Could you read that for the record, please, the part that I've
4 underlined?
5 A. "It is not uncommon for him to go without food for two weeks.
6 Drinking heavily everyday." I never drank heavily. I didn't
7 have to drink too much to get plastered.
8 Q. I see.
9 A. "He will resume his previous --
10 Q. No, I'm sorry. Just before the "drinking heavily everyday",
11 and the next few words are?
12 A. "He is normally drunk by noon."
13 Q. "He is normally drunk by noon."
14 A. Right.
15 Q. Apparently that was an opinion expressed by Corporal Carroll?
16 A. Yes. An opinion. And we were warned by the best of people
17 never to form an opinion because the moment you form an
18 opinion you block your mental processes.
19 Q. Yes. "Normally drunk by noon". Corporal Carroll took a
20 statement from you in February of 1982 which was found in
21 Volume 11 at Page 3. Do you remember that statement? Do
22 you remember giving Corporal Carroll that statement?
23 A. Let me have a look at it.
24 Q. Of course.
25 A. I don't see anything the matter with that.

R. N. EBSARY, by Mr. Pugsley

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

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

R. N. EBSARY, by Mr. Pugsley

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

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

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

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

1 the R. C. M. P. station where you were interviewed by Carroll
2 and Wheaton for several hours?
3 A. What for?
4 Q. To discuss this incident in the Park?
5 A. No. Not that I remembered.
6 Q. All right. Apparently or according to this memo, it says,
7 "at 4:30 p.m.", I presume that it was on the same day.
8 A. Right.
9 Q. "I received a message", and this memo was prepared by Wheaton.
10 A. Wheaton.
11 Q. "I received a message to call Ebsary which I did with a
12 conversation going as follows". And apparently Wheaton had a
13 tape recorder on the phone and taped the conversation. Do
14 you recall having any conversation with Wheaton that was taped
15 or that he told you that it was being taped?
16 A. No, but he must have been a very wise man because I used to
17 have tape recorders too.
18 Q. I see. All right. In any event, you allegedly said, "all
19 our talking today was not in vain. And Wheaton says, 'what
20 do you mean by that'? And you respond, 'well you know I'm a
21 British officer and a gentleman'.
22 A. That's right.
23 Q. And Wheaton said, 'yes'.
24 A. Right.
25 Q. And you go on to say, 'you called me a homosexual', and Wheaton

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

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

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

R. N. EBSARY, by Mr. Pugsley

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

R. N. EBSARY, by Mr. Pugsley

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

R. N. EBSARY, by Mr. Pugsley

1 Q. Was Irving Cameron in Wentworth Park on the night of this
2 incident?
3 A. Yes. Marshall, Marshall had beaten Irving Cameron up a
4 few minutes before he tackled me.
5 Q. And how do you know that?
6 A. Because Cameron told me. And Cameron was no liar.
7 Q. Now you gave a statement to the police on November the 15th
8 of 1971?
9 A. Quite possible.
10 MR. PUGSLEY:
11 If I may, Mr. Chairman, I would like to get this marked as the
12 next exhibit. It's the original statement of Roy Ebsary November
13 15th, 1971. This is for the purposes of the record. Exhibit 28
14 is a document consisting of three/two and a half hand-written
15 pages together with one and a half of typewritten pages or a
16 total of five pages.
17 COMMISSIONER EVANS:
18 By whom and to whom.
19 MR. PUGSLEY:
20 It's a statement of Roy Ebsary given on November 15th, 1971, 9:15
21 p.m. and it is witnessed by Detective Sergeant M.J. MacDonald and
22 Sergeant Detective John MacIntyre.
23 MR. CHAIRMAN:
24 Is that in any of the exhibits?
25 MR. PUGSLEY:
Yes, it is and I'll give you the reference, My Lord.

R. N. EBSARY, by Mr. Pugsley

1 The typewritten is Volume 11, Page 2 or 1 rather. And the hand-
2 written is in Volume 16 on Page 188.
3 BY MR. PUGSLEY:
4 Q. I just want you to take a moment Mr. Ebsary and read --
5 A. Well, actually I can't read this. How about you reading
6 it for me?
7 Q. Well, let's take a look at the typewritten?
8 A. I write bad, but that's desperate.
9 Q. Yes, okay. I think Mr. Ruby pointed out yesterday there was
10 some discreptency between the two but let's take the type-
11 written one which was on the second last page.
12 A. I don't wan't to be a bloody nuisance.
13 Q. Not at all.
14 COMMISSIONER EVANS:
15 Mr. Pugsley, the statement in Volume 1 or Volume 11, Page 1, is the
16 same as you have on the hand-written one in Volume 16, 188.
17 MR. PUGSLEY:
18 That's my understanding, My Lord. When I say it's the same, Mr.
19 Ruby pointed out yesterday that there was a slight discrepancy
20 about a street name and I haven't really compared them verbatim.
21 In fact I haven't really compared them at all. But I assume
22 they are identical with that exception.
23 BY THE WITNESS:
24 A. Very good, I've read it.
25 BY MR. PUGSLEY:
Thank you.

R. N. EBSARY, by Mr. Pugsley

1 Q. Now if I can turn you to the front page. And I realize that
2 that you have difficulty reading it.
3 A. That's right.
4 Q. But I want to direct your attention to the signature that
5 appears at the bottom of the first page. Is that your
6 signature, Sir?
7 A. It looks like it really.
8 Q. And again at the bottom of the second page. Again is that
9 your signature?
10 A. I say it was, yes.
11 Q. Yes. And again at the bottom, half way down the third page,
12 is that your signature?
13 A. I'd say it was.
14 Q. Now turning to the typewritten statement, in the response
15 to the first question after what happened.
16 A. Yeh.
17 Q. You say, "when we were about over to the corner of South
18 Bentinck Street near Robbie Roberston on Crescent Street,
19 two chaps who were behind us, came around the sides of us
20 and asked us if we had cigarettes and if we had any money".
21 A. Right.
22 Q. "We told them we didn't."
23 A. Right.
24 Q. "They asked us to turn out our pocket, so we turned out our
25 pockets. The short fellow tried to take my ring off my finger."

R. N. EBSARY, by Mr. Pugsley

What ring was that?

