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#3

SDS Case Number 87-312

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

VOLUME XVIII

Held: October 26, 1987

At: St. Andrew's Church Hall
Bentinck Street
Sydney, Nova Scotia

Before: Chief Justice T. A. Hickman, Chairman
Assoc. Chief Justice L. A. Poitras, Commissioner
Hon. G. T. Evans, Commissioner

Counsel: George MacDonald, Q.C., Wylie Spicer, & David Orsborn: Commission Counsel

Clayton Ruby, Ms. Marlys Edwardh, & Ms. Anne S. Derrick: Counsel for Donald Marshall, Jr.

Michael G. Whalley, Q.C.: Counsel for City of Sydney

Joel Pink, Q.C.: Counsel for John F. MacIntyre

Donald C. Murray: Counsel for William Urquhart

Frank L. Elman, Q.C., & David G. Barrett: Counsel for the Donald MacNeil estate

Jamie W. S. Saunders, & Darrel I. Pink: Counsel for Attorney General

James D. Bissell: Counsel for the R.C.M.P.

Al Pringle: Counsel for Correctional Services Canada

William L. Ryan: Counsel for Evers, Green and MacAlpine

Charles Broderick: Counsel for Carroll

S. Bruce Outhouse: Counsel for Wheaton & Scott

Guy LaFosse: Counsel for Davies

Graydon Nicholas: Counsel for Union of N. S. Indians
Assisted by Daniel Christmas

E. Anthony Ross, & Kevin Drolet: Counsel for Oscar N. Seale

E. Anthony Ross, & Jeremy Gay: Counsel for Black United Front

Court Reporters: J. Graham Robson, & Judith M. Robson, OCR, RPR

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COURT REPORTER'S CERTIFICATE ..... RR

INQUIRY RECONVENED AT 9:37 o'clock in the forenoon on Monday, the 26th day of October, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia

1

2 MR. CHAIRMAN:

3 Good morning. Yes.

4 MR. SPICER:

5 Good morning, My Lord. The first witness is Barbara Floyd.

6 BARBARA FLOYD, being called and duly sworn, testified as follows:

7 BY MR. SPICER:

8 Q. Would you tell us your full name, please?

9 A. Barbara Floyd.

10 Q. Barbara Floyd?

11 A. Yes.

12 Q. Were you brought up in Sydney, Barbara?

13 A. Yes.

14 Q. Can you tell us the schools that you went to?

15 A. High schools?

16 Q. No, start before high school. What's the first school you went

17 to?

18 A. Elementary schools?

19 Q. Yes.

20 A. St. Joseph's.

21 Q. Okay, and where did you go from there?

22 A. Sacred Heart.

23 Q. All right.

24 A. Holy Angels Convent, Sydney Academy, Dartmouth Junior High and

25 Holy Angels Convent.

1 Q. What years were you at the Sydney Academy?
2 A. I'm not sure. Around 1970.
3 Q. In the '60's? Maybe I can help you better, --
4 A. '70. 1970.
5 Q. '70, '71?
6 A. I think so.
7 Q. Around that time. Can you tell us what grades you were in
8 at that time in Sydney Academy?
9 A. Ten.
10 Q. Grade ten. And did you leave the Sydney Academy then to go to
11 Dartmouth?
12 A. Yes.
13 Q. And when would that have been?
14 A. '71. I'm not positive.
15 Q. In seventy -- in 1971 and '71, you were in Sydney and at Sydney
16 Academy.
17 A. Yeh.
18 Q. Is that right?
19 A. I'm pretty sure. I can't recall the dates.
20 Q. Okay. Okay, sure. You were born in 1955?
21 A. Yes.
22 Q. And in 1970 and '71, would you have known some of the -- some
23 of the Indian boys in Sydney?
24 A. Yes.
25 Q. Okay. Were there a group of Indian kids that you used to hang

1 around with at about that time?
2 A. Yes.
3 Q. Can you tell us who they were?
4 A. There was an awful lot of them.
5 Q. Well, can you give us your recollection of who they were?
6 A. Artie Paul, Junior Marshall, Edward Kabatay, Lawrence Paul,
7 Kevin Christmas, Jimmy Gould -- quite a few others.
8 Q. Was Tom Christmas?
9 A. Yes.
10 Q. And were there other friends of yours -- other girlfriends
11 of yours that used to hang around with the same group of
12 Indian kids?
13 A. Yes.
14 Q. And who were they?
15 A. Joan Clemens, Sandra MacNeil.
16 Q. Sandra MacNeil?
17 A. They're the ones that I recall; like there's other ones, but I
18 didn't hang around with them.
19 Q. Okay. And when you say you used to hang around with them,
20 can you give us some idea of the sorts of things that you
21 used to do?
22 A. Go to the dances.
23 Q. Yes.
24 A. Hung around Wentworth Park.
25 Q. Did you hang around at all out by the graveyard?

1 A. Yes.
2 Q. Do you remember incidents of any of the Indian boys that you
3 were mentioning being involved in bumming money in the park?
4 A. I didn't see anyone bumming money in the park.
5 Q. Did you know that it was going on though?
6 A. Yes.
7 Q. Okay. Did you ever hear of anybody -- of any of the Indian
8 kids using any force to bum money?
9 A. No.
10 Q. Did you ever get the feeling at Sydney Academy -- at school
11 that any of your friends would shun you a bit because you were
12 hanging around with the Indian boys?
13 A. I don't feel that they did.
14 Q. Did you ever hear any comments? Did anybody ever make fun of
15 you or anything?
16 A. Back then, no.
17 Q. Later?
18 A. Yes.
19 Q. And what was said later?
20 A. Just remarks like how could I hang around with them. How could
21 I ever go out with an Indian boy.
22 Q. And who would be making those remarks?
23 A. White people.
24 Q. This is after you finished high school? And would it have
25 been in relation to the time you were in high school or just

1 generally?
2 A. Generally.
3 Q. Generally. Would that have been in Sydney?
4 A. Yes, lately and all along in the last few years.
5 Q. Over the years?
6 A. Yes.
7 Q. Do you ever remember being told by the police in Sydney that
8 you shouldn't hang around with the Indians?
9 A. No.
10 Q. Do you have any recollection of your parents ever being told
11 by the police that they shouldn't let their daughter hang around
12 with Indians?
13 A. No.
14 Q. Did you ever hear that that was happening to anybody else's
15 parents?
16 A. Yes.
17 Q. Okay. Do you remember anybody specifically?
18 A. Joan Clemens.
19 Q. Joan Clemens?
20 A. Yes.
21 Q. Was there a fair amount of drinking going on at that time,
22 1970, 71?
23 A. Everyone I knew used to drink. Not all the time but occasionally.
24 Q. On the weekends?
25 A. Yes.

BARBARA FLOYD, by Mr. Spicer

1 Q. And where would that place?
2 A. In the park.
3 Q. And what would you do if you were drinking in the park and the
4 police came along?
5 A. Take off.
6 Q. Take off? How often did that used to happen?
7 A. Quite often.
8 Q. Quite often that the police would come along?
9 A. Yes.
10 Q. Did the police ever pick you up?
11 A. Once.
12 Q. Once? Did you ever see them picking the Indian kids up?
13 A. No.
14 Q. Were you ever in the graveyard area drinking and the police
15 would come along?
16 A. Not myself, but it has happened.
17 Q. You heard about it?
18 A. Yes.
19 Q. Did you know Junior Marshall well? 1970?
20 A. Fairly well.
21 Q. What was your impression of him?
22 A. I liked him. I thought he was a nice guy. He was quiet and
23 seemed to mind his own business.
24 Q. Did you ever see Junior carrying a knife?
25 A. No.

1 Q. Did you ever hear that he did?
2 A. I don't recall, no.
3 Q. Did you know John Pratico in 1971?
4 A. Yes.
5 Q. And where did you know him from?
6 A. Seeing him around, in the park, and --
7 Q. Yes. Did he used to hang around with the Indian guys at all?
8 A. I don't remember him being with us, but I've seen him hanging
9 around the park but not a lot.
10 Q. Okay. And at that time -- You didn't know him from school then,
11 I take it?
12 A. No.
13 Q. No? Just from hanging around in the park. And what was your
14 impression of him?
15 A. I didn't have much of an impression of him.
16 Q. Yes. When you say you didn't have much of an impression of
17 him, did you have any impression of him at all? Did he --
18 A. I didn't think he was very normal.
19 Q. Do you know whether or not that was sort of the view generally
20 of the people that you hung around with?
21 A. I felt that, yes.
22 Q. You felt that? And was there a way that -- in which that
23 feeling was conveyed to you from John? Was there something
24 about him?
25 A. Basically, the look of him.

1 Q. Yes. In what respect? Just looked different?
2 A. Yes.
3 Q. Act a little differently?
4 A. Yes, I felt that he did.
5 Q. Now you attended the dance on May the 28th?
6 A. Yes.
7 Q. Who did you go with?
8 A. Joan Clemens and Sandra MacNeil.
9 Q. Do you know what time you left the dance?
10 A. As soon as it was over.
11 Q. Around midnight?
12 A. Yes.
13 Q. And when you left the dance, did you see John Pratico?
14 A. Yes.
15 Q. Do you remember how long after the -- after leaving the dance
16 you saw John?
17 A. Moments.
18 Q. Moments? Are you -- Do you remember whether or not by the
19 time you'd seen John whether you'd heard anything about the
20 stabbing?
21 A. I had heard something. I don't know if it was exactly that
22 someone told me someone was stabbed or if they said there
23 was a lot of police down the park, not to go near the park.
24 Q. But whatever it was, you'd heard that before you saw John?
25 A. Just before I saw John.

1 Q. Just before you saw -- And when you saw him what was he doing?
2 A. He was arguing with Ricky Risk.
3 Q. Are you able to tell us whether or not that he appeared to
4 you to be drunk or sober?
5 A. I couldn't swear to how he was.
6 Q. Do you have any recollection of how he looked?
7 A. He looked like he had been drinking, but I don't know if he
8 was.
9 Q. Was he pushing and shoving with --
10 A. Just arguing.
11 Q. Arguing?
12 A. It didn't last any more than ten seconds or so.
13 Q. And was that just outside the church?
14 A. Yes. In the parking area -- parking lot area.
15 Q. In the parking lot area around the church?
16 A. Yeh.
17 Q. Who did you leave the dance with?
18 A. Joan and Sandra.
19 Q. Joan and Sandra? And where were you heading?
20 A. We decided to walk Joan past the park because she lived up
21 off Alexandra Street, to make sure she'd be okay. And then
22 we were headed home.
23 Q. Okay. Can you just show us how you would've gotten Joan home?
24 A. We walked down here and up past -- to about here.
25 Q. Right. So you would've gone up along George Street, turned

1 left onto Argyle, gone past Argyle a little beyond Crescent?
2 A. Yes, past Crescent a bit.
3 Q. Right and you would've dropped Joan off there?
4 A. Yeh.
5 Q. Okay. And then where would you and Sandra have gone?
6 A. Back down this way and over here and up that way.
7 Q. Okay. So back down Argyle, along George a little bit, and
8 then off along by Cottage Road?
9 A. Yes. Up towards Townsend Street.
10 Q. Up towards Townsend Street?
11 A. Yes.
12 Q. During the course of taking Joan over towards -- on Argyle and
13 on your trip back, did you hear any sirens or see anything?
14 A. No.
15 Q. Did you see anybody at all?
16 A. No.
17 Q. So the only person you would've seen would've been John Pratico
18 when you left the dance?
19 A. Everyone at the dance was there outside.
20 Q. Sorry?
21 A. Everyone that was at the dance outside and around, yeh.
22 Q. Yes. Did you have -- Were you visited the next morning by
23 John MacIntyre?
24 A. Yes.
25 Q. And you -- Was he by himself?

1 A. No. Mr. Mullowney.
2 Q. Was with him?
3 A. Yes.
4 Q. Do you remember what time of the day that was?
5 A. It was shortly before noon. It wasn't really early. It was
6 later in the morning.
7 Q. Okay. And did you meet him at the door or did your mother?
8 Did you go to the door and answer the door?
9 A. No, I don't know who answered the door. It was't me.
10 Q. Did MacIntyre and Mullowney come into your house?
11 A. Yes.
12 Q. And what was it that they were there for?
13 A. To speak to me.
14 Q. Did they tell you what it was they wanted to talk to you about?
15 A. They told me that Junior and Sandy had been stabbed the night
16 before and they asked me if I was at the dance, and then they
17 asked me if I was in the park.
18 Q. Right. And what did you say?
19 A. I said I wasn't in the park.
20 Q. What did they say to that?
21 A. Well, they said that they had an eye witness that said that I
22 was there.
23 Q. What did you say?
24 A. That I wasn't.
25 Q. Did they persist in --

1 A. Yes, they described me. At the time, I had a towel on my head
2 because I had just gotten out of the shower, and they knew
3 exactly what I looked like. They knew what clothes I wore and
4 things like that and said that somebody did see me there.
5 Q. And in the course of telling you that somebody had seen you
6 there the night before, did they describe to you the clothes
7 that you had been wearing the night before?
8 A. Yes.
9 Q. And did they describe them correctly?
10 A. Yes.
11 Q. Can you give us any idea of how many times they suggested to
12 you that you were in the park?
13 A. A few times.
14 Q. And would those suggestions have been being made by MacIntyre
15 or by Mullowney?
16 A. MacIntyre.
17 Q. What was Mullowney doing?
18 A. Just standing over against the wall.
19 Q. Can you describe MacIntyre's attitude towards you that morning?
20 A. Well, he was persistent that I did -- that I was there -- that
21 they had an eye witness saying that I was there.
22 Q. Did he tell you who the eye witness was?
23 A. No.
24 Q. And did you persist in saying, "No, I wasn't."?
25 A. That's right.

1 Q. What happened after that? You persisted in saying that you
2 weren't there. Was there more to the conversation?
3 A. There was more than that, but I can't remember everything.
4 Q. Can you tell us anything else that you do remember?
5 A. Just that they told my parents to, you know, make sure that
6 I'm telling the truth and stuff like that. That was it.
7 Q. Were your parents there when you were being questioned?
8 A. Yes.
9 Q. And did they get involved in the discussion at all or did they
10 just stand by and listen?
11 A. Well, they listened other than tellling me to tell the truth.
12 Q. And they told you to tell the truth during the course of the
13 questioning?
14 A. Yes. He also asked if I was going out with Edward John.
15 Q. This is Edward John Kabatay?
16 A. Yeh.
17 Q. And who asked you that?
18 A. MacIntyre.
19 Q. And what did you say?
20 A. Yes.
21 Q. Did he say anything in response to that?
22 A. No.
23 Q. No. Did he say anything to your parents about the fact that
24 you were going out with Edward John?
25 A. No.

BARBARA FLOYD, by Mr. Spicer

1 Q. Do you know how long MacIntyre and Mullowney were at your house
2 that morning?
3 A. I wouldn't think it was more than a half an hour at the most.
4 Q. Did they say anything to you when they were leaving, that
5 they'd get back to you or anything like that?
6 A. No.
7 Q. Did you give a statement to the Sydney Police Department?
8 Anything in writing?
9 A. No.
10 Q. Did you have any idea when they left where they'd gotten the
11 information from concerning what you were wearing the night
12 before?
13 A. No.
14 Q. Did you ask them?
15 A. No.
16 Q. Were you a little nervous when they were questioning you?
17 A. Yes.
18 Q. Is that the first time you've been questioned by the police?
19 A. Yes.
20 Q. Did you see Junior Marshall that evening, Saturday evening?
21 A. Yes.
22 Q. And where did you see him?
23 A. At a girlfriend's place on the reserve.
24 Q. At Anita Paul's?
25 A. Yes.

1 Q. Okay. What time of the evening was that?
2 A. Early.
3 Q. Early in the evening?
4 A. After supper, early evening.
5 Q. And did Junior tell you what had happened the night before?
6 A. Yes.
7 Q. Was there anything that prompted him to tell you?
8 A. We were probably asking him what had happened.
9 Q. Right. By that point, had Sandy Seale died?
10 A. It was just shortly after I was talking to Junior that it came
11 over the radio that he had died.
12 Q. Was Junior there when that came over the radio?
13 A. Yes.
14 Q. Do you remember what his reaction was to that?
15 A. We were all very upset. Junior was upset.
16 Q. And how -- What was he showing that would indicate to you that
17 he was upset?
18 A. His reaction. He was --
19 Q. Did he say anything?
20 A. I can't remember the exact words. We were all crying and
21 everything. I can't remember just what happened.
22 Q. Do you remember if Junior was crying?
23 A. I don't remember looking at him at that time, no.
24 Q. But he was upset?
25 A. Yes.

1 Q. What was it that he told you had happened the night before?
2 A. He had told me that him and Sandy were going through the park
3 and two fellows stopped him, one was really old, and asked him
4 for a match, and he didn't have a match; so he kept walking
5 and when he turned around, the old fellow had stabbed Sandy
6 and he went to help them by swinging with his arm and he stabbed
7 him and then he proceeded to show me his -- took off the
8 bandage and showed me his arm.
9 Q. He took the bandage off?
10 A. Yes.
11 Q. Did he -- Did Junior describe the two people to you?
12 A. He just said one was old and one was like middle-aged, you
13 know. I was under the impression then like that they were
14 both old.
15 Q. Did he describe any -- Did he describe what they were wearing
16 to you?
17 A. They wore dark clothes.
18 Q. Did he describe -- Did he mention to you whether one was tall
19 or one was short?
20 A. I don't remember if he --
21 Q. Did he say anything about their hair?
22 A. Well, when he said old, I just had the impression -- I don't
23 know now, it's --
24 Q. Yes.
25 A. I've heard so many stories; I don't know if he said that one

had white hair or dark hair. I just knew he said they were old, and anyone that was in their middle twenties was old to us because we were just kids so --

Q. Other than trying to bum a light, did he indicate any other conversation that took place between them that evening?

A. No.

Q. No? How long was Junior there that night, at Anita Paul's?

A. About half an hour.

Q. Did he say anything to you about whether he'd been at the police station on the Saturday at all?

A. I don't remember.

Q. Did Junior Marshall ever say anything to you about -- at that time about whether or not he was in the park trying to bum money himself?

A. He didn't tell me that.

Q. Did he ever tell you that later?

A. That he was bumming money?

Q. Yeh.

A. No. I've -- I haven't spoken to Junior ever after that evening.

Q. After that evening at Anita Paul's?

A. Yes.

Q. Did you see him around during that week from the Saturday to the following Friday when he was charged?

A. No, I don't think so.

Q. No. Did you hear anything around town or amongst your friends

1 as to what was going on with the investigation that week?
2 A. I just felt that they were looking for these two people. I
3 just thought that's what they must be doing, but I didn't
4 hear from him. Nobody really knew what was going on.
5 Q. And you thought they must've been just looking for those two
6 people. Was that just your assumption?
7 A. Yes.
8 Q. It wasn't from anything that you'd heard from anybody?
9 A. No.
10 Q. Did you attend the Preliminary hearing?
11 A. No.
12 Q. Did you hear anything about it at all from any of your friends?
13 A. The Preliminary?
14 Q. Yes.
15 A. No.
16 Q. No. Did you attend any of the trial?
17 A. No.
18 Q. Did you follow the trial in the paper?
19 A. Yes.
20 Q. And at some point during the trial, did you realize that John
21 Pratico was being called as a witness?
22 A. The day he was being called, it was written in the Cape Breton
23 Post. His statement or whatever was in the Post.
24 Q. I'll show you an excerpt from the Cape Breton Post, which is
25 Exhibit 52. Do you remember whether that's the edition of

1 the Cape Breton Post that you -- when you looked at it you
2 realized they were calling John Pratico as a witness?
3 A. Yes.
4 Q. Do you remember where you were when you read that?
5 A. At Sandra MacNeil's house?
6 Q. And were there -- Who -- Were there other people there?
7 A. Yes.
8 Q. Who else was there?
9 A. Joan Clemens. Sandra's sisters were there.
10 Q. And who were -- What were their names?
11 A. Ann MacNeil and Mary MacNeil and Colin Waye was there.
12 Q. And you were reading the paper and what happened? What was
13 your reaction?
14 A. Well, I said, " That can't possibly have happened because he
15 was at the dance; so he couldn't have seen anything." So
16 the adults that were in the room said, "Well, maybe you should
17 do something about it." So --
18 Q. Who were the adults that were in the room?
19 A. Ann.
20 Q. Ann?
21 A. Ann MacNeil and Mary and Colin. I'm not sure if her parents
22 were there or if they were working. I feel that her mother
23 was there too. I'm not sure.
24 Q. Do you know what time of the day it was?
25 A. I'm pretty sure it was at noon.

1 Q. And would you then have just been on your lunch break --
2 A. Yes.
3 Q. -- and been over at Sandra's? And was -- The Cape Breton Post
4 would arrive around noon?
5 A. Yes.
6 Q. The excerpt from the paper that you have in front you, was
7 there a particular part of the newspaper article that when
8 you at it, you thought, well, that couldn't have been it. That
9 couldn't have happened?
10 A. As soon as I read it and I saw that John Pratico was a witness,
11 I knew he couldn't be and the part where he says he ran up
12 Bentinck Street, that had me puzzled that if he ran up
13 Bentinck Street, I pictured that it would be up towards the
14 Acadian Lines; so it didn't make sense that he would be at
15 the dance.
16 Q. And that's in the third paragraph where it says:
17 That's the last I saw. I ran up Bentinck Street,
18 Pratico said.
19 A. Yes.
20 Q. And that didn't make sense to you? Why?
21 A. Because he was at the dance.
22 Q. He was at the dance, and you saw him outside the dance?
23 A. Yes.
24 Q. And you already knew that something had happened in the park --
25 A. Yes.

1 Q. -- at the point that you saw him? And you were saying that
2 the adults that were there had decided that perhaps you ought
3 to do something?
4 A. Yes.
5 Q. And what was it that you did?
6 A. I called Rosenblum's office.
7 COMMISSIONER POITRAS:
8 I didn't get that. I missed that.
9 MR. SPICER:
10 Sorry. She said she called Rosenblum's office.
11 BY MR. SPICER:
12 Q. Did you understand Rosenblum to be one of Junior Marshall's
13 lawyers?
14 A. Yes.
15 Q. And do you recollect whether or not you called him during that
16 lunch break when you were there at lunch time?
17 A. As soon as I read this.
18 Q. Okay. And you called and what happened?
19 A. I called and I asked to speak to Donny Marshall's lawyers.
20 Do you know who the person was that you spoke to? Who is
21 the person that answered the phone?
22 A. I don't know who answered.
23 Q. Do you know whether the person that answered the phone was a
24 man or a woman?
25 A. I think it was a woman.

1 Q. And you said you wanted to speak to Donny Marshall's lawyers?
2 A. Yes.
3 Q. Okay.
4 A. I wasn't sure who to ask for, if I should ask for Rosenblum or
5 Khattar; so I just asked for his lawyer.
6 Q. Was it Rosenblum's office that he called from?
7 A. Yes.
8 Q. Okay. And what happened?
9 A. A man came back on the phone and didn't -- I don't remember
10 him identifying himself. He just said, "May I help you?"
11 And I told him that I had just read the paper, and I was calling
12 about John Pratico, that he couldn't possibly be a witness
13 because he was at the dance, and he said, "You're too late."
14 And I said, "I beg your pardon," and he just repeated himself
15 and then he hung up.
16 Q. Had you identified yourself? Did you say who you were?
17 A. I'm pretty sure I did.
18 Q. Yes. Did you say anything else other than the fact that John
19 couldn't have seen it because he was at the dance?
20 A. That's all I remember saying to him. Then he just kind of
21 cut me off.
22 Q. Yes. And were there other things that you had prepared in
23 you mind that you wanted to say to him?
24 A. Well, I thought he would've said to come down and talk to him,
25 you know. We would have said what I'm saying now, but --

Q. But you didn't get a chance?

A. No.

Q. Do you have any idea how long that conversation lasted?

A. Seconds.

Q. Seconds?

A. Yes.

Q. Do you recollect what the man's attitude was on the other end of the phone? Can you describe what his voice was like?

A. He was just blunt.

Q. Blunt?

A. "You're too late," he said. And I remember thinking, "It's not too late because he's not convicted yet." It hadn't come over the radio that he was guilty.

Q. Did you get a chance to say --

A. No.

Q. -- any of that? No? What did you do when you got off the phone?

A. I told the rest of the people what had happened?

1 Q. Was there any discussion about whether or not you ought to
2 do anything further?
3 A. There was, but we didn't know what else to do.
4 Q. What sort of things were you thinking about?
5 A. There was nothing I felt that we could do if we approached his
6 lawyer. I figured no one else would help him.
7 Q. Did you think about getting in touch with the police?
8 A. I thought about it, but I'd never do it.
9 Q. Why would you never do it?
10 A. Because I felt that they wouldn't do anything.
11 Q. Why did you feel that?
12 A. Because I knew how the police felt about Donnie Marshall.
13 Q. And how did you think the police felt about Donnie Marshall?
14 A. They didn't like him. I'm not saying the police -- I shouldn't
15 say that. I knew that the head of the investigation --
16 Q. John MacIntyre --
17 A. Yes.
18 Q. --didn't like Junior?
19 A. Right.
20 Q. And from what -- Where did you get that impression from?
21 A. Long before this had happened he picked up Joan Clemens and her
22 mother and took them down to the police station and gave them
23 a really tough time saying that -- how could Joan's mother ever
24 let her go out with the likes of Junior Marshall and said all
25 kinds of things.

BARBARA FLOYD, by Mr. Spicer

1 Q. And let's talk about that for a couple of minutes. Was that
2 in connection with the charge against Junior Marshall of giving
3 liquor to under aged girls?
4 A. Yes.
5 Q. To Joan Clemens in particular?
6 A. Yes.
7 Q. And that would have been back in November or so of the previous
8 year?
9 A. Yeh.
10 Q. All right, and how is it that you know anything about that
11 incident?
12 A. Joan told me, you know.
13 Q. And what was it that Joan told you?
14 A. Right from the time that they picked her up off the school bus
15 and then picked up her mother and took them down to the police
16 station.
17 Q. What did she tell you about what happened?
18 A. She told me that John MacIntyre was hollering at her mother and
19 called her a lot of names, such as, an unfit mother and things
20 like that and said that there was a lot of charges against
21 Junior and how could she ever let her daughter go out with him
22 and her mother was really upset, crying and everything, and
23 it all led to this charge. They ended up going to Court over it.
24 Q. And that was the charge against Junior for giving Joan liquor?
25 A. Yes.

1 Q. Did you ever speak to Mrs. Clemens about this?
2 A. No.
3 Q. Did you ever see her or talk to her at all?
4 A. About this?
5 Q. About this particular incident?
6 A. No.
7 Q. Other than this incident involving Joan Clemens do you have --
8 are there any other reasons why you had the impression that
9 John MacIntyre didn't like Junior Marshall?
10 A. That was the one I'm clear on.
11 Q. That's the one you're clear on, but was there -- was there
12 anything else? Was there a feeling that you had that --
13 A. Well, I knew he had been picked up a few times for drinking and
14 then just let off.
15 Q. He'd been picked up a few times for drinking and then just let
16 off?
17 A. Yeh.
18 Q. Did Junior ever express the view to you that he didn't like --
19 didn't think that MacIntyre liked him?
20 A. I would say yes that he had over this, yeh -- Not --
21 Q. I'm sorry, over this?
22 A. --over this, over the drinking charge, yeh.
23 Q. Okay. So when you're saying, "Not over this", you mean not
24 over -- not over the murder but over the -- over the drinking
25 charge in the prior November?

1 A. Yeh.
2 Q. Did Junior Marshall ever express to you how he felt about
3 John MacIntyre?
4 A. Maybe that he was nervous of him, you know, scared of him.
5 There was things said back then about a tombstone being broken
6 and everyone -- I don't know how this came about but it was said
7 that John MacIntyre thought it was Junior who did it.
8 Q. Did you ever talk to Junior about that incident?
9 A. Oh, yes, he says he didn't do it.
10 Q. He says he didn't do it?
11 A. Yeh.
12 Q. In the course of telling you that he didn't do it, did he express
13 any views about John MacIntyre?
14 A. Just that he thought it was foolish that he would blame him
15 for doing it.
16 Q. Did he indicate to you why he thought he might have been being
17 blamed?
18 A. No.
19 Q. So other than those incidents that you've told us about in the
20 last couple of minutes, is that the substance of why you had
21 the impression that Junior thought that he wasn't liked by
22 John MacIntyre?
23 A. Why Junior thought he wasn't liked by him?
24 Q. Yeh.
25 A. Yes.

