

DR. M. A. MIAN, by Mr. Spicer

1 DOCTOR MAQBUL A. MIAN, being called and duly sworn, testified as
2 follows:

3 BY MR. SPICER:

4 Q. What's your full name, please, sir?

5 A. My name is Maqbul, M-a-q-b-u-l, Maqbul A. Mian, M-i-a-n.

6 Q. And you are currently the Medical Director of the Cape Breton
7 Hospital?

8 A. Yes, sir.

9 Q. And have been so since 1969?

10 A. Yes.

11 Q. I'll show you a document which is, I believe, your C.V. which
12 we're having marked as Exhibit 50. Can you briefly just review
13 for us your professional training, Doctor Mian?

14 A. I'm a graduate of King Edward Medical College in Lahore,
15 Pakistan. I interned at the University of Illinois, the
16 same period of psychiatry training at University
17 of Illinois. Then I worked briefly in Seattle
18 and then moved to Canada. I then took post-graduate
19 training at Dalhousie University and I have worked here as
20 a psychiatrist from 1964 to '69 at the Cape Breton
21 Mental Health Center and later on I had been working at the
22 Cape Breton Mental Hospital which was a County Hospital at that
23 time.

24 Q. And you have been John Pratico's psychiatrist since about
25 1970?

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1 A. Since about -- In actual practice, I have been since 1972
2 onward.

3 Q. And you'd seen him prior to that I believe?

4 A. Yes, I -- Because as Medical Director of the Clinic I have
5 because Doctor Binney was seeing him initially.

6 Q. And there are a number of volumes. Volume 47 -- or Exhibit 47
7 rather. Exhibit 47 and 49. Now Doctor Mian, I'm going to show
8 you two volumes of -- I see you've got your office copies there.
9 These are Exhibit copies of volumes 47 -- Exhibits 47 and 49,
10 and I believe those constitute the medical records of John
11 Pratico from the Cape Breton Hospital and also from the Nova
12 Scotia Hospital. Would you just have a look at them?

13 A. Yeh.

14 Q. They do. Okay, and you've had an opportunity to review both
15 those volumes prior to coming here today?

16 A. Yes, I just glanced through them.

17 Q. If you could just turn for a moment to Exhibit 47 which is the
18 grey volume you have in front of you, the first part of that
19 volume is for the most part consists of, it seems to be a
20 narrative called, "Accumulative Therapeutic Record", and there
21 are, in fact, no original notes. Could you explain to the --
22 to the Commissioners why the document we have is, in fact,
23 merely a summary of what would appear to be John's records over
24 the years?

25 A. Yes, as I mentioned a little earlier it was -- the Cape Breton

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1 Hospital was a County Hospital for the care of chronic mentally
2 ill without the Cape Breton Mental Health Clinic and then we
3 started to rationalize and develop the services, the psychiatry
4 services for Cape Breton Island.

5 Q. When was that Doctor Mian?

6 A. Around that time.

7 Q. And that time being when?

8 A. Around 1970, or '69, we started to get the things together to
9 have one document and we -- they were all handwritten notes
10 and there was -- so we tried to put everything in the
11 narrative form and that's why we called it, "Accumulative
12 Therapeutic Record". That was basically all the information
13 on a particular patient we had, on a particular patient. We
14 tried to put that in.

15 Q. Okay. And the summary then is a net result of that process
16 that the original handwritten notes of various psychiatrists
17 who had ever worked there?

18 A. Yes.

19 Q. Incorporated into the Therapeutic Record and the originals were
20 chucked out?

21 A. Yes. Yes.

22 Q. Now there's a considerable amount of material in both those
23 volumes concerning John's condition. Perhaps to simplify
24 matters for the layman, could you describe to us what your
25 opinion was of John Pratico's condition in 1970? That would

1 | be the year before the murder in 1971. What sort of shape was
2 | he in when you first -- when he first came to --

3 | A. He was basically born and raised in Sydney. He was about
4 | sixteen years of age and was failing in school.

5 | Q. Failing?

6 | A. Failing in school.

7 | Q. All right.

8 | A. He was repeating his grade seven for the third time. The review
9 | of his -- The daily historical debut of his developmental
10 | social and academic records would be that he was functioning
11 | as -- that he was a product of a poor social, economic
12 | background with difficult informative years, exposed to
13 | difficulty in social life by his peers. He was the target
14 | of hostility and ridiculed in the community.

15 | Q. He was being made fun of a fair amount, was he?

16 | A. Yes.

17 | Q. Yeh.

18 | A. And he was an impulsive, high-strung lad who was greatly
19 | troubled at home, at school, and in society at that time.

20 | Q. Okay, and this is in 1970 or so?

21 | A. Yes.

22 | Q. All right.

23 | A. In August of '70.

24 | Q. How did he first come to your attention? In 1970 how would he
25 | have come to you --

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1 A. He was referred by his family doctor because of the difficulties
2 he was having in school as well as at home and was becoming
3 impulsive, aggressive, hostile, and -- These are the difficult
4 ones.

5 Q. Was he put on any medication at that time?

6 A. A very small amount of Nozinan and five milligrams later on.

7 Q. Sorry, what was the medication?

8 A. A minor -- It was a--If I recall it he was started on a
9 small amount of medication in July of '71 -- No, he wasn't
10 started at that time. It was a year later, yeh.

11 Q. So in 1971 he was not?

12 A. No.

13 Q. Okay. Can you tell us how his situation or condition changed
14 after May 28, 1971, that is, after the murder?

15 A. As I described earlier this man was functioning marginally
16 in the community. He had a poor personality resources
17 and coping abilities. Unfortunately, he was at the
18 wrong time, in the wrong place, and after that episode,
19 considering the set and the setting and the timing of the
20 events, he got into a -- The modern terminology would be a
21 "stress reaction" or a "trauma", and he manifested the
22 systems of acute post-traumatic stress syndrome which led
23 into his psychotic play. Very briefly he was very tense. He
24 was, anxious, apprehensive, impulsive; his memory, concentration,
25 all must have been affected.

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1 Q. And how was that different qualitatively from
2 the sort of shape he was in in 1970?

3 A. It may have become worse.

4 Q. Worse in a noticeable way?

5 A. In a noticeable way.

6 Q. And can you give us a couple of indications of in what respects
7 it was noticeable, that is, that his condition had changed?

8 A. Well, he started to manifest startled reaction, that means he
9 would be jumpy.

10 Q. Jumpy?

11 A. Yes. He would be unable to sit still. He had to pace back and
12 forth. He couldn't sit long enough. He would jump from subject
13 to subject. It was difficult for us to keep him on the track,
14 and he would get us -- just to get us off the back he'll say
15 anything.

16 Q. I'm sorry, you said, just to get you off his back he'd say
17 anything?

18 A. Just to please you.

19 Q. At that time then subsequent to the murder, would -- would he
20 be the sort of kid if you said to him even though it was sunny
21 yesterday, "Gee, it was raining yesterday", he'd be just as
22 likely to say, "Yes, it was", to stop you from asking?

23 A. No, I don't -- He might have argued with it all, if it was
24 convenient to him, he might just pass it with a smile or with
25 a shrug.

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1 Q. Fine.

2 A. Yeh.

3 Q. And in the months following the murder, June, July, and August
4 of 1971, was John then on medication of some sort?

5 A. Yeh, in July he was prescribed Nozinan five milligrams,
6 that's an anti-psychotic medication.

7 Q. Now you're referring for that reference, Doctor Mian, to -- Are
8 you on page one of --

9 A. Yeh, page one, at the bottom.

10 Q. Of Exhibit 47?

11 A. Yeh.

12 Q. Could we have volume 12. It might already be over --

13 A. That must be '70-- It says '71.

14 Q. The murder was in May of '71.

15 A. Yeh.

16 Q. Now Doctor Mian, I'm going to refer you to an affidavit that
17 you gave in 1982 which occurs in volume 12 at page 288 and
18 in particular to paragraph seven of that affidavit which
19 relates to 1971. Now you were saying in July of 1982 when you
20 gave that affidavit: "It is my medical opinion that the said
21 John L. Pratico was in 1971 and has been continuously to date..."
22 And we'll come to that later but let's stick with 1971 for
23 the moment. "...a wholly unreliable informant and witness with
24 regard to any subject or event, but more particularly in the
25 Sandy Seale murder case in 1971". Now why did you say that?

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- 1 A. Because his mental condition was such all around this time
2 that we have seen him in various settings, one to one, in
3 groups, in occupational therapy and in all these he will make
4 up a story or he will just let -- he will tell you one thing
5 which was not based on truth. This was the way -- Over the years
6 this is how he was not reliable in that sense.
- 7 Q. I see, and when you say that was the way over the years that he
8 was not reliable, you are able to say in 1982 that that would
9 have been his condition in 1971. Is that right?
- 10 A. Yes, that was my basis, yes.
- 11 Q. Okay, and the basis for you saying that he was a wholly unreliable
12 witness would be what, that he made up stories?
- 13 A. He either made up stories or told what was convenient or what
14 he thought would save his neck because he felt that if he
15 goes one way or the other (He didn't want to annoy anybody.)
16 he thought the police will get him, the Indians would get him
17 and the Negros would get him.
- 18 Q. And that unreliability, that tendency to make-up stories that
19 you described is a manifestation of what illness?
- 20 A. Basically because of his unstable mental state and because
21 of his chronic schizophrenia.
- 22 Q. Schizophrenia?
- 23 A. Yes.
- 24 Q. Did John Pratico at any time up until the trial, the first
25 trial of Donald Marshall in November of 1971, did he ever

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1 indicate to you that he'd been to see the police and that
2 he told them a story or anything to that effect?

3 A. If I check my record I think it was in 1982 --

4 Q. Right.

5 A. -- that he did mention -- Yeh, he talked to the Social Worker.

6 Q. In what year was that, sir?

7 A. In 19 -- I have it here somewhere. That was in 19 -- in
8 October of 1984.

9 Q. And have you got a page reference that you can direct us to?
10 October of 1984?

11 A. Yeh.

12 Q. Okay. We'll come back to that.

13 A. Okay.

14 Q. But the question was whether or not he had spoken to you or
15 to your knowledge to anybody else in -- in the Cape Breton
16 Hospital or the Nova Scotia Hospital prior to Donald Marshall's
17 trial?

18 A. I think in his first admission to the Nova Scotia -- to the
19 Nova Scotia Hospital he did mention to the psychiatrist there
20 and arrangements for his discharge was made through the
21 community so that he can appear for it.

22 Q. Right, and at that time it was the case that he had indicated
23 that he'd witnessed a murder. Is that correct?

24 A. Yes, but I don't think he elaborated with any one of us what
25 happened.

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1 Q. Right. Did he ever indicate to you up until the time of the
2 trial that the story that he had told to the police was, in
3 fact, not true?

4 A. No.

5 Q. No, and indeed did he ever indicate to you up until 1982, to
6 the time of the second Donald Marshall case in the review,
7 did he ever indicate to you that the story he told was not
8 true?

9 A. No.

10 Q. And to your knowledge up until that time, until 1982, did he
11 ever indicate to anybody to your knowledge that the story that
12 he told was not true?

13 A. I don't think so, no.

14 Q. No. You were certainly never advised of that?

15 A. No. No.

16 Q. In paragraph four of that same affidavit that I'd referred you
17 to a couple of minutes ago, you indicated that your medical
18 diagnosis of John Pratico since August, 1970, was that, "He
19 suffers from a schizo-form illness manifested in this case
20 by liability to fantasize and thereby, distortion of reality
21 and a rather childish desire to be in the limelight or the
22 center of attraction"?

23 A. Yes.

24 Q. Is that more or less what you've been saying to us for the
25 last few minutes?

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1 A. Yes. Yeh.

2 Q. Okay, and had you concluded that, Doctor Mian, as would seem
3 to be the case from your affidavit, had you concluded that that
4 was John's situation in 1970?

5 A. Yes. Yeh.

6 Q. And that the effect of the murder was to sort of take a
7 quantum leap --

8 A. That's correct.

9 Q. It was. Now in 1982--In February of 1982, John spoke to the
10 R.C.M.P. and told them the -- the story?

11 A. Yeh.

12 Q. And then subsequent to that when you gave the affidavit that
13 I've been referring you to, in paragraph seven you indicated
14 that, "Even in July of 1982...", this being after he would
15 have finally told the truth as he saw it to the R.C.M.P. --

16 A. Yes.

17 Q. --that even at that point in July of 1982 he would still be
18 a wholly unreliable witness. Now can you explain to us
19 why that would still be the case in July of 1982?

20 A. Because I think at that time he was somewhat grandiose.

21 Q. Somewhat?

22 A. Grandiose.

23 Q. Grandiose?

24 A. Yes, and he thought that he -- he was only -- his self-esteem
25 was very high and he thought he had something to say and then

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1 he was still not stable enough in my opinion at that time
2 to be reliable.

3 Q. So what, at that stage of the game then in the summer of --
4 summer of 1982 was his condition, bearing in mind that he had,
5 at that point, told the R.C.M.P. the truth? You're saying that
6 even-- even five months later in the summer of 1982 he would
7 still have been unreliable?

8 A. Yes, as far as I was concerned because it meant that he -- He
9 was still having difficulties socially and in his community
10 adjustments and maybe this was a fact that I wasn't aware of
11 that this was -- this coming out but I didn't consider
12 him to be reliable at that time.

13 Q. There was some evidence given in an earlier session of the
14 Hearings that prior to speaking to the R.C.M.P. in February
15 of 1982, John had spoken to Sandy Seale's parents (This came
16 out during some questioning by Mr. Pugsley.) and had told
17 Sandy's parents the same story that he had told the Sydney
18 Police in 1971 and yet very shortly thereafter he told the
19 R.C.M.P. the true story. Can you give us any feelings or
20 light on --

21 A. Because he was still in a conflict. He didn't want to --
22 Again he didn't want to displease and I think if I --

23 Q. He didn't want to -- Sorry, he didn't want to?

24 A. Displease them because I think he was a tenant at that time
25 or had been or was going to be.

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1 Q. At about that time?

2 A. Yes.

3 Q. And so your explanation, sir, then would -- would be what, that
4 he didn't want to displease?

5 A. The Seale's or Sandy Seale or -- but still wanted to keep peace
6 and kept on telling them the same thing.

7 Q. The same story?

8 A. Yeh.

9 Q. I see. Volume 21, and it's page 77 of this volume. Do you
10 recognize that, Doctor Mian, as the statement you gave to the
11 R.C.M.P. in 1982?

12 A. Yes. Yes. Yeh.

13 Q. In the second paragraph of that statement referring to John's
14 condition in the summer of 1971, about halfway through the
15 paragraph you say:

16 "At that time he..."

17 Being John.

18 "...expressed concern about the
19 trial and the outcome".

20 A. Yes.

21 Q. So I take it he'd indicated to you that he was going to
22 give testimony but at no time indicated to you that the story
23 he was going to tell wasn't the truth?

24 A. Yes, all he was concerned about as far as we are concerned,
25 what's going to happen to him.

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1 Q. What's going to happen to him?

2 A. How he's going to go through the trial and what will be the
3 consequences of it for testifying.

4 Q. Can you help us a little bit, what sorts of concerns was he
5 expressing? Was he --

6 A. Basically he felt that he would be -- that either he would
7 be caught, beaten up, or intimidated or --

8 Q. By whom?

9 A. By any one of the groups.

10 Q. The groups being?

11 A. The police, the Negroes and the Indians.

12 Q. All right, and was he expressing those fears to you?

13 A. Directly or indirectly.

14 Q. Right. I see.

15 A. Yeh.

16 Q. So in 1982 he's still, in your opinion, an unreliable witness
17 and then we get to the present, and at the beginning of
18 volume 47 -- Exhibit 47 rather, there's a letter of yours
19 dated March 18 --

20 A. Yeh.

21 Q. --addressed to -- to our investigator. In the second paragraph
22 you say:

23 "In my opinion he is under no stress
24 or duress now and he is capable to
25 give information regarding Donald
Marshall Jr.'s case without any
distortion of reality at this time".

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1 MR. PUGSLEY:

2 What page and volume?

3 MR. SPICER:

4 Sorry, it's the very first page of Exhibit 47. That's the grey
5 set of medical records.

6 BY MR. SPICER:

7 Q. What is the difference between the condition that Mr. Pratico
8 was in in 1982 which enabled you to give the opinion that he
9 was unreliable at that time and the opinion that you gave to
10 the Commission in March of this year that he was able to
11 give testimony without any distortion of reality?

