

TERRANCE GUSHUE, by Mr. MacDonald

1 TERRANCE GUSHUE, being called and duly sworn, testified as follows:

2 BY MR. MacDONALD:

3 Q. Your name is Terry -- Terrance Gushue?

4 A. Terrance.

5 Q. And Mr. Gushue would you speak up as loudly as you can. There
6 is some difficulty hearing at the back of the room.

7 A. Okay.

8 Q. Where do you live, Mr. Gushue?

9 A. I live at 200 Brookland Street, Sydney.

10 Q. That's in Sydney. And you've been a resident of Sydney all
11 your life, have you?

12 A. Yes, I have.

13 Q. How old are you now?

14 A. I'm thirty-six years old.

15 Q. What are you doing at the present time?

16 A. I'm a carpet installer for First Choice Carpets.

17 Q. And how long have you worked at that profession?

18 A. Off and on since sixteen, seventeen years.

19 Q. What is your education?

20 A. Grade 12.

21 Q. Sydney Academy?

22 A. Sydney Academy.

23 Q. Now, on the night of May the 28th, 1971, I believe you had
24 occasion to be at St. Joseph's Church, is that correct?

25 A. Yes, I was.

1 Q. And today do you have recollection, independant recollection,
2 of the events of that night?

3 A. Yes, being asked to leave the dance because I was involved in
4 breaking up an argument.

5 Q. You were asked to leave the dance because you were involved in
6 breaking up an argument?

7 A. Yeh. I was in the middle between a couple of guys arguing --
8 fighting.

9 MR. CHAIRMAN:

10 Pardon?

11 THE WITNESS:

12 I was in the middle between a friend and another person fighting
13 trying to break it up, and I was asked to leave.

14 BY MR. MacDONALD:

15 Q. Bad place to be, in the middle.

16 A. Yeh.

17 Q. Had you been drinking that night?

18 A. Yes, I had.

19 Q. Any recollection of how much you had been drinking?

20 A. I was drinking wine and beer. I didn't -- I don't know
21 exactly how much, but I probably split a bottle of wine
22 with a buddy and a couple of beer.

23 Q. Okay. Split a bottle of wine and a couple of beer? How
24 would you describe your condition?

25 A. I was feeling good, but I could walk.

1 Q. Okay. Would you describe yourself as intoxicated?

2 A. Yes.

3 Q. Yes?

4 A. Yes. I was intoxicated.

5 Q. And when you were in the middle of your two buddies in the
6 fight, you were in an intoxicated condition?

7 A. Yes.

8 Q. Who asked you to leave the dance?

9 A. The officer at the door. I believe it was Mr. Wall or Officer
10 Wall, but I'm not sure.

11 Q. But it was a police officer?

12 A. It was a police officer, yeh.

13 Q. And I take it that when he asked you to leave, you were ready
14 to go?

15 A. Yes, sir.

16 Q. Did you go to the dance with anyone?

17 A. Yeh, I went with some buddies of mine.

18 Q. And by buddies, are we talking male or female?

19 A. Male.

20 Q. Did you leave the dance with anybody?

21 A. I left with Patricia Harriss.

22 Q. Was Patricia Harriss someone that you had known?

23 A. Yes. I met her at previous dances.

24 Q. How would you describe your relationship with her, if any,
25 at that time?

1 A. I'd say we were dating, I guess you could call it.

2 Q. You had been dating?

3 A. Yes.

4 Q. You asked her to leave the dance with you?

5 A. Well, I just -- I was leaving anyway. I just asked her would
6 she accompany me.

7 Q. Okay. In any event, she left with you? She left with you?

8 A. Yes.

9 Q. Yes. Do you recall that? Do you have any recollection of
10 that --

11 A. Yes. I know she left with me, yeh. I remember every step.

12 Q. Okay. Tell us what you remember then after you left the dance.

13 A. I remember walking down to the park and wanting to light up
14 a cigarette and not having a match or something, going
15 through my pockets and looking for one, and going to borrow
16 one.

17 Q. You went to borrow a match?

18 A. Yeh.

19 Q. And was that in the park that you went to borrow the match?

20 A. Yeh. Yes.

21 Q. Now, you would have left the dance, and do you recall your
22 route -- how you would have gone and how you would have got
23 into the park?

24 A. Yeh. Well, there's only one way you can go from there, straight
25 down George and into the park.

1 Q. If you just turn around and look at that plan, Mr. Gushue,
2 that's on the wall --

3 A. Yes.

4 Q. -- you see St. Joseph's Church down here on George Street.

5 A. Yes.

6 Q. What is the way? Could you just point out --

7 A. Yes. If I left St. Joseph's, I would have --

8 Q. Why don't you stand over this side so that the Commission
9 will be able to see as you --

10 A. If I left St. Joseph's Church, I would have walked down to
11 the corner of Cottage Road, straight down George, and
12 down this walk to where the bandshell was, across -- past
13 these two stores.

14 Q. Okay. Down to the bandshell?

15 A. Yeh. Yes.

16 Q. And when you said you wanted to borrow a match from someone,
17 where would that have taken place?

18 A. I believe at the time I was sitting in this area here.

19 Q. You were sitting in the area just where the walk ends and
20 the bandshell --

21 A. -- begins, yeh. When I went to borrow the match, I don't
22 know if I walked over the bridge to get to this area or cut
23 across here up to this area.

24 Q. Yes, but where was the person located that you were going to
25 borrow the match from? That's what I'm trying to find out.

1 A. Just on the other side of the park, I believe.

2 Q. On the other side --

3 A. On the other side of the water area.

4 Q. On the other side of the water. Okay. So that --

5 MR. CHAIRMAN:

6 We have the north and there's Crescent Street.

7 BY MR. MacDONALD:

8 Q. We have the north. It would be the west side of the water.

9 A. Yeh.

10 Q. The side closest to Crescent Street?

11 A. Yeh.

12 Q. Yeh. Now, do you know who that person was?

13 A. Junior Marshall.

14 Q. And your encounter with Mr. Marshall took place, to your
15 recollection today, in the park?

16 A. In the park, yeh.

17 Q. Okay. Did you know Mr. Marshall?

18 A. Yes, I had incidents with him before and know him from other
19 dances.

20 Q. Did you know it was him when you were going up to try and
21 borrow the match?

22 A. No, I just seen somebody standing there --

23 Q. When you encountered him, did you recognize who he was?

24 A. Yes. Yes.

25 Q. Did Ms. Harriss go with you to get the match?

- 1 A. Yes, I believe she did.
- 2 Q. You said you had known Mr. Marshall in the past. What had been
3 your experience with him?
- 4 A. I had previously been in a fight with him.
- 5 Q. And where did that occur? Did --
- 6 A. At a dance at Sacred Heart Church, I believe it was, or right
7 around Sacred Heart Church.
- 8 Q. And Sacred Heart Church is down the --
- 9 A. Yeh. It's in the other end of town. It's closer to this area.
- 10 Q. Yes. Okay. What do you recall about your fight with
11 Mr. Marshall?
- 12 A. Getting beat up.
- 13 Q. Was Mr. Marshall alone? Was this in --
- 14 A. No.
- 15 Q. Head to head, you and he?
- 16 A. No. No. It was himself and a couple of his buddies.
- 17 Q. What happened that this fight -- What precipitated it?
- 18 A. Well, like say a group of my friends and I had gone to the
19 dance and the fight had broke out between a group of his
20 friends and mine and they had all left and I wanted to stay
21 at the dance and walk Patricia home and they just got me
22 outside and started an argument with me, and in the process,
23 I got beat up.
- 24 Q. To what extent did you get beat up?
- 25 A. I got beat up pretty bad.

- 1 Q. Tell me about it.
- 2 A. I -- A couple of them grabbed me and threw me into a concrete
3 wall and started beating on me -- hitting me.
- 4 Q. Was it beating with the fists?
- 5 A. Yeh.
- 6 Q. Any other parts?
- 7 A. Oh, kicking.
- 8 Q. Were you involved in that earlier fight with your buddies and --
- 9 A. No, I was there, but I wasn't involved in it.
- 10 Q. Are you sure it was Mr. Marshall?
- 11 A. Yes. Yes.
- 12 Q. Any other occasions where you had confrontations with him?
- 13 A. No run-ins, but I've seen him at dances before, yeh.
- 14 Q. At the dances, was it usual for groups of people, young people,
15 to sort of congregate?
- 16 A. Yeh. Like you were saying earlier, a bunch of guys from one
17 neighbourhood would, you know, hang around together. A bunch
18 of guys from another neighbourhood would hang around together.
- 19 Q. Was it divided by neighbourhood, or is it divided by some
20 other means?
- 21 A. A little of both. You know, if you happen to be from the
22 same neighbourhood, you hung around together and like if
23 you happened to be a bunch of Indians living in the same
24 neighbourhood, you hung around together, that type of thing.
- 25 Q. Well, were there groups that there would be people from

1 different races in the same group?

2 A. Oh, sure, yeh.

3 Q. Would there be groups that would combine Whites and Blacks?

4 A. Not primarily, no. It was more just White-White, Black-
5 Black, you know.

6 Q. That's -- I'm trying to find out, though, the groups that would
7 be mixed. What sort of mixture --

8 A. Oh, yeh, sure. They would intermingle. In our school systems
9 you know we all got to know each other and hung around.

10 Q. What I'm trying to determine, though, is on social occasions --
11 when you went to dances, would there have been a group that was
12 mixed racially?

13 A. Oh, sure, yeh.

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- 1 Q. And what would the mixture be?
- 2 A. Oh, just a little of each, you know. There's no set numbers.
- 3 Q. By each are we -- what races are we talking about?
- 4 A. Black, Indians, Whites, you know, Italian, Polish, whatever.
- 5 Q. The -- But would it be each group predominantly one race?
- 6 A. I would say -- Yeh, I would say more so, yeh.
- 7 Q. And was it an unusual thing for there to be fights between
- 8 the groups?
- 9 A. Oh, no. Oh, yeh, that wasn't unusual.
- 10 Q. That wasn't unusual?
- 11 A. No.
- 12 Q. All right, you would run into Mr. Marshall. Now had you
- 13 seen him between the time of your last encounter and the time
- 14 you went up to -- to ask him for a match?
- 15 A. Oh, I'm not sure. I may have run into him at the --
- 16 Q. Well, what was your reaction running into him in the park
- 17 that night?
- 18 A. Oh, I don't know. I was just half in the bag and I just wanted
- 19 to just get a match is all.
- 20 Q. Were you afraid when you ran into him?
- 21 A. No, not particularly. I guess I was nervous or whatever.
- 22 Q. Because of your previous encounter?
- 23 A. Yeh, right.
- 24 Q. Not because of anything he did that night?
- 25 A. No.

TERRANCE GUSHUE, by Mr. MacDonald

1 Q. Okay. Now do you recall --

2 MR. CHAIRMAN:

3 I missed it. I missed it. He was half where?

4 MR. MacDONALD:

5 Half in the bag, My Lord.

6 THE WITNESS:

7 I was just -- I was drinking. I was drinking a little bit too
8 much. If you were one of the Bowie gang, you probably knew
9 that from the Pier. That term.

10 MR. CHAIRMAN:

11 I'm sorry --

12 MR. MacDONALD:

13 We'll have to get the Newfoundland expression some day.

14 MR. CHAIRMAN:

15 Canadian expressions of Canada.

16 BY MR. MacDONALD:

17 Q. Okay. Do you recall -- Now do you have a picture in your
18 mind of running into Mr. Marshall that night in the park?

19 A. Yes, I remember talking to him.

20 Q. Do you recall if there was anyone else with him?

21 A. No, I can't -- I can't say that there was or there wasn't.
22 I just remember just getting a match off of him.

23 Q. How long were you with him?

24 A. Well, Jesus, I don't know, a couple of minutes, I guess, if
25 that.

- 1 Q. Do you remember if there was any conversation?
- 2 A. Oh, yeh, we probably talked.
- 3 Q. Not what you probably did, I'm asking you --
- 4 A. Oh, I'm just saying --
- 5 Q. --do you remember having any conversation?
- 6 A. I remember being there so we had to be talking, you know.
- 7 It seems like I just didn't get the match. It was like he
- 8 didn't want me around or something.
- 9 Q. He didn't want you around?
- 10 A. Yeh.
- 11 Q. Do you have a recollection of that now?
- 12 A. Yeh, I would say that it's an impression I had.
- 13 Q. Okay, and what, if anything, do you recall him doing to give
- 14 you that impression?
- 15 A. Oh, he was just telling me to get lost or something like that.
- 16 Q. I guess that's a good reason to have that impression. Now--
- 17 Okay. And when that happened, Mr. Gushue, did you -- did you
- 18 leave?
- 19 A. Yes.
- 20 Q. And what did you -- What did you do after you left?
- 21 A. I walked Patricia home I believe.
- 22 Q. Where did Patricia live?
- 23 A. Down at the other end of the park.
- 24 Q. I don't think we can help you on this one.
- 25 A. Yeh, well, where -- How can I -- Where am I at here?

