

KG 44  
Vol. 277  
#9

ROYAL COMMISSION ON THE  
DONALD MARSHALL, JR., PROSECUTION

VOLUME VII

- Held: September 17, 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. Maryls 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

MEDIA POOL COPY

INDEX - VOLUME VII

**Ambrose McDonald**

By Mr. Spicer .....	1126
By Ms. Edwardh .....	1150
Discussion between Commission and Counsel .....	1194
By Mr. Spicer .....	1195
By Ms. Edwardh .....	1197
By Mr. Pugsley .....	1204
By Mr. Murray .....	1209
By Mr. Saunders .....	1210
By Mr. Ross .....	1228
By Mr. Gay .....	1231
By Mr. Wildsmith .....	1242

**John L. Ryan**

By Mr. Orsborn .....	1257
By Ms. Edwardh .....	1267
By Mr. Bissell .....	1273

**Richard Walsh**

By Mr. Spicer .....	1276
---------------------	------

COURT REPORTER'S CERTIFICATE .....	GG
------------------------------------	----

INQUIRY RECONVENED AT 9:55 o'clock in the forenoon on Thursday, the 17th day of September, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia

1 MR. CHAIRMAN:

2 Mr. Spicer.

3 MR. SPICER:

4 Good morning, My Lord. The first witness we're going to call is  
5 Ambrose McDonald.

6 AMBROSE McDONALD, being called and duly sworn, testified as  
7 follows:

8 BY MR. SPICER:

9 Q. Good morning, Mr. McDonald. My name is Wylie Spicer. I'm  
10 one of the Commission Counsel. I'll be asking you some  
11 questions. What is your current position with the Sydney  
12 Police Department?

13 A. I'm the Inspector and the Officer in charge of Administration.

14 Q. And could you review with -- for us your progress through the  
15 ranks with the Sydney Police Department from the time you  
16 became employed by the Police Department.

17 A. I became a member of the Sydney Police Department in June  
18 of 1967. I began on foot patrol, progressed through the  
19 vehicle patrols, relieved on the desk at times as acting  
20 Watch Commander.

21 Q. If I could just stop you there for a sec. How long would you  
22 have been on foot patrol?

23 A. Oh, approximately five, six years.

24 Q. And when you say "on foot patrol", what sort of -- what sort  
25 of duties would that encompass?

AMBROSE McDONALD, by Mr. Spicer

- 1 A. Primarily enforcing traffic regulations, building and security  
2 checks at night, maintaining the peace in my beat, in my patrol  
3 area.
- 4 Q. You're on the street then?
- 5 A. Yes, I was.
- 6 Q. Okay, sorry, go ahead.
- 7 A. After about ten years, I served in the Detective division;  
8 very shortly, just relieving on vacations, the holidays,  
9 primarily vehicle patrol on that time. I then became a  
10 member of the Ident Section in 1978. That would be my  
11 11th year. I served there for two years. When the restructuring  
12 began in our Department in 1980, I competed in the promotional  
13 routine and as a result of that, I was promoted to Inspector  
14 in charge of the Patrol Division.
- 15 Q. That's your current position.
- 16 A. I'm in Administration at this time. I was in patrols for  
17 five years and in 1985 was transferred to Admin duties.
- 18 Q. In May of 1971, what was your job, sir?
- 19 A. I was a constable assigned to the Charlotte Street beat.
- 20 Q. Okay, and on the night of May 28th, were you on your beat?
- 21 A. Yes, I was.
- 22 Q. Okay, can you (Could the witness have Volume 16 please.)  
23 Would you turn to page eight of that Volume, Mr. McDonald.
- 24 A. Okay.
- 25 Q. And that is a typed up version of the occurrence report which



AMBROSE McDONALD, by Mr. Spicer

1 | appears on page nine. Is that correct?

2 | A. Yes, it is.

3 | Q. And that's signed by yourself?

4 | A. Yes, it is.

5 | Q. Can you tell us what your involvement was that evening?

6 | A. Very basically I was assigned to the Charlotte Street beat  
7 | with Constable Mroz. When the call came into the station  
8 | about the incident at Wentworth Park, Constable Mroz went  
9 | with Constable Walsh and I proceeded to my beat on Charlotte  
10 | Street. Some time later they came back and told me that there  
11 | had been a stabbing in the park and furnished with a description.  
12 | I got in the car with them --

13 | Q. If I could just stop you there for a second. What was the  
14 | description with which you were furnished?

15 | A. The description was of two men, one tall, the other shorter  
16 | and one or both, as I recall (I can't be certain.) wearing  
17 | a dark-coloured trench coat and possibly a barret or tam.

18 | Q. And can you recollect who gave you that description?

19 | A. It would be one of the two officers, Walsh or Mroz. I  
20 | don't recall exactly who.

21 | Q. Okay.

22 | A. I then got in the car with them because at that time, the  
23 | Portuguese and Spanish fishing boats came into Sydney  
24 | Harbour quite often and that was a familiar dress of the  
25 | Portuguese sailors. So we proceeded to the Government Wharf

AMBROSE McDONALD, by Mr. Spicer

1 and there were no ships in that night. We then went up to  
2 the Isle Royale Hotel. I checked with the night watchman  
3 there and no one of that description had registered in the  
4 evening. We proceeded to the two restaurants that would be  
5 open on my beat at that time, checked there and nothing  
6 there. I was then dropped off by the two Constables and  
7 proceeded to check my beat through the night along with  
8 Constable Mroz's beat. He didn't come back until much later  
9 in the morning.

10 Q. You were on your own then at that time?

11 A. I was on my own at that time and one restaurant closed  
12 around two-thirty to three p.m.; the other was twenty-four  
13 hours.

14 BY MR. CHAIRMAN:

15 Q. Who is this other Constable you're --

16 A. Constable Leo Mroz and Constable Walsh.

17 Q. How do you spell it?

18 A. M-r-o-z.

19 Q. Thank you.

20 BY THE WITNESS:

21 A. As I said one restaurant closed around two-thirty to three;  
22 the other was open twenty-four hours and I checked those  
23 periodically through my shift until eight a.m.

24 BY MR. SPICER:

25 Q. Okay, and your shift finished at --

AMBROSE McDONALD, by Mr. Spicer

1 A. Eight a.m.

2 Q. -- eight a.m. the following day? Did you have any involvement  
3 with the investigation the following day, on the Saturday?

4 A. No, not on Saturday.

5 Q. No. And were you working on Saturday?

6 A. Yes, I was working the four to twelve shift Saturday evening.  
7 I'm sorry, Saturday evening would be midnights again, twelve  
8 to eight.

9 Q. Twelve to eight, and on that Saturday evening from twelve to  
10 eight, did you do any further checking around for the people  
11 that had been described to you the night before?

12 A. Just keeping an eye out on the beat, nothing structured or  
13 going --

14 Q. Had you received -- I'm sorry. Had you received any direction  
15 from anybody in the police department at that time to do any-  
16 thing with respect to checking out the suspects any further?

17 A. Not that I recall. There was no specific order to check for  
18 those two people.

19 Q. So the continued looking around was on your own initiative?

20 A. Yes.

21 Q. I see. Did you have some involvement on the Sunday?

22 A. On Sunday, we changed shifts and came up on the four to twelve  
23 shift Sunday evening. I was assigned to Patrol Car Number  
24 Three with Constable Walsh. That normally would have been  
25 the patrol area of Ashby. Because there had been rumors of

AMBROSE McDONALD, by Mr. Spicer

1 some repercussions from the Black community, we were detailed  
2 to the Membertou Reserve just to keep an eye on things as  
3 much as possible and patrol the area as much as possible.  
4 We didn't stay there the entire eight hours. We spent  
5 considerable time, would leave, do some patrolling, come  
6 back; just keeping an eye on things.

7 Q. By whom would you have been detailed to go to the Reserve?

8 A. I can't say exactly. Sergeant Lyn MacGillivray was the  
9 Watch Commander at that time and suspect it would have been  
10 Sergeant MacGillivray who gave the order.

11 Q. You mentioned repercussions from the Black community. Where  
12 did you get the information that there was a possibility of  
13 repercussions from the Black community?

14 A. Through other officers on the Department. There was just rumors  
15 through the community at that time that Donald Marshall was a  
16 suspect and I might add that the rumors were completely  
17 unfounded. There has never been any trouble of that nature  
18 between the Blacks and the Indians, or the Whites and the  
19 Blacks. Sydney was a very peaceful community at that time  
20 and still is.

21 Q. When did you first hear the rumor that Donald Marshall was a  
22 suspect?

23 A. It's hard to pinpoint at this time. I would think it would  
24 be over that weekend.

25 Q. Can you tell us whether or not it would have been before you

AMBROSE McDONALD, by Mr. Spicer

- 1           went out to the Reserve on the Sunday?
- 2    A.  No, I don't think it would have been before that.
- 3    Q.  Would you have known that --
- 4    A.  That I heard of it anyway.
- 5    Q.  Yeh, but did you know that at the time you did go out to the
- 6           Reserve on the Sunday?
- 7    A.  No.
- 8    Q.  You did not?
- 9    A.  No, I didn't know it at that time.
- 10   Q.  Okay, so that the time you went out to the Reserve on Sunday
- 11           you had no -- you had received no information at all that
- 12           Donald Marshall was a suspect?
- 13   A.  No.
- 14   Q.  I see.  When you got out to the Reserve, did you see Donald
- 15           Marshall there?
- 16   A.  Yes, I did.
- 17   Q.  And did you talk to him?
- 18   A.  Yes, I did.
- 19   Q.  And who else was there when you talked to him?
- 20   A.  Constable Walsh and Bernie Francis.
- 21   Q.  Who's Bernie Francis?
- 22   A.  It's another Indian chap, an acquaintence of mine.
- 23   Q.  Where did this discussion take place?
- 24   A.  It took place in the patrol car on Membertou Reserve.
- 25   Q.  I see, and how did it come to be that Bernie Francis and

AMBROSE McDONALD, by Mr. Spicer

1 Donald Marshall and yourself were in the patrol car?

2 A. I don't recall exactly. As I said at the time, Junior was  
3 not a suspect at that point; at least, not in my mind or  
4 I hadn't been led to believe that he was a suspect and we  
5 picked him up just to talk to him and find out what was  
6 going on. Had he heard anything about any reprisals or  
7 was he -- had any contact with anyone from the Black community,  
8 any threats, that sort of thing. I talked with him for quite  
9 awhile as a -- I grew up near the Reserve and I knew all the  
10 boys quite well. One thing that I said to him, knowing him  
11 as I did, I said, "Junior, I can't imagine you running away  
12 no matter what. I can't understand why you didn't get a  
13 piece of that guy because you always did." Well, he put  
14 his head down and he said, "I did, Amby. I fired a boot at  
15 the tall guy and I nicked him near the ear. There might be  
16 a mark or some blood on his ear."

17 Q. Did --

18 A. I asked --

19 Q. Sorry, go ahead.

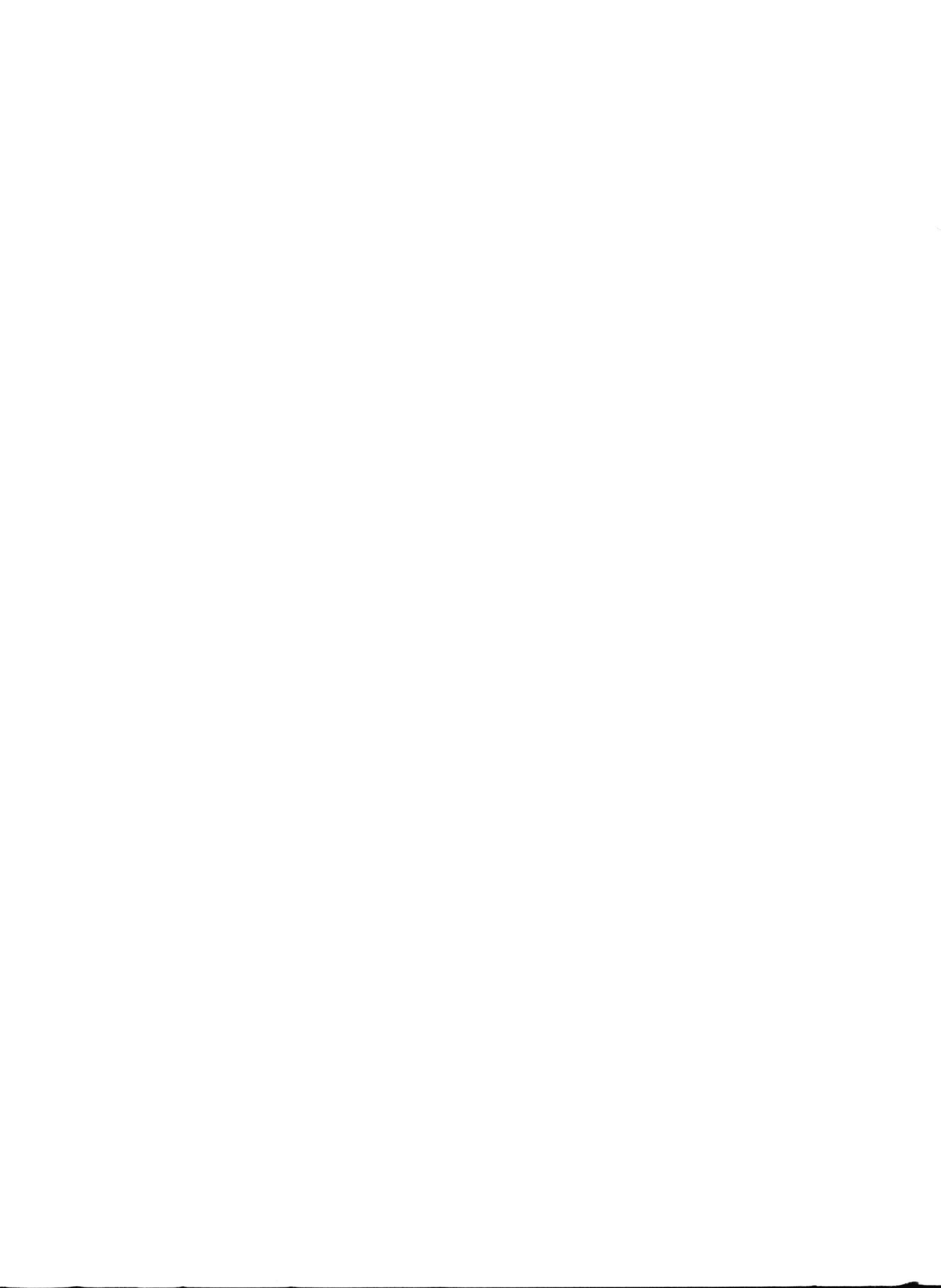
20 A. I asked him if he had passed that information along to Sergeant  
21 MacIntyre and he said no, he didn't. I asked him why not,  
22 that it was an important investigation and that was important  
23 evidence. Well, he put his head down and wouldn't reply but  
24 Bernie Francis replied and said: "The boys out here won't  
25 tell MacIntyre anything. They don't like him."

AMBROSE McDONALD, by Mr. Spicer

- 1 Q. Did you understand that to be the case yourself, that the boys  
2 on the Reserve wouldn't talk to MacIntyre?
- 3 A. No, I had no indication that there was any animosities there.
- 4 Q. During the discussion that you had with Marshall, did he  
5 relate to you his understanding of what had happened the  
6 night of the murder?
- 7 A. Yes, basically what has been brought out time and time again,  
8 the same two descriptions.
- 9 Q. And what was it -- To the best of your recollection, what was  
10 it that he told you?
- 11 A. Oh, my. I don't know if I can give an honest answer to that.  
12 I've read so much and heard so much that I'd probably be  
13 influenced in my answer. It's hard for me now to think back  
14 to what he said at that time and disassociate it from everything  
15 else I've heard and said -- or read.
- 16 Q. So I take it then, are you telling me that you don't -- you  
17 really don't have any independent recollection at this time.  
18 Is that --
- 19 A. No.
- 20 Q. Where was Marshall when you picked him up? Was he at his house?
- 21 A. No, we didn't go to the house to get him. We picked him up  
22 on the Reserve walking on the Reserve. I can't exactly say  
23 where. I believe we were parked near where the church is now,  
24 below the church. There's a new street in there. I just  
25 don't recall the name.









AMBROSE McDONALD, by Mr. Spicer

1 Q. If you could just turn to page 90 of that Volume you have,  
2 Mr. McDonald.

3 A. Ninety?

4 Q. Yes. That's a telex which we understand was sent on May 30th,  
5 fairly early in the morning and you can see up here at the  
6 top, May 30th, three eleven, I think, from the R.C.M.P.

7 A. Yeh, eleven a.m.

8 Q. About half way through that telex, you'll see:

9           Circumstances presently being investigated  
10           by Sydney P.D. Investigation to date  
11           reveals Marshall possibly the person  
12           responsible.

13 to your knowledge on the Sunday, however, you had no indication  
14 at all from anybody with the Sydney Police Department that  
15 Marshall was a suspect?

16 A. None whatsoever.

17 Q. I see. Would you have any idea who in the Sydney Police  
18 Department might have relayed this information to the R.C.M.P.  
19 in order for this telex to be sent?

20 A. I can only guess it was one of the investigators.

21 Q. I see. Did you make any notes of your conversation with Mr.  
22 Marshall at the reserve?

23 A. No, I didn't make notes at the time but I did proceed the next  
24 evening on coming on duty at four o'clock to pass that informa-  
25 tion along to the Detective Branch.

Q. In writing or verbally?

A. No, verbally.

AMBROSE McDONALD, by Mr. Spicer

- 1 Q. And who would you have spoken to?
- 2 A. It would have been a Sergeant Urquhart, William Urquhart.
- 3 Q. Okay. Did you speak to MacIntyre about it at all at the time?
- 4 A. No, I don't think I saw Sergeant MacIntyre all week until the  
5 evening Junior was arrested and he was brought in -- into the  
6 station.
- 7 Q. I see. Did you have any discussions with him at that time,  
8 with MacIntyre?
- 9 A. No, not what you would call a discussion. The -- I was just  
10 told that the -- they were -- the Detectives were coming in  
11 with Junior Marshall and Sergeant MacIntyre stationed me near  
12 the door in the alley way of the old police station and I was  
13 told to say nothing, have no conversation.
- 14 Q. I see. Subsequent to the trip up to the Reserve on Sunday,  
15 did you in fact go out at some point in the search for the  
16 murder weapon?
- 17 A. Yes, I did.
- 18 Q. When did you do that?
- 19 A. You say subsequent to the --
- 20 Q. Subsequent to Sunday.
- 21 A. No. No, it would be after Sunday. As I said, I was assigned  
22 to the Charlotte Street beat. It was after Sunday while I  
23 was in the patrol car with Constable Walsh that we --
- 24 Q. Right.
- 25 A. -- looked for the murder weapon.

AMBROSE McDONALD, by Mr. Spicer

1 Q. Right, and did you do that on anybody's direction?

2 A. No.

3 Q. Why did you do it?

4 A. We were interested in bringing the case to a conclusion.

5 Just our own initiative. We thought we could help.

6 Q. All right, and what did you do?

7 A. We searched the area of Wentworth Park. I was dropped off on  
8 foot and walked Crescent Street, checking the hedges, in behind  
9 houses. I proceeded up Argyle Street, checking garbage cans,  
10 anything that might conceal a weapon, any place where it might  
11 be hidden or thrown, down South Bentinck, around Crescent  
12 Street again, in along the bushes on Crescent Street, both  
13 sides and through the park area.

14 Q. Didn't find anything?

15 A. No, found nothing.

16 Q. And did you report your results of your search to the  
17 investigators?

18 A. I don't recall exactly when it was but some time later when  
19 Sergeant Urquhart became involved in the investigation, we  
20 went to the scene, myself and Constable Walsh, with Sergeant  
21 Urquhart and there was conversation at that time that we  
22 had searched around and we sort of reconstructed where it  
23 had happened and Walsh pointed out to him exactly where Sandy  
24 Seale had been lying when he arrived.

25 Q. Did you have any other involvement with the -- with the murder

AMBROSE McDONALD, by Mr. Spicer

1 investigation?

2 A. On Wednesday of that week, I was at a business establishment  
3 on Charlotte Street on my time off and I was told that there  
4 was a witness from Westmount who might shed some light on  
5 the case. The young girl I was talking to was reluctant to  
6 tell me who that was. So I asked her if she would talk to  
7 Detectives if I could arrange an interview, and she said she  
8 would. So I left and I went over to the Detective office  
9 and I furnished the name to Sergeant Urquhart and I understand  
10 from there, arrangements were made and the witness was inter-  
11 viewed.

