

ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION

VOLUME XIX

Held: October 27, 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

Bruce H. Wildsmith, & Graydon Nicholas:
Counsel for Union of Nova Scotia Indians

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	SS
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INQUIRY RECONVENED AT 9:34 o'clock in the forenoon on Tuesday, the 27th day of October, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia.

1 CATHERINE A. SOLTESZ, being called and duly sworn, testified as
2 follows:

3 BY MR. ORSBORN:

4 Q. Mrs. Soltesz, what is your full name, please?

5 A. Catherine Ann Soltesz.

6 Q. And would you spell your last name, please?

7 A. S-o-l-t-e-s-z.

8 Q. And you date of birth?

9 A. February 24th, '55.

10 Q. And where do you live presently?

11 A. Out in Howie Centre.

12 Q. I'm sorry?

13 A. In Howie Centre.

14 Q. Howie Centre?

15 A. Yes.

16 Q. Where's that?

17 A. Floral Heights.

18 Q. I'm sorry?

19 A. Egerton Street.

20 Q. That's in Sydney?

21 A. Number One. Yes.

22 Q. That's in Sydney? Will you try and speak a little more into the
23 microphone?

24 A. Okay.

25 Q. You live in Sydney?

1 A. Yes, I do. Out in Howie Centre.

2 Q. And have you lived in Sydney all your life?

3 A. No, I was in Calgary for ten years.

4 Q. When was that?

5 A. '76 on.

6 Q. I don't think I asked you this. Your maiden name was O'Reilley,
7 is it?

8 A. Yes.

9 Q. Right. And you are a sister to Mary Csernyik --

10 A. Mary Csernyik.

11 Q. -- who testified yesterday?

12 A. Yes.

13 Q. And also to Margaret O'Reilley?

14 A. Yes.

15 Q. Now Margaret House --

16 A. House.

17 Q. -- I believe, is it?

18 A. Yes.

19 Q. And did you live in Sydney in 1971?

20 A. Yes, I did.

21 Q. With your sisters on Cross Street?

22 A. Yes.

23 Q. What school did you go to?

24 A. Sheriff Junior High.

25 Q. Sheriff Junior High? In the spring of 1971, you would've been

- 1 | sixteen, let me guess, were you?
- 2 | A. Yes.
- 3 | Q. And what grade were you in?
- 4 | A. Eight.
- 5 | Q. Sheriff is the same school that your sister Mary went to?
- 6 | A. No.
- 7 | Q. She went to Central, I guess, though?
- 8 | A. She went to Central.
- 9 | Q. The -- Sheriff school that you went to, do you recall if there
- 10 | was a racial mix of students --
- 11 | A. Yes, it was.
- 12 | Q. -- at that school? What was that mix? Did you have Blacks,
- 13 | Indians, and Whites?
- 14 | A. Yes.
- 15 | Q. Both boys and girls?
- 16 | A. Yes.
- 17 | Q. Is that a denominational school?
- 18 | A. No.
- 19 | Q. General public school?
- 20 | A. General public.
- 21 | Q. I discussed with your sister yesterday, some aspects of life
- 22 | as a teenager in Sydney around 1971. I'd like to do the same
- 23 | with you for a few minutes. Outside your school activities,
- 24 | what sorts of activities would you engage in as a teenager in
- 25 | say 1971?

- 1 A. A lot of dances, the park.
- 2 Q. Yes.
- 3 A. We hung around in groups, the shows.
- 4 Q. The park that you're referring to is Wentworth Park?
- 5 A. Yes.
- 6 Q. And the groups that you're speaking of, can you be a little
7 more specific about the composition of those groups?
- 8 A. Well, we hung around with a group of Indians.
- 9 Q. You say, "we." Do you mean --
- 10 A. My sisters, I, Barbara. The people that you met yesterday.
- 11 Q. Okay. Do you recall the Indians who you hung around with?
- 12 A. Yes. Junior Marshall, Artie Paul, Cameron Paul.
- 13 Q. Can you speak up just a little --
- 14 A. Cameron Paul.
- 15 Q. How did you get to --
- 16 A. Pius Marshall.
- 17 Q. Pius Marshall? How did you get to meet the Indians? Did they
18 go to your school?
- 19 A. No, I don't believe they did. Possibly through another friend.
- 20 Q. Sorry?
- 21 A. Possibly through another friend. I believe, Patsy O'Day.
- 22 Q. Another friend.
- 23 A. Yes.
- 24 Q. Patsy O'Day. Any Indian girls in your group?
- 25 A. No.

- 1 Q. Over how long a period of time would you have been a part of
2 this group?
- 3 A. I'd say about a year.
- 4 Q. About a year?
- 5 A. Yes, with that -- with the group. But after all -- with the
6 incident that happened, everybody kind of broke up.
- 7 Q. Okay. So you -- What you're telling me is that you had been
8 with this group for about a year prior to the time of the
9 incident?
- 10 A. I think so. I'm not quite sure.
- 11 Q. Not sure. Okay. And following the incident, the group broke
12 up?
- 13 A. Yes.
- 14 Q. Why would the group break up after the incident? Were there
15 tensions created within the group because of the incident?
16 Bad friends made because of it?
- 17 A. It just wasn't the same. I can't give any particular reason
18 but maybe just even the thoughts of something like that
19 happening in that area scared the girls, and we just kept away
20 from that area.
- 21 Q. You kept away from the park?
- 22 A. Yes.
- 23 Q. After the incident? Was there any suggestions made to you
24 that you shouldn't belong to this group anymore by teachers,
25 parents, other friends?

- 1 A. I don't recall.
- 2 Q. Any Blacks as part of your group? Either boys or girls?
- 3 A. No.
- 4 Q. The dances that you spoke of, would Blacks attend the dances?
- 5 A. Yes.
- 6 Q. Was there any White boys as part of the group?
- 7 A. Off and on, yes.
- 8 Q. With this group, would you go to shows with them?
- 9 A. A lot of the midnight shows.
- 10 Q. I'm sorry?
- 11 A. Midnight shows.
- 12 Q. Okay. And you'd hang around the park with them?
- 13 A. Yes.
- 14 Q. Okay. Would you spend any time on the reserve with them?
- 15 A. No.
- 16 Q. Visit their homes at all?
- 17 A. No.
- 18 Q. Would they visit your homes?
- 19 A. No.
- 20 Q. Would they have been allowed to visit your home?
- 21 A. No.
- 22 Q. Would you have been allowed to visit their home?
- 23 A. I'm not sure.
- 24 Q. The fact that you hung around with a group of Indian boys, did
25 this provoke any reaction from other boys and girls at school,

- 1 | say from White girls or White boys?
- 2 | A. No.
- 3 | Q. What about from Blacks? Anybody like that?
- 4 | A. No. There was no problem in that respect at all.
- 5 | Q. Okay. Any reaction from your teachers?
- 6 | A. No.
- 7 | Q. Did they know about it?
- 8 | A. They did later.
- 9 | Q. Later meaning what?
- 10 | A. Well, when I was brought in for questioning, I was picked up
- 11 | by the police at --
- 12 | Q. Yes.
- 13 | A. -- my school.
- 14 | Q. But I'm thinking prior to this, in the year before the incident.
- 15 | A. I don't believe so. They wouldn't know --
- 16 | Q. But the parents?
- 17 | A. They knew. They didn't want to know.
- 18 | Q. They didn't want to know? Why was that?
- 19 | A. It was a no-no.
- 20 | Q. Do you know if ever --
- 21 | A. In the public's eyes.
- 22 | Q. In the public's eyes?
- 23 | A. At that particular time, yes.
- 24 | Q. Okay. How did you get that impression?
- 25 | A. Probably through my parents and parents of the other -- some of

1 | the other girls.

2 | Q. Okay. Are you saying then that there was a feeling among the
3 | girls in the group that their membership in this group or their
4 | being part of this group was generally something that the
5 | other parents didn't approve of?

6 | A. Yes.

7 | Q. Why was that?

8 | A. I believe there was a lot of prejudice at that time. That's
9 | my personal opinion.

10 | Q. Other than your parents nonapproval, was there any other
11 | evidence or suggestion of this prejudice?

12 | A. The police made it very clear that that was bad company.

13 | Q. Okay. Could you tell us how you arrived at that conclusion,
14 | please?

15 | A. We were at a midnight show in Sydney on Charlotte Street. We
16 | were out walking around and a police car stopped, took our
17 | names, addresses, telephone number, and that was it. We were
18 | left alone after that not realizing that they had made a visit
19 | to my house asking if they knew who we were with, that we were
20 | in very bad company, and this was in the middle of the morning
21 | so it was quite a shocker to my parents, thinking there may
22 | be a bad accident or something.

23 | Q. Okay. Do you know roughly when this occurred in relation to
24 | the incident?

25 | A. I believe it was that summer. The summer of '71.

1 Q. Following the incident?

2 A. No, before.

3 Q. Do you recall who you were with? The members of the group?

4 A. Yes, I do. I was there with Artie Paul, my sister, with Pius
5 Marshall.

6 Q. Your sister Margaret or --

7 A. Mary.

8 Q. Sister, Mary.

9 A. There was Theresa MacNeil and Junior Marshall. I believe that
10 was it.

11 Q. Okay. And you say it was the middle of the morning. Do you
12 mean the middle of the early morning?

13 A. Yes.

14 Q. Around what time?

15 A. I'd say between one and two.

16 Q. Had you been out walking around on Charlotte Street that hour
17 of the morning before?

18 A. No.

19 Q. Do you recall who the policemen were?

20 A. No, I don't .

21 Q. Did they come up in a car, though?

22 A. Pardon me?

23 Q. They came by in a car or were they on the beat?

24 A. They were in a car.

25 Q. And they stopped?

- 1 | A. Yes.
- 2 | Q. Do you recall, other than taking your names and addresses, any-
- 3 | thing that they said to you?
- 4 | A. That was all they wanted to know. They --
- 5 | Q. Did they make any suggestion to you at that time that you were
- 6 | in bad company?
- 7 | A. No.
- 8 | Q. Did they take the names of the boys that you were with?
- 9 | A. Yes. Well, they knew who they were.
- 10 | Q. I see.
- 11 | A. I -- That was my impression. I believe they took the names
- 12 | down.
- 13 | Q. And you then went home?
- 14 | A. After the show probably.
- 15 | Q. You walked home?
- 16 | A. Yes.
- 17 | Q. And do you recall what time you got home?
- 18 | A. No, it was -- They usually showed three shows. Two hours. I'd
- 19 | say six.
- 20 | Q. Did your parents believe that you had gone to this midnight
- 21 | show?
- 22 | A. Yes.
- 23 | Q. And were either one of your parents up when you got home?
- 24 | A. Yes.
- 25 | Q. What happened?

- 1 A. They were pretty upset. My father was pretty upset that in fact
2 the police had come to the house. We didn't know what had
3 happened. We didn't understand why they had come and he was
4 just really upset.
- 5 Q. They didn't understand why the police had come?
- 6 A. Yes.
- 7 Q. Do you know what the police told your father?
- 8 A. I just -- As far as I was told is that they'd asked if
9 Catherine and -- the three sisters lived there, making sure
10 they had the right place, and expressed to him that we were
11 in very bad company, and that's all I know.
- 12 Q. Your parents were already aware, though, that you were a part
13 of this group?
- 14 A. Yes.
- 15 Q. So the fact that you were with this company wouldn't be any
16 surprise to your parents?
- 17 A. No. You always said you weren't but you were.
- 18 Q. I'm sorry?
- 19 A. I said you always said you weren't but you were.
- 20 Q. You told them that you weren't?
- 21 A. Yes.
- 22 Q. Did they believe you?
- 23 A. Probably not.
- 24 Q. And this --
- 25 A. It wasn't like a -- Everyone says, "group, group, group," but --

1 Q. Yes.

2 A. -- it was more or less just friends together. That's all.

3 Just -- Categorizing it as group because it was Indians.

4 Q. Do you know if the --

5 A. You know, if it was all Whites meeting down there and getting
6 together -- Group sounds bad.

7 Q. Do you know whether or not the police had mentioned to your parents
8 that you were with Indians or simply that you were in bad
9 company?

10 A. I couldn't say for sure.

11 Q. But you were able to determine --

12 A. But he knew.

13 Q. I'm sorry?

14 A. He knew that that was the reason that they were there, because
15 we were with Indians.

16 Q. Your father knew?

17 A. Yes, he knew.

18 Q. The police were there because you were with Indians?

19 A. Why else would they go down? If we had have been walking with
20 anybody else, they wouldn't made it a point to go to the house
21 that time in the morning.

22 Q. How do you know that?

23 A. Well, it was a midnight show. All the people -- They didn't
24 stay in for the whole show. They might come out during an
25 intermission, walk around. It was in the summer -- holidays.

- 1 Q. Did you discuss this with your friends, the fact that the
2 police had gone to your house? Your school friends?
- 3 A. I don't remember.
- 4 Q. Did you ever hear of any similar incident among your friends,
5 the police going to their house?
- 6 A. No.
- 7 Q. And are you aware of friends of your being out at say two o'clock
8 in the morning walking down Charlotte Street?
- 9 A. Yes.
- 10 Q. You mentioned that your parents were not happy about your
11 associating with Indians. Did they ever raise with you the
12 possibility of associating with Blacks or not associating with
13 Blacks?
- 14 A. No.
- 15 Q. You said earlier that you felt that there was some prejudice
16 in the public against the Indians?
- 17 A. Yes.
- 18 Q. Was there any prejudice against Blacks, to your knowledge?
- 19 A. No, I don't know.
- 20 Q. You don't know?
- 21 A. No. No. Step back a minute. I went to school with a lot of
22 colored girls. They came to my place for lunch lots of times.
23 There was -- didn't seem to be -- I guess as long as they were
24 girls.
- 25 Q. Did you have any Indian girls come to your place for lunch?

- 1 A. No, I didn't know that many Indian girls.
- 2 Q. Can you suggest reason why Blacks might be more accepted than
3 Indians?
- 4 A. No.
- 5 Q. You mentioned that you were -- you spent some time hanging
6 around in Wentworth Park. We've heard evidence earlier about
7 people bumming money in the park. Do you have any knowledge
8 of people getting a dime or a quarter or otherwise in the park?
- 9 A. Just more or less between ourselves. You know, helping each
10 other out, and somebody would pass by. We might say, you
11 know, "You got a quarter?"
- 12 Q. Did you ever do it yourself?
- 13 A. I don't remember, no. The boys would do that.
- 14 Q. The boys would do it?
- 15 A. Yes.
- 16 Q. Were you ever in their company when it was done?
- 17 A. Probably so. I can't recall any certain incident.
- 18 Q. Would it be done by both White boys, Indian boys, and Black
19 boys?
- 20 A. Yes.
- 21 Q. Do you ever recall any force or pressure being applied to extract
22 a dime or a quarter?
- 23 A. No.
- 24 Q. Do you have any knowledge of any fights or disturbances in the
25 park area?

1 A. Not that I remember.

2 Q. You've heard testimony about the police making patrols in
3 the park area and sending the teenagers scattering when the
4 police arrived. Do you have any recollection of being in the
5 park at any time when the police would patrol?

6 A. On occasion, yes.

7 Q. What would they be looking for?

8 A. Probably liquor, but I don't remember an occasion where any was
9 found. We would just kind of move along.

10 Q. Were you ever questioned by the police, yourself?

11 A. Just on the -- Just on my statement.

12 Q. Just on -- Yes, but --

13 A. Yes.

14 Q. In the park, --

15 A. No one at all.

16 Q. -- you weren't questioned by police on patrol?

17 A. No.

18 Q. Were you ever with anybody that was questioned about liquor
19 during one of these patrols?

20 A. Not that I remember.

21 Q. There's some suggestion from your sister yesterday that the
22 Indians felt that they more or less owned the park. I don't
23 know if you heard her testimony or not. Do you have any
24 knowledge of the Indians claiming or protecting the park area
25 as their own?

1 A. I wouldn't go as far as to say that, no.

2 Q. Was there any --

3 A. It just happened to be the place that we went. There -- You know.
4 Like any other teenager, where do you go? You go to the
5 dances, you go here. You walk Charlotte Street. You -- You
6 know, you have to have a place to go. You have to be somewhere.
7 Just on the weekends.

8 Q. Do you recall among the teenage community that -- and -- in
9 the activities in the park, any kind of division along racial
10 lines?

11 A. Never.

12 Q. What about at the dances?

13 A. Never.

14 Q. The impression I'm getting, and correct me if I'm wrong, please,
15 Mrs. Soltesz, that within the teenagers, there was little if
16 any distinction or division along racial lines, but once you
17 got to the parents, there was a distinction that started to
18 emerge particularly between Whites and Indians but not so or
19 less so with Blacks. Is that an accurate statement of what
20 you've been telling us?

21 A. Yes.

22 Q. Did you know Sandy Seale?

23 A. No.

24 Q. You knew Junior Marshall?

25 A. Yes.

- 1 Q. Had you known him for any time other than this year that you
2 were part of this group?
- 3 A. I don't believe so.
- 4 Q. Was he a part of that group for the whole year?
- 5 A. Yes.
- 6 Q. Did you ever date him?
- 7 A. No.
- 8 Q. What about his brother, Pius? Do you know Pius?
- 9 A. Yes, I knew him.
- 10 Q. Did you ever date him?
- 11 A. No.
- 12 Q. Would Junior be a regular member of this group --
- 13 A. Yes.
- 14 Q. -- that you were a part of? What did you think of him?
- 15 A. Junior is very quiet and shy, gentle, big.
- 16 Q. Did you ever see him in any fights?
- 17 A. With his brother on occasion.
- 18 Q. I'm sorry?
- 19 A. With his brother on occasion.
- 20 Q. He fought with his brother?
- 21 A. Yeh.
- 22 Q. Okay. Did you see him in fights with anybody else other than
23 his brother?
- 24 A. No. He wasn't --
- 25 Q. Did you ever --

- 1 | A. Well, he was quiet. He more or less kept to himself, but he'd
2 | be there if anything would -- If a fight would break out, I'm
3 | sure he wouldn't step behind. He'd be there.
- 4 | Q. Did you ever see him get involved in a fight that had broken out?
- 5 | A. Possibility. I can't recall anything.
- 6 | Q. Did he strike you as being any more likely to fight than any
7 | of your other friends?
- 8 | A. He seemed always to be the protector. If some little fellow
9 | was going through and being picked on, he'd be the one to stand
10 | up and take the blows. Like, "Don't bother him. Leave him
11 | alone." I can't think of anything in particular right at the
12 | moment, but that comes back to me now.
- 13 | Q. Do you have any recollection, though, of his going to the assistance
14 | of some smaller person?
- 15 | A. I can't remember.
- 16 | Q. Did you ever see him with any weapons of any kind?
- 17 | A. No, I've seen him with a pocket knife.
- 18 | Q. On what occasions?
- 19 | A. Maybe one or two.
- 20 | Q. When you saw him with it, what was he doing with it?
- 21 | A. Sticking it in trees.
- 22 | Q. Sticking it in trees?
- 23 | A. In the ground. Just --
- 24 | Q. I see. Do you know if this was something that he usually
25 | carried?

1 A. No, not usually.

2 Q. It wasn't usual for him to carry it?

3 A. No.

4 Q. What about the other boys in your group? Would they carry
5 any weapons on occasion?

6 A. I don't believe so, no.

7 Q. Any kind of a pocket knife at all?

8 A. No. Some of the White boys did.

9 Q. Some of the White boys did carry knives?

10 A. Yeh.

11 Q. Pocket knives?

12 A. Yes.

13 Q. And on what kind of occasions would you see White boys with
14 knives?

15 A. I can't remember.

16 Q. Is it that -- I understood you say the White boys weren't nor-
17 mally part of your group that you hung around with?

18 A. Yeh. Yeh, sometimes. Yeh.

19 Q. And when you on occasion saw them with knives, was this when
20 they were part of your group?

21 A. No. I believe that was something separate.

22 Q. Did you ever see a knife used in a fight?

23 A. Never.

24 Q. Other than the meeting with the police on Charlotte Street, did
25 you ever have any occasion to have contact with the police

1 while you were in company with Junior Marshall?

2 A. No.

3 Q. I'd like to go now specifically to May of 1971, and at this time,
4 were you part of the group that Junior was in?

5 A. Yes.

6 Q. Do you have any recollection now of the night of May 28th, '71?

7 A. Yes.

8 Q. What recollection to you have?

9 A. That evening we had met on Intercolonial Street.

10 Q. You say, "we." Who's we?

11 A. Myself and Artie, Junior, I believe Moose Tobin.

12 Q. Yes.

13 A. And possibility Frankie French. We were all together that
14 evening, and we were sitting in a car in a backyard, and I
15 remember Junior left for the dance on his own that evening.

16 Q. You didn't go to the dance yourself, did you?

17 A. No, but I was wearing the jacket. I was cold. I was wearing
18 that yellow jacket that he had worn that night and when he
19 was leaving, I hollered to him to take it. It looked new
20 and --

21 MR CHAIRMAN:

22 Excuse me. We're having great difficulty.

23 MR. ORSBORN:

24 Sorry.

25

1 MR CHAIRMAN:

2 We've missed -- I've missed the last two or three minutes of this
3 testimony.

4 MR. ORSBORN:

5 Sorry.

6 MR. CHAIRMAN:

7 Check the -- this lady's microphone and see -- It should be more
8 strategically located.

9 BY MR. ORSBORN:

10 Q. Perhaps you wouldn't mind just reviewing that for us,
11 Mrs. Soltesz, your recollection of the night of May 28th.
12 Go ahead.

13 A. Okay.

14 Q. Perhaps if you'll just go back to where -- that night.

15 A. Okay. That evening we met on Intercolonial Street. There
16 was Junior --

17 Q. Intercolonial Street?

18 A. Yes. Intercolonial Street. Junior Marshall, Artie Paul, myself,
19 my sister, Mary. I believe Moose Tobin was there and possibility
20 Frankie French.

21 Q. Yes.

22 A. I don't think I'm missing anybody. We were sitting in a car --
23 in an abandoned car in the backyard and as it was getting on
24 dance time, I don't know if Junior was meeting a girl there. I
25 can't remember for sure, but he had left. I borrowed his jacket

1 because I was cold, and as he was leaving, I hollered him to
2 come back. He took the jacket and left on his own.

3 Q. Yes. Do you know what time that was?

4 A. I couldn't say for sure, but I'd say somewhere between 9:30,
5 10:30.

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GMR

- 1 Q. What time did the dances start?
- 2 A. Nine o'clock.
- 3 Q. Nine o'clock, and what time would they usually finish?
- 4 A. Twelve.
- 5 Q. Would you usually attend the dances yourself?
- 6 A. Usually, yes.
- 7 Q. Any reason why you didn't go this night?
- 8 A. I don't remember. I drew a blank. I don't remember.
- 9 Q. But you did not go --
- 10 A. No.
- 11 Q. You didn't go to the dance?
- 12 A. No, I was not at the dance, no.
- 13 Q. How far was Intercolonial Street where you were from St. Joseph's
- 14 where the dance was?
- 15 A. About six or seven good blocks, long blocks.
- 16 Q. Had Junior been drinking, do you recall?
- 17 A. I believe there was a bottle of rum. I can't remember what
- 18 size or -- I'd say a pint of rum passed around. That's all
- 19 I remember.
- 20 Q. Was he drunk?
- 21 A. No.
- 22 Q. What did you do after he left?
- 23 A. I don't remember.
- 24 Q. Were you drinking yourself?
- 25 A. Probably so.

