

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 INQUIRY ADJOURNED: 3:31 p.m.

2 INQUIRY RECONVENED: 3:46 p.m.

3 MICHAEL BERNARD MacDONALD, being called and duly sworn, testified
4 as follows:

5 BY MR. ORSBORN:

6 Q. Would you state your full name please, sir?

7 A. Michael Bernard MacDonald.

8 Q. You are one of the Michael MacDonald's. And do I understand
9 that you are presently retired from the Sydney Police Force?

10 A. Yes, sir.

11 Q. When did you retire, sir?

12 A. 1985.

13 Q. 1985. And could you trace briefly for the Commission your
14 progression through the Sydney Police Force. The year
15 that you started and to the best of your recollection the
16 various posts that you held in the police force, please.

17 A. I joined the Sydney Police Department in June 1947. A
18 constable. From there I went to the detective division as
19 a sergeant. Preceding I went to Staff Sergeant and from
20 then to Deputy Chief.

21 Q. When were you made Deputy Chief, sir?

22 A. Can I read that?

23 Q. Go ahead.

24 A. 1970. Deputy Chief?

25

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 Q. Yes. You said Deputy Chief.
- 2 A. Oh, I'm sorry. It was in 1984.
- 3 Q. 1984 and when did you join the detective division?
- 4 A. 19 -- 1970.
- 5 Q. 1970 and you were a detective sergeant?
- 6 A. Yes, sir.
- 7 Q. Did you say?
- 8 A. Yes.
- 9 Q. Were you ever Sergeant of Detectives?
- 10 A. No.
- 11 Q. I see. Do you recall, sir, back in 1947 when you joined the
- 12 force what training you had before you joined?
- 13 A. Nothing as far as police work was concerned.
- 14 Q. What about your education level, sir?
- 15 A. Grade 10.
- 16 Q. Grade 10. Do you recall when you became a detective?
- 17 A detective sergeant in 1970. What qualifications, if any,
- 18 were required to join the detective division?
- 19 A. Well, the qualifications didn't -- at that -- personally
- 20 I think myself it was done on seniority to a certain degree.
- 21 Q. I see.
- 22 A. The other two members with the detective division besides
- 23 John MacIntyre were senior men.
- 24 Q. Who made the appointment to the detective division? Who
- 25 selected you for the job?

1 A. Police Commission.

2 Q. Police Commission?

3 A. Yes, sir.

4 Q. And are you telling us that there were no exams or tests
5 or anything that you had to write before being transferred
6 to the detective division?

7 A. No, sir.

8 Q. Seniority. Is that a unionized position?

9 A. Pardon?

10 Q. Was that a unionized position in 1970?

11 A. Yes, you were still in the union.

12 Q. In 1970?

13 A. Right.

14 Q. And do you recall whether or not the provisions of the
15 collective agreement were applicable to a transfer to the
16 or a promotion to the detective division?

17 A. Oh, yes. It's all in agreement.

18 Q. And do you recall whether or not the agreement provided that
19 promotions would be on the basis of seniority?

20 A. I don't recall but this is my own knowledge.

21 Q. But is it your evidence today that -- it's your understanding
22 that, for example, your promotion to the rank of detective
23 was on the basis of seniority?

24 A. Yes, sir.

25 Q. You were then in the detective division in May of 1971, I take

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 it, when this incident happened?

2 A. Yes, sir.

3 Q. At that time, had you had any particular training in the
4 investigation of serious assaults?

5 A. No.

6 Q. Had you had any particular training in the investigation of
7 homicides?

8 A. No.

9 Q. How did you learn your job as a detective? I gather that the
10 job of a detective differs from the job of the patrolman
11 and Constable and the other ranks that you're responsible
12 for doing the actual investigative work identifying possible
13 areas for investigation, following up investigations, and
14 witnesses and what have you. How does one acquire those skills
15 when you join the Detective Division?

16 A: Well, it's a matter of principle. If you're doing that kind
17 of work you're going to pick things up that are covered by
18 the Detective Division, such as, investigations and anything
19 else -- anything under the criminal code, you know.

20 Q. All right. So it was an on-the-job training --

21 A. It's on the -- Yeh, right.

22 Q. I see. In 1971, to your knowledge, had the Detective
23 Division or anybody in that division issued any instructions
24 or guidelines to your Constables as to what they should or
25 should not do if they arrived first at a crime scene?