12 A. Now by this time -- As I stated earlier, this is a young
13 man with borderline intelligence, with limited resources,
14 poor coping abilities and was scared and running, and while
15 in the process of running he --

16 Q. Sorry, in the process of?

17 A. Running away.

18 Q. Running away. Okay.

19 A. From himself and from society. He told us what we wanted to
20 hear and by this time --

21 Q. And by this time, now you mean by 1987?

22 A. And a little earlier than that. I will say about a year longer
23 than that he -- that there has been a -- he resolved the
24 conflict which was the cause for his perpetual decompensation
25 or perpetual inability to live in the

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1 community and since that time he has continued to maintain
2 improvement and has made significant gains.

3 Q. So that by March of 1987, in your view, he would be able to
4 come before this Commission and give --

5 A. Yeh. Yeh.

6 Q. --testimony that can be relied on?

7 A. That's one. Number two, another important factor, he was
8 not afraid of the consequences this time around.

9 Q. So he was not afraid of the consequences of coming to the
10 Commission and giving testimony?

11 A. That's correct.

12 Q. And was it your impression from having talked to him that in
13 previous cases in 1971, that he was afraid of the consequences?

14 A. Definitely true.

15 Q. And indeed since Mr. Pratico gave testimony at the Inquiry
16 have you had occasion to discuss this case with psychiatrists
17 who were seeing him?

18 A. Yes.

19 Q. And what would now seem to be his condition?

20 A. He's continued to maintain his full mental to the extent
21 that we have started cutting down his medication now and hopefully
22 we will try him on a drug holiday, that means we will give
23 him a week on and a week off and see how that comes about.

24 Q. And the drug holiday is time without drugs basically?

25 A. Yes. Yeh.

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1 BY MR. CHAIRMAN:

2 Q. This is since he gave his testimony here two weeks ago or
3 thereabouts. Is that what you're saying?

4 A. Pardon, sir.

5 Q. This is the past couple of weeks that you've changed --

6 A. Yes, since he gave that testimony.

7 Q. All right.

8 A. Since he appeared here, after that.

9 BY MR. SPICER:

10 Q. I just wanted to ask you a few more questions, Doctor Mian,
11 and in particular some of them concern the circumstances of
12 the giving of your affidavit in 1982 which is in volume 12
13 at 288?

14 A. Yeh.

15 Q. This affidavit here?

16 A. Yeh.

17 Q. Can you recollect the circumstances under which you gave this
18 affidavit?

19 A. Well, if I remember correctly there were two police officers
20 from the R.C.M.P. and they had some authority, I don't know
21 what, and they came in to interview me.

22

23

24

25

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1 Q. Okay, two R. C. M. P. officers by themselves? Did they have
2 a lawyer with them?

3 A. No, they were just -- if I might be mistaken --
4 I remember they were just two R. C. M. P. officers.

5 Q. Okay, and when they came to interview you, did they already
6 have with them the affidavit that occurs in Volume 12 at
7 288 or did they come an interview you and then come back later
8 with a completed affidavit? Do you have any recollection?

9 A. Sorry, I can't -- I can't -- I don't remember.

10 Q. Prior to the time that they did come to talk to you in your
11 office, did you have any discussions with the R. C. M. P.
12 officers? If I can help you a little bit there this affidavit
13 is taken in July 19, 1982, and your statement to the R. C. M. P.
14 that I referred you to a little bit earlier in Volume 21 at
15 page 77 is in February of 1982; so I take then you had spoken
16 to the R. C. M. P. officers in February of 1982 and your
17 affidavit is in July of 1982. Do you recollect any meetings
18 with the R. C. M. P. between the time you gave the statement
19 that's this document?

20 A. Yes, they -- I must have had two or three meetings with them.

21 Q. With the R. C. M. P.?

22 A. Yes.

23 Q. Do you remember whether or not any of those occasions there were
24 any lawyers there?

25 A. No, no.

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1 Q. You don't recollect or there weren't?

2 A. I -- to the best of my knowledge, I don't think there was any
3 lawyer.

4 Q. Okay, do you remember discussing with the R. C. M. P. officers
5 the types of things that you were prepared to say about John
6 Pratico's condition that eventually ended up in this affidavit?
7 In other words, how was it that they came -- that you ended up
8 signing an affidavit, for instance, that says in paragraph four --

9 A. No, but this is what they asked me.

10 Q. Yes.

11 A. Yeh, I -- this is -- I put it in; they didn't.

12 Q. Did you then draft this or did you just respond to their
13 questions?

14 A. I really don't remember, no.

15 Q. Don't remember. But you were satisfied, I take it, Doctor
16 Mian, --

17 A. Yes.

18 Q. -- at the time you signed this affidavit that what was in that
19 document was correct?

20 A. Yes, yes.

21 Q. But you don't recollect having had any discussions with
22 any lawyers up to the time you signed it? No?

23 A. To the best of my knowledge, I really don't remember. I
24 don't think so.

25 Q. Thank you very much, Doctor.

DR. M. A. MIAN, by Ms. Edwardh

1 THE CHAIRMAN:

2 Ms. Edwardh.

3 BY MS. EDWARDH:

4 Q. Doctor Mian, you say today that -- (away for a week and you get
5 rusty.) You say today that Mr. Pratico is and you've used the
6 word "stabilized"?

7 A. Yes.

8 Q. And would it be your opinion after treating him over this period
9 of time that he is in better shape today than he has been since,
10 let's say, August 1971?

11 A. Definitely.

12 Q. And in terms of his intellectual or cognitive functioning, the
13 question that I think must be posed is can he in fact account
14 or describe events which occurred in the past when he was ill?
15 Do you understand the question?

16 A. Could you rephrase it again, please.

17 Q. Yes, what I think everyone would be interested in is your view,
18 sir, if Mr. Pratico was mentally ill in August 1971 or in May
19 of 1971 with serious difficulties, could he today reliably
20 know what he saw in May of 1971?

21 A. He could or he couldn't. You know it could be both, you know
22 -- I can't say for sure because he was in acute at that time
23 he was in an acute stressful situation.

24 Q. Okay, now --

25 A. And under stress would tend to distort things all the time.

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1 Q. Now it's much more likely I understand that he would be able to
2 recount reliably today if he was not psychotic at the time?

3 A. No.

4 Q. And have you any indication, sir, that at the time of May
5 the 28th that Mr. Pratico was suffering from any psychotic
6 manifestations?

7 A. Not at that time.

8 Q. And they in fact come later?

9 A. That's -- yes.

10 Q. And just so we keep the record straight, would you -- would
11 you define for us what you mean by psychotic?

12 A. Psychotic is when a person breaks away -- contact with reality
13 -- the system.

14 Q. So then if I'm correct what you're saying to us is that you
15 have no reason to say that Mr. Pratico could not give a
16 reliable account of his observations that far back. His
17 mental illness doesn't prevent him from even acquiring --

18 A. He -- he could have -- yeh, he could give reliable information
19 about those instances now as there's no stress involved at
20 this time and there's no fear to his life is involved at this
21 time.

22 Q. And the stress precipitates as far as you're concerned some
23 of the psychotic difficulties?

24 A. That's right, yes.

25 Q. Now according to the statement that you gave, Doctor, -- that

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1 | you gave to Wheaton, sir, you knew in 1971 that Mr. Pratico
2 | was going to be a witness, correct?

3 | A. Yes.

4 | Q. Can you assist us, sir, as to whether at that time the thought
5 | passed through your mind that perhaps you ought to indicate to
6 | either the Police or Crown Counsel that the young man who you
7 | were treating was a "highly unreliable and unstable individual"?

8 | A. At that time he was in the Nova Scotia Hospital.

9 | Q. You were familiar with him though?

10 | A. Yes, yeh.

11 | Q. You were familiar with his condition?

12 | A. No, no, I wasn't; but he was at the Nova Scotia Hospital and
13 | he was discharged from Nova Scotia Hospital to come and
14 | testify. So from the records all I can say that legally he
15 | might be fit to stand trial -- I mean to testify.

16 | Q. So I take it from the time he was in the Nova Scotia Hospital,
17 | you had no follow-up involvement with him or you didn't acquire
18 | any information about him?

19 | A. No, no.

20 | Q. So you were unaware as the trial --

21 | A. No, I -- we knew that he was going for this, you know, but
22 | there has been no contact by the Police or anybody whether --
23 | about his reliability.

24 | Q. What -- what is your view, sir, of whether a psychiatrist
25 | should or shouldn't raise a matter of such a character with

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1 a police force or crown counsel?

2 A. In my personal opinion, it's up to the legal system.

3 Q. What do you mean by that?

4 A. I mean it's the Court that should request or the Prosecuting
5 Attorney or the --

6 Q. Are you saying, sir, that if you had received a call from
7 Crown Counsel --

8 A. Yes.

9 Q. -- or the Police officer in question --

10 A. Yes.

11 Q. -- you would have gladly given them any insight you could --

12 A. Yes.

13 Q. -- you would have?

14 A. Yes.

15 Q. And you see no bar to that?

16 A. That's correct, yes.

17 BY THE CHAIRMAN:

18 Q. Have you ever received such a request from Crown Counsel in
19 any -- and I don't mean in this case but in any case?

20 A. Yes, yes.

21 Q. You have?

22 A. Yes, about whether he could stand trial, about the, you know,
23 or the psychiatric profile or evaluation. Now they do it.

24 Q. All right, what's the practice if a witness -- an accused
25 person or a prospective witness -- well, no, forget the

DR. M. A. MIAN, by Ms. Edwardh

1 | accused person -- any prospective witness, if there's some
2 | doubt as to his or her capacity to testify, are they sent
3 | to you that's if it's in the Cape Breton area or sent to the
4 | Nova Scotia Hospital in Dartmouth?

5 | A. No, the practice to my knowledge in Nova Scotia is only if we
6 | have been given testimony in the Court on behalf of the
7 | accused; not on behalf of the witness.

8 | Q. Not on behalf of the Crown, is that what you're saying?

9 | A. We have done that on behalf of the Crown too; but if a person
10 | is accused whether he's fit to stand trial or not -- basically
11 | that's the practice in Nova Scotia, but not of a witness.

12 | Q. Not a witness?

13 | A. Not to my knowlege.

14 | Q. Well, I'm not clear then what your -- what the answer -- your
15 | answer to my question was?

16 | A. To my knowledge --

17 | Q. I asked you if you had ever been asked by Crown Counsel or
18 | Counsel for an accused person, to pass judgement on the
19 | fitness of a witness, not the accused -- the witness -- a
20 | witness to give reliable evidence in a criminal trial?

21 | A. No.

22 | Q. No?

23 | A. Yes.

24 | BY MS. EDWARDH:

25 | Q. Let me follow up on his Lordship's question, so that you

DR. M. A. MIAN, by Ms. Edwardh

1 understand that -- let me put the question this way to you,
2 not asking you about testifying in a court room about someone's
3 capacity but have you been consulted by the police, consulted
4 by Crown Counsel or Defense Counsel with the view to
5 understanding whether a witness had problems in terms of their
6 either capacity to testify or whether they would have trouble
7 being reliable?

8 A. Not really, as the practice in Nova Scotia is we only go to
9 the Court to testify usually about the fitness to stand trial
10 to my -- in my experience, no.

11 Q. Yeh, I don't mean testify; just even consult, sir, on a
12 telephone call?

13 A. Yes, that has happened.

14 Q. Yes, and in fact what you're really saying then is you would
15 get a telephone call from a police officer --

16 THE CHAIRMAN:

17 No, no, could you try that again, please.

18 BY MS. EDWARDH:

19 Q. I understand what you're saying, sir, is you have never
20 gone to Court to testify in relation to whether a witness
21 should give evidence or whether they were reliable, is that
22 correct?

23 A. Yes.

24 Q. Okay, but you had received inquiries from either the Police
25 or Crown Counsel or the Defense asking you if a witness

DR. M. A. MIAN, by Ms. Edwardh

1 | may have some psychiatric difficulties, whether they should
2 | be aware of them?

3 | A. Yes, yes.

4 | Q. Okay, and that kind of contact is not extremely unusual is
5 | it?

6 | A. No.

7 | MS. EDWARDH:

8 | Does that assist, My Lord?

9 | THE CHAIRMAN:

10 | Yes, that's fine, thank you.

11 | BY MS. EDWARDH:

12 | Q. And I also understood you to say that you did not feel that
13 | there was any bar to giving Crown Counsel that information
14 | if they should call or the Police that information if they
15 | should call?

16 | A. I don't think so.

17 | Q. Now going back to the diagnosis that -- and some of the features
18 | of the diagnosis that Mr. Pratico had carried with him over
19 | the years, would it be fair to say that one of the fundamental
20 | manifestations of it was his desire to be in the limelight?

21 | A. No, not really.

22 | Q. Would it be fair to say that one of the fundamental
23 | manifestations was his need to please people?

24 | A. Yes.

25 | Q. And you say that in the Hospital records, do you not when he's

DR. M. A. MIAN, by Ms. Edwardh

1 often viewed "as very cooperative --

2 A. Yes.

3 Q. -- in the ward and trying to please --

4 A. Yes.

5 Q. -- the nurses and whatever"?

6 A. Yes.

7 Q. And indeed if this young boy were sitting in a room with
8 several Police Officers, would you agree, sir, that that
9 would be a compelling situation given his illness for his
10 need to please to arise?

11 A. Yes.

12 Q. He would want to please them?

13 A. Yeh.

14 Q. And if they, for example, were to suggest things to him,
15 is he not the kind of person who would respond by obviously
16 giving them whatever they suggested?

17 A. Yeh, he could pick on the cues.

18 Q. I'm sorry?

19 A. He would pick on the cues.

20 Q. He would pick up on the cues?

21 A. Yes.

22 Q. And as soon as he got the cue, then he would translate it into
23 yes, that's what happened?

24 A. Yes.

25 Q. And he would have no capacity to resist that or little

DR. M. A. MIAN, by Ms. Edwardh

1 capacity to resist it?

2 A. Yes.

3 Q. In terms of putting Mr. Pratico on a spectrum, would it be
4 fair to say that he was easy prey for anyone in a position
5 of authority with respect to following up on suggestions
6 and giving them what they wanted?

7 A. Yes.

8 Q. Now you've had a chance to look over the records and can see
9 that people have had occasion to observe him in many different
10 situations from one to one therapy to occupational therapy --

11 A. Yes.

12 Q. -- and into the court room?

13 A. Yes.

14 Q. You say overall your view is that he has been between 1971
15 and '81, viewed by the Hospital staff as "unreliable"?

16 A. Yes.

17 Q. And I take it that means that he obviously recounts things
18 that are not connected to the social world or are fanciful?

19 A. Yes.

20 Q. Makes them up?

21 A. Yes.

22 Q. Now would you agree with me that in a court room setting, the
23 very structure of that court room would help Mr. Pratico give
24 a story that was believable in a way that a free flowing
25 discussion would not?

DR. M. A. MIAN, by Ms. Edwardh

1 A. It's quite possible.

2 Q. One last area, Doctor, when Mr. Pratico was released from the
3 Hospital in October and then testified and then went on to
4 the Nova Scotia Hospital, can you assist us from your
5 analysis of the medical records about how he was functioning
6 between October 25th, 1971, and his readmission was, I think,
7 was November the 29th?

8 A. Yes, yeh, a month later, yes.

9 Q. Yes, do the records document a consistent decline?

10 A. Yes.

11 Q. And heavy drinking?

12 A. Yes.

13 Q. And the absence of medication or the refusal to continue
14 medication?

15 A. Yes.

16 Q. So is it fair to say that he would have been in the process
17 of decompensating --

18 A. That's correct.

19 Q. -- during that period?

20 A. That's correct.

21 Q. And by decompensation we're describing a process where he
22 becomes less reliable, less attached to reality, etcetera,
23 all the way down the line?

24 A. Yes.

25 Q. Those are my questions, thank you, sir.

DR. M. A. MIAN, by Mr. Pugsley

1 BY MR. PUGSLEY:

2 Q. Doctor Mian, we have a curriculum vitae from you this morning,
3 but I'd like to review your background with you. You went
4 to medical school where, sir?

5 A. In Pakistan.

6 Q. In Pakistan?

7 A. Yes.

8 Q. And how long was the course there?

9 A. Five years.

10 Q. And you graduated with -- an M. D.?

11 A. Yes.

12 Q. From the University of Pakistan?

13 A. From Lahore, Pakistan.

14 Q. From Lahore, Pakistan, and then what post-graduate work do
15 you have?

16 A. I did one year of rotating internship at Presbyterian-
17 St. Luke Hospital, Chicago, with -- and then I went to
18 psychiatry residency at University of Illinois.