1 Q. Were you drunk?

2 A. No.

3 Q. Do you know how you got home and if you got home?

4 A. We always walked.

5 Q. How far were you from your house?

6 A. About the same distance in the opposite direction.

7 Q. Did you have any knowledge that night of any incident or
8 problem in the park?

9 A. Not until I got home.

10 Q. When you got home that night?

11 A. Yes.

12 Q. Do you know what time it was when you got home?

13 A. No, I couldn't say for sure.

14 Q. What did you learn when you got home?

15 A. That somebody had been stabbed in the park and I know that I
16 was at home at that point because it was my mother that told
17 us that news and that she had heard it on the radio. My other
18 sister was at home.

19 Q. Your other sister?

20 A. Margie.

21 Q. All right.

22 A. And I believe she was sick that evening and Ma knew that we
23 were at home because if we hadn't been she would have been
24 worried with something like this going on where we were so I
25 was at home when it was reported on the radio.

1 Q. Did you know who had been involved in the stabbing?

2 A. I don't believe so.

3 Q. After Junior Marshall left you that night to go to the dance
4 did you have any further contact with him?

5 A. Yes, I believe he phoned the following morning and asked for
6 me. My sister answered it and I took the call.

7 Q. Was he in the habit of calling the house for you?

8 A. No.

9 Q. Were you surprised to hear from him?

10 A. No, I was -- Yes and no.

11 Q. What did he -- What did he call you for?

12 A. He told me what had happened, exactly what had happened at the
13 park that night.

14 Q. And do you -- Do you have any recollection now of that
15 conversation?

16 A. Yes, I do. It was --

17 Q. Would you tell us --

18 A. --exactly as he said all along.

19 Q. Okay. Can you tell us what he told you then please.

20 A. He told me about two men, one older, grey hair, wearing black
21 like -- or a dark coat like a priest. It looked like a priest.
22 Something about asking for a cigarette or a match and that he
23 was -- he was injured himself. Just exactly what he --

24 Q. Did he tell you how the stabbing actually occurred?

25 A. I don't remember.

- 1 Q. Can you offer any suggestion as to why he might have called you
2 to tell you that?
- 3 A. Just out of friendship I guess. I don't -- Maybe he couldn't
4 think of anyone else to phone or --
- 5 Q. Do you know if he had called anybody else?
- 6 A. I don't know.
- 7 Q. Do you know where he was calling from?
- 8 A. No, I don't.
- 9 Q. Was this early in the morning?
- 10 A. I don't remember.
- 11 Q. Did he sound scared to you?
- 12 A. I just took it for -- I believe what he said and I took it
13 for what he had said and I never dreamed that it would go any
14 further than -- than that.
- 15 Q. Did he indicate to you that the police thought he had done it?
- 16 A. No.
- 17 Q. Did he make any mention of Maynard Chant?
- 18 A. No.
- 19 Q. Any mention of John Pratico?
- 20 A. No.
- 21 Q. Did he make any mention of Sandy Seale other than the fact that
22 he had been stabbed? Did he talk about anything that Sandy
23 might have done that evening?
- 24 A. No.
- 25 Q. In the time that you had been hanging around with Junior had he

- 1 | ever mentioned Sandy's name?
- 2 | A. No.
- 3 | Q. Had you ever seen them together?
- 4 | A. No.
- 5 | Q. Were they two people that you would expect to find together in
- 6 | the park?
- 7 | A. I never knew -- I never knew Sandy Seale but the park was open
- 8 | to anybody so anybody walking through -- everybody chummed
- 9 | together.
- 10 | Q. But would it surprise you that Junior had been walking through
- 11 | the park with Sandy at night?
- 12 | A. No.
- 13 | Q. Did he mention anything about Sandy Seale's girlfriend?
- 14 | A. No.
- 15 | Q. Did he mention anything about Sandy running over to Pollett's
- 16 | Drug Store?
- 17 | A. No.
- 18 | Q. Any discussion at all of Junior and Sandy getting into a fight?
- 19 | A. No.
- 20 | Q. Any mention of an attempt to bum money?
- 21 | A. Just a match or a cigarette. That's all I remember.
- 22 | Q. Did he --
- 23 | MR. CHAIRMAN:
- 24 | I'm not clear on that. Who was -- Who was looking for the match
- 25 | or the cigarette?

1 THE WITNESS:

2 I guess it would have been Junior.

3 MR. SPICER:

4 There is some clarification of that.

5 MR. CHAIRMAN:

6 Yes.

7 MR. SPICER:

8 There is some degree of clarification of that in the statement that
9 she gave to the police which we'll touch on shortly.

10 BY MR. SPICER:

11 Q. Did Junior give you any instruction or a request as to what
12 he wanted you to do with this information that he was giving
13 you?

14 A. No.

15 Q. Any suggestion to you that this is what happened-- I want your
16 friends to know that this is what happened?

17 A. No.

18 Q. Did you believe him?

19 A. Yes.

20 Q. Do you recall how long you were talking to him?

21 A. Probably about twenty minutes.

22 Q. Did you have any other further conversations with him?

23 A. No.

24 Q. Did you discuss the phone call with your sisters?

25 A. I don't remember.

- 1 Q. Were you close enough to your sisters that it would have been
2 the type of thing that you would have discussed?
- 3 A. At that point, no. I might have talked to Margie. Mary was
4 going another way at that point in time so she probably wouldn't
5 want to hear anything about it.
- 6 Q. I'm not sure that I follow you.
- 7 A. Well, she had a new boyfriend and she --
- 8 Q. She was no longer part of your group?
- 9 A. She was no longer a part. She just felt like she wasn't sure of--
- 10 Q. Do you recall hearing that Junior had been arrested and
11 charged with the murder?
- 12 A. It seemed to be a long time after the incident?
- 13 Q. Yes. Were you surprised when he was arrested?
- 14 A. Yes.
- 15 Q. Did you still believe that he -- the story that he had told you?
- 16 A. Yes.
- 17 Q. Did you in any way get a sense of wanting to help him?
- 18 A. Yes.
- 19 Q. How did you think you could help him?
- 20 A. At that age it seems impossible. It just didn't seem like it
21 was going to -- It seemed like it was going to go to Court and
22 everything was going to come out and none of this would happen,
23 the truth would have come out, so it was -- it was a shock.
- 24 Q. Is it possible out of your desire to help him that you would
25 have discussed with your friends at school the story that Junior

- 1 | gave you?
- 2 | A. No.
- 3 | Q. It's not possible?
- 4 | A. I don't believe it's possible, no.
- 5 | Q. Was it a topic of conversation at your school?
- 6 | A. Not really. It was in the papers a lot and the story -- the
- 7 | story was in the paper a lot and people just kind of turned
- 8 | a blind eye. They didn't want to hear about it.
- 9 | Q. Why was that?
- 10 | A. I have no idea.
- 11 | Q. Did you discuss it with your parents?
- 12 | A. No.
- 13 | Q. Did you maintain contact with the Indian boys in your group after
- 14 | the incident?
- 15 | A. Yes.
- 16 | Q. For how long?
- 17 | A. For two years.
- 18 | Q. Two years after. You mentioned to us earlier that after the
- 19 | incident the group seemed to split up and everybody went their
- 20 | separate ways?
- 21 | A. Yes.
- 22 | Q. But you're telling us that you, in fact, kept some contact with
- 23 | them for a couple --
- 24 | A. I kept seeing -- I kept seeing an Indian after the incident.
- 25 | Q. You kept seeing an Indian?

1 A. Yeh.

2 Q. Were you still part of this -- of the group?

3 A. No.

4 Q. I understand. Did you discuss Junior's conversation with any
5 of the Indian boys that had been a part of your group?

6 A. Probably so but I don't remember.

7 Q. Were you contacted by the Sydney Police in respect to the
8 incident?

9 A. Yes.

10 Q. Do you recall the circumstances of that?

11 A. Yes, I do. I was in school and I got called to the office and
12 they took me in the police car.

13 Q. Do you know when -- when that was in relation to the incident?

14 A. No. I -- In my own mind I thought it was before Junior had
15 been taken in for questioning or any of that.

16 Q. It was during a school day?

17 A. Yes, it was.

18 Q. And you recall being taken in a police car to the police
19 station?

20 A. Yes, I went to the principal's office first and he said that
21 the police were here and I went with them down to the police
22 station.

23 Q. Were you alone or was your sister --

24 A. I was alone.

25 Q. Was your mother there?

- 1 | A. I was alone.
- 2 | Q. Do you know who picked you up at the school, what policeman?
- 3 | A. No, I don't.
- 4 | Q. Do you know how many there were?
- 5 | A. I believe there was two but I couldn't say for sure.
- 6 | Q. Do you recall if they were in uniform?
- 7 | A. I don't remember.
- 8 | Q. Do you recall if they said why they wanted to see you?
- 9 | A. They didn't say.
- 10 | Q. Did the principal make any comments to you about the police
11 | wanting to talk to you?
- 12 | A. He seemed kind of -- I don't know what the word would be. Well,
13 | it's just trouble. When you see the police it means trouble,
14 | so I think he was a bit disturbed by that, that somebody in
15 | his school was being taken by the police.
- 16 | Q. How did you feel?
- 17 | A. I don't know really how I felt, kind of stupid I guess. I
18 | felt kind of stupid being taken by the police from school. I'm
19 | sure there could have been a better way to do it.
- 20 | Q. And do you recall what happened after they picked you up?
- 21 | A. They took me in for questioning. I didn't know why at the
22 | time. I figured that it had something to do with just because
23 | we knew Junior.
- 24 | Q. The policemen that picked you up, were they the same policemen
25 | that questioned you?

- 1 A. I don't -- No, I don't believe so.
- 2 Q. Do you recall who questioned you?
- 3 A. Who questioned me?
- 4 Q. Yes.
- 5 A. Sergeant MacIntyre.
- 6 Q. Did you know Sergeant MacIntyre at the time?
- 7 A. Just on sight.
- 8 Q. Was there anybody else present when you were questioned by
- 9 Sergeant MacIntyre?
- 10 A. I believe there was another officer.
- 11 Q. Do you know who that was?
- 12 A. No, but I think if I saw him again I'd remember.
- 13 Q. Can you give us a description of him now?
- 14 A. Tall, thin, just like you.
- 15 Q. Did he wear a uniform?
- 16 A. Yes.
- 17 Q. Did Sergeant MacIntyre wear a uniform?
- 18 A. I believe so, yes.
- 19 Q. This tall, thin officer that was in uniform, was it the same
- 20 officer that stopped you on Charlotte Street?
- 21 A. I don't -- I couldn't say for sure, no.
- 22 Q. Were you alone in the room with the two police officers?
- 23 A. When I went in the room first Mary was there, my sister Mary.
- 24 Q. Yes.
- 25 A. And I went to ask her, "What are you here for?", or something to

1 that effect and Sergeant MacIntyre slammed something down on
2 the desk and Mary jumped up anyway. It didn't scare me but
3 it upset her very bad. Like we felt like we were criminals.

4 Q. Why did Sergeant MacIntyre slam something down on the desk?

5 A. Because he said, "You'll have your time to speak", and that was
6 it.

7 Q. What did he slam on the desk?

8 A. I believe it was a binder.

9 Q. Did he slam it down hard or just lay it down?

10 A. He slammed it down.

11 Q. Was he speaking to you? He said, "You'll have your time to
12 speak", was this directed to you?

13 A. Yes.

14 Q. Was your mother at the police station?

15 A. I don't remember her being there.

16 Q. Did you ask if she could come down?

17 A. No.

18 Q. When Sergeant MacIntyre said to you, "You'll have your time
19 to speak", what did you do?

20 A. Shut up.

21 Q. Did you stay in the room?

22 A. I don't remember.

23 Q. When Sergeant MacIntyre spoke to you was he sitting or was
24 he standing?

25 A. During our conversation or --

1 Q. No, when you first went -- first when you went into the
2 room.

3 A. --at that time? He was standing.

4 Q. He was standing?

5 A. Standing.

6 Q. Do you recall if the other officer was sitting or standing?

7 A. I believe he was sitting. He wasn't saying too much whoever he
8 was.

9 Q. And you don't recall if he stayed in the room at that point
10 or not?

11 A. I know that Mary had -- He wasn't finished with her yet.
12 So I don't remember. I believe I stayed in the room and they
13 were just about finished and then she left and I stayed alone.

14 Q. While you were there with Mary do you have any recollection of
15 the discussion between the police officers and Mary?

16 A. No.

17 Q. And after she finished -- Well, do you recall a statement
18 being read over to Mary?

19 A. No.

20 Q. Do you recall her being given a statement and asked to read it?

21 A. No.

22 Q. Your recollection is that she, after a short time, left and
23 you were there by yourself?

24 A. Yes.

25 Q. And what happened after that?

1 A. He questioned me.

2 Q. Who was questioning you?

3 A. Mr. MacIntyre.

4 Q. Do you recall if he was standing or sitting?

5 A. Sitting I believe.

6 Q. And the other officer, was he sitting or standing?

7 A. Sitting, sitting.

8 Q. Was the other officer participating at all?

9 A. Not really. Not to any extent.

10 Q. I'll show you a statement, Mrs. Soltesz, and ask you if you can
11 identify the signature that appears on these two sheets of
12 paper? There is a signature at the bottom of each page. Is that
13 your signature?

14 A. Yes.

15 Q. Your signature on each page?

16 A. Yes.

17 MR. ORSBORN:

18 My Lord, this is the original of a statement which Mrs. Soltesz
19 identifies her signature on the bottom of each page. The handwritten
20 version is reproduced in Volume 16 at page 80.

21 MR. CHAIRMAN:

22 Page 80.

23 MR. ORSBORN:

24 On eighty, and the typed version is immediately prior to that. There
25 is also another copy of the typed version of Volume 13, page 176.

1 I ask that this statement be asked as an Exhibit, two pages.

2 MR. CHAIRMAN:

3 Exhibit 62.

4 MR. ORSBORN:

5 Sixty-two. Thank you.

6 BY MR. ORSBORN:

7 Q. Mrs. Soltesz, this statement talks about a number of the matters
8 that we have already discussed with you and I'd like to review
9 them briefly. You were asked if you know Donald Marshall and
10 your answer is, "Yes", and you were asked if you kept company
11 with him, and your answer was, "Several times this year".

12 When you were asked if you keep company with somebody, does
13 that mean to you -- have you gone out with that person or
14 have you been in a group where they are or --

15 A. In a group where they are I would say.

16 Q. That would mean to you in a group?

17 A. Yes.

18 Q. This would not mean to you, have you dated Junior Marshall?

19 A. No.

20 Q. You were then asked if you were talking to him since the
21 stabbing and you say, "Yes", and then you answer, "On the
22 phone almost every day until he went to gaol". You did tell
23 us this morning about the conversation the morning following
24 the stabbing but I think you indicated to us that that was
25 the only conversation that you had. Do you recall having any

1 other conversation with him on the phone?

2 A. No.

3 Q. Did the questioning proceed on that question and answer basis,
4 do you recall?

5 A. Yes.

6 Q. And you recall Sergeant MacIntyre writing down as you would
7 answer?

8 A. Yes.

9 Q. You were then asked about the conversation that you had with
10 Mr. Marshall and perhaps I'll read the answer:

11 He told me he was down at the park
12 with Sandy Seale and two guys came
13 over and asked him for a cigarette,
14 and when they said no the men
15 started to call them Blackie and
16 that.

17 He said:

18 One man was old and grey.

19 He said he got stabbed in the arm. He said he ran to get
20 help. He went to a house to use the phone. The man did not
21 want him to use it but he then -- he let him use it. that
22 indicates that the person asking for the cigarette was the
23 two guys that came over?

24 A. Yeh.

25 Q. Does this statement refresh your memory in any way about the
26 conversation with Junior?

27 A. I believe I remember the Blackie part of it because my thoughts

1 were -- they were picking on the Black person there or that
2 they just said that because they were two dark people.

3 Q. That word "Blackie", would that be a word that would be in
4 common usage in Sydney to refer to a Black?

5 A. No.

6 Q. Have you heard it used before?

7 A. No. It sounds like something way back when.

8 Q. Your sister Mary, in her statement that she gave to the -- to
9 the police, also used the same word "Blackie" and talked about
10 the two men and the cigarette. Is it possible given the
11 consistencies between your account of Junior's conversation and
12 Mary's account of that conversation, that you, in fact,
13 discussed the conversation with Mary and related it to her?

14 A. I may have told her, yes.

15 Q. You were then asked about seeing Junior with a knife and you
16 say, yes, you saw him with a knife, about a five and a half
17 inch blade. You have spoken this morning about seeing a pocket
18 knife. Do you recall if you were referring to a pocket knife
19 when you answered this question?

20 A. Yes, I was.

21 Q. The five and a half inch blade is a very specific description.
22 Do you know how it came about that you gave it?

23 A. I went like this, "That big". That's what I said.

24 Q. You simply spread your fingers apart a certain distance
25 and said, "About that big"?

- 1 A. Yes, that big.
- 2 Q. Did you use the words, "Five and a half inch blade"?
- 3 A. No, I did not.
- 4 Q. And did you intend to give an impression of the five and a half
5 inch blade?
- 6 A. No, I did not. That would be the whole knife, a pocket knife.
- 7 Q. Your intention was to refer to the whole knife being five and
8 a half inches long with the blade opened out?
- 9 A. Yes.
- 10 Q. I see. Do you recall if there was any particular aspect of
11 your relationship with Junior that the police were more
12 interested in than any other?
- 13 A. When I was questioned about a knife, the first thing I thought,
14 oh, that they're going to try to pin this on him. That was
15 my impression when I was asked that question.
- 16 Q. Yes. At this point he had already been charged with the--
17 with murder?
- 18 A. I can't remember that.
- 19 Q. I'm sorry?
- 20 A. I can't remember that. I thought that this was well before
21 that.
- 22 Q. Okay. When you got the impression then that they were trying
23 to -- to pin it on Junior, did you want through your
24 statement to help him in any way?
- 25 A. Well, the statement went no further. There was -- I was never

1 contacted again, never used again. That was taken and garbaged.

2 Q. Yes.

3 A. I thought that possibly if I was called I might be of some
4 help or even just for a character witness.

5 Q. Do you remember now signing the statement?

6 A. Yes.

7 Q. Do you remember if you read the statement over before you
8 signed it?

9 A. I believe I did, not in great detail.

10 Q. If you had read it over and had seen the part about the five
11 and a half inch blade, would you have corrected that?

12 A. Yes.

13 Q. You would have corrected it?

14 A. Yes.

15 Q. I see.

16 A. It would take a long time to read this. It's kind of messy.

17 Q. So you nevertheless have a recollection of reading it over?

18 A. Just briefly.

19

20

21

22

23

24

25

JMR

1 Q. Do you know if it was read over to you?

2 A. No, it wasn't.

3 Q. It wasn't read back to you. Are you able to give any
4 description as to the -- the attitude of the police while
5 the statement was being taken from you?

6 A. Well, we weren't -- we weren't put at ease like in regular
7 interviews you should -- my version is you're put at ease,
8 say tell the truth; but it was more or less cut and dry.
9 Answer the questions and out. There's nothing friendly
10 about it.

11 Q. I'm sorry.

12 A. There was nothing friendly about it.

13 Q. Had you ever been interviewed by the police before, given
14 a statement before?

15 A. Never.

16 Q. Would it be fair to say that you were perhaps naturally
17 apprehensive about even being there?

18 A. Yes.

19 Q. Was there any mention made during the interview with the
20 police about Patricia Harriss?

21 A. No.

22 Q. Do you recall the brief time that you were there while
23 Mary was in the room whether Patricia Harriss's name was
24 mentioned?

25 A. Never.

1 Q. Did you know Patricia Harriss at the time?

2 A. I knew her to see her. She went to school with my sister.
3 I saw her at the dances.

4 Q. Which sister did she go to school with?

5 A. Mary and Margie.

6 Q. Mary and Margie. She didn't go to the same school you did
7 at the time?

8 A. No.

9 Q. And you saw her at the dances?

10 A. Yes.

11 Q. Do you recall ever discussing with Patricia Harriss your
12 conversation with Junior?

13 A. No, never.

14 Q. Is it possible that you could have had that conversation
15 in a group where she was present?

16 A. No.

17 Q. You've heard some testimony with respect to the linkage
18 between the story that Junior was telling about the two
19 men appearing in a statement of Patricia Harriss and
20 Patricia Harriss saying later in the statement that she
21 was -- or I'm sorry, your sister Mary saying later in
22 the statement that she told that story to Patricia Harriss.
23 Are you able to give us any help at all as to whether or
24 not there was any communication between Patricia Harriss
25 and any of your sisters --

- 1 | A. Not that --
- 2 | Q. -- where that story might have surfaced?
- 3 | A. -- no.
- 4 | Q. Were you ever contacted by any of the -- the lawyers involved
- 5 | in this case, Mr. MacNeil, Mr. Rosenblum, Mr. Khattar?
- 6 | A. Never.
- 7 | Q. Did you attend the trial?
- 8 | A. No.
- 9 | Q. Did you follow it in the news?
- 10 | A. I suppose I did, yes.
- 11 | Q. Were you aware that there were people that testified that
- 12 | they had actually seen Junior stab Mr. Seale?
- 13 | A. Yes.
- 14 | Q. Did you believe them?
- 15 | A. No.
- 16 | Q. Why not?
- 17 | A. Well, for one thing I didn't know anybody by the name of
- 18 | Chant; but as for Pratico I thought it was just something
- 19 | made up.
- 20 | Q. Did you know John Pratico?
- 21 | A. To see him, yes.
- 22 | Q. And you say you thought that he made it up?
- 23 | A. Yes.
- 24 | Q. Why would you think that?
- 25 | A. He -- you'd have to know him on sight and know that he was

1 a little off. Like you couldn't believe anything that he
2 would say. He wouldn't be a reliable person to take any
3 thing like that from.

4 Q. Had you known him earlier to tell stories that were not
5 true?

6 A. I just remember him tagging along with whoever he could
7 tag along with and he was always left to tag along. Just
8 to be free, I guess, nobody bothered him.

9 Q. Do you ever remember making him -- him making stuff up?

10 A. No.

11 Q. Was it a topic of discussion within your circle of friends
12 that John Pratico should not be believed?

13 A. I don't believe I had too much contact with any of the
14 -- to speak about that at that time.

15 Q. Did you think that you could possibly do anything to -- to
16 help given the nature of the eye witness testimony?

17 A. Well, like I say, I thought if I had have got called maybe
18 as a character witness. There wasn't really much that I
19 knew of besides that. I wasn't allowed to go to the court
20 any of the hearings or anything.

21 Q. You weren't allowed to go?

22 A. No.

23 Q. Did you ask to go?

24 A. No, I didn't dare.

25 Q. Why not?

1 A. It was just a shut/close case -- just --

2 Q. Closed by whom?

3 A. Well, my parents.

4 Q. And why was that?

5 A. Well, it was trouble, I guess.

6 Q. They didn't want you involved in it?

7 A. Right.

8 Q. Were they upset because you had been hanging around with
9 -- with Junior and now he was in this trouble?

10 A. I think they were in shock as everybody else was and just
11 more or less waiting to see what was going to come about
12 with it and watching the papers and just in shock.