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

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

A. This one, the left hand, really.

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

A. The little one.

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

A. Yes.

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

1 the other fellow and he dropped Jim and ran off with the
2 other fellow."
3 A. Right.
4 Q. Now, the next question is: "Did you stab the man you were
5 wrestling with?" And you responded --
6 A. No.
7 Q. "Hell, no. Why would I stab him?"
8 A. That's right.
9 Q. And there's reference in that statement that you took
10 swipe at or attempted to stab Seale?
11 A. No, because Seale was standing when I made the swipe
12 at him.
13 Q. Yes. You did not tell Detective MacIntyre that you made
14 an attempt to stab Seale?
15 A. Well, I certainly told him that I took a swipe at Seale.
16 Q. That is not in the statement.
17 A. Well, I told him. That's for bloody sure.
18 Q. Did you tell him anything about Marshall? About taking
19 a swipe at Marshall?
20 A. Yes, I did.
21 Q. But that is not in the statement either.
22 A. No, well there you are.
23 Q. I see.
24 A. But I did.
25 Q. Yes. Did you stab the man you were wrestling with? "Hell,

1 no, why would I stab him?"
2 A. That's right. Why would I?
3 Q. Yes. Okay. You also were asked on the second page:
4 "Do you carry a knife?"
5 A. That's right.
6 Q. Answer: "No"
7 A. No.
8 Q. But you were carrying a knife that night?
9 A. Well, I had a small pocket knife but I told him I always
10 carry a small pocket knife.
11 Q. I see. Is not a pocket knife a knife?
12 A. Well, in a sense, yes.
13 Q. Yes.
14 A. But here when their applying your carrying a knife,
15 their talking about something about that bloody length.
16 Q. I see. When you saw the R.C.M.P. when you had the lie
17 detector test, did you tell them that you took a swipe at
18 Steele -- Seale?
19 A. I don't know really. Did I?
20 Q. Well, I'm asking you?
21 A. Well, I don't remember really.
22 Q. I see. Did you tell them that you took at swipe at Marshall?
23 A. Yes, I did.
24 Q. You did tell them that?
25 A. Yes.

1 Q. Yes, I see. You indicated that you were told that you were
2 by someone that under no circumstances were you to tell any-
3 one that you had a lie detector test.
4 A. That's true.
5 Q. Who told you that?
6 A. The two men that gave me the lie detector test. Actually
7 I -- they got me to swear that I'd never tell anyone that
8 they'd taken me to the hotel to take the lie detector test.
9 So I didn't tell anyone.
10 MR. PUGSLEY:
11 Thank you Mr. Chairman.
12 BY MR. MURRAY:
13 Q. Mr. Ebsary, my name is Donald Murray. I here representing --
14 A. If you come over a bit closer I'd be able to hear what
15 you're saying.
16 Q. My name is Donald Murray and I'm representing Mr. Urquhart.
17 A. Oh, Urquhart? Who's that guy?
18 Q. Well, that was my first question to you, sir. In all the
19 years since 1971 and previously you haven't known and haven't
20 gotten to know William Urquhart at any time?
21 A. Well, I didn't know any Urquhart.
22 Q. But you do know a Mitchell Bain Sarson?
23 A. Oh, naturally.
24 Q. He, in fact, lived at your house for a period of time
25 did he not?

1 A. That's right, yes.
2 Q. How long did he live at your house?
3 A. Possibly a month.
4 Q. And was that on Mechanic Street in Sydney?
5 A. Yes, that's right.
6 Q. You and he would spend the evenings swapping stories?
7 A. Doing what?
8 Q. You would spend the evenings swapping stories with Mr.
9 Sarson?
10 A. That's right. Yes.
11 Q. Now, is it during this period of time when Mr. Sarson
12 was staying with you that you began to communicate with
13 Donald Marshall, Junior?
14 A. Oh, no. I was up on -- in my apartment -- what do
15 you call the street? I was in the MacVicars apartment when
16 I started corresponding with -- Marshall wrote me first.
17 Q. Yes.
18 A. Right. And then I wrote him back and then the correspondence
19 started.
20 Q. How much of the correspondence continued?
21 A. Well, I must have had three or four letters.
22 Q. I see. Do you still have those three or four letters?
23 A. No, I haven't. I got one -- one or two but you see
24 the R.C.M.P. came and they confiscated every bloody
25 thing that I had in the way of papers, diaries, everything

1 like that. When I came back it was in a mess so I don't
2 know where the letters went really.
3 Q. So, it's your recollection that there should be three
4 or four letters?
5 A. Oh, yes. There should have been really.
6 Q. From Mr. Marshall?
7 A. Right.
8 Q. When you began to discuss the matter with the R.C.M.P.
9 in 1982 I suggest to you it -- that it was your design
10 to tell them as much as needed to be told to have
11 Marshall released?
12 A. That's right.
13 Q. But as little as necessary so that you would not get
14 yourself in a trouble?
15 A. That never entered my mind.
16 Q. I see. Other counsel have referred you to a statement
17 that you gave to Corporal Carroll in volume eleven at
18 page three.
19 A. Right.
20 Q. And I refer you after -- to the third question.
21 A. Third question.
22 Q. Corporal James Carroll:-- "Are you going to implicate
23 yourself?"
24 Answer: "If necessary, yes."
25 A. Right.