1 Q. That's pretty well it? Do you know whether or not that was
2 the -- that was also the impression of the other girls that
3 you used to hang around with and/or the other Indian boys?
4 Did you ever talk about John MacIntyre's attitude towards
5 Junior?
6 A. No.
7 Q. No. Did you have any impression of the police's attitude
8 towards the Indian boys in general?
9 A. How the police felt about the Indian boys?
10 Q. Yeh.
11 A. Well, there's stories, but I can't remember, you know, who
12 said them and things like that, like if they were picked up by
13 the police. I don't remember who it was that said these stories.
14 Q. Did you have an impression at all of what the Indian kids thought
15 the attitude of the Sydney Police Department was towards them
16 though? Maybe you can't remember specific incidents.
17 A. I feel that they felt that they were being hassled a lot more
18 than -- a lot more than the White kids were?
19 Q. Did you ever see anything yourself that would indicate that to
20 you?
21 A. No.
22 Q. Did you ever see the -- the Indian kids getting in hassles
23 with the White kids, any fights, any pushing and shoving?
24 A. No.
25 Q. Nothing like that?

1 A. No.
2 Q. What about with any of the Black kids?
3 A. No, I didn't see any fights.
4 Q. Was there ever ever -- ever any of the Black kids that used
5 to hang around down in the park?
6 A. I don't remember any.
7 Q. So it just would have been the Indian kids and yourself?
8 A. Yeh. There was a lot of other kids that hung around the park
9 too like the ship yard bunch, but --
10 Q. Were you surprised when Junior was convicted?
11 A. Yes.
12 Q. Did you consider after he -- after he, in fact, had been convicted
13 knowing as you did that John Pratico couldn't have seen anything,
14 did you at that point consider doing anything further?
15 A. Well, I had run into Donnie's mother at a hockey game shortly
16 after this and I told her that -- the story that I just told you
17 and she said that they'd get a hold of me when they had an
18 appeal?
19 Q. Did you ever hear back from her?
20 A. No.
21 Q. Did you do anything further? You didn't get in touch with the
22 police and you didn't go back and try to --
23 A. At that time?
24 Q. Yes.
25 A. No.

1 Q. Were you in contact at all with Junior during the years that
2 he was in prison?
3 A. No.
4 Q. Did he ever write you?
5 A. No.
6 Q. Were you contacted by the R.C.M.P. in 1982 by Harry Wheaton?
7 A. I contacted them.
8 Q. You contacted them? I'll show you Volume 13, page 178. You
9 said to me a minute ago that you contacted Harry Wheaton. What
10 was it that -- that caused you to get in touch with Wheaton?
11 A. I had heard John Pratico on the radio one morning saying,
12 from what I got out of the conversation that he made with --
13 that he was admitting that he lied at the-- at the main trial.
14 Q. That he had lied at the trial in 1971?
15 A. Yeh.
16 Q. And having heard that, what did you do?
17 A. I called the R.C.M.P. and asked for whoever was in charge of the
18 case.
19 Q. And who did you get?
20 A. Sergeant Wheaton.
21 Q. Did you talk to him on the phone at that time?
22 A. For a few minutes and then he made an appointment to come and see
23 me.
24 Q. And the statement that's at page 178 of Volume 13 is that to
25 your recollection the statement that you gave to Sergeant Wheaton?

1 A. Yes.
2 Q. Were you at your home when that statement was taken?
3 A. At my parent's home.
4 Q. Your parent's home. Did Sergeant Wheaton, when he came to see
5 you, explain to you what the reinvestigation was all about?
6 Did he tell you what they were doing?
7 A. He just told me they were reinvestigating it.
8 Q. And he took this statement from you. You've had a chance to
9 look at that statement with me in the last few days?
10 A. Yeh.
11 Q. Is that statement -- Was that statement, at the time, your best
12 recollection of what had happened in 1971?
13 A. Yes.
14 Q. During the giving of that statement, were the questions being
15 asked by Sergeant Wheaton or by Sergeant Wheaton and Constable
16 MacQueen?
17 A. I'm pretty sure it was Wheaton who was speaking to me.
18 Q. Can you describe to us the manner in which they conducted that
19 interview? Do you feel they were being blunt, for instance,
20 or were they just asking you the questions?
21 A. They were just asking me the questions.
22 Q. Turn over the page to page 179. Then on page 180 I think you'll
23 see that you've signed an affidavit. Do you recollect the
24 circumstances under which you gave this affidavit?
25 A. Mr. Aronson came to my parent's house.

1 Q. Were you contacted by Mr. Aronson prior to him coming to see
2 you?
3 A. Yes.
4 Q. And did he discuss with you on the telephone what it -- what it
5 was that he was going to come and see you about?
6 A. He told me on the phone that he was Junior's lawyer and I don't
7 think we discussed it over the phone. We discussed it when he
8 got there.
9 Q. Did he indicate to you over the telephone that he was coming
10 to get you to sign a statement?
11 A. I don't remember him saying that on the phone.
12 Q. When he did come to see you was he by himself or was he with
13 somebody else?
14 A. He was alone.
15 Q. Alone?
16 A. Yeh.
17 Q. And did he bring the documents you have in front of you with
18 him, the affidavit?
19 A. I don't remember.
20 Q. Do you remember signing this affidavit?
21 A. No.
22 Q. On how many occasions did you see Mr. Aronson?
23 A. I believe it was only once.
24 Q. Only the once. Is it fair to say that you probably signed
25 it on the occasion that he came to see you?

1 A. I would say.
2 Q. Do you remember how long he was with you that day?
3 A. About an hour anyway.
4 Q. Do you recollect whether or not he went through the substance
5 of this document with you?
6 A. Yes.
7 Q. He did?
8 A. I would say he didn't read it like if that's what you mean,
9 like read it step by step to me.
10 Q. Did he suggest to you that you should read through it before
11 you signed it?
12 A. I don't recall.
13 Q. You don't recall. I just want to draw your attention to
14 paragraph three of that affidavit. It says: (The last phrase
15 or the last couple of phrases.)
16 That Pratico followed along behind
17 us along George Street until we turned onto Argyle Street in Sydney.
18 Is that, in fact, your recollection of what John Pratico was
19 doing?
20 A. No. No, I don't ever remember saying that.
21 Q. Would you have any idea where Mr. Aronson would have gotten that
22 information?
23 A. Unless -- The only thing that I know I would have said is that
24 he would have followed us for a few steps, unless it was
25 interpreted that way. I don't know. I don't know why --

1 Q. When he arrived at your parent's home this document was already
2 prepared, was it not?
3 A. It must have been.
4 Q. All right, and I noticed at the -- at the very beginning of it
5 it says: "I Barbara Mary Floyd", and it would appear as if
6 he's added a one to make it 121 Inglis instead of 12. Was
7 that your instigation? Did you tell him, "You've got the
8 address wrong"?
9 A. I would say it was mine, yes.
10 Q. Okay, but you don't have any explanation as to why you wouldn't
11 have indicated to him that there was an error at the end of
12 paragraph three?
13 A. No.
14 Q. Was there anybody else there other than yourself and Steve
15 Aronson at the time that affidavit was taken?
16 A. There was no one in the room.
17 Q. Sorry?
18 A. There was no one in the room.
19 Q. No one else in the room. Did Mr. Aronson explain to you what
20 the purpose of the affidavit was and what it was in connection
21 with?
22 A. The reinvestigation.
23 Q. Did he indicate to you that in signing the affidavit you were,
24 in effect, making a note and saying that to the best of your
25 knowledge all the material in that was true?

1 COMMISSIONER POITRAS:
2 I think the witness has indicated that she didn't remember signing
3 the affidavit.
4 MR. SPICER:
5 But as it goes along, My Lord, it seems as if she does have some
6 recollection. That's why I'm asking, to see whether or not she does.
7 COMMISSIONER EVANS:
8 Is the witness saying that that is her signature on the affidavit?
9 THE WITNESS:
10 That is my signature. Yes, it is.
11 COMMISSIONER EVANS:
12 That is your signature.
13 THE WITNESS:
14 I remember reading over this but I don't remember this. Like I
15 don't remember why I wouldn't have corrected that at the time.
16 BY MR. SPICER:
17 Q. Were you contacted by anybody else subsequent to giving that
18 affidavit in 1982 in connection with the reinvestigation?
19 A. I had spoken to a few people that had contacted me.
20 Q. Do you have any recollection of who they were?
21 A. Michael Harris, and there was another lawyer but I think this
22 was much later that I spoke to -- but not around here --
23 Q. Would that have been in connection with the CBC action?
24 A. Yes.
25 Q. Let's go back to the -- for a moment to the Saturday evening

1 when you were in Anita Paul's basement, did you know Sandy
2 Seale?
3 A. To see him.
4 Q. To see him. Other than to see him, did you know him to talk to
5 him?
6 A. No.
7 Q. Why was it that, I believe, you indicated that your reaction
8 was that everybody was crying?
9 A. Well, I was under the impression at that time that Anita Paul
10 had been out with him.
11 Q. Anita Paul, sorry, had been?
12 A. Anita Paul had been out with him like.
13 Q. Dating him, is that what you mean?
14 A. Well, I don't really know if they were dating. I think she
15 had mentioned that they were together at one time or another.
16 Q. This is Anita Paul and Sandy?
17 A. Yes.
18 Q. Okay. Other than that can you-- can you explain to us why you
19 would have been crying?
20 A. Well, I was just really upset. I don't remember anybody, you
21 know -- I know Anita was crying and everyone else was really
22 upset.
23 Q. Do you know whether or not any of the other -- any of the other
24 girls like other than yourself knew Sandy at all well?
25 A. No, I don't think any of us knew him well, just to see him at the

1 dances and say hello, that --
2 Q. Did he hang around at all with your group?
3 A. I don't remember that he did at all, no.
4 Q. Did you see him on the night of the stabbing?
5 A. No.
6 MR. SPICER:
7 Thank you.
8 BY MS. DERRICK:
9 Q. Ms. Floyd, by name is Anne Derrick and I represent Junior Marshall.
10 I just wanted to ask you about these dances that you used to go
11 to when you were a kid in grade ten. There'd be all different
12 kids there together, is that right, Indian kids, and Black kids,
13 and White kids?
14 A. Yeh.
15 Q. And was there a lot of mingling with everyone?
16 A. Yes.
17 Q. And people dancing together?
18 A. Yes.
19 Q. So it was quite a friendly relaxed atmosphere at these dances,
20 was it, amongst all the different kids?
21 A. Yes.
22 Q. Now you say that you knew John Pratico. Did you know him well
23 enough to talk to him?
24 A. If he was there. I would never go up to him and talk to him.
25 Q. But you would have, on occasion, had brief conversations with him?

1 A. Yes.
2 Q. Did you know him to tell stories or make things up?
3 A. No, I didn't talk to him enough to know--
4 Q. You didn't know him well enough to know whether or not he did
5 that?
6 A. Right.
7 Q. You knew him to be friendly with the Indian kids, did you?
8 A. Yes.
9 Q. That night that you saw him at the dance in the parking lot, did
10 you talk to him that night?
11 A. No.
12 Q. And he never told you either on that night or on any other
13 occasion that he had seen anything in the park?
14 A. No.
15 Q. Now just to clarify this for me, is it your recollection now
16 that on that occasion he followed you for a few steps?
17 A. That would be about it, yes.
18 Q. And after that you didn't see him again?
19 A. No.
20 Q. You really weren't paying much attention to what he was doing?
21 A. No, that's right.
22 Q. Did you see Junior Marshall at the dance that night?
23 A. No.
24 Q. Now it was the next day, was it, that Sergeant MacIntyre came to
25 talk to you. Is that right?

1 A. Yes.
2 Q. And was he in uniform, do you remember?
3 A. A suit.
4 Q. A suit. He --Where did he come? I may have missed that. Where
5 did this discussion take place?
6 A. In the morning.
7 Q. Was it at your parent's home?
8 A. Yes.
9 Q. That's where you were living?
10 A. Yes.
11 Q. Is that right? And where actually did it take place? Did it
12 take place on the porch or in the kitchen?
13 A. In the living room.
14 Q. In the living room. So Sergeant MacIntyre and Constable
15 Mullowney came right into the house and into the living room?
16 A. Yeh.
17 Q. And were your parents in the living room at that time?
18 A. Yes.
19 Q. And were people sitting down or standing up? Do you remember
20 how people were situated? Did the police officers sit
21 down, for instance?
22 A. Mullowney didn't sit down. John MacIntyre sat down.
23 Q. And were you seated?
24 A. Yes.
25 Q. And your parents, were they there the whole time that this

1 conversation was going on?
2 A. Yes.
3 Q. And it's your recollection that Sergeant MacIntyre did all the
4 talking. Is that right?
5 A. Yes.
6 Q. And he was very insistent that you had been seen in the park?
7 A. Yes.
8 Q. And you were equally insistent that that hadn't happened?
9 A. Correct.
10 Q. Now did-- did Junior Marshall's name come up in the course of
11 this discussion?
12 A. He was calling him Donald Marshall and I said I didn't know
13 Donald Marshall and he got kind of angry with me because I
14 didn't -- We used to call him Junior so I didn't -- and then he
15 finally said Junior and I said, "Yes, okay, I know who you're
16 talking about".
17 Q. You just didn't make the connection between this person,
18 Donald Marshall --
19 A. Right.
20 Q. And-- And in what context was he bringing Junior Marshall's
21 name up?
22 A. That he was stabbed also.
23 Q. Did you form any impression that Junior was a suspect at this
24 time?
25 A. No.

1 Q. Did you have any concerns for Junior being involved in this
2 given what you knew the police thought of him? So that didn't
3 occur to you at that point that he might -- that he might be
4 being considered as a party to this?
5 A. No.
6 Q. No. How long did this questioning take place?
7 A. About a half an hour at the most.
8 Q. And how did it end? What caused the police to leave? Do you
9 recollect that?
10 A. Well, I just insisted that I was at the dance the whole night,
11 so they didn't have anything else to say to me?
12 Q. So it sort of petered out, did it?
13 A. Yeh.
14 Q. They weren't really getting anywhere with you. Did anyone
15 take notes while this was going on?
16 A. MacIntyre.
17 Q. He was taking notes while he was talking to you, and were you
18 able to see what he was recording?
19 A. No.
20 Q. Did he write things down as you said them, do you recollect?
21 A. I can't remember. I just remember him having something on his
22 lap and he was writing. I don't know.
23 Q. Was he writing the entire time or just at certain times?
24 A. No, not the entire time.
25 Q. And you never saw this, I take it, afterwards?

1 A. No.
2 Q. It was never presented to you to read whatever these notes
3 were. Now, I'm sorry, I may have missed this. I was out of
4 the room for a minute. When was it that Junior Marshall told
5 you about the two men in the park? Was that on Saturday
6 night?
7 A. Yes.
8 Q. And where did that happen?
9 A. In Anita Paul's basement.
10 Q. And at that point did you know that Sandy Seale had died?
11 A. Just shortly after he told me the story Sandy Seale had died.
12 Q. And was Junior Marshall still there when you got the news that
13 Sandy had died?
14 A. Yes.
15 Q. He was, and was he one of the people that-- that seemed very
16 upset by this?
17 A. Yes.
18 Q. Now when you called this lawyer -- When you called this person
19 and told him about John Pratico, did you understand that you
20 were speaking to a lawyer?
21 A. I felt that I was speaking to Mr. Rosenblum.
22 Q. Had you ever spoken with Mr. Rosenblum on any occasion before?
23 A. No.
24 Q. And you made this call -- Where -- I'm sorry, where was it that
25 you made this call from?

1 A. From Sandra MacNeil's house.
2 Q. And in-- in what room?
3 A. Her phone was in a hallway.
4 Q. And were there -- were there other people there overhearing
5 this conversation?
6 A. I can't recall anyone standing very close to me. I remember
7 walking, after I hung up, into the kitchen and telling them--
8 Q. People were in the kitchen, were they? So they may or may not
9 have heard this conversation. You can't be sure of that. Is
10 that correct?
11 A. I can't be sure.
12 Q. But it was that you -- but you related the substance of the
13 conversation to them?
14 A. Yeh.
15 Q. When you spoke to this person that you believed to be Mr. Rosenblum,
16 did you -- you believe you identified yourself, and did you also
17 say that you had seen John Pratico that night?
18 A. Yes.
19 Q. And your recollection of it is that it was a very abrupt
20 conversation?
21 A. Yes.
22 Q. Is that correct? You also told my friend about Joan Clemens
23 and Mrs. Clemens having had an experience with Sergeant MacIntyre
24 after she got off the school bus one day. Were you with her
25 on the school bus that day when that happened?

A. No.

Q. So you heard this from her but you never observed any portion of it? You weren't with her getting off the school bus and you never saw Sergeant MacIntyre?

A. No.

Q. It's just from what she told you. Is that correct?

A. Sandra MacNeil was on the school bus with her and she was in the police car, but they told her to get out so we were both quite curious to find out what had happened.

Q. I see. So you heard about what happened both from Sandra MacNeil and from Joan Clemens.

MS. DERRICK:

Thank you. Those are my questions.

MR. J. PINK:

My Lord, Chief Justice, may I introduce myself to the Commission. My name is Joel Pink. I will be sitting in for Mr. Pugsley for the next couple of weeks representing Mr. MacIntyre.

BY MR. J. PINK:

Q. Ms. Floyd, back in 1971 what was your age?

A. When this incident happened, exactly?

Q. Yes.

A. I had just turned sixteen.

JMR

1 Q. And when you told the Commission that you knew that everybody
2 was drinking, can you explain to us from what ages that you
3 knew that people were drinking down in the Park area?
4 A. Anywheres from fourteen and up.
5 Q. And tell me on the night in question when you came in
6 contact with John Pratico you were with Sandra MacNeil is
7 that correct?
8 A. Yes.
9 Q. What was her age at that time?
10 A. Sixteen.
11 Q. And you were with Joan Clemens and what was her age at that
12 time?
13 A. Yes, sixteen.
14 Q. And had you been friendly with Sandra MacNeil and Joan
15 Clemens prior to that particular night?
16 A. Yes.
17 Q. And were those two girls also hanging around the graveyard
18 and the Park area with you?
19 A. Yes.
20 Q. And had you known Joan Clemens when she was fourteen years
21 of age drinking?
22 A. I don't remember her being fourteen when she was drinking,
23 no.
24 Q. So Sandra MacNeil and Joan Clemens were two of your friends
25 that hanged around -- that hung around the area of the

1 graveyard and the Park area, is that correct?
2 A. Yes.
3 Q. Now on this particular night that you saw John Pratico on
4 the night of the dance, had either of the three of you been
5 drinking?
6 A. No.
7 Q. Had there been any liquor at the dance?
8 A. I didn't see any.
9 Q. Now you say that you knew John Pratico, he was not a good
10 friend of yours; but you knew him and that's basically it,
11 is that correct?
12 A. Yes.
13 Q. You told the Commission that he wasn't normal. Do you have
14 anything other than looks that would say that John Pratico
15 was not normal?
16 A. The way he spoke.
17 Q. And what was wrong with the way he spoke?
18 A. He didn't seem very intelligent to me.
19 Q. And other than your impressions, do you have anything else
20 to base your opinion on?
21 A. No.
22 Q. You told the Commission that he acted differently. Could
23 you be -- could you elaborate on that a little more?
24 A. He just seemed to stand out more so than anyone. You'd
25 more --

1 Q. Well, that's -- would that be because of his looks?
2 A. I would think so, yes.
3 Q. But when you say that he acted differently, you can't
4 elaborate on that anymore to tell us what you mean by that?
5 A. No, just his speech.
6 Q. You say that on the night in question, he looked like he was
7 drinking. Do you have anything to tell the Commission as to
8 how you come to that opinion?
9 A. Just by the way he was talking and arguing.
10 Q. Could you tell whether or not his voice was slurred?
11 A. I found that he mumbled so I can't tell if he was slurred
12 or not.
13 Q. So whether or not -- was that his normal tone of voice the
14 fact that he mumbled. Was that why you say that he wasn't
15 normal or acted a little differently because he mumbled?
16 A. I'd say.
17 Q. Did you see anything different on this particular night,
18 that is the night of the dance and the night you came in
19 contact with John Pratico, that was any different than any
20 other time that you had seen this gentleman?
21 A. He appeared to be drinking to me probably because of his
22 stance. He appeared to be drinking. I can't swear that he
23 was but --
24 Q. So you didn't smell liquor on his breath?
25 A. No, I wasn't close to him.

1 Q. You didn't see him stagger?
2 A. Yes.
3 Q. And when you say he staggered, what do you mean by that?
4 A. Just, off balance.
5 Q. Did you see him walk at all?
6 A. A few steps.
7 Q. And did he have difficulty taking those few steps?
8 A. Not great difficulty, no.
9 Q. Do you know what him and his friend, Rick Risk, were arguing
10 about?
11 A. They weren't friends.
12 Q. They were not friends?
13 A. No.
14 Q. What were they arguing about?
15 A. I have no idea. It only lasted about ten seconds.
16 Q. Now did you make note as to what time in fact the dance
17 concluded, was finished?
18 A. I was pretty sure it was twelve o'clock.
19 Q. You've told the Commission about your interview with John
20 MacIntyre. Is it not a fact that John MacIntyre invited
21 your parents into the living room at the time that he
22 discussed this -- the night before with you?
23 A. I don't remember him inviting them there. That's there home
24 so they were there sitting next to me.
25 Q. And let me ask you this, at no time did he ask your parents

1 to leave?
2 A. No.
3 Q. And were both of your parents present at this interview?
4 A. Yes.
5 Q. The description that he gave, I understand your evidence
6 correct, is that that was the proper description of which
7 in fact you were wearing the night before?
8 A. Yes.
9 Q. And during this particular interview, at no time did John
10 MacIntyre ever threaten you?
11 A. No.
12 Q. And thoughout that interview all he kept telling you is
13 to be truthful to him and to Constable Mullowney, is that
14 correct?
15 A. Exactly.
16 Q. And in fact once you told him the story that in fact you
17 were not present in the Park that night, he never -- never
18 bothered you again?
19 A. Right.
20 Q. And in fact, as I understand your evidence, the closing
21 message that he gave to your parents was he told your parents
22 to make sure that you were telling him the truth?
23 A. Yes.
24 Q. Is that correct?
25 A. Yes.

1 Q. You told the Commission that you were nervous. I take it
2 that was because you were talking to policemen, is that
3 correct?
4 A. Yes.
5 Q. There's nothing that the policeman did to make you nervous,
6 it's just the fact that they were present?
7 A. Oh, it made me nervous when he told me that an eye witness
8 had saw me. Like I figured somebody was lying about me.
9 Q. Yes, but it was nothing that in fact that they did --
10 A. No.
11 Q. -- to make you nervous, okay. And in fact they were taking
12 notes of the conversation that you had?
13 A. Yes.
14 Q. Now the conversation that you had with Junior Marshall
15 immediately after the death of Sandy Seale, you never
16 reported that conversation to the police?
17 A. No.
18 Q. Regards if it was John MacIntyre or the Chief of Police
19 of Sydney, did you? When you read the article in the
20 paper, the Cape Breton Post, about John Pratico and your
21 interpretation of what he was saying or the paper's
22 interpretation of what he was saying, you never called
23 the police at that time either, did you?
24 A. No.
25 Q. Did you know anybody on the police force or had you ever

1 come in contact with any member of the police force other
2 than John MacIntyre?
3 A. No.
4 Q. Did you ever have any friends on the Sydney Police Force
5 at that time?
6 A. At that time.
7 Q. Yeh, at that time?
8 A. No.
9 Q. Mr. Spicer in his examination discussed with you about the
10 attitude of your friends towards the police and the police
11 attitude towards them and one person that you made mention
12 of was Joan Clemens and her incident that she had with the
13 Sydney Police; can you tell me -- do you have any knowledge
14 of Junior Marshall giving liquor to minors?
15 A. Yes.
16 Q. Other than calling Mr. Rosenburg -- Mr. Rosenblum's office,
17 you never called anybody else regarding your observations
18 of that night in question?
19 A. That's correct.
20 COMMISSIONER EVANS:
21 I believe, Mr. Pink, she said she spoke to Mrs. Marshall after
22 the conviction.
23 MR. J. PINK:
24 Yes, that is correct.
25

BY MR. J. PINK:

Q. Okay, up until that time you spoke to no other person. And you were never called by the Marshall family to come give evidence before the Court of Appeals?

A. No.

Q. Did you know anything about the hearing before the Court of Appeal? Did you know when it was going to take place?

A. After this main trial, you mean.

Q. Yes, after the trial and --

A. I had heard nothing about it.

Q. -- you spoke to Mrs. Marshall at the hockey game?

A. No.

Q. Okay. As I understand your evidence, Miss Floyd, and please correct if I'm wrong. Your group that you hung around with other than being chased out of the Park for drinking by the police, you had no run-ins with them, is that correct?

A. Not myself, no.

Q. If you were walking -- were you ever with any of the Indian boys that in fact had any problems with the Sydney Police?

A. And saw it myself or just --

Q. Yes.

A. No.

Q. Okay, had you on any occasion while walking down the street in the Town of Sydney when you were with the Indian boys, did you ever have any difficulties with any members of the

1 Sydney City Police Force?
2 A. I can remember the police stopped one night and asked me
3 who I was and what was I doing on the Reserve and that I'd
4 better go home.
5 Q. And do you know if that was the Sydney City Police or the --
6 A. Yes.
7 Q. -- R. C. M. P.?
8 A. No, it was the Sydney Police.
9 Q. And do you know who in particular that was -- other than this
10 one occasion when you came in contact with Sergeant MacIntyre
11 as he then was, had you ever run into that gentleman before?
12 A. No.
13 Q. And you had an association up until that time of how many
14 years with the Indian boys? How long were you hanging
15 around them and were you friendly with them?
16 A. Up until this incident.
17 Q. Yes.
18 A. Approximately a year. At least a year.
19 Q. After that incident how long were you in fact friendly with
20 the Indian boys?
21 A. After the incident, three years.
22 Q. Okay, so that would take it up to the year about 1974, is
23 that correct?
24 A. No, about '73.
25 Q. '73, so between 1970 and 1973, you had no particular problem

1 with the Sydney City Police, is that correct?
2 A. Correct.
3 Q. And the Indian boys that you were hanging around with when
4 you were with them had no particular problems with the
5 City of Sydney Police, is that correct?
6 A. Correct.
7 Q. And that of course includes Sergeant MacIntyre?
8 A. Yes.
9 Q. Correct.
10 MR. J. PINK:
11 I've no further questions, thank you, my Lords.
12 MR. MURRAY:
13 No questions on behalf of Mr. Urquhart.
14 MR. ELMAN:
15 No questions, my Lord.
16 BY MR. D. PINK:
17 Q. Miss Floyd, I'd just like to follow up on one area with you.
18 I had some difficulty hearing your direct examination regarding
19 the meeting with Mrs. Marshall?
20 A. Yes.
21 Q. That was a meeting at a hockey game?
22 A. Yes.
23 Q. And when approximately did that take place?
24 A. Shortly after Junior was sent to prison.
25 Q. Okay, when Mr. Marshall was convicted in early November, so

1 it was sometime shortly after that?
2 A. Yes.
3 Q. Correct?
4 A. She was under the impression that there would be an Appeal,
5 so from what I gathered from our conversation.
6 Q. And that's what I wanted to find out from you. What did you
7 understand from her was the situation at that time?
8 A. That they were going to have an Appeal. That she was trying
9 to get an Appeal.
10 Q. Okay, what did you tell Mrs. Marshall?
11 A. I told her about John Pratico and I told her about making
12 the phone call.
13 Q. So you told her that Mr. Pratico had been at the dance,
14 correct?
15 A. Outside the dance, yes.
16 Q. Outside the dance in the parking lot?
17 A. Yes.
18 Q. And that you had seen him there?
19 A. Yes.
20 Q. And you told her that you had called Mr. Rosenblum?
21 A. Yes.
22 Q. Was there anybody with Mrs. Marshall when you spoke to her?
23 A. It was in a ladies room. There was probably people there.
24 I don't remember who was with her.
25 Q. Anybody else participating in the conversation?

