

RG44
Vol 248
= 4

ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION

VOLUME XI

Held: September 23, 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

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COURT REPORTER'S CERTIFICATE	KK
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INQUIRY RECONVENED AT 9:47 o'clock in the forenoon on Wednesday, the 23rd day of September, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia

1 | MR. CHAIRMAN:

2 | I understand some microphones are not functioning at full volume
3 | today but help is on the way from Halifax. Help is always on the
4 | way from Halifax. So will you -- if the witness will speak up and
5 | counsel will speak up and if I'll speak up, our words of wisdom
6 | will be recorded.

7 | MR. MacDONALD:

8 | I'll certainly try, My Lord, and Inspector Ryan, if you'll do the
9 | same please.

10 | JOSEPH TERRANCE RYAN, being called and duly sworn, testified as
11 | follows:

12 | BY MR. MacDONALD:

13 | Q. Would you tell the Commissioners your name please?

14 | A. I am Joseph Terrance Ryan. I am a member of the Royal Canadian
15 | Mounted Police, presently stationed in Fredericton, Province
16 | of New Brunswick. I have been a member of the Royal Canadian
17 | Mounted Police continuously since October of 1962. During the
18 | years of 1970 to 1972, I was attached to the General Investi-
19 | gation Section, County of Cape Breton, Province of Nova Scotia.

20 | Q. Your present rank?

21 | A. I am an Inspector.

22 | Q. Would you tell us your formal education?

23 | A. I have grade 12, Province of New Brunswick. I have a Bachelor
24 | of Arts degree from Carleton University majoring in law and
25 | economics. I have an LLB from the University of New Brunswick.

J. TERRANCE RYAN, by Mr. MacDonald

1 Q. When did you obtain that degree?

2 A. I graduated from U.N.B. in 1980.

3 Q. And you said in particular, you were stationed in Sydney in
4 -- did you say '70 to '72?

5 A. In '70 until '72.

6 Q. You were with the G.I.S. division?

7 A. Yes, I was.

8 Q. How does one become a member of that division? Do you have
9 to have some experience in the force or?

10 A. It's a decision made by our staffing branch and our Officer
11 Commanding and probably the N.C.O. in charge of the section
12 would be looking for members who had a considerable amount of
13 investigative experience or detachment experience. They would
14 be looking for a considerable amount of experience in the
15 investigative field prior to being stationed to that unit.

16 Q. Was your first station with G.I.S. the one in Sydney?

17 A. No, I had been on Sydney Detachment for a short period of time
18 prior to that but I arrived on Cape Breton Island in 1963 and
19 I had served at various detachments throughout Cape Breton
20 Island prior to that time as well as a short session on a
21 "plain clothes" unit in 1964.

22 Q. In Cape Breton?

23 A. Yes, in Cape Breton.

24 Q. Would you explain again for the Commissioners G.I.S., what
25 service it performs and for whom?

J. TERRANCE RYAN, by Mr. MacDonald

1 A. It's a unit that's within Sydney and has full responsibility
2 for all of Sydney subdivision which took in all of Cape
3 Breton Island and a small part of the mainland which consisted
4 of Mulgrave. Our responsibility was to assist detachments in
5 serious investigations, such as rape, murder, safe attacks,
6 robbery. The unit would generally call our section, either
7 our unit commander or through the Officer Commanding of the
8 subdivision, and request assistance in a particular matter.

9 Q. What if any involvement would your -- would the G.I.S. division
10 have with the Sydney City Police?

11 A. Only on a -- it would be on a exchange of information basis.
12 We exchange information continually on a need-to-know basis.
13 If we were doing a case and we felt that the Sydney City
14 Police could assist, we would approach them, inform them of
15 the information or of the case and if they had any information,
16 they would supply it to us. On the reverse, if we could assist
17 them or if they were doing something or a serious occurrence
18 had taken place and we felt that we could assist them, we
19 would approach them, obtain any information that they might
20 have and contact our sources of information to see if we
21 could obtain information that would assist them in their case.

22 Q. Okay. Did you from time to time in those early '70's have
23 dealings yourself with the Sydney City Police?

24 A. Yes, I did.

25 Q. With any particular division?

J. TERRANCE RYAN, by Mr. MacDonald

1 A. We would deal with the Detective Division and most of my
2 dealings as I can recall would be with Detective Sergeant
3 MacIntyre or Detective Bill Urquhart.

4 Q. And what was your general impression of the -- of those two
5 people?

6 A. I had known both of those individuals on and off from 1964.
7 I would say that Detective MacIntyre was a very determined
8 investigator. I would say that he was conscientious and on
9 the surface, as I had known him, I would also say that he was
10 competent, based on the police community at that time.

11 Q. Do you have any independent recollection yourself, Inspector,
12 of the events surrounding the death of Sandy Seale and the
13 subsequent investigation and charging of Donald Marshall,
14 Junior, with that offense?

15 A. Independent of my notes, I can recall on June the 3rd, 1971,
16 Detective Sergeant John MacIntyre contacting me at home and
17 requesting that I accompany him to New Waterford.

18 Q. To?

19 A. New Waterford, Nova Scotia.

20 Q. For what purpose?

21 A. The purpose was to attempt to ascertain if there was anyone
22 within the New Waterford area that had frequented Wentworth
23 Park, had used it as a drinking place or might have been in
24 the park that evening.

25 Q. Did you in fact attend at New Waterford with him?

J. TERRANCE RYAN, by Mr. MacDonald

1 A. Yes, I did. Detective MacIntyre picked me up at my residence
2 in his private car. We travelled to New Waterford. I can
3 recall going to the New Waterford Town Police Station and
4 we would have contacted police officers at that station.
5 I cannot recall who. I can also recall going to one residence.
6 I'm not too sure where the residence was but I can't recall
7 whether I went to the residence alone or -- and I can't recall
8 if I had contacted any of my sources of information that
9 evening or not.

10 Q. Do you recall if anything came of your visit to New Waterford?

11 A. Nothing. Nothing at all surfaced as a result of that visit.

12 Q. During those years, did you -- and that time, did you work as
13 a partner with Staff Sergeant Wood, the last witness?

14 A. Yes, I did.

15 Q. And would that be a regular occurrence?

16 A. Yes, we worked together on a good number of cases.

17 Q. You have in front of you, Inspector, a notebook and that is
18 your personal notebook, is it?

19 A. Yes, it is.

20 Q. And are there references in that notebook which are of relevance
21 to the Seale murder and the subsequent investigation?

22 A. Yes, there is, starting on the 31st day of May, 1971.

23 Q. I've marked as exhibit 41 a copy of the relevant pages of
24 your notebook. I'd like you to do the same thing as Sergeant
25 Wood did for us, if you would take us through the various

J. TERRANCE RYAN, by Mr. MacDonald

1 entries and read them into the record so that we'll make sure
2 everyone's understanding your writing.

3 A. The first entry is the 31st day of May, 1971. It says: "Light
4 blue V.W.", which indicates Volkswagen, "Pitt Street, 9993-
5 O.R. N.Y." indicating New York. "Damage to left rear, 9:45
6 a.m., corner Pitt and Charlotte, male, five foot eleven,
7 gray hair, gray beard, thirty years plus."

8 Q. Do you have any recollection of the events that are referred
9 to in this note?

10 A. No, I do not.

11 Q. Just go on then, please.

12 A. The next entry I do not recall the significance. It's another
13 vehicle. It says "Esplanade" which was a street here in Sydney.
14 "814800, Ontario, convertible, '63 Pontiac, black and white,
15 two persons." I have no knowledge if that entry has anything
16 to do with the Seale inquiry.

17 Q. Okay, continue on.

18 A. The next entry is 31 of May, 1971. It's "eight-thirty a.m.
19 until five p.m. Patrol locally via" and the next is a police
20 car number, "H04-37, re: assistance City Police re: murder.
21 Attempt to locate a white Volkswagen, possibly Ontario
22 registration."

23 Q. And again do you have any independent recollection of the notes
24 -- why those notes are contained in your diary?

25 A. I have no independent recollection.

J. TERRANCE RYAN, by Mr. MacDonald

1 Q. Can we assume that that is as a result of a request you
2 received from the Sydney City Police to provide assistance?

3 A. It could have been as a request or it could merely have been
4 that we had obtained the information that there was possibly
5 a white Volkswagen involved and we had gone out and looked
6 for it.

7 Q. Would you likely to have obtained information such as that
8 from other than the City Police?

9 A. At that time I am not certain if -- if Constable Wood had
10 been to the City Police station earlier, he might have obtained
11 the information and then I would have obtained it from him.
12 We might not have acted on a direct request from them but
13 just merely went out and searched for the vehicle.

14 Q. Okay, go on then to page -- the next entry that's -- I have
15 -- is it June the 6th or June?

16 A. June the 3rd.

17 Q. June the 3rd, sorry. What is on that entry?

18 A. The entry for eight-thirty a.m. until twelve noon has no
19 significance to the Seale investigation. The entry from
20 one p.m. until six p.m., it says "patrol locally, re: contact
21 informant, S-32, and then to the County Gaol for Miller
22 interview." The Miller interview has nothing to do with the
23 Seale inquiry but the "patrol locally, contacting informants"
24 would correlate with Constable Wood's notes and we were
25 contacting an informant in relation to the Seale murder.

J. TERRANCE RYAN, by Mr. MacDonald

1 Q. And those are informants that you had developed over the --
2 over your tour in Sydney?

3 A. Yes.

4 Q. People who would give you information if they had it.

5 A. Yes.

6 Q. Do you have any recollection of any information you received
7 from any informants during that period of time?

8 A. No. The -- If information of value had been received, it
9 would have been recorded.

10 Q. Okay, go on then, please.

11 A. The next entry is eight p.m. until twelve-thirty a.m., "patrol
12 South Bar, New Waterford with Sydney City Police re: Seale
13 murder - private car." And that is the entry covering my
14 previous testimony where I went to New Waterford with
15 Detective Sergeant MacIntyre.

16 Q. And at Detective Sergeant MacIntyre's request?

17 A. Yes, it was.

18 Q. To determine if there was anyone in New Waterford who may be
19 able to give him information as to the identity of someone
20 in the park that evening.

21 A. Yes.

22 Q. All right, is there any other entry in your notebook?

23 A. No, there is not.

24 Q. Do you have any other recollection of the events surrounding
25 that particular time?

J. TERRANCE RYAN, by Mr. MacDonald

1 A. No, I do not.

2 BY MR. CHAIRMAN:

3 Q. Is that on the fourth?

4 A. On the third.

5 BY MR. MacDONALD:

6 Q. The entry on the fourth immediately below that, Mr. or Inspector,
7 on exhibit -- on the exhibit.

8 A. Oh, I'm sorry. On -- Yes on the fourth of June, the first entry
9 eight-thirty a.m. until twelve noon, that again does not relate
10 to the Seale inquiry. One until five p.m., "patrol New
11 Waterford and local with Corporal Scott, re: Excise Act and
12 Seale murder." I take it I was back to New Waterford the
13 following afternoon, again trying to contact sources with
14 information.

15 Q. During your time in Cape Breton with G.I.S., did you have
16 occasion to investigate serious crimes as you've described
17 them?

18 A. Yes, I did.

19 Q. Would you tell the Commission, please, generally the practice
20 that you would follow and perhaps, I realize it's hypothetical
21 but would you just assume you were the first officer on the
22 scene where someone has been seriously stabbed and is lying
23 on the street. Just tell us what you would do.

24 A. Naturally your first concern would be assistance for the
25 victim, medical assistance or whatever. That would be your

J. TERRANCE RYAN, by Mr. MacDonald

1 | prime concern. Your next concern would be securing of the
2 | scene, separation or removing people from the scene,
3 | preservation of evidence, taking names of witnesses, any
4 | persons that had been there, notifying your superiors or
5 | bringing in as much assistance as you could possibly bring
6 | in, assigning an investigator to either go to the hospital
7 | immediately or accompany the victim to the hospital and stay
8 | with that victim until the seriousness of the incident had
9 | been determined. If it was serious, naturally staying there,
10 | preserving of evidence, being present in case the witness could
11 | make or the victim could make comments as to what had taken
12 | place or obtain any verbal evidence from that individual. You
13 | would notify your Identification Section to assist at the
14 | scene for taking of photographs and the search of evidence.
15 | You'd probably notify, in a case such as that, a police
16 | service dog for the search of evidence. The priority would
17 | be to get and then to obtain as many resources as you could
18 | possibly obtain to determine as much evidence as you could
19 | possibly obtain and as quickly as you possibly could.

20 | Q. If you have a scene where someone has been stabbed, is
21 | unconscious or is in a state of shock as a result and indeed
22 | is -- you realize that the intestines are coming out of the
23 | wound, would you consider that to be a serious crime?

24 | A. Yes, I certainly would.

25 | Q. And the steps you've just described, are those the steps

J. TERRANCE RYAN, by Mr. MacDonald

1 you would follow?

2 A. Yes.

3 Q. Follow up on that. If you assume that the victim died, would
4 you be interested in having a post-mortem done?

5 A. Yes, that would be one of our priorities.

6 Q. For what purpose?

7 A. An endless line of reasons; everything from naturally blood
8 samples for alcohol, drug determination, from examination
9 of the stab wounds, the number of wounds, the direction of the
10 wounds in an effort to probably reinact the crime to determine
11 which direction the person had been stabbed from, up or down;
12 again the depth so that you could possibly have some idea
13 of what kind of weapon you were looking for. You would be
14 looking for anything under the fingernails or what-have-you
15 to determine if there was an altercation, if there was
16 scratching, hairs. You would probably look for stomach contents
17 in case you had to determine where the victim had been prior,
18 had he eaten at restaurants or, you know, some determination
19 in that manner. It depends on the case but you would be
20 looking at an endless line of -- endless pool of evidence.

21 Q. Would the clothing of the victim be something you would be
22 interested in?

23 A. Yes, the member -- the member that was assigned to accompany
24 the victim, one of his prime purposes would be to obtain the
25 clothing from the victim at the earliest possible time.

J. TERRANCE RYAN, by Mr. MacDonald

1 Q. You said you would identify or attempt to identify witnesses
2 at the scene?

3 A. Yes.

4 Q. What about taking statements from people?

5 A. You would -- if you had the resources, you would try to separate
6 people and obtain at least enough in your notebook to determine
7 who was there first and if somebody was there at the time of
8 the incident and if you -- If you could determine who was
9 there first or if somebody was there at that time, you would
10 try to get statements as soon as possible before they would
11 have an opportunity to talk to somebody else.

12 Q. What about taking -- taking written statements from various
13 witnesses? Is that something you would do at some time and if
14 so, when?

15 A. If you had somebody there that evening and he witnessed the
16 event, you would try to obtain a statement as soon as possible.
17 There, if possible. If not, you would probably make notes of
18 enough information to go back to that person immediately
19 following. You would have from him, in your notebook, the
20 facts that he had given you. Then you would follow that up
21 with a statement later. Yes, you would take statements from
22 witnesses.

23 Q. If the event occurred in a residential area, would you at
24 some time do a door to door canvass of the residents in
25 that area?

J. TERRANCE RYAN, by Mr. MacDonald

1 A. Yes, you would. You -- That you'd probably do maybe the
2 following day or two or three days after, depending on the
3 circumstances surrounding the incident. That is a common
4 practise used.

5 Q. And would you make notes of anything told to you, whatever was
6 told to you by those residents?

7 A. Yes, you would.

8 Q. You had occasion, did you not, while you were with G.I.S. in
9 Sydney to be involved with a murder on this Island?

10 A. Yes, we did. As a matter of fact, Constable Wood and I were
11 the prime investigators in the murder of a taxi driver that
12 had been murdered in the Ingonish Beach area and that would
13 have been probably September of 1971.

14 Q. The type of practice as you've described with respect to
15 post-mortem investigations, taking statements, and so on,
16 is that the practice you followed at that time?

17 A. Yes, that was. That was a contested case and the evidence
18 was all presented in the Supreme Court of Nova Scotia and
19 would be available.

20 Q. Tell me about the Ident Section that you refer to. What is
21 it?

22 A. It's a section that consists of specialists or experts in
23 the area of fingerprinting, scene examination, photographing.
24 They would visit the scene and try to obtain any evidence of
25 an expert nature and like the photographs are very important

J. TERRANCE RYAN, by Mr. MacDonald

1 on the positions of the body or what was there or anything
2 at the scene, to have the photographs and what-have-you prior
3 to anything being moved.

4 Q. Would that be a normal procedure you would follow to have
5 your Ident Section on the scene immediately to take photographs?

6 A. Yes, it would be.

7 Q. Was the Ident Section of the R.C.M.P. a service that would be
8 available to the Sydney City Police if requested?

9 A. Yes, it would be.

10 Q. I want you to look at page 90 of Volume 16, Inspector, please.
11 I'm asking you to look at Volume 16, page 90. Have you seen
12 that document before?

13 A. No, only two evenings ago when it was shown to me by yourself.

14 Q. "M.C.I.S." division in Halifax, can you tell us what type of
15 division that was?

16 A. It was the Maritime Crime Index Section. It was a section
17 that was used to correlate information on various criminals
18 and criminal activity throughout the region.

19 Q. What does "M.O." mean?

20 A. It means modus operandi or method of operation.

21 Q. And is that something that's of interest to investigators?

22 A. Yes, it is. When you're investigating a crime, you sometimes
23 determine your suspects by looking at the method of operation
24 or the modus operandi of your crime and looking at the modus
25 operandi of similar incidents in the past.

J. TERRANCE RYAN, by Mr. MacDonald

1 Q. If -- and all of these questions I'm going to ask you to recall
2 are directed primarily to the time when you were in Sydney
3 with G.I.S. If you had been involved in an occasion of
4 arresting someone who is carrying a concealed weapon, a ten-
5 inch butcher knife, and convicted of carrying a concealed
6 weapon, would that information get on to this M.C.I.S. system?

7 A. Yes, it would.

8 Q. What information would be put in?

9 A. There would -- There's a -- I believe it was on the fingerprint
10 form at that time. There was details of crime or method of
11 operation portion and you would put in there the incident
12 involving a firearm or knife, stabbed somebody or the method
13 that the accused has used to commit that crime would have been
14 included.

15 Q. But if the crime is carrying a concealed weapon, not actually
16 having stabbed someone, would it be noted that he was carrying
17 a knife, a large knife?

18 A. Yes, that should also. That should have been recorded.

19 Q. And would that information, if you go to -- if you had gone to
20 M.C.I.S. in 1971 and asked for an M.O. or the identity of
21 people who had been -- used that type of M.O., would you
22 expect to get that person's name back?

23 A. If the information had been forwarded to M.C.I.S., yes, you
24 should obtain that information back to you some years later.

25 Q. Now do you know or are you able to tell us whether the Sydney

J. TERRANCE RYAN, by Mr. MacDonald

1 City Police would feed information into the M.C.I.S. system?

2 A. I have no knowledge of that of any kind.

3 Q. Did you have experience during your time in Sydney, Inspector,
4 with Crown Prosecutor, Donald MacNeil?

5 A. Yes, I had experience both when he was defense counsel and as
6 a prosecutor.

7 Q. Are you able to say whether in your experience, you would have
8 delivered to the Prosecutor all of the information you would
9 have obtained during your investigation?

10 A. Yes, we would prepare a detailed brief on our case and it
11 would include statements, summaries of evidence, list of
12 exhibits; quite a package on the case.

13 Q. Are you able to say from your own knowledge whether Donald
14 MacNeil would make available to the defense copies of the
15 information which you were giving to him?

16 A. I have no personal knowledge of that.

17 Q. During your time in Sydney, did you have occasion to carry
18 out police activities on Indian Reserves?

19 A. Yes, I did.

20 Q. And specifically where?

21 A. At the Eskasoni Reserve and also I was stationed in St. Peter's,
22 so I did work on the Barra Head Reserve as well. When I was
23 stationed in Port Hawkesbury, we used to assist at the
24 Whycocomagh Reserve as well.

25 Q. And have you had occasion during those times to charge Natives

J. TERRANCE RYAN, by Mr. MacDonald

1 with various crimes?

2 A. Yes, I have.

3 Q. In your experience, did you detect any difference in treatment
4 afforded to Natives as compared to other races?

5 A. No.

6 Q. And by that question, I'm not only talking about your own
7 treatment, but I'm asking if you detected any difference in
8 the penalties meted out or the way that Natives were treated
9 by the system?

10 A. No, I recall no different treatment of the Natives than any
11 other.

12 Q. Did you have any dealings with Blacks?

13 A. Not that I can recall. If I did, it would be -- would have
14 been extremely limited.

15 Q. And you don't recall --

16 A. I can't recall any.

17 Q. Thank you. Can you tell me if you were aware that in 1971
18 in November the R.C.M.P. were carrying out a review of the
19 conviction of Mr. Marshall for the murder of Seale?

20 A. I can recall simply one evening leaving the office here in
21 Sydney, the G.I.S. office, that Sergeant MacKinley remained
22 behind and I mentioned: "Are you leaving?" and he said, "No,";
23 he was waiting for Inspector Marshall because there was some
24 problems with the Seale murder and they were looking at doing
25 a polygraph. And I do not recall any more detail, any further

J. TERRANCE RYAN, by Mr. MacDonald

1 conversation on it.

2 Q. And were you aware of the 1982 reinvestigation carried out by
3 Sergeant Wheaton and Sergeant Carroll, I believe were the
4 names?

5 A. No.

6 Q. Do you know either of those two officers?

7 A. Carroll and Wheaton?

8 Q. Wheaton.

9 A. Yes, I have met both officers in the past.

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JMR

J. TERRANCE RYAN, by Mr. MacDonald

1 Q. Were you interviewed by either of those officers in
2 connection with your role that -- the evidence of which
3 you'd given to this Commission today?

4 A. No, no.

5 Q. When you were travelling or when you were a partner with Staff
6 Sergeant Wood in those days, did you used to tell each other
7 what was happening?

8 A. Constable Wood and I?

9 Q. Yes.

10 A. Yes.

11 Q. I want to show you the diary entries from Constable Wood that
12 were introduced yesterday as Exhibit 40, and I'm directing you
13 particularly to the entry on page two. It's the May 29th--
14 Staff Sergeant Wood read those to us yesterday and in particular
15 I'd like to direct your attention to his passage:

16 Conversation with Edward MacNeil and
17 Detective MacIntyre. Feeling at this
18 time, Marshall was responsible. An
incident happened as a result of
argument between both Seale and Marshall.

19 Did your partner advise you at that time that that was the feeling
20 of the -- in the Sydney Police Department the morning after the
21 stabbing?

22 MR. PUGSLEY:

23 My Lord, I realize the rules of hearsay are extended in this
24 hearing, but that seems to me to be somewhat verboten. I don't
25 know how that assists Your Lordships in carrying on this Inquiry

J. TERRANCE RYAN, by Mr. MacDonald

1 as to whether or not Constable Wood had told this witness what
2 he was told by other people on a morning in June.

3 MR. MacDONALD:

4 That doesn't go to -- I'm sorry, that's not hearsay, My Lord. I'm
5 asking this witness if he was -- if he was advised of a fact and
6 not whether or not this is a true statement that was made. It's
7 whether he was advised that the statement was made. It's not
8 hearsay.

9 MR. CHAIRMAN:

10 No, I'm not -- Well, there's no suggestion that it is -- it is
11 hearsay.

12 MR. MacDONALD:

13 I thought my friend said it was extending the hearsay rule somewhat.

14 MR. PUGSLEY:

15 It's about the relevance of the matter, My Lord.

16 MR. CHAIRMAN:

17 Well, it's relevant in this sense that we had the testimony
18 yesterday of Staff Sergeant Wood and we now have the evidence of
19 the -- of the Inspector who says that there was -- there would be
20 in the normal course of events a consultation between investigating
21 officers and I think the purpose -- I assume the purpose of this
22 question was to see whether he can recall if Wood communicated that
23 to him, and I would have no difficulty in allowing that.

24 BY MR. MacDONALD:

25 Q. Do you recall the question, Inspector?

J. TERRANCE RYAN, by Mr. MacDonald, by Ms. Edwardh

1 | A. I do not recall Constable Wood advising me of this information,
2 | however, I can give you the practice of Constable Wood and
3 | myself, and that practice would be full disclosure to one
4 | another of all events in which we were investigating.

5 | Q. Do you have any -- any recollection at this time whether you
6 | were aware as you went about your own activities in late May
7 | and early June of 1971, whether the Sydney Police considered
8 | Mr. Marshall to be a suspect in this particular matter?

9 | A. There's no doubt in my mind that the Sydney City Police had
10 | Marshall as a suspect.

11 | Q. From the beginning?

12 | A. I was not involved in the investigations or aware of the facts
13 | until the 31st day of May.

14 | Q. From that time on?

15 | A. From that time on I would say based on the contents of
16 | Constable Wood's notes that I as well would have been aware
17 | of those facts.

18 | MR. MacDONALD:

19 | Thank you. That's all I have. Thank you, Inspector.

20 | BY MS. EDWARDH:

21 | Q. Sir, perhaps you can give us some information about the
22 | use of polygraph. I take it in 1971 there were polygraphers
23 | associated with the R.C.M.P.?

24 | A. There were?

25 | Q. Polygraphers, polygraphers?

J. TERRANCE RYAN, by Ms. Edwardh

1 | A. Yes.

2 | Q. And I take it during that time period you, yourself, had
3 | occasion to sometime call upon their resources. Would that be
4 | fair?

5 | A. I can't say that I did during 1971, but I have called on the
6 | resources of the polygraph during my service, yes.

7 | Q. And roughly in that time period between '68 and '74, polygraph
8 | was used by the force?

9 | A. Yes, it was.

10 | Q. Now would it be fair to say as an experienced investigator that
11 | polygraph is not used and should never be used as a
12 | determinative tool?

13 | A. The polygraph --

14 | Q. Yes.

15 | A. -- is merely a guide or an aid to an investigator. It is not
16 | a determinative tool.

17 | Q. And that anyone who utilized polygraph even at that time would
18 | be well aware of that?

19 | A. Yes, because I -- if I recall that would have been the time
20 | that we were commencing to use polygraph.

21 | Q. And, in fact, if one were to say anything, it was probably less
22 | reliable in 1971 than it is today?

23 | A. That I cannot say.

24 | Q. Okay, but in any event it would be fair, sir, to indicate that
25 | from the force's perspective and your perspective as an

J. TERRANCE RYAN, by Ms. Edwardh

1 | investigator it was simply a tool and one of many?

2 | A. Yes.

3 | Q. Do you know, sir, whether in this time period you would have
4 | also been aware that there were certain subjects who were
5 | inherently dangerous to polygraph, for example, people with any
6 | history or present emotional difficulty, mental instability
7 | were not good subjects for polygraph?

8 | A. Yes, I would have been aware of that.

9 | Q. And do you know, sir, whether the involvement of the R.C.M.P.
10 | with the polygraphing of certain suspects later on when you,
11 | I gather, had your conversation with Inspector Marshall?

12 | A. I never had a conversation --

13 | Q. With McKinley, I'm sorry.

14 | A. Okay.

15 | Q. You spoke with Inspector McKinley or --

16 | A. Sergeant McKinley very briefly on that incident.

17 | Q. Did he ever subsequently discuss or talk to you around that
18 | time about any difficulties with the individuals they were
19 | polygraphing?

20 | A. I do not recall having any subsequent discussion with
21 | Sergeant McKinley following the discussion --a very brief
22 | discussion in the office that evening.

23 | Q. Okay. Now you were asked, sir, to outline some of the things
24 | that you might do if you came upon a -- as the first officer
25 | or one of the -- I suppose one of the first officers at the

J. TERRANCE RYAN, by Ms. Edwardh

1 scene of a homicide, and you have given us a fairly lengthy
2 list of items. I take it, sir, that even with advances in the
3 field of forensic science, most of what you described was
4 standard fare for policing in 1971, cordoning off the scene,
5 getting statements as soon as you could, particularly before
6 the people had an opportunity to talk to others, having a
7 post mortem examination, that's all standard fare. There's
8 no magic to that.

9 A. It was standard most certainly for the R.C.M.P. or for a
10 trained police officer, yes.

11 Q. Yes, and in fact, if you go through your list for a moment,
12 getting assistance, separating certain witnesses, cordoning off
13 the scene, looking for evidence, etcetera, and doing that
14 as quickly as possible, most of those are fairly common sense
15 kinds of things?

16 A. Yes, they probably are.

17 Q. Looking at, seizing the clothes of the victim, itemizing what
18 was present on his person at the time of the assault, those
19 are all fairly standard common sense things, correct?

20 A. Yes, they would be.

21 Q. Now you've described Sergeant MacIntyre as someone who is
22 from your perspective, competent?

23 A. Yes.

24 Q. Had you ever had occasion to work with him on any kind of
25 homicide investigation?

J. TERRANCE RYAN, by Ms. Edwardh

1 | A. No, I did not work with Sergeant MacIntyre in any detailed
2 | fashion on any investigation or taking of statements or
3 | assisting in an investigation to that extent.

4 | Q. So is it fair to say that your view of him does not arise from
5 | having worked with him in any detailed way?

6 | A. My view of him would be from having known him since 1964 and
7 | having had a number of encounters with him through exchanges
8 | of police information and what have you from seeing him in
9 | the court room on numerous occasions with cases before the
10 | Court. So I would have formed an opinion over him -- an
11 | opinion of him based on a number of contacts with him over a
12 | number of years.

13 | Q. Would it be fair to say that from your perspective you
14 | regarded him as someone with a lot of common sense and wouldn't
15 | miss the obvious?

16 | A. Yes, that would be a fair statement.

17 | Q. And if I were to tell you, and I'm sure you've been made aware
18 | as a result of the information available about this case, that
19 | many of the common sensical steps that you described as standard
20 | fare, were not followed and in part were not followed by
21 | Sergeant MacIntyre the next day or immediately thereafter,
22 | would that surprise you?