12 Q. What was the person's name?

13 A. Scott MacKay.

14 Q. I see. Other than that, did you have any other involvement  
15 with the investigation?

16 A. No, that's where my -- my part ended there.

17 Q. Did you know Junior Marshall?

18 A. Yes, I knew Junior.

19 Q. What sort of reputation did Junior Marshall have?

20 A. Oh, Junior was sort of a -- a bit of a trouble-maker in the  
21 community. He was mostly fighting and that -- things of that  
22 nature. I had a personal involvement with him but I'm  
23 reluctant at times to speak of it. I know the Marshall family  
24 very well and certainly would not do anything to hurt Donald  
25 Marshall or his family. I had a four-month old Labrador pup

AMBROSE McDONALD, by Mr. Spicer

1 at one time and I was not at home one day and the milkman  
2 inadvertently let him out --

3 MS. EDWARDH:

4 My Lord, before the witness goes any further, I'm quite content  
5 to and I think there's probably grounds --

6 MR. ROSS:

7 Could you turn on your microphone, please?

8 MS. EDWARDH:

9 -- that reputation evidence in its normal sense be brought out  
10 but but it would be extremely difficult for us to continue hearing  
11 individual little pieces and know when to stop a cross-examination  
12 or I don't think that it's fair to Junior Marshall if my friend  
13 leads highly specific evidence but evidence of reputation, I'm  
14 quite content with it.

15 MR. CHAIRMAN:

16 The general evidence of -- as to reputation which has already been  
17 given is admissible. What this witness is leading into now is  
18 causing me some concern because I -- I don't think it is really  
19 relevant and for that reason I would suggest it would be better  
20 to discontinue that line.

21 MR. SPICER:

22 Sure. I understand. There's no problems there.

23 BY MR. SPICER:

24 Q. What other involvement, if any, did you have with the investiga-  
25 tion?

AMBROSE McDONALD, by Mr. Spicer

- 1 A. No other after Wednesday other than to consult from time to  
2 time and see how it was going, if the witness was of any  
3 value.
- 4 Q. Okay. Did you know John Pratico?
- 5 A. I got to know him.
- 6 Q. Did you know him in May of 1971?
- 7 A. No, I didn't.
- 8 Q. You did not?
- 9 A. No.
- 10 Q. I'm going to show you a document that we've had marked as  
11 Exhibit 33 which I understand is a page from your notebook.  
12 Is that correct?
- 13 A. Yes, it is.
- 14 Q. Can you tell us -- there's a reference there to "4 June 1971,  
15 Car No. 3, P.C. Walsh, Tom Christmas, John Christmas, Lawrence  
16 Paul." Can you advise us what gave rise to the making of that  
17 note?
- 18 A. That was information that was passed on by Sergeant MacGillivray  
19 that we were to be on the look-out for those three individuals  
20 during our tour of duty and if they were seen, they were to  
21 be placed under arrest and charged with Section 119(1) of the  
22 Criminal Code.
- 23 Q. And what is Section 119(1)?
- 24 A. I believe at that time under the old Code, it would be  
25 obstructing justice.



AMBROSE McDONALD, by Mr. Spicer

- 1 Q. And were you advised as to the substance of the -- of what  
2 these individuals had done?
- 3 A. Yes, apparently they had been threatening John Pratico, in  
4 what manner, I don't know or for what reason.
- 5 Q. And is that the substance of what you were told?
- 6 A. Yes.
- 7 Q. I see. Did you in fact pick them up?
- 8 A. No, I did not. As you -- you'll note opposite Tom Christmas'  
9 name, there's another notation: "Charged 5th of June, '71"  
10 and the initials "W.A.U.". That would be William A. Urquhart.  
11 Sergeant Urquhart. It either indicates that he laid the  
12 charge or advised me that the arrest had been made, that we  
13 could discontinue that notation.
- 14 Q. And that's your handwriting?
- 15 A. That's my handwriting, yes.
- 16 Q. Did you have occasion for the time of the second reinvestigation  
17 in 1982 or so to review any of the trial transcripts?
- 18 A. Oh, yes, considerable volumes.
- 19 Q. Okay, and why were you doing that, sir?
- 20 A. I was asked by then Chief MacIntyre at different times to  
21 review the transcripts and more or less see if I could pick  
22 out anything that wasn't consistent with the investigation  
23 or in particular the Ident evidence that was introduced since  
24 I was a trained Ident investigator.
- 25 Q. And did you then have conversations with Chief MacIntyre

AMBROSE McDONALD, by Mr. Spicer

1 |       concerning what you found?

2 | A. Yes, I did.

3 | Q. Okay, can you tell us the sorts of things the two of you talked  
4 | about?

5 | A. Oh, generally. He asked me or was concerned with the fact that  
6 | fibres were found on a knife so many years later and although  
7 | it's possible in the lab, I would think, I found it highly  
8 | unlikely or I thought it highly unlikely in my opinion -- I  
9 | found it strange that when all other records were not available  
10 | at that time that one piece of the jacket to match had been  
11 | retained somewhere in someone's possession. It just wasn't  
12 | consistent with everything else pertaining to the case.

13 | Q. Now when you say "it just wasn't consistent with everything  
14 | else", what do you mean by that?

15 | A. Well, my understanding at that time that the R.C.M.P. records  
16 | were not available, the court records were not available.  
17 | In fact it was reported many times that the only records  
18 | available were those of Sergeant MacIntyre. I understand now  
19 | that there are records available from the R.C.M.P. So if it  
20 | were the case that they didn't have anything (It had been  
21 | destroyed because of the time period.) I found it strange  
22 | that this person would still have one piece of a particular  
23 | jacket that was involved in this case.

24 | Q. Other than the fibre evidence, was there anything else in your  
25 | review of the transcripts that you had occasion to discuss with

AMBROSE McDONALD, by Mr. Spicer

1 Chief MacIntyre?

2 A. There were several points but I can't recall now exactly what  
3 they were. It's been five years or more.

4 Q. Do you have any idea at all what they were?

5 A. I know there were several points, maybe a dozen or more that  
6 -- things that I had circled between myself and Constable Walsh  
7 or Inspector Walsh at that time. I'm afraid I just can't pick  
8 anything at this point without reviewing the transcript.

9 Q. And the purpose of your review of the transcript, sir, was  
10 what?

11 A. My purpose?

12 Q. Yes.

13 A. Just to review it and see if I could see things in there that  
14 maybe weren't consistent with other things that were happening  
15 with the investigation.

16 Q. Could you --

17 A. Did I believe such things could happen.

18 Q. all right, and what was your view?

19 A. There were several things I found strange about it. The fact  
20 that the Crown Prosecutor had to be reminded of his role by  
21 the Justice at that time. The fact that Patricia Harriss was  
22 called as a witness but her boyfriend who stuck to his  
23 original story was not called to give evidence. It seemed  
24 that witnesses were selected to give evidence at that point  
25 and not every one was heard.

AMBROSE McDONALD, by Mr. Spicer

1 Q. Which transcript are you now talking about?

2 A. I'm talking about the transcripts from the Supreme Court hearings,  
3 the review by the Supreme Court.

4 Q. In '82?

5 A. In '82, yes. As I said, I read several volumes at different  
6 times over those year or two, the original trial transcripts,  
7 the Supreme Court review transcripts.

8 BY MR. CHAIRMAN:

9 Q. Which Crown Prosecutor are you referring to?

10 A. Mr. Edwards.

11 Q. Who appeared before the Court of Appeal of Nova Scotia on the  
12 review?

13 A. Yes, My Lord.

14 Q. For the Crown?

15 A. Yes.

16 BY MR. SPICER:

17 Q. Were you asked to review though the transcripts of the '82  
18 reference at a time after the Supreme Court had made its  
19 decision?

20 A. Oh, yes, this all would have taken place after the Supreme  
21 Court had made its decision.

22 Q. I see, and did Chief MacIntyre explain to you at that time  
23 what the purpose would have been in reviewing the transcripts  
24 after the Appeal Division had already made its decision?

25 A. He still wasn't convinced that all the evidence was placed

AMBROSE McDONALD, by Mr. Spicer

1 before the Supreme Court.

2 Q. And did he relate to you in particular any evidence that he  
3 thought had not been placed before the Supreme Court?

4 A. As I say some of the witnesses. The -- Mr. Gushue was  
5 never called. Chief Walsh was never called at any time  
6 until today.

7 Q. What would have -- Did Chief MacIntyre explain to you what  
8 would have been the significance of calling Walsh, for  
9 instance?

10 A. Just to lay all the facts before the Supreme Court. There  
11 were things that he could probably relate about the scene.  
12 He was probably the first to Sandy Seale on that night.

13 Q. You mentioned Gushue as well. Other than that, were there  
14 any other witnesses that the Chief expressed -- feel perhaps  
15 should have been called?

16 A. Himself. He was a little dismayed that he was not allowed to  
17 tell his side of the story and had to remain silent because  
18 Department policies all these years.

19 Q. All right. Did he explain to you what his side of the story  
20 was? Did he tell you what his side of the story was?

21 A. Yes, and in his mind, he followed all the investigative  
22 procedures. He did what he had -- what he thought was right  
23 and should have been done. It was all placed in the hands  
24 of the Crown Prosecutor. The Prosecutor made a decision.  
25 The Courts made a decision and the jurys made a decision but

AMBROSE McDONALD, by Mr. Spicer

1 | it seemed that everyone was laying the blame solely on his  
2 | shoulders.

3 | Q. Other than those individuals, were there any other people  
4 | that were identified by Chief MacIntyre as being people  
5 | that ought to have been called?

6 | A. There may have been but like I said, I can't recall them.  
7 | This case in particular has been discussed and reported and  
8 | read so many times that what's fact and fiction now, it's  
9 | -- I'm as confused as everyone else.

10 |  
11 |  
12 |  
13 |  
14 |  
15 |  
16 |  
17 | *AM*  
18 |  
19 |  
20 |  
21 |  
22 |  
23 |  
24 |  
25 |

AMBROSE McDONALD, by Mr. Spicer

1 Q. Do you remember, sir, when that -- when your review of those  
2 transcripts would have taken place, would it have been in '85,  
3 '86, '84?

4 A. Oh, no, it would be '82 to '85, in that time frame, over a  
5 period of time.

6 Q. Did you know Jimmy MacNeil in 1971?

7 A. Yes, I did.

8 Q. And were you aware that he had come down to the police station  
9 in November of 1971 at that time?

10 A. I heard some time later rumours through the station that the  
11 investigating -- pardon me, the investigation might be  
12 reopened, and later on I heard Jimmy MacNeil's name mentioned as  
13 a possible witness or having something to do with it.

14 Q. Would that have been in 1971?

15 A. Late '71, yes.

16 Q: Did you know that Jimmy MacNeil had been given a polygraph?

17 A. Not at that point. Not until I started to review the case in  
18 1982 and --

19 Q. From '82 to '85. Is that correct?

20 A. Yes. Yes.

21 MR. SPICER:

22 Thank you.

23 MR. CHAIRMAN:

24 There's one thing I'd like clarified before any of you start your  
25 cross-examination.

AMBROSE McDONALD, by Mr. Chairman, by Ms. Edwardh

1 | BY MR. CHAIRMAN:

2 | Q. You indicated -- you made some comment about a reminder to the  
3 | Crown Prosecutor by the Court. Now which Court were you  
4 | referring to and --

5 | A. The Supreme Court Appeal's Division, My Lord, when the -- the  
6 | Appeal was heard.

7 | Q. Yes.

8 | A. At one point one of the Justices, I believe it might have been  
9 | Angus L. MacDonald at that time, I'm not certain, reminded  
10 | Mr. Edwards that he was appearing for the prosecution. It didn't  
11 | appear that he was putting forth a proper prosecution at that  
12 | point.

13 | MR. CHAIRMAN:

14 | I see. Ms. Edwardh.

15 | MS. EDWARDH:

16 | Thank you, My Lord. Perhaps I might get some guidance from the  
17 | Commission. I understand that the structure of the Sydney Police  
18 | Force and some of its facilities would be explored at a later date,  
19 | and I wonder whether in relation to that subject matter this  
20 | witness is going to be called or recalled again?

21 | MR. SPICER:

22 | You're correct on that and that that investigation will take  
23 | place later and to the extent that this witness can help us on the  
24 | present organization and function of the Sydney Police Department  
25 | we intend to recall him.



AMBROSE McDONALD -- DISCUSSION

1 MS. EDWARDH:

2 And with respect to his knowledge of the organization and functions  
3 in '71?

4 MR. SPICER:

5 No, we do not intend to recall him.

6 MS. EDWARDH:

7 Then let me deal with some of those issues if I might.

8 MR. CHAIRMAN:

9 These are the issues with respect to the organization as it  
10 existed in 1971?

11 MS. EDWARDH:

12 In 1971.

13 MR. CHAIRMAN:

14 And we look forward to the evidence, down the road, from this  
15 witness.

16 MS. EDWARDH:

17 I understood that my friend was saying that the witness -- the  
18 witness was not going to be called in relation to 1971.

19 MR. CHAIRMAN:

20 No, no, but he will be recalled with respect to the -- the present  
21 structure of the Sydney Police Department.

22 MR. SPICER:

23 Yeh, that's correct, My Lord. We thought it would be inappropriate  
24 to mix those two issues at the moment.

25 MS. EDWARDH:

There are some aspects that will help --

AMBROSE McDONALD, by Ms. Edwardh

1 | MR. CHAIRMAN:

2 | I know. Sure.

3 | MS. EDWARDH:

4 | -- in my cross-examination now so I will explore it with this witness.

5 | BY MS. EDWARDH:

6 | Q. Can you indicate, sir, whether or not in 1971 there was any  
7 | complaints procedure available in the Sydney Police  
8 | Department, so if civilians had some complaints against the  
9 | police they could come forward, make it, and there would  
10 | be an adjudication on it?

11 | A. Nothing that I was familiar with. If a complaint was made it  
12 | would probably go to the Chief of Police and he would handle  
13 | it in his own way. We did not have a structured complaint --

14 | Q. No formal process?

15 | A. No.

16 | Q. So I take it whether or not he held a hearing or didn't hold a  
17 | hearing or there was any result, would be something that was in  
18 | the -- was in his discretion?

19 | A. That's right.

20 | Q. And can you assist me in just getting a very rough sense of  
21 | what the Sydney Police Force Detective's Branch was about in  
22 | 1971. How many detectives were there?

23 | A. There were four at that time, four detectives.

24 | Q. And was there a senior ranking officer?

25 | A. Yes, that would be Detectives -- Sergeant of Detectives I think

AMBROSE McDONALD, by Ms. Edwardh

1 he was called there. There was three detectives and a  
2 Sergeant of Detectives in charge.

3 Q. And who was the Sergeant of Detectives?

4 A. It would be John MacIntyre at that time?

5 Q. And would there be a second senior ranking?

6 A. Not within the section. The only ranking after that would be  
7 departmental seniority.

8 Q. Okay. And was there an identification branch as you and I  
9 might know it today?

10 A. In '71, no, there wasn't.

11 Q. So if an event occurred, for example, that required preserving  
12 the scene, taking photographs, making measurements, how would  
13 that be accomplished in 1971?

14 A. I don't know if it would have been done in '71. I was not  
15 privy to any of those -- that type of investigation so --

16 The only time I ever saw measurements taken would be at  
17 accident scenes. Now whether that would be done at a crime  
18 scene by detectives themselves or by senior officers in a  
19 patrol car, I wouldn't know. I wouldn't be involved in that.

20 Q. Was there any procedure that you knew that had been established  
21 by the force to determine how that would be done if it were  
22 required?

23 A. If there was it would be in the hands of the people that were  
24 doing it. The rest of the department would not have knowledge  
25 of it.

- 1 Q. So that would be a matter of their exercise, of their  
2 discretion. It wasn't something that was written down  
3 how to do and who to contact?
- 4 A. No, what I'm saying is it may have been written down. There  
5 may have been a procedure, but in those days you wouldn't  
6 know what that procedure was until you were promoted to that  
7 section and it became your job so to speak.
- 8 Q. So in other words you can't assist us as to whether there was  
9 any established procedure governing detectives?
- 10 A. I can only guess and say there wasn't as far as --
- 11 Q. There was not as far as you know?
- 12 A. As far as I know.
- 13 Q. Now as an ordinary Constable at the time, had you had any  
14 training with respect to homicide investigation?
- 15 A. Very little. That came through the Air Force Police of which  
16 I had been a member prior to joining the Sydney Police  
17 Department, but it was -- That again was very sketchy, just  
18 as you say, plan drawings and measurements at the scene,  
19 note taking and that sort of thing.
- 20 Q. So you had received that, I take it, outside the ordinary course  
21 of your training in the police force or in police college. I  
22 take it you didn't come --
- 23 A. At that time, yes, I had received it through Military Police.  
24 After joining the Department the type of instruction a young  
25 Constable would be given would be on-the-job training, court room

AMBROSE McDONALD, by Ms. Edwardh

1       demeanoured preservation and deliverance of evidence by the  
2       local Prosecutors and/or local lawyers who were hired for  
3       that purpose.

4   Q. Did you ever in this time period -- I think you said you started  
5       in '67?

6   A. Sixty-seven, yes.

7   Q. In this time period from '67, let's say, through to '75, did  
8       you ever get any instruction leaving aside court room  
9       presentations, instructions about how to preserve a scene,  
10      how to gather forensic evidence, how to handle forensic  
11      evidence, any instruction of that kind or character?

12  A. None whatsoever.

13  Q. Now coming as I do from a different jurisdiction perhaps you  
14      can assist me as to the policy that was in place in Sydney in  
15      1971 as to making notes. Do you or did you, sir, utilize a  
16      memo book?

17  A. We did utilize them. Sometimes they were supplied by the  
18      Department and other times we had to purchase our own, and  
19      there was some instruction given. I recall one lecture in  
20      particular by the R.C.M.P. Inspector Scotty Gardiner at  
21      that time.

22  Q. And just for the purposes of the record by learned friend  
23      produced a note and gave it to us. Is that a photostated  
24      page from your notebook at that time period?

25  A. Yes, it is. It is.

AMBROSE McDONALD, by Ms. Edwardh

1 Q. So, in fact, you had a notebook?

2 A. Yes.

3 Q. And what was your obligation as a Constable in the force  
4 with respect to keeping notes?

5 A. My --

6 Q. What were you instructed to do?

7 A. To take notes. That's about it basically. There was no  
8 format to follow. Sometimes I kept notes and -- In relation  
9 to my previous evidence of a conversation with Junior  
10 Marshall, in those days Constables didn't do investigative  
11 work. That was a no, no. Sometimes we did those things but  
12 we had to be discrete about it. So even though I did it we  
13 did not make a permanent record of it and the information  
14 was passed along informally because we were not supposed to  
15 do things like that.

16 Q. So when you took it upon yourself to search for the weapon --

17 A. Yes.

18 Q. --when you took it upon yourself to do other things that  
19 appeared to be investigative as you've described, those were  
20 all done "under the table"?

21 A. Yes. Yes.

22 Q. And that you would have been --

23 A. That was detective work.

24 Q. Yes, usually it's considered detective.

25 A. Yes.

1 Q. And when you say it was a no, no, would you have been chastised  
2 or dealt with in any way in a disciplinary way if you had made  
3 that public?

4 A. I wouldn't have been disciplined in any way, but counselled,  
5 surely counselled as to my behaviour in the future and not  
6 to do it again.

7 Q. So do I understand that the reason you don't have notes of  
8 really your conversation with Mr. Marshall, your search of  
9 the field, how you searched the field, what precisely you  
10 did--or search the park, search for the weapon, and those  
11 other items that you've described as participating in, the  
12 reason you didn't make notes was because you were doing it  
13 "under the table"?

14 A. Yes.

15 Q. And you didn't want an official record kept?

16 A. I didn't want an official record.

17 If I had found the weapon, fine, I'd have been a hero, but if  
18 I had done something to jeopardize the case, I'd be the bum  
19 so to speak, so anything that was done was done on our own  
20 under the table.

21 Q. And I take it you include in that done under the table  
22 aspect, your conversation with Junior Marshall?

23 A. Yes, I would. Even though at that point he was not a suspect --  
24 If he had been a suspect to my knowledge at that time I  
25 certainly would not have had any conversation. I wouldn't have

AMBROSE McDONALD, by Ms. Edwardh

- 1 | gone near the man, but even at that point the information  
2 | I received --
- 3 | Q. You were gathering information?
- 4 | A. I was gathering information and I figured it was best just  
5 | past on to detectives and let them do it.
- 6 | Q. And I take it then when you chatted with him on that Sunday  
7 | afternoon you were in your (If I can use it, sir.) your  
8 | detective mode?
- 9 | A. Yes.
- 10 | Q. Okay. Now perhaps you can also just assist briefly in, if there  
11 | was no identifications of divisions, was there some kind of  
12 | formal relationship with the R.C.M.P. so that if something  
13 | was necessary and your force didn't have the facilities they  
14 | could be called in to assist?
- 15 | A. I believe there was. I would often see the R.C.M.P. investigators  
16 | and uniformed members coming and going in the detective section  
17 | and in our own offices. The few things -- There are minor  
18 | cases that I was involved in, minor "B & E's" or stolen  
19 | auto's. Sergeant M. J. MacDonald did the finger printing  
20 | or any identification work that was necessary at that time.
- 21 | Q. And he was a member of your force?
- 22 | A. He was a member of the detective section?
- 23 | Q. Yeh. So you were not aware of any formal relationships --  
24 | You're not aware of seeing it really operate. In any case,  
25 | you were involved in bringing in the R.C.M.P. to assist in



AMBROSE McDONALD, by Ms. Edwardh

1 | certain investigations?