1 Q. So you weren't necessarily going to implicate yourself
2 if that was not necessary?
3 A. I was prepared to go all the way and the bloody mounties
4 knew I was prepared to go all the way.
5 Q. If you had to?
6 A. If I had to, yes.
7 Q. And you were doing that because in your words you were
8 in Donald Marshall's corner?
9 A. That's right. When Marshall wrote me and asked me for help
10 I turned around and I said, "okay old boy," "I'll help you."
11 Q. In your first letter to Marshall, and I take it there were
12 more than the one letter?
13 A. Right.
14 Q. Which is reproduced at volume nineteen, page ninety-six.
15 In the second line of that: "I'm collaborating with the
16 R.C.M.P. to get you out."
17 A. Yes, I was.
18 Q. Yes. Is there any reason why you used the word collaborating?
19 A. Well, the R.C.M.P. where giving me a rundown on Marshall?
20 How he'd changed. How he'd become a plaster saint. The
21 trouble they were having with him and all that sort of thing.
22 And the fact that this was the first time that Marshall had
23 told them it was robbery with violence. They asked
24 him why and he said he was afraid he'd be charged.
25 But at the same time the R.C.M.P. and I were working

1 together. It was then I said, "why not give Marshall
2 a second trial." They said, "he can't get a second trial."
3 I said, "he bloody well can get a second trial."
4 Q. "You watch my smoke."
5 A. You watch my smoke.
6 Q. We spoke a moment ago about you would implicate yourself
7 if necessary.
8 A. That's right.
9 Q. And if necessary you would use your imagination?
10 A. I'd use anything that I had to use.
11 Q. And in fact for some of the details of what happened on that
12 evening you did use your imagination.
13 A. What evening? What evening are referring?
14 Q. May 28, 1971.
15 A. Repeat that please?
16 Q. Have you filled in details from your imagination about
17 what happened on May 28, 1971?
18 A. No, not necessarily. Why?
19 Q. Not necessarily but have you on occasion?
20 A. No.
21 Q. Are you suggesting to this Commission that you have not
22 -- or that you have always limited yourself to precisely
23 what your memory tells you about that evening?
24 A. No, because I've gone over this case for the past
25 eleven or twelve years. I've got over it. Rehashed it.

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

1 A. Not necessarily.
2 Q. Not necessarily but perhaps you could?
3 A. There's no -- listen, we're not dealing with assumptions
4 and we're not dealing with anything perhaps. We're dealing
5 with facts.
6 Q. Facts that you've created with your imagination?
7 A. This -- why did God give man an imagination? To use.
8 And through using it man has built the world around him.
9 Right?
10 Q. Yes.
11 A. But if God had filled his head with illusions as our
12 friend over here suggested yesterday, like, what
13 kind of a bloody world would we living in? It's imagination
14 that has created everything that surrounds us.
15 Q. That would include your testimony here to the Commission?
16 A. Yes, naturally. Why not?
17 MR. MURRAY:
18 I have no further questions, My Lord.
19 MR. CHAIRMAN:
20 Mr. MacNeil?
21 MR. ELMAN:
22 On behalf of the estate of Donald MacNeil, My Lord, we have
23 no questions to ask this witness at this time. However we
24 wish to reserve our right in the event that something should
25 come out of other cross examination that would be of interest

1 to us

2 MR. CHAIRMAN:

3 Counsel for the Attorney General of Nova Scotia.

4 MR. SAUNDERS:

5 Thank you, My Lord.

6 MR. CHAIRMAN:

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

8 MR. ELMAN:

9 Frank Elman, My Lord. Frank Elman.

10 MR. CHAIRMAN:

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

16 MR. ELMAN:

17 All right. No questions then.

18 MR. CHAIRMAN:

19 Counsel for the Attorney General.

20 MR. SAUNDERS:

21 Thank you, My Lord.

22 BY MR. SAUNDERS:

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

25 A. Right-oh.

R. N. EBSARY, by Mr. Saunders

1 Q. There's one thing that puzzles me, Mr. Ebsary, and I'm
2 wondering if you can help me out and that pertains
3 to the personal belongs that you say were taken from
4 you?
5 A. That's right.
6 Q. In Wentworth park? Now, by your account, Mr. Ebsary, you
7 were suddenly and without warning confronted by two
8 thugs as you put it in Wentworth Park?
9 A. That's right.
10 Q. And you were asked to turn over the effects that you
11 had on you.
12 A. That's right.
13 Q. And when we watched the video yesterday that Mr. Ratchford
14 took of you, you were asked by Ratchford, what happened
15 to the stuff?
16 A. Yeh.
17 Q. And you told Mr. Ratchford that Mr. Seale had the stuff
18 in his hands and he put the stuff in his pockets.
19 A. That's right. As far as I know he did.
20 Q. Yes. Now, let's just ask ourselves, Mr. Ebsary, what
21 that stuff was. You and Mr. MacNeil were heading to the
22 State Tavern, correct? And you --
23 A. Heading from the State. We were -- the State Tavern was
24 closed when we got there.
25 Q. Yes, I heard you say that.

R. N. EBSARY, by Mr. Saunders

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

1 Q. And the last thing you saw of those belongings that were taken
2 they disappeared in Mr. Seale's pockets?
3 A. Right.
4 Q. And that's the account that you gave to R.C.M.P. Corporal
5 Carroll --
6 A. Yes.
7 Q. -- when he interviewed you in 1982?
8 A. Right.
9 Q. Indeed if we turn to volume nineteen, page one hundred
10 and forty and I'll show my copy Mr. Ebsary.
11 And would you look, sir at the portion of the statement
12 that you gave on tape recording to Corporal Carroll and
13 read in to the record what I've highlighted in green
14 please. Would you read that sir?
15 A. Yes.
16 Q. Can you read it out loud?
17 A. Right. "So when this bastard said to me: Give me everything
18 you got in your pocket. I said: Listen, you bugger, you
19 don't --" I didn't say anything like that.
20 Q. Well, just read what is here as recorded by Corporal Carroll.
21 A. Well, where the hell did you get it to? That's a bunch
22 of bloody lies there.
23 Q. Well, you just read in the record sir what is --
24 A. I'd like to know who supplied you with all the -- well, with
25 all this phoney information?

R. N. EBSARY, by Mr. Saunders

1 Q. Well, if you would just listen to my question and read
2 in to the record what I have highlighted in green ink please.
3 A. "So when his bastard said to me: Give me everything you
4 got in your pocket. I said: Listen you bugger, --" I
5 never used that bloody word.
6 Q. All right.
7 A. "You're going to get everything I got in my pocket. So I
8 gave him everything I had in my pocket. Everything. My
9 watch, my ring but this -- what? But this -- I can see
10 very well.
11 Q. Yes. My watch, my ring.
12 A. Right. Pocket. "And I said: Brother you asked for everything,
13 you're going to get everything."
14 Q. Thank you.
15 A. "And I gave him everything."
16 Q. All right. And so you told Corporal Carroll when he
17 interviewed you and took this recorded statement that you
18 were asked to remove those items from your pocket and
19 you did and you turned them over to Mr. Seale.
20 A. Right.
21 Q. And that's true?
22 A. Right.
23 Q. Now, tell me, Mr. Ebsary, why was it that you didn't tell
24 the Sydney Police Department and the prosecution to assist
25 them in 1971? That information?