1 Q. This map ends at Bentinck Street.

2 A. Yeh, so you'd have to go down even farther, a little --

3 Q. To another part --

4 A. If you kept going -- If you kept going down Byng Avenue
5 you'd run right into the corner house which would be where
6 Patricia had lived.

7 Q. Okay. The corner house of -- right on Esplanade or Kings
8 Road?

9 A. Kings Road, yeh. Right where Kings Road is turning onto
10 the Explanade, yeh.

11 Q. How far -- How long would it take you to walk from where you
12 met Mr. Marshall until you could get to Patricia's house?

13 A. Well, if we were just walking steady and not stopping and
14 gabbing, I don't know, about -- you could do it in fifteen
15 minutes I guess.

16 Q. And that -- During that time were you just -- doing any
17 talking or just walking along?

18 A. Yeh.

19 Q. Did you stop for any reason?

20 A. I don't know if we went and if we were necking or anything.

21 Q. You don't have any recollection of that?

22 A. No.

23 Q. Okay. Do you recall anything else about that night?

24 A. No.

25 Q. Was it -- Did Patricia have a curfew or any time that she had

1 | to be home specifically?

2 | A. She usually did have to be home at a certain time. I can't
3 | remember that night if she did or if she didn't.

4 | Q. You don't recall?

5 | A. No, Patricia was still young so, you know, it was usually
6 | around twelve or so that she would have to be in, around
7 | that area.

8 | Q. Now that night after you left Patricia at home, what would you
9 | do -- what did you do?

10 | A. I would imagine I would have just walked home or if I had
11 | enough on me I would have called a cab.

12 | Q. Where did you live then?

13 | A. At that time I lived up on the very top of Terrace Street.

14 | Q. Where would that be, which end of the City?

15 | A. It's a couple of miles in the other direction.

16 | Q. And the other direction being?

17 | A. You would head down toward the Pier and then cut up Terrace
18 | Street, up another quarter of a mile or something.

19 | Q. Okay. So it's toward the Whitney Pier area?

20 | A. You have to go down toward the Whitney Pier and then up --
21 | then head in the other direction up.

22 | Q. Okay, and it'd be a couple of miles from Patricia's house?

23 | A. I would -- I would say so.

24 | Q. Normally would you walk home?

25 | A. Oh, normally, yes.

1 Q. Did you hear anything that night about an incident having
2 taken place in the park?

3 A. That night, I don't believe, no.

4 Q. When did you hear about an incident having taken place in
5 the park?

6 A. I believe the first time I heard about it was when the
7 police officers asked me to come down to the station.

8 Q. The police officers asked you to come down to the station.
9 Are you able to tell us when that would have been?

10 A. I didn't know if it was a day or two days later or a couple
11 of days. I'm not sure.

12 Q. How did the police officers get in touch with you?

13 A. Oh, they got me at home I believe.

14 Q. Do you recall which police officers?

15 A. No.

16 Q. Do you recall if they were uniformed police officers?

17 A. I think they were. I wouldn't swear to it, but I think they
18 were, yeh.

19 Q. Did they tell you why they were contacting you?

20 A. Just that Mr. MacIntyre wanted to talk to me or whatever
21 about the incident in the park that night or whatever.

22 Q. Did you go to the police station with the officers?

23 A. Yes.

24 Q. And do you recall having a discussion at the Police Office
25 with anybody?

1 A. Yes, sir, with Mr. MacIntyre and Mr. Urquhart I believe.

2 Q. And what time of the day would that have been, do you
3 recall?

4 A. I'm not sure.

5 Q. What do you recall about that conversation?

6 A. I just told them that I wasn't in the park and I didn't know
7 nothing about it and that was it.

8 Q. Did Mr. MacIntyre advise you why he had brought you in?

9 A. He said that there had been somebody killed down in the
10 park that night and that he understood from one of his
11 officers that I had been asked to leave the dance for
12 drinking or whatever or fighting, and had I seen anything?

13 Q. Asked you if you had seen anything in the park?

14 A. Yeh.

15 Q. And you told him, no, you weren't even in the park?

16 A. No. Yeh.

17 Q. And why did you tell him that?

18 A. Because I didn't want to be involved in anything.

19 Q. How long would you have been at the police station?

20 A. At that time, I don't know, maybe an hour or so I guess.

21 Q. And that was the first time that you were aware that someone
22 had been killed in the park that night?

23 A. Yes.

24 Q. Okay, and you were at the police station for about an hour?

25 A. I would say. I guess so. It could have been more or it

1 could have been less.

2 Q. Did you have any discussions with Patricia about the night
3 in the park after that night?

4 A. Oh, yeh, I asked her just to go along with what I said and
5 say that we didn't see anything and, you know, that way
6 we'd stay out of it and wouldn't have to go through anything.

7 Q. So you asked her to say nothing and let's keep out of it?

8 A. Yeh.

9 Q. And would that have -- When did that conversation take place
10 relative to when you were at the police station?

11 A. I don't know if it was before we went in or after we were out
12 of there or --

13 Q. Now, I'm just -- Don't get ahead of me. Was Patricia at the
14 police station when you were there or --

15 A. Well, that's what -- See I'm not sure if -- like if I talked
16 to her after I had originally talked to the Sergeant or --
17 I think it was, you know, and they didn't know who was with
18 me in the park that night or whatever, so I probably told
19 them Patricia was down there and they may have talked to her.

20 Q. Well, I'm a little confused. First of all, you told me that
21 your advice to MacIntyre was that you weren't there at all?

22 A. At all, yeh.

23 Q. So if you told him you weren't there at all, why would you
24 then tell him that you weren't there at all --

25 A. Yeh, no, but I said that if -- like knowing that they would

1 | probably find out that Patricia was there or whatever and
2 | I just asked her if anybody asked, you just say you weren't
3 | there.

4 | Q. Okay. Do I understand what you're saying is, you would have
5 | met with MacIntyre and said, "I wasn't there", and then you would
6 | have gone to Patricia and --

7 | A. Yeh, I can't remember exactly but that's probably how I would
8 | have done it.

9 | Q. Were you interviewed by the police with respect to this
10 | incident on more than one occasion?

11 | A. Yes.

12 | Q. Okay. The first time was it relatively close to the time after
13 | the -- after the stabbing had occurred?

14 | A. Yeh. Yeh.

15 | Q. And following that incident you advised Patricia, "Don't say
16 | anything"?

17 | A. Yeh.

18 | Q. Now did that advice change at a later date?

19 | A. Yes, I heard Patricia was talking to her mother about that
20 | we were in the park and had met up with Junior Marshall there
21 | and her recollection of it that -- that we were there and
22 | we had talked to him, so her mother said, "You know, go down to
23 | the police station or whatever and just say that you did".

24 | Q. Were you there when that conversation took place between
25 | Patricia and her mother?

- 1 A. No.
- 2 Q. No. So are you telling us that's what Patricia relayed to
3 you?
- 4 A. Yeh. Yeh.
- 5 Q. Did Patricia's mother tell you you should go to the police?
- 6 A. She told Patricia and Patricia told me.
- 7 Q. Okay, but there was no communication directly between you
8 and Mrs. Harriss?
- 9 A. I don't believe so, no.
- 10 Q. Did you discuss it with Mrs. Harriss at any time and by
11 Mrs. Harriss I mean Patricia's mother?
- 12 A. Yes. No.
- 13 Q. Did you ever discuss with her what you saw in the park that
14 night?
- 15 A. No.
- 16 Q. You have no recollection of discussing it with her?
- 17 A. No, I may have mentioned it to her afterwards or something
18 but I can't remember.
- 19 Q. Did you then having received this advice from Patricia's
20 mother through Patricia, did you go to the police?
- 21 A. Yeh, well, once Patricia had gone down or the two of us --
22 Either Patricia had gone down first and then they asked
23 me to come back down or I can't remember if the two of us
24 went at the same time or whatever but it was reasonably close
25 to the same time.

1 Q. You ended up at the police station in any event?

2 A. Yeh.

3 Q. Did you -- Do you recall the time of day you were there then?

4 A. No, no. I could say it was during the day. That's all.

5 Q. It was during the day?

6 A. Yeh.

7 Q. Do you recall ever signing a statement when you visited the--
8 with the police?

9 A. I don't recall signing one but if they took one then I probably
10 did sign it.

11 MR. MacDONALD:

12 I'm going to have marked the original of this statement, My Lord.

13 BY MR. MacDONALD:

14 Q. In volume 16 on page 72 there would be a copy of this.

15 Is that 16? Yes.

16 A. Yes.

17 Q. If you'd turn to page 72 if you would please, Mr. Gushue --
18 I'm showing you Exhibit 54 which is the original of the
19 document that's contained on page 72 and 73 of volume 16.

20 A. Yes.

21 Q. On the bottom of that page there's a signature.

22 A. Yeh, that's my signature.

23 Q. That's your signature?

24 A. Yeh.

25 Q. And similarly on the bottom of the second page?

- 1 A. Yeh. Yeh.
- 2 Q. That is dated June the 17th at twelve zero three a.m.,
3 June the 17th, 1941?
- 4 A. It's '71.
- 5 Q. It's '71. I'm sorry. And the time at the top is noted to
6 be eleven-forty p.m.?
- 7 A. Dinner time.
- 8 Q. Eleven-forty p.m., and at the bottom, twelve zero three a.m.?
- 9 A. Yeh.
- 10 Q. Do you take that to be dinner time as opposed to the night?
- 11 A. Well -- Yeh, that would be -- That would be in the morning.
12 Yeh, that would have been late at night.
- 13 Q. I'm not trying to put words in your mouth. I'm trying to
14 find out if you understand or if you recollect whether it was
15 night or day or whatever?
- 16 A. No, I'm not sure, but if that's what they say the time was, I
17 guess that's what it was but I just don't -- I can't really
18 remember that that much.
- 19 Q. Were you working at that time?
- 20 A. I was just getting started to.
- 21 Q. Do you recall if you were taken away from work to go and
22 visit the police --
- 23 A. No, I believe it was from my home.
- 24 Q. Just take a moment to look at that statement if you would,
25 Mr. Gushue.

1 | A. Yes.

2 | Q. And it may help you, there's a type-written copy of it --

3 | of the pages --

4 | A. Yes. That'll be -- that'll be a little better.

5 | Q. The typewritten page starts at page 69.

6 | A. Okay.

7 | Q. Just go through it and then I'll ask you a couple of questions
8 | about it.

9 | COMMISSIONER POITRAS:

10 | The time as indicated is eleven-forty at the top of the statement.

11 | MR. MacDONALD:

12 | Yes, I saw that, My Lord. The witness, though, said eleven-forty
13 | p.m. would be around noon and that's why I directed my questions
14 | that --

15 | MR. CHAIRMAN:

16 | It would be appropriate rather than get into the -- into questioning
17 | this witness on his statement now to wait until after lunch?

18 | MR. MacDONALD:

19 | Yes, My Lord. That would be appropriate.

20 | MR. CHAIRMAN:

21 | We'll rise until two.

22 | INQUIRY ADJOURNED: 12:29 p.m.

23 |

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25 |

1 INQUIRY RECONVENED: 2:04 p.m.

2 BY MR. MacDONALD:

3 Q. Just before we broke, Mr. Gushue, I had showed you the hand-
4 written copy of your -- of the statement that was given by
5 you on June the 17th.

6 A. Yes.

7 Q. I wanted to ask you first of all is that the first time you
8 were at the police station or the second time -- this
9 statement?

10 A. Can I refer back to the type-written copy.

11 Q. The type-written copy, yes.

12 A. That would have been the second one.

13 Q. The first time you were at the station, do you know if there
14 was a statement made and signed by you?

15 A. I can't recall if there was. I remember writing out a
16 statement but -- or having a statement -- statement --
17 somebody writing down but whether I signed it or not I can't
18 say.

19 MR. MacDONALD:

20 I can advise you, My Lords, that if there is such a statement
21 we haven't seen it. The only statement we have is the one that
22 I directed Mr. Gushue to.

23 BY MR. MacDONALD:

24 Q. Now --

25 A. Well, like it said if there was one taken, I can't recall

1 signing it or what not.