1 A. Well, no instructions, but it has been passed along as at an
2 investigation before the detectives would get there, if there
3 was anything you'd just leave it as is.

4 Q. Just leave it as is?

5 A. Yeh, just leave whatever the case may be.

6 Q. When you say leave as is, I'm not sure --

7 A. Well --

8 Q. --of what I understand that to mean. If you have, for example,
9 an injured person.

10 A. Well, that's a little different case, I guess, an injured
11 person, such as, if he was injured where you'd have to get
12 him to a hospital it's --

13 Q. With Constables arriving on the -- on Crescent Street on the
14 night of May 28th and 29th, 1971, what would have been your
15 expectations of them?

16 A. Well, I think what would happen and what was done, I think,
17 was proper.

18 Q. My understanding of what was done from the evidence so far is
19 that Mr. Seale was transferred to hospital and nothing else
20 was done. Is that -- You're saying that was the proper thing
21 to do?

22 A. Well, the Constables that were there that night, they put --
23 went, I think, with the ambulance to the City Hospital, and --

24 Q. Yeh, we'll get to the incident in a moment. I'm just trying
25 to get a feel for what expectations the detectives held of the

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Constables who had arrived first on the scene?

2 A. Well, I think, they did the proper -- proper thing, you know.

3 Q. In 1971, what was the practice in terms of taking statements
4 from witnesses or possible witnesses and I'm thinking of the
5 division of responsibility between the detectives and Constables.
6 Would you have Constables taking statements from witnesses at
7 a crime scene?

8 A. It could be possible if there was no detectives in the area or
9 at the time.

10 Q. Would you expect your Constables to take witnesses -- take
11 statements from witnesses if there were no detectives
12 available?

13 A. They could.

14 Q. But would you expect it?

15 A. Well, like I say, if there was no detectives in the area or
16 available they could.

17 Q. Right. My understanding is that there was no detective on
18 Crescent on the night in question. Are you suggesting to us
19 that you would have expected that the Constables on the scene
20 would have taken statements?

21 A. Under the circumstances, no, right there.

22 Q. Why not?

23 A. Well, you had an injured man on the street, they did their
24 utmost to get him to the City Hospital or to a hospital.

25 Q. Yes.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 A. Then they proceeded, I think, to the park area to look for
2 witnesses or somebody. I think they -- As far as taking
3 statement from anybody that night, it would be -- There was no
4 suspects.
- 5 Q. All right. You would not take statements until you had
6 suspects?
- 7 A. I would say so.
- 8 Q. I see. Was that a practice?
- 9 A. I mean, you could talk to somebody.
- 10 Q. Right.
- 11 A. And not taken a statement from them.
- 12 Q. Right. Are you suggesting it was your practice that you would
13 not take statements from witnesses unless you had a suspect in
14 mind?
- 15 A. Well, like I say you could talk to somebody and if they get
16 any information that's the time the notebook comes in handy.
- 17 Q. Okay, but are you suggesting that you would not go to the stage
18 of getting a written statement from a witness until you had a
19 suspect in mind?
- 20 A. Well, if it was a good witness, reliable.
- 21 Q. Was it your practice not to take statements from witnesses
22 until you had a suspect in mind?
- 23 A. Well, I never ran into anything like that.
- 24 Q. Anything like what?
- 25 A. Like taking statements from a witness at crimes or anything

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 that I recall.

2 Q. But even apart from the crime scene, was it your practice not
3 to take a formal statement from the witness until you had
4 identified a possible suspect?

5 A. Well, you could ask questions of a reliable witness.

6 Q. Yes.

7 A. And put it in your notebook and then make your --

8 Q. I'm trying to find out, sir, just following up from your
9 comment, at what stage you would decide to take a statement
10 from a witness and I recognize that you have your notebook,
11 but you told us or suggested that you would not actually take
12 a statement from a witness until you had a suspect in mind.
13 Now in your years as a detective was that your practice?

14 A. Yes, sir.

15 Q. And to your knowledge was that --

16 MR. CHAIRMAN:

17 Before you leave that, how do you get a suspect if you don't take
18 statements?

19 BY MR. ORSBORN:

20 Q. How do you get a suspect unless you've got formal statements
21 from witnesses?

22 A. Well, that's a good question.

23 Q. Yes.

24 A. Well, you could talk to ten witnesses and you might get
25 different stories without getting a suspect in anyone of them.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Q. But it's what you're telling us that your practice in an
2 investigation would be to -- to gather information from
3 potential witnesses, write that information in your notebook
4 and sometime through that process a suspect would come into
5 your mind, and at that stage you would get a written statement?
6 I don't mean to be putting words in your mouth, but I'm
7 trying to understand what you're telling us.