R. N. EBSARY, by Mr. Saunders

1 A. Because they didn't ask me.
2 Q. Is that your answer?
3 A. Yes.
4 Q. Because they didn't put to you the specific question --
5 A. That's right.
6 Q. -- whether you were taken -- deprived of a watch or
7 deprived of your money or deprived of a ring --
8 A. That's right.
9 Q. -- you didn't see fit to tell them?
10 A. Why would I? They didn't ask me the question, I didn't
11 answer them.
12 Q. Well, in fact Mr. Ebsary, I suggest to you that you had
13 the opportunity to tell them. I want to show you volume
14 sixteen, page one hundred and eighty-six.
15 MR. CHAIRMAN:
16 What number was it?
17 MR. SAUNDERS:
18 Volume sixteen, page one hundred and eighty six, My Lord.
19 BY MR. SAUNDERS:
20 Q. And as we've already seen, Mr. Ebsary, this is the
21 typed version of the statement that you gave to the
22 police --
23 A. Right.
24 Q. -- in Sydney on November 15, 1971?
25 A. Right.

1 Q. And you see the date recorded at the top of that page?
2 A. Right.
3 Q. And on the first page, Mr. Ebsary, about three inches
4 the way down you get in to a long answer that takes
5 a full paragraph.
6 A. Well, let's see this.
7 Q. Certainly.
8 And you'll see that this is the answer that you gave to
9 the investigating police officers in describing what occurred
10 to you that evening. Correct?
11 A. Yes.
12 Q. And you say in part, quote: "The short fellow tried to
13 take my ring off my finger while the tall fellow had his
14 arm around the other fellows throat, Jimmy's, and had
15 him on the ground. When he tried to get my ring I wasn't
16 -- I was not well. I tried to wrestle him."
17 And so for.
18 A. Right.
19 Q. So I suggest to you, Mr. Ebsary, that you had the opportunity
20 in giving that answer to the investigation police officers
21 to tell them that you were deprived also of your money and
22 your watch. But you did not.
23 A. Well, they didn't ask me.
24 Q. The impression I have, sir, in reading that, is that the
25 person was not successful in taking your ring away.

1 A. Oh, he was.
2 Q. He was?
3 A. Yes.
4 Q. That's what you say -- said to one of the other counsel
5 earlier today.
6 A. That's right.
7 Q. But you didn't tell the officer that on November 15, 1971?
8 A. He didn't ask me.
9 Q. I see. In any event, Mr. Ebsary, the whole truth as to
10 what was taken from you on November 15, 1971 was that it
11 was you money and your watch and your ring?
12 A. And a ring of keys.
13 Q. And a ring of keys.
14 A. Right.
15 Q. But you did not impart that information to either the
16 prosecution or the police in November of 1971?
17 A. I wasn't asked and I only answered the questions that
18 were asked me.
19 Q. Okay. And you did not impart that information to the
20 investigating police or the prosecution in November of
21 1971?
22 A. If I wasn't asked why -- why did I have to say it?
23 Q. You did not impart that information, sir?
24 A. I wasn't asked.
25 Q. And so you did not?

A. No.

MR. SAUNDERS:

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

MR. CHAIRMAN:

Who's next?

MR. BISSELL:

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

MR. CHAIRMAN:

Who's next? Counsel for Sergeant Carroll?

MR. BRODERICK:

No questions.

MR. CHAIRMAN:

All right. Mr. Ross?

BY MR. ROSS:

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

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

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

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

Q. Understandable. Thank you.

A. Thank you.

Q. Can you hear me now?

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 accquitted 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

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.
23
24 JMR
25

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

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

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?

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

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

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

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.

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.

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

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 --

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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?

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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?

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.

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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 drank.
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

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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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 imbarrassed
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

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

Mr. Ross.

MR. ROSS:

Thank you, My Lord.

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

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.

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 --

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

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

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.

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.

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.

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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.

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.

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 poeple?
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?

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 that 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 --

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.

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?

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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

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?

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

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?

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?

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

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:

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"Ebsary indicated to the Marshalls..."

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

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

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

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 Sergent 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

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.

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 damnedest.
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

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.

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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

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.

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".

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Q. Reverend, Reverend as a man of God, a man of the cloth, you're an ordained person. The Bible must mean a lot to you?
A. Yes.
Q. Are you telling this Commission right here and now that you were prepared whether or not you swipped at Seale and connected?
A. That's right.
Q. To admit that in order to get Marshall out of jail?
A. Exactly. Why not? It was a long shot but it would have paid off.
Q. And did you discuss this plan with anybody?
A. No, I didn't really.
Q. You didn't discuss it with Irving Cameron?
A. Well, up to that time I hadn't met Irving. I didn't met Irving until I went out into the slammer.
Q. I see. What was Sarson? Did you discuss this with Sarson?
A. Sergeant?
Q. Yeh.
A. You mean Michael Sergeant?
Q. Michael, yes.
A. No, he had gone home. By that time he had gone home.
Q. You see, there's a very, very strange intersection of lies here. For instance, this guy, what's his name Mugridge?
A. Yes.
Q. Mugridge, he has a daughter?

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?

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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.

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.

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.

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?

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 --

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,

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.

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?

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

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

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

Q. I perceive that thought.

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

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?

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

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?

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

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.

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.

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

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

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

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

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

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

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.

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.

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?

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

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 --

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

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

Q. They're not quite the same.

A. No, they are not.

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

A. I would have helped them anyway.

Q. You would have helped them anyway?

A. Sure.

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

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

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

A. Well, Carroll told me.

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 epxect 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

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

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

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
12 INQUIRY ADJOURNED: 3:39 p.m.
13 INQUIRY RECONVENED: 3:59 p.m.
14 MR. MacDONALD:
15 My Lords, just before we get to the next witness who will be Mr.
16 MacNeil, I wanted to advise Your Lordships and counsel that
17 reference has been made throughout the examination of Mr. Ebsary
18 by various people to various psychiatric records and hospital
19 records relating to Mr. Ebsary. We have made arrangements for
20 an up-to-date psychiatric assessment to be made of Mr. Ebsary
21 next week, Tuesday, and he has consented to undergo that examina-
22 tion and ultimately we will be bringing that psychiatrist to these
23 hearings to give his evidence of that assessment.
24 The next witness is going to be examined by Mr. Orsborn.
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?