13 Q. Do you recall when you became aware that Junior was found
14 guilty?

15 A. I believe I saw it on television. I remember that picture
16 him taken on handcuffs.

17 Q. Did you keep any contact with him after the trial?

18 A. Yes, I wrote him back and forth.

19 Q. For how long a period?

20 A. I can't say for sure. I don't remember.

21 Q. Did he write you?

22 A. Yes.

23 Q. Were you ever contacted by the R. C. M. P. when this matter
24 was opened up again in 19 -- in the 1980's?

25 A. Never.

1 Q. Ever contacted by Mr. Aronson the lawyer for Mr. Marshall?

2 A. Never.

3 Q. Were you ever contacted by Mr. Edwards who was the Crown
4 Prosecutor involved in the matter in the 1980's?

5 A. Never.

6 MR. ORSBORN:

7 No more questions, my Lord. Thank you.

8 BY MS. DERRICK:

9 Q. Mrs. is it Soltesz?

10 A. Yes.

11 Q. Thank you. My name is Anne Derrick. I represent Junior
12 Marshall. You were telling my friend about the occasion
13 when you were stopped by the police after a late movie.
14 Did that happen on a weekend, do you recall?

15 A. It would probably be a holiday weekend. That's usually when
16 it would be.

17 Q. So I take it that would be the only time you'd be allowed
18 to stay out --

19 A. Yes.

20 Q. -- those sort of hours?

21 A. Yes.

22 Q. Had you gone to late shows before?

23 A. That was probably the first one. I couldn't say for sure but --

24 Q. And you're clear that this happened before Sandy Seale was
25 stabbed?

1 | A. Yes.

2 | Q. Because I think you earlier said something about it being
3 | during the holiday but you didn't --

4 | A. Yes.

5 | Q. -- mean to give the impression that that was the summer
6 | holidays, you meant like a holiday weekend?

7 | A. Yes.

8 | Q. Right. Did your parents ever say anything to you about
9 | not hanging around with Indians?

10 | A. They didn't like the idea.

11 | Q. So there was some discussion in your household that this
12 | was not looked upon favourably?

13 | A. Yes.

14 | Q. And there was express reference made then to the fact that
15 | you were hanging around with Indians and they didn't approve
16 | of that?

17 | A. Yes.

18 | Q. I take it, however, that you and your sisters enjoyed the
19 | company of the Indian boys?

20 | A. Yes.

21 | Q. They were nice to you and they were pleasant to be with?

22 | A. Yes.

23 | Q. Now you made reference to having seen Junior Marshall with
24 | a -- I think you called it a pocket knife?

25 | A. Yes.

1 Q. Is that correct? And your evidence with respect to other
2 children, other kids having pocket knives was that you
3 don't recollect anyone having pocket knives except some
4 of the White boys?

5 A. Yes.

6 Q. Did you ever see kids carving their initials in trees or
7 in park benches?

8 A. Yes.

9 Q. So that was in your view one of the reasons why kids carried
10 pocket knives, was it?

11 A. Yes.

12 THE CHAIRMAN:

13 You can't control -- I don't think I ever knew a boy ten or
14 twelve years of age who didn't carry a pocket knife.

15 MS. DERRICK:

16 My Lord, I carried a pocket knife when I was twelve years old.

17 THE CHAIRMAN:

18 I don't think this -- there is any great purpose is being served
19 in pursuing the pocket knife --

20 MS. DERRICK:

21 I have no -- I have no other questions on it my Lord.

22 THE CHAIRMAN:

23 -- the games that used to be played are still in play today, I
24 think. Probably not as skillfull as we used to play them.

25

1 | MS. DERRICK:

2 | Undoubtedly not.

3 | BY MS. DERRICK:

4 | Q. Mrs. Soltesz, you say that you knew John Pratico. He hung
5 | around -- hanged around with your group, is that correct?

6 | A. Yes, just as -- just on sight I don't remember him that
7 | well.

8 | Q. Did he seem like a kid that was eager to please?

9 | A. Yes.

10 | Q. Wanted to ingratiate himself with people?

11 | A. Yes.

12 | Q. I take it you never had occasion to have much conversation
13 | with him?

14 | A. No.

15 | Q. So what you knew about him was what you observed?

16 | A. Yes.

17 | Q. Now on the occasion the night of the dance in question when
18 | you were in the car, it was in Moose Tobin's yard, is that
19 | right?

20 | A. Yes.

21 | Q. Moose Tobin and Frankie French, were they White boys?

22 | A. Yes.

23 | Q. And did they hang around with your group as well?

24 | A. Yes, on occasion.

25 | Q. Now I'm a little unclear on this. On that occasion one of

1 | your sisters was in the car as well, is that right?

2 | A. I couldn't say for sure.

3 | Q. I'm just -- I'm just unclear. You had -- did you say earlier
4 | that one of your sisters was ill that night --

5 | A. Yes and --

6 | Q. -- and at home?

7 | A. -- I believe -- I thought that Margie was at home that
8 | night just because I remember her coming out to the back
9 | door in her housecoat. But maybe she had gotten in earlier.

10 | Q. In your statement which I think you have in front of you,
11 | it's on page -- well it's the first page, it's page 78 of
12 | volume 16, at the very bottom when you're asked

13 | Did you see Junior Marshall the night
14 | of May 28th?

15 | You say

16 | Yes I was sitting in a car in Tobin's
17 | yard, Intercolonial Street with Frankie French,
18 | Moose Tobin, Margie O'Reilley, my
19 | sister, Junior Marshall.

18 | A. Yes.

19 | Q. Did you mean Margie O'Reilley and you were identifying
20 | her as your sister or did you mean Margie O'Reilley and
21 | your other sister. In other words, both sisters?

22 | A. I believe just Margie, my sister.

23 | Q. So in this statement as you recollected then, it was Margie
24 | that was in the car --

25 | A. Yes.

1 Q. -- but now your recollection isn't entirely clear?

2 A. I just remember seeing her in her housecoat when I got home.
3 So she probably got in earlier than me.

4 Q. Maybe she was there and maybe she went home, is what you're
5 saying, is that right?

6 A. Yes.

7 Q. And you saw a quantity of liquor -- you don't know exactly
8 the amount being passed around in the car that night, is
9 that right?

10 A. Yes.

11 Q. Did you actually see Junior Marshall drink anything out of
12 it?

13 A. Yes, I probably did.

14 Q. Do you remember seeing him have one drink?

15 A. Yes.

16 Q. Do you remember seeing him have any more drinks than that?

17 A. It was a long time ago.

18 Q. I know that, so you recollect one drink?

19 THE CHAIRMAN:

20 I don't think she quite said that.

21 MS. DERRICK:

22 Couple. Well she does recollect the one drink.

23 BY THE WITNESS:

24 A. Yes.

25

1 MS. DERRICK:

2 But the fact is whether she recollects any other.

3 BY MS. DERRICK:

4 Q. When Junior called the next morning, I under -- I take
5 it that you knew Junior well?

6 A. Yes.

7 Q. Is that fair to say and was it an occasion when he did most
8 of the talking?

9 A. Yes.

10 Q. Did he seem agitated at the time?

11 A. Wound up, excited, talking fast.

12 Q. And was that somewhat unusual for him?

13 A. Yes.

14 Q. You knew him to be more quite and less talkative?

15 A. I don't believe I ever talked to him on the phone before
16 that.

17 Q. Is that right. Would you ever have talked for such a long
18 period of time before?

19 A. No.

20 Q. Would you have ever discussed Junior or his friends with
21 your other friends at school?

22 A. Not really. They just knew that I was dating an Indian
23 and it was just common knowledge.

24 Q. And the friends that didn't hang around with your group were
25 not friends that you would discuss the groups activities with?

1 | A. No.

2 | Q. Now when the police came to question you, was it a marked
3 | police car that came to the school?

4 | A. I believe it was.

5 | Q. And you were taken to, was it the police station --

6 | A. Yes.

7 | Q. -- did you say, by two police officers who left you there,
8 | is that correct?

9 | A. I believe so, yes.

10 | Q. So you went -- when you went into the room where your sister
11 | Mary was, you just went in on your own?

12 | A. Yes.

13 | Q. And what -- who was talking when you went in, was it Sergeant
14 | MacIntyre who was talking at that time --

15 | A. Yes.

16 | Q. -- that you recollect? Mary wasn't saying anything?

17 | A. I don't think so.

18 | Q. And in the course of the time when you were asked questions,
19 | it was Sergeant MacIntyre who asked the questions, is that --

20 | A. Yes.

21 | Q. -- correct? And would you describe the interview -- his
22 | interviewing technic as being a persistent one? He wanted
23 | your answers?

24 | A. Yes.

25 | Q. And did the interview move along quite briskly?

1 A. Yes, it did.

2 Q. Did you feel quite nervous throughout?

3 A. No.

4 Q. How did you feel?

5 A. I felt that all he wanted me to say was that he'd carried
6 a knife and I didn't want to lie and say he didn't. So I
7 just told truth and left it at that.

8 Q. So this suggestion about Junior Marshall with a knife came
9 from Sergeant MacIntyre and it seemed important --

10 A. Yes.

11 Q. -- to him?

12 A. That was really the only thing I thought of any importance
13 in it other than the time maybe he had left. Nothing else
14 seemed important.

15 Q. That's what you felt Sergeant MacIntyre was after --

16 A. Yes.

17 Q. -- is that correct? In the course of giving your statement
18 would it be fair to say that you minimized the amount of
19 contact you had had with Junior. When you say in your
20 statement in answer to the question

21 Do you keep company with him?

22 Several times this year. The last
23 time about a week before the
stabbing took place.

24 Would in fact you spent more time with Junior Marshall than
25 just several times in the proceeding six months?

1 A. It was usually just on the weekends. I seemed to have known
2 him a lot longer than that but I can't recall how long I'd
3 knew him before that.

4 Q. Your -- your recollection now of the amount of times you
5 were in Junior Marshall's company --

6 A. Yes.

7 Q. -- with other people, would it be more than several times
8 in a period of six months?

9 A. Yes, I would say so.

10 Q. And this reference to the five and a half inch blade which
11 you say that you didn't make, you were intending to describe
12 a pocket knife with it's blade extended, is that correct?

13 A. Yes.

14 Q. Is it possible that this word "Blackie" that is used in your
15 statement was not your word at all?

16 A. I believe that it was probably that older man -- man he was
17 talking about that said "Blackie".

18 Q. Do you have a recollection of Junior Marshall using that
19 word?

20 A. Yes.

21 Q. You do?

22 A. Yes.

23 Q. So that word -- you didn't associate that word when you
24 were talking with the police that day?

25 A. No.

- 1 Q. You had in fact heard that from Junior Marshall?
- 2 A. Yes.
- 3 Q. You said in your direct evidence that you -- you thought
4 that the police were trying to pin it on Junior. What was
5 it -- what was it about the interview that left you with
6 that impression?
- 7 A. Just -- just the harshness of it, I guess. It was like
8 something you saw on tv. There was -- just as I said before
9 there was --
- 10 Q. It was the tenor of the --
- 11 A. Yes.
- 12 Q. -- interview that left --
- 13 A. Yes.
- 14 Q. -- you feeling that way? You at no time asked to have
15 your mother there, is that correct?
- 16 A. That's correct.
- 17 Q. Was any mention made of getting her?
- 18 A. No, there wasn't.
- 19 Q. There was no suggestion that you could call her or that she
20 could be contacted?
- 21 A. You're correct.
- 22 Q. Had that suggestion been made would you likely have called
23 her?
- 24 A. A possibility. It would have been good to have a witness
25 to what I was saying in the room.

1 Q. Would you have been worried that your parents would have
2 been angry with you in this situation?

3 A. My mother was mellow.

4 Q. I'm sorry?

5 A. My mother was mellow.

6 Q. Oh, is that right.

7 A. With something this important you don't fool around with.
8 I mean you have to be there but at that age you should have
9 somebody in there with you.

10

11

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1 Q. So any concerns about your parents reaction wouldn't have
2 held you back?

3 A. No.

4 Q. You would have felt better if they had been there?

5 A. Yes.

6 Q. Is that fair to say? In this statement at the very end of --
7 of your statement which is on the second page, you were asked
8 as well, by Sergeant MacIntyre, about seeing Junior Marshall
9 fighting at any time. And you said in your direct evidence
10 that you recollect a fight with his brother Pius, I guess.
11 Is that correct?

12 A. Yes.

13 Q. And then you say in this statement, you recollected another
14 fight down at the park. "The guys were from Westmount."
15 Do you have any recollection of that now?

16 A. No, I do not. I didn't know anybody from Westmount.

17 Q. So you don't -- you don't remember saying that?

18 A. I -- I honestly say I didn't say that. I never knew anybody
19 in Westmount.

20 Q. And you have absolutely no recollection of any fights other
21 with -- involving Junior Marshall, other than those involving
22 his brother Pius? Is that correct?

23 A. Yes.

24 MS. DERRICK:

25 Thank you. Those are my questions.

1 BY COMMISSIONER EVANS:

2 Q. Isn't it a fact that your mother was at the police station with your sister?

3 A. I don't recall my mother being there.

4 Q. My recollection is your sister said that --

5 A. My sister said that yesterday.

6 Q. Yeh, --

7 A. Yes, because she said that she had driven her there.

8 Q. Yes.

9 A. But --

10 Q. You have no recollection of that?

11 A. No, I don't. Maybe she had been gone by the time I got there.

12 BY MR. J. PINK:

13 Q. Mrs. Saltesz, the first area that I wish to deal with is
14 your concern -- the concern of your parents and your
15 association with the Indian boys. I take it that was their
16 concern, is that correct?

17 A. Yes.

18 Q. And tell me, when you were hanging around the park were
19 there any Indian girls there?

20 A. On occasion.

21 Q. Yes. And tell me at any time did your parents tell you
22 not to hang around with Indian girls?

23 A. No.

24 Q. At any time did you ever try to bring home, to your home, an
25 Indian girl to play with?

1 | A. No.

2 | Q. So really when we look at this whole area what we're really
3 | concerned with then is your association with the Indian boys.
4 | It's not Indians generally. Correct?

5 | A. Yes.

6 | Q. As I understand it your parents queried you on many occasions
7 | about your associations with the Indian boys and at that time
8 | you told them, as I understand your evidence, that you were
9 | not hanging around with them. Is that correct? You were
10 | being less than truthful with your parents?

11 | A. Yes.

12 | Q. And you told us about this one incident that occurred at
13 | early morning hours when you were walking the streets at
14 | approximately one-thirty or one -- between one and two
15 | o'clock in the morning. Is that the only incident in which
16 | you ever had any problems with the police when you were
17 | associating with the Indians -- boys?

18 | A. The only time ever, yes.

19 | Q. So, I take it, it's based on that one incident that you now
20 | tell us that the Sydney Police did not like Indians?

21 | A. Well, it was not only that. There was other things that
22 | happened that I'm just not clear enough to speak of. Times
23 | that guys were put in gaol.

24 | Q. For what?

25 | A. For break and enter, which they claim they never did.

1 Q. Yes.

2 A. And just things like that.

3 Q. And do you know whether or not any of these people were ever
4 convicted of these crimes that they were charged with?

5 A. Some of them were, yes.

6 Q. And tell me had you ever known any White people to have
7 been arrested for break and enters?

8 A. Yes.

9 Q. And convicted of them?

10 A. Yes, but they did it.

11 Q. Oh, they did it. I see.

12 A. Yeh, that's the difference here.

13 Q. So I take it that you are assessing this because the Indian
14 boys had told you that they had not done it or you
15 had heard that they had not done it and that's upon what
16 you base your opinion that the Sydney Police didn't like
17 Indians. Is that correct?

18 A. Could you repeat that?

19 Q. Sure. I take it's based on what you heard from other people
20 about Indian boys committing break and enters and not having
21 done it, that you allege that the Sydney Police did not
22 like Indians?

23 A. Yes.

24 Q. Were you ever aware of any other kids being stopped at
25 approximately two o'clock walking the streets? Two o'clock

1 in the morning walking the streets of Sydney by the police?

2 A. No.

3 Q. But this was your first and only occasion?

4 A. Yes.

5 Q. Now, you've told the Commission as to how you arrived at the police
6 station to the best of your recollection. I take it
7 that when you went into the room to talk to Sergeant
8 MacIntyre, that you were interested in giving them a complete
9 and truthful statement, or answer, to any questions that
10 they may pose to you?

11 A. Yes.

12 Q. And my -- Mr. Orsborn has referred you to the statement
13 that you have before you and I take it that that adequately
14 reflects what, in fact, you told Sergeant MacIntyre on the
15 night in question?

16 A. Yes.

17 Q. And the part that I really want to deal with is the conversation
18 that you say that you had with Junior Marshall the morning following
19 the stabbing in the park. And that's been read to you
20 and the question I want to pose to you is that, at no time
21 did he ever tell you that one of these older people
22 had in fact stabbed Sandy Seale?

23 A. Yes, he did tell me that.

24 Q. Oh. If he told you that why wasn't then -- why did you
25 not tell the police that?

1 A. He told the police that. It was in the papers.

2 Q. No, but you've told me that you wanted to give them a complete
3 and truthful statement when you were asked these questions
4 by them, yet in your statement you make no mention of the
5 fact that Donald -- Junior Marshall had told you that this
6 older person had, in fact, stabbed Sandy Seale.

7 A. "He said that the man was old and gray and he said he had
8 stabbed him in the arm." He told me exactly what happened.

9 Q. And that's what, in fact, you related to the police.
10 Isn't that correct?

11 A. Yes.

12 Q. And can you show me in this statement as to where Donald
13 Marshall told you that the older man had in fact stabbed
14 Sandy Seale?

15 A. It's not there.

16 Q. And I'm going to suggest to you that it was never said
17 to you and --

18 A. And I'm going to suggest to you that it wasn't written down.

19 Q. Well --

20 A. He told me what happened that morning and he told that same
21 story over and over again. So something got confused.
22 I don't know what it is but don't try to blame me.

23 Q. Oh. No, I'm suggesting to you Mrs. Soltesz, that you
24 never told Sergeant MacIntyre that?

25 A. Well, I suggest that -- that you're wrong.

- 1 Q. You read the statement over, in fact, before you signed it?
- 2 A. This --
- 3 Q. Or it was read to you --
- 4 A. The way I was pressured that morning. No, I don't think --
- 5 Q. Okay, let's get --
- 6 A. -- I read this completely.
- 7 Q. Let's get it to the aspect of being pressured. As I understand
- 8 it you were not scared of the police.
- 9 A. No, I was not.
- 10 Q. You were in the room. You were being questioned. You
- 11 answered their questions. Then you were asked to leave?
- 12 A. I was scared at the way they were treating me.
- 13 Q. How were they treating you, Mrs. Saltesz, that made you
- 14 so upset with the Sydney Police?
- 15 A. They weren't treating me very well. They weren't treating
- 16 me as I thought I should have been treated.
- 17 Q. And how did you feel --
- 18 A. As a young girl.
- 19 Q. How did you feel that you should have treated?
- 20 A. I already said that.
- 21 Q. You knew that they were there for the truth?
- 22 A. Yes.
- 23 Q. You knew they were asking you questions?
- 24 A. Yes.
- 25 Q. You gave them answers to their questions?

1 A. Yes, I did.

2 Q. You were shown this statement after you complete it -- completed
3 it?

4 A. I was shown a statement like that.

5 Q. You told --

6 A. I didn't read it completely.

7 Q. You didn't read it completely. You had the opportunity
8 to read it completely?

9 A. I guess I didn't feel like I had the time to do it.

10 Q. But what did they do to make you feel that you did not have
11 time to do it?

12 A. They just did it very briskly. Question, answer. Badgered
13 me about this knife. How big was the knife? How big was
14 the knife? How big was it? Was it this long? Was it this
15 long? I said it was this long.

16 Q. Okay. Now, you show us exactly what you told Sergeant
17 MacIntyre?

18 A. That's exactly what I told Sergeant MacIntyre. And --

19 Q. How long?

20 A. That long.

21 Q. And how long you say that was?

22 A. I'd say that's about five and a half inches.

23 Q. Correct.

24 A. Roughly.

25 Q. And that's exactly what is in your statement, isn't it?

- 1 Q. Five and a half inches.
- 2 A. They said the blade was five and a half inches. I didn't
3 say the blade. A hunting knife hasn't got a blade on it
4 that big.
- 5 Q. Oh, was it a hunting knife or a pocket knife?
- 6 A. A pocket knife. I said a hunting knife doesn't have a blade
7 that long and that's something you use for animals.
- 8 Q. In questioning so far you referred to the use of a pocket
9 knife?
- 10 A. Yes.
- 11 Q. Was the knife that you saw Junior Marshall with a pocket
12 knife or was it a hunting knife?
- 13 A. A pocket knife.
- 14 Q. So that --
- 15 A. I believe I went over this. He didn't want to hear any more
16 about that. Gee.
- 17 Q. The knife then that you saw Junior Marshall had is one that
18 the blade folded back into the knife, is that correct?
- 19 A. Yes.
- 20 Q. You've distinguished the difference between a hunting knife
21 and a pocket knife?
- 22 A. Can I distinguish?
- 23 Q. Do you distinguish the difference between the two?
- 24 A. A hunting knife is a lot bigger.
- 25 Q. So on the night in question --

1 A. Wider, more dangerous.

2 Q. So the knife that you saw Junior Marshall with was, in fact,
3 a pocket knife?

4 A. Yes.

5 Q. Now, you were asked the question whether not on the 28th
6 of May, 1971 you, in fact, had seen Donald Marshall Junior,
7 is that correct?

8 A. The 28th of May?

9 Q. Yes. The 28th day of May. That's when you were being questioned
10 about the -- what took place. I'm sorry.

11 A. No, that's --

12 Q. I'm sorry. You saw him on the 28th of May but you were being
13 questioned on the 18th day of June? Correct?

14 Let me change the question around. When you were taken in
15 and asked questions by Sergeant MacIntyre, you knew that he
16 was asking questions about your knowledge of Donald Junior
17 Marshall? Correct?

18 A. Yes.

19 Q. And he was interested in knowing whether or not you had
20 seen him on the night of the stabbing? Is that correct?

21 A. Yes.

22 Q. Now, I refer you to page 78 which is the typewritten statement
23 in exhibit number 16, which is volume 16, and you'll see the
24 question:

25 Do you keep company with him?

1 A. Several times this year. The last time about
2 one week before the stabbing took place.

3 Is that a correct statement? Do you see that?

4 A. No, I don't.

5 Several times this year. Okay.

6 Q. Do you see that?

7 A. Yes, I do.

8 Q. Is that a true statement?

9 A. What I meant by that -- prior to that night. Cause I told
10 them where we were that night and everything so I wasn't hiding
11 anything.

12 Q. Do I understand you correct that on the evening prior
13 to the stabbing when you saw Junior Marshall that, in fact,
14 you did have something to drink?

15 A. Yes.

16 Q. I refer you to page two of your statement. You see there
17 were it says

18 Did you or anyone else have anything to drink
19 that night in the car?

20 A. I never saw it.

21 Is that a true statement?

22 A. The words --

23 I don't remember saying that.

24 Q. Yes. In fact, were you drinking in the car?

25 A. I can't say for sure. I know there was a pint of liquor

1 | being passed around.

2 | MR. CHAIRMAN:

3 | In all fairness, Mr. Pink, I think you should also draw her
4 | attention to the last part of that statement.

5 | Did anybody have anything to drink in your presence
6 | that night?

7 | A. Yes, Artie Paul.

8 | Q. Moose Tobin.

9 | A. Junior Marshall's. One pint of liquor.

10 | MR. J. PINK:

11 | One pint of liquor. That is correct.

12 | BY THE WITNESS:

13 | Yes. Maybe I didn't have any.

14 | BY MR. J. PINK:

15 | Q. Now, -- Dealing with the fights. As I -- Do I understand
16 | you correct when you say that you had only seen Junior Marshall
17 | in one fight and that was with his brother, Pius?

18 | A. That I can remember, yes.

19 | Q. Can you give me an explanation as to how the last answer
20 | got into your statement in where it says

21 | Yes, with his brother Pius and another fight
22 | down the park. The guys were from Westmount.
23 | This was last summer.