23 | A. Yes, it would surprise me.

24 | Q. And it would be fair to say that from your knowledge of him
25 | you would have expected that kind of thing to occur?

J. TERRANCE RYAN, by Ms. Edwardh

1 A. No, definitely not. I wouldn't --

2 Q. No, I'm sorry, from your knowledge of him you would have thought
3 he would have done those things and taken those steps?

4 A. I would have thought that he would have taken those steps,
5 yes.

6 Q. And would you agree with me, sir, that perhaps one of the most
7 serious problems any detective or person conducting an
8 investigation may have in the process of investigating is to
9 develop "tunnel vision". Does that term mean anything to you?

10 A. Yes, it does mean something to me.

11 Q. And is it something that you as an investigator guard against?

12 A. Yes, you guard against it and I think it's one of the reasons
13 possibly in our organization that we involve a number of
14 levels within our investigative procedures.

15 Q. And if -- For the benefit perhaps of those who are not as
16 familiar with the term, would it be fair to describe the
17 phenomenon of "tunnel vision" as reaching premature
18 conclusions without any foundation or fact to support that?

19 A. That would be one definition of tunnel vision, basically
20 focusing -- focusing on one particular individual.

21 Q. And then building our case around that person?

22 A. That would be one possible definition, yes.

23 Q. And do I take it, sir, that as a matter of policy the R.C.M.P.,
24 when you say you involve different levels, guards against
25 that formally by assuring the different levels are involved?

J. TERRANCE RYAN, by Ms. Edwardh

1 A. Yes, because when I look at when we were doing a serious
2 investigation we would have continuous meetings, we would
3 be informing our -- most certainly my superior at that time,
4 Sergeant McKinley, we would be informing the N.C.O. in charge
5 of the detachment and we would also be informing our officer
6 in command of the investigation, so there would be a number of
7 levels involved in a decision making process as to what
8 procedures would be followed.

9 Q. And I take it in each level there would be discussions and
10 explorations about alternative theories of the investigation
11 and where it should go?

12 A. Yes.

13 Q. Now with respect to your trip to New Waterford, if I could
14 ask you to turn again to your partner's notes which is
15 Exhibit 40, and in particular on the third page you will see
16 some notations under the date the 30th of May, '71. They are
17 notations which for the record indicate that certain names
18 have been deleted from the note. Could I ask you just to
19 pursue that starting with:

20 Both of the opinion Marshall responsible,
21 names and of New Waterford
given to them as possible suspects.

22 Do you see that?

23 A. Yes.

24 Q. Would it be fair to suggest, sir, that your trip to New
25 Waterford was, in fact, to pursue whether or not these two

J. TERRANCE RYAN, by Ms. Edwardh

1 individuals might have been in the area of Sydney at the park
2 on the night of the stabbing?

3 A. No, because from what I can recall we were looking to obtain
4 information of anybody from New Waterford that might have
5 frequented the park. I cannot recall having any names or
6 distinct names in mind.

7 Q. So I take it then, sir, you have no information or belief
8 that this tip, if I could call it, or this potential lead was
9 followed up one way or the other? You're saying you didn't
10 follow it up?

11 A. I did not follow it up.

12 Q. And I take it New Waterford was in your jurisdiction?

13 A. The Town of New Waterford, no, it was not. That falls under
14 the jurisdiction of the New Waterford Town Police.

15 Q. Do you recall any conversation with Sergeant MacIntyre as
16 to why you were going out to make broad inquiries in New
17 Waterford? Had he received certain information?

18 A. I am not certain. From what I can recall it is that basically
19 we were looking for somebody from New Waterford that might
20 have been in the park that evening or had the habit of
21 frequenting the park or drinking in the park, somebody that
22 might have been there that evening that could offer some
23 assistance.

24 Q. So I take it from your perspective you were not necessarily
25 looking for the person who had done the stabbing as much as

J. TERRANCE RYAN, by Ms. Edwardh

1 | anyone who might have been a witness to it as well?

2 | A. It could have been either a witness or an accused. We were
3 | also looking for suspects.

4 | Q. Does the name John Pratico mean anything to you, sir?

5 | A. It does now but at that time, no.

6 | Q. Just one technical question, the retrieval mechanism through
7 | M.C.I.S., that was all done on a computer I take it?

8 | A. I'm not -- I'm not certain.

9 | Q. If you put a request in for information about someone who had
10 | been involved in a stabbing incident in the Sydney area and
11 | had just a physical description and the facts, could you
12 | have found through your system, for example, whether anyone
13 | had been convicted or there was a similar event that had
14 | occurred in the Sydney area in the last three -- was it for
15 | three or four years preceding '71?

16 | A. In our own system or in the M.C.I.S. system?

17 | Q. Yes. Well, either -- any system that you would have had
18 | access to.

19 | A. Well, the M.C.I.S. system, we most certainly could have obtained it
20 | through that system had the information been forwarded
21 | originally and that's the vital point, that the information
22 | bank is -- it's only as good as the information stored in it.
23 | We also at the time had our own independent system at the
24 | office where we would have index cards at that time of
25 | recently released criminals, individuals on parole, warrant --

J. TERRANCE RYAN, by Ms. Edwardh

1 individuals where warrants were outstanding, in our own
2 system where we could search that as well for anybody
3 that we might be interested in.

4 Q. But either of those systems then would depend on what the
5 information base was and whether the Sydney Police had forwarded
6 information to you?

7 A. Yes, exactly.

8 Q. And with respect to your own system in your office, did you have
9 a regular information exchange about people charged and
10 convicted in the Sydney area?

11 A. Each unit would maintain it's own index system and it's own
12 file system, so if I went to Ingonish Beach to do an inquiry
13 I would go to that unit and check their index system on a
14 local basis, yes.

15 Q. But with respect to Sydney -- the City of Sydney?

16 A. The City of Sydney, I do not know what they had within their
17 own Police Department for -- but for our own records, the
18 G.I.S. records and the Sydney Detachment records, yes, there
19 would be an index system there of our files and previous
20 cases and what have you.

21 Q. Now would your indexes, and leaving aside the City of Sydney,
22 the police here, would your indexes include occurrences and
23 convictions arising from prosecutions that were handled
24 through the City of Sydney Police?

25 A. No, they would not.

J. TERRANCE RYAN, by Ms. Edwardh, by Mr. Pugsley

1 | MS. EDWARDH:

2 | Those are my questions. Thank you.

3 | MR. CHAIRMAN:

4 | Mr. Pugsley.

5 | BY MR. PUGSLEY:

6 | Q. Inspector, what was the nature of the opinion that you had
7 | when you made application to the force and were accepted?

8 | A. The requirements to join the force at that time?

9 | Q. No, not the requirements, the training you received after
10 | that application was accepted.

11 | A. I received approximately ten months training, Depot Division.
12 | That was fairly extensive training on methods of investigating
13 | crime scenes and methods of taking statements, how to do
14 | investigations, how to execute warrants, how to serve summonses--

15 | Q. Where was that training given?

16 | A. In Depot Division in Regina.

17 | Q. That was different than the Staff -- the college that Sergeant
18 | Inspector Wood went to?

19 | A. He would have --

20 | Q. I think he went to Ottawa as I recall it.

21 | A. Okay. There was two colleges at that time one in Ottawa and
22 | one in Regina.

23 | Q. I see, and what year was it that you attended this course?

24 | A. I attended and started commencing training in October -- on
25 | October 25th, 1962.

J. TERRANCE RYAN, by Mr. Pugsley

1 Q. And did you receive refresher courses and training and other
2 courses from time to time?

3 A. Yes, I did. Over the years I've probably attended at least
4 fifteen various courses in such things as senior
5 investigator's course, custom's course, courses in
6 management, and any number of courses.

7 Q. Your attention was directed to volume 16, page 90, the Telex
8 that was sent to Halifax from the Sydney office of the
9 R.C.M.P. on the early hours of the morning of May 30th.
10 This request for information could well have come from the
11 Sydney City Police Department to the R.C.M.P. in Sydney?

12 A. Yes, it very well could have.

13 Q. It certainly does not indicate a closed mind as far as this
14 investigation was concerned at that hour, did it?

15 A. No, it does not.

16 Q. The reference to Marshall is only "possibly the person
17 responsible", and there is a request for additional information
18 concerning M.O.'s relating to other -- to persons obviously
19 other than Marshall who could have committed this crime?

20 A. Yes.

21 Q. Yes, and the trip that Sergeant MacIntyre asked you to take
22 to New Waterford on June the 3rd certainly does not
23 indicate a closed mind as far as this investigation is
24 concerned?

25 A. That's correct. Yes.

J. TERRANCE RYAN, by Mr. Pugsley

1 Q. And indeed the reason that you were asked to go to New
2 Waterford was because you had some familiarity with that
3 area?

4 A. Yes, I had been stationed in New Waterford from 1964 until
5 1967.

6 Q. And Sergeant MacIntyre knew that and thought that you
7 obviously could be of assistance to him in that area?

8 A. Yes, he would have known that.

9 Q. Yes. You talked about the re-investigation that occurred in
10 November, 1971. It's my understanding that that reinvestigation
11 took place perhaps about eight or nine days after Mr. Marshall
12 was convicted of the offense after a Jury Trial consequent
13 upon some individuals coming to the Sydney Police Station and
14 advising that Roy Ebsary was, indeed, the person responsible
15 for -- for this crime. Is that your understanding as well?

16 A. At that time?

17 Q. Yes.

18 A. No. I had no -- As I had mentioned before, the only awareness
19 that I had had at that time that there was any problems
20 whatsoever was an extremely brief conversation with
21 Sergeant McKinley to the point that he informed me that
22 Inspector Marshall, he was -- he would be arriving
23 and that there was some problem with that matter. It
24 was very limited.

25 Q. Now it's my -- It's my understanding that -- And take it from

J. TERRANCE RYAN, by Mr. Pugsley

1 me that certain individuals came to see the Sydney City Police
2 on or about the 15th of November, including Roy Ebsary who
3 denied the stabbing, but including one James MacNeil and
4 his brother as well as several other members of the Ebsary
5 family and gave statements to the Sydney City Police at that
6 time. It was the decision of the police force to involve
7 the Crown Prosecutor's Department and also the R.C.M.P. in
8 view of their involvement in the previous investigation last
9 June. Now do you consider that to be an appropriate decision
10 by the -- by the Sydney Police force, rather than conducting
11 it themselves to hand it over to -- to your force?

12 A. Not being aware of the facts or the details or exactly what was
13 going on at the time, I couldn't form an opinion as to the
14 correctness of the decision.

15 Q. Well, assume that what I tell you is accurate, that having
16 been involved in the investigation the previous Spring and
17 having been advised of new information after Mr. Marshall
18 was convicted, the Sydney City Police Department decided
19 that it would be appropriate to hand the new investigation
20 over to the R.C.M.P. Does not sound --

21 A. I would say that would be a wise decision.

22 Q. A wise decision. Okay, and if you were the R.C.M.P. officer
23 who was asked to head that re-investigation on November 5th,
24 1971, and to conduct a thorough re-investigation, what would
25 you have done?

J. TERRANCE RYAN, by Mr. Pugsley

- 1 | A. I would say that I probably would have re-commenced the
2 | whole investigation.
- 3 | Q. Yes, and would have personally interviewed all the individuals
4 | who came forth to the Sydney City Police Department on
5 | November 15th, '71, and gave statements involving another
6 | person?
- 7 | A. If I was in charge of the investigation?
- 8 | Q. If you were in charge.
- 9 | A. I most certainly would.
- 10 | Q. And would you interview personally those witnesses who gave
11 | evidence that gave to the conviction of Donald Marshall?
- 12 | A. Yes, I would.
- 13 | Q. That would be consistent with a thorough re-investigation?
- 14 | A. Yes.
- 15 | Q. Yes. I take it that what you would not do would simply be rely
16 | upon a polygraph examination of two individuals, that would
17 | not be a complete re-investigation or a thorough investigation,
18 | would it?
- 19 | A. I would have used the polygraph as an aid in the investigation.
- 20 | Q. As an aid only, but not as the determining factor. You would
21 | have used firsthand -- firsthand association with those
22 | people who would come forward to advise of the new evidence
23 | and you would personally interview those individuals who
24 | gave evidence at the trial that led to the conviction of
25 | Donald Marshall?

J. TERRANCE RYAN, by Mr. Pugsley

1 | A. I would have.

2 | Q. And you probably would have done other things as well if
3 | you wanted to be thorough?

4 | A. I would have to be aware of the full facts and details
5 | before I could answer that question.

6 | Q. Do you know the individuals who conducted the re-investigation
7 | for the Royal Canadian Mounted Police in November of
8 | 1971?

9 | A. I'm not too certain as to who did it. I believe Inspector
10 | Marshall was involved.

11 | Q. Yes.

12 | A. I'm not too certain as to what extent Sergeant McKinley was
13 | involved.

14 | Q. Let me direct your attention to volume 16 at pages 202 to 207
15 | inclusive. Volume 16, pages 202 to 207 inclusive. Have you
16 | seen any of these documents before, sir?

17 | A. No, I have not.

18 | Q. Okay, and I direct your attention to page 207 which is the
19 | report. It is signed by E. A. Marshall. Who is -- Who --
20 | Do you know that gentleman or did you know him at the time?

21 | A. Yes, I did know him at the time.

22 | Q. And who was he?

23 | A. He was a Detective Inspector or an Inspector working out of
24 | our Halifax office.

25 | Q. Yes. I take it that information of this kind would be treated

J. TERRANCE RYAN, by Mr. Pugsley

1 | most seriously, or should have been treated mostly seriously,
2 | information of another person who had -- who had apparently
3 | caused the injuries and subsequent death of Mr. Seale. This
4 | kind of information would have been treated most seriously
5 | or should have been treated most seriously by a member of the
6 | force?

7 | A. I would say most certainly it should have been treated most
8 | seriously.

9 | Q. Yes, and if I direct your attention to page 204, near the
10 | bottom of the page immediately above the words, "17
11 | November, 1971, Inspector Marshall writes":

12 | At this point the force became involved
13 | and I went to Sydney on the 16th of
14 | November of '71, where together with
 Sergeant G. M. McKinley I see Sydney
 G.I.S. A thorough...

15 | And I emphasis the word "thorough".

16 | ...A thorough review of the case was
17 | conducted with the following results...

18 | Sergeant G. M. McKinley was who?

19 | A. At that time he was the N.C.O. in charge of Sydney G.I.S.,
20 | the unit that I had been attached to.

21 | Q. Right, and you knew that man personally?

22 | A. Yes, I did.

23 | Q. Would you be astounded that he was involved in a re-investigation
24 | where no personal accounts were taken from the witnesses who
25 | gave evidence at trial?

J. TERRANCE RYAN, by Mr. Pugsley

1 A. I have no knowledge as to the depth of involvement of Sergeant
2 McKinley.

3 Q. All right. Sergeant McKinley would have had the same
4 training you had?

5 A. Yes, he would have.

6 Q. Would Inspector Marshall have had the same training you had?

7 A. Yes, he would have.

8 Q. Do you know the gentleman who took the polygraph, the E. C.
9 Smith whose name appears at the bottom of page 203?

10 A. Yes, I know Mr. Smith.

11 Q. And would he have had the same kind of training you had?

12 A. Basically, yes.

13 MR. PUGSLEY:

14 Thank you.

15
16
17
18
19
20 gmr
21
22
23
24
25

J. TERRANCE RYAN, by Mr. Murray

1 | MR. CHAIRMAN:

2 | Mr. Murray.

3 | BY MR. MURRAY:

4 | Q. Inspector Ryan, I would ask you to refer to Page 22 in Volume
5 | 16.

6 | MR. CHAIRMAN:

7 | What page is that Mr. Murray?

8 | MR. MURRAY:

9 | Page 22.

10 | BY MR. MURRAY:

11 | Q. Volume 16, Page 22, have you ever seen that document before,
12 | sir?

13 | A. No, I have not.

14 | Q. Perhaps you take an opportunity to just read through it
15 | briefly. That's dated May 30th, the Sunday?

16 | A. Yes, it is.

17 | Q. And in that statement there's a reference to a white
18 | Volkswagen with a blue license and white number on it?

19 | A. Yes.

20 | Q. I ask you now to refer to Volume 16, Page 85, have you seen
21 | this document before, sir?

22 | A. No, I have not.

23 | Q. Perhaps you could read through that briefly. That statement
24 | is dated July 2nd, '71?

25 | A. Yes.

J. TERRANCE RYAN, by Mr. Murray

1 Q. And the substance of the statement is a conversation involving
2 John Pratico, Glen Lamson, Junior Marshall and the person
3 giving the statement, a Raymond Poirier?

4 A. Yes.

5 Q. And in that statement referring to Donald Marshall and this
6 is the day after the stabbing or the Sunday after the
7 stabbing, he said

8 He said then two men took off and jumped in
9 a white Volkswagen. He said he did not
recognize them at all.

10 Do you see that?

11 A. Yes, I do.

12 Q. I would ask you to take your notes, exhibit --

13 MS. EDWARDH:

14 (inaudible - microphone not transmitting) ... not the day after the
15 stabbing. It may be what the witness is recounting but the
16 statement itself is dated July 2nd.

17 MR. MURRAY:

18 I pointed that out.

19 BY MR. MURRAY:

20 Q. Perhaps if you'd take your notes, exhibit 41, it's reasonable to
21 assume from your notes on, on May 31st, that you were aware
22 of this Volkswagen theory on the part of the Sydney City
23 Police?

24 A. Yes.

25 Q. And that--that's why you would have in fact been making notes

J. TERRANCE RYAN, by Mr. Murray

1 of Volkswagens?

2 A. Yes.

3 Q. And that is why indeed your partner would have been making
4 notes of Volkswagens?

5 A. Yes.

6 Q. And that would not be consistent, I suggest, with having
7 decided that Donald Marshall was responsible?

8 A. I would say no, it would have been looking for somebody else
9 or suspects.

10 Q. Now in your experience in working with Detectives' Urquhart
11 and MacIntyre of the Sydney City Police, I take it that they
12 didn't share information with you about leads that they
13 weren't interested in having you pursue?

14 A. No, absolutely not, I -- at least I would hope not. They
15 would give us the facts required to assist in the
16 investigation.

17 Q. Now I understand from the testimony from your partner and
18 from yourself this morning that one of the procedures you
19 would want to follow at a crime scene, is to separate
20 the witnesses?

21 A. Yes.

22 Q. And that is so they will not discuss what happened?

23 A. Yes.

24 Q. And possibly contaminate their own recollection of events?

25 A. Yes, that's correct.

J. TERRANCE RYAN, by Mr. Murray

1 Q. Or be influenced by someone as to what the events were?

2 A. That's correct.

3 Q. I'd like you to turn to Volume 16, Page 75, and perhaps in
4 fairness, if you've not seen that document before, it's a
5 statement by Mary Patricia O'Reilly, if you would read
6 that statement through and become familiar with it. Page
7 74 and 75. I would like to specifically direct your
8 attention to the last two or the second and third to last
9 questions and answers in that statement

10 Did you discuss this matter with Patricia Harriss?

11 Answer

12 Yes

13 Question

14 Did you tell her about the grey haired man?

15 Answer

16 I told her there was supposed to be a grey
17 haired man there. I told her if she was
18 questioned by the police she should tell
19 about the grey haired man that Junior told
20 me about.

21 I suggest that that is precisely the kind of problem that
22 you would want to avoid?

23 A. Yes, it is.

24 Q. Would it concern you as an investigator officer, if you were
25 aware that a person who was associated with an apparent
offense was going around talking to witnesses a great deal?

A. It's a normal occurrence that you can't avoid.

Q. Does it concern you?

J. TERRANCE RYAN, by Mr. Murray

1 A. It most certainly concerns me, yes.

2 Q. Does it raise any concerns about the individual himself
3 sometimes?

4 A. About which particular individual?

5 Q. The individual who is going around talking to the different
6 witnesses.

7 A. If somebody was going around and talking to witnesses and
8 putting words in their mouth, I would be quite concerned
9 and I would say make every effort to interview that
10 individual.

11 Q. All right, and why would you be concerned, sir?

12 A. Because you're looking again at a possible somebody -- if
13 it's a case before the court, it could be encouraging
14 perjury, you could be leading towards a separate crime, you
15 could be effecting the outcome of an investigation or case
16 before the court. There's any number of reasons why you
17 would be interested.

18 Q. Would it attract suspicion to that individual himself, sir?

19 A. To that individual or somebody else that he maybe aiding.

20 MR. MURRAY:

21 I have no further questions of this witness, Your Honour.

22 THE CHAIRMAN:

23 Mr. Elman.

24 MR. ELMAN:

25 No questions, My Lord.

J. TERRANCE RYAN, by Mr. Pink

1 | THE CHAIRMAN:

2 | Mr. Bissell, no, I'm sorry. Mr. Ross. No, Mr. Pink.

3 | MR. PINK:

4 | It's okay, Mr. Lord.

5 | BY MR. PINK:

6 | Q. Just a couple of questions, Inspector. Sergeant MacKinley
7 | is he still with the force today?

8 | A. No, he is not. He is since deceased.

9 | Q. He is since deceased?

10 | A. Yes.

11 | Q. There were some questions yesterday about notebooks of members
12 | of the Force, what happens with notebooks when a person
13 | leaves the Force, do you know that?

14 | A. I would have to check the policy before I could determine
15 | what happens to them. I believe the members retain them
16 | but that's my belief but I'll have to check the policy
17 | to be certain on that.

18 | Q. Do you retain your own notebooks?

19 | A. Yes, I do.

20 | Q. The conduct of an investigation itself -- when you're in charge
21 | of an investigation I take it your the one that controls
22 | how the investigation is carried on?

23 | A. No, it depends on the investigation. I have certain
24 | responsibilities. I might be overall responsible but I have
25 | people that I report to who have direct control over me. So

J. TERRANCE RYAN, by Mr. Pink

1 | if they would detect that I was going in the wrong direction
2 | or doing something wrong, then most certainly I would be
3 | advised as to a path to follow.

4 | Q. In other words you would take instructions from your
5 | superiors?

6 | A. Yes, I would.

7 | Q. Have you ever been involved in a joint force operation with
8 | local police departments in Cape Breton?

9 | A. No, I have not.

10 | Q. Have you ever taken over an investigation from a local police
11 | department?

12 | A. I cannot recall having taken over an investigation.

13 | Q. Just so that I'm clear, what I mean by that is that there is
14 | a serious crime that takes place in a jurisdiction that a
15 | local police department has responsibility for and they ask
16 | the R. C. M. P. to come in and handle that investigation?

17 | A. I cannot recall having done that.

18 | Q. When you were with G. I. S. in Sydney, was the G. I. S.
19 | Section involved in that kind of thing even though you
20 | personally were not?

21 | A. Yes, we probably were.

22 | Q. And in that situation, was it G. I. S. that determined how
23 | the investigation was carried out or was it the local
24 | police department?

25 | A. If we assumed responsibility to do an investigation, we

J. TERRANCE RYAN, by Mr. Pink

1 | would determine what action would be taken.

2 | Q. So just so that I understand, I take it they would turn the
3 | investigation over to you, give you the information that they
4 | had and it was for the R. C. M. Police to determine what
5 | further steps were taken and what further steps were required?

6 | A. Yes, that would be correct.

7 | Q. Without regard to any instructions that might be given by the
8 | local police department?

9 | A. We most certainly would work with and cooperate with the
10 | local police department but we would direct the investigation.

11 | Q. Sure, they couldn't tell you what to do, could they?

12 | A. It would not --

13 | Q. In terms of restricting the investigation?

14 | A. No, they would not restrict the investigation.

15 | Q. And is the same true for the Crown, that the Crown wouldn't
16 | be able to restrict an investigation that the R. C. M. Police
17 | were investigation?

18 | A. No, they could not.

19 | Q. So again, you and your superiors would use their best
20 | judgement to determine how an investigation should be done,
21 | what was required to complete a thorough investigation?

22 | A. Yes, that's correct.

23 | Q. Without regard to the considerations or thoughts that the
24 | Crown might have in restricting it?

25 | A. We would most certainly consult with the Crown at various

J. TERRANCE RYAN, by Mr. Pink, by The Chairman

1 | levels depending on the problems that we might encounter
2 | along the way, with search warrants, legal documents, certain
3 | procedures; but we would do the investigation. We would
4 | direct the investigation.

5 | Q. Sure, and you would determine the scope of the investigation?

6 | A. Yes, we would.

7 | Q. That's all I have, thank you.

8 | BY THE CHAIRMAN:

9 | Q. Before you leave that, Inspector. Having carried out
10 | investigations and submitted your report to the Crown
11 | Prosecutor assigned to that case, would on occasion or as
12 | a matter of practice, would the Crown Prosecutor come back
13 | to you and indicate additional investigation?

14 | A. Yes, on many occasions he would review a brief and he would
15 | ask us maybe to re-interview witnesses, to do certain things
16 | that he felt were very important prior to going to trial.

17 | Q. And would you carry out these instructions?

18 | A. Yes, we would.

19 | MR. PINK:

20 | If I may follow up on that, Mr. Lord.

21 | BY MR. PINK:

22 | Q. I presume that that would be, Inspector, that would be
23 | subsequent to your delivery of the facts to the Crown maybe
24 | prior to the laying of an Information or even subsequent
25 | in a preparation for trial?

J. TERRANCE RYAN, by Mr. Pink, by The Chairman

1 A. That would generally take place after a brief had been
2 presented to the Crown. He would have had an opportunity
3 to review the brief, review it's contents and then he
4 would come back with certain requirements.

5 Q. Was it your experience in 1971 that it was the R. C. M. Police
6 that determined when a charge would be laid?

7 A. I can very clearly recall the policy of the Crown Prosecutor
8 at that time.

9 Q. And what was that policy?

10 A. His policy was, "you present me with a brief and the facts,
11 I will advise you as to the charge that you should proceed
12 with. If you do not agree with that charge, you proceed
13 with the charge you feel you should agree with; but if I
14 lose the case, don't come to me".

15 Q. That's all I have, thank you.

16 THE CHAIRMAN:

17 I take it the old adage that the Crown never loses a case, that
18 justice is done -- never wins a case rather, but only justice
19 is done; it didn't prevail with absolute infallibility.

20 BY THE CHAIRMAN:

21 Q. But apropos that, Inspector. Supposing you had completed an
22 investigation and submitted your file and carried out any
23 further investigation under the instruction of a Crown
24 Prosecutor and recommended to the Crown Prosecutor that a
25 particular charge be laid and the Crown Prosecutor based

J. TERRANCE RYAN, by The Chairman, by Mr. Pink

1 on his or her examination of the file concluded that there
2 was insufficient evidence to lay a charge, what would you
3 do then?

4 A. I would follow the instructions of the Crown Prosecutor.

5 It would have to depend on the case, the seriousness of
6 the case, the complexities of it -- if it was a serious
7 case and the Crown advised us not to proceed with prosecution,
8 if I had serious feelings about the case, I would prepare
9 a report and submit it to my superiors in Halifax for direct
10 consultations with the Department of Justice in Halifax
11 should that be necessary. I would not lay a charge on my own.

12 THE CHAIRMAN:

13 Mr. Ross.

14 MR. ROSS:

15 Thank you, My Lord.

16 MR. PINK:

17 My Lord, there's just one point that I would like to ask. Sorry
18 to interrupt you, Mr. Ross.

19 MR. CHAIRMAN:

20 All right, Mr. Pink, go ahead.

21 BY MR. PINK:

22 Q. Inspector, just so that it's clear, the present practice in
23 New Brunswick is different, is that correct?

24 A. Yes, it is.

25 Q. The practice in New Brunswick at the present time is that no

J. TERRANCE RYAN, by Mr. Pink, by Mr. Ross

1 charges are laid without the consent of the Crown Prosecutor?

2 A. We consult the Crown Prosecutor in advance and yes, he decides
3 on what charge will be laid.

4 Q. And in fact it's my understanding that the information is
5 actually initialed by the Crown Prosecutor before the Justice
6 of the Peace or the Court Official will swear it, is that
7 correct?

8 A. Yes, that's the general practise.

9 Q. Thank you.

10 MR. CHAIRMAN:

11 Mr. Ross, the third time and maybe more.

12 MR. ROSS:

13 Three strikes, yes, Mr. Lord.

14 BY MR. ROSS:

15 Q. Inspector Ryan, I am interested just in one thing and that's
16 the records which might have been maintained back in 1971.
17 Now could you tell me whether or not there's a departmental
18 policy with respect to the destruction of records after a
19 certain time?

20 A. Yes, there is.

21 Q. And what is this time?

22 A. I'm not sure of the time but records such as routine calls,
23 routine complaints and what have you, would probably have
24 been destroyed at the termination of either three or five
25 years. I'm not certain of the policy at that time but they

J. TERRANCE RYAN, by Mr. Ross, by Mr. Wildsmith

1 | would have been destroyed.

2 | Q. I see, can I take it then that after, after this five year
3 | period, the only thing that's left is the individual notebooks
4 | of the individual officers?

5 | A. Yes, that should be -- that would be correct.

6 | Q. So that in fact if calls were made by Oscar Seale on the
7 | 29th of May, 1971, our only opportunity for recovery at this
8 | time would be if the officer himself could be found and if
9 | he made records of those calls in his personal notebook?

10 | A. Yes, that's correct; but it would be highly unlikely that a
11 | member would make a record of a call such as that in his
12 | notebook if he was at our communications center or a
13 | detachment taking calls during that period. He would open
14 | up -- or a complaint or make a record of it in the complaint
15 | book or our C-238 at that time and that would be the record.
16 | He would not be making a record of every call in his notebook.

17 | Q. Sure, and it's those records the complaint book and the
18 | C-238 that's what's destroyed after a time?