2 | A. The only time I saw the R.C.M.P. members actively  
3 | engaged was with their service dog at different times.

4 | Q. Now let me ask you, sir, a little bit about polygraph.  
5 | You became aware, I take it, with your review of this  
6 | file or the review of the transcripts, that a polygraph  
7 | had been utilized on several of the witnesses?

8 | A. Yes.

9 | Q. And I take it as now in your present position you are also  
10 | aware that it is presently utilized?

11 | A. Yes.

12 | Q. And if I can ask you to try and turn your mind back to 1971 and  
13 | its role at that time, would you agree with me that perhaps  
14 | the scepticism you might have today about polygraphs was not  
15 | present in 1971 or 1972 or 1975?

16 | A. No, it certainly wasn't at that time. There was great  
17 | faith placed in the polygraph. Even though it wasn't  
18 | admissible it was considered a reliable investigative aid at  
19 | that time, but not today.

20 | Q. And had you taken any courses or had you had any instruction  
21 | from the R.C.M.P. when they gave you a polygraph result as  
22 | to what the limits of those results might be, how they might  
23 | be utilized or whatever?

24 | A. No, I wasn't privy to that information.

25 | Q. Had you ever heard any Officer discuss the limits of a

1 polygraph?

2 A. No.

3 Q. Has there been any present training in the Sydney Police Force  
4 as to the limits of the usefulness of a polygraph examination?

5 A. No, and I -- I can't recall an occasion when I've had to  
6 use it or heard of anyone else using it. I believe in one  
7 other incident -- No, I sorry that was an R.C.M.P.  
8 investigation. It was a joint forces operation.

9 Q. Do I understand you to say that the use of polygraph by your  
10 police force in the last seventeen years is confined to this  
11 case as best you know it?

12 A. As best I know it that was the only time it was used and it  
13 wasn't used by our force.

14 Q. I appreciate that.

15 A. Yes.

16 Q. But incorporated in a sense?

17 A. Incorporated into this investigation, yes.

18 Q. Yes. Yes, and that was the only occasion?

19 A. To my knowledge, yeh.

20 Q. Now can I ask you a little bit about the climate at the time  
21 with respect to policing. There had been a homicide in the  
22 Sydney area some years prior to this, correct?

23 A. Yes.

24 Q. And am I correct, sir, in my understanding that it remained  
25 unsolved and that no one had been charged with the commission

1 of that offense nor had there been any adjudication or  
2 conviction?

3 A. That's right.

4 Q. And from your perspective as a Police Officer on the  
5 beat at that time, did you perceive some pressure on the  
6 force to make a showing?

7 A. No, I didn't perceive that at all and I'm a bit dismayed  
8 when I read things in the Press and in the book that's been  
9 written.

10 Q. Yeh.

11 A. They talk of street gangs in Sydney and racial violence and  
12 racial dissention and I can't comprehend that at all in  
13 no way.

14 Q. We have heard evidence, and perhaps you can assist us, from  
15 a number of people who were young at the time of these  
16 events in 1971 that, and I'm going to use the word "teenagers"  
17 had a considerable fear of the Sydney Police Force. Let me  
18 break my question down. Were you aware of that or are you  
19 aware of that as being the fact now?

20 A. No, I was not aware of that. You see I've had a good  
21 rapport with the kids and it's been my style of policeing,  
22 the community relations aspect, crime prevention, and  
23 it was never portrayed to me personally.

24 Q. Was there a community relations program as part of the  
25 Sydney Police Force during that time period?

1 A. No, there wasn't.

2 Q. Was anybody ever brought in to instruct Officers in Sydney in  
3 that time period about community relations work? You had a  
4 multi-racial City, correct?

5 A. Yes. No, I can -- I think I can say with a great deal of  
6 certainty that those things did not happen. The type of  
7 training that we're getting today and the type of training  
8 we have been receiving since the late '70's and from 1980  
9 onward we were in -- under -- John MacIntyre as our  
10 Chief.

11 Q. Now when you said that there was no pressure to --

12 A. I said I didn't feel the pressure.

13 Q. You didn't feel it?

14 A. And I wasn't aware of it.

15 Q. You didn't perceive that other people didn't talk about it  
16 around you and that this was an especially serious problem  
17 with the last homicide not having been solved. When you say  
18 you felt no pressure in that sense, would you then say, sir,  
19 that the Sydney Police Force conducted an investigation  
20 that they felt they had lots of time to conduct?

21 A. That's a difficult question for me to answer. As I said, I  
22 had no contact with the investigators at that time and you  
23 must realize that the structure of the department at the time  
24 was strictly one-way communication. You got no feedback  
25 from the top so I don't know what pressures they might have

1 |       been under or what -- how they felt. Nothing was conveyed to  
2 | me and, in fact, I had no conversation other than to pass  
3 | on the few tidbits of information that I was able to pick up  
4 | on the street.

5 | Q. So how did this one-way communication take place other than  
6 | verbally? In other words if you were to see Sergeant MacIntyre  
7 | or Sergeant Urquhart, running down the hall and grabbing him,  
8 | you say, "By the way, here's a fact". Did they write it  
9 | down? Was it ever written down? Any systematic way of  
10 | recording these things?

11 | A. I don't know what they would have done after I told them but  
12 | in other instances written reports would have been made--  
13 | would have been made directly to the investigators for their  
14 | benefit.

15 | Q. Written reports by an Officer?

16 | A. By an Officer, yes, for the information of detectives.

17 | Q. Could I ask you, sir, to assist me in characterizing -- I'm  
18 | looking for what appears to me not memo books but memo  
19 | records as you went through the course of -- If I can  
20 | just have -- Was there a book, for example, that you would  
21 | write in when you came in at the end of your shift summarizing  
22 | your work other than your notebooks?

23 | A. Yes, there was a large occurrence report. There was three  
24 | different types, the occurrence report, the crime report,  
25 | and a pink motor vehicle report. It was quite large.

AMBROSE McDONALD, by Ms. Edwardh

1 Q. If you'd look at page 13 in volume 16 --

2 A. Page 13.

3 Q. --would I be correct in assuming that's the occurrence report  
4 that you would fill in when you came off -- that kind of  
5 thing --At page 13 and 14 -- It's not yours. It's  
6 Constable Walsh's and Mroz's, but is that the kind of thing  
7 you would fill in?

8 A. Yes, it is.

9 Q. Would I be correct in saying other than the informal  
10 conversation you might have when you spoke to one of the  
11 detectives, this is the primary vehicle of communication?

12 A. Yes, it was.

13 Q. Was there any other vehicle of communication with the  
14 detectives?

15 A. No.

16 Q. Other than this -

17 A. Other than the written reports and --

18 Q. Or oral.

19 A. If you had something oral, you'd pass it on to them.

20 Q. It puzzles me, sir, that you at no time after your  
21 communication with Mr. Marshall recorded the description  
22 he gave?

23 A. I didn't feel it necessary and the description was well-known  
24 in the department.

25 Q. And indeed when you say you didn't record your meeting with

AMBROSE McDONALD, by Ms. Edwardh

1 Marshall in your notebook, I take it, you wouldn't have  
2 recorded it here because you didn't want a formal record in  
3 accordance with what you said earlier?

4 A. Of the description?

5 Q. Not just the description, your whole conversation with --

6 A. Oh, the whole conversation, no, I didn't want to record it  
7 then, but looking at the description supplied in  
8 Constables Mroz's report, Walsh and Mroz -- I'm sorry,  
9 no, I think it was in Corporal Dean's report. What I was  
10 looking for that week was totally different from what was on  
11 the report. It coincided with the report but it was totally  
12 different from what I know today. It talked about Jim MacNeil  
13 being -- they said a tall man and a taller man with white  
14 hair. Well, Jimmy MacNeil had the dark hair so I was looking  
15 for a man much taller with white hair than Roy Ebsary who was  
16 somewhat shorter.

17 Q. What puzzles, I suppose, sir, is simply this, Mr. Marshall  
18 was seen that evening. Somebody must have taken from him  
19 a description. Someone must have written it down and would you  
20 assist, if you can, do you know anywhere in the Police  
21 records where the first conversation with Mr. Marshall  
22 resulted in the carefully recording of what he said of  
23 the physical appearance of this man? Can you assist in these  
24 documents?

25 A. The only reference I've seen in writing to a description, I

AMBROSE McDONALD, by Ms. Edwardh

1 | believe it's in Constable Dean's report.

2 | Q. But to the best of your knowledge that's not his notebook,  
3 | correct?

4 | A. I would have no knowledge of what is in his notebook.

5 | Q. But what's written in that occurrence report, that's not his  
6 | notebook?

7 | A. Not in my notebook?

8 | Q. No, that's not his notebook.

9 | A. I don't know what's in his notebook.

10 | Q. No, I appreciate you don't know what's in it, but the  
11 | occurrence report is something he would have written after  
12 | he got that information?

13 | A. Yes, he would have sometime during the shift or before  
14 | going home in the morning.

15 | Q. Okay. Have you ever had or held discussions with your  
16 | fellow Officers particularly as you became a detective, sir,  
17 | of what the affect is of "tunnel vision on a police  
18 | investigation"?

19 | A. No, I can't say I have. As I stated I've only done detective  
20 | work very few weeks actual detective work. As a member of  
21 | the identification section I was teamed up with detectives  
22 | on investigations and did assist in interrogations at  
23 | times and witness statements, that sort of thing, but to  
24 | be on my own, I've taken -- I was taken on very few  
25 | investigations and very minor ones at that.



- 1 Q. But would you at least be familiar with the problem of  
2 conducting an investigation with what I would call "tunnel  
3 vision"?
- 4 A. Oh, yes.
- 5 Q. And is it fair to describe that problem -- one that all Police  
6 Officers would try to be careful about as coming up with a  
7 theory and then organizing the world in such a way as it fits  
8 with the theory, consciously or unconsciously?
- 9 A. Certainly that can happen.
- 10 Q. And that's an issue that any good detective investigator would always  
11 try and guard against?
- 12 A. I would think so.
- 13 Q. Let me take you back just a little bit to some of the specifics  
14 in relation to this case. You were on foot patrol then in  
15 1971?
- 16 A. Yes.
- 17 Q. And I'm not familiar with what you've described as the  
18 Charlotte Street beat. Is it in this area?
- 19 A. One street over. It's the main street in Sydney.
- 20 Q. So would I take it, sir, that you would have occasion to  
21 find yourself wondering through this park?
- 22 A. No, the Charlotte Street beat is -- Charlotte Street itself  
23 is divided into two patrol areas. The upper end as we call  
24 it encompasses the buildings beyond the -- at the rear of the  
25 Post Office and the present Bank building, down to

AMBROSE McDONALD, by Ms. Edwardh

1 Prince Street, around, up the back of Bentinck Street here,  
2 including these buildings and Dorchester Street from the  
3 Legion over to the Esplanade. The lower end would be down  
4 and you would stop at Townsend Street and come back up the  
5 Esplanade on the lower end and back up to Pitt.

6 Q. Okay. Then was there another Officer who had the park as a  
7 beat or another cop?

8 A. The park?

9 Q. Yeh.

10 A. No, patrol cars would have that area. There wasn't a foot  
11 patrol there.

12 Q. And would you --

13 A. Occasionally there was if we had the manpower, but it wasn't  
14 a designated area.

15 Q. And would you know, sir, who those Officers were today who  
16 generally handled through car patrol the park area, do you  
17 remember? Do you have any recollection?

18 A. On --

19 Q. In 1971.

20 A. On my shift I would recall it would be at various times  
21 Constables Walsh, Mroz, Dean, MacKenzie, depending on what  
22 car they were assigned to on a given night.

23 Q. Was the State Tavern at any time within your bailiwick?

24 A. No, that would be on the upper end. That would be  
25 Constable Mroz's patrol area.

AMBROSE McDONALD, by Ms. Edwardh

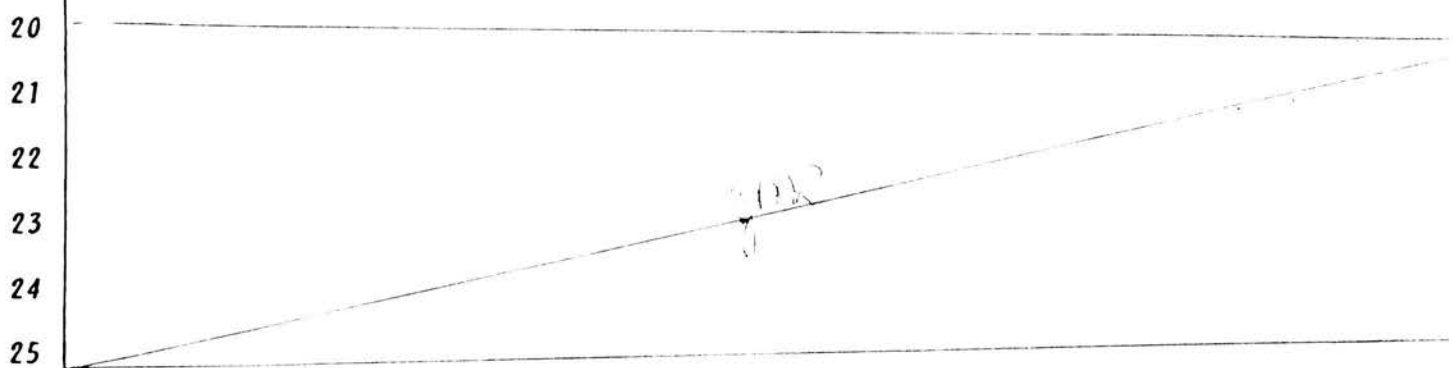
- 1 Q. Let me ask the question anyway. Were you in May, 1971, aware  
2 of a man by the name of Roy Newman Ebsary?
- 3 A. No, I wasn't.
- 4 Q. Had you ever heard that name before?
- 5 A. Not until this incident had I heard the name and I didn't  
6 associate it with the person until I saw him after 1982 or  
7 during 1982.
- 8 Q. So you didn't know the name. Let me ask you this, had you seen  
9 or were you aware as a --
- 10 A. I'm sorry, I heard the name in the late '70's -- late '71 when  
11 there was talk of Jimmy MacNeil and Roy Ebsary, but I didn't  
12 know Roy Ebsary was the gentleman who was the short order  
13 cook at the Esplanade Grill until 1982.
- 14 Q. Then I take it what you're saying, sir, is you never heard  
15 the name until after Mr. Marshall's conviction?
- 16 A: That's right.
- 17 Q. And with respect to your knowledge of the man, did you know  
18 the man in May, 1971? Had you seen the short order cook at  
19 the --
- 20 A. I had seen him in behind the counter but had no conversation  
21 or knew nothing about him.
- 22 Q. You'd never spoken to him before?
- 23 A. Never.
- 24 Q. Never heard him regale people with stories?
- 25 A. No, no.

1 | Q. Did you ever see him on the streets?

2 | A. I can't recall. He was only at the Esplanade Grill at short  
3 | time. He worked in several restaurants in hotels as a  
4 | chef or short order cook or whatever, but I had no conversation  
5 | and no contact with the man and I didn't know anything about  
6 | him until 1982 other than his name.

7 | Q. So I take it you would not have been privy to any aspect of  
8 | his personality or his clothing or with his style as a man  
9 | at all?

10 | A. No. As I said -- I might add I was being misled by the  
11 | initial description talking about the shorter man and a  
12 | taller man with white hair and the tam or beret. There  
13 | was or there might be still a very stately man who lived on  
14 | the northend of the Esplanade. He was very tall and wore  
15 | the Legion jacket with metals and a beret at times. I kept  
16 | associating that as being Roy Ebsary, but because of his clean  
17 | cut appearance and things I just couldn't image this man being  
18 | involved in a crime and I find out since then that I  
19 | was --



1 Q. You were wrong?

2 A. I was looking at the wrong guy all these years. Roy Ebsary's  
3 the short guy with grey hair, not the tall guy as the report  
4 indicates.

5 Q. And I take it the information you received you received  
6 from either Walsh or Mroz?

7 A. Yes, both we're in the patrol car, yeh.

8 Q. As to -- Now if I can just understand. There is a very  
9 seriously injured young man, he's moved to hospital. Very  
10 shortly thereafter you get involved?

11 A. Yes.

12 Q. Who is in control of an investigation at that point? Whose  
13 responsibility is it?

14 A. At that particular point?

15 Q. Yes.

16 A. The senior man would be in charge until a detective was on the  
17 scene.

18 Q. Okay. Who -- when you rolled in, was responsible? Who was  
19 the senior man?

20 A. I understood that Sergeant M. R. MacDonald, Michael MacDonald,  
21 had been called out and was at City Hospital.

22 Q. So I take it from your perspective he was the senior officer  
23 on the scene and he would be giving directions?

24 A. Yes, he would be giving directions, he'd be in charge of the  
25 investigation at that point.

AMBROSE McDONALD, by Ms. Edwardh

- 1 Q. Now you commenced a search that night, not of the Park, but  
2 you go down to the dock area?
- 3 A. Yes.
- 4 Q. Who told you to go there?
- 5 A. No one told me, I just assumed from the description -- I got  
6 in the car with the boys and I said let's take a drive down  
7 to the Government Wharf, as we call it, because of the ships  
8 coming in. And the particular garb more so. The long trench  
9 coat and berets. That was the familiar dress of the Portuguese  
10 sailor.
- 11 Q. You agree with me that what you did voluntarily in search of,  
12 you know, the individuals you were looking for, there was no  
13 systematic search of the area that night? Nobody knocked on  
14 doors that night?
- 15 A. At the crime scene?
- 16 Q. Yes.
- 17 A. I have no knowledge what happened down there.
- 18 Q. You didn't hear any of that directed and you just did what you  
19 did --
- 20 A. I just did what I did and whatever I was able to garner, I  
21 passed on.
- 22 Q. Without any direction or control from any superior officers?
- 23 A. No.
- 24 Q. Or any detective?
- 25 A. No.

AMBROSE McDONALD, by Ms. Edwardh

- 1 Q. Now R. A. MacDonald who was at the hospital, he is a detective?
- 2 A. That's M. R. MacDonald or M. D. MacDonald.
- 3 Q. M. R. MacDonald, I'm sorry. There are -- if you'll forgive  
4 me many MacDonald's and I usually become confused. So is he  
5 a detective, Sir?
- 6 A. He was at that time. He's retired today.
- 7 Q. Were you aware of any single order of any kind given that night  
8 about how to investigate, how to preserve the scene, what any  
9 officer was to do other than moving two young men to the  
10 hospital?
- 11 A. Not aware of any order.
- 12 Q. Now when you went into the Isle Royale Hotel, I take it you weren't  
13 really doing anything other than ascertaining whether guests  
14 had checked-in?
- 15 A. That's right.
- 16 Q. You weren't looking at staff or anything else?
- 17 A. No, I was just looking -- checking with the night clerk and  
18 there was a watchman on at the time. I would visit with him  
19 every evening. It was part of my duties, go in and have a  
20 chat with him and have a coffee.
- 21 Q. So it was --
- 22 A. I made the point at that time to go in to see if anyone had  
23 been around fitting that description.
- 24 Q. And did you at any time or did you ever discuss with anybody  
25 talking to individuals at taverns in the area?

AMBROSE McDONALD, by Ms. Edwardh

1 A. On that particular time that night?

2 Q. That particular time or anytime shortly thereafter within  
3 let's say, nine or ten days?

4 A. No, I don't think, not to my knowledge. I didn't go to the  
5 taverns that night specifically because they weren't open  
6 that hour of the night.

7 Q. But the next day or the next day or Tuesday, Wednesday,  
8 Thursday or Friday of the next week?

9 A. No, ma'am.

10 Q. No one as best you know was detailed to do that? Correct?

11 A. No.

12 Q. Now the next day you also go on Saturday, I guess you came  
13 on the mid-night shift again on Saturday?

14 A. Yes, I did.

15 Q. You also continued on in some detective style work, is that  
16 correct?

17 A. No, not so much on Saturday there was really nothing going  
18 on at that time. I didn't know what was proceeding with the  
19 investigation and to my knowledge there were no suspects at  
20 that time and I didn't know what, at what point the  
21 investigation had reached or where it's status was.

22 Q. Were you briefed at all when you came on shift as to what  
23 you might look for during that day?

24 A. There were no shift briefings in those days. The reports  
25 were on a ledge, a writing affair that was on the wall, you



AMBROSE McDONALD, by Ms. Edwardh

1       you made your reports, read your reports. From time to time  
2       the Sergeant might tell you to be on the look-out for something  
3       and, but there was no structured shift briefing.

4       Q. Other than the description you had from the night before and  
5       keeping a general eye out as you went on your beat, I take  
6       it you had no other information, no other instructions, you  
7       simply did that?

