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SDS Case Number 87-312

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

VOLUME XX

Held: October 28, 1987

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

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

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

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

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

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

Donald C. Murray: Counsel for William Urquhart

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

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

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

Al Pringle: Counsel for Correctional Services Canada

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

Charles Broderick: Counsel for Carroll

S. Bruce Outhouse: Counsel for Wheaton & Scott

Guy LaFosse: Counsel for Davies

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

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

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

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

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COURT REPORTER'S CERTIFICATE ..... TT

INQUIRY RECONVENED AT 9:35 o'clock in the forenoon on Wednesday, the 28th day of October, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia.

1

2 MR. ORSBORN:

3 Mr. Chairman, the first witness this morning will be Mrs. Beudah
4 Chant. I'll indicate that the witnesses that we hope to call and
5 conclude today will be Mrs. Chant, Mr. Lawrence Burke, Mr. Wayne
6 Magee, and Inspector Arthur Woodburn.

7 BEUDAH ELIZABETH CHANT, being called and duly sworn, testified as
8 follows:

9 BY MR. ORSBORN:

10 Q. Good morning, Mrs. Chant. What is your full name, please?

11 A. Beudah Elizabeth Chant.

12 Q. How do you spell your first name?

13 A. B-e-u-d-a-h.

14 Q. B-e-u-d-a-h. Where do you live, Mrs. Chant?

15 A. Louisbourg.

16 Q. How long have you lived there?

17 A. Gracious. About twenty-three years, I would imagine. Twenty-
18 four years.

19 Q. I may have to ask you to speak up a little bit or perhaps get
20 the microphone a little closer to you because we may not
21 hear you. Do I understand that you are the mother of Maynard
22 Chant?

23 A. Yes.

24 Q. And do you have other children?

25 A. Yes.

1 Q. How many do you have?
2 A. Six others.
3 Q. And --
4 A. Besides Maynard, that's seven.
5 Q. Are they younger or older than Maynard or a combination of both?
6 A. A combination. He's second oldest boy.
7 Q. I see. I'd like to take you back, Mrs. Chant, to May of 1971,
8 and I would like to ask you for your recollection of the very
9 early morning of May 29th, 1971. Do you recall having any
10 conversation respecting Maynard's being at the Sydney Police
11 Department in the early morning of May 29th, 1971?
12 A. Yes.
13 Q. Could you give us your recollection, please?
14 A. They called and asked if we could come in and get him, and they
15 said -- They just said they couldn't tell us over the phone
16 what was the problem just to come in and pick him up.
17 Q. Was it you talking to the police department or your husband?
18 A. No. I believe it was my husband.
19 Q. Yes, and do you know what time it was?
20 A. No, it was after twelve.
21 Q. I see. And what did you do?
22 A. My husband got up and went in and picked him up.
23 Q. Did you talk to Maynard when he came home?
24 A. No.
25 Q. Did you see him?

1 A. I don't remember.
2 Q. Had you ever been asked before to pick him up at the police
3 station at the early hour in the morning?
4 A. No.
5 Q. Were you concerned?
6 A. Yes.
7 Q. When did you first see him -- see Maynard when -- after he
8 got home?
9 A. It could've been the next morning. We got up early for church.
10 Q. Yes.
11 A. And I may have seen him that night. I don't recall.
12 Q. The next morning would have been a Saturday morning. Would
13 you have gone -- been going to church on a Saturday?
14 A. Oh, I thought that would be Sunday. No, we'd be going to church
15 on Sunday. I must have seen him then on the next morning.
16 Q. I see. Do you remember having any discussion with him over
17 the events of the night before?
18 A. Don't remember.
19 Q. Is it likely that you would've asked him?
20 A. Probably.
21 Q. Do you recall whether or not he came home with any clothes with
22 blood on them?
23 A. No.
24 Q. You don't recall, or he didn't come home with any?
25 A. No.

1 Q. I'm sorry.
2 A. I don't recall that he did.
3 Q. I see.
4 A. Yeh.
5 Q. Do you recall hearing any news about an incident in Sydney
6 involving a stabbing?
7 A. Yes, I think that was all he said, but I don't when he told
8 us that, whether it was that night or the next morning. He
9 just said that there was -- young fellow had been stabbed in the
10 park and that he happened to be coming around there when it
11 happened and that's why he was in the police station.
12 Q. Did he give you any details of what he had seen?
13 A. No. He said he hadn't seen anything.
14 Q. Did he tell you that?
15 A. No -- Yes, he said he hadn't seen nothing. He just got there
16 when it was all over or he was -- He had met Donald --
17 Q. Yes.
18 A. -- Marshall, and he had told him that there had been a
19 stabbing.
20 Q. Do you recall when it was he gave you this information? Is
21 it on this first Saturday?
22 A. I don't remember. I don't remember what day it was he told us
23 that.
24 Q. Is it the sort of experience that Maynard would likely have
25 sat down and discussed with you?

1 A. No. He was at that age where he didn't want us to know too
2 much of his business.
3 Q. Right.
4 A. Yeh.
5 Q. Is the sort of thing that he might've discussed with any of
6 his brothers or sisters?
7 A. He may have. They didn't say he had, but he could have. Like
8 they never told me that he did.
9 Q. Yes. Did he give you, at any time, the impression that he had
10 actually seen or witnessed the stabbing?
11 A. No.
12 Q. Did you have any further contact with the Sydney Police?
13 A. They came out on Sunday afternoon.
14 Q. Which -- Was this the Sunday immediately following the Friday
15 night?
16 A. Yes.
17 Q. Right.
18 A. Yes. And --
19 Q. How do you know it was the Sunday afternoon they came out?
20 A. We had just came from church.
21 Q. I see.
22 A. And when we came home, they were parked in our driveway --
23 Q. Right.
24 A. -- by our house. Yeh.
25 Q. Where did you go to church?

1 A. Sydney Pentecostal Church in -- on Victoria Road.
2 Q. So you had to travel into Sydney and then drive back?
3 A. Yes.
4 Q. And was it the morning service that you went to?
5 A. Yes. Yeh.
6 Q. Roughly what time would you have arrived home?
7 A. It would be about maybe one or one thirty.
8 Q. And was Maynard with you?
9 A. Yes.
10 Q. And you indicated that the police were in the yard waiting for
11 you when you got back?
12 A. Yes.
13 Q. Okay. Did you know who the police officers were?
14 A. It was Sergeant MacIntyre and another policeman. I don't know.
15 I don't remember his name.
16 Q. Had you known Sergeant MacIntyre before that day?
17 A. No.
18 Q. How do you know him now it was Sergeant MacIntyre?
19 A. Well, he told us --
20 Q. I see.
21 A. -- his name.
22 Q. And were they in uniform? Police uniform?
23 A. I don't remember.
24 Q. And do have a recollection now of what happened when you met
25 the police officers?