19 | A. That would be destroyed.

20 | Q. Thank you very kindly.

21 | THE CHAIRMAN:

22 | Mr. Wildsmith.

23 | BY MR. WILDSMITH:

24 | Q. Just a couple of questions, Inspector Ryan, you mentioned
25 | familiarity with work on other Indian Reserves in Nova

J. TERRANCE RYAN, by Mr. Wildsmith

1 Scotia besides Eskasoni, is that correct?

2 A. Yes.

3 Q. Were you here yesterday when I was asking a few questions of
4 Sergeant Wood about special Indian constables?

5 A. Yes, I was.

6 Q. And it's true, is it not, that there are special Indian R. C. M. P.
7 constables working with respect to other Reserves in Cape
8 Breton under the jurisdiction of the R. C. M. P.?

9 A. Yes, there is.

10 Q. Thank you. Do you also have some knowledge about the treatment
11 of Indians in the Criminal Justice System in New Brunswick?

12 A. Yes, I do.

13 Q. And would it be your conclusion that Indians in New
14 Brunswick were treated no differently in the Criminal Justice
15 System than others?

16 A. That would be my conclusion.

17 Q. Are you aware of a Federal Department of Justice study
18 completed in the spring of this year on Indians in Criminal
19 Justice in New Brunswick?

20 A. No, I am not.

21 Q. You would then be surprised to learn that that study found
22 the existence of discrimination in the Criminal Justice
23 System in New Brunswick?

24 A. Yes, I would be.

25 Q. And that would give you some cause, would it not, --

J. TERRANCE RYAN, by Mr. Wildsmith

1 THE CHAIRMAN:

2 According to our terms of reference -- fortunately for --

3 MR. WILDSMITH:

4 If I might just ask the last question, My Lord.

5 MR. CHAIRMAN:

6 He's not an accused of the Province of New Brunswick.

7 MR. PRINGLE:

8 And with respect, My Lord, the reference before it is certainly
9 not here in evidence and there's no knowledge or we weren't made
10 aware that there'd be any reference to such a report from the
11 Department of Justice.

12 MR. WILDSMITH:

13 I have but one question to complete this series.

14 MR. CHAIRMAN:

15 All right, just let me hear it. So long as you understand --
16 So long as you understand that you have gone way outside the --
17 our terms of reference but ask the question anyway.

18 MR. WILDSMITH:

19 If Your Lordship feels that way, then I won't ask the question.

20 MR. CHAIRMAN:

21 Don't -- Ask the question. Then we can rule on it, whether or not
22 it's relevant.

23 BY MR. WILDSMITH:

24 Q. If it were true that there were such a study and that it did
25 find discrimination in the treatment of Indians in the Criminal

J. TERRANCE RYAN, by Mr. Wildsmith

1 Justice System in New Brunswick, that would give you some
2 cause, would it not, sir, to reassess your understanding and
3 perceptions about discrimination of Indians in the Criminal
4 Justice System?

5 MR. CHAIRMAN:

6 Go ahead if you can fight your way through all these if's, Inspector,
7 I have no objection to your answering him.

8 BY THE WITNESS:

9 A. If there is a report in existence that exists in New Brunswick that the
10 is a problem with the administration of justice in New Brunswick
11 in relation to treatment of Indians and that is a credible
12 report done by credible people, has a reflection upon the way
13 that the R.C.M.P. treats Indians within the Province of
14 New Brunswick, then I know for a fact the R.C.M.P. would
15 react to that report and take necessary steps to correct
16 any deficiency.

17 BY MR. WILDSMITH:

18 Q. I believe the question that you were asked by Commission
19 Counsel was much broader than the role of the R. C. M. P.,
20 are you suggesting that your response is only with respect
21 to the conduct of the R. C. M. P.?

22 A. I can only speak for the conduct of the R. C. M. P. I
23 cannot speak for the conduct of other departments.

24 Q. Then you did not purport to offer an opinion about the
25 treatment of Native people by the Courts themselves?

J. TERRANCE RYAN, by Mr. Wildsmith,

1 | A. I have --

2 | Q. I understand your --

3 | A. In my experiences before the Courts with a Native person
4 | present in the Court at any time that I have been there,
5 | I have no knowledge or recollection of any different
6 | treatment to the Native person than I do to any other
7 | person.

8 | BY THE CHAIRMAN:

9 | Q. I assume that applies to Nova Scotia as well?

10 | A. Nova Scotia and New Brunswick.

11 | BY MR. WILDSMITH:

12 | Q. And my somewhat hypothetical question to you was that if there
13 | were such a study in New Brunswick that suggested discrimination
14 | in the Criminial Justice System, that would cause you to
15 | reassess your understanding of the concept of discrimination,
16 | would it not?

17 | A. I can only speak for the R. C. M. P. and with the answer
18 | that I have previously laid out; that you would examine
19 | that report as it relates to the R. C. M. P.'s role within
20 | the Justice System and determine --

21 | Q. Exactly and that's my point, it would cause you to reassess
22 | your understanding and your conclusion?

23 | A. The R. C. M. P.'s understanding.

24 | Q. Yes, your personal understanding because that's what you're
25 | speaking from, sir?

J. TERRANCE RYAN, by Mr. Wildsmith, by Mr. Pringle

1 A. I have a good knowledge of the R. C. M. P. as well.

2 Q. Thank you.

3 THE CHAIRMAN:

4 Mr. --

5 MR. PRINGLE:

6 It's Mr. Pringle, My Lord.

7 BY MR. PRINGLE:

8 Q. A few questions, Inspector. Are you aware whether the Royal
9 Canadian Mounted Police has courses concerning interaction
10 with ethnic or minority groups for the members?

11 A. Yes, we do. The R. C. M. P. has a course known as a Cross-
12 cultural Course which is given to various members so that
13 members have a better understanding of a Native community
14 or other cultural groups which we might work with.

15 Q. And that, of course, would be available to members in New
16 Brunswick as well as all other provinces in which the
17 Royal Canadian Mounted Police do policing services?

18 A. Yes, it would be.

19 Q. Thank you. You were asked some questions by Mr. Pugsley, I
20 believe, about November 1971. Are you aware, Inspector, from
21 whom Inspector Marshall was taking any direction in 1971?

22 A. I am not certain at that time who the C. I. B. officer for
23 "H" Division would have been; but his -- would have been taking
24 direction, I believe, from that office.

25 Q. Are you aware of how -- whether any contact was made with

J. TERRANCE RYAN, by Mr. Pringle

1 "H" Division Headquarters from the Attorney General's
2 Department with respect to this matter?

3 A. No, I am not.

4 Q. Are you aware of the extent of Inspector Marshall's involvement --
5 what he was requested to do when he came down here?

6 A. No, I was not; I am not.

7 Q. I refer you, Inspector, to Volume 16 at Page 204, you were
8 asked to look at that earlier by, I believe, Mr. Pugsley.
9 And in particular paragraph three the last, the last several
10 lines. Would you read for us, sir, what the last sentence
11 is in paragraph three of Volume 16, Page 204?

12 A. Starting at "At this point"?

13 Q. Yes, please.

14 A. At this point the Force became involved and
15 I went to Sydney on the 16th of November,
16 1971, where together with Sergeant G. M.
17 MacKinley, I.C. Sydney, G. I. S..
Thorough review of the case was conducted
with the following results --

18 Q. Do you understand, sir, in your experience with writing this
19 sort of police report, whether or not there is a difference
20 between a review and a re-investigation or an investigation?

21 A. A review would be something considerably less in my opinion
22 than a re-investigation.

23

24

25

J. TERRANCE RYAN, by Mr. Pringle, by Mr. MacDonald

1 Q. I don't think anyone asked you, Inspector, about your
2 notes -- your practise as to when you made your notes.
3 Can you tell us please?

4 A. It would depend if I was making notes of a case involving
5 something that I felt that I might have to appear in court
6 in or what have you. I would make them as soon as I possibly
7 could after that occurrence and I would usually indicate
8 the time in -- within the notes that I had made the notes.
9 The regular notes I would probably make them following
10 a shift or sometimes during the day. It would depend
11 on the occurrence.

12 Q. Yes. And I believe you're here under a subpoena, is that
13 right Inspector?

14 A. Yes, I am.

15 Q. From the Commission? Yeh.

16 A. Yes.

17 Q. And as that correct, to your knowledge, for Staff
18 Sergeant Wood, the previous witness?

19 A. Yes, it is.

20 MR. PRINGLE:

21 Thank you very much.

22 MR. MACDONALD:

23 I just have a couple of questions, My Lord.

24 BY MR. MACDONALD:

25 Q. Inspector Ryan, in response to -- I think it was Mr. Pink --

J. TERRANCE RYAN, by Mr. MacDonald, by The Chairman

1 -- you laid out somewhat emphatically, the rule or the
2 practise of -- you said the prosecutor at that time --

3 A. Yes.

4 Q. -- that would require certain steps to be taken. Who
5 were you talking about?

6 A. Donald C. MacNeil.

7 Q. I thought so but I -- that didn't get on the record. So
8 his practise was to be involved in deciding what charge
9 was to be laid but he left the ultimate decision to the
10 police?

11 A. We would consult with him. We would present our evidence to
12 him. We would recommend a charge. He would review the
13 brief completely and then he would make his recommendations
14 and without a doubt as a rule we would follow -- or
15 generally follow his recommendations.

16 Q. But you did say that he would also say to you, if you
17 don't agree and you want to lay something else, go ahead.

18 A. Yes.

19 Q. But the consequences are yours, so to speak?

20 A. Exactly.

21 Q. Okay. Now, --

22 BY THE CHAIRMAN:

23 Q. You refer to another murder investigation in Ingonish Bay?

24 A. Yes.

25 Q. Who was the prosecutor then? Crown Prosecutor then?

J. TERRANCE RYAN, by Mr. MacDonald

1 A. That was Donald C. MacNeil.

2 BY MR. MacDONALD:

3 Q. I'm sure everyone around the tables is interested in
4 the distinction between a review and in a re-investigation.
5 Perhaps, I won't try and put words in your mouth, you tell
6 me what a review is first of all?

7 A. If I had -- was -- somebody that was in the powers that
8 be asked me to go to a certain area and could you review
9 the procedures, the practises or determine what had taken
10 place at a given time to try and come to some conclusion
11 as to what had happened. It -- It's -- I would say there's
12 a fine line probably between review and re-investigation but
13 it's -- there would be a difference. I would say if it
14 was a review you would probably have established terms of
15 reference.

16 Q. Well, let me go back to page 204 in exhibit 13 and let's
17 not look at only at the final sentence of this paragraph.
18 Let's look at -- at what's being said here.

19 A. 16?

20 Q. Volume 16. I'm sorry. Page 204.

21 Now, starting in paragraph three. It says:

22 After sentence was passed, one James William
23 MacNeil, aged 25 came forward and said that he
24 was with a man by the name of Roy Ebsary during
25 the evening of 29, May. And that he, Ebsary,
had in fact murdered Seale in Wentworth Park.
MacNeil was interviewed by Sydney City Police
and the Prosecuting Officer for Cape Breton County,

J. TERRANCE RYAN, by Mr. MacDonald

1 Donald C. MacNeil on Monday, 15 November.
2 Roy Ebsary was picked up and interviewed
3 and he denied murdering Seale although he
4 did say that MacNeil and himself were in
5 the park after visiting a tavern during the
6 evening of 28, May. And that he and MacNeil
7 became involved in an altercation with two
8 men later determined through investigation to
9 be Marshall and Seale. According to MacNeil
10 and Ebsary, Marshall and Seale attempted to
11 rob them in the park. This altercation which
12 obviously happened prior to the murder was
13 not known to the police until MacNeil came forward
14 on 15, November.

15 And then the sentence that you've wrote. And the first
16 paragraph talks about Marshall being convicted of that
17 event. So you have a circumstance where Marshall has
18 been convicted. You have an eyewitness, allegedly --
19 an alleged eyewitness coming forward after the conviction
20 and saying that that was not done by Marshall. It was done
21 indeed by someone else during the course of a robbery.
22 In those circumstances you're asked to do a review, what
23 do you understand that means?

24 A. I would carry that from a review to a re-investigation.

25 Q. Sure. So when you told Ms. Edwardh earlier, re-investigation,
you would have done what you said then?

A. Yes.

Q. To Ms. Edwardh?

A. Yes.

O. Thank you. And you also told Ms. Edwardh that -- or Mr.
Pugsley. Sorry. You also told somebody that the --

J. TERRANCE RYAN, by Mr. MacDonald

1 | MR. CHAIRMAN:

2 | If you're going to give out Emmy Awards, you likely would make
3 | sure you have the right actors.

4 | BY MR. MacDONALD:

5 | Q. You also told someone, Inspector, that to avoid this "tunnel
6 | vision" concept that the force, as a practise, would make
7 | certain that during an investigation various levels would
8 | be involved?

9 | A. Yes.

10 | Q. Could I take it that you would expect the same procedure
11 | to be followed during the course of a re-investigation?

12 | A. Yes.

13 | Q. And when you're dealing with an Inspector -- Inspector
14 | Marshall, someone of his rank, what levels would you
15 | expect to be involved during the course of a re-investigation?

16 | A. I would expect that he would be reporting directly to
17 | the C.I.B. officer of that day.

18 | Q. And in particular, and I assume your understanding would be
19 | that, that C.I.B. officer would make certain that Inspector
20 | Marshall was not falling victim to this "tunnel vision"
21 | problem?

22 | A. I would anticipate that that report would be -- would have
23 | been reviewed by the C.I.B. officer or people within his department
24 | and analysed.

25 | Q. Thank you.

J. TERRANCE RYAN, by Mr. MacDonald

1 A. Only one other --

2 MR. CHAIRMAN:

3 Before you leave there, Mr. MacDonald. Would you ask this
4 witness -- Would you take him to paragraph five on page 205?

5 MR. MacDONALD:

6 I certainly will, My Lord. Thank you.

7 BY MR. MACDONALD:

8 Q. And we go through paragraph five, Inspector.

9 Sergeant MacKinley received MacNeil's written
10 permission that he would undergo the polygraph
11 test. We interviewed MacNeil and it was obvious
12 by his demeanor and speech that he had subnormal
13 intelligence and is slightly mental.

14 From what you --

15 MR. MacDONALD:

16 I'll just continue with it, My Lord, and then ask some questions
17 if I might.

18 BY MR. MacDONALD:

19 He was nonetheless convinced that Ebsary had
20 stuck a knife in to the deceased and that later
21 they went to Ebsary's home where he, Ebsary,
22 washed off the knife. Because we were certain
23 that MacNeil's account of the altercation, in
24 so far as it concerned Ebsary allegedly stabbing
25 Marshall, was a figment of his imagination. We
did not immediately question him or take any
further action with respect to MacNeil at this
time. Rather a number of hours were spent by
Sergeant MacKinley and myself going over statements
given by various witnesses to the police during
the initial investigation and later. And visiting
the scene of the crime with Sergeant of Detectives,
John MacIntyre, of Sydney Police Department and
additionally pursuing transcripts of evidence given
at the preliminary hearing and some transcripts of
evidence given in High Court.

J. TERRANCE RYAN, by Mr. MacDonald

1 That, if you can assume, Mr. -- Inspector Ryan, is the
2 type of work that was done by Inspector Marshall and
3 Sergeant MacKinley. And, in fact, there was no interviews
4 done of people who gave statements at the trial or to
5 the police. Would you consider that to be a proper
6 procedure to be followed by an R.C.M.P. officer carrying
7 out a re-investigation?

8 A. Based on the knowledge that I have of the case presented
9 before me here, I would say -- or draw the conclusion that
10 more should have been done.

11 Q. And what do you say about submitting, to a polygraph test,
12 someone who, in your opinion, has "subnormal intelligence
13 and is slightly mental"?

14 A. Polygraph tests, from such an individual, would have
15 no credibility with myself.

16 Q. That's all I have. Thank you Inspector.

17 MR. CHAIRMAN:

18 Thank you, Inspector. We will take a short break.

19 INQUIRY ADJOURNED: 11:22 a.m.

20 INQUIRY RECONVENED AT 11:37 a.m.

21 R. ALEXANDER MacNEIL, being called and duly sworn, testified as
22 follows:

23 BY MR. SPICER:

24 Q. State your full name, please sir?

25 A. Roderick Alexander MacNeil.

R. ALEXANDER MacNEIL, by Mr. Spicer

- 1 Q. And you go by Sandy?
- 2 A. Yes.
- 3 Q. Sandy, how old are you?
- 4 A. Thirty-three.
- 5 Q. Thirty-three?
- 6 A. Yes.
- 7 Q. And when were you born?
- 8 A. June 12, '54.
- 9 Q. And where did you live in 1971?
- 10 A. Bungalow Road in Coxheath.
- 11 Q. Is that in Sydney?
- 12 A. It's outskirts of Sydney.
- 13 Q. Outskirts of Sydney? And did you have occasion to attend
- 14 the dance on May 28th?
- 15 A. Yes, we -- myself and a friend of mine had stopped at the
- 16 dance at St. Joseph's coming from a show in Sydney.
- 17 Q. Who was the friend of your's?
- 18 A. George MacNeil.
- 19 Q. George MacNeil?
- 20 A. Yes.
- 21 Q. You stopped in at the dance on your way from the show?
- 22 A. Yes. And --
- 23 Q. And what was the name of your friend, again? In case the
- 24 Commissioners didn't hear.
- 25 A. George -- George MacNeil.

R. ALEXANDER MacNEIL, by Mr. Spicer

1 Q. George MacNeil. Okay. How long did you stay at the
2 dance for?

3 A. Oh, maybe 15 minutes, half an hour. We couldn't get in.
4 The dance was sold out. So we just stayed around for a
5 few minutes and then we proceeded on our way home.

6 Q. Can you indicate on the map beside you, sir, the route
7 that you took to get home?

8 A. Dance was approximately up -- up here. Down George Street.
9 In back of the drug store. Down this walkway over towards
10 the bridge.

11 Q. All right. You're indicating going up along a walkway
12 on the right hand side of Wentworth Creek. Is that right?

13 A. Right.

14 Q. Okay, continue on.

15 A. Over here, across, over the railroad tracks and down
16 towards the Esplanade.

17 Q. Okay. Now, during the course of that walk, through the
18 park, did you see anything?

19 A. Yes. Just about the bridge, here, we met an older man
20 and I believe there was a young couple sitting on the
21 bench opposite the bridge.

22 Q. Now, do you remember what the old man looked like?

23 A. He was wearing a hat and a long trenchcoat.

24 Q. At this time, do you remember anything else about that
25 man?

R. ALEXANDER MacNEIL, by Mr. Spicer

- 1 A. No. He was talking to the couple on the bench, I believe.
- 2 Q. Do you remember anything about the couple on the bench?
- 3 A. Not in particular.
- 4 Q. Okay. Anything else, of any importance, happen on your
5 was home?
- 6 A. No. There was also somebody standing on the bridge.
- 7 Q. Do you have any recollection of what that person looked like?
- 8 A. No. It was -- It was a younger person. Taller. Oh, I can't --
9 we weren't really that close to him but --
- 10 Q. Are you able to say whether or not he was Black, White?
- 11 A. He was White. Middle aged.
- 12 Q. A few days later, Mr. MacNeil, you had occasion to give
13 a statement to the police?
- 14 A. Yes --
- 15 Q. If I could just direct your attention to that volume 16,
16 which is in front of you, at page 26. You're the Roderick
17 Alexander MacNeil that's referred to there?
- 18 A. Yes.
- 19 Q. Have you had occasion, the last few days, to review that
20 statement?
- 21 A. Yes. My first occasion was February of this year. And then it
22 was last week.
- 23 Q. With myself?
- 24 A. Yes.
- 25 Q. Can you tell us the circumstances that gave rise to you

R. ALEXANDER MacNEIL, by Mr. Spicer

1 giving this statement? How were you contacted?

2 A. The following morning we heard, on the radio, that there
3 had been an incident in the park and George MacNeil contacted
4 the police department and told them of our being there
5 and who we seen. That was -- That was about all.

6 Q. Were you picked up by the police or did you get yourself
7 down to the station?

8 A. We were picked up by the police and taken in. I'm not
9 sure what day it was. The next day or that day -- whatever --

10 Q. Do you remember who the officers were that picked you up?

11 A. No, I don't.

12 Q. No. And what happened when you got to the police station?

13 A. George was taken in first. In to the back office --
14 whatever and questioned for 15, 20 minutes -- whatever. And
15 then I was taken in and questioned.

16 Q. And during the time that he was being questioned, what were
17 you doing?

18 A. Sitting in the next room, waiting.

19 Q. By yourself?

20 A. There might have been a few more people around. There was --
21 I can't --

22 Q. Any police officers?

23 A. I can't -- I can't recall.

24 Q. For how long were you questioned?

25 A. About the same time. 15, 20 minutes.

R. ALEXANDER MacNEIL, by Mr. Spicer

1 | Q. Do you have any recollection as to who you were questioned
2 | by?

3 | A. No, I don't. Not at the time. I -- most likely it would
4 | be Mr. MacIntyre but I can't say. I can't recall.

5 | Q. Were -- Was there more than one police officer in the
6 | room when you were being questioned?

7 | A. I believe there was, but I can't remember very --

8 | Q. Perhaps, you could just have a look at your statement. And
9 | at the time that you gave the statement, you gave a fairly
10 | detailed description of these two individuals. Half way
11 | down the page.

12 | A. Yes.

13 | Q. Do you know how you came to give -- to give such a detailed
14 | description?

15 | A. Well, we were -- we were close enough to the older fellow.
16 | And he was grey haired. It was a light -- well, it
17 | says here: "White topcoat" but it was a light coloured
18 | topcoat. Tan or sand or whatever. And, well, I was five-eleven or
19 | thereabouts and he was shorter than I was.

20 | Q. When you say: "Trampish looking", do you remember why you
21 | would have described --

22 | A. Well, I don't think it was raining that night and it wasn't
23 | too cold and he was wearing an overcoat so -- There wasn't
24 | to many people around wearing overcoats so I just put it
25 | down as "trampish looking".

R. ALEXANDER MacNEIL, by Mr. Spicer

1 Q. What about the second man?

2 A. Well, he was taller -- taller -- tall and thin. I can't
3 remember the dark hair and the age and that but -- jacket
4 "brown jacket". I think there was a street light there,
5 about the bridge. But in passing through you -- you just
6 see something -- you see -- you keep on going through.

7 Q. The description that you gave, to the police, of these two
8 gentlemen was that -- That's a description that came entirely
9 from you or was any of it suggested to you by any police?

10 A. I just believe it was what we seen ourselves.

11 Q. Can you indicate, to us, the manner in which you were
12 questioned by the police? In other words, were -- did --
13 was it straight forward? Did anybody raise their voice?

14 A. No, I'd say it was normal talking. Nothing forced on us or
15 anything like this.

16 Q. Were you ever asked to -- Was it ever suggested to you
17 that you change anything in your statement?

18 A. No.

19 Q. No. In the -- Have you been following the Inquiry?

20 A. Part -- Parts of it. When I was able to.

21 Q. Have you seen pictures of Mr. Ebsary, Mr. MacNeil --

22 A. Yes, I have. Yes.

23 Q. Are you able to tell us now, after all these years, whether
24 or not when you -- now having seen those gentlemen, whether
25 or not you recognize them as being people you might have seen

R. ALEXANDER MacNEIL, by Mr. Spicer

1 in the park?

2 A. Well, I came to realize, later on, that the older man I
3 did see was Ebsary. And -- Well, I figure the fellow on
4 the bridge must have been MacNeil too.

5 Q. Why are you saying you're figuring the man on the bridge must
6 have been MacNeil?

7 A. Well, I -- geez -- Fits -- They just both fitted the
8 description.

9 Q. So what point in time did you realize that it was Mr.
10 Ebsary?

11 A. Not until -- I think -- February of this year when I was
12 questioned by Mr. Horn and Mr. Mallowney.

13 Q. Did you have occasion a couple of days after you gave this
14 statement, sir, to be visited by the Sydney Police?

15 A. Yes. They called up Georgie again. Well, he had a phone
16 and I didn't. And they asked would we be around sometime
17 that day to look at some pictures. And sometime that
18 day they -- an officer came out and had some mug-shots.
19 If we could identify the men we seen, in the park, as
20 these here pictures.

21 Q. Do you have any recollection who the officer was who came
22 out with the mug-shots?

23 A. I -- I'm not certain but I'm thinking it might have been
24 Ed MacNeil.

25 Q. And why do you think it might have been Ed MacNeil?

R. ALEXANDER MacNEIL, by Mr. Spicer

1 A. Well, I didn't realize till yesterday -- I -- The name
2 again. And then I remembered he had the same name as I
3 did, MacNeil, so --

4 Q. And was this officer by himself?

5 A. I believe he was.

6 Q. Do you have any recollection of how many mug shots you
7 were shown?

8 A. I think there was three.

9 Q. Can you tell us whether or not they were mug shots of persons
10 who were White or Black?

11 A. They were all White.

12 Q. All White?

13 A. All White.

14 Q. Were they all men?

15 A. All men.

16 Q. Did you have any further contact with the Sydney Police
17 Department in the course of the investigation?

18 A. No more.

19 Q. Nothing at all?

20 A. No, nothing. We never heard anything else.

21 BY MR. CHAIRMAN:

22 Q. Did you absolutely recognize any of the persons?

23 BY MR. SPICER:

24 Q. Did you recognize any of the people in the mug shots?

25 A. Oh, I -- not as people I'd seen in the park but I did

R. ALEXANDER MacNEIL, by Mr. Spicer

1 recognize one fellow that I'd seen at the -- prior to that
2 around the bus terminal before.

3 Q. And did you indicate that to the police officer?

4 A. I -- I told him, yes.

5 Q. And it was a person that you'd seen at the bus terminal, when?

6 A. Oh, I'd seen him different times. He was from around
7 Sydney possibly.

8 Q. Were you contacted by the R.C.M.P. in 1982?

9 A. Yes, I was. And at that time I -- they were at my home. I
10 wasn't home that day. And when I did contact them, the
11 following day at the R.C.M.P. headquarters on Alexander
12 Street, the officers who were looking for me were not in
13 that day.

14 Q. Do you remember who the officers were?

15 A. I don't, no. So I spoke to another officer and gave him
16 that statement that -- from what I could remember of the
17 time and -- I wrote -- I don't know if I filled out a paper
18 or he filled out a paper.

19 Q. Do you remember when you gave a written statement?

20 A. Well, possibly, what I said, he wrote down. But the papers --
21 my former statement, he didn't have it, because the other
22 officers were not in at the time.

23 Q. When you say, your former statement, you mean the one that
24 you've been talking to us about --

25 A. Yes.

R. ALEXANDER MacNEIL, by Mr. Spicer, by Ms. Edwardh

1 Q. Do you have any recollection, though, whether you eventually
2 signed anything when you --

3 A. I can not remember.

4 Q. No. In 1971, after you gave your statements, were you
5 at any time contacted by any of the lawyers who were acting
6 for Junior Marshall?

7 A. No, I was not.

8 Q. Were you ever contacted by Crown Prosecutors office?

9 A. No.

10 Q. And subsequent to your meeting with the R.C.M.P. in 1982
11 were you contacted by them again?

12 A. No, I was leaving for work in Northern Ontario the following
13 day and I never heard no more until this past winter.

14 Q. So your next contact would have been, then, in February of
15 this year when you were contacted by our investigators?

16 A. Right.

17 Q. Thank very much.

18 A. Thank you.

19 Q. No, you don't get to go yet.

20 A. Oh.

21 BY MS. EDWARDH:

22 Q. Mr. MacNeil, you've got in front of you the statement
23 you gave on May the 31st and the description. And I take it,
24 sir, that you're satisfied that no one put words in your
25 mouth and that was really to your best recollection, on May

R. ALEXANDER MacNEIL, by Ms. Edwardh

1 31st, '71, of what these two individuals looked like that
2 you saw?

3 A. Yes.

4 Q. And today, sir, you indicate that the older man or the --
5 may have been wearing a hat?

6 A. Yes.

7 Q. Now, could I ask you just to read your statement, perhaps
8 I'm missing it. I certainly don't see any mention of a
9 hat.

10 A. No, I do not either but, at the time, maybe I thought he
11 was wearing a hat but -- and so I --

12 Q. Okay. Would it be fair to say, as 17 years later, that your
13 description of this person is, "wearing a hat," may not be
14 accurate. And the most reliable memory you have is the
15 one that's recorded here.

16 A. Yes.

17 Q. Okay. Now, you indicated to the officers -- the officer, that
18 you didn't know whether you would know these two men again
19 if you saw them? Correct?

20 A. Right.

21 Q. And I take it from that you weren't saying you wouldn't know
22 them but that you would have to see them --

23 A. Right.

24 Q. -- to see whether you could identify them?

25 A. Yes.

R. ALEXANDER MacNEIL, by Ms Edwardh, by The Chairman

1 Q. And beyond being shown those three mug shots, were you
2 contacted, sir, at any time, for example in November of
3 that year, to view any individuals to say we'd like you
4 to now look at someone --

5 A. No.

6 Q. -- to see whether this meets that description?

7 A. No. I was not contacted anymore.

8 Q. Were you ever invited to participate in a lineup at
9 any time?

10 A. No.

11 Q. Now, the three individuals that you were shown, you said
12 they were all White. Would I take it, that, when you say
13 all White, that one might have been a native person? It's
14 just that you're saying they weren't -- they weren't Black
15 people?

16 A. No, I'd say they were three White men.

17 Q. And you said you recognized one of these persons as an individual
18 you had seen around at the bus station but you had not
19 seen them in the park that night?

20 A. Right.

21 Q. Sir, --

22 BY MR. CHAIRMAN:

23 Q. You say, the bus station that night? I thought you said
24 the bus station on several occasions? Around town. You'd
25 seen him waiting for buses?