8       A. I simply did that, yes.

9       Q. You didn't have any update of any physical descriptions,  
10       correct?

11       A. Correct.

12       Q. Now on Sunday you I take it are not sure that Sergeant  
13       MacGillivray sent you out to Membertou?

14       A. No, I don't know whether he told me directly to go or if  
15       Constable Walsh had gotten the order from him and we got in  
16       the car and said we're going to Membertou and I know we  
17       were directed there and why, but who gave the exact order  
18       I don't know at this time.

19       Q. And so if I were to suggest, sir, it was possible that maybe  
20       just the two of you were doing some detective work. You  
21       would, I take it, say that that was incorrect?

22       A. No, no, no. We were directed there. That was our area for  
23       the evening, but who gave the order -- whether it was to  
24       me personally or to Walsh, I don't recall.

25       Q. And I take it you were not given any specific task other than  
      to keep on eye on things?

AMBROSE McDONALD, by Ms. Edwardh

1 A. Yes.

2 Q. And had heard rumors, "I've been told rumors by other police  
3 officers to expect some difficulties"?

4 A. Yes, that evening when we came out we were told, I would  
5 assume again it would be Sergeant MacGillivray that there  
6 had been some talk around and that we were to go to the  
7 Membertou Reserve, not spend the entire shift there but as  
8 much time as possible. Patrol around the area, drop in and  
9 out from time to time.

10 Q. Were any specific statements made to you about what to expect?  
11 Were there any people or names --

12 A. No, just that there might be some trouble, that's all.

13 Q. And did the person who said that to you indicate what the  
14 source or basis of information was that he had?

15 A. No.

16 Q. Now just so that I understand it, at one point in answer  
17 to Mr. Spicer's questions, sir, you indicated at that time  
18 Donald Marshall might have been a suspect. I take it to the  
19 best of your knowledge, your evidence is that you had no  
20 information whatsoever that made him remotely a suspect?

21 A. No, I certainly would not have had conversation with him or  
22 talked to him about the incident, if I knew he was a suspect.

23 Q. And I take it that the conversation that you had lasted a  
24 significant period of time?

25 A. I'd say, at least, a half hour. A lot of it was informal

1 As I stated, I grew up on Alexandra Street near the Indian  
2 Reserve and I hung around with the boys, played ball with  
3 them and --

4 Q. A good rapport?

5 A. Yes, I knew them, I knew Junior since he was a --

6 Q. In fact would you agree with me, sir, that if anyone was  
7 going to have a meaningful conversation with Mr. Marshall  
8 at that time, it was more likely you than any other police  
9 officer?

10 A. I would think so. I'd like to think so.

11 Q. Yes. And you didn't really do anything other than report  
12 that one comment as best you recall?

13 A. Yes.

14 Q. And was Mr. Francis present during the whole conversation?

15 A. I believe he was, yes.

16 Q. Now given the fact that we are looking back at someone who  
17 was subsequently was tried for murder, and I ask you the  
18 question was Mr. Francis present during the whole conversation,  
19 do you have a recollection that you can answer that question  
20 with any certainty?

21 A. I would say that he was there almost a hundred percent of the  
22 time. He may have come in a few minutes afterward and sat in  
23 with Junior. But to the best of my recollection they were  
24 together that evening and left together. Left the car  
25 together.

- 1 Q. And left from your vehicle? Sat in your car for a while  
2 then left from your vehicle?
- 3 A. Yes, and it was just informal conversation. It was not --
- 4 Q. Did you -- I'm sorry --
- 5 A. I say it was not any part of the investigation or I wasn't  
6 questioning him at the time. It was just my own benefit  
7 talking to Junior and Bernie and trying to get any little  
8 thing that would help.
- 9 Q. Any little thing? So would you agree with me, sir, that  
10 your conversation with him was very detailed?
- 11 A. In some respects. I considered it significant that if he  
12 had thrown a boot and nicked this guy on the ear, that if  
13 he was cut or marked, that would be significant if we could  
14 find two individuals matching that description with that  
15 mark on his neck as he indicated.
- 16 Q. And I take it today it would be unfair really to ask you  
17 to recount for us what Mr. Marshall said? Too much water  
18 under the bridge?
- 19 A. I can come fairly close to what he said. I can't tell you  
20 exactly. I know --
- 21 Q. And he's talked to you - well you've given us a description  
22 about the ear and the boot --
- 23 A. Yes, in this area he said maybe the ear or the neck. He  
24 felt he nicked him somewhere with a boot.
- 25 Q. But beyond that recollection?

AMBROSE McDONALD, by Ms. Edwardh

1 A. Our conversation didn't last to much longer after that because  
2 once I started asking him about why he didn't relay that  
3 information to the detectives or to Sergeant MacIntyre, he  
4 put his head down & wouldn't answer me. It was Bernie that  
5 answered. Bernie Christmas -- sorry Bernie Francis.

6 Q. I'll come back to that in a moment, sir. You've described  
7 a conversation though where in your evidence you have already  
8 indicated that "Mr. Marshall described what happened"?

9 A. Yes.

10 Q. So I take it he described the events?

11 A. No, not in it's entirety. All I said to him was, "I find  
12 it strange that you ran and didn't get a piece of this guy".  
13 Because Junior Marshall was a fighter, he was well known  
14 in the neighbourhood and he could handle himself and he  
15 never ran from anything. I said, "I find it strange, Junior,  
16 that you ran and didn't get a piece of this guy". And he  
17 said, "Well, Amby, I did. I fired a boot at the tall guy  
18 and I nicked him around the ear or the neck somewhere here".

19 Q. He said he thought he had?

20 A. He thought he had nicked him, yes, he said, there could be  
21 a mark there. He didn't say definitely.

22 Q. Could be. So is it your evidence or just so I understand  
23 that you did not discuss with him anything beyond those  
24 facts or is it not fair to make that assertion today,  
25 seventeen years later?

AMBROSE McDONALD, by Ms. Edwardh

- 1 | A. You mean describing the incident as I know it today?
- 2 | Q. Yeh.
- 3 | A. No, there was no conversation in that light. Most of our  
4 | conversation was just general how you doing, going to play  
5 | ball this year, that sort of thing. And generally got around  
6 | to the incident in question but there --
- 7 | Q. Did you see his arm? Did he show you his arm?
- 8 | A. No, he didn't.
- 9 | Q. Did you ask to see it?
- 10 | A. No, I didn't.
- 11 | Q. Did he have any bandages or anything else on his arm at that  
12 | time?
- 13 | A. Not that I can recall. I don't recall how he was dressed  
14 | whether he had short sleeves or long sleeves or anything.  
15 | There's no recollection of the his arm or the wound that I  
16 | can recall.
- 17 | Q. Now Bernie Francis told you that the boys out here hate  
18 | MacIntyre? Is that what he told you?
- 19 | A. Well, words to that effect.
- 20 | Q. And that's pretty strong words. Bernie Francis was someone  
21 | who had great familiarity with the court system, didn't he?
- 22 | A. Yes, he did. Bernie was more or less a spokesman for the  
23 | young fellows on the Reserve at that time.
- 24 | Q. And often he got involved to try and help kids or people  
25 | who were native in origin going through the criminal justice  
process?

AMBROSE McDONALD, by Ms. Edwardh

1 A. Yes, going through the system, yes.

2 Q. And had you heard that before?

3 A. That the young Indian boys didn't like MacIntyre?

4 Q. Well, it's talking about hating MacIntyre, strong feelings  
5 about MacIntyre?

6 A. No, I had no occasion prior to that time.

7 Q. Did you ask Junior whether he felt that way towards  
8 MacIntyre?

9 A. No, I didn't.

10 Q. Did you in anyway try and say to him, "Listen if you have  
11 those feelings, you know me, I'll -- if you have to talk  
12 to MacIntyre I'll go with you". Did you do that?

13 A. That could not happen in those days.

14 Q. Why not?

15 A. Because it wasn't the structure of the police department  
16 at that time. It was policies and it was not the fault of  
17 Sergeant MacIntyre or the Chief of the day. It just things  
18 were handed down from one administration to the other.  
19 Civic administrations didn't have the money to put into  
20 training and equipment. We did the best we could with  
21 what we had.

22 Q. No, but if you had said to Sergeant MacIntyre, "This kid  
23 has grown up in a community where you all hate you, sorry.  
24 You know these things happen. And it would be better because  
25 I've known him for a long, know the family, can talk to him.

1 It would be better if I were there". You mean you couldn't  
2 say that to Sergeant MacIntyre?

3 A. Maybe if I had approached him he would have. Knowing the  
4 man today I think maybe he would have. But what I was led  
5 to believe as a junior constable was that you don't get  
6 involved, you just shut your mouth and stay out of that.  
7 We didn't take statements at night it wasn't until there  
8 was John MacIntyre when he became Deputy Chief, held a  
9 general meeting with the department and I asked him point  
10 blank at that meeting, "If I have a suspect late at night  
11 or early morning and the sergeant won't allow me to take  
12 a statement, strike while it's hot, so to speak, what am I  
13 going to do. The sergeant is in charge". And he said, "You  
14 call me and I'll straighten that sergeant out".

15 Q. Okay. But I take it for whatever reason you felt that you  
16 couldn't make that overture?

17 A. I felt -- yes, and it was nothing that was portrayed me by  
18 Sergeant MacIntyre or any of the detectives, it was just the  
19 feeling in the department that you stayed out of those  
20 things.

21 Q. Now with this comment that the native kids, which I think  
22 you probably understood the native kids, hated MacIntyre.  
23 What did you do with it, anything?

24 A. Passed the information to Sergeant Urquhart like I said.  
25 And then from that point, I stayed out of it.



AMBROSE McDONALD, by Ms. Edwardh

- 1 Q. So I take it Sergeant Urquhart would have know then after  
2 your visit to the Reserve on Sunday, that the young people  
3 of Junior's age group, roughly his age group, had some very  
4 strong feelings about MacIntyre?
- 5 A. I wouldn't want to say yes that I told him everything in the  
6 complete conversation, but I --
- 7 Q. Well, you would have told him that part --
- 8 A. I would have told him about the information I received and  
9 why they didn't give it to MacIntyre. And I'm sure I would  
10 have said that.
- 11 Q. Yeh, you would have said that they --
- 12 A. But I wasn't sure I did.
- 13 Q. They dislike him or afraid of him or there's some serious  
14 problem there?
- 15 A. Yeh.
- 16 Q. And that would have gone to Sergeant Urquhart?
- 17 A. Yes.
- 18 Q. Thank you. Now you testified, sir, that when Marshall talked  
19 to you, he gave a description and in answer to my friend,  
20 Mr. Spicer, you said he gave a description of the two men?
- 21 A. No, he said --
- 22 Q. I'm sorry --
- 23 A. No, he said he threw a boot at the taller guy. I already new  
24 that there was a taller and a shorter.
- 25 Q. So I take it he never gave and you didn't ask for a description

- 1 as you might today -- height, hair colour, you didn't get  
2 any of that, sir?
- 3 A. That had already been furnished by Donald on the night of  
4 the incident.
- 5 Q. And you didn't talk about it with him?
- 6 A. No.
- 7 Q. So all he gave you was some sense was that there was a taller  
8 and shorter man and beyond that --
- 9 A. That's right.
- 10 Q. The two of you didn't carry on any discussion about description?
- 11 A. No, ma'am.
- 12 Q. Even though you were out keeping an eye out for these people,  
13 you didn't just check with him?
- 14 A. What would I check?
- 15 Q. Well, what he had said?
- 16 A. I knew the height, the basic height of the two, I knew how  
17 they were dressed. I knew the hair colour. I now knew that one  
18 man may be cut. I don't know what more the man could give  
19 me and under the conditions --
- 20 Q. Colour, facial hair, any of those other things?
- 21 A. Under the conditions that existed that night I don't think  
22 Donald Marshall would have any inkling --
- 23 Q. Did you ask?
- 24 A. No, I didn't ask.
- 25 Q. Thank you, sir. Now with respect for your search for the

1 murder weapon, can you indicate, sir, precisely when that  
2 search commenced and what day and with whom you conducted  
3 the search? I'm sorry you didn't indicate to my friend  
4 there -- after the Sunday, but I don't know what day?

5 A. It would be Monday or Tuesday.

6 Q. I take it there's no note of that search as well?

7 A. No.

8 Q. To the best of your knowledge, had anyone conducted a search  
9 prior to the Monday or Tuesday, when you commenced it?

10 A. Not prior to but I think at around the same time or shortly after  
11 they were searching the creek at the Park or attempting to.

12 Q. So the search that you described of garbage cans and bushes  
13 and things like that, did you believe that that had been  
14 conducted by anyone else at that time you commenced your  
15 search?

16 A. I didn't know, I didn't know if it had been or not.

17 Q. You didn't see anybody else doing it?

18 A. I didn't see anybody there.

19 Q. Had you received any information --

20 A. I had not information that it had.

21 Q. I take it you believed it hadn't otherwise --

22 A. Otherwise, I wouldn't be doing it.

23 Q. You wouldn't have been doing it?

24 A. Maybe I would have, double checking.

25 Q. Your best to give us some insight into your own behaviour

AMBROSE McDONALD, by Ms. Edwardh

1 on that day, do you believe looking back it would be likely  
2 that you would have conducted that search if in fact you  
3 believed other officers had conducted it?

4 A. I believe they would have and I was working with Constable  
5 Walsh, now Chief Walsh, at that time and knowing the type  
6 of officer he is and I worked with him a long time, he would  
7 not accept one fact as being true without double checking  
8 it for himself. And being with him I would naturally be  
9 doing the same things.

10 Q. So it may have happened, may not have happened, you didn't  
11 know?

12 A. I didn't know. No, I --

13 Q. Okay. And you made --

14 A. I know exactly what I did but what others did and --

15 Q. You made no record of your search to share with other officers?

16 A. No, ma'am.

17 Q. All right. Did you make -- I assume then you made no record  
18 as to precisely where and how you searched so that other  
19 officers would know you had covered this section of the  
20 Park or looked under these bushes or you had raked or not  
21 raked or whatever. You do anything like that?

22 A. Bare in mind what I was doing was on my own. I was not given  
23 any direction.

24 Q. I appreciate that. And I take it you had received as you  
25 said not instructions from anybody to conduct --

AMBROSE McDONALD, by Ms. Edwardh

- 1 | A. No instructions from anyone other than -- I might say that  
2 | Walsh was a senior constable, we were both working together.  
3 | It wasn't my idea entirely to do this, I was working with  
4 | him.
- 5 | Q. Any other aspect of the investigation that you -- well,  
6 | let me just ask you some information about your search. You  
7 | searched, I take it, in and around the area where Mr. Seale  
8 | had fallen, is that correct?
- 9 | A. Yes.
- 10 | Q. How did you know where that was?
- 11 | A. Constable Walsh had been on the scene that evening.
- 12 | Q. Were there any other records that identified it for other  
13 | officers?
- 14 | A. No.
- 15 | Q. So he gave you the information of where he recalled it being?
- 16 | A. Where he recalled it being somewhere in the bend in the  
17 | turn in this area.
- 18 | Q. And I take it you and he then searched together, is that  
19 | correct?
- 20 | A. No, he was in the patrol car, I was walking and he was driving.  
21 | He may have searched along this section before I came back  
22 | around.
- 23 | Q. As an Ident officer today, is it fair to describe what you  
24 | did as a real search? I mean I'm not trying to denigrate your  
25 | works or but there's a difference between the kind of visual

1 inspection of an area and the kind of search you might  
2 conduct if you were raking the ground or actually going  
3 through and making sure that something hadn't been shoved  
4 into the ground. Do you agree with that? Different kind  
5 of search?

6 A. Yeh, there was no rakings or vacuumings or metal detectors  
7 anything like that used. It was completely a visual search.  
8 But I did as you say get down especially on the hedges  
9 on the homes along Argyle and Crescent Street, get in  
10 between to see that nothing had been, a blade been driven  
11 in the ground and you might not see a handle in the other  
12 heavy wooded areas.

13 Q. If there had been a blade driven in the ground most likely  
14 only a metal detector would have picked it up though?

15 A. Yes, and I really didn't believe that would have happened.  
16 I was searching more for a weapon that may have been thrown  
17 hastily.

18 Q. Okay. The other area I would like to just deal with you for  
19 a moment. With respect to the request by Chief MacIntyre  
20 to review the transcript which I take it is some five years  
21 old. That happened about five years ago.

22 A. Yes.

23 Q. I'm a little confused about what his concern was. He said  
24 I gathered from your evidence something to the effect that  
25 he was concerned about did such, could such things happen

AMBROSE McDONALD, by Ms. Edwardh

1 and was it consistent, those kinds of questions. Can you  
2 re-formulate that in a little different way so what  
3 precisely was he asking you to look for?

4 A. He was asking me just to read it and see what I thought of  
5 the evidence that was given and I know he had some concerns  
6 but he didn't express them to me at that time. He just asked  
7 me to read and see if I saw anything in it that was  
8 inconsistent with what I knew.

9 Q. And I take it what you were reading was the Reference in the  
10 Court of Appeal. You were not reading the original trial  
11 to find out -- you weren't reading the '71 transcript?

12 A. No, no, not the '71 it was the --

13 Q. It was the '82 transcript?

14 A. It was the '82, yes.

15 Q. And I take it the concern at that time was whether or not  
16 enough or all the evidence had been put forward?

17 A. Yes.

18 Q. To see whether the Court of Appeals had been hoodwinked  
19 in aquitting Marshall, that was the concern? Isn't it, fair  
20 to say?

21 A. Possibly.

22 Q. From your discussion with --

23 A. I wouldn't use the word hoodwinked.

24 Q. Well, I'm sorry.

25 A. A little strong.

AMBROSE McDONALD, by Ms. Edwardh

1 Q. Okay, the Court of Appeal had not had all the material fully  
2 and fairly put before them to make a real determination on  
3 all the evidence and that was Sergeant MacIntyre's concern?

4 A. That was all our concern.

5 Q. Okay, it was Sergeant MacIntyre's concern?

6 A. It was.

7 Q. And I take it he expressed that to you?

8 A. Yes, he did.

9 Q. Is it also fair to say that at that time from his conversations  
10 he conveyed to you some notion that he believed that Mr.  
11 Marshall was guilty?

12 A. Yes, I think at that point he still believed that he had  
13 the right man based on all the evidence that he had.

14 Q. And it would be fair to say from your conversations that he  
15 still holds that believe today?

16 A. I can't say what he'd say today, I've had very few conversations  
17 with the man in the last three years.

18 Q. You may not be able to comment on that?

19 A. No, I wouldn't want to.

20 Q. The type of review you gave, I take it, was to identify what  
21 you felt was wrong with what might raise questions about  
22 whether everything was fully and frankly put before the Court  
23 of Appeal. That was the type of review that you did?

24 A. Yes.

25 Q. So when you refer to questions such as conduct of Crown counsel



1 and not all the witnesses were called. Now if I -- thinking  
2 back from that perspective, is there anything else you can  
3 add to the list, sir?

4 A. Not that I can add. I know there were other points, but I  
5 can't recall exactly what they are at this time. It's been  
6 three years since I read that.

7 Q. Did they relate substantially to the evidence or to conduct  
8 of counsel, do you know?

9 A. To the evidence. There was only one reference to the Crown  
10 counsel at that point.

11 Q. Did you do anything with your report? Did you make a written  
12 report of this?

13 A. No. No it was just general conversation. I took it home at  
14 night and I read it and underlined a few things and then we  
15 discussed it the next day and Inspector Walsh had done the  
16 same thing at different times and the three of us talked  
17 it over.

18 Q. Now leaving that if I could for a moment, let me ask you  
19 about some procedures in the force. Had you ever received  
20 or did you between the years 1969 to '79, any instructions  
21 upon the interrogation of children or what to do with  
22 children who you had to arrest. If you see some fourteen  
23 year old, you know, lifting the candy bar from Woolworth's,  
24 were you ever given instructions on the interrogation of  
25 children?

AMBROSE McDONALD, by Ms. Edwardh

1 A. Just that the parent or guardian or at least counsel had to  
2 be present. We wouldn't talk to a juvenile at that time  
3 without parent or counsel.

4 Q. And the more serious the offence, would you agree the more  
5 important it was. That you understood the more important  
6 it was to make sure that parent or guardian or counsel were  
7 present?

8 A. I wasn't told that, but I would hold that to be true.

9 Q. But what you were told was that interrogation of juveniles  
10 or young people is properly conducted in presence of counsel?

11 A. Yes.

12 Q. Or parents or guardian?

13 A. Yes.

14 Q. And let me just understand that we both agree what children  
15 are. Would you agree with me that a fourteen and fifteen  
16 year old is a child?

17 A. Yes.

18 Q. And I suppose even if someone is a little older, if they  
19 look slower, if they look as though they are not as worldly  
20 or as sophisticated, that's the kind of situation that you  
21 would also call for a parent or a guardian?

22 A. Yes.

23 Q. A matter of discretion?

24 A. Yes.

25 Q. And I don't know how many homicides, sir, you've had

1 occasion either to investigate, you've said very view  
2 investigations or as a senior officer know that your force  
3 was engaged in them. Are you aware of any other homicide  
4 investigation other than this one, that went to trial as  
5 a murder charge or manslaughter charge in which there was  
6 not a post-mortem examination, not a post-mortem examination?