1 A. They said they would like to talk to Maynard that they had
2 reason to believe that he wasn't telling the complete truth.
3 Q. Do you have a recollection now of that being said to you on
4 that Sunday that Maynard was not telling the truth?
5 A. Yes.
6 Q. Okay. And did they give you any indication of what Maynard
7 had said to them?
8 A. No. They didn't really give anything in detail. They just
9 said that they felt that Maynard wasn't telling the truth
10 about the incident.
11 Q. Yes.
12 A. Yes.
13 Q. And were they still in the car when they were talking about
14 this?
15 A. No, I believe that was in the house.
16 Q. And were you and your husband present?
17 A. Yes.
18 Q. Was Maynard present as well?
19 A. Yes. Yeh.
20 Q. And after they indicated to you -- Who was it indicated to
21 you? Was it Sergeant MacIntyre or was it the other gentleman?
22 A. It was Sergeant MacIntyre.
23 Q. And after this was indicated to you, what happened?
24 A. We just encouraged Maynard to tell the truth. If he wasn't
25 telling the truth, to tell the truth.

1 Q. And did you remain in the house?
2 A. Oh, yes. I was back and forth. I had boarders; so I was
3 trying to get dinner, and I was sort of in and out of the
4 kitchen, back and forth and so like I didn't set in on at all.
5 Q. Yes. And do you have any recollection of what Maynard said
6 to the police officers that day?
7 A. Well, he seemed to stick to his story that he hadn't seen
8 anything up to just the time that when he met Mr. Marshall
9 coming around the road there by the park --
10 Q. Yes.
11 A. -- and stopped him and told him there had been a stabbing.
12 And that was all that he -- He maintained that story.
13 Q. And did you hear him telling the story to the police in your
14 house?
15 A. No, not the full story. I don't remember. Like I say, I
16 wasn't in through it all; so I only heard bits and pieces
17 here --
18 Q. Yes.
19 A. -- and there, but he just --
20 Q. Did you heare him saying, at any time in the house, that he
21 had not seen anything?
22 A. Oh, yes.
23 Q. I see. And do you recall what the attitude of the police
24 officers was when Maynard would indicate this?
25 A. They felt he was lying. They felt that he wasn't telling the

1 whole truth.
2 Q. How did Maynard seem at the time to you?
3 A. He -- Well, he was young and he was very nervous and afraid.
4 Q. Do you recall if your husband stayed in the room during the
5 conversation?
6 A. I don't remember. It's possible he could have, but I don't
7 remember whether he did or not.
8 Q. At the time, did you believe Maynard?
9 A. Yes, I had no reason not to.
10 Q. Had you had any previous difficulty with him not telling the
11 truth in any situations?
12 A. Well, yes. Most all kids don't tell the truth. Most
13 children they'll lie to cover up, you know. So I figured if they
14 thought he was lying, then he must be; so I just took it at
15 that.
16 Q. I see. Did -- How long did they stay in the house?
17 A. Oh, I'm not sure. I don't remember. Maybe half an hour.
18 Q. I see.
19 A. Maybe more. I don't really know.
20 Q. And at what point did they leave the house?
21 A. They had taken Maynard out in the car to --
22 Q. Do you recall why they took him out in the car rather than
23 stay in the house?
24 A. I guess maybe they thought they could -- Maybe he would talk
25 in -- to them maybe not in front of us, I don't know.

1 Q. Did they ask you if they could take him out in the car?
2 A. Yes.
3 Q. And what did you say?
4 A. We said yes.
5 Q. Did the -- How long did you stay out in the car?
6 A. Oh, it wasn't that long. Maybe fifteen minutes.
7 Q. And then what happened?
8 A. And then they -- He came in. They left and he said that they
9 didn't believe he was telling the truth that they thought that
10 he was there when it happened.
11 Q. At this point, did Maynard give you any suggestion at all that
12 he had seen anything other than Mr. Marshall coming along?
13 A. He said he never seen anything. He said he hadn't seen any --
14 Like he hadn't any -- seen anything only that Mr. Marshall had
15 stopped him on the road and they had gone back to the park,
16 that's all.
17 Q. Do you recall if Maynard left your yard at any time that day
18 with the police?
19 A. No.
20 Q. Do you know whether or not he went into Sydney on that day?
21 A. No.
22 Q. The reason I ask is that we have a statement that Maynard gave
23 on the 30th of May, which, I belive, was a Sunday, and it's
24 indicated on the statement that it was given between the hours
25 of five fifteen and five thirty-five on the Sunday afternoon.

1 That we believe it was taken in Sydney. Maynard thought
2 it was probably taken in Sydney.
3 A. We could've taken him in when we went back to church that night.
4 I don't remember, but we could have. It's possible, but I
5 don't remember anything about that.
6 Q. It's possible that you could've taken Maynard in --
7 A. That we could've taken him back when we went in. We generally
8 went in around six o'clock to church, and if they had asked
9 him to come in, we probably may have taken him in early.
10 Q. Do you have any recollection of your being asked to take him
11 in?
12 A. No. No.
13 Q. Do you have any recollection of the police saying that, "We
14 want to see Maynard again at some time."?
15 A. No.
16 Q. But your recollection today is that once Maynard came in the
17 house from being out in the car with the policemen that you
18 have no recollection of any contact with the police on that
19 Sunday -- any further contact with the police?
20 A. No. On the -- In a couple of days later they came back --
21 Q. Yes.
22 A. -- out again but not on that Sunday.
23 Q. I see. Do you know if Maynard got his dinner that day or not?
24 A. I don't remember that either.
25 Q. It might give you an -- some indication of how long he was

1 involved with the police.
2 A. I don't remember.
3 Q. Do you recall if he was upset when he came back from the police
4 car?
5 A. Yes, he was quite upset, yeh.
6 Q. And why was he upset, do you know?
7 A. I think he thought like we did that maybe they were trying to
8 implicate him in something.
9 Q. What, to implicate him in something?
10 A. In -- maybe -- I don't know. Maybe being there or telling
11 something that, you know -- You never know. I thought maybe
12 he might think -- Now, this is just my judgment -- that he
13 might think maybe they were trying to accuse him of something
14 that maybe he didn't do or something.
15 Q. Do you have anything on which to base that judgment of yours?
16 A. No, but it was a very serious charge and, you know, a young
17 fellow being there after and seeing everything, you never know
18 what, you know, people might think.
19 Q. Were you concerned then that the police might have been trying
20 to suggest that Maynard himself had done the stabbing?
21 A. No, I never thought that. I thought maybe he might've been
22 somewhere around there or something with someone because
23 when -- You know, you don't know where children are --
24 Q. Yes.
25 A. -- when they're not home.

1 Q. Was there anything said to you at any time by either of the
2 police officers to suggest that Maynard had in fact seen
3 the stabbing?
4 A. No, they didn't say. They said they had reason to believe
5 he wasn't telling the truth. That was all. Except for on
6 another day. The next time they came out, they said that
7 they had a witness to prove --
8 Q. Yes.
9 A. -- that he had seen it. But not on that day.
10 Q. Not on this --
11 A. Not on Sunday.
12 Q. On this first occasion, did the police give any suggestion to
13 you as to what they thought the truth was?
14 A. I don't remember, no.
15 Q. Well, after Maynard came back then from the police car and upset
16 as you say, did you make any further attempts to say sit down
17 with him and say, "Now, look here, what's going on. What
18 actually happened?"
19 A. I remember telling him, "Well, Maynard, if you're not telling
20 the truth, you'd better tell the truth because this is very
21 serious and, you know, you might get in trouble yourself if
22 you --" because he was on probation and he said he was telling
23 the truth.
24 Q. Did you know at this time that Mr. Seale had died?
25 A. No.