R. ALEXANDER MacNEIL, by Ms. Edwardh

1 A. Yeh, well I've seen him around town. At the bus station
2 in particular.

3 Q. Not the bus -- not that night?

4 A. No, not that night. No.

5 MS. EDWARDH:

6 Thank you, My Lord.

7 BY MS. EDWARDH:

8 Q. And do you, sir, know what John Pratico looks like, now, today?

9 A. No, I don't.

10 Q. Can you, today, give us a description of the man who you
11 saw in the photograph that you could -- that you thought you'd
12 seen around?

13 A. Yeh, I could then but I don't know what he looks like today or
14 -- he could have changed quite a bit.

15 Q. What's your recollection on what he looked like then?

16 A. Oh, fairly tall. Brush clipped. Marked face.

17 Q. What do you mean by a marked face?

18 A. Oh, pocked face. Pretty well all over. That was mostly --

19 Q. Approximate age?

20 A. Well, then, maybe in his 30's. I -- I'd say, yes, mid-thirties.
21 Thereabouts.

22 Q. And just to clarify the position you were in. You have a
23 fairly clear image of the old man. How far away would he
24 have been from you, at the time you made your closest
25 observations of him?

R. ALEXANDER MacNEIL, by Ms. Edwardh

1 A. Maybe six feet, eight feet. It's not a very wide walkway
2 and he wasn't -- we were about the centre and he was
3 between us and the grassy area, I suppose.

4 Q. And the younger man, who was tall and thin, do you recall
5 how close he would have been at the time he was closest
6 to you?

7 A. Oh, maybe 20 feet.

8 Q. Now you recall the old man asking for a cigarette?

9 A. Yes.

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JMH

R. ALEXANDER MacNEIL, by Ms. Edwardh

1 Q. Do you recall whether he got it?

2 A. I can't say. We were passing by and that was close enough
3 to hear-- That was about it.

4 Q. Do you recall how he asked for it? Did he appear to be
5 bumming the cigarette or --

6 A. No, I can't -- I think it would be bumming the cigarette, yes.

7 Q. Was there any aggressive tone in his voice that you heard?

8 A. I cannot remember.

9 Q. And for some other reason your other note here:

10 ... other than they asked him for a
11 cigarette...

12 And then you say:

13 The grey haired fellow said he had
14 just a dollar.

15 Do you remember any more of that conversation? How did that
16 fit?

17 A. I -- I -- I don't know.

18 Q. That's the only --

19 A. I can't remember. It was just within -- passing by that
20 we picked up part of the cigarette conversation and the
21 dollar or whatever.

22 Q. Now I take it you had also seen Sandy Seale at the dance?

23 A. Yes, we did.

24 Q. Did you know Mr. Marshall at that time?

25 A. I knew of him, but I didn't really know him to talk to him.

R. ALEXANDER MacNEIL, by Ms. Edwardh, by Mr. Pugsley

1 Q. You knew who he was?

2 A. I knew who he was.

3 Q. And did you see him at the dance?

4 A. No, we did not.

5 MS. EDWARDH:

6 Those are my questions. Thank you.

7 BY MR. PUGSLEY:

8 Q. Did you see Mr. Marshall in the park?

9 A. No, we did not.

10 Q. Did you see Mr. Seale in the park?

11 A. No, we did not.

12 Q. What was Mr. Seale doing at the dance?

13 A. He was standing outside the door in the same area we were
14 at, waiting to get in.

15 Q. Yes. I take it during the taking of this statement on May 31st
16 that we find on page 26 of volume 16, that you have no
17 complaints of any kind whatsoever about the manner in which
18 the police took the statement?

19 A. No complaints, no.

20 MR. PUGSLEY:

21 Thank you.

22 MR. CHAIRMAN:

23 Mr. Murray.

24 MR. MURRAY:

25 I have a few questions, My Lord.

R. ALEXANDER MacNEIL, by Mr. Murray

1 | Q. Mr. MacNeil, you've got volume 16 in front of you, and on
2 | page 26 is your own statement. Is that what's open in front
3 | of you?

4 | A. Yes.

5 | Q. I'd just like to direct your attention again to the "one man,
6 | grey haired, grey or white topcoat", and my friend Ms. Edwardh
7 | suggested that this is your best recollection?

8 | A. Yes.

9 | Q. And you were about six to eight feet away?

10 | A. Well, approximately. I was maybe closer, maybe a little farther.

11 | Q. And you'd go along with that description of the colour? You
12 | went into some more detail in direct examination today?

13 | A. Yes, that was -- that was only the next day or whatever so it
14 | was quite memorable then, but --

15 | Q. I see. The coat was not a dark blue coat?

16 | A. No, it was not.

17 | Q. Perhaps the witness could have Exhibit 38, and if you'd turn
18 | to the second page of that, on the right-hand side of the
19 | page it says: "heavy set".

20 | A. On the second page.

21 | Q. These are the notes of Michael MacDonald. I refer you to the
22 | fourth original sheet or the last original sheet which
23 | begins:

24 | One heavy set, short, dark blue
25 | coat to knees, hair grey, black
 shoes, wearing glasses, dark rims.

R. ALEXANDER MacNEIL, by Mr. Murray

1 That is not your recollection of the man you saw in the park?

2 A. No, it isn't.

3 Q. I would refer you to volume 16, page 22, sir. This is a
4 statement of a John Pratico. I take it you've never seen
5 this document before?

6 A. No, I did not.

7 Q. Would you take an opportunity to read that, sir?

8 A. Would you show it to me?

9 Q. Yes. There's reference in that statement, sir, to:

10 One had a brown corduroy jacket, five
11 foot five, dark complexion, heavy set;
12 the other, grey suit, about six feet
tall, husky, red sweater like a pullover.

13 Is that more consistent with your description, would you say?

14 A. I did not see these fellows or --

15 Q. I see. I will then refer you to volume 16, page 17, and
16 you see the last "Q" at the bottom of the page:

17 Q. Describe these fellows to me?

18 The first description there again refers to a long blue coat?

19 A. Yes.

20 Q. And that is not what you saw?

21 A. No.

22 Q. So I would suggest to you, sir, that it's not possible for
23 you to say that you saw the same person as Donald Marshall
24 may have seen later that evening?

25 A. Right. I was through earlier before -- before they were through

R. ALEXANDER MacNEIL, by Mr. Murray, by Mr. Spicer

1 | most likely.

2 | Q. Or the person that Donald Marshall described in any event?

3 | A. Right.

4 | MR. MURRAY:

5 | No further questions, My Lord.

6 | MR. ELMAN:

7 | No questions, My Lord.

8 | MR. SAUNDERS:

9 | No questions, My Lord.

10 | MR. BISSELL:

11 | No questions, My Lord.

12 | MR. ROSS:

13 | No questions, My Lord.

14 | MR. WILDSMITH:

15 | No questions, My Lord.

16 | MR. CHAIRMAN:

17 | Do you have any questions on re-direct?

18 | MR. SPICER:

19 | Well, there's just one thing, My Lord.

20 | BY MR. SPICER:

21 | Q. You have the handwritten notes there, Sandy, and on the last
22 | page of those, the second description, do you see that
23 | one:

24 | ..tall, five eleven...

25 | A. "Tall, five eleven, black hair..."

R. ALEXANDER MacNEIL, by Mr. Spicer, by Mr. Chairman

1 Q.

2 ...black hair, clean shaven, and
3 corduroy coat, three-quarter length,
4 brown in colour...

5 Does that go along fairly well with the description of the
6 second man in your original description -- in your original
7 statement? Look at the second man in your statement on
8 page 26.

9 A. Yeh, that's pretty close.

10 MR. SPICER:

11 Thank you.

12 BY MR. CHAIRMAN:

13 Q. Do I understand you to say, Mr. MacNeil, that you now recall
14 that the -- the older man was wearing a hat?

15 A. I -- I think I took it as hair flat and I read it by mistake
16 and then I said, "a hat", but I don't think -- He could have
17 had a hat on but I can't remember now, but this here statement
18 would have been -- I would have seen a hat if he was wearing
19 one.

20 Q. Was he wearing a beret?

21 A. I -- I cannot say.

22 MR. CHAIRMAN:

23 Thank you.

24 (WITNESS WITHDREW)

25 MR. SPICER:

The next witness is George MacNeil.

GEORGE W. MacNEIL, by Mr. Spicer

1 GEORGE WALLACE MacNEIL, being called and duly sworn, testified as
2 follows:

3 BY MR. SPICER:

4 Q. Would you tell us your full name please, Mr. MacNeil.

5 A. George Wallace MacNeil.

6 Q. And how old are you, sir?

7 A. Thirty-four years old.

8 Q. And in 1971 you would have been eighteen?

9 A. Yes, sir.

10 Q. Where were you living?

11 A. I was living at 191 Bungalow Road, Coxheath.

12 Q. And did you have occasion to attend the dance at St. Joseph's
13 Church on the night of May 28th?

14 A. I did.

15 Q. Can you give us your recollection of -- of that evening if you
16 have any at this point?

17 A. It's very, very vague.

18 Q. Do you remember how you got home from the dance?

19 A. Let's say we probably left St. Jo's and walked up George and
20 probably took the railroad tracks, a shortcut down towards
21 the Esplanade, on the front of Atlantic --

22 Q. So your recollection would have been that you went up George
23 and then cut across at the tracks?

24 A. Well, the shortest possible route.

25 Q. You're going to have to pick that up again. You're stepping

GEORGE W. MacNEIL, by Mr. Spicer

1 on the cord and I think that's the reason it's falling off.

2 A. We probably took the shortest route on the walkway I'd
3 say and probably the tracks down.

4 Q. Now the walkway is the walkway which is to the right of the
5 Wentworth Creek. Is that correct?

6 A. Yes, sir.

7 Q. Okay, and then up across to the tracks and out, is that it?

8 A. Yes.

9 Q. Can you hook yourself back up there again, the cord --

10 A. Yes.

11 Q. George, do you have any recollection now of anything that
12 you saw in the park that night?

13 A. Just very, very vague.

14 Q. Okay. Could I direct your attention to page 26 of the volume
15 you have in front of you? Is that the page that's open?

16 A. Yes.

17 Q. And also page 27, if you just want to flip over. Is that your
18 signature at the bottom of page 27?

19 A. It is.

20 Q. And do you remember giving a statement to the Sydney Police
21 Department?

22 A. Yes.

23 Q. Okay. Just flip back to page 26. Can you tell us the circumstances
24 in which you gave that statement?

25 A. Exactly the right -- the day, I don't remember but there was a

GEORGE W. MacNEIL, by Mr. Spicer

1 public plea over one of the medias and --

2 Q. If I could just stop you there for a second, George, when
3 you say a public plea, what do you mean by that?

4 A. Well, it was -- It came over the radio, I'm pretty sure, that
5 if anyone was in the park the night of the murder would they
6 come in and just make a statement to what they recollect that
7 evening.

8 Q. And having heard that what did you do?

9 A. I, myself, called the Sydney Police Department and told them
10 the situation, that I was in the park that evening. I walked
11 through that evening.

12 Q. And you walked through with Sandy?

13 A. Yes, sir.

14 Q. All right.

15 A. Yeh, and made reference to seeing the gentleman in the park.

16 Q. Do you recollect whether or not you did this over the
17 telephone with the police initially?

18 A. I have no recollection.

19 Q. Okay. Do you have any recollection as to how you got to the
20 police station?

21 A. No, I do not.

22 Q. Okay. Do you recollect whether or not the statement was given
23 at the police station?

24 A. Yes, it was.

25 Q. Okay, so we'll get you to the police station. Do you remember

GEORGE W. MacNEIL, by Mr. Spicer

1 | whether or not your statement was taken -- whether or not you
2 | were interviewed by the police before or after Sandy?

3 | A. I do not remember if I was first or if Sandy was first.

4 | Q. Okay. During the time that you were interviewed by the police,
5 | do you remember who the interviewing officer was?

6 | A. No, sir.

7 | Q. Do you have any recollection of what he looked like?

8 | A. No, sir.

9 | Q. Can you tell us whether or not there were one or two officers
10 | in the room?

11 | A. I have no recollection. I don't know if it was one or two.

12 | Q. Okay. Perhaps you could just review your statement.

13 | A. Yes.

14 | Q. The description that you've given there of the two gentlemen --

15 | A. Yes.

16 | Q. --is that a suggestion that came entirely from yourself?

17 | A. Yes.

18 | Q. And can you indicate to us why or how you came to remember
19 | it in such detail?

20 | A. No, I can't. It's just that we were walking through the
21 | park and we just happened to notice it. I mean we probably
22 | noticed the old grey haired gentleman with the white coat
23 | because it wasn't -- you'd never notice people with trenchcoats
24 | on in the park.

25 | Q. What would you normally see in the park at night?

GEORGE W. MacNEIL, by Mr. Spicer

- 1 | A. Probably a lot of young people at that time.
- 2 | Q. So it would be unusual to see an older man in the park
3 | then?
- 4 | A. Yes, definitely.
- 5 | Q. Was it ever suggested to you by the officer or officers that
6 | were interviewing you that you'd change any of the things
7 | that you were telling them?
- 8 | A. No, none whatsoever.
- 9 | Q. And are you satisfied that at the time you gave your
10 | statement you gave your best recollection of what you
11 | seen that evening?
- 12 | A. Exactly, yes.
- 13 | Q. Subsequent to the giving of the statement, were you ever
14 | contacted by any of the lawyers acting for Junior Marshall?
- 15 | A. No.
- 16 | Q. Were you contacted by the Crown Prosecutor?
- 17 | A. No. Not that I can recollect, no.
- 18 | Q. Did you have any other involvement with the Sydney Police
19 | Department concerning this investigation?
- 20 | A. No, I can't remember.
- 21 | Q. Were you contacted by the Sydney Police Department a few
22 | days later concerning the mug shots?
- 23 | A. I heard Sandy make -- give reference to it but I can't
24 | remember that, no.
- 25 | Q. You have no recollection of that at all?

GEORGE W. MacNEIL, by Mr. Spicer

1 A. None whatsoever.

2 Q. Were you contacted by the R.C.M.P., sir, in 1982?

3 A. I was, yes.

4 Q. And how were you contacted?

5 A. I was at my parents' house visiting and as I was there an
6 R.C.M.P. police car pulled up in front of my place and
7 was talking to my father. My father's name was the same
8 as mine and the officer asked for George MacNeil, so I
9 started to laugh because I didn't know if he wanted me or
10 my father and then I realized it was for me because he made
11 reference to my statement and the Marshall Inquiry.

12 Q. And were you then interviewed by that R.C.M.P. officer?

13 A. I was.

14 Q. Do you remember anything about that interview?

15 A. I remember going out to the police car and the officer showing
16 me my statement that I made back in '71.

17 Q. Do you remember what he asked you about it?

18 A. No, sir.

19 Q. Do you have any recollection of anything else concerning
20 that interview?

21 A. No.

22 Q. Do you remember who the R.C.M.P. officer was?

23 A. No, I do not.

24 MR. SPICER:

25 Thank you.

GEORGE W. MacNEIL, by Ms.Edwardh

1 | BY MS. EDWARDH:

2 | Q. Sir, I take it, your recollection is that the old man was
3 | wearing a trenchcoat?

4 | A. Yes.

5 | Q. And do you recall whether he had his arms in the sleeves of
6 | the coat or it was just over his shoulders to give a baggy
7 | appearance?

8 | A. I'd say he had it on.

9 | Q. And when you heard the plea over the radio are you clear that's
10 | what precipitated you going? You have a distinct recollection
11 | of that, do you?

12 | A. I'm pretty sure, yes.

13 | Q. And did it go out as to, "Anyone in the park that night come
14 | forward or --

15 | A. Oh --

16 | Q. If I can just finish my question --

17 | A. Okay.

18 | Q. Or did they say they're looking for two individuals. Was there
19 | a description broadcast?

20 | A. No, I think it was just a public plea with anyone that was
21 | in the park that evening.

22 | Q. I take it, sir, that when you told the police on May 31st
23 | that -- when they asked you the question, "Would you know
24 | them again?", and you answered, "We don't know", I take it
25 | what you were saying there is that you might well be able

GEORGE W. MacNEIL, by Ms. Edwardh, by Mr. Pugsley

1 to identify them if they were brought to you but you couldn't
2 be sure you could?

3 A. Exactly.

4 Q. Were you ever at any time asked to participate and view a
5 line-up?

6 A. No, not that I can recollect.

7 Q. If you had gone down to the police station to view suspects
8 or view individuals, I take it you probably would recall that?

9 A. I'd say, yes.

10 MS. EDWARDH:

11 Those are my questions. Thank you.

12 MR. CHAIRMAN:

13 Mr. Pugsley.

14 MR. PUGSLEY:

15 Thank you, My Lord.

16 BY MR. PUGSLEY:

17 Q. Mr. MacNeil, I'm going to show you a notice that appeared in
18 The Cape Breton Post, according to my instructions, on May 29th
19 of 1971, that I've just had photostated, and I'll ask you as
20 to whether or not you can identify this as being the ad to
21 which you responded? Did you see that -- that advertisement?

22 A. It's possible I guess.

23 Q. It's possible.

24 MR. PUGSLEY:

25 I guess we can make some efforts, My Lord, to get this formally

GEORGE W. MacNEIL, by Mr. Pugsley

1 | approved if you consider it desirable. I think it's probably
2 | desirable to have it put in as an Exhibit.

3 | MR. CHAIRMAN:

4 | Exhibit 42.

5 | MR. PUGSLEY:

6 | Forty-two, thank you.

7 | BY MR. PUGSLEY:

8 | Q. You have no complaints whatsoever about the manner in which
9 | Detective MacIntyre took the statement from you?

10 | A. None whatsoever.

11 | MR. PUGSLEY:

12 | Thank you. I have no --

13 | MR. CHAIRMAN:

14 | What's the answer? Did he say he had seen this?

15 | MR. PUGSLEY:

16 | He said --

17 | THE WITNESS:

18 | Well, it's possible.

19 | MR. PUGSLEY:

20 | It's possible.

21 | MR. CHAIRMAN:

22 | Possible.

23 | MR. PUGSLEY:

24 | Yes. Thank you. I have no other questions.

25 |

GEORGE W. MacNEIL, by Mr. Bissell

1 | MR. ELMAN:

2 | No questions.

3 | NO QUESTIONS FROM REMAINDER OF COUNSEL

4 | MR. CHAIRMAN:

5 | Mr. Bissell.

6 | BY MR. BISSELL:

7 | Q. Just one brief question. Is this the first time that you've
8 | testified regarding the events of May 29th?

9 | A. Yes, it is.

10 | Q. You didn't testify at the trial or the preliminary?

11 | A. No, sir.

12 | MR. CHAIRMAN:

13 | Mr. Ross.

14 | MR. ROSS:

15 | No questions.

16 | MR. CHAIRMAN:

17 | That's all, thank you, Mr. MacNeil.

18 | INQUIRY ADJOURNED: 12:15 p.m.

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JWB

LINDA L. MUISE, by Mr. Spicer

1 INQUIRY RECONVENED: 2:00 p.m.

2 LINDA LOUISE MUISE, being called and duly sworn, testified as
3 follows:

4 BY MR. SPICER:

5 Q. What's your full name, please?

6 A. Linda Louise Mann -- Muise, sorry.

7 Q. And how old are you?

8 A. I'm thirty-three now.

9 Q. Thirty-three?

10 A. Yes.

11 THE CHAIRMAN:

12 Is nothing sacred.

13 BY MR. SPICER:

14 Q. And in 1971 were you living in Sydney?

15 A. Yes.

16 Q. Were you brought up in Sydney in fact?

17 A. Yes.

18 Q. And did you attend the dance on a night of May 28th?

19 A. Yes.

20 Q. 1971, you did?

21 A. Yes.

22 Q. Okay, do you remember who you went with?

23 A. Yes.

24 Q. And who was that?

25 A. Andrew MacDonald.

LINDA L. MUISE, by Mr. Spicer

1 Q. And Andrew MacDonald is now an R. C. M. P. officer, is that
2 correct?

3 A. Yes.

4 Q. Okay, tell us what you remember about that evening?

5 A. Not very much, just that we walked to the Park. We left the
6 dance early.

7 Q. I'm going to stop you as you go through the story just to get
8 some details from you. Do you remember what route you took
9 going to the Park?

10 A. Right down George Street.

11 Q. So if you turn and you see the map there beside you, you would
12 have left the church and walked down George Street?

13 A. Yes.

14 Q. Okay, continue.

15 A. And crossed the street in front of Mac's Dairy there and went
16 down the Park.

17 Q. Okay, can you just show us where that would have been?

18 A. This would be Mac's Dairy here.

19 Q. Right.

20 A. And let me just -- went down the Park.

21 Q. So you go into the first walkway after -- parallel to Argyle
22 Street?

23 A. Yes.

24 Q. Okay, and you go into the Park?

25 A. And we sat on -- I can't remember now -- the second or third

LINDA L. MUISE, by Mr. Spicer

1 bench in.

2 Q. And can you tell us where that would have been?

3 A. Around -- let's see the bridge would have been -- might have
4 been around this area somewhere.

5 Q. And just so the record will see that, that's more or less
6 directly across from the bridge, is it, on the walkway?

7 A. Yes.

8 Q. Okay, so you sat on the bench?

9 A. Yes.

10 Q. With Andy?

11 A. Yes.

12 Q. And then what happened?

13 A. And then a person came up and bummed a cigarette from him.

14 Q. Now can you tell us anything about the person that came
15 along and bummed the cigarette?

16 A. It was an Indian boy.

17 Q. Okay, are you able to tell us now in retrospect whether or
18 not that was Donald Marshall?

19 A. No, I wouldn't.

20 Q. You're not able to tell us?

21 A. No.

22 Q. Okay, do you remember seeing anybody else there that night?

23 A. Well, just because of watching tv. we remember see -- well
24 we -- we spoke afterwards we remembered seeing an older
25 man in the Park that night with a funny hat and coat on.

LINDA L. MUISE, by Mr. Spicer

- 1 Q. And did you see him at or about the same time as you saw the
2 Indian boy?
- 3 A. Yes.
- 4 Q. Was he with him?
- 5 A. No, they didn't seem to be, no.
- 6 Q. Do you know how much time elapsed between seeing the first --
7 the Indian boy and the older person?
- 8 A. I don't think it was that long because we didn't stay in the
9 Park long at all.
- 10 Q. And do you remember what direction, first of all, the Indian
11 boy was going in?
- 12 A. Up towards George Street, I guess. Oh, I can't even say --
13 I really don't know.
- 14 Q. Can't remember?
- 15 A. No.
- 16 Q. Okay, and what about the other fellow, the older man?
- 17 A. No, don't remember.
- 18 Q. Okay, do you remember what the older fellow -- you can sit
19 down again if you like.
- 20 A. Thank you.
- 21 Q. Do you remember what the older fellow was wearing?
- 22 A. Well, like I say it was -- you couldn't see faces.
- 23 Q. Right.
- 24 A. But I just remember a funny hat and a long coat, that's all.
- 25 Q. Funny hat and a long coat?

LINDA L. MUISE, by Mr. Spicer

- 1 A. Yes.
- 2 Q. Okay, what's a funny hat?
- 3 A. Well, not a funny hat, let's say unusual.
- 4 Q. Unusal in the sense, was it --
- 5 A. But he didn't -- not many people wore hats then and this man
6 had a hat on and for an older man in the Park late at night --
7 maybe -- I shouldn't say -- I really don't know.
- 8 Q. Can you remember whether it was a hat with a brim or a beret
9 type hat or anything like that?
- 10 A. No, I don't. I just remember the unusual look, the unusual
11 appearance, that's all.
- 12 Q. And you're saying the appearance was unusual by -- merely by
13 reason of the fact that he had a hat on or that the hat
14 was unusual?
- 15 A. I don't remember. I just don't remember, really.
- 16 Q. You don't remember?
- 17 A. No.
- 18 Q. Do you have -- can you -- do you have any recollection at
19 all as to what colour the coat was?
- 20 A. No.
- 21 Q. Light or dark?
- 22 A. No, really I don't.
- 23 Q. No.
- 24 A. No.
- 25 Q. Now in the years subsequent, you had occasion to see pictures

LINDA L. MUISE, by Mr. Spicer, by Ms. Edwardh

1 of Roy Ebsary?

2 A. Yes.

3 Q. And are you able to tell us now whether or not you think that
4 the person, the old man you might have seen in the Park that
5 night, was Roy Ebsary?

6 A. I thought it might be, yes.

7 Q. Okay, were you ever contacted by the Sydney Police Department
8 concerning this incident?

9 A. No.

10 Q. No, did you make any attempt to contact them yourself?

11 A. No.

12 Q. Were you ever contacted by any of the lawyers involved in
13 the original trial? Donald Marshall's lawyers or the Crown
14 Prosecutors?

15 A. The original -- no.

16 Q. No.

17 A. No.

18 Q. Subsequently to that, were you ever contacted by the R. C. M. P.?

19 A. No.

20 Q. Okay, thank you.

21 BY MS. EDWARDH:

22 Q. Mrs. Muise, you said you left the dance early that evening,
23 would you happen to recall when approximately you left?

24 A. Well, it was fairly late. It might have been eleven or
25 eleven-thirty.

LINDA L. MUISE, by Ms. Edwardh

1 Q. And did you proceed then directly down to the Park area?

2 A. Yes.

3 Q. Now you say today that there was a young Indian fellow who
4 asked for a cigarette when you were sitting on the Park
5 bench?

6 A. Yes.

7 Q. Is that correct?

8 A. Yes.

9 Q. And would it be fair to say that there are other times
10 when you've recalled this incident that you were not sure
11 that that you think it really just might be an Indian chap
12 that bummed a cigarette?

13 A. Yes.

14 Q. And I take it that at the time of this event and in the
15 years after, you never sat down to recall specifically what
16 had transpired -- never made any notes of it, is that
17 correct?

18 A. I thought about it.

19 Q. Thought about it but you didn't make a record of it to
20 refresh your memory --

21 A. No, no, no.

22 Q. Now with respect to the older fellow that you saw, you
23 have an image in your mind, I take it, that however you
24 describe him he appeared unusual to you?

25 A. Yes.

LINDA L. MUISE, by Ms. Edwardh

1 Q. And when you describe him wearing a, I think it -- was it
2 a long coat?

3 A. Yes.

4 Q. Do you have an image of that in your mind as being a dark coat
5 as well?

6 A. It was very black that night.

7 Q. Is there anything about the image you have, if you have any,
8 that indicates as well he was wearing something dark?

9 A. I can't remember.

10 Q. Could it have possibly been that this man, the older fellow,
11 bummed the cigarette from Andy MacDonald?

12 A. No.

13 Q. You're clear about that in your own mind?

14 A. Yes.

15 Q. Now, I'm sorry, did you indicate that you never gave a
16 statement to the police at all?

17 A. That's right.

18 Q. You did not give one?

19 A. That's right.

20 Q. And did you see a notice in the Cape Breton Post asking for
21 information or hear any request for information about what
22 had happened in the Park that night?

23 A. I didn't think that it was any -- there wasn't any need of
24 it, you know, what I saw anyway that night.

25 Q. Were you aware of such a request that any member of the public

LINDA L. MUISE, by Ms. Edwardh

1 who had been in the Park that night come forward?

2 A. No, I was not.

3 Q. Okay, those are my questions, thank you very much.

4 A. Thank you.

5 THE CHAIRMAN:

6 Mr. Pugsley.

7 MR. PUGSLEY:

8 No questions, My Lord, thank you.

9 NO QUESTIONS FROM THE REMAINDER OF COUNSEL

10 MR. CHAIRMAN:

11 Thank you, Mrs. Muise.

12 MR. ORSBORN:

13 My Lord, the next witness will be Mr. Charles Livingstone.

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CHARLES M. J. LIVINGSTONE, by Mr. Orsborn

1 | CHARLES MICHAEL JOSEPH LIVINGSTONE, being called and duly sworn,
2 | testified as follows:

3 | BY MR. ORSBORN:

4 | Q. Mr. Livingstone, could you state your full name please?

5 | A. Charles Michael Joseph Livingstone.

6 | Q. Mr. Livingstone with an "e" on the end?

7 | A. Yes.

8 | Q. Where do you live right now, sir?

9 | A. R. R. #2, East Bay.

10 | Q. R. R. #2, East Bay?

11 | A. Yes.

12 | Q. And how old are you?

13 | A. I'm thirty-four.

14 | Q. Thirty-four?

15 | A. Yes.

16 | Q. Were you in the Wentworth Park area, sir, the night Sandy
17 | Seale was stabbed in 1971?

18 | A. Yes, sir.

19 | Q. And you would have been approximately seventeen at the time?

20 | A. Yes, sir.

21 | Q. Can I ask you to relate, sir, as best as you can remember
22 | any involvement that you might have had with that incident
23 | that night?

24 | A. Well, I was walking through the Park with the girl that
25 | I was going out with at the time.

1 Q. Who was that girl, sir?

2 A. Judy MacIsaac.

3 Q. And are you able to show us on the map where you were walking?

4 A. Somewhere on George Street.

5 Q. On George Street, were you coming from the dance?

6 A. Yes, we were coming from the dance at St. Joseph's.

7 Q. I see, thank you.

8 A. And when a fellow came running up to me -- up to us, and
9 said that his buddy was stabbed down in the Park.

10 Q. Do you have any idea of what time this was?

11 A. No, I couldn't say what time it was. It was late in the
12 evening.

13 Q. Had the dance finished when you --

14 A. No, the dance wasn't quite over, like, when we left.

15 Q. Are you able to show us where on George Street this man ran
16 up to you?

17 A. I can't remember exactly. I remember it was up around the
18 corner of George Street and Argyle there.

19 Q. Somewhere in the vicinity of the drug store?

20 A. Yeh, yes, sir.

21 Q. Okay, thank you. Did you know the gentleman?

22 A. No, not at the time.

23 Q. Okay, continue please.

24 A. So I went down through the Park with him, down to where Mr.
25 Seale was laying on the ground. There was a bunch of people

CHARLES M. J. LIVINGSTONE, by Mr. Orsborn

1 | there when I got there. Few people talking and that was about
2 | it. About all I can really remember of the case at the time.