2 Q. Now the one that I have handed to you and I've opened the
3 hand -- type-written copy --

4 A. Yes.

5 Q. -- do you recall giving that statement? Do you have any
6 recollection of being at the police station?

7 A. Yes.

8 Q. Who was present in taking this statement from you?

9 A. The two officers involved. The two detectives.

10 Q. And which two detectives are you talking about?

11 A. It would be -- I can't remember the names.

12 Q. Okay, I'll just show you the statement itself --

13 A. Yes.

14 Q. -- it has a couple of names on it. Does the name Sergeant
15 MacIntyre --

16 A. Yeh, I know MacIntyre and --

17 Q. -- and there's a name of --

18 MR. MacDONALD:

19 Actually, My Lords, the type-written copy --

20 BY THE WITNESS:

21 A. Doesn't have it.

22 MR. MacDONALD:

23 -- indicates that it's signed by Detective Urquhart. I don't see
24 that on the hand-written copy.

25

1 BY THE WITNESS:

2 A. Well, as far as I can remember it was MacIntyre and Urquhart.

3 BY MR. MacDONALD:

4 Q. MacIntyre and Urquhart?

5 A. Yes.

6 Q. Do you know those gentlemen?

7 A. Yes, I know them, yeh.

8 Q. And you're satisfied that they are the two that were present
9 that night?

10 A. Yes.

11 Q. How long were you there?

12 A. Like again, I can't say as how long I was. I'm not sure of
13 the time.

14 Q. The indication on the statement is that there's an 11:40 p.m. --

15 A. P.m. til --

16 Q. -- and then a 12:03 a.m.?

17 A. Yes.

18 Q. Which is some twenty-three minutes?

19 A. Yes, which wouldn't have taken very long.

20 Q. Do you remember if you were there approximately that length
21 of time or longer?

22 A. You're asking me to recall a long time ago, I can't say yes --
23 yeh I would imagine -- I was about that time.

24 Q. Imagine what -- you were what?

25 A. I was there about that time. I can't remember right off hand.

- 1 Q. Do you remember if you spent the entire time at the police
2 station -- whatever length of time you were there, did you
3 spend the entire time with Sergeant MacIntyre and Detective
4 Urquhart?
- 5 A. I believe I did, yeh.
- 6 Q. You didn't spend time with anyone else?
- 7 A. I don't believe that -- like you were saying earlier that I
8 had time to talk to Patricia or anything --
- 9 Q. I'm going to ask you if you had conversations with Patricia
10 that night. Do you recall that?
- 11 A. No, I don't recall.
- 12 Q. At the police station?
- 13 A. I don't know if they put us outside to talk -- I just can't
14 remember.
- 15 Q. You don't remember?
- 16 A. No, I don't remember --
- 17 Q. That's fine.
- 18 A. -- that's the easiest way I can say it, yeh.
- 19 Q. That's all I want you to say Mr. -- Mr. Gushue --
- 20 A. Yeh, okay.
- 21 Q. -- what you can remember today?
- 22 A. Okay.
- 23 Q. When you gave the statement on June 17th, the one that --
- 24 A. This one.
- 25 Q. -- the one that's open before you, was it your intention

1 to give the -- to tell the police at that time what you knew
2 about the events of the night Seale was stabbed?

3 A. As much as I could recall, yes, it was.

4 Q. So you had given up your earlier thought that you wouldn't
5 get involved?

6 A. Yes, yes.

7 Q. And you intended to tell them the truth as best you could
8 recall?

9 A. I could recall, yeh, without letting them know that I was
10 really loaded drunk.

11 Q. Without --

12 A. Without letting them know that I was drunk and figuring I'd
13 be charged with something else.

14 Q. Okay, were you asked if you had been drinking that night,
15 do you recall being -- if you were asked that?

16 A. I can't recall if I was or wasn't but more than likely it
17 came up.

18 Q. Okay, let me take you to the statement and let's just go
19 through it.

20 A. Okay.

21 Q. And you're looking at page --

22 A. I'm looking at page 66, that's the type-written.

23 Q. The type-written.

24 MR. MacDONALD

25 I've actually given Mr. Gushue, My Lords, volume 13 where that

1 | statement appears at 66. It's also in volume 16 at 69. The
2 | same statement.

3 | BY MR. MacDONALD:

4 | Q. Now you gave the statement then at the time you were twenty
5 | years of age?

6 | A. Yes.

7 | Q. And after saying you went to the dance, you went on to say

8 | I seen a fight starting about 10:30.
9 | I tried to break it up and as a
10 | result was asked to leave by the
11 | police. Which I did.

12 | Then you told us that this morning, you recall that happening?

13 | A. Yes.

14 | Q. When I was getting my jacket,
15 | I seen Patricia Harriss there
16 | I said they kicked me out and
17 | asked her to come along with
18 | me. She did. We went to the
19 | store and from there to the
20 | Park.

21 | And that again is what you've told us this morning?

22 | A. Yes.

23 | Q. We stopped there for a while. We
24 | were talking to Robert Patterson.

25 | Do you recall speaking to Mr. Patterson?

1 | A. I didn't recall until I read this, no. That Robert had even
2 | been there.

3 | Q. Having read that does that refresh your memory?

4 | A. No, no -- yeh, it -- yeh I remember -- I think I remember
5 | Robert being there, yeh.

1 Q. Okay.

2 He came down from the dance with
3 us. We walked behind the band
4 shell and started to walk up to
5 Crescent Street. I remember
6 seeing Donald Marshall, Junior,
7 on Crescent Street with another
8 man.

9 That's what you told the police in June of 1971?

10 A. Yes.

11 Q. Now I understood you this morning to say you recall seeing
12 Mr. Marshall in the Park?

13 A. Yeh.

14 Q. Now which is it? In the Park or on Crescent Street?

15 A. Like this is where the confusion begins. I can't remember
16 if it was where we were sitting first -- where we had sat
17 on the bench or whatever -- where I had assume we sat and
18 -- or walking across either one of the walkways to get
19 across to borrow a match or whatever. I just can't remember.

20 Q. Okay. Do you recall giving evidence on the --in this matter
21 both at the preliminary hearing and at the -- at the trial
22 of Mr. Marshall?

23 A. Yeh, yeh, I believe so.

24 Q. And on both those occasions I can show you the evidence
25 if you'd like and perhaps I will.

26 A. Yeh.

27 Q. If you'll turn to page 70 in that volume 13.

28 A. Be in the type --

1 Q. Yeh, page 70 at the top.

2 A. Yeh, okay.

3 Q. Do you see that?

4 A. Yeh.

5 Q. This is evidence at the Preliminary Inquiry. You recall being
6 at the Preliminary Inquiry? That's the one before the Judge
7 alone there was no jury present.

8 A. I don't recall it, but I guess I was there.

9 Q. Okay, do you see it says starting on page 70

10 Where did you see him on Crescent
11 Street?

11 Yes, I did.

12 Where was he when you saw him?

12 At the green Apartment building.

13 And then if you also want to look at page, I think it's page
14 72 -- 74. Yes and this is the evidence taken at the trial,
15 Mr. Gushue, where there was a Judge and a jury. And on page
16 74 you were asked

17 Where exactly on Crescent Street
18 did you see Mr. Marshall?

18 And you testified

19 By the green apartment buildings.

20 That evidence was given in November of '71. The first one
21 I showed you was in July of 1971?

22 A. Yeh, yeh.

23 Q. Do you remember today aside from looking at statements --

24 A. Yeh, yeh.

- 1 Q. -- where was it on Crescent Street you would have seen Mr.
2 Marshall?
- 3 A. No, I can't. No, I can't. As a matter of fact the --
4 in previous when I was talking to somebody else, I said I
5 just couldn't remember ever saying it was in front of the
6 "green apartment building". It -- in my mind I can't
7 remember it being in front of any particular spot or --
- 8 Q. Okay, but at least we know this that in July of 1971 when
9 you were sworn to give evidence in Court --
- 10 A. Yes.
- 11 Q. -- and again in November of 1971, you said that "you saw him
12 in front of the green apartment building"?
- 13 A. Yeh, yeh, okay --
- 14 Q. That's what the evidence shows?
- 15 A. -- well if it says it, then I did then, yes.
- 16 Q. And it was your intension in giving the evidence at that
17 time which was relatively close to the event to tell the
18 truth?
- 19 A. Yes.
- 20 Q. Okay.
- 21 A. I tried to get it as close to where I thought it happened.
22 Yeh, right. In knowing the area --
- 23 Q. Sure.
- 24 A. -- I thought -- well, the green apartments would have been
25 right across the street.

- 1 Q. All right, let's go back to your statement which is on page
2 66.
- 3 A. Okay.
- 4 Q. You said, the question
5 Did you speak to Junior Marshall?
6 Yes, I asked him for a match.
7 Did you receive it?
8 Yes.
9 Did you have any conversation with
10 him?
11 No.
12 Did you know the other man?
13 No.
14 Did you know Sandy Seale, the
15 deceased?
16 No.
- 17 Now at that time you weren't able to say that -- you did say
18 you saw one other person with Mr. Marshall and you don't
19 know who it was?
- 20 A. Yeh, I guess I did, yeh.
- 21 Q. And you don't have any different recollection today?
- 22 A. No, no I don't.
- 23 Q. And then you went on to say again that you "walked home"?
- 24 A. Yes.
- 25 Q. And you described where the people were when you saw them.
In the last sentence or the last question you see on page 70
you were asked by the police -- on page 70, sorry.
- A. Okay. There's 70.
- Q. I'm sorry 67.
- A. Oh, okay.

1 Q. Last question

2 Where you drinking that night?

3 And you said

4 Yes, two --

5 A. Quarts of beer and some wine.

6 Q. -- quarts of beer and some wine.

7 A. Yeh.

8 Q. But you had advised the police that you were in fact --

9 A. Drinking, yeh.

10 Q. -- drinking. Now do you recall when you were giving that
11 statement to the two policeman, was there any sort of
12 pressure being applied to you?

13 A. They were just asking me hard questions that's all. Nothing
14 I figured -- nothing I figured was really hard. They wanted
15 to know what was going on.

16 Q. Well, how would you describe their attitude toward you?

17 A. They were -- they were strong vocally, you know, vocally.
18 Nothing other than that. They weren't threatening or
19 anything, I don't think.

20 Q. Were you afraid in any way?

21 A. Oh, yes, of course, I was afraid.

22 Q. What were you afraid of?

23 A. Well, drinking and being caught drinking for one thing and
24 being in a place where -- well I had assumed a murder had
25 committed, you know, you know.

1 Q. Did the police do anything to make you afraid?

2 A. You mean really just intimidation by them.

3 Q. Yes.

4 A. Just their presence was intimidating but not on their part.

5 Q. There was nothing -- they didn't scream or yell at you?

6 A. They raised their voices a few times but nothing more so
7 than, I guess, they would with anybody else.

8 Q. Were you asked why you had told them earlier that you had
9 not been in the Park?

10 A. Yes, they asked me that.

11 Q. And what was your response?

12 A. My response was that I just didn't want to be part of anything
13 that I would have to go and testify and be in front of people
14 and I was a little nervous. I didn't want to be involved
15 in anything like that so that's what I told them.

16 Q. When you left there that night, did you -- after that
17 occasion, did you ever speak with Patricia Harriss about
18 what happened that night?

19 A. Yes, more than likely we did, yeh.

20 Q. Do you have any recollection of doing that?

21 A. No, not right off hand, I more than likely did though.

22 Q. But you can't tell me the details of any of those discussions?

23 A. No, no.

24 Q. Do you recall being contacted by the R. C. M. P. in 1982?

25 A. '82, yeh.

- 1 Q. Do you remember who contacted you?
- 2 A. I knew it was a big member of the R. C. M. P. I don't know --
- 3 I can't remember his name or anything.
- 4 Q. He was a big man?
- 5 A. No, no. He was just like high up in the ranks --
- 6 Q. Okay.
- 7 A. -- is what I'm trying to say.
- 8 Q. All right, someone with a high rank?
- 9 A. Yeh.
- 10 Q. What's a high rank to you to clear up this misunderstanding?
- 11 A. Somebody that tells you what to do.
- 12 Q. Okay, was it -- is sergeant a high rank?
- 13 A. No.
- 14 Q. Pardon.
- 15 A. No.
- 16 Q. Is an inspector?
- 17 A. Well, it goes higher than that I guess. I don't know. All
- 18 -- all -- when he introduced himself to me is I got the
- 19 impression that like this is the big guy from the R. C. M.P.
- 20 Q. All right, you got the impression you were dealing with
- 21 someone --
- 22 A. Yeh, really. Way up the line.
- 23 Q. Okay. Look at page 76 of volume 13.
- 24 A. Yes.
- 25 Q. that's a type-written copy of a statement if I'm to understand

1 was given by you to the R. C. M. P. and in particularly to
2 Staff Sergeant Wheaton. Does the name Staff Sergeant Wheaton
3 refresh your memory at all?

