

WAYNE MAGEE, by Mr. Orsborn

1 | WAYNE MAGEE, being called and duly sworn, testified as follows:

2 | BY MR. ORSBORN:

3 | Q. Can we have your full name please, sir.

4 | A. Wayne Robert Magee.

5 | Q. And where do you live?

6 | A. R.R.1, Louisbourg.

7 | Q. Do you live in Louisbourg?

8 | A. R.R.1, Louisbourg, just in the outskirts of the Town of
9 | Louisbourg.

10 | Q. And where do you work?

11 | A. The Attorney General's Department, the Sheriff of the County
12 | of Cape Breton, Sydney.

13 | Q. You are the Sheriff of the County of Cape Breton?

14 | A. Yes.

15 | Q. You are based in Sydney?

16 | A. Yes.

17 | Q. Where is your office?

18 | A. The Crescent Street court house.

19 | Q. How long have you been Sheriff, sir?

20 | A. I've been Sheriff since September of 1977.

21 | Q. And in what capacity were you employed before that?

22 | A. I was Deputy Sheriff in 1973.

23 | Q. And prior to that?

24 | A. The Chief of Police in the Town of Louisbourg.

25 | Q. What years were you the Chief of Police in Louisbourg?

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1 How long were you the Chief of Police in Louisbourg, Sheriff
2 Magee?

3 A. From 1969 to '73.

4 Q. And were you on the Louisbourg force before that?

5 A. I was -- acted as Special Constable for relieving on vacations
6 and other special functions within the Town.

7 Q. You had nothing full-time with the Louisbourg force before you
8 became Chief, had you?

9 A. No, I was not.

10 Q. I see.

11 A. Pardon me, that's not correct. I was -- I was appointed as
12 a Constable and shortly thereafter as Chief of Police.

13 Q. Do you recall how long you were a Constable?

14 A. Three or four months.

15 MR. CHAIRMAN:

16 Pardon?

17 THE WITNESS:

18 Three or four months.

19 BY MR. CHAIRMAN:

20 Q. How many are on the force?

21 A. At that time two, the Chief and the Constable.

22 BY MR. ORSBORN:

23 Q. I'll talk to you in a little while or a few minutes about
24 the -- some general information about the Louisbourg force,
25 but could you tell us briefly what a Sheriff does? What does

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1 a Sheriff do for the County of Cape Breton?

2 A. A Sheriff is -- is -- The official title is High Sheriff for
3 the County of Cape Breton. The Sheriff up until 1986 was
4 responsible for all the gaols that was in his county and the
5 safety of all prisoners contained -- housed in his gaols, for
6 the service of civil documents, for the attendance of Supreme
7 Court, for the criminal sessions of County Court, security in
8 those Courts, attending prisoners while appearing before the Courts
9 that were on remand, execution of all Civil Court Orders,
10 injunctions, etcetera, the service of all summons within the
11 County of Cape Breton for Family Court and warrants, executing
12 and enforcing warrants or committal in default of the payment
13 of fines and numerous other functions from time to time,
14 arresting of ships under Federal Court rules.

15 Q. Okay. In that job would you have daily contacts with lawyers
16 in the area?

17 A. Yes, I would.

18 Q. And did you have daily contact with police in the area?

19 A. Perhaps not daily but certainly weekly.

20 Q. Yes. Municipal Officials?

21 A. Yes.

22 Q. Okay. The Chief Justice asked you how big the force was in
23 Louisbourg and you mentioned it was a Chief and a Constable,
24 was it that size for the four years that you were Chief, it
25 remained as two?

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- 1 A. Yes. Yes, it was.
- 2 Q. And were you responsible to the Town Council in Louisbourg?
- 3 A. Yes, I was.
- 4 Q. What training did you have as a police officer?
- 5 A. Other than the Special Constable duty prior to by appointment
6 as full Constable, no training whatsoever. Shortly thereafter
7 I attended several courses under the auspices
8 of the Maritime or the Halifax Police Department. The
9 Maritime Police School actually.
- 10 Q. Yes. The position of Chief in Louisbourg, is that a full-time
11 position or was it in 1970 -- '69 to '70?
- 12 A. It's a full-time position.
- 13 Q. Yes. Was there also an R.C.M.P. detachment in Louisbourg?
- 14 A. No, there was not.
- 15 Q. What was the closest R.C.M.P. detachment to you?
- 16 A. The closes R.C.M.P. detachment would have been Sydney, but the
17 immediate patrol, R.C.M.P. patrol came under the direction of
18 the R.C.M.P., Glace Bay detachment.
- 19 Q. The Glace Bay detachment?
- 20 A. Yes.
- 21 Q. Did you have any working relationship with the R.C.M.P.?
- 22 A. Yes, many -- many times I-I would be on patrol with R.C.M.P.
23 officers that would be patrolling close to Louisbourg and
24 investigating offenses that occurred within-- within the --near the
25 boundaries of the Town. On many occasions I've had to go with

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1 | them on calls to domestic disputes and motor vehicle accidents,
2 | etcetera.

3 | Q. Sir, you say you're involved with them in calls near the
4 | boundaries of the Town?

5 | A. Well, they serve -- The Glace Bay detachment serves the Little
6 | Lorraine and Big Lorraine, Main-A-Dieu, Catalone are in which
7 | any one of those points are approximately a seven or eight
8 | minutes drive from the Town of Louisbourg.

9 | Q. Yes.

10 | And why would they involve you?

11 | A. Well, initially they -- they -- it was a result of a request on
12 | behalf of myself that I would go out with them to gain experience
13 | in police work and so that I had a good relationship with the
14 | R.C.M.P. and many, many times. It was almost on a daily
15 | basis that I would be with a Constable or a Corporal patrolling
16 | with them.

17 | Q. I see. In terms of offences or crimes occurring within the
18 | boundaries of Louisbourg, would you have occasion to obtain
19 | assistance or request assistance from the R.C.M.P.?

20 | A. Yes, many times, and in particular in reference to Ident
21 | services.

22 | Q. Yes, and what kind of offences?

23 | A. Namely break and enter but on several -- on at least two
24 | occasions fatal hit and runs, your every day offenders.
25 | Usually break and enter would be the most common and again

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1 | in particular the -- as far as the Ident was concerned, the
2 | Ident services --

3 | Q. What kind of services would the Ident people provide to you
4 | on a break and enter?

5 | A. They would -- They would provide the photographing of the
6 | scene and the taking of finger prints, dusting of items.

7 | Q. When would you get that done?

8 | A. Pardon?

9 | Q. When would you ask for these type of services?

10 | A. Well, when we were called to the scene it was determined that
11 | a break and enter had occurred, we would immediately call in
12 | a Sydney detachment Ident section.

13 | Q. Yes.

14 | A. And many times we would call the -- require the services of
15 | the dog and a master --

16 | Q. Okay.

17 | A. -- for tracking.

18 | Q. When you were called to a break and enter scene and you determined
19 | that Ident services were required, would you take any steps to
20 | secure the area before the --

21 | A. I would secure the -- I would secure the area. It was sort
22 | of awkward because most of the time. Well, all of the time
23 | you were there by yourself and -- so you would have to get the
24 | assistance of the proprietor or whatever to make your
25 | telephone calls so that you would be able to stay at the

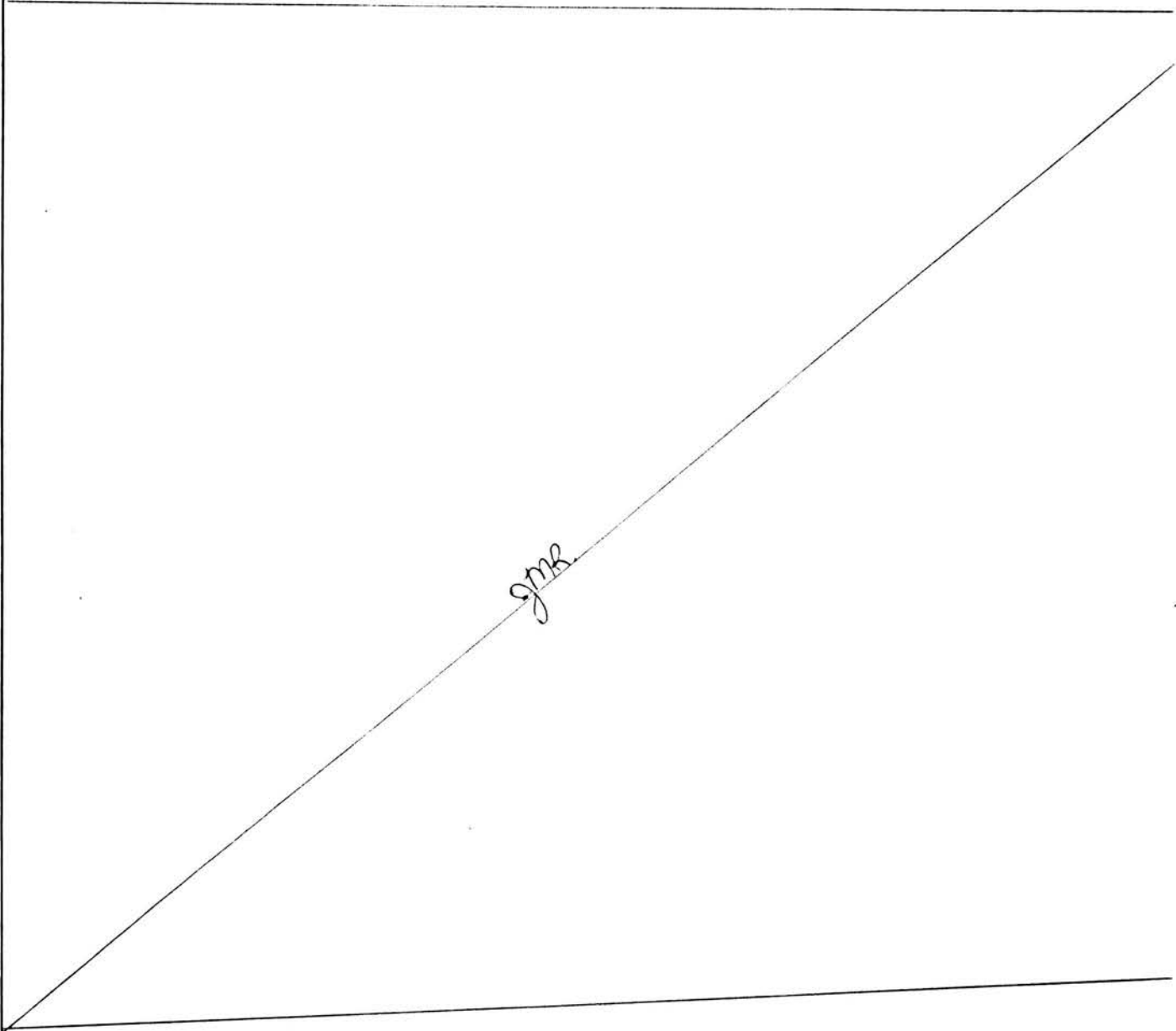
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1 scene and preserve any -- any possible evidence that would be
2 there.

3 Q. You mentioned a fatal hit and run accident, a couple of them.
4 Would you regard that as a serious crime?

5 A. Yes, I do. Pardon me, that was -- Did I say a couple? One. One.

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gmr.