3 | Q. Did you know Mr. Seale?

4 | A. No, I didn't.

5 | Q. Did you have any opportunity to speak with Mr. Seale?

6 | A. No.

7 | Q. When he was on the ground?

8 | A. No.

9 | Q. When you got back do you recall if there were any police cars
10 | there?

11 | A. There was a crowd of people there when I got there. I can't
12 | really state whether the police were there or not.

13 | Q. When you say a crowd, can you give us some idea --

14 | A. Eight or ten people.

15 | Q. Eight to ten people?

16 | A. Yes.

17 | Q. Do you recall how long you stayed there?

18 | A. I can't recall, can't recall.

19 | Q. I see, do you recall having any discussions with any police
20 | that night?

21 | A. Well, I was talking to different people there and there was
22 | somebody there asking names, taking names at the time.

23 | Q. Somebody taking names --

24 | A. Somebody asked by name and where I lived.

25 | Q. Yes, right. Do you know if the somebody was a police officer
 | or not?

CHARLES M. J. LIVINGSTONE, by Mr. Orsborn

- 1 | A. I couldn't say right now.
- 2 | Q. I see, do you recall if they were wearing a uniform or anything
3 | like that?
- 4 | A. I remember the police were there but I can't remember exactly
5 | if they were there when I got there or did they arrive
6 | exactly when I got there.
- 7 | Q. But you do recall somebody taking your name?
- 8 | A. Yes.
- 9 | Q. At the scene?
- 10 | A. Yes.
- 11 | Q. Do you recall how long you stayed there?
- 12 | A. Well, I couldn't say.
- 13 | Q. Do you recall what you did after you left?
- 14 | A. Well, I went back up to where the girl I was with was standing
15 | and I guess, I went home later on that night.
- 16 | Q. She didn't come across the Park with you?
- 17 | A. No, she didn't.
- 18 | Q. I see, did you have occasion to talk with the Sydney Police
19 | at any time after that, sir?
- 20 | A. Yes, they called looking for me a few days after that to
21 | go in and give a statement.
- 22 | Q. Do you remember going to the police station?
- 23 | A. Yes, I went to the police station.
- 24 | Q. And would you know who you spoke to at the police station?
- 25 | A. I can't really remember who the officers were, I think it

CHARLES M. J. LIVINGSTONE, by Mr. Orsborn

1 | was MacIntyre and another constable, I can't really remember.

2 | Q. Did you know Mr. MacIntyre at the time?

3 | A. No.

4 | Q. How do you know it was MacIntyre?

5 | A. Well, I am certain that was the name.

6 | Q. I'm sorry.

7 | A. I think -- I believe that was the name, John MacIntyre, was
8 | one of the constables at the time.

9 | Q. I see, and was there another constable there as well?

10 | A. Yeh, there was -- I believe another one or maybe two officers
11 | that day I was talking to them.

12 | Q. I see, and you say you gave a statement, do you --

13 | A. Well, I didn't give a statement, they asked me questions
14 | about it and I told them what I knew and I don't think
15 | they ever took a written statement of it at the time.

16 | Q. I see, you don't remember signing a statement?

17 | A. No, no I never signed a statement.

18 | Q. I see, was that the only time in which you talked with the
19 | police, sir?

20 | A. Yes, sir.

21 | Q. And after that did you have any contact with anybody else
22 | involved in the case?

23 | A. No.

24 | Q. In 1971, I'm thinking of, did you talk to any of the lawyers
25 | involved?

CHARLES M. J. LIVINSTONE, by Mr. Orsborn, by Ms. Edwardh,
by Mr. Pugsley

1 A. No.

2 Q. Did you talk to any R. C. M. P. officers in 1982?

3 A. No.

4 Q. You didn't.

5 A. No.

6 Q. Thank you, sir. There maybe some other lawyers here have
7 some questions for you.

8 BY MS. EDWARDH:

9 Q. Mr. Livingstone, just a couple of questions. Do you know
10 Junior Marshall?

11 A. No, I don't really know him.

12 Q. When you arrived at the area where Mr. Seale was, did you see
13 a young Native person who you now believe to be Mr. Marshall?

14 A. I can't really recall. There was a bunch of people there and
15 I can't remember.

16 Q. So it's fair to say that your recollection of these events
17 is very vague at this time?

18 A. Yes, ma'am.

19 Q. Those are my questions, thank you, sir.

20 BY MR. PUGSLEY:

21 Q. Mr. Livingstone, it maybe that I didn't hear your evidence
22 when my friend was questioning you earlier. Did you say
23 that the person who came up to you on George Street said to
24 you "My buddy has been stabbed"?

25 A. He said "my buddy" or "my friend has been stabbed" down in
the Park.

1 Q. "My friend has been stabbed"?

2 A. Yeh.

3 Q. Did you subsequently find out that that person that came up
4 to you was Scott MacKay?

5 A. Yeh, afterwards.

6 Q. Yes --

7 A. But I didn't know him at the time.

8 Q. You didn't know him at the time?

9 A. No, I didn't know any of them at the time.

10 Q. The person who approached you on George Street was not Donald
11 Marshall?

12 A. No, I don't -- I couldn't say, I can't really remember.

13 Q. Can you recall whether or not it was an Indian who
14 approached you or a white person?

15 A. No, I couldn't say. No, I couldn't say.

16 Q. But your recollection is that the person who did approach
17 you subsequently gave his name to you as Scott MacKay?

18 A. Yes.

19 Q. Yes. Thank you.

20 BY MR. MURRAY:

21 Q. Mr. Livingstone, my name is Donald Murray, I represent William
22 Urquhart. I ask you to look at Volume 16 and Page 31, this
23 is a statement given by Scott MacKay and I refer you to the
24 middle of that where he says

25

CHARLES M. J. LIVINGSTONE, by Mr. Murray

1 He told me he was stabbed and he needed
2 help. I told her to go get a bus and I
3 ran and tried to find a person to help
4 me. I ran across the Park up to Pollett's
5 and I found a boy names Livingstone from
6 East Bay. He was with a girl at the time.
7 So we ran back down through the Park and
8 up to Crescent Street.

9 He says when you got back

10 that at that time a car arrived and Junior
11 Marshall got out.

12 Do you remember that?

13 A. No, I don't really remember. I remember there was a lot going
14 on but I don't really remember people at the time.

15 Q. And you didn't know -- you testified you didn't know Scott
16 MacKay at the time?

17 A. Yeh.

18 Q. Could it have been Scott MacKay that asked you what your name
19 was?

20 A. I couldn't really say, I can't really remember.

21 MR. MURRAY:

22 I have no further questions, My Lord.

23 NO QUESTIONS FROM THE REMAINDER OF COUNSEL

24 MR. CHAIRMAN:

25 That's all, thank you, Mr. Livingstone.

MR. MACDONALD:

The next witness will be John Butterworth, My Lord.

I understand he's on his way, My Lord. He may be five minutes.

We'd like to have him on before Mr. Pratico. We don't expect he'll

CHARLES M. J. LIVINGSTONE, by Mr. Murray

1 | be long.

2 | MR. CHAIRMAN:

3 | Okay, well --

4 | MR. MacDONALD:

5 | Do you want to rise until he gets here?

6 | MR. CHAIRMAN:

7 | Yes.

8 | INQUIRY ADJOURNED: 2:19 p.m.

9 | INQUIRY RECONVENED: 2:26 p.m.

10 | MR. MacDONALD:

11 | Mr. Butterworth.

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JMK.

JOHN BUTTERWORTH, by Mr. MacDonald

1 | JOHN BUTTERWORTH, being called and duly sworn, testified as follows:

2 | BY MR. MacDONALD:

3 | Q. Now your name, sir, is John Butterworth?

4 | A. Yes, sir it is.

5 | Q. Are you the Deputy Sheriff for the present time for the
6 | County of Cape Breton?

7 | A. Yes, sir, I am.

8 | Q. How long have you held that position?

9 | A. Oh, I've been with the Attorney General's Department
10 | approximately seven years.

11 | Q. Okay, prior to that you were employed with the Sydney Police
12 | Department?

13 | A. Yes, sir.

14 | Q. When did you join the Police Department?

15 | A. Oh, twelve -- I was on twelve years -- '68, I guess.

16 | Q. Okay, what was your formal education, sir?

17 | A. I went to high school.

18 | Q. Did you graduate from high school?

19 | A. Grade eleven.

20 | Q. Okay, joined as a constable did you?

21 | A. Yes, sir, that's right.

22 | Q. As a patrolman?

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

24 | Q. What training were you given when you joined the Force?

25 | A. I had a series of lectures probably for over a period of

JOHN BUTTERWORTH, by Mr. MacDonald

1 maybe a week to two weeks while I was, you know, when I was
2 appointed.

3 Q. Who would be giving those lectures?

4 A. The Deputy Chief of Police would have you spend a few hours
5 a day with you.

6 Q. And the Deputy Chief at that time was Mr. MacAskill?

7 A. Was Norman D. MacAskill, right, sir.

8 Q. Okay, any other training?

9 A. Other than the Maritime Police School in 1975, I do believe
10 it was or '76 and there was a period of time that the
11 Department would have some inservice, like, lectures from
12 various lawyers and Crown Prosecutor and --

13 Q. During your time with the Police Department, did you --
14 did you remain a patrolman or did you go to some other
15 division?

16 A. Yes, I worked as a patrolman. I was -- worked at times
17 acting sergeant in charge of a shift and then I later moved
18 to the Detective Division for a short while on a temporary
19 basis.

20 Q. Okay, and do you know when that was?

21 A. In 1979.

22 Q. Okay, let me take you back to 1971 if we can?

23 A. Yes, sir.

24 Q. And at the time when Sandy Seale was stabbed and subsequently
25 died, have you been able to determine if you were on duty at

JOHN BUTTERWORTH, by Mr. MacDonald

1 around that time?

2 A. No, sir, I was -- the night of the incident -- I was -- in
3 Wentworth Park -- I was the four days off. We referred to
4 that as a long weekend.

5 Q. Okay, and when would the weekend start?

6 A. Well, I would finish day shift on Thursday and you'd be off
7 Friday, Saturday, Sunday and Monday and you would return to
8 work on the twelve midnight to eight a.m. shift on Tuesday.

9 Q. Would that be starting Tuesday morning?

10 A. No, that would be Tuesday night.

11 Q. Tuesday night?

12 A. Yes, sir.

13 Q. So you're off Friday, Saturday, Sunday, Monday, Tuesday --

14 A. Actually Tuesday, yeh.

15 Q. When you returned to duty on that Tuesday night, would you
16 have been briefed as to what took place in this matter over
17 the times that you've been off duty?

18 A. At that time, sir, we didn't have what you call a briefing
19 period of -- you'd be taken into a room, like, the whole
20 shift and like we'll say the sergeant would brief you. All
21 the reports for usually three or four days would be on a
22 table in the station -- the occurrence reports, crime reports
23 motor vehicle reports -- they would be on a table and it was
24 up to you to make yourself familiar with these reports.

25 Q. And would that be your normal practice to read the occurrence

JOHN BUTTERWORTH, by Mr. MacDonald

1 and crime reports that have been filed since you last worked?

2 A. Yes, sir.

3 Q. Are you able to say whether you would have done that on this
4 occasion?

5 A. Oh, yes, any -- before I started any shift, I made that a
6 habit that I read everything that was available before I went
7 out on my tour of duty.

8 Q. Do you have any independent recollection today about the
9 events of that time?

10 A. Not too much.

11 Q. Do you have any recollection today whether when you came back
12 to work on that Tuesday and that would have been what the
13 second of June, first is it -- first of June, are you able
14 to say whether there was any indication given to you that
15 there were suspects in this matter?

16 A. Yes, it was common knowledge that there was a suspect but --

17 Q. Who was the suspect?

18 A. Who -- Donald Marshall.

19 Q. And it was common knowledge when you came back to work on that
20 Tuesday night?

21 A. Yes, sir.

22 Q. And how would you get that that knowledge?

23 A. To be honest with you -- with this time, you know, being back
24 that far, I don't recall just, you know, whether it be just
25 talk amongst the men in the station. You know, knowing what

JOHN BUTTERWORTH, by Mr. MacDonald

1 had taken place, you know, but, you know, I can remember, you
2 know --

3 Q. Okay, when you go back to work then on the Tuesday night,
4 what would be your shifts from that point forward, can you
5 tell us that?

6 A. Well, from Tuesday to Saturday, like Tuesday, Wednesday,
7 Thursday, Friday and Saturday, we would work what we called
8 the backshift at twelve midnight to eight a.m. shift and
9 then we would come out Sunday with what we called a quick
10 change and we'd start the four to twelve week. That would
11 be Sunday, Monday, days off Tuesday and Wednesday, Thursday
12 Friday and Saturday four to twelve.

13 Q. Did you play any role yourself in the investigation leading up
14 to the arrest of Donald Marshall, Junior, for this crime?

15 A. No, sir, I did not.

16 Q. Now I understand during your tour of duty the week following
17 that is when you're on the four to twelve, you had occasion to
18 run into John Pratico, is that correct?

19 A. Yes, sir.

20 Q. Did you know Mr. Pratico?

21 A. Just knew him to see him. He'd always say hi to you and
22 that's not personally, no.

23 Q. He wasn't what -- he wouldn't have been one of your informants
24 or someone that you looked to from time to time?

25 A. No, sir.

JOHN BUTTERWORTH, by Mr. MacDonald

1 Q. Tell us about the encounter that you had with him on the week
2 following, that is when you were working four to twelve?

3 A. I was working foot patrol, Charlotte Street beat --

4 Q. Charlotte Street?

5 A. Charlotte Street, yeh, right.

6 Q. Right.

7 A. I don't recall what night it was but I can remember two nights
8 in succession I was with Constable Arthur --

9 Q. I'm sorry, I'm just going to interrupt you a moment. Would
10 you speak up because apparently people have trouble hearing
11 in the hall here.

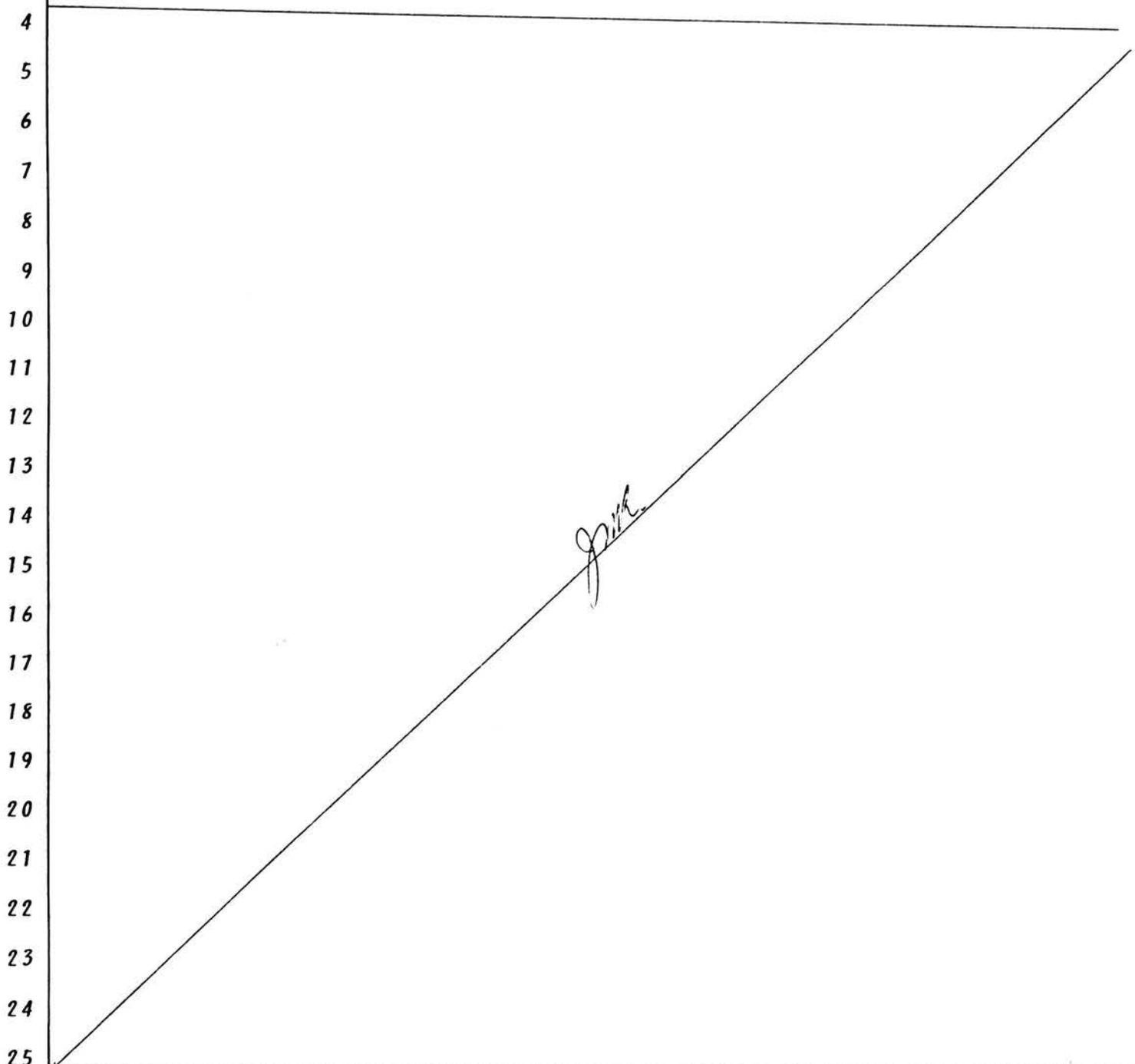
12 A. I was with Constable Arthur Woodburn; we were working together
13 and Mr. Pratico appeared just as we were walking along our
14 beat, he appeared. A short while later we went into the Maple
15 Leaf Restaurant which is on Charlotte Street and we had a cup
16 of coffee. Constable Woodburn, I can remember that night, --
17 if I can recall, was to my left and John Pratico followed us
18 in. We didn't ask him in -- it was Constable Woodburn and I
19 don't recall him doing -- and he was saying to my right --
20 Constable Woodburn and I were talking then out of the blue --
21 well I was getting -- I can remember getting up to leave, like
22 we were through and as we're getting up, he was facing me and
23 he mentioned that he'd never forget what he had seen in the
24 Park and he described the stabbing.

25 Q. And do you -- do you have independent recollection of that

JOHN BUTTERWORTH, by Mr. MacDonald

1 night and this conversation with Mr. Pratico, do you recall
2 that now?

3 A. What's that --



JOHN BUTTERWORTH, by Mr. MacDonald

1 Q. Do you recall now the actual conversation you had with Pratico?

2 A. Not the actual word for word. I can remember, you know, what
3 I'm saying now to you, you know. That's about all I can
4 remember. The rest of the short time he was with us was
5 probably just small talk, you know, and it was -- that's
6 the only time he mentioned anything about this incident, and
7 he described the stabbing and first he said he wouldn't want
8 to see it again. He'd never forget what he saw. And with
9 that point, we were walking on the way out the door. And I
10 can remember -- I can remember standing there and he was
11 looking at me and I can remember I had a raincoat on that
12 night. Whether it was raining or not, I don't know, but it
13 was a traffic coat. We used to wear them sometimes in place
14 of an overcoat or a Burberry, you know. And he mentioned that
15 he didn't mind talking to the fellows who didn't wear the
16 uniforms. They were pretty good, and he said, "especially
17 the big fellow." And I can remember that, and just out of
18 the blue I said, "John MacIntyre", and he said, "Yes, he's
19 a good fellow".

20 Q. He remember -- He said, "I don't mind speaking to the
21 fellows..."?

22 A. "That didn't wear the uniforms".

23 Q. That didn't wear the uniform.

24 A. Yeh.

25 Q. And you took that to mean?

JOHN BUTTERWORTH, by Mr. MacDonald

- 1 A. The detectives.
- 2 Q. Okay.
- 3 A. Yes.
- 4 Q. And he said, "They are good fellows, especially the big
5 fellow"?
- 6 A. Especially the big fellow.
- 7 Q. And you said, "Do you mean MacIntyre"?
- 8 A. I just automatically said, "John MacIntyre". He said, "Yeh,
9 he's a good fellow". And that was about it. We went and walked
10 along the street for a short while and that was it. Then he
11 disappeared. Where he went, I don't know. And then the next
12 night he was --
- 13 Q. Before we leave that night, John, you said that he described
14 the stabbing to you?
- 15 A. Yes, sir.
- 16 Q. Could you tell us how he described the stabbing?
- 17 A. He mentioned about a knife going in, bringing her down,
18 twisting her and across. I took it to mean like an "L" shape.
- 19 Q. A knife going in and coming down --
- 20 A. Coming down and twisting, and --
- 21 Q. --and twisting and across?
- 22 A. --going across. I can remember that like yesterday and I'm
23 not off the side. If you're sitting with somebody and they
24 say something like that --
- 25 Q. And just again, it starts from the top and it's like making an "L"?

JOHN BUTTERWORTH, by Mr. MacDonald

1 A. Yeh, it's just like he went down like and he "twisted her" and
2 he said, "he brought her across." I can remember that. As a
3 matter of fact, it was with his right hand. He was -- because
4 I was looking right at him.

5 Q. So he's describing what he saw as you recall?

6 A. Yes, sir.

7 Q. And "I'd never like to see anything like that again", is that --

8 A. He'd never forget. I think it was that he'd never forget what
9 he'd saw in the park.

10 Q. Did you pass along that information to your superiors?

11 A. No, sir, I didn't.

12 Q. Have you given that information to anyone until the last couple
13 of weeks?

14 A. Oh, no, it was back in 1982. I always remember this in my
15 mind, you know. Of course, I wasn't involved in the
16 investigation and, of course, you knew it was a stabbing and
17 I -- in 1982, I guess when things had taken a new look there,
18 I mentioned to Chief MacIntyre, I told him I could remember
19 this night, you know. And so I mentioned that Arthur Woodburn
20 had been working with me and I said, "Maybe, you know, if you
21 speak to him he might even refresh him more, you know, he
22 might remember more". "That's basically", I said, "all I can
23 remember". You know, and --

24 Q. Did you have any discussion about that event with the R.C.M.P.
25 in 1982?

JOHN BUTTERWORTH, by Mr. MacDonald

1 A. No, sir, I didn't. No.

2 Q. At any time have you spoken to the R.C.M.P. about your
3 recollection?

4 A. No, sir, no. No, just Chief MacIntyre and I mentioned it to
5 retired Inspector Urquhart.

6 Q. Now you -- I interrupted you before. You went on to say that
7 the next night something else happened?

8 MR. CHAIRMAN:

9 Who's the retired inspector?

10 THE WITNESS:

11 Urquhart.

12 MR. CHAIRMAN:

13 Urquhart. Could you speak a little more slowly and a little louder.
14 It's difficult --

15 BY MR. MacDONALD:

16 Q. We're having difficulty throughout, Mr. Butterworth.
17 There's people having -- The audio system is not working
18 perfectly.

19 A. Okay.

20 Q. You did say that the next night something else happened?

21 A. Yes, he -- Mr. Pratico appeared the next night up on the street
22 with us and he wasn't there that long and he never mentioned
23 anything more of, you know, what we just talked about. He
24 was just more or less -- I guess small talk. I don't -- I
25 don't recall, you know, and that was it. He was only with us

1 a short while if I do recall and he just disappeared.

2 Q. That was the only two occasions you ever had contact with
3 Mr. Pratico?

4 A. Yes, sir.

5 Q. Did you know or were you aware that Mr. Pratico had spent time
6 in the Nova Scotia Hospital?

7 A. Not at that time I didn't, but later on I --

8 Q. You subsequently became aware of that?

9 A. Yes.

10 Q. How much later on?

11 A. Actually to be honest with you I think it was in 1982 when
12 this -- You see I didn't know him and he wasn't one to be
13 around the streets much.

14 Q. And just to make it clear for the -- for the record from a
15 chronological point of view, your discussions with Pratico
16 took place the week after Mr. Marshall was charged with this
17 murder, isn't that correct?

18 A. It would have to be because we were four to twelve and it
19 was right after that. Now the next week after the four to
20 twelve week we worked what was called the floating week.
21 We'd call it -- You'd work the three shifts in the one week.
22 You'd work Sunday, Monday, on the back shift, Tuesday and
23 Wednesday, four to twelve, and you'd be off Thursday and
24 Friday, and Saturday, day shift, but I was working on
25 Charlotte Street so I would presume I was off either Tuesday

JOHN BUTTERWORTH, by Mr. MacDonald

1 or Wednesday, so it would have to be the week previously. It
2 would have to be the week previously!

3 Q. In any event, the discussion took place with Mr. Pratico after
4 Marshall had been charged?

5 A. Yes, yes.

6 BY MR. CHAIRMAN:

7 Q. I assume you were aware at that time that Marshall had been
8 charged?

9 A. Yes, to my recollection, yes, I would think I would have been,

10 BY MR. MacDONALD:

11 Q. Did you know Marshall?

12 A. Just to see him.

13 Q. Did you know -- Did he have any reputation so far as you knew?

14 A. I never had any personal dealings with him that I can recall,
15 but, you know, around dances and the -- you kind of kept
16 an eye on him if I can remember. You know, other officers
17 would say, keep an eye on him. You know, he was known, you
18 know, for fighting and whatnot.

19 Q. Did you used to do duty at the dances as well?

20 A. Not that many.

21 Q. You had done dances?

22 A. Oh, yes. Yes.

23 Q. And do you specifically recall being told to keep an eye
24 on, in particular, Junior Marshall; he's a fighter, or --

25 A. I wouldn't say specifically, you know, but I knew that he

JOHN BUTTERWORTH, by Mr. MacDonald

1 was one that you -- you kept an eye on at dances and how I
2 knew or -- today to tell you, to be honest, I can't recall.

3 Q. But you did know that?

4 A. Yes.

5 Q. And it would have to have been before he was charged?

6 A. Oh, yes.

7 Q. Because after that time he didn't spend much time at dances?

8 A. That's right. That's right.

9 Q. Were you with the police when -- in 1982? When did you say
10 you joined the Sheriff's Office?

11 A. I left the Police Department in February. I think it was
12 February, 1980.

13 Q. Of '80?

14 A. Yes, sir.

15 Q. Okay. Have you had occasion to discuss this matter with
16 Sergeant MacIntyre since the events transpired where
17 Mr. Marshall was released from jail?

18 A. It was in 1982. I think he was still in jail at that time
19 when I mentioned to former Chief MacIntyre about what I've
20 said here today. I can't recall now if he was released or
21 not then. It was just when it first started, you know --

22 Q. Your recollection is that the only time you mentioned this
23 encounter with Pratico was to Chief MacIntyre in around
24 1982?

25 A. Yes, when the -- when I first heard of--there possibly had

JOHN BUTTERWORTH, by Mr. MacDonald

1 | been threats and things like that. I think it was '82.

2 | I'm almost sure.

3 | Q. I'm sorry, I didn't understand. There possibly might have
4 | been threats about what?

5 | A. Well, remember there was -- what started was regarding
6 | people being pressured and -- You see, when I first heard
7 | about this --

8 | Q. Okay. I see. When you first heard it --

9 | A. I think it was in 1982.

10 | Q. What you meant by threats is when you first heard the
11 | suggestion that some of these young witnesses may have been
12 | threatened or pressured to give evidence?

13 | A. That's right.

14 | Q. And you then advised Chief MacIntyre of your discussion with
15 | Pratico?

16 | A. Well, I remember it and I mentioned -- I said, "I don't know
17 | what it's worth, you know, but I said I can remember that".
18 | Like I say, I asked him to check with Constable Woodburn. He'd
19 | been working with me that night, you know.

20 | Q. Constable Woodburn is still with the Sydney Police, is he?

21 | A. Yes, sir, he is.

22 | Q. Have you discussed that with Constable Woodburn recently or
23 | at all?

24 | A. No, sir.

25 | Q. Okay. Were you aware in 1971, in November, that the police

JOHN BUTTERWORTH, by Mr. MacDonald

1 had been contacted by an eye witness to this crime saying
2 that someone else had done it?

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

4 Q. You weren't aware of that?

5 A. No. No. No.

6 Q. Did you know during your term as a police officer in this
7 City, Roy Ebsary?

8 A. No, sir, I didn't. I never laid eyes on the man until
9 maybe four or five years ago.

10 Q. And what about Jimmy MacNeil?

11 A. I knew Jimmy MacNeil to see him, yes.

12 Q. And what was your knowledge of him?

13 A. He used to drink. He used to drink quite a bit, but other
14 than that he was harmless.

15 Q. When you had your discussion with Pratico were you aware that
16 he was one of the eye witnesses to this event at that time?

17 A. Yes, sir, I was.

18 Q. You were aware of that?

19 A. Yes. It was common knowledge, yes.

20 Q. It was common knowledge within your Department?

21 A. Within the -- Yes.

22 Q. And is there any particular reason you did not relate to your
23 superior at that time the conversation which you had with
24 Pratico?

25 A. Well, yes, I knew he had given a statement and I -- you know,

JOHN BUTTERWORTH, by Mr. MacDonald

1 I knew he said he had witnessed it. I presumed that what
2 he was saying to us was what he was saying -- what he had
3 told them.