19 Q. Yes.

20 A. And then I alternate one year post-grad psychiatry
21 residency at Dalhousie University and I'm a Fellow of the
22 Royal College of Physicians and Surgeons of Canada --

23 Q. Yes.

24 A. -- as a psychiatrist.

25 Q. You had --

DR. M. A. MIAN, by Mr. Pugsley

1 A. And --

2 Q. -- I'm sorry, just if I could interrupt a bit, you had
3 psychiatric experience in Illinois, you say?

4 A. Psychiatry residency in Chicago, Illinois, yes.

5 Q. Chicago, for what period of time?

6 A. From 1969 -- no, until 1969 to 1963.

7 Q. From 1969?

8 A. To 1962, yeh.

9 Q. From 1959 to 1962?

10 A. 1962, yes.

11 Q. Yes, a period of three years?

12 A. Yes.

13 Q. And after Chicago you came where?

14 A. I worked as a psychiatrist in Fort Stelleron Seattle
15 State Hospital for two years.

16 Q. You worked as a psychiatrist for two years at a State
17 Hospital?

18 A. Yes.

19 Q. Yes.

20 A. Then I came to Sydney in September of 1964. I worked at the
21 Cape Breton Mental Health Clinic in '68 and then for one year
22 I was gone to Dalhousie University for another one year.

23 Q. What were you doing at Dalhousie? Were you teaching or we're
24 you --

25 A. No, no, I -- it was a requirement by the Royal College of

DR. M. A. MIAN, by Mr. Pugsley

1 Canada that I should spend one more year in Canada --

2 Q. I see.

3 A. -- in psychiatry training. Which I did.

4 Q. And then you returned to Cape Breton in 1969?

5 A. Yes.

6 Q. Yes. And are you presently the Director of the Cape Breton
7 Hospital?

8 A. Since then I am the Director. Since July 1st, 1969, I'm the
9 Managing Director of Cape Breton Hospital.

10 Q. I see. And can you give us some idea of the size of the
11 Cape Breton Hospital in 1969, how many patients and beds did
12 you have?

13 A. At that time, I had three hundred -- three hundred and twenty
14 patients at the Nova Scotia Hospital for the care of chronic
15 mentally ill.

16 Q. Sorry, you had three hundred patients at the Cape Breton
17 Hospital?

18 A. Three hundred and twenty-six patients, yes.

19 Q. At the Cape Breton Hospital?

20 A. At that time.

21 Q. Three hundred beds?

22 A. Now it's sixty-two beds but at that time it was three
23 hundred twenty-six beds, -- hospital.

24 Q. I see. And what kind of a staff did you have?

25 A. Very limited.

DR. M. A. MIAN, by Mr. Pugsley

1 Q. How many psychiatrists would you have on staff?

2 A. I was the only one for a while.

3 Q. Only one for a while?

4 A. Yeh and there were three in the Mental Health Clinic. So
5 there were four psychiatrists.

6 Q. I see, that was in 1969.

7 A. Yes.

8 Q. And in your capacity as Director was that to a large extent
9 an administrative function or did you see patients as well?

10 A. Well, it should be administrative but I never had enough
11 help so it was mostly clinical and very little administrative.

12 Q. Well, of the three hundred and twenty-six patients in the
13 Hospital, how many were your patients in 1969?

14 A. At that time the Mental Health Clinic was seeing about
15 roughly about five to six hundred a month.

16 Q. Yes. And how many would you be seeing?

17 A. Oh, I wasn't seeing too many in the out-patient; I was just
18 looking after the in-patients.

19 Q. I see, well how many of the in-patients would be your
20 responsibility, your direct responsibility in 1969 and 1970?

21 A. About seventy-five.

22 Q. Seventy-five?

23 A. Yes.

24 Q. When did you first see John Pratico?

25 A. When he returned the second time from -- I had discussed

DR. M. A. MIAN, by Mr. Pugsley

1 and seen him superficially for other professionals during 19 --
2 the earliest --

3 Q. You say you saw him superficially; what does that mean?

4 A. Before '72.

5 Q. What does to see a patient superficially?

6 A. No, no, what I mean in consultation with another or another
7 professional.

8 Q. Yes, when did you first see him personally?

9 A. In March of '72.

10 Q. In March of 1972?

11 A. I think when he was first admitted to Cape Breton Hospital.

12 Q. When did you first become of the opinion that he was a
13 "wholly unreliable informant and witness" with regard to
14 any subject or event in 1971? When did you first form
15 that opinion?

16 A. That was after -- when -- after reviewing the documents and --

17 Q. After the what?

18 A. After -- when I gave this testimony, I reviewed that and that
19 has been my opinion.

20 Q. No, but when did you first form the opinion?

21 A. In '72.

22 Q. In 1972?

23 A. Yeh.

24 Q. Did you form the opinion in 1971 that Mr. Pratico was a
25 "wholly unreliable person"?

DR. M. A. MIAN, by Mr. Pugsley

1 A. From the clinical records, yes, that's my opinion.

2 Q. And when did you form that opinion in 1971?

3 A. I didn't have the chance to do that; I first time saw him
4 in '72, personally.

5 Q. You first personally saw Mr. Pratico in March of 1972?

6 A. But I don't have any recollection.

7 Q. So that you -- you had no personal contact with him prior
8 to March of '72?

9 A. Yeh.

10 Q. But when did you first form the opinion that he was a "wholly
11 unreliable informant"?

12 A. When I was asked for it.

13 Q. When you were asked for it?

14 A. Yes.

15 Q. That was when you first formed that opinion?

16 A. That's right.

17 Q. And when were you first asked for it?

18 A. In 1982, I think.

19 Q. I see, so in 19 -- do I understand it that in 1971 you had
20 no opinion about this man at all?

21 A. I had opinion. That's what I gave, but nobody asked me.

22 Q. I want you to understand clearly, sir, the point that I'm
23 making. I want to know when you first formed the opinion
24 that this man was "an unreliable informant"?

25 A. In 19 -- when I was asked in 1982.

DR. M. A. MIAN, by Mr. Pugsley

1 Q. All right, okay.

2 A. And when -- that's when I reviewed the charts and that's when
3 I wrote down that "he's unreliable".

4 Q. Yes.

5 A. But before that it was never read and I never wrote it down
6 and never --

7 Q. Was he being treated by any psychiatrist at the Cape Breton
8 Hospital in the year 1971?

9 A. Yes, Doctor James Binney, Doctor Donovan, Doctor MacDonough,
10 Doctor Samuels --

11 Q. Sorry, could you just give me the names again? Doctor --

12 A. Doctor James Binney, Doctor Donovan --

13 Q. Doctor James Binney. When did Doctor James Binney first
14 see Mr. Pratico?

15 A. August 16th, 1970.

16 Q. And on how many occasions did --

17 A. Well, six or seven.

18 Q. And when were they?

19 A. During -- before -- for that year.

20 Q. For the year 1970?

21 A. Until July of 1971.

22 Q. You say from August 16th of 1970 until July of 1971, Doctor
23 Binney, a psychiatrist at the Cape Breton Hospital, saw
24 Pratico --

25 A. At the Mental Health Clinic, yes.

DR. M. A. MIAN, by Mr. Pugsley

1 Q. -- on approximately six occasions?

2 A. Six or seven, yeh.

3 Q. And Pratico was an out-patient at the time, was he?

4 A. Yes.

5 Q. And are there any notes of Doctor Binney's available for us?

6 A. Yeh, that's in the first -- on the "Accumulative Therapeutic
7 Records".

8 Q. Perhaps you can direct my attention to those notes?

9 A. On Page one.

10 Q. You're looking at Volume -- exhibit 47, are you?

11 A. Yeh.

12 Q. Yes. And you're looking at page one; but these are not
13 notes that were made in 1970?

14 A. No, no, I stated there are no notes available.

15 Q. There are no notes available?

16 A. I mean they were all hand-written and we put them in the
17 typed form in '79.

18 Q. But where are Doctor Binney's hand-written notes of 1970?

19 A. They are not -- they are all shredded.

20 Q. They're lost?

21 A. Yes.

22 Q. I see, okay. Did Pratico see any other psychiatrist at your
23 Hospital prior to July of 1971 apart from Doctor Binney?

24 A. Prior to Doctor -- after Doctor Binney.

25 Q. No, no, prior to July of 1971, did Mr. Pratico see --

DR. M. A. MIAN, by Mr. Pugsley

1 A. No.

2 Q. -- any other psychiatrist at the Nova Scotia -- Cape Breton
3 Hospital?

4 A. No, not at that time.

5 Q. All right. Did Doctor Binney discuss with you Pratico's
6 condition?

7 A. Not -- other than the report and other than that these are
8 the, you know.

9 Q. No, my question is, did Doctor Binney discuss with you his
10 opinion of Mr. Pratico at any time?

11 A. Regarding what?

12 Q. With regard to his mental condition? Did Doctor Binney
13 discuss with you --

14 A. No, no.

15 Q. -- at any time?

16 A. No, no.

17 Q. He did not?

18 A. No.

19 Q. Where's Doctor Binney now?

20 A. In British Columbia, I think.

21 Q. And when did he leave the Cape Breton Hospital?

22 A. In around '79.

23 Q. Around 1979?

24 A. Yes.

25 Q. And you have not seen his notes, I take it?

DR. M. A. MIAN, by Mr. Pugsley

1 A. No, we have seen his notes. These are -- these were taken
2 from those notes.

3 Q. Well, no, this is a summary that we have on page 1 of
4 Exhibit 47; this is a type-written summary --

5 A. Yeh.

6 Q. -- all prepared by whom? Who prepared this summary?

7 A. A social worker.

8 Q. A social worker?

9 A. Yeh.

10 Q. A social worker apparently went through some files that
11 existed in 1979 and make a summary of the information that
12 was in the files?

13 A. And, yeh -- and with my, you know, I had to look through those
14 --

15 Q. Did you look through these?

16 A. Yes.

17 Q. But you did not see Doctor Binney's original notes?

18 A. I must have, the original notes; but they were all hand-
19 written scratched notes.

20 Q. But why would you have seen Doctor Binney's original notes?
21 What would prompt you to make --

22 A. No, no, because then we were completing the perspective
23 on every patient. We didn't want to miss anything important.
24 To put this together.

25 Q. Why did Andy Arsenault in 1979 make a summary of John Pratico's

DR. M. A. MIAN, by Mr. Pugsley

1 | stay and his --

2 | A. It's on every case we have done and not only John Pratico;
3 | this is done on every case.

4 | Q. Why in 1979?

5 | A. This process has been starting from '71 onward and we have so
6 | many out-patients -- as they patients come along, we complete
7 | one for every one.

8 | Q. I take it that Doctor Binney would have made notes of each
9 | one of the six interviews he had with Pratico, would he?

10 | A. Yes, but mostly they were the "progress maintained, progress
11 | not maintained, started on medication, interviewed with the
12 | mother, not getting along".

13 | Q. I see, very brief notes?

14 | A. Very brief notes.

15 | Q. And I'm sorry, I've forgotten your answer, did you ever see
16 | those notes?

17 | A. Yes.

18 | Q. When did you see those notes?

19 | A. When -- we must have prepared this C. T. R. Now, I don't
20 | know the exact date.

21 | Q. Well, did you play any part in preparing this summary?

22 | A. No, I over-viewed them, I over-seed them. I don't write
23 | them out, no.

24 | Q. I'm sorry, you say you went over this summary?

25 | A. Yes.

DR. M. A. MIAN, by Mr. Pugsley

1 Q. Why would you have gone over this summary?

2 A. Of all the cases on which the C. T. R. is completed, we have
3 to go over these summaries so that the, you know, other
4 professionals don't miss it out. If they are done by the
5 physicians --

6 Q. Well, how many summaries --

7 A. -- and so that all the --

8 Q. -- how many summaries would have been prepared?

9 A. They are about twelve thousand patients now.

10 Q. Twelve thousand?

11 A. Yes, sir.

12 Q. And you say that there were twelve thousand summaries
13 prepared of patients?

14 A. Over the years, yes.

15 Q. And you would have gone over each one?

16 A. All most, yes, sir.

17 Q. Well, your retention or your recollection of what was in
18 those summaries would be very limited, I take it?

19 A. Well, it was just usually want to go over --

20 Q. But -- are you saying that in addition to going over this
21 summary prepared by Arsenault in 1979, you also went over
22 Doctor Binney's personal notes of his interviews with John
23 Pratico from August '70 until July '71?

24 A. Yeh, because we have to audit it.

25 Q. But why would you have done it?

DR. M. A. MIAN, by Mr. Pugsley

1 | A. Well, the reason we want to audit because this was done by
2 | a social worker, right. So that no other pertinent medical
3 | information is missed out. So one of the physicians or
4 | myself had to audit this.

5 | Q. What -- do I understand that you go over this summary
6 | prepared by Arsenault and also all the other notes relating
7 | to Mr. Pratico to make sure that Mr. Arsenault leaves
8 | nothing out?

9 | A. That's right. And I was also looking after him personally.

10 | Q. Of course.

11 | A. Until 1973 --

12 | Q. In March of 1972, you did?

13 | A. -- '72, onward.

14 | Q. Okay, between July of 1971 and the end of August 1971, was
15 | Mr. Pratico seen by any other psychiatrist at the Cape
16 | Breton Hospital?

17 | A. He was at -- no, he was seen by Doctor Donovan.

18 | Q. By Doctor?

19 | A. Doctor Binney, then he goes to Nova Scotia Hospital --

20 | Q. Yes.

21 | A. -- then he comes back, he sees Doctor Donovan.

22 | Q. See Doctor who?

23 | A. Donovan, Cornelius Donovan.

24 | Q. Donovan, I'm sorry. When did he first see Doctor Donovan?

25 | A. After his return from Nova Scotia Hospital.

DR. M. A. MIAN, by Mr. Pugsley

1 Q. So he saw no one at the Cape Breton Hospital from July of
2 1971 until sometime in November 1971?

3 A. Yeh.

4 Q. I see.

5 A. Because he was in between the Nova Scotia Hospital.

6 Q. Your opinion with respect to -- well, did you know -- did
7 you know anything at all about John Pratico before March
8 of 1972?

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DR. M. A. MIAN, by Mr. Pugsley

1 A. No.

2 Q. Although you apparantly knew that he was going to give evidence
3 in court? You knew that?

4 A. Yes, from the discharge summary of the Nova Scotia Hospital,
5 yes.

6 Q. Well, I'm looking at the statement you gave in February of
7 1982, in volume 21 at page 77.

8 A. Yeh.

9 Q. Do you have that in front of you?

10 This is a red volume, Doctor. Volume 21?

11 A. Yeh. Okay.

12 Q. Now, this is a statement you gave to Mr. Wheaton. Do you
13 remember giving this statement to Mr. Wheaton?

14 A. Yes. Yeh.

15 Q. Who is Mr. Wheaton?

16 A. Some R.C.M.P. officer.

17 Q. Yeh. And you signed this statement, did you?

18 A. Yes, I --

19 Q. This is a type-written copy of course.

20 MR. PUGSLEY:

21 Do we have the original Mr. Spicer?

22 MR. SPICER:

23 I don't think we do.

24 BY MR. PUGSLEY:

25 Q. Well, I take it that, you signed the original statement and that

1 | it apparently was witnessed by Mr. Wheaton and also by an
2 | Ann MacLeod. Who's Ann MacLeod?

3 | A. Director of Medical Records.

4 | Q. Who?

5 | A. Director of Medical Records.

6 | Q. The Director of Medical Data?

7 | A. Medical Records.

8 | Q. Medical Records.

9 | A. Yeh.

10 | Q. I see. And she was in, was she, at the interview between
11 | Mr. Wheaton and yourself? She was present? Or did she
12 | just come in to sign your statement as a witness?

13 | A. I think she came in to sign the statement.

14 | Q. All right. Now, the statement says:

15 | I am a Medical Director to the Cape Breton Hospital.
16 | I've treated John Pratico since August of 1970.

17 | A. Yes.

18 | Q. That's not accurate.

19 | A. What I mean, by here, that I know of him since -- you know
20 | his record since August of '70.

21 | Q. You knew of him? When did you first know of John Pratico?

22 | A. In about -- from the records, I mean.

23 | Q. No, but when did you first know of him? Did you know anything
24 | about him at all before March of '72?

25 | A. No.

1 I didn't say I think I knew of him in '70.

2 Q. You think you knew of him '70? All right.

3 A. '71.

4 Q. But, in any event, it's not accurate to say that you treated
5 him since August of 1970?

6 A. Okay.

7 Q. Well, is it? I'm asking you? Is that an accurate statement?

8 A. Not -- this statement is not accurate.

9 Q. Not accurate. Okay. "I found him to be very unreliable
10 informant." When did you first find John Pratico to be
11 a 'very unreliable informant'?

12 A. From my contacts with him, he had never been reliable.

13 Q. From your contacts with him?

14 A. Yeh.

15 Q. And that was in March of '72?

16 A. Or earlier than that, yeh.

17 Q. Or earlier? When earlier?

18 A. Around that time, okay. Fine.

19 Q. Well, check your records --

20 A. I don't recall the dates, you know.

21 Q. Pardon?

22 A. I don't recall the date so --

23 Q. You had a piece of paper, you were referring to, when
24 Mr. Spicer was examining you. What was written on that
25 paper?