1 A. Yeh, right.
2 Q. Where are you living now, Mr. MacNeil?
3 A. I'm living down at 222 Mount Pleasant Street, Whitney Pier.
4 Q. 222 Mount Pleasant.
5 A. In Sydney.
6 Q. And how old are you?
7 A. Forty-one.
8 Q. What's your birthday?
9 A. June the 25th, 1946.
10 Q. 1946. And if I've counted up correctly, this is about the
11 seventh time you've given testimony under oath in a proceeding
12 about this matter.
13 A. Yeh around seven times.
14 Q. And an affidavit and a couple of statements as well.
15 A. Yeh, right.
16 Q. Getting used to it?
17 A. Oh, I'm still a lttle bit nervous, camera shy, I guess.
18 Q. Are you on any medication for your nervousness?
19 A. Yeh, I'm on blood pressure medication.
20 Q. What medication are you on for your blood pressure?
21 A. Hydralazine.
22 Q. And have you taken any today?
23 A. Yeh.
24 Q. Are you on anything else for nervousness?
25 A. Diapan.

JAMES MacNEIL, by Mr. Orsborn

1 Q. And have you taken any of that today?
2 A. Yeh.
3 Q. When was the last time you took it?
4 A. I took it at dinner time. I'd seen the doctor and I told
5 him I'd be coming to the hearing again so I was a little
6 nervous so --
7 CLAYTON RUBY:
8 What was the name of that last --
9 BY MR. OSBORN:
10 Q. What was the name of that last word?
11 A. Diapan.
12 Q. Diapan?
13 A. Yeh, D-i-a-p-a-n.
14 Q. When you take these pills for your nervousness, Mr. MacNeil,
15 do they affect your memory or your thinking in any way?
16 A. Well, they make you a little drowsy, you know, like they
17 make you a little woozy by they don't affect your thinking
18 too much.
19 Q. They don't affect your thinking?
20 A. No.
21 Q. I see. Are you working now, Mr. MacNeil?
22 A. No, I was working part-time last summer but unfortunately
23 I'm not working at this time, you know.
24 Q. So you haven't worked since the summer?
25 A. Since the summer, yeh.

1 Q. Do you find that the exposure that you've had in this matter
2 has affected your chances of getting a job?
3 A. Indeed it has. Especially if you're applying for work or
4 anything like that and you mention your name, right away they
5 look at you and they say, "Well, that's that fellow that was
6 with that lunatic", you know, so it has a lot on my exposure
7 as far as finding work and that but I have to live with it
8 and keep on trying the best and --
9 Q. Sure. Yeh. Perhaps I might ask you if you can still perhaps
10 just move in perhaps a little bit closer to the microphone
11 because your voice is a little bit soft.
12 A. Yeh. Okay.
13 Q. That's better. Thank you. What age were you, Mr. MacNeil,
14 when you left school?
15 A. When I left school I was sixteen.
16 Q. Sixteen, and what grade did you finish?
17 A. I finished in grade five.
18 Q. Finished in grade five --
19 A. Yeh.
20 Q. --at sixteen. Did you go to work then when you were sixteen?
21 A. Yeh, I went to work. Yeh.
22 Q. I'd like to take you back a number of years back to 1971,
23 and you would then have been about twenty-six--I guess, twenty-
24 five or twenty-six?
25 A. Yeh, around twenty-five, yeh.

JAMES MacNEIL, by Mr. Orsborn

1 Q. In May of 1971?
2 A. Right.
3 Q. Where were you living then?
4 A. I was living at 1007 rear George Street.
5 Q. At 1007 rear George Street?
6 A. Yeh, in Sydney.
7 Q. And were you living with your parents?
8 A. At that time I was, yeh.
9 Q. Did you have any brothers and sisters?
10 A. Yeh, I had some brothers and sisters.
11 Q. And were they living at home with you?
12 A. Some of them were and some of them were married like, you know.
13 Q. How many did you have living at home?
14 A. Approximately about four or five. Four or five, yeh.
15 Q. Do you remember in May of 1971 how your health was?
16 A. In May my health wasn't that there good. I was very thin.
17 I weighed about -- roughly at that time about ninety-five or
18 a hundred pounds. At that time I was doing a lot of
19 drinking, you know, in them days like because there was a
20 lot of drinking going on up the house like. My father always
21 had people in with liquor and he liked drinking and always
22 the violin going and--you know, so I was surrounded by a
23 lot of alcohol.
24 Q. And you were ninety-five or a hundred pounds?
25 A. I was about ninety-five or a hundred pounds at that time.

JAMES MacNEIL, by Mr. Orsborn

1 Q. Were you as tall then as you are now?
2 A. Pardon?
3 Q. Were you as tall then as you are now?
4 A. I was as tall but I wasn't as good of health like. I was
5 like a --
6 Q. To your height and ninety-five or a hundred pounds, you
7 must have been very, very thin?
8 A. Very thin. I was a bean pole. There wasn't too much weight
9 on me, that's for sure.
10 Q. Apart from the drinking were you sick at all?
11 A. Yeh, I landed in the Detox a couple of times, you know,
12 through alcohol and being sick, you know, just primarily
13 to smarten up and try to get off it and --
14 Q. Had you been in the Detox Centre before this incident
15 happened?
16 A. Before this -- No, I was not in the Detox before that
17 happened. It was just after that there happened. I was in
18 a Detox after that.
19 Q. But before this incident happened were you still taking a
20 fair bit of alcohol around the house?
21 A. Oh, yeh, indeed I was, yeh.
22 Q. And didn't you tell me before that you weren't working at
23 the time?
24 A. I wasn't working at that time, yeh.
25 Q. Were you doing any studying of any kind?