24 | A. I have no idea.

25 | Q. Oh. Maybe you said -- Could you have said that to Sergeant MacIntyr
but, today, not have recollection of saying that?

1 A. No.

2 Q. The bumming or the asking for cigarettes and matches, was
3 that a common occurrence in the park?

4 A. Yes.

5 Q. Do I understand you correct when you say that you thought
6 the statement you gave to the police was prior to Junior
7 Marshall being charged?

8 A. Yes, I believe to this day that it was.

9 Q. But you could be wrong about that?

10 A. It looks that way.

11 Q. Yes. At any time did Junior Marshall ever mention to you
12 about these gentlemen going and getting into a white Volkswagen?

13 A. No.

14 Q. Could it be, Mrs. Soltesz, the reason why you did not put
15 in your statement, the fact that Junior Marshall said to
16 you, that the old man stabbed, or words to that effect -- the
17 old man stabbed Sandy Seale is because you have no independent
18 recollection of it today or, in fact, it was not said to you?

19 A. I believe --

20 Q. Could it be one of those two alternatives?

21 A. No, it was said to me.

22 Q. Could you have forgot to put it in your statement?

23 A. I can't see forgetting something that important.

24 Q. Tell me, you knew who was defending Junior Marshall did you
25 not?

1 | A. No I did not.

2 | Q. You never saw the name of Simon Khattar or Moe Rosenblum's
3 | name in the paper?

4 | A. Yes, later on I did.

5 | Q. Did you ever think to call them and say look this is what
6 | Sandy Seale told me?

7 | A. Everybody knew it.

8 | Q. I'm -- Donald Marshall told me?

9 | A. Everybody knew it. It was told.

10 | Q. At no time do you know whether or not your sisters had
11 | in fact talked to Patricia Harriss?

12 | A. No.

13 | Q. And your association with John Pratico was very limited,
14 | would you agree?

15 | A. That's correct.

16 | Q. And the area, I take it, that you thought you could help
17 | Junior Marshall at his trial was by becoming a character
18 | witness?

19 | A. Yes.

20 | MR. J. PINK:

21 | I have no futher questions.

22 | MR. MURRAY:

23 | No questions, My Lords.

24 | MR. BARRETT:

25 | No questions, My Lords.

1 BY MR. SAUNDERS

2 Q. Mrs. Soltesz, can you tell us the incident when you were
3 walking at about two o'clock in the morning with you
4 friends on Charlotte Street, when was that? Do you know
5 what month it was? What time of the year it was?

6 A. No, I have no idea.

7 Q. Are you able to help us when, with respect to May 28th, 1971,
8 it was? Can you say if, in fact, it was that year?

9 A. Yes, I could -- I would say it was that year.

10 Q. And it was certainly prior to May 28th, 1971?

11 A. Yes.

12 Q. And what had you told your parents you were going to be
13 doing that evening? That is the evening that you were
14 stopped at two o'clock in the morning?

15 A. We were at the midnight show. The late show. All night
16 show.

17 Q. That's what you told your parents you were doing?

18 A. Yes.

19 Q. In fact did you go to the midnight show?

20 A. Yes.

21 Q. With these other individuals that you were walking with?

22 A. Yes.

23 Q. And the show got out at midnight, did it?

24 A. It started at midnight.

25 Q. It started at midnight?

1 | And you left at around one-thirty and were walking towards
2 | your home when you were stopped?

3 | A. We were walking around the Charlotte Street area.

4 | Q. Yeh.

5 | A. Around the block.

6 | Q. So your parents knew what you were doing because you told them
7 | that and --

8 | A. Yes.

9 | Q. -- not, in fact, what you did?

10 | A. Right.

11 | Q. Is that correct?

12 | A. Yes.

13 | Q. Now, you indicated to the Commission that you were taken from
14 | your school to the police station when -- and you gave them
15 | your statement and you walked into the room and they were
16 | about finished but not quite finished with your sister?

17 | A. Yes.

18 | Q. How was it that you knew where your sister was at the police
19 | station?

20 | A. I didn't know that she was there.

21 | Q. So how is it that you walked in that room where she happened
22 | to be?

23 | A. Somebody must have pointed me the way or brought me in.

24 | Q. And she was there along with two police officers and no
25 | one else present?

- 1 A. Yes.
- 2 Q. The day -- that is the Saturday of the stabbing, that is
3 May 29, 1971, when was it that day that the call came to
4 your home from Junior Marshall?
- 5 A. I believe it was the morning.
- 6 Q. Saturday morning?
- 7 A. Yes.
- 8 Q. Were you parents home?
- 9 A. Yes, they probably were. I couldn't say for sure.
- 10 Q. Right. Did you hear the phone ring?
- 11 A. Yes.
- 12 Q. Your sister answered?
- 13 A. Yes.
- 14 Q. And passed the phone to you?
- 15 A. Yes.
- 16 Q. How long was your sister on the phone?
- 17 A. Just long enough to pass the phone to me.
- 18 Q. Did she tell you who it was on the phone?
- 19 A. Yes.
- 20 Q. So she had no detailed conversation with the caller?
- 21 A. No.
- 22 Q. All she did was answer the phone, pass it to you, and say to
23 you who was on the other end?
- 24 A. Yes.
- 25 Q. Is that correct?

1 | A. Yes, correct.

2 | Q. And at that point, I take it that, you had no idea who was
3 | involved in the stabbing the night before?

4 | A. That's correct.

5 | Q. All you had heard when you returned home from the park
6 | was an indication from your mother that there had been a
7 | stabbing?

8 | A. Yes.

9 | Q. But who the people involved in that were, you did not know?

10 | A. Right.

11 | Q. So the very first indication that you had, that your friend
12 | Junior Marshall was involved, was his call to you?

13 | A. I believe so unless it was said on the -- something to do
14 | with the radio broadcast.

15 | Q. Well, is your best recollection today that it was Junior
16 | who first alerted you of the fact that he happened to
17 | be there?

18 | A. Yes.

19 | Q. All right. And he was a friend of yours?

20 | A. Yes.

21 | Q. And, in fact, you told the Commission that you had been
22 | wearing that yellow jacket that he apparently had on at the
23 | time of the stabbing?

24 | A. Yes.

25 | Q. And so you also said that Junior Marshall had never called you

1 on the telephone before, to the best of your recollection?

2 A. That's correct.

3 Q. So it was a surprise for you to even get a call at your
4 home on a Saturday morning from Junior Marshall?

5 A. That's correct.

6 Q. And certainly a surprise to hear from him that he was involved
7 in a stabbing incident in the park?

8 A. Yes.

9 Q. Right. And I suggest to you, Ma'am, that it would be more
10 than likely that you would, after the call was over, tell
11 your sister about what it was that you had discussed with
12 Junior Marshall?

13 A. Yes, probably so.

14 Q. Because of the very surprising nature of the whole thing,
15 correct?

16 A. Yes.

17 Q. Right.

18 MR. SAUNDERS:

19 Thank you.

20 MR. BISSELL:

21 No questions.

22 MR. CHAIRMAN:

23 Mr. Ross.

24 BY MR. ROSS:

25 Q. Mrs. Soltesz, my name is Anthony Ross. You indicate that

1 | you kept in contact with Junior Marshall after he had
2 | been in prison?

3 | A. Yes, I did.

4 | Q. And how often were you writing to each other? Fairly often
5 | or not very often?

6 | A. I would say fairly often but I can't remember how long.

7 | Q. Did you keep the letters?

8 | A. No, I did not.

9 | Q. So all of them are gone by now?

10 | A. Yes.

11 | Q. And tell me when you got that phone call from Junior Marshall
12 | on the 29th of May, I take it, you would have been surprised
13 | to hear from him in the first place wouldn't you?

14 | A. Yes.

15 | Q. As a matter of fact you had an unlisted number, didn't you?

16 | A. Yes, we did.

17 | Q. And how would he have gotten your number? Did you ask him?

18 | A. No, I didn't. Oh, his brother went with my sister.

19 | Q. Oh, you think he might have got it from your brother -- his
20 | brother?

21 | A. From his brother, yes.

22 | Q. And did you ask him whether or not he had discussed the
23 | incident which occurred with the people -- the other people
24 | who were with him in the car in Moose Tobin's yard?

25 | A. No, I did not.

1 Q. I see. You just spoke to him and after you spoke to him,
2 you hung up and that was it?

3 A. Yes.

4 Q. Now, you indicate that you spoke to him for approximately
5 20 minutes?

6 A. That's correct.

7 Q. And that's your -- Is that still your best recollection of
8 how long would you have spoken to him?

9 A. Yes.

10 Q. Now, does it -- How does that compare to the time that
11 you spent with the police? Does it appear to be around the
12 same amount of time that you would have spent with police?
13 Shorter or longer?

14 A. About the same amount of time.

15 Q. About the same, okay. Now, tell me, did you know a guy
16 by the name of Brooks MacQuire?

17 A. Yes.

18 Q. Did he hang around with you?

19 A. No, he did not.

20 Q. Was he a part of any of these groups as you recall?

21 A. Not that I recall.

22 Q. Did you ever know him hanging around with Junior Marshall?

23 A. No.

24 Q. Now, after Marshall had been arrested but before his trial,
25 he was held in the gaol in Sydney for a while, wasn't he?

1 | A. Yes.

2 | Q. Did you ever visit him while he was there?

3 | A. I don't believe so.

4 | Q. Now, after he had been convicted and before he was moved
5 | over to Dorchester, did you visit him when he was in gaol
6 | in Sydney at any time then?

7 | A. No.

8 | Q. And tell me that night when you were in the backyard of
9 | -- in Moose Tobin's backyard, do you recall whether or not
10 | that night -- whether or not Junior Marshall had a pocket
11 | knife with him?

12 | A. I don't believe so.

13 | Q. Now, perhaps you can help me straighten out something.
14 | Some of the police officers who gave testimony here
15 | indicated that the park was a place where there was trouble.
16 | Racial type trouble from time to time. Do you recall
17 | any race type problems in the park?

18 | A. Never.

19 | Q. Now, as I recall, I can look at the plan behind you and one
20 | can see three separate pools and my recollection of the area
21 | that between Bentinck Street and King there is another large
22 | section of the park. Is that your recollection?

23 | A. Bentinck Street and -- What was the other one?

24 | Q. Between Bentinck and King. There's the other section of the
25 | park down by the --

1 A. Oh, yes.

2 Q. -- Down by the courthouse?

3 A. Yes.

4 Q. Now, perhaps you could tell me, the Indians hung out in
5 which section of the park? Was it above -- between Bentinck
6 and King or between Bentinck and Argyle?

7 A. Argyle here. Around the band --

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JMS

1 Q. In the general area of the band shell?

2 A. Yes.

3 Q. Was there any area in which Blacks hung around?

4 A. No.

5 Q. I see. Now one of the questions that was raised by Commission
6 Counsel was you try to get at the basis of the apparent
7 prejudice that your appearance might have entertained with
8 respect to Indians. Now is it fair to say that this
9 prejudice extended to Indian male youth primarily?

10 A. Yes.

11 Q. For instance, if you had an Indian girlfriend you would not
12 expect the same kind of attitude from your parents?

13 A. True.

14 Q. And you further indicated -- As a matter of fact, Commission
15 Counsel took you right to the edge with respect to Blacks, and
16 as I recall there was something about even having lunch with
17 a Black girl?

18 A. Yes.

19 Q. Would you perhaps tell me what was your response at that time?
20 I didn't get the whole response.

21 He asked you something and I can remember you speaking about
22 having lunch with a Black girl but I didn't hear his question
23 and the whole response. Do you recall what I'm speaking about?

24 A. Yes, I said, on many occasions I had girls come from school for
25 lunch.

1 Q. That would come to your house?

2 A. Yes, and there was a few Black girls and there was no problem.

3 Q. No problem. Would you have anticipated any problem if there
4 was Black boys coming to your house for lunch?

5 A. Probably.

6 Q. I see. So then is it fair to say that as far as the youth were
7 concerned the problem -- the problem as seen by the parents
8 was young male from a different race being with their
9 daughters?

10 A. Yes.

11 MR. ROSS:

12 Thank you very much. No more questions of this witness.

13 THE WITNESS:

14 You're welcome.

15 BY MR. WILDSMITH:

16 Q. Just a couple of questions, Mrs. Soltesz, I'm just interested
17 in getting a little more information from you. You've
18 described to Mr. Ross a few moments ago a particular area of
19 the park where the Indian youth tended to hang around. I'm
20 wondering if it's true, and I think you said this before,
21 that other people besides Indians would hang around in the
22 park?

23 A. Yes, that's true.

24 Q. And the time that you would hang around the park with the
25 Indian youth, would that be during daylight hours as well as

1 | in the evenings or after dark?

2 | A. Just in the evenings.

3 | Q. For example, Saturdays, on weekends, holidays?

4 | A. Yes.

5 | Q. In the daylight as well?

6 | A. Just in the evenings.

7 | Q. Before dark, as well as after dark?

8 | A. After dark.

9 | Q. It tended to be after dark, and would you say there was any
10 | particular reason why it was after dark?

11 | A. So nobody would see you.

12 | Q. I'm sorry?

13 | A. I said, so nobody would see you.

14 | Q. I see, and would you say that that had something to do with the
15 | fact that the police didn't like Indian youth hanging around
16 | the band shell and that area of the park?

17 | A. Would you repeat that again please.

18 | Q. Yes, you were saying that you weren't seen after dark and
19 | that was why it tended to be after dark that you hang around
20 | and my assumption is that that was because people like the
21 | police would not like the group you were hanging around with?

22 | A. Right.

23 | Q. And the Indian youth in particular --

24 | A. That's correct.

25 | Q. --hanging around in the park?

1 A. Yes, that's correct.

2 Q. And it would be your impression that by and large the police
3 would, when they found your group or Indian youth in the
4 park, would ask them to leave or would chase them away, would
5 search them for liquor, would search them for weapons, all of
6 those kinds of things?

7 A. Yes.

8 Q. Thank you, and we've heard some evidence or references to --

9 MR. CHAIRMAN:

10 Mr. Wildsmith, don't leave that there because this is the first
11 time we've heard of searching of weapons. Would you tell us more
12 about that?

13 THE WITNESS:

14 I'm getting tired, I missed that.

15 BY MR. WILDSMITH:

16 Q. Pardon?

17 A. I'm getting tired, I missed that.

18 Q. My question to you is about the kinds of activities that the
19 police might engage in with respect to the Indian youth in
20 the park if they came upon them after dark, and one of the
21 things I suggested to you is that they may search them
22 for weapons and your answer was --

23 A. No. No, they nevered searched for weapons. I'm sorry. I
24 missed that.

25 Q. --was yes, I think. Okay. What kinds of things would the

1 | police do then if they found the Indian youth in the park
2 | after dark?

3 | A. They'd just ask if there was any alcohol and --

4 | Q. And search around for alcohol?

5 | A. I don't remember them searching around.

6 | Q. What would the general reaction of the Indian youth be if the
7 | police arrived on the scene, would they flee?

8 | A. Yes.

9 | Q. All right. We've heard some evidence about activities like
10 | bumming matches, bumming cigarettes, and maybe bumming small
11 | change. Was it your observations that those activities were
12 | engaged in by non-Indians as well as Indians?

13 | A. Yes.

14 | Q. And would it be your observation that the police would chase
15 | away other groups of young people who were hanging around in
16 | the park? No, is that -- You're shaking your head.

17 | A. I don't recall.

18 | Q. You don't recall any instances that involve police and other
19 | racial groups?

20 | A. No.

21 | Q. Thank you.

22 | MR. CHAIRMAN:

23 | Was there a curfew in the park, do you know?

24 | THE WITNESS:

25 | Not to my knowledge. There was no signs posted or any curfew at

1 | that time.

2 | MR. WILDSMITH:

3 | My Lord, there was some reference made, I believe, the time in
4 | my cross-examination of Marvel Mattson the former R.C.M.P. officer
5 | who lived across from the park and there was a newspaper clipping
6 | that I drew to his attention at that time that showed that within a
7 | matter of days after this incident there was a curfew on the park
8 | and there was some suggestion in the clipping that that curfew
9 | wasn't linked to the stabbing incident.

10 | BY MR. WILDSMITH:

11 | Q. Now you've described yourself as being in Sheriff Junior
12 | High School with children of other racial groups, and I'm
13 | wondering if amongst the kids who were in that school would
14 | have been Junior Marshall. Did he attend that school at the
15 | same time as yourself?

16 | A. I don't believe so.

17 | Q. And what about Sandy Seale?

18 | A. No.

19 | Q. Okay. We've also heard some evidence from you and indeed,
20 | I guess, from your sister as well about your -- about the
21 | attitude of your parents and I take in particular your father
22 | towards you and your sister dating or hanging around with the
23 | Indian boys?

24 | A. I believe that was the general public's -- most of the general
25 | public's views.

1 Q. Yes, but it was of your parents as well?

2 A. Yes.

3 Q. And I think you were asked the question of whether there was
4 expressed discussions between you and your parents over this
5 issue and I think your answer to Ms. Derrick was, yes, that there
6 were such discussions?

7 A. Discussions on what?

8 Q. Discussions between you and your parents about you dating or
9 hanging around with the Indian youth?

10 A. Yes, there was discussions.

11 Q. And am I correct in understanding that you had instructions
12 or directions from your parents not to hang around with the
13 Indian youth?

14 A. Yes.

15 Q. And did they indicate to you why you shouldn't hang around with
16 the Indian youth?

17 A. No.

18 Q. Now you've described this incident after the mid-night show
19 being on Charlotte Street when the police came along. How
20 do you think your parents felt when the police came to your
21 house to relate that you were hanging around with Indian youth
22 that night? Can you describe how your parents seemed to be
23 about the visit from the police?

24 A. Just a visit from the police at that time would be very
25 upsetting and they were upset.

1 Q. Can you indicate a little more about why they would be upset,
2 and what it was they may have been concerned about?

3 COMMISSIONER EVANS:

4 How would this witness know how her parents felt about a call from
5 the police. She might know on what their reaction was when she
6 got home but certainly she would not know their reaction when the
7 police came.

8 MR. WILDSMITH:

9 Yes, My Lord, I'm really wondering if the witness can help us out
10 with what her parents might have said or suggested or her observations
11 of her parents response at the time that she came home.

12 COMMISSIONER EVANS:

13 When she got home?

14 MR. WILDSMITH:

15 Yes.

16 BY MR. WILDSMITH:

17 Q. I'm trying to get at how your parents felt but, of course,
18 we're talking about your observations of what your parents
19 said or what your parents did or how they seemed when you came
20 home and they talked to you.

21 A. They were -- They were upset.

22 Q. Was it because the police had visited?

23 A. I believe so, yes.

24 Q. Was it more so that than the fact that you were hanging around
25 with the Indian youth?

- 1 A. Probably more because the police came to the door in the
2 middle of the morning.
- 3 Q. Yes, and how did you feel about the police having visited your
4 parents?
- 5 A. I was very surprised.
- 6 Q. Yes.
- 7 A. I didn't see any reason for it.
- 8 Q. There was nothing happening on Charlotte Street when the police
9 came along?
- 10 A. Nothing, no. I didn't think they had the right to do that.
- 11 Q. Yes.
- 12 BY MR. CHAIRMAN:
- 13 Q. How old were you then?
- 14 A. Sixteen.
- 15 Q. And your sister, fourteen?
- 16 A. Fourteen or fifteen.
- 17 BY MR. WILDSMITH:
- 18 Q. Now you've indicated that you hung around with the Indian
19 youth or dated Indians for some period of time about a year,
20 I think you mentioned, before this incident and for a couple
21 of years afterwards you dated a particular Indian. Is that
22 correct?
- 23 A. Yes. Yes.
- 24 Q. Did you feel as though there was any need to hide the fact
25 that you hung around with Indians or dated Indians?

- 1 A. I didn't feel personally myself, no.
- 2 Q. Did you feel others felt that way?
- 3 A. Yes.
- 4 Q. Such as your sister?
- 5 A. No.
- 6 Q. Okay. Now you also described the incident where the police
7 attended at your school to take you down to the police station
8 to give a statement and I'm not sure I completely heard your
9 evidence on this point. Was it the case that this was during
10 the regular school hours that the police came for you?
- 11 A. Yes, it was regular school hours.
- 12 Q. And they would go to the principal's office, would they, and
13 request you?
- 14 A. Yes.
- 15 Q. And how would the principal get a hold of you, would it be
16 over the public address system or --
- 17 A. Yes.
- 18 Q. So you were requested over the public address system to come
19 to the principal's office?
- 20 A. Yes.
- 21 Q. And these policemen came in uniform and in a police cruiser,
22 is that --
- 23 A. It was a police car. I can't remember for sure if they were
24 in uniform.
- 25 Q. All right, and did the other kids then know that the police had

- 1 taken you down to the station?
- 2 A. Yes.
- 3 Q. Yes, and how did you feel about that?
- 4 A. I -- It did bother me at that time. I guess they were wondering
5 why.
- 6 Q. Yes. Was it a source of some embarrassment to you?
- 7 A. Yes.
- 8 MR. CHAIRMAN:
- 9 Would you ask her how the other school -- how her classmates would
10 know that she went -- that she left in the police car.
- 11 MR. WILDSMITH:
- 12 Certainly.
- 13 BY MR. WILDSMITH:
- 14 Q. How would the other children or the other kids in school have
15 found out that you were taken down to the police station?
- 16 A. They are pretty nosey. Once they'd see -- If I wasn't coming
17 back somebody would have seen the police car outside and
18 they'd figure it out that they were taking me. Where else
19 would they be taking me?
- 20 Q. I'm sorry?
- 21 A. I said, where else would they be taking me?
- 22 Q. And they'd notice your absence from classes?
- 23 A. Yes.
- 24 Q. Okay. I take it from the fact that you dated Indians and
25 hung around with a group of Indians that you would have a

1 fair degree of experience in observing the reaction of the
2 police and of the teachers and of other people to Indians?

3 A. Yes.

4 Q. And can you tell us anything about the attitude or
5 treatment that Indians received in the school which you attended
6 by the teachers, by the principal, by the other students?

7 A. I don't remember anything specific about at school.

8 Q. Nothing specific at school?

9 A. No.

10 Q. Okay. Can you help us out as to whether you overheard
11 conversations involving or making reference to Indians in
12 a disrespectful way?

13 A. By whom?

14 Q. By the other kids in school, by teachers, by the police?

15 A. No.

16 Q. The other kids would not talk about the Indians?

17 A. No.

18 Q. Okay, and just to summarize some of the evidence, I think, that
19 you've given, I take it that it's your experience and your
20 observation and your opinion that the police were harder on
21 Indians than non-Indians?

22 A. That's my own opinion, yes.

23 Q. And harder on girls like yourself that hung around with
24 Indians than with girls who did not?

25 A. Yes.

1 MR. WILDSMITH:

2 Thank you. That's all my questions.

3 BY COMMISSIONER EVANS:

4 Q. I have a couple of questions that I'd like to ask you concerning
5 the night when you and your sister were stopped on the street.

6 I understand it was about one-thirty or so in the morning?

7 A. Yes.

8 Q. And you had gone to the midnight show?

9 A. That's correct.

10 Q. And did some -- either you or your sister say that they would
11 show several movies at that --

12 A. Yes.

13 Q. Yes, but you obviously had left before the show finished?

14 A. Yes.

15 Q. And what time did you finally go home that morning?

16 A. I believe it was before daylight.

17 Q. And that's when you met, of course -- when your father had
18 some conversation with you?

19 A. Yes.

20 Q. Do you know the names of the police officers who stopped
21 you on the street?

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

23 Q. Nor do you know the names of the police officers who went to
24 your home to speak to your father?

25 A. No, I do not.

1 Q. The other question I -- You had known Junior Marshall for
2 some period of time prior to this?

3 A. Yes.

4 Q. Had you known any incident that -- any trouble that he had,
5 that is Junior Marshall, with the police --

6 A. No.

7 Q. --with respect to supplying liquor to minors. Did you know
8 anything about that?

9 A. No, I didn't.

10 Q. You did not. Okay. Was it your view that the police were
11 concerned because you were out with the Marshall boy or was
12 it just because you were out with some Indian boy?