1 Q. I see. In your opinion, did Maynard realize how serious the
2 situation was -- how serious the stabbing was?
3 A. I believe he did, but I don't remember. Like I couldn't say
4 for sure, but I believe he thought it -- You know, he was very
5 scared.
6 Q. And after he came back from the police car and you impressed
7 on him again the need to tell the truth, when he reiterated to
8 you that he had seen nothing, at that point, did you believe
9 him?
10 A. Yes, I believed him. I didn't have any reason not to. You
11 know, like I mean, he said that he hadn't seen anything and
12 so I just said to him, "Well, tell the truth," and he said
13 he didn't. He had told the truth. So I mean, that was --
14 You can't --
15 Q. I understand.
16 A. Yeh.
17 Q. Did you have a further contact with the Sydney Police Department?
18 A. Yes, they came out in a couple of days later and came in again
19 and said that they had a witness to prove that he had been
20 in the park.
21 Q. Right. Now, did the -- Do you recall the police coming to
22 your house and telling you that?
23 A. Yes, they came to the house.
24 Q. There's some -- There may be some evidence that Mr. Magee, in
25 fact, was the gentlemen that came to your house and picked up

1 Maynard and took you back to the Town Hall. Do I understand
2 that your recollection is that the Sydney Police in fact came
3 to your house to get him?
4 A. Yes, they came again.
5 Q. And do you recall whether or not it was the same police officers
6 that had come before?
7 A. Yes, it was the same two.
8 Q. Right. And they'd indicated that they had an eye witness?
9 A. Yes. They said they had a witness to prove that Maynard had
10 been there and that he was lying.
11 Q. Was this said to you in the house?
12 A. Yes.
13 Q. Was your husband present?
14 A. No, he was at work.
15 Q. Was Maynard present?
16 A. Yes.
17 Q. Did the police say any more than that they had another eye
18 witness?
19 A. No.
20 Q. Did they say who the eye witness was?
21 A. No.
22 Q. Did they say that they had a suspect for the stabbing?
23 A. No, I don't recall.
24 Q. Did you know at this point that Mr. Seale had died?
25 A. I don't remember. I could have, but I don't remember.

1 Q. After the police indicated that they had an eye witness that
2 proved that Maynard was lying, what happened then?
3 A. They said that they would like to take him down to the Town
4 Courthouse and question him down there.
5 Q. Yes.
6 A. So we went down. They took us down.
7 Q. Yes. You went with them?
8 A. Yes.
9 Q. Did you ask to go?
10 A. I don't remember.
11 Q. Was there any suggestion made by the police officers that you
12 should not go?
13 A. I don't remember. No, I don't think so.
14 Q. Any objection to your going?
15 A. No.
16 Q. Do you have a recollection today -- have a picture in your mind
17 of the interview at the Courthouse?
18 A. Not completely. It's something you try to wipe away.
19 Q. Do you have any recollection today of that interview?
20 A. I don't remember like too much. I know we went in the room
21 and they had talked to him for a bit, but they thought they
22 weren't getting anywheres with him; so they asked me if I would leave.
23 Q. Okay. So you went into a room. This was a room in the Town
24 Hall, the Courthouse, is it?
25 A. Town Hall, yeh.

1 Q. In Louisbourg?
2 A. Yes.
3 Q. Right. Do you remember if there was anybody else present?
4 A. I believe Wayne Magee, but that's all besides the two officers.
5 That's all I remember being there.
6 Q. Did you know Mr. Magee?
7 A. Oh, yes.
8 Q. Is he a friend of yours?
9 A. Yes.
10 Q. A friend of Maynard's?
11 A. Yes.
12 Q. Did his being there give you any comfort in any way?
13 A. Yeh, I believe it did.
14 Q. Yes. Do you have any recollection of the setting in the
15 room -- what the furniture was like, how big the room was?
16 A. No.
17 Q. Were you nervous?
18 A. Yes, like I am now.
19 Q. Why were you nervous?
20 A. Well, it's just nerve-wracking, you know, to go through any-
21 thing like that. We had never gone through anything like
22 that before and so we just didn't know what --
23 Q. Had you ever been involved in talking to the police in company
24 with Maynard before?
25 A. Oh, yes, Wayne Magee.

1 Q. Yes.
2 A. Yeh. And he was going through a lot of rebellious period there
3 and things, you know. He was trying -- didn't want to go to
4 school and different things like that and he had -- Wayne had
5 really helped us, you know -- tried to help Maynard.
6 Q. Nothing as serious as this, I take it?
7 A. No, not that serious, no.
8 Q. Do you know if you were sitting down when you went into the
9 room?
10 A. I don't remember that.
11 Q. Do you know if you were close to Maynard?
12 A. Yeh, I believe he was sitting alongside of me.
13 Q. Okay.
14 A. Or we could've been sitting down. I don't know. I don't remember.
15 Q. I see.
16 A. Or standing by me or something. I don't really remember.
17 Q. Do you have any recollection of how the interview proceeded
18 while you were there?
19 A. No, I don't. I don't remember.
20 Q. Do you remember Sergeant MacIntyre being there?
21 A. Yes.
22 Q. And I believe the evidence will indicate that the other officer
23 there was Detective Urquhart. Did you know Detective Urquhart?
24 A. No.
25 Q. Do you remember another policeman being there?

1 A. Outside of Wayne Magee, I don't remember, no.
2 Q. Do you remember if anybody in the room was standing while the
3 interview was taking place?
4 A. Don't remember.
5 Q. Do you remember if there was anything at all about the inter-
6 view -- the way it was conducted that caused you to become
7 either more or less nervous?
8 A. I don't recall, no.
9 Q. Do you remember if anything was said about this eye witness
10 that had indicated or suggested that Maynard was lying?
11 A. No, I don't remember that either.
12 Q. Did you stay in this room to your recollection for the whole
13 interview?
14 A. No, they had asked me if I would leave, and I said, "Yes."
15 So I got up and left.
16 Q. Do you recall who asked you to leave?
17 A. I believe it was Sergeant MacIntyre.
18 Q. And do you know what had happened that might want them to have
19 you leave?
20 A. They thought maybe he -- Maynard would talk more freely if I
21 wasn't there.
22 Q. Was this said to you?
23 A. Yes.
24 Q. And who said that to you?
25 A. I don't remember.