8 A. Well, you're -- If you're looking for a suspect and you're
9 talking to witnesses you still have to maintain what you're
10 getting from those witnesses to come to the point where you
11 have a suspect in mind.

12 Q. When I refer to a statement, are we talking about a written
13 statement signed by a witness or do you have something else in
14 mind?

15 A. We're just talking about a notebook statement.

16 Q. You're talking about a notebook statement, so you're not
17 talking about a --

18 A. A formal statement.

19 Q. --a formal statement?

20 A. Yeh, that you --

21 Q. In that case you've got me totally confused. You have a
22 notebook. Is that correct? You write in a notebook?

23 A. Right. Yes.

24

25

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Q. And what you note in the notebook, what you write down in
2 the notebook, do you refer to that as a statement?

3 A. Not as a formal statement, no.

4 Q. Well, what is a formal statement?

5 A. Well, a statement -- you would sit with a person, a witness
6 and take a statement down from them.

7 Q. And --

8 A. Have them sign that statement.

9 Q. Was your earlier evidence to the effect that you would not
10 take a formal statement from a witness until you had a suspect
11 in mind?

12 A. Right.

13 Q. But you would make notes in your notebook prior to identifying
14 a suspect?

15 A. Yes, sir.

16 Q. And to go back to the Chairman's question, how would you
17 determine that a suspect had, in fact, been identified?

18 A. Well, if you're -- how many people you were talking to on
19 this notebook statement and if this was brought out a couple
20 of times or so, this name or person, you would use it as a --

21 Q. I see, and would you then go back to the people that you had
22 spoken to and obtain formal statements?

23 A. You could.

24 Q. Would that be your practice?

25 A. Well, under the circumstances, yes, at a later date.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Q. In 1971, Mr. MacDonald, as a detective, did you have any
2 knowledge of the availability of the resources of the R.C.M.P.
3 to assist you?

4 A. No, sir.

5 Q. You had no idea that those resources were available to you?

6 A. Well, they could have been.

7 Q. They would have been?

8 A. They could be.

9 Q. Were you aware that they were available?

10 A. No, sir, I wasn't.

11 Q. You were not aware?

12 A. No, sir.

13 Q. Had you had any occasion to request the assistance of the
14 R.C.M.P. in any investigation in which you were involved?

15 A. Not to my knowledge, no.

16 Q. We have heard evidence that the R.C.M.P. and in particular a
17 Staff Sergeant Ryan in this time period had assisted the
18 Sydney Police force with identification services. Do you
19 have any knowledge of that?

20 A. Well, I heard they were involved in it.

21 Q. Yes, but until you heard that did you have any knowledge
22 of it?

23 A. No, sir.

24 Q. Would you not expect that that would be the sort of knowledge
25 that should be available generally at least within the

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 Detective Division?
- 2 A. Oh, yes, I would say so.
- 3 Q. You would say that it should have been?
- 4 A. Well I wasn't in charge of the Detective Division so --
- 5 Q. But you were a detective?
- 6 A. I was a detective.
- 7 Q. So again I have it clear, your evidence is that you were not
8 aware that the resources of the R.C.M.P. were available to
9 you?
- 10 A. No, sir.
- 11 Q. If I could direct your attention now, sir, to the -- the night
12 of May 28th which is a -- of 1971, which was a Friday night.
13 Were you on duty on the four to twelve shift on the Friday
14 night?
- 15 A. Yes, sir.
- 16 Q. And prior to your going off duty at midnight, did you have
17 any involvement in this matter before you went off duty?
- 18 A. No, sir.
- 19 Q. Could you relate to the Commission please how you first became
20 involved in this case?
- 21 A. I finished my shift at twelve o'clock and I went to my
22 home on 17 Central Street in Sydney and I was just in my
23 home a few minutes when I got a call from Sergeant
24 Len MacGillivray who was Desk Sergeant for the night on the
25 twelve to eight shift.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 MR. CHAIRMAN:

2 I'm sorry, Mr. MacDonald, I didn't get the name of the man who
3 called you.

4 THE WITNESS:

5 Sergeant Len MacGillivray.

6 MR. CHAIRMAN:

7 Sergeant Leonard MacGillivray?

8 THE WITNESS:

9 Right, sir.

10 BY MR. ORSBORN:

11 Q. And he called you from the station?

12 A. Yes, sir.

13 Q. And do you recall what time that was?

14 A. Twelve-ten a.m.

15 Q. You're reading this from your notes and it might be
16 appropriate at this stage to review how these notes were made.
17 These notes have already been introduced as Exhibit number
18 thirty-eight. Now are you able to identify the original notes
19 which are in front of you, Mr. MacDonald?