1 A. No, I wasn't. No because I was surrounded by a lot of
2 liquor. I was doing a lot of drinking at that time and my
3 mother wasn't feeling too well, she was dying and --
4 Q. Where would you do your drinking, just at home or outside
5 anywhere?
6 A. I would do it outside and at home, a lot at home. I drank
7 a lot at home. I'd just hide away in the room with a quart.
8 Q. Did you have any close friends then that you can recall?
9 A. Close friends that I can recall? Outside of my brother
10 and Jack --
11 MR. RUBY:
12 Could you repeat that please. I couldn't hear that.
13 BY MR. ORSBORN:
14 Q. They're asking me to --
15 A. Jackie Ross and Mike, but they are mostly all married now
16 and I don't know if, you know, like I see that much of
17 them.
18 Q. Do you have any plans of any kind for your life?
19 A. Not really. You know, not really. There's so much
20 confusion going on, you know, and --
21 Q. Am I to understand when you talk about the amount of
22 drinking that was going on, sir, would you be drinking
23 every day?
24 A. Almost every second day I'd be drinking.
25 Q. And when you say drinking, what kind of alcohol are you

1 referring to?
2 A. Mostly wine, wine and beer, wine and beer. There'd be
3 always somebody come up on the weekend anyway with a case
4 of beer. The Newfoundlanders were working over from
5 Newfoundland at that time and they loved fiddle music there
6 and every weekend they were up there and, you know, my
7 father was a lot older than my mother so, you know, when
8 they got married there was about twenty-five years in the
9 difference so he was pensioned off the Plant and he didn't --
10 He was a happy-go-lucky.
11 Q. Can you give us some idea of the quantities of beer and wine
12 that you might be drinking during one of these parties or
13 weekends?
14 A. Oh, quite a bit.
15 Q. When you say quite a bit, what does that mean?
16 A. We would get drunk.
17 Q. You'd get drunk?
18 A. Yeh.
19 Q. So what you're telling us then is that probably every second
20 day you would be drunk?
21 A. Every second or third day I'd have a drink, you know. Sometimes
22 I'd go for a week without it, you know. Like sometimes I'd
23 go to work and I'd be working for probably six months or
24 something like that and then I'd go back on the liquor, you
25 know, or I'd be drinking and there would be people drinking

1 with me or my brother would be drinking with me and --
2 Q. So at the times that you weren't working you were drinking
3 more than if you were working, is that what you're telling
4 us?
5 A. Yeh. Yeh, exactly. Yeh.
6 Q. All right. When you would get drunk like that at one of these
7 parties or weekends would you be drunk that you couldn't walk?
8 A. Well, mostly when I'd get drunk like that I would probably
9 fall asleep and I couldn't walk.
10 Q. Are you drinking now?
11 A. Pardon?
12 Q. Are you drinking now?
13 A. Not as heavy as I used to. I have a snort now and then,
14 but not like before.
15 Q. You're away from the fiddle now, are you?
16 A. Well, I got a good woman now so that makes a big difference.
17 Q. Did you know Roy Ebsary in 1971?
18 A. Yeh.
19 Q. Can you tell the Commission how you came to meet Mr. Ebsary?
20 A. I met him down at the State Tavern.
21 Q. I'd like to know if this was the first time that you met
22 him, was it at the State Tavern?
23 A. The first time, yeh, down at State.
24 Q. And about how long before this incident was that?
25 A. Oh, that wasn't too long. I guess I knew him about six

1 months before that?
2 Q. Six months?
3 A. Yeh.
4 Q. Were you a frequent visitor to the State Tavern?
5 A. Yeh, I was, yeh.
6 Q. And in the six months between your first meeting Mr. Ebsary
7 and this incident did you meet him at the State Tavern
8 frequently?
9 A. Oh, yeh. Yeh. I met him because he used to supply the beer,
10 you know, he'd buy the beer and, you know, well, I didn't
11 like being around the house too much because there was a lot
12 that my father was -- that I was cursing and swearing and the
13 further I'd be away from the house, the better I liked it.
14 Q. So you spent a fair bit of time in the State Tavern?
15 A. Yes, I did. Yeh.
16 Q. Would you spend time during the day there or just at night?
17 A. I'd spend time there in the day and sometime like in the
18 evening, you know.
19 Q. Was that your favourite place to spend time?
20 A. My favourite place, the State, yeh.
21 Q. And you would see Mr. Ebsary there on occasion?
22 A. Oh, yeh, yeh.
23 Q. Did you like him?
24 A. I found him not a very bad man, you know, until I -- until
25 all this here --

1 Q. Sure.
2 And did you become friends with him?
3 A. Yeh, I became friends with him there and his wife and his
4 family.
5 Q. So I take it then you visited his house?
6 A. Oh, yeh. Yeh, I visited his house.
7 Q. Did you have occasion to listen to Mr. Ebsary tell you any
8 stories of his exploits in the war?
9 A. I heard him a few times talking about them war stories but
10 that went in one ear and out the other.
11 Q. It went in one ear and out the other?
12 A. Yeh.
13 Q. Does that mean that you didn't believe him?
14 A. I didn't believe him, no.
15 Q. Why not?
16 A. Because it would sound so ridiculous, you know, when
17 he'd start to talk pipe dreams and I didn't pay too much
18 attention.
19 Q. I take it then that you did spend some time at his house?
20 A. Yeh.
21 Q. Did you have occasion to go over there for meals?
22 A. Let me see now. I met his mother and Greg and his daughter
23 Donna. Yeh, I ate a few times over there, you know.
24 Q. So you knew his wife and his daughter?
25 A. Oh, yeh. Yeh.

1 Q. And his son?
2 A. Yeh.
3 Q. Can you give us any indication of how often you might have
4 been over to his house in the run of a week? Would you
5 go once a week or once a month, twice a week?
6 A. Probably twice a week.
7 Q. Twice a week?
8 A. Yeh.
9 Q. I see. There's been some suggestion that at one time you
10 were asked to teach his daughter Donna how to drive. Do you
11 have any recollection of that?
12 A. Yeh, I have a recollection of that, yeh. He bought a car.
13 Either he bought a car or -- It was his wife or him that
14 bought a car and my cousin -- I took the car out there and
15 I drove it there once there and that was just before this
16 incident there happened and --
17 Q. So you drove the car once. Were you teaching Donna how to
18 drive?
19 A. Yeh.
20 Q. She would have only been thirteen I think at the time?
21 A. Thirteen, yeh.
22 Q. She was not young enough to -- not old enough to learn how
23 to drive, was she?
24 A. No. No.
25 Q. Why would you teach her how to drive then?