4 A. No.

5 Q. Is staff sergeant the type of rank --

6 A. Which would -- which kind of puts it more into the military
7 than the civic kind a stuff.

8 Q. Do you recall meeting Staff Sergeant Wheaton?

9 A. I remember him coming to my home earlier one morning and
10 asking me if I would be available for him to sit with me
11 after work.

12 Q. And did you sit with him after work?

13 A. Yes.

14 Q. How long would you have sat with him?

15 A. I don't know -- I guess it was over a half an hour I guess.
16 Something like that.

17 Q. And is this all you told him these six lines that are contained
18 on page 76?

19 A. Well, basically we just went over everything I said and what
20 I had read to him -- what he had read to me and he asked me
21 to what I said --

22 Q. Did he read to you the statement that you had given to the
23 City Police?

24 A. Yeh -- no, not the -- he never -- like you say, he never
25 had an original statement or whatever.

1 Q. No, the type-written copy or any copy?

2 A. Yeh, he had the one that like you referred to back on -- yeh,
3 this one.

4 Q. The one on page 66 and 67?

5 A. Yes.

6 Q. He would have -- he would have had that with him would he?

7 A. Yeh, I believe so.

8 Q. He would have read that to you?

9 A. Yes.

10 Q. And did he ask you if you agreed with what was contained in
11 that statement?

12 A. Yes, yeh.

13 Q. And did you tell him you did?

14 A. The only comments that I remember making to the man that I
15 couldn't remember about the green apartment building or
16 whatever it was.

17 Q. Okay, did he show you -- did he have copies of the evidence
18 that I showed you today that you had given in Court?

19 A. He had a few copies of this but it wasn't very much there to --
20 like he never showed me no maps or anything.

21 Q. In this statement you gave to Staff Sergeant Wheaton on page
22 76, the last -- the last paragraph, it says

23 I really don't remember who was there.
24 I just know I definitely saw Junior.
There were all kinds of people around.

25 A. Yes.

- 1 Q. What does that mean?
- 2 A. All I meant by that was on the other side of the Park there
3 was always traffic going by and people walking up and down
4 past the stores.
- 5 Q. What do you mean by the other side of the Park? What street
6 are you talking about?
- 7 A. I'm talking -- if we were in this section here, the George
8 Street section, it was always well populated with people
9 and --
- 10 Q. So what you're saying is if you were on the Crescent Street
11 side of the Park --
- 12 A. Yes.
- 13 Q. -- when you referred to "all kinds of people around", you were
14 talking about people over on George Street?
- 15 A. I meant, yeh, I meant on George Street side, yes.
- 16 Q. You didn't mean there was all kinds of people around on
17 Crescent Street?
- 18 A. No, I didn't mean that at all.
- 19 Q. Did you discuss with Mr. -- or Staff Sergeant Wheaton whether
20 there was more than one person with Donald Marshall when you
21 saw him?
- 22 A. I believe he brought that up in conversation that like I
23 told him that I couldn't remember if there was.
- 24 Q. You couldn't remember?
- 25 A. No.

- 1 Q. All right, and this --
- 2 A. I couldn't recall or whatever.
- 3 Q. Just flip the page to page 77.
- 4 A. Yes.
- 5 Q. That's a -- that and page 78, Mr. Gushue, are copies of an
6 affidavit that was sworn by you --
- 7 A. Yes.
- 8 Q. -- in July of 1982 and sworn before Steve Aronson. Do you
9 remember Mr. Aronson?
- 10 A. Not particularly but he was the lawyer for -- for somebody --
- 11 Q. For Donald Marshall?
- 12 A. Yeh, for Donald Marshall, yeh.
- 13 Q. Do you remember meeting with him?
- 14 A. Not right off hand but yes, I guess, I did.
- 15 Q. Did you meet with him on more than one occasion?
- 16 A. I'm not sure.
- 17 Q. You can't recall?
- 18 A. No, I can't recall.
- 19 Q. In particular do you recall if you met with him and gave
20 him some information and then he came back later with this
21 affidavit for you to swear?
- 22 A. It might have happened like that, I'm not --
- 23 Q. You don't recall?
- 24 A. No, no.
- 25 Q. Do you recall being presented with his affidavit?

- 1 A. Not particularly off hand. It's -- I remember something about
2 it. I can't remember the time or the date or what --
- 3 Q. That is your signature on page 78?
- 4 A. Yep, yes that's definitely mine.
- 5 Q. If you go back to 77 there's in paragraph number three --
- 6 A. Yes.
- 7 Q. -- there's a part scratched out --
- 8 A. Yes.
- 9 Q. -- and initialed. And initialed by you?
- 10 A. Yes.
- 11 Q. And that's the part that says
- 12 At or near Crescent Street and
13 across from a green apartment
14 building. Known as Crescent
Apartments.
- 15 A. Yes.
- 16 Q. So do I take it you were not prepared in July of 1982 to
17 swear that that is where you saw Mr. Marshall?
- 18 A. No, yeh, yeh, that's was my intension at the time. I wasn't --
19 I couldn't remember where exactly it was.
- 20 Q. Okay.
- 21 A. Because apparently the -- where I thought -- where I was up
22 around the band shell, the green apartments were down further
23 or something -- I just --
- 24 Q. Do you know where the green apartment buildings are?
- 25 A. I -- apparently I thought they were on Crescent Street, like

1 this one. Right here, number one twenty.

2 Q. Okay, and next to it --

3 A. And why I had thought that I was talking to Mr. Marshall
4 right up here across from the band shell.

5 MR. MacDONALD:

6 Where the witness is indicating, My Lords, it's just opposite the
7 Park at the point marked J.M.-1. Is where he thought he seen him.
8 And he indicated one twenty as what he thought was the green
9 apartments.

10 BY MR. MacDONALD:

11 Q. At the time this affidavit was prepared and presented to you
12 were you shown the evidence that you'd given in Court that I've
13 shown you today, which on two occasions you said that "you in
14 fact had seen Mr. Marshall in front of the green apartments"?

15 A. This one -- this one from Mr. Marshall's lawyer.

16 Q. Yes.

17 A. I'm not sure if it was or it wasn't but I would assume I
18 would had been.

19 Q. But in any event in 1982 --

20 A. In order for me to disqualify myself in saying that it was
21 near the green -- I must have been shown that.

22 Q. But you weren't prepared to swear --

23 A. No, no.

24 Q. -- that you saw him in front of the green apartment building?

25 A. No, no, no.

- 1 Q. Now --
- 2 A. All I remember about the green apartment building was coming
3 up in conversation that that's where the body had been found
4 around that area.
- 5 Q. Coming up in conversation with whom?
- 6 A. With like when I was talking with the Detectives and this and
7 that it wasn't -- it wasn't my recollection that that's where
8 it was -- it was just something that had stuck in my mind,
9 I guess, from previous talks or whatever.
- 10 Q. Are you saying that when you gave that evidence at trial that
11 that's where you had seen Mr. Marshall, but that wasn't in
12 fact right?
- 13 A. No, I knew it was on that street and assuming the green
14 apartment building was close to where I had seen him, I
15 figured that that's what was the truth of the matter.
- 16 Q. So that's what you when you were giving your evidence at
17 trial is what you assumed would be the case?
- 18 A. Yes.
- 19 Q. Not necessarily what you saw?
- 20 A. Yeh, right, exactly.
- 21 Q. Did you have any meetings with the police prior to giving
22 your evidence at trial other than the night you met them at
23 the police station?
- 24 A. No, no.
- 25 Q. Did you have any discussions with the lawyer -- the Crown

1 | Prosecutor?

2 | A. No, I don't believe so.

3 | Q. Were you contacted by any of the lawyers acting for Mr.
4 | Marshall?

5 | A. Before the --

6 | Q. Before the trial?

7 | A. I don't know for sure. Maybe I had -- maybe I did talk to
8 | somebody. It's a long time ago, I can't remember for sure.

9 | Q. You have no recollection of any contact?

10 | A. No.

11 | Q. Were you -- did you ever visit the Park and the scene of
12 | this incident prior to giving your evidence at trial?

13 | A. No.

14 | Q. Did you ever tell Mrs. Harriss that's Patricia's mother --

15 | A. Patricia's mother, yeh.

16 | Q. -- that you had seen two people in the Park that night with
17 | Donald Marshall?

18 | A. No, I don't ever recall ever saying that.

19 | Q. Are you saying you didn't say it or you don't recall?

20 | A. I'm just saying I don't recall.

21 | Q. Now the last thing I want to deal with is back in that grouping
22 | that -- of the young people that used to hang around.

23 | A. Yes.

24 | Q. Some White, some Black and some Indian?

25 | A. Yes.

- 1 Q. Did you ever notice whether the various groups were treated
2 differently by -- by police?
- 3 A. I had always assumed that the -- that the Indians had got a
4 little rawer deal than we did.
- 5 Q. You would always assume the Indians got a raw -- a rawer deal?
- 6 A. It just seemed -- yeh, it just seemed that they were -- they
7 were treated a little different.
- 8 Q. Can you give me any examples of what lead you to that conclusion?
- 9 A. Not -- not -- not real straight incidents. It was just my
10 opinion that they -- were I would be let off with a cuff
11 on the neck they'd be drug in or something, that's all.
- 12 Q. Had you seen that happen and you were affecting the cuff in the
13 neck and the Indians were arrested?
- 14 A. Well, in my opinion when -- like leaving the dance that night
15 -- I was drinking -- I was obviously drinking. And, you know,
16 well, I figured it I got a warning from the City Police
17 Officer to get, you know. Go somewhere and sober up, you
18 know. In my opinion is what that if the same thing had
19 happened to an Indian lad at the same time, he would have
20 been hauled-in, that's all.
- 21 Q. Had you seen Indian boys being hauled-in out of dances because
22 they had been drinking?
- 23 A. Oh, no, I can't say, like I said, I can't just point incidents.
24 I can't but they --
- 25 Q. Just --

1 A. -- it was my general opinion.

2 Q. Had you heard anything among your group that that sort of
3 thing had happened?

4 A. I don't know, it just -- just visual observation that, you
5 know, that --

6 Q. That's what I'm trying to get --

7 A. -- I could get -- I could get away with a little better than,
8 you know, what they could, that's -- that was my opinion.

9 Q. That was your opinion?

10 A. Yeh.

11 Q. But you're not able to tell us any incidents that you witnessed
12 which would support that opinion?

13 A. No, no. No, not where I could name names or specific times
14 or places. I can't do that.

15 Q. Whether you can name names or not, can you tell us whether
16 you ever saw an Indian boy being taken out of a dance and
17 arrested because he had been drinking?

18 A. Oh, I've seen Indian boys be arrested all over town but it
19 wasn't for --

20 Q. Drinking?

21 A. -- yeh, but I mean at the same time any officer in town would
22 have arrested a White guy just as quick, you know, if you're
23 that blatantly drunk.

24 Q. Okay, that -- but that's what I'm having difficulty with, you
25 see, you're saying that what happened the night at the dance

TERRANCE GUSHUE, by Mr. MacDonald

1 to you, you were in fact "get out of here and sober up"?

2 A. Yeh, right.

3 Q. You don't think the same thing would have happened to an
4 Indian boy?

5 A. All I'm saying is that the chances of me being arrested were
6 a little less. Just my opinion.

7 Q. Thank you.

8 MR. MacDONALD:

9 That's all I have, My Lord.

10 THE CHAIRMAN:

11 Mr. Ruby.

12 BY MR. RUBY:

13 Q. Mr. Gushue, I'm going to ask you some questions on behalf of
14 Donald Marshall.

15 A. Okay.

16 Q. If I tend to speak too quickly or you don't understand the
17 question, just let me know and we'll go over it again.

18 A. Yeh, okay, I will.

19
20
21
22
23
24
25

Jack

- 1 Q. It sounds like this pattern of being at dances and drinking
2 and getting into fights was one that, not only you but
3 others engaged in, in your age group, at that time. Is that
4 fair?
- 5 A. It was a pattern that happened. Yeh, at a lot of dances. Yes,
6 it was.
- 7 Q. So it was not just you involved in this sort of thing?
8 There were others involved?
- 9 A. No, at that time, I was 120 lbs. soaking wet and with a full meal
10 in me. I didn't get involved in fights because when I did
11 I got beat up.
- 12 Q. The level of drinking, I take it, was such where you would
13 not be sober?
- 14 A. Yeh. That's usually the way we went to dances. Yes.
- 15 Q. Okay. And on this particular occasion, when you had a fight
16 with Mr. Marshall, I take it that when you're drinking and
17 these fights arise, there is a considerable amount of taunting
18 with each other that goes on.
- 19 A. Oh, yeh. Without a doubt, yeh.
- 20 Q. I couldn't hear the last bit. Or?
- 21 A. I said, without a doubt, sir.
- 22 Q. Without a doubt?
- 23 A. Yes.
- 24 Q. Thank you. And some of that would be bragging and the
25 Indians calling you names; you calling the Indians names?
- A. Not me personally, no.