1 A. Whose paper?

2 Q. You had a piece of paper you were assisting --

3 A. They are just the dates.

4 Q. And what dates does that have on it? Does that have the
5 date when you first treated him?

6 A. That was -- Well, that would be March of '72.

7 Q. March of '72?

8 A. Yeh.

9 Q. Well, is it only since March of 1972, that you have found
10 him to be an 'unreliable informant'?

11 A. And -- That's correct. And on the basis of my own opinion.
12 He was in worse shape -- you know -- gradually in -- from
13 1971.

14 Q. And how did you come to that conclusion, that he was in
15 worse shape in 1971?

16 A. From the notes from the records, from --

17 Q. From what records?

18 A. From what I had on him.

19 Q. What did you have on him?

20 A. Doctor Binney's notes and Doctor Donovan's notes.

21 Q. Doctor Binney's notes and what?

22 A. Doctor Donovan.

23 Q. Doctor Donovan's notes?

24 A. Yes.

25 Q. Doctor Donovan didn't start seeing him until the middle of

1 November, '71?

2 A. Yeh.

3 Q. Did Doctor Binney's notes say that he was an 'unreliable
4 informant'?

5 A. No. No.

6 Q. They did not say that?

7 A. Nothing. He didn't say in those terms.

8 Q. What did they say? What did Doctor Binney's notes say about
9 him being reliable or 'unreliable'?

10 A. They don't say much. -- doesn't say much.

11 Q. It doesn't say much?

12 A. No. Not about his reliability, you know.

13 Q. In response to the question the Chief Justice asked, did
14 Doctor Binney's notes say anything, at all, --

15 A. Yes.

16 Q. -- him being reliable or unreliable as an informant?

17 A. Doctor Binney described John further by saying that
18 he's jumpy, excitable, no self-awareness.

19 Q. I'm sorry, you are reading from where?

20 A. That's Doctor Binney's notes which are --

21 Q. Yeh. Where are you reading from though? Is that --

22 A. From page one.

23 Q. Exhibit 47, page one. About where sir? You're about two-
24 thirds of the way down the page --

25 A. 'Doctor Binney rendered the following; just above that.

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1 Q. And you say Doctor Binney describes John further by saying
2 he was a 'jumpy, excitable young man'.

3 A. Yeh.

4 Q. He had 'no self-awareness and almost neutral supportive
5 relationships.'

6 A. Yes.

7 Q. 'He had strong ambivalent feelings of great intensity to
8 both parents.'

9 A. Yeh.

10 Q. Well, is there anything there about Doctor Binney saying
11 he's unreliable?

12 A. Go down further. A little down there.

13 Q. Yes.

14 A. After the Doctor Binney continued to see assessment
15 during these months -- six sessions. Angry,
unreasonable, defiant.

16 Q. Well, that's -- I can read that. It says he was:

17 An angry, unreasonable, and defiant person.

18 A. Defiant, yeh.

19 Q. It doesn't say anything, at all, about him being unreliable?

20 A. Okay. It doesn't say that.

21 MR. CHAIRMAN:

22 What was the next sentence?

23 BY MR. PUGSLEY:

24 Q. The next sentence?

25 July 30th, 1971 --

1 | John -- Sorry.

2 | It was noted however, that he was not incoherent,
3 | depressed or retarded.

4 | A. Yes.

5 | Q. That's what Doctor Binney said. --

6 | A. Yeh.

7 | Q. Did you find -- Did you come to the same conclusion after
8 | you stated treating him in March of '72?

9 | A. No, that he was mentally border-line retarded.

10 | Q. You say he was mentally border-line retarded?

11 | A. He is. Yeh.

12 | Q. Doctor Binney didn't come to that conclusion though?

13 | A. No.

14 | Q. No. Well, is Doctor Binney a good doctor?

15 | A. Yes.

16 | Q. He was with the Cape Breton Hospital until 1979?

17 | A. Yes.

18 | Q. How was it that Doctor Donovan took over Mr. Pratico's
19 | treatment in November, '71, and you took it over in March
20 | of '72?

21 | A. Because we -- we were short of psychiatrist and we had to
22 | take over the case loads. And we -- or whichever is available
23 | to take over the case.

24 | Q. Did that mean that Doctor Binney was too busy, in November '71,
25 | to look after Pratico?

1 A. Yeh, that's right.

2 Q. And did it mean that Doctor Donovan was to busy in March of
3 82 --'72, to look after Pratico?

4 A. Yes. Yeh, it's quite possible. Or the assignments were
5 changed.

6 Q. I see. Okay. Going back, to your statement, that you gave
7 to Mr. Wheaton, in volume 21.

8 I found him to be a very unreliable informant.
9 He tends to manipulate and fartasize, distort according
to his needs and wishes.

10 And when did you come to the conclusion that Mr. Pratico
11 did those things?

12 A. From day one, I knew him.

13 Q. From day one, you knew him?

14 A. I mean, once I got to know him. These are my feelings
15 since then.

16 Q. From day one or from when you got to know him?

17 A. When I got to know him. And I --

18 Q. How long did it take -- Excuse me. How long did it take you
19 to get to know him?

20 A. It took me years.

21 Q. How many?

22 A. It took me quite a while to know him.

23 Q. Did you say a year or years?

24 A. Years, I said.

25 Q. Years. Plural. Years. How many years did it get you -- did

1 it take you to get to know Mr. Pratico?

2 A. About two.

3 Q. About two years. Okay.

4 A. Yeh.

5 Q. And how many times did you see him, in those two year
6 periods?

7 A. Roughly I saw him every week on the street --

8 Q. Every week?

9 A. -- in the shopping center.

10 Q. No, no. I mean in the patient/doctor relationship?

11 A. Yeh. He kept on -- you know -- He was -- He was
12 coming every two weeks or so approximately.

13 Q. Every two weeks, did you say?

14 A. Yeh.

15 Q. And how long a time would he spend with you?

16 A. About half an hour, thirty-minutes. Twelve minutes. Depending
17 on what shape he was in.

18 Q. Okay. All right. Well, if it took you two years, and you're
19 a trained psychiatrist with a good deal of experience; if
20 it took you two years to come to the conclusion that Pratico
21 had these tendencies to manipulate and fantasize, is it any
22 wonder that Mr. Pratico fooled Mr. MacIntyre, who took two
23 statements from him? Is it any wonder that he fooled John
24 MacDonald, the Judge who was at the Preliminary Inquiry? Is
25 it any wonder that he fooled the same Judge MacDonald, about

1 three weeks later at another Preliminary Inquiry and finally
2 is it any wonder that he fooled a Supreme Judge and Jury
3 when he gave evidence for perhaps an hour or so?

4 A. It's quite possible.

5 Q. Yeh.

6 A. Yeh.

7 Q. Now, you say, in the statement of February 19th, 1982, during
8 the time of the murder -- Sorry? I'm sorry. Just make a comment?

9 A. I didn't say anything?

10 Q. During the time of the murder trial, in 1971, I
11 would have been treating John.

12 Well, that's not accurate is it?

13 A. Yeh, There's a discrepancy in dates.

14 Q. Yeh. So my question to you, sir, is that in this statement
15 that you signed in February 19th, of 1982, when you said
16 that during the time of the murder trial: "I would have
17 been treating John." That is not an accurate statement?

18 A. Yeh, there's a discrepancy there, yes.

19 Q. It's what?

20 A. Yes, it should be '72, yeh.

21 Q. I could be '72?

22 A. Yeh.

23 Q. Well, it was '72, was it not?

24 A. Yeh.

25 Q. Well, it's not '71 at all, is it?

1 A. No.

2 Q. No. That is not an accurate statement? Did you -- When
3 Mr. Wheaton came to see you, I take it you have a file,
4 do you, of each one of the patients you've treated?

5 A. This is it.

6 Q. No, I say, in the hospital --

7 A. This --

8 Q. -- do you have a file?

9 A. Yes.

10 Q. Yes.

11 A. Yeh.

12 Q. And do you personally have a file of all the patients you
13 treated?

14 A. No.

15 Q. Do you make notes of the meetings when you interview
16 patients?

17 A. Yes.

18 Q. Is your practise to make notes?

19 A. No, we dictate.

20 Q. Well, you dictate notes?

21 A. Yeh. And we have the part here, the notes which are dictated.

22 Q. I see. Was it your practise to dictate a note after you see
23 each patient?

24 A. Sometimes --

25 Q. Sometimes.

1 A. Not all times, no.

2 Q. Okay. Well, I take it, it would have been an easy matter
3 for you to check, at the Cape Breton Hospital, to determine
4 when you first started treating John Pratico? That would
5 have been an easy matter?

6 A. Well, that's what I did and that's what gave me this date,
7 I think.

8 Q. That's why you're able to say it's March of 1972?

9 A. Yeh.

10 Q. Now, you go on to say:

11 He was admitted to the Nova Scotia Hospital on 31st
12 of August, 1971. At that time he expressed concern
about the trial and the outcome.

13 A. Yes.

14 Q. He -- Did he -- Well, who did he express that concern to?

15 A. To -- it's in the discharge summary of the Nova Scotia Hospital.

16 Q. I see. That where we got that?

17 A. And Doctor John -- yeh.

18 Q. Would the notes of the Nova Scotia Hospital, with respect
19 to Mr. Pratico, had been sent to you?

20 A. Yes. They sent --

21 Q. And how quickly are they sent, to you, after the discharge
22 of a patient?

23 A. It usually takes one week.

24 Q. It usually takes one week to do so?

25 A. Yeh. Usually.

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1 Q. I see. And when you received those notes, would you have
2 read them?

3 A. Yes.

4 Q. Or would Doctor Donovan or Doctor Binney have read them?

5 A. Yeh.

6 Q. Yes. Okay. You go on to say:

7 He was glad to be in the hospital and the results
8 from the Nova Scotia Hospital were the same as
my own findings.

9 A. Yes.

10 Q. What were the results, of the Nova Scotia Hospital,
11 that were the same as your own findings?

12 A. When he was -- He -- I don't know --

13 COMMISSIONER POITRAS:

14 What page was that, please?

15 MR. SPICER:

16 It's the Clinical Record towards the end of the Nova Scotia
17 Hospital. 72 03444.

18 COMMISSIONER EVANS:

19 72 03444?

20 MR. SPICER:

21 That's correct.

22 BY MR. PUGSLEY:

23 Q. Who was the physician in charge of his care at the Nova Scotia
24 Hospital for that two-month period between August and October,
25 1971?

1 A. Dr. P. K. Johns, M.B.B.S., M.S.A., F.R.C.P. of Canada,
2 Senior Psychiatrist.

3 Q. Did you know Doctor Johns?

4 A. He has gone back to England.

5 Q. Yes, I know. I realise that he's not there anymore but
6 did you know of him?

7 A. Yes.

8 Q. Did you know him personally?

9 A. I knew him professionally.

10 Q. Yes. And did he have a good reputation?

11 A. Yes.

12 Q. Yes. And was Doctor Johns' diagnosis, of Mr. Pratico,
13 the same as yours?

14 A. Yes.

15 Q. Did you -- Well, was Doctor -- Was it your opinion that
16 Mr. Pratico was psychotic, in 1971?

17 A. At that time he started to manifest.

18 Q. Well, was it your opinion, that in August and September and
19 October and November of 1971, that he was psychotic?

20 A. Yes, he was diagnosed as having schizophrenia with
21 paranoid ideation and he started to manifest psychotic
22 features.

23 Q. There's a note of Doctor Johns that I want to refer you to,
24 and I'm not sure that I can find it in --

25 A. No, it's all right.

1 Q. -- in exhibit 47. I'll just identify it for the purposes
2 of the record. At the top of the right hand page, it's
3 72-03444.

4 A. Yes.

5 Q. Perhaps we can find that page.

6 A. Yeh, I have it.

7 Q. Do you have that in front of you?

8 A. Yeh.

9 Q. There may be more than one -- I guess there's more -- there
10 may be more than one page with the same number.

11 A. Oh.

12 Q. The one I am looking at, sir, relates to the Clinical
13 record. It's page one and perhaps I'll just read it into
14 the record. It's a progress note of November 30th, 1971.

15 A. Yeh.

16 Q. And it says: 'This patient' -- now this the November 30th.

17 A. That's the second time around.

18 Q. I quite agree. It is the second time around.

19 A. Yeh.

20 Q. It says:

21 This patient arrived as a second admission. He is
22 extremely jumpy, jittery and hyperactive. He is
being treated with a large dose of --

23 How do you pronounce that?

24 A. Phenothiazines.

25 Q. Phenothiazines?

1 | A. Yeh.

2 | Q. He is functionally, marginally on the adolescent
3 | program, at the present time. He does not appear
4 | to be psychotic as reported by the family doctor,
5 | who referred him.

6 | A. Yeh, because he was treated with anti-psychotic medication.

7 | Q. I see. And it was the medication that was making him
8 | not psychotic?

9 | A. That's right.

10 | Q. I see. Okay. Was Doctor Binney aware, of the fact, that
11 | Mr. Pratico was going to give evidence in court?

12 | A. That, I don't know.

13 | Q. You don't know?

14 | A. No.

15 | Q. Okay, in any event, the doctors at the Nova Scotia Hospital
16 | were --

17 | A. Yes, Doctor Johns knew.

18 | Q. Yes. And if I can refer you to page -- in the exhibit 47.
19 | It's part of the Clinical Record at the Nova Scotia Hospital.
20 | It's entitled: 'Psychiatric Survey, August 31st, 1971'.

21 | A. Yeh.

22 | MR. ROSS:

23 | About how far in is that Ron?

24 | MR. PUGSLEY:

25 | I'm not -- Unfortunately I've just got a loose copy of it and
I'm just trying to find it in the exhibit. It's about two-thirds

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1 of the way through and again at the top, in handwriting, it's
2 72-03444, Nova Scotia Hospital Clinical Record, Page One. It's
3 about fifteen or so pages from the back of the volume.

4 COMMISSIONER EVANS:

5 Is there a date on it?

6 MR. PUGSLEY:

7 Well, it says 71-02158. And it says 'Psychiatric Survey, August
8 31st, 1971, at the top of the page.

9 MR. CHAIRMAN:

10 I have it.

11 MR. PUGSLEY:

12 It's a two page report signed by Doctor John's. It's about twenty
13 pages from the end of the volume.

14 BY MR. PUGSLEY:

15 Q. Do you have that Doctor Mian? I'll show the copy I have.

16 A. This the copy?

17 Q. Yes, you've got it.

18 A. Yes.

19 MR. PUGSLEY:

20 And perhaps I'll just make sure the Commission has it.

21 MR. CHAIRMAN:

22 We have it.

23 MR. PUGSLEY:

24 Do you have it? Thank you.

1 BY MR. PUGSLEY:

2 Q. Now, under Mental Status Examination, Doctor John writes:

3 This shows a very anxious, jumpy, jittery sixteen
4 year old boy. He seems to be quite frightened and
5 scared and quite happy to be in the hospital. He
6 stated that on top of all his problems he has
7 got himself in a tight spot by witnessing a murder
8 in the park not too long ago. He is one of the only
9 two witnesses in this murder trial and there have
10 been some threats on his life. This has not made
11 matters easy for him. He has also stated that there
12 are some racial overtones in this murder trial because
13 the boy who was murdered was a negro lad and the
14 murderer (alleged) was an Indian boy. It seemed
15 that the whole Indian tribe, in the local area,
16 considers him as an enemy and would like to
17 liquidate him.

18 Now, there's no question, at all, the people in the Nova
19 Scotia Hospital were aware of the fact that he was a very
20 key person and going to give evidence at a murder trial
21 shortly thereafter and yet no steps were taken by Doctor
22 John or by anyone else to notify the court officials in
23 Sydney or the Crown Prosecutor that Pratico would not be
24 an appropriate witness?

25 A. That's correct.

MS. EDWARDH:

Nobody referred to that evidence.

MR. CHAIRMAN:

I agree. That's more of a question, whether or not he thought
whether this witness is aware --

MS. EDWARDH:

In fairness to the witness perhaps he should be asked if he is
aware.

DR. M. A. MIAN, by Mr. Pugsley

1 BY MR. PUGSLEY:

2 Q. Are you aware of any -- Well, did Doctor John ever get in
3 touch with you or with anyone at the Cape Breton Hospital
4 to discuss the desirability of Pratico giving evidence?

5 A. No.

6 Q. As a key witness?

7 A. No.

8 Q. Did you have any opinion, at this time, as to whether or not
9 Pratico should be giving evidence? When I say at this time,
10 I mean in the fall of 1971?

11 A. No.

12 Q. Did you have any opinion, at this time, as to whether or
13 not he should be giving evidence in court?

14 A. No, I --

15 Q. No. Okay.

16 MR. CHAIRMAN:

17 Mr. Pugsley, would you inquire as to whether this report from
18 Doctor John, was indeed, sent to this witness in '71.