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- 1 Q. Oh, one. I'm sorry. I thought you mentioned more than one. Okay.
2 Would you take charge of that investigation yourself?
- 3 A. Yes, I -- This particular investigation, I was the arresting
4 officer.
- 5 Q. Did you give any consideration to turning the case over to the
6 R.C.M.P.?
- 7 A. Not really. It would be the responsibility of the -- In that --
8 this case, the Louisbourg Police Department. They were --
9 would be of great assistance in questioning suspects and of
10 course the professional assistance in the Ident and photo-
11 graphing --
- 12 Q. Right.
- 13 A. -- and measuring the scene, etc. But they would be involved
14 but not take complete charge.
- 15 Q. But do I understand that they were available to you for pretty
16 well whatever you asked for?
- 17 A. That's correct, yes.
- 18 Q. Did you ever have occasion to investigate a murder while you
19 were on the force in Louisbourg?
- 20 A. No, I did not.
- 21 Q. Were you ever involved directly or indirectly in the investiga-
22 tion of a murder, in say, outside the Louisbourg area?
- 23 A. I was a -- I was requested by the Sydney Police Department to --
- 24 Q. Oh, yes. Okay, other than the taking of the statement from
25 Mr. Chant, I'm thinking were you ever --

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- 1 A. No other --
- 2 Q. -- involved in an investigation?
- 3 A. No, I was not.
- 4 Q. Okay. How does a person get to be Sheriff?
- 5 A. I don't mind answering that question. I applied with a Civil
6 Service application form for the position. I happened, at
7 the time, to know the High Sheriff, and I requested of him
8 if there was ever any openings in the Sheriff's Department,
9 that he notify me and he was quite gracious and he notified
10 me. I applied and I was successful.
- 11 Q. Is this when you became Deputy or --
- 12 A. Deputy, yes.
- 13 Q. Yes, okay.
- 14 A. When I was appointed High Sheriff, I was interviewed along
15 with several others and was successful.
- 16 Q. Do you know if in the process of appointing a person to that
17 position, whether or not references would be sought from
18 people in the community?
- 19 A. I can only tell in my experience, in my appointment, I don't
20 believe there was any specific -- I'm talking a High Sheriff's
21 position --
- 22 Q. Yes.
- 23 A. -- as of 1977. I don't believe there was any specific requests
24 made for references on behalf of myself.
- 25 Q. Okay. To your knowledge, were there any --

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1 MR. CHAIRMAN:

2 I'm responsible for all the kinds of questions you ask and the
3 relevancy seems to escape me and the -- You know, the -- I assume
4 that this witness is being called with reference to the state-
5 ment in 1971.

6 MR. ORSBORN:

7 Primarily. Primarily. I may come back if this development becomes
8 apparent.

9 BY MR. ORSBORN:

10 Q. Do you know Maynard Chant?

11 A. Yes, I do.

12 Q. Okay. How long have you known him?

13 A. Most of his life, I would say.

14 Q. When was the last time you spoke to him or saw him?

15 A. I -- It would be perhaps a year or so since I last spoke to
16 him.

17 Q. Okay. What opinion do you hold of Mr. Chant today?

18 A. I think he's a very decent individual that's married and
19 working steady and is trying to make a life for himself.

20 Q. Do you believe him to be honest?

21 A. At this time, I do, yes.

22 Q. Did you know his family while you were in Louisbourg?

23 A. Yes, very well.

24 Q. In 1971, specifically in June of 1971, what was Maynard's
25 position with the law so far as you knew?

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1 A. He was -- And I take it from the previous witness, there's
2 no problem with me divulging the -- my --

3 Q. No, I think --

4 A. -- involvement with him when he was underage. He was a
5 juvenile --

6 Q. Yes.

7 A. -- as we called them back then, offender.

8 Q. That's right. And did you have a number of contacts with him?

9 A. Yes.

10 Q. Did you know him on a first name basis?

11 A. Yes.

12 Q. Did you regard your relationship with him as simply Police
13 Chief and juvenile offender or was there any attempt to sort
14 of be of assistance and counsel him?

15 A. I would have to say it was police and offender at that time.

16 Q. Was your relationship with him any different than any other
17 juvenile offenders that you might've had at the time?

18 A. I think not. I in the first contact with a juvenile offender
19 would, depending on the seriousness of the offence for which
20 I would be questioning them, I would try and be easy with
21 them and try and talk them into mending their ways, perhaps
22 in the first instance.

23 MR. ORSBORN:

24 I'm going to move into the statement of June 4th, Mr. Chairman,
25 and it's approaching twelve thirty. It might be an appropriate

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1 | time to break. Other than get into the middle of that, close
2 | session and stop.

3 | MR. CHAIRMAN:

4 | I guess it was wishful thinking on my part, but I thought we might
5 | finish this witness.

6 | MR. ORSBORN:

7 | The chance of the finishing of Mr. Magee before twelve thirty are
8 | about nil, My Lord. I would point out that we are moving along
9 | at a reasonable speed this morning. If that --

10 | MR. CHAIRMAN:

11 | Don't say it. Don't say it. That's an open invitation for delay
12 | in the afternoon.

13 | MR. ORSBORN:

14 | No. No. I was simply going to point out to the Commission and
15 | to Counsel that if it continues and in the event that we find
16 | ourselves with an hour at the close of the day, we are prepared
17 | to call Mr. Roy Gould; so that there's no time lost.

18 | MR. CHAIRMAN:

19 | Well, we're in the hands of Counsel, always.

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

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WAYNE MAGEE, by Mr. Orsborn

1 INQUIRY RECONVENED: 2:04 p.m.

2 BY MR. ORSBORN:

3 Q. Sheriff Magee, just before we broke for lunch we were about
4 to move into a discussion of the statement given by Maynard
5 Chant in Louisbourg on June 4th, 1971. Were you involved
6 in any way with Maynard Chant in the taking of that statement
7 on that day?

8 A. Yes, I was.

9 Q. Could you indicate to us what your involvement was, please,
10 and I'll stop you as we go through?

11 A. I was on duty that day at the police station and then
12 Detective MacIntyre and Urquhart arrived at the station and
13 indicated to me that they were investigating a murder that
14 had taken place in Sydney the day before -- the night before.
15 And that a Maynard Chant had given them a statement and they
16 wished to speak to him once again.

17 Q. And did you know Detective MacIntyre?

18 A. Not well, but I knew of him. I knew him by name.

19 Q. Did you know Detective Urquhart?

20 A. Yes.

21 Q. You mentioned that the -- that your recollection of the
22 stabbing or the murder took place the night or the day
23 before?

24 A. Yes.

25 Q. Could it have been as long as the week before?

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1 A. May have been, yes.

2 Q. Okay, they arrived at your station?

3 A. They arrived at the station. They indicated to me they
4 wanted to speak with Maynard Chant and if I knew where he
5 lived and I advised them that I did. And they asked if
6 if it would be asking too much for me to go and see if he
7 was at home, to bring him up to the station for some
8 questioning. And I said no problem with that and I left.
9 And Maynard was at home on Main Street in Louisbourg. And
10 in fact, I believe he met me at the door. And I explained
11 to him that two Sydney Police Officers were at the Louisbourg
12 Police Station. They wished to speak to him. And asked him
13 if he would accompany me to the police station. And he
14 indicated no problem with that. And so I asked if his
15 mother was in and she was. And I thought it best that she
16 should -- should accompany him to the station. And she
17 got her shoes on and got ready and we -- the three of us
18 went to the Louisbourg Police Station.

19 Q. I see, now Mrs. Chant I believe testified that it was her
20 recollection that she was taken to the police station by the
21 Sydney Policeman and I take it your recollection is that you
22 yourself drove her to the police station?

23 A. Yes, yes.

24 Q. I'm interested, Sheriff Magee, in the process surrounding the
25

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1 taking of this statement. I'll ask you a number of questions
2 about that. Do you today have a recollection of how that
3 statement was taken?

4 A. I -- most aspects of it, I do. Specifics in reference to
5 the questioning and answering --

6 Q. Right.

7 A. -- I don't recall.

8 Q. But you have a recollection of how the statement was taken?

9 A. Yes.

10 Q. Do you still have a picture in your mind of that -- that
11 day?

12 A. I think I do, yes.

13 Q. Okay, were you present during the taking of this statement?

14 A. Yes.

15 Q. And were you present throughout the taking of this statement?

16 A. Yes.

17 Q. Can you tell us who else was there?

18 A. There was Mrs. Chant, Maynard Chant's mother; Larry Burke,
19 Juvenile Probation Officer; Detective MacIntyre; Detective
20 Urquhart and myself.

21 Q. Okay, Mr. Burke testified this morning that to his recollection
22 he was not there. Do you recall seeing him there?

23 A. Yes, I do.

24 Q. Okay, did you know Mr. Burke?

25 A. Yes, I did.

WAYNE MAGEE, by Mr. Orsborn

1 Q. Were Sergeant MacIntyre and Detective Urquhart in uniform?

2 A. No, they were not.

3 Q. Were you in uniform?

4 A. Yes, sir, I was.

5 Q. Do you recall anything about the -- the setting in the room
6 where this was taken; whether people were standing or
7 seated and where they were seated?

8 A. The actual statement was taken in the Louisbourg Town Council
9 Chambers. Not in the what we -- we -- not in the police
10 office itself. The police office was located at the back.
11 The building was a former high school, junior high school
12 and it was converted into the Town Administration facilities.
13 And they were located, in fact, I unlocked the Town Council
14 door for them prior to going to -- to pick Maynard up.
15 Because of the fact we didn't have any seating arrangements
16 or sufficient room for that group in the office. So that
17 when I arrived, the door was open and I introduced Mrs.
18 Chant to Detective MacIntyre and Urquhart. She was familiar
19 with Mr. Burke. And they shook hands as I recall and Mr.
20 or Detective Urquhart advised Mrs. Chant that they were
21 to ask -- wanted to ask Maynard some questions pertaining
22 to the stabbing of Sandy Seale. And he said to her, he
23 said -- he said, "Ma'am", I believe it was ma'am or Mrs.
24 Chant:

25 ...we merely want the truth from

WAYNE MAGEE, by Mr. Orsborn

1 Maynard. That's not too much to
2 ask of anyone, is it.

3 And she said:

4 No, not at all, sir.

5 She said -- and she pointed to Maynard and she said:

6 Maynard, you tell these
7 gentlemen the truth.

8 And so then we proceeded over to the -- the -- where the
9 desk -- or desks were located. There was -- there would
10 be desks similar to what I'm at here or tables and they
11 were double and they were in a long line perhaps ten or
12 fifteen feet or more. And there was chairs lining each
13 side of them for the Council and the other people that
14 would attend Council Meetings to sit at.

15 Q. So the -- the table would have been the width of some eight
16 feet across?

17 A. Well, not across, perhaps -- perhaps eight feet across, yes.
18 And down maybe fifteen or sixteen or eighteen feet or more.

19 Q. And there were seats on either side of the table?

20 A. And there were seats on either side and at the end.

21 Q. Yes.

22 A. Now at the back of the room there were perhaps three rows
23 of chairs perhaps identical to what I'm sitting on here.
24 And they would be used by people or public that would attend
25 Council Meetings at that time. And it's my -- as I recall
 Mrs. Chant sat in one of those chairs directly behind Maynard.

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1 And Mr. Burke was standing up with Mr. Urquhart at the back
2 of the room. The opposite side of where Mrs. Chant would be.
3 And Detective MacIntyre was sitting at this side --

4 Q. When you -- when you say this side here?

5 A. The opposite side of me at the -- at one end of the
6 arrangement.

7 Q. Yes.

8 A. And I was sitting on this side and Maynard was sitting at
9 the end or the -- where the lone chair was at the end or
10 the beginning of the line of tables or desks.

11 Q. Okay, so if I have the picture correctly, you have a fairly
12 long table in the room with chairs on each side. Chairs at
13 the head and end of the table. Maynard Chant was sitting at
14 one end of the table?

15 A. Yes, at one end or at the head of the table.

16 Q. And behind Mr. Chant in a row of chairs that the public would
17 sit in, his mother was sitting?

18 A. Yes.

19 Q. And how far from him would she have been?

20 A. Four or five feet, more or less.

21 Q. Okay, and yourself and Mr. MacIntyre were seated on opposite
22 sides of the table at the same end that Mr. Chant was?

23 A. Yes, he would be sitting, in fact, if I may show -- I would
24 be Maynard and the Chief would be on this side and MacIntyre
25 on this side.