20 A. Oh, yes, those are -- this is my handwriting.

21 Q. It's in your handwriting, and I believe they are contained
22 on seven sheets of notebook size paper?

23 A. Yes, sir.

24 Q. Now if you would look at the -- the first four sheets of
25 that notebook paper, Mr. MacDonald, there's three pages I think

- 1 of narrative and then one page on which there appears two
2 descriptions?
- 3 A. Yes, sir.
- 4 Q. Do you recall writing those notes?
- 5 A. Yes, sir.
- 6 Q. Do you recall when you wrote them?
- 7 A. I believe it was at the police station when I returned.
- 8 Q. When you returned when, sir?
- 9 A. Early in the morning hours.
- 10 Q. During the morning hours of May 29th?
- 11 A. Right, sir.
- 12 Q. And would that have been your practice to write notes very
13 shortly after being involved in an incident such as this?
- 14 A. Well, I had this information and I had to write notes on it
15 just for my own --
- 16 Q. I see, and were these notes written from your memory?
- 17 A. Within a couple of hours, yes.
- 18 Q. As to the -- the next page, sir, the page that I have, and
19 the photocopy reads:
- 20 "Donald Marshall taken from County gaol
21 to be finger printed".
- 22 Do you have that page in front of you, sir?
- 23 A. Yes, sir.
- 24 Q. Now our date on our photocopy is not -- is not legible. Could
25 you indicate please the date?

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 A. June the 9th, 1971.
- 2 Q. June the 9th, 1971. And the following page, sir, which is
3 headed with the date June 16th, is that also in your
4 handwriting?
- 5 A. Yes, sir.
- 6 Q. And the following page which appears to have a name on it,
7 Mrs. Joan Adamson, at eight-fifteen Wednesday at the top
8 of the page, is that also in your handwriting?
- 9 A. Yes, sir.
- 10 Q. The date at the top of the first page is May 29/72. Now
11 from my recollection the '72 was written in a different ink
12 from that which appears on the rest of the sheet. Do you
13 have any recollection of when that 19 -- or that '72 was
14 written in there?
- 15 A. I can't -- I can't say when that was put in there.
- 16 Q. Is it fair to say that that should have been 1971?
- 17 A. Right, sir.
- 18 Q. And is it also fair to say that it was written subsequent to
19 your writing these notes?
- 20 A. I would say so.
- 21 Q. Other than the time immediately around the incident and other
22 than in preparation for these hearings, have you had any
23 occasion to either refer to these notes or to produce those
24 notes for any reason, Mr. MacDonald?
- 25 A. No, sir.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 Q. Particularly on the first four pages which appear to be the
2 ones written within a couple of hours of the -- your arrival
3 at the hospital. There appear to be three or four staple
4 connections on those -- on the original pages as if they
5 have been compiled or put together two or three or four times.
- 6 A. Well, they were stapled by myself.
- 7 Q. On how many occasions, sir?
- 8 A. Well, there's one, two --
9 Occasions or staples?
- 10 Q. Yes, I'm just wondering why they would appear to be stapled
11 in three or four different ways?
- 12 A. Well, they're referring to the Marshall case and they were
13 just stapled together in the book, in my notebook.
- 14 Q. I see. But you have had no occasion to refer to them other
15 than in preparation for these hearings?
- 16 A. No, sir, no.
- 17 Q. Now you say you were called by Sergeant Len MacGillivray?
- 18 A. Right, sir.
- 19 Q. Do you recall what information he gave you?
- 20 A. He just reported to me that there was a -- something went on
21 in the park and he wasn't too sure at the moment, but he said
22 somebody went to the City Hospital.
- 23 Q. I see. Why were you called?
- 24 A. Well, I worked four to twelve, you see, and the practice is
25 if you work four to twelve in the Detective Division and if

1 anything took place after twelve o'clock, you were called'
2 out, the man was called out to work the four o'clock shift,
3 you see.