1 Q. Up until the time you left, do you know what Maynard had been
2 saying?
3 A. He had said -- was saying -- He had maintained his story that
4 he hadn't seen anything.
5 Q. Yes.
6 A. You know. And that was all I remember that he kept saying he
7 hadn't seen nothing.
8 Q. Yes. Do you know did he repeat this that he hadn't seen
9 anything?
10 A. He must have. I don't remember.
11 Q. Do you know how long you were in the room before you left?
12 A. Not very long. Fifteen, twenty minutes maybe.
13 Q. Was it as long as you've been testifying this morning?
14 A. Probably.
15 Q. That's about twenty-five minutes, I would think.
16 A. Yes.
17 Q. Do you recall anything about the tone of the questioning, the
18 tone of the voices while you were there?
19 A. No.
20 Q. Was there anything about the interview that made you want to
21 stay there and not leave?
22 A. No, I felt that if I -- I felt if I did leave that Maynard
23 would probably maybe open up and tell the truth. I don't know
24 why, whether he -- Maybe he might've been afraid of punish-
25 ment from us. I don't know, but I felt maybe he might talk

1 to them more freely if I wasn't there because he wasn't supposed
2 to be in Sydney that night --
3 Q. Yes.
4 A. -- you know, and so -- because he was on probation.
5 Q. He was supposed to have been in church with you, I think,
6 wasn't he?
7 A. Yes.
8 Q. But were you still of the opinion that when Maynard said that
9 he saw nothing he was in fact telling the truth?
10 A. Well, at that point, I didn't know whether he was telling
11 the truth or not. If they had evidence to prove that he was
12 there, I felt he must be lying.
13 Q. I see. And do you recall this being stated at the Louisbourg
14 Town Hall that this eye witness was there -- that they had
15 other evidence to prove that Maynard was lying?
16 A. Yes.
17 Q. Do you recall if they said who the eye witness was?
18 A. Who the -- Pardon me?
19 Q. Who the eye witness was?
20 A. No.
21 Q. Do you recall if Mr. Marshall's name came up in the interview
22 while you were there?
23 A. Don't remember.
24 Q. While you were in the room, do you recall how Maynard was, if
25 he was calm, if he was upset?

1 A. I don't remember.
2 Q. Did he start to cry at any time while you were there?
3 A. I can't remember that. He could have. Well, I don't remember.
4 Q. If he had started to cry, is it likely that you would've left?
5 A. I probably wouldn't have.
6 Q. Probably wouldn't have?
7 A. Yes.
8 Q. While you were in the room, do you recall any reference being
9 made to the fact that Maynard was on probation and could get
10 in some trouble?
11 A. Yes. Yeh.
12 Q. Do you recall who made that reference?
13 A. No, I don't know. But I know -- It was said that he was on
14 probation and he could be in a lot of trouble if he didn't
15 tell the truth and didn't --
16 Q. Who was doing most of the talking?
17 A. I believe it was Sergeant MacIntyre.
18 Q. And other than Maynard and Sergeant MacIntyre, do you remember
19 anybody else saying anything at all?
20 A. I don't remember.
21 Q. Do you recall while you were there, any reference being made
22 to the fact that Maynard perhaps could have committed perjury
23 or perhaps could go to goal for two to five years?
24 A. Yeh, I believe that was mentioned that he -- if he was lying,
25 he could be charged.

1 Q. Yes. And do you recall this sort of two to five years in
2 jail being mentioned?
3 A. No. I don't remember that.
4 Q. Do you recall who mentioned that he might go to goal if he
5 was lying?
6 A. No.
7 Q. Do you recall any mention of a knife while you were there?
8 A. I don't -- I can't remember if it was there or where it was,
9 but this was after they had asked me to leave the room and
10 they said they had a statement. When they came out, they said
11 they had a statement from Maynard.
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1 Q. Yes.
2 A. And they felt, I guess, that they had finally got the truth
3 from him. Now I don't know whether it was then or when it
4 was but they had told him that he couldn't say that he had
5 seen a knife, that he could only say it looked like or that
6 it seemed like to him a knife.
7 Q. Now did the police tell this to you directly or was this
8 something that Maynard related to you?
9 A. I don't remember.
10 Q. I see. After you left the room, where did you go?
11 A. I just went out in the hallway and stood.
12 Q. Was the door to the room open?
13 A. No.
14 Q. Could you hear what was happening inside?
15 A. No.
16 Q. Do you have any idea how long you were out there?
17 A. I don't know, maybe twenty minutes. I don't know.
18 Q. Did you feel like going back at any time and inquiring as to
19 how Maynard was?
20 A. No.
21 Q. Did Maynard ask you to stay when you -- When you left the
22 room did he make any -- propose to you that you should stay
23 there?
24 A. I don't know. I can't remember.
25 Q. And what is your recollection of when the interview was over and

1 the people came out of the room, did anybody speak to you?
2 A. Pardon me?
3 Q. Did anybody speak to you when the interview was over?
4 A. Yes, they came out and said that -- I believe it was
5 Sergeant MacIntyre who said that he finally -- that they had
6 got a statement from Maynard.
7 Q. Right.
8 A. That he had signed a statement.
9 Q. Right, and do you know what Maynard had said to the police? Did
10 they say what he had said?
11 A. No.
12 Q. Did you see the statement that Maynard had given?
13 A. No, I don't remember seeing any statement.
14 Q. I'd ask you to have a look at the -- the paper there to the
15 left of you.
16 MR. ORSBORN:
17 That, My Lord, is Exhibit 31 which is the original handwritten
18 copy of Mr. Chant's statement of June the 4th. A copy of that
19 appears in Volume 16 at pages 50 to 54.
20 BY MR. ORSBORN:
21 Q. Have you ever seen that before, Mrs. Chant?
22 A. No.
23 Q. I'd ask you to look at the -- the bottom of each of the first
24 four pages or three pages and indicate whether or not your
25 signature appears anywhere on those pages?

1 A. No, I don't see it.
2 Q. I'd ask you to look at the last page -- the very last page
3 with the names at the top and it appears to be in the handwriting
4 of Mrs. Beudah Chant, mother. Is that your handwriting,
5 Mrs. Chant?
6 A. I don't believe so.
7 Q. How was Maynard when the interview finished, do you recall?
8 A. No.
9 Q. How did you feel when the --the police came out and said that
10 they had finally got a statement from Maynard and that he'd
11 been telling you all along that he'd seen nothing and that
12 he was telling the truth and telling the truth?
13 A. I believed, I guess, that he had told the truth.
14 Q. Did you know at that time what the truth was?
15 A. No.
16 Q. Did you ask him?
17 A. No.
18 Q. Why not?
19 A. I don't know. Maybe I didn't want to face it.
20 Q. What did you think you were facing, that you might be facing?
21 A. Something serious.
22 Q. Serious in the sense that Maynard could be somehow implicated
23 in it?
24 A. I figured he'd probably have to go to Court and witness and I
25 just didn't want to have to deal with that.