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- 1 Q. So if Mr. Chant looked down the table, Chief MacIntyre was
2 on his left and you were on his right?
- 3 A. Yes, I would be.
- 4 Q. How far from him would they have been -- would you have been?
- 5 A. Three feet.
- 6 Q. Okay, and Detective Urquhart and Mr. Burke were standing at
7 the other end of the room?
- 8 A. Other -- yes, I think back of the room I would call it.
- 9 Q. Okay. You still picture that in your mind?
- 10 A. I can, yes.
- 11 Q. During the course of the interview, did Detective Urquhart
12 or Mr. Burke sit down at any time?
- 13 A. I don't -- I do not recall them sitting down. I recall them
14 standing.
- 15 Q. Okay, during the course of the interview, did you stand up
16 at any time?
- 17 A. I don't believe I did.
- 18 Q. Did Mr. Chant stand up at any time?
- 19 A. No.
- 20 Q. Did Sergeant MacIntyre stand up at any time?
- 21 A. No.
- 22 Q. Was Mr. Chant's mother present throughout the interview?
- 23 A. I would say, yes. I do not recall her leaving the room.
- 24 Q. She has testified to the effect, I believe Maynard also,
25 that she was not present throughout the interview. Is this

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1 | in any way challenge your own recollection?

2 | A. It challenge -- it challenges my recollection; but my
3 | recollection is that I -- I can't specifically -- I can
4 | remember certain happenings that day, and I do not recall
5 | Mrs. Chant leaving the room.

6 | Q. Did you have any particular practice as a police officer
7 | in terms of having parents present or not present when you'd
8 | take statements from juveniles?

9 | A. It was my understanding and that when questioning a juvenile
10 | or a juvenile suspect we'll say or witness for that matter,
11 | if he was under the age of sixteen years, then you would --
12 | should if at all possible have one or two of the parents
13 | present.

14 | Q. Would this apply even if the juvenile was not the accused
15 | but was simply a witness?

16 | A. It was my -- it was my policy to have a parent present for
17 | any questioning whatsoever of a juvenile.

18 | Q. Was this a practice that you followed?

19 | A. Yes, it is -- was.

20 | Q. Do you recall the format of the interview whether or not
21 | it was a discussion or whether or not it was a more formal
22 | question and answer approach?

23 | A. I -- Detective MacIntyre conveyed to Maynard that certain
24 | information in a prior statement did not correspond with
25 | other information that they had obtained afterwards and

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1 | that they wanted more or less some clarification pertaining
2 | to the first -- first statement. And he then put questions
3 | to Maynard and wrote the answers down.

4 | Q. Sergeant MacIntyre put the questions?

5 | A. Sergeant MacIntyre did all of the questioning and writing.

6 | Q. Did you speak at all during the interview?

7 | A. No, I did not.

8 | Q. Did Detective Urquhart speak at all?

9 | A. No, he did not.

10 | Q. Did Mr. Burke speak at all?

11 | A. No, he did not.

12 | Q. Mrs. Chant?

13 | A. No, she did not.

14 | Q. Are you able to describe for us today the -- the tone and
15 | the level of voice which Sergeant MacIntyre used?

16 | A. I would say it was -- it was a normal tone. I don't recall
17 | any -- anything sticking out in my mind that was unusual.
18 | I don't recall any raising of any voices by anyone including
19 | Detective MacIntyre. They would -- Detective MacIntyre would
20 | ask certain questions and -- and Maynard would answer them.
21 | I think perhaps the answer wasn't written down immediately,
22 | but they would -- they would -- they would quiz each other
23 | so to speak and for clarification and they would -- this is
24 | the way the statement was conducted. And I do not recall,
25 | in fact, I thought, you know, that it was done in a very

1 cordial, easy going manner.

2 Q. Do you recall giving evidence in the C. B. C. litigation
3 process, being examined --

4 A. Yes, I do.

5 Q. -- in the Discovery Examination?

6 A. Yes, I do.

7 Q. In volume 13 at page 191 and 192, question number 41 at the
8 bottom of page 191.

9 A. Volume 13.

10 Q. Yes.

11 A. Where.

12 Q. On page 191. The numbers are at the top of the page. The
13 bottom of page 191. This evidence was, I believe, was given
14 in October 1984 and you were asked at question 41 at the
15 bottom of the page:

16 And how was this statement taken
17 from Chant?

18 A. Question and answer. It was a
19 written statement as I recall.
20 Detective MacIntyre was doing
21 the writing and Detective
22 Urquhart as I know policy, was
23 merely a witness to the taking
24 of the statement and I don't
25 recall anything that he said
at that particular session.
And questions were asked of
Maynard in a very low, mild
mannered way. No raising of
voices. He was merely asked
questions and the answers
were written down. The answers
he gave.

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1 Is that today your evidence of how that statement was taken?

2 A. That's correct.

3 Q. Do you recall any variation in the level and tone of
4 Sergeant MacIntyre's voice?

5 A. I don't recall any variation. I do recall that it, you
6 know, from the beginning -- in particular that sticks
7 out in my mind, the demeanour of Detective MacIntyre in
8 introducing himself to Mrs. Chant and the observation
9 that I made of him saying:

10 We merely want to ask him some
11 questions. We want the truth.
12 And we don't want, you know,
that's not too much to ask of
anyone.

13 And so that -- that sticks out in my mind as being the
14 -- the way the whole of the taking of the statement was,
15 the atmosphere. There was no -- there's certainly no
16 animosity that I can recall at all.

17 Q. Do you recall anything about Maynard's attitude or demeanour?

18 A. Nothing sticks out in my mind. Maynard was very cooperative,
19 as he was always. And he -- questions were put to him and
20 he answered them.

21 Q. Did he appear nervous to you?

22 A. Pardon.

23 Q. Did he appear nervous do you remember?

24 A. I don't recall him being nervous. He again -- questions
25 were asked, he answered them. What was going through his

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1 mind, of course, I don't know; but there's nothing unusual
2 that I can state that I -- that I observed.

3 Q. Do you recall whether or not he cried at any time?

4 A. I do not recall him crying.

5 Q. If he had cried, would you recall?

6 A. I'm certain I would, yes.

7 Q. Do you recall at any time his mother got at all upset or
8 agitated?

9 A. I don't recall -- I don't recall there being any interference
10 in the taking of this statement. As is police for the most
11 part, it was -- we must remember that he was a witness,
12 supposedly a witness and he wasn't being charged with anything
13 and that would account for the unusual number of -- not the
14 -- the large number of the audience taking of the statement;
15 but he -- he didn't appear to be intimidated at all in my
16 opinion.

17 Q. Do you recall any communication between Mr. Chant and his
18 mother with respect to her urging him to tell the truth?

19 A. Not that I can recall at all. Other than the beginning of
20 the introductions. She did tell him to tell the truth.

21 Q. Do you recall how long the interview was?

22 A. No, I believe an earlier statement that I had given to the
23 R. C. M. P., I stated perhaps it was twenty-five or thirty
24 minutes long. But I couldn't then and I can't now.

25 Q. The -- the statement that we have indicates that it was

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1 at least the writing started at 2:55 and finished at 3:45
2 which would be fifty minutes. Do you know whether or not
3 there was a long period of time or any period of time before
4 the writing actually started in the room?

5 A. After the introductions, we sat down almost immediately and
6 -- and the questions were asked by Detective MacIntyre and
7 the answers were given .

8 Q. Okay, so we're looking at a period of say fifty minutes to
9 an hour?

10 A. Yes, I would -- I couldn't argue with that.

11 Q. Okay, would it be fair to say that in your experience as a
12 police officer, you had had occasion to take statements from
13 people?

14 A. Yes.

15 Q. Statements from juveniles?

16 A. Yes.

17 Q. Have you had occasion to sit in on occasions such as this
18 when statements were taken by other police officers?

19 A. Yes.

20 Q. In your opinion, was there anything untoward or subject to
21 criticism in the manner in which this statement was taken?

22 A. Not at all. In my mind there was nothing unusual concerning
23 the taking of that statement.

24 Q. Okay, let's refer you again to your C. B. C. evidence at
25 page 192 and part of the answer to question number 44 on

1 page 192, you say in the middle of that answer to question
2 44:

3 All I am commenting is the one
4 statement that was taken in my
5 presence and it was taken in
6 as far as I'm concerned in the
7 proper manner. There was no
8 arm twisting or raising of
9 voices or anything of that
10 nature at all.

11 Is that your evidence also here today, sir?

12 A. Yes, it is.

13 Q. Do you know whether or not Maynard read the statement over
14 that he gave?

15 A. He was handed the statement. He was looking at the statement
16 and he was asked to sign it as I recall. And he signed it --

17 Q. Did you read the statement -- I'm sorry --

18 A. -- I did -- I did not read the statement.

19 Q. You didn't read the statement?

20 A. No.

21 Q. Was it given to you to read?

22 A. No, it was not.

23 Q. And did you sign it?

24 A. No.

25 Q. I would ask you to look at, sir, Exhibit 31, it is the
foolscap paper that we have here. Looking at the first
three pages of that, sir, do you see on those pages any
ref -- any of your handwriting?

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1 A. No, I do not.

2 Q. On the last page of that statement, sir, I believe the name
3 Magee appears, is that correct?

4 A. Chief Wayne R. Magee.

5 Q. Is that in your handwriting?

6 A. No, it is not.

7 Q. Do you know if that was written while you were present?

8 A. I'm not aware of my name -- it could have been. He was
9 writing. I had no business to nor reason to interfere in
10 that respect. I might say that if it were I that was taking
11 the statment, I would write on the statement at the end
12 that -- as to who was present during the taking of the
13 statement.

14 Q. But you don't necessarily obtain their signatures?

15 A. No.

16 Q. Okay, when were you first aware, Sheriff Magee, that a
17 question had come up as to how this statement was taken?

18 A. Of course, like most other members of the public, I first
19 head of the Marshall incident on the news and in the papers
20 and in 1982, I believe it was, and R. C. M. P. officer
21 arrived at the Sheriff's office wanting to speak to me and
22 it was in reference to the Marshall case and the re-opening
23 of the Marshall case. And asked if I would give a written --
24 give a statement and -- pardon me, I was asked certain
25 questions pertaining to a statement that was taken at the

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1 | police station in Louisbourg in 1971 and -- and --

2 | Q. Perhaps a little more detail on that later. But up until
3 | the time that the R. C. M. P. officers came to you, had
4 | anybody raised with you that there was a question about
5 | the statement?

6 | A. I -- I don't recall.

7 | Q. Had you forgotten about it?

8 | A. Pretty well, yes.

9 | Q. Prior to the R. C. M. P. arriving at your door, had you had
10 | discussions with Sergeant MacIntyre over the manner in which
11 | that statement was taken?

12 | A. I was -- I spoke to Detective MacIntyre concerning the
13 | statement. I had conversation with him. I can't recall
14 | if it was prior to '82 or shortly thereafter.

15 | Q. I see. Did you have any discussions with Detective Urquhart
16 | over the manner in which this statement was taken?

17 | A. I could have. I may have, yes. I don't specifically recall
18 | Detective Urquhart discussing it with him; but it's quite
19 | possible.

20 | Q. I see, and you're not sure whether that was before or after
21 | the R. C. M. P. --

22 | A. No, I'm not.

23 | Q. Could you indicate to us your recollection of these
24 | discussions that took place between yourself and Sergeant
25 | MacIntyre and Detective Urquhart?

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1 A. I believe it was to the effect that I was present during
2 the taking of that statement. Do I recall being present
3 during taking of that statement and -- and the demeanour
4 of -- of Maynard --

5 Q. Yes --

6 A. -- you know -- did I feel that he was under duress or
7 hampered in -- or badgered in anyway and I believe it was
8 you know, something to that effect but --

9 Q. Until they had spoken to you, did you recall being present?

10 A. Oh, yes, I knew -- I knew, you know, I can recall it very
11 clearly that I was present for the statement. That's no
12 problem with me at all.