4 Q. I see, so you were -- you were on call?

5 A. Yeh, right, for the next shift.

6 Q. And what did you do in response to the Sergeant's call?

7 A. Well, I proceeded to the City Hospital and when I arrived there
8 I noticed that there was a person on a stretcher in the
9 presence of Mr. Leo Curry and another man who I don't know
10 his name.

11 Q. The name Doucette appears on your notes, do you think maybe--

12 A. Yeh, right here, but I didn't know at the time until I found
13 out from Mr. Leo Curry.

14 Q. That was my question as to how you came to find out the name
15 for inclusion in notes?

16 A. He lives right in that area and I think he helped Mr. Curry
17 with the --

18 Q. You then talked to Mr. Curry at the hospital, did you?

19 A. Yes. Yeh.

20 Q. I see, and on arriving at the hospital what did you do?

21 A. Well, I tried to have a word with Sandy Seale, but the orderly
22 and the nurse wouldn't let me.

23 Q. Do you know what time you arrived at the hospital?

24 A. Well, I got on my report here twelve-ten, between twelve-ten
25 and twelve-fifteen a.m.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Q. Now the time that you do show there, twelve-ten, is that the
2 time that you were called?

3 A: Yes.

4 Q. I see, and how did you arrive at that time?

5 A. I proceeded with my own car to the --

6 Q. I'm sorry, how did you arrive at that time?

7 A. Oh, I'm sorry, sir. Well, I imagine I looked at my watch
8 and marked it -- when I started to mark this down, I had the
9 time on my --

10 Q. Did you discuss the matter with Sergeant MacGillivray before
11 making your notes?

12 A. When I went to the station we had a briefing and I explained
13 to Sergeant MacGillivray what took place.

14 Q. Right.

15 A. He knew about it. He must have got a call from somebody on
16 the radio or something, but --

17 Q. Does the -- the time that you show of twelve-ten a.m. is the --
18 exactly the same time that appears on Sergeant MacGillivray's
19 report?

20 A. Right, sir.

21

22

23

24

25

JMR

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 Q. Did you confirm the time of his call to you with him?
- 2 A. No, sir, I didn't.
- 3 Q. I see. Other than Sergeant MacGillivray, did you discuss the
- 4 -- discuss the events of the evening with anybody else prior
- 5 to making your notes?
- 6 A. No. When I left the City Hospital, I proceeded to the
- 7 police station.
- 8 Q. Now while at the City Hospital, you mentioned that you provided
- 9 some assistance to Mr. Seale?
- 10 A. Well, yes, sir, I did. On the first floor, I assisted the nurse
- 11 and an orderly to put him on -- from one stretcher belonging
- 12 to the ambulance service to another stretcher.
- 13 Q. Were you able to speak with him?
- 14 A. No.
- 15 Q. Did you make any attempt to speak with him?
- 16 A. Well, I did and they wouldn't let me.
- 17 Q. They wouldn't let you -- The doctor wouldn't let you?
- 18 A. Well, the doctor wasn't on that floor. I went to the third
- 19 floor with him where Doctor Naqvi was in attendance up there
- 20 at that time and I asked him I could speak to Seale and he
- 21 said no, but I don't think Seale was in any shape or form
- 22 to talk to anybody.
- 23 Q. Right. Were you able to obtain for yourself an assessment on how
- 24 seriously injured Mr. Seale was?
- 25 A. No, sir.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Q. The point of the question was to try and understand whether you
2 got some kind of an idea of the seriousness of the incident you
3 had to deal with?

4 A. No, he was covered both times, you know, and I couldn't see
5 anything.

6 Q. What did you think you were dealing with?

7 A. Well, at the moment, it was hard to say. Very hard to say,
8 whether it was a back-stabbing or -- or what but I couldn't
9 even get anything from the doctors. Doctor Naqvi just left
10 and went in the area of the --

11 Q. After you left Mr. Seale, what did you do?

12 A. I proceeded back downstairs to the main floor.

13 Q. And then?

14 A. And Mr. Donald Marshall was there with the police.

15 Q. Yes.

16 A. I spoke to him for a few minutes and he give me a -- he told
17 me what took place and --

18 Q. It might be helpful if you read into the record, Mr. MacDonald,
19 your conversation with or your recollection of your conversation
20 with Mr. Marshall. You can perhaps start half way down the
21 first space when you say "I noticed Donald Marshall".