19 BY MR. PUGSLEY:

20 Q. Yes. Did -- I think you indicated, earlier, that it was
21 the practise for the Nova Scotia Hospital to send all reports
22 to you with respect to patients that had come from the Sydney
23 area that had been treated at the Cape Breton Hospital. Did
24 you, in fact, receive these reports, that I've just been
25 referring to?

1 A. No, I don't know. I don't remember.

2 Q. Or did the Cape Breton Hospital --

3 A. Yeh, we did receive but I don't know when.

4 Q. What would the practise be? Would the Nova Scotia Hospital
5 would send to what? The Medical Records Librarian?

6 A. Discharge summaries.

7 Q. Pardon?

8 A. Usually, you know, they don't send all the record. They
9 just send us the discharge summary of the hospital.

10 Q. The discharge summary?

11 A. Yeh.

12 Q. Is this --

13 A. And if we want more information then we have to ask them for
14 that.

15 Q. Is the piece of paper, that I've just been referring to,
16 a moment ago, is that part of the discharge summary?

17 Is that part of the piece --

18 A. No, that just initial admission.

19 Q. I see. Yeh.

20 BY MR. CHAIRMAN:

21 Q. Would that have been sent to you? Would that have been sent
22 to your hospital? To the Cape Breton Hospital? The Clinical
23 Record of John Pratico? The one you're looking at there now.
24 Would that have been sent to the Cape Breton Hospital?

25 A. If we want the whole volume. If we want the whole detailed

DR. M. A. MIAN, by Mr. Pugsley, by The Chairman

1 records, they send us, otherwise they just send us the
2 discharge summary. When they transfer a patient, as
3 John Pratico was. This was sent to us.

4 Q. The discharge record, when it's sent from the Nova Scotia
5 Hospital to the Cape Breton Hospital, would it then be
6 referred to the psychiatrist who had been treating that
7 patient?

8 A. Yes.

9 Q. So, presumably, as you were not treating that patient --

10 A. Yes.

11 Q. -- Pratico, it would not have been sent to you?

12 A. That's right.

13 Q. All right.

14 BY MR. PUGSLEY:

15 Q. Who was treating Pratico at this time? That's in August,
16 September and October of 1971. I realize he was not
17 physically in Sydney --

18 A. Doctor Donovan was.

19 Q. Doctor Donovan was.

20 A. On an outpatient, yeh.

21 Q. He was in charge of Pratico, as far as your hospital was
22 concerned, at that time?

23 A. Yeh.

24 Q. And I take it that anything that came to the Cape Breton
25 Hospital from the Nova Scotia Hospital, with respect to Pratico,

DR. M. A. MIAN, by Mr. Pugsley, by Mr. Chairman

1 would have been directed to Doctor Donovan's attention?

2 A. Yes. Yeh.

3 Q. And would he have put that in the file and when you took
4 over Pratico's care, in March of 1972, would that -- those
5 documents have been in Pratico's file?

6 A. Yeh.

7 Q. And would you have read those when you started taking over
8 his care?

9 A. Yeh.

10 Q. Okay.

11 BY MR. CHAIRMAN:

12 Q. Before you leave that, in that same file, on Pratico, would
13 there have been the Clinical Record that we're now looking
14 at? The Clinical Record that you have in front of you?

15 A. Yes, we had them.

16 Q. That would have been in your file, that is, Pratico's file
17 at that time?

18 A. Yes.

19 Q. Can I assume, therefore, that Doctor Donovan must have requested
20 that Clinical record?

21 A. Yes.

22 BY MR. PUGSLEY:

23 Q. If you will turn, about three pages later from the page I
24 was just referring to, there is a Social Service note made on
25 September 23rd, 1971 by J. Power for Mrs. Milne, it would appear.

1 And it says:

2 This young man has improved considerably since coming
3 to Hospital. He has settled down to point where we
4 can now consider making some discharge plans for him.
5 Accordingly we arranged to send him on a two-week
pass home. John became anxious, nervous and
irritable and finally decided he was not ready to
try a pass home as yet.

6 And then about a couple of paragraphs down:

7 Mrs. Pratico is quite depressed, anxious and quick
8 to react to John's moods. In short I think we have
9 a cause/ effect type of relationship here which
probably will not make for a good adjustment for
the patient if he returns home.

10 I gather from this and other records, from the Nova Scotia
11 Hospital, that there was some difficulty between John and
12 his mother at this period of time?

13 A. Yeh. That's correct.

14 Q. Did that difficulty continue after John became your patient
15 in March of '72?

16 A. Off and on.

17 Q. Off and on?

18 A. Yes.

19 Q. Okay. Continuing in that note of Mrs. Power for Mrs. Milne;

20 Moreover the impending pressure of the court hearing
21 (scheduled for sometime in October) seems to be
22 causing John some increasing anxiety. I have discussed
23 this case with Peter MacDonald of the Family Court
in Sydney and he is to investigate the possibility of
firming up some discharge plan for John back into the
community?

24 Do you know Peter MacDonald of the Family Court in Sydney?

25 A. I think I did.

1 Q. Do you have any idea --

2 A. I don't recall, no.

3 Q. Do you know why the Social Worker at the Nova Scotia Hospital
4 would speak to a --

5 A. Because he was still under sixteen or around sixteen and he
6 was having -- this case was brought in before the Family
7 Court because of the troubles in the family and that's how
8 the Family Court must have been involved.

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1 Q. I see. If you turn a few pages later the the psychiatric
2 nursing notes -- They're handwritten notes again from the
3 Nova Scotia Hospital and I just -- Perhaps the easiest thing
4 would be just to read to you what I want to address to you,
5 Doctor, and ask you for your comment on it, Sir. Yes, you
6 have it there. That's correct. It's about half a dozen
7 pages from the end of that volume.

8 A. Yes.

9 Q. "Voluntary first admission," and so on -- I'm sorry. It's
10 page No. 1, it's got No. 17 at the top, psychiatric nursing
11 notes, page No. 1. About four lines from the top -- "John
12 comes from an unfavorable family situation. Mother is a very
13 heavy drinker, and she is on Social Assistance and lives with
14 an alcoholic boyfriend. Father has departed and lives with
15 another woman. John describes himself as a nervous, high-
16 strung, nailbiting individual, not too bright in school.
17 He has repeated Grades 5, 6, and 7, not being to study in
18 the home situation. John and his mother fight and argue
19 after mostly -- often mostly about the mother's drinking."
20 Was that consistent with the impression you had as well
21 that the fights that he had with his mother were mostly
22 about her drinking?

23 A. That's what he said, yeh.

24 Q. Yes. Yes. Okay. Did you ever see the mother?

25 A. No.

1 Q. Never saw her?

2 A. No. Never did at all.

3 Q. Pardon?

4 A. No. I never saw the mother, no.

5 Q. No.

6 A. Or the father. Or the father.

7 Q. To gain an insight into him and the treatment that he would
8 require, would it not have been desirable for you to have
9 interviewed the mother?

10 A. Yea, but they don't -- didn't want to come, you know.

11 Q. She didn't want to come?

12 A. I think so because she didn't want to and we tried. On the
13 phone we have talked to her two times. I didn't, but the
14 social worker have.

15 Q. Did you ever request Mrs. Pratico to come to see you?

16 A. Must have through John or through the social worker because
17 she didn't want to come near other place --

18 Q. Sorry, Sir, you say you must of but did you?

19 A. I don't remember, no, to be very honest.

20 Q. I see.

21 INQUIRY ADJOURNED: 11:25 a.m.

22 INQUIRY RECONVENED: 11:40 a.m.

23 Q. Was it your custom, Sir, to read the Cape Breton Post in 1971?

24 A. Yes.

25 Q. Yes.

DR. M.A. MIAN, by Mr. Pugsley

1 | MR. CHAIRMAN:

2 | Doesn't everyone?

3 | MR. PUGSLEY:

4 | I beg your pardon?

5 | MR. CHAIRMAN:

6 | Doesn't everyone?

7 | MR. PUGSLEY:

8 | Yes, I'm sure they do, My Lord.

9 | BY MR. PUGSLEY:

10 | Q. The trial of Donald Marshall, Jr., and the subsequent
11 | conviction of Donald Marshall was a matter of publicity in
12 | the paper. Do you recall reading about it at the time?

13 | A. Yes. Yes.

14 | Q. I'd like to perhaps introduce through this witness -- I can
15 | prove it formally if necessary -- some of the reports that
16 | were in the paper. Sorry, the piece of paper I've passed to
17 | you did not have the date put on it, but the photostat from
18 | from which it was made does have the date, and I'll read
19 | that into the record. This is Exhibit 51, and it purports
20 | to be a photostat of a page from the Cape Breton Post,
21 | Friday, November 5, 1971, headline, "Marshall Denies
22 | Stabbing Seale," and the only matters I wish to bring to
23 | your attention, Sir -- I've underlined some comments about
24 | the middle of the column -- "The defense counsel said
25 | only two of the Crown's eighteen witnesses were important,

1 and the whole case hangs on their testimony." And then later
2 down at the bottom of the column, "Eyewitness John Pratico
3 said in the court corridors during the trial that Marshall
4 didn't stab Seale because he was afraid for his life,'
5 Mr. MacNeil said." Do you have any recollection at the
6 time of the Marshall trial that Mr. Pratico was a witness
7 during that trial, and would that have meant any -- Would
8 that name have meant anything to you?

9 A. What was the question, please?

10 Q. Yes. Do you recall reading the Cape Breton Post at about the
11 time of the Marshall trial and the play given to the evidence
12 given by the two eyewitnesses and one of them being identified
13 as John Pratico, and do you recall whether or not that name
14 would have meant anything to you at that time in November 1971?
15 Would Pratico's name have meant anything?

16 A. It did mean to me what was the outcome of the trial, that's all.

17 Q. I'm sorry. I missed what you said, Sir.

18 A. Yeh. I followed with interest and what the outcome will be.

19 Q. You were interested in what the outcome would be, yes?

20 A. Yeh, how -- what the Court is going to decide.

21 Q. Were you of interest that Mr. Pratico was a witness? Does
22 that name --

23 A. Yes. Yes.

24 Q. I see. And would Mr. Pratico's name have meant something to
25 you in November of 1971 as being a patient of --

1 A. Yes. Yeh.

2 Q. I see. You would have recognized that name?

3 A. Yes.

4 Q. Alright. I'll just give you one further report that appeared
5 in the paper on November 4, 1971. This purports to be
6 November 4. I can certainly get that verified. There's
7 just a handwritten note that indicates this is November 4,
8 but I can certainly take steps to confirm that that was the
9 day. I'm going to show you Exhibit 52, Doctor Mian, which
10 purports to be a page or part of a page from the Cape Breton
11 Post of November 4, 1971. "Supreme Court -- Sixteen witnesses
12 give evidence of Sydney teenager. Testified in Supreme Court
13 yesterday he was hiding behind a bush in Wentworth Park late
14 on the night of May 29 when he saw two youths arguing. John
15 Pratico, 16, said he recognized them as Donald Marshall, Jr.--"
16 And would that again have been a paper that you would have
17 read?

18 A. Yes.

19 Q. And an article that you would have read?

20 A. Yes.

21 Q. Yes. Do you recall having any discussion with Doctors Binney
22 or Doctor Donovan concerning the fact that Pratico was giving
23 evidence in court and whether or not it was appropriate for
24 him to do so?

25 A. I might have. You know. I don't remember that.

1 Q. Okay. But, in any event, I take it from what you said
2 earlier that even if you had -- Even if you were of the
3 opinion that it was not appropriate for Pratico to give
4 evidence -- that he was not reliable -- that you would
5 not have taken the initiative yourself and advised the Crown
6 Prosecutor or any authorities, but you would have responded
7 to a request from an appropriate party for information con-
8 cerning his condition. But you would not have taken the
9 initiative?

10 A. That's correct.

11 Q. I see. Was that the practice that was followed by all the
12 doctors in the Cape Breton Hospital at that time?

13 A. I think so.

14 Q. Was that, in fact, a practice of the hospital?

15 A. Yes.

16 Q. I see. My friend, Ms. Edwardh, asked you about Pratico's
17 condition, and, as I recall your evidence, you suggested
18 that from October and November of 1971, he went downhill
19 until he got back into the Cape Breton Hospital in November
20 of 1971.

21 A. Yes.

22 Q. And that was your evidence?

23 A. Yes.

24 Q. I want to refer you to the clinical record of Mr. Pratico
25 from the Nova Scotia Hospital. That is the psychiatric

DR. M.A. MIAN, by Mr. Pugsley

1 survey dated November 29, 1971. I'll just try and find that
2 page for you in Exhibit 47. It's slightly more than one
3 page again by Dr. P.K. John. November 29, 1971.

4 A. Yes, I have it.

5 Q. You have it? Good. I'll just --

6 A. November 29, '71?

7 Q. I'll show you the page I'm looking at, Doctor.

8 A. Fifty-three it says. Yes, Sir. I have it.

9 Q. You have that one there?

10 A. Yeh.

11 MR. PUGSLEY:

12 Does the Commission have it? It's November 29, 1971. I'll
13 try and find the location. Yes. No. It's November 29, and
14 it's a little more than one page. Just one second. I'll just
15 try and find where that is located in Exhibit 47. Let's see now.
16 I think Doctor Mian has found it. I'll just take a look in his
17 book and see where it's at.

18 THE WITNESS:

19 This one?

20 MR. PUGSLEY:

21 That's the one. You've got the right one, Doctor, and it would
22 appear to be about halfway -- about in the middle of the book.

23 COMMISSIONER EVANS:

24 What is the first line?

25 MR. PUGSLEY:

The first line is --

DR. M.A. MIAN, by Mr. Pugsley

1 The first line is, "Psychiatric Survey, November 29, '71.
2 Situation, Complaint, and Problem."

3 MR. CHAIRMAN:

4 Carry on.

5 MR. PUGSLEY:

6 All right, thank you.

7 BY MR. PUGSLEY:

8 Q. This again is a report by Dr. P.K. John, and it says: "This
9 patient was in the Nova Scotia Hospital Adolescent Program
10 from 25/08/71. That's from August 25, '71 to 25/10, a period
11 of two months to October 25, '71 with the diagnosis of
12 schizophrenia. He was discharged on chlorpromazine and
13 referred to a local psychiatrist." On the mental status
14 examination, Doctor John writes, "This shows a very hyper-
15 active, jumpy, jittery male who is walking around rapidly
16 from end to end of the ward. It is difficult to reason with
17 him or carry on an organized conversation with him because
18 he's argumentative and somewhat hostile. He seems also to
19 be putting on quite a dramatic show to impress the staff and
20 the patients. He made statements that he does not need to
21 be in hospital. He uses vulgarities lavishly. He seems to
22 be in good contact with reality." And I stress those words
23 to you. Did you -- Is it your opinion that Mr. Pratico was
24 "in good contact with reality" in November of 1971?

25 A. It appears from the record. Yes. He could have been in

1 contact with reality because he was still on chlorpromazine.
2 That's 200 mg. Q.I.D. That's 800 mg. That's quite a heavy
3 dose --

4 Q. Yes.

5 A. -- of medication.

6 Q. Doctor John goes on to say, "His sensorium appears normal."
7 What does the word "sensorium" mean?

8 A. His intellect; for example, contact. You know. Is he
9 oriented to time, place, and person?

10 Q. His what?

11 A. Is he oriented to --

12 Q. His orientation with --

13 A. -- towards time --

14 Q. Towards time?

15 A. -- place, and person.

16 Q. Towards time, place, and person. Okay. "He shows no dis-
17 orientation. His thinking seems to be clear. There is no
18 evidence of delusions or hallucinations." Then it goes on
19 to say at the bottom of that page, "He says that he has been
20 doing a considerable amount of drinking, mostly rum and wine.
21 He said that the trial of the Indian boy about which he was
22 worried on his last admission is over with. The man was
23 apparently sentenced and sent to Dorchester. John himself
24 was a witness at the trial." Doctor John obviously was
25 aware that he was a witness, as I guess -- as you have

1 indicated you were as well. At the top of the next page, he
2 says, "He does not appear to be overtly psychotic but more
3 hypomanic at the present time." What does the word "hypo-
4 manic" mean?

5 A. Hyperactive grandiose -- agitated.

6 Q. And the following page the word appears -- the conclusion
7 appears, "He does not appear to be psychotic as reported by
8 the family doctor who referred him." Did Doctor Donovan
9 see him between October 25 and November 25? Did Doctor
10 Donovan? Your Doctor Donovan?

11 A. Yes. Yea.

12 Q. At the Cape Breton Hospital.

13 A. Between?

14 Q. Between October 25, when I believe he was discharged from
15 the Nova Scotia Hospital and November 25, when he went back.