7 A. Not to my knowledge. Certainly the ones that I was involved  
8 as Ident investigator, there always was.

9 Q. Should I address to you whether you have any knowledge of why  
10 that was not done or would I appropriately address that to  
11 one of the detectives?

12 A. You'd have to answer -- ask it of them. I have no knowledge  
13 of why they didn't do certain things.

14 Q. From your perspective, as an officer on the beat now and  
15 also your perspective as opposed to some years later. What  
16 should you have been told in those first few days after the  
17 investigation? From your view.

18 A. From my view, I think at least the next evening at an  
19 informal briefing although we didn't have a structured one  
20 as I said the sergeant would pass on information. I would  
21 like to have known if a weapon was used, what type, who  
22 the principals involved were, if there was anything in  
23 particular that I should be looking for. I don't know,  
24 maybe they had suspects in mind at that time, but it  
25 certainly wasn't passed on to us but if there was I would

AMBROSE McDONALD, by Ms. Edwardh

1 like to have known who they were. I might be talking to them  
2 all evening and not know it. And I've seen that happen.  
3 I've had notes in my notebook and detectives would be looking  
4 for a certain individual and I say, god, I was talking to  
5 him yesterday or I charged him with impaired driving or  
6 something, it wouldn't be that serious if it hadn't. Or  
7 very minor liquor charges, I've seen people in the lock-up  
8 and released that detectives were looking for because there  
9 was no communication.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*MS*

AMBROSE McDONALD, by Ms. Edwardh, by The Chairman

1 Q. And no instructions?

2 A. And no instructions. We had no knowledge of what they were  
3 doing. It was two different worlds completely in -- It's  
4 difficult to assess what was done then under today's terms.

5 Q. I'm trying to find out a little about yesterday then.

6 A. Yeh.

7 Q. If I may have your indulgence. Those are my questions.  
8 Thank you very much.

9 A. Thank you.

10 BY MR. CHAIRMAN:

11 Q. Before we -- This is one question I want an answer. I'm not  
12 clear on. The date that you were referring to. You indicated  
13 that either it was your policy or belief or practise to  
14 interview, when you were interviewing juveniles to do so  
15 in the presence of either parents, guardians or counsel.  
16 Did you say that was your practise in 1971?

17 A. Yes, that's been the practise since I -- I joined the force  
18 in '67 and it wasn't their written policy that I read anywhere.  
19 It was just passed on to me either by a senior officer or  
20 my training officer or when I became involved I'd be --  
21 maybe told at that point. Don't talk to him until you get  
22 his parents down here. Then I learn from that to do it  
23 in the future but it was not a written policy.

24 Mr. CHAIRMAN:

25 Well, we'll take a short break.

DISCUSSION BETWEEN COMMISSION & COUNSEL

1 INQUIRY ADJOURNED: 11:22 a.m.

2 INQUIRY RECONVENED AT 11:39 a.m.

3 MR. SPICER:

4 It was brought to my attention, during the break, that there  
5 are some documents which may be relevant to the examination of  
6 this witness which we didn't previous have knowledge or possession of  
7 which are now being brought here.

8 MR. ROSS:

9 I can't hear. Could you speak up?

10 MR. SPICER:

11 My machine's on. And as a result of that, in order to give counsel  
12 an opportunity to review those documents, I request that  
13 we break now and come back let's say one or one-thirty. Whatever  
14 suits Your Lordship.

15 MR. CHAIRMAN:

16 I gather the counsel in the back of the hall could not hear  
17 what was being said.

18 MR. ROSS:

19 We could not hear it at all.

20 MR. CHAIRMAN:

21 All right. I'll do my best to repeat it. Verbatim. It's been  
22 drawn to the Commission's attention, by Mr. Spicer, that it has  
23 been brought to his attention that there are some documents that  
24 he was unaware of that should be introduced as part of the  
25 continuing cross-examination of this witness. That these documents

DISCUSSION BETWEEN COMMISSION & COUNSEL

1 are now being or in the process of being produced and he suggested  
2 that we rise now so that all counsel will have a opportunity  
3 to see the documents before the cross-examination continues.  
4 This strikes me as the essence of reasonableness and such being  
5 the case, we will rise and reconvene at 1:30. Now, that's going  
6 to make it a long afternoon but we will do it anyway.

7 MR. ROSS:

8 Thank you, My Lord.

9 INQUIRY ADJOURNED: 11:40 a.m.

10 INQUIRY RECONVENED AT 1:31 p.m.

11 MR. SPICER:

12 My Lord, the documents that were referred to earlier arrived over  
13 lunch and I've filed them with the Registrar and had them marked  
14 as exhibits 34 and 35 so my friends will know which one is which.  
15 Exhibit 34 is the two sheets that begins with the number one and the  
16 accused person of 1971. And the exhibit 35 are the other two  
17 pages. The ones that begin page eight. What happened to the  
18 exhibits. It was -- sorry, three pages, yes. It was -- One  
19 point that wasn't dealt with indirect then, with my friends consent,  
20 I just want to back for a second with the witness and deal with  
21 one small point and then go ahead.

22 BY MR. SPICER:

23 Q. If I could just draw your attention to volume 19 that you  
24 now have -- I'll put it in front of you here. Page 124.  
25 Towards the bottom of that page, there's an entry which I

1 | would understand, a note made by Corporal Carroll some time  
2 | in 1982, which I will read to you and then ask you if you  
3 | know anything about the substance of it.

4 | O.S.P. also advised Chief John MacIntyre of Sydney  
5 | P.D. had just called stating Inspectors Richard  
6 | Walsh and Ambrose McDonald now remember responding  
7 | to a call at Membertou Reserve when road blocks  
8 | were being set up to prevent trouble on the reserve  
9 | prior to Marshall's arrest. At which time Marshall  
10 | was present and was asked by McDonald what he was  
11 | doing while Seale was being stabbed. He replied that  
12 | he had kicked 'the queer' behind the ear or in the  
13 | head -- words to that effect. Chief MacIntyre wanted  
14 | that noted for the record.

15 | Do you have any recollection of advising the Chief to that  
16 | effect?

17 | A. When was this? In 1982?

18 | Q. Yes.

19 | A. Yes, that's quite possible. Like I say, we discussed  
20 | the case several times.

21 | Q. Do you have any recollection that at the time that you  
22 | went up to the Reserve that road blocks were being set up?

23 | A. No, I don't recall that at all.

24 | Q. And --

25 | A. All I recall is what I stated this morning. That myself and  
26 | Constable Walsh were there in a patrol car.

27 | Q. Do you have any recollection of Mr. Marshall making those  
28 | comments? That he had kicked the 'queer' behind the  
29 | ear or in the head?

30 | A. Using the word the 'queer' I don't recall but it's entirely



AMBROSE McDONALD, by Mr. Spicer, by Ms. Edwardh

1 possible. He did say he did kick, as I indicated this  
2 morning and may have made contact, may not, around the  
3 ear or neck area.

4 Q. Fine, okay.

5 MR. SPICER:

6 That's all I had to ask about that, My Lord and I just propose  
7 to perhaps let Ms. Edwardh continue.

8 MR. CHAIRMAN:

9 Do you have any further questions you wish to put to this witness,  
10 Ms. Edwardh?

11 MS. EDWARDH:

12 Just a couple, My Lord. I'm sorry. I'm grateful for the chance  
13 to see the documents first.

14 BY MS. EDWARDH:

15 Q. I take it, to the best of your recollection sir, the use  
16 of the word 'the queer' is not one you attribute to Mr.  
17 Marshall? You have no recollection of him using those words  
18 on the day you spoke to him, Sunday afternoon?

19 A. I couldn't say with any certainty, no.

20 Q. Let me just ask you to turn your mind to what's now marked  
21 as exhibit 35, the notes. Do you have a copy of those  
22 sir?

23 A. No.

24 Q. Can I -- Can you identify that document that's now marked  
25 exhibit 35?

AMBROSE McDONALD, by Ms. Edwardh

1 A. Yes.

2 Q. Is that your handwriting?

3 A. Yes, it is.

4 Q. And can you recall for us the circumstances in which that  
5 document was made?

6 A. I believe it was around the time of the Supreme Court hearings  
7 into -- subsequent -- leading to the subsequent acquittal  
8 of Mr. Marshall and the transcripts of that hearing. That  
9 I reviewed the transcripts and made a note of things that  
10 I considered that might be of importance.

11 Q. And --

12 A. And I discussed those with Chief MacIntyre.

13 Q. Do I take it that it would be the -- between the time when  
14 the transcripts of the hearing became available and before  
15 the judgement of the Court of Appeal?

16 A. It's difficult for me to say with any certainty whether it  
17 was during or subsequent to. All the transcripts --they weren't  
18 made available at one time. They'd be coming in dribs and  
19 drabs as they were made available possibly to the defense  
20 lawyers or the prosecution.

21 Q. If -- I want to read down the list of comments you made. I  
22 take it those are your -- primarily your own views of the  
23 credibility of witnesses. Some of the contradictions  
24 perhaps in their testimony and other points of that kind.

25 A. Yes.

1 Q. I see two that stand out as being a little different and  
2 perhaps I would ask you to address your mind to them and  
3 see if you can assist us as to what your concern was when  
4 you made the notation? That's -- First of all you refer  
5 to page eight and you have what appears to be a question:  
6 "What happened to the exhibits?" Do you see that sir?  
7 Right at the top?

8 A. Yes.

9 Q. Do you recall what your concern was there?

10 A. No. If I had the transcript and if I knew what exhibit  
11 that we're referring to --

12 Q. Could I have a copy of volume three?

13 A. Where are we looking?

14 Q. If you just read down that page. Does it refresh your memory?  
15 Does that assist you sir?

16 A. Looking at it now, I can only say that there was an exhibit  
17 forwarded to the -- to the court, I would assume, that  
18 could not be located and eventually was. And --

19 Q. In fact --

20 A. -- my question would probably refer to: What happened to  
21 the exhibit? Where -- why couldn't it have been located?  
22 Or where was it at during this time?

23 Q. In fact if you read that page, does there appear to  
24 be some indication that it's the only exhibit that was  
25 found? If you look at Mr. Aronson's comment.

AMBROSE McDONALD, by Ms. Edwardh

1 A. Is it just up here or down the bottom?

2 Q. Down here.

3 A. Yeh. "I had not been aware that it still existed." Yeh.

4 Q. Were it says:

5 We had made a search for the exhibits and that  
6 appears to have been the only one that's been  
7 located.

7 Do you see that comment?

8 A. Yes.

9 Q. In terms of ordinary procedure, as your familiar with it, after  
10 a trial takes place do the police have anything further to  
11 do with exhibits in this area? In Sydney?

12 A. Yes, they're maintained in the possession of the officer who  
13 seizes it or the identification officer who was the  
14 custodian.

15 Q. Let me make my question clearer then. At the time of a  
16 trial if an exhibit is tendered and filed, is that exhibit  
17 returned to the officer or is it kept somewhere in the court  
18 or in the court system?

19 A. In a lot of cases it stays with -- with the court until the  
20 case is completed. Sometimes they're -- if it's items that  
21 are being returned to the proper owner they are released.  
22 But other times they stay with the court.

23 Q. So in the ordinary circumstances one would have expected all  
24 of the exhibits to be in some box in the court house, is that  
25 correct?

AMBROSE McDONALD, by Ms. Edwardh

1 A. Yes.

2 Q. And is it -- is your question based on the fact that it  
3 seemed unusual that that's not the situation here? Does  
4 that --

5 A. Yes, I --

6 Q. -- jog your memory?

7 A. I was interested to know where that exhibit was when it  
8 couldn't be found and then it was found. Where was it?  
9 For continuity sake. Who had it all these years?

10 Q. And did you conduct any investigation subsequently to determine  
11 where the exhibits had gone?

12 A. Did I personally?

13 Q. Yes.

14 A. No.

15 Q. Are you aware of any investigation that was conducted?

16 A: No. It was just a point that I made in regard to the  
17 -- to the transcript.

18 Q. Right. And can you relate that, this point you made, to some  
19 of your earlier testimony this morning. That the files  
20 in the Marshall case seemed not to be anywhere. There was  
21 trouble finding the court files, I think you said.

22 A. Yes.

23 Q. The R.C.M.P. couldn't find their files?

24 A. Yes.

25 Q. And that the only file was Sergeant MacIntyre's file.

AMBROSE McDONALD, by Ms. Edwardh

1 Is that what you testified to this morning, sir?

2 A. Yes.

3 Q. Now, if I can just take it one step further. When you  
4 said Sergeant MacIntyre's file, do you mean the Sydney  
5 Police Department file or do you mean his personal file  
6 that he kept on this investigation?

7 A. It would be both.

8 Q. So he had both?

9 A. No, no. I say it would be one and the same.

10 Q. And as a detective in charge of a homicide investigation,  
11 would there be a central repository where files would be put  
12 so other officers could have access to them or would that  
13 be an ordinary course. Kept with the detective.

14 A. Not in 1971.

15 Q. So it would be kept in his desk? In effect?

16 A. Desk or file cabinet. If it was a detective file, it was  
17 probably kept in the detective office. Occurance reports  
18 or anything of that nature, of course, stayed out and when  
19 the book was filled, Staff Sergeant would file them away  
20 in the storeroom upstairs at City Hall.

21 Q. Now, did you, at any time, conduct any investigation into  
22 the absence of other files in the prosecutor's office, in  
23 the court, in the R.C.M.P. to try to find out what had  
24 caused the dispersal of these files?

25 A. No, I had no -- no involvement in this case what so other.

AMBROSE McDONALD, by Ms. Edwardh

1 Other than what I related this morning.

2 Q. Even later on in --

3 A. Even later on, no.

4 Q. Now, the next question I would like to address -- have you  
5 address your mind to is on page three of exhibit 35. The  
6 second to last point. You say:

7 Exhibit poorly packaged. Not ident. procedure.

8 Can you assist us as to what your concern was there?

9 A. Not unless I had the transcript with and then --

10 Q. Well, let's look around page --

11 A. -- you'd say what page and where would I find that?

12 Q. Do we have that -- the page? The page seems to have been  
13 removed. Let me just take a look at the original.

14 There is no page reference. Let me produce to you, sir, what  
15 I believe to be the original of these notes. Maybe you  
16 can identify them for us. Is that your handwriting?

17 A. Yes, that's my handwriting.

18 Q. And that's the -- what looks to be the original copy of  
19 your notes?

20 A. Yes.

21 Q. There's no reference to a page number to assist you. Was  
22 that an overall concern you might have had? That the  
23 procedures used to preserve the integrity of exhibits had  
24 not been followed. In other words --

25 A. I did have a concern at the time but without the transcript

AMBROSE McDONALD, by Ms. Edwardh, by Mr. Pugsley

1 I can't tell you at this time what that concern was.

2 Q. Can you recall sir, whether in 1971 in Sydney the officers  
3 trained in investigation of a serious crime would have  
4 been aware that when they got a jacket with blood on it,  
5 for example. In order to preserve it as a meaningful sample  
6 to be studied, they would have to put it in a plastic  
7 package?

8 A. I would assume that would be the proper procedure.

9 Q. And that it wouldn't be hung up anywhere or just left  
10 around to be contaminated by other sources?

11 A. I've never witnessed exhibits left around like that.

12 Q. So it would be clearly understood at that time as well?

13 A. I think so, yes.

14 MS. EDWARDH:

15 Should I, Mr. Commissioner, file the original as an exhibit?  
16 That would be exhibit 35. Those are my questions. Thank you  
17 very much.

18 MR. CHAIRMAN:

19 Mr. Pugsley.

20 MR. PUGSLEY:

21 Thank you, My Lord.

22 BY MR. PUGSLEY:

23 Q. Inspector McDonald, with respect to exhibits, when they were  
24 produced and marked at the Supreme Court trial before Mr.  
25 Justice Dubinsky, the judge and jury trial, they would be



AMBROSE McDONALD, by Mr. Pugsley

1 marked and held by the court officials in Sydney during  
2 the course of that trial and that -- Donald Marshall's  
3 lawyers appealed to the Appeal Division of the Supreme  
4 Court of Nova Scotia in February of 1972, the exhibits  
5 all would have been sent from the Prothonotary's office  
6 in Sydney, I assume, to the Prothonotary's office in  
7 Halifax where the appeal was heard. Would that be --

8 A. That would be the normal procedure.

9 Q. That would be the normal procedure, yes. And would it --  
10 I don't know whether you can assist the Commission or not  
11 but after that appeal was heard and no further appeal being  
12 taken, the exhibits would either be retained by the  
13 Prothonotary in Halifax or returned to the Prothonotary's  
14 office in Sydney to be delivered to either the solicitors  
15 for Donald Marshall or the solicitors for the Crown.

16 Would that be the normal practise?

17 A. I wouldn't have knowledge of that but I would assume that  
18 to be true.

19 Q. All right. Okay. When you had the interview with Mr.  
20 Marshall on the Sunday afternoon -- was it Sunday --  
21 What time was it?

22 A. It was Sunday evening. I started at four. I would suspect  
23 sometime in the early evening. Daylight hours.

24 Q. Yes. Would you just describe again, for the Commission, the  
25 kick that he made in response to your comment: "I'm surprised

AMBROSE McDONALD, by Mr. Pugsley

- 1 at you Donald. You didn't do something about that fellow."
- 2 A. Yes. Well, when he did -- When he told me that he did
- 3 throw a boot at him --
- 4 Q. Throw a boot at him?
- 5 A. Throw a boot at him -- Yes, "I threw a boot at him."
- 6 Q. Are those the words he used? Throw a boot?
- 7 A. Yes. Yes.
- 8 Q. What did he mean by that? Do you know?
- 9 A. A kick. That's street talk.
- 10 Q. Was he -- was that a Judo kick? I mean did he go off his
- 11 feet and --
- 12 A. Well, he didn't demonstrate but I would assume just straight on.
- 13 Q. But -- I see. Yes.
- 14 A. He didn't demonstrate. I don't know --
- 15 Q. And at which person did he say he threw the kick?
- 16 A. The tall man.
- 17 Q. The tall man?
- 18 A. Yes.
- 19 Q. And did he say he came in contact with him?
- 20 A. He said he thought he did around the neck or ear area and
- 21 that there might be some blood or scrape there.
- 22 Q. You have reviewed the Appeal Division evidence. Was there
- 23 any evidence by Donald Marshall before the Appeal Division in
- 24 1982 to that effect?
- 25 A. No, there wasn't.

AMBROSE McDONALD, by Mr. Pugsley

- 1 Q. And I don't know whether you've read the preliminary evidence  
2 or the trial evidence in 1971 but it's my recollection from  
3 having read them that there is no reference by him, no  
4 evidence by him to a kick of that nature. Are you --  
5 can you assist us on that at all?
- 6 A. I never heard any more about that. After the time I  
7 related to the -- Sergeant Urquhart until the point in  
8 question here where I talked about it with Chief MacIntyre  
9 in '82.
- 10 Q. Did Donald Marshall advise you on the Sunday evening on  
11 May 30th that he was in the course of trying to rob  
12 or roll people in the park?
- 13 A. No.
- 14 Q. You said that in 1982 during one of the conversations you  
15 had with Chief MacIntyre when you were in the course of  
16 reviewing the evidence given before the Appeal Division  
17 that the Chief was - and I think the word you used was  
18 dismayed about the fact that he was not called to give  
19 evidence.
- 20 A. Yes.
- 21 Q. Yes. And was he -- did he refer to the evidence of Mr.  
22 Maynard Chant and Patricia Harris who talked about his  
23 methods of interrogation? Was that the evidence he --
- 24 A. What was the --
- 25 Q. Was that the evidence he would like to be able be in a position

AMBROSE McDONALD, by Mr. Pugsley

1 to refute?

2 A. Oh yes, very much so. There were a lot of inconsistencies  
3 there that he wanted clarified.

4 Q. Did you read any in the Appeal Division hearing in 1982 --  
5 Was there any evidence given -- offered by Mr. Edwards  
6 acting on behalf of the Crown concerning the polygraph  
7 taken in 1971 -- in the fall of '71 of MacNeil and Ebsary?

8 A. No, I don't think there was. That was --

9 Q. And was there any any evidence offered by Mr. Edwards in  
10 the Appeal Division in 1982 of the R.C.M.P. re-investigation  
11 in 1974?

12 A. No, there wasn't.

13 Q. It's my recollection from reading the transcript taken in the  
14 Appeal Division that Mr. Edwards not only did not call viva  
15 voce evidence from Chief MacIntyre but, if I can direct your  
16 attention to volume three, page 232 -- I wonder? Do you  
17 have volume three in front of you, sir?

18 A. Yes, sir.

19 Q. Good.

20 A. 232?

21 Q. 232? It's my understanding, and perhaps you can confirm  
22 it from the reading you have made, that not only did Mr.  
23 Edwards fail to call Chief MacIntyre to give evidence before  
24 the Appeal Division but even the affidavit taken from Chief  
25 MacIntyre was not tendered in evidence --

AMBROSE McDONALD, by Mr. Pugsley, by Mr. Murray

1 | A. That's right.