13 A. I believe it was the particular people that we were with that
14 night.

15 Q. That is Marshall and his brother?

16 A. Yes, and Paul.

17 Q. And a Paul.

18 A. Artie Paul.

19 Q. And that was the concern of the police officers who went to
20 your father?

21 A. Yes, that's correct.

22 COMMISSIONER EVANS:

23 Thank you. I have no further questions.

24 MR. CHAIRMAN:

25 That's all thank you very much.

CATHERINE A. SOLTESZ, by Commissioner Evans

1 THE WITNESS:

2 Okay.

3 MR. CHAIRMAN:

4 We will take a short break.

5

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(WITNESS WITHDREW)

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9

10 INQUIRY ADJOURNED AT: 11:35 a.m., AND RECONVENED AT: 11:52 a.m.

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13 MR. SPICER:

14 The next witness is Emily Clemens, My Lord.

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EMILY CLEMENS, by Mr. Spicer

1 EMILY CLEMENS, being called and duly sworn, testified as followed:

2 BY MR. SPICER:

3 Q. What is your full name, Mrs. Clemens?

4 A. Emily Clemens.

5 Q. And where do you live?

6 A. At 49 Dacre Street.

7 Q. And that's in Sydney?

8 A. Yes.

9 Q. For how long have you lived in Sydney?

10 A. I'd say roughly between seventeen years to eighteen.

11 Q. Do you remember when you moved to Sydney?

12 A. Well, we moved in about the -- around the Fall, around about
13 1969 or similar to that, maybe a little earlier.

14 Q. Okay. Your husband is in the Forces and --

15 A. Yeh, my husband was in -- In fact, we were posted up in Shylo
16 and we just got transferred down to -- he got transferred down
17 to Victoria Park at that time.

18 Q. So you moved from Manitoba to Sydney in about 1968, '69?

19 A. Yeh, roughly about that.

20 Q. How many children do you have?

21 A. I have all together -- I have one son that died, but all together
22 I have twelve children, seven daughters and five sons.

23 Q. A big family.

24 A. Right.

25 Q. Had you ever lived in Sydney before when you moved here from

EMILY CLEMENS, by Mr. Spicer

1 | Manitoba?

2 | A. No, I -- This was the first time.

3 | Q. And when you did move here can you tell us where it was that
4 | you moved to in Sydney?

5 | A. Well, as I said we had a large family and we had kind of a
6 | hard time getting a place so we moved in on Townsend Street
7 | and we lived there for awhile and then after that we -- we
8 | bought a place on Dacre Street.

9 | Q. I see, and when you got here from Manitoba did you then sort
10 | of engage in a business of finding various schools for your
11 | children?

12 | A. Well, at that time when we moved in there was a teacher's
13 | strike on so we had to wait awhile but when everything
14 | got cleared up we went and set the children up in the different
15 | schools.

16 | Q. And what school would Joan have gone into, your daughter?

17 | A. Sheriff.

18 | Q. Sheriff Junior High?

19 | A. Yeh, that's it.

20 | Q. And Joan Clemens is your daughter?

21 | A. Yes.

22 | Q. And in 1971 how old would Joan have been Mrs. Clemens?

23 | A. I imagine around fourteen and going on fifteen.

24 | Q. Do you have a recollection of what grade she would have been
25 | in in the Spring of '71?

1 | A. Well, I imagine she'd be in about -- going into grade eight
2 | at that time.

3 | Q. Do you remember who her good friends were at that time?

4 | A. Well, at that time as I said I was new to the area and she
5 | did meet a few girls and they came to the house and they
6 | seemed to be very nice children at that time. Now I say
7 | children because they were young.

8 | Q. Do you remember the names of those girls?

9 | A. Well, it was she met Sandra MacNeil and Barbara Floyd.

10 | Q. Sandra MacNeil and Barbara Floyd?

11 | A. Yeh, there might have been a few other ones but as I said
12 | those seemed to be kind the ones -- they kind of all sticked
13 | together like at that point, at that time.

14 | Q. And were those the ones that you saw the most frequently?

15 | A. Well, those are the ones that seem to be the most coming to
16 | the house.

17 | Q. Did Joan ever bring any boys home to your house?

18 | A. No. I can honestly say that, no.

19 | Q. And did you know in 1971 whether or not Joan was hanging around
20 | with any of the Indian boys?

21 | A. No. At that time, no, I did not.

22 | Q. Had you ever heard Joan up until 1971 mention the name of
23 | Junior Marshall?

24 | A. No, I think the first time I've ever heard about Junior
25 | Marshall was the time when that incident came to, you know,

1 to me but outside of that I didn't know. He could have just
2 been anybody.

3 Q. Okay, and we'll get to that incident in a moment, but up
4 until that point in time you had never heard the name of
5 Junior Marshall?

6 A. No.

7 Q. Did you know at all up until that time that your daughter even
8 knew any of the Indian boys in town?

9 A. No, I didn't.

10 Q. And if she did it was something that she didn't tell you about?

11 A. Well, as I said I never heard of -- We had girl talk and all
12 that but I never heard them mention any specific person and
13 if they did mention his name I probably wouldn't have known
14 what nationality he was anyway at that time.

15 Q. Right. So she would have talked generally about boys but --

16 A. Well, if she said -- She probably would have said the name
17 but not to say -- Well, she wouldn't pinpoint him as a
18 specific person, you know, in his nationality.

19 Q. Or whether or not he was an Indian or anything?

20 A. No. I mean like I can't see why she should do that. I mean
21 if she was just having a consultation why should she single
22 him out as a single person with a nationality.

23 Q. One of your daughters is married to Cameron Paul. Is that
24 right?

25 A. Yes.

1 Q. And Cameron is an Indian?

2 A. Right.

3 Q. The incident that you started to refer to a minute ago
4 concerning Junior Marshall, do you recollect when that
5 occurred?

6 A. Well, I -- I know it was towards the Fall but as I said, I
7 don't remember exact dates because I was never a person for
8 dates anyway.

9 Q. Okay. I think the evidence will show that it is around
10 November of 1970?

11 A. Yeh, it was when the weather was kind of chilly. I remember
12 that.

13 Q. What was -- What's the first thing you remember about this
14 incident?

15 A. You mean how it first began?

16 Q. Yeh, how it first began.

17 A. Well, all I remember was one afternoon, it was a school
18 afternoon and someone knocked at the door and two men came in
19 and they introduced themselves as detectives and they --

20 Q. I'm going to sort of slow you down a little bit if I can and
21 ask you some questions as we go along?

22 A. Oh, I'm sorry, I have a habit of talking fast.

23 Q. Did those police officers identify themselves to you?

24 A. Well, they said who they were but I said I was kind of nervous
25 because, I mean, that's something I've never had happen before

1 to me so it just kind of bounced in one ear and out the other,
2 you know, because I didn't --

3 Q. Do you know -- Do you know now who those officers were?

4 A. Well, I know one by sight but the other one I vaguely remember
5 him.

6 Q. Who is the one that you know?

7 A. Well, I guess he was supposed to be in charge at the time,
8 MacIntyre as far as I understood.

9 Q. John MacIntyre?

10 A. Yeh, I think he was anyway at the time.

11 Q. And were these officers in uniform when they came to your
12 house?

13 A. No, as far as I know I remember they were just plain casual
14 dressed people.

15 Q. I see, and how did they introduce themselves and what did they
16 say?

17 A. Well, they introduced who they were and everything and he
18 asked if my daughter was home at the time and I said, no.
19 I said she was at school and I asked them what they wanted
20 to see her for and he said they wanted to question her but
21 they didn't give any information why they wanted to question
22 her so --

23 Q. Did you ask him anything more about that? Did you say, "Why
24 do you want to talk to her"?

25 A. Well, I just asked him what the reason was because it would

EMILY CLEMENS, by Mr. Spicer

1 | be a natural thing for me to be curious and then they said --
2 | they said that they wanted to go down to the school to pick
3 | her up.

4 | Q. Now when you say "they", were you having this conversation
5 | with MacIntyre or with --

6 | A. Well, I was talking -- I was talking to both of them at the
7 | one time. I didn't single one person out or the other. I
8 | was just talking completely to them.

9 | BY MR. CHAIRMAN:

10 | Q. Who was the other police officer?

11 | A. I don't know. I can describe him. He was kind of a short,
12 | dumpy guy.

13 | BY MR. SPICER:

14 | Q. Sorry, you were saying that --

15 | A. He was short and heavy. Let's say it that way.

16 | Q. Short and heavy. And you were asked to -- to do what?

17 | A. Well, he wanted to know where Joan was and what school that
18 | she had -- that she was going to and that and I asked him
19 | why and he said they wanted to go down to see her and then
20 | when I had really gotten, you know, down to the point I
21 | started to think clearly and I said, no, that they weren't
22 | going down to the school. I said they were welcome to
23 | come into my home and sit there and wait until they come
24 | home and I told them that shortly -- they should be
25 | home around about three-thirty and maybe a little later

1 according to the bus that she had picked up, and they didn't
2 want to go -- they didn't want to come in so then --

3 Q. Did they explain why they didn't want to come in?

4 A. No, they just said no, flatly no, a big no. They just said
5 no, so I said, "What are you going to do"? They said they
6 were going to go down and -- to pick her up and I said,
7 "No, you're not".

8 Q. Pick her up where?

9 A. At my house.

10 Q. No, no, they were going to go down and pick her up where?

11 A. At the school. They were going to go to school and I didn't
12 think it was right that any two policemen or whoever they
13 were at that time to go to pick a child up in school because
14 I think it would put a stigma on her even though she didn't
15 do anything wrong or if she did do something wrong, well it
16 would still make people think, you know -- So I --

17 Q. Sorry, by this point in time in the conversation Mrs. Clemens
18 did you have any idea what it was they wanted to talk to
19 your daughter about?

20

21

22

23

24

25

EMILY CLEMENS, by Mr. Spicer

- 1 A. I never had a clue. All I was thinking of was the interest
2 of my daughter at that specific time, that I didn't want
3 her to jeopardize her -- you know, people putting her in
4 a bad light or anything like that. That was my one concern.
- 5 Q. Okay, sorry I interrupted you telling the story.
- 6 A. Yeh.
- 7 Q. They wanted to go down to the school and get her and you
8 said no?
- 9 A. Yeh, and so anyway I offered to go into the car and I went
10 in the car. We went around like the circle and we waited
11 up there by the corner of Dacre and --
- 12 Q. Okay, let me -- again let me just stop you for a minute.
13 You say you went in the car?
- 14 A. Yeh.
- 15 Q. Was this a marked police car or a plain car?
- 16 A. As far as I understood--I didn't really pay too much
17 attention but I figured it was just a car to me at that
18 time. Because as I said I was quite upset at the time and
19 I never would --
- 20 Q. And how -- how was it that you came to get in the car with
21 them in the first place?
- 22 A. I don't know. I think I just automatically just went there
23 period.
- 24 Q. Well, did you say "Look, I'm coming with you if you're going"?
- 25 A. I told them, yes, I was going with them. Yes, I went with them.

EMILY CLEMENS, by Mr. Spicer

1 Q. And what did they say to that?

2 A. Well, if they did say anything, I didn't pay no attention to
3 it. Let's put it that way.

4 Q. Because you were going?

5 A. I was going.

6 Q. So you get in the car and when you say you go around the
7 circle, what do you mean by that?

8 A. Well, like you go down -- you go Dacre Street and you go
9 down Leonard Street and you go right up, like, up Warren
10 Street and go right around something similar-- or maybe
11 they made the wider turn and went up Alexandra Street. I
12 just can't remember but I know we waited on the corner until
13 the bus came.

14 Q. Okay, now you have the two police officers in the front of
15 the car, yourself in the back --

16 A. I was in the back, yeh.

17 Q. -- and you go to where the bus would stop to let them off?

18 A. Yeh, like see the bus stops right over on the corner -- the
19 opposite corner and we stood on this corner -- one corner.
20 And the first bus came and he said -- asked me if Joanie
21 was in the bus at the time. And --

22 Q. Before we get to that, just let me ask you again, by this
23 point in time, by the time you got to the bus stop, do
24 you have any idea yet why it is that you're there or what
25 they want your daughter for?

EMILY CLEMENS, by Mr. Spicer

- 1 A. No, I still wasn't no more wiser than I was when I first got
2 in.
- 3 Q. They still hadn't told you?
- 4 A. No, I didn't know anything about it at that time.
- 5 Q. Okay, sorry, go ahead?
- 6 A. So anyway we waited. The first bus went by and then after
7 that this bunch of children came off and then he said, "I
8 don't think she's on that bus." And he said, "Are you sure
9 she's coming home?" Well, I said, "I got no reason why not
10 to think." And then the next bus came along and a couple
11 of children got off, then she got off. And then I went and
12 got out of the car and I called her. And she came over.
13 And Sandra MacNeil came over with her. And she asked me
14 what was wrong and I said these two policemen wants to have
15 a talk with yah. And she said, "What for?" I said, "I don't
16 know." And then she got into the car at the time.
- 17 Q. Where were the police officers at that time?
- 18 A. Oh, well, one was sitting in the car and I think the other
19 fellow, I just can't remember which one, one of them got
20 out like, you know. And saw--I guess he got out to make sure
21 that she got in.
- 22 Q. You don't remember which one was in and which one was out?
- 23 A. No, like I said, because -- you know, I was more concerned
24 about my daughter's feels then I were of what position they were
25 in at the time.

EMILY CLEMENS, by Mr. Spicer

1 Q. Did you have any idea of what was going on at this point?

2 A. No, I didn't know anything about it until I got down there.

3 Q. Okay, so you were saying that your daughter and Sandra came
4 along, you talked to your daughter --

5 A. And Sandra -- and Joanie wanted Sandra to come in and I
6 said, "Okay, she's a friend of hers." And I said -- I said
7 to them -- so I felt that maybe if Sandra came in that she
8 would give a kind of a light on the subject because I knew
9 they both were friends. And he refused. He didn't want
10 Sandra to come in.

11 Q. Now who is "he" who refused?

12 A. Well, I don't know if it was MacIntyre or the other guy. I
13 can't remember that much to be honest with you.

14 Q. Yes, and is it your recollection then that Sandra did not
15 get into the car?

16 A. No, she did not because he told her flatly no, they didn't
17 need her at that time.

18 Q. Yes.

19 A. So she just backed off, went down my house and she waited
20 there.

21 Q. Waited at your place for you to come home?

22 A. Yeh.

23 Q. Okay, we'll get to that a bit later. Who then got in the
24 back of the car?

25 A. Well, I slid over and Joanie got in along side of me.

EMILY CLEMENS, by Mr. Spicer

- 1 Q. So you would have been over behind the driver's side?
- 2 A. Yeh, --
- 3 Q. Do you remember whether or not it was John MacIntyre that was
- 4 driving the car or the other officer?
- 5 A. To be honest with you, no, I didn't pay that much attention.
- 6 Q. Okay, was your daughter then told why it was that she was
- 7 being taken to the police station?
- 8 A. No, they didn't volunteer any information at that time.
- 9 I guess they didn't feel as if they had -- you know -- there
- 10 was -- all they wanted to do was to get us to the point
- 11 they'd done where they were taking us.
- 12 Q. Did you ask why or where you were going?
- 13 A. I asked but they didn't answer me the first time so I didn't
- 14 see any sense asking again. So I was talking to Joanie, trying
- 15 to make her feel better about the situation and telling her
- 16 not to worry because she was quite upset because she was
- 17 confused at that time, not knowing what --
- 18 Q. How could you tell that she was upset?
- 19 A. Well, you should know your own daughter, her feels and her
- 20 expressions on her face and her voice and stuff like that.
- 21 Q. Yes.
- 22 A. And if you don't know your own daughter, who else do you know.
- 23 Q. And what about yourself, were you upset?
- 24 A. I was. I was quite upset at the time.
- 25 Q. How long does it take you to get from the bus stop to the

EMILY CLEMENS, by Mr. Spicer

1 | police station?

2 | A. I don't think -- it wasn't very long. Maybe four or five
3 | minutes like, you know, according to traffic at the time.

4 | Q. Was there any conversation between yourself and the police
5 | officers?

6 | A. No, I didn't bother with them at all. I was more concerned
7 | with my daughter at that time.

8 | Q. Did they bother with you at all?

9 | A. If they did, I didn't pay no attention to them.

10 | Q. By the time you got to the police station, had you been
11 | advised why -- why your daughter was being taken to the
12 | police station?

13 | A. No. I guess they felt that -- that in the car wasn't the
14 | proper place to tell.

15 | Q. Okay. So what happened when you got to the police station?

16 | A. Well, we went in. It was the old place and we went in and
17 | they took her inside. And I sat on the outside and they
18 | were --

19 | Q. Now just before we get there, you went in the police
20 | station and when you say they took her inside, did they
21 | take her into a --

22 | A. Well, -- well, it was like as you go in it was like -- a
23 | place you go in there and there was like an outer room and
24 | then there was another room in off that again like.

25 | Q. Okay, did they take Joan in to a room that had a door on it?

EMILY CLEMENS, by Mr. Spicer

- 1 | A. Yeh, but the door itself wasn't closed. It was just partly
2 | closed.
- 3 | Q. Just sort of ajar, a little bit open?
- 4 | A. Yeh, I guess they didn't think about it, they just went like
5 | this to the door and the door itself didn't close.
- 6 | Q. Okay, now with respect to yourself, did you go into the
7 | room with your daughter at the very beginning?
- 8 | A. No.
- 9 | Q. Why not?
- 10 | A. Because he didn't ask me to and I just respected their rights.
11 | And knew that if a policemen and judge in there would they
12 | be figuring out well, it was just an ordinary questioning.
- 13 | Q. Did either of the police officers tell you where you should
14 | go when you got into the police station?
- 15 | A. No, I tell you the truth after I got there, they didn't seem
16 | to be too concerned about me at all. They just seemed to be
17 | concerned about her. I was just part of the furniture.
- 18 | Q. Did they tell you to sit outside or to wait outside?
- 19 | A. No, they just -- just made like, you know, gesture with their
20 | hand and there was a seat there so I just took it from that
21 | point that I --
- 22 | Q. Okay, so did they motion then to a chair that was outside
23 | the room that they were taking your daughter in to?
- 24 | A. No, they just -- they just went in. They just let me stand
25 | there and I had to use my own, you know, sit down or stand up

EMILY CLEMENS, by Mr. Spicer

1 | what ever I felt like doing at the time.

2 | Q. A minute ago they made a motion with your hand like this?

3 | A. Well, he went like that with his hand and towards the chair
4 | and I could have been just -- tell me not to go in or he
5 | could have said anything, I mean.

6 | Q. Okay, was it your impression from the motion that was made
7 | that you were to stay outside that --

8 | A. Well, I -- yeh, I took --

9 | Q. -- just let me finish the question -- to stay outside the
10 | room, was that your impression?

11 | A. Yeh, I figured that that's what it was. That they -- it
12 | was them they wanted to question, not me at the time.

13 | Q. Right. Okay, and you in fact then stay outside the room?

14 | A. I stayed outside to a point, yes.

15 | Q. Okay, so am I correct now that you're sitting outside the
16 | room?

17 | A. Yeh.

18 | Q. Your daughter and the police -- are both police officers
19 | in the room?

20 | A. Yeh, one was sitting in the far corner and the other one
21 | was sitting near her.

22 | Q. Okay, so the two police officers and your daughter are in
23 | the room. You're sitting outside. The door's a little
24 | bit ajar?

25 | A. Yeh.

EMILY CLEMENS, by Mr. Spicer

- 1 Q. Okay, can you hear what's going on in the room?
- 2 A. Well, I could hear her asking about different things, I mean.
- 3 I could judge by the voice tone that it was getting a little
- 4 hectic.
- 5 Q. Okay, let's just -- if we can, let's just start at the
- 6 beginning of that and give us your recollection of what
- 7 it was you remember that the police officers were asking
- 8 your daughter?
- 9 A. Well, they were asking her if she had -- if anybody had give
- 10 her liquor at the point or I don't know -- there and --
- 11 and stuff like that. And where she was at that night.
- 12 You know, just questions in general.
- 13 Q. Do you remember whether the questions were being asked by
- 14 John MacIntyre or by the other police officer?
- 15 A. I think John MacIntyre was doing most of it there because
- 16 the other fellow was over in the far corner.
- 17 Q. Okay, what was the tone of voice that was being used by
- 18 John MacIntyre?
- 19 A. Well, I noticed that at first it was kind of, you know,
- 20 average and then according as he was throwing the questions
- 21 at her, it started to getting more deeper and stronger and
- 22 forceful on that way, like you know. As if he was trying
- 23 to -- well, he couldn't get what he wanted out of her and
- 24 he was just making a point that he was going to. Towards
- 25 that affect.

EMILY CLEMENS, by Mr. Spicer

1 Q. And do you remember anything specifically when you say wasn't
2 getting what he wanted out of her --

3 A. Well, he wanted to know -- he felt that at the time when
4 he asked her if she was drinking or if Junior Marshall had
5 given her any liquor and she said no, he tried to make --
6 He was trying to tell her that -- that she was lying to
7 that affect.

8 Q. Right.

9 A. That she did have -- that he was giving her -- and she kept
10 saying that she didn't.

11 Q. Could you hear your daughter's voice and could you tell us
12 whether or not she was getting upset?

13 A. Well, she was getting upset because her voice was getting
14 more higher pitched and, you know, and louder and she's
15 usually a soft spoken person.

16 Q. Right.

17 A. So I could tell by, you know, once she lost control that
18 way because she was higher pitched.

19 Q. And what about John MacIntyre's voice?

20 A. Still forceful. You know, still demanding and still wanted
21 to know, you know, get to the point -- he wanted her -- well
22 I don't know what he wanted her to say but she -- he wanted --
23 he just kept throwing the questions at her. It could have
24 been a half dozen at the time.

25 Q. Right. At some point in time did you go into the room?

EMILY CLEMENS, by Mr. Spicer

1 A. Yes, I did.

2 Q. Okay, what was it that prompted you to go into the room?

3 A. Well, at that time he was saying that if she didn't say
4 what she wanted to say that she could be in -- she could go
5 up against, I don't know, juvenile court or something
6 or another to that affect.

7 Q. Could you just -- do you want to just go back and repeat
8 that for us because his Lordship did hear you?

9 A. Well, he was trying at the time -- I mentioned -- I heard
10 her mention something about juvenile hall or juvenile court.

11 COMMISSIONER EVANS:

12 Juvenile --

13 BY MR. SPICER:

14 Q. Sorry, junior --

15 A. Juvenile.

16 Q. Juvenile, juvenile.

17 A. Yeh, that's it yeh. He was mentioning to that effect if
18 she didn't tell the truth that way and of course when he
19 mentioned that, I got kind of worried because I said "Gee
20 what's"-- I thought it was more to it then it really was
21 you know, just giving the liquor thing. And I was more
22 curious to go in and find out what else was, you know,
23 that he was trying to get out of her.