1 Q. I see. When did you become aware that Maynard was, in fact,
2 going to be a witness?
3 A. I don't remember.
4 Q. Did you go to Court with Maynard at the Preliminary Hearing
5 which would have been in July of that year?
6 A. No.
7 Q. The first hearing?
8 A. No.
9 Q. Did any members of your family go with him?
10 A. No, not -- not that I remember.
11 Q. Before he went to Court in July did you have any idea what --
12 why he was being called as a witness?
13 A. Apparently he had said he had seen it.
14 Q. Did Maynard tell you this?
15 A. I don't remember whether it was him that told us. He probably
16 did, but I don't remember. I don't remember who told us.
17 Q. When you found out that Maynard was saying that he had -- he
18 had, in fact, seen it, did you talk to him about it? Did you
19 find out exactly what he had seen?
20 A. I had asked him if he had tried to help the boy and he said,
21 "Yes".
22 Q. Yes.
23 A. That was all. He said he had taken off his shirt or something
24 and tried to wrap it around him.
25 Q. But when -- when you believed that Maynard was going to Court to

1 testify that he had seen it, what did you understand by that,
2 that he had actually seen the stabbing or that he had seen
3 the boy on the street and had tried to help him?
4 A. I don't recall. I don't remember what it was that I had
5 thought. I can't remember.
6 Q. Just let me back track for a moment, Mrs. Chant. On the -- the
7 matter of the Louisbourg interview you indicated that you left
8 the room after some twenty to twenty-five minutes. We
9 anticipate that both Sergeant MacIntyre and Mr. Magee will
10 testify that you were there for the entire period of the
11 interview. Does that in anyway change your recollection that
12 you, in fact, left the room?
13 A. No.
14 Q. Are you sure that you did leave the room?
15 A. I know I left the room. I was standing out in the hall when they
16 came out.
17 Q. I see. Do you recall after the Court hearing in July knowing
18 that Maynard had testified that he had actually seen the
19 stabbing?
20 A. I don't remember.
21 Q. You knew that Maynard had to go back to Court in November
22 for the trial, I guess?
23 A. Yes.
24 Q. Okay. Before that time, did you have any discussions with
25 him about what his evidence was going to be?

1 A. I don't remember that either.
2 Q. How was Maynard about testifying in Court? Was he nervous
3 about it or looking forward to it?
4 A. I think he was on the day that he went in, but up until then
5 like he was very nervous even of going into Sydney or
6 anything anywheres.
7 Q. Before he testified in Court in November did you have any other
8 contact or communication with the Police Department?
9 A. I don't remember.
10 Q. Okay. Did you have any contact with any of the -- the lawyers
11 that were involved in the case, Mr. Rosenblum, Mr. Khattar, or
12 Mr. MacNeil?
13 A. No.
14 Q. Do you know or know of John Pratico?
15 A. I just heard Maynard speak of him. That's all.
16 Q. When did you hear Maynard speak of him?
17 A. I don't even remember that but I know --
18 Q. Was it in recent years or was it in 1971?
19 A. No, it was back in -- in -- Back there he had spoke of him.
20 Q. Yes.
21 A. And I don't know whether I had learnt of him after the hearing
22 or before. I can't remember.
23 Q. Do you know whether or not Maynard spent a night at John
24 Pratico's house?
25 A. I believe he stayed there one night during the trial. We had --

1 My husband worked and it was difficult to get in and out of
2 Sydney.
3 Q. Yes.
4 A. And I believe he called from in there and asked if it was all
5 right if he stayed.
6 Q. John Pratico has indicated to us if my recollection serves
7 me right that if Maynard had spent a night in his room he
8 would have remembered it and he doesn't remember. Are you
9 fairly clear that Maynard, in fact, spent a night at
10 Mrs. Pratico's house?
11 A. Yes. Yeh.
12 Q. Did Maynard tell you that?
13 A. He told us that, yeh.
14 Q. Did you attend any of the trial in November?
15 A. I went in one day or two. I'm not sure but I just -- I couldn't
16 stay. I wasn't there when Maynard gave his testimony.
17 Q. You weren't?
18 A. No, and -- but I -- I went in the first day and I may have gone
19 back the second. I don't remember. It was very difficult
20 for me to get in because I had old people I was looking after
21 and it really bothered my nerves in there. I really couldn't
22 stand it, so I asked if I had to be present and they said it
23 wasn't necessary.
24 Q. Who told you it wasn't necessary?
25 A. I don't remember.

1 Q. Okay. Was any other member of his family present?
2 A. No.
3 Q. Were you aware at the time of the trial that Maynard was an
4 eyewitness or was testifying as being an eyewitness to the
5 stabbing?
6 A. I don't remember.
7 Q. Hindsight is a great thing but if -- one would think that
8 being an eyewitness to a murder would be a big thing in a
9 household and that you'd talk about it at dinner or sitting
10 around watching T.V. Was it an item of discussion in your
11 house?
12 A. I don't remember that either.
13 A. I don't remember talking about it, you know, because we had
14 other people in our house sitting around the table with us,
15 so we don't talk too much family business around our dinner
16 table because we have boarders. I have old people that are
17 there so we try to keep as much as our -- of our personal
18 life out of their ears as possible.
19 Q. Do you recall anybody saying to Maynard at any time during
20 these three or four months before the trial that he -- "Hey,
21 Maynard, did you really see what was going on"? Any
22 conversation like that?
23 A. I don't remember. It's possible but I don't remember.
24 Q. Do you recall getting any sense from Maynard that he either
25 had testified or was going to testify to something that was not

1 the truth?
2 A. No, I don't remember him saying anything like that.
3 Q. Do you recall whether or not he appeared to be under any
4 pressure with respect to his testimony from any sources at
5 all?
6 A. I don't remember.
7 Q. Did he ever mention the -- the matters that had been raised
8 in the -- in the Louisbourg Town Hall about perjury and his
9 being on probation?
10 A. I don't remember that either.
11 Q. How long did Maynard live at home after the trial in 1971?
12 A. I don't know. He was in and out and back and forth and --
13 Q. Did he stay home -- Did he live at home until he got married?
14 A. Off and on.
15 Q. When did he get married?
16 A. Oh, I don't know. I can't remember (It's so long --) when
17 that was. In 19 -- I think it's been six years ago.
18 Q. Okay. So around 1980, '81?
19 A. Yeh, six years.
20 Q. Up until that time when Maynard was in and out of the house,
21 was the matter of the -- of the trial and the stabbing ever
22 raised?
23 A. I don't remember.
24 Q. When did you first become aware that Maynard had given an
25 untrue story at the trial or when did he first say that he had

1 given an untrue story at the trial?
2 A. I believe it was when there was two men who came from Halifax and
3 said that Mr. Marshall was up for parole. I believe it was
4 then. I'm not sure, but I believe it was then that he said that
5 it was not true.
6 Q. This is the two R.C.M.P. officers?
7 A. Yes.
8 Q. Just to refresh your memory a little bit, Mrs. Chant --
9 MR. ORSBORN:
10 There is a statement, My Lord, given to the R.C.M.P. in 1982. It's
11 found in Volume 14 at pages one and two.
12 BY MR. ORSBORN:
13 Q. There's a typewritten version of that in front of you I think,
14 Mrs. Chant. Do you recall yourself giving a statement to these
15 R.C.M.P. officers?
16 A. Yes.
17 Q. If I can just direct your attention to the second page of that
18 statement and it is about in the middle of that second page,
19 and you're speaking now in 1982 in April and you say:
20 About two years ago Maynard told me
21 he had given false evidence at the
trial and that he had not seen anything
of the murder.
22
23 A. That would probably be when he came back to the Lord. He got
24 saved.
25 Q. Yes.