4 Q. Would you have had access to the statements that Pratico was
5 giving to the detectives?

6 A. No, sir.

7 Q. That's not something that the foot patrol had access to, is it?

8 A. No, the detectives usually did all the investigations, yes.

9 Q. Was there any dialogue between the -- the patrolmen and the
10 detectives being kept aware of what was going on?

11 A. Oh, yes, the detectives would come to you periodically and
12 they would -- they would ask you if they were investigating
13 a situation, whether it be a break and entry, for example,
14 or whatever, and they -- they were wanting to know who might
15 be around or if you knew this person. They would ask you, yes,
16 they would.

17 And we would frequently go in to them with information or
18 whatever, you know, something that --

19 Q. Have you ever seen the statement that Pratico gave to the
20 detectives in June -- on June the 4th of 1971?

21 A. No, sir.

22 Q. You've never seen it?

23 A. No, I've never seen any of the -- any of the file.

24 MR. MacDONALD:

25 Thank you. That's all I have.

1 | BY MS. EDWARDH:

2 | Q. Sir, do I take it in the four days that you were on your
3 | long weekend around the time of this stabbing, no one called
4 | you to bring you in for -- or request that you come in to
5 | do some extra work?

6 | A. No, ma'am.

7 | Q. Now when you had your conversations with Mr. Pratico, did you
8 | make a note of those conversations in your notebook?

9 | A. I don't recall. I can't recall if I did or not. I -- I --
10 | To be honest with you --

11 | Q. Did you keep a notebook?

12 | A. Oh, yes, I always had a notebook. Yes.

13 | Q. And I take it that's the kind of contact you would have
14 | recorded in your notebook?

15 | A. If -- If -- Yes, if I had taken -- you know, if I recorded
16 | it, it would be in the notebook, that's right.

17 | Q. Yes, but isn't that the kind of contact that you might record--
18 | might well record in your notebook?

19 | A. It's hard to say. Like I say on the -- on the -- when I was
20 | talking to him I just took it for granted that that's, you
21 | know, what he had told the detectives because this was --
22 | Well, we were led to believe that he did give a statement
23 | regarding what -- that he had seen a stabbing, so I just
24 | felt he was repeating on to us and that was it.

25 | Q. Do you have your notebook from that time period?

JOHN BUTTERWORTH, by Ms. Edwardh

1 A. No.

2 Q. I take it you did not keep notebooks then for any substantial
3 period of time?

4 A. I did and after I left the Police Department I destroyed any
5 notebooks I had.

6 Q. Now you have known John Pratico prior to his following you
7 into the restaurant on that evening, correct?

8 A. Not personally but --

9 Q. You knew him.

10 A. I knew him on the street, yes.

11 Q. And your relationship would have been with him, you might have
12 said hello or some very small chitchat?

13 A. That's all.

14 Q. But beyond that you didn't have any contact with him?

15 A. No, none at all.

16 Q. When he sat down with you that night and you knew he was
17 an eye witness to a homicide I take it you were also aware
18 that he was pretty young -- a pretty young teenager?

19 A. Well, yes, you would know he was.

20 Q. And did you get any impression from him when he was talking to
21 you that somehow being associated with this event made him
22 feel a little important?

23 A. Not really because, ma'am, I didn't know him. I didn't know
24 him so I wouldn't --No, I wouldn't notice anything like that.

25 Q. Do you recall him saying anything to you about being afraid

1 | in that time period?

2 | A. No. No.

3 | Q. If I could ask you, sir, to address your mind just to a
4 | comment, did you get the impression through Constable Woodburn
5 | that the detectives -- you -- were aware that Pratico was
6 | with you?

7 | A. That's right.

8 | Q. Now can you assist me in understanding what you meant by that?

9 | A. Just that he was nervous I guess, probably after giving statements
10 | to the police and he might have been a little nervous maybe
11 | that harm may come to him. This is what I understood it to
12 | be, you know.

13 | Q. So as a result of that he was being treated a little bit by
14 | you as kind of a puppy at that time?

15 | A. No, really he wasn't with us that long. He'd only been with
16 | us a short while other than the night he followed -- he
17 | followed us in the restaurant. We were just walking along
18 | and doing our regular work and he might make small talk and--
19 | but not that much. He was more or less, if I can use the
20 | expression, tagging along, I guess.

21 | Q. He was tagging along?

22 | A. Yes.

23 | Q. And when you say he was a little nervous and he had given
24 | the statements to the police. It was your understanding
25 | that -- from what he said obviously that that was one of the

1 reasons he was tagging along?

2 A. Well, I understood that it was a -- there was a possibility
3 he feared -- he feared that harm might come to him from what
4 I gather. Like I say, it's so far back to really -- but
5 that's why I figure he was with us, yes. He was a little
6 nervous that somebody maybe, you know--get revenge on him
7 or what --

8 Q. And did you do or say anything to him about those feelings
9 he might have had as just a young kid?

10 A. No, I didn't know this until the second night.

11 Q. On the second night did you do or say anything?

12 A. No, no. I didn't know until after he left us. He was only
13 with us a short while. If I can recall the second night,
14 but then again it's going back sixteen years.

15 Q. When you say a short while, would it be ten or fifteen minutes?

16 A. A half hour maybe.

17 Q. And do you recall at what time of night you first saw
18 Mr. Pratico on the first night?

19 A. I can't recall exactly but I'm -- I'd only be guessing but
20 it would be in the vicinity we'll say of ten o'clock, maybe
21 ten-thirty, in that -- in around or about that time.

22 Q. And was he just out on the street at that time?

23 A. Yes, I don't even know where he came from both nights. We
24 just happened to look and he was walking with us, you know.

25 Q. So he came to you from the street area?

1 A. Yes. Oh, yes. I would presume that, yes.

2 Q. And the second night as you can recall, was it roughly the
3 same time?

4 A. It was around the same time and he wasn't with us as long I
5 can remember and where he came from, I don't know.

6 Q. And he was unaccompanied at that time?

7 A. That's right. I presume he just walked up behind and probably
8 saw us walking and came up behind us.

9 Q. When you spoke with Mr. Pratico on those two occasions, did you
10 form any general opinion about him, not a long contact, but
11 for example, did you form any opinion that perhaps he was a
12 little slow?

13 A. Oh, yes. Yes. I knew that -- We thought of -- Like you refer
14 today a slow learner maybe in school, that would be about
15 what I --

16 Q. In your first contact would it be fair to say that it didn't
17 take you long to form that opinion of Mr. Pratico?

18 A Well, I -- I would see him around, you know. Like I knew
19 he lived on Bentinck Street and "Hi", and "Hello", sort of
20 thing and that was it. I knew he was -- I felt a slow
21 learner at that time maybe.

22 Q. But my question to you, sir, is this?

23 Given the fact you've never really talked to him before,
24 would it be fair to say that it was clear to you after just
25 even a few minutes from the first time you actually talked

1 | to him, that he was that kind of a young person, that he
2 | was a pretty slow kid?

3 | A. I'll try and answer that. Like I say I -- I knew probably
4 | before I spoke to him that he might have been a slow learner
5 | just by, you know, seeing him on the street like, you know.

6 | Q. So then what you're really saying to us is it was so obvious
7 | that you didn't really need to speak to him, just observing
8 | him casually would have given you that information?

9 | A. Yes, I wouldn't put him as retarded or anything like that.

10 | Q. No, I'm not suggesting that.

11 | A. No. No. No, it was just I believed he was a slow learner at
12 | that time, yes. Not being a Doctor, I guess it's hard to
13 | put into words.

14 | Q. I'm just asking of your general impression?

15 | A. Yes. Yeh.

16 | Q. And I take it, sir, that it's your evidence that you did not
17 | know the name Roy Newman Ebsary at this time?

18 | A. No. I didn't know the man. I knew the name Ebsary. I knew
19 | his son, but I didn't know -- I never knew there was a
20 | Roy Newman Ebsary.

21 | Q. Did you know Greg Ebsary?

22 | A. Yes, I did.

23 | Q. And had Greg Ebsary talked to you about his dad?

24 | A. Never.

25 | Q. Did you know -- Forgetting the name, did you know the man to

1 | see him around in the City of Sydney?

2 | A. I never -- I never laid eyes on him until maybe 1981 or
3 | someone around there. I thought his name was Embree because
4 | I asked somebody one day who this gentleman was and they
5 | said they thought his name was Captain Embree.

6 | Q. You said that Marshall was a young man who you had no personal
7 | knowledge of, correct? I take it you never seen him be
8 | involved in any kind of fight or altercation?

9 | A. No, I didn't.

10 | Q. But he was someone who, I take it, the information about the
11 | Police Department was, "Watch this kid", at a dance?

12 | A. Well, I don't know if it was at a dance or -- but, you know,
13 | I knew he --

14 | Q. To what this kid?

15 | A. Well, yeh.

16 | Q. Was it "this kid" specifically? I think my friend asked you
17 | this question, or was this kid as part of a group of kids?

18 | A. Well, he would be apart of, I guess, a group. Like I say,
19 | I really don't recall. I can't recall.

20 | Q. If I understand your evidence, you can't recall today whether
21 | someone said, "Watch this kid", or watch this kid as in part
22 | of a group?

23 | A. I knew that he had been in, I thought a little bit of --
24 | maybe intoxicated, just minor like that, you know. I didn't
25 | know of anything -- But I can remember it seems to me at the

JOHN BUTTERWORTH, by Ms. Edwardh, by Mr. Pugsley

1 dances he would be one you'd keep an eye on, you know, maybe
2 drinking and that sort of thing, you know.

3 Q. And I take it if you had received that information it would
4 have been from your fellow police officers?

5 A. That's right.

6 MS. EDWARDH:

7 Thank you. Those are my questions.

8 MR. CHAIRMAN:

9 Mr. Pugsley.

10 MR. PUGSLEY:

11 Thank you, My Lord.

12 BY MR. PUGSLEY:

13 Q. Mr. Butterworth, during the course of time that you were at
14 the Police Department or in the Detective Division, did you
15 ever have an opportunity of sitting in while John MacIntyre
16 was taking the statements from witnesses?

17 A. No, not really. I can remember -- A long, long way back I
18 remember coming in -- in -- When we were at the old police
19 station I can remember one evening being in the detective
20 office with Sergeant MacIntyre. He was talking to an
21 individual, but I can't tell you any more than that, whether
22 it was a statement, just an interview, I can't --

23 Q. Can you give us any assistance -- Can you give the Commission
24 any assistance at all as to what kind of a policeman he was?

25 A. Well, in my estimation John MacIntyre was one of the finest

JOHN BUTTERWORTH, by Mr. Pugsley, by Mr. Murray

1 policemen I've ever known.

2 Q. And on what do you base that opinion, sir?

3 A. His ability as an investigator and he was -- and a good
4 Chief of Police.

5 Q. And you served under him when he was Police Chief?

6 A. Yes, I did.

7 Q. I think he became Police Chief around 1976 if I recall
8 correctly?

9 A. I would -- Yes, it'd be '76 probably.

10 Q. In '79, was it?

11 A. In '79, did you say?

12 Q. Was it '79?

13 A. In '79 I heard --

14 Q. I thought it was '76.

15 A. In '76, I would think, yes.

16 Q. And you remained in the Department until when?

17 A. In 1980.

18 Q. And then did you become Deputy Sheriff immediately?

19 A. That's right.

20 Q. A position you presently hold?

21 A. Yes.

22 MR. PUGSLEY:

23 Thank you, sir.

24 BY MR. MURRAY:

25 Q. Mr. Butterworth, I represent William Urquhart and I understand

JOHN BUTTERWORTH, by Mr. Murray

1 | that you worked with Mr. Urquhart when you were in the
2 | Detective Division?

3 | A. That's right, sir.

4 | Q. And as I understand it you have sat in with Mr. Urquhart on a
5 | number of statements?

6 | A. Yes, I've sat in on a few statements with the then
7 | Sergeant Urquhart.

8 | Q. And would I be correct, sir, that Mr. Urquhart had a
9 | reputation around the station that developed into a nickname
10 | as the "Father Confessor"?

11 | A. Yes, I believe there was something.

12 | Q. And the reason for that nickname was because people wanted
13 | to talk him. They seemd to open up to him. Is that correct,
14 | sir?

15 | A. Yes. In my recollection while he was working in the Detective
16 | Division, Sergeant Urquhart, yes, had a lot of people -- a
17 | lot of -- the phone would ring many times and he would
18 | seem to -- if you were working on something -- there was
19 | nothing -- It wasn't unusual for him to call you in the
20 | office and tell you something that he picked up, and go out
21 | and work on it. He was well liked. In my estimation he
22 | was well liked by the community.

23 | Q. With respect to statements that you took with William
24 | Urquhart, do you remember taking any specifically with
25 | respect to juveniles?

JOHN BUTTERWORTH, by Mr. Murray

1 | A. Yes, I remember one that stands out.

2 | Q. Without mentioning any names perhaps you could tell us what
3 | Mr. Urquhart's practice was in taking a statement from a
4 | juvenile?

5 | A. I can remember one occasion that just stands out now. I
6 | remember a father and mother being in the office when he
7 | was interviewing the youth, and he explained to the parents
8 | and the youth, you know, what he had and what he was
9 | working on and whatnot, but I found him, you know, fair
10 | and square and there was -- He was as gentleman, you know.

11 | Q. So I take it from that that he would have the parents in
12 | unless the juvenile suggested that they did not want the
13 | parents in?

14 | MS. EDWARDH:

15 | My Lord, I don't think that's what -- I don't think it's fairly
16 | answered.

17 | MR. CHAIRMAN:

18 | Go back --

19 | MR. MURRAY:

20 | I'm asking him a further question.

21 | MR. CHAIRMAN:

22 | Pardon.

23 | MR. MURRAY:

24 | I'm asking him a further question.

25 |

JOHN BUTTERWORTH, by Mr. Murray, by Mr. Chairman

1 MR. CHAIRMAN:

2 Why don't you go back -- go all over again.

3 BY MR. MURRAY:

4 Q. Would you repeat your answer with respect to the statement
5 you remember specifically, sir?

6 A. Yes, I can remember Sergeant Urquhart had an individual
7 youth and I believe it -- it was -- it was a break and entry,
8 and I remember he had the boy -- The parents got the
9 boy-breaking -- it was with regards to a break and enter.

10 Q. Perhaps if you could slow down your speaking rate it would
11 be easier for everyone to understand.

12 A. Okay. I remember the parents of this youth being in Sergeant
13 Urquhart's office when he was interviewing.

14 Q. Do you remember any other incidents, sir?

15 A. Do you mean where parents would be -- I can remember -- I
16 wasn't sitting in with him, but I can remember on a few
17 occasions when he would be interviewing a juvenile, I can
18 remember parents going in, in his office when he'd be
19 interviewing them.

20 MR. MURRAY:

21 I have no further questions.

22 BY MR. CHAIRMAN:

23 Q. I take it the Deputy Sheriff is quite separate from that of
24 the Sydney Police Department. Is that correct?

25 A. Just what to you mean, My Lord.

1 Q. Are you still an employee of the City of Sydney?

2 A. No, sir, no, the Province of Nova Scotia, the Attorney
3 General's Department.

4 MR. CHAIRMAN:

5 All right.

6 NO QUESTIONS BY FOLLOWING COUNSEL

7 MR. CHAIRMAN:

8 Mr. Wildsmith.

9 MR. WILDSMITH:

10 Just one little point of detail I want to ask the Deputy Sheriff.

11 BY MR. WILDSMITH:

12 Q. I'm wondering, sir, what rank did you hold in the Sydney Police
13 Department at the time you were appointed Deputy Sheriff for
14 the County of Cape Breton?

15 A. Constable.

16 Q. Thank you.

17 MR. CHAIRMAN:

18 Mr. MacDonald, any re-direct?

19 BY MR. MacDONALD:

20 Q. Mr. Butterworth, when Pratico gave you that statement that
21 night did you believe him? Did you believe he was telling
22 you the truth?

23 A. Yes, I did at that time. Yes.

24 Q. And so later when you heard that he recanted and said he
25 wasn't there, did that strike you as a surprise?

JOHN BUTTERWORTH, by Mr. MacDonald

1 | A. Yes, I was.

2 | MR. MacDONALD:

3 | That's all I have. Thank you. My Lord, the next witness is
4 | going to be John Pratico and you ruled last week, I believe,
5 | that his evidence would be taken in the absence of T.V. cameras
6 | so if we could perhaps break to give the cameras the opportunity
7 | to be removed and then call Mr. Pratico.

8 | MR. CHAIRMAN:

9 | I don't know if they have to be removed or turned off.

10 | MR. MacDONALD:

11 | I think Mr. Pratico -- If it can be removed would probably be
12 | the best because they he would understand it's not operating.

13 | MR. CHAIRMAN:

14 | Fine. Okay. We'll -- You can let us know when you're ready
15 | to start again. I think it might also be appropriate if Counsel
16 | would examine this witness sitting down.

17 | MR. MacDONALD:

18 | Fine, My Lord. Thank you.

19 |

20 | (WITNESS WITHDREW)

21 |

22 |

23 | INQUIRY ADJOURNED AT: 3:03 p.m., and RECONVENED AT: 3:10 p.m.

24 |

25 |

JOHN L. PRATICO, by Mr. Spicer

1 INQUIRY RECONVENED AT 3:10 p.m.

2 JOHN LOUIS PRATICO, being called and duly sworn, testified as
3 follows;

4 BY MR. SPICER:

5 Q. What's your full name, please?

6 A. John Louis Pratico.

7 Q. And how old are you, John?

8 A. 32.

9 Q. When's your birthday?

10 A. December 31st, 1954.

11 Q. Have you lived in Sydney all your life?

12 A. All my -- most of my life, yes.

13 Q. Where do you currently live?

14 A. 12 South Bentinck.

15 Q. Is that a house, an apartment building?

16 A. It's an apartment building.

17 Q. Do you live on your own?

18 A. I live on my own.

19 Q. Are you currently working?

20 A. No. No, sir.

21 Q. What do you do?

22 A. I'm receiving social assistance.

23 Q. What do you with yourself from day to day?

24 A. Well, I walk -- exercise, walking around. Visiting people
25 I know. Go to the coffee shop once in a while. Cook my

JOHN L. PRATICO, by Mr. Spicer

1 meals. That's about all of it.

2 Q. How are you feeling these days?

3 A. Great.

4 Q. Are you currently taking any medication?

5 A. Yes, sir.

6 Q. Could you tell us what they are?

7 A. I'm taking ten milligrams of Nozinan a day, two milligrams
8 of Artane and a half a cc of Modecate which is an injection.

9 Q. Okay. Could you just slow down a little bit because

10 I didn't understand what those things --

11 A. Ten milligrams of Nozinan at night.

12 Q. What is that, sir?

13 A. Nozinan.

14 Q. Do you know how to spell it?

15 A. Nozinan. N-o-z-i-n-a-n.

16 Q. Okay, you take that at night.

17 A. At night. Two milligrams of Artane in the morning. And
18 a half of cc of Modecate every three weeks.

19 Q. Okay, with respect to those first two ones John, what
20 are they -- What do you take them for?

21 A. Just to calm my nerves, and make me sleep better.

22 Q. Okay. And the one that you take once every three weeks?

23 A. I take just so much of the medication to keep me relaxed.

24 Q. Okay. Take me through that again. The one you take every
25 three weeks. You take it for what?

JOHN L. PRATICO, by Mr. Spicer

1 A. For relaxation. Keep me relaxed and keep me calm.

2 Q. And that one, I believe, you take by -- that's an
3 injection?

4 A. By injection intramuscular.

5 Q. Did you take anything -- any extra medication before
6 you came down here today?

7 A. No, I took five milligrams of Nozinan before I left.

8 Q. Five milligrams of what?

9 A. Nozinan.

10 Q. Okay, and that's the one you would normally take?

11 A. I usually take ten but I took five. I'll take five tonight.

12 Q. I see. So there's nothing unusual --

13 A. No, nothing unusual.

14 Q. -- to you? Okay. Where did you go to school, John?

15 A. I went to Don Bosco, Holy Redeemer Boys, Villanova School
16 and Woodill.

17 Q. Okay. Let's start at the beginning of that.

18 A. I went to Villanova.

19 Q. What would have been the first school you went to?

20 A. Villanova.

21 Q. Villanova?

22 A. Elementary.

23 Q. And whereabouts is that, John?

24 A. That would be on the Victoria Road, in Whitney Pier.

25 Q. Sorry? In the Pier?

JOHN L PRATICO, by Mr. Spicer

1 A. Victoria Road in Whitney Pier.

2 Q. Whitney Pier?

3 A. Yes, sir.

4 Q. Okay. And what grade would you have been in when you
5 left that school?

6 A. Oh, grade four or something like that.

7 Q. Grade four? Okay. And then where did you go?

8 A. I went to Holy Redeemer Boys.

9 Q. Holy?

10 A. Holy Redeemer Boys.

11 Q. Holy Redeemer?

12 A. Boys school.

13 Q. Boys school. Okay. And where is that?

14 A. Church Street in Whitney Pier.

15 Q. In Whitney Pier, again? Okay. And then you went to
16 Don Bosco?

17 A. Don Bosco Junior High.

18 Q. Okay. How old were you when you left Don Bosco?

19 A. 15, 16 possibly. I'm not really sure.

20 Q. Not really sure? Do you remember what grade you were in?

21 A. Eight.

22 Q. Do you remember how old you were, John, at the time when
23 you left?

24 A. 15 or 16. Something like that. Then I went to Woodill and
25 then I dropped out of school for a little while.

JOHN L. PRATICO, by Mr. Spicer

1 Q. When was it that you dropped out of school?

2 A. When I left Don Bosco.

3 Q. Do you remember what year that was?

4 A. '70 -- '69, something like that.

5 Q. Around 1970 or so?

6 A. Around 1970.

7 Q. And can you tell us why you dropped out of school?

8 A. Well, I wasn't getting along too well with the school. I wouldn't
9 get the school work right all the time, eh. I used to
10 have a hard time in school with the school work.

11 Q. Right. Can you tell us why you're having a hard time
12 with your school work, at the time?

13 A. Well, I just -- I found that the work was just a little
14 to hard for me.

15 Q. Right. And when you dropped out of school, what did
16 you do?

17 A. Hang around town. Hang around the Pier. You get --
18 you just do a little bit of shovel snow just to make a
19 few dollars.

20 Q. And you were what? 15 or 16 at the time?

21 A. Yeh, roughly.

22 Q. Yeh. How long were you out of school for?

23 A. Couple of years.

24 Q. Do you remember when you went back to school?

25 A. Well, after I went to the Nova Scotia Hospital, I come back

JOHN L. PRATICO, by Mr. Spicer

1 home and tried to go back to school. I did about
2 six months and I couldn't handle it.

3 Q. Okay. And you didn't -- You went to the Nova Scotia
4 Hospital in 1971? Is that right?

5 A. Right. Right.

6 Q. Okay. So you were out of school prior to that?

7 A. Prior to that.

8 Q. And you tried to go back to school?

9 A. I tried to go back when I returned back to Sydney.

10 Q. When you came back from the Nova Scotia Hospital?

11 A. Came back from the Nova Scotia Hospital.

12 Q. Okay. We'll get to all that later. Did you have any
13 hobbies, when you were in school?

14 A. Well, I used to -- I used to like doing the sheet
15 metal work when I was in the school.

16 Q. Yes. You're living most of the time in the Whitney
17 Pier area?

18 A. In the Whitney Pier area.

19 Q. Yeh. Can you remember the kids that you used to hang around
20 with?

21 A. Some of them, yes.

22 Q. Yeh. And are some of them still around, today?

23 A. I would -- I'm not sure. I imagine there's a few around.

24 Q. Yeh. Did you used to hang out on the streets a fair amount?

25 A. Well, in future years, I did. Yeh.

JOHN L. PRATICO, by Mr. Spicer

1 Q. Yes. When you say, in future years?

2 A. '70, '71, '72 or something like that, you know, around a
3 bit.

4 Q. Yeh. And when you were growing up, John, who were you
5 living with?

6 A. My dad for a while.

7 Q. Yes. For how --

8 A. For -- Oh, well my mom moved to New Brunswick after my mom
9 and dad split up. And I stayed with my dad most of the
10 time. And dad --

11 Q. How old were you when that happened, John?

12 A. I was eight or nine when mom and dad broke up.

13 Q. Then you stayed with your dad for a while and then --

14 A. I stayed with my dad for quite a while till my mom came
15 back. My mom came back to Sydney in 1967, the summer
16 of '67 and I still stayed with my dad right up until about
17 '69.

18 Q. Okay. When did you start living with your mom?

19 A. I moved to my mom's in roughly '69 or '70.

20 Q. '69 or '70. And who else besides you and your mom was
21 living there?

22 A. It was me and mom and my kid sister.

23 Q. Your kid sister?

24 A. Yes.

25 Q. Do you have a twin sister as well?

JOHN L. PRATICO, by Mr. Spicer

1 A. Yes, sir. I have a twin sister.

2 Q. Did you ever move back and live with your dad again or
3 did you always live with your mom after that?

4 A. Well, I lived with my mom for a while and then I went
5 out on my own. I moved back with my dad and then I went
6 back out me own. I lost everything. I had a fire out
7 to where I used to live. And I had to move back to my
8 dad in order to have a place to live.

9 Q. Okay. Let me just -- I'm having a little trouble hearing
10 you sometimes so we'll just have to come back.

11 A. Well, I got a little cold.

12 Q. You say you were living with your mom and then you
13 moved out --

14 A. Then I went out on my own.

15 Q. Went out on your own. Okay.

16 A. Yes.

17 Q. About how old were you when you did that?

18 A. I was about 19 when I went out on my own. 19 or 20.

19 Q. Okay. And then after that you went back and lived with
20 your --

21 A. Well, I'll tell you, I moved up to -- I was living in
22 the Ashby area. And I was living in the basement.

23 Q. This was when you were living on your own then?

24 A. Yes, sir. And the place, it caught on fire when I was
25 out one day. It was electricity problems. So I had to

JOHN L. PRATICO, by Mr. Spicer

1 go stay with my dad until I found a place to go.

2 Q. I see. Okay. So you --

3 A. But it was only for a short while.

4 Q. And you were about 19 or 20 when this happened?

5 A. Yes, sir.

6 Q. Okay. So you lived with your dad for a short while and
7 then what did you do? Move out again?

8 A. Then I went back on me own.

9 Q. Back on your own.

10 A. And I've been on me own ever since.

11 Q. Okay. When you were growing up, John, as a teenager, was
12 there -- did you have much experience with drinking?

13 A. I did a fair amount of drinking. Yes, sir.

14 Q. About how old were you when you started drinking?

15 A. About 15.

16 Q. About 15? Where would you get booze from?

17 A. Well, I'd pay a wino or one of the alcoholics to go to
18 the store. Give him a few cents, you know, and he'd get
19 me a bottle of wine or something or sometimes I'd go in
20 on my own.

21 Q. Right. Were you able to get in a tavern and stuff?

22 A. I used to go to taverns a lot. Yes, sir.

23 Q. Even when you were 15?

24 A. Even though I was 16 I would go to the tavern.

25 Q. 16? Yeh. And this would have been about the time

JOHN L. PRATICO, by Mr. Spicer

1 when you were -- when you dropped out of school, is
2 that right?

3 A. Yes, sir.

4 Q. Okay. Can you give us some idea of how much drinking you
5 would have been doing?

6 A. Well, I did a fair amount. More than what you would
7 believe for a teenager. You know, I did a fair amount.

8 Q. What do you mean by a fair amount?

9 A. Well, I could drink a couple of cases of beer in a
10 day.

11 Q. Couple of cases of beer?

12 A. A couple of dozen.

13 Q. In a day?

14 A. Yeh.

15 Q. Would that be something that you'd do fairly regularly
16 or?

17 A. Well, just whenever I had the money, you know what I
18 mean, if I had enough I would drink a couple of cases
19 of beer.

20 Q. How much would a case of beer cost?

21 A. Well, a case of beer was about five dollars, at that time.
22 Five eighteen, five twenty, something like that.

23 Q. So you'd need about 10 bucks to get some?

24 A. You'd need about 10 bucks to get a couple cases of beer.

25 Q. And would you drink that all yourself or would you drink

JOHN L. PRATICO, by Mr. Spicer

1 it with a bunch of buddies?

2 A. Well, sometimes I'd share and sometimes I'd drink most
3 of it myself and take a few home and put them away and
4 drink them later.

5 Q. Sorry, say that again, sir?

6 A. I would -- sometimes I would share my beer and take a
7 few home -- if there any I'd take it home and put it
8 away and drink it the next day or that night or the
9 next morning.

10 Q. And would you be doing that Monday, Tuesday, Wednesday or would
11 this just be something you'd be doing on the weekends?

12 A. Sometimes -- mostly weekends. Sometimes though the week
13 I would drink too.

14 Q. All right. Would there be any particular reason why
15 you'd drink on one day and not on another?

16 A. Well, I never had the money sometimes.

17 Q. If you had the money, would you --

18 A. I would have.

19 Q. You would have been drinking?

20 A. Yes, sir.

21 Q. Okay. And at that stage of the game, when you were 15 or
22 16 and doing that kind of drinking, were you hanging around on
23 the streets a fair amount?

24 A. Well, I'd be on the street, you know, walking, going to
25 dances and, you know, hanging around the street. Yes, sir.

JOHN L. PRATICO, by Mr. Spicer

1 Q. Other than beer, did you drink --

2 A. Sometimes I had wine.

3 Q. Right. And --

4 A. And if I could afford a bottle of rum, I'd get a bottle
5 of rum.

6 Q. And if somebody gave you something else, would you
7 drink that too?

8 A. Well, depending on what it was.

9 Q. Well, I won't go through the whole list. The ones you
10 liked were rum and wine and beer.

11 A. I really like beer a lot.

12 Q. Like beer a lot. Okay. Do you want to make a pitch
13 for Olands or anything? At that time, John, when you
14 were 15 or 16, did you spend any time with any of the
15 Indian kids?