2 | Q. -- because of an objection by Mr. Aronson that the --  
3 | at his inability to cross-examine Chief MacIntyre. That's  
4 | your understanding as well?

5 | A. Yes, it is.

6 | MR. PUGSLEY:

7 | Thank you.

8 | MR. MURRAY:

9 | My Lords, I'm just seeking a reference in volume number three.

10 | BY MR. MURRAY:

11 | Q. Mr. McDonald, I would ask you to refer in volume number three  
12 | to page 207. And I would ask you to start reading, to yourself,  
13 | at line -- about line 26: "All right. You're referring to  
14 | what?" And it refers to certain knives that were introduced  
15 | at the Appeal Court hearing. And I would ask you to read  
16 | over to page 208. You've read that?

17 | A. Yes, sir.

18 | Q. I'm wondering if relating back to the question the counsel for  
19 | Donald Marshall asked about concern about exhibits poorly  
20 | packaged. I was wondering if that portion you have just  
21 | read might have any concerns for you as an identification  
22 | man as to the continuity of exhibits?

23 | A. Not in the package in this -- that wouldn't be the passage  
24 | I was referring to although it would have a bearing. The  
25 | fact that they were handled by other people and moved from

AMBROSE McDONALD, by Mr. Murray, by Mr. Saunders

1           one place to another in the house and one residence to  
2           another.

3           Q. I see.

4           MR. MURRAY:

5           Fine, thank you. No further questions.

6           MR. CHAIRMAN:

7           Mr. Elman?

8           MR. ELMAN:

9           No questions, My Lord.

10          MR. CHAIRMAN:

11          Mr. Saunders?

12          MR. SAUNDERS:

13          Thank you, My Lord.

14          BY MR. SAUNDERS:

15          Q. Inspector McDonald, I have one question for you with respect  
16          to the beat briefings that you spoke of this morning. I  
17          recognize having heard Commission Counsel say that you'd  
18          be back at a later date to discuss the system and the  
19          department as it is presently and I don't want to trespass  
20          on what you'll be saying at that time but I was curious  
21          -- You indicated to the members of the Commission that  
22          there were no such beat briefings in 1971 when you were on  
23          foot patrol?

24          A. No, sir.

25          Q. And sometime later you went on to become inspector in charge

AMBROSE McDONALD, by Mr. Saunders

1 of the patrol divisions?

2 A. Yes, sir.

3 Q. So you would then, I take it, in the capacity, sir, be in  
4 charge of all of the officers on foot patrol in the Sydney  
5 Police Department?

6 A. That's right.

7 Q. And in that capacity, did you institute briefing sessions  
8 within your department?

9 A. Yes, I did.

10 Q. And the purpose being so that members on foot patrol would  
11 be able to hear what member of the detective division were  
12 doing and vice versa?

13 A. That's right.

14 Q. So that the things that you wished you had known in 1971  
15 are now known to members of the Sydney Police Department  
16 as we speak?

17 A. Yes, and if I might elaborate a bit. I didn't do this on  
18 my own initiative. I was sent by Chief MacIntyre along  
19 with Inspector Walsh through various police departments  
20 in the Maritimes. We studied their methods and brought  
21 back what we thought would be useful and instituted those  
22 policies under his direction.

23 Q. Yeh. So given the financial restrictions that you spoke  
24 of in your earlier testimony, are you satisfied that you  
25 put in place a system today to prevent as best you can the

AMBROSE McDONALD, by Mr. Saunders

1 difficulties that you described in 1971?

2 A. Yes, and those financial restrictions are no longer there.  
3 Thankfully.

4 Q. All right. And the next area that I'd like to explore with  
5 you Inspector is the review that you made of the transcripts  
6 and you've said something about that this afternoon. And  
7 I'd like to ask you a few questions about that as well.

8 A. Yes.

9 Q. You've been a police officer for some 20 years?

10 A. 20 years.

11 Q. Yes. And in Sydney for 20 years, sir?

12 A. Yes.

13 Q. And would it be accurate for me to suggest that you have  
14 been the officer laying charges against accused people  
15 countless times.

16 A. Yes.

17 Q. More than hundreds?

18 A. If you consider liquor and motor vehicle act, I control that  
19 yes.

20 Q. Yes. And as the informant, that is to say the police officer  
21 who is laying the charge against the accused, you would  
22 be present in court during the conduct of the preliminary  
23 or the trial?

24 A. Yes.

25 Q. And you, as the informant, have the right and the opportunity



AMBROSE McDONALD, by Mr. Saunders

1 to stay present during all of the testimony, correct?

2 A. That's right.

3 Q. Yeh. And would you also agree with me Inspector --

4 A. No, if I could back up a moment. There had been times  
5 when I had been excluded.

6 Q. That would be rare in your experience?

7 A. Depending on the nature of the case. If defense counsel  
8 wanted to cross-examine independantly and didn't want the--  
9 all the witnesses in the room.

10 Q. Yes. Occasionally defense counsel make that kind of request?

11 A. Yes.

12 Q. And depending on what the decision of the judge is you may be  
13 excluded or not?

14 A. That's right.

15 Q. But would it be accurate to say that more times than not  
16 you were present than outside?

17 A. More times than not. That would most likely happen in  
18 serious cases before it -- maybe appear before County Court  
19 or Supreme Court. Judge and jury.

20 Q. Sure. Thank you. And would you also agree with me, Inspector  
21 that in your some 20 years experience with the Sydney  
22 Police Department that the Crown Prosecutor is the officer  
23 there who's duty and role it is to insure that the evidence  
24 is presented to the Court?

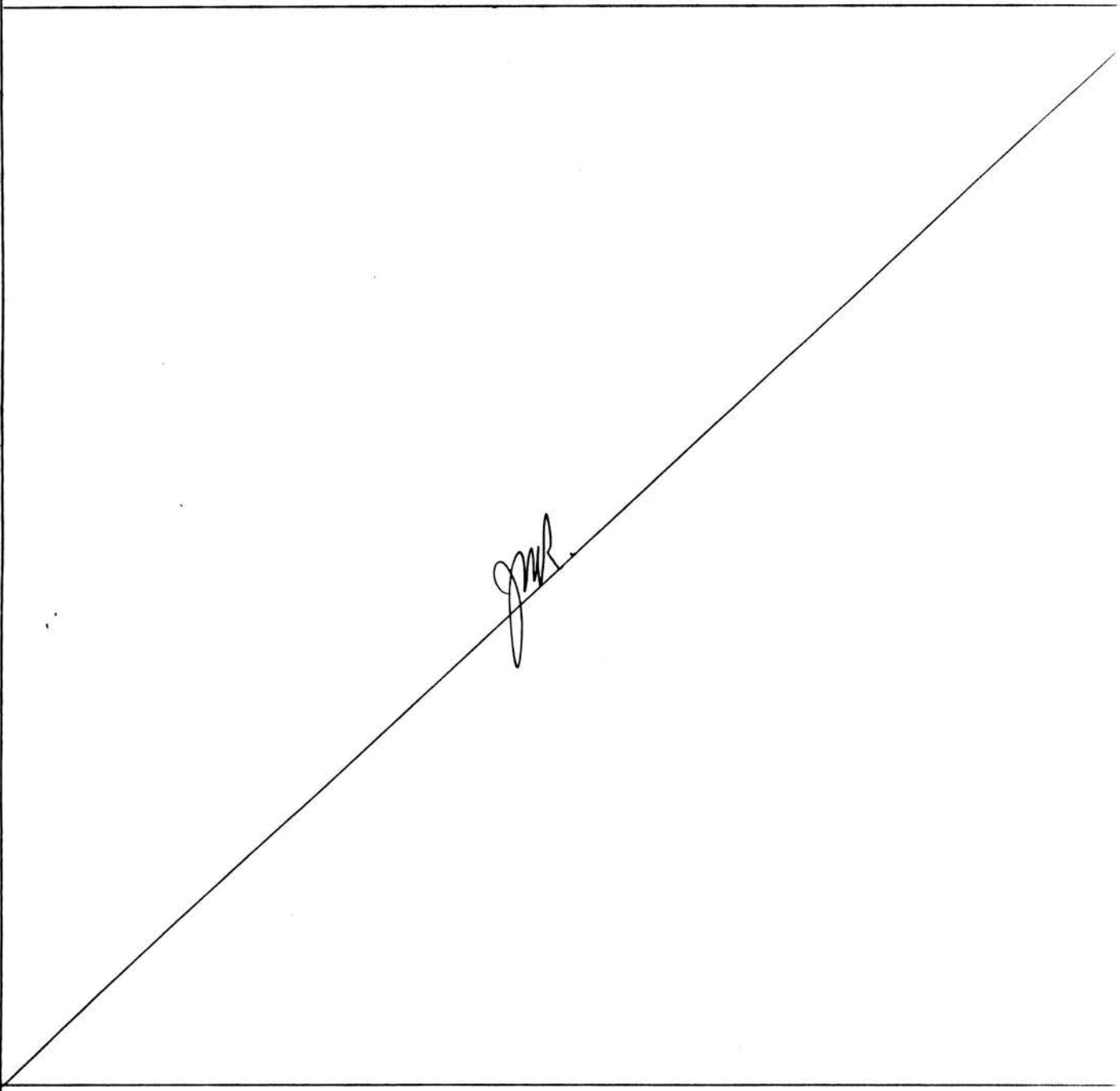
25 A. That's right.

AMBROSE McDONALD, by Mr. Saunders

1 A. And it's his function to determine the way in which  
2 the evidence is presented to the Court?

3 A. Yes, sir.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



AMBROSE McDONALD, by Mr. Saunders

1 Q. And it's his function, sir, to decide the order of witnesses,  
2 for example?

3 A. Exactly.

4 Q. And how best certain evidence is to be brought to the attention  
5 of the Court through the mouths of particular witnesses,  
6 correct?

7 A. That's correct.

8 Q. And it's the Crown Prosecutor who has to exercise that  
9 judgement because that's his role in a trial situation?

10 A. That's correct.

11 Q. And when asked certain questions during the course of a  
12 preliminary Inquiry or a trial by the Bench, for example,  
13 as to certain evidence or certain witnesses, it's the  
14 Crown Prosecutor who responds to the questions from the  
15 Court and not the informant or the Police Officer?

16 A. If I have been asked questions by the Bench and responded  
17 directly --

18 Q. But the Crown Prosecutor in his role as such has the function  
19 of responding to questions from the bench with respect to  
20 certain evidence or why it is that he's proceeding in a  
21 certain way, for example?

22 A. Oh, yes. As far as procedure, yes.

23 Q. Thank you, and I suggest to you Inspector, that it's  
24 entirely within the authority and role of the Crown Prosecutor  
25 to decide -- to decide why it is he's going to proceed in a

AMBROSE McDONALD, by Mr. Saunders

1 | certain way and develop a certain order of witnesses to  
2 | present evidence to the Court?

3 | A. It's always been my understanding and practice.

4 | Q. Yes. Were you present, Inspector, during the argument of the  
5 | reference before the Nova Scotia Court of Appeal?

6 | A. No, I was not.

7 | Q. So the only exposure you've had to the reference is your  
8 | review of the transcripts which came into your possession  
9 | later on?

10 | A. That's right.

11 | Q. And how is it, Inspector, that you got copies of the transcript?

12 | A. I was in Chief MacIntyre's Office and I believe Inspector  
13 | Walsh was present at the time, and he was given certain  
14 | documents and I was given certain documents and asked to  
15 | peruse them on our own time and if we weren't busy that  
16 | evening have a look at them and see if the -- what we thought  
17 | of it I think was the way it was put to us, see what you  
18 | think of it.

19 | Q. I understand.

20 | A. Yeh.

21 | Q. And this conversation that you've described to the Commissioners  
22 | took place in the Chief's Office?

23 | A. Yes, it did.

24 | Q. And two others were present, that is, Inspector Walsh, now  
25 | Chief Walsh, and yourself?

AMBROSE McDONALD, by Mr. Saunders

1 A. Yes.

2 Q. Do you know if the review of transcripts was done by any  
3 other Police Officers in Sydney?

4 A. I couldn't say yes or no. I don't think. I'm -- I don't  
5 know.

6 Q. Thank you.

7 A. I'll put it that way.

8 Q. As far as you're concerned, as best you can say, the review  
9 upon which you embarked was done by only you and Inspector  
10 Walsh and Chief MacIntyre?

11 A. To the best of my knowledge Inspector Urquhart may have.

12 Q. I see. Other than that possibility, do you know of anyone  
13 else who may have embarked on such a review?

14 A. No, I don't know of anyone.

15 Q. All right. The notes that you've identified as Exhibits  
16 34 and 35, did you share these with the other Officers and  
17 Chief MacIntyre?

18 A. Possibly with Inspector Walsh when we went over them in the  
19 office the next day. I gave my reasoning for making those  
20 notes or why it would seem to be a concern to me.

21 Q. Yes. Did you give copies of what you had written to any  
22 of the other Officers?

23 A. No, I don't think so. I don't think I would have done that.

24 Q. Why do you say you don't think you would have done that?

25 A. Well, they'd have no reason to have it. Chief MacIntyre was

AMBROSE McDONALD, by Mr. Saunders

1 the person concerned and I was making my report to him  
2 or my observations to him.

3 Q. Yes. So you were responding to his request in making this  
4 report to him?

5 A. Yes.

6 Q. Do you know, Inspector, whether anybody else made notes such  
7 as you've identified and prepared?

8 A. I don't know that, no.

9 Q. All right. Do you know whether or not it was the Crown  
10 Prosecutor who furnished Chief MacIntyre with copies of the  
11 transcripts of argument and evidence at the Appeal Reference?

12 A. No, I don't know where he obtained them.

13 Q. Tell me, Inspector, did you ever sit down with the Prosecutor  
14 who conducted the Reference, Mr. Edwards, to discuss with him  
15 the strategy that he adopted during his argument?

16 A. No, sir.

17 Q. And not being present, I take it you have no knowledge as  
18 to why Mr. Edwards did certain things or decided not to do  
19 certain things?

20 A. I have no knowledge, no, sir.

21 Q. And you have no knowledge, I suggest, as to what discussions  
22 the Court or members of the Court may have had with Crown  
23 Counsel and Mr. Aronson on behalf of Mr. Marshall as to the  
24 presentation of evidence?

25 A. No. The only thing I have knowledge on is what I read in the

AMBROSE McDONALD, by Mr. Saunders

1 transcript.

2 Q. Yes, and would you agree with me, sir, that you have no  
3 knowledge as to whether or not there were discussions  
4 between Counsel for the Sydney Police Department and Counsel  
5 for the Crown as to what evidence would be adduced at the  
6 Reference?

7 A. Would you repeat the question?

8 Q. Yes. I take it, sir, you have no knowledge as to whether  
9 there were any discussions between the Crown, Mr. Edwards,  
10 and Counsel for the Sydney Police Department as to what  
11 evidence would be adduced at the Reference?

12 A. No, I wouldn't have direct knowledge of that.

13 Q. All right.

14 MR. CHAIRMAN:

15 I'm curious, did Counsel for the Sydney Police Department appear  
16 on the Reference?

17 MR. SAUNDERS:

18 Not appearing, but my information, sir, is that he was there.

19 MR. CHAIRMAN:

20 Who was it?

21 MR. SAUNDERS:

22 Mr. Whalley.

23 BY MR. SAUNDERS:

24 Q. Would you agree with me, Inspector, that in fairness, and I  
25 don't mean to be smart with you, but in fairness, the best

1 way to determine why certain things were done or certain  
2 things argued or certain positions taken at that Reference  
3 in argument before the Court of Appeal would be to ask  
4 Mr. Edwards, the Crown who handled it?

5 A. No, I don't -- I don't entirely agree with you. I think when  
6 such an important matter is before an Appeal Board that  
7 everything should be on the table.

8 Q. I take it, Inspector, that you have no knowledge as to whether  
9 any indication was given to Mr. Edwards by members of the  
10 Court that certain evidence was unnecessary or need not be  
11 preferred or things like that.

12 A. I don't know whose decision it was not to call that evidence.

13 Q. Thank you.

14 A. But I just feel it should have been there.

15 Q. But you've never discussed it with Mr. Edwards?

16 A. No, sir.

17 Q. Have you ever asked him as to why certain things were done  
18 or not done?

19 A. I wouldn't be that presumptuous. That's not job or my  
20 position to question Mr. Edwards.

21 Q. No. So notwithstanding your review of the transcripts  
22 and the notes that you have prepared, you've never consulted  
23 with Mr. Edwards as to what was done?

24 A. No, sir.

25



AMBROSE McDONALD, by Mr. Saunders

1 Q. Answer, no?

2 A. No.

3 Q. Briefly, Inspector, you mentioned financial restrictions in  
4 1971 upon the Department and how that affected certain things  
5 done by various divisions within the Police Department. Can  
6 you identify to me and to the members of the Commission what  
7 those restrictions were and how they've changed? You said  
8 there are no problems now in that regard.

9 A. I think what the previous Counsel were alluding to was the  
10 lack of training and procedures within the Department and  
11 the reason for that was the lack of funding or training.  
12 We did not have a training budget in those days. There was  
13 no such thing. It was under Chief MacIntyre, I believe it  
14 was three thousand dollars which was increased to ten thousand  
15 in 1980, and is presently closer to thirty thousand, but there  
16 just wasn't money for those things in those days. There was  
17 no money for portable radios for communication on the street.  
18 The Union had to fight for years to be issued with fire arms.  
19 There was just no money available for it and the Administration  
20 didn't see -- didn't feel it was necessary to have those  
21 things?

22 Q. I see. How did you come to have -- Or I'll ask you this first,  
23 did you have a copy of Exhibit 34, Inspector, which were  
24 introduced by Commission Counsel, two pages. Do you have that  
25 in front of you? There are other handwritten notes.

AMBROSE McDONALD, by Mr. Saunders

1 A. No, I don't think I have thirty-four. It's just thirty-three  
2 and thirty-five.

3 Q. Can I have thirty-four please. Inspector, I show you  
4 Exhibit 34. Have you ever seen that before? My friend gives  
5 me the original and what I've given you is a photocopy.

6 A. No, I've never seen that. I recognize the handwriting but  
7 I've never seen it.

8 Q. Well, the original of thirty-four is obviously red ink, two  
9 pages on white lined paper, and whose handwriting is it?

10 A. That's Chief Walsh's handwriting.

11 Q. All right. The present Chief Walsh's?

12 A. Yes.

13 Q. And you've never seen it before?

14 A. Not the document, no.

15 COMMISSIONER POITRAS:

16 Would you file that in lieu of Exhibit 34.

17 MR. SAUNDERS:

18 Certainly, My Lord. Could we have that marked then please as  
19 Exhibit 34. Thank you.

20 BY MR. SAUNDERS:

21 Q. You haven't seen Exhibit 34, Inspector, but I'm wondering  
22 if you ever discussed the contents of Mr. Walsh's notes or  
23 now Chief Walsh's notes with him?

24 A. I don't know what the contents are.

25 Q. Well, why don't you take a moment and --

AMBROSE McDONALD, by Mr. Saunders

- 1 A. If I could just peruse it for a moment and --
- 2 Q. Yes, if you could. Sure. Take your time and review the two
- 3 pages. Have you had an opportunity, sir, to review the
- 4 two pages I've passed to you?
- 5 A. Yes, I have. Yes.
- 6 Q. Have you ever discussed with present Chief Walsh the
- 7 contents of Exhibit 34?
- 8 A. Not in its present form, item by item, but the contents, yes,
- 9 we have kicked around informally the last number of years.
- 10 Q. Yes. Now given your evidence that you embarked upon this
- 11 review, likely sometime after the Reference, but perhaps
- 12 before the decision was handed down--let me begin by asking
- 13 you, how many times did you confer with Inspector Walsh and
- 14 Chief MacIntyre about it?
- 15 A. Well, the Appeal or the re-investigation was on and through
- 16 the Appeal hearings it was almost a daily thing. At some
- 17 point or other during the day we'd get around to the Marshall
- 18 case.
- 19 Q. The three of you would discuss your review of the transcript?
- 20 A. Yes, or the two of us or the three of us, you know, any
- 21 combination of the two.
- 22 Q. Yes.
- 23 A. We certainly discussed the contents of this document, but not
- 24 in its present form. We were at a complete loss and still
- 25 are wondering how this Commission with all due respect is

AMBROSE McDONALD, by Mr. Saunders

1 going to come to any logical conclusion with the evidence of  
2 a senile old man and admitted liars and there's so much  
3 contradictory evidence that --

4 MR. CHAIRMAN:

5 Well, I'm afraid that's the challenge that faces us and we'll do  
6 our best.

7 BY MR. SAUNDERS:

8 Q. Inspector, other than Exhibit 34 being the notes you've  
9 identified as in the handwriting of Chief Walsh and Exhibit  
10 35 being the notes in three pages that you prepared, have you  
11 seen any other written record of notes taken by Chief  
12 MacIntyre or Chief Walsh or yourself or perhaps Inspector  
13 Urquhart pertaining to the review of the Appeal Court record?