1 Q. Not you personally but that was what go on as part of this
2 fight?

3 A. Oh, yeh.

4 Q. Tom Christmas was with Mr. Marshall at the time? Do you
5 remember that?

6 A. Not for sure, no. I can't remember.

7 Q. And you don't remember, I take it, what was said by you
8 or by others at that time?

9 A. No.

10 Q. And that's, in part, because of the lapse of time and
11 in part, because you were drinking on that occasion, I take
12 it?

13 A. Which occasion are you talking about?

14 Q. The time when you had the fight with Mr. Marshall?

15 A. I don't believe I was drinking that evening.

16 Q. You're sure or you don't believe --

17 A. No. Well, I may have been. I can't say I was. It -- If
18 I was travelling with guys I usually travel with, I might
19 have been drinking. But I can't say if I was or I wasn't for
20 sure.

21 Q. You really don't know one way or the other?

22 A. No, I don't know one way or the other.

23 Q. The pattern is one of drinking when you got into these
24 fights but you're not certain whether on this occasion you
25 did?

- 1 A. Yeh.
- 2 Q. Fair enough?
- 3 A. Yeh. Fair enough.
- 4 Q. Okay. And, I take it, that given the lapse of time
- 5 you'd have some difficulty telling me all the people who
- 6 were involved in that fight?
- 7 A. Yes.
- 8 Q. Can you give me an idea of how many would have been involved?
- 9 A. My incident where I've been beaten?
- 10 Q. Mr. Marshall involved, yes.
- 11 A. I believe there was three or four people involved.
- 12 Q. And was anyone calling names about the Indians? Do you
- 13 remember anyone calling them names?
- 14 A. Anybody calling names to the Indians, do you mean?
- 15 Q. Yeh. Speaking derogatory to them?
- 16 A. At the dance or while I --
- 17 Q. Around the time --
- 18 A. -- or afterwards when I had the beating?
- 19 Q. Around the time of the fight or earlier?
- 20 A. Oh, I imagine in the -- When you -- When everybody was
- 21 fighting, I guess, there was derogatory names yelled back
- 22 and forth, I would imagine.
- 23 Q. What names were common, with regard to Indians, at that time
- 24 in that place? What would be the kind of language?
- 25 A. Oh, just the Indian.

- 1 Q. Indian? Dirty Indian?
- 2 A. No, just Indian.
- 3 Q. Rotten Indian?
- 4 A. Just -- No, just plain Indian. I was --
- 5 Q. Just Indian?
- 6 A. Yeh.
- 7 Q. That was it?
- 8 A. Well, the most I can say that I know about.
- 9 Q. All right. Did you hear on those occasions language like
- 10 broken arrow?
- 11 A. No, I -- I never heard that expression until today.
- 12 Q. Neither had I actually.
- 13 A. Yeh, actually I haven't either.
- 14 Q. Okay.
- 15 A. Piute, I've heard before and wagon burner but it was
- 16 usually watching Gunsmoke.
- 17 Q. All right. Now, I'm told, with regard to this incident,
- 18 that even the girls got involved in this fight? They jumped
- 19 in?
- 20 A. Yes.
- 21 Q. Moving around. Do you remember that?
- 22 A. I believe there was two girls that picked me up and drove
- 23 me home afterwards. Who they were I don't know.
- 24 Q. And are you able to remember, now, who struck what blows or
- 25 how it occurred?

- 1 A. No.
- 2 Q. And that's --
- 3 A. All I remember was just trying to back down the street
4 as fast as I could to get out of the situation and finding
5 myself in a position where I couldn't go any farther backwards
6 so I just took what happened to me.
- 7 Q. And that's when the fight occurred and you got the worst of
8 it? Correct?
- 9 A. Yes, definitely.
- 10 Q. Did you go to the hospital in any way?
- 11 A. No.
- 12 Q. Suffer any lasting injury?
- 13 A. I couldn't open my eyes for a day and a half, or something.
- 14 Q. So you were hurt quite nastily?
- 15 A. Yeh.
- 16 Q. All right. And do you know how many member were attacking
17 you?
- 18 A. I -- Three or four people.
- 19 Q. All right. And if there was drinking going on, would you
20 be surprised if their view of what took place was different
21 than yours?
- 22 A. No. Not at all.
- 23 Q. Because that's what happens when you're drinking and you
24 fight? Correct? You misapprehend what goes on and you --
- 25 A. Oh, yeh. Although that happens in any kind of situation.

1 Q. So you agree that you're account of what happened, given
2 the drinking, is probably not --

3 A. I'm not saying that I was drinking on this occasion.
4 All I'm saying is, what I remember of it, was being
5 alone with Donald Marshall, eh, and a couple of guys
6 pounding the living daylights out of me. That's all I'm
7 saying.

8 Q. And all I'm saying to you is, and I think you agree with
9 me, -- you tell me if you have or not -- that usually in
10 this kind of situation you'd been drinking?

11 A. Oh, more than likely I had been, yeh.

12 Q. That's what I'm getting at.

13 A. Yeh.

14 Q. And if you had been drinking, with the level you're talking
15 about --

16 A. Then -- then my recall of the situation would have been
17 less than it should be.

18 Q. And that's the way it would be today? Correct?

19 A. I suppose so, yeh.

20 Q. All right. When you get to the park you got -- you said
21 the impression that Mr. Marshall didn't want you around?

22 A. Yes.

23 Q. And you're not able to tell us, I take it, that he said
24 get lost? That's your --

25 A. Yeh.

1 Q. You remember what words he used?

2 A. Take off or something.

3 Q. He said something, you say, but you're not sure what it
4 was?

5 A. Something. Yeh, something to that effect. Get out of here.

6 Q. And from the language you got the impression he didn't
7 want you --

8 A. I got the impression that he just didn't want me there
9 too at the time.

10 Q. You had been drinking on that occasion, for sure, right?

11 A. Yeh. Yes, I was.

12 Q. So, once again, your ability to recount, with accuracy, is
13 not great?

14 A. No.

15 Q. Miss Harriss was with you?

16 A. Yes.

17 Q. Was she drinking?

18 A. I have no idea.

19 Q. She certainly wasn't drunk. Fair enough?

20 A. Fair enough.

21 Q. So, of the two accounts, if there's a dispute or a difference
22 between your account of what happened and hers --

23 A. Yes.

24 Q. -- you being drinking quite extensively and she not extensively,
25 at the very least, would you agree with me that her account is

1 better or more likely to be correct?

2 A. Yes, I would say that it would be more accurate than mine.

3 Q. And I want you to ask -- to ask you if you can remember
4 that one of the things that happened when you went out with
5 her for the match, was that Junior Marshall showed some
6 interest in her? Keen interest. And, in fact, took her
7 hand. Do you remember that?

8 A. I remember that coming up in the original court but I
9 couldn't remember him doing that.

10 Q. You can't remember it happening?

11 A. No. I did -- I'm not saying it didn't.

12 Q. I appreciate --

13 A. I'm just saying that I -- my recall of the situation, at
14 the time, is -- I don't remember it.

15 Q. If Mr. Marshall had expressed this interest in Miss Harriss,
16 who was with you, --

17 A. Yes.

18 Q. -- would it not -- assuming it happened, for the moment,
19 -- would it not make sense, to you, in the kind of social
20 circumstances you were in, that he would want nothing better
21 than for you to vanish in to the night so he could be with
22 her?

23 A. Yes.

24 Q. That make sense?

25 A. Yes, it makes sense.

1 Q. I want to come back to the conversation with Sergeant
2 MacIntyre and the -- I guess, the second statement.

3 A. Yes.

4 Q. The one where you have the longish conversation.

5 A. Yeh.

6 Q. You told my friend that -- when he was asking questions
7 a moment ago, that they're asking openly, strong questions?

8 A. I said they were verbally strong.

9 Q. I don't want to know --

10 A. Where were you, what you did that --

11 Q. But they say where were you and you'd give them an answer?

12 A. Yes.

13 Q. Okay. Surely that's the end of it then?

14 A. No, but in order to get the answer -- Are you sure you did
15 that or whatever. That -- it just amounted to that.

16 Q. They keep questioning you again and again and again on the
17 same subject? Is that what happened?

18 A. There are a couple of times, over, yeh.

19 Q. And sometimes their voices would be raised in this process?

20 A. Yeh, a little loud. Yes.

21 Q. Were you all seated together or were some of you standing?

22 A. I was usually -- When I was questioned I was usually just
23 by myself sitting there with -- you know, being questioned.

24 Q. And were they sitting or standing?

25 A. There was usually one officer standing and one sitting.

1 Q. Okay, and who would be asking the questions, the
2 one standing or the one sitting?

3 A. Yeh, the one standing would usually ask the questions.

4 Q. So would he, sort of, turn around and point his finger
5 at you or lean at you, that sort of thing?

6 A. Lean over a little. No -- Not really intimidating me
7 in any way.

8 Q. Well, they're pretty big guys as we've seen --

9 A. Oh, well, yeh, okay.

10 Q. You were 120 lbs. soaking wet?

11 A. Wet and a full meal in, yeh.

12 Q. And -- that's another expression. There's a lot of
13 colloquialisms around here.

14 A. Yeh, yeh.

15 Q. So if he's leaning on you and speaking with a loud voice;
16 he's a cop. You're not. You're just a kid.

17 A. Yeh.

18 Q. Right. That would be pretty scary, fair enough?

19 A. Yeh.

20 Q. And you were scared?

21 A. Yeh, I was scared my mom would find out I was drinking and --

22 Q. Sure. I remember that age.

23 A. Yeh.

24 Q. That's the kind of things you didn't want to happen.

25 A. Yeh, right. Exactly.

1 Q. Do you remember what questions he was asking more than once?
2 Can you give an idea of what areas that really interested
3 him? How he kept -- what areas he would repeat the questions
4 on?

5 A. No, just that, that I knew for sure that Donald Marshall
6 had been in the park that night.

7 Q. Yes.

8 A. That's what it seemed to be-- standing around-- or are
9 sure that he was there.

10 Q. And how many times did you go over that?

11 A. Oh, I couldn't recall that. A number of times, I would imagine.

12 Q. A number of times.

13 A. Yeh.

14 Q. One of the things that it appears he told you, in the course
15 of this conversation, was where the body was found, namely
16 near that green apartment, I take it.

17 A. Yes.

18 Q. What else did they give you in the way of facts? Do you
19 remember what they told you in the way of facts or background?

20 A. Oh, no I can't remember them actually giving away anything
21 fast. It was just -- they were only trying to get everything
22 that I knew out of me. That -- It was -- My recollection of
23 it was, that, they had assumed that Donald Marshall had done
24 it, eh, and what they needed out of me, was my testimony
25 that he was there at the time. You know, that's -- that's

1 what I seen --yes.

2 Q. So they wanted to make sure that you said that.

3 A. Yeh.

4 Q. Cemented that down for them.

5 A. If -- Yeh, if I could document the fact that he had
6 been there at the time.

7 Q. And did they seem, when they were questioning of you,
8 from what they've said, quite certain that Marshall had done
9 it?

10 A. I had assumed that, yeh.

11 Q. Yeh. Okay. You assumed it from what they said rather
12 than what's in your own mind?

13 A. It was just how I picked up on how the questioning was going.
14 That --

15 Q. It wasn't the questioning which was directed to finding
16 out the facts, in general, but it was a questioning from
17 a prospective, a point of view? Marshall did it --

18 A. You mean the view that I had, yeh.

19 Q. We come to know how you did it for the prosecution.

20 A. Yeh, that's how I had picked up on it.

21 Q. That's what you read as going on and happening?

22 A. Yes.

23 Q. Did they give you, before you left, any instructions about
24 whether you should talk to people about this matter?

25 A. No, I don't believe so.

1 Q. Okay. And, I think, you've told us now, and tell me if
2 I have it correctly. At the trial, when you testified,
3 that it took place near the green apartment building, that
4 in fact, was not of your own knowledge at all? That was
5 a relaying of something that you had picked up from the police.