13 Q. I would like to review with you for a moment, sir, some of
14 the evidence that we have been given by Maynard Chant and
15 in particular where it conflicts with evidence that you
16 have given and ask you to comment on it. Mr. Chant told
17 us when he testified before this Commission that for a
18 considerable portion of the interview, Detective MacIntyre
19 was in fact standing up and standing over him?

20 A. I do not recall him standing up or standing over him. I
21 recall him sitting one side of the desk in an armchair
22 asking him questions and writing the answers.

23 Q. Okay, is it your evidence that Detective MacIntyre did not,
24 in fact, stand up?

25 A. I would have to say that he did not stand up.

WAYNE MAGEE, by Mr. Orsborn

1 Q. And did not -- it would follow he did not stand over Maynard
2 Chant?

3 A. That's correct.

4 Q. Mr. Chant testified that he had a clear recollection of his
5 mother leaving the room during the course of the -- the
6 interview. Is it your evidence that she did not, in fact,
7 leave the room or you do not recall if she left the room?

8 A. I do not -- I do not recollect Mrs. Chant leaving the room.

9 Q. I'll read you one asp -- extract from Mr. Chant's testimony
10 dealing with the tone of voice of Sergeant MacIntyre. I'm
11 reading from volume 5 of the transcript at page 858. And
12 the question reads in part:

13 When you say it was loud now, was
14 it you mean a loud normal speaking
 tone or a raised speaking tone?

15 And Mr. Chant's answer was:

16 Well, he seemed...

17 And he's referring to Sergeant MacIntyre:

18 he seemed to be very, very
19 hyped -- hyped attitude. His
20 voice was very loud. He was
21 very -- even his posture --
 his gesture was very, you know,
 forward and --

22 Q. Could you explain that a little
 more please?

23 A. I don't know. It was -- he was
24 just very forceful with what he
 was saying. He's -- it was almost
25 like not to the point of screaming
 or really yelling but it was to

WAYNE MAGEE, by Mr. Orsborn

1 that probably threshold of
2 very frustrated and very
3 persisting that I had seen
 something.

4 Is it your evidence that Sergeant MacIntyre did not demonstrate
5 as Maynard suggests a "hyped attitude"?

6 A. I absolutely do not recall, you know, that happening. It's
7 -- it's -- I recall Detective MacIntyre sitting very close
8 to Maynard to the side and asking him specific questions.
9 Some of the questioning pertained to events that they had
10 learned after taking the first statement. And he was quized
11 on that. But there was nothing -- nothing out of the
12 ordinary that -- that I can recall. Again, to repeat myself,
13 but it was in my opinion a very cordial undertaking.

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1 Q. Can you give us any reason why Mr. Chant may have
2 that particular accounting of it?

3 A. I can not give any reason for it.

4 Q. Mr. Chant also testified that at one point in the
5 proceedings he started to cry. Is it your evidence that
6 he did not cry?

7 A. I do not recall him crying. Had he cried, that would have
8 stuck out, I think, in my mind but I do not recall him crying.

9 Q. Okay. Now, you were aware this was a murder investigation,
10 I take it?

11 A. Yes, I was.

12 Q. And I think you indicated to us this morning that you hadn't
13 been involved or participated in any other murder investigation?

14 A. I did not.

15 Q. Were you interested in the investigations, seeing it was a
16 murder?

17 A. Not particularly, no. I felt it was a matter of co-operation
18 to try and locate Maynard for the two detectives and to
19 bring him up. Referring to the questioning, it was strictly
20 a Sydney Police matter. It had nothing to do with --

21 Q. I understand that.

22 A. Pardon?

23 Q. I understand that.

24 A. Yeh.

25 Q. But what I'm trying to understand is if -- were you just sort

WAYNE MAGEE, by Mr. Orsborn

1 generally interested enough in the events to follow the
2 discussion?

3 A. I don't think I was really up about it. I mean, it was
4 just another days work and really and truly I don't think
5 -- I read the goings on in reference to the trial and the
6 conviction of Mr. Marshall and I can't say that I gave it
7 any second thought at all.

8 Q. I'm thinking of sort of during the interview, when you
9 were sitting in there, if you were interested in following
10 the information that was being obtained?

11 A. Not really. I did wonder -- At one time, I recollect, I
12 was going to leave but then I thought I might -- it might
13 interfere with the line of questioning or whatever and so
14 that I just sat there and, as policy, said nothing.

15 Q. Now, you've related to us the -- you recall comments being
16 made to the effect that there was information that was
17 inconsistent with what Maynard had said --

18 A. Yes.

19 Q. -- and you wanted to question Maynard again. Do you have
20 any recollection of what that other information was that
21 the police had at the time?

22 A. I can't recall specifics. I do recall that there was answers
23 that Maynard gave to Detective MacIntyre that, I think, he
24 felt that wasn't quite right and that he would -- he may say
25 well, we were talking with this individual and they said this

WAYNE MAGEE, by Mr. Orsborn

1 and -- that line of questioning but --

2 Q. Yes. Do you remember the names of any individuals being
3 given?

4 A. No, I can't recall any names.

5 Q. Do you remember Maynard taking the approach initially that
6 he didn't see anything on that night?

7 A. I can't recall that.

8 Q. Okay. Do you remember any discussion between them of the
9 route that Maynard took through Wentworth Park on that night?

10 A. I can't specifically recall that.

11 Q. Remember any discussion about a dark haired fellow in the
12 bushes?

13 A. I don't recall that but to elaborate they -- it was outlined
14 the circumstances of the stabbing and the location etcetera
15 but -- and there was a lot of questions and of course they
16 all pertained to the stabbing but I can't recall any specific
17 questioning.

18 Q. When you say it was outlined, the circumstances of the
19 stabbing, how was that outlined?

20 A. I think Mr. Chant was advised that well, the bridge is here
21 and the bandshell is there and this one was supposed to be
22 here. That's sort of dialogue was going on between them.

23 Q. Okay. If I understand you correctly, and please correct me
24 if I'm wrong, was there a sort of a scene painted for Maynard
25 so that he could put himself into it?

WAYNE MAGEE, by Mr. Orsborn

1 A. I don't think that would -- that that was the case.
2 I believe that Maynard was -- he might have been getting
3 confused and he was given advice as to well, you know,
4 this one in this statement didn't say that. You know,
5 what's the situation here or there. It's -- I can't recall
6 the specifics of it but I'm -- you know, that was the
7 gist of it. They were -- there may be five minutes or two
8 minutes or a minute and a half of questioning before an
9 answer was written down.

10 Q. Okay. Do you recall if there was any reference made to
11 a statement given by another witness?

12 A. I don't recall any references made to specific individuals
13 or names. I don't recall any names -- any other names.

14 Q. Do you know if Sergeant MacIntyre was referring to any
15 statement or piece of paper when he was questioning Maynard?

16 A. I don't recall. I don't believe. He had his pen in his
17 hand and the paper on the desk and he was writing answers
18 down and --

19 Q. Now, the -- you've spoken of the outline that was given,
20 were there suggestions made to Maynard in the course of the
21 questioning as to what he might have seen or might not have
22 seen?

23 A. I don't -- I don't recall any suggestions being made to him.
24 Some of the answers were -- I take it and I guess it's only
25 my opinion, that I take some of the answers perhaps Detective

WAYNE MAGEE, by Mr. Orsborn

1 MacIntyre knew weren't right or didn't correspond with other
2 information so he was quizzed more. That was pretty well
3 the gist of the taking of the statement.

4 Q. Okay. When he was quizzed more would that simply be a
5 repetition of the question --

6 A. Yes.

7 Q. -- by Sergeant MacIntyre?

8 A. Most often, yes.

9 Q. Would there be suggestions made to Mr. Chant?

10 A. I don't recall any suggestions being made. It -- There was
11 no arguing going on. The questions were asked and there
12 may have been -- may have been a pause by Maynard or maybe
13 a mistake that Detective MacIntyre knew and he would put the
14 question to him again but it was a very -- I recall, a
15 very straight forward undertaking by the detective.

16 Q. Okay. Do you recall any mention being made, during the
17 interview, of Maynard being on probation and getting in
18 trouble if he didn't tell the truth?

19 A. I do not recall that being said.

20 Q. Could it have, in fact, been said and you just don't
21 remember?

22 A. I don't think so. I -- you know, again, to repeat myself
23 there's certain aspects that I remember distinctly and again
24 the introductions -- except that I don't -- I think I would
25 have recalled that.

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1 Q. Was there any mention of the word perjury?

2 A. No, not to my recollection. There was never any mention
3 made of perjury.

4 Q. Was there any mention made of the possibility of Maynard
5 going to gaol for two to five years?

6 A. I don't recall that being said.

7 Q. Maynard, himself, testified that it was suggested to him
8 during the interview that he could go to gaol for two to
9 five years for not telling the truth, not telling the police
10 the truth. Is it your evidence that it was not said or it
11 could have been said and you just don't remember?

12 A. I just don't remember.

13 Q. Okay. Did you get any impression at the conclusion of the interview,
14 knowing Maynard as you did, that he had in fact told the truth?

15 A. I certainly didn't have any reasons to believe that he told --
16 or mislead the police officers.

17 Q. Okay. Your recollection, sir, on the setting and who was
18 present and who left and didn't leave seems to be very
19 very clear. I have the impression that your recollection
20 on the content of the interview is less than clear. Is there
21 any reason why you can remember one and not the other?

22 A. Well, I certainly can remember the introductions, who was
23 present and I remember that there was a statement taken from
24 Maynard Chant by Detective MacIntyre. And that Detective
25 MacIntyre asked him numerous questions during the taking of the

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- 1 statement. The specifics I also of course would be aware
2 that it was reference to the stabbing of Mr. Seale but I do
3 not recall -- you know, I can not recall the exact specifics
4 of every question. I just -- I can't do that.
- 5 Q. I'd like to turn for a moment, sir, to the statement found
6 of page 184 of the volume that you have in front of you
7 which I believe to be a typed version of the statement provided
8 by you to Staff Sergeant Wheaton of the R.C.M.P. Do you
9 recall giving such a statement to the R.C.M.P.?
- 10 A. That's the statement I gave to Staff Sergeant Wheaton.
- 11 Q. I'm not sure if I asked you this morning or not but do you
12 know at the time you gave this statement whether the
13 R.C.M.P. showed you a copy of -- or showed you that statement
14 you have there? The handwritten statement?
- 15 A. I believe this -- he had this statement there. I can't recall
16 whether or not I read it. I did say to him and it's not in
17 this that I -- one area was I couldn't remember whether we
18 had signed the statement or even whether Maynard had signed
19 the statement. I wasn't quite clear on that.
- 20 Q. And I take it your evidence is that you don't recall whether
21 or not you spoke to Sergeant MacIntyre and Detective Urquhart
22 before you gave this statement or afterward?
- 23 A. I can't recall if it was before or after.
- 24 Q. Okay. Now, you make a comment, sir, the second last line of
25 that statement. It says: "After the statement was taken

WAYNE MAGEE, by Mr. Orsborn

1 | we all signed it."

2 | A. That's in that particular statement and I signed --

3 | Q. That's the second last line, I think.

4 | A. Yes.

5 | Q. Is that correct?

6 | A. I said that at the taking of the statement but I also said to
7 | Sergeant Wheaton that that's -- you know, now that I can think
8 | I'm not quite sure on the -- whether or not we all signed or
9 | Maynard signed it. I couldn't quite recall that at that time.

10 | Q. About when did you say that to Sergeant Wheaton?

11 | A. When he was in the Sheriff's office.

12 | Q. At the time that statement was taken?

13 | A. At the time the statement was taken. But it was after I had
14 | signed it and we were discussing the matter.

15 | Q. I see. So you signed the statement and then you said I'm not
16 | sure about whether I signed it or not?

17 | A. Yeh. We had a lengthy discussion and -- on the whole matter
18 | and this would only be a portion of it.