14 A. Pertaining to the review?

15 Q. Yes, sir.

16 A. No, I don't think I have.

17 Q. Thank you. Now finally, Inspector, if you would turn to the  
18 last page of Exhibit 35. Do you have that before you? It's  
19 a copy of your your notes.

20 A. My notes, yes, right here.

21 Q. Yes. The bottom of the last page.

22 MR. SAUNDERS:

23 Do you have the original there? Could I see the original?

24 BY MR. SAUNDERS:

25 Q. I'm not sure if there's information cut off on my photocopy,

AMBROSE McDONALD, by Mr. Saunders

1 Inspector, so if you could just check the original and  
2 compare it to the copy.

3 A. No, it's the same thing.

4 Q. There's nothing -- There are no numbers or digits written to  
5 the left of the name Edwards?

6 A. No.

7 Q. All right, and you point to:

8 "Inconsistent in cross-examination, many  
9 questions not answered". "He was several  
10 times coached and admonished by the  
11 Court".

11 Can you tell me, sir, where it was in the record that  
12 Mr. Edwards in your view was inconsistent in cross-examination?

13 A. I can't tell you that now without reviewing that. You must  
14 realize it's five years or more since I read that transcript.

15 Q. Yes, sir.

16 A. But at the time there was things I thought that maybe could  
17 have followed up or should have been brought into evidence,  
18 but to tell you now what those points were without the  
19 benefit of reading it again in it's entirety--I'm sorry, I  
20 can't do that.

21 Q. Yeh, and that would be the only opportunity that you would  
22 have, that is, to take the time to review the record again  
23 in order to be able to answer by question and tell me  
24 where it was in your opinion that Mr. Edwards was inconsistent  
25 or that he appeared to be several times coached and admonished

AMBROSE McDONALD, by Mr. Saunders

1 | by the Court?

2 | A. Yes.

3 | Q. You would have to take the time to do that?

4 | A. Yes.

5 | Q. I understand, Inspector, that you'll be recalled to give  
6 | evidence on another day?

7 | A. I heard that this morning, yes.

8 | Q. Yes.

9 | MR. SAUNDERS:

10 | Members of the Commission I would ask that because through this  
11 | Inspector and his notes that he says Mr. Edwards was inconsistent  
12 | in his view and several times coaching and admonished by the Court,  
13 | I'm sure Mr. Edwards would like to speak to that when it comes  
14 | his turn to be a witness, and in advance of that I would ask that  
15 | Commission Counsel provide me with the examples that this  
16 | witness, this Inspector, is referring to in advance of the  
17 | attendance of Mr. Edwards.

18 | MR. CHAIRMAN:

19 | Well, firstly, Mr. Saunders, my understanding is that it has  
20 | been agreed between Counsel that the evidence that we're hearing  
21 | today from this witness will be disposed of once and for all.

22 | MR. SAUNDERS:

23 | Yes.

24 | MR. CHAIRMAN:

25 | And this will be the end of his examination-in-chief and his cross-

AMBROSE McDONALD, by Mr. Saunders

1 examination when he finishes here today, so I would be rather  
2 reluctant to reopen the cross-examination of this witness again  
3 on this matter some time down the road. I don't know how long  
4 it would be. Reading the note in Exhibit 35 at the end there,  
5 I regard that as purely an opinion expressed by this witness and  
6 I would suggest that the Commissioners are just as capable of  
7 reading the transcript as this witness and we may or may not concur  
8 with his observations and that's all I've treated it as. It's not  
9 a --

10 MR. SAUNDERS:

11 Thank you, My Lord. I'm quite happy to leave it that way. It was  
12 only with the reservation that you expressed that this witness  
13 would be done and completed today with the exception of his review  
14 of the present status of the Department in 1987 that I asked the  
15 question and --

16 MR. CHAIRMAN:

17 All right. Anyway, you have my assurance that we will read it  
18 assiduously, but you may or my not have the benefit of our  
19 conclusion.

20 MR. SAUNDERS:

21 I know you will. Thank you, My Lord, those are my questions.

22 MR. CHAIRMAN:

23 Now, Mr. --

24 MR. PRINGLE:

25 Mr. Bissell is not here at the moment, My Lord.

AMBROSE McDONALD, by Mr. Ross

1 | on behalf of the R.C.M.P. at this time.

2 | MR. CHAIRMAN:

3 | Mr. Ross.

4 | MR. ROSS:

5 | I have just a few questions of this witness, My Lord.

6 | BY MR. ROSS:

7 | Q. Inspector McDonald, it appears as though back in 1971 you  
8 | were quite familiar with the juvenile residents at the  
9 | Membertou Reserve. Am I correct?

10 | A. Yes, sir, that's correct.

11 | Q. Did you also police the Whitney Pier area?

12 | A. I don't know exactly in '71, but certainly from '67 onward  
13 | I spent considerable time in the Whiteney Pier area.

14 | Q. And in your time in the Whitney Pier area did you get to know  
15 | Sandy Seale?

16 | A. I don't know if Sandy was living in the Pier area at that time.  
17 | I never knew the boy personally but I did know him through  
18 | sports and I knew him on sight and knew his father through his  
19 | occupation and his brother John. I know the family to see  
20 | them but I don't know them personally.

21 | Q. Now --

22 | MR. CHAIRMAN:

23 | Mr. Ross, before you leave there could you for our benefit ask  
24 | this witness to locate Whitney Pier for us. It may not be on that  
25 | map, but if you could give us some idea as to where it is in



AMBROSE McDONALD, by Mr. Ross

1 | relation to Charlotte Street or the center of the City of  
2 | Sydney.

3 | MR. ROSS:

4 | Thank you, My Lord.

5 | THE WITNESS:

6 | From Charlotte Street -- From this building, My Lord, if you were  
7 | to go out to Prince Street, straight out Prince Street to  
8 | Victoria Road and make a left on Victoria Road you'd come to  
9 | the overpass. Once you cross the overpass you're then in  
10 | Ward five and Ward six in the -- it would be the northeast  
11 | section of the City. That's generally referred to as the Whitney  
12 | Pier area.

13 | BY MR ROSS:

14 | Q. Would that be fairly close to the steel mill?

15 | A. Yes, it would be.

16 | Q. Down in the steel area?

17 | A. Part of the steel plant I would think borders on Ward five and  
18 | Ward one. They are very close together.

19 | Q. Sure. Thank you. Now tell me -- You indicate that you had  
20 | some knowledge of the Seale family and with particular  
21 | reference to Sandy Seale, to his sports?

22 | A. Yes.

23 | Q. You also, when you were speaking about Junior Marshall  
24 | indicated that you knew him because he was a bit of a trouble-  
25 | maker?

1 A. Yes.

2 Q. Would you put Sandy Seale in that same category?

3 A. No, I have no reservation in saying that I had never had any  
4 problem with Sandy Seale.

5 Q. And in your experience did you know of any other Police  
6 Officers who had problems with Sandy Seale?

7 A. Nothing concrete.

8 Q. I take it then that you've done a check between 1971 and now?

9 A. No, no. It was just that somethings happened during the  
10 course of my career and you hear people talking. There might  
11 be -- Officers might infer that someone could have been  
12 involved or might have been involved and I did hear Sandy Seale's  
13 name mentioned with one particular incident, but nothing  
14 that he was ever charged or investigated for that I'm aware  
15 of.

16 Q. Is it fair to say that most of the comments that you heard  
17 about Sandy Seale was in his capacity as an athlete?

18 A. Yes.

19 Q. And is it further fair to say that he was not classified as  
20 a mischievous or troublesome individual?

21 A. No, no way.

22 Q. And as far as the young people are concerned, were you ever  
23 able to put Sandy Seale and Junior Marshall together whether  
24 in sport or any form of activity?

25 A. No. Until the night in question -- I've mulled it over and

AMBROSE McDONALD, by Mr. Ross, by Mr. Gay

1 talked to other Officers and it's always been a question  
2 mark with us why those two boys were together on that night.  
3 It was completely out of character.

4 MR. ROSS:

5 Thank you very much, Inspector. My friend will have some questions  
6 on behalf of The Black United Front.

7 MR. CHAIRMAN:

8 Mr. Gay.

9 BY MR. GAY:

10 Q. Inspector MacDonald, I'm Jeremy Gay for The Black United  
11 Front. You've located the Whitney Pier for us. Would it  
12 be correct to say that in 1971 a substantial portion of  
13 the black population resided in Whitney Pier?

14 A. Yes, that's correct.

15 Q. And would that be the case today as well?

16 A. I would say, yes, the substantial portion do live in the  
17 Whitney Pier area, but not in the congregated neighbourhood  
18 they used to be in.

19 Q. I see. Could you explain that a little bit more?

20 A. The black community consisted primarily of Tupper Street,  
21 Hankard Street and Laurier Street and Lingan, that general  
22 area of Ward five. Today they are still primarily in  
23 Ward five and Ward six, although they've assimilated in  
24 the white community so to speak, the rest of Ward five and  
25 six.

AMBROSE McDONALD, by Mr. Gay

1 Q. Now you've mentioned something in your direct examination  
2 about rumours after the stabbing of Sandy Seale that caused  
3 you to go to the Membertou Reserve?

4 A. Yes.

5 Q. And just what were these rumours that came up?

6 A. There was some thought and I'm not privy to direct information  
7 on this case. All I know is what I was told by my Sergeant  
8 or by Chief Walsh, Constable Walsh at that time, as to our  
9 duties that evening, but there was rumblings that there might  
10 be some reprecussion from the black community against Junior  
11 Marshall because they felt that he was somehow involved in  
12 this, but I might go on to say that I think we Cape Bretoners  
13 are a suspicious nature by a lot and we read things in that  
14 don't exist, you know, such as, there's going to be trouble  
15 over this, you know, they are going to get back and they  
16 are going to get even for this without any concrete  
17 foundation or any basis in fact, just supposition and  
18 gossip.

19 Q. Yeh. Can you tell us what the source of those rumours were?

20 A. No, I had no knowledge. It --

21 Q. And who had initated them?

22 A. It was passed to me by someone on the shift that evening  
23 when I was detailed to go to Membertou Reserve. I did not  
24 hear any rumours directly.

25 Q. Were you aware of any racial incidents in the Wentworth Park

AMBROSE McDONALD, by Mr. Gay

1 area in 1971?

2 A. Not that I can recall, no.

3 Q. Or in Sydney generally in 1971?

4 A. You're talking about confrontations?

5 Q. That's right. If-- Where the matter of a person's race  
6 results in a confrontation. That's right.

7 A. I'm aware of complaints from time to time but I couldn't  
8 say with any certainty if it was in 1971.

9 Q. But do you say there have been complaints? Who has raised  
10 these complaints?

11 A. Primarily the Indian population, and I believe there was an  
12 incident where, I believe it was, a black person was denied  
13 entrance to a club one night, it was late at night and for  
14 various reasons -- I don't know what became of the  
15 investigation or what the outcome was, but there was a  
16 complaint lodged?

17 Q. Was that a formal complaint under the Police Act?

18 A. We didn't have a Police Act in those days, sir.

19 Q. Oh, I see, but was there a formal complaint registered with  
20 the Chief of Police?

21 A. I believe it was investigated by the Department with the  
22 nightclub owner.

23 Q. And can you tell --

24 A. As to what year that was, I'm sorry, I can't say if it was  
25 prior to or subsequent to '71.

AMBROSE McDONALD, by Mr. Gay

1 Q. Did the stabbing in the park raise any concerns in the  
2 Police Department that the event may have been racially  
3 motivated?

4 A. Not to my knowledge. I certainly didn't.

5 Q. Didn't the fact of Donald Marshall's statement that he had  
6 been accosted by two men in the park have any bearing on  
7 the Department's attitude in that regard?

8 A. I fail to see where there is any racial implication in the  
9 two men being attacked or attempted robbery or whatever  
10 in the park that night. If you could be more specific.  
11 I don't know just what you're trying to get at.

12 Q. Do you have volume 16 before you?

13 A. Volume 19 -- Yes, I do.

14 Q. I refer you to page 17, the statement of Donald Marshall,  
15 the second paragraph where he says:

16 "They told us, 'We don't like  
17 coloured people and Indians'.  
18 "The old guy turned to Sandy and  
19 said, 'There's one for you black  
boy', and he put the knife in  
his stomach".

20 Isn't that some indication that, in fact, this was a racially  
21 motivated attack?

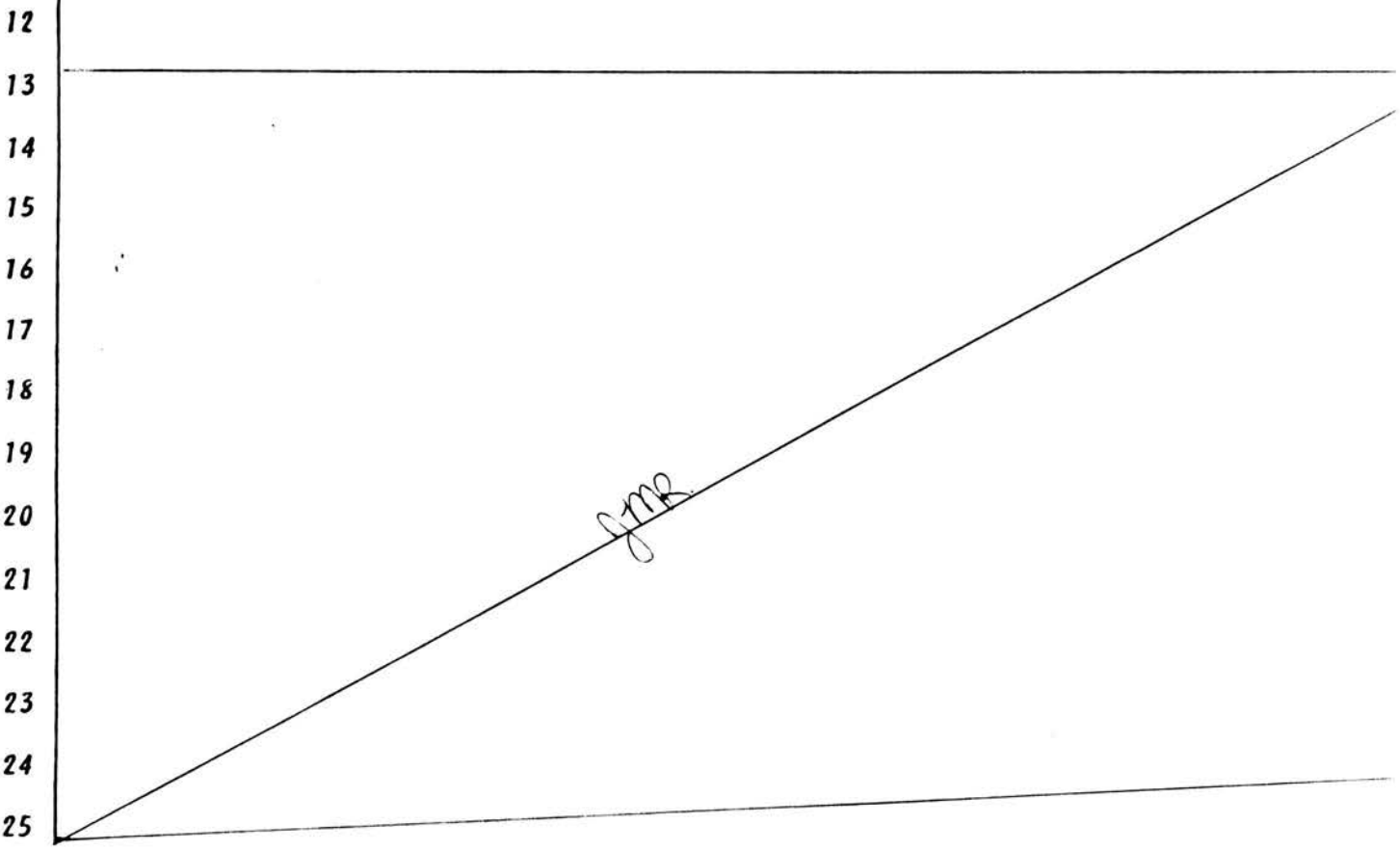
22 A. I don't know. I mean -- It's difficult for me to say what  
23 was on the minds of the two people that night if, in fact,  
24 there was anything on their minds. I sometimes use words  
25 and phrases maybe that I shouldn't have, but there's no malice

AMBROSE McDONALD, by Mr. Gay

1 when I do it, it's just -- it just becomes common practice; not  
2 a good practice, but it happens.

3 Q. I see. Can you give me some examples of words that you would  
4 use?

5 A. Well, I recall being admonished by members of the Department  
6 and the Chairman of the Police Commission. Some black boys  
7 were calling me white trash as I was driving in the Pier and  
8 I called them Nigger in retaliation, but I don't look upon  
9 the -- or look down upon the black community. That had no  
10 bearing on that. It was just something that I probably  
11 did out of frustration or retaliation.



AMBROSE McDONALD, by Mr. Gay

1 Q. Do you recall -- can you tell us anything about that  
2 particular incident, why you were called "white trash"?

3 A. Well, there was one particular individual who had been  
4 arrested several times and I believe I had picked him up  
5 on an outstanding warrant a few nights prior to that. He  
6 was employed on a grant at the time, they were cleaning  
7 the streets in Ward 5 and this was as I said I go on patrol  
8 he just, just made a comment I think trying to egg me on  
9 a little bit probably. I don't think he had any more malice  
10 than I did. It was just getting at me and I retaliated at  
11 him. I shouldn't have done it, but I did it.

12 Q. I see. Would you have been present when other police officers  
13 have made such remarks to black people?

14 A. I couldn't say with any certainty, no.

15 Q. Could you just tell us of what formal training you received  
16 before you became, before you became a police officer?

17 A. Formal police training?

18 Q. Yes.

19 A. Before I became a police officer in Sydney, my training was  
20 limited to the Royal Canadian Airforce and the Airforce  
21 Police which was very minimal. Six weeks at the Airforce  
22 Police School, a short time on detachment and the bulk of  
23 my time, fourteen months, up until my release in 1965 was  
24 spent on security duties when nuclear weapons came into  
25 Canada. When I joined the police department, my training



AMBROSE McDONALD, by Mr. Gay

1 was limited to a training officer. I spent a period of time  
2 with a senior officer on each patrol area. Then I was sent  
3 to Whitney Pier which was then the training ground for young  
4 officers. You were went down there with a senior man for  
5 a period of anywhere from thirty days to three months. Back  
6 onto the beat. May be a short stint in a car again. Back  
7 on the beat where once they felt you were capable of acting  
8 on your own, you were left on a beat until you worked your  
9 way up through the ranks which in those days anybody working  
10 seven, eight to ten years.

11 Q. Right, ever receive any formal training in relation to  
12 race relations? How to get along with minority groups?

13 A. Very little. In 1975 it was touched on at the Maritime  
14 Police School by the psychologist from Dalhousie. But that  
15 was only a one afternoon lecture and nothing until 1980 when  
16 I attended the Canadian Police College. It's part of their  
17 training.

18 Q. You say in 1980 you received some training on race relations?

19 A. Yes, it wasn't the course that they had on multi-culturalism  
20 but it was as part of the senior police administration  
21 course and the executive development courses. There is time  
22 spent on ethnic relations.

23 Q. Right. Would that course have included any programs regarding  
24 historical or cultural achievements of black people?

25 A. No.

AMBROSE McDONALD, by Mr. Gay

1 Q. Would it have had anything to do with --

2 A. Pardon me. I'm referring to the lectures that I received  
3 on other courses. The multi-culturalism course maybe it  
4 does, I can't say. But the training that I received, no.

5 Q. No. And did the training you receive provide any programs  
6 on regarding different cultural patterns and lifestyles of  
7 black people?

8 A. No, I believe it was limited primarily to the Pakistani  
9 culture and some of the new minority groups that are now  
10 coming into Canada.

11 Q. Do you feel that any policeman in the force since you started  
12 there, your career with the Sydney Police force, any policeman  
13 who treated blacks any differently than whites? I'm thinking  
14 in terms of harrassment or unfair treatment or lack of  
15 respect for blacks?

16 A. I can honestly say no and not because of that reason. If  
17 their - they're not treated any differently than the  
18 Whites or the Indians or the Chinese or any other ethnic  
19 group in our community. Not in my time.

20 Q. And can you tell us just what your basis is for making that  
21 statement? What do you base that on? Is that on your own  
22 experience?

23 A. My own experiences, my own observations.

24 Q. Right. Have you ever asked any blacks for their views on how  
25 they're treated by police?

AMBROSE McDONALD, by Mr. Gay

- 1 A. No, I don't think I have. I've had several conversations with  
2 members of the black community and some that are now living  
3 outside the area. Mr. Ruck in particular, he related some  
4 of the experiences he, that he had when he left Sydney and  
5 went to Dartmouth to live. But --
- 6 Q. Mr. Ruck, which Mr. Ruck is that?
- 7 A. Wait now, I could --
- 8 Q. Is it Calvin Ruck?
- 9 A. Pardon.
- 10 Q. Calvin Ruck?
- 11 A. Calvin, yes, yes. I couldn't think of the first name but  
12 according to him he worked on the Steel Plant and according  
13 to him his relationship with the men that he worked with,  
14 well there was no problem whatsoever until he went to  
15 Dartmouth to live where he did experience a number of things.
- 16 Q. But my question related to treatment of blacks by the police  
17 officers --
- 18 A. No, you asked me if I ever asked any blacks about their  
19 treatment.
- 20 Q. Yes, and you said no.
- 21 A. No, other than Mr. Ruck.
- 22 Q. At the time of this occurrence, the stabbing in 1971, was  
23 there any community relations officer in the Sydney Police  
24 Department?
- 25 A. No, there wasn't.