1 A. No.
2 Q. And what did Mrs. Marshall indicate to you that she was going
3 to do with the information that you gave to her?
4 A. Give it to who ever was in charge of the Appeal.
5 Q. Did you understand that to be Mr. Rosenblum?
6 A. No.
7 Q. You didn't know?
8 A. I didn't know. It hadn't been started. From what I gathered.
9 It was when, she said, they would start an Appeal.
10 Q. And am I correct that you had some impression that she was
11 going to do something with the information to get it to the
12 Appeal? That was your belief is that your evidence?
13 A. Yes, she said she would phone me when it started.
14 Q. Did she ever speak with you again?
15 A. No.
16 Q. Have you ever between that date and this spoken with Mrs.
17 Marshall?
18 A. No.
19 Q. Your answer is no?
20 A. Correct, no.
21 Q. Were you surprised when nothing happened with the information
22 that you gave to her?
23 A. Yes, I didn't think there was an Appeal. I didn't follow it
24 after that so --
25 Q. So you did not know that an Appeal actually was conducted in

1 early 1972?
2 A. Right.
3 Q. Is that correct?
4 A. Yes.
5 Q. So you didn't read the Cape Breton Post to find out that
6 story?
7 A. Correct.
8 Q. You told Mrs. Marshall that you had seen John Pratico, you
9 indicated that?
10 A. Yes.
11 Q. Did you tell her that at that point that you had already known
12 that something had taken place in the Park?
13 A. I didn't say anything like that to her, no.
14 Q. Just so that I understand. You indicated at the beginning
15 of your direct testimony that when you were leaving the dance,
16 you were told to avoid the Park?
17 A. Yes.
18 Q. Because the police were there?
19 A. They either said the police was there or someone had been
20 stabbed. It was something that made us walk Joan past
21 the Park because we were nervous for her.
22 Q. Okay, I'm sorry I had difficulty at the beginning of your
23 testimony hearing, so that's what I just wasn't -- I wanted
24 to follow up with. So you -- you knew that there was -- the
25 police were at the Park and you are not quite sure now if you

1 knew exactly why?
2 A. Right.
3 Q. But you subsequently learned that it was because of the
4 stabbing?
5 A. Yes.
6 Q. Did you convey that to Mrs. Marshall, in other words, that
7 when you saw John Pratico the stabbing had already occurred?
8 A. I don't -- I don't remember saying that to her, no.
9 MR. D. PINK:
10 That's all I have, thank you.
11 MR. PRINGLE:
12 No questions.
13 BY MR. ROSS:
14 Q. As I would point out -- the Saturday evening -- the
15 Saturday evening when you were at Anita Paul's basement, do
16 you recall what time you got there, approximately?
17 A. The time I got there.
18 Q. Yes.
19 A. Between six and -- sometime after six I would say.
20 Q. Perhaps between six and seven?
21 A. Or six and eight.
22 Q. Between six and eight?
23 A. Yes.
24 Q. And the Paul's, where were they living at that time?
25 A. The Paul's.

1 Q. Yes.
2 A. On the Reserve.
3 Q. I see. So you left Sydney and you went over to the Reserve?
4 A. Yes.
5 Q. Yeh. And when you got there, who all were in the basement?
6 A. Well, there was a store in the basement, so there was, you
7 know, a lot of people there.
8 Q. It was a store, a general store?
9 A. Yes.
10 Q. I see and could you recall who was present?
11 A. I remember Anita and Junior, Edward John, myself, maybe there
12 was some others, I can't recall.
13 Q. Yeh, was anybody minding the store or was this just a
14 gathering place for people?
15 A. No, someone -- she has a lot of sisters. I wouldn't know if
16 which one was working in the store that night.
17 Q. And I see, this would be the Paul's store, would it be?
18 A. Yes.
19 Q. Yep. And when you were speaking to -- to Anita and Junior
20 and your friends, did you have an opportunity to speak with
21 them in any degree of privacy or was it just general
22 discussion in an open area?
23 A. A general discussion.
24 Q. And how well had you known Anita?
25 A. I went to school with her for probably a year and a half, two
years.

1 Q. I see, well this incident occurred in May of 1971, you
2 would have known Anita from around 1979 -- sorry '69?
3 A. We went to class together in Grade eight. I don't know
4 what year that was.
5 Q. I see. But were you very close friends or just distant
6 friends?
7 A. I thought we were good friends.
8 Q. Did you go to dances with her from time to time?
9 A. I'm not sure if she went to the dances.
10 Q. Do you recall anything that you might have done with her --
11 she was -- as a --
12 A. I used to go to her home and visit.
13 Q. And I take it you'd spend a lot of time talking with her
14 and she'd spend a lot of time talking with you, am I correct?
15 A. Yes.
16 Q. And during this discussion, did you ever discuss Sandy Seale?
17 A. Just that night.
18 Q. Just that one night?
19 A. Just that one night.
20 Q. And I take it that if she had any ongoing friendly
21 relationship with Sandy Seale prior to that night, you
22 would have known about it because of your close relationship,
23 isn't that correct?
24 A. Yes.
25 Q. And you got no such knowledge of any such relationship?

BARBARA FLOYD, by Mr. Ross

1 A. I don't, no.
2 Q. You don't --
3 A. She implied that she had met him, you know, that she knew him.
4 Q. Or she had met him?
5 A. She implied to me that she knew him. That night was the only
6 time that she implied it.
7 Q. You see when you were speaking to Mr. Spicer, you indicated
8 and my notes indicate that you were under the impression
9 that Anita Paul was out with Sandy Seale. I take that to
10 mean that they had some form of a dating relationship. Am
11 I wrong with your explanation?
12 A. That's what I gathered from her conversation. I had never
13 seen them together.
14 Q. Did you ever discuss it her before or after?
15 A. No.
16 Q. I see. So the only person who could really give us that
17 information would be Anita?
18 A. Yes.
19 Q. Yes.
20 MR. ROSS:
21 Thank you very much. No more questions of this witness.
22 MR. NICHOLAS:
23 Yes, my Lordships, I have a few questions to ask the witness,
24 and I'm here representing Mr. Bruce Wildsmith today.
25

BY MR. NICHOLAS:

Q. Now Mrs. -- is it Mrs. Floyd or Miss Floyd?

A. Miss Floyd.

Q. Miss Floyd, yes. On the particular time frame if I can call this particular period in 1971 to 1973 when you first were introduced to the Indians in Membertou, was -- did you meet them through -- because you went to school with them?

A. Yes.

Q. So it was in Grade eight that you first met these people?

A. Yes.

Q. And these -- the questions you were asked on I believe by the first counsel; I forget his name but he asked you that -- was it common knowledge that people would go to the Park and bum money?

A. I don't remember seeing that. I know people did.

Q. Now the people that you know who went to bum money, was it just Indians or where they others?

A. No, there was others.

Q. There were others, I see.

A. If you need a -- like, I don't know what you mean by bumming money. If they needed a pack of cigarettes they may ask for, you know, a dime or a quarter. If that's what you mean by bumming money, that's what I mean.

Q. Well, I -- I just picked that up from my notes when you were asked that question. The question was "was it common to bum

1 money?"; I didn't know what it was requested for. Now your
2 comments about some people asked you "Why are you hanging
3 around with Indian boys?", was this later on in your adult
4 life that people told you this?
5 A. Yes.
6 Q. About how old would you have been then, Miss Floyd?
7 A. When people made comments at me.
8 Q. When that particular comment was first made to you, yes?
9 A. Why did I ever hang around with Indians.
10 Q. Yes?
11 A. This has happened a lot of times. Even within the last year,
12 so --
13 Q. So people are still asking you this question?
14 A. Why was I ever hanging around with them, yes.
15 Q. And would these people be friends of yours or acquaintances
16 or just people in general?
17 A. I thought they were friends until they asked me it.
18 Q. Well, the particular incident that you have told the
19 Commission here today concerning an episode involving your
20 friend Joan Clemens. Who was the -- who was the Indian
21 that she was going out with at that time?
22 A. Who was Joan Clemens going out with at that time.
23 Q. Yes?
24 A. Junior Marshall.
25 Q. I'm sorry, pardon?

1 A. Junior Marshall.
2 Q. Junior Marshall and do you know how long that they had been
3 going out together?
4 A. A few months I would say.
5 Q. A few months before the police talked to her or --
6 A. Yes.
7 Q. A few months before the incident in 1971?
8 A. She had been going out with him since before the liquor
9 charge.
10 Q. Now in -- in that particular incident, Miss Clemens -- were
11 there other people who supplied liquor to minors other than
12 Indians?
13 A. Yes.
14 Q. And most of these young girls, they would be around fourteen
15 and fifteen years old at the time?
16 A. Girls and boys.
17 Q. Girls and boys, I see. Now you have described quite vividly
18 what happened to your friend Joan Clemens and I believe the
19 police officer at the time talked to her. How soon after did
20 Miss Clemens relate this episode to you?
21 A. How soon after the incident.
22 Q. Yes?
23 A. If it wasn't the same day, it would have been the day after.
24 Q. Did similar incidents happen to any of your other girl friends?
25 A. No.

1 MR. CHAIRMAN:
2 Your answer is no?
3 BY THE WITNESS:
4 A. Did anything like that happen before?
5 BY MR. NICHOLAS:
6 Q. Did a similar incident like that happen to any of your other
7 girl friends?
8 A. No.
9 Q. No, now were you aware that the police had made similar
10 discussions with parents of other children, of other girls
11 about supplying liquor?
12 A. I wasn't aware of it. I wasn't aware of it.
13 Q. You're not aware of it. So you would have no reason to why
14 this particular incident -- isolated incident would take
15 place by the police?
16 A. No.
17 Q. In the -- in the conversations that you heard from -- from
18 Miss Joan Clemens, was there -- was it very upsetting to her?
19 A. Yes.
20 Q. Now to you recall -- although I -- it was a long time ago but
21 I'm wondering if -- was there any remarks in general that the
22 police would have told her about Indians?
23 A. About Indians.
24 Q. And drinking and supplying liquor to minors?
25 A. It was all based on Junior. It wasn't Indians. They were

1 talking about how could Joan's mother let her go out with
2 Junior Marshall.
3 Q. So it was because of Junior as a person not Junior as an
4 Indian?
5 A. Yes.
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1 Q. Now, when-you said you also, I believe, dated an Indian?
2 A. Yes.
3 Q. And you said his name was Artie Paul?
4 A. No. Edward John Kavatay.
5 Q. I'm sorry, pardon?
6 A. Edward John Kavatay.
7 Q. Kavatay or -- I'm sorry. I can't hear if I'm hearing the
8 name --
9 A. Kavatay.
10 Q. Yes. And how long did you -- did you date Mr. Kavatay?
11 A. About three and a half years.
12 Q. And would this have been while you were at high school?
13 A. Yes.
14 Q. And did you, yourself, were you discouraged from dating
15 Mr. Kavatay by your parents?
16 A. I was because of an incident that happened. It wasn't because
17 he was an Indian boy. It was because I was picked up one
18 night by the police for drinking and they brought him with
19 me to the police station and my parents felt that he gave me
20 liquor but it wasn't him. He didn't drink.
21 Q. And how soon in relation to this event of May 28th was that?
22 Do you know the approximate time?
23 A. It was before that.
24 Q. It was before it. How about your other friends, did they
25 ever try to find out why you were dating this Indian?

1 A. No.
2 Q. So your friends really did not hold it against you then?
3 A. Not my close friends, no.
4 Q. Not your close friends. And these different dances that are
5 held in Sydney, would they move to different sections of the
6 city?
7 A. Yes.
8 Q. And at those dances did you -- did you go there in the company
9 of Mr. Kavatay?
10 A. No.
11 Q. So you would have went alone?
12 A. Went with the girls.
13 Q. Went with the girls, I see. And there were no incidences in
14 other dances in the city of Indians coming into the dances?
15 A. No incidence?
16 Q. No incidence or --
17 A. No.
18 Q. No.
19 A. Not that I saw.
20 Q. Not that you saw, yes. So other than your friend, Joan
21 Clemens, you know of no other young woman at the time who
22 was discouraged to date Indians?
23 A. Not that I know of.
24 Q. You've also indicated to other counsel that you spend considerable
25 time visiting friends on the Reserve?

A. Yes.

Q. Would that have been throughout this three year period also?

A. Yes.

Q. Yes. And did you encounter any difficulties because you were a Non-Indian on that Reserve?

A. No.

Q. So you were accepted?

A. Yes.

Q. At the time of the interview you had with Mr. MacIntyre, in your home, were there any comments made about Indians in general?

A. No.

Q. No.

MR. NICHOLAS:

I have no further questions, My Lords.

BY MR. CHAIRMAN:

Q. What's your occupation?

A. I'm a hair stylist.

MR. CHAIRMAN:

That is all. Thank you.

INQUIRY ADJOURNED: 11:06 a.m.

INQUIRY RECONVENED AT 11:27 a.m.

1 SANDRA COTIE, being called and duly sworn, testified as follows:
2 BY MR. SPICER:
3 Q. State you full name, please?
4 A. Sandra Cotie.
5 Q. Sandra Cotie. And where do you live?
6 A. I live on Ashby Road, 172.
7 Q. And how old are you?
8 A. 32.
9 Q. You single name is Sandra MacNeil?
10 A. Right.
11 Q. Did you go to -- for your schooling in Sydney?
12 A. Yes. I did.
13 Q. Can you tell us what schools you went to and can you give
14 us some idea of the years that you were in school?
15 A. I went to Holy Angels for elementary and Sheriff for Junior
16 High and Academy for High School. It was '71, '73.
17 Q. Could you speak up a little, miss?
18 A. Sure.
19 Q. What years then were you in High School?
20 A. During '71 and '73.
21 Q. '71 and '73. And would you have been in High School during
22 the school year that began in the fall of 1971 or the one
23 that ended in the spring of '71?
24 A. I'm not sure. I was -- at the spring, I guess. Yeh. I was
25 there for three years. I finished in '73 so I imagine it was --

1 Q. And when you finished what grade did you finish?
2 A. Twelve.
3 Q. Grade twelve? And in 1971 then you would have been 16?
4 A. Yes.
5 Q. Do you remember what -- were you 15 or 16 in May of 1971?
6 A. I would have been 16.
7 Q. 16? And were you part of a group of girls that used to
8 hang around a bit with the Indian boys?
9 A. Yes.
10 Q. Okay. Can you tell us who the other girls were?
11 A. The ones I hung around with were Barbara Floyd and Joan Clemens.
12 Q. And can you tell us who the Indian boys were that you hung
13 around with?
14 A. There would be Junior Marshall, his brother Pious, Artie Paul
15 Edward Kavatay, Lawrence Paul, Jimmy Gould, Cameron Paul.
16 Q. Okay. For the benefit of the counsel that didn't hear the
17 names, tell us again who the Indian boys were that you used
18 to hang around with?
19 A. Okay. It would be Edward Kavatay, Lawrence Paul, Junior
20 Marshall, Pious Marshall, Jimmy Gould, Tom Christmas,
21 Cameron Paul. There was quite a few of them.
22 Q. And did you first met those Indian boys in school or where did
23 you first come across them?
24 A. Well, I met them through Barbara Floyd because she was going
25 out with Edward Kavatay at the time.

1 Q. You met them through Barbara Floyd.
2 Just slow down a little bit.
3 A. Okay, sir.
4 Q. Were any of the Indian boys that you referred to a minute
5 ago at the Academy with you?
6 A. I don't remember them being there, no. Edward may have gone
7 there. Edward Kavatay.
8 Q. And the ones that you met, you met through Barbara Floyd?
9 A. Right.
10 Q. Did you have any impression as to how the other kids in
11 your school felt about you hanging around with the Indian
12 boys?
13 A. I didn't at the time, no. I found out later that -- that
14 they didn't or they couldn't understand why I was hanging
15 around with them. I found that out from someone later.
16 Q. How did you --
17 A. But no one had approached me about it.
18 Q. Nobody ever approached you directly?
19 A. No.
20 Q. Did you have many close friends at the Academy?
21 A. Basically just one.
22 Q. And did you later ever think that the fact that you were
23 hanging around with the Indians might have been a reason for
24 that?
25 A. She had told me that there was cause they had -- she had been

1 asked by them why she would associate with me when I was
2 hanging around with Indian people.
3 Q. And who is she?
4 A. Claudia Mumford.
5 Q. Claudia?
6 A. Mumford.
7 Q. Mumford?
8 A. Right.
9 Q. When you were hanging around with the Indian boys, what locations
10 would you hang out in?
11 A. Mostly just the park.
12 Q. Okay. What sorts of things would be going on in the park?
13 What would you be doing?
14 A. Nothing in particular. You know, we just sort of hang out there
15 and the weekends we drink but there's nothing --
16 Q. Would you be there on weeknights as well or just on the
17 weekends?
18 A. Mostly just on the weekends.
19 Q. On the weekends?
20 A. Yes.
21 Q. And when you say that on the weekends you'd be drinking,
22 can you describe -- would you be drinking a lot or frequently?
23 A. It would happen generally every weekend. Yeh.
24 Q. And what would it be? Can you describe a typical Friday or
25 Saturday evening to us?

1 A. Well, we would probably go there first to drink and then
2 go to a dance or something afterwards. There was nothing
3 in particular happening. We'd just go there and sit around
4 on the grass or the benches or something.
5 Q. What would you do if the police came along?
6 A. Hide or run or --
7 Q. Were you ever picked up by the police?
8 A. No, I wasn't.
9 Q. Were you ever in the park when the police came along and
10 picked up any of the Indian boys?
11 A. Yes, I was there when they came along. Yes and I didn't
12 actually see anyone get picked up because well, I was hiding
13 myself at the time but --
14 Q. Did you ever hear any comments being made by any of the
15 members of the Sydney Police Department to the Indian boys?
16 A. No.
17 Q. Never heard them say anything to them when they were coming
18 after them in the park?
19 A. No.
20 Q. No? What about the graveyard area? Did you hang out in the
21 graveyard as well?
22 A. Yes.
23 Q. Okay. And what would you be doing up there?
24 A. Basically the same thing as in the park.
25 Q. Sitting around --

A. Yeh.
Q. Sitting around drinking?
A. Yeh.
Q. Okay. Were you ever in the graveyard area when the police would come up?
A. No. They have come up there but I wasn't there at the time.
Q. You weren't there?
A. No.
Q. Were you familiar with the practise of bumming money or smokes or whatever in the park?
A. Yes.
Q. Did you ever participate in that yourself?
A. Not necessarily for that, no. I -- We did to get into the dances sometimes. Yeh.
Q. So you might have stood around outside the dance and tried that?
A. Right.
Q. Bum a little change to get in?
A. Right.
Q. What about bumming money in the park? Would that be something that the -- well, be something that the boys would be responsible for mostly?
A. Mostly, yeh. They would do it, yeh.
Q. What sort of money are we talking about? Do you have any idea how much money they'd be trying to get?
A. It was never very much. A dime or a quarter or something.

1 It was never any large amount or anything. Just --
2 Q. And normally what would it be for?
3 A. To get cigarettes or to get liquor or to get into the dance
4 or something.
5 Q. All right. And would two or three of them go off to different
6 areas in the park and bum money and then get together and see
7 how much they got at the end of it all?
8 A. Yeh.
9 Q. Was that a fairly regular occurrence?
10 A. Not regular, no. It did happen quite often but it wasn't
11 something that happened every weekend or --
12 Q. Did you ever hear any of the -- hear of or hear any of the
13 Indian boys say that they had to use force in order to get
14 money?
15 A. No.
16 Q. From your observation do you know whether or not any of the
17 Indian kids used to carry knives?
18 A. Not to my knowledge. They didn't. No.
19 Q. And was Junior -- Junior Marshall was a member of this
20 group was he?
21 A. Yes, he was.
22 Q. Did you have any impression of what the Indian kids felt the
23 attitude of the Sydney Police Department was towards them?
24 A. Well, they assumed that -- that they didn't like them very
25 much. I think that was the general attitude, general assumption

of everyone that the police didn't like them very much. Yeh.
Q. Was that your assumption as well?
A. Yes.
Q. Were did -- How did you form that assumption?
A. It wasn't based on anything in particular I don't think but looking back on it I was the type of person to save newspaper clippings and stuff like this and looking through them there was a lot more Indian kids picked up or people who hung around with them on the weekends for drinking and that, than there was White kids. Like it was almost every weekend that someone would be picked up.
Q. And that -- Did you have a practise then of saving the newspaper clippings even prior to Sandy -- the Sandy Seale incident?
A. Yes.
Q. Okay. And you still have those newspaper clippings?
A. Some of them I do, yeh.
Q. Some of them?
A. Yeh.
Q. And you formed the impression from these newspaper clippings and stuff that the Indian kids were being picked up more often than the White?
A. Yes.
Q. Other than your looking at the newspaper clippings, were there any other things that you can recollect that gave you the

1 impression that the police didn't like the Indians?
2 A. Nothing directly, I guess, except maybe that incident with
3 Joan Clemens, again, for -- where she was-- Junior was being
4 charged with giving liquor to minors.
5 Q. Okay. And that's the incident that Miss Floyd was referring
6 to earlier?
7 A. Right.
8 Q. Let's talk about that incident for a second. Were you involved
9 in that personally?
10 A. Indirectly, yes. I was with Joan when she was first picked
11 up by the police.
12 Q. Were you on the school bus with Joan?
13 A. Yes.
14 Q. Okay. And tell us what happened then when you got off the
15 bus?
16 A. We got off the bus and we just walked maybe a couple of feet
17 and the car had stopped and we were told to get in.
18 Q. The car had stopped. Was that a police car?
19 A. No, I don't think it was a police car. We were told to get in --
20 Q. By whom?
21 A. -- which we did. MacIntyre.
22 Q. Right. Did you know MacIntyre at the time?
23 A. No, I found out later that that's who it was but I didn't
24 know right at that time.
25 Q. At the time you were told to get into the car, did he identify

1 himself as a police officer?
2 A. Not that I remember, no.
3 Q. Why would you have gotten in the car?
4 A. I seem to -- We did know at the time that they were police
5 but I can't remember what gave us that impression.
6 Q. Okay. So did you know then when you got into the police --
7 into the car that you were getting in a car with a couple
8 of policemen?
9 A. Yes.
10 Q. Okay. Before you got into the car did they indicate to you
11 in any respect, why they were asking you to get into the
12 car?
13 A. No, I didn't -- we didn't know why we were getting into the
14 car.
15 Q. There was another officer in the car besides --
16 A. Yes.
17 Q. -- John MacIntyre? Who was that?
18 A. I'm not sure.
19 Q. Do you remember what he looked like?
20 A. No.
21 Q. So you get in the police car?
22 A. Yes.
23 Q. You don't know, at that point, why you're getting in the
24 police car?
25 A. Right.

1 Q. What happens then?
2 A. We drove just, maybe a couple of feet again, and MacIntyre
3 had spoke with the other person in the car and then he -- they
4 stopped the car and told me to get out.
5 Q. When you got in the back of the car did -- do you know whether
6 or not MacIntyre knew who the both of you were?
7 A. No, there wasn't any indication that he did, no.
8 Q. Okay. You drive for a little bit, there's a discussion in the
9 front seat and you're asked to get out?
10 A. Right.
11 Q. Prior to you being asked to get out is there any discussion
12 between yourselves and the police officers in the front seat?
13 A. No. There was --
14 Q. Nothing said at all?
15 A. No.
16 Q. You're just sitting there?
17 A. Yes.
18 Q. Okay. And you were told to get out of the car by whom?
19 A. By MacIntyre.
20 Q. By MacIntyre?
21 A. Right.
22 Q. What did he say to you?
23 A. He told me to get out of the car and I -- I think I just sort
24 of laughed or something cause I don't -- we didn't even realize
25 what we were there for in the first place. Whether it was

1 serious or something. So he repeated himself again but
2 very bluntly this time so I got out of the car.
3 Q. When you say very bluntly can you describe that to us?
4 A. Well, he said I told you to get out of the car. You know, so
5 I did at that point.
6 Q. Can you describe his tone of voice? Was it raised?
7 A. Yes, it was.
8 Q. I take it you got out of the car?
9 A. Yes, I did.
10 Q. And at -- by the time you got out of the car, did you have
11 any idea why you would have been in the car in the first place?
12 A. No, I still didn't know.
13 Q. What did you do then?
14 A. I walked back home.
15 Q. Did you subsequently speak to Joan Clemens?
16 A. I don't believe I did that day, no. I think it was not till
17 the next day.
18 Q. Sorry. To the next day?
19 A. Probably to the next day, yes.
20 Q. Okay. And then on the next day did you talk to her about what
21 had happened?
22 A. I remember it a bit vaguely, yeh. I know we did discuss it, yes.
23 Q. And what is it that you remember?
24 A. I just remember that they had given her and her mother a very
25 hard time.

1 Q. They being whom?
2 A. Well, I assume it was MacIntyre, yes. That who -- they had said
3 somethings to her mother that really upset her. I mean they
4 weren't --
5 Q. What were you told was said to her mother?
6 A. Was told that she was -- she said that she was unfit mother and
7 they had called her something.
8 Q. What did they call her?
9 A. A bag.
10 Q. A bag.
11 This information was related to you by Joan Clemens or by her
12 mother?
13 A. By Joan.
14 Q. By Joan?
15 A. Yes.
16 Q. And did she tell you anything else about what had occurred?
17 A. No, just that they were -- what they were doing. They were
18 questioning her for -- because they were saying Junior had
19 given liquor to her and the charge of liquor to minors.
20 Q. Sorry?
21 A. Just on the charge of liquor to minors. He was being charged.
22 Q. Did she indicate to you at that time whether in fact Junior
23 had given her liquor?
24 A. I don't believe he had did on that particular occasion actually.
25 Q. I'm asking though, whether or not, whether she related to you

that he had or hadn't given it to her?
A. He hadn't given it to her.
Q. That's what she told you?
A. That's what she told us, yes.
Q. Did you see Mrs. Clemens?
MR. MURRAY:
Perhaps you'd better -- had or had not?
MR. SPICER:
Had not.
MR. MURRAY:
Thank you.
BY THE WITNESS:
A. Yes, I remember seeing her.
BY MR. SPICER:
Q. Do you remember seeing her at about this time?
A. Yes, I hadn't talked to her about it or anything but I do remember seeing her.
Q. And did you get any impression how she felt about the incident?
A. I just -- you could just tell that it had upset her. She was a very nervous person so --
Q. And how could you tell that it had upset her?
A. I don't know exactly by what actions -- she didn't really say anything.
Q. Was it just a feeling that you got?

1 A. Just a feeling, yes.
2 Q. And, I take it then, you did never -- you never discussed
3 the incident directly with Mrs. Clemens?
4 A. No, I didn't.
5 Q. Never asked her whether or not she'd been called these
6 names by the police?
7 A. No, I didn't.
8 Q. Other than that indicent are there any other things you can
9 point to that would have assisted or would assisted in forming
10 your impression that the police didn't seem to like the
11 Indians?
12 A. No, nothing in particular.
13 Q. Nothing in particular?
14 A. No.
15 Q. Just again -- apart from --
16 And that's just a feeling?
17 A. Yes.
18 Q. What about the attitude of the Indian boys towards the
19 members of the Sydney Police Department? Did you get
20 any feeling about what they felt about the police?
21 A. Well, I think the feelings were probably mutual. That they
22 didn't like the police any more than the police liked --
23 Q. I'm sorry. They didn't?
24 A. They didn't like the --
25 Q. You'll have to slow down again a little bit.