19 | Q. Okay. So -- But in so far as this statement says: "We
20 | all signed it." Is it your -- Your evidence is that that is
21 | an error and that you brought that doubt to Sergeant Wheaton's
22 | attention after you had signed it?

23 | A. Yes.

24 | Q. Is it possible that you had discussed with Sergeant MacIntyre,
25 | Detective Urquhart prior to this interview whether or not you

WAYNE MAGEE, by Mr. Orsborn

1 had signed it?

2 A. I'm saying it's possible but to qualify that, also during
3 the presence of Staff Sergeant Wheaton, it was discussed and
4 he asked me who I -- who was present during the taking of
5 the statement and I outlined to him who I recollected at
6 being there and he indicated to me that I was the, I believe
7 to the effect that I was the first one that they had questioned
8 that could -- that got all the names straight.

9 Q. You have a good memory. But Sergeant Wheaton came in eleven
10 years later and you were able to indicate to him who was
11 present --

12 A. Yes.

13 Q. -- at that statement?

14 A. Yes.

15 Q. If he had asked you who was present at the next statement
16 that you'd taken or had been present at after June 4th, 1971
17 could you have told him?

18 A. Could I have that question again, please?

19 Q. If he had asked you who was present at the next statement
20 you sat in on after June 4th, 1971 -- suppose it was Jim
21 Smith, could you have told him?

22 A. Quite possible, I could yes.

23 Q. You did sit in on it?

24 A. I'm a little confused again. Could you repeat that?

25 Q. I'm just testing your memory Sheriff Magee because you are able

WAYNE MAGEE, by Mr. Orsborn

1 to indicate here on the basis of your memory precisely who
2 was present at the taking of this statement eleven years
3 previously and I'm just asking you whether or not you can
4 generally identify after a long period of time who sat in
5 on statements when you were present?

6 A. Well, you're not specifying any specific statements.
7 Perhaps most I could.

8 Q. Most you could. Just a couple of questions, sir, on the
9 affidavit that is contained at pages 185 and 186 of that
10 volume. Do you recall the circumstances under which
11 this affidavit was prepared?

12 A. That was a request of Frank Edwards --

13 Q. Mr. Edwards. Yes.

14 A. -- Crown Prosecutor.

15 Q. And when that affidavit was prepared and I'm looking particularly
16 at page -- at paragraph seven and eight. This was July of
17 1982. Were you then aware that there was an issue of about
18 whether or not Maynard had been threatened or pressured?

19 A. I -- I don't believe that I was aware of it at that time.

20 Q. You volunteered this --

21 A. It's possible.

22 Q. You volunteered this information to Mr. Edwards did you?

23 A. Yes.

24 Q. And that was an affidavit you swore to and gave under oath?

25 A. Yes that is correct.

WAYNE MAGEE, by Mr. Orsborn

1 Q. You say on page 195 of your C.B.C. Discovery --that you --
2 page -- question 59.

3 I've always retained that the Sydney Police
4 Department have had a hard time as a result of
5 this.

6 Is that your belief today sir?

7 I'm sorry. Page 195. Your answer to question 59. You
8 say at the fourth line.

9 I've always retained that the Sydney Police
10 Department had a hard time as a result of this.

11 Is that still your belief?

12 A. Well, what I meant --what I meant and what I mean by that
13 statement is that any police officer or police agencies that
14 are out investigating a criminal offense and they're interviewing
15 persons that are saying that they are witnesses to certain
16 events and they are giving statements and then they are
17 going to court and misleading the courts and the juries,
18 then I often wonder if you can blame that on police
19 officers.

20 Q. Were you aware that this was -- Were you of the opinion
21 this was being blamed on police officers?

22 A. The -- The consensus, I believe, certainly from my observations
23 in listening and reading was that the police or the persons that
24 were applying the pressure to all the witnesses -- I'm of --

25 Q. Do you have any opinion on that yourself?

A. I can only comment on the statement that I was present for.

WAYNE MAGEE, by Mr. Orsborn

1 I must emphasize that.

2 Q. Sure.

3 A. And I can't comment on any further aspects of it, my point is
4 that I'm not picking out anyone -- any police officer who
5 is investigating a criminal offense taking statements and
6 people are lying, misleading the courts whether or not
7 police can be held totally accountable for that.

8 Q. Mr. Chant has since testified on a number of occasions and
9 testified before this Commission that he, in fact, gave
10 a false statement that afternoon in Louisbourg and I think
11 it's fair to say that as a result or as a partial result
12 of that Mr. Marshall when to goal. Is there anything at all about
13 the taking of that statement -- the circumstances in Louisbourg
14 on that Friday afternoon, anything at all about that
15 situation that would, in your recollection, cause Mr. Chant
16 to give a false statement?

17 A. It is my recollection that the statement was taken in
18 a proper manner. I do not recall any unusual situations
19 occurring as to raising of voices or threatening of perjury
20 or people leaving the room. I -- As far as Maynard is concerned
21 I'd known him for a number of years, nothing sticks out
22 in my mind that would lead me to believe that he was in
23 fact lying that day. In my opinion everything was very, very
24 cordial and easy going.

25 Q. Were you surprised when he stated later that he had lied that

WAYNE MAGEE, by Mr. Orsborn, by Mr. Ruby

1 | afternoon?

2 | A. I -- I'll have to say I was very surprised, yes.

3 | MR. ORSBORN:

4 | Those are my questions, Mr. Chairman. Thank you.

5 | BY MR. RUBY:

6 | Q. Sheriff Magee, you've said that you were on duty that day.

7 | Did you take any notes?

8 | A. Pardon?

9 | Q. You said that you were on duty that day, did you take any

10 | notes?

11 | A. I would have taken notes, yes.

12 | Q. And would you still have those notes?

13 | A. No, I would not. The notes would be entered in the police
14 | log book and all of those records were destroyed in a fire
15 | several years ago.

16 | Q. You told my friend when he asked you questions that the
17 | statement that "We all have signed this document." which was given
18 | to Sergeant Wheaton was -- as was explained to Sergeant Wheaton
19 | incorrect. Do you recall that?

20 | A. I recall discussing with Sergeant Wheaton and I believe with
21 | all due respect to him that it was after I had signed
22 | this statement that -- that's one area I wasn't quite certain
23 | of. Whether or not we had signed it or we'd -- or Maynard
24 | had signed it. I wasn't quite certain of that. I know that
25 | he was -- he read the statement or he looked at it and I

WAYNE MAGEE, by Mr. Ruby

1 -- I couldn't specifically remember if he had signed it
2 or not.

3 Q. And why did you not, given that you are a police officer
4 of now many years experience in 1982, why did you not
5 say to Sergeant Wheaton I'd like to correct that statement.
6 I really am not sure of that, misleading as it stands?

7 A. I don't know. I don't know why I said that. Again, I had
8 stated that there was many words in the situation discussed
9 that day. We were there for some time and that is only
10 a small portion of what was said. It all was not written
11 down.

12 Q. You knew, did you not, as a police officer in 1982 of
13 considerable experience, that the reinvestigation Sergeant
14 Wheaton was engaged in was important?

15 A. Yes.

16 Q. And you knew, as a police officer with many years experience
17 at that time, that it was important that the record kept
18 of that not be misleading?

19 A. Yes.

20 Q. Correct?

21 A. Yes. I think the point being, if I may say, that I -- I
22 believed that everyone had signed it. That was my answer.
23 Not that -- you know, that I wasn't quite certain. That
24 was discussed during the presence of Sergeant Wheaton.

25 Q. I missed the sense of that. Say that again for me.

WAYNE MAGEE, by Mr. Ruby

1 | A. I told him that I believed -- I believed that the statement
2 | was signed by everyone but that I wasn't quite certain of it.

3 | Q. You told him that during the statement process?

4 | A. No, this was after.

5 | Q. This was after?

6 | A. After the statement, yeh.

7 | Q. My question was, you knew based on your experience in 1982
8 | that it was important not to leave a misleading impression
9 | on the statement of the record of the interview with you.

10 | Why did you not correct it?

11 | A. Well, again, this -- you know, this is what I recollect that
12 | during his apparent writings, and it was afterwards, it was
13 | a very simple matter to look at the handwriting to determine
14 | whether or not all persons had signed it or whether their
15 | names were just written down.

16 | Q. Turning to another matter. You said today, again in response
17 | to my friends questions, that they, meaning Mr. Chant and
18 | Sergeant MacIntyre, would quiz each other. Do you recall
19 | that?

20 | A. Yes. I said that.

21 | Q. Give me an example of Maynard Chant quizzing Mr. MacIntyre.
22 | What would have happened?

23 | A. He would be asked a question. Maynard would be asked the
24 | question by Detective MacIntyre and he would give an answer
25 | and it wouldn't correspond apparently, that would be my opinion,

WAYNE MAGEE, by Mr. Ruby

1 that it wouldn't correspond with other information and
2 he would ask him to elaborate more on it. You know, he would
3 maybe say a few words or he -- maybe there'd be nothing said.
4 This was the type of questioning and answering that was
5 going on.

6 Q. That's -- what you've given me is an example of Sergeant
7 MacIntyre quizzing Maynard Chant?

8 A. Yes.

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WAYNE MAGEE, by Mr. Ruby

1 Q. But you said they would quiz each other. I want an example
2 of Maynard Chant quizzing Sergeant MacIntyre.

3 A. That's my error. I totally meant that Detective MacIntyre was
4 asking was asking the questioning -- questions and Maynard was
5 answering. There was no argumentative type answer -- question-
6 answer.

7 Q. Well, an example that I might dream up --

8 A. Yes.

9 Q. -- of Maynard Chant quizzing Sergeant MacIntyre would be;
10 "Sergeant MacIntyre, how can I swear to this if it didn't
11 happen? Sergeant MacIntyre, I've told you a number of times
12 I wasn't there and didn't see the murder. How can I confess
13 that he did it, that this man did it?" Those are examples,
14 are they not, of Chant quizzing MacIntyre?

15 A. Well, they would be examples, but I do not recall it being
16 said.

17 Q. You said that there were periods of one and a half to two
18 minutes of questioning before the answer would be written
19 down. Correct?

20 A. That would be my estimate, more or less, yes.

21 Q. Okay. And that would happen on a number of occasions?

22 A. It happened a number of occasions, yes.

23 Q. Yes. So it's clear then that not everything Mr. Chant said
24 was written down? Correct?

25 A. I would say that not everything may not have been written down.

WAYNE MAGEE, by Mr. Ruby

1 Everything may not have been written down. The question
2 would be put. There might be another minute go by or a minute
3 and a half that they -- that he would -- Maynard would
4 elaborate and maybe another question would be put and then
5 an answer written down.

6 Q. So the quizzing process wasn't written down? Correct?

7 A. Perhaps not every word.

8 Q. Well, the term of the statement couldn't have a length of
9 fifty minutes, could it? It's not fifty minutes of conversa-
10 tion. You've seen that statement.

11 A. No. May I read the statement?

12 Q. Certainly. Please read it.

13 A. I've never read it.

14 Q. The typewritten copy can be found in Volume 16, if you have
15 it, at page 46. Take a moment by all means.

16 A. What page is it on?

17 Q. Page 46 in Volume 16.

18 A. Volume 16, page --

19 BY MR. CHAIRMAN:

20 Q. What's the purpose of your reading that statement now, Sheriff?
21 The question put to you by Mr. Ruby was: Do you believe that,
22 looking at this four page statement, that it would take fifty
23 minutes, that it contains fifty minutes of conversation?

24 A. My Lordship, he was questioning me on the question and answer.
25 I'd never read the statement and some of the answers I note are

WAYNE MAGEE, by Mr. Ruby

1 | lacking --

2 | Q. But you've seen the statement before?

3 | A. Pardon me?

4 | Q. You have seen the statement before?

5 | A. I've seen it, but I've never -- I've looked at it I believe
6 | on paper, but I've never read it. I don't recall reading it
7 | before.