AMBROSE McDONALD, by Mr. Gay

1 Q. And what would your understanding be of a community  
2 relations officer? What would their role be?

3 A. Number one to deal with all ethnic groups in the community.  
4 All business people, residents of the city. Find out what  
5 their concerns are. Try and relate that to the department  
6 so we can respond to their concerns. More of a proactive  
7 role for policing.

8 Q. And that would include visible minorities like blacks?

9 A. Yes, everyone.

10 Q. And is there any such program in place now in Sydney?

11 A. Yes, there is.

12 Q. And who is in charge of that program now?

13 A. The position is vacant at this time but it only became  
14 vacant a week or so ago and applications have been called  
15 to fill the position.

16 Q: I see. And who was in the position prior to it's becoming  
17 vacant?

18 A. Sergeant Edgar MacLeod.

19 Q. I see. The -- in so far as minority groups are concerned,  
20 were there any policy guidelines in place in 1971 regarding  
21 exceptible behaviour in contact with, with minority groups?

22 A. No, there wasn't.

23 Q. Is there such a policy in place now?

24 A. It's not a written policy but it's part of the on-going  
25 training.

AMBROSE McDONALD, by Mr. Gay

1 Q. I see, and what is, what is the policy now?

2 A. To treat all citizens equally. It's a very simple policy.

3 Q. Is that the --

4 A. Well, if there is -- anytime there is a concern we've held  
5 various workshops and seminars for community problems  
6 anywhere to wife-battering to family disturbances, that  
7 sort of thing. Members of the black community are invited  
8 to participate as well as the native community and pass on  
9 their views and we try to respond to those concerns that  
10 they may have.

11 Q. You say there are meetings in which blacks are invited?

12 A. Yes.

13 Q. How regularly are they held?

14 A. I won't say meetings. I'm talking about seminars that are  
15 conducted in conjunction with the University College of  
16 Cape Breton or with other organizations in the city, the  
17 Inter-agency Association for Professional Development.  
18 That sort of thing where we -- if there is a particular  
19 concern to the police department to anyone in the community,  
20 then all segments of the community are invited to participate.

21 Q. Are these programs initiated by the police department?

22 A. Some cases by the College and some cases by the police  
23 department, Sergeant MacLeod.

24 MR. GAY:

25 That's all I have, My Lord.

AMBROSE McDONALD, by Mr. Wildsmith

1 | MR. CHAIRMAN:

2 | Mr. Wildsmith.

3 | MR. WILDSMITH:

4 | Thank you, My Lord.

5 | BY MR. WILDSMITH:

6 | Q. Inspector McDonald, my name is Bruce Wildsmith. I'm here  
7 | for the Union of Nova Scotia Indians. The last series of  
8 | questions that you were asked touched on training of  
9 | police officers in Sydney. I'm particularly interested  
10 | now for the purposes of your appearance today to talk about  
11 | the training back in 1971 and if I could just perhaps try  
12 | to summarize what I've heard in the last few moments. I  
13 | understand that there was in the time of 1971 no particular  
14 | training offered within the Sydney Police Department with  
15 | respects to dealing with minority groups?

16 | A. No, there wasn't.

17 | Q. Now with respect to the recruitment of officers to the  
18 | Sydney Police Department, would it be the case in 1971  
19 | that most of your constables would come out of high school,  
20 | after completing high school joining the police department?

21 | A. Normally after maybe four to five years in the work force,  
22 | I believe the age of majority at that time was twenty-one  
23 | for liquor establishments and the like of -- they were at  
24 | least twenty-two, twenty-three years old before being  
25 | hired on.

AMBROSE McDONALD, by Mr. Wildsmith

- 1 Q. Okay, my point really is that there was no requirement of  
2 attendance at a police college at that time?
- 3 A. No.
- 4 Q. So any training that the officers received, would be received  
5 in the police force itself after joining?
- 6 A. Yes.
- 7 Q. And I think you've described something of a kind of apprenticeship  
8 or on the job training program by dealing with senior officers?
- 9 A. Yes, that's right.
- 10 Q. And that training just to make sure I'm absolutely clear about  
11 this involved no mentioned of or nothing formal in relation  
12 to minority groups at the time?
- 13 A. No, it was pretty well confined to patrol duties, notebooks  
14 and court room procedures, evidence, etcetera.
- 15 Q. And would you have received any particular instructions on  
16 dealing with Indians or native people?
- 17 A. No.
- 18 Q. Now we talked a little about the complaints process in 1971  
19 and I think my understanding of your evidence is that there  
20 was no formal process in place at that time?
- 21 A. Not that I was aware of.
- 22 Q. Do you know whether records were formally kept of complaints  
23 received by the police department?
- 24 A. No, I have no knowledge of that.
- 25 Q. You've indicated that they were handled through the offices

AMBROSE McDONALD, by Mr. Wildsmith

1 of the Chief of Police, is that correct?

2 A. That would be my understanding. If a complaint would made,  
3 was made it could be made directly to the chief or to one  
4 of the desk sergeants but I would assume that eventually if  
5 it wasn't made to the chief directly, it would be passed on  
6 to him and he would take appropriate action.

7 Q. So you have no knowledge today of records of complaints  
8 received in the time period around 1971?

9 A. No, no knowledge.

10 Q. Do you have any knowledge as to whether or not in 1971 any  
11 records were kept about the effinicity of people arrested,  
12 held in your lock-ups over night, charged, brought before the  
13 courts. Any records by your department?

14 A. I don't think the -- directly was asked but there was or  
15 may still be one section on the charge sheet on the physical  
16 description as complexion. And it was usually filled in  
17 either white, sallow completed, black.

18 Q. And how would you classify Indians in that category?

19 A. Sallow, was the word that was used.

20 Q. I see. Do you -- perhaps you could spell that for the record?

21 A. S A L L O W.

22 Q. Thank you. Are you aware of any statistical studies within  
23 the Sydney Police Department in the time period 1970, shall  
24 we say, until today?

25 A. In relation to?



AMBROSE McDONALD, by Mr. Wildsmith

1 Q. Anything for that matter?

2 A. I'm not aware of it.

3 Q. What I mean is has anybody looked at the records, looked for  
4 patterns that seem to be peculiar within the operation of  
5 the Sydney Police Department and perhaps as a result made  
6 suggestions that changes be instituted?

7 A. I'd have no knowledge of that.

8 Q. Thank you. Now you've indicated some knowledge and some  
9 relationships with the Reserve at Membertou?

10 A. Yes.

11 Q. Can you tell us whether in 1971 there was a Band Constable  
12 in place on the Reserve at that time?

13 A. I can't recall who in '71 if he was there or not. There has  
14 been at different times through the '70's.

15 Q. And perhaps you could enlighten the Commission on the  
16 connection with the Band Constable and the Sydney Police  
17 Department?

18 A. The Band Constable was hired and paid by the Band Council.  
19 And he patrolled in his own vehicle, equipment supplied to  
20 him. I believe the man did have some training in our  
21 department by senior officers. There was or still is a  
22 contract between the City of Sydney and the Band Council for  
23 the delivery of all municipal services but the idea was that  
24 one when the Indian Constable was hired, it was with the  
25 understanding that he would police the Reserve and we would

AMBROSE McDONALD, by Mr. Wildsmith

1           only be called to back him up if necessary. At times that  
2           was changed to include the occasional patrol of the area,  
3           certain hours that he wasn't working. There was only the  
4           one and he couldn't go around the clock. And as a rule he  
5           was responsible for policing on the Reserves with our  
6           back-up and assistance.

7           Q. And the Band Constable system is not in place today?

8           A. No, it hasn't been for a couple of years.

9           Q. Do you have any knowledge about the reason for that or is  
10           this a better question to ask Chief Walsh?

11          A. No, I actually know the last constable was dismissed from  
12           his and why he wasn't replaced I don't know.

13          Q. How would you describe the relationship between the Sydney  
14           Police Department and the Band Constable?

15          A. In those years?

16          Q: Yes.

17          A. I can only speak for myself. Again, I had no problems  
18           with him.

19          BY MR. CHAIRMAN:

20          Q. Who would do the recruiting for the Band Constable?

21          A. The Band Council. He's a member of the Membertou Reserve

22          BY MR. WILDSMITH:

23          Q. We're speaking about the Band Constable being an Indian.

24          A. The Bank Constable, yes.

25          MR. CHAIRMAN:

I didn't hear you.

AMBROSE McDONALD, by Mr. Wildsmith

1 MR. WILDSMITH:

2 We're speaking about the Band Constable being an Indian, a member  
3 of the Membertou Reserve.

4 MR. CHAIRMAN:

5 Oh, I appreciate that but I wasn't clear from this testimony as  
6 to who does the actual recruiting to fill the position when there's  
7 a vacancy.

8 BY MR. CHAIRMAN:

9 Q. But I gather it is the -- It's not the Sydney Police force?

10 A. No, My Lord.

11 BY MR. WILDSMITH:

12 Q. Why -- The purpose of me asking about the relationship with  
13 the Sydney Police force is to elicit what the degree of  
14 connection is with the operation of the police department.  
15 I think you've indicated that the constable was expected  
16 to receive some training and supervision from the more  
17 senior officers in the Sydney Police Department, is that  
18 correct?

19 A. Yes, I understand that was the case.

20 Q. And to act in cooperation with the Sydney Police Department  
21 when the Sydney Police Department requested something?

22 A. No, when the Band Constable requested something. Policing  
23 was pretty well left to the constable but we were at his  
24 disposal if he required assistance.

25 Q. I guess what I mean is for example if you wanted to arrest

- 1 |       somebody on the Reserve and there was a Band Constable, would  
2 |       you ask the Band Constable to arrest that person for you and  
3 |       bring him to the Sydney Police Department?
- 4 | A. No, if we happen to be patrolling and witness the incident  
5 |       we would take the initiative.
- 6 | Q. But if there was a warrant out for somebody for example?
- 7 | A. No, we'd do the same.
- 8 | Q. You would come on to the Reserve and do it?
- 9 | A. Yes.
- 10 | Q. So you would not use the Band Constable to carry out anything  
11 |       that was of interest to you, is that correct?
- 12 | A. I'm speaking for myself. I don't know what other officers  
13 |       would have done. Other officers may want him to go with  
14 |       him for purposes of identification or sort of break the  
15 |       ice so to speak. But knowing the residents as I did, I  
16 |       didn't, I didn't feel I needed that.
- 17 | Q. I think in part what you're saying is it was not standard  
18 |       procedure to contact the Band Constable when you wanted to  
19 |       go on the Reserve on police business?
- 20 | A. I can't say that. For other officers --
- 21 | Q. You didn't do it?
- 22 | A. No, on my normal patrols, I'd --
- 23 | Q. What I'm saying it's not part of the standard operating  
24 |       practice then of the police department if you didn't follow  
25 |       it yourself?

AMBROSE McDONALD, by Mr. Wildsmith

- 1 | A. It wasn't written in policy that we must contact him, if that's  
2 | what you're saying.
- 3 | Q. Fine, now to take the flip side of the situation, it would be  
4 | your understanding then that you were to respond when the  
5 | Band Constable contacted the Sydney Police Department for  
6 | assistance of some kind?
- 7 | A. Yes.
- 8 | Q. And how would you describe the extent to which you responded  
9 | and cooperated with the Band Constable when requested?  
10 | Not you personally, but the police department to your  
11 | experience?
- 12 | A. Through my experience I think there was good cooperation when  
13 | if there was a lack of cooperation it was on the part of the  
14 | constable and the residents at times.
- 15 | Q. Okay, perhaps you could help us out with that relationship  
16 | then. The relationship between the Band Constable and  
17 | people on the Reserve?
- 18 | A. There would be times especially around election time the  
19 | councilmen, chief's elections, there'd be celebrations like  
20 | there would be in any other community. And if an officer  
21 | was patrolling the Reserve and he notice intoxicated persons  
22 | or any other infractions of the Liquor Control Act and  
23 | attempted -- I know of cases where officers did make the  
24 | arrest where the Chief did interfere and ordered him off  
25 | the Reserve. They said they'd look after themselves. We

AMBROSE McDONALD, by Mr. Wildsmith

1 had discussions. Myself and Chief MacIntyre, Inspector  
2 Walsh, Mr. Walley with the Band Administration from time  
3 to time just to set, to set the guidelines: "Do you want  
4 us to police it. Or you don't want us to police it. We  
5 can't, we can't be both, two things at once. Either you  
6 want us in or you don't want us in". Basically they --  
7 those incidents were few and far between.

8 Q. Okay let me move on to a bit different topic. I understand  
9 and I took this in part from your testimony this morning,  
10 that you get along quite well with the Indians on the  
11 Membertou Reserve?

12 A. The majority.

13 Q. And that's partly because you grew up in the area?

14 A. Yes.

15 Q. And I take it played as a child with Indian children?

16 A: Yes.

17 Q. And I take it as well that even today you play on Indian  
18 ball teams for example?

19 A. Not today, no.

20 Q. No.

21 A. Too old for that carrying on.

22 Q. I see. Shall we say in recent times?

23 A. No, I haven't, I haven't been involved in sports on the  
24 Reserve since prior to my enlistment in the service in 1963.

25 Q. Okay. And I understand the Indians generally refer to you  
as "Amby"?

AMBROSE McDONALD, by Mr. Wildsmith

- 1 | A. Yes, everyone does. That's a short form for Ambrose.
- 2 | Q. Fine. The reason I ask you about your good relationship  
3 | with the Indians on Membertou is because I would take it  
4 | that you would feel somewhat troubled if the police were  
5 | not held in high regard or reasonable regard by the Indians  
6 | on the Membertou Reserve?
- 7 | A. By anyone in the community.
- 8 | Q. Fair enough. You've related to us this morning the particular  
9 | comment that Bernie Francis gave to you, I believe, on the  
10 | Sunday after the stabbing in a car on the Membertou Reserve  
11 | about Chief MacIntyre?
- 12 | A. Yes.
- 13 | Q. Just for the record the Bernie Francis you're speaking about  
14 | is he known to you as a court worker that was working in the  
15 | Micmac community at that time?
- 16 | A. Yes, I believe he was at that time.
- 17 | Q. And he in fact was a native person himself?
- 18 | A. Yes.
- 19 | Q. I'm wondering if as a result of this comment you related  
20 | this morning whether you inquired as to whether there was  
21 | any reason for the people on the Membertou Reserve to feel  
22 | this way about Chief MacIntyre, or Sergeant MacIntyre at that  
23 | time?
- 24 | A. No, I want to set the record straight on this. I believe  
25 | the term was used that the young people hated Sergeant

AMBROSE McDONALD, by Mr. Wildsmith

- 1 MacIntyre. But it was not my impression. What was said was  
2 they don't like him. A lot of people don't like policeman.
- 3 Q. Yes, I --
- 4 A. A lot of policeman, we have our friends and we have our  
5 enemies.
- 6 Q. Certainly, I take it you don't include yourself in the  
7 category of the enemies at Membertou?
- 8 A. Oh, I have a few enemies at Membertou.
- 9 Q. I see. But this particular comment singled out Sergeant  
10 MacIntyre?
- 11 A. Yes.
- 12 Q. Did you inquire as to whether there was any particular reason  
13 why he was singled out?
- 14 A. No, because I heard that comment everyday about all police  
15 officers. People would tell me no good, so and so and I  
16 knew the guy, he was a darn good policeman. He just did  
17 what he had to do and sometimes it rubs people the wrong  
18 way when you're forced to do your job.
- 19 Q. And these comments that your talking about, they came from  
20 the general community?
- 21 A. Oh, yes, from the general community. I don't think there's  
22 a --
- 23 Q. I want to focus your attention on the Indian community and  
24 their relationship with the police department. Now what  
25 I'm wondering is whether you then reasonably lightly dismissed



AMBROSE McDONALD, by Mr. Wildsmith

1 | the comment that Bernie Francis made to you about not liking  
2 | Chief MacIntyre or Sergeant MacIntyre and not talking to him.  
3 | Not wanting to talk to him? Did you do anything to pursue  
4 | why they felt that way whether anything could be done about  
5 | the way that they felt?

6 | A. No, sir, I didn't.

7 | Q. You just reported it I think you indicated this morning to  
8 | Sergeant MacIntyre or Sergeant Urquhart?

9 | A. Sergeant Urquhart, yes.

10 | Q. Did you ever mention it to Sergeant MacIntyre himself?

11 | A. Probably much later in the early '80's when discussing things.  
12 | But I couldn't say with any certainty, Yes I did.

13 | Q. Okay, did you ever hear comments from any other people on the  
14 | Membertou Reserve about other particular officers that they  
15 | didn't like or wouldn't talk to?

16 | A: I can't say I had, no.

17 | Q. Okay, now let me ask you the flip side to that question.

18 | Which is not whether the police were held in well regard by  
19 | the Indian community but whether -- I'm sorry not whether  
20 | the Indian community held the police in well regard but  
21 | whether, whether -- I get myself confused. Whether the  
22 | police themselves held the Indian community in reasonable  
23 | regard. Would you have any comments to offer about that?

24 | A. You mean the image of the Sydney Police Department or police  
25 | in general?

AMBROSE McDONALD, by Mr. Wildsmith

1 Q. Well, of your experience in the Sydney Police Department, how  
2 they regarded the Indian population at Membertou?

3 A. I don't think we -- if there ever was a time when it was  
4 considered that Membertou was a problem. You must understand  
5 we don't have that many calls to the Membertou Reserve. I  
6 had occasion to do some research a couple of years back and  
7 I couldn't locate one call say of family disturbances,  
8 although I know it's happening on the Reserve. But the native  
9 people are very close, they'll all family, extended families  
10 and by in large, settle their own problems.

11 Q. It's fair to say that the Membertou Reserve is a genuine  
12 community?

13 A. Yes.

14 Q. That functions?

15 A. It's a community within a community.

16 Q. All right. But getting back to the way the police regarded  
17 Indians, I'm wondering whether you have any reason as a  
18 result of comments you've heard from other officers in the  
19 police department to think that they were disrespectful or  
20 held Indians in low regard?

21

22

23

24

25

AMBROSE McDONALD, by Mr. Wildsmith

- 1 A. I don't think in general. I've heard comments from time to  
2 time about Indians who had been arrested, those that were  
3 habitually intoxicated on the street but the same thing was  
4 said about white people who were homeless, down and out on  
5 the street, and were considered a bit of a nuisance.
- 6 Q. What you're saying is that the comments were directed at the  
7 individual and not at their racial group?
- 8 A. Yes.
- 9 Q. Does -- this is a word that I've heard since coming to Sydney.  
10 Did you ever hear any police officers referring to Indians  
11 as Piute?
- 12 A. Piute? Yes, I do it all the time.
- 13 Q. You do it all the time.
- 14 A. Yes, but not disrespectful.
- 15 Q. I see. What does it mean? What does it mean?
- 16 A: I -- to my knowledge, it was a tribe of Indians, maybe American  
17 Indians. I don't know. Junior Marshall's brother, Pius. I  
18 never called him Pius. It's always Piute. We conversed on  
19 a friendly basis. He never took offense to it.
- 20 Q. I see, so you would use this terminology to their face and  
21 it would not make any difference.
- 22 A. No. No. I suppose what you -- it's not what you say but how  
23 you say it sometimes.
- 24 Q. I see. Were there any other kinds of nicknames like that that  
25 were used by yourself or other police officers?

AMBROSE McDONALD, by Mr. Wildsmith

1 A. No, I don't think. Not that I can recall that I ever used.  
2 I don't recall hearing anything.

3 MR. WILDSMITH:

4 Thank you then. That's all the questions I have, My Lord.

5 COMMISSIONER POITRAS

6 Just one -- would you spell that last word that you had. Was  
7 it Pyou or Peyou or what was it?

8 MR. WILDSMITH:

9 Well, I'm not quite sure. I just heard it said. Perhaps the  
10 Officer can help us.

11 BY THE WITNESS:

12 A. P-i-u-t-e. I believe it was a band of Indians at one time.  
13 I don't know.

14 MR. CHAIRMAN:

15 Mr. Spicer?

16 MR. SPICER:

17 No, no redirect, My Lord.

18 MR. CHAIRMAN:

19 That's all, thank you.

20 This may be a time to take a short recess while you're getting  
21 ready.

22 INQUIRY ADJOURNED: 2:59 p.m.

23 INQUIRY RECONVENED: 3:12 p.m.

24 MR. ORSBORN:

25 Mr. Chairman, the next witness is Staff Sergeant John Leon Ryan of