1 A. Okay.
2 Q. They didn't like the police anymore than the police liked
3 them. That's what the general opinion was, yes.
4 Q. Did they give you the impression that they thought they
5 were being picked on by the police at all?
6 A. Yes.
7 Q. Did they say that to you from time to time?
8 A. I don't remember anyone actually saying it to me. I mean they
9 could have but --
10 Q. That was a feeling you had?
11 A. Right. Yes.
12 Q. Over what period of time would you have been hanging around
13 with the Indian boys?
14 A. I'm not really sure. I believe it started probably around
15 early '70, 1970 maybe. It was --
16 Q. When you were 15 or so?
17 A. Yes.
18 Q. And for how long did it go on?
19 A. Almost a year.
20 Q. And would it have gone up to and past the time of the Seale
21 incident?
22 A. I didn't have much contact with them afterwards, no.
23 Q. But up until that time you did?
24 A. Yeh.
25 Q. Was there any particular time of the day when people would be

in the park bumming money? Afternoon? Evening?

A. Probably early evening.

Q. Early evening?

A. Yes.

Q. Would you -- From your experience do you think it would have been unusual for somebody to have been found bumming money in the park around midnight?

A. I would think it would probably would have been unusual. We were usually heading home around that time so I'm not really sure what anyone did after those hours. I mean, for -- as far a I knew it would be unusual.

Q. And was it your -- Was it your experience then that when the boys would bum money that it would normally be to take care of that particular days needs, if they wanted to go and get booze for that day?

A. That's right.

Q. There -- This wasn't long term planning?

A. No.

Q. No. Where were you living in 1971?

A. On Townsend Street.

Q. Townsend Street? And you attended the dance on the night of May 28th?

A. Yes.

Q. Who did you go with?

A. Joan Clemens and Barbara Floyd.

1 Q. Had you been doing any drinking before you went to the dance?
2 A. No.
3 Q. Do you know whether or not the girls that you went with had
4 been drinking?
5 A. No.
6 Q. Did you go just with them or did you go with any of the
7 Indian boys as well?
8 A. I believe it was just with them.
9 Q. Do you remember seeing Sandy Seale or Junior Marshall at the
10 dance?
11 A. No.
12 Q. Did you know Sandy Seale?
13 A. I didn't know him, no. I knew who he was but I didn't know
14 him.
15 Q. Knew him to see him?
16 A. Right.
17 Q. Ever seen him down around the park at all?
18 A. Not that I can recall, no.
19 Q. Did you ever see any Black kids there normally hanging out
20 in the park?
21 A. Not usually, no.
22 Q. It would be an unusual event then would it for you to see --
23 A. Right. Yes.
24 Q. What time did you leave the dance?
25 A. When it was over. It was probably about midnight.

1 Q. About midnight?
2 A. Yes.
3 Q. And did you see John Pratico when you left the dance?
4 A. Yes.
5 Q. And prior to the time that you saw John, did you have any
6 knowledge that there -- something had happened in the park?
7 A. I -- We had found out just before that something had happened
8 in the park but I'm not really sure what exactly was said to
9 us. It was Barbara who went and related to us so I'm not
10 sure exactly what was said.
11 Q. You didn't hear anything directly? You didn't --
12 A. No, I didn't hear anything directly. Just from her.
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1 Q. Do you remember what it was he heard from Barbara?
2 A. Not specifically, no.
3 Q. Was it something about the park?
4 A. Oh, yes, that's it. Something that happened there but I don't
5 know if it was definitely that we had heard that there was a
6 stabbing or not.
7 Q. But you'd heard something?
8 A. Yes.
9 Q. After that you saw John Pratico?
10 A. Yes.
11 Q. And where was Mr. Pratico?
12 A. He was as far as I can remember just slightly ahead of us.
13 Q. And just slightly ahead of you where?
14 A. In the parking lot like --
15 Q. This is in the parking lot by the church.
16 A. -- close, close to the street, yes, close to the corner.
17 Q. By the church?
18 A. Right.
19 Q. Can you tell us what your impression was of what condition he
20 was in?
21 A. I don't remember if he had been drunk or not. It seemed to me
22 -- my impression of him was that he was a little different
23 anyway so I don't think I would have noticed if he had been
24 drinking or sober. To me, he was sort of the same.
25 Q. Okay, now on that particular occasion, then, you don't have any

1 recollection as to whether or not he was drinking or not?
2 A. No.
3 Q. What was he doing?
4 A. He was arguing or trying maybe to pick a fight with someone.
5 Q. Do you know who it was that he was arguing with?
6 A. I can't swear to it. As far as I can remember it would be
7 Ricky Risk, but I'm not really a hundred percent sure.
8 Q. Do you know whether or not John Pratico and Ricky Risk were
9 friends?
10 A. I don't know if they were or not.
11 Q. Did you know John Pratico yourself?
12 A. No, I didn't. I just knew who he was.
13 Q. You just knew who he was, and did you have any impression of
14 what he was like?
15 A. Yeh, that he was a little unstable, hyper, very hyper.
16 Q. Did he manifest that to you in any way by his actions?
17 A. Nothing in particular, no. It was just--
18 Q. Where would you get that feeling from?
19 A. Just from watching and from looking at him I think most people
20 would have gotten that impression just from watching him.
21 Q. Okay, and if you were watching him and looking at him, what
22 about him would give you that impression?
23 A. I don't know. I can't say any one specific thing. It was just
24 a feeling. It was basically, yeh.
25 Q. Was that a -- To your knowledge was that a fairly common feeling

1 amongst your friends that John was --
2 A. Yes. Yes.
3 Q. --a little bit different?
4 A. Right.
5 Q. Did he hang around at all with you and the Indian boys?
6 A. He was in the park but I don't -- He never really hung around
7 I don't think. He was just there.
8 Q. And would you notice him there?
9 A. Yes.
10 Q. Would you notice him in particular more than you might notice
11 other people that weren't different?
12 A. Yes, you would. Yeh.
13 Q. And why was it then that you would notice --
14 A. I don't -- I don't know exactly how to put it. It was just
15 he -- sort of like he would have been a bother or somebody
16 who would be on your nerves or something, you know. Like he
17 was just really hyper.
18 Q. After you saw Mr. Pratico that evening, did the three of you
19 continue on your way home?
20 A. Well, we walked Joan up past the park.
21 Q. Now again the three of you are, yourself --
22 A. Myself, and Joan, and Barbara.
23 Q. Joan Clemens and --
24 A. And Barbara Floyd.
25 Q. --Barbara Floyd?

1 A. Right.
2 Q. And can you show us on the map the route that you would have
3 taken?
4 A. We went up George Street, here, to Argyle Street, up past --
5 we past Crescent Street, past the park, up by them houses.
6 Q. Right, and you would have dropped Joan off just past Crescent
7 on Argyle?
8 A. Right. Yeh.
9 Q. Would you normally have walked her home or would she normally
10 go by herself?
11 A. We normally wouldn't walk her home, no.
12 Q. And was part of the reason you walked her home that night
13 because you had heard about something that happened in the park?
14 A. Yes. Yes.
15 Q. Now so you dropped her off, and then where did you go?
16 A. We went home towards Townsend Street. I lived on Townsend
17 Street.
18 Q. Okay. Can you slow down again a little bit for us because
19 I'm losing you?
20 A. Okay.
21 Q. Tell us again then what happened after you dropped Joan off?
22 A. Okay, Barbara and I just turned around and we went back down
23 towards -- towards Union Street, I believe which was off of--
24 Q. Where was that?
25 A. --off of Cottage Road here.

1 Q. Off of Cottage Road?
2 A. Yeh.
3 Q. On your way back did you hear any sirens or see any police cars?
4 A. No, I don't remember that.
5 Q. Did you see anybody else at all?
6 A. No.
7 Q. When did you know for sure that there had been a stabbing?
8 A. I believe it was probably the next day I heard it on the news.
9 Q. On the Saturday?
10 A. Yes.
11 Q. Do you recollect how you found out?
12 A. Just from hearing the news or in the newspaper. I'm not really
13 sure which.
14 Q. Were you ever approached by the -- by any members of the Sydney
15 Police Department in connection with this?
16 A. No, I wasn't.
17 Q. Did you see Junior between the time of the stabbing and the time
18 that he was picked up?
19 A. No, I didn't. No.
20 Q. Did you hear anything during that week about how the investigation
21 was going, the week before Junior was charged that is?
22 A. No, I didn't hear anything other than what I read in the papers,
23 no.
24 Q. And did you read anything in the papers at all about or hear
25 anything about John Pratico at that time?

1 A. No, I read in the paper that he was going to be a witness.
2 Q. When was it that you read in the paper that he was going to be
3 a witness?
4 A. When? I'm not sure what date or anything.
5 Q. Was that at the time when he, in fact, was a witness or prior
6 to that?
7 A. No, he was a witness then, yeh.
8 Q. This is Exhibit 52 which is a clipping from the Cape Breton Post
9 on November 4th, '71. Is that the -- the newspaper that -- the
10 date that you became aware that John was going to be a witness?
11 A. Yes.
12 Q. Okay. Can you tell us where you were when you saw that newspaper
13 clipping?
14 A. I was at my house.
15 Q. You were at your house?
16 A. Yes.
17 Q. Okay, and who else was there?
18 A. There was myself and Barbara Floyd and Joan Clemens and my two
19 sisters, Ann and Mary, and Colin Waye.
20 Q. And who, sorry?
21 A. Colin Waye was my sister's boyfriend.
22 Q. And were you home from lunch-- home for lunch rather at the
23 time?
24 A. Yes. I -- I -- It was early in the day so I imagine that must
25 have been what it was, yes.

1 Q. And would you generally come home from school for lunch?
2 A. Yes. Yeh.
3 Q. And can you tell us what happened, was somebody reading the--
4 reading the paper?
5 A. I don't remember exactly who was reading the paper. I probably
6 was because I checked it every day for clippings to cut out.
7 Q. And if -- Do you recollect then what the discussion was?
8 A. Yes, well we decided that -- Like, I mean, he couldn't possibly
9 have been a witness. He couldn't be in the park and be at the
10 dance with us at the same time, so--
11 Q. And was there anything specifically in the newspaper that got
12 your attention? You can have a look at the clipping.
13 A. Well just the fact that he was in the park and that he had
14 said he'd ran up-- ran up Bentinck Street. Like to us there
15 was no -- Since he was in front of -- well, with -- in the parking
16 lot with us at the dance there was no way he would have had time
17 to see this and be in the park and run the other direction of
18 Bentinck Street and still be there in the parking lot all at the
19 same time.
20 Q. And that's the third paragraph? That's where Mr. Pratico is
21 quoted as saying, "That's the last I saw". "I ran up Bentinck
22 Street"?
23 A. Right.
24 Q. So knowing that he couldn't have been there?
25 A. Yeh.

1 Q. What did you do?
2 A. Well, we decided -- I'm not sure if it was -- It was somewhere
3 between my sister Ann and Colin who had decided that we should
4 do something about it, so I believe it was Colin who had said
5 we should call the lawyers.
6 Q. Yes.
7 A. And so Barbara made the call.
8 Q. Were you able to hear Barbara's end of that conversation?
9 A. No. No.
10 Q. Where was the telephone? Was it in the same room or in another
11 room?
12 A. No, it was in a hallway off the living room.
13 Q. And were you sitting in the living room?
14 A. No, we were -- we were in the kitchen at the time.
15 Q. How long was Barbara gone for?
16 A. Not long, maybe a minute.
17 Q. And what did she tell you when she got back?
18 A. She just said they hung up. They said it was too late. They
19 hung up.
20 Q. Did she say to you whether she had an opportunity to speak to
21 the lawyer directly?
22 A. I don't remember exactly who -- if she said who she was speaking
23 with or not.
24 Q. Do you know who she had gone to call though?
25 A. Yeh, she went to call Junior's lawyer, Rosenblum's office.

1 Q. And had she had to look that up in the phone book, the
2 number before she went or do you know?
3 A. Yes, she would have had to, yeh.
4 Q. Did you see her doing that?
5 A. I can remember doing that, yeh. I can remember --
6 Q. And it was Rosenblum's office that she was calling?
7 A. Yes. Yeh.
8 Q. When she got back and said that -- that he'd hung up, did she
9 express to you what the person on the other end of the line
10 had said?
11 A. Just that they said it was too late.
12 Q. What was your reaction to that?
13 A. Well, it was kind of confusing because we didn't think that it
14 would be too late.
15 Q. And why did you not think it was too-- too late?
16 A. Well, I mean it should never be too late, but it was -- the
17 trial was still going on, so you know --
18 Q. Did you at that point consider doing anything else, calling
19 anybody else?
20 A. I don't remember if we considered -- I don't believe we did
21 consider doing anything else as far as I can remember. I mean,
22 it was -- we were kids at the time and if someone told you it
23 was too late, well, you just assumed that it would be too late,
24 you know.
25 Q. Did you give any thought at all to calling the police?

1 A. No, not that I can remember, no.
2 Q. Were you surprised when Junior was convicted?
3 A. Yes, we were.
4 Q. Why were you surprised?
5 A. I think it was mostly just the shock of -- that it actually
6 happened.
7 Q. Yes.
8 A. I don't know. I guess we just didn't believe or want to
9 believe up until that point that it would happen.
10 Q. Once he was convicted, and you knowing that John Pratico
11 couldn't have been there?
12 A. Yeh.
13 Q. Did you, at that point, consider doing anything else?
14 A. No, I didn't really. I think we just assumed that you sort of
15 can't fight the system, you know.
16 Q. Did you talk about that amongst yourselves, about whether or
17 not there was anything more you ought to do?
18 A. No, I don't think we discussed doing -- whether or not we should
19 do something else or not that I can remember.
20 Q. Did you keep in touch with Junior Marshall at all when he was
21 in prison?
22 A. No, I didn't. I did receive a letter from -- from him.
23 Q. And when did he write to you?
24 A. It was Christmas Eve, December, '73.
25 Q. And you didn't write back?

1 A. No, I didn't.
2 Q. Any particular reason why you wouldn't have written back?
3 A. I don't remember exactly. I know I did get married at that
4 time in December of '73 and I don't know -- I don't know what
5 my reasons were.
6 Q. Do you know from your own experience whether or not there were
7 other friends of Junior's who at that stage of the game were
8 just not getting back to him and not writing back?
9 A. Not that I know of. No, he expressed that in a letter, but
10 I don't -- I didn't keep in touch with them -- with any of
11 my older friends at that time so --
12 Q. In the letter did he indicate to you who some of the other
13 people were that no longer wanted to keep in touch with him?
14 A. No, other than Joan Clemens, no.
15 Q. And did he indicate to you that he
16 had written to Joan and she hadn't written him back?
17 A. Yes, he had. She had been up to see him but I think that she
18 had stopped communicating with him at that time.
19 Q. Did you ever talk to Joan about why that had happened, why she
20 stopped communicating with him?
21 A. No, I don't think I ever did. No.
22 Q. Did Junior express any views in a letter that he wrote you about
23 his--concerning his innocence?
24 A. No, he didn't come out and specifically say anything about that.
25 It was -- It was sort of implied I think because he thought he --

1 he had said that there was supposed to be another trial or
2 an appeal coming up in February and that he was hoping he'd
3 beat it this time.
4 Q. But nothing specific?
5 A. Nothing specific, no.
6 Q. From that time, from 1973 to -- up until 1982 did you -- were
7 you contacted by anybody-- anybody in the R.C.M.P. or in the
8 Sydney Police Department concerning the --
9 A. I had been talking to Harry Wheaton but I'm not sure exactly on
10 what day it was.
11 Q. We'll get to that.
12 A. Yeh.
13 Q. It would have been in 1982?
14 A. Oh, well, yes.
15 Q. Prior to that?
16 A. No, no one prior to that.
17 Q. And did you talk to anybody else at any time up until 1982
18 about the fact that you knew that John Pratico couldn't have
19 been where he said he was at the trial?
20 A. You mean from like the police or something or just general
21 people?
22 Q. From --
23 A. Yes, I have, general people.
24 Q. Who would you have told?
25 A. Friends, anyone who would -- if any kind of a conversation

1 came up that would be dealing with it, I would tell them.
2 Q. So it would have been -- Do you think it would have been
3 fairly common knowledge among your friends that you knew that
4 John Pratico just couldn't have been there?
5 A. Right. Yeh.
6 Q. And did any of those people ever say to you, "Well, why don't
7 you do something about it"?
8 A. No, they didn't. No.
9 Q. In your own mind from what you've told us earlier, you concluded
10 there was nothing you could do?
11 A. Right. Yeh.
12 Q. Did you ever speak to -- During that time that you say you
13 were talking to your friends about it, did you ever speak to
14 any adults about it, people's parents?
15 A. No, I don't think I did. No.
16 Q. It just would have been conversation amongst other kids?
17 A. Right.
18 Q. Would you have discussed it with any of the Indian boys or
19 any of the Indian kids?
20 A. No, I wouldn't. No. I didn't really have that much contact
21 with any of them after that.
22 Q. So it would have been your girlfriends for the most part?
23 A. Right. Yeh.
24 Q. In Volume 13 at 181, Ms. Cotie, do you recognize the documents
25 that I just put in front of you?

1 A. Yes, I do.
2 Q. Okay, and that's just -- Is that a statement that -- or a
3 typed up version of the statement that you gave to Sergeant
4 Wheaton?
5 A. Yes, it is. Yeh.
6 Q. Do you remember the circumstances and how it came to be that
7 you got in touch with Harry Wheaton?
8 A. Barbara Floyd had been talking to Harry Wheaton and she gave
9 him my name.
10 Q. Okay, and did Sergeant Wheaton then call you on the phone?
11 A. Yes, he did.
12 Q. And what did he indicate to you?
13 A. Just that he wanted to have a meeting with me about it.
14 Q. And did he --
15 A. He called me at work but we had a meeting at home -- at my
16 house.
17 Q. At your house?
18 A. Right.
19 Q. Was there anybody else present?
20 A. My sister was there, yeh. Yeh.
21 Q. Was Sergeant Wheaton by himself or together --
22 A. Yes, he was.
23 Q. He was. Was he in uniform?
24 A. No.
25 Q. And did he indicate to you at all the nature of the reinvestigation?

1 A. I don't remember if he did or not. What he had said about
2 it -- I knew why he was there anyway so I'm not really sure.
3 Q. And why was it that you understood he was there?
4 A. Well, I knew they were reinvestigating.
5 Q. Did you hear John Pratico on the radio at about that time?
6 A. I don't believe so, no.
7 Q. No. Now if you can just look at your statement for a
8 second, in the second paragraph, second -- third sentence?
9 I remember John Pratico coming along
10 and having something smart to say,
and following us down towards the
park.
11
12 Do you recollect whether that, in fact, was what happened?
13 A. No, as far as I can remember it isn't. I'm not sure why I said
14 this or if I said this, maybe it was misunderstood at the
15 time, but from what I can remember I can remember him being
16 in front of us, not following us.
17 Q. For how long? I'm sorry?
18 A. Not following us.
19 Q. Not following you?
20 A. Yeh.
21 Q. And for how long was he in front of you?
22 A. It didn't seem to be long.
23 Q. And do you have any -- any idea today how you would have come
24 to say that you remember him following us down towards the
25 park?

1 A. No, I don't-- I don't remember.
2 Q. You don't remember?
3 A. No, I don't.
4 Q. Do you remember how long Sergeant Wheaton was with you on
5 that day?
6 A. I believe he was probably there maybe forty-five minutes to
7 an hour.
8 Q. Did you ever speak to him again?
9 A. No.
10 Q. If you could just turn over the page to 182 and 183. Now you've
11 seen this affidavit again in the last few days?
12 A. Yes.
13 Q. Is that your signature on page 183?
14 A. Yes, it is.
15 Q. Do you recollect the circumstances under which you gave this
16 affidavit?
17 A. Steven Aronson had came to the house and he had been to Barbara's
18 the same night.
19 Q. Sorry, he had been to Barbara's --
20 A. He had been to Barbara's house the same night as he came to
21 mind. He was probably at the house not even five minutes
22 maybe.
23 Q. Did he see you in the evening then?
24 A. Yes.
25 Q. And is it your recollection that he had seen Barbara Floyd before

1 he came to see you?
2 A. Yes, he did. Yeh.
3 Q. Had he contacted you in advance so that you knew that he was
4 coming?
5 A. Yes, he did.
6 Q. When had he contacted you?
7 A. I don't remember the exact time. I -- I don't know if it
8 was that morning or the day before so I couldn't say for
9 sure.
10 Q. During the -- When he called you on the phone did he indicate
11 to you why it was that he wanted to come to see you?
12 A. Yes, I knew it was just concerning the statement that I had
13 given to Mr. Wheaton.
14 Q. And is that what Mr. Aronson indicated to you that it had to
15 do with that earlier statement?
16 A. Yes. Yeh.
17 Q. Did he indicate-- Did Mr. Aronson indicate to you that he
18 was going to ask you to sign any sort of statement over the
19 phone that is?
20 A. I can't remember him saying that but I -- I knew when he was
21 at the house that that's why he was there, so he must have --
22 he must have indicated it but I don't remember exactly what
23 he would have said to me.
24 Q. When Mr. Aronson was at your house did he ask you to review
25 the contents of that affidavit, to go through it and make sure

1 it was correct?
2 A. He did hand it to me to read it, yes.
3 Q. And did you read through it?
4 A. Not very carefully, no. I -- He had mentioned that it
5 was basically the same or it was the same statement that
6 I had given Mr. Wheaton.
7 Q. That you had given to Sergeant Wheaton?
8 A. Yes, Sergeant Wheaton. Yes, and as soon as I started reading
9 it I realized that it probably was so I just --
10 Q. You realized it probably was?
11 A. Yeh, I didn't read it very carefully actually.
12 Q. And I believe you indicated a couple of minutes ago that
13 Mr. Aronson was at your place for maybe five minutes?
14 A. Yes. Yeh.
15 Q. So could I take it that that was a fairly quick review of the
16 affidavit?
17 A. Yes, it was.
18 Q. Did he indicate to you that by signing the affidavit you
19 were essentially swearing that what you were putting down was
20 your best recollection of what had occurred?
21 A. I don't really -- Honestly, I don't really remember if he
22 said that to me or not. There wasn't much of a conversation
23 at all, so --
24 Q. I'll just draw your attention to paragraph four of that
25 affidavit that:

1 As we walked along George Street in
Sydney, John Pratico came along and
2 followed us towards the said
Wentworth Park.
3
4 And again as in the prior statement that, in fact, was not the
5 case?
6 A. Right. Yeh.
7 Q. Do you think if you had noticed that at the time you would have
8 corrected it?
9 A. Yes, I probably would have if I had noticed it, yes.
10 Q. Did Mr. Aronson indicate to you the purpose to which the
11 affidavit was to be put?
12 A. I don't really remember.
13 Q. Did you ask him any questions about what he was there for?
14 A. I did ask him questions, yes. I don't remember exactly what
15 I had asked him. I don't really -- I can't really say for
16 sure.
17 Q. Were you ever contacted by Mr. Aronson again subsequently?
18 A. No.
19 Q. Were you contacted by any other lawyers in connection with
20 this matter in '82, '83, and '84?
21 A. No.
22 MR. SPICER:
23 Thank you.
24 BY MS. DERRICK:
25 Q. Mrs. Cotie, my name is Ann Derrick, and I represent Junior Marshall.

1 Back in 1971, Joan Clemens and Barbara Floyd, they were very
2 good friends of yours?
3 A. Yes.
4 Q. Is that correct?
5 A. Yes.
6 Q. And you used to hang around with them in the park and at
7 dances?
8 A. Yes.
9 Q. When you were in the park and you were saying on weekends
10 there used to be some drinking going on?
11 A. Yeh.
12 Q. And sometimes the police would come down. Was it your
13 impression that they were looking for kids that were drinking
14 in the park? Is that what they were doing there?
15 A. I don't really know for sure what they were looking for. You
16 probably weren't allowed to just hang around the park anyway.
17 It was probably --
18 Q. How would they arrive at the park? Did they arrive in police
19 cars?
20 A. Yes. Yeh.
21 Q. And would it be just one car or were there several cars that
22 would arrive?
23 A. Sometimes more than one but usually just one.
24 Q. And what would happen at that point? You would go into hiding?
25 A. Right.

1 Q. And did the police get out of these cars and go looking for
2 the kids on foot?
3 A. Yes. Yeh.
4 Q. And where would they look?
5 A. Well, if they could see us running they would run for whoever
6 they could see still running I would imagine or look in the
7 bushes or whatever.
8 Q. But you-- you were never caught by them?
9 A. No.
10 Q. And did you observe anybody who was caught by them in these
11 circumstances?
12 A. No.
13 Q. And how long would these raids, shall we call them, take?
14 A. Probably not long. Like a few minutes.
15 Q. A few -- A few -- A few minutes --
16 A. A few minutes, yes.
17 Q. --and then the police would get back in their cars?
18 A. Right.
19 COMMISSIONER EVANS:
20 Would it be fairer to say patrols rather than raids?
21 MS. DERRICK:
22 Thank you, My Lord. Okay, patrols.
23 BY MS. DERRICK:
24 Q. And once the police had left would the kids sort of come out
25 of their hiding places?

1 A. Yes.
2 Q. And resume whatever activities were going on?
3 A. Correct.
4 Q. Now you say you kept newspaper clippings?
5 A. Yeh.
6 Q. Was this just out of personal interest?
7 A. Yes.
8 Q. And what specifically were you looking for that you kept
9 clippings on?
10 A. There was nothing in particular. I saved just about anything
11 in the newspaper that I thought would be interesting.
12 Q. So just things that interested you over a wide range of
13 topics?
14 A. Yeh. Right. Yeh.
15 Q. And what was reported in the newspapers that gave you the
16 impression that Indian kids were being treated differently
17 by the police which I think is what you said earlier?
18 A. Right.
19 It's just that there was usually more names in the paper of
20 kids who were picked up on drunk charges, there were more
21 Indian kids than White kids.
22 Q. So that in the newspaper the names of these kids would be reported
23 as being picked up on liquor offences?
24 A. Right.
25 Q. And these names were ones that you recognized because they

1 were kids you hung around with?
2 A. Yes.
3 Q. And you say that you knew John Pratico, you knew him to see
4 him?
5 A. I knew who he was, yes.
6 Q. And he was hanging around in the park at the same time that
7 you were there. Is that right?
8 A. Yes.
9 Q. Did you know him to drink?
10 A. Yes, he drank, yeh.
11 Q. And did he drink with you, with your crowd? If there was liquor
12 to be shared was he -- was it being shared with him too?
13 A. Yes, well, it would have been shared with anyone who was
14 there, yeh.
15 Q. And so he was friendly with the Indian kids that you hung
16 around with?
17 A. Yes.
18 Q. You say that he was hyper?
19 A. Yeh.
20 Q. Is that how you remember him?
21 A. Yes.
22 Q. Did he talk a lot?
23 A. Yes, as far as I can remember. Like I never talked to him
24 personally.
25

1 Q. But did you observe him talking a lot? Is that one of the --
2 A. Yes. Yes.
3 Q. -- things that made you think he was a hyper person?
4 A. Yes.
5 Q. Were there other things that he did that you can remember that
6 contributed to this impression you had of him being hyper?
7 A. Nothing in particular. It just -- I guess he was the type of
8 person who just seemed like he was trying to fit in and maybe
9 didn't fit in, you know.
10 Q. So he seemed like an anxious --
11 A. Yes.
12 Q. -- agitated person?
13 A. Yes.
14 Q. He didn't seem to have his own crowd, it that --
15 A. Right.
16 Q. -- correct? Did you feel sorry for him?
17 A. No, I don't remember feeling sorry for him, no.
18 Q. You were friendly with the Indian boys at the time.
19 A. Yes.
20 Q. And you say that later you learned that people couldn't under-
21 stand why you hung around with them?
22 A. Right.
23 Q. Is it correct to say that they were nice to you and that's
24 why you hung around with them?
25 A. Yes. Yes.

1 Q. Now, on the night of May 28th, 1971 when you saw John Pratico
2 in the parking lot of St. Joseph's Church, you don't recall
3 if someone actually told you that there had been a stabbing
4 before you saw him?
5 A. No, I don't actually remember exactly what we were told.
6 Q. But you were told something that made you want to avoid the
7 park?
8 A. That's right.
9 Q. Is that correct?
10 A. Yes.
11 Q. And you didn't talk to John Pratico that night?
12 A. No, I didn't.
13 Q. But you observed him?
14 A. Yes.
15 Q. Briefly?
16 A. Yes, it was just briefly.
17 Q. Did he seem hyper on that occasion?
18 A. Yes.
19 Q. Was he talking loudly? Did he seem agitated?
20 A. Yes.
21 Q. Was he unsteady at all? Do you remember?
22 A. I guess you could say he was, yes. He was sort of -- Well,
23 he was -- appeared to be maybe wanting to pick a fight with
24 this person or --
25 Q. So he was being aggressive?