16 A. Yes, sir.

17 Q. And do you remember who?

18 A. Yes, sir.

19 Q. Can you tell us?

20 A. Donald Gordon.

21 Q. Donald Gordon.

22 A. Tom Christmas.

23 Q. Tom Christmas.

24 A. Junior Marshall, sometimes.

25 Q. Junior Marshall. Anybody else that you can remember?

JOHN L. PRATICO, by Mr. Spicer

1 A. Lawrence Paul would be around every now and then.

2 Q. Right.

3 A. Artie Paul.

4 Q. Artie Paul? What kinds of things would you be doing
5 with them?

6 A. Well, just hanging around, you know, going to pubs, dance,
7 have a few drinks. That's about all.

8 Q. Right. And whereabouts would you be hanging around?

9 A. Well, we'd go down to the park, go around to St. Joseph's
10 Hall, things like that, eh.

11 Q. Right. And would that be during the day as well as
12 during the evening?

13 A. That would be mostly evenings.

14 Q. Mostly evenings?

15 A. Yeh, early in the evening, you know, and then we would
16 go the dance.

17 Q. What about girls? What girls were you hanging around with?

18 A. Well, I don't want to remember the girls.

19 Q. What?

20 A. Well, there was a few but I can't remember names. I -

21 Q. Can't remember the names.

22 A. No. No.

23 Q. Were you ever down in the park bumming money at all?

24 A. A few times.

25 Q. Yeh. And would you be by yourself or would you be with

JOHN L. PRATICO, by Mr. Spicer

1 other kids?

2 A. Sometimes no, sometimes with friends.

3 Q. Yeh, and if you were with friends, who would you likely
4 be with when you were doing that sort of thing, bumming money?

5 A. Well, I can't recall names now, buddies and friends, eh.

6 Q. Okay. Can you describe to us what kind of thing you
7 understand by bumming money, what would you do?

8 A. Just ask if you -- somebody had a bit of change he
9 could spare.

10 Q. Right. And if they said no, what would you do?

11 A. That was fine.

12 Q. Just walk away from it?

13 A. That was fine. Yes, we haven't got any. That's fine.

14 Q. Were you ever down in the park with other people when they
15 were bumming money when they'd get pushy with people?

16 A. Not that I recall.

17 Q. Not that you recall. Prior to night of the Seale stabbing,
18 John, in May of 1971, before that, do you remember if you
19 were ever picked up by the police and sort of kept in the
20 drunk tank over night?

21 A. Yeh, for drinking I was feeling good and a couple of times
22 I was put in a cell if I'd been drinking. Yes, sir.

23 Q. Okay. So --

24 A. My mom requested that I be picked up. I used to get
25 a bit rowdy when I drank, eh. So my mom requested that

JOHN L. PRATICO, by Mr. Spicer

1 I be put in a cell just so -- until I sobered up so they did,
2 eh.

3 Q. Okay. So -- and this sort of incident that you just
4 related to us is something that would have -- may have
5 happened to you prior to May of 1971 when this whole
6 Donald Marshall, Seale thing happened?

7 A. Yes, sir. Yes, sir. Yes, sir.

8 Q. Do you remember how it would happen? Would you just get
9 picked up on the street by the police?

10 A. Well, sometimes I be walking and I would be staggering
11 and they would arrest me -- not arrest -- just pick me
12 up, put me in a cell at least until I would sober up
13 and then they would let me go home.

14 Q. Do you remember any of the officers that picked you
15 up?

16 A. No, sir.

17 Q. You don't remember any names or?

18 A. No, sir.

19 Q. And how would it happen? You'd get picked up and put
20 in a police car and taken to the station?

21 A. In a police car.

22 Q. In a police car?

23 A. Yes, sir.

24 Q. Okay. And would the policemen call you by name?

25 A. Well, I would probably be too drunk to realize whether he

JOHN L. PRATICO, by Mr. Spicer

1 called me by my name or not.

2 Q. What about the next morning though, would they call you
3 by name?

4 A. Yes, sir.

5 Q. Yeh. And do you remember on any of those occasions whether
6 there was anybody else in the cells with you?

7 A. Well, there might have been, but I'm not sure.

8 Q. And I believe you indicated, a couple of minutes ago,
9 that there would be occasions when your mom would call?

10 A. Well, she called once or twice just -- I used -- I'd get
11 a little tight, you know, and start hollering a bit, eh,
12 so mom, I said I just -- Her nerves are getting bad
13 because of all the hollering I was doing. I was drinking --
14 She was getting sick that I was drinking. So she had
15 me picked up one night and just locked up until I sobered
16 up.

17 Q. Okay. Let me just thrash that out for a minute. When
18 on that occasion, when that happened, when you mom called
19 to have you come -- to have you taken to the cells for
20 night?

21 A. Yes, sir.

22 Q. Were you at home when that happened?

23 A. No, I -- Well, -- See, one night I was out and someone went
24 to my moms and said Johnny's drunk up on Charlotte Street,
25 you know, and mom knew if I came home, I'd be a little bit

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1 rowdy, eh, so it was just -- either went down to the
2 police station or called the City Police and just
3 asked would they pick me up just until I sobered up
4 so they done it for her.

5 Q. And did the police actually pick you up that night?

6 A. Yes, sir.

7 Q. And do you remember now, John, whether or not that was
8 before the Seale incident or --

9 A. Before.

10 Q. That was before?

11 A. Yes, sir.

12 Q. And you say that when you were drinking, you used to
13 get a little rowdy?

14 A. Oh, I'd holler a bit, you know. I'd holler a bit.

15 Q. Yeh. And did you sometimes do that at home?

16 A. Yes, sir.

17 Q. And your mom got upset?

18 A. She'd get upset. See, mom was trying to raise up
19 my kid sister and she couldn't have that in the house, eh.

20 Q. Right. Can you give us any -- other than that one
21 incident when you mom called, can you give us any idea
22 of how many times you might have been picked up by the
23 police?

24 A. Very little.

25 Q. More than once?

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1 A. Two or three times. That's about all.

2 Q. Over what period of time, do you remember?

3 A. Oh, I couldn't say that.

4 Q. I take it from what you said a few minutes ago, that
5 you used to -- used to go to the dances?

6 A. Yes, sir.

7 Q. And did you go to them fairly frequently?

8 A. Usually every weekend I'd go a dance.

9 Q. Friday and Saturday or --

10 A. Well, sometimes both days. Sometimes just Friday or
11 sometimes just Saturday, you know, that was about all.

12 Q. Did you go by yourself most of the time?

13 A. Most of the time I'd meet people there.

14 Q. Meet people there?

15 A. I'd make -- you know.

16 Q. And most of the time when you went to these dances,
17 would you have been drinking before you went?

18 A. Yes, sir.

19 Q. Yeh. Would you be drunk when you got there, do you
20 think?

21 A. Sort of feeling good.

22 Q. Sort of feeling good. When you say, sort of feeling good, that's
23 I take it, less than being drunk?

24 A. Less than being drunk.

25 Q. But more than being sober?

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1 A. More than being sober.

2 Q. All right. I see. Did you ever get -- did you ever get
3 in fights at any of the dances?

4 A. I've been in a few fights, yes, sir.

5 Q. And did you ever -- On occasion, did you ever get spoken
6 to by the police at those dances?

7 A. Well, one they told me to leave and I left.

8 Q. And do you remember whether or not that was before the --

9 A. Before.

10 Q. Before the Seale incident?

11 A. Yes, sir.

12 Q. And do you remember why it was that you were asked to leave?

13 A. We just -- like, I was walking a lot, you know, and --

14 Q. Walking?

15 A. Around the dance hall and having too much to drink, I guess
16 he figured it would be better to be at home so I went home,
17 eh.

18 Q. Right. Do you remember who the police officer was?

19 A. No, sir.

20 Q. Do you remember whether or not he called you by name?

21 A. He could have.

22 Q. You don't remember?

23 A. No, sir.

24 Q. Okay. I think you told us that you knew Junior Marshall?

25 A. Yes, sir.

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- 1 Q. Did you know Sandy Seale?
- 2 A. Yes, sir.
- 3 Q. And how did you know him?
- 4 A. Well, I knew Sandy from the Pier.
- 5 Q. From the Pier?
- 6 A. Yes, sir.
- 7 Q. Did you hang around with him at all?
- 8 A. No, sir.
- 9 Q. No. Did you know him to talk to him?
- 10 A. Yes, sir.
- 11 Q. What about Junior? Had you hung around with him?
- 12 A. Sometimes.
- 13 Q. Sometimes?
- 14 A. Yes, sir.
- 15 Q. When you were hanging around with him, what sorts of things
- 16 would you have been doing?
- 17 A. Just hanging around the park, you know, having a few drinks,
- 18 that's about all.
- 19 Q. Before the -- Prior to the night of the Sandy Seale stabbing,
- 20 did you know Maynard Chant?
- 21 A. No, sir.
- 22 Q. No? Did you know the names of any of the -- This is, again,
- 23 before the Seale incident, did you know the names of any
- 24 of the police officers?
- 25 A. Some of them. Yes, sir.

JOHN. L. PRATICO, by Mr. Spicer

1 Q. Did you?

2 A. Yes, sir.

3 Q. And can you tell us what the names of the police officers
4 were that you knew?

5 A. I knew Howard Dean.

6 Q. You knew Howard Dean?

7 A. Yes, sir.

8 Q. And where did you know him from?

9 A. Just from around town.

10 Q. From the beat?

11 A. From the beat, yeh.

12 Q. From the beat? Anybody else?

13 A. Mr. Woodburn. I know Mr. Woodburn. He was used to live in
14 the Pier, eh.

15 Q. Mr. Woodburn was in the Pier?

16 A. He was from the Pier.

17 Q. From the Pier?

18 A. Yes, sir.

19 Q. All right. Did you know him as a police officer?

20 A. Yes, sir.

21 Q. Okay. So you've Howard Dean and Woodburn, anybody else?

22 A. I knew Mr. Butterworth.

23 Q. Butterworth?

24 A. Yes, sir.

25 Q. Okay. And again, where would you know Mr. Butterworth from?

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1 A. Just around the beat or around town. He was, you know,
2 he'd speak once in a while. Hi. He used to speak to
3 anybody, any young people, you know what I mean. And he
4 used to say to people -- he'd speak to young people.

5 Q. And would these police officers then talk to you when
6 they saw you on the street?

7 A. Just say hi, how are you, not to bad, you know, just
8 how are you keeping, you know.

9 Q. Do you know whether or not these particular officers,
10 Dean and -- well, I'm just going to take them-- or whether
11 Constable Dean knew you by name?

12 A. I would imagine. I'm really not sure but I would imagine.
13 He usually knew everybody in Sydney, eh.

14 Q. Yeh. Well, do you think that they -- do you think
15 he knew you?

16 A. Do I think he knew me?

17 Q. Yeh.

18 A. Yes, I would say that he would.

19 Q. Okay. What about Butterworth?

20 A. He would know me.

21 Q. And Woodburn?

22 A. He really knew me because he knew me when I was in the
23 Pier, eh. He knew my family.

24 Q. Right. And would you see them, like, from time to time
25 on the beat and on the street --

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1 A. Just passing by, I would see them. Yes, sir.

2 Q. Then would you normally say hi to them or?

3 A. Sometimes.

4 Q. I see. Do you have any recollection of whether any of those
5 three -- that's Woodburn, Dean and Butterworth, ever saw
6 you before the Seale incident when you were -- if you
7 were drunk on the street, at all?

8 A. They could have.

9 Q. You don't remember.

10 A. No, sir.

11 Q. And do I take it that on the -- the incidents when you
12 were taken down to the police station and kept over there
13 over night, that you were never charged?

14 A. No, sir.

15 Q. Did anybody ever talk to you the next morning about you
16 better not do this again or you're going to get charged?

17 A. They never threatened to charge me.

18 Q. No. Just took you up -- Did -- Would they take you home?

19 A. No, I'd go home on my own.

20 Q. Go home on your own?

21 A. It was seven or eight o'clock in the morning. I'd go home
22 on my own.

23 Q. Now, in 1971, -- that's -- at that point you were out
24 of school, are you or are you in school?

25 A. Yes, sir. Out of school.

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1 Q. Out of school? What sort of shape were your nerves in
2 in 1971?

3 A. Well, they were a little bad but they weren't really all
4 that bad. I -- you know, some small sedation. Medication
5 took care of it. I take some Valium. Doctor A. B. gave
6 me a few Valium, as he called them.

7 Q. Doctor meaning Doctor?

8 A. Doctor A. B. Gaum.

9 Q. Oh, Doctor A. B. Gaum.

10 A. He used to give me a few Valium.

11 Q. Okay. What -- Did -- Can you tell us when you started
12 taking that medication?

13 A. The Valium?

14 Q. Yeh. Was it after you stopped going to school?

15 A. After I stopped going to school.

16 Q. After you stopped going to school, okay. And were you
17 taking the Valium, then, in 1971?

18 A. I would say so, yes.

19 Q. Okay. Do you remember?

20 A. Yes, sir. I was taking Valium.

21 Q. Okay. Do you remember whether or not you were taking
22 anything else?

23 A. No, that was about it.

24 Q. And this now in -- This would be -- Let's restrict ourselves,
25 for the moment, to the early part of 1971 before this Seale --

JOHN L. PRATICO, by Mr. Spicer

1 A. Yes, the early -- this is the early part.

2 Q. Okay. Before this whole Seale --

3 A. Before the whole thing.

4 Q. Okay. On the -- Do you remember the day of the Seale
5 stabbing, May 28th?

6 A. Well, sir, I went to a dance that night --

7 Q. Right. Before we get to the dance, John, do you remember
8 what you were doing anytime --

9 A. Just hanging around home waiting for the dance to start.

10 Q. Hanging -- waiting for the dance to start?

11 A. Yeh.

12 Q. Had you been doing any drinking that day?

13 A. A little bit. I hardly had any amount. Six o'clock in
14 the evening, maybe seven, eight o'clock, a little bit.
15 Not all that much. But later on I got some beer and that,
16 eh.

17 Q. All right. Well, let's not get ahead of ourselves --

18 A. Okay.

19 Q. -- we'll get there in a couple -- Earlier in the day,
20 in the morning, in the the afternoon --

21 A. No, I wouldn't be drinking in the morning. The morning is
22 too early to drink. It's too early.

23 Q. What about the afternoon?

24 A. Maybe a couple of bottles of beer around three o'clock.

25 Q. Around three o'clock in the afternoon?

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- 1 A. Yeh.
- 2 Q. Why would you recollect that you might have had a couple
3 of bottles of beer around three o'clock in the afternoon?
- 4 A. I usually did.
- 5 Q. Used to --
- 6 A. Whenever I had beer, I'd get it around three or so.
- 7 Q. That would be your habit?
- 8 A. That would be my habit.
- 9 Q. Okay. And you said a couple of minutes ago, before I
10 interrupted you, at around six or seven o'clock --
- 11 A. I might have got a couple dozen beer.
- 12 Q. You might have got a couple of dozen of beer?
- 13 A. I usually get a couple dozen of beer if I go to a dance, eh.
- 14 Q. Okay. Now, you're saying I might, and usually and --
- 15 A. Well, I did then -- I did have beer.
- 16 Q. Yeh. Just do your best to tell us what you actually now
17 remember.
- 18 A. Well, I had a dozen beer around six o'clock.
- 19 Q. You -- you bought a dozen?
- 20 A. I bought a dozen of Schooner.
- 21 Q. Schooner?
- 22 A. That was the regular -- that was my beer. That was the beer I drank.
- 23 Q. Around six o'clock?
- 24 A. Yeh.
- 25 Q. And do you remember what you did with them?

JOHN L. PRATICO, by Mr.Spicer

1 A. Well, I drank them at home. I drank some home and I
2 took -- you know, and I gave a few away.

3 Q. Right. Do you remember who you gave any away?

4 A. No, sir.

5 Q. No? Okay. What did you do then?

6 A. I just hung around home and then I got dressed for the
7 dance and went to the dance.

8 Q. Do you remember, now, what time you might have got to
9 the dance?

10 A. About eight -- eight o'clock.

11 Q. And what sort of shape were you in when you got there?

12 A. Feeling good.

13 Q. Feeling good?

14 A. Yes, sir.

15 Q. Why do you figure you were drunk by the time you got there?

16 A. Well, I might have drank a quart of wine, maybe a half --
17 a quart and a half of wine before I got to the dance.

18 Q. Sorry. You might have drunk?

19 A. A quart and a half of wine.

20 Q. Before you got to the dance?

21 A. Yeh.

22 Q. Before you got to the dance?

23 A. Yeh.

24 Q. So you got a quart and a half of wine and some beer?

25 A. Yeh.

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1 Q. Okay. And you would have consumed that before
2 you got to the dance?

3 A. Yes, sir.

4 Q. Okay. You get to the dance; have you got enough money
5 to get in?

6 A. Some money was given to me to go to the dance.

7 Q. Did your mom give you the money?

8 A. No, some friends of mine gave me the money.

9 Q. Oh, do you remember who?

10 A. I'm not sure who it was. You know --

11 Q. Okay. But in any event, you're given -- you're given some
12 money to get in to the dance?

13 A. Yes, sir.

14 Q. You get there, I think you said, around eight-thirty?

15 A. Yes, sir.

16 Q. Okay, then how long did you stay at the dance?

17 A. Couple of hours.

18 Q. Do you remember anything that happened at the dance?

19 A. Not particularly.

20 Q. Do you remember whether you danced?

21 A. I danced a little bit.

22 Q. Do you remember leaving?

23 A. Yes, sir.

24 Q. How were you feeling by the time you left the dance?

25 A. Feeling good.

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1 Q. During the course of the evening, did you have anything
2 more to drink?

3 A. I -- I had a couple of bottles of beer.

4 Q. That you drank, where? At the dance?

5 A. At the dance, outside.

6 Q. So, what would you do? Would you go out and drink them and
7 then go back in?

8 A. Just go out and have a couple of bottle of beer and we
9 would go back in.

10 Q. I see. And did -- Do you remember doing that, that night?

11 A. Yes, sir.

12 Q. Do you remember whether or not you were -- you might have
13 gotten ill at the dance because you've been drinking?

14 A. I could have got sick.

15 Q. But do you know? Do you remember or not?

16 A. No, sir.

17 Q. Don't remember, okay. If you don't remember just tell
18 me you don't remember.

19 A. No.

20 Q. Okay. So you left the dance, do you remember -- just
21 as you were leaving the dance, do you remember seeing anybody
22 at all?

23 A. I can't remember.

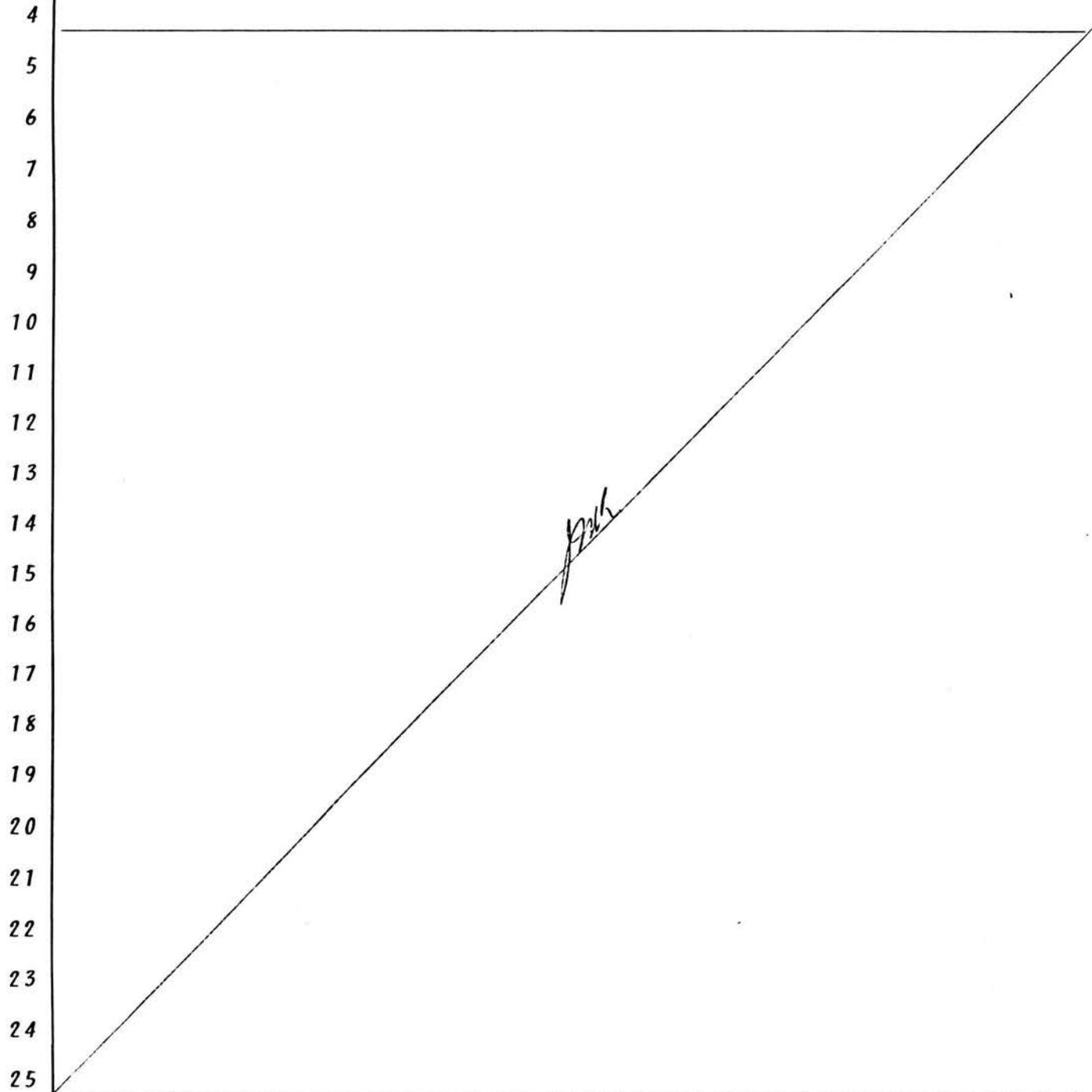
24 Q. When you left. Did you know Barbara Floyd in 1971?

25 A. I'm not sure. I could have known her. Today, her name is not

- 1 clear but I could have.
- 2 Q. You don't remember?
- 3 A. No, sir.
- 4 Q. What about Ricky Risk?
- 5 A. That's a name I can't get in my head. I can't remember that
- 6 name.
- 7 Q. No recollection at all?
- 8 A. No, sir.
- 9 Q. Now when you left the dance, can you tell us whether or not
- 10 you had any -- anything --
- 11 A. I had two or three bottles of beer.
- 12 Q. You had two or three bottles. Where did you keep all of
- 13 these bottles of beer?
- 14 A. Well, somebody gave me a couple of bottles but I can't
- 15 remember who.
- 16 Q. Right. But did you have them in your pocket or something?
- 17 A. No, I had them in my pocket when they give them to me, put
- 18 them in my pocket, eh.
- 19 Q. Right. And they were still in your pocket when you left the
- 20 dance?
- 21 A. Yes, sir. Well, I had left the dance and they was in my
- 22 pocket, eh.
- 23 Q. Okay. And that's the last time you left the dance, not going
- 24 out and coming back?
- 25 A. Yes, sir. The last time. I didn't come back.

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1 Q. Okay, now I want you just to tell us to the best of your
2 recollection, when you left that dance on that evening,
3 where did you go?
4



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1 A. I went into the park.

2 Q. Okay, now are you able --

3 A. I came -- I came down George Street, into the park. I went
4 up to the foot bridge.

5 Q. Okay. Are you able to show the Commissioners on that map where
6 you would have gone?

7 A. Yes, sir. I came down George, eh.

8 Q. You would have gone down?

9 A. Down from St. Joseph's Hall, down George Street and through
10 the foot bridge.

11 Q. How would you have gotten to the foot bridge now?

12 A. Right -- you know where the drug store is at at the corner of --

13 Q. You show us where the drug store is.

14 A. -- Argyle.

15 Q. Argyle and George.

16 A. This would be -- I'd say this would be the drug store.

17 Q. Okay.

18 A. So I came down through the little concrete walk there and
19 through the park and over the foot bridge, right down, you
20 know, right past the pond there.

21 Q. Okay, let's just take it a little bit slower now. Where were
22 you going.

23 A. Past the drug store.

24 Q. You can stand up and just point if you want.

25 A. Okay. I came this way and I came past the drug -- into that

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1 little concrete walk till I got in the park and I guess this
2 here would be it.

3 Q. I think the Commissioners are having a little trouble seeing
4 you. If you could just sort of stand back a little bit.

5 A. I came up George Street and I came as far as the drug store
6 and I walked down that little concrete walk to where they sell
7 the ice cream.

8 Q. Where is that, John, more or less?

9 A. Well, like, the drug store is here, eh. So I guess it would
10 be about here I would imagine. I'm not sure.

11 Q. All right, it would be the next little block is --

12 A. I'm not sure of these plans. Well, this would be the cul-de-
13 walk here, eh.

14 Q. Okay, so you're walking down toward the band shell, are you?

15 A. Yeh, I passed the band shell. The little -- the pond there
16 coming to the band shell. I came in that way and I went across
17 and up the foot bridge onto Crescent Street. I'm going this
18 way, then, okay?

19 Q. No, I'm not quite sure yet how you -- You go out --

20 A. Okay, I came down George Street and through that little
21 concrete walk there, out to the foot bridge.

22 Q. Okay, and is that along this walk here?

23 A. This would be along -- this is the street here and the band shell,
24 right.

25 Q. To the right of Wentworth Creek on the water side.

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- 1 A. So I would come this way and I would go this way.
- 2 Q. You're going over the bridge.
- 3 A. Over the bridge, and then I would go this way.
- 4 Q. On Crescent Street?
- 5 A. On Crescent Street.
- 6 Q. Okay. Now when you get onto Crescent Street, where do you
7 go?
- 8 A. I go toward the bushes.
- 9 Q. Towards the bushes.
- 10 A. Yes, sir.
- 11 Q. And why are you going towards the bushes?
- 12 A. I wanted to drink a couple of bottles of beer.
- 13 Q. Okay. All right. Are you able to tell us today, John, with
14 any certainty at all whereabouts on Crescent Street these
15 bushes would have been you went --
- 16 A. Well, I'm not going to be too accurate on that, eh, okay.
- 17 Q. Oh, sure, just --
- 18 A. But I would -- I would imagine it would be this way somewheres.
- 19 Q. Up around here somewhere?
- 20 A. Up around here somewhere in these bushes.
- 21 Q. All right, then you're --
- 22 A. There was a -- you know where that little trestle is in back
23 of the bushes along the C.N.R. tracks?
- 24 Q. Okay.
- 25 A. So it would be up around this area somewheres.

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1 Q. You think it's fairly handy to Bentinck Street, is that --

2 A. Fairly handy to South Bentinck there, handy where I live now.

3 That would be them part of the bushes, like, but on this side,
4 like. The trestle, see this would be the trestle, eh.

5 Q. Yes.

6 A. All right, it would be on the same end as the trestle.

7 MR. PUGSLEY:

8 Maybe Counsel could indicate --

9 MR. SPICER:

10 Yeh, it's 106, 108 is where he's indicating.

11 MR. PUGSLEY:

12 Thank you.

13 BY MR. SPICER:

14 Q. Now, John, you can see these little green things all along
15 here on the plan --

16 A. These are the bushes.

17 Q. Those are bushes. Are you able to say with any degree of
18 certainty whereabouts you were?

19 A. Anywheres around here.

20 Q. All right, now when you say "anywheres along here", what you're
21 indicating to us is somewhere opposite the houses that are
22 marked 106 and 108.

23 A. Well, I wouldn't know the addresses.

24 Q. No, I understand that. I'm just doing that so that the record
25 can tell us where you were.

JOHN L. PRATICO, by Mr. Spicer

1 A. Which would be the area.

2 Q. Okay, 106, 108. Down in there, okay.

3 A. Okay.

4 Q. What did you do, John, when you got there?

5 A. Well, I drank my couple of bottles and then I left the park.

6 I went home. I went over Bentinck -- South Bentinck, onto
7 Byng Avenue, right up Bentinck, past Parkdale House. That's
8 on the corner of Byng Avenue and Bentinck.

9 Q. Okay, let's just go back to the bushes for a sec. What do
10 you do? Do you sit down behind a bush or something?

11 A. I only sit there.

12 Q. Why do you do that?

13 A. I just sat there that night and I drank my couple of bottles
14 of beer and then I went -- I threw my bottles away and I went.

15 Q. Okay, why do you -- Why do you sit down behind the bushes to
16 drink your beer?

17 A. Well, it's more comfortable than standing up.

18 Q. Yeh. I'll try not to ask you any more questions like that.

19 Is there any particular reasons you go to the bushes at all?

20 A. No, sir.

21 Q. No. Okay. So you sit down.

22 A. I drank my two or three bottles of beer and then I left.

23 Q. Okay and those are the beers that you had in your pocket that
24 you brought --

25 A. Yes, sir.

JOHN L. PRATICO, by Mr. Spicer

1 Q. Okay, and then you left.

2 A. And then I left. And then I went over to South Bentinck, up
3 South Bentinck, past Byng Avenue to Bentinck and right into
4 my home at 201 Bentinck.