16 A. He was there from November 29, '71 to March 29, '72 --

17 Q. Yes.

18 A. -- at the Nova Scotia Hospital.

19 Q. Yes.

20 A. And he --

21 Q. My question was: Was he seen by anyone at the Cape Breton
22 Hospital between October 25, '71 and November 29, '71.

23 A. Between October -- Young brother, Richard, joined army in
24 October of '71, and he was planning to go there.

25 Q. Yes.

1 A. That's about all I have in here.

2 Q. I see.

3 A. I don't know.

4 Q. Alright. Okay. In 1971, is it your -- I'm sorry -- Is it
5 your opinion now that in 1971 that Mr. Pratico would have
6 reacted or would have become more upset under conditions
7 of stress?

8 A. Yes.

9 Q. Yes. I take it that the trial -- the Supreme Court trial with
10 a judge and a jury would have been a very stressful situation
11 for him?

12 A. Yes. That's correct.

13 Q. Is it fair to say that that probably would be the most
14 stressful kind of situation that he would be put in in that
15 year?

16 A. That's correct.

17 Q. And that if he was going to fly apart or show obvious
18 distressful problems, they would have been manifested
19 during the course of giving evidence at that trial?

20 A. Yes, but he was also on quite a bit of medication. That
21 might have helped him a little.

22 Q. I see.

23 You've indicated that part of his condition was that he liked
24 to please people. He liked to tell them what they wanted to
25 hear.

1 A. That's correct.

2 Q. And is that something that continued throughout 1971 --
3 throughout 1982 as well?

4 A. Yes.

5 Q. And when he saw Constable Carroll -- or Corporal Carroll -- in
6 February of 1982, would he have wanted to say things that
7 would have pleased Corporal Carroll?

8 A. Now, in my opinion, that's quite possible, but I think
9 that the first time because he started to face the truth,
10 I think, because, if I remember correctly, around that time
11 he saw Mr. Seale in New Waterford and told him the same
12 story that he stuck to -- original story.

13 Q. Yes.

14 A. If I remember correctly.

15 Q. I think your memory is correct as far as we know. We're not
16 sure exactly when that interview with Mr. and Mrs. Seale
17 took place. We believe it was early in 1982.

18 A. It's around that time, yeh.

19 Q. Yes, but leaving that aside for a moment, as far as
20 Corporal Carroll is concerned in February and in the
21 early months of 1982, was part of Mr. Pratico's condition
22 such that he wanted to please people, such as Corporal
23 Carroll with whom he came in contact?

24 A. It's quite possible.

25 Q. Yes. And, indeed, you felt he was still ill at that time?

1 A. Yes. Yeh.

2 Q. In fact, you've sworn an affidavit to the effect that he was
3 ill at that time.

4 A. Yes.

5 Q. With respect to Mrs. Seale and Mr. Seale, I don't quite
6 follow why he felt that it would be pleasing for him to say
7 that he saw their son murdered. Why would he feel that that
8 was a good thing to say to Mr. and Mrs. Seale?

9 A. I don't know.

10 Q. I see. Turning to your affidavit, which is found in
11 Volume 12 at page 288 -- If you would just turn to that
12 for a moment, Doctor. Volume 12, a red book.

13 A. This volume?

14 Q. It's a large book. I think it's probably at the front here,
15 Sir. Page 288? Right. Very close to the second-last page
16 in the Volume. Page 288, the second-last page in the Volume?

17 A. Oh, okay. I don't have page 288.

18 Q. Oh, I'm sorry. I'm sorry. I gave you the wrong Volume.
19 That's Volume 21. Volume 12. That's it right there, Doctor.
20 I'm sorry.

21 A. 288?

22 Q. 288, yes. Is it your recollection, Sir, that it was Corporal
23 Carroll or Corporal Wheaton who brought this affidavit to you?
24 I notice that -- It would appear to be a John Khattar who took
25 your affidavit. I guess we don't know who is the person who

1 is the person who took that affidavit , (but it was obviously
2 someone who described himself as being a lawyer, a barrister
3 of the court), but is it your evidence that Corporal Carroll
4 or Corporal Wheaton brought this affidavit to you?

5 A. I don't remember which one.

6 Q. But you did say in response to a friend -- to a question
7 from my friend, Ms. Edwardh, that there were probably two
8 or three occasions that you discussed with Wheaton and
9 Carroll the contents that eventually went into this affidavit?

10 A. I think so.

11 Q. Yes. Okay.

12 A. You say, "That I am a psychiatrist and presently the Medical
13 Director of the Cape Breton Hospital, an institution for
14 the treatment of the mentally ill and that that statement
15 was true." That statement is true, yes?

16 A. Yes. Yes. Yeh.

17 Q. Secondly, "That I know John Louis Pratico who testified at
18 the preliminary hearing in July 1971 and trial of Donald
19 Marshall, Jr., who was subsequently convicted of the murder
20 of Sandy Seale." And that certainly was true.

21 A. Yes.

22 Q. Thirdly, "That the said John L. Pratico has been a psychiatric
23 patient of mine from August 1970 to date." We discussed
24 that earlier -- that's not true.

25 A. Yea. It should be corrected.

1 Q. That should be corrected. Yes. Right. Did you understand the
2 difference between an affidavit and a statement? Did you
3 understand that the statement that you signed for Corporal
4 Wheaton found in Volume 21 at page 77 was a statement that
5 you signed and that an affidavit is a document in which
6 you swear that what you are saying is the truth? Did you
7 differentiate between those two in your own mind?

8 A. No. No, I didn't.

9 Q. You did not.

10 A. No.

11 Q. I'm not saying that you should have.

12 A. Thank you very much. Yeh.

13 Q. Alright. You say that, "My medical diagnosis of the said
14 John Pratico since August 1970 is that he suffers from a
15 schizo -- And what is that word? Is that your word?

16 A. Schizophreni - form. That's a terminology in which the
17 diagnosis of acute schitzophrenia with a little bit of
18 mental retardation. It's a illness resembling schitzophrenia.

19 Q. That is a medical term, that word as it is spelled right
20 there, is it?

21 A. Yea.

22 Q. Okay. "Manifested in his case by liability to fantasize and
23 thereby distortion of reality and rather childish desire to
24 be in the limelight or center of attraction." You go on to
25 say that, "In order to function outside of a psychiatric

1 institution, the said John Pratico has since August 1970
2 to date been on continual medication under my direction."

3 A. No.

4 Q. Well, that was not accurate, was it? It was not under your
5 direction that he was on medication since August 1970?

6 A. For that period, you know, from '72 it has been my --

7 Q. From '72, quite so. When did he first start taking
8 medication?

9 A. When he first went to Nova Scotia Hospital and prior to that
10 on a very small --

11 Q. How long prior to that was he on --

12 A. That was -- It was 5 mg. B.I.D. from July 30, 1971. Nozinan.

13 Q. Is that when he first started medication?

14 A. Yeh. That's when he was started, but he was not very
15 compliant.

16 Q. I'm sorry?

17 A. He didn't take it regularly, but that's when it was given --
18 prescribed to him to be administered by the mother because
19 he was still an adolescent at that time.

20 Q. Yes, but did he start taking medication before July 30?

21 A. Yea. This was on July 30, '71. He was prescribed that
22 medication.

23 Q. That's the first time he was prescribed medication?

24 A. Yea, a very small amount.

25 Q. Okay.

DR. M. A. MIAN, by Mr. Pugsley

1 A. This on page one.

2 Q. Yes.

3 COMMISSIONER EVANS:

4 1971?

5 MR. PUGSLEY:

6 1971, yes. Yes.

7 BY MR. PUGSLEY:

8 Q. Were you asked for an opinion as to whether or not it was
9 appropriate for Mr. Pratico to give evidence before the
10 Appeal Division of the Supreme Court of Nova Scotia in December
11 of 1982?

12 A. Yes.

13 Q. And to whom did you give the opinion?

14 A. It's here somewhere. It should be here.

15 Q. I thought it was here too, and Mr. Spicer can perhaps assist in
16 that regard.

17 MR. PUGSLEY:

18 Is there some other document where -- that Doctor Mian has signed --

19 MR. SPICER:

20 1982?

21 MR. PUGSLEY:

22 Yes, with respect to the giving of evidence at the Appeal Division.

23 THE WITNESS:

24 Just these two. That's all.

25

DR. M.A. MIAN, by Mr. Pugsley

MR. SPICER:

1 I don't think so. I think maybe he's talking about the opinion
2 in the affidavit.

3 THE WITNESS:

4 That was on July 19, 1982.

5 BY MR. PUGSLEY:

6 Q. Yes. In December 1982, there was a hearing in Halifax at
7 which certain individuals gave evidence. Mr. Pratico was
8 not one of them. It's my recollection. Were you asked to
9 give an opinion as to whether or not it was appropriate or
10 he was capable --

11 A. If I recollect, they said this would be more than enough
12 and there was no need. If I remember correctly. I don't --

13 Q. You don't recall whether you were asked to give advice on
14 that point or not? Do you recall whether or not you were
15 asked to advise as to whether or not he was capable of --

16 A. Yea. We were talking about what December it was.

17 Q. December of 1982, six months after your affidavit.

18 A. Oh, I remember it now that I was supposed to testify.

19 Q. You were supposed to testify?

20 A. Yes, about his not being reliable and then it was supposed
21 to be in Halifax or Dartmouth, I think.

22 Q. Yes.

23 A. I was to appear, but then I was advised that there's no need
24 for me to come.

25 Q. I see. Did they ask you whether or not Mr. Pratico should

DR. M. A. MIAN, by Mr. Pugsley

1 | testify?

2 | A. I presume that he was not going to testify anyway and that's
3 | why they wanted me to go and testify. I think it was in
4 | Dartmouth. It was scheduled in Dartmouth. Right. And then
5 | I advised that there's no need for me to come.

6 | COMMISSIONER POITRAS:

7 | I think his ability to testify is in relation to 1987, before this
8 | Commission.

9 | MR. PUGSLEY:

10 | Yes, I wondered whether or not he had given any advise in 1982.

11 | COMMISSIONER POITRAS:

12 | '82. I havent' seen any.

13 | MR. PUGSLEY:

14 | No, I perhaps was wrong in thinking that Doctor Mian had been asked
15 | for an opinion on that point.

16 |

17 |

18 |

19 |

20 |

21 |

22 |

23 |

24 |

25 |

1 | BY MR. PUGSLEY:

2 | Q. When did you consider that it was appropriate for him to
3 | testify?

4 | A. When I was asked again and that was -- that was -- That's
5 | the first letter?

6 | Q. In your letter?

7 | A. Yes.

8 | Q. Yes. Your letter I think is 1987?

9 | A. March 18th, 1987.

10 | Q. Did you consider that he was capable of testifying before
11 | that time?

12 | A. No, I don't think I entertained that, you know. When I was
13 | asked then I examined him and then that's when I wrote this
14 | letter.

15 | Q. Yes, but at any time prior to 1987, did you consider that he
16 | was in a fit condition to testify?

17 | A. If you ask me now, I think for the past few months, you know,
18 | since --

19 | Q. Only the past few months?

20 | A. From '86 onward --

21 | Q. Yes.

22 | A. --he has continued to maintain improvement, but I did not
23 | especially address this issue at any interviews, whether he
24 | is capable to testify or not.

25 | Q. You've had a number of interviews with Mr. Spicer, the

DR. M. A. MIAN, by Mr. Pugsley

1 gentleman who examined you this morning?

2 A. Yes.

3 Q. Interviews that have taken place, I guess, from March of this
4 year onward?

5 A. Very brief ones, yes.

6 Q. Yes. Right. Did you tell Mr. Spicer that you had looked after
7 Mr. Pratico in 1971, at the time of the Marshall trial?

8 A. I don't remember. I must have said the same statement, yes.

9 Q. Yes.

10 A. Yeh.

11 MR. PUGSLEY:

12 One moment, My Lord, if I may.

13 BY MR. PUGSLEY:

14 Q. Would -- In your opinion, Doctor, would Mr. Pratico's mental
15 problems have been apparent to the Jury or the Judge in the
16 Donald Marshall trial in November of 1971, and just to give you
17 a little assistance in that regard, he was on the stand for
18 a period of time. I'll try and assist you by showing you
19 the length of the examination which doesn't really tell you
20 how long he was on the stand, but it gives you an idea of the
21 extent to which he was questioned, and I'm referring to
22 volume 12, starting at page 214 and it goes on to 270, and you
23 can -- There was some argument during the course of that
24 hearing between the lawyers so it just wasn't all questioning
25 of Mr. Pratico but there was a fair length of time that he was

1 on the stand, and he was not only examined-in-chief by the
2 Crown Prosecutor but he was cross-examined by Defence
3 Counsel as well. I realize it's difficult for you to
4 speculate on this because you weren't there but in your
5 opinion would his mental problems -- should they have been
6 apparent to a Jury or a Judge in November of '71?

7 A. I think so. They should have been because under stress he
8 is over-talkative.

9 Q. Over-talks?

10 A. Over-talkative.

11 Q. Yes.

12 A. Anxious. His concentration gets effected too, but he must have
13 been under medication, but under that kind of stress I would
14 speculate that he could manifest something.

15 Q. And how would you expect -- What would be the kinds of things
16 that would give him away if you like?

17 A. For example, if you question him constantly and ask him, he
18 might become belligerent--

19 Q. Yes.

20 A. --or uptight or he might want to leave the court or some sort of
21 aggressive or impulsive out-burst under pressure.

22 Q. Yes.

23 A. And that -- It would have manifested that in the court
24 but he went through all that according to --

25 Q. Yes.

1 A. Yeh.

2 Q. You said that you saw -- started seeing him in March of 1972
3 and saw him every two weeks for --

4 A. Almost, yes.

5 Q. --for what period of time did that continue?

6 A. All throughout the --

7 Q. Throughout?

8 A. Depending upon, once a month to every three weeks, but he has
9 been --

10 Q. So you would have see him--between 1972 and the present time
11 you would have seen him --

12 A. Yeh.

13 Q. --a hundred times?

14 A. Around. About. Okay. Yeh.

15 Q. Sure, and at no time did he mention to you the fact that he had
16 given evidence that was not accurate until 19 -- when, 19--

17 A. In 1982 when he talked to the Social Worker. He didn't want
18 to talk to me. He wanted to talk to the Social Worker, something
19 was bothering him, and then I think the Social Worker, Mr.
20 Arsenault arranged the meeting with the -- Sergeant Carroll
21 or something?

22 Q. Yes.

23 A. And after their interview, he was relieved
24 and after all that was done, then John came and --with the social
25 worker would discuss his --

- 1 Q. But his first -- his first approach was to Mr. Arsenault
2 the Social Worker?
- 3 A. I think so.
- 4 Q. Is he still with you?
- 5 A. Yeh.
- 6 Q. Yes. What were his qualifications at that time?
- 7 A. He has a Master in Social Services -- Social Work.
- 8 Q. The fact that he approach Mr. Arsenault first rather than you,
9 does that mean that he was more at ease with Mr. Arsenault or--
- 10 A. No, I was just supervising. I didn't have time to sit with
11 him for half an hour and Mr. Arsenault was talking to --
12 kept -- you know that's C.T.R.
- 13 Q. And do you know whether or not Mr. Pratico took the initiative
14 with Mr. Arsenault before the R.C.M.P. spoke with him in '82,
15 or after?
- 16 A. I think the date is here. If I may refer to page -- on page
17 ten, volume --
- 18 Q. Yes. That would be Exhibit 47 I guess.
- 19 A. And the date at the bottom paragraph --
- 20 Q. February 28th, 1982?
- 21 A. Yeh.
- 22 Q. John was seen by Constable Carroll?
- 23 A. Yeh.
- 24 Q. Yes, but at that time -- Even in February of 1982 you felt that
25 his communications were unreliable?

1 A. Yes.

2 MR. PUGSLEY:

3 Thank you, Doctor. That's all the questions I have.

4 MR. MURRAY:

5 No questions on behalf of William Urguhart.

6 MR. ELMAN:

7 No questions.

8 MR. PINK:

9 No, My Lord.

10 MR. SAUNDERS:

11 No questions.

12 MR. CHAIRMAN:

13 Mr. Bissell.

14 BY MR. BISSELL:

15 Q. Doctor Mian, just a couple of very brief questions. If you
16 would turn again please to volume 12 of the Exhibit Books to
17 your affidavit at page 288 and 289.

18 A. Yeh.

19 Q. That's volume 12 of the Exhibit Books. Volume 12. Over on the
20 last page of the affidavit, the signature there of the lawyer
21 John Khattar, or it appears to be a John Khattar or someone,
22 does that assist you in any way to recall the events around
23 the taking of the affidavit?