1 A. Yes, he was being aggressive.
2 Q. He never said anything that night that you either overheard
3 or that was said to you directly about seeing anything in the
4 park?
5 A. No.
6 Q. And he never said anything to you about it later?
7 A. No.
8 Q. This issue of having seen him that night, --
9 A. Yes.
10 Q. -- did you ever discuss that with your parents?
11 A. Well, it was discussed at my house that day. I don't remember
12 if I particularly said anything to my parents about it or not.
13 Q. So your recollection now is not clear as to whether your
14 parents overheard anything or whether it was --
15 A. No.
16 Q. -- discussed directly with them?
17 A. No.
18 Q. They certainly, to your memory, didn't participate in any
19 discussion --
20 A. No.
21 Q. -- about what to do --
22 A. No.
23 Q. -- with this investigation?
24 A. No.
25 Q. And you say you didn't think to call the police, or you decided

1 not to call the police. Was there a reason for that?
2 A. Well, I don't think we would've called the police. I mean,
3 it was -- We wanted to call his -- Junior's lawyers; so I
4 would assume that we thought that if they weren't going to
5 help us, you know, maybe nobody else would. I don't know
6 exactly what --
7 Q. So is it fair to say that you didn't think the police would
8 help. Is that why you didn't call them?
9 A. Well, the lawyer said it was too late, and they were on his
10 side; so -- supposedly; so if they thought it was too late,
11 it must've been too late. That's what we thought, yeh.
12 Q. That certainly the police would feel it was too late?
13 A. Right.
14 Q. The day that you were with Joan Clemens on the schoolbus
15 and Sergeant MacIntyre was waiting to speak with her --
16 A. Right.
17 Q. -- as you later found out, --
18 A. Right.
19 Q. -- do you remember when that was? What time of year?
20 A. I've no -- I really don't.
21 Q. You were in school?
22 A. Yes, we were in school.
23 Q. And would it have been in the fall or --
24 A. I think it probably would've been in the fall. I don't think
25 it was the winter. I'm not really sure.

1 Q. And obviously, this happened before the incident in the park
2 in May?
3 A. Yes.
4 Q. Some months before?
5 A. I can't really say for sure.
6 Q. How long were you in the police car before you got out?
7 A. Just a couple of minutes. Not very long at all.
8 Q. And it was not made clear to you what the police wanted on
9 that occasion? Is that --
10 A. No.
11 Q. -- correct? How -- Can you describe what Sergeant MacIntyre's
12 demeanor was at that time? Was he stern? Was he --
13 A. Yes, he was very stern. Yes.
14 Q. So he was taking it very seriously, which --
15 A. That's right.
16 Q. -- at first you didn't pick up on.
17 A. That's right.
18 Q. Is that correct? Did you have any discussion with Joan Clemens
19 before you got out of the car?
20 A. No, I didn't.
21 Q. How did she seem to you? Do you recall?
22 A. I don't really remember, no.
23 Q. You don't recall whether she was --
24 A. No.
25 Q. -- upset?

1 A. No, I don't remember.
2 Q. And your testimony today is what you recollect of the events
3 in 1971?
4 A. That's right.
5 Q. Correct. Those are all my questions. Thank you.
6 BY MR. J. PINK:
7 Q. Mrs. Cotie, back in 1971, at the time that you met up with
8 John Pratico, you would have been sixteen at the time, is
9 that correct?
10 A. That's right.
11 Q. The drinking for kids back then or the drinking age in the
12 province of Nova Scotia was twenty-one, is that correct?
13 A. That's right.
14 Q. And approximately how long had you been drinking prior to the
15 night that you met John Pratico? By that I mean over what
16 period of time in years? When did you start drinking?
17 A. It was mostly just when I started hanging around the park.
18 I --
19 Q. So that would've been 1970, 71; so you would've been --
20 A. Right.
21 Q. -- approximately the age of fifteen.
22 A. Right.
23 Q. And tell me, at any time, did you ever get liquor from Junior
24 Marshall?
25 A. I probably did, yes.

1 Q. And let me ask you this. The group that you hang around with
2 in the park, were they mostly the Indian kids?
3 A. Yes.
4 Q. Were there any White kids or Black kids hanging around with
5 you or was it just --
6 A. It was mostly just Indian kids. There were other White kids
7 that were there too. I don't remember any Blacks that hung
8 around with us.
9 Q. And where would you congregate in the park?
10 A. Usually on the bandshell side of the park.
11 Q. And would you drink openly in the park area?
12 A. Yes.
13 Q. And do you know what the kids would do with their liquor bottles
14 after they had finished drinking?
15 A. No, just put them in the bushes, I guess.
16 Q. Were you aware of any complaints that were made about kids
17 drinking in the park area?
18 A. I don't know of any, no.
19 Q. And tell me, at any time did you ever see John MacIntyre in
20 the park area?
21 A. No, I don't -- I can't say I recall seeing him.
22 Q. One of the questions that was and an inference that I took
23 from your evidence that you felt that the Indian boys were
24 being picked on --
25 A. Yes.

1 Q. -- because the police kept patrolling the park area and this
2 is where the drinking was going on and then everybody would
3 scatter.
4 A. Yes.
5 Q. As I understand it from your evidence, there were no White kids
6 hanging around drinking in that particular area, were there?
7 A. No, I didn't say there wasn't any. I said there were few
8 White kids. I haven't any recollection of Black kids being
9 there.
10 Q. Okay. So tell me, do you ever remember the White kids running
11 away when the police would come?
12 A. Yes, they would. Of course.
13 Q. And do you ever remember the police picking up any White kids?
14 A. Yes. Yes.
15 Q. So in fact, they were basically arresting anybody they could
16 get their hands on upon their arrival at the scene, is that
17 correct?
18 A. Well, not exactly, no. I mean it was the White kids, but the
19 White kids were White kids who hung around with Indian kids
20 Q. I'm sorry?
21 A. They were White kids who hung around with Indian kids not --
22 Q. Yes.
23 A. -- necessarily -- There were other White kids in the park who
24 didn't hang around with our group.
25 Q. So but were the White kids that were hanging around with your

1 group, I take it -- Were they arrested also?
2 A. Yes.
3 Q. So it was basically that group of you, which included White
4 kids and Indian kids -- They were all arrested if they got
5 caught?
6 A. That's right.
7 Q. So can you show me as to where you felt that the police were
8 picking on the Indian kids more than they were picking on the
9 White kids that came to your group?
10 A. Well, I don't think they made any association -- I think it's
11 the same way as people felt about me in high school. If you
12 were hanging around with Indian kids, you might as well have
13 been Indian because it was the same thing. It was -- You
14 were based on the same opinion.
15 Q. But I'm interested in the attitude of the police towards the --
16 your group. They basically came and arrested anybody who
17 was drinking in a public place who was under the age. Is that
18 not correct whether you were White or Indian?
19 A. I wouldn't say everyone, no. I -- There were other people
20 who hung -- other White kids -- a group who hung around the
21 park at that time that we did. They weren't friends of ours.
22 We didn't associate with them, and I can't ever remember any
23 of them ever being arrested.
24 Q. But when it came to your group, though --
25 A. Yes.

1 Q. -- there was no difference between White and/or Indians?
2 A. That's right, yes.
3 Q. Now, you also told Mr. Spicer that you used to hang around
4 the graveyard.
5 A. Yes.
6 Q. And tell me, during the period of time that you were hanging
7 around the graveyard, were you aware of any damage that was
8 being done to the gravestones?
9 A. I didn't see any done, no.
10 Q. At any time, did you ever see any gravestones tipped over?
11 A. I didn't see anyone do it, no?
12 Q. Did you see it done?
13 A. I'd seen gravestones that were tipped over, but I didn't see
14 who had done it.
15 Q. And was it the same group that was hanging around the park
16 that was hanging around the graveyard?
17 A. Yes.
18 Q. And there was drinking going on in the graveyard too?
19 A. Yes.
20 Q. And the police would come to the graveyard and they would arrest
21 both Indian kids and White kids if they caught you drinking,
22 is that correct?
23 A. Yes.
24 BY MR. CHAIRMAN:
25 Q. Is the graveyard near the park?

1 A. It was probably about three blocks.
2 BY MR. J. PINK:
3 Q. Now, you've told the Commission also that, in your opinion at
4 least, that the police didn't appear to like the Indian kids,
5 is that correct? The Sydney Police force?
6 A. Yes.
7 Q. And you base that upon newspaper clippings?
8 A. Yes.
9 Q. And would you not agree with me that in the newspaper clippings
10 there were names of White kids as well as Indian kids?
11 A. Yes. Well, maybe I should rephrase that. Maybe they just
12 didn't like our group.
13 Q. Now, when you would have these drinking parties in the park,
14 I take it there would be quite a bit of noise that would come
15 from these parties, is that correct?
16 A. There probably would be, yes.
17 Q. And tell me, in the area of the park that you would drink,
18 were there any houses nearby?
19 A. Yes, there was.
20 Q. And I wonder, can you show us on the map behind you the area
21 of the park that in fact your group would hang around and
22 drink in?
23 A. It would be in around this area.
24 Q. Okay, I'm sorry, I --
25 A. Oh, sorry. In around this here. Around the bandshell.

Q. And you're pointing to the area of the bandstand, is that correct?

A. That's right, yes.

Q. And that it would be to the right of the bandstand looking at the map, is that correct?

A. Yes.

Q. Was there any particular police officer thaty ou noted that would come to that area more often than anybody else?

A. No.

Q. Now, I would like to spend just a moment with you, Mrs. Cotie, dealing with the Joan Clemens affair. As I understand it, it was when you got off the bus --

MR. CHAIRMAN:

Maybe you can break before we get into Joan Clemens.

MR. J. PINK:

Yes, My Lord.

MR. CHAIRMAN:

We should adjourn for lunch.

MR. J. PINK:

That'd be fine, My Lord.

INQUIRY ADJOURNED: 12:30 p.m.

1 INQUIRY RECONVENIED: 2:12 p.m.
2 THE CHAIRMAN:
3 Yes, Mr. Pink.
4 MR. J. PINK:
5 Thank you, my Lord, Chief Justice.
6 BY MR. J. PINK:
7 Q. Mrs. Cotie, do you have any children?
8 A. No, I don't.
9 Q. I would take it that if in fact you did have children you
10 would be upset if someone were in fact serving your
11 thirteen or fourteen year old liquor, would that be correct?
12 A. I would imagine, yes.
13 Q. And I would take it that you would be a responsible person
14 and if you knew that the police knew about it that you would
15 expect them to do something about it, is that not correct?
16 A. I would imagine, yes.
17 Q. Now dealing with this incident in regard to Joan Clemens.
18 Do I understand it correct that you were taking the regular
19 bus service back from school on the day that you first came
20 in contact with John MacIntyre?
21 A. Yes.
22 Q. And it was after you got off of the bus that John MacIntyre's
23 car pulled up in the vicinity of the bus and asked both Joan
24 Clemens and you to get into the car?
25 A. That's right.

1 Q. There were two police officers in the car at that time both
2 in the front seat?
3 A. Yes.
4 Q. Do you remember whether or not it was John MacIntyre who in
5 fact was driving the police car?
6 A. I don't believe it was, no. I can't recall definitely,
7 but I don't think it was.
8 Q. Do you remember which side of the police car you were sitting
9 on in the back seat?
10 A. I would be on the left side.
11 Q. Was there not in fact a discussion after you got into the
12 police car about an investigation regarding someone serving
13 liquor to minors?
14 A. Not that I remember, no.
15 Q. Could that conversation have taken place but you just don't
16 remember it today?
17 A. I suppose it's possible, yes.
18 Q. And can you tell us why was it that you say you laughed at
19 the police while you were in the back seat of the police car?
20 A. I don't know. I was probably nervous at the time.
21 Q. Or was it because you thought that their investigation may
22 have been foolish and ridiculous that you laughed?
23 A. I don't think I would laugh at that, no.
24 Q. I'm going to suggest to you, Mrs. Cotie, that it was after
25 you laughed that in fact you were told to get out of the

1 police car?
2 A. It was both before and after.
3 Q. But it was after you laughed that the command to you in a
4 blunt fashion was in fact for you to get out of the police
5 car?
6 A. Yes, but I didn't have an out and out laugh. I just sort of
7 -- it was like a smile and a giggle.
8 Q. I take -- I can only assume that in your childhood you were
9 brought up to respect police?
10 A. Yes.
11 Q. And in fact at the time that you got off the bus and got into
12 the police car, neither the two police officers had done
13 anything to either Joan Clemens or yourself to upset you?
14 A. His tone of voice upset me, yes, but other than that, no.
15 Q. Do you know what John MacIntyre's normal voice is like?
16 A. Well, I would assume it was when he first told me to get
17 out of the car and it was quite different the second time.
18 Q. The second time -- I take it after he told you to get out
19 the first time, you did not get out of the car?
20 A. That's right. Well, I was in the -- first of all I was in
21 the car first so I would have had been let out of the car.
22 Joan Clemens would have had have gotten out of the car to
23 let me out.
24 Q. And why is that?
25 A. Because I got into the car first. I wasn't going to get out

1 on the side of the street.
2 Q. Oh, I see, so -- did you try to open what would be the driver's
3 door or was it the passenger -- you don't remember which side
4 of the car you were in in the back seat?
5 A. That's right, I was on the driver's side. The left hand side.
6 Q. Okay you were on the driver's side and do you ever remember
7 asking Joan Clemens to get out so you could get out?
8 A. I don't think there was -- as far as I can remember there
9 wasn't that much time in between the first time he told me
10 to get out and the second time he told me to get out.
11 Q. He didn't scream at you?
12 A. It wasn't a scream, no.
13 Q. I'm sorry?
14 A. It wasn't a scream, no.
15 Q. And tell me did you ever complain to anybody from that day
16 to today that he used a blunt voice in telling you to get
17 out of the car?
18 A. I've mentioned it, I think, in passing to some people.
19 Q. Did you ever go to your parents and say "look what John
20 MacIntyre did to me this afternoon"?
21 A. No.
22 Q. Did you ever complain to a Miss Forbes as to what in fact was
23 said by John MacIntyre to you?
24 A. To whom.
25 Q. Floyd, I'm sorry, Floyd?

1 A. I -- I did mention it to her, yes.
2 Q. Now, you've also told the Commission that Joan Clemens following
3 her meeting with the police, had told you that she had had a
4 hard time?
5 A. Yes.
6 Q. Could you elaborate on that a little more and tell us exactly
7 what she did say?
8 A. Well, I can -- I can't remember her exact words. I just know
9 that they had questioned them a lot apparently and that she
10 had -- and what they had said to her mother.
11 Q. Tell me do you ever remember Joan Clemens telling you that
12 Sergeant MacIntyre had told her parents that she should not
13 go out with Junior Marshall?
14 A. I don't remember that, no.
15 Q. At no time then did Joan Clemens ever tell you that John
16 MacIntyre ever said anything derogatory about her going out
17 with Indians?
18 A. No.
19 Q. Were you aware that Donald Marshall was found guilty in the
20 case of serving liquor to Joan Clemens?
21 A. Yes, I was.
22 Q. And in fact from your knowledge of Junior Marshall, you knew
23 in fact that he was serving liquor to minors?
24 A. Well, in the first place I don't really understand that
25 because Junior Marshall was a minor himself. We were all

1 minors. So whom ever we got the liquor from would have been
2 a minor giving it to a minor.
3 Q. I appreciate that and I take it that -- and I take it that
4 there were -- how many of you used to hang around the Park?
5 A. I'm not really sure how many. Probably about fifteen maybe.
6 Q. And would Junior Marshall be giving this liquor to a lot of
7 those fifteen kids that were hanging around the Park?
8 A. Well, it was whoever bought the liquor that night would pass
9 it around, yes. At sometime or another it would have had
10 to have been Junior, yes.
11 Q. Do you know where in fact they were buying the liquor?
12 A. At the liquor store I would imagine.
13 Q. And how old was Junior Marshall at that time back in 1971?
14 A. He was seventeen, I believe.
15 Q. Now this Joan Clemens incident as I understand it is the
16 only incident that you can describe from which you have
17 come to the conclusion that the Sydney Police didn't like
18 Indian kids, is that correct?
19 A. Yes.
20 Q. And from your knowledge the feeling was mutual in that the
21 Indian kids did not like the Sydney Police?
22 A. Yes.
23 Q. In fact they refused to cooperate with the police in any of
24 their investigations in which they may have been involved,
25 is that correct?

1 A. I have no idea about that, no.
2 Q. Had you ever seen any of the Indian kids come in contact with
3 the Sydney Police?
4 A. Not directly, no.
5 Q. So this is the only time in all the years that you've lived
6 in Sydney that you ever saw Indian kids come in contact with
7 the Sydney Police? This one incident with Joan Clemens?
8 A. Yes, directly myself, yes.
9 Q. So you are not aware of any other incident that Serg --
10 Sergeant MacIntyre had investigated any instances involving
11 Indians or Indian kids?
12 A. Not that I can remember at this particular time. I'm sure
13 that there was if we came to that conclusion. That there was
14 probably talk -- nothing that would have stuck in my mind
15 after all these years, but --
16 Q. But back in 1970-71 you were basically hanging around with
17 the Indian kids?
18 A. That's right.
19 Q. Just for that one year period is that correct?
20 A. Yes.
21 Q. Why was it that you stopped hanging around with the Indian
22 kids?
23 A. Because I started seeing my husband. He was from St. Peter's
24 so --
25 Q. And I take it that your husband was not friendly with the

1 Indian kids?
2 A. He was from St. Peter's. That's -- that's sixty miles from
3 here or more. He didn't even know any of them.
4 Q. So you moved away from here in 1971?
5 A. No, I didn't move away from here. I just -- was just seeing
6 him.
7 Q. I see. Now John Pratico, can you show me on the map that
8 is behind you, Mrs. Cotie, as to where in fact it was that
9 you first saw John Pratico?
10 A. On that night.
11 Q. On that night?
12 A. It would have been somewhere right along in this area because
13 it was between -- in the parking lot between the corner and
14 the church.
15 Q. Okay, now if I just may -- would you describe that for the
16 record. Where on the map then are you saying it was between
17 the parking lot of what? St. Joseph's Church?
18 A. Yes.
19 Q. And what?
20 A. And the corner of Cottage Road and George.
21 Q. Okay, somewheres in that whole area?
22 A. Yes.
23 Q. Now had you seen where John Pratico had come from?
24 A. He came from the dance.
25 Q. Had you seen him in the dance earlier that night?

1 A. Earlier in the night, yes.
2 Q. Okay, but just prior to you seeing him in the parking lot,
3 had you -- had you seen him come from St. Joseph's church?
4 A. No, not coming out of the church, I didn't, no.
5 Q. So whether or not he had come from the Park area prior to
6 landing in the parking lot of St. Joseph's Church --
7 A. Well, if he had -- if he had have been coming from the Park
8 area, he would have been coming towards me --
9 Q. Yes.
10 A. -- not going away from me.
11 Q. Where in fact then was he heading towards?
12 A. He was heading towards Cottage Road and Argyle Street. Same
13 direction we were going in.
14 Q. Now did you ever pass him?
15 A. I don't know if we passed him. I remember we crossed the
16 street to go on to Argyle Street. So I mean we must have
17 just parted ways. It wasn't necessarily passing him.
18 Q. So between the parking lot of St. Joseph's Church to Argyle
19 Street, where you following John Pratico?
20 A. No -- following him, yes, sorry.
21 Q. He was in front of you, is that correct?
22 A. Yes.
23 Q. And in fact you made a left hand turn on to Argyle Street,
24 did you see where he went?
25 A. No, I didn't.

1 Q. So the last time where was it, Mrs. Cotie, where you were when
2 you last saw John Pratico?
3 A. It was between St. Joseph's Church on the corner of Cottage
4 Road and George Street which is in the parking lot area.
5 Q. George Street or Argyle Street?
6 A. Cottage Road and George Street.
7 Q. Okay. Could it have been John Pratico who told you that
8 there had been something that happened in the Park?
9 A. No, I don't believe it was, no.
10 Q. You don't believe it was -- could it have been --
11 A. No, it wouldn't have been him.
12 Q. -- or you don't remember?
13 A. No.
14 Q. Why?
15 A. Well, for one thing I had never had a conversation with him
16 and I'm not sure that Barbara had ever had enough conversation
17 with him for him to come up and tell her something like that.
18 Q. Could you have overhead him having the conversation with the
19 guy that you assumed that he was having an argument with?
20 A. I really don't know. It was Barbara who had said to me who
21 told Joan and I that something had happened in the Park. So
22 I'm not really sure who had told her.
23 Q. So therefore what you're telling us is that you received
24 your information that something happened in the Park --
25 A. Yes.

1 Q. -- from Barbara Floyd?
2 A. Right.
3 Q. Now as you proceeded down Argyle Street, do I have you
4 correct?
5 A. Yes.
6 Q. You were heading towards where?
7 A. Oh, it would be towards Alexandra Street.
8 Q. And tell me at no time did you ever see any police cars in
9 the area of Crescent Street or any ambulances or anything
10 else?
11 A. No, I didn't.
12 Q. You heard no police sirens -- nothing?
13 A. No, I didn't.
14 Q. You're not able to say whether or not John Pratico was in
15 fact drinking on the night in question when you met him,
16 are you?
17 A. No, I'm not.
18 Q. Did you follow the events of Junior Marshall's murder trial?
19 A. Yes, from the newspaper, yes.
20 Q. You never visited the trial itself?
21 A. No, I didn't.
22 Q. And it was at that time that you read that John Pratico was
23 a key witness?
24 A. Yes.
25 Q. And in fact you read in the paper what the nature of his

1 evidence was, is that correct?
2 A. That's right.
3 Q. And it was following that as I understand your evidence,
4 that you had conversation with Barbara Floyd?
5 A. Yes.
6 Q. And that's when she called Mr. Rosenblum's office?
7 A. That's right.
8 Q. But you never did anything further after that conversation,
9 did you?
10 A. No, I didn't.
11 Q. You didn't tell your parents?
12 A. I can't remember directly telling my parents. I'm sure that
13 they knew because it was all done at my house so --
14 Q. You never called the Chief of Police?
15 A. No, I didn't.
16 Q. Did you have any friends that were on the police department?
17 A. Now.
18 Q. Back then?
19 A. Back then, no I didn't.
20 Q. You didn't know any neighbours or friends of friends who
21 were on the police force that you could talk to?
22 A. No, I didn't.
23 Q. The last area I want to cover -- the second last area I wanted
24 to cover, Mrs. Cotie, is this affidavit that was shown to you
25 this morning in book or exhibit thirteen at page 182.

1 A. Yes.
2 Q. This is the one that you signed before Steven Aronson. Page
3 182. You remember having any conversation with Steven Aronson
4 prior to you signing that document?
5 A. No, I don't recall anything. I know that he did call to say
6 he was coming over but I don't remember any conversation with
7 him.
8 Q. Could you have discussed during that telephone conference
9 your knowledge of the events in regards to John Pratico?
10 A. I could have.
11 Q. And could it have been based on that information that the
12 affidavit that we have here at page 182 was in fact drawn
13 up?
14 A. It could have I suppose but from what I can remember of
15 Mr. Aronson saying to me at the house that it was -- it was
16 just sort of a copy of the statement that I had given to Mr.
17 Wheaton -- Sergeant Wheaton so --
18 Q. Did you read it before you signed it?
19 A. Not carefully, no.
20 Q. Were your parents present at the time that you signed it?
21 A. No.
22 Q. Prior to you applying your signature at Page 183 of
23 exhibit number thirteen, do you ever remember Mr. Aronson
24 saying words to this effect
25 That you swear that the

1 information contained in this
2 affidavit is the truth and
nothing but the truth so help
3 you God.

4 Or words to that effect?

5 A. I don't remember him saying them. He very well could have.

6 Q. Could he have said it?

7 A. He could have, yes.

8 Q. Now the last area that I want to talk about is the area dealing

9 with this letter that you received from Junior Marshall?

10 A. Yes.

11 Q. I take it you still don't have that letter?

12 A. Yes, I do.

13 Q. Where is that letter?

14 A. It's in my purse.

15 Q. I wonder if we could see the letter?

16 A. Yes.

17 MR. CHAIRMAN:

18 You're proposing to have that entered as an --

19 MR. J. PINK:

20 Yes, I think in completeness, my Lord, Chief Justice, we better

21 have it marked as an exhibit since I referred to it.

22 COMMISSIONER EVANS:

23 What is the date on the letter?

24 MR. J. PINK:

25 The date is December the 24th, 1973. Dated from Dorchester,

1 New Brunswick.
2 BY MR. J. PINK:
3 Q. Mrs. Cotie, I'm going to show you exhibit number sixty, would
4 you describe what this is please?
5 A. It's the letter that I received from Junior.
6 Q. Do you recognize the writing contained in that letter?
7 A. Pardon me.
8 Q. Do you recognize the writing?
9 A. Well, I've never seen his writing before other than this
10 letter.
11 Q. Where is it from?
12 A. From Dorchester, New Brunswick.
13 Q. And is there a post box -- a post office box?
14 A. Yes, twenty-nine dash one.
15 Q. And who is it signed by?
16 A. Junior Marshall.
17 Q. And is that how he signed it?
18 A. Yes, as far as I can see.
19 Q. I wonder if you would read the letter for the record, please?
20 A. The entire letter.
21 THE CHAIRMAN:
22 I don't think we need her to read the letter.
23 MR. J. PINK:
24 Well, okay, that will be fine. We'll have copies made.
25

1 MR. CHAIRMAN:
2 Copies will be made for all counsel.
3 BY MR. J. PINK:
4 Q. And you did not receive -- you did not reply to that letter?
5 A. No, I didn't.
6 Q. Was there a reason why you did not reply to that letter?
7 A. None that I can really remember other than the fact that I
8 did get married at that time. So I probably just -- I don't
9 know. I probably never did anything about it. I was starting
10 a new life supposedly so --
11 Q. And that was the last dealings that you ever had with Junior
12 Marshall?
13 A. Yes.
14 Q. Thank you. No further questions.
15 BY MR. MURRAY:
16 Q. Sandra Cotie, my name is Donald Murray. I represent William
17 Urquhart. We heard evidence this morning from Barbara Floyd
18 that you as a group of girls were surprised when it appeared
19 that John Pratico was an eye witness to the murder?
20 A. That's right.
21 Q. And you didn't see how he could be an eye witness, is that
22 correct?
23 A. That's right.
24 Q. And I take it that's based on the fact that you met him in
25 the parking lot of St. Joseph's?

1 A. That's right.
2 Q. Now as to when the trouble happened in the Park, you don't
3 know when that occurred?
4 A. No, I don't. It would have had to have been before the
5 dance ended for us to know about it after the dance was over.
6 Q. And it was prior to you seeing John Pratico?
7 A. That's right.
8 Q. And as to John Pratico's movements between the time when the
9 incident in the Park happened and him seeing you, you're not
10 able to give any indication?
11 A. No, but in his statement he had said that he ran up Bentinck
12 Street to go home. Now if had had when --
13 Q. Well, perhaps we could look at exhibit fifty-two?
14 A. -- went home, he wouldn't have been at the dance.
15 MR. SPICER:
16 Sorry, I didn't hear the end of the witness's answer, my Lords,
17 Mr. Murray was talking.
18 BY THE WITNESS:
19 A. I said if he had have ran up Bentinck Street to go home he
20 wouldn't have been back at the dance.
21 BY MR. MURRAY:
22 Q. And when you say -- you referred to the running up Bentinck
23 Street, you were referring to what you read in the newspaper?
24 A. That's right.
25 Q. And in the newspaper in the third paragraph, it says

1 That's the last I saw, I ran up
2 Bentinck Street, Pratico said.

3 A. That's right. Well, he lived on Bentinck Street.

4 Q. But it did not say that he went home?

5 A. No.

6 Q. So as to whether he had seen anything in the Park, it's
7 an assumption on your part?

8 A. But as far -- I don't know the exact time of the murder but
9 I can remember at that time knowing that there wouldn't
10 have been enough time for him to do that and get back to the
11 dance.