1 A. He converted. He probably mentioned it then.
2 Q. Right.
3 A. Yes.
4 Q. So that would have been around 1980?
5 A. That would -- Yes.
6 Q. When he told you back in 1980 or thereabouts that he had given--
7 that he had given false evidence, did that surprise you?
8 A. Yes. Yes.
9 Q. Did you ask him why he had given false evidence?
10 A. Yes.
11 Q. And what did he tell you?
12 A. He said because he was afraid and scared.
13 Q. Did he say what-- what he was scared of?
14 A. He just said he was scared that he might be implicated in
15 something he didn't do.
16 Q. Yeh. From your recollection of your involvement with the -- the
17 interviews that Maynard had -- had given, do you recall any
18 grounds for his -- his being that scared?
19 A. Well, no, there was just so much talk. There was a lot of things
20 going on and there was supposed to be people out to get him.
21 Now where he got this from, I don't know.
22 Q. People out to get him when?
23 A. When he was supposed to go in for -- to witness, you know.
24 Q. Yes.
25 A. And there had been stories told about people being beat up and

that and that made him nervous. He was afraid to go into Sydney or anywheres.

Q. Do you recall where these stories were coming from?

A. No.

Q. Did anybody relate these stories to you?

A. Maynard told us.

Q. Maynard told you?

A. Yes.

Q. And did Maynard indicate to you why he was being threatened and why he was -- Why he thought he might be beat up?

A. I suppose because he was the one that had said he seen it.

Q. Yes. Why would somebody want to beat him up for that?

A. I don't know.

Q. So when you -- I think you make reference in this statement -- You said:

> He said he tried to tell the truth but they had him so scared he couldn't say anything different.

A. Yes.

Q. Who is the "they" that you refer to?

A. The policemen.

Q. Well, it was that -- that the police had him scared?

A. Yes.

Q. I'm getting a little confused now whether the police had him scared or these people that said they were going to beat him up --

1 A. Because he couldn't say any different. I thought you meant
2 was he nervous like during -- while he was at home.
3 Q. Yes, I did ask you that but I'm interested right now in why
4 Maynard felt that he could not say anything different? What
5 was he scared of that he couldn't tell the truth?
6 A. Just that they had frightened him into saying that if
7 he didn't -- that they believed that he wasn't telling the
8 truth and that if he didn't tell it that he could be charged
9 with perjury.
10 Q. And the "they" that you refer to now is the Police Department?
11 A. The Police Department, yes.
12 Q. Any one or more individuals that you are referring to?
13 A. Well, they were all there. There was three of them there.
14 Q. Three of them?
15 A. At the -- Down at the Town Hall.
16 Q. Is the three being the two gentlemen from the Sydney Police
17 Department and Mr. Magee?
18 A. Yes.
19 Q. And while you were present in that interview at the Town Hall
20 was there anything that would make you believe that they were
21 scaring Maynard into telling a story he didn't want to tell?
22 Did you see any of it?
23 A. I don't remember.
24 Q. If you had seen that would you have left?
25 A. Not likely.

1 Q. So --
2 A. I don't really remember.
3 Q. But is it possible to draw a conclusion from the fact that you--
4 that you did, in fact, believe that this scaring if you want
5 to call it that, didn't take place while you were there?
6 A. You can say that.
7 Q. When you became aware that Maynard had given false evidence did
8 it cross your mind that Mr. Marshall may not, in fact, be
9 guilty of the murder?
10 A. No.
11 Q. Why not?
12 A. I just thought he was. I thought they had evidence and I
13 thought they had proof that he was guilty and I just figured he
14 was.
15 Q. Even though one eyewitness said that -- your son said -- he
16 gave false evidence?
17 A. Yes, like I didn't feel that they would convict somebody on
18 a fifteen year old boy's testimony if they didn't have more
19 evidence than just him.
20 Q. Were you aware of what other evidence had been given to support
21 the conviction?
22 A. I must have read some of it in the news. I don't remember, but
23 at that time--like that's been a long ways back.
24 Q. After Maynard told you this did you make any further inquiries
25 as to what evidence was given at the trial? Did you go back

1 and look at newspaper clippings or ask anybody that was
2 involved in it or any --
3 A. No.
4 Q. Did you know Mr. Marshall was an Indian?
5 A. Yes.
6 Q. Did you give any thought to raising an alarm with anybody,
7 going to the police or going to a lawyer or anything like that?
8 A. No, I never thought of getting a lawyer. We had never been
9 through anything like that and never even had thought of it.
10 Q. Did you suggest that Maynard should do anything about it?
11 A. I asked him if he thought he should and he said he had talked
12 to his pastor.
13 Q. Yes.
14 A. And I don't even remember what he told him -- the pastor had
15 told him.
16 Q. Was his pastor the William Legge that's referred to in your
17 statement?
18 A. Yes.
19 Q. So I gather from what you're telling us that Maynard had told
20 you this a couple of years before he eventually spoke to the
21 R.C.M.P. but it was your belief that Mr. Marshall was guilty
22 anyway, that they must have had other evidence other than
23 Maynard?
24 A. Yes.
25 Q. And is that why you didn't pursue it?

1 A. Probably. I don't remember why I didn't pursue it.
2 Q. Did it even enter your mind that gee, here we've got an
3 eyewitness who says he wasn't even there and we've got a
4 guy in gaol for a murder. Did it even occur to you that
5 maybe Mr. Marshall didn't do it?
6 A. No. I figured Maynard -- I didn't know that-- Maynard was the
7 only one at the time that had said he hadn't told the truth
8 so I didn't know that anybody else wasn't telling the truth.
9 MR. ORSBORN:
10 Those are my questions, Mr. Chairman. Thank you.
11 BY MR. RUBY:
12 Q. Mrs. Chant, I'm Counsel for Donald Marshall, Jr., and there's
13 two areas I want to ask you about. The first is, in your
14 statement -- Have you got that in front of you in the book,
15 in the book?
16 A. This one?
17 Q. Yeh.
18 A. Yes.
19 Q. You say in the fifth line:
20 I remember one of the two policemen
21 telling Maynard at some stage that
he couldn't say he saw a knife, only
22 what looked like a knife...
23 Do you remember when that would have occurred? Can you help
24 me on that?
25 A. No, I don't.