5 Q. Did you see Sandy Seale or Junior Marshall at all in the park?

6 A. I'm really not sure.

7 Q. Not sure?

8 A. No, sir.

9 Q. Did you see any stabbing incident in the park that night?

10 A. No, sir.

11 Q. Now are you today quite sure that you didn't see any stabbing?

12 A. Yes, sir.

13 Q. But it's possible that you may have seen Sandy Seale or Junior --

14 A. It's possible but I'm not really sure.

15 Q. You're not sure about that.

16 A. It's possible but I'm not sure.

17 Q. Okay. Do you recollect whether or not you saw anybody else
18 in the park?

19 A. I can't remember back.

20 Q. Okay.

21 A. I can't remember back if I did or not.

22 Q. Okay. Did you know that night at any time, perhaps after you
23 got home, that there'd been a stabbing in the --

24 A. No, sir.

25 Q. So when you got home, you had no idea?

JOHN L. PRATICO, by Mr. Spicer

- 1 | A. No, sir.
- 2 | Q. Okay. Was your mom up when you got home?
- 3 | A. Yes, sir.
- 4 | Q. Did you talk to her when you got home?
- 5 | A. I just said, "good night, mom" and went to bed.
- 6 | Q. Do you have any idea what time it was when you got home?
- 7 | A. No, sir. I didn't own a watch. I never -- I just went right
- 8 | to bed.
- 9 | Q. You don't -- you dind't wear --
- 10 | A. I didn't own a watch, eh. I just went right to bed.
- 11 | Q. Okay. And how would you -- how would you describe your
- 12 | condition by the time you got home?
- 13 | A. Pretty well under the weather.
- 14 | Q. Pretty well under the weather. That's more than feeling good.
- 15 | A. Yes, sir.
- 16 | Q. Okay. Is that drunk at that stage of the game? Is that how
- 17 | you would characterize it?
- 18 | A. I would say I was drunk.
- 19 | Q. You were drunk by that stage.
- 20 | A. Yes, sir.
- 21 | Q. Okay. Do you figure you were drunk when you got to these bushes?
- 22 | A. Just about. Yes, I'd say so.
- 23 | Q. Just about.
- 24 | A. I'd say so.
- 25 | Q. Okay, so you get home, say good night to your mom and go to bed.

JOHN L. PRATICO, by Mr. Spicer

- 1 A. Right.
- 2 Q. Okay, when's the first time that you know that there'd been a
3 stabbing?
- 4 A. On the radio the next morning but there was no names mentioned.
- 5 Q. All right. Do you recollect what time you woke up and when --
- 6 A. No, sir.
- 7 Q. -- when you would have heard that?
- 8 A. No, sir.
- 9 Q. But anyway you hear it on the radio?
- 10 A. Yes, sir.
- 11 Q. Okay. Did you ask anybody about it?
- 12 A. I asked my mom if she knew what happened and she didn't know.
- 13 Q. And did you at that stage recollect anything from the night --
- 14 A. No, sir.
- 15 Q. No. Did you tell your mom you'd been in the park the night
16 before?
- 17 A. No, sir.
- 18 Q. No. Did you tell your mom anything about what you'd been up
19 to the night before?
- 20 A. No, sir.
- 21 Q. No. Do you remember whether or not you saw Junior Marshall on
22 the Saturday?
- 23 A. I'm not sure if it was Saturday when Junior Marshall come up
24 and was passing by my house. I believe it was Saturday.
- 25 Q. Saturday.

JOHN L. PRATICO, by Mr. Spicer

- 1 A. Saturday afternoon, around dinner hour possibly.
- 2 Q. Where were you?
- 3 A. On my mother's doorstep at 201 Bentinck.
- 4 Q. Was anybody else around?
- 5 A. Rudy Poirier and Glen Lamson.
- 6 Q. I'm sorry, Rudy Poirier.
- 7 A. And Glen Lamson.
- 8 Q. And Glen Lamson. Okay, and this is when you see Junior Marshall?
- 9 A. Yes, sir.
- 10 Q. Okay. Do you have any recollection today of whether or not he
- 11 said anything to you?
- 12 A. Well, I asked him -- He had a mark -- a bandage on his arm.
- 13 Q. Do you remember which arm it was?
- 14 A. No, sir.
- 15 Q. Okay, he had a bandage on his arm.
- 16 A. We asked him what happened and he said, "Something terrible
- 17 happened last night." That's all he said.
- 18 Q. Okay. Did he give you any description?
- 19 A. No, sir.
- 20 Q. No?
- 21 A. Not that I can recall.
- 22 Q. Did anybody ask him, "Well, what was it that happened?"?
- 23 A. No, sir.
- 24 Q. He just came by and said --
- 25 A. Not that I can recall anybody asking him what happened anyway.

JOHN L. PRATICO, by Mr. Spicer

1 Q. How long did this discussion --

2 A. Oh, it wasn't very long. He was -- He was shook up, you know,
3 and he was on the way up the road. God knows where he was
4 going but he was on the way up the road anyway.

5 Q. All right, when you say "he was shook up", how would you know
6 that he was shook up?

7 A. Well he was just a little excited, you know what I mean?
8 Hyper like.

9 Q. Okay, and other than -- Other than saying what, "something
10 terrible happened.", is that what you said?

11 A. That's all he said. Like he didn't even say where he was going
12 when he left the house -- the doorstep.

13 Q. And you guys were just sitting on the doorstep.

14 A. We were sitting there, yes, sir. It was a warm day.

15 Q. Yeh. Anything else happen on that day, John, in connection
16 with this?

17 A. No, sir.

18 MR. SPICER:

19 I think perhaps, My Lord, it might be an opportune moment to take
20 a ten or fifteen minute break.

21 INQUIRY ADJOURNED: 3:50 p.m.

22 INQUIRY RECONVENED: 4:03 p.m.

23 BY MR. SPICER:

24 Q. John, just before we broke, we were talking about seeing Junior
25 on the -- I think you said on the Saturday.

JOHN L. PRATICO, by Mr. Spicer

1 | A. Yes, sir.

2 | Q. Do you have any idea of where he was going?

3 | A. No, sir.

4 | Q. Okay. On May 30th, John, you gave a statement to the police.

5 | A. Yes, sir.

6 | Q. In fact, we all know this: you ended up giving a couple of
7 | statements to the police.

8 | A. Yes, sir.

9 | Q. Before we get to those statements themselves, on the May 30th,
10 | the first statement you gave, do you recollect how you came to
11 | give that statement? Did the police call you or what happened?

12 | A. They came to my home.

13 | Q. They came to your home.

14 | A. Yes, sir.

15 | Q. And do you remember now who the police officers were that came
16 | to your home?

17 | A. No, sir.

18 | Q. Do you remember whether there was one or two of them?

19 | A. I'm not too sure. I believe there was two. I'm not really
20 | sure.

21 | Q. Okay and where were you when they arrived?

22 | A. In bed.

23 | Q. In bed.

24 | A. Yes, sir.

25 | Q. Do you remember what time of the day it was?

JOHN L. PRATICO, by Mr. Spicer

1 A. No, sir.

2 Q. When was the first that you knew that the police officers had
3 arrived at your place?

4 A. My mother told me.

5 Q. Your mom came and what, got you up?

6 A. Yes, sir.

7 Q. Okay. And what did she say to you?

8 A. She said the police want you. I said, "What do they want?".
9 She said, "I don't know."

10 Q. I'm sorry, John, you're going to have to --

11 A. She said, "The police want you." I said, "What do they --
12 She said, "You're wanted at the door." I said, "Who wants me?"
13 She said, "Just get up.", so I got up and they were there --

14 Q. Why don't we do this, John -- Can we move that mike up a
15 little bit so he doesn't have to look down at it?

16 A. My mother came in and woke me up, said, "You're wanted at the
17 door." So I said, "Who is it?", she said, "Get up now." So
18 I got up and got dressed. It was the City Police.

19 Q. Did you know when you were in the process of getting up that
20 it was the police that were there?

21 A. No, sir.

22 Q. Your mom didn't say that to you?

23 A. As soon as I was -- after I got dressed, she told me.

24 Q. Okay.

25 A. She just hollared in, eh. And I got dressed and when I was

JOHN L. PRATICO, by Mr. Spicer

1 coming out, she told me.

2 Q. Were you surprised?

3 A. Yes, sir.

4 Q. And did you then leave with the police to go to the station?

5 A. If I can remember correctly, I did.

6 Q. You're not sure. Is that what you're saying?

7 A. No, sir.

8 Q. Okay. Do you remember what time of the day it was that you
9 went to the station?

10 A. No, sir.

11 Q. Do you remember whether or not it was after lunch or before
12 lunch?

13 A. I'm not too exact what it was. I'm not really sure.

14 Q. Okay. Would you normally get up before noon or after --

15 A. Yes, sir.

16 Q. Before noon.

17 A. Around eleven o'clock.

18 Q. Around eleven o'clock?

19 A. Yes, sir.

20 Q. Did you have anything to eat before you went to the station?

21 A. No, sir.

22 Q. Did you go in the police car?

23 A. Yes, sir.

24 Q. Did your mother go with you?

25 A. No, sir.

JOHN L. PRATICO, by Mr. Spicer

1 Q. Do you know whether or not your mother --

2 A. He told my mom after she was ready to come up to the police
3 station.

4 Q. I'm sorry, you're going to have to just slow down.

5 A. They told my mother after she got her housework done to come
6 up to the police station.

7 Q. It's not the volume that's the problem, John. You're going
8 -- you're talking too fast for me to understand you.

9 A. They told my mom after she got her housework done to come
10 up to the police station.

11 Q. Okay, they told your mom after she got her housework done to
12 come up to the police station.

13 A. Yes, sir.

14 Q. Thank you. And did you hear them telling your mom that?

15 A. No, sir. My mom told me.

16 Q. Your mom told you that later?

17 A. Yeh.

18 Q. Okay. Did you ask whether or not your mom could go with you?

19 A. No, sir.

20 Q. Did you know when you left the house why you were going to
21 the police station?

22 A. No, sir.

23 Q. Did you have any idea at all?

24 A. No, sir.

25 Q. What did the police officer say to you about why you were going

JOHN L. PRATICO, by Mr. Spicer

1 to the police station?

2 A. They didn't say why.

3 Q. Well, what did they say?

4 A. They said, "We want to see you at the police station."

5 Q. Did you ask why?

6 A. No, sir. I didn't know what to say.

7 Q. Okay. So you get in the police car and you go to the station.

8 A. Yes, sir.

9 Q. How far a ride -- how far is it from where you were living to
10 the police station?

11 A. Well, the police were right across the street here from this
12 hall.

13 Q. I know but at the time, John, in 1971, how far away from the
14 police station did you live?

15 A. Well, I lived right down by the Library.

16 Q. And where is that?

17 A. On Bentinck Street.

18 Q. Okay, and where was the police station at the time?

19 A. On Bentinck Street.

20 Q. On Bentinck Street, so how long would it take you to get from
21 your place to the police station?

22 A. By car, about two minutes.

23 Q. About two minutes.

24 A. Yeh.

25 Q. Okay. When you were in the police car going to the station,

JOHN L. PRATICO, by Mr. Spicer

1 do you remember whether or not you had any dicussion with the
2 police officers?

3 A. I can't remember, sir.

4 Q. You can't remember. Okay. Do you remember whether or not
5 anything at all was said?

6 A. No, sir.

7 Q. You don't have any memory at all really of that part of it.

8 A. No, sir.

9 Q. Okay, you get to the police station. What happens when you
10 get to the police station?

11 A. I sit on a bench by the desk.

12 Q. You sit on a bench by the desk?

13 A. Yes, sir.

14 Q. Were you asked to sit on the banch by the desk?

15 A. Yes, sir.

16 Q. By whom?

17 A. Just by one of the officers who picked me up.

18 Q. Do you remember who those officers were?

19 A. No, sir.

20 Q. Okay. Was there anybody else on the bench?

21 A. There was a another gentleman, a young teenager but I didn't
22 know who he was, sir.

23 Q. I'm sorry, there was a young?

24 A. There was a young man there and I didn't know who he was.

25 Q. Okay, do you know now who he was?

JOHN L. PRATICO, by Mr. Spicer

1 | A. Yes, sir.

2 | Q. Who was he?

3 | A. Maynard Chant.

4 | Q. Okay, but you didn't know that at the time?

5 | A. No, sir.

6 | Q. Did you have any discussion at that time, John, with the other
7 | guy on the bench?

8 | A. No, sir. We just sat there. I didn't know the man so I didn't
9 | talk to him.

10 | Q. Didn't talk to him. Did you see Junior Marshall at the police
11 | station that day?

12 | A. No, I -- I believe I saw him coming out. I'm not sure.

13 | Q. Okay, do you remember --

14 | A. And I believe he was with Roy Gould.

15 | MS. EDWARDH:

16 | Who did he say?

17 | MR. SPICER:

18 | He says he believes it was -- He saw Junior coming out and he believes
19 | he was with Roy Gould.

20 | BY MR. SPICER:

21 | Q. Do you remember when that was, John? Was that at the beginning
22 | or at the -- when your first --

23 | A. It was after when I was going in, sir.

24 | Q. I see. Before you got to the bench?

25 | A. Yes, sir.

JOHN L. PRATICO, by Mr. Spicer

1 Q. Just as you were walking in?

2 A. Yes, sir.

3 Q. Okay. Now at this stage of the game, do you have any idea at
4 this point what time it is when you get to the police station?

5 A. No, sir.

6 Q. Okay, you're sitting there on the bench beside Maynard Chant.
7 What happens then, John?

8 A. I'm called into a room.

9 Q. Okay, who calls you into the room?

10 A. One of the police officers.

11 Q. Do you know who the police officers are?

12 A. No, sir.

13 Q. Do you know now who the police officers were?

14 A. No, sir.

15 Q. Okay. You were called into the room -- into a room.

16 A. A room.

17 Q. And did you go into the room?

18 A. Yes, sir.

19 Q. Okay. By this point in time, do you have any idea why you're
20 being called into this room?

21 A. No, sir.

22 Q. None at all?

23 A. No, sir.

24 Q. Okay. You were called into the room by the police officer.
25 What do you do? You go into the room.

JOHN L. PRATICO, by Mr. Spicer

1 | A. I just sit down.

2 | Q. In the room.

3 | A. In the room.

4 | Q. Okay. Who is in the room?

5 | A. Sergeant MacIntyre.

6 | Q. And it was somebody --

7 | A. And Sergeant MacDonald.

8 | Q. Okay, just a sec. It was somebody other than Sergeant MacIntyre
9 | and Sergeant MacDonald, then, that called you into the room.

10 | Is that right?

11 | A. Yes, sir.

12 | Q. Okay. Did you -- when you got into the room and you say to
13 | me now it was Sergeant MacIntyre and Sergeant MacDonald.

14 | Did you know in 1971 it was Sergeant MacIntyre --

15 | A. Well, he introduced himself, he.

16 | Q. He introduced himself. Did you know him -- did you know him
17 | prior to that?

18 | A. No, sir.

19 | Q. Okay, so how did he introduce himself to you?

20 | A. He said, "I'm Sergeant MacIntyre and this is Sergeant MacDonald."

21 | Q. Okay, do you know what does Sergeant MacDonald look like?

22 | A. A short man, kind of hefty, grayish black hair, I'd say. I'm
23 | not really sure about the hair but that would be it.

24 | Q. Can you describe the room to us?

25 | A. It's like that room over there. I suppose like that room over

JOHN L. PRATICO, by Mr. Spicer

1 | there.

2 | Q. Can you give us any idea how big it was, John?

3 | A. Well, I wouldn't know measurements, you know.

4 | Q. Was there a table in it?

5 | A. Yes, sir. There was a desk.

6 | Q. A desk?

7 | A. A desk.

8 | Q. Anything else?

9 | A. Not that I can recall. I didn't look around too much.

10 | Q. You sat on a chair or a bench?

11 | A. A chair.

12 | Q. A chair. And what about Sergeant MacIntyre?

13 | A. He was sitting at the desk.

14 | Q. Were you sitting on the other side of the desk from him?

15 | A. On the other side of the desk. He was sitting there and I
16 | was sitting like where you and I are facing now.

17 | Q. Okay. So if there were the desk --

18 | A. You would be there and I would be here.

19 | Q. On opposite sides of the desk?

20 | A. Yes, sir.

21 | Q. And where's MacDonald?

22 | A. Behind me.

23 | Q. Behind you.

24 | A. Yes, sir.

25 | Q. I see.

JOHN L. PRATICO, by Mr. Spicer

- 1 A. I got to about -- to about on this side, eh.
- 2 Q. On your side about an arm's length.
- 3 A. About an arm's length of me sitting in a chair.
- 4 Q. On the right-hand side.
- 5 A. I would say it would be on the right-hand side.
- 6 Q. Okay. Do you remember -- was there anybody else in the room?
- 7 A. Not that I can recall. I'm not really sure.
- 8 Q. Okay. At this point in time, do you have any idea why you're
- 9 in this room?
- 10 A. No, sir.
- 11 Q. Okay. So what happens then? Sergeant MacIntyre introduces
- 12 himself and --
- 13 A. Sergeant MacDonald.
- 14 Q. And Sergeant MacDonald introduces himself. What happens then.
- 15 A. We're talking a little bit. "Were you at the dance Saturday
- 16 night?" "Yes, sir."
- 17 Q. I'm sorry. Just slow down --
- 18 A. "Were you at a dance Saturday night."
- 19 Q. No, it's not the volume.
- 20 A. He said, "Were you at a dance?" I said, "Yes, sir."
- 21 Q. Okay, and you're responding to who, Sergeant MacIntyre?
- 22 A. Sergeant MacIntyre, sir.
- 23 Q. Okay. And you say, "Yes, I was at the dance."?
- 24 A. Yes, sir.
- 25 Q. Okay. Now I want you to be sure when you're telling me this

JOHN L. PRATICO, by Mr. Spicer

1 | that it's what you today remember of what happened.

2 | A. It's what I remember today.

3 | Q. Okay. So what happened next?

4 | A. So I was sitting there and I was talking. Just sitting there
5 | and he said, "Where were you last night?" So I said, "Well, I
6 | was at St. Joseph's dance.", and I told him what I did after
7 | that.

8 | Q. All right, just let me stop you there. Do you remember telling
9 | him what you did after that?

10 | A. I remember telling him I went to the park and then I went home.

11 | Q. Right. Do you remember whether you told him anything as
12 | detailed as you told us a few minutes ago about where you went
13 | and where you sat?

14 | A. Yes, sir.

15 | Q. Do you remember -- I'm not sure what that answer means. Do
16 | you remember whether you did tell him that or --

17 | A. I told him I went through the park and went up to the bushes
18 | and I went home.

19 | Q. Okay.

20 | A. Up to South Bentinck, onto Byng Avenue and over Bentinck and
21 | I'm home.

22 | Q. Do you remember whether or not you told him you -- who you'd
23 | seen at the dance?

24 | A. I can't remember that, sir. I don't believe that question was
25 | asked of me.

JOHN L. PRATICO, by Mr. Spicer

1 Q. Okay, after you described where you went to get home, what
2 happened next?

3 A. We started talking and he said, "You..." Wait now.

4 Q. Just take your time.

5 A. We were talking and he said -- We started talking and he
6 said, "You don't know a thing." I said, "No." He said --

7 Q. Just -- sorry, go on.

8 A. He said, "You were in the park.", I said, "Yes, sir." and then
9 "Do you know anything?". I said, "No, sir."

10 Q. Just a sec, John. Do you know anything about what?

11 A. Well, he didn't particular say what.

12 Q. So that -- okay. So he asked you, "Do you know anything?",
13 and you said?

14 A. "No, sir."

15 Q. What happened next?

16 A. Well we sat a little more and then he -- we talked and he
17 said, "Well, something happened in the park last night." I
18 said, "Well, I don't know anything about it." So we started
19 talking about it.

20 Q. And you knew at that time, John, that there had been a --

21 A. A stabbing, yes, sir.

22 Q. -- stabbing and by this time, did you know anything else other
23 than there had been a stabbing?

24 A. No, sir.

25 Q. Okay, sorry. Continue.

JOHN L. PRATICO, by Mr. Spicer

1 A. So I gave a statement, see, that I didn't know anything.

2 Q. This is -- in other words, when you say you gave a statement
3 saying you didn't know anything, --

4 A. They wrote it down.

5 Q. Did you talk to them?

6 A. Talked to them, yes, sir. They wrote it down and I left. I
7 might have been there an hour, an hour and a half, I'm not
8 really sure. We left. "All right," he says, "You can go now."
9 and I left.

10 Q. Okay. Do you remember today anything that you said in that
11 statement?

12 A. I said I didn't know anything.

13 Q. Okay. John, I'm showing you Volume 16, page 22.

14 A. Yes, sir.

15 Q. And I'm going to show you page 23 as well.

16 A. Yes, sir.

17 Q. Do you recognize your signature at the bottom?

18 A. Yes, sir.

19 Q. And we understand that 22 is a typed version of this hand-
20 written statement on page 23 which you've signed.

21 A. Yes, sir.

22 Q. Do you want to just have a look at that and tell me whether
23 or not you remember that as being the first statement you
24 made?

25 A. I remember being at the dance.

JOHN L. PRATICO, by Mr. Spicer

1 Q. No, no, just a sec. Just review the statement and tell me
2 whether or not you remember that as the first statement that
3 you gave to the police. Okay.

4 A. I did not give that statement when first I went to the police
5 station.

6 Q. I'm sorry?

7 A. I did not give that statement. I told the police that I didn't
8 know anything. I remember being at the dance. I did not say
9 nothing about no seeing Joyce Bungay. I don't recall it being
10 said.

11 MR. PUGSLEY:

12 What did he say?

13 BY MR. SPICER:

14 Q. What --

15 A. I did not recall saying anything about seeing Joyce Bungay.

16 Q. Okay, let's just start at the beginning, John. On page 23 here,
17 this is your signature down at the bottom.

18 A. Yes.

19 Q. Okay. Do you remember whether or not this statement, on page
20 22, was read over to you before you signed it?

21 A. It wasn't read over.

22 Q. No. Do you remember -- Do you remember signing?

23 A. I remember signing the statements. My mind wasn't all that
24 good. I was shook up over the whole thing. I didn't know
25 what was going on. I was pretty shook up. I was having some

JOHN L. PRATICO, by Mr. Spicer

1 | pretty bad problems at the time and I signed the statement.

2 | Possibly I didn't know what I was signing.

3 | Q. Okay. Let's just come back to -- It's easier to see the typed
4 | version which is on 22. I just want to be clear that we're
5 | understanding each other. What is your recollection of what
6 | you think you told the police the first time?

7 | A. I remember signing a statement I didn't know nothing.

8 | Q. Now looking at this statement on page 22, do you remember
9 | giving any of the information that's contained on page 22 to
10 | the police?

11 | A. I can't recall this. I know my mind wasn't that clear but I
12 | can't recall this.

13 | Q. Okay, and what you're telling me you can't recall, John, is
14 | what? You can't recall giving the statement --

15 | A. Giving the statement to the police.

16 | Q. Okay. You do recall going down to the station that day?

17 | A. Yes, sir.

18 | Q. And you do recall being there for awhile and being questioned
19 | by Sergeant MacIntyre?

20 | A. Sergeant MacIntyre, yes, sir.

21 | Q. And do you recall signing on page 23 or do you just recognize
22 | that as your signature?

23 | A. That's -- I -- that's my signature. I can't recall signing
24 | it but that is my signature.

25 | Q. I see. Okay. When you went to the police station on May 30th,

JOHN L. PRATICO, by Mr. Spicer

1 | John, the first time, that's the statement on 22 and 23 there.

2 | A. Right.

3 | Q. Do you remember what -- do you remember whether or not you
4 | were on any type of medication?

5 | A. I was still on Valium. I was taking Valium at that time I
6 | believe.

7 | Q. Okay, anything other than Valium?

8 | A. No, sir.

9 | Q. Are you able to tell us whether or not to your knowledge
10 | Sergeant MacIntyre or MacDonald knew that you were taking
11 | medication?

12 | A. I'm not sure if they did or not, sir.

13 | Q. You don't know.

14 | A. No, sir.

15 | Q. How did you get home from the police station that day?

16 | A. I'm not quite sure. I believe my mom took me home or I
17 | walked home. I'm not really sure.

18 | Q. Okay. Did your mom come to the station or you're not --

19 | A. My mom came to the station, sir.

20 | Q. All right. Do you recollect whether or not your mom was sat
21 | in at all when you were being questioned?

22 | A. She did not sit in at all, sir.

23 | Q. Well, do you know whether or not she asked to sit in?

24 | A. I have no -- I don't believe she knew anything about being
25 | whether she was allowed to sit in or not.

JOHN L. PRATICO, by Mr. Spicer

1 Q. I'm sorry, do you want to just --

2 A. I don't believe my mom knew whether she was allowed to sit in
3 on that little meeting or what.

4 Q. I see. Okay, well, we can ask your mom about that later. Okay.
5 I believe you indicated to us, John, that you don't remember
6 that statement?

7 A. No, sir.

8 Q. Okay. Do you recollect -- Other than what you've already
9 told us, do you recollect any more -- any other questions
10 that were asked to you by Sergeant MacIntyre?

11 A. There wasn't too many questions asked. I was just a short
12 while there, you know, so there wasn't that many questions
13 asked.

14 Q. That was the first time, now?

15 A. Yes, sir.

16 Q. And do you remember anything about the way in which the
17 questioning took place? Was it the same tone of voice as
18 mine?

19 A. It wasn't like you and I've been talking.

20 Q. Sorry?

21 A. It's not like you and I are talking.

22 Q. What was it like?

23 A. It was kind of roughish.

24 Q. Kind of roughish?

25 A. Yes, sir.

JOHN L. PRATICO, by Mr. Spicer

1 Q. And -- Now we're still talking about the first time you were
2 down at the police station?

3 A. Yes, sir.

4 Q. Okay, and what do you mean by that, "kind of roughish"?

5 A. Well, like I wasn't being believed. I just took they thought
6 I knew more than I knew.

7 Q. That was what, your impression?

8 A. Yes, sir.

9 Q. And who was doing the questioning, was it both of them?

10 A. Sergeant -- Sergeant MacIntyre, sir.

11 Q. Just Sergeant MacIntyre?

12 A. Just Sergeant MacIntyre.

13 Q. And what was MacDonald doing?

14 A. He was just sitting back in the side lines.

15 Q. Okay. Can you think of any reason today why you would have
16 signed a statement --

17 A. I couldn't give you any reason, sir.

18 Q. No.

19 A. There wasn't the honesty we got today.

20 Q. And you can't help us at all as to why you might have done it
21 in '71?

22 A. No, sir.

23 Q. After you got home that day, John, did you talk to your
24 mother about your visit to the police station?

25 A. I told my mother I didn't know anything.

JOHN L. PRATICO, by Mr. Spicer

1 Q. So you did talk to your mom about it?

2 A. Yes, sir.

3 Q. And when you say you told your mom you didn't know anything,
4 what was it you were telling her you didn't know anything
5 about?

6 A. Well, the police were asking if I knew what happened in the
7 park and I told them no, and I don't them I didn't know
8 nothing because I wasn't in the park when it happened.

9 Q. Do you remember what time it was when you got home?

10 A. No, sir.

11 Q. Do you remember whether or not you had supper when you got
12 home?

13 A. I had supper when I got home. I believe I did.

14 Q. So you think probably then it was before supper time?

15 A. I would say so. Mom -- Mom usually has supper around four
16 or five o'clock.

17 Q. Four or five o'clock?

18 A. Yes, sir. I usually -- I probably would be in the house for
19 supper.

20 Q. Okay. And how did you feel when you left the police station?

21 A. I didn't know how I felt.

22 Q. And do you recollect today how you felt?

23 A. Well, I feel today that --

24 Q. All I'm asking you is if you really -- if you have any
25 recollection today of how you felt when you left the police

JOHN L. PRATICO, by Mr. Spicer

1 station that day?

2 A. Well, I felt frightened and lonely.

3 Q. And can you help us at all with that? Why you were frightened?

4 A. Well, I didn't know what was expected of me.

5 Q. Yes. What did you think was expected of you?

6 A. I didn't know.

7 Q. Did you think something was expected of you?

8 A. Yes, sir.

9 Q. Expected of you by whom?

10 A. The Police Department or whoever. There was something
11 expected and I didn't know who expected it.

12 Q. And that made you frightened and lonely?

13 A. Yes, sir.

14 Q. Did you tell your Mom that?

15 A. No, sir.

16 Q. Were you at this time, John, at the end of May in 1971, were
17 you seeing any doctors?

18 A. Yes, sir.

19 Q. And who were they?

20 A. Doctor Binney.

21 Q. Doctor Binney?

22 A. Yes, sir.

23 Q. And is he a psychiatrist?

24 A. Yes, sir.

25 Q. Do you recollect whether or not you told Doctor Binney anything

JOHN L. PRATICO, by Mr. Spicer

1 | about it?

2 | A. I can't recollect sir.

3 | Q. You don't have any recollection. Were you seeing any doctors
4 | other than Doctor Binney?

5 | A. Just Doctor A. B. Gaum for medical reasons.

6 | Q. A. B. Gaum?

7 | A. Yeh, he's dead today.

8 | Q. He'd deceased?

9 | A. Yes, sir, but I would see him on different occasions.

10 | Q. Do you recollect whether or not you told him anything about
11 | this?

12 | A. I can't recollect, sir.

13 | Q. Do you recollect telling anybody other than your Mom?

14 | A. I didn't know if they would believe me or not.

15 | MR. SPICER:

16 | My Lord, perhaps we could break.

17 | MR. CHAIRMAN:

18 | All right. Until 9:30 --

19 |

20 |

21 | INQUIRY ADJOURNED AT 4:26 o'clock in the afternoon on the 23rd
22 | day of September, A.D., 1987.

22 |

23 |

24 |

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COURT REPORTER'S CERTIFICATE

I, Judith M. Robson, an Official Court Reporter, do certify that the transcript of evidence hereto annexed is a true and accurate transcript of the Royal Commission on the Donald Marshall, Jr., Prosecution as held on the 23rd 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