8 | BY MR. RUBY:

9 | Q. So that without reading every word in it, looking at the length
10 | of it, are you able to tell me whether or not that's fifty
11 | minutes of conversation?

12 | A. I wouldn't say it'd be quite fifty minutes, no.

13 | Q. A lot short, right?

14 | A. Possibly.

15 | Q. Yeh. In particular, what's not in that statement is anything
16 | about the kind of situation you told us about. You may take
17 | my word for it. It's not there. Namely, that when Maynard
18 | Chant got confused, they gave him information about the crime.
19 | They being the police officers, Sergeant MacIntyre I take it.
20 | There's nothing in the statement reflecting that. You may take
21 | my word for that.

22 | A. No. No.

23 | Q. So that it's clear the statement doesn't reflect everything
24 | that happened. Correct? That happened, did it not?

25 | A. It doesn't reflect, I don't imagine, word for word, every word

WAYNE MAGEE, by Mr. Ruby

1 that was said.

2 Q. But that's not the question I'm asking you. Those occasions
3 did occur, did they not, when he became confused and the police
4 officer, Sergeant MacIntyre, gave him information about the
5 crime. That happened. You told us it happened.

6 A. I don't recall that it -- in that manner. I recall that a
7 question would be answered and not immediately would an answer
8 be written down on his statement. That, for instance, a latter
9 of the statement, there's a lengthy answer there in reference
10 to where this one ran or that one ran and who called --
11 different locations, I believe, would be pointed out to him.
12 This type of question-answer --

13 Q. So the locations would be pointed out to him and that's not,
14 you may take my word for it, in the statement?

15 A. No.

16 Q. So that at least is the officers giving him information about
17 the crime, is it not?

18 A. Yes.

19 Q. And yet you swore under oath on page 192 in Volume 13 -- If
20 you turn to it.

21 A. Page?

22 Q. 192 in Volume 13. This is at the reference -- Sorry, at the C.B.C.
23 examination by Mr. Murrant and Pugsley, Question 44:

24 Q. Are you saying that whatever question was posed,
25 it was written down?

WAYNE MAGEE, by Mr. Ruby

1 And the answer was given:

2 A. It was written down, that's correct.

3 A. Yes, I said that.

4 Q. That's not correct then. Everything was not written down.

5 Fair?

6 A. Not every word.

7 Q. Not great chunks. Correct?

8 A. I wouldn't agree with that.

9 Q. You wouldn't?

10 A. No.

11 Q. Would it not be a significant great chunk -- When the answers
12 didn't correspond, that those parts would be left out?

13 A. I don't know what he wrote down that day. I know he was
14 writing. He was asking questions and he was writing.

15 Q. Exactly.

16 A. And I can't tell you exactly what was written down.

17 Q. You don't know what was written down, do you?

18 A. No. He was asking questions. He was writing answers. I
19 don't know what was written down in the answers.

20 Q. And you didn't know when you answered Question 44 at the
21 C.B.C. examination. And you didn't know today when I asked
22 all those questions, but you give answers that are responsive
23 and that again and again are helpful to your fellow officer,
24 MacIntyre, even though you just don't know. Isn't that true?

25 A. I wouldn't agree with that.

WAYNE MAGEE, by Mr. Ruby

1 Q. What part of it do you disagree with?

2 A. Well, perhaps, sir, you were not seeing it correct. The
3 questions were answered by Maynard. The -- He wasn't straight-
4 forward in his answers all the time. He was hesitant in some
5 of his answers, and I take it, and I explained before -- I
6 take it that Detective MacIntyre had information that certainly
7 I wasn't aware of but I assume that he was aware of, that some
8 of the answers in his mind were not correct and, therefore,
9 certain areas of the taking of the statement there was talk
10 back and forth between them, and that's how I recollect it.

11 Q. What part of my statement to you is incorrect? That's the
12 question I asked you. I said -- I'll repeat it for you.
13 What you've done under oath at the C.B.C. Examination, again
14 here today, is testify to answers regarding things you could
15 not possibly know, but you've done so in a way that is
16 favorable to your fellow officer, Sergeant MacIntyre. You
17 said that's not correct. What part of it is not correct?

18 A. Well, the part of it, sir, that -- Detective MacIntyre was
19 unknown to me before this episode of the taking of the state-
20 ment. I have -- I would have no reason to say anything that
21 was untruthful and my recollection of -- What I recollect, I
22 stated. Now, whether others would disagree with that, I can't
23 help it, but that's the way I recollect it. And my main
24 emphasis and point being that I do not recall any raising
25 of voices or any badgering of Mr. Chant. That's what I recall.

WAYNE MAGEE, by Mr. Ruby

- 1 What was in Mr. Chant's mind, I don't know. I can't say that,
2 but I do not see anything sticking out that -- It may be that
3 at the C.B.C. Discovery, I did answer that question and it
4 may be too, the exact every word was not written down. But
5 there were answers written down. What were -- What was in
6 those answers that I wrote down, I can't tell you.
- 7 Q. What was not written down, you agree with me, were the answers
8 that were not acceptable to Sergeant MacIntyre in the light
9 of the information that you believed he had. Correct?
- 10 A. That's possible. I --
- 11 Q. Correct or not correct?
- 12 A. I would say not correct.
- 13 Q. In what respect is it not correct?
- 14 A. He asked the questions; he wrote down the answers.
- 15 Q. But you've told me already --
- 16 A. Maynard read the statement and he apparently signed it.
- 17 Q. Yes, I know that, but Maynard's a child.
- 18 A. Well, he could read, sign his name.
- 19 Q. Do you agree with me or do you disagree with me that you have
20 testified here under oath --
- 21 A. Yes, I have.
- 22 Q. -- and it is true that when Maynard Chant gave an answer that
23 did not correspond with the information you believe Sergeant
24 MacIntyre had, he questioned him further and got different
25 answers. Is that true or not?

WAYNE MAGEE, by Mr. Ruby

1 A. He may have been trying to get -- I can't tell you.

2 Q. I don't want to know why he did it. I want to know if it
3 happened. Is it true?

4 A. What happened is what I just stated that the questions were
5 asked, that there was some conversation between them before
6 an answer was written down, and it's as simple as that.

7 Q. Well, is the answer that was not written down, the answer that
8 did not correspond to what you believe Sergeant MacIntyre
9 by way of other information?

10 A. It may have been. I can't say that it was. It may have been.

11 Q. But there were a number of occasions when such answers were
12 given, answers that did not correspond. Correct?

13 A. Yes, that's true.

14 Q. All right.

15 MR. RUBY:

16 The Commissioners can read the document and see that it has none
17 of those answers in it.

18 BY MR RUBY:

19 Q. Now, you said in response to one of my questions a moment ago
20 that you had no reason to lie.

21 A. No, sir.

22 Q. Let's go back at the interview at a moment. These police
23 officers from Sydney were senior men at that point in time.

24 A. That's correct.

25 Q. How old were you?

WAYNE MAGEE, by Mr. Ruby

- 1 A. Twenty-three, I believe.
- 2 Q. And how long had you been a police officer?
- 3 A. A couple of years.
- 4 Q. And you'd never been involved in a murder or anything like a
5 murder?
- 6 A. Nothing close to it.
- 7 Q. They were experienced?
- 8 A. Yes.
- 9 Q. You were not?
- 10 A. That's correct.
- 11 Q. They were trained?
- 12 A. That's correct.
- 13 Q. You were not?
- 14 A. That's correct.
- 15 Q. So it would not be likely then that you, the junior man, in
16 only one piece of this investigation, would say to them,
17 "Stop. You can't conduct investigations this way. It's
18 intimidating. The manner isn't correct. I tell you to stop."
19 That wouldn't happen, would it? You couldn't do that?
- 20 A. Well, I would -- My answer to that is that under ordinary
21 circumstance, I would not do it, but if I felt that the --
22 Mr. Chant or whoever would be there was being harrassed or
23 being intimidated or anything else of that nature, my -- I
24 wouldn't allow it to happen. He wasn't an accused person.
25 He was merely a witness. And he was a young boy whom I knew

WAYNE MAGEE, by Mr. Ruby

- 1 very well on a first name basis.
- 2 Q. That's it, isn't it? You wouldn't allow it to happen because
- 3 if you did -- If you sat there and allowed this to happen --
- 4 A. Yes.
- 5 Q. -- as Chant swore --
- 6 A. Yes, that's correct.
- 7 Q. -- then you would be equally culpable of neglect of duty with
- 8 the officers who did it. Fair enough?
- 9 A. I'll agree with that, yes.
- 10 Q. And you would be criticized equally with them. Fair enough?
- 11 A. In that particular aspect of it, yes, I'd agree with that.
- 12 Q. And that you would dearly like to avoid. Fair enough?
- 13 A. Well, sir, I'm not worried about avoiding it because I can only
- 14 tell you as I recall and that's the way it happened as I
- 15 recall it. If you read something else in it, then that's
- 16 not my problem, so to speak.
- 17 Q. Let me come back to the questioning process that I talked
- 18 about a moment ago. Would one of the things have been that --
- 19 Might it have been the case that MacIntyre said that someone
- 20 had seen him in the park and he had to have seen the murder?
- 21 A. That may have been said, yes. I can't recall it being said,
- 22 but I can't say that it wasn't said.
- 23 Q. Do you recall the phrase, "had to have seen it?"
- 24 A. No, I do not.
- 25 Q. My friend asked you some questions about the passage of

WAYNE MAGEE, by Mr. Ruby

1 | page 195. I want to take you to it, if I might. Page 195 in
2 | Volume 13. And you told us this morning -- this afternoon,
3 | sorry, that you were referring to the one witness you were
4 | involved with, Chant.

5 | A. Yes, that's correct.

6 | Q. Would you look at the language?

7 | I've always maintained either right or wrong on the
8 | record or off the record, it doesn't matter, but
9 | I've always maintained that the Sydney Police
10 | Department had a hard time as a result of this.
11 | And I've always stated, and I'll state it here, you
12 | got -- The police were out doing an investigation,
13 | you have witnesses . . .

14 | Plural, not just one, plural.

15 | . . . and supposedly an eyewitness, etc.,
16 | giving false statements . . .

17 | Plural.

18 | . . . lying under oath and misleading all of the
19 | Justice. Can you blame the police for that?

20 | Is it not clear, sir, that you're referring to more than one
21 | witness, not just Chant?

22 | A. No, as I understood, sir, from listening to the news and
23 | reading the newspapers, and accounts of it, it was my under-
24 | standing that there was numerous people allegedly lied and
25 | gave this information.

26 | Q. Exactly. And my point is this, sir. You formed a fixed view
27 | of the innocence of your fellow officers before you heard any
28 | of the evidence. You don't know what went on, what they did
29 | or didn't do, do you?

WAYNE MAGEE, by Mr. Ruby

1 A. No, I can't agree with that statement.

2 Q. What is it about that you don't agree with?

3 A. Well, I said -- I don't know if it was here, but I said in
4 some -- one of the many statements that I gave that I was
5 only commenting on one small part of the investigation that
6 I was involved with and that was the taking of the statement
7 from Maynard. Anything outside of that I wasn't aware of and
8 other than like most of the population reading accounts of
9 it, knew anything about it. But I say to you now that there's
10 people out there lying and giving false information and lying
11 to the courts and to jurors -- juries then -- that the police
12 cannot -- can't be held totally accountable for that.

13 Q. Well, doesn't the answer to that question, whether the police
14 should be held totally accountable, depend on whether the
15 police did bad things or not?

16 A. Well, I say if the police did bad things then they have to
17 suffer the consequences of it. That's my opinion.

18 Q. But that's not what you said here. What you said is that
19 they've had a hard time these people. You're assuming they're
20 innocent when you don't know the evidence. Is it not true
21 that's because you're --

22 A. Well, I might've been -- I made that statement and I might've
23 been -- This was early on into the whole affair and the
24 re-investigation and I perhaps made that statement based on
25 the statement that I was present for of Chant's.