12 Q. Well, how would you know that? How did you know what time
13 there was an incident in the Park?

14 A. At that time it was made known some how. It must have been
15 on the news or something but I don't remember now but I know
16 it must have been made known then.

17 Q. You have no personal knowledge as to why John Pratico could
18 not have witnessed that murder?

19 A. Other than what I just said to you.

20 Q. Fine, no further questions.

21 MR. BARRETT:

22 No questions, my Lord.

23 BY MR. D. PINK:

24 Q. Mrs. Cotie, I'd just like to ask you about one area. Is it
25 fair to say that at the age of sixteen, the death of Sandy

1 Seale and the charging of your friend Junior Marshall was
2 a very important event in your life?
3 A. I would say, yes.
4 Q. And it was a very important event in the City of Sydney at
5 that time?
6 A. That's right.
7 Q. Murder is not an everyday occurrences, are they?
8 A. That's right.
9 Q. And especially a murder in the Park where you often went on
10 the weekends?
11 A. Yes.
12 Q. And where your friends were all intimately involved?
13 A. That's right.
14 Q. Was it a matter of conversation and I presume it was a matter
15 of conversation between you and your friends?
16 A. Yes.
17 Q. And it was a pretty important thing that you talked about
18 continuously, not continuously wrong expression, you talked
19 about it a lot --
20 A. Yes.
21 Q. -- from the date of the death of Sandy Seale until the end
22 of school -- the end of the school term in June?
23 A. Yes, I would say so.
24 Q. And you knew that in June Donald Marshall had a preliminary
25 hearing so I presume it was still a matter of concern for
everybody?

1 A. Yes, I'd imagine it was, yes.
2 Q. And do you recall that that it was something that the kids
3 at school talked about?
4 A. No, I don't recall if the kids at school talked about it.
5 I know we talked about amongst ourselves but --
6 Q. Sure, sure and when I say the kids at school I mean your
7 group of friends and the --
8 A. Yes.
9 Q. -- people you were with and your classmates? Were Joan
10 Clemens and Barbara Floyd classmates of yours?
11 A. No, they weren't.
12 Q. Did you talk about it with people in school?
13 A. No, other than them no.
14 Q. I'm sorry, I didn't get your answer.
15 A. Not other than them, no.
16 Q. Not other than them. And it was an issue that you talked
17 about simply because you were if not directly there you
18 were involved because of your knowledge of the people?
19 A. Yes.
20 Q. Did you know Patricia Harriss at that time?
21 A. No, I didn't.
22 Q. Do you know her now?
23 A. No.
24 Q. Did you know Terrance Gushue at that time?
25 A. No, I knew who he was but I didn't know --

Q. Did you know either of the O'Reilley twins?
A. Yes.
Q. Did you know them then?
A. Yes.
Q. How did you know them?
A. I had known them almost all my life, I guess. When I first grew up in a country place in Boularderie and their grand-parents lived there. So they used to come up for the summers So I --
Q. Did you know them in the City as well?
A. Yes.
Q. They would have been a year or so younger than you?
A. Yes.
Q. And do you recall if you ever had -- ever talked to them about this event at about that time?
A. I don't think I ever did, no.
Q. I'm sorry?
A. No, I don't think I ever did, no.
Q. Okay. Did they frequent the dances as well?
A. Yes.
Q. So you would have been within the same if not the same immediate social group or at least in the same broader social group?
A. That's right, yes.
Q. That's all, thank you.

MR. BISSELL:

No questions, my Lord.

THE CHAIRMAN:

Mr. Ross.

MR. ROSS:

My Lord, if there's nothing that's arising out of that letter, I don't think that I would have any questions of this witness. I wonder if it would be appropriate --

THE CHAIRMAN:

You want to look at the letter. By all means.

MR. ROSS:

I don't know if I should do this, but relying on Mr. Pink, he says there's nothing in the letter. No questions, My Lord.

THE CHAIRMAN:

Mr. Nicholas.

1 MR. NICHOLAS:
2 I have a few questions to the witness, My Lord.
3 BY MR. NICHOLAS:
4 Q. Mrs. Cotie, you indicated that you began to go to school
5 with Indians from Membertou Reserve. Approximately what
6 grade level would that have begun?
7 A. When I first started hanging around with them? Do you mean?
8 I -- When I first started going to school with them?
9 Q. When you first started to school with them, yes.
10 A. It was probably grade eight, yes.
11 Q. I beg your pardon?
12 A. Grade eight.
13 Q. Grade eight?
14 A. Yes.
15 Q. So I believe you said -- What was the Junior High School
16 that you went to?
17 A. Sheriff, yes.
18 Q. Sheriff. And is that --
19 MR. CHAIRMAN:
20 Mr. Nicholas, I didn't realize that --
21 BY MR. CHAIRMAN:
22 Q. You said that the Indian children attended the same school as
23 you did?
24 A. Yes, in Junior High, they did.
25 Q. And in High School?

1 A. High School, I don't remember any of them going there. I
2 believe Edward Kavatay may have gone there but I don't remember
3 the rest of the people.
4 MR. CHAIRMAN:
5 I'm sorry. Go ahead. I had missed that.
6 MR. NICHOLAS:
7 Okay.
8 BY MR. NICHOLAS:
9 Q. And when you went to school at Sheriff Junior High is that
10 where you first met a lot of Indians students from Membertou?
11 A. There were a lot there. I didn't meet them until after
12 Barbara had introduced me to them by going to the park but --
13 Q. So in your particular class -- in your classroom there were
14 no Indians in that classroom?
15 A. Yes, there was. I didn't know that many of them.
16 Q. And at what grade would Barbara have been at this time when
17 you were at Sheriff?
18 A. Well, we both started off in grade eight and then I went to
19 grade nine and Barbara didn't.
20 Q. And did you other friend, Joan, also was she in grade eight
21 with you?
22 A. She was -- No, she was in a lower grade. So when I was in
23 nine she was in eight.
24 Q. I see. And is that the year she also when out with Junior
25 Marshall?

1 A. I can't really remember for sure. I believe it was probably
2 sort of in between. I was going from Junior High to High
3 School. It was sort of in that year span and so she was
4 probably still in High School -- Junior High, yes.
5 Q. So when you friend, Claudia Mumford, told you later that
6 there were these discussions going on as to why you were
7 hanging around with Indians, what grade were you in then?
8 A. I -- I'm not sure. I believe it was probably grade 11. I
9 can't -- Yes, it was grade 11.
10 Q. And how long before that had you stopped dating Indians?
11 Or an Indian, I should say.
12 A. Boy, it would have been almost a year span, I guess. It was
13 in '71 I stopped hanging around with them so it would be --
14 over the summer I guess it would have been so within a matter
15 of six months to a year.
16 Q. Now, in that period of time did your parents tell you not
17 to --
18 A. No.
19 Q. -- spend anytime with these Indians?
20 A. No. They never ever did.
21 Q. Did you also spend any time visiting them on the Reserve in
22 Membertou?
23 A. I did when I was hanging around with them, yes.
24 Q. So you would have been there on more than one occasion?
25 A. Yes.

1 A. Yes.
2 Q. And I was curious about these clippings that you kept. At
3 what age did you began to make -- keep this collection of
4 clippings from the local paper?
5 A. I don't know. I was probably about 13.
6 Q. When you were 13 years old?
7 A. Yes.
8 Q. And do you have these clippings? Do you still keep them?
9 A. I have some. I don't have all of them.
10 Q. And over this period of time that you were able to make
11 a conclusion that there were more Indians came in difficulty
12 with the law than others, over what period of time would that
13 have been?
14 A. Basically I guess it would have been the year that I was
15 hanging around with them because it was because I recognized
16 their names in the paper that I would cut it out so --
17 Q. You did this till 1971?
18 A. Yes.
19 Q. Did it upset you, what your friend Joan told you what happened
20 with -- I can't remember that police officer -- with Mr.
21 MacIntyre?
22 A. Yes, I would say it would, yes. I don't know what to extent
23 it would upset me. It did upset me but, I mean, I didn't have
24 any comments to her mother or anything about it.
25 Q. Would you have got the impression that perhaps this same Mr.

1 MacIntyre would have approached your mother?
2 A. Do I think he would have approached my mother?
3 Q. Yes.
4 A. I don't know. Maybe he would have, yes.
5 Q. I mean did you suspect he might have done that or --
6 A. Oh, no. I didn't.
7 Q. You didn't?
8 A. No.
9 Q. Now when Joan, your friend Joan, relayed what happened to you
10 were you with Barbara Floyd as well?
11 A. Yes.
12 Q. So she relayed the story to both of you then?
13 A. Yes.
14 Q. And were there others who were with you at that time?
15 A. No. Not that I can remember.
16 Q. Did --
17 A. Pardon me?
18 Q. I'm sorry.
19 A. No, go ahead. Not that I can remember. There wasn't anyone
20 else around.
21 Q. Now, even today do your friends bring up to you why you
22 associated with Indians?
23 A. No, my friends today don't, no.
24 Q. So you don't have the same problems that Barbara Floyd would have?
25 A. That's right. Oh, I don't, no.

1 Q. What, in general, then is your impression about Indians at
2 that particular time, Sandra?
3 A. My impression of them? I'm not sure what you mean.
4 Q. Well, what are you -- like, your friend told you that people
5 were talking behind your backs saying why are you hanging
6 around with Indians and you hung around with them --
7 A. Yes.
8 Q. -- and I'm wondering what your impression was of Indian people
9 at that time?
10 A. I don't think I had any impression of them other than the
11 fact that I thought of them as friends. They weren't any
12 different than any other friend I would have ever had.
13 Q. So, you were able to accept them for who they were?
14 A. Yes.
15 Q. Did you ever loose any friends because of you associated
16 yourself with Indians?
17 A. I don't think I've lost any friends, no. I -- apparently I've
18 never had that many to begin with because of it, according to
19 what had been said in High School about it. Obviously maybe
20 that's why people were -- I was a very shy person so I didn't
21 make that many friends myself anyway but there wasn't very
22 many who approached me to be friends with me either and perhaps
23 that's -- well, that was why.
24 Q. So these particular clippings that you saved at the time, were
25 they of your friends who had been apprehended and taken to court

1 and given a fine?
2 A. Yes.
3 Q. Were there any non-Indians, that you knew, who also -- whose
4 name also appeared in the paper at the time?
5 A. Yes.
6 Q. I believe counsel already asked you concerning the one incident
7 with Mr. MacIntyre. So that you had no other negative
8 impressions of Mr. MacIntyre other than that one incident?
9 A. No.
10 MR. NICHOLAS:
11 I have no further questions for the witness, My Lords.
12 MR. CHAIRMAN:
13 That's all. Thank you Mrs. Cotie.
14 MARY PATRICIA CSERNYIK, being called and duly sworn, testified
15 as follows:
16 BY MR. ORSBORN:
17 Q. Could you give us your full name, please?
18 A. Mary Patricia Csernyik.
19 Q. And would you mind spelling your surname?
20 A. Csernyik. C-s-e-r-n-y-i-k.
21 Q. And do I understand that your maiden name is O'Reilley?
22 A. Yes, it is. Was.
23 Q. Where do you live now?
24 A. 19 Parkview Drive.
25 Q. That's in Sydney?

1 A. Yes.
2 Q. Have you lived in Sydney all your life?
3 A. Calgary for three years.
4 Q. When did you live in Calgary?
5 A. Two years ago.
6 Q. And you were there for three years?
7 A. Yes.
8 Q. Other than that you've lived in Sydney?
9 A. Yes.
10 Q. In 1971 how old were you?
11 A. 15.
12 Q. 15. And where did you live in Sydney then?
13 A. 23 Cross Street. North End.
14 Q. I'm sorry?
15 A. The North End.
16 Q. North End?
17 A. Yes.
18 Q. And did you have any brothers or sisters living at home?
19 A. A twin sister and my oldest sister and one brother.
20 Q. And your older sister would be how much older than you?
21 A. Two years.
22 Q. And you brother?
23 A. Eight years, nine years younger.
24 Q. Maybe?
25 A. Yes.

1 Q. He was very glad that he was --
2 A. The baby.
3 Q. -- He's glad that he was that much younger I guess?
4 A. Yes.
5 Q. In 1971 where did you go to school?
6 A. I went to Central School for grade seven. That was in '71.
7 Q. Were you -- So in the spring of '71 were you finishing grade
8 seven?
9 A. Yes.
10 Q. And was your twin sister in the same grade?
11 A. Well, we got separated that year. She went to Holy Angels. The
12 old part?
13 Q. Different school?
14 A. Yes, for grade seven and then we were together after that.
15 Q. I see. The school that you went to-- You said Central High
16 was it?
17 A. Central -- Well, just Central School. It was --
18 Q. Central School.
19 A. -- Junior High. Seven, eight, nine.
20 Q. Seven, eight, nine?
21 A. Yes.
22 Q. What racial mix, if any, was there at that school? Were there
23 Blacks and Indians and Whites going to the school?
24 A. No, I think it was all Whites.
25 Q. The school was all Whites?

A. Yeh. Just that it was a Protestant School.
Q. I see.
A. Like it wasn't Catholic.
Q. So your school was along denominational lines?
A. Yes.
Q. I see. And do I understand from that that the Blacks and Indians were not predominately Protestant?
A. I don't recall any Blacks or Indian going there. Not, like, in my class. I don't know. Hard to think now, that long ago.
Q. To your recollection your class was White?
A. Yes, our classroom was.
Q. Boys and girls?
A. Yes.
Q. Let's talk a little bit about life in Sydney in 1971 as a teenager in the early teens. Outside the school activities what common activities would you pursue-- recreational activities?
A. Well, I hung around with my two sisters and shows and whatever.
Q. Yes. Where would you hang around?
A. Down at the park. That's what you're looking for.
Q. Well, I'm not looking for anything, not at all. The park we have on the map there behind you?
A. Yes, the park on the map behind me.
Q. Are there any other parks in Sydney?
A. There's -- well, not that we hung around.

1 Q. Is that right? Apart from your sisters who would you hang
2 around with?
3 A. What do you mean? Whites or Blacks or what just --
4 Q. You tell me?
5 A. Well, we hung around with the Indians and we hung around
6 some Whites and I had my -- a few school friends, that's all.
7 Q. When you say your sisters, would it be your twin sister or both
8 of your sisters?
9 A. My both sisters.
10 Q. So even though your other sister -- your older sister's name
11 is Catherine, is it?
12 A. Yes.
13 Q. Okay. And she's a couple of years older than you but you
14 still hung around in the same group?
15 A. Yes. Well -- Yes, we did. And a few friends from the
16 North End of my own. Girl friends.
17 Q. Okay. Was there any one group of you that stuck together more
18 than others?
19 A. Well, there was about the same group, I guess, and then later
20 on things changed and I went my way and other people went their
21 own way.
22 Q. The Indians that you hung around with, do you remember who
23 they were?
24 A. Pius Marshall, Artie Paul, Edward Kavatay just -- you know,
25 I don't know him really that good. There were Whites but I

1 wouldn't know now. I wouldn't even know their names, some
2 of them, you know. A mixture.
3 Q. Whites -- boys, girls?
4 A. Yes, boys, girls. And I knew Barbara because she went
5 to school with my sister.
6 Q. Right.
7 A. And so on.
8 Q. Other than you and your sisters, do you remember any of
9 the White girls?
10 A. Well, just a close friend of mine, Theresa MacNeil. We hung
11 around together as friends.
12 Q. Did you stick together with the Indian boys?
13 A. Yes.
14 Q. Any White boys in that group?
15 A. There might have been one or two at times but for names I
16 don't know. It's so long ago. It's hard to remember.
17 Q. How did you get to be friends with the Indians if they didn't
18 go to your school?
19 A. Well, I just -- I got -- My sister went with one and I got
20 introduced and then they just keep on adding on. You know,
21 you get to know more.
22 Q. Any Black boys or girls?
23 A. I never. Never with the Blacks.
24 Q. Any reason for it?
25 A. I don't know. I don't remember that hung around at the park or

1 that I knew of. I used to see them at the dance but
2 I didn't -- you know.
3 Q. The ones you remember were the Indians?
4 A. Yes.
5 Q. Okay. Other than hanging around with this group in the
6 park, would you do anything with them? Go to shows?
7 Anything like that?
8 A. Yes.
9 Q. Would you visit their homes?
10 A. No, never. Myself never.
11 Q. Did you spend any time on the Reserve at all?
12 A. No.
13 Q. Any reason for that?
14 A. I don't know. Just a little bit at the park and shows and
15 walking around. That was it.
16 Q. Were you ever invited to go to their homes to visit?
17 A. No.
18 Q. Did you ever invite them to your home?
19 A. No.
20 Q. Why not?
21 A. Well, my parents were prejudiced and it wasn't -- they didn't
22 really like us hanging around with them so --
23 Q. Did they know you were hanging around with them?
24 A. Yes.
25 Q. Did they make that displeasure known to you?

1 A. Of course.
2 Q. Did you still hang around with them?
3 A. Well, things changed later on but --
4 Q. When you say later on, about what time are you talking about?
5 A. Well, my period of time was about four months and I met my
6 former husband and life goes on.
7 Q. Okay. So you were hanging around with this group for around
8 four months?
9 A. Yes.
10 Q. And was that around 1971?
11 A. Yes.
12 Q. Do you recall whether or not any White girls or boys expressed
13 any reaction to you, about your hanging around with Indians?
14 A. No.
15 Q. Any body other than your parents express any reaction to
16 you?
17 A. No.
18 Q. Teachers?
19 A. No, they didn't really know, I guess.
20 Q. How about the police?
21 A. Well, they knew of us, I guess, but --
22 Q. They knew of you? How did they know of you?
23 A. Well, I made a statement.
24 Q. Oh, yeh. I'll get to that.
25 A. Well, when you get to that then. That's the only time I recollect.

1 Q. Did you ever have occasion of any contact with the police
2 when you were hanging around with the Indians?
3 A. Just once, one night.
4 Q. When was that?
5 A. Well, it was months before Junior was convicted. I don't
6 know what month.
7 Q. Okay.
8 A. But --
9 Q. Can you tell us what happened?
10 A. Well, we were at a show and it was --
11 Q. When you say we, who is we?
12 A. My sister and I and --
13 Q. Your sister?
14 A. My twin sister and my older sister. And we were at --
15 Q. And your twin sister's name is Margaret?
16 A. Margie. Margie and Catherine were there and it was about one-
17 thirty in the morning. We left the show and we started walking
18 down by the Credit Union on the corner of Townsend and George
19 and they stopped us. I was --
20 Q. Who were you with?
21 A. I was with Pius Marshall and my sister was with Artie Paul
22 and we weren't really doing anything but they said that --
23 took our names and where do you live and we gave all the
24 information out and then they called my parents and told them
25 that we were walking with the Indians and that. I guess they

1 couldn't take us in. We weren't really doing anything.
2 I don't think anyway.
3 Q. They called the parents that night?
4 A. Yes, or they went down to the house. I can't remember now.
5 Q. They went to your house that night?
6 A. Yeh, they went to the house. I don't know if they called
7 first or went down to the house. My father didn't appreciate
8 it anyway. I remember back.
9 Q. Do you know who the policemen were?
10 A. I think it was Boots Walsh?
11 Q. Boots Walsh?
12 A. I'm -- possibility.
13 Q. Why do you think it was him?
14 A. Well, that's the only man that I remember that, you know,
15 I can see his face and that.
16 Q. You remember a description of him?
17 A. Yeh. Tall, slim like you. Make you feel good.
18 Q. I'm not so sure about that.
19 A. I remember he rolled down the window but, you know, I couldn't
20 tell you what colour eyes he had but I know he was thin and
21 thin faced. Just -- and --
22 Q. Why would they call your parents or why did they go to your
23 parents house?
24 A. I guess cause we were walking with the Indians. We should
25 have been home in bed.

1 Q. Did they tell you that it was because you were with
2 the Indians?
3 A. Yeh, they just asked where we were coming from and where
4 we were going and, you know.
5 Q. Had you been out on the street at that hour of the night
6 before?
7 A. No, it's was just that we were supposed to be in the show
8 but we weren't.
9 Q. At one-thirty?
10 A. Yes. We were walking down to go home.
11 Q. Do you think they would have stopped you if you had been
12 with White guys?
13 A. No, I don't think.
14 Q. Still one-thirty in the morning?
15 A. Yeh, well, if, what was it? If there had have been a curfew
16 or something, why didn't they take us home?
17 Q. Why do you think that they would not have stopped you if
18 you'd been with White guys?
19 A. Well, just that a lot of people are prejudiced and at that
20 time in that year we were doing the wrong thing.
21 Q. Can you tell us a little more about that? That time -- At that
22 year you were doing the wrong thing?
23 A. Well, we were out late and we were with Indians.
24 Q. Did the police make any point of saying to your parents that
25 you were with Indians?

A. Yes, they did.
Q. Did they say anything more about that?
A. Not that I recall. It was my father that had the conversation with them. That's -- you know.
Q. Was your father waiting up for you when you got home?
A. Was he ever.
Q. What did he say to you?
A. Well, we didn't know that they went down to our house. We told them the truth, our names, our address, the whole bit but when we got home my father was standing there and said, "I had a visit from the City Police." You know, you were supposed to be in the show and you were on the street and whatever; so we could see his point.
Q. And was he concerned about the fact that you'd been on the street and not in the show?
A. Yes, and the company. Well, I just remember that the police said it was the company that we were keeping. That's all the words I remember. That's --
A. Is this what the police said to you or what you father said to you?
Q. That the police officer, whoever, said to my father said to my father that we were in -- I don't know what kind of company it -- what word he used.
Q. Had you ever been in any contact with the police before when you had been with your -- with the Indians?

1 A. No.
2 Q. Ever seen them in a trouble with the police?
3 A. No.
4 Q. You mentioned that you hung around the park. Had you
5 ever been in the park when the police would do a patrol
6 and look for minors drinking?
7 A. I remember maybe once or twice -- like there might be a police
8 car that would stop. Maybe they'd -- I don't even know if
9 there was a siren or anything but we'd just get out of there.
10 That's all I remember. That's -- you know -- but they didn't
11 really -- as far as vaguely I can remember that they never
12 really bothered us. Like, at times but --
13 Q. Was there anything at all that gave you the indication or
14 impression that the Indians were bad company to be with?
15 A. Well, at that age you didn't know if -- I don't know, if
16 it was bad or good. You did it and it's over with now so
17 it's all ready done.
18 Q. Were they in trouble any more than the Whites that you knew?
19 A. I don't think.
20 Q. We've heard of some talk about people bumming money in the
21 park. Looking for a dime or looking for a quarter for alcohol
22 or whatever. Do you have any knowledge of that practise?
23 A. No.
24 Q. Did you ever hear anybody saying anything -- go and bum
25 a quarter off somebody?

A. No, not that I recall.

Q. Do you have any knowledge of any fights or any disturbances in the park area?

A. There might have been a few fights but I don't --

Q. Do you remember anything about them?

A. No, not really.

Q. Do you remember if they were along racial lines?

A. Well, sometimes it would be the Whites. If the Whites went down to the park it seemed like the Indians kind-of owned the park at times. They -- some of the Whites, they allowed in the park and some of them, I don't know, I can vaguely remember but -- more or less it was their place.

Q. The Indians place?

A. Yes, that's all I remember about it.

Q. What did they do to make it seem like their place?

A. Well, they just -- One time -- The only thing I remember, somebody went down there to eat a pizza and one of the Indians, I don't know which one, told them to get out of the park and I said, "what are you doing that for?" "Let them eat their pizza," and that's -- you know, I just felt like it was their territory.

1 Q. Was this prior to the incident with Sandy Seale this happened?
2 A. Months before probably.
3 Q. Months before?
4 A. Yes.
5 Q. Anything else to give you the indication that --
6 A. No.
7 Q. -- the Indians owned the park?
8 A. No. That's about the only thing I remember.
9 Q. Would there be more Indians down than White people?
10 A. I figure about the same amount at times, you know.
11 Q. Were you ever present when the police were involved in any
12 fight in the park -- were called to any fight in the park?
13 A. No. No.
14 Q. Did you know Sandy Seale?
15 A. No. No.
16 Q. Did you know Junior Marshall?
17 A. Yes.
18 Q. Was Junior with you that night the police stopped you and then
19 went to your house?
20 A. Yes.
21 Q. In 1971, how long had you known Junior Marshall for?
22 A. Maybe four to six months. Just --
23 Q. Do you recall how you met him?
24 A. I think it was through my sister, Catherine.
25 Q. Was he a boyfriend of yours or --

1 A. No.
2 Q. -- just a member of the group?
3 A. Just a member of the group. Very quiet and I didn't really
4 know him.
5 Q. How often would you be with this group? Once a week?
6 A. On the weekends.
7 Q. On the weekends?
8 A. Yes.
9 Q. And would he be in the group more often than not?
10 A. Sometimes he'd go his own way, yeh.
11 Q. Okay.
12 A. I don't remember.
13 Q. When he was with you in this group, did you ever hear him
14 speak of Sandy Seale?
15 A. No.
16 Q. Did you ever see him with Sandy Seale?
17 A. No.
18 Q. Did you ever see him with John Pratico?
19 A. No. I didn't know him at all.
20 Q. Didn't know John Pratico at all?
21 A. No.
22 Q. Your impression of Junior, that he was a quiet type?
23 A. Yes. Well, he didn't bother me. If he bothered anybody
24 else --
25 Q. Did you ever see him in any fights?

1 A. No.
2 Q. Do you know whether or not he carried any kind of a weapon at
3 any time?
4 A. I didn't really see one. So --
5 Q. Do you have any reason to believe that he would carry a weapon
6 of any kind?
7 A. No.
8 Q. Other than the night you were supposed to be at the movies,
9 did you have any contact with the police at all while you were
10 in Junior's company?
11 A. No.
12 Q. Did you know his brother, Pius?
13 A. Yes.
14 Q. Was he a member of this group?
15 A. Yes.
16 Q. And did you go out with him?
17 A. Yes.
18 Q. For how long?
19 A. About three months, four months.
20 Q. Prior to the incident with Mr. Seale?
21 A. Yes, before that, yeh.
22 Q. Now, in May of 1971, when this happened, were you still a
23 friend of Junior's at that time?
24 A. In the earlier part of the year, but -- Like when it happened,
25 I wasn't associating with the Indians at all.

1 Q. In May of --
2 A. I was with my husband that I'm with now; so I remember that
3 night so --
4 Q. Okay.
5 A. The first night I met him.
6 Q. How -- Do you know how long you had been being going out with
7 your present husband prior to May?
8 A. About a month, month and a half, maybe.
9 Q. And when you started going out with him, did -- I understand
10 you stopped being a part of this group of Indians?
11 A. Yes.
12 Q. Your husband hadn't been a part of that group, had he?
13 A. No.
14 Q. You say you remember the night of the 28th of May, do you?
15 A. A little bit, yes.
16 Q. What do you remember?
17 A. Well, I was at the dance that night and between 11:30 and 12,
18 I left. I left with my husband, well, boyfriend and --
19 Q. What, your husband's name is Stephen?
20 A. Steve, yeh. And we -- The only thing I remember -- Being
21 outside and I was talking ot my girlfriend and we thought
22 that we heard an ambulance or police car or whatever, but we
23 didn't know what was goin' on. And --
24 Q. When the dance was over?
25 A. It was before the dance was over. Vaguely as I can remember.

1 And then we walked home and that was it. And then when I did
2 get home, I was sitting in the yard in my father's car with
3 Steve, and then my mother came out and said, "Guess what?"
4 and told us what happened that there was a murder in the park
5 and I remember running in and scared and thinking, "Oh, God,"
6 you know. That's about all I remember.
7 Q. Your mother came running out that night?
8 A. Yes.
9 Q. Do you recall if she said the word "murder" or simply a stabbing?
10 A. No, I don't really recall.
11 Q. Okay. Let's go back to the dance. Do you recall seeing Junior
12 Marshall at the dance that night?
13 A. No, I don't. No.
14 Q. Would you have known Sandy Seale if you saw him?
15 A. No.
16 Q. Would you have known John Pratico if you saw him?
17 A. No.
18 Q. Do you have any recollection of whether or not Junior was in
19 any kind of a fight at the dance that night with anybody?
20 A. No.
21 Q. You have no recollection of it?
22 A. No.
23 Q. Do you know whether or not the dance was over when you saw
24 the ambulance?
25 A. No. Not really. I was trying to figure out today, was it over

at 12 or 12:30. I think 12 o'clock. Usually they went to 9 to 12.