6 A. Relaying of something that I had -- I had -- Yeh.

7 Q. That they had conveyed to you in the course of this questioning?

8 A. I can't say that they conveyed or I'd -- I had just
9 picked up in general conversation.

10 Q. Or you deduced it, one or the other?

11 A. Yeh.

12 Q. They might not have told you directly but you may have gotten
13 it from a question, for example?

14 A. Yes.

15 Q. Fair enough?

16 A. Fair enough.

17 Q. Okay. Patricia Harriss, how long had you been seeing her?

18 A. At that time, I wasn't sure. The -- I can't remember
19 if it was a date or a couple of dates or --

20 Q. A couple of dates.

21 A. -- how long it had been.

22 Q. I take it you didn't know her that well?

23 A. No.

24 Q. You didn't go to school because she was much younger than
25 you? You didn't go to the same school?

1 A. I had been out of school. I guess I was out of school then.

2 Or just getting out of school.

3 Q. So you wouldn't know who her female friends were, for
4 example, among her age group?

5 A. I knew she had one little Italian girl that she knew.

6 That's all I know.

7 Q. Okay. Do you know a woman named Mary O'Reilly?

8 A. What?

9 Q. A person named Mary O'Reilly?

10 A. Mary O'Reilly was -- yes, I remember Mary O'Reilly. She
11 was a girl that used to hang around the Sacred Heart dance.

12 Q. You don't know what relationship, if any, took -- existed
13 between her and Patricia Harriss, I take it?

14 A. I would assume they were friends.

15 Q. You were told they were friends by somebody?

16 A. What?

17 Q. You assumed they were friends?

18 A. I assumed they were friends. I don't really know.

19 Q. You really have no idea?

20 A. Oh, I guess they knew each other. The name doesn't ring a bell.

21 Q. I don't want -- Yes, you know that they knew --

22 A. No, I can't say for sure. I -- I thought they did.

23 Q. Because they both were at the same dances?

24 A. Yeh, because they were at the same dances.

25 Q. Any other reason?

1 A. No, I'd see them talk to one another occasionally or
2 something and --

3 Q. Did you see them talk to each other?

4 A. I'm not even sure if I can remember what she looks like to
5 tell you the truth.

6 Q. All right. Tell me if this correct. You do not know
7 whether or not Patricia Harriss and Mary O'Reilly even
8 knew each other? You don't know that?

9 A. No, I can't say for sure.

10 Q. Good. Thank you very much, sir, and my friends may have some
11 questions for you.

12 A. Okay.

13 BY MR. PUGSLEY:

14 Q. Mr. Gushue --

15 A. Yes.

16 Q. -- I'm acting on behalf of John MacIntyre.

17 A. Yes, okay.

18 Q. When did you finish school? How old would you be when
19 you finished grade 12?

20 A. 20, 21, I guess somewhere around there.

21 Q. Were you going to school at the time this incident, in
22 Wentworth Park in May of 1971, -- were you still going to
23 school at that time?

24 A. I believe I graduated in '71.

25 Q. In '71?

1 A. Yeh.

2 Q. I see. Right. You had known Patricia Harriss for what
3 period of time?

4 A. A short period.

5 Q. Yeh.

6 A. A short period. I don't know if it was weeks, months.
7 It was a short period of time.

8 Q. Yes. Was she -- Did she consider you to be her boyfriend?
9 And you considered --

10 A. Yes and I considered -- yeh.

11 Q. Yeh. And you would see her by taking her to dances, taking
12 her to movies, that kind of thing?

13 A. Well, we wouldn't take one another, we'd meet.

14 Q. You'd meet?

15 A. Yes.

16 Q. At dances and you'd --

17 A. Yes.

18 Q. -- meet a movies, as well?

19 A. Yeh, I would imagine, yeh.

20 Q. Yeh. And would you talk to her from time to time on the
21 phone?

22 A. Yeh.

23 Q. Sure. On the average, how many times a week would you say
24 you saw her?

25 A. Oh, I can't tell you that. I seen her when I could. The --

1 Q. You saw her when you could? All right. And for what
2 period of time did you go out with her? Did you go out
3 through the balance of 1971, through the summer and fall?
4 Did you see her during that period of time?

5 A. '71?

6 Q. Yes.

7 A. This is before or after?

8 Q. No, well, after -- after this incident?

9 A. Yeh, I guess we did see each other afterward that, yeh.

10 Q. And for what period of time would you have continued to
11 see her?

12 A. Oh, off and on, Patricia and I, had seen each other for
13 quite a while.

14 Q. Well, is quite a while a number of years -- through '72
15 and '73 as well?

16 A. No. It -- '73? It -- Yeh, '73, yeh.

17 Q. Okay. Sure. So you started seeing her -- Is it fair
18 to say you started seeing her sometime in early 1971?
19 Would that be fair? And continued to see her throughout
20 1971 and through 1972 and perhaps '73?

21 A. Around that.

22 Q. All right.

23 A. But I can't give you any specific dates that --

24 Q. Yes. Now, after this incident in the park, you advised her
25 not to speak to the police and tell the police that she

1 had been in the park. Is that correct?

2 A. Yes. Yeh, it's correct.

3 Q. And you had told her that she should not tell the police
4 that you had been in the park?

5 A. Yes.

6 Q. That is correct?

7 A. Yes. Yes, correct.

8 Q. Did you advise her that she was not to tell the police
9 that you were at the dance together or that you left the
10 dance together?

11 A. No, I can't remember ever saying that. I just - if we left
12 together it -- we didn't walk through the park. We walked
13 home or something.

14 Q. I see. So that the two -- You told her that it was all right
15 to tell the police that you left the dance together and that
16 you walked her to her home but that you didn't go through
17 the park?

18 A. Yeh.

19 Q. And she said that she would go along with that, I take it?

20 A. Yeh.

21 Q. And, as far as you know, she did go along with that and that's
22 the story that she did tell the police?

23 A. Yes, I believe so.

24 Q. And that's the story that you told the police?

25 A. Yes, that's the story I told them.

1 Q. Do you recall whether or not you were interviewed first
2 by the police or was she?

3 A. That's -- I can't remember. I don't know for sure.

4 Q. Would it be after the interview with the police that you
5 had this discussion with her about not telling the police
6 that you had been in the park or would it have been before?

7 A. Could have been either/or. I'm not sure.

8 Q. Could have been either/or?

9 A. Yes.

10 Q. And after -- after she had been interviewed by the police
11 and told the police that she had not been in the park,
12 did she tell you that she'd been interviewed by the police and
13 gone along with what you had told her to say?

14 A. Yeh, I believe so. I -- I think so.

15 Q. Okay. Now, this incident, in the park, occurred on the
16 28th of May, on the Friday night at St. Joseph's Hall.

17 A. Yes.

18 Q. And the next date that -- One date that we have accurately
19 recorded, we believe, is June the 17th which is the day
20 that you gave the statement to the police -- or the evening
21 that you gave the statement?

22 A. Yeh.

23 Q. I take it, that you would see Patricia from time to time,
24 between the 28th of May and 17th of June?

25 A. Oh, yeh.

1 Q. And would be talking to her, as well, on the phone and
2 seeing her in person, both? Would that be so?

3 A. Yes.

4 Q. Yes. Now, is it as a consequence of what Patricia's
5 mother told Patricia, that you had to change the story?
6 Was it Patricia Harriss's mothers intervention that caused
7 you to decide to tell the truth to the police and cause
8 Patricia to tell the truth to the police?

9 A. Yes, it was -- her mother asked her to go down and just
10 say if you did see Junior Marshall in the park and you
11 were talking to him and go ahead and say that.

12 Q. Tell the police the truth?

13 A. Tell -- yeh.

14 Q. And this, I guess, must have been after Patricia had told
15 her mother that she'd been interviewed by the police and
16 hadn't told them the truth?

17 A. I'm not sure if it was before or after or whatever but
18 it was said.

19 Q. But, in any event, Patricia told you that she and her mother
20 had this conversation and that -- and that she was going to
21 tell the police the true goods?

22 A. Yes, I believe so.

23 Q. And had it not been for Patricia's mother, presumably,
24 Patricia would not have told the police the truth and I
25 guess, you wouldn't have either?

1 A. No, I would have stayed out of it.

2 Q. You would have what?

3 A. I would have just stayed out of it.

4 Q. You would have stayed out of it?

5 A. Yeh.

6 Q. Kept on with the statement that you had originally given?

7 A. That I hadn't seen nothing. Yeh.

8 Q. That you had -- That you'd seen nothing and you had been
9 there?

10 A. Yes.

11 Q. Right. So it was because of Patricia's mother's action
12 in telling Patricia to go down to the police station and
13 tell the police the truth, that it pretty well forced
14 your hand?

15 A. Yes.

16 Q. And so did you go down and -- on your own initiative and
17 make a clean breast of it with the police or did you wait --

18 A. No, I probably wouldn't have but --

19 Q. You would wait until they came to get you?

20 A. Yeh.

21 Q. And, as I understand, you're not sure that you recall
22 seeing Patricia the night you went down -- if it is a night
23 -- the 17th?

24 A. No, I can't remember for sure.

25 Q. You can't recall for sure?

1 A. No.

2 Q. And did Patricia -- I take it, subsequently told
3 you that she did give a statement to the police and signed
4 it?

5 A. Yes.

6 Q. Your answer to that is yes?

7 A. I -- I assumed -- I'm not sure.

8 Q. Okay.

9 A. I'm just not sure.

10 Q. Do you have any recollection of Patricia telling you that
11 she was intimidated by the police or browbeaten by the
12 police of anything of that nature? Do you recall that?

13 A. I got that impression that she was -- they were giving
14 her a hard time.

15 Q. Giving her a hard time.

16 A. Yes.

17 Q. Anything more than that?

18 A. No. No more so than that.

19 Q. Did the police give you a hard time?

20 A. No, I can't say. No, not really.

21 Q. No. You indicated, to my friend, that they were forceful
22 with you, they were strong?

23 A. Oh, Yeh.

24 Q. Yes. And again, no small wonder, they were strong in view
25 of the fact that you had lied to them the first occasion --

TERRANCE GUSHUE, by Mr. Pugsley

1 A. Yes.

2 Q. -- you'd spoken to them?

3 A. Yeh.

4 Q. As far as you were concerned, is it fair to say that the
5 police were trying to get at the truth?

6 A. Yes, they were trying to get at the truth.

7 Q. Yes.

8 MR. RUBY:

9 I take objection to that question. My friend has asked that
10 same question from a number of witnesses and I haven't bothered
11 but let me just formally put on record my objection. This
12 witness can't know what's in the minds of the police officers.
13 They can tell us what they said and what they did and we can
14 draw inferences -- you can draw inferences but it leaves a
15 blanket impression that the police are good guys. He doesn't
16 know if they're good guys or not. He hasn't got the whole
17 picture in his mind and no one will until the evidence is
18 complete. What it is is a form of argument and I ask you to
19 do it in that light.

20 MR. CHAIRMAN:

21 There's been a -- Pardon?

22 COMMISSIONER EVANS:

23 There's been a lot of that --

24 MR. CHAIRMAN:

25 There's been a lot of argument and that's why there hasn't been

TERRANCE GUSHUE, by Mr. Pugsley

1 | the very rigid application of the rules of evidence, for a very
2 | good reason, that the -- there have been several court trials
3 | on this and we are operating in a different forum and try and
4 | enforce the rules of relevancy but with a latitude that would not
5 | be tolerated in the courts. And we note your comments, Mr. Ruby,
6 | that it is argumentative and we noted the comment of Mr. Pugsley,
7 | this morning, that Ms. Edwardh's question was argumentative. So
8 | if we -- there might be great temptation to cut out all argumentative
9 | questions and we'd be out of here within about two days.

10 | MR. PUGSLEY:

11 | My only response to my friend's interruption, My Lord, is that
12 | it was not I who suggested to the first statement -- to the
13 | first witness who made the comment "they were after the truth." It
14 | was Maynard Chant himself who made that statement, not I. It was
15 | not a suggestion from me. It was Maynard Chant's own initiative.

16 | MR. RUBY:

17 | I don't think so.

18 | MR. PUGSLEY:

19 | Well, the record will stand and I'm prepared to rely on it.

20 | COMMISSIONER EVANS:

21 | We'll do the arguing.

22 | MR. CHAIRMAN:

23 | Amongst ourselves.

24 | COMMISSIONER EVANS:

25 | It might be a good time, though, to remind counsel that some of the

TERRANCE GUSHUE, by Mr. Pugsley

1 | questions that they are posing, in cross-examination, have a
2 | quite a run-in by way of background music in order to get the
3 | answer you're looking for that we may not require. If they cut
4 | down on that, maybe, the answers will be a little more prompt
5 | and maybe this Inquiry will end before -- in the present year
6 | if possible.

7 | MR. PUGSLEY:

8 | Thank you, My Lord.

9 | COMMISSIONER EVANS:

10 | There seems to be a fair amount -- now, that I'm at it, I might
11 | as well say there is a lot of plowing the same field. I don't
12 | think it's -- I'm not referring to you particularly, Mr. Pugsley,
13 | I'm not accepting you but I'm not referring to you particularly
14 | but there is a fair amount of plowing of the same area and I
15 | don't think it's necessary because if we are not going to get it
16 | the third time around, we've not going to get it the fourth.