22 A. Yes, sir:

23 I noticed Donald Marshall in another small
24 room on the first floor...

25 That's where he was.

1 He had a cut on the inside of his left arm,
2 ten inches from the wrist. I questioned him
3 as to what took -- happened, and he said two
4 men stopped him in the park area and asked
5 for a cigarette. He said he gave them a
6 cigarett and a light and one of the men pulled
7 out a knife and said to Seale, "This is for
8 you, black man." and then he drove it into Seale.
9 He then made a drive at me and I covered up but
10 he cut me and then I made a kick at him around
11 his head and then I ran away towards or to
12 Bentinck Street. I hit the sign post when I
13 ran.

14 Now I don't know what sign post is in that area at the moment,
15 sir, but there are sign posts closer to the Bentinck Street
16 area and Crescent Street.

17 Q. And would you also perhaps read into the record the description
18 that is on the -- I guess, the second copy page or the fourth
19 original page.

20 A. He described two men.

21 One man, heavy set, short, dark-blue coat to
22 his knees and gray hair. He was wearing low
23 shoes and he had glasses with dark rims. The
24 second man, tall, five foot eleven, black hair,
25 clean shaven and he had a corduroy coat, three-
quarter length brown in colour.

Q. Now was this a description that Donald Marshall provided to
you at the hospital?

A. Yes, sir.

Q. And did you write this description when you reached the police
station?

A. Yes, sir.

Q. May I ask why would a detailed thing such as a description,
you would not write it down as he was talking to you?

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 A. Well, this book was in my office. My note book. It was in
2 the Detective's office so when I proceeded back to the police
3 station, I went in and got this book and I got this stuff
4 down as quick as possible.
- 5 Q. So you had no note book or paper with you at the hospital.
- 6 A. No, not at the hospital, no. I could have, I guess, got
7 paper but --
- 8 Q. Now you saw Donald Marshall at the hospital. Did you know him?
- 9 A. Yes, sir.
- 10 Q. You recognized him?
- 11 A. I didn't know the man.
- 12 Q. Oh, I'm sorry, my question was did you know him and you said
13 yes.
- 14 A. Oh, I'm sorry, no. No, I didn't know Donald Marshall.
- 15 Q. Had you ever met him?
- 16 A. No, sir.
- 17 Q. Did you know he was --
- 18 A. Not to my knowledge.
- 19 Q. -- an Indian? Did you recognize him as an Indian?
- 20 A. Yes, I believe so.
- 21 Q. Do you recall what police officers you saw at the hospital?
- 22 A. Constable Walsh, Constable Leo Mroz, Jackie Johnston who is
23 deceased. Leo Mroz, deceased. Corporal Martin MacDonald,
24 deceased.
- 25 Q. What if any information did those constables give you concerning

1 the scene on Crescent Street?

2 A. Well, I was more interested in Seale than I was -- in the
3 victim than I was in talking to the police officers. But
4 Corporal Martin MacDonald pointed out Donald Marshall over
5 in the -- on the ground floor in the small room.

6 Q. Why would you be more interested in Seale when he was in the
7 hospital receiving medical attention?

8 A. Oh, he was the -- he was the injured person and I thought maybe
9 I could get a -- have a word with him as to what took place,
10 to see if I could get anything. But apparently I couldn't.

11 Q. After you determined that you were not able to see Seale, did
12 you inquire of the police constables what, if anything, had
13 transpired at the scene at the time?

14 A. When I came back downstairs to the main floor most of them
15 were gone and Jackie Johnston asked me what -- what would
16 they do with Mr. Marshall and he was taken to his home --

17 Q. Mr. Marshall was taken to his home.

18 A. -- after he was getting -- he got a stitch or something and
19 he was taken to his home by --

20 Q. Just before we leave Mr. Seale, did you have any occasion to
21 view the clothing that he was wearing that night?

22 A. Not at that time, sir.

23 Q. Did you have any occasion to make a listing of it?

24 A. No, I think he had his clothing on and he was covered.

25 Q. Did you have any occasion to inquire of the hospital personnel

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 whether or not anything had been found in his pockets?