24 Q. Right.

25 A. So I went in and --

EMILY CLEMENS, by Mr. Spicer

1 Q. Do you go in and -- did you just stroll in or did you go
2 in go in -- were you angry at this point?

3 A. I was annoyed --

4 Q. Annoyed?

5 A. -- and I was quite upset at the time.

6 Q. Why were you annoyed and upset?

7 A. Well, I just didn't like the way that it was. I felt that
8 that time if he had have been a little more not so forceful
9 with her. If he did want to get something out of her, he
10 may have got a better chance if he was more human about it.

11 Q. Okay. You went into the room?

12 A. Yeh.

13 Q. What did you say?

14 A. I just asked him why he was the way he was and everything
15 else. And he said, "I think your daughter is lying." And
16 I said "Well, if she told the truth", and I said, "I think
17 she does." Because I said "Because she's not a person that
18 would lie that way." You know, one thing led to another.

19 Q. Well, and when you say one thing led to another, I want you
20 to make sure that you tell us as much as you can remember
21 as to what was said?

22 A. Well, he said that he asked if I knew where my daughter was
23 all the time and I said well, I said, yes, I -- I knew that
24 she went to school. I knew she went out. And we always --
25 she always phoned when she went any place to let me know

EMILY CLEMENS, by Mr. Spicer

1 | where she was at and that. . . And she said that -- and then
2 | he went and told me that I wasn't what you would call a
3 | proper person to be bringing up any child because I didn't
4 | -- that I was letting my children run around with
5 | unsavoury characters. To that effect. So then I got mad
6 | and told him off.

7 | Q. And when you told him off, what did you say to him?

8 | A. Do I have to say it.

9 | Q. Yes.

10 | A. I told him he was like bloody Gestapo or Russian. I said
11 | then you remind me of a bit little lobster; you never --
12 | you don't know when to leave go. Well, he asked me to say
13 | it and I told yeh.

14 | Q. All right. I'm sorry you're going to have to say it again
15 | though because you said it so quickly. Just slow it down
16 | a little bit.

17 | A. Well, I told him at that time that he reminded me of
18 | somebody in the Gestapo or --

19 | Q. Gestapo.

20 | A. -- Gestapo or Russian. And I said another thing too, I said
21 | you remind of a lobster; when you grab a hold of something,
22 | you don't know when to let it go.

23 | Q. You remind me of a lobster; when you grab a hold of something,
24 | you never let go?

25 | A. I don't know -- that was my way of telling him --

EMILY CLEMENS, by Mr. Spicer

1 Q. That was your way of telling him what?

2 A. That I didn't like what he was doing.

3 Q. And then -- the comments that he'd been making before that
4 that you, I think you've indicated, you didn't know where
5 your daughter was and that suggestion was being made to
6 you. How did you respond to that? Did you say anything
7 to that?

8 A. I got mad and I may have said a few more things but as I
9 said I don't remember at the time while I was there.

10 In fact I didn't even remember what I said before
11 until someone else reminded me of what I said.

12 But I did get made at him because I found out that my
13 daughter -- I respected her rights and she respected mine
14 and she -- when she went out, she always phoned me to let
15 me know where she was and that and I said I wasn't going
16 to be a watchdog on her.

17 Q. During this conversation or exchange between yourself and
18 John MacIntrye, did he make any reference to Junior
19 Marshall?

20 A. You mean --

21 Q. When you were in the room there?

22 A. Well, he just said that he wasn't the proper person that
23 my daughter should be associating with.

24 Q. I'm sorry, he told you that Junior Marshall was not a
25 proper person?

EMILY CLEMENS, by Mr. Spicer

- 1 A. Well, I mean, you know, that he had gotten himself into
2 different situations, you know, stuff like that.
- 3 Q. Did he tell you what those situations were?
- 4 A. Well, I thought they were just stupid things. Like doing
5 kids pranks.
- 6 Q. Sorry.
- 7 A. Something like, you know, young boys would do at that time.
- 8 Q. Oh, kids pranks?
- 9 A. Yeh.
- 10 Q. Did he -- did he specifically tell you what they were though?
- 11 A. Well, he said something -- something about doing in the
12 graveyard, but I said at that time I didn't know anything
13 about it. So it could have been anything.
- 14 Q. Did you know at that point that your daughter had been
15 hanging around with Junior Marshall?
- 16 A. No, I did not.
- 17 Q. Did you know who Junior Marshall was?
- 18 A. Didn't have a clue.
- 19 Q. And when John MacIntyre was saying to you -- making
20 references to Junior Marshall, did you have any idea of
21 who he was talking about?
- 22 A. Well, I -- no, I didn't because to tell you the truth that's
23 the first time I had heard about the boy until he brought
24 the situation up; I did not know.
- 25 Q. Did he make reference to the fact that Junior Marshall was

EMILY CLEMENS, by Mr. Spicer

1 an Indian or just to the fact that your daughter shouldn't
2 be hanging around with him?

3 A. Oh, yes, he let me know he was an Indian because at that
4 time I didn't know he was an Indian.

5 Q. And in what way did he let you know he was an Indian?

6 A. Well, he just said he was an Indian and then just mentioned
7 a few things that he had gotten himself into at the present
8 time.

9 Q. And what was the impression that you got from that --
10 how he felt about Junior Marshall?

11 A. Well, I don't think that he -- that he probably didn't like him
12 very much. I mean I -- I didn't exactly know why at the time
13 because -- I was there but I mean, my impression was that
14 he wasn't too fussie about him.

15 Q. Okay, when you intervened and had this exchange with John
16 MacIntyre, did you stay in the room following this
17 exchange?

18 A. Well, at that time I was quite upset quite a bit. So we
19 stayed there for a while in there and he was saying and
20 my daughter got mad and bounced her books and then told
21 her -- I don't think -- don't talk to my mother that
22 way or something to that effect.

23 Q. Okay, just a second, just before we get to that. After you
24 had the exchange, did you then sit down in the room?

25 A. Yeh, I sit there with her and until --

EMILY CLEMENS, by Mr. Spicer

1 Q. And why did you sit down in the room?

2 A. Because I didn't -- I wasn't going to leave her in that
3 environment.

4 Q. Okay, were you told to sit down?

5 A. Well, he told me to shut up and sit down or be quite and
6 sit down. Something to that effect.

7 Q. Who told you that?

8 A. I guess, he did because he was the only one who was throwing
9 the questions at her.

10 Q. John MacIntyre?

11 A. Yeh.

12 Q. Right. Did you sit down?

13 A. I did.

14 Q. Okay and did the questioning of your daughter continue?

15 A. Continue, yes.

16 Q. And at this point now you're in the room listening to it?

17 A. Yeh.

18 Q. And what were the questions that were being asked?

19 A. The same questions as before, you know, to the same thing
20 about, you know, where it was, you know, about the drinking
21 and if he gave it to her and all that.

22 Q. And if he gave it to her, who gave it to her? Junior
23 Marshall gave it to her?

24 A. Yeh, and she said no he didn't. That they were out but
25 that he didn't give it to her.

EMILY CLEMENS, by Mr. Spicer

1 | THE CHAIRMAN:

2 | Give?

3 | BY THE WITNESS:

4 | A. Well, at that time he was supposed to be giving liquor to
5 | -- she was a minor. So they tried -- he tried to put across
6 | that -- that he had given liquor to a minor. And she said
7 | no, that he didn't.

8 | BY MR. SPICER:

9 | Q. Your daughter was denying it?

10 | A. Yeh.

11 | Q. And you indicated a minute ago, that at some point your
12 | daughter slammed -- did she have her school books with her?

13 | A. Well, yes, she still had her books with her.

14 | Q. Right.

15 | A. Because I said he picked her up by the bus stop. She never
16 | had a chance to go home or anything. So she still had her
17 | books with her in there.

18 | Q. Right, did you have -- did you have the impression that if
19 | you wanted to, you could have -- you could have said at
20 | any time "well, we're leaving now, good-bye, see you later"?

21 | A. I don't know. No, I never gave it that thought. I just
22 | figured out well, when he was finished doing whatever he
23 | wanted to do with her, he'd be -- he would tell us to go.
24 | But I wasn't going to move away her because I felt that
25 | I mean, I was there because -- because I wanted to be.

EMILY CLEMENS, by Mr. Spicer

- 1 Not for him or anybody else.
- 2 Q. Was it your feeling that you couldn't go until the questioning
3 was over?
- 4 A. No, I wasn't going to go until the questions -- because I
5 didn't feel comfortable with the situation at that time.
- 6 Q. Now my question -- I'm not sure we understand each other.
7 My question was whether or not you thought that you could
8 just say to John MacIntyre "I'm sorry, this questioning is
9 not going any further. My daughter and I are leaving?"
- 10 A. Well, I told him to ease off. That if he was going to ask
11 you any questions, he should ask her more in a proper manner.
12 Not trying to scare the living god out of her.
- 13 Q. And what was his response to that?
- 14 A. Well, he still kept throwing questions at her as if I wasn't
15 even there, to be honest with you.
- 16 Q. In what tone of voice?
- 17 A. Well, I don't know. Somebody bullied. Traping over them.
- 18 Q. Well, when you described bully type, are you talking about
19 somebody --
- 20 A. Well, I mean forceful.
- 21 Q. Yes.
- 22 A. Forceful, like if to say well, it's my show, I'm going on
23 with it.
- 24 Q. And the questioning continued with you sitting in the room?
- 25 A. Yes, he still asked her the same questions.

EMILY CLEMENS, by Mr. Spicer

1 Q. And your daughter continues to deny it?

2 A. Well, she still -- she said she told as she -- at the time
3 she still denied it.

4 Q. And then -- you told us a couple of minutes ago that at
5 some point your daughter slammed her school books down?

6 A. Well, she slammed her school books down at the time that
7 he -- when he referred to me as being, I guess, at the
8 point, that I wasn't a fit mother to a certain extent
9 because I didn't know where my daughter was at the time
10 and who she was associating with. And that's the time
11 that she got mad at that point.

12 Q. What did she do?

13 A. Well, she said "Just don't talk to my mother like that."
14 Or something to that affect.

15 Q. And was your daughter's voice raised? Did she yell?

16 A. Well, when she -- well, she got mad and she just bounced
17 her books on the table at the time.

18 Q. And what was the response of John MacIntyre to that?

19 A. He just told me to sit down and keep quite or shut up or
20 something that that. I don't know. He said something
21 to me and any way I sat down. It could have been anything.

22 Q. During the time that you were in the room, did your daughter
23 ever admit to John MacIntyre that Junior had given her
24 liquor?

25 A. No, not while I was there because if I did, I think I would

EMILY CLEMENS, by Mr. Spicer

1 have been quite mad to go through all the ordeal that we
2 had gone through and she finally broke down in the end
3 instead of coming out first and saying in the beginning.
4 So I think I would have been kind of put out that knowing
5 that we went through all that anxiety for nothing.

6 Q. How then did the questioning end?

7 A. Well, he just -- it just ended. Just as -- you know, just
8 ended period. There was no good-byes, shake hands or
9 nothing of that kind of sort of thing. We just ended.

10 Q. Did your daughter -- was your daughter asked to give a
11 statement, do you remember?

12 A. Well, I never checked -- I don't remember seeing her
13 signing any papers at the time. If she did, she made --
14 I don't think she did. Not in my presence anyway.

15 Q. And did you leave together with your daughter?

16 A. Oh, I walked out first and as far as I can remember that
17 she just walked in behind me.

18 Q. Do you know whether or not she might have still been in the room
19 for a period of time being questioned by John MacIntyre
20 after you left?

21 A. To be honest with you, I don't remember.

22 Q. You don't remember?

23 A. I tell you the truth, I was so mad at the time, I think
24 I just drew blanks. I don't know. But as far as I understood
25 we pretty well left at the same time.

EMILY CLEMENS, by Mr. Spicer

- 1 Q. And you left at the same time, how did you get home?
- 2 A. He drove me home.
- 3 Q. Who's "he", John MacIntyre?
- 4 A. Well, the people that -- the both that drove me down, of
- 5 course.
- 6 Q. So both police officers drove you back home?
- 7 A. Yeh.
- 8 Q. In the car?
- 9 A. Yeh.
- 10 Q. The police car again?
- 11 A. Yeh.
- 12 Q. Was there any conversation between yourselves -- between
- 13 yourself and the police officers on the way home?
- 14 A. Well --
- 15 Q. Until the time you got to your home?
- 16 A. No, everything was pretty well still. Because as I said
- 17 I was upset. My daughter was upset. And we just didn't
- 18 feel like talking.
- 19 Q. How did you feel at that point when you were driving home?
- 20 A. Well, I was new to the community and I -- to tell you the
- 21 truth when -- I just felt like running home and packing
- 22 all my stuff and throwing in the suit and run like hell.
- 23 Q. To where?
- 24 A. You tell me. That was my opinion.
- 25 Q. And why were you feeling that way?

EMILY CLEMENS, by Mr. Spicer

- 1 A. Because I don't know. I just -- I was never in that -- you
2 know, I was never put through that before.
- 3 Q. And what do you consider it was that you were put through?
- 4 A. Well, the anxiety and everything else. I figured well, if
5 anybody's going to question a young girl, that they should
6 have been more -- you know, not so high pitched, and so
7 forceful. She wasn't a criminal or anything and she shouldn't
8 have been put through what she had been put through.
- 9 Q. Yes.
- 10 A. Well, that was my thought anyway. I don't know if anybody
11 else saw it that way.
- 12 Q. When you got to your house, did you get out of the car
13 together with your daughter?
- 14 A. No, my daughter went out first.
- 15 Q. And did either of the police officers say anything to your
16 daughter as she was getting out of the car?
- 17 A. I don't remember. She just -- she just got out in a hurry,
18 I know that. And she went right in the house. In fact she
19 went right upstairs.
- 20 Q. And did you stay in the car?
- 21 A. Yeh, I was in the car for a few minutes.
- 22 Q. And what happened during the time you stayed in the car?
- 23 A. Well, he just -- he just started telling me what type of
24 a person that he was and what he --
- 25 Q. Sorry, just a second. What type of person -- first of all

EMILY CLEMENS, by Mr. Spicer

1 | who's telling you this? Is this John MacIntyre again?

2 | A. Well, they were both were -- there was criss-cross
3 | conversation. There wasn't anybody specific, you know.
4 | They were just telling me that he was --

5 | Q. Who's he that we're talking about?

6 | A. Junior was at the time, Marshall. That he had done, like, the
7 | different things, like you know, that they had got him on
8 | different things; but he was never charged with it as far as
9 | I understood and that my daughter was very lucky to be --
10 | that she could have been more involved than she was and all
11 | that kind of stuff. And you know, she was lucky to be off --
12 | that something could have happened to her or something but
13 | I didn't know what she meant by that.

14 | Q. Well --

15 | A. Because I didn't know anybody.

16 | Q. -- did either of the police officers give you any indication
17 | of what sort of thing might have happened to your daughter?

18 | A. No, he didn't. He just said that she could have gotten
19 | hurt somehow or other along the long but they didn't give
20 | me any reason why she should have gotten hurt. And to tell
21 | you the truth, I was too scared to ask.

22 | Q. Were they making a connection between the possibility of
23 | your daughter getting hurt and Junior Marshall?

24 | A. That I don't know. I mean, it could have been because he
25 | was the only person that we were talking about at that time.

EMILY CLEMENS, by Mr. Spicer

1 But as I said, I was quite upset about my daughter and they
2 were telling me all these different things about a strange
3 person I didn't even know. And to tell you the truth, I
4 didn't really want to hear it to be honest with you.
5 Because I said -- it was really -- I was getting more
6 frightened, you know. I said what kind of environment did I
7 get myself into.

8 Q. Did you get the impression from what was being said that
9 you shouldn't let your daughter hang around with Junior?

10 A. Yes, but I mean I couldn't -- that was the impression but
11 I said, the way I figured it, well, I didn't know the lad
12 at the time and I couldn't judge him because I said I would
13 have to know a person myself before I could say anything
14 against him or anything like that because I didn't know him.

15 Q. Did you respond at all in this conversation or were you
16 just listening to what was being said to you?

17 A. Well, listening -- I don't know what his point was in
18 telling me all that if he thought that I should -- came to
19 the point that I should lay charges for -- making liquor
20 for -- he didn't say so but I mean, I didn't know if was
21 bringing that point up or not.

22 Q. What point is that?

23 A. About him giving liquor to my daughter and he figured out
24 well, he was telling me all these different things, bits and
25 pieces, that I would break down and say well, go ahead do

EMILY CLEMENS, by Mr. Spicer

1 -- I don't know what his point was. But I didn't -- I didn't
2 pick him up on anything. I just wanting to get in the house,
3 period.

4 Q. There was -- and I know you're familiar with this because
5 we discussed it; but there was an article last summer in the
6 Toronto Star in which you were quoted as saying --

7 A. No, I didn't -- I didn't -- some -- I'll tell you how that
8 happened to me. Somebody phoned up and asked about the
9 Commission there --

10 Q. I remember that but --

11 A. Yeh.

12 Q. There was an article in the Toronto Star in which this
13 incident was referred to and you are referred to as having
14 said that John MacIntyre said to you at the end of this
15 conversation in the car that referring to Junior
16 Marshall

17 If I can't get him on this, I'll
18 get him on something else.

19 Do you have any recollection of saying that?

20 A. I never -- I never quoted that. He did say that to that
21 effect but I never quoted that to Toronto Star. I don't
22 know where they picked that up at. Because I never --

23 Q. Okay, well, regardless of whether or not you quoted it to
24 the Toronto Star, that is your recollection of what was
25 said to you?

EMILY CLEMENS, by Mr. Spicer

1 A. Yeh, that was the point yes.

2 Q. By John MacIntyre?

3 A. Because he did do other things and they felt that if they
4 didn't get him on one thing, well, they could have gotten
5 him on another. But I -- but I didn't ask them what they
6 were trying to get him on.

7 Q. But that was said to you in the car?

8 A. Oh, yeh, that was said.

9 Q. By John MacIntyre to your recollection?

10 A. Well, he could have said it or the other fellow. But they
11 were both -- as I said they were criss-crossing questions
12 and talk. It was like what you call a two circle.

13 THE CHAIRMAN:

14 Q. We better go through that again; I'm not clear Mrs. Clemens
15 if you're saying --

16 A. Well, the way it was --

17 Q. Could you just --

18 A. -- the both men at the time they were telling me different
19 things. Like one person would say one thing and the other
20 man would say something. And I was quite upset at the time
21 so I didn't really pay too much attention who was throwing
22 the questions out on me. But I mean --

23 Q. No, no, that's not my problem.

24 A. What's that?

25 Q. Did John MacIntyre say to you that there were other things

EMILY CLEMENS, by Mr. Spicer

1 | that he or the police could have gotten Junior Marshall --

2 | A. Well, it was --

3 | Q. -- on or did he say to you

4 | If I don't get him now, I'll get
5 | him later on.

6 | Which was it?

7 | A. Well, he said it -- that he would make the mistake sometime

8 | in the near future that he would probably would get him --

9 | pick him up on it. That's what I understood it; now I

10 | couldn't.

11 | Q. I see.

12 | A. Something to that effect.

13 | MR. SPICER:

14 | Is that clarified, my Lord.

15 | COMMISSIONER EVANS:

16 | Q. Well, on this. Does that mean that as I get the gist of the

17 | conversation that was going on between Marshall and your

18 | daughter. He thought -- I'm sorry, between MacIntyre and

19 | your daughter, the police were of the view that Marshall

20 | had given liquor to your daughter?

21 | A. That's right.

22 | Q. And your daughter denied that Marshall gave her any liquor?

23 | A. Yeh, he denied at that time being given the liquor.

24 | Q. Now did she admit that somebody had given her liquor?

25 | A. As far as I understood it they got the liquor but she didn't

EMILY CLEMENS, by Mr. Spicer

1 -- she didn't mention who gave it to her.

2 Q. But that she did get liquor from somebody?

3 A. Yeh, they had a few drinks but they wasn't -- he wasn't
4 connected with it.

5 Q. And that she was a juvenile?

6 A. Yes.

7 Q. And that's what he was concerned -- partially concerned
8 about?

9 A. Yeh, well what he was trying to put the point that he wanted
10 to know if Marshall was the one that gave it --

11 Q. Gave her the liquor?

12 A. -- yeh, gave it to her.

13 Q. And she denied it?

14 A. Yeh.

15 THE CHAIRMAN:

16 Q. Did this come as news to you of -- had you been aware of
17 the fact that your daughter --

18 A. Well, I'll tell you it was all news to me because as I
19 said, I didn't know -- I didn't know anything about it
20 until that instant until I got down to the --

21 Q. Let's forget Junior Marshall for a moment. Was it news
22 to you that your daughter had been, you know, supplied
23 with liquor?

24 A. Yes, because I mean, normally when she came home, she
25 usually come in the house and she would sit down and she
would have a lunch and everything. So I've never actually

1 | seen her with any liquor, you know -- that'd have any --
2 | way of knowing that she had any liquor on her. And she's
3 | never stayed over anybody's house on the weekend or anything
4 | like that or overnight. And she's usually home every night.
5 | So I can't see -- you know.

6 | Q. Were you concerned to -- over the fact that your fourteen
7 | year old daughter --

8 | A. Yes, I was concerned.

9 | Q. -- may have consumed liquor?

10 | A. Yes, I was concerned on that point but I mean as I said,
11 | I didn't want -- I couldn't say anything because I never --
12 | I wasn't there at the time and I was only taking what
13 | I heard, you know, from her herself. But myself I'd never
14 | seen her in that position where that she had had liquor
15 | from anybody. And I just took her word for it and I
16 | figured, well --

17 | Q. But what was her word? Did she say she had it?

18 | A. She said that he did not supply at that --

19 | Q. Oh, no, I realize that. I appreciate that. But did your
20 | -- I guess -- I was left the impression and correct me if
21 | I'm wrong, that while your daughter denied very strongly,
22 | according to you --

23 | A. Yeh.

24 | Q. -- that she had not been supplied with any liquor by
25 | Donald Marshall, --

EMILY CLEMENS, BY Mr. Spicer (by the Chairman)

1 A. That's right.

2 Q. -- Junior, but that she had been supplied by -- with liquor
3 by someone else. She had some liquor?

4 A. Well, they had like a drink of wine of something about it
5 but I think that as far as I know, that's about the only
6 thing they had. But that she did not have anything at that
7 one -- at that point of time that he was trying to put
8 across to me that she had. That he didn't supply it.

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EMILY CLEMENS, by Mr. Spicer

1 BY MR. SPICER:

2 Q. Let's go back for a sec over that. During the questioning by
3 John MacIntyre in the police station --

4 A. Yes.

5 Q. -- did your daughter admit having gotten liquor from anybody
6 else?

7 A. No, not when -- not in my presence at the time. All she said
8 at the time that she didn't -- that I could understand at the --
9 from what I heard, that she said that he did not give it to her.

10 Q. Right, but was she asked whether or not she got liquor from
11 anybody else other than Junior Marshall?

12 A. Well, if she was asked, she didn't -- not while I was there
13 because, I'll tell you the truth, I think I would've been
14 kind of curious to find out who was if anybody did give it
15 to her.

16 Q. And it was -- Was it your understanding from what you heard
17 in that questioning, that your daughter had said that Junior
18 Marshall did not give her any liquor?

19 A. Yeh, that's my understanding.

20 Q. Okay. And secondly that she didn't get any liquor from anybody
21 else either?

22 A. Well, that I don't know. I can't answer on that point, but all
23 I know was that she made a point that she did not get it from
24 him.