24 A. John Khattar is our hospital's solicitor.

25 Q. I see.

1 A. And I must have requested this because he is our hospital's
2 solicitor and that's why his name is there.

3 Q. You say you must have requested it. Do you recall today?

4 A. No, not really. I'm sorry.

5 Q. I take it then it's fair to say that you have no independent
6 recollection of the signing of this affidavit?

7 A. No, I -- These are my signatures. I have signed it.

8 Q. Yes, but today you don't recall signing it, I take it. Is that
9 correct?

10 A. Oh, no, I remember signing it and Mr. Khattar was there too
11 when I signed it. I don't remember who initiated it or who
12 prepared it.

13 Q. Do you recall if anyone else was there with you besides
14 Mr. Khattar and yourself?

15 A. Not really. I'm sorry.

16 Q. I take it then, is it -- is it fair to say that you don't
17 really recall many of the circumstances or the details as
18 to how the information that's contained in this affidavit was
19 communicated to the individual who prepared the affidavit
20 for your signature?

21 A. What -- You want -- Could you clarify or make it simpler for me please?

22 Q. Okay. Do you recall today --

23 A. Yeh.

24 Q. --how the information that's in this affidavit was communicated
25 to the person who prepared it for your signature?

DR. M. A. MIAN, by Mr. Bissell, by Mr. Ross

1 A. I think it was the R.C.M.P. who initiated some sort of
2 investigation and I was given a directive or requested to
3 give this affidavit or give my -- what I thought of the case.

4 Q. And who was it that directed you to give the affidavit, do you
5 recall that?

6 A. The R.C.M.P. officers, you know -- I don't remember really.

7 Q. Does the name Mr. Aronson mean anything to you?

8 A. Mr. who?

9 Q. Aronson, Steven Aronson? You don't. Okay, fine.

10 MR. BISSELL:

11 Thank you, Doctor Mian.

12 MR. CHAIRMAN:

13 Mr. Ross.

14 BY MR. ROSS:

15 Q. Doctor Mian, perhaps you could help me understand something.
16 Now by my calculation John Pratico would have been around
17 sixteen years and five months in May of 1971, and almost
18 seventeen when he had completed giving his evidence in
19 November of 1971. Now you describe him, as I understand it,
20 as somebody who was on the edge of being retarded. Am I correct
21 with that?

22 A. Yes.

23 Q. And you also described him as somebody who was a bit of a slow
24 learner. Am I correct with that also?

25 A. Yes.

1 Q. Yes, and you further indicated that he had the capacity to
2 fool the investigating police, to fool the Judge at the
3 Preliminary Inquiry, to fool the Judge again at another
4 Preliminary Inquiry, and to fool a Judge and Jury. Now as
5 a member of the legal profession I find that a little bit
6 untenable. Perhaps you could explain. Does this seem
7 reasonable to you?

8 A. Let me try to explain it to you. Here is a man who has been
9 victimized all through his formative and developmental years.
10 He finds himself in this situation. The only way he knows to
11 deal with it is either to fight the system or join them, so
12 considering his mental state at that time and the circumstances
13 at that time, he did not know what would be -- which way should
14 he turn, and he goes through a lot of emotional turmoil.
15 It was a very traumatic event for him and he stuck to one
16 story, and once he decided that this is where his survival
17 lies and for -- once we know that we can survive with this,
18 that's what he stuck with, whether he lives with it or not,
19 that's separate.

20 Q. Well, wouldn't you agree that this is where his self-
21 victimization; if he put himself in a position to have to
22 create a story?

23 A. Yes. I mean -- Could you say that again please.

24 Q. Yes. You said that he was victimized. Now my understanding
25 is that he created the story himself. How would he be

1 | victimized?

2 | Q. Because he got -- remember that if he go this way, he would
3 | be in trouble. If he this go -- If he go that way, he will
4 | be in that group so I thought he went along where he will
5 | have some kind of a security or self-survival even though
6 | it was detrimental to him in the long run, but anyway this
7 | is -- this is my explanation.

8 | Q. I see, but the fact is that you did not really become in
9 | personal contact with him until sometime in 1972?

10 | A. Yes.

11 | Q. Yeh.

12 | A. Yeh.

13 | Q. I see. Now I am going to want to question other witnesses
14 | about your affidavit and as such, I'd ask you to be good enough
15 | to help me to correct it. Perhaps we'll just refer you to
16 | your affidavit which is in volume 12 at page 288. You've
17 | got it, volume 12?

18 | A. I have my affidavit.

19 | Q. Yes. Volume 12?

20 | A. Yes.

21 | Q. Page 288, you've got that?

22 | A. Yeh.

23 | Q. Okay. In paragraph three you say that:

24 | "John Pratico has been a psychiatric
25 | patient of mine from August, 1970,
 to date".

1 And that date would be July 19th, 1982, the date of the
2 affidavit?

3 A. Yeh.

4 Q. Yes. Now August, 1970, that's incorrect. Am I --

5 A. Yeh, it should be that -- that, "...has been a psychiatric
6 patient of ours ...", instead of "mine".

7 Q. Of ours?

8 A. Yeh.

9 Q. I see, and then if it was "ours" then you and somebody else
10 would have to sign the affidavit?

11 A. Yeh.

12 Q. Now I want to know about your personal knowledge. As far as
13 your personal knowledge is concerned, what would be the proper
14 date instead of August, 1970. Would that be March, 1972?

15 A. Oh, yes. Yeh.

16 Q. So if we put March, 1972, then that paragraph will be correct.
17 Am I --

18 A. Yes.

19 Q. And then you go on paragraph four to say that:

20 "My medical diagnosis of the said
21 said John Pratico since August,
1970..."

22 And it continues. So if we change August, 1970, again to
23 March, 1972, will that paragraph number four then be correct?

24 A. Yeh. Yeh.

25 Q. And then in paragraph number five it says that:

1 "In order to function outside of
2 my psychiatric institution, the
3 said John Pratico has since
4 August, 1970, to date been on
5 continual medication under my
6 direction".

7 Should we take that date out, August, 1970? And what --

8 A. I think we should make it under "our" direction because there
9 were other psychiatrists who --

10 Q. Well, yes, but we'll get to the other psychiatrists. I
11 want to talk to you.

12 A. Okay. Fine.

13 Q. Yes. So we'll take that August, 1970, out and what should we
14 put in there?

15 A. March the -- This other date. Yeh.

16 Q. March, 1972. Am I correct?

17 A. Yeh.

18 Q. And should it also say that he has been your patient from
19 time to time instead of continually?

20 A. He had been under my continual care.

21 Q. Under your continual care?

22 A. Although I had designated that care to somebody else.

23 Q. I see.

24 A. Yeh.

25 Q. So then if we just change the date you will stand by paragraph
five as being the truth?

A. Could you read that again please.

1 Q. I'm asking you to look at paragraph number five of your
2 affidavit --

3 A. Yes.

4 Q. --of July 19th, 1982?

5 A. Yeh.

6 Q. And I'm suggesting to you that it is incorrect but with
7 particular reference to the date August, 1970, and you've
8 agreed with me that that date should be March, 1972.

9 A. Okay. Fine.

10 Q. Yes, and I'm asking you if I make that one change from
11 August, 1970, to March, 1972, will that paragraph number five
12 then be absolutely correct after that change is made?

13 A. Under -- Yeh, under "bur" direction because other psychiatrists
14 have prescribed too.

15 Q. Yes, I appreciate that, Doctor Mian. I appreciate that but
16 I just want to know about you right now. Perhaps we'll get to
17 the others later.

18 A. Oh, okay. Fine. Fine.

19 Q. I just want to be sure, so that if paragraph five was to read:

20 "That in order to function outside of
21 a psychiatric institution, the said
22 John L. Pratico has since March, 1972,
to date been on continual medication
under my direction".

23 A. Okay.

24 Q. Would that be a correct statement?

25 A. Yes.

1 Q. And as far as paragraph six is concerned, it reads:

2 "That on August 31, 1971, the said
3 John L. Pratico was admitted to the
4 Nova Scotia Hospital in Dartmouth
for psychiatric treatment".

5 A. Yeh.

6 Q. That statement would remain?

7 A. That's correct.

8 Q. Yeh. Now you go on to say that:

9 "In my medication opinion that the
10 said John L. Pratico was in 1971,
and had been continuously to date
11 a wholly unreliable informant and
witness with regard to the subject
12 or event, but more particularly in
the Sandy Seale murder case of
13 1971".

14 A. Yes.

15 Q. That paragraph, is that correct or would you like to change it?

16 A. I think it is correct. That's my, you know -- Reviewing all
17 his charts and the documents and everything, that's my
18 opinion.

19 Q. And then as far as reviewing the charts are concerned now you --
20 I take it that you are referring to his medical information.
21 Am I correct with that?

22 A. Prior to '72, yes.

23 Q. Just referring to his medical information?

24 A. Yes.

25 Q. Now I take it that if you look at the grey volume, Exhibit 47,

1 that's pages one to eleven of the "Accumulative Therapeutic
2 Record". Pages one to eleven would cover the period prior to
3 your affidavit?

4 A. Pardon.

5 Q. I'll ask you to look at Exhibit 47, the grey volume.

6 A. Yes. Yeh.

7 Q. And I asked you to look at the "Accumulative Therapeutic
8 Record".

9 A. Yeh.

10 Q. And just to confirm for me that pages one to nine (Sorry.)
11 inclusive of that record would be the information that would
12 precede your affidavit?

13 A. Yes.

14 Q. And is it fair to say that prior to 1982 when you were called
15 upon to do this affidavit or give a statement, that John
16 Pratico was really just one of many patients that you were looking
17 after?

18 A. That's correct.

19 Q. And is it fair to say that you would not have had any particular
20 or peculiar interest in John Pratico over and above any other
21 patient?

22 A. I would like to disagree with you there.

23 Q. Well, then perhaps you could explain to me --

24 A. Yes.

25 Q. --why would you have any peculiar or special interests in

1 John Pratico over any other patient?

2 A. Okay. Because his community functioning -- Because we tried
3 him on many programs and it was always a hit and a miss and
4 I was always constantly in consultation with community
5 friends and with the Social Workers and with other agencies
6 and John would come in many times in distress, so that -- and
7 he would be, if not handled in a crisis situation would
8 present difficulty.

9 Q. I see. So there was a reason for special interest with
10 John?

11 A. Yeh.

12 Q. Yes.

13 A. It was his stability.

14 Q. Yes. Now I also understand from your testimony, and correct me
15 if I'm wrong please that as far as your information about John
16 is concerned, you'll get this information primarily from the
17 "Accumulative Therapeutic Records"?

18 A. Yes.

19 Q. Yes, but then, you see, as I look at the "Accumulative
20 Therapeutic Record", and I turn to page four -- sorry, page
21 five, I notice that at the bottom of page five going on to
22 the top of page six there is just a very small reference, a
23 very short reference to John being hospitalized in 1971?

24 A. On page five?

25 Q. On the bottom of page five going to the top of page six.

1 A. Yeh. Okay.

2 Q. There are just two paragraphs really --

3 A. Yeh. Yeh.

4 Q. --which address the fact that John was hospitalized and they
5 don't go into very much detail?

6 A. The reason is we have a Discharge Summary from the Nova Scotia
7 Hospital on record.

8 Q. Oh, yes, and I take it that you looked at the Discharge Summary?

9 A. Yeh.

10 Q. And--

11 A. And the records from the Nova Scotia Hospital.

12 Q. So I take it then that what you did is you read the Discharge
13 Summary and you read the records from the Nova Scotia Hospital.
14 Am I correct?

15 A. Yes.

16 Q. And you accepted them as written?

17 A. Yes.

18 Q. And having accepted them, that was really -- that constituted
19 really the basis of your opinion?

20 A. This is my own knowledge of him from '72 onwards.

21 Q. I see, and -- but how would that assist you in coming to the
22 conclusion that in 1971 prior to your even meeting John
23 Pratico, that he would have been an unreliable witness?

24

25

JMR

1 A. As I explained to you before, this -- as you pointed out
2 too -- that this is a boy who was making a marginal improvement
3 in the community.

4 Q. Pardon me?

5 A. This lad -- this man was having a difficult time in the
6 community and at home. He was --

7 Q. Perhaps I may interrupt you. He was having a difficult time,
8 and in your experience, when did this difficult time begin?

9 A. Ever since he - you know, in his developmental and formative
10 years. He was slow and -- a slow learner.

11 Q. Well, would that mean when he's at age nine, ten, 15? What
12 age?

13 A. Around that -- you know, maybe after -- you know, around
14 age five or six. He repeated grade five, six and seven.
15 So it was a clear indication that this boy was having difficulties
16 from when he was about nine or ten.

17 Q. But, is -- Wouldn't it be correct that the doctors who were
18 in actually physical contact with this patient, in 1971, would
19 be in a much better position to judge whether --

20 A. That's correct.

21 Q. -- or not he would be reliable or unreliable?

22 A. That's correct. And all I'm doing is giving an opinion.

23 Q. I'm going to come to that. And is it also correct that,
24 from whatever you read about John, you never found any other
25 doctor -- anybody else speaking about him as being unreliable

1 in that regard?

2 A. But I -- If you look at the Nova Scotia Hospital Records and
3 the progress notes, he was not reliable. He was not dependable.
4 He was hyper. He was distractable. It is indicated in there.

5 Q. I see. So, that really was the basis, of your opinion, as
6 far as paragraph seven of your affidavit is concerned?

7 A. Yes.

8 Q. I see. Now, when you spoke with Mr. Pugsley, you spoke
9 with him about your statement. The statement that was given
10 by you, which appears in volume 21 at page 77. Have you
11 got that statement? The one page statement of February
12 the 19th, 1982?

13 A. This one?

14 Q. The one page statement of February in 1982. Have you got
15 that paper?

16 A. Yes.

17 Q. Yes. And, from Mr. Pugsley's examination of you and your
18 admissions to him, I would get the impression that that
19 statement is, to a large degree, unreliable. Would you
20 agree with me to -- with that conclusion?

21 A. That John is -- is unreliable?

22 Q. That the statement -- the statement as written.

23 A. That I found him to be unreliable informant.

24 Q. No. No. Perhaps we are missing the point. Perhaps I'll go
25 through it with you. The statement, which you gave to Wheaton

1 on February the 19th, 1982.

2 A. Yes.

3 Q. You indicated to Mr. Pugsley that a substantial amount of the
4 information was incorrect. In that statement. The statement
5 of February 19th, 1982.

6 A. February -- yeh, February 19th, 1982.

7 Q. Yes. That, for instance, that second line -- the second line
8 when you say:

9 I've treated John Pratico since August of 1970.

10 A. Yes.

11 Q. That was one of the incorrect statements? Am I correct?

12 A. Yeh, I would have but I'm not sure here.

13 Q. Pardon me?

14 A. Yeh, that should be amended, yeh.

15 Q. And it should be amended to read what?

16 A. Yeh.

17 Q. Should that be amended to read March of 1972?

18 A. That I -- He wanted to recommend -- yeh.

19 Q. I'm not taking you quite clear, Doctor, for some reason.

20 A. How would you like to correct it?

21 Q. I'm asking you. I just want to get the correct thing. You say
22 that he had had a medical -- that--:

23 I am a Medical Director of the Cape Breton Hospital.

24 A. Yes.

25 Q. That's a correct statement?

1 A. Yes.

2 Q. And when you say:

3 I have treated John Pratico since --

4 A. Yeh, it should be we have treated.

5 Q. No, I'm going to ask about you. We're going to get to the
6 "we" eventually.

7 A. Okay.

8 Q. As far as you are concerned, you say:

9 I have treated John Pratico since August of 1970.

10 A. That should be March of '72.

11 Q. March of '72, right?

12 A. Fine.

13 Q. You say:

14 I have found him to be a very reliable informant.

15 A. Yeh.

16 Q. As an informant in what sense? What did you mean when you
17 said, informant?

18 A. Any information.

19 Q. Any information to you?

20 A. Yeh.

21 Q. Yes. And that was your personal experience?

22 A. Yes.

23 Q. So that, really, if that statement is expanded upon to reflect
24 the truth, you would say that since you met him in 19 -- in
25 March of 1972 until --

1 | A. Okay, yes.

2 | Q. -- February of 1982, that's the way you found him.

3 | A. Oh, okay.

4 | Q. Am I correct?

5 | A. Yeh.

6 | Q. But, isn't it fair to say that you couldn't make such a broad
7 | statement with anything before you met him? There would be
8 | no basis, would there?

9 | A. I could from the records.

10 | Q. From the records?

11 | A. Yes.

12 | Q. Yeh. I see. Now, again Doctor, when you were being examined
13 | by Commission Counsel and again by Mr. Pugsley, there was
14 | reference to the fact that there was some discussion between
15 | John Pratico and Mr. and Mrs. Seale back in 1982. Do you
16 | recall that discussion?

17 | A. Just the reference, yes.