2 A. No, sir.

3 Q. Did you know who Mr. Seale was? Had he been identified to you
4 at that time?

5 A. I didn't know the boy himself. I know of his father and mother
6 but I didn't know the boy.

7 Q. Who identified him to you?

8 A. One of the officers; I'm sure it was Constable Walsh.

9 Q. So if I understand you correctly, you received no briefing
10 from the officers at the scene other than Corporal Martin
11 MacDonald pointed out Donald Marshall to you.

12 A. When I came back down stairs to the main floor, they were
13 dispatched out; whether they were dispatched by the Sergeant
14 or what, I don't know.

15 Q. And did Corporal Martin MacDonald make any comment about Mr.
16 Marshall?

17 A. No, sir, he just pointed him out.

18 Q. And you had a discussion with Mr. Marshall?

19 A. Just for a few minutes. He give me this information that he
20 give me.

21 Q. Would it have been your practice to take a statement from
22 Mr. Marshall at that time?

23 A. No, I don't think, sir.

24 Q. Did you give any consideration to doing it?

25 A. No, sir.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Q. May I ask why?

2 A. Well, the man explained and showed me where he was stabbed
3 himself. So once again, I'm saying, "the suspect". I wouldn't
4 say Mr. at that time would be a suspect.

5 Q. I'm sorry? Would you mind going over that again?

6 A. At the time Mr. Marshall was talking to me and showed me
7 where he was cut, I wouldn't -- I was suspecting that he was
8 a suspect in the stabbing of any kind.

9 Q. You had no reason to consider him a suspect?

10 A. No, really -- right.

11 Q. Do you recall his demeanour? Was he excited? Was he calm?

12 A. Mr. Marshall?

13 Q. Yes.

14 A. Well, he was just standing there.

15 Q. Do you recall his appearance?

16 A. Well, I didn't know the man so --

17 Q. Did he look as if he'd been in a fight?

18 A. No, no. All he showed me was a cut on his left arm, inside of
19 the wrist area.

20 Q. Did you form any opinion on whether or not Mr. Marshall had
21 been drinking?

22 A. No, sir.

23 Q. You didn't form an opinion or you formed an opinion that
24 he wasn't drinking.

25 A. I didn't form any opinion, was or wasn't. I couldn't --

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

- 1 Q. Would you have been close enough to him to detect the smell
2 of alcohol?
- 3 A. Well it was a small room off the main floor, a little waiting
4 room and I imagine I would have but --
- 5 Q. Did you smell any alcohol off Mr. Marshall?
- 6 A. No, sir, I didn't.
- 7 Q. Did you have occasion to see a Maynard Chant at the hospital?
- 8 A. Yes, sir.
- 9 Q. Could you give the Commission your recollection of your meeting
10 Mr. Chant at the hospital, please.
- 11 A. He was standing just on the main floor at the City Hospital
12 and I don't know which one of them -- the officers explained
13 to me that this boy was picked up on George Street. Oh, I
14 think it was -- once again, I believe it was Corporal Martin
15 MacDonald and I told him to take Chant down to the police
16 station.
- 17 Q. Did you talk to Mr. Chant yourself?
- 18 A. No, sir.
- 19 Q. No conversation at all?
- 20 A. No, no. I just --
- 21 Q. Was he holding a blood-stained shirt when you saw him?
- 22 A. I didn't see that shirt that was supposed to be -- I didn't
23 see it. I don't know if it was in one of the police cars that
24 picked him up or what.
- 25 Q. What did Corporal -- What did Martin MacDonald tell you which

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 | lead you to suggest that Mr. Chant be taken to the station?

2 | A. Well, he was from Louisbourg and he was hitch-hiking so I
3 | figured if we got him down to the station at first which
4 | was done and then his parents were called.

5 | Q. But did you think he had anything to do with this incident
6 | at all?

7 | A. I didn't talk to him at all at the station.

8 | Q. But did you understand he had been brought in from the George
9 | Street area, close to Crescent Street?

10 | A. From the George Street area, yes, he was hitch-hiking.

11 | Q. The question is did you understand him to have any role at
12 | all in this incident or was he just a normal hitch-hiker?

13 | A. That was the best to my -- just a normal hitch-hiker.

14 | Q. Just a normal hitch-hiker. And would that be your normal
15 | course of action, to take him down to the police station to
16 | be picked up?

17 | A. From outside the city.

18 | Q. Any reason why he couldn't have been picked up at the hospital?