25 Q. Do you recollect whether or not she was asked any questions about

EMILY CLEMENS, by Mr. Spicer

- 1 whether or not she got it from anybody else?
- 2 A. No, not if I remember because I'll tell you that I was -- I --
- 3 The part that I came in -- I was just got into the part where
- 4 he was asking, you know.
- 5 Q. So that all you can tell us today is that all you know is that
- 6 your daughter denied getting liquor from Junior Marshall?
- 7 A. Yeh. Yeh, at that -- Yeh. But, I mean, as I said -- But I
- 8 mean -- But judging her coming home every night and -- You
- 9 know, and we always had lunches and things together, if she
- 10 did had any, I certainly would've detected into her, as far
- 11 as that's known.
- 12 Q. Now, in connection with this particular occurrence; that is,
- 13 with the allegation that Junior Marshall had, in fact, given
- 14 your daughter liquor, did you know that your daughter went
- 15 to court and --
- 16 A. Yeh.
- 17 Q. -- in fact said that Junior Marshall did give her liquor?
- 18 A. No, I wasn't at the -- I did not go down to the court case
- 19 myself. No, I didn't.
- 20 Q. And you didn't know that your daughter in fact got down to
- 21 court and said that?
- 22 A. I -- No, I didn't. I did not know. In fact, I didn't go
- 23 down to the court or I -- or anywhere near the court.
- 24 Q. Did you know that she was going?
- 25 A. Oh, I knew that she was going. My husband at the time went

EMILY CLEMENS, by Mr. Spicer

1 down with her, but I didn't go down with her because I had
2 other small children to look after and things at home.

3 Q. So you had no idea after this --

4 A. The only thing that I knew is just what I knew at that specific
5 time in the room but what about anything else with the going
6 down to the court itself, I didn't know anything about that.

7 Q. Do you think that your attitude concerning the questioning
8 would've been different if you had known that your daughter,
9 in fact, had been supplied liquor by Junior Marshall?

10 A. Well, I'll be honest with you. If he had have gave it to her,
11 and her being a minor, I think I would've run up -- I wouldn't
12 have put -- made a big deal of it. I think I would've went up
13 myself and talked to the boy personally and asked him, you know,
14 that way.

15 Q. But let's just concentrate on the questioning for a moment.
16 If you had known that your daughter had, in fact, got some
17 liquor from Junior Marshall, would you have been as upset at
18 the way she was being questioned by John MacIntyre?

19 A. I would've been upset because, you know, if she had taken it
20 from him. But I still would've been upset on the way he had
21 tried to get it across to make her confess to the point that
22 she did take it from him.

23 Q. Yes.

24 A. Is that what you mean?

25 Q. That if she -- If you knew that she wasn't telling the truth --

EMILY CLEMENS, by Mr. Spicer

1 If you knew that, in fact, she had received liquor from John
2 MacIntyre, what do you think John MacIntyre should've done
3 to get the truth out of her?

4 A. Well, I think if he had've been a little more understanding to
5 her -- had a different approach, then he probably wouldn't have --
6 He might've. I don't know. I can't answer that one, but as
7 the way right then at the time, he was treating her as if
8 something -- as if she had done something real wrong, as if
9 it was a crime to what she had done.

10 Q. Was part of the reason you were upset though, Mrs. Clemens,
11 was because you thought during that questioning that your
12 daughter was telling the truth?

13 A. Yes, I believed in my daughter at the time, and in fact I still
14 believe in her today if she --

15 Q. And if you'd thought that she wasn't telling the truth, how
16 would you have felt then, do you think, if you'd known that
17 she wasn't telling the truth to John MacIntyre?

18 A. Well, at that time, I would've have been very, very upset with
19 her at the time. I mean, I --

20 Q. And would you still have been upset with the way John MacIntyre
21 was questioning her?

22 A. Yes, I still would've been upset with him because I still say
23 that any person who wants to question someone, they don't have
24 to badger them. They can ask questions and be nice about it
25 and I think they get just as much results out of a person

EMILY CLEMENS, by Mr. Spicer

1 especially a young child, than trying to put the fear of God
2 into them. That's what my attitude was at that time.

3 Q. It would seem, though, from what you've told us that when your
4 daughter left the questioning that day with John MacIntyre,
5 she, in fact, hadn't told him the truth because she went to
6 court later and said that Junior had given her some liquor.

7 A. Well, then I don't know anything about that part of it. As I
8 said, I didn't go down, and I never discussed it with them
9 when they came back. But, I mean, I was talking to her not
10 too long ago on the phone, and I asked her about that one
11 incident to that point and she doesn't -- Well, I asked her
12 point blank. I said, "It's all over with. You might as well
13 tell me now one way or the other." And she told me the same
14 thing that at that time when he was questioning about that
15 one incident that he did not give her liquor on that one --

16 Q. This is a recent telephone conversation you had with your
17 daughter?

18 A. Yes, and I said, "You got nothing to hide, nothing to be
19 scared about." I said, "I want the honest truth." And that's
20 what she told me she said.

21 BY MR. CHAIRMAN:

22 Q. I'm having real difficulty following it. Mrs. Clemens, let me
23 get this clear. You said that you didn't go down to court --

24 A. No, I didn't. I couldn't.

25 Q. -- with Joan --

EMILY CLEMENS, by Mr. Spicer, (by Mr. Chairman)

- 1 A. No, I didn't.
- 2 Q. -- when she went to testify, presumably in some -- in an action --
3 a charge that had been laid against Junior Marshall for giving
4 liquor to minors.
- 5 A. Well, as far as I understood what it was, that he was taken
6 down to court and I guess -- I don't know if there was anybody --
7 I gather there must've been two, three other people there and
8 they were brought down on that thing.
- 9 Q. No. No. You -- But your husband did go with your daughter?
- 10 A. Well, yes. He said he did now. He said he did.
- 11 Q. When he came home, after the trial was over -- When he and
12 Joan came back home, did you say to him, "What happened in
13 court today?"
- 14 A. I did but to tell you the truth, he didn't answer me. He
15 just got his things, got in the car, and went out to work --
16 back to work. He never said nothing, to be honest.
- 17 Q. Did you then say to Joan, "What happened in court?"
- 18 A. I didn't ask her at the time because she was very upset and
19 she went upstairs and she just went into her room and it was
20 a closed conversation at that time.
- 21 Q. Did you ever find out that Joan had testified in court that
22 Junior Marshall had given her liquor?
- 23 A. No, I didn't. I didn't know anything about it until I --
24 through this hearing.
- 25 Q. This is something new to you now?

EMILY CLEMENS, by Mr. Spicer, (by Mr.Chaiman)

1 | A. Well, this is just as new to me as it is to you.

2 | Q. Oh, all right.

3 | A. But at that point in time -- that one specific time that he
4 | was questioning that was the time that he wanted to know what --
5 | He didn't say about any other time that I understood. It was
6 | that one specific time he wanted to know if he gave her any
7 | liquor. At that one time he was questioning, and at at that
8 | one time she said no.

9 | Q. When your husband and Joan left to go down to court --

10 | A. Yeh.

11 | Q. -- for the purpose of Joan giving evidence, did you know why
12 | she was going down, what the case was all about?

13 | A. Yeh, I had an idea that it was something towards the effect
14 | that it was there, and I wanted to go down because --

15 | Q. That what was there?

16 | A. You know, to where I -- the incident that I went through. I
17 | figured it was on the same scale, you know, the same purpose,
18 | and I wanted to go down because I said -- I was at the begin-
19 | ning of it and my husband said, "No." He said -- She said --
20 | He said, "You'll only be even more upset than you are right now."
21 | And he said, "Let me go."

22 | Q. Did you --

23 | A. But I wish I had have went because I would've been a little
24 | more wiser.

25 | Q. Did you ever hear that Junior Marshall was convicted of giving

1 liquor to minors?

2 A. No, I never heard any more about it.

3 Q. So you didn't -- You had no idea of the outcome of the trial?

4 A. To tell you the truth, I just made closed conversation of it
5 because, as I said, Joan was completely -- Nobody bothered her
6 anymore at that time, and I didn't know the boy, and I just
7 said, "Good luck." Everything was over with and I was happy
8 about the thing.

9 BY COMMISSIONER EVANS:

10 Q. But you did say if you had known that he was supplying liquor --
11 he or anybody else was supplying liquor --

12 A. Yeh, I would've been upset about it just then --

13 Q. You would've been upset about it?

14 A. I definitely would've been upset because, as I said, nobody,
15 I don't care who they are or what they are, should contribute
16 liquor to a minor. I don't care who it is.

17 Q. Right.

18 A. I agree with you on that part that yes, I do.

19 Q. And if she had been lying to you about it, you would've been
20 concerned too?

21 A. I would've been concerned, but I figured out that we always
22 had an open relationship at all times and I never gave her any
23 reason not to have one; so I figured she never lied to me
24 before or anything, why should she start lying now because I
25 wasn't going to do anything to her or anything, you know, and

EMILY CLEMENS, by Mr. Spicer

1 I just wanted to know the truth. And I don't know why she'd --
2 When I asked her recently, and she does nothing -- no reason
3 now to lie to me that she said, "No."

4 BY MR. SPICER:

5 Q. Where is your daughter, Joan, now?

6 A. In B.C.

7 Q. And was this a conversation you had with her --

8 A. Yeh, we had -- Like she phones me. That's when, you know,
9 the people were trying to get in contact with her and all
10 that, and I told her that they were trying to get in contact
11 with me, and I said, "I would like to know -- " I knew that
12 what was going on down when I was there, but I said -- And
13 I wasn't down to the court case or anything. I said, "I would
14 like to know a little more about it," you know. And I said,
15 "When we were down there, when they were questioning you," I
16 said, "Were you telling the truth at that present time?" and
17 she said, "Yes." And I said, "I don't want you to lie to me.
18 I want to know the truth." And I asked her -- But other
19 incidents I don't know of. I can't say -- give account for
20 any other time, only that one time.

21 Q. Did your daughter ever tell you that -- whether or not she was
22 at the dance at St. Joseph's Church with Sandra and Barbara
23 Floyd on the night that Sandy Seale was stabbed?

24 A. No, she never -- did not mention that.

25 Q. She never mentioned that to you?

EMILY CLEMENS, by Mr. Spicer

- 1 A. No, she never mentioned it.
- 2 Q. Would it surprise you to hear that the evidence of the other
3 two girls is that your daughter --
- 4 A. She could've --
- 5 Q. Just let me finish.
- 6 A. I'm sorry.
- 7 Q. That -- surprise you to hear that the evidence of the other two
8 girls, Sandra and Barbara, was that your daughter, Joan, was
9 with them the night of the dance that Sandy -- of the evening
10 that Sandy Seale was stabbed?
- 11 A. Well, not really because they had a habit of going to the
12 dances all the time down there so -- And -- Well, as I said,
13 I didn't know anything about what happened; so I wouldn't
14 have probably wouldn't gave it any thought. Just figured out
15 that she was there at the -- You know, at the dance that one
16 night.
- 17 Q. And did your daughter ever say anything to you at all about
18 the incident surrounding the stabbing of Sandy Seale?
- 19 A. No, she never mentioned it.
- 20 Q. Did she ever say anything to you at all about whether or not
21 she might've seen John Pratico on leaving the dance that night?
- 22 A. No, she never -- In fact, I never heard -- I don't even know
23 who he is.
- 24 Q. So if she knew anything about it, she wasn't telling you?
- 25 A. Well -- No, she never mentioned it.

- 1 Q. I see. Did she ever mention anything at all about Junior
2 Marshall to you after this liquor incident?
- 3 A. Well, I asked her what kind of boy he was and she said, "Mom,"
4 she said, "He's okay. He's nice and he's a nice person and
5 that," and she said, "I don't know what all the fuss is about."
6 That was her -- you know, her way of saying it.
- 7 Q. Your recollections on the things that you said to John MacIntyre
8 the day that you were -- you daughter was being questioned with
9 reference to "Gestapo" and "lobster" --
- 10 A. I wish you hadn't have asked that because that sounds kind of
11 stupid now when I think that far back.
- 12 Q. No, what I want to ask you is whether or not you've been
13 reminded of those comments lately?
- 14 A. Well, listen, I don't even know how that ever came to a point
15 because, as I said, the only who really knew what I had said
16 at that time was my daughter, herself. I never mentioned it
17 to my husband or anybody because I figured out -- Well, I
18 thought it was kind of -- I was -- I got mad at the time, and
19 I figured well maybe it was kind of -- You know, that -- It
20 came off the top of my head. You know, I was really mad at him.
- 21 Q. But is your recollection of those comments, and those two
22 comments in particular, been assisted by anybody else in your
23 family recently bringing -- sort of refreshing your memory?
- 24 A. Now, I didn't quite understand what you said.
- 25 Q. Have you talked to anybody else in your family over the years

EMILY CLEMENS, by Mr. Spicer

- 1 about those comments and were --
- 2 A. No, I'll tell you the truth, I never really discussed it with
3 anybody only, as I said, lately, just the last couple of days
4 because the reason why I spoke to people was like my only --
5 not to anybody outside, just my own immediate family because
6 I wanted to kind of refresh my own mind because as time went
7 by, you know, I kept pushing it in the back of my own mind.
8 That way --
- 9 Q. So is it fair that in the last couple of days, you might've
10 discussed it with other members of your family, but you were
11 the one that was telling them what you remember?
- 12 A. Yeh. Well, I was trying to -- Like, you know, say like -- kind
13 of talk it out, you know, instead of talking it out myself,
14 I would like to talk it out with somebody else like, you know,
15 and try and, you know, see what I do remember because, as I
16 said, it's quite a while back.
- 17 Q. And are you satisfied that everything you've told is --
- 18 A. Well --
- 19 Q. Just a sec. Are you satisfied that you've told us is in fact
20 what you remember --
- 21 A. Yes.
- 22 Q. -- and nothing has been suggested to you?
- 23 A. No, I know I said those remarks because, as I said, as I was
24 talking to you earlier, I said I didn't want you to bring
25 them up because I thought it was kind of stupid, and I

EMILY CLEMENS, by Mr. Spicer, by Ms. Derrick

1 | remember that and I remember about the other thing -- instance
2 | that -- I know -- I -- Everything --

3 | Q. All right. You're certain that everything you told us is --

4 | A. Well, everything, as I said, is --

5 | Q. -- your recollection?

6 | A. It's my -- Yeh, it is. Yeh.

7 | Q. Thank you.

8 | BY MS. DERRICK:

9 | Q. Mrs. Clemens, my name is Anne Derrick, and I represent Junior
10 | Marshall. Back to this occasion when John MacIntyre questioned
11 | your daughter. When John MacIntyre and the other police
12 | officer came to your house that day, I think you said that
13 | you asked them what they wanted to talk to Joan
14 | about.

15 | A. Yeh, I did ask them, but they didn't volunteer any information.

16 | Q. Did they simply ignore your inquiry?

17 | A. No, they just -- I don't know if they -- At the time, I was
18 | kind of -- You know, I said, kind of mixed -- scared like
19 | because, I mean, I never had policemen knocking on my door
20 | before. But they didn't volunteer anything and -- Well, when
21 | they --

22 | Q. Do you have any recollection of what they did say to you in
23 | response to your inquiry?

24 | A. Well, they just asked if Joan was home. And I said no that
25 | she was at school. And they wanted to know what time she got

EMILY CLEMENS, by Ms. Derrick

- 1 off and I told them the time and then --
- 2 Q. But when you inquired as to what they wanted to speak to her
3 about --
- 4 A. Yeh.
- 5 Q. -- do you have any recollection of what they said in response?
- 6 A. No, I didn't. And if they did -- No, I didn't.
- 7 Q. Is your recollection is that they simply gave you the brush
8 off, as it was -- as it were?
- 9 A. Well, as I said, as far as I remember, they just didn't
10 volunteer any information.
- 11 Q. They just didn't --
- 12 A. All they were interested in, actually, was in seeing my daughter
13 because, as I said, I had nothing to do with anything.
- 14 Q. And when you got into the car with them and you were driving
15 around waiting for the schoolbus to arrive, was there any
16 discussion in the car at that time?
- 17 A. No, I -- The only thing at the time -- No, we didn't -- If
18 we did talk, it was just idle chatter. There wasn't anything,
19 you know, to the --
- 20 Q. Would they talk to each other about anything?
- 21 A. Well, if they did, I didn't bother with them. If they did --
22 No, they --
- 23 Q. And nothing of significance was said between you and them?
- 24 A. No, there's nothing that -- nothing really.
- 25 Q. Had Joan ever been in any trouble with the police before of

EMILY CLEMENS, by Ms. Derrick

1 | any kind?

2 | A. Never in her life.

3 | Q. Did John MacIntyre say to you at some point during this that
4 | he had the right to question Joan without you being present?

5 | A. No, he didn't. But I think -- the way I -- If I hadn't have
6 | made my point to going with her, he would've went down to
7 | the school --

8 | Q. So he would have acted as though he had the right to question
9 | her without you being present?

10 | A. Well, if I hadn't have put my -- went forward -- No, I hadn't
11 | have went forward with them, I think -- If I just told them --

12 | COMMISSIONER EVANS:

13 | Let's leave something for the Commission.

14 | BY THE WITNESS:

15 | A. No, I'm just -- What I was trying to say was, if I hadn't have
16 | went with them, he was going to go down to the school and
17 | pick her up and take the thing from then on his own like as
18 | far as that there.

19 | Q. Thank you. Now, when you got to the police station, you weren't
20 | encouraged to go into the room with Joan and the police
21 | officers?

22 | A. No, I wasn't asked, no.

23 | Q. Do you remember who motioned you to sit down outside?

24 | A. Well, they just made a gesture towards a chair.

25 | Q. Do you remember which police officer it was?

EMILY CLEMENS, by Ms. Derrick

1 A. No, I didn't because when you're upset, you just don't pay
2 attention to those things.

3 Q. Could you overhear the discussion in the interview room
4 clearly?

5 A. I could hear some of it like at the point that he was quite
6 harsh with her and he was demanding and stuff like that. I
7 could hear that.

8 Q. Were there parts that you couldn't hear?

9 A. Yes, there were -- As I said --

10 Q. Excuse me, My Lord, what I wondering is whether you heard
11 a mumbling and weren't able to make out the words.

12 A. Well, what I was trying to explain is, there was times that
13 when things were kind of, you know, in a low key -- toned voice,
14 and there was times it was more forceful than others. It's
15 when -- I found that when she kind of refused to give them
16 the answers that they had wanted to give, he seemed to be
17 more forceful on to that part of it like, you know.

18 Q. Did you hear a raising of voices at that point?

19 A. Oh, yes, it was quite loud because it brought my attention.
20 That's what brought my attention.

21 Q. Could you see into the room?

22 A. No, not exactly. All I could see there was the table and she
23 was sitting over there; so I couldn't see the -- her expression
24 her face, or I couldn't see his. All I could go by -- that I
25 knew that she was upset by her, you know, her tone of voice

EMILY CLEMENS, by Ms. Derrick

1 and that.

2 Q. And -- From what you could hear, was John MacIntyre doing
3 the interview? Was he conducting the interview?

4 A. Well, I wasn't familiar with his voice and that, but I mean --
5 I gathered -- He was the one closest to her at that time; so
6 I gather that's who the person was giving all the questions
7 to her.

8 Q. Did it sound to be the same person asking the questions?

9 A. Yeh, the same voice. It was the same voice. Yeh. And every
10 once in a while like there was another voice came in, but I
11 didn't know who that was.

12 Q. From what you could hear before you were in the room, and then
13 afterwards when you went into the room, did it seem to you
14 as though the principal concern of John MacIntyre was Junior
15 Marshall?

16 A. Right.

17 Q. And when you -- What was Joan's reaction?

18 A. Well, she was -- At that time, she was kind of nervous, upset,
19 you know.

20 Q. Was she protesting that she was telling the truth?

21 A. Well, she had kept on insisting that she was telling the truth.

22 Q. And what was John MacIntyre like? Was he in an irritated --

23 A. Well, he just told her at one point --

24 Q. -- state?

25 A. -- that if she didn't come across and tell the truth that she

EMILY CLEMENS, by Ms. Derrick

- 1 | could be brought up, you know, with -- How do you say that now?
2 | Juvenile Court or something like that.
- 3 | Q. Did he seem angry or irritated to you?
- 4 | A. Well, he wasn't pleased with her because he figured out, well,
5 | that she wasn't telling the truth at that time.
- 6 | Q. You -- When you went into the room, what was it -- As soon as
7 | you came into the room that John MacIntyre said this to you
8 | about not being a proper person to raise a child --
- 9 | A. No. No. He kept on asking her the same questions over and
10 | over again and I told him -- I told him about -- that she
11 | always -- when she went anywhere, she always phoned. If she
12 | was going to be late -- and started telling him that. And
13 | then he --
- 14 | Q. So it was after you had been in the room for a few seconds --
- 15 | A. Yes.
- 16 | Q. -- that this exchange happened between the two of you.
- 17 | A. When I was trying to explain to you, you know, the situation
18 | that I was in -- the point that I knew that she was telling
19 | the truth at that time.
- 20 | Q. Did you see anybody taking notes, Mrs. Clemens?
- 21 | A. To tell you the truth, no. I didn't pay no attention to him.
22 | I was only one concern and that was my daughter at that present
23 | time.
- 24 | Q. And when you went into the room, was Joan crying or --
- 25 | A. Well, she wasn't exactly crying, but she didn't look good.

EMILY CLEMENS, by Ms. Derrick

1 She had kind of a frightful look on her face like, you know,
2 she was -- In my way of thinking, she ws kind of bewildered.
3 You know. She didn't know exactly what was --

4 Q. So she was clearly upset from what you observed?

5 A. Yes, she was really --

6 Q. And I take it from your evidence, that you didn't feel that
7 you could leave with Joan. You didn't feel that you could
8 just scoop her up and go home.

9 A. No, I didn't think because I didn't that -- He didn't give me
10 permission to leave or anything like that.

11 Q. And you felt that you needed his permission before you could
12 do that?

13 A. Well, he was an authority at that time; so I mean I didn't --
14 I probably could've went, but I didn't think that I was in
15 a position to go.

16 Q. I take it from the way that the questioning was going, that
17 it was your impression that John MacIntyre had it in his mind
18 that Junior Marshall had given Joan some liquor?

19 A. Yeh, that's right. Yes.

20 Q. Later on when the police officers took Joan and yourself home,
21 you were in the police car with them for a few moments, is
22 that correct?

23 A. Yeh, that's right.

24 Q. And was it on that occasion that something was said to you
25 about, "Yes, Junior Marshall's going to make a mistake, and

EMILY CLEMENS, by Ms. Derrick

1 we're going to get him at court."?

2 A. Well, he -- to that effect, yes, because he figured out, well
3 he was supposed to be doing so many different things that
4 eventually that he would slip up and they would eventually --

5 Q. What impression did this create on -- with you?

6 A. Well, I was kind of bewildered in one sort of way because I
7 didn't know what my daughter or myself -- got myself into.
8 You know, as I said, I didn't know the lad at the time.

9 Q. Was it your impression that John MacIntyre wanted to get
10 Junior Marshall for something?

11 A. Well, let's say he didn't like him.

12 Q. While you were in the police car, did John MacIntyre tell you
13 that Junior Marshall was responsible for pushing over a tomb-
14 stone?

15 A. Well, he didn't exactly say that in so many -- that he was
16 involved in some way or another, that they were up around the
17 graveyard fooling around with tombstones and that.

18 Q. Some mention was made of the graveyard and the --

19 A. Yeh.

20 Q. -- tombstones?

21 A. Because, I mean, I didn't know anything about it; so --

22 Q. Do you have any recollection, Mrs. Clemens, of John MacIntyre
23 coming back to your house on a subsequent occasion after
24 Sandy Seale was stabbed?

25 A. He did come back one time or another and he was asking questions

EMILY CLEMENS, by Ms. Derrick

1 | but --

2 | Q. What did he want on that occasion, do you recollect?