17 | MR. PUGSLEY:

18 | I guess, I'm not taking up because it's for my friends, who
19 | are guilty, I'm sure as the same way I am, My Lord, except that
20 | we all perceive from a different viewpoint, I guess, from a different
21 | vantage point and that makes it a certain amount of repetition,
22 | I suppose, in that regard.

23 | BY MR. PUGSLEY:

24 | Q. Now, the comment -- or the evidence that you gave today, which
25 | was the first time I had heard it, that you had not told the

1 police the truth the first time you were interviewed. Had you
2 ever told that to anyone before?

3 A. Yes.

4 Q. Who had you told that to?

5 A. The R.C.M.P. officer that I talked to and a few other people.

6 Q. That's -- I was interested in that. I was interested that --
7 and -- one -- by the R.C.M.P. officer, you mean Wheaton?

8 A. Yes. I believe that.

9 Q. You told Wheaton that you had not told the police the truth
10 the first time you talked to them?

11 A. Yes. After I had made that original statement -- anybody
12 that had ever talked to me, I told them. I said I didn't
13 -- I just -- I just wanted to stay out of it.

14 Q. I see. And although Wheaton, as thorough as he may have been
15 with respect to some people, was certainly not thorough enough
16 to report that in your statement. In volume 13, page 76,
17 there is no -- no reference, at all, in this, meagre, six
18 line statement that -- I guess it speaks for itself.

19 THE WITNESS:

20 Before you begin questioning, can a gentleman use the washroom?

21 INQUIRY ADJOURNED: 3:01 p.m.

22
23
24
25



1 | INQUIRY RECONVENED: 3:12 p.m.

2 | BY MR. PUGSLEY:

3 | Q. Did you ever tell Patricia Harriss that you were browbeaten
4 | by the police?

5 | A. No, I don't believe so.

6 | Q. In the affidavit that you found or that you swore on the
7 | 15th of July, 1982, before Mr. Aronson, paragraph seven
8 | reads --

9 | A. Which one is this?

10 | Q. It's the affidavit sworn on the 15th of July, 1982.

11 | A. What page is this on?

12 | Q. I'll try and --

13 | MR. MacDONALD:

14 | Page 77.

15 | BY MR. PUGSLEY:

16 | Q. Seventy-seven, good. Take a look at page 77.

17 | A. Yes.

18 | Q. I just want to direct your attention to paragraph seven of
19 | that affidavit that:

20 | On June the 17th, 1971, I was
21 | interviewed by Detective Sergeant
22 | J. F. MacIntyre of the Sydney
23 | City Police and gave a free and
24 | voluntary written statement to the
25 | said MacIntyre, a copy of which is
 produced herewith and marked
 Exhibit A, directly relating to
 my knowledge of the events surround
 the murder of Alexander (Sandy) Seale
 on the night of May 28th, '71, and

1 that to the best of my knowledge and
2 belief, the facts contained in that
 statement are true.

3 That -- That clause is an accurate statement and you swore
4 to the truth of that in 1982, and I take it that statement
5 is true today, sir?

6 A. Yes, sir.

7 MR. PUGSLEY:

8 Thank you. That's all the questions I have, Mr. Gushue.

9 BY MR. MURRAY:

10 Q. Mr. Gushue, I represent William Urquhart. When you were
11 questioned by the Sydney City Police the second time when
12 you gave the written statement, and you say there were two
13 people in the room?

14 A. Yes, sir.

15 Q. I take it there was one person standing and one person sitting
16 and all the talking was done by the one person standing?

17 A. Yeh, usually.

18 Q. Well, usually or is that your recollection that that's what
19 it was?

20 A. It's my recollection that whoever was standing at the time was
21 doing the questioning or the asking?

22 Q. And the person sitting essentially did nothing throughout the
23 whole statement except witness it. Is that correct?

24 A. I believe so, yeh.

25 Q. The only other area that I would like to ask you a question about,

1 and if you have volume 16 there, sir --

2 A. Yes, I do.

3 Q. --would you open it to page 74, 75?

4 A. Yeh.

5 Q. I would ask you --

6 MR. MacDONALD:

7 He's in sixteen and twelve, but he's not --

8 MR. MURRAY:

9 Yeh, I'm referring to volume 16, page 74.

10 MR. MacDONALD:

11 Oh, okay. Excuse me.

12 THE WITNESS:

13 Pages 74 and '75. Chapter seven?

14 BY MR. MURRAY:

15 Q. This is the statement of Mary Patricia O'Rielley. In volume--

16 A. Sixteen.

17 Q. Sixteen.

18 A. I've got a question and answer statement here in front of me.

19 Q. Of Mary Patricia O'Rielley?

20 A. That's correct. You said paragraph seven.

21 Q. That was -- I believe the previous question had to deal with
22 paragrah seven.

23 A. Oh, okay. Okay.

24 Q. Now I'd like you to take the time, Mr. Gushue, to read through
25 that statement.

1 A. Okay.

2 Q. Now I appreciate that you told my friend that you don't have
3 any recollection today whether or not Patricia Harriss and
4 Mary O'Rielley knew each other. Is that correct?

5 A. That's -- Yeh. Yeh, that's what I said.

6 Q. My question to you is having looked at that statement and the
7 references to Patricia Harriss --

8 A. Yes.

9 Q. --does that assist you in recollecting and conversation you
10 might have had with Patricia Harriss?

11 A. No, it doesn't recollect anything but I -- Her sister's
12 name Kate rings a bell. It seems like I knew her. That -- if she
13 knew Patricia then -- therefore, Mary O'Rielley probably did
14 know her.

15 Q. I see. One other point, your altercation with Donald Marshall,
16 were you the only person being attacked at that point, sir?

17 A. Yes, at that point, yes, I was.

18 Q. So there was four -- three or four against one?

19 A. Yeh.

20 MR. MURRAY:

21 I have no further questions.

22 MR. ELMAN:

23 No questions, My Lord.

24 MR. SAUNDERS:

25 No questions, My Lord.

1 MR. BISSELL:

2 None, My Lord.

3 BY MR. ROSS:

4 Q. Mr. Gushue, my name is Anthony Ross and I will be asking you
5 some questions on behalf of Oscar Seale.

6 A. Yes, sir.

7 Q. Now tell me something, on the 28th of May, 1971, that was the
8 night that you were asked to leave the dance, do you recall
9 what time you got Patricia Harriss to her home?

10 A. No, not right offhand I can't say.

11 Q. Was she required to be home by a particular time?

12 A. She usually had a-- She usually would have to be in around
13 twelve or so.

14 Q. Around twelve?

15 A. I believe so, yes.

16 Q. Were you trying to get her home on time that night?

17 A. I can't say that for sure.

18 Q. And you do not recall whether or not you did get her home
19 by twelve?

20 A. No, I'm not sure if I did or I didn't.

21 Q. Pardon me.

22 A. I'm not sure if I did or I didn't get her home in time or
23 whatever.

24 Q. I see. I take it that the first statement that you gave to
25 the -- the police and the only statement was on the 17th of

- 1 June, 1971?
- 2 A. Yes.
- 3 Q. You only gave them one statement. Is that correct?
- 4 A. There was an original and then on that date, I believe.
- 5 Q. Pardon me.
- 6 A. I was -- I talked to the police two times.
- 7 Q. And at both times did you give written statements?
- 8 A. I guess so, yeh. Yeh.
- 9 Q. Well, if you can't remember, tell me you can't remember.
- 10 A. I can't remember if I did or didn't. I assume I was shown
- 11 copies of ones that I had signed, so I must have.
- 12 Q. Sure. Well, I note here on your statement which appears in
- 13 volume 13, page 66. Have you got that volume available?
- 14 A. Yes, sir, I have. Page 66?
- 15 Q. Yes.
- 16 A. Okay.
- 17 Q. That you indicate that there was a fight at the dance and around
- 18 ten-thirty is when you would have left?
- 19 A. Yes.
- 20 Q. Can you -- Have you got an independent recollection now about
- 21 the fight of the dance?
- 22 A. Time wise, no.
- 23 Q. Could you remember who was involved in the fight, anything
- 24 at all about it?
- 25 A. I remember that a friend of mine, Eddie Dicks was at the time.

- 1 Q. And when you left the dance, do you recall whether it was just
2 you and Patricia Harriss left, or this person Robert Patterson
3 whether or not that was with you?
- 4 A. I couldn't remember that until I read it that Robert had left
5 with us.
- 6 Q. You couldn't remember what?
- 7 A. I couldn't remember that Robert had left with us originally.
8 After I read it I remembered Robert leaving the dance with
9 us.
- 10 Q. You recall Robert being at the dance then?
- 11 A. I recall him being down the park with us, yes.
- 12 Q. Yes. Okay. Down the park is one thing. What about at the
13 dance? Do you recall him being at the dance with you?
- 14 A. Not for sure, no. No.
- 15 Q. Do you recall him walking from the dance down George Street
16 to the park?
- 17 A. No, I don't recall.
- 18 Q. Do I take it then that your first recollection is him being in
19 the park with you and with Patricia Harriss?
- 20 A. I didn't even have any recollection of Robert at all until I
21 read it.
- 22 Q. Until you read what?
- 23 A. Until I read it in the statement that he had come with us.
24 It's just that I -- I guess I had been drinking and yeh,
25 Robert probably did walk with us, you know, because I had known

1 Robert for years and we were drinking.

2 Q. I see. Well, I note here that at the Preliminary Inquiry which
3 was in July and is recorded on page 69 of the same volume, that
4 you indicated that you left the dance then around eleven?

5 A. Yes.

6 Q. And as I look further in your affidavit which appears on page 77,
7 you're saying then that you left the dance around eleven forty-
8 five. Three different times that you left the same dance?

9 A. I can't tell you for sure when I did really leave the dance.
10 I was just assuming times.

11 Q. And do you recognize that when you were swearing this affidavit
12 that you weren't sure about the --

13 A. No, I was just assuming that was -- it was around that
14 general area of time. That's all.

15 Q. Pardon me.

16 A. I was just assuming that it was around that area of time.

17 Q. I see.

18 A. It could have -- It could have been anywhere in between or
19 one or the other. I'm not sure. I didn't know --

20 Q. Is it true? Tell me about this affidavit, how it came to be
21 in existence? Did somebody interview you? Did somebody speak
22 to you about it, or was the affidavit prepared and somebody
23 showed up for you to sign it?

24 A. Usually it was that I would have to speak to somebody and
25 I would try to understand what they said and I would sign what

1 | was said.

2 | Q. I see. Do you know Steve Aronson?

3 | A. Steve Aronson?

4 | Q. Steve Aronson.

5 | A. Yes.

6 | Q. Do you know him?

7 | A. No, it's a lawyer, is it?

8 | Q. Yes.

9 | A. Yeh.

10 | Q. Well, this affidavit, your affidavit as shown on page 70 appears
11 | to have been sworn to before him?

12 | A. Yeh, that's in 1982, was it or --

13 | Q. Yes.

14 | A. -- around there.

15 | Q. How many times did you see Steve Aronson?

16 | A. I'm not sure. Once.

17 | Q. Do you recall swearing this affidavit in front of him?

18 | A. No. No, I can't say I really -- My signature is on it. I
19 | did it.

20 | Q. Okay. I accept that your signature is on it. Do you remember
21 | where you were when you signed this piece of paper?

22 | A. In 82, I would have been at 680 George Street.

23 | Q. Now did he come to your home, do you recall, or did you go to
24 | an office?

25 | A. No, I don't ever remember ever going to an office. It would

1 | have been at my home.

2 | Q. I see. Do you recall whether or not you spoke to him by
3 | telephone any time before to set-up an appointment for the
4 | affidavit?

5 | A. I never ever had a phone at 680 George Street.

6 | Q. Well, as a matter of fact you might have used a pay phone. Do
7 | you remember speaking to Mr. Aronson at any time saying --

8 | A. To use a pay phone I would have had to call him and I don't
9 | remember ever calling him.

10 | Q. I see. So you recall can't give us any idea of how the
11 | affidavit come into existence. All you could do is recognize
12 | that's your signature on page --

13 | A. Surely, yeh, he must have come to my home.

14 | Q. And if he did come to your home -- Do you recall if he came to
15 | your home just once or more than once?

16 | A. No, I don't recall. It was probably just one time. That's
17 | all. I can never remember anybody really have a talk to in
18 | that period of time.

19 | Q. I'm going to tell you why I'm asking these questions. Now as
20 | far as an affidavit is concerned, I understand as a general
21 | practice that somebody would give you certain information and
22 | you'd give it to them as a first step?

23 | A. Yeh.

24 | Q. They'd take this information and they'd incorporate it in an
25 | affidavit and allow you to look at a draft, and if it's correct

1 | then they'll get you to swear it?

2 | A. Yeh.