1 Q. This is something you personally remember and not just Maynard
2 telling you, but you actually remembering it?
3 A. I remember one of them telling him that but I don't know exactly
4 where it was, whether it was at my home or down at the Town
5 Hall.
6 Q. Didn't it alarm -- Didn't it alarm you when you see that that
7 the policemen seem to be coaching the young man as to what he
8 could say and couldn't say. Didn't that seem peculiar at
9 the time?
10 Q. Well, no, I figured that he was only young and he had never
11 done anything like that before and they would just -- were just
12 telling him the proper procedure?
13 A. Fine.
14 Q. The other area I have is this, at some point, and I suppose at
15 the very latest when you read the newspaper accounts of your
16 son's testimony at the trial you must have realized that he had
17 sworn that he saw the actual murder and saw Marshall do it,
18 correct?
19 A. Yes, he must have. Yes.
20 Q. So at the very latest at that point which was during the
21 trial you -- you have that knowledge that he's told a story
22 under oath which is completely different from what he'd told
23 you for many, many days and weeks prior to that --
24 A. Yes.
25 Q. --in the early stages? Yes?

1 A. Yes.
2 Q. I don't understand why you would not have at that point at
3 the latest, said to him, "Look, why did you lie in the beginning
4 if what you're saying now is the truth?" "Can you explain that
5 to me as your mother?"
6 A. I probably did but I don't remember, you know. I probably
7 asked him why he lied, but I don't remember, and I don't
8 remember, you know, what he said.
9 MR. RUBY:
10 Thank you Ma'am.
11 BY MR. J. PINK:
12 Q. Knowing your son as you do, would it be fair to say that he is
13 a much different boy after 1970 once he became a Born Again
14 Christian?
15 A. Yes.
16 Q. And would you agree with me that prior to 1979 he was a selfish
17 person who rebelled against his parents, the church, and the
18 police?
19 A. Yes.
20 Q. Now the first knowledge that you had about your son's possible
21 involvement in this case was when you received a call early
22 one morning from the Sydney City Police. Is that correct?
23 A. Yes.
24 Q. Did you know at that time that it was a stabbing that
25 he was in having discussions with the police about?

1 A. No.
2 Q. Now the police came to Louisbourg on Sunday and this is the
3 first time that you saw Sergeant MacIntyre. Is that correct?
4 A. To my knowledge, yes.
5 Q. And at that time did the two police officers come into your
6 home?
7 A. Yes.
8 Q. And there they had discussions with you and at that time they
9 told you that they felt that your son was not telling them the
10 truth?
11 A. Right.
12 Q. And isn't it also at that time that you told your son on more
13 than one occasion that he should co-operate with the police
14 and be truthful with them?
15 A. Yes.
16 Q. You recognized the importance of the police getting the truth
17 from your son Maynard. Is that correct?
18 A. Yes.
19 Q. Now did you feel that by you as his mother urging Maynard to
20 tell the police the truth that he would do so?
21 A. I hoped he would.
22 Q. Do you know whether or not your son knew a person by the name
23 of Donald Marshall, Jr.?
24 A. Before this incident?
25 Q. Yes.

A. I don't really know.

Q. From the time of this incident to the present day has your son ever expressed fear for Donald Marshall, Jr.?

A. Yes, he -- he feared him getting out of prison. I don't know what he thought that was going to be done but he kind of feared that.

1 Q. And prior to your son giving evidence at Donald Marshall,
2 Junior's trial, did he not in fact express fear of him at
3 that time?
4 A. He could have.
5 Q. At any time did he express fear to you about the Indian
6 youths?
7 A. Yes.
8 Q. And was that prior to him giving evidence at Donald Marshall's
9 trial?
10 A. Yes.
11 Q. The police then come back in the middle of the week, is that
12 correct?
13 A. Yes.
14 Q. And this -- and this is the third contact they had with your
15 son?
16 A. Yes.
17 Q. Now according to your evidence you say that they came to
18 your house, they took both your son and yourself to the
19 Town Hall in Louisbourg?
20 A. Yes.
21 Q. Could you be mistaken about that?
22 A. I don't know how we would get down there.
23 Q. Could it have been that Chief Magee picked you up and drove
24 you and Maynard to the Town Hall?
25 A. It's possible but I don't remember.

1 Q. Could it have been also that Chief Magee told you that the
2 Sydney Police were at the Town Hall and they wanted to ask
3 your son some more questions?
4 A. No, I don't remember that. They were at our house.
5 Q. As I understand your evidence, Mrs. Chant, as to what took
6 place in the room on this particular day during the middle of
7 the week, you do not have a great deal of memory for, is
8 that correct?
9 A. No.
10 Q. And I appreciate it that it is many years ago that you're
11 now trying to recollect what took place. When you entered
12 that room with your son, could it have been that the Chief
13 of Police -- or Sergeant MacIntyre was there. Another
14 police officer, Detective Urquhart, Wayne Magee and a fellow
15 by the name of Burke could have been there?
16 A. The only way he could have been there is if they brought him
17 out or had let him know because we hadn't contacted him.
18 Q. Could it have been that Burke could have been in the room?
19 A. If he was I don't remember seeing him.
20 Q. Once again if I may refer you to page 1 of your statement
21 that you gave to Corporal Carroll. You go back to page 1.
22 A. Yes.
23 Q. If you look at the bottom of the first paragraph you say
24 I believe Wayne Magee was present at
that time and a Burke fellow.
25

1 A. I think. I had "I think" there but they had it joined in
2 with the other --
3 Q. That's fine.
4 A. Yes.
5 Q. So therefore is it possible then that the Burke fellow could
6 have been present at the time that Sergeant MacIntyre was in
7 fact interviewing your son?
8 A. It's possible but I don't remember him.
9 Q. Would you agree with me that during this interview with your
10 son at the Town Hall in Louisbourg, the police continued to
11 ask your son and urged your son to tell the truth?
12 A. Yes.
13 Q. And you also mentioned at this meeting with Sergeant MacIntyre,
14 this other police officer in the presence of Chief Magee, that
15 Maynard "Please tell the truth"?
16 A. Yes.
17 Q. Is it not a fact that prior to them questioning your son
18 that John MacIntyre said to you
19 Mrs. Chant, we are here to get
20 the truth from your son. That
is not too much to ask.
21 A. It's possible he said that.
22 Q. And is it not a fact that at this time that you pointed your
23 finger at your son, Maynard, and told him
24 That if he knew anything, to tell
25 the officers.

1 A. I don't remember that.
2 Q. Now you've known Wayne Magee for how long, Mrs. Chant?
3 A. Up until now.
4 Q. Yes.
5 A. Well, Maynard was only fourteen or fifteen so that's -- from
6 the time that Maynard was fourteen. We knew he was the
7 Police Chief there in Louisbourg but like we had no dealings
8 with him until Maynard got into trouble.
9 Q. And would you agree with me that Wayne Magee is a fair and a
10 truthful person?
11 A. Yes.
12 Q. Now I think you've already told the Commission but I just
13 want to reiterate. When you left the room, as I understand
14 it, you would not have left the room if you felt at that time your
15 son was in any jeopardy from the police officers? Would
16 you agree with that?
17 A. Yes.
18 Q. So therefore up until the time that you left the room, there
19 was nothing that caused you any fear that the police officers
20 were going to do anything or badger your son in any way, is
21 that not correct?
22 A. That's right.
23 Q. While you were outside the room, you heard no banging of
24 tables?
25 A. No.