3 | A. Well, he -- I guess, as far as I understood, that he was just
4 | asking questions -- if she was down around the dance at that
5 | one time or another and if she was anywhere in the area.

6 | Q. If she, meaning Joan?

7 | A. Yeh.

8 | Q. Do you remember when that was?

9 | A. No, not right offhand.

10 | Q. On that occasion, were you present when John MacIntyre came
11 | to the house?

12 | A. Yeh, I was sitting in the front room. So was my husband at
13 | the time.

14 | Q. And did he actually speak to Joan on that occasion?

15 | A. Yes.

16 | Q. And do you have any recollection of what his demeanor was
17 | like then?

18 | A. Well, he wanted to know all the details and everything else
19 | so far as I could understand from the conversation, but she
20 | didn't know that much about it.

21 | Q. Was he different towards Joan on that occasion than he had
22 | been on the occasion with respect to the liquor?

23 | A. He wasn't exactly as forceful as far as he was into the
24 | thing, but he still had what you call a voice of authority
25 | and that he was in charge and we were there to answer his

EMILY CLEMENS, by Ms. Derrick, by Mr. J. Pink

1 questions as he asked them.

2 Q. Thank you, Mrs. Clemens.

3 BY MR. J. PINK:

4 Q. Mrs. Clemens, how many of your children were at home in 1971?

5 A. Oh, gosh, now let me think. I have -- I guess around about
6 eight or nine of them roughly.

7 Q. Would you not agree with me that it would be very difficult
8 to keep track of where your eight or nine children were at
9 all times?

10 A. Well, let's put it this way. I had about five young children.
11 One is in Grade One and is in Grade Two and Three and Four;
12 so, therefore, they weren't very hard to keep in contact with.
13 And I had like a couple of -- Like three of them going to
14 high school and they were very good to keep track with because
15 they were open with me and I was open with them.

16 Q. So is your evidence that when Joan was not at school, she was
17 at home most of the time?

18 A. Well, if she wasn't at school, I think that at time that the
19 teacher or somebody would've phoned me up and notified me and
20 asked me why.

21 Q. That's not my question. After school hours --

22 A. Well, they had to catch a bus home from school; so if they
23 didn't get that one bus, well, then they wouldn't get home
24 until a later date. So she always got home around about four
25 o'clock, roughly.

EMILY CLEMENS, by Mr. J. Pink

- 1 Q. Did you know where daughter was on Friday nights and Saturday
2 nights?
- 3 A. Yes, she went to St. Joseph's school, the dance, and one of the
4 nights, I forget if it was Friday or Saturday, but -- And the
5 majority of the time she was either down to Sandra MacNeil's
6 house or to the --
- 7 Q. Did you know that Sandra MacNeil and some other girls were
8 hanging around the park area, Wentworth Park?
- 9 A. No, I can honestly say, no, I didn't.
- 10 Q. Did you -- At any time did you realize that a number of young
11 kids were hanging around Wentworth Park and were drinking?
- 12 A. No, because, as I said, I was new to the area, and I wasn't
13 familiar with the situation and the lifestyle of the people
14 down here; so, therefore, I couldn't know what the young
15 teenagers did.
- 16 Q. Did your daughter ever sleep over at any of her friends'
17 residences?
- 18 A. Well, she went -- Like the type of people that she slept over
19 with -- The people always made sure that they're -- Once they
20 got there at a certain hour, they weren't allowed out after-
21 wards.
- 22 Q. Did you ever go to bed before your daughter ever came home?
- 23 A. I hate to say it. I'm a late person. I -- In nighttime, I
24 don't -- Right now, roughly, I don't go bed until after the
25 late movie is over. I happen to like my old fashioned movies.

EMILY CLEMENS, by Ms. Derrick

1 Q. My question to you is, At any time had you gone to bed before
2 your daughter came home?

3 A. No, I am not an early person.

4 Q. On a Friday or Saturday night, when your daughter came home
5 after being out, did you always check her to see whether or
6 not she had been drinking?

7 A. Well, if you want to know the truth, we -- She always had an
8 appetite, and her and I always sat down and we always had a
9 lunch together -- a cup of coffee or tea or cocoa, whatever
10 we had at the present time.

11 Q. And did that happen on every Friday or Saturday night that
12 she was out?

13 A. Well, she always raided my fridge.

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JMR

1 Q. Now, let me ask you this question, as I understand your
2 evidence, you are basically against people giving liquor
3 to minors. Do I understand that?

4 A. I wouldn't -- As I said, yes, I wouldn't care what nationality
5 they are. I would -- I would be against them, yes.

6 Q. At the police station, as I understand it, you daughter
7 denied receiving any liquor to the police?

8 A. Yes.

9 Q. She denied it to you?

10 A. Well, she didn't deny it. She -- I just asked her for the
11 truth and I said I wanted the truth and I said **nothing** going
12 to harm to come to you. I said I'm not going to do anything
13 to you. Ground you or anything. And I said I just wanted
14 to know the truth.

15 Q. And did --

16 A. And she had no reason to not to tell me.

17 Q. And then she told you at that time she didn't?

18 A. Yeh, that's right.

19 Q. And as I understand it, you have checked with her subsequently --

20 A. Yes.

21 Q. And she still denies it to you?

22 A. Yes, and she has no reason to lie. She's a grown woman.

23 Q. Let me ask you this. You are not aware that your daughter
24 testified in a Court of Law and under oath admitted to the fact
25 that Junior Marshall had given her liquor?

1 A. No, I wasn't but at that one time he might have gave her
2 liquor before but not at that time that MacIntyre had her
3 down. That time that was -- she was -- he wasn't involved
4 with it.

5 Q. Were you aware that Junior Marshall admits giving liquor to
6 your daughter?

7 A. No, I'm not aware.

8 Q. If, in fact, that is the truth, that those two statements
9 are correct, number one that your daughter, under oath, said
10 that she, in fact, did receive liquor from Junior Marshall and
11 number two, that Junior is going to admit that she -- he
12 did in fact give your daughter liquor, then your daughter's
13 still not telling you the truth today, is she?

14 A. She told me that at that one specific incident that she --
15 he did not give her. Now, she never -- I never asked her
16 anything before that or after that but at that one time he
17 did not give it to her.

18 Q. Did you realize that there was a problem in Wentworth Park
19 about minors receiving liquor?

20 A. I heard something about it but, I mean, everybody is just
21 talking about it but I didn't take any stock in it because
22 I didn't know the area.

23 Q. Now, at the police station, as I understand it, up until the
24 time that you arrived at the police station, you're main
25 complaint with the police officers were -- was that they

1 | did not tell you why they wanted to speak to your daughter.

2 | Is that correct?

3 | A. Well, I asked them and I -- as far as I can remember, they
4 | did not volunteer any of that because if they did have I would
5 | have asked that -- right there and then about the point
6 | of the liquor. And I don't know --

7 | Q. That is your main complaint up until the time you arrived
8 | at the police station?

9 | A. No, it was not only my complaint. I just didn't like the
10 | way he conducted -- he -- afterwards.

11 | Q. I'm talking about when you arrived at the police station.
12 | They treated you nicely at your home.

13 | A. I wouldn't exactly -- just coming in abrupt.
14 | Not saying hello, how are you or anything like that nicely.
15 | I -- they just came in and sayed, I'm here, you're there
16 | at my -- to my convenience. That's my -- There's where I --

17 | Q. They did not kick you out of their police car?

18 | A. They -- If they did I would have damn well stayed there.

19 | Q. Right. When you were down and they asked your daughter to
20 | get into the police car, they didn't drive off without you
21 | accompanying them to the police station?

22 | A. No, I was into the car right there 'cause I told them I was
23 | going to stay with her 'cause I had the right as her -- as
24 | a minor, that I had a right.

25 | Q. And you're sure that there was only two people, other than

1 | police officers, in the --

2 | A. If you're trying to tell me that you think that Sandra MacNeil
3 | got in that car, cause I know damn well she didn't.

4 | Q. Well, I'm just saying what she testified to. She said she
5 | did.

6 | A. Well, then I wish she had 've been there but I know exactly
7 | because I know exactly because -- cause I asked her to come
8 | in and they did not take her.

9 | Q. No.

10 | A. Because she certainly wasn't a -- she didn't get invisible
11 | between them and corner and down there.

12 | Q. Now, at the police station, how long was your daughter in the
13 | room before you decide to go into the room where she was?

14 | A. I didn't put a time limit on it. I was just setting there
15 | and I was just playing it by ear.

16 | Q. And I take it there were moments when you heard nothing?

17 | A. I heard something but I just couldn't decipher exactly what
18 | it was. I was just going about the way the voices and
19 | there but I didn't exactly get the words, no.

20 | Q. Can you give us an approximate time, Mrs. Clemens, as to when
21 | it was or how long you were there for before you went into the
22 | room?

23 | A. Look, when you're in a situation like that and you're worried
24 | about one thing. You do not put a time limit on your time.
25 | You just sit there and you patiently wait until you get the

1 opportunity to do what you can do.

2 Q. Was it a short time or a long time?

3 A. I don't know. I was just there, period.

4 Q. When you went into the room did you knock on the door
5 before entering?

6 A. No, I didn't knock. The door was partly open so I had no
7 reason to knock. I just went in.

8 Q. Okay. So you went in and at that time was John MacIntyre
9 standing or sitting?

10 A. He was sitting.

11 Q. And your daughter was seated too?

12 A. Yes.

13 Q. And this other police officer was at the other corner?

14 A. He was over in the far corner.

15 Q. Okay. Now, during that period of time there was conversation
16 between Sergeant MacIntyre and your daughter?

17 A. Yeh.

18 Q. Your daughter kept on denying about receiving any liquor from
19 Junior Marshall?

20 A. That's right.

21 Q. And then he used some other tactics to try to get the truth
22 out of her?

23 A. Well, he was trying to scare -- well, tell her if she didn't
24 she would go to that junior hall, whatever you call it -- the
25 heck if you want to call it that. And that's the time I stepped in

1 Q. I take it that you knew that it was against the law for
2 minors to consume liquor?

3 A. Yeh, anybody knows that.

4 Q. Okay. So it basically -- what John MacIntyre was telling
5 your daughter was a fact? That she could be charged with
6 consuming liquor under age.

7 A. The way I understood at the time, he wasn't assuming anything.
8 He was trying to get the truth out of her and he -- just the
9 way he said it and he was trying to put it across to her
10 that if she didn't say what -- the truth that she had that
11 facing her. And no young girl wants that facing her. I
12 don't care what you say.

13 Q. And was it during that period of time that you became upset
14 with Sergeant --

15 A. I wasn't upset. I was just furious.

16 Q. You were angry with Sergeant --

17 A. I certainly was.

18 Q. And it was at the time that you were angry with Sergeant
19 MacIntyre that you made these comments about the Gestapo?

20 A. Yeh, because I -- Well, you know what if you've ever watched
21 on of those guys, that's just what -- you get a flash back.
22 That's what he reminded me of.

23 Q. Okay . And it was after that, that Sergeant MacIntyre told
24 you be quiet and sit down?

25 A. He told me to shut up and sit down or be quiet, one or the

1 other. I don't know.

2 Q. Now, just a minute. It's almost --

3 A. Whatever he said, he made my daughter mad and she slammed
4 the book at him and she said he had no right talking to my
5 mother and like that so it had to be something to make her
6 mad.

7 Q. I want to make it very clear, Mrs. Clemens, you are not
8 absolutely sure as to whether or not Sergeant MacIntyre said
9 shut up and be quiet or shut up and sit down or be quiet and
10 sit down?

11 A. Well, he said something to that effect but why in the
12 hell did he make my daughter so mad. He must have said
13 something that wasn't pleasing to her ears.

14 Q. Well, he may not have liked you to be -- okay.

15 A. Listen, I don't care what he liked. I was there to protect
16 my daughter and I'd still do today. I don't care if you
17 like it or anybody likes it, I'll still do it.

18 Q. Even if your daughter was lying to the police?

19 A. If she was lying, she had a right to tell the truth but on
20 any of the circumstances that she was on at that present time.

21 Q. And throughout that interrogation, on more than one occasion,
22 Sergeant MacIntyre told your daughter to tell the truth and
23 be truthful to him?

24 A. He wanted the truth and she told him as she was saying it and
25 I couldn't argue with her or with him. I just didn't like the

1 -- what he was saying. How he was doing it towards her.

2 And that's where I came in at.

3 Q. And if she later testified in a Court of Law -- we know now
4 that she was not being truthful to Sergeant MacIntyre?

5 A. Well, I don't know about that part because I wasn't there but
6 I still say that didn't give him the right to do what he did
7 up to the present time.

8 Q. They drove you and your daughter home?

9 A. Right.

10 MR. J. PINK:

11 I have no further questions.

12 MR. MURRAY:

13 No questions on behalf of William Urquhart.

14 MR. BARRETT:

15 No questions, My Lords.

16 MR. SAUNDERS:

17 We have no questions, My Lords.

18 MR. PRINGLE:

19 No questions.

20 BY MR. WILDSMITH:

21 Q. Just a couple of questions, Mrs. Clemens. Taking the last
22 few points first that Mr. Pink was just exploring with you,
23 I think it's your testimony that you inquired on several
24 occasions as to the reason why the police wanted to question
25 your daughter?

EMILY CLEMENS, by Mr. Wildsmith

1 A. Yeh, that's right.

2 Q. And you never received a direct answer?

3 A. Well, if he had have mentioned it to me I would have asked
4 more questions. I would have been a little more wiser than
5 I was when I first walked in. Let's put it that way.

6 Q. Yes. Well, what I'm leading up to is asking you this. I'm
7 wondering if --

8 MR. CHAIRMAN:

9 Mr. Wildsmith.

10 BY MR. CHAIRMAN:

11 Q. You didn't answer Mr. Wildsmith's question.

12 A. Well, he asked me if I asked why my daughter was there and
13 I said -- and I said, yes. I answered him. I mean, if I
14 asked the question. If I asked why he was there at the door,
15 is that what he meant?

16 Q. I'm not sure.

17 BY MR. WILDSMITH:

18 Q. I'm sorry. Perhaps you could give the answer again, Mrs. Clemens.
19 I'm asking you if you ever received a direct answer from the
20 police as to why they wanted to question your daughter?

21 A. No, not to my satisfaction, no.

22 Q. Thank you. And what I really wanted to ask you was whether
23 any reason was given by John MacIntyre or any of the other
24 police officers as to why they thought your daughter was
25 involved in an offense involving liquor?

1 A. You mean, when I was down to the --

2 Q. Yes, while at the police station. For example did they
3 say that they say that they had evidence from some other
4 person?

5 A. I don't even know how they even got their information in
6 the first place. I never did know how it come about that they
7 did find out about the -- what happened. I never did find
8 that out.

9 Q. Was it your impression that they were talking about a
10 particular incident where they had come across your daughter
11 with liquor?

12 A. No, I did -- All I knew was, the way they said it, that he
13 had supposed to have given my daughter the liquor. He didn't
14 say -- He didn't say why or where or who volunteered the
15 information. I didn't have any idea -- and I still don't
16 know today how he come about knowing that knowledge.

17 Q. Was it your impression that he had found your daughter with
18 liquor?

19 A. Well, he didn't say that he found her with -- underneath
20 the influence of liquor or anything. All he said that he pointing
21 to was that at that time that Junior Marshall had supposed
22 to have given her the liquor.

23 Q. Yes, so he couldn't identify a particular occasion?

24 A. No. He didn't say.

25 Q. So he had no particular reason. That's what I'm trying to get at.

- 1 Any particular reason to suggest that your daughter had
2 liquor or that Junior was the person who gave it to him?
- 3 A. Well, he never mentioned any other instance, only that
4 one specific -- that one instance at that time that we know that
5 -- personally that I can --
- 6 Q. And that no evidence, this is what I'm trying to get at,
7 any evidence --
- 8 A. No, I didn't have -- I didn't have -- I didn't have any reason
9 to -- not any knowledge to know why he -- where he got the
10 information or anything like that. I was --
- 11 Q. Okay. Perhaps you could just stop for a second. Let me
12 see if we can get on the same wave length about this. What I'm
13 trying to understand is whether John MacIntyre indicated
14 any reason why he believed Junior had given your daughter
15 liquor?
- 16 A. Well, at that time, I -- if he did I didn't understand him
17 at that time. I --
- 18 Q. Okay. He didn't say somebody had told him or identify a
19 person who told him --
- 20 A. No.
- 21 Q. -- or say that he's -- that he had a informer or some kind?
- 22 A. No, all I could get at -- from the conversation was that
23 he was asking her, did he give her the liquor, but he didn't
24 say -- he didn't say that so-and-so said that you had it
25 or anything like that because I didn't pick up any -- in fact

1 the way that I understood that -- you know -- that -- that's
2 the way it was.

3 Q. Okay. Thank you. I'll move on to a different area now.

4 If I understood you correctly, and I don't think that I
5 did quite hear the words that you used, you suggested, I think,
6 that he said something about what would happened to your
7 daughter if she did not tell the truth?

8 A. Well, yes he did. He told her that if she didn't tell the
9 truth that -- that she could be -- you know, for being a minor
10 and with the alcohol incident and all that that she could
11 go to -- you know, some kind of detention of some sort.

12 Q. Some kind of detention place?

13 A. Well, he mentioned juvenile -- how do you say that word.
14 My tongue is so dry. Juvenile.

15 Q. Yes, do you recall whether he might have used perjury?

16 A. No, I don't remember that, no.

17 Q. I see. But he was referring to the fact that your daughter
18 could go to a reformatory or detention school of some kind?

19 A. Well, he didn't mention anything else. Only that one word
20 that he mentioned. And in my mind it only meant one thing,
21 that she could go someplace or another.

22 Q. The word that you're referring to is detention?

23 A. No, the juvenile.

24 BY MR. CHAIRMAN:

25 Q. Juvenile?

1 | A. Yeh.

2 | BY MR. WILDSMITH:

3 | Q. The fact that she was a juvenile.

4 | A. Yeh. Well, he said something about Juvenile Court or something
5 | or another --

6 | Q. Juvenile Court?

7 | A. Yeh, something like that.

8 | Q. Okay, thank you. So just to make sure I understand that
9 | completely, what he was suggesting is that if she didn't tell
10 | the truth she could find herself in Juvenile Court on some
11 | kind of charge?

12 | A. Yeh, I imagine that what he meant or something similar to
13 | that.

14 | Q. Thank you. Now, another point that you mentioned was that
15 | during John MacIntyre's examination of your daughter
16 | when he was taking the statement, he let be known to you
17 | that Junior Marshall was an Indian?

18 | A. Well, he mentioned it. Most of the time he didn't say so
19 | much Indian, he mentioned Marshall. You know, as if he
20 | never had a first name or anything. He just called him
21 | Marshall.

22 | Q. Yes. Well, if I understood what you said you before correctly,--

23 | A. Yeh, but he -- but other incidences -- other conversations
24 | afterwards, he mentioned that he was an Indian and that --
25 | to that effect, you know.

- 1 Q. Which conversations afterwards?
- 2 A. The one after -- when I was out in the car, like.
- 3 Q. In the car by your house?
- 4 A. Yeh. But most of the time that -- that he would -- he
- 5 would mention it mostly as -- you know, giving his last
- 6 name as Marshall.
- 7 Q. Yes. So when he referred to him as being an Indian, you
- 8 think it was in the car while you were parked outside your
- 9 house?
- 10 A. Well, as I said, the only thing is I can't remember to much
- 11 about that part -- about the Indian but I remember him
- 12 saying that Marshall this and Marshall that.
- 13 Q. Okay. Well, what I want to be clear about is whether he
- 14 drew to your attention the fact that he was an Indian?
- 15 A. Well, he did afterwards. He did, yes, because he mentioned --
- 16 he told me that he was an Indian.
- 17 Q. Okay.
- 18 A. Oh, wait a second now. Wait, back up. Yeh, well at the time
- 19 that he told me that I wasn't -- that I wasn't responsible
- 20 and I wasn't a fit mother and that, he mentioned that one
- 21 previous time -- you know, that she was chumming around with
- 22 Indians, at that time but most of the other times it was
- 23 just Marshall.
- 24 Q. I see. Now, if I -- again, if I understand you correctly,
- 25 you're saying that during the exchange when you were angry with

- 1 | him and he was angry with you, he mentioned that your
2 | daughter was hanging around with Indians? Is that correct?
- 3 | A. Well, the time that he had mentioned it mostly, as I said,
4 | is when he -- like to interfer-- like saying that I wasn't
5 | a fit mother and that I should -- I should be -- know the
6 | knowledge of what my -- who my children -- who my daughter
7 | was hanging around with. And then he interfered then who
8 | he was and what nationality and everything he was.
- 9 | Q. But he said that Junior Marshall was an Indian and that
10 | your daughter --
- 11 | A. Oh, yes. He told me at that point, yes.
- 12 | Q. And your daughter was hanging around with Indians?
- 13 | A. Yeh, at that point yes.
- 14 | Q. Okay. And was this a point, then, that was of some
15 | significance to him then?
- 16 | A. I don't know right off hand. I don't know because I said --
- 17 | Q. What do you suppose you were supposed to get out of the fact
18 | that he was telling you that your daughter was hanging around
19 | with Indians or hanging around with Junior who was an
20 | Indian?
- 21 | A. Well, I guess that she just wasn't going around with the
22 | right crowd. That's -- because otherwise why would I be
23 | an unfit person to look after my daughter.
- 24 | Q. Okay. Would you agree that it's fair to think that
25 | he was intimating to you that Marshall should be avoided?

1 That he was undesirable for your daughter to hang around with
2 because he was an Indian?

3 A. Well, the way I thought it was, it -- I don't know what it --
4 at that time I could take it both ways. It could have been
5 for what things he was involved in at the time or as if
6 he was what he was. But I didn't quite think of it.

7 Q. Okay. Now --

8 A. Just that he wasn't just the person that my daughter should
9 be hanging around with. That's the only thing that had come
10 to my mind at the time.

11 Q. You heard the evidence, this morning, of Catherine Soltesz --

12 A. No, I was upstairs -- most of it. I just seen --heard the
13 tail-end of it, like.

14 Q. Well, part of her evidence was about her father and the
15 fact that her father didn't want her dating or being with
16 Indians. Is it the case that your husband felt the same way?

17 A. No. No, as I said, -- Now we, my husband and us, we were
18 all -- like army people and in being in the army camps we
19 met all kinds of people and we were always tolerant of each person.
20 If they treated us nice and respectful, we returned the same
21 thing. So nationality didn't mean nothing to us. As I said
22 one nationality is just as good as another in my eye at that
23 time.

24 Q. I understand that's the way you felt. --

25 A. Yeh.

EMILY CLEMENS, by Mr. Wildsmith

1 Q. Is it also the way your husband felt?

2 A. Well, my husband being in the army for 35 years, I don't
3 think he would be the type of person that would single out
4 any nationality. The question wouldn't -- the way he acted,
5 you know. Proud of his honor and that.

6 MR. WILDSMITH:

7 Thank you. Those are my questions.

8 MR. CHAIRMAN:

9 That's all. Thank you very much, Mrs. Clemens.

10 We will adjourn now until tomorrow at nine-thirty.

11

12 INQUIRY ADJOURNED at 1:15 o'clock in the afternoon on the 27th
13 day of October, A.D., 1987.

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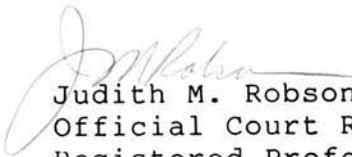
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COURT REPORTER'S CERTIFICATE

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 27th 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