3 | Q. Did you go through those steps, do you recall?

4 | A. I don't recall. That's-- It's probably the way it happened
5 | but I don't -- I don't remember.

6 | Q. I see, and as far as the timing is concerned, did you go over
7 | the facts in this affidavit? Did Mr. Aronson ask you whether
8 | or not you were sure about the timing, eleven forty-five?

9 | A. I can't say if I was sure. I just assumed whoever --

10 | MR. CHAIRMAN:

11 | Mr. Ross, every note I have here is that this gentleman can't
12 | remember the affidavit at all, so if he can't remember the
13 | affidavit I'm having difficulty understanding how he can remember --
14 | can be expected to remember how many visits, whether he went over
15 | it, you know, it --

16 | MR. ROSS:

17 | Well, as a matter of fact I could imagine that he might not
18 | remember the execution. He recognizes his signature and if it
19 | is that --

20 | MR. CHAIRMAN:

21 | It seems to be wasting a bit of time but I suppose --

22 | MR. ROSS:

23 | Well, if you see it as a waste of time then I wouldn't ask any
24 | more questions, My Lord, if that's the position.

25 | MR. CHAIRMAN:

You can ask all the questions you wish as long as you don't keep

1 repeating and repeating and repeating.

2 MR. ROSS:

3 Fine. Thank you. Well, the thing -- I don't propose to be
4 argumentative with you, Mr. Commissioner.

5 BY MR. ROSS:

6 Q. Now tell me something, Mr. Gushue, did you have an opportunity
7 to discuss your affidavit or any statements that you had
8 given with Patricia Harriss?

9 A. I had plenty of opportunities. I didn't though.

10 Q. Now tell me, do you recall -- Do you recall Junior Marshall
11 getting a light from you?

12 A. Getting a light from me?

13 Q. Yes.

14 A. I thought I was the one that got a light from him.

15 Q. Well, are you sure that there was an exchange of a match
16 between yourself and Junior Marshall?

17 A. Yeh, it was something like that, yeh.

18 Q. Yeh. Do you recall whether anybody else was with him?

19 A. I couldn't remember if there was or wasn't. I was -- Like
20 I said, I was feeling pretty good.

21 Q. No recollection at all?

22 A. There probably was. I don't know. I can't say for sure now
23 if there was or there wasn't.

24 Q. Do you recall discussing it with Patricia Harriss?

25 A. Yes.

TERRANCE GUSHUE, by Mr. Ross, by Mr. Gay

1 Q. I note that in her testimony she says that there were two
2 people with Junior Marshall. Does that help you?

3 A. No, it don't help me at all because I can't remember that.

4 Q. I see. I take it you really can't remember anything and
5 you just gave different statements from different -- at
6 different times?

7 A. I gave what I believed to be the truth in my mind.

8 Q. At that time?

9 A. Yeh.

10 Q. And it has changed from time to time?

11 A. It's been as close as I could remember.

12 MR. ROSS:

13 Okay. Thank you very much. No more questions for this witness.

14 BY MR. GAY:

15 Q. Mr. Gushue, I'm Jeremy Gay and I have a few questions to ask
16 you on behalf of the Black United Front.

17 A. Yes, sir.

18 COMMISSIONER EVANS:

19 Just a moment before you get into that. Are you both not in
20 the same interests, you and Mr. Ross.

21 MR. ROSS:

22 Well, for the same expenses Mr. Pugsley and his partner are in
23 the same interests with respect to two different police officers
24 --

25 COMMISSIONER EVANS:

Oh, no, that's quite different. This has to do on the application

TERRANCE GUSHUE, by Mr. Gay

1 | for the funding. 'Finally, we consider the application of
2 | Oscar Nathaniel, the father of the late Sandford William
3 | Seale, Mr. Seale consistently has maintained the position that
4 | his son's reputation was being attacked and damage and without
5 | any opportunity having been afforded the Seale family to respond.
6 | His position is comparable to that of the parents of the children
7 | considered by the Commission to have a sufficient interest in the
8 | outcome in that Inquiry to warrant public funding for their
9 | counsel. And in the submission made on behalf of Mr. Seale it
10 | was indicated he cannot afford Counsel. It is clear his interest
11 | relates only to the events which occurred on the night when this
12 | tragedy took place and we considered he should be provided funding
13 | to enable Counsel to be present to represent the interests of the
14 | family when those events are being considered at the hearings.
15 | During the submissions made yesterday, Counsel for Mr. Seale; (And
16 | that was you Mr. Ross.) indicated he would also be representing
17 | the Black United Front and thereby the cost to be incurred for
18 | the representation of Mr. Seale would be less than normally might
19 | have been the case and the Commission accordingly made the following
20 | recommendations."

21 | MR. ROSS:

22 | That's very correct.

23 | COMMISSNER EVANS:

24 | And that's why I'm putting that question to you because it's hardly
25 | right that you get two bites at the apple, is it?

1 MR. ROSS:

2 No, I am not looking for two bites out of the apple at all. You
3 see, My Lord, if you stop and recall that applications were made
4 first for standing. Independent of my involvement, the Black United
5 Front was given standing, and independent of my involvement,
6 Oscar Seale was given standing. Now after the standing question
7 had been resolved, if this Commission had commenced hearings in
8 May as had been contemplated, chances are this issue would not
9 now come up. However, on the funding questions, I indicated to
10 the Commission that I had been approached the day before I made
11 representations on the question of funding to also represent the
12 Black United Front and, of course, our officers and me. Sure
13 I'm representing the Black United Front as well as Oscar Seale,
14 but I do not know that it is inconsistent with the guidelines
15 that I have seen where in which as I understand it Counsel and
16 a Junior is representing a party. Here I am representing two
17 parties and if it is in the interests of these parties that the
18 questioning be split, then I can only do that. Now if it is that
19 we are supposed to be coupling the Black United Front and Oscar
20 Seale under one umbrella, then that's something that I think would
21 be -- It would be in the interests of everybody to have it
22 fully clarified.

23 COMMISSIONER EVANS:

24 Well, I would think in Counsel when you're -- Let's assume for
25 moment you're in Court and there's Junior or Senior Counsel, they

TERRANCE GUSHUE, by Mr. Gay

1 | do not both cross-examine.

2 | MR. ROSS:

3 | Absolutely not. As a matter of fact, I am to no more or to no less
4 | a degree that when Ms. Edwardh was taking one witness through certain--
5 | certain aspects of this hearing that Mr. Ruby was objecting to
6 | Mr. Pugsley. The same thing applies.

7 | COMMISSIONER EVANS:

8 | You can take that up with Mr. Ruby.

9 | MR. ROSS:

10 | I will. But it is just, My Lord, that as far as I am -- It is not
11 | an idea to get two bites at the same cherry and I don't know that
12 | we are even attempting to cover the same ground.

13 | COMMISSIONER EVANS:

14 | Well, there's been a lot of nibbling by both of you on the same
15 | area for the last several days, that's why I put it to you.

16 | MR. CHAIRMAN:

17 | May I suggest, Mr. Ross, that when you get the transcript for
18 | today's Hearings that you carefully examine the questions put to
19 | the last witness, this morning's witness by you and then by
20 | Mr. Gay and you may see very clearly then the area of our concern.
21 | The questions appear to be very, very similar indeed.

22 | BY MR. ROSS:

23 | If that is the concern, My Lord, I must say that is a very
24 | appropriate concern and I will try to see to it that between Mr.
25 | Gay and I, we will coordinate our efforts to the extent that we

TERRANCE GUSHUE, by Mr. Gay

1 don't have that same duplication from the day. Thank you,
2 My Lord.

3 COMMISSIONER EVANS:

4 Go ahead, Mr. Gay.

5 BY MR. GAY:

6 Q. Mr. Gushue, I believe that you've indicated that at these
7 dances that there was a pattern of drinking and fighting that
8 go on from time to time?

9 A. Yes.

10 Q. And you've also indicated that there was different groups
11 at the dances. There would be a Black group, a White group,
12 and an Indian group with some inter-mixing between the groups?

13 A. Yes.

14 Q. Would the fighting that went on be between the different
15 groups?

16 A. How could it not be?

17 Q. So are you saying that that would be the case that the
18 fighting would be between Whites and Blacks and between
19 Whites and Indians?

20 A. The way it would usually happen is you put five good looking
21 girls in the dance and you put twenty guys, Black, White,
22 or Indian, and you got to split them up. You know what
23 happens, hey, arguments break out. That's what usually --
24 That's the way it usually went. It was -- There was no
25 prejudice involved and there was no -- You know, it was just

1 | the way it happens -- It's commodities. You've got so much
2 | to go around and if it don't go around somebody's going
3 | to get pissed off.

4 | MR. CHAIRMAN:

5 | I take the line of questioning, Mr. Gay, but if I were you I'd
6 | move into another area.

7 | BY MR. GAY:

8 | Q. I just want to clarify that point there. Would the fight
9 | be between Whites or would it be between Whites and Blacks
10 | and Whites and Indians, Indians and Blacks?

11 | A. Two males with overactive hormones. That's probably what
12 | it would amount to.

13 | Q. And it could have been two Whites?

14 | A. Yeh. What?

15 | Q. You've indicated that it was your perception that Indians
16 | were not treated as fairly as their rights were treated by
17 | the police?

18 | A. Yes. Yes, I -- I've said that.

19 | Q. And was that -- Would that have also been your perception
20 | insofar as Blacks were concerned, that they weren't treated
21 | as fairly by the police?

22 | A. I don't know how the ladder went if the Whites were on top
23 | and the Blacks were next, and the Indians were beneath them
24 | or whatever, it just seemed to me that, well, I got an
25 | easier break than Whites or Blacks -- or than Reds and Blacks,

1 whatever.

2 Q. Than Indians or Blacks?

3 A. Yeh.

4 MR. GAY:

5 That's all I have. Thank you.

6 THE WITNESS:

7 Okay.

8 BY MR. WILDSMITH:

9 Q. Just a couple of points to really follow-up the remarks
10 you've made about Indians not being treated quite as
11 fairly or receiving a "rawer deal", I think, was your expression,
12 and you've indicated that that was your impression?

13 A. Yes.

14 Q. And if I recall your evidence brought out by Commission
15 Counsel, Mr. MacDonald, you can't recall particular incidences?

16 A. No, well, I just can't pick out any particular time where
17 it seemed like one guy was getting any worse than the
18 other, but in the general run of things it always seemed that
19 way.

20 Q. Okay, and I'm wondering if you'll suggest or I wonder if
21 you'll agree with me that it's reasonable to think that you
22 may have observed incidences where Indians have come in
23 contact with the police and that that may be part of the
24 basis of your impression today?

25 A. Like I say, again I can't say right offhand where I can say

1 well, this individual was persecuted by that guy, but --

2 Q. And I'm not asking you to --

3 A. I'm just saying over a general period of time I observed that
4 they were.

5 Q. Yes, and that's my real point to you that what you're speaking
6 about as an impression today --

7 A. Yeh.

8 Q. --is based on observations you, yourself, made in the past?

9 A. Yeh. Yeh.

10 Q. Even though you can't recall a particular incident?

11 A. Yeh, no particular incident, but I -- That was my impression.

12 Q. Certainly, and you've observed the treatment of Indians by
13 police?

14 A. Yeh.

15 Q. And you've observed the treatment of Whites by police. Is
16 that correct?

17 A. Correct.

18 Q. How about you, yourself, have you ever been arrested for
19 being drunk in a public place?

20 A. Yes. Yes, on a number of occasions.

21 Q. Actually arrested rather than simply being thrown out or
22 told to sober up and go home?

23 A. On more occasions than one I put in gaol. They didn't give
24 me any better privileges than anybody else.

25 Q. If I recall your evidence correctly, what you were suggesting

1 is that you were not treated quite as severely as you would
2 have expected an Indian to be treated under the same
3 circumstances?

4 A. Oh, yes, I'm talking about when I was younger.

5 Q. Yes.

6 A. When I was younger, you know. When I was escorted home or
7 told to go the heck home --

8 Q. Yes.

9 A. Oh, no, that's all I'm saying.

10 Q. Certainly. I'm talking about --

11 A. A couple of times I could have been in gaol and I wasn't.

12 Q. And this is when you were a youth in the period of 1970 or '71,
13 or a few years before or a few years after?

14 A. Yes.

15 MR. WILDSMITH:

16 Thank you, then. Those are all my questions.

17 BY MR. CHAIRMAN:

18 Q. As I understand it today, when you have run afoul of the law,
19 you've been treated, you say, the same as anyone else?

20 A. Oh, yes. Yes. Yes. Yeh.

21 MR. CHAIRMAN:

22 Well, thank you very much, Mr. Gushue. That's all. Thank you.
23

24 (WITNESS WITHDREW)
25