WAYNE MAGEE, by Mr. Ruby, by Mr. J. Pink

1 Q. This is not early on. It was 1984.

2 A. 1984.

3 Q. It couldn't have been an early view. It had to be a late view.
4 Right?

5 A. Could be, yes.

6 Q. You're a police officer?

7 A. Yes.

8 Q. Yes? You spent your life in law enforcement? Yes?

9 A. Yes.

10 Q. It is not considered acceptable or polite for police officers
11 to testify against other police officers. Correct? Frowned
12 upon in police circles?

13 A. Well, I mean that -- I mean --

14 Q. In police circles, frowned upon. Correct?

15 A. Oh, I don't know about that. I've never heard of that. All
16 I -- If there's -- If a police officer, I don't care who he
17 is or what the circumstance, if he's in court, he has to tell
18 the truth.

19 Q. Yes, he does. Yes, he does. Thank you, sir.

20 BY MR. J. PINK:

21 Q. Sheriff Magee, just to finish off the last question asked by
22 Mr. Ruby, as High Sheriff for the County of Cape Breton and
23 being under oath here today, would you ever do anything, sir,
24 to protect a fellow officer, such as Sergeant MacIntyre -- to
25 tell this Commission anything that is not the truth?

1 A. No, I would not.

2 Q. I want to get back to your events and your involvement in this
3 particular matter. I will try to keep my questions short.
4 When you went to pick up Maynard Chant on this particular day,
5 he was at home and not at school, is that correct?

6 A. That's correct.

7 Q. And when you went to his house, both of his parents were home
8 at that time, is that not correct?

9 A. I recall Mrs. Chant. I don't recall Mr. Chant.

10 Q. And you told Mrs. Chant as to why you wanted her son to come
11 down to the police station or to the Town Hall, is that not
12 correct?

13 A. Yes, I did.

14 Q. There were no promises. There were no threats nor -- or
15 inducements on your part to have Maynard Chant leave his home
16 and come down to the Town Hall?

17 A. None whatsoever.

18 Q. And you invited his mother to come to the station as well?

19 A. Yes, I did.

20 Q. And upon you entering the room where Sergeant MacIntyre and
21 Detective Urquhart were, there were mutual introductions?

22 A. That's correct.

23 Q. And it was after that that it was Detective Urquhart that in
24 fact came and asked you or -- Detective Urquhart said as to why
25 they were there and the fact that they wanted the truth?

WAYNE MAGEE, by Mr. J. Pink

1 A. No, I recall detective MacIntyre being introduced by myself
2 to Mrs. Chant and saying that he wanted the truth and that
3 was not too much to expect of anyone or to ask of anyone.
4 And she agreed with that and she pointed her finger and said,
5 "Maynard, you tell the truth."

6 Q. I'm going to refer you to page 191 of Volume 13 of the
7 Discovery once again. Question 35:

8 Q. So what happened at Counsel Chambers?

9 A. Upon entering the chamber --

10 I'm sorry. Page 191, Volume 13. In your direct evidence, as
11 I understand it, you said it was Detective Urquhart who, in
12 fact, said to Maynard and Mrs. Chant why they were there.
13 But at page 191 you say:

14 Q. So what happened at Counsel Chambers?

15 A. Upon entering the chamber, I introduced
16 Mrs. Chant to Detective MacIntyre and
17 Detective Urquhart and, of course, they
18 knew Maynard and we all a few seconds
19 later knew each other and I recall
20 Detective MacIntyre state to Mrs. Chant,
21 "We merely want to ask your son a couple of
22 questions. All we want is the truth. That's
23 all we expect, and I don't think there's too
24 much to ask of anyone. I don't think that's
25 too much to ask of anyone, is it." She said,
"No, not at all," and she pointed to Maynard
in a very low voice and she said, "Maynard,
you tell these gentlemen the truth."

Is that the way it happened?

24 A. Yes.

25 Q. So, therefore, it was Sergeant Detective MacIntyre who in fact

WAYNE MAGEE, by Mr. J. Pink

- 1 | told Mrs. Chant as to why they were there?
- 2 | A. That's correct.
- 3 | Q. So if, in fact, you said Detective Urquhart in your direct
- 4 | examination, that was --
- 5 | A. It's not correct.
- 6 | Q. -- an error. Is that correct?
- 7 | A. Yes, that is correct.
- 8 | Q. During the time that Sergeant MacIntyre was taking the state-
- 9 | ment, there were no promises, there was no threats or no
- 10 | inducements held out to Maynard Chant by Sergeant MacIntyre?
- 11 | A. No.
- 12 | Q. There was no banging of tables?
- 13 | A. No.
- 14 | Q. No voices raised at any time? And would you not agree with
- 15 | me, Sheriff, that if any of that had taken place that you
- 16 | would've been in a position to have noted it, number one, and
- 17 | number two, that's something that would stand out in your
- 18 | mind even today?
- 19 | A. I'm almost certain it would, yes.
- 20 | Q. And in fact at the conclusion of taking the statement, Maynard
- 21 | Chant was asked to read the statement?
- 22 | A. Yes.
- 23 | Q. And in fact he did read the statement?
- 24 | A. That's correct.
- 25 | Q. At any time during the taking of this statement; that is, this

WAYNE MAGEE, by Mr. J. Pink

1 fifty or fifty-five minute interview in which -- interval from
2 the time that Maynard Chant entered the room until the time
3 that he left or the completion of the statement, was there
4 anything in the actions of Sergeant MacIntyre or Urquhart that
5 would make Maynard Chant scared or afraid of these two officers?

6 A. In my opinion, no.

7 Q. At any time did Sergeant MacIntyre ever tell Maynard Chant
8 that his first statement wasn't true?

9 A. He may have. I do not recall him saying that.

10 Q. At any time, did Sergeant MacIntyre ever say that they,
11 referring to the police, had witnesses who said that they had
12 saw Chant there, meaning in the park?

13 A. I don't specifically remember that.

14 Q. At any time had the police told Chant that he had lied in
15 his first statement?

16 A. I don't recall him saying that. He may have.

17 Q. And don't you agree with me, Sheriff, that if a police officer
18 in fact had accused a person that they were interviewing of
19 lying, that is something that would stand out in your mind?

20 A. I think it would. In particular, if it was, you know, a
21 high-toned voice, a loud voice.

22 Q. At any time during this fifty or fifty-five minute interval,
23 it was Sergeant MacIntyre who was in the accompaniment of
24 Maynard Chant, yourself, Detective Urquhart, and the probation
25 officer -- At any time did Sergeant MacIntyre keep on insisting

WAYNE MAGEE, by Mr. J. Pink

1 | that Chant did see something?

2 | A. I don't recall that.

3 | Q. And would you not agree with me if something like that had
4 | taken place, that you would've remembered that in light of
5 | your memory of the events of this particular day?

6 | A. It's possible. I remember certain aspects of it, but I must
7 | emphasize that I don't recall specific answers to questions
8 | and answers.

9 | Q. As a police officer, I take it that you had done some inter-
10 | viewing yourself and taking statements?

11 | A. Yes.

12 | Q. Do you know the importance of offering inducements and threaten-
13 | ing people about the result or what happens if you take a
14 | statement as a result of doing that?

15 | A. Yes.

16 | Q. And would you not agree with me that if a police officer had
17 | accused a person of lying and told him that he was in serious
18 | trouble, then he could go to goal from two to five years that
19 | that would be a threat?

20 | A. It would be a threat, yes.

21 | Q. And at at no time did you ever hear anything like that said
22 | by Sergeant MacIntyre?

23 | A. I don't recall, no.

24 | Q. And if something like that was said, I'm sure that that would
25 | be something that you would remember?

A. I would think so.

WAYNE MAGEE, by Mr. J. Pink

1 Q. At any time from what you were able to observe was Maynard
2 Chant almost in tears?

3 A. I do not recall that he was almost in tears.

4 Q. And would you not agree with me that if Maynard Chant was almost
5 in tears as a result of the actions of Urquhart and/or MacIntyre,
6 that is something that you would remember?

7 A. I'm quite certain I would.

8 Q. At any time during the period of time in which you were in this
9 Council Chambers in the presence of Sergeant MacIntyre, at any
10 time did he give you the impression that he was very frustrated
11 with what was going on at that time?

12 A. I do not recall it.

13 Q. And would you not agree with me that if something like that
14 had happened you would remember that to date?

15 A. I believe I would but that was not the atmosphere that day.

16 Q. At any time did Sergeant MacIntyre ever say to Maynard Chant
17 that he was in an awful lot of trouble?

18 A. I don't recall that being said.

19 Q. Do you think you would remember something like that?

20 A. I should recall something such as that being said. I do not
21 recall it being said.

22 Q. You were only in the police force for four years. Is that
23 correct?

24 A. Yes.

25 Q. And this was the -- really the only murder case that you had

WAYNE MAGEE, by Mr. J. Pink

- 1 | been involved in the investigation. Is that correct?
- 2 | A. That's correct.
- 3 | Q. And would you not agree with me that during your short police
- 4 | career that this probably would be one of the most serious or
- 5 | was the most serious crime that you were, in fact, involved
- 6 | in when it came to the periphery of the investigation?
- 7 | A. That would be correct.
- 8 | Q. And then would you agree with me that that is why what happened
- 9 | between Maynard Chant, Sergeant Urquhart, and Detective --
- 10 | Detective Urquhart, and Sergeant MacIntyre now stands out in your
- 11 | mind?
- 12 | A. I'd have to agree with that statement.
- 13 | Q. At any time, Sheriff Magee, did you ever see any pressure put
- 14 | on Maynard Chant to make him give a statement to Sergeant
- 15 | MacIntyre that you have before you today?
- 16 | A. I do not recall any -- any undue pressure whatsoever.
- 17 | Q. At any time during this particular period of time in which you
- 18 | were in the accompaniment of Sergeant MacIntyre, Detective
- 19 | Urquhart, or any other person, did any police officer ever tell
- 20 | Maynard Chant what to say or, in fact, what he had seen?
- 21 | A. I don't recall Mr. Chant being told what to say. He was asked
- 22 | questions and some of the answers were -- to the questions were--
- 23 | were elaborated on more and -- and as were some of the answers
- 24 | but I do not recall him being told what to say.
- 25 | Q. Maynard Chant was not a young lad who was afraid of you. Is that

WAYNE MAGEE, by Mr. J. Pink

1 not correct?

2 A. Pardon?

3 Q. He was not afraid of you to your knowledge?

4 A. I don't believe he was.

5 Q. And, in fact, during that Summer (That is after the taking
6 of the statement.) or early Fall he came to you looking for
7 work. Is that not correct? Do you remember that?

8 A. I don't recall that. It's possible now, but I don't recall
9 it.

10 Q. At any time during the interview and the taking of this
11 statement, did John MacIntyre or anybody else ever tell Maynard
12 Chant that John Pratico had dark hair?

13 A. I don't recall that.

14 Q. At any time did John MacIntyre or any other police officer during
15 this interview tell Maynard Chant that other witnesses were
16 hiding in the bushes?

17 A. I do not recall that.

18 Q. At any time did John MacIntyre or any other person during
19 this interview ever tell Maynard Chant where the stabbing had
20 occurred on Crescent Street?

21 A. I don't specifically recall that.

22 Q. At any time did John MacIntyre or any other police officer
23 during this interview tell Maynard Chant that the witnesses
24 had been at -- at the dance -- had been to dances in
25 Louisbourg?

WAYNE MAGEE, by Mr. J. Pink

1 | A. I do not recall that.

2 | Q. At any time during this interview did John MacIntyre or any
3 | other police officer tell Maynard Chant how Donald Marshall,
4 | Jr., and Donald Seale were standing on Crescent Street?

5 | A. I don't recall that.

6 | Q. At any time did John MacIntyre or any other police officer
7 | during this interview tell Donald -- tell Maynard Chant that
8 | Donald Marshall, Jr., had his sleeves rolled down on Crescent
9 | Street?