18 | Q. Now, my recollection is that, it was advanced to you that John
19 | might have wanted to say something to Mr. and Mrs. Seale which
20 | might not have been true but later on, after he had spoken
21 | to Wheaton and Carroll, that he tended to tell the truth?

22 | A. February -- yeh, February of 1982.

23 | Q. So after February of 1982, when he gave this revealing statement
24 | to Wheaton or Carroll, or whoever it was, from then on it's
25 | you view that he started to tell the truth?

A. Yeh.

1 Q. Yes. Would you find it really surprising and inconsistent
2 with your general impression, if sometime after he had spoken
3 to Wheaton and Carroll, that he would have reverted back to
4 the old story to say that he saw Marshall stab Sandy Seale?

5 A. Yeh.

6 Q. I see. Well, my information is, and we'll be calling evidence
7 to the effect, that when he spoke to Mr. and Mrs. Seale it
8 was subsequent to his giving a statement to the R.C.M.P?

9 A. It could be.

10 Q. Do you find that a difficult proposition to accept in light
11 of your other testimony?

12 A. Would you enlighten me a little more? I am --
13 I am not following you.

14 Q. Well, as I understand the chronology, he will hold on to
15 one story and he held on to a story right up until 1982 when
16 he spoke to the R.C.M.P.

17 A. Yes.

18 Q. That he then changed that story and then told something else
19 to the R.C.M.P.

20 A. Okay.

21 Q. And I'm suggesting to you, that subsequent to that, he
22 reverted to his former story and I'm trying to find out from
23 you, if you've got any explanation why he would do that?

24 A. My only -- I -- All I can inform -- that there was a fire
25 on George Street just in February or March of 1981, If I

1 remember correct. And around this time, he was again
2 afraid that he was in that area and this might have reactivated
3 the whole trauma of the past and he might have switched back
4 and forth because in November, December, around that -- of
5 '81 or so, he had -- the case was dropped or he -- he sought
6 admission to Nova -- Cape Breton Hospital. Just --
7 Just one second, let me find that.

8 Q. Sure.

9 A. That's the only thing I can think of. Well, I refer you to
10 page nine. Page nine of the Cumulative Therapeutic Record.

11 Q. Of which volume? The grey volume?

12 A. Yeh, the grey volume.

13 Q. Page nine.

14 A. Paragraph three.

15 Behind this admission was the reason for John
16 to feel the way he did. The was due to the recent
17 Church fire on George Street. Somehow John felt
that he might be picked up because he was loitering
around on George Street.

18 Now, I think, this triggered it again, and maybe -- that's
19 just a speculation on my -- because the charges would have
20 been drawn to something by the end of this time.

21 Q. Yes, but Doctor, at it, as a matter of fact it appears this
22 was sometime around --

23 A. In February of '82.

24 When he talked to the police in February of '82, when he
25 switched back and forth.

DR. M. A. MIAN, by Mr. Ross, by Mr. Wildsmith

1 Q. Yeh, this is my point, Doctor. In -- It appears as though
2 this fire situation was sometime around April of 1981.

3 Am I correct?

4 A. Yeh.

5 Q. Yes. And then in February of 1982, he speaks to the R.C.M.P?

6 A. Yeh.

7 Q. And for the first time, he gives them a totally new story
8 to what he'd been saying between 1970 and 1982.

9 A. That's correct.

10 Q. Yes. And having given them that story, the new story, why
11 would then he revert which -- he revert to the old story?

12 A. I don't know.

13 Q. I see. Thank you, Doctor.

14 MR. ROSS:

15 There are no more questions.

16 MR. CHAIRMAN:

17 Mr. Wildsmith?

18 MR. WILDSMITH:

19 I do have five to ten minutes worth, My Lord.

20 MR. CHAIRMAN:

21 Yeh. We have to get through this witness before lunch.

22 MR. WILDSMITH:

23 Q. Doctor, I'd like to take you back to that one paragraph, that
24 is in your affidavit, that appears in volume 12 to page 289.

25 And you've been questioned several times on this, and I don't

1 want to go over the same ground again. My one question, to
2 you, about it is this: Is it your judgement, today, that
3 sufficient information existed -- that there was a sufficient
4 record by November the 1st of 1971 to come to the conclusion
5 that John Pratico would make -- as you put it there:

6 "A wholly unreliable informant and witness."

7 A. No, we didn't have sufficient information.

8 Q. You did not?

9 A. As of November?

10 Q. November 1971.

11 A. What was your question? Was he -- did we have enough
12 information?

13 Q. Yes.

14 A. To declare him as a unreliable witness? This is the question?

15 Q. That's exactly the question. And your answer is no, is it?

16 A. I really don't think we could have catagorically stated at
17 that time.

18 Q. All right. When you've testified, today, about feeling that
19 he was, in fact, unreliable in 1971, that's --

20 A. That's the hindsight.

21 Q. Based on hindsight.

22 A. Yes. Okay. Thank you. Another question that's of interest
23 to me is this. Would you say that it was fair to conclude that
24 John Pratico, in the time period of 1970, 1971 had difficulty
25 with social relationships?

1 A. Yes.

2 Q. And difficulty making and keeping friends?

3 A. Yes.

4 Q. Thank you. Why is it that you would come to that conclusion?

5 A. Because he was never able to fit in. Right from grade five
6 six and seven, he had difficulty maintaining friends. He tried
7 to buy friends. And even now that pattern has improved
8 somewhat but it was difficult for him to form lasting
9 relationships.

10 Q. If I suggested, to you, that in this time period of late
11 '60's and early '70's, he had been accepted as a friend within
12 the Indian community, would you have any comment to make?

13 A. No.

14 Q. Okay. Now, getting back to your qualifications, Mr. Pugsley
15 went over that in some detail. I take it that since 1969
16 you have been a Director and a full-time staff psychiatrist
17 at the Cape Breton Hospital?

18 A. Yes, sir.

19 Q. And would the Cape Breton Hospital be the only psychiatric
20 facility on Cape Breton Island?

21 A. Yes.

22 Q. And so anybody, on Cape Breton Island, with a psychiatric problem
23 would be treated in the institution that you are a full-time
24 psychiatrist and Director of?

25 A. No, that has changed. I think since '79 because

1 Q. I'm sorry. I'm going back to the time period of '70, '71.

2 A. From --

3 Q. In 1970, '71 the hospital that you were the full-time
4 psychiatrist --

5 A. No, I'm there since '69.

6 Q. Yes. And you were there in '70 and '71?

7 A. Yes.

8 Q. And my question to you is, was this the only hospital, the
9 only treatment facility on Cape Breton Island?

10 A. Yes.

11 Q. For psychiatric patients at that time?

12 A. Yes.

13 Q. Okay. Are you also a member of the Canadian Psychiatric
14 Association?

15 A. Yes.

16 Q. And are you aware of a section of the Canadian Psychiatric
17 Association that deals with Native mental health?

18 A. Yes.

19 Q. Are you able to confirm for us, today, whether there exists
20 or not a particular body of knowledge that deals with psychiatric
21 and psychological problems more peculiar to Indians or
22 more common with Indians than members of the White majoritarian
23 society?

24 A. Yes.

25 Q. There exists such a body?

1 A. I mean, they have formed a sub-committee and we looking
2 into this and time to work out the Welfare program.

3 Q. Okay. My question to you, following from that, is that
4 there does exist a body of knowledge that deals with
5 Indian psychiatric problems?

6 A. Yes.

7 Q. Thank you. Can you say -- Are you familiar with that
8 body of knowledge?

9 A. Yes, somewhat.

10 Q. Somewhat. Okay, that's fair enough. Can you say that some
11 of these psychiatric and psychological problems have to do with
12 the cultural, social and economic background of Indians?

13 A. Yes.

14 Q. And problems of aculturation with the White society?

15 A. Yes.

16 Q. Thank you. Are you involved in treating Indians in your
17 practice?

18 A. Yes.

19 Q. I'd like to read to you a statement and get your professional
20 opinion about this. Perhaps for the record, I should identify
21 what I'm reading from. Although I'm really concerned about
22 the witnesses' response. Would you like me to indicate the
23 source?

24 MR. CHAIRMAN:

25 Go ahead.

1 BY MR. WILDSMITH:

2 Q. Sure. Okay. This -- Here is the statement:

3 When White people are placed in an anxiety provoking
4 situation, such as a party, there are all kinds
5 of situations but one of them is the psychiatric
6 interview, they are taught to react in an anxiety
7 provoked situation with a great deal of activity and
8 that is usually talking. Talk your head off. That
9 is what they will do.

10 Referring to the white person.

11 Whereas an Indian will become less talkative, the
12 more anxious he gets. This slowing down and wanting
13 to understand what the rules and regulations are.
14 What the lay of the land is. What the appropriate
15 behaviour is. What the protocol is. What the
16 rules are. Slows down further and further. The
17 more he slows down the more the White person asks
18 him to talk. The more quiet the Indian becomes
19 the more frantic the White person becomes to get
20 some sort of response out of him. So the White
21 person is sitting there flapping and the Indian is
22 getting quieter and quieter. This has resulted in
23 an enormous number of mis-diagnosis's among Indian
24 people as far as psychiatric disorder is concerned.

25 Was that -- Is that a statement that you would agree with?

A. To some extent.

Q. To what extent?

A. I mean, we not any better, as you pointed out. That we
have a body of knowledge now and considering those factors
we try to consider the -- consider the -- and take in to
account the social culture factor of the person that come
from and try to overcome this.

Q. Yes. If I understand your response correctly, what you're
suggesting is that, mis-diagnosis by psychiatrists is less

1 common? Is that what your response is?

2 A. Say that again, please?

3 Q. I'm trying to get what part you agree or disagree with about
4 the statement that I read to you. And I'm understanding
5 your response to be that the suggestion of mis-diagnosis by
6 psychiatrists would be less common today, in your view?

7 A. Yes, that's correct.

8 Q. Okay. Are you agreeing with the psychiatric assessment of
9 how Indians tend to react to anxiety provoking situations?
10 Did you agree with that part of it?

11 A. That's correct but if you consider different ethnic groups.
12 Every ethnic group reacts to emotional stress in a different
13 way.

14 Q. Okay. And the description I've given to you of how Indians
15 would react, would you agree that that is reasonably accurate?

16 A. If --

17 Q. Becoming quieter and quieter.

18 A. Yeh, if there are no other factors involved.

19 Q. Yes.

20 A. That's -- They usually tend to withdraw. They are aloof
21 and detached. They on the unit and -- and they don't
22 know what the protocols are, what the relationships are,
23 what the expectations are. That's correct.

24 Q. Fine. Now, would giving evidence in court be such an anxiety
25 producing situation?

1 A. Could be.

2 Q. You would expect that it would be, especially if you
3 were giving evidence in your own defense?

4 A. Yes.

5 Q. And particularly if you were charged with murder and
6 giving evidence in your defense?

7 A. I would be very difficult for anyone.

8 Q. Yes, it would be a very anxiety producing situation?

9 A. Yes.

10 Q. And would you also agree, to me, that giving a statement
11 to the police may be such an anxiety provoking situation?

12 A. It could be.

13 Q. And would you agree, with me, that if there has been, and
14 may still be a tendency on the part of psychiatrists to
15 mis-diagnose, that other people involved in a criminal
16 justice system, such as the police, judges and juries are
17 more likely to mis-diagnose or to mis-understand what they
18 are seeing, when an Indian gives a statement or gives
19 testimony?

20 A. It depends upon whether they would consider all the factors
21 of the case.

22 Q. Yes. But my point to you, is that, you would expect those
23 not trained in psychiatry to be less able to understand
24 what they are observing when an Indian response in an anxiety
25 provoking situation?

DR. M. A. MIAN, by Mr. Wildsmith, by Mr. Spicer

1 A. That's correct.

2 MR. WILDSMITH:

3 Those are all my questions.

4 MR. CHAIRMAN:

5 Mr. Spicer?

6 MR. SPICER:

7 There's just one area, My Lord, for a couple of minutes. Thank
8 you.

9 BY MR. SPICER:

10 Q. Doctor Mian, a lot of the changes that have been made to
11 the various documents, of yours, I noticed were changes
12 from "I" to "we" in various places. And if I understand you
13 correctly, you didn't personally know John Pratico until
14 1972. And in the various of your documents you say; "I"
15 treated. "I" this and you changed it to "we."

16 A. Yeh, that's -- I'm sorry for that. I -- as a Medical
17 Director of the Institution when most of the profession
18 were -- gone or changed. I gave this this global
19 statement. It should have been that we had been looking
20 after and we -- I personally am really involved. That's
21 my --

22 Q. Okay. And all I want to be sure of is that, notwithstanding
23 the fact that you've changed these documents from "I" to "we",
24 are you satisfied having done that, though, that your medical
25 diagnosis is still correct?

A. No, the only thing which is not correct here is the date.

1 You know, as I said, being -- I'm in charge of the whole
2 thing and most of the doctors are not there and we -- I'm
3 taking responsibility for these Cumulative Therapeutic Records.

4 Q. I understand that. In --

5 A. And there is no change in the medical diagnose.

6 Q. Okay. And are you telling us that, as the overall Director,
7 that you would have been satisfied, for instance to rely on
8 the Cumulative Therapeutic Record in coming to your conclusion
9 that John was unreliable? Notwithstanding the fact that
10 you hadn't seen him personally in 1971?

11 A. That's correct.

12 Q. And are you able to tell us, whether or not, on page five
13 at the bottom of the Cumulative Therapeutic Record referring
14 to the 1971 admission. It says:

15 John was diagnosed as an accute adolescent situational
16 reaction in schizophrenia.

17 Are you able to say, generally, whether or not somebody has
18 that sort of diagnosis, whether you'd be prepared to say --
19 with out having seen that person, that that persons probably
20 unreliable?

21 A. Say that again, please?

22 Q. Well, with a -- let's say you have a person you haven't seen
23 who's diagnosed as accute adolescent situational reaction
24 in schizophrenia. And all you know about that person is
25 that fact, at that time, would you -- would you --

1 A. No. Now, I can't reach that conclusion by a diagnostic
2 labour.

3 Q. Right.

4 A. I have to -- In order for me to reach some conclusion I have
5 to know more detail of their daily functioning, their
6 school functioning, their -- and putting all that element
7 factors of the case, I would be able to give an opinion.

8 Q. Okay. But, overall, what you're telling us, if I understand
9 you correctly is that, when you gave these statements in
10 1982, both in the affidavit and in to the R.C.M.P. that you
11 were prepared to rely on the Cumulative Therapeutic Record
12 for the period of time prior to when you actually knew John?

13 A. Yeh.

14 Q. Okay. And you made a statement, I think, to Mr. Pugsley,
15 and I think just to round out the picture. I think you
16 indicated to him that as far as John's mental problems were
17 concerned at the trial that they should have been apparent
18 to the judge and the jury. I take it if that were the case
19 that they also perhaps should have been apparent to the police,
20 to the prosecutor and to the defense counsel? I'm just
21 trying to -- Mr. Pugsley asked you a question, concerning the
22 trial and John's giving of testimony, and he asked you whether
23 or not John's mental problems were of such a nature that those
24 problems should have been apparent to the judge and the jury
25 and your answer to that was yes.

DR. M. A. MIAN, by Mr. Spicer

1 A. Yes.

2 Q. And all I'm asking you is whether or not if that were
3 the case, would they not also have been apparent --

4 A. But there was a -- I think there is -- it should have been
5 evident --

6 Q. To everybody?

7 A. -- to everybody. But he was on medication, remember.

8 Q. Yeh.

9 A. 150-200 of those --

10 Q. Okay. Thanks very much.

11 MR. PUGSLEY:

12 Before we break for lunch if my friend is trying to introduce
13 evidence before this commission to show that, through this
14 witness, Pratico was an unreliable witness in 1971 and I think
15 the -- it's inappropriate to go through this witness as is --
16 for the reasons set out in my cross-examination but surely there
17 is one person who knew something about Pratico. At lease one,
18 if not two, in 1971, who had first-hand information. Doctor P.K.
19 John at the Nova Scotia Hospital and Doctor Donovan or Doctor
20 Binney. Those are the people that my friends should be
21 calling to give evidence of this point rather than introduce it
22 the back way through Doctor Mian.

23 MR. CHAIRMAN:

24 Well, it may be these witnesses will be in due course be called.
25 We have to deal with the witness we have here now.

1 MR. PUGSLEY:

2 I appreciate that but I would hope that my -- efforts will be made.

3 MR. CHAIRMAN:

4 And I'm sure Commission Counsel are listening very attentively
5 to your comments as we are. (Thank you very much, Doctor Mian.)

6 We will adjourn until two-thirty.

7 INQUIRY ADJOURNED: 1:03 p.m.

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A handwritten signature in black ink, appearing to be 'J. Pugsley', is written across the diagonal line of the page.