1 A. Well, I probably wanted to drive the car myself really.
2 Q. I see. Did you drive it very much?
3 A. No, just once or twice.
4 Q. Did anybody else in the household drive?
5 A. I'm not quite sure now. I'm not sure if Donna -- if Craig had
6 his license or not.
7 Q. When you and Mr. Ebsary would be at the State Tavern or
8 perhaps going to his house would you drive or would you
9 walk?
10 A. Walk.
11 Q. You'd walk?
12 A. Yeh.
13 Q. Were you ever in the car with Mr. Ebsary? Did you ever
14 drive with him?
15 A. No. No.
16 Q. Now, Mr. MacNeil, if you after testifying six or seven
17 times still have any picture in your mind of the night
18 of May 28th, 1971?
19 A. I guess I'll always have that in my mind.
20 Q. I'll ask you a little later precisely what you do remember
21 but I'm just interested that you do even at this time have
22 an image or picture in your mind of what happened that night?
23 A. Yeh.
24 Q. You do. Do you remember what you did during the day time of
25 that day? It was a Friday.

JOHN MacNEIL, by Mr. Orsborn

1 A. I can't remember what I done in the morning.
2 Q. What's your first recollection of that day?
3 A. My first recollection of that day is just going to the
4 Tavern.
5 Q. To go to the Tavern?
6 A. Yeh.
7 Q. And what time of day would that have been?
8 A. That must have been around five o'clock or something like that
9 in the evening.
10 Q. Was that the State Tavern?
11 A. The State Tavern, yeh.
12 Q. Would that have been before supper or after supper?
13 A. That'd be probably after supper.
14 Q. So you would have eaten at home I take it?
15 A. Yeh.
16 Q. Did you go to the Tavern by yourself?
17 A. Yeh.
18 Q. And what do you recall after that? Did you meet anybody at
19 the Tavern?
20 A. No, well, I met a couple of fellows but like I can't recall
21 like their names. They're not, you know -- I can -- I
22 talked to a couple before I met Ebsary -- I talked to a
23 couple before I met Ebsary like but I can't recall their
24 names.
25 Q. Perhaps again if I could ask you if you could slide your

1 chair a little under the table that might help.
2 A. Okay.
3 Q. When did you first encounter Mr. Ebsary on that night as I
4 believe you did?
5 A. What time or --
6 Q. Yes.
7 A. In the evening.
8 Q. And where was that?
9 A. In the State Tavern.
10 Q. And did he just arrive at the State Tavern while you were
11 there?
12 A. I don't know if he was there when I got there or not, but I
13 just noticed him sitting down drinking and I just come over and
14 started drinking the beer then.
15 Q. Do you remember that now?
16 A. Pardon?
17 Q. Do you remember now meeting him at the State Tavern or is
18 it -- has that sort of become engrained in your memory from
19 having testified over a period of time about that?
20 A. Well, I remember it now like.
21 Q. You remember it now?
22 A. Yeh.
23 Q. The reason I ask, Mr. MacNeil, is that Mr. Ebsary has
24 testified that he spent the whole night with your father,
25 I believe, having a bottle of wine and then you arrived home

at about eleven-thirty and met him there?

A. That must have been another time.

1 Q. That was another time?
2 A. That wasn't then.
3 Q. And your recollection is that you indeed met him at the State
4 Tavern?
5 A. Yeh.
6 Q. Were you drinking together that night?
7 A. Yeh.
8 Q. Can you give us an indication of how much you had drunk
9 between the hour of five o'clock and when you eventually left
10 the State Tavern?
11 A. It's quite a bit. I had --
12 Q. I'm still having trouble hearing you, I'm sorry.
13 A. Quite a bit. I had about seven or eight, seven or eight
14 beer I guess plus, you know, like -- You know, about seven
15 or eight beer before we left.
16 Q. When you say "plus" do you mean it could have been more than
17 seven or eight or there was some wine or other alcohol?
18 A. Well, it could have been a few more besides that like. It
19 could have been a few more besides that.
20 Q. At that time how much beer did you require to make you drunk
21 to the point you were say staggering?
22 A. Not too much because my health wasn't that good, so it
23 wouldn't take too much.
24 Q. It wouldn't have been too much?
25 A. No.

1 Q. Now when you say seven or eight glasses, how big are those
2 glasses that you're referring to?
3 A. I think they're -- at that time they were an eleven ounce
4 glass.
5 Q. An eleven ounce glass?
6 A. Yeh.
7 Q. So it would be certainly bigger than the small glass that
8 appears in front of you there?
9 A. Yes. Yeh.
10 Q. And do you have any recollection of how much beer Mr. Ebsary
11 might have consumed in your company?
12 A. No, not right offhand, no.
13 Q. Do you recall what you were wearing that night?
14 A. I was wearing one of them college jackets, a blue college
15 jacket, like with stripes on it around the wrists, stripes,
16 a little stripe like that.
17 Q. Do you recall what Mr. Ebsary was wearing?
18 A. He was wearing like a shawl like. One of them there fashion
19 shawls there something like it goes over your shoulder like.
20 Q. I'm not sure that I understand --
21 A. I don't know what they are. I don't know what they are
22 anyway, but you see them. They go over your shoulder
23 like.
24 Q. Would it be more like a coat or like a scarf?
25 A. Sort of like a coat jacket like, something like that.