Q. Okay. We can perhaps talk about that a little later because there is some reference to it in the statement you gave to police in 1981.

A. Yes.

Q. That may help you. You first heard of the incident in the park then from your mother?

A. Yes.

Q. Did you know who was involved in it?

A. I don't know if she mentioned just Junior or -- I don't know if she said it was a Black man or a man or -- I can't remember.

Q. Did she say how she had heard?

A. On the radio, I think she said.

Q. Did you go back out and see what had happened or just go in the house and go to bed?

A. No, I just ran in the house and they drove my boyfriend home and I stayed in. Kind of gave you -- Well, Sydney's small. There wasn't too much going on, and you hear that.

Q. Yes.

A. A scary thing.

Q. Did you have any contact with Junior Marshall after that?

A. He phoned the next day. Now, I don't remember that I answered -- that I answered the phone, and he asked for my sister, and they had a conversation, but I never had a conversation with

1 him.
2 Q. Did you have any conversation with him at all before to your
3 sister?
4 A. No.
5 Q. With your sister?
6 A. No.
7 Q. Did your sister indicate to you what he had called for?
8 A. No. I don't even remember. Until I looked at her statement,
9 I didn't remember what they had to say.
10 Q. What contact would he have had with your sister around that
11 time?
12 A. Just friends, I guess. Just --
13 Q. Was she still part of the group of -- going around with the
14 Indians?
15 A. Yes, she was.
16 Q. Okay. Was it unusual for him to call her?
17 A. Yes, in a way, I guess.
18 Q. Had he done it before?
19 A. I don't remember that he called before.
20 Q. Did she tell you why he called?
21 A. No.
22 Q. Do you know how long she spoke to him?
23 A. Maybe five, ten minutes.
24 Q. Did you ask her why he had called?
25 A. No.

1 Q. After she had got off the phone, did you know any more about
2 what had happened the night before than you did
3 before he called?
4 A. The only thing I remember is that he was taken in for questioning.
5 That's all I remember or --
6 Q. Did he tell your sister that?
7 A. Yes. That's all I remember.
8 Q. Is that the first indication that you had that he was ivolved
9 in any way in the stabbing?
10 A. Well, just in -- When my mother told me the night before, I
11 knew, but then when he called -- She'd have more to say than
12 me. I wasn't listening to their conversation, whatever he
13 said.
14 Q. Do you recall what she had said about his involvement the
15 night before?
16 A. No. No.
17 Q. Could it've been simply that he had also been stabbed?
18 A. I don't know.
19 Q. But you don't recall having any direct discussion then with
20 Junior?
21 A. No, I don't.
22 Q. Did he call anymore that you're -- to your knowledge?
23 A. Not that I know of, no.
24 Q. Was the incident a topic of discussion in your house?
25 A. No.

1 Q. Your sister, Catherine, or Margaret discuss it with you at all?
2 A. Oh, a little bit, but --
3 Q. What about school?
4 A. Very little that I remember about it.
5 Q. And at this time, you were not in contact anyway with the
6 Indian boys and girls?
7 A. No, not after that. Well, even before that I wasn't; so --
8 Q. Right. Do you recall your sister, at any time, you know, before
9 the trial, say, at any time talking to you about what Junior
10 had told her over the phone?
11 A. No.
12 Q. Is it likely that she would've talked to you about it?
13 A. Well, she might have, but who can remember that far back?
14 Q. I appreciate that. Were you close to your sister?
15 A. Yes.
16 Q. Okay. Would you talk about things that went on?
17 A. Yeh, a little bit, but --
18 Q. Okay. Do you recall if you were contacted by the police?
19 A. Well, we had to make a statement. When was that? That was
20 right after it happened.
21 Q. Yeh, we have a --
22 A. But -- Am I going too far ahead?
23 Q. No. No.
24 A. Sometime that week or two weeks.
25 Q. We have a statement. It's dated the 18th of June. I'm

1 wondering if you recall how you came to give that statement.
2 How were you contacted by the police?
3 A. I think they picked me up at school or they -- or my parents
4 picked me up. Say -- No, my mother and father came or it
5 was my mother alone and said that we had to make a statement,
6 and I said, "What do we have to make a statement for? We
7 didn't see nothing."
8 Q. Did you mother come to the school?
9 A. Yes.
10 Q. You don't recall any police coming to the school or anything
11 like that?
12 A. No.
13 Q. Okay. Your mother came to the school and said you had to make
14 a statement?
15 A. Yes.
16 Q. What happened then?
17 A. Well, we went down to the police office and made a statement.
18 I was first.
19 Q. And?
20 A. And I don't know if my mother -- My mother wasn't in there
21 with me. I don't know if she waited out or if she --
22 Q. Did your sister go with you?
23 A. No, she came after me.
24 Q. Did your mother take you to the police station?
25 A. I think so. She'd take us.

1 Q. Then it was just -- Your sister didn't go with you at that
2 time?
3 A. No. She came after -- Well, after -- Just when I was -- Before
4 I finished, she walked in.
5 Q. Okay. Were you surprised when you were asked to go the police
6 station?
7 A. Yes. Well, if I had have been important, I would've understood
8 why they wanted me, but --
9 Q. Yes.
10 A. It's just like more or less, you hung around with Indians, now
11 you're to pay the consequence.
12 Q. Was anything like that ever said to you?
13 A. Well, when you -- They get you there and ask you all those
14 questions.
15 Q. What kind of questions did they ask?
16 A. Just what Indians we hung around with and --
17 Q. Perhaps it might be easier at this stage to go to the statement.
18 I have here what I believe to be an original copy,
19 Mrs. Csernyik, of your statement. Is that your signature on
20 the bottom of that page?
21 A. Yes.
22 Q. And is it also your signature on the bottom of the next page?
23 A. Yes.
24 Q. Those statements are reproduced both in the handwritten version
25 and the typed copy at Volume 16, page 76, the handwritten copy.

1 There's also a copy of the typed version in Volume 13, page 174.
2 But both the handwritten and the typed copies are reproduced
3 in Volume 16, pages 74 and page 76. It may be easier for you
4 to read in this volume.
5 A. The writing.
6 Q. Do you have any recollection now of having signed that statement?
7 A. I must've signed it. It's my writing. I don't really remember
8 signing it, but --
9 Q. Before we talk about what's in the statement, do you have any
10 recollection of how the statement was taken from you? When
11 your mother took you to the police station, where did you go,
12 do you remember? When you got to the police station?
13 A. I just went in a little room and Mr. MacIntyre was there.
14 Q. Did you know it was Mr. MacIntyre?
15 A. Yes.
16 Q. Did -- How did you know that? Just introduced himself or had
17 you seen him before?
18 A. Well, as far as I can remember, he must have introduced himself.
19 Q. I see. Was there any other --
20 A. I thought there was one more, pardon me, policeman with him,
21 I don't know.
22 Q. You thought there was?
23 A. There was two. Yeh. There was two.
24 Q. Did you go into a room with the policemen?
25 A. Yes.

1 Q. Okay. Did your mother go in with you ?
2 A. No.
3 Q. Did she ask to go in with you?
4 A. I don't remember.
5 Q. Okay. Do you recall if she went in and was asked to leave?
6 A. No.
7 Q. Were you feeling at all nervous?
8 A. Of course.
9 Q. Did you ask to have your mother stay?
10 A. No.
11 Q. Why not?
12 A. I don't know. I just figured they -- My mother kept on saying,
13 "Well, they're probably only going to ask you a few questions.
14 Don't be --" You know. So I figured that they're probably
15 going to just ask me a couple of questions and that was it.
16 I mean I had to answer them regardless.
17 Q. Did they give you any idea at all as to why they wanted to
18 see you?
19 A. Just to find out if I was at the dance or did I see
20 Junior Marshall. That was the big thing.
21 Q. And when you went into this room with the policemen, did you
22 sit down?
23 A. Yes.
24 Q. Were the policeman sitting down?
25 A. No, I think he was standing up, as far as I can remember.

1 Q. I'm sorry?
2 A. I think Mr. MacIntyre was standing up.
3 Q. Okay. And do you know if -- Was the door closed behind you?
4 A. Yes.
5 Q. And do you recall how the interview took place? Was it a
6 question and answer type approach?
7 A. Yes.
8 Q. And who was doing the questioning? Do you recall?
9 A. Mr. MacIntyre.
10 Q. Do you remember his tone of voice or his attitude towards you?
11 A. Well, I started telling him the answers and then like either
12 in the middle of it or close to the end of my statement, my
13 sister walked in and started to talk to me. So he had --
14 As far as I can remember, it was a piece of paper with a big
15 heavy board and he pounded that down on the desk and he said,
16 "You'll have ample time to tell your statement." He said
17 that to my sister. "Just hold on." And I got scared. I just
18 shrank about that high. I said to my sister, "Don't talk to
19 me." It's like he thought that we had something to converse
20 about or to talk about. She just -- I don't know what she
21 asked me yet. She went to aske me something.
22 Q. Did your sister just open the door and come in unannounced?
23 A. I don't know if somebody took her in or she just came in. I
24 can't remember really.
25 Q. She came into the room?

1 A. Yes.
2 Q. And you had not finished your statement at that tiem?
3 A. Yeh, and then they said just more or less for her to stay away
4 from me until I was finished with mine.
5 Q. Did she stay in the room?
6 A. No. No, I don't think.
7 Q. Now, was Sergeant MacIntyre still standing?
8 A. Yes, I believe so.
9 Q. Did he sit down at any time during the interview?
10 A. Not that I remember.
11 Q. Just for a moment take a look at the original statement that you
12 have there.
13 A. Yes.
14 Q. Do you see at the bottom of that on either page any signature
15 that resembles Detective Urquhart?
16 A. Pardon me. Who?
17 Q. Urquhart? U-r-q-u-h-a-r-t. The reason I ask is that his
18 signature or his typed name appears as a witness on the typed
19 copy of the statement, but --
20 A. Yes.
21 Q. -- I do not believe it appears on the original.
22 A. No, just Sergeant MacIntyre, that's all.
23 Q. Do you know -- just Sergeant MacIntyre.
24 A. Yeh.
25 Q. On both pages?

1 A. Yes.
2 Q. Do you know Detective Urquhart?
3 A. No. I was wondering who you were talking about before. Urquhart.
4 Q. His name is on the bottom right-hand corner of that page.
5 A. Well, maybe he was there. It's hard to remember if there was
6 one or two.
7 Q. I see.
8 A. I remember the guy that hollered, but I don't remember the
9 other guy.
10 Q. I'm sorry?
11 A. I said I remember MacIntyre that spoke harsh, but I don't
12 remember this fellow. If he was there, he didn't do much
13 talking.
14 Q. This harsh speaking that you're talking about, was this only
15 when your sister, Catherine, arrived?
16 A. Yes.
17 Q. No other occasion?
18 A. No, he was fairly --
19 Q. Just turn to the statement itself. It might be easier for you
20 to follow the typed --
21 A. Yeh.
22 Q. -- version down there. And you talk in the first paragraph
23 there about being at the dance. You say you left the dance
24 about 11:45, came back around 11:55 to the dance, and then
25 you went to the park. Do you have any recollection of leaving

1 the dance and going to the park?
2 A. No, I wasn't near the park.
3 Q. You say you weren't near the park?
4 A. I don't -- Pardon me?
5 Q. You say you weren't near the park?
6 A. No.
7 Q. Is there any reason that you would tell Sergeant MacIntyre
8 that you had gone to the park, if you hadn't?
9 A. Maybe I said, I walked by the park. I can't remember now. I
10 can't recall if I walked -- In order to get home, did I walk
11 by the park because it probably would've been close to
12 midnight. I would've saw at least a car or something, or did
13 I go the other way.
14 Q. Right. Would the park have been on your way home?
15 A. Yes, well, straight George.
16 Q. George Street?
17 A. Yes.
18 Q. Okay. And you say you were just outside talking to Frank French
19 and Moose Tobin about 12:25. Do you know if that refers to
20 talking outside the church or outside your house or where?
21 A. No, I don't know. I don't remember talking to them.
22 Q. Okay. You make reference to seeing an ambulance go by. Do
23 you recall where you were when you saw an ambulance or if
24 you saw an ambulance?
25 A. In the parking lot of St. Joseph's, the dance, because it was

1 a friend of mine that -- He and I got together this summer, and
2 we started talking about it and she said, "Remember you and I
3 went out and had a cigarette or something?" She said, "Was it
4 an ambulance or a police car?" I said, "I remember a siren,
5 but I can't tell you any more."
6 Q. You were talking about this to a friend just this past summer?
7 A. Yes. Theresa MacNeil, the one that was with me that night.
8 That we went went outside and talking but --
9 Q. Have you talked to anybody else about your memories of this?
10 A. No.
11 Q. You were asked if you knew Sandy Seale and you answered, "No."
12 And you were asked if you knew Donald Marshall. You said, "Yes."
13 And you say about halfway down the page:
14 A. He called Saturday morning. He was looking
for Kate, my sister. He talked to me and her.
15 Q. What was the conversation?
16 Then you relate a conversation with Junior. Does that in any
17 way refresh your memory that you may in fact have spoken to
18 Junior, yourself, on that Saturday morning?
19 A. It doesn't refresh my memory. I know that he called, but I
20 don't remember having a conversation with him.
21 Q. Okay, the contents of that which says -- It talks about a gray
22 haired man, about two men, about a cigarette, about Sandy Seale,
23 and about the phrase, "Okay, Blackie," and he stabbed him.
24 Does that in any way refresh your memory?
25 A. No.

1 Q. Is it possible that you had that conversation with Junior before
2 he spoke to your sister?
3 A. No.
4 Q. It's not possible?
5 A. No.
6 Q. If it's not possible, can you give us any assitance as to how
7 it got on to the statement?
8 A. It doesn't make sense, because even that night when my mother
9 came out and said that it happened, you know, I don't know.
10 And then the next day -- I don't know.
11 Q. Are you telling us now that you would not have given this
12 answer to Sergeant MacIntyre?
13 A. I don't recall giving it.
14 Q. Okay, but is it possible that you could have given it then?
15 A. No. No.
16 Q. If you didn't give it, can you give us any help at all as to
17 where it might've come from?
18 A. Well, maybe they got some statements mixed up. There was more
19 than me that gave a statement about --
20 Q. Yes.
21 A. -- this part anyway.
22 Q. Right. Was --
23 A. You hear so much about gray-haired men and all this. That's
24 something that I never discussed with anybody.
25 Q. Other than you and the two police officers and Catherine for

1 a short time, was there anybody else in this interview room
2 with you at the time?
3 A. No.
4 Q. Do you know if Sergeant MacIntyre was writing as you were
5 talking?
6 A. I believe he was.
7 Q. What was he writing --
8 A. Or it might've been the other guy too, I don't know.
9 Q. Is that his writing?
10 MR. CHAIRMAN:
11 Whose handwriting is it, please?
12 MR. ORSBORN:
13 My understanding, My Lord, is that it would be Sergeant MacIntyre's
14 handwriting.
15 BY MR. CHAIRMAN:
16 Q. Is this not your handwriting?
17 A. No.
18 Q. Just your signature?
19 A. Just my signature.
20 BY MR. ORSBORN:
21 Q. Do you recall if Sergeant MacIntyre was writing while he was
22 standing up?
23 A. I don't know. If he was writing, he must've wrote it awful
24 fast.
25 Q. Did he sit down at any time while he was talking to you?

1 A. Not that I remember.

2 Q. Further reference in that statement on the second page of the
3 typed version to a discussion with Patricia Harriss. In 1971,
4 did you know Patricia Harriss?

5 A. Yes, she was in my class in Grade 7.

6 Q. At Central High?

7 A. Yeh.

8 Q. Was she part of the group that you hung around with?

9 A. Not that I recall. She went with Terry Gushue, that's all I
10 remember. Just -- you know.

11 Q. Did you know Terry? Just to see him, yeh. Did you spend any
12 time with him at dances or anything like that?

13 A. Maybe to say hello and a little conversation, that's all.

14 Q. Did you spend any time either with her or with the two of
15 them as a couple in the park?

16 A. No, not that I remember. No.

17 Q. Have you had any discussion with Patricia Harriss concerning
18 this case within the last two or three years?

19 A. No, I haven't.

20 Q. Now, this -- In this statement, the question reads:

21 Q. Did you discuss this matter with Patricia
22 Harriss?

23 And I think by "this matter", he's referring to;or the question
24 refers to the stabbing and the description of the two men.
25 And your answer is:

A. Yes.

1 Then the question:

2 Q. Did you tell her about the gray-haired man?

3 A. I told her there was supposed to be a gray-
haired man there. I told her if she was
4 questitoned by the police, she should tell
about the gray-haired man that Junior told
5 me about.

6 Do you recall telling the police that you told Patricia Harriss

7 to tell the two man story?

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

9 Q. Is it possible that you told that -- told the police that you

10 had told Patricia about the two men?

11 A. No.

12 Q. Why are you so certain?

13 A. I'm certain because I never discussed it. You know. Like her

14 and I -- It'd be different if we hung around together. We knew

15 other. I just knew her as -- You know.

16 Q. Do you know --

17 A. I'd like to know where this came from, too.

18 Q. You and some others. Even though you were going with Steve

19 Csernyik at this time, was Junior still a friend of yours.

20 Did you look on him as a friend?

21 A. Yes. Just as -- You know.

22 Q. Did you look on his brother, Pius, as a friend of yours at

23 this time?

24 A. Yes.

25

1 Q. Is it possible at all that perhaps you together with your
2 sister Catherine, even when you were talking around school
3 said, "Look, we've got to help Junior", and "This is what
4 Junior says happened and this is what you've got to say".
5 Is that sort of scenario possible?
6 A. No. No.
7 Q. I have one other thing to see if it helps your memory,
8 Ms. Csernyik. Perhaps if she could be shown Volume 16. I
9 don't think she has that. Volume 16 at page 129; 129, number--
10 This is another note, Ms. Csernyik that we believe to be in
11 Sergeant MacIntyre's handwriting. It's a little difficult
12 to read but I'll -- I'll do my best. It says:
13 Mary O'Reilly said to Ms. Harriss
14 that Sandy Seale ran up to the
corner where Pollett's is to tell
15 his girlfriend that he was going
with Junior. Mary is Margaret
16 O'Reilly's sister. The O'Reilly
twins told...
17 I'm not sure if it's "me" or "her".
18 ...to tell the story about the
grey haired man. Junior is a
19 good friend of theirs. They
hang around with the Indians.
20 Mary told me that in school
last Thursday. She went with
21 Pius Marshall and now she goes with
Steve...
22
23 And, I guess, somebody couldn't spell Csernyik. Those
24 references in there to Sandy Seale and -- and Pollett's
25 corner, does that in any way refresh your memory?

1 A. No.
2 Q. Do you have any recollection of telling Ms. Harriss at any
3 time that Sandy Seale had run to the corner where Pollett's
4 is?
5 A. No. I didn't even know Sandy Seale. I've never met the man
6 in my life.
7 Q. At the time you gave this statement to the police you knew that
8 Sandy was the one that had been stabbed?
9 A. Well, I just knew of his name. I knew of it and that was it.
10 Q. Did you know that Sandy had a girlfriend?
11 A. No.
12 Q. Would Patricia Harriss know who you were going out with? Would
13 she know that you had gone out with Pius Marshall?
14 A. She probably would. It's just, you know --
15 Q. Would Sergeant MacIntyre know who you were going out with?
16 A. Well, I guess he knew everything.
17 Q. Would he have any way of knowing that you had gone out with
18 Pius Marshall?
19 A. I think he just said, "Which Indian are you -- are you going
20 with"?
21 Q. Do you have any recollection of him saying that to you?
22 A. Yes, he just asked me, and I don't know if I hesitated or
23 I didn't want to tell him or -- I had to tell him I guess.
24 Q. And what did you tell him?
25 A. That I went out with Pius Marshall.

1 Q. Did you tell him that you were not going out with Pius at
2 the time that you were going out with Steve?
3 A. I don't remember. I told him who I walked home with but --
4 Q. You told him who you walked with?
5 A. Yes.
6 Q. And that was Steve Csernyik?
7 A. Yes.
8 Q. Now the statement that you gave to the police says quite
9 clearly and you did sign it, it says quite clearly that you
10 discussed the matter with Patricia Harriss and that you told
11 her about the grey haired man. I can think of three
12 possibilities of how that got there. The first possibility is
13 that you, in fact, made the statement. The second possibility
14 is that someone perhaps suggested it to you and you agreed.
15 Another possibility is that you didn't make the statement
16 at all and somebody put it there. Are there any other possibilitie
17 that you can think of as to how that got on that piece of paper?
18 A. No. Your third possibility is right. Somebody must have put
19 it there because I didn't.
20 Q. Why do you say that?
21 A. Because I don't recall saying that at all. If I did, I did, but--
22 Q. Patricia Harriss when she testified before the Commission,
23 although she said she knew you, she said a number of times
24 that she had not discussed it with you. She did say, I believe,
25 at one point that it was possible that she might have discussed

1 this with you sometime before she gave the statement to
2 the police. Given the importance of this notation, I'll ask
3 you again so that we are sure of what you're telling us. Are
4 you telling us that it is not possible that you talked
5 to Patricia Harriss and that it did not happen or that it perhaps
6 might have happened?
7 A. It's not possible that --
8 Q. Do you recall how long you were at the police station that
9 morning?
10 A. No, maybe forty minutes and maybe an hour.
11 Q. The -- I think the statement is indicated as starting at
12 nine-thirty and finishing at nine-fifty which would be about
13 twenty minutes. Do you recall if you were there in the
14 interview room for longer than that?
15 A. No, I don't know now if I waited for my sister, until she
16 finished (I would have been there longer.) or did I come home
17 or what, you know.
18 Q. Would you have gone back to school?
19 A. It's a possibility I went back to school.
20 Q. Was your mother still there when you got out?
21 A. I don't know. Well, maybe I walked back because it was
22 only -- The old police station is where the bus line was and--
23 Q. It was pretty close to it?
24 A. Yeh.
25 Q. Is that far from the school?

1 A. Well, it's not far from Central School, just walking distance
2 and maybe I walked back.
3 Q. Other than this statement taken at the police station, did
4 you have any other contact with the Sydney Police over this
5 matter?
6 A. No, just like I said that night we got stopped (That was it.)
7 for --
8 Q. Were you ever contacted by any of the lawyers either acting for
9 the Crown or acting for Mr. Marshall in this matter? I mean at
10 or around the time of the trial back in 1971?
11 A. No. No.
12 Q. Did you go to the trial?
13 A. No.
14 Q. Did you follow it at all in the papers?
15 A. Not really, no.
16 Q. Do you recall where you were or what you were doing when you
17 found out that Mr. Marshall had been convicted?
18 A. I was sitting in the car with my boyfriend one night when my
19 mother came out and told me.
20 Q. Were you surprised?
21 A. In a way, yeh.
22 Q. In a way? Why were you surprised?
23 A. Well, it was just -- You know, when you hang around with
24 somebody and then something happens, I guess, you know --
25 Q. Did you think that he could not have done it from your

1 knowledge of him?
2 A. I don't know really what I thought.
3 Q. Have you had any contact with anybody else either investigating
4 the case or acting on behalf of somebody in this matter up
5 until three months ago?
6 A. No, just the time when I was in Calgary and they were going
7 to get me down to testify, the same thing that's on here, and
8 they never ever -- I don't know if it was the R.C.M.P. or
9 the Crown or what they were. They said, "Oh, you're going to
10 be getting a summons in the mail", and it never came.
11 Q. Who did you speak to?
12 A. I think it was the R.C.M.P. in Sydney. Well, I never spoke
13 to them first. They got in touch -- pardon me, contact with
14 my parents and then they phoned me and said, "You're going
15 to get a free trip home". I said, "For what"?
16 Q. Who phoned you?
17 A. My father.
18 Q. Okay.
19 A. Well, my brother, he phoned me and then my father got on, and I
20 said, "What do they want me for"? The same thing as -- Just
21 to clear it up, I guess, but they never ever -- They never
22 even sent a letter to say that they needed me or they didn't
23 need me.
24 Q. So you didn't talk directly to any R.C.M.P. person investigating
25 this?

A. No. No. No.

Q. You didn't give any statement to any R.C.M.P. person?

A. No.

Q. Were you ever contacted by Mr. Aronson who was a lawyer acting for Junior Marshall in 1982?

A. No.

Q. Were you ever contacted by Mr. Edwards who was the Crown Prosecutor around the same time?

A. I don't think, no.

MR. ORSBORN:

No more questions, My Lord. Thank you.

MR. CHAIRMAN:

We will take a ten-minute break.

INQUIRY ADJOURNED AT: 3:46 p.m.; RECONVENED AT: 4:01 p.m.

BY MS. DERRICK:

Q. Mrs. Csernyik, am I saying your name --

A. Csernyik with a "C", yes.

Q. My name is Ann Derrick and I represent Junior Marshall. Just so that I have this straight in my mind, your twin sister's name is Margie. Is that correct? And your older sister's name is Catherine?

A. Yes. Yes.

Q. In 1971, you say it was four about four months that you were

1 spending some time hanging around with some of the Indian
2 boys. Is that correct?
3 A. Yes.
4 Q. And some of your activities included being down in the park
5 with them?
6 A. Yes.
7 Q. Is that right?
8 A. Yes.
9 Q. And I take it you had no trouble with them as friends. You
10 enjoyed their company and they were nice to you and you got
11 along well with them?
12 A. I never had no troubles, no.
13 Q. So that's a fair characterization then, is it, to say that
14 they were good friends?
15 A. Yes.
16 Q. And so by the time that May 28th, '71, came along you didn't
17 have as regular contact with them but I take you were still
18 friendly with them. Is that correct?
19 A. Yes.
20 Q. So that if you saw them at a dance or you saw them in the
21 street you'd say, "Hi", or you'd smile?
22 A. Yes.
23 Q. So things were still pleasant?
24 A. Yes.
25 Q. That night when you were at the dance, how long had you been

1 there?
2 A. Maybe two, three hours.
3 Q. So for most of the duration of the dance?
4 A. Yes.
5 Q. Is that correct? And on that occasion you were with Steve
6 Csernyik?
7 A. Yes.
8 Q. The incident that happened that night, I think it was your
9 evidence that you don't recollect that being discussed very
10 much amongst your current set of friends at that time?
11 A. That's right.
12 Q. Is that correct?
13 A. Yes.
14 Q. Now at the time that you were interviewed by the police, did
15 you know then that Junior Marshall had been charged with
16 Sandy Seale's murder?
17 A. Yes. It was a week later. The week after that they -- Or
18 was it a month -- It was in June that they -- I gave the
19 statement.
20 Q. He was charged, in fact, a little while before you were
21 questioned by the police?
22 A. Yes. Yeh.
23 Q. But you remember at that time that you knew he was charged.
24 Is that correct?
25 A. Yes.

1 Q. And what were the types of questions that you were asked at
2 that time about the Indians that you knew? Was it just, what
3 were their names or were there any other kinds of questions
4 that you were asked?
5 A. Just their names and who I was going with at the time. Was
6 I going with one or -- I just answered them.
7 Q. And you -- At that time you said you had gone out with Pius. Is
8 that correct, Pius Marshall?
9 A. Yeh.
10 Q. Was that information given to Sergeant MacIntyre? Was that
11 because he was asking you those questions?
12 A. Yes, he asked me and I remember I told him, that's all that
13 I know.
14 Q. And were those questions about the Indian boys fairly brief?
15 Did they take very long, do you recollect?
16 A. No, not very long.
17 Q. And was that the same time that you gave the rest of that
18 statement that Mr. Orsborn was asking you about?
19 A. Yes.
20 Q. Do you remember at that time whether Sergeant MacIntyre was
21 taking any notes?
22 A. It's just a possibility that he was, you know.
23 Q. But those questions and your answers with respect to the
24 Indian boys weren't recorded as far as you can see from --
25 A. From my statement, no.