10 | A. I do not recall that.

11 | Q. You've told Commission Counsel that at least some time back
12 | in the year 1984 or thereabouts that you did have conversation
13 | with Detective MacIntyre, Re: The taping of the statement.
14 | Is that correct?

15 | A. That's correct.

16 | Q. Would you not agree with me, however, that the evidence that
17 | you have given here today is what you, yourself, remember and
18 | not what anybody else has told you?

19 | A. That's correct.

20 | Q. Mr. Ruby, during his cross-examination gave you an example of
21 | quizing. Would you agree with me, sir, that the type of
22 | example that he gave, in fact, did not happen between John
23 | MacIntyre and Maynard Chant?

24 | A. Not exactly as he described it, no.

25 | MR. J. PINK:

That's all. Thank you very much.

WAYNE MAGEE, by Mr. Ross

1 | MR. MURRAY:

2 | No questions on behalf of William Urquhart.

3 | MR. CHAIRMAN:

4 | Counsel for the R.C.M.P.

5 | MR. BISSELL:

6 | No questions.

7 | MR. CHAIRMAN:

8 | Mr. Ross.

9 | MR. ROSS:

10 | Thank you, My Lord.

11 | BY MR. ROSS:

12 | Q. Mr. Magee, working as a Sheriff in Louisbourg, did you have
13 | an opportunity to know a guy by the name of Irving Cameron?

14 | A. Yes.

15 | Q. My information is that you had discussions with him with respect
16 | to some knives at one time. Is my information correct?

17 | A. I recall --

18 | MR. ROSS:

19 | Yes, My Lord.

20 | MR. CHAIRMAN:

21 | I was wondering if you could help us by giving just an indication
22 | of the time and place.

23 | MR. ROSS:

24 | Well, I'm going to narrow in on that.

25 | MR. CHAIRMAN:

All right. Then carry on.

WAYNE MAGEE, by Mr. Ross

1 BY THE WITNESS:

2 A. I recall having conversation with Irving Cameron. I believe
3 at the Correction Centre.

4 BY MR. ROSS:

5 Q. Yes, my understanding is it was sometime between 1980 and 1982
6 and he sent for you. Is that correct?

7 A. I believe that's correct. Yes.

8 Q. And specifically do you recall having a discussion with him
9 about some knives?

10 A. No, I do not.

11 Q. Specifically, if I may just narrow it down, do you recall him
12 speaking to you about a knife that he found some place in
13 Wentworth Park around 1971 which had the initials etched in
14 the handle?

15 A. I don't -- I don't specifically remember that. I remember
16 talking with Irving Cameron at the Correctional Centre on
17 actually several occasions he would call because he's from the
18 R.R. 1, Louisbourg area so that if he had information at
19 certain times that he thought was beneficial he would -- he
20 would call me. We were on a first name basis and the last
21 conversation that I recall with Mr. Cameron, he'd given me
22 information pertaining to stolen goods and I --

23 Q. Well, to be honest with you --

24 A. I do not recall right now talking about a knife.

25 Q. I see.

WAYNE MAGEE, by Mr. Ross, by Mr. D. Pink

1 MR. CHAIRMAN:

2 Mr. Ross, we still have no idea who this gentleman is.

3 MR. ROSS:

4 Well, that might be true, My Lord, and as a matter of fact I don't
5 want to go into something that is more sensational than probative.

6 If this witness could have given me some of the answers I was looking
7 for then I would open Pandora's Box.

8 MR. CHAIRMAN:

9 Okay. Fine. So you're through with Mr. -- whatever his name is.

10 MR. ROSS:

11 No, but I will be through if you want me to.

12 MR. CHAIRMAN:

13 No, no. No, no. No, no. I don't want you to be through. Carry on.

14 I --

15 MR. ROSS:

16 Go ahead Mr. Wildsmith.

17 MR. WILDSMITH:

18 No questions.

19 MR. CHAIRMAN:

20 Mr. Saunders.

21 BY MR. D. PINK:

22 Q. Just a couple of final things, Mr. Magee. As the High Sheriff
23 for the County of Cape Breton you're an Officer of the Court?

24 A. Yes.

25 Q. And as part of your role in the -- as Sheriff you indicated

WAYNE MAGEE, by Mr. D. Pink

- 1 | earlier you play a part in Court itself. Is that correct?
- 2 | A. Yes, I do.
- 3 | Q. And you are responsible for the security of the Court and the
- 4 | prisoners in the Court?
- 5 | A. Yes, I am.
- 6 | Q. And you and your Deputy participate in Court proceedings?
- 7 | A. That is correct.
- 8 | Q. And over the years since you've been a Deputy with -- and
- 9 | Sheriff, I presume you've sat in on a multitude of trials?
- 10 | A. Yes, I have.
- 11 | Q. And you appreciate the importance of the Court procedure and
- 12 | the importance of the oath?
- 13 | A. Yes, I do.
- 14 | Q. And the importance of the truth in -- in Court proceedings?
- 15 | A. Yes, I do.
- 16 | Q. The evidence you've given today under oath has been the truth?
- 17 | A. It's been the truth to -- as far as I can recall. I recalled
- 18 | what took place that day and that is the truth.
- 19 | Q. And that -- So what you're saying is then to the best of
- 20 | your ability you've advised this Commission about the events
- 21 | that took place in 1971 in Louisbourg at the Town Council
- 22 | Chamber?
- 23 | A. That is correct.
- 24 | Q. And the interview with Maynard Chant?
- 25 | A. That is correct.

WAYNE MAGEE, by Mr. Orsborn

1 MR. D. PINK:

2 That's all. Thank you.

3 MR. ORSBORN:

4 Just one brief question on re-direct, My Lord.

5 BY MR. ORSBORN:

6 Q. Mr. Magee, my friend Mr. Pink, Mr. Joel Pink asked you about
7 Mr. Ruby's line of questioning with respect to the quizing and
8 your response was, "Well, it wasn't exactly as he described it".
9 Could you just clarify in what respect Mr. Ruby's questioning
10 of you with respect to the quizing was inexact?

11 A. Well, I guess I used the word, "quizing" in one of these
12 statements that I have given so what I -- what I meant by
13 quizing -- what I meant by quizing was that a question would
14 be answered -- would be asked and Maynard would require some
15 elaboration or perhaps Detective MacIntyre would require some
16 elaboration further on his initial answer and -- so that I
17 meant MacIntyre quizing in a sense Chant.

18 Q. Right. Could you give an example of the type of elaboration
19 that Maynard would require?

20 A. Something -- What sticks out in my mind is the area of the park
21 that has certain locations. I think of the bridge -- I believe
22 there's a walking -- a walkway there and that in reference to
23 the band shell and the bushes, that sort of thing, yeh. I
24 take it Maynard wasn't quite familiar with that whole area.

25 Q. Was he then looking -- Was Maynard looking for assistance in

WAYNE MAGEE, by Mr. Orsborn, by Commissioner Evans

1 | completing his statement or in giving his answers?

2 | A. I think that would be a fair assessment, yes.

3 | Q. And did Sergeant MacIntyre provide that assistance?

4 | A. He would render -- He would render where the walkway was in
5 | reference to where the clump of bushes was, you know, in
6 | direction, this sort of this.

7 | Q. And was there --

8 | A. It was a very, as I recall, a very casual conversation.

9 | Q. Was there any assistance rendered as to where Maynard was on
10 | the walkway or where he was on the railroad tracks?

11 | A. I don't -- I don't recall that specifically, no.

12 | Q. Was there any assistance rendered as to what Maynard could
13 | have seen or could not have seen from any particular location
14 | in the park?

15 | A. That's possible. I don't recall that, but it's possible.

16 | Q. I see, and is it your recollection that after this assistance
17 | was given, on occasion that an answer would then be written
18 | down?

19 | A. Yes.

20 | MR. ORSBORN:

21 | I see. Thank you very much.

22 | BY COMMISSIONER EVANS:

23 | Q. Sheriff, turning to page 192, line 45 --

24 | A. Yes.

25 | Q. --it says:

WAYNE MAGEE, by Commissioner Evans

1 Were you aware of the fact...

2 This is on the CBC Inquiry in 1984 I believe.

3 A. Yes, Your Lordship.

4 Q. Q. Were you aware of the fact that
5 Chant had given a previous
6 statement? Was that discussed?

7 A. Yes, it was. As I recall Detective
8 MacIntyre stated that some of the
9 information in the prior statement
10 upon their subsequent investigation
11 wasn't corresponding with other
12 information and he wanted to get
13 the information again from Mr. Chant
14 to see what was correct and what
15 wasn't correct.

16 Do you remember that?

17 A. Yes, I do.

18 Q. Forty-six:

19 Q. Some of the information in his
20 first statement didn't correspond
21 with the information from other
22 people?

23 A. I would assume that they were
24 conducting an investigation and
25 they were getting information
26 from all persons and some of it
27 may have been conflicting. I
28 don't know, but I take it that
29 perhaps what Mr. Chant may have
30 said in an earlier statement may
31 not have corresponded with what
32 they had found out later during
33 their investigation and they were
34 merely setting the record straight
35 again.

36 A. I stated that. That's right.

37 Q. That's what you have stated?

WAYNE MAGEE, by Commissioner Evans

- 1 | A. Yes.
- 2 | Q. And then this:
- 3 | Q. So they were indicating to Chant that
4 | he had given one statement and it
5 | didn't seem to fit and they wanted him
6 | to tell the truth?
- 6 | And then this line says:
- 7 | Yes, the word was used "fruitfully"...
- 8 | But I take it that should be frequently:
- 9 | ...and he said that to Mrs. Chant, and
10 | I expected they wanted to get a
11 | truthful statement from Mr. Chant...
- 11 | A. That's correct.
- 12 | Q. So was the inference that one should take from that that the
13 | first statement that he had given was not true --
- 14 | A. Yes, Detective MacIntyre --
- 15 | Q. --or not complete, which?
- 16 | A. That it wasn't complete. I don't know what Mr. MacIntyre
17 | was thinking but I assume that -- that in his first statement
18 | there was some information in that that didn't correspond
19 | information that had come to light afterwards and they wanted
20 | to get further information and a further statement from
21 | Mr. Chant?
- 22 | Q. And would that mean that they didn't think he had told the
23 | truth to them the first time around on everything?
- 24 | A. That's my indication, yes.
- 25 | Q. So then you went on to tell what you would do if you were a Chief --

WAYNE MAGEE, by Commissioner Evans, by Mr. Chairman

1 when you were Police Chief about inconsistent statements
2 and that you would do something similar to this?

3 A. Yeh.

4 COMMISSIONER EVANS:

5 All right. Thank you.

6 BY MR. CHAIRMAN:

7 Q. Sheriff, can you differentiate between telling a person that
8 what he is saying is not truthful and telling a person that
9 he is lying? Is there such a distinction that escapes me?

10 A. No.

11 Q. I thought -- I had gotten the impression earlier that you had
12 suggested that you had not heard Mr. Chant being told that he
13 was lying?

14 A. I do not recall him being told that he was lying but I do
15 recall Detective MacIntyre stating that he wanted the truth.
16 Now you could assume that perhaps he was lying in the first
17 statement. I don't know, but that's what was -- that's what
18 I recall as being said.

19 MR. CHAIRMAN:

20 Okay. Thank you. That's all.

21

22 (WITNESS WITHDREW)

23

24 MR. CHAIRMAN:

25 Do you have another witness?

WAYNE MAGEE, by Mr. Chairman

1 MR. ORSBORN:

2 Yes, My Lord, there's another witness.

3 MR. CHAIRMAN:

4 How long is he going to be?

5 MR. ORSBORN:

6 I suspect if we take a break it's possible but unlikely that he
7 would finish the day at four-thirty.

8 MR. CHAIRMAN:

9 So we won't take a break.

10 MR. ORSBORN:

11 The next witness, My Lord, is Inspector Arthur Woodburn.

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JMB.