1 Q. And was he wearing this while he was in the State Tavern with
2 you?
3 A. Yeh.
4 Q. I see. Do you recall what time you left the State Tavern?
5 A. It must have been around ten-thirty or -- ten-thirty -- between
6 ten-thirty and eleven o'clock.
7 Q. Ten-thirty and eleven?
8 A. Yeh.
9 Q. Had the last call been given before you left?
10 A. Not that I recall. I don't recall.
11 Q. Time is a very difficult thing to remember and I'm just asking
12 you if this is possible. You're saying now it was ten-thirty.
13 Could it have been as late as say eleven-thirty?
14 A. It could have been. It could have been.
15 Q. When you swore an affidavit in 1982 in connection with the
16 appearance in Court of Mr. Marshall when he was to get out
17 of prison, my recollection is that the time you said that
18 you left was about eleven-fifty which was a very precise time,
19 so are you telling us that the time could have been anywhere
20 between ten-thirty and mid-night?
21 A. Yeh.
22 Q. I see. Were you wearing a watch?
23 A. No.
24 Q. How then are you basing your assessment of time?
25 A. Well, just on -- I don't know. Just on a feeling I guess or --

1 Q. Would it be fair to say that the more you drank, the more
2 difficult it would be for you to assess the time at which
3 you left?
4 A. Yeh, it would be. Yeh.
5 Q. Did you leave the Tavern in company with Mr. Ebsary?
6 A. Yeh.
7 Q. What were your plans on leaving?
8 A. Going to his place.
9 Q. And what did you plan to do at his place?
10 A. Stay there.
11 Q. For the night?
12 A. Yeh.
13 Q. Had you done that on occasion?
14 A. Yeh.
15 Q. Was there a separate room that you could sleep in?
16 A. I used to sleep on the cot.
17 Q. On the cot?
18 A. Yeh.
19 Q. How many times had you spent the night there previously to your
20 recollection?
21 A. Oh, probably six nights, something like that.
22 Q. I see, and do you recall now the route that you took to go
23 from the State Tavern to go to Mr. Ebsary's house?
24 A. We came down George Street and cut down through the
25 park, and there's a little bridge you go over. There was

1 a wooden bridge there at that time and you go over it and
2 up above, you come to Crescent Street and then you cross over
3 and go around the corner.
4 Q. Perhaps I can help you by referring to the large map here.
5 The green street here, Mr. MacNeil, is George Street.
6 A. Yeh.
7 Q. The yellow street is Crescent Street. These brown lines
8 running through here are the railroad tracks, and my belief
9 is that the State Tavern would be in this vicinity towards
10 the top of the map?
11 A. Yeh.
12 Q. So I understand you to say that you travelled along George
13 Street and when you came to the park, did you cross towards the
14 walkway here and this bridge in the middle of the creeks or
15 did you cross on the railroad track bridge?
16 A. We crossed straight on the -- when we come -- just going down
17 to the park there's like a -- like where you just turn -- After
18 you cross the railroad crossings --
19 Q. Yes.
20 A. --well, you'd just turn and you'd go down right through.
21 Q. So you walked on George Street, crossed the railroad tracks
22 and then entered the park in the middle of the walkway?
23 A. Yeh. Yeh, right. Yeh.
24 Q. I see, and then did you then cross to the other side of the
25

1 park across the bridge between the two creeks?
2 A. Yeh.
3 Q. I see, and did you move to Crescent Street by way of the
4 walkway that's indicated on the map?
5 A. Yeh.
6 Q. Now when you first entered the park on the George Street side,
7 do you have any recollection of seeing anybody?
8 A. No, no recollection at all. No.
9 Q. I see. Do you recall whether or not Mr. Ebsary had any
10 conversation with anybody as you entered the park?
11 A. No.
12 Q. Mr. Ebsary has testified that immediately upon entering
13 the park close to the George Street side, there were a number
14 of young people sort of lying about underneath a large tree
15 and he asked them for a match. Does that in any way refresh
16 your memory?
17 A. No. No.
18 Q. Is it possible that that happened and you just don't remember
19 it?
20 A. It could be possible.
21 Q. Mr. Ebsary also testified that as you were walking both
22 towards the park and, I think, in the park you were holding
23 him by the arm. Do you have any recollection of that?
24 A. No. No.
25 Q. Do you recall if you were able to walk without any assistance

1 yourself from Mr. Ebsary? Was he holding you up?
2 A. No, I was walking by myself, but --
3 Q. But?
4 A. You know, I might have had a little stagger, but I was --
5 I was--you know, I was walking.
6 Q. You had a little stagger?
7 A. Yeh.
8 Q. Did that in any way affect your ability to see or to focus,
9 the amount of alcohol that was causing you to stagger?
10 A. No, not really. Not really.
11 Q. How was your eyesight at the time?
12 A. Good. My eyesight was good at the time.
13 Q. Did you wear glasses?
14 A. No.
15 Q. In the condition in which you were, would it have been possible
16 for you to drive a car?
17 A. No. No.
18 Q. Why not?
19 A. Because I'd be under the influence like probably. I could
20 not drive a car.
21 Q. You couldn't drive a car?
22 A. No.
23 Q. Had you had occasion to walk through the park before at night?
24 A. No. No.
25 Q. This was the first time you had ever walked through Wentworth

1 Park at night?
2 A. What? Yeh, the first time. Yeh.
3 Q. So I take it from that that any previous occasion that you
4 had been in the State Tavern, you had not gone from the
5 State Tavern to Mr. Ebsary's house that night?
6 A. Pardon?
7 Q. I take it from that that this was the first time that you had
8 ever gone from the State Tavern over to Mr. Ebsary's house?
9 A. Yeh, this was the first time, yeh, during the night.
10 Q. As you walked through the park and passed the big tree at the
11 entrance to the park and as you crossed over to Crescent
12 Street, before you got to Crescent Street do you have any
13 recollection of meeting anybody else?
14 A. No recollection whatsoever. I don't remember.
15 Q. Can you recall seeing any people or shapes that looked like
16 people?
17 A. No. No.
18 MR. CHAIRMAN:
19 Mr. Osborn, it's now four-thirty. This may be an appropriate time
20 to rise until eight o'clock tomorrow morning.
21 MR. OSBORN:
22 Thank you, My Lord.
23
24 INQUIRY ADJOURNED AT 4:30 o'clock in the afternoon on the 10th
day of September, A.D., 1987.
25

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COURT REPORTER'S CERTIFICATE

I, Judith M. Robson, an Official Court Reporter, do certify that the transcript of evidence hereto annexed is a true and accurate transcript of the Royal Commission on the Donald Marshall, Jr., Prosecution as held on the 10th day of September, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia, taken by way of recording and reduced to typewritten copy.

Judith M. Robson
Official Court Reporter
Registered Professional Reporter

Sydney Discovery Services
September 10, 1987