1 Q. From this statement that you've just looked at?
2 A. Yeh.
3 Q. Are there any other parts of that interview that you recall
4 having with Sergeant MacIntyre that you don't see recorded
5 in this statement?
6 A. No.
7 Q. So that the part that you remember having that has been left
8 out was the part about the Indian boys?
9 A. Yes.
10 Q. In the course of the questioning I think it was your evidence
11 that your mother was not in the room with you? Is that your
12 recollection?
13 A. Yes.
14 Q. So you were in there, you recollect, with Sergeant MacIntyre
15 and possibly with another police officer?
16 A. Yes.
17 Q. But nobody else?
18 A. Nobody else, no.
19 Q. Until that occasion when your sister came into the room?
20 A. Yeh.
21 Q. Is that correct?
22 A. Yes, it is.
23 Q. And during the course of the statement was it Sergeant MacIntyre
24 that asked all the questions?
25 A. Yes.

1 Q. And what -- what type of questions were they? Were they
2 put to you in a very blunt fashion?
3 A. They were very quick and blunt.
4 Q. That's what I was getting at.
5 A. Just he asked them and I answered them.
6 Q. Was it a fairly briskly paced interview?
7 A. Yes.
8 Q. Is that what you recall?
9 A. More or less you had to be quick with the answers but that
10 part about -- I can't recall that about Patricia Harriss at
11 all.
12 Q. But the interview that you recollect proceeded briskly. Is
13 that correct?
14 A. Yes. Yes.
15 Q. And you recollect Sergeant MacIntyre standing up and taking
16 notes during the time he was questioning you?
17 A. I don't really remember him taking notes. I knew he had something
18 there. I don't know. I couldn't say if he took notes. Maybe
19 the other officer did. I can't really tell.
20 Q. You don't have a clear recollection whether --
21 A. No, not a clear one. No.
22 Q. --notes were taken or not?
23 A. No.
24 Q. Do you remember what Sergeant MacIntyre was doing then while
25 he was questioning you? Was he moving around or was he standing

1 in one place? Was he standing over you?
2 A. No, he seemed to be quite jumpy.
3 Q. So he moved around -- he moved around a fair amount?
4 A. Yes. Well, I was nervous anyway but a person like that would
5 make you more nervous.
6 Q. And do you remember the fact that he was moving around
7 because it was making you more nervous?
8 A. Well, he moved around more after when my sister walked in
9 because, you know --
10 Q. Do you remember at what point in your interview your sister
11 walked in? Do you remember what was being asked?
12 A. Not what was being asked. Maybe in the middle of it. I wasn't
13 finished. I know that.
14 Q. So it was before the later part of the interview?
15 A. Yes.
16 Q. And after your sister walked in and as I understand it, Sergeant
17 MacIntyre got rid of her, got her to leave?
18 A. Yeh.
19 Q. Well, did he seem more -- Did he seem to be moving around more
20 after that?
21 A. Yes.
22 Q. Would it be fair to say then that it's somewhat inconsistent
23 with his ability to be taking notes if he would also be
24 moving around?
25 A. Yes, I don't know how he would take a statement if he was, you

1 know --
2 Q. But you -- Well, you don't -- You just don't recall whether
3 there was --
4 A. I don't recall. No, I don't.
5 MR. CHAIRMAN:
6 Your evidence is that you have no clear recollection as to who
7 took --
8 THE WITNESS:
9 No.
10 MR. CHAIRMAN:
11 --any notes, if any?
12 THE WITNESS:
13 Yes, I have no recollection at all.
14 BY MS. DERRICK:
15 Q. But on page -- Well, what I have is Exhibit 16, page 76. I
16 guess it is the second -- the first and second pages of your
17 statement. There is a signature there and that is your
18 signature. Is that correct?
19 A. Yes, it is. Yes.
20 Q. Mary O'Reilly?
21 A. Yes.
22 Q. You don't recall signing the statement. Is that correct?
23 A. I don't recall signing it but it's my signature.
24 Q. Do you have any recollection of having read it over --
25 A. No.

1 Q. --at any point?
2 A. No.
3 Q. Or having it read over to you?
4 A. Read over to me.
5 Q. You have some recollection of that?
6 A. Yes, I do. Yeh.
7 Q. Do you recollect when it was read over to you, this portion
8 about having discussed the matter with Patricia Harriss?
9 A. No. No.
10 Q. In terms of the sequence of events, I take it that Sergeant
11 MacIntyre asked you a series of questions and then he read
12 something over to you. Is that correct? I'm just asking you
13 what your recollection is of the sequence?
14 A. When I finished he read it. He must have read it back to me
15 but I don't remember about, you know, most of it. In fact,
16 when I did get to read it a few months ago I just -- I said,
17 "I said that". I had to look at it and look at it because,
18 you know, parts of it I do remember saying (I was at the
19 dance and whatever.) but parts of it I don't.
20 Q. But is it true to say today that you do recall having had that
21 statement read to you? You have some recollection of that?
22 A. Yes. Yes, read back to me.
23 MR. CHAIRMAN:
24 By who?
25 THE WITNESS:
By Mr. MacIntyre.

1 BY MS. DERRICK:
2 Q. And once he was finished reading it to you do you recall signing
3 it or do you have no recollection of what happened --
4 A. I have no recollection of signing it.
5 Q. At what point did the interview come to an end? Do you recall
6 what caused it to come to an end?
7 A. No, just --
8 Q. Was it sometime soon after it had been read back to you?
9 A. Yes.
10 Q. And then you would have left the room?
11 A. Yes.
12 Q. Now I take it that you didn't know Patricia Harriss well?
13 A. No, I didn't.
14 Q. She was in your class at school. How many children would have
15 been in your class?
16 A. I'd say twenty, twenty-three.
17 Q. And you would see her regularly at school?
18 A. Yes.
19 Q. And when I say saw her regularly at school, would you see her
20 passing in the corridors or sitting in the classrooms?
21 A. Yeh, but we never more or less hung around together or
22 anything or went out on weekends or --
23 Q. You didn't?
24 A. No, I didn't. No.
25 Q. Did you ever talk to her on her own?

1 A. Maybe in the hallway or something, just -- or over the store.
2 Q. Would that be just conversation in passing?
3 A. Yes.
4 Q. So she wasn't somebody that you'd have a regular or routine
5 conversation with on a --
6 A. No.
7 Q. --frequent basis?
8 A. No.
9 Q. I take it as well that she is not somebody you would call up
10 on the telephone?
11 A. No.
12 Q. In fact, would it be fair to say that she wouldn't have had
13 your telephone number because at the time it was unlisted, so
14 she wouldn't have been able to phone you?
15 A. No, I don't think she ever had my phone number or had reason
16 to call me or I had reason to call her.
17 Q. But even if she had wanted to call you she wouldn't have been
18 able to get --
19 A. She wouldn't be able to get the number anyway.
20 Q. --it through the directory? Where do you think this part of
21 your statement came from, the part that refers to Patricia
22 Harriss? I think you've said in your direct evidence that
23 someone must have put it there when Mr. Orsborn suggested
24 three possibilities to you.
25 A. Or somebody -- Well, it was -- I don't know. Patricia Harriss

1 was supposed to say this so it came from her first, I guess.
2 Q. But -- But in your statement, this statement, it's purported
3 that you did -- that you said this. Yes, in answer to the
4 question did you discuss this matter with Patricia Harriss.
5 And you're saying today that it is not possible for you to
6 have said that?
7 A. No, it isn't. No.
8 Q. So where did that portion of your statement come from?
9 A. I don't know.
10 Q. In response to Mr. Orsborn who was asking you questions a
11 moment ago, he gave you three possibilities?
12 A. Yes.
13 Q. And you chose out of those three possibilites -- You said,
14 "Someone must have put it there?
15 A. Yes.
16 Q. So in your opinion who would have put it there?
17 A. Whoever was copying it down.
18 Q. So therefore, it must have been the police who put it there?
19 A. Yes.
20 Q. Is that your feeling about this statement today?
21 A. Well, it couldn't have been anybody else.
22 Q. It couldn't have been anybody else?
23 A. No.
24 Q. And your evidence today is it's not something that you said?
25 A. No, I never said it.

1 MS. DERRICK:
2 Thank you. Those are my questions.
3 BY MR. J. PINK:
4 Q. If I understand your evidence correct, Mrs. Csernyik, the only
5 time that you ever had any contact with the Sydney Police
6 was when you were walking the streets of Sydney at one-thirty
7 in the morning. Is that correct?
8 A. That's correct.
9 Q. And what was your age at that time?
10 A. Fifteen.
11 Q. And as I understand it the communication that was given to
12 you by your father that was related to him by the police was
13 they did not like the company that you were keeping. Is that
14 correct?
15 A. That's correct.
16 Q. And at no time did they ever mention the word "Indian"?
17 A. Not that I know of.
18 Q. So during your direct examination with Mr. Orsborn when you
19 mentioned the word "Indian", that was not really, in fact,
20 used but it was the word "company"?
21 A. As far as I remember, yes.
22 Q. And who, in fact, were you walking with on that particular
23 night?
24 A. Pius Marshall, Artie Paul, Margie, Catherine, and I believe
25 Tracy MacNeil was with us. I can't remember if she was.

1 Q. And what about Junior Marshall?
2 A. Oh, yes, he was there.
3 Q. So you had the two Marshall brothers. In fact, your sister
4 Catherine was going out with Junior Marshall at the time,
5 wasn't she?
6 A. No, Artie Paul.
7 Q. She was going -- Had she ever gone out with Junior Marshall?
8 A. No, not that I know of.
9 Q. So there, in fact, were a group of you?
10 A. Yes.
11 Q. And what were the ages of the other kids, do you have any
12 idea?
13 A. About the same age.
14 Q. You were taken to the police station to give this statement
15 by your mother?
16 A. Yes.
17 Q. You were taken out of school, were you?
18 A. Yes.
19 Q. And at the time that you were taken to the police station, I
20 just what to reiterate, you knew that Junior Marshall had,
21 in fact, been charged?
22 A. Yes.
23 Q. When you were being interviewed by Detective MacIntyre your
24 mother was outside the room?
25 A. Yes.

1 Q. You have no recollection of Detective Urquhart being inside
2 the room?
3 A. No positive -- It could have been Mr. MacIntyre, but I believe
4 there might have been two but I'm not sure.
5 Q. Let me ask you this, could it have been Detective Urquhart
6 that was interrogating you?
7 A. No.
8 Q. So do you have any recollection of two police officers being
9 in that room today, Mrs. Csernyik?
10 A. Yes.
11 Q. You do?
12 A. I do, but I can't -- I can say it was Mr. MacIntyre, but I
13 don't know who the other person was. That's what I'm saying.
14 Q. And as I understand your evidence, that all the time
15 Sergeant MacIntyre was standing and you were seated in a
16 chair?
17 A. Yes.
18 Q. And during this interview Sergeant MacIntyre was walking about
19 asking you questions?
20 A. Yes.
21 Q. And at no time according to you did he ever sit down?
22 A. No.
23 Q. Now prior to your sister coming into the room you and
24 Sergeant MacIntyre were, in fact, having a friendly conversation,
25 weren't you?

MARY CSERNYIK, by Mr. J. Pink

A. I don't know if it was so friendly.

Q. Well, he was asking you questions and you were giving him answers, correct?

A. Yes.

Q. And, in fact, at no time had he threatened you?

A. No, he didn't threaten me.

Q. At no time did he ever physically handle you?

A. No.

Q. And he was asking you questions throughout that total period of approximately twenty minutes. Is that not correct?

A. Yes.

Q. And, in fact, you were only in that interrogation room for a period of approximately twenty minutes, is that not correct?

A. Around that, I guess, twenty, thirty minutes.

Q. And at no time while you were being interviewed by Sergeant MacIntyre did you ever request that your mother be present?

A. No.

MARY CSERNYIK, by Mr. J. Pink

1 Q. At no time was your mother ever refused entry into that room,
2 was she?
3 A. No, I don't recall that she was.
4 Q. Now as I understand it that according to your evidence, the
5 only time that he raised his voice is when he was interrupted
6 by your sister who came into the interrogration room.
7 A. Yes.
8 Q. She was told to get out.
9 A. Yes.
10 Q. And then he continued on asking you questions.
11 A. Yes.
12 Q. Now as I understand it also your recollection of what took place
13 in that room was not good -- is not good, is that correct?
14 You don't remember all of the conversation that took place
15 between Sergeant MacIntyre and yourself?
16 A. No, I don't.
17 Q. In fact, even when you read the statements that have been given
18 to you by Mr. Orsborn, that in itself does not refresh your
19 memory of what in fact took place in that room, does it?
20 A. Some of it does and some of it doesn't.
21 Q. I'm going to also suggest to you that throughout your interview
22 Sergeant MacIntyre insisted and kept on reminding you to be
23 truthful with him.
24 A. I don't remember that.
25 Q. Could that have happened and you just don't remember today?

1 A. Well, I don't know when I first went in there whether, you
2 know -- I just gave him the answers, that's all I could tell
3 him.
4 Q. But could he have started out his conversation with you by
5 saying, "Mary, I want you to tell me the truth in answers to
6 my questions."?
7 A. I don't recall him saying that.
8 Q. But you don't recall everything that that in fact took place
9 in that room either, do you?
10 A. No, not all of it.
11 Q. Now I want you to take a look at page 74 of Exhibit number 16.
12 This is the type-written edition of the --
13 A. Oh, yeh, this one. Okay, 74.
14 Q. Do you remember the date of going down to the police station
15 it being June the 18th, 1971, at approximately nine-thirty in
16 the morning?
17 A. Yes.
18 Q. Is that true? I'm sorry. I didn't quite understand.
19 A. Well, the date is there.
20 Q. Do you agree with that?
21 A. Yes.
22 Q. Or don't you have any recollection of that being the date?
23 A. I don't really have any recollection of it but, look, I was
24 trying to remember back how long after that they --
25 Q. You were fourteen years of age at the time?

MARY CSERNYIK, by Mr. J. Pink

1 A. Yes.
2 Q. And you were residing at 23 Cross Street in Sydney. Is that
3 correct?
4 A. Yes.
5 Q. So therefore just to clear up one point in my own mind, when
6 you came in contact with the police, Junior Marshall had already
7 been charged with this second -- with non-capital murder at
8 that time. Is that correct?
9 A. Yes.
10 Q. So the incident that you had with the Sydney Police must have
11 been prior to that time?
12 A. Yes.
13 Q. So you must have been fourteen years of age at the time and
14 not fifteen?
15 A. Must have been. June. That was June.
16 BY MR. CHAIRMAN:
17 Q. How old are you now? When were you born? What's your --
18 A. '56.
19 Q. 1956.
20 BY MR. J. PINK:
21 Q. And do you remember when it was that --
22 A. I turned fifteen.
23 Q. I'm sorry?
24 A. No. Go ahead, sir.
25 BY MR. CHAIRMAN:
Q. What was your birth date?

1 A. October 25th, '56. Today's the 26th.
2 Q. Oh, dear, I hope we're not --
3 A. Figure that out.
4 Q. I hope we're not spoiling your birthday.
5 BY MR. J. PINK:
6 Q. Do you know what year it happened that you got stopped and
7 asked questions by the Sydney Police? Was it 1970 or '71?
8 A. Oh I don't know. '70. I thought it was around April, '71.
9 Q. That would have made you fifteen. Okay. Now let's get to the
10 statement itself. On May the 28th of 1971, you were in fact
11 at St. Joseph's dance hall. Do you agree with that?
12 A. Yes.
13 Q. You were there with Theresa MacNeil?
14 A. Yes.
15 Q. And you left at approximately eleven forty-five with Steve
16 Csernyik. Is that correct?
17 A. That's correct.
18 Q. The next part of the statement as I understand you don't agree
19 with, it says, "We went to the park.".
20 A. No, I never went to the park.
21 Q. How did you get home that night?
22 A. I walked home with Steve.
23 Q. Do you know how you got home? Did you go towards the park?
24 A. I might have or I might have went the other way, too.
25 Q. So you don't remember which way you went home now.

1 A. No.
2 Q. So if in fact you went towards the park, but not necessarily
3 going into the park, --
4 A. I wouldn't have saw anything anyway that late.
5 Q. I'm sorry?
6 A. I would have not seen anything anyway because it was after
7 midnight by the time we left.
8 Q. Oh, I appreciate that. I'm just getting to the statement that
9 "We went to the park."; could you have gone towards the park
10 that night to go home?
11 A. I could have, yes.
12 Q. Now it says here that you came back around eleven fifty-five to
13 the dance. Is that true? Did you and your date, Steve Csernyik,
14 go out for a walk and then come back to the dance at approximatel··
15 eleven fifty-five p.m.?
16 A. I don't remember even --
17 Q. Could that have happened?
18 A. -- leaving the dance. I remember leaving when it was over but.
19 Q. We were just outside talking to Frank
20 French and Moose Tobin at about twelve
twenty-five a.m.
21 Do you know two people by the name of French -- Frank French
22 and Moose Tobin?
23 A. Yes.
24 Q. Did you see them on that particular night?
25 A. I might have talked to them outside of the dance but I don't

1 remember really.
2 Q. Did you in fact see an ambulance go by?
3 A. I heard a siren, that's all.
4 Q. Then you say: "We got a drive home.". Do you remember that?
5 A. I think I walked. I don't remember if I got a drive or walked.
6 Vaguely I remember walking, just Steve and I.
7 Q. Could you be mistaken about that today?
8 A. I don't think.
9 Q. Now it's fifteen years ago.
10 A. Well if I had to get a drive, I think I would have remembered
11 getting in a car.
12 Q. Could you have told that to Detective Sergeant MacIntyre, "We
13 got a drive home."?
14 A. No.
15 Q. As I understand it, the next three questions are correct, that
16 you did not know the late Sandy Seale, --
17 A. That's correct.
18 Q. -- you did not know Junior -- You did know Donald Junior Marshall,
19 and you knew him for approximately one year. Is that correct?
20 A. That's correct.
21 Q. You did not see him that evening, referring back to May the
22 28th, 1971. Is that correct?
23 A. Yes.
24 Q. As I understand your evidence, he did call the next morning.
25 Is that correct?

1 A. That's correct.
2 Q. And he was looking for your sister, Kate. Is that correct?
3 A. Yes.
4 Q. Now the next part you have no recollection of saying to Detective
5 Sergeant MacIntyre, correct?
6 A. That's correct.
7 Q. Would you not agree with me, Mrs. Csernyik, that that particular
8 statement goes to help Junior MacIntyre -- I mean goes to help
9 Donald Marshall Junior?
10 A. That it goes to help?
11 Q. Help him.
12 What was the conversation?
13 A. About what happened down at the park,
14 the stabbing.
15 What did he say?
16 He said there was a gray-haired man down there.
17 He said two men. One man asked him for a
18 cigarette and Sandy Seale didn't have a
cigarette and then Junior said that one
fellow said: 'Okay, Blackie.", and he
stabbed him.
19 Would you not agree with me that that statement goes to
20 exonerate Donald Marshall Junior from the killing?
21 A. Well, how would I know if I didn't -- if I didn't hear him
22 say this or --
23 Q. All I'm saying to you -- I know you don't recall saying that
24 or you don't recall what you're saying today remembering
25 that, but would you not agree with me that that question and

1 answer goes to help Donald Marshall Junior?
2 A. I guess it would help him but I don't know. I don't know much
3 about it.
4 Q. And getting back to the three alternatives that Mr. Orsborn
5 gave you, can you give me any suggestion as to why you think
6 anybody would insert that favourable piece of evidence into
7 your statement?
8 A. I don't know.
9 Q. And then it goes on to to state:
10 Did you ask him what they looked like?
11 A. One had gray hair. He said he was
12 thirty to forty years old and when it
13 happened, he said he tried to call from
14 a woman's house and he said he called.
15 Now you're saying he didn't say that either?
16 A. No.
17 Q. Now I want you to go to the next page which is Document number
18 76.
19 A. 76.
20 Q. Now there's no question in your mind that on the written
21 statements at the bottom of the page, that's your handwriting,
22 where it says "Mary O'Reilley?
23 A. Yes, that's my handwriting.
24 Q. On both parts -- on both pages.
25 A. Yes.
Q. And according to what you've told us today, the statement was

1 read to you before you applied your signature. Is that correct?
2 A. Yes.
3 Well, I don't know if it was applied before I signed it.
4 Q. I'm sorry?
5 A. I don't know if it was applied before I signed it. I just --
6 Q. No, no, what I'm saying --
7 A. -- remember him --
8 Q. What I'm saying to you,that it was read to you before you signed
9 the statement.
10 A. I guess so.
11 Q. As I also understand it, you had discussions with your sister
12 about what took place in the police room. Is that not correct?
13 A. When we left it, we discussed it. Just --
14 Q. And tell me, prior to going down to the police station, did
15 you and your sister ever discuss anything about the stabbing?
16 A. No.
17 Q. And in fact you were in that room and you left that room at
18 nine-fifty in the morning.
19 A. Yes.
20 Q. You told the Commission you had conversation with Theresa MacNeil?
21 A. Yes.
22 Q. This summer?
23 A. Yes.
24 Q. What did you discuss with her?
25 A. Well just that night she said, "Yeh," she said, "I was at the

1 dance." and I said, "Yeh", and I said, "The only thing I
2 remember," I said -- Well, she said: "Remember we were outside
3 and we heard the ambulance or siren.", and I just started
4 thinking back. I said, "Yeh, maybe.", you know. That was it.
5 MR. J. PINK:
6 Okay, I have no further questions.
7 MR. MURRAY:
8 No questions.
9 MR. ELMAN:
10 No questions.
11 MR. SAUNDERS:
12 No questions.
13 MR. CHAIRMAN:
14 Mr. Ross, do you have any questions?
15 MR. ROSS:
16 No questions, My Lord.
17 BY MR. NICHOLAS:
18 Q. I just have a few questions, Mrs. Csernyik.
19 A. Yes.
20 Q. When you went to school -- When you finished Central School,
21 what school did you attend after that?
22 A. Holy Angels.
23 Q. I'm sorry, pardon?
24 A. Holy Angels.
25 Q. Holy Angels, and that was where, high school?

1 A. Well, it was like a Junior High, eight and nine and then we
2 went to High School.
3 Q. Oh, I see. And did you --
4 A. It's the older part of Holy Angels.
5 Q. I'm sorry, pardon?
6 A. It was the older part of Holy Angels.
7 Q. I see. And in that school, were there Indian students in school?
8 A. No, it was all girls.
9 Q. Oh, no Indian girls then going to the school there. This
10 particular episode at one-thirty in the morning when you were
11 stopped on the street by peace officers, were you as a group
12 of young people shouting or screaming or just walking or?
13 A. No, we were just walking.
14 Q. So there was ny reason why the police would stop to talk to
15 you?
16 A. No, not that I know of.
17 Q. Could you please explain again just what the police told you,
18 you and your sisters, that night -- at that time?
19 A. On that night?
20 Q. Yes. Did they ask you to go home or?
21 A. No. Well, they asked our names, addresses, phone number and
22 where were we coming from but I don't remember if they told us
23 to go home. We never did anyway, not right away.
24 Q. But they gave you no indication as to why they were even asking
25 these questions.

1 A. No.
2 Q. And I imagine this must have been a midnight movie you were
3 supposed to go to or?
4 A. Yes.
5 Q. Were there any other times when you did go to the movie, a
6 cinema, to watch midnight movies before this or after?
7 A. No. This was the first time that I remember anyway.
8 Q. And you were fourteen at the time?
9 A. Yes.
10 Q. How soon was it after that you went home?
11 A. Oh, before daylight, I guess.
12 Q I'm sorry?
13 A. It was just before daylight. We walked down and you know,
14 four, four-thirty in the morning.
15 Q. And your father was very upset with you and your sisters?
16 A. Yes.
17 Q. Now before -- before this particular time, had your parents
18 forbid you from having anything to do with Indians?
19 A. Well, they never really forbid us. It was you know kind of just
20 eventually we all went in our different directions so, you know.
21 Q. No, but what I mean before this particular incident, had your
22 parents told you not to have anything to do with Indians?
23 A. Well, they tried, yes.
24 Q. So as normal teenagers, a lot of teenagers do the opposite
25 of what their parents tell them to do.

1 A. That's right.
2 Q. Was it a very painful moment when your father talked to you
3 and your sisters?
4 A. Well it wasn't too pleasant, that's for sure, but --
5 Q. Okay, and what happened after that? Did you in fact stop
6 going out with him?
7 A. I don't recall. Very shortly after, I guess.
8 Q. Your other girlfriends that you were friends with, to your
9 knowledge were their parents also displeased with them spending
10 time with Indians?
11 A. No, not that I know of. I don't know.
12 Q. Well, did you share this particular moment with your friends?
13 Your other girlfriends?
14 A. Yes, but.
15 Q. And what was their reaction?
16 A. Well, their parents really didn't know, you know.
17 Q. But would they have sympathized with you or -- your friends
18 at that particular moment when you told them?
19 A. Well, I don't know. How's that important? Questions!
20 Q. I'm sorry, I didn't get the last part --
21 BY MR. CHAIRMAN:
22 Q. Your answer isn't --
23 A. My answer is I don't know.
24 MR. CHAIRMAN:
25 The question she put to me is she was having some difficulty with

1 relevancy.

2 MR. NICHOLAS:

3 Oh, the relevancy. Oh, I see.

4 MR. CHAIRMAN:

5 But I think she answered it anyway saying she can't recall.

6 BY MR. CHAIRMAN:

7 Q. Was that --

8 A. Yes, I -- you know.

9 BY MR. NICHOLAS:

10 Q. What about now at this stage in your life? Do you have any-

11 thing to do with Indian people?

12 A. No.

13 MR. NICHOLAS:

14 I have no further questions, My Lord.

15 MR. CHAIRMAN:

16 Mr. Orsborn?

17 MR. ORSBORN:

18 No, My Lord.

19 MR. CHAIRMAN:

20 That's all. Thank you very much.

21

22 (WITNESS WITHDREW)

23

24 MR. CHAIRMAN:

25 Just two announcements before we adjourn: One is, tomorrow we will

1 convene at the same time but instead of rising at twelve-thirty,
2 we will continue on until one-thirty. This will enable people to
3 attend the funeral of the late C. M. Rosenblum, Q.C., which is
4 scheduled at two p.m. Realistically I feel it would not be --
5 there's no much point in coming back so we won't sit tomorrow
6 afternoon.
7 The second announcement is that the teleconference that was
8 scheduled for November 2nd, 1987, in Halifax, when we were to
9 hear the evidence of Donna Ebsary has been postponed and we are
10 not in a position to give a new date but I understand some
11 considerable lead time is necessary for to take advantage of the
12 electronic age and counsel will be advised in lots of time so we
13 will be sitting in Sydney on November the 2nd. You're not going
14 to get the day off.
15 MR. MURRAY:
16 My Lord, I wonder in view of the timing for tomorrow whether we
17 might commence at nine and in that way we might be able to get more
18 evidence in by one-thirty, rather than wait until nine-thirty to
19 start out the day.
20 MR. CHAIRMAN:
21 You fellows have a sit -- We find in our youth that sitting for four
22 consecutive hours is about as much as we can --
23 COMMISSIONER EVANS:
24 The mind can absorb.
25 MR. CHAIRMAN:
The mind can absorb, that's right.

1 COMMISSIONER POITRAS:

2 May I make a suggestion if you just talk a little faster tomorrow

3 and we'll get a lot --

4 COMMISSIONER EVANS:

5 Or shorter.

6 MR. CHAIRMAN:

7 Fine. That's all, thank you.

8

9 INQUIRY ADJOURNED at 4:40 o'clock in the afternoon on the 26th day of October, A.D., 1987.

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COURT REPORTER'S CERTIFICATE

I, Judith M. Robson, an Official Court Reporter, do certify that the transcript of evidence hereto annexed is a true and accurate transcript of the Royal Commission on the Donald Marshall, Jr., Prosecution as held on the 26th day of October, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia, taken by way of recording and reduced to typewritten copy.

Judith M. Robson
Official Court Reporter
Registered Professional Reporter

Sydney Discovery Services
October 26, 1987