19 | A. Well, we could have left him there. There was no reason.
20 | Had his parents come and pick him up there but it just happened
21 | to be better to come to the police station, being he had the
22 | shirt. I don't know if any of the -- the rest of the officers
23 | spoke to him or what.

24 | Q. You didn't speak to him?

25 | A. No, sir.

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 Q. Did Mr. Marshall go to the police station that night?

2 A. No. No. I think -- I believe Jack Johnston took him home
3 from the City Hospital.

4 Q. May I assist your memory, Mr. MacDonald, and I'm referring
5 to Volume 12, which I think maybe in front of you, at page
6 195. Page 195 and I believe this to be your examination
7 for Discovery in the C.B.C. civil action taken in 1984 and
8 questions 38, 39, and 40 suggest that Mr. Marshall was in
9 fact taken to the police station and he was asked a few
10 questions and released. Do you recall giving that testimony
11 at the C.B.C. Discovery?

12 A. No. The last time I seen Marshall was at the City Hospital.

13 Q. Do you recall giving this testimony at the C.B.C. Discovery?

14 A. No, I don't. I'm going by my notes.

15 Q. Well, let me just go back to page 191 so we are sure. This
16 is Michael Bernard MacDonald. Do you in fact recall being
17 Discovered by the C.B.C. and in this process? Were you
18 examined by a lawyer for the Canadian Broadcasting Corporation?

19 A. No, sir.

20 Q. Are you not the Michael Bernard MacDonald?

21 A. Yes.

22 Q. And you're the M. R. --

23 A. I had nothing to do with the C.B.C. at any time.

24 MR. CHAIRMAN:

25 Well, maybe Mr. Orsborn, if you'd explain to Mr. MacDonald where

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 | the examination took place, --

2 | BY MR. ORSBORN:

3 | Q. My understanding, sir, this arose out of an action between
4 | Chief MacIntyre and the C.B.C. where one party sued the
5 | other party, and I believe that certain people were examined
6 | under oath, I think, in Sydney.

7 | MR. ORSBORN:

8 | Mr. Pugsley?

9 | MR. PUGSLEY:

10 | That is correct. It took place on the third or fourth floor of
11 | the new City Hall building, on the water.

12 | THE WITNESS:

13 | The Esplanade?

14 | MR. PUGSLEY:

15 | At the police building.

16 | THE WITNESS:

17 | On the Esplanade.

18 | MR. PUGSLEY:

19 | Yeh, the third or fourth floor of that building, just a room.
20 | There were perhaps four people there.

21 | BY MR. ORSBORN:

22 | Q. Does that assist your recollection, sir?

23 | A. Wait now.

24 | MR. CHAIRMAN:

25 | Were you there, Mr. Pugsley?

MICHAEL BERNARD MacDONALD, by Mr. Orsborn

1 MR. PUGSLEY:

2 Yes, I was, My Lord.

3 MR. CHAIRMAN:

4 Do you remember --

5 THE WITNESS:

6 If it was there -- if it's here, I don't -- I'm under the impression
7 that anything took place like this was pertaining to the re-
8 investigation of the Marshall case.

9 MR. ORSBORN:

10 Do you recognize Mr. MacDonald, Mr. Pugsley?

11 MR. PUGSLEY:

12 Oh, yes.

13 BY MR. CHAIRMAN:

14 Q. What's more important, do you recall Mr. Pugsley examining
15 you?

16 A. I don't think so.

17 MR. PUGSLEY:

18 My Lord, I don't think I did examine him. I don't think I asked
19 any questions.

20 MR. ORSBORN:

21 Well, it's four-thirty, My Lord. Perhaps Mr. MacDonald might
22 want to reflect on this this evening. It may be an appropriate
23 time to adjourn.

24 MR. CHAIRMAN:

25 All right. We'll rise until tomorrow at nine-thirty.

INQUIRY ADJOURNED AT 4:30 o'clock in the afternoon on the 21st
day of September, A.D., 1987.

COURT REPORTER'S CERTIFICATE

I, Judith M. Robson, an Official Court Reporter, do certify that the transcript hereto annexed is a true and accurate transcript of the Royal Commission on the Donald Marshall, Jr., Prosecution as held on the 21st day of September, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia, taken by way of recording and reduced to typewritten copy.



Judith M. Robson
Official Court Reporter
Registered Professional Reporter