1 Q. You heard no raising of voices?
2 A. No.
3 Q. How long, in fact, was your son in there by himself without
4 your presence?
5 A. I'm not sure. It could be twenty minutes, half an hour --
6 twenty-five.
7 Q. Were you invited back into the room after that?
8 A. No, I didn't go back in.
9 Q. How was --
10 A. They came out.
11 Q. I'm sorry, they came out?
12 A. Yes.
13 Q. Who came out?
14 A. Sergeant MacIntyre and Maynard and the other policeman.
15 Q. And were they talking amongst themselves when they came out
16 of the room or did they just said
17 Mrs. Chant, Maynard can go home
18 now.
19 A. They just said we have -- we have a signed statement from
20 Maynard.
21 Q. Did you say anything to Maynard at that time?
22 A. I don't remember.
23 Q. So as I understand it then from your recollection, you don't
24 have any memory of what conversation you may have had with
25 Maynard from that day to the time he gave his evidence as to

1 what he was going to testify to?
2 A. He probably said something but I don't remember what it was.
3 Q. You don't remember any tears coming down the eyes of your
4 son after he left that room?
5 A. No, I don't remember.
6 Q. In fact when your son was taken into the Town Hall, Louisbourg,
7 during the middle of the week, did you know at that time that
8 the police were, in fact, investigating a murder?
9 A. Yes.
10 Q. When the police interviewed your son on Sunday, that's after
11 you came home from church and they were in the yard; as I
12 understand it you were not afraid to have your son go with
13 the police out to their car?
14 A. No.
15 Q. And as I understand it from your evidence, from your
16 recollection of the events, the car remained in your driveway
17 at all times, is that correct?
18 A. As far as I can remember.
19 Q. You used the expression in direct examination by Commission
20 Counsel, you used the words "seeing everything", do you
21 remember using those words?
22 A. Just now.
23 Q. Yes.
24 A. No.
25 Q. Do you remember your son, Maynard, telling you that, in fact,

1 he did "see everything"?
2 A. No.
3 Q. Do you remember your son telling you that he had told the
4 police early Sunday morning or it would be Saturday night
5 that he, in fact, had told the police of "seeing everything"?
6 A. I don't remember.
7 Q. Now you've used the word perjury this morning giving your
8 evidence. Do you remember that word being used or do you
9 remember the words
10 that he could be charged if he
11 did not tell the truth?
12 A. I don't remember. No, I don't remember.
13 Q. I have no further questions, thank you.
14 BY MR. MURRAY:
15 Q. Mrs. Chant, my name is Donald Murray. I will ask you
16 questions about one specific area on behalf of William
17 Urquhart. You mentioned in your evidence this morning
18 and correct me if my recollection is incorrect, that
19 the officers that came down in the middle of the week
20 were the same two police officers that had been at your
21 house on the Sunday?
22 A. Yes.
23 Q. On the Sunday you were in an out of the room in the house
24 where the police officers were interviewing Maynard?
25 A. Yes.

1 Q. At that time it was John MacIntyre who was taking the lead
2 in the conversation in the house?
3 A. Yes.
4 Q. The other officer wasn't making his presence felt in any way?
5 A. No.
6 Q. And I take it you wouldn't have had as much of an impression
7 of him as you would have of John MacIntyre?
8 A. Right.
9 Q. Similarily in the middle of the week, John MacIntyre, the
10 other officer, you don't remember that clearly?
11 A. No.
12 Q. So whether, in fact, it was the same officer, you wouldn't
13 be able to state positively that it was?
14 A. No.
15 MR. MURRAY:
16 I have no further questions, my Lord.
17 MR. BARRETT:
18 No questions, my Lord.
19 MR. D. PINK:
20 No questions, my Lord.
21 MR. BISSELL:
22 No questions, my Lord.
23 BY MR. ORSBORN:
24 Q. Mrs. Chant, my friend Mr. Ruby spoke with you briefly about
25 this phrase in your statement about the

policeman telling Maynard that he couldn't say that he saw a knife just a figure of a knife.

And I think that you indicated that you weren't sure if this was said at your house or at the Town Hall or wherever. Am I correct that the policemen were on your house on two occasions, the first on the -- the Sunday after the stabbing and the next time when they came to take Maynard to the Town Hall?

A. Yes.

Q. Now your earlier evidence, I think was to the effect, that on both of these occasions the policeman indicated that they didn't think they were getting the full story from Maynard?

A. Yes.

Q. Was there any other occasions when the police visited your house?

A. About this incident.

Q. Yes?

A. Not that --

Q. In 1971?

A. -- I remember, no.

Q. And in the interview at Louisbourg until the time that you left the room, is it your recollection that that Maynard was, in fact, sticking to his story of not seeing anything?

A. Yes.

Q. Okay, now it seems that on those three occasions at least,

1 if Maynard was sticking to his story about not seeing
2 anything the possibility of a knife being discussed was
3 perhaps unlikely?
4 A. Yes.
5 Q. Were there any other occasions in which you were present with
6 Maynard with the police?
7 A. I don't remember.
8 Q. Were there any occasion in which you were present with
9 Maynard and any lawyers that were involved, even around
10 the time of the trial?
11 A. No.
12 Q. Is there any other occasion other than those three occasions
13 the two in the house and the one at Louisbourg in which you
14 might have heard the policeman say
15 You can't say you saw a knife
16 only a figure of a knife?
17 A. I don't remember of being, you know, being seeing them any
18 other time. It's possible that they -- I did; but I don't
19 remember.
20 Q. I see, thank you very much.
21 MR. CHAIRMAN:
22 Thank you very much, Mrs. Chant. Okay, a short recess.
23 INQUIRY ADJOURNED: 10:43 a.m.
24
25

1 INQUIRY RECONVENED: 11:06 a.m.

2 MR. ORSBORN:

3 Mr. Chairman, the next witness, Mr. Lawrence Burke.

4 LAWRENCE BURKE, being called and duly sworn, testified as follows:

5 BY MR. ORSBORN:

6 Q. Mr. Burke, what is your full name please, sir.

7 A. Lawrence Thomas Burke.

8 COMMISSIONER EVANS:

9 B-O-U-R-Q-U-E?

10 BY THE WITNESS:

11 A. B-U-R-K-E.

12 BY MR. ORSBORN:

13 Q. Where do you live Mr. Burke?

14 A. I live at 122 Sherwood Drive, in Sydney River.

15 Q. And where do you work?

16 A. I work at Family Court in Sydney.

17 Q. In what capacity?

18 A. As a youth court worker.

19 Q. A youth court worker?

20 A. Which was formerly known as the probation officer.

21 Q. And how long have you worked as a probation officer?

22 A. Eighteen years.

23 Q. Eighteen years?

24 A. Yes.

25 Q. Who is your employer?

1 A. The Department of Social Services, Provincial Government.
2 Q. Provincial Government.
3 MR. ORSBORN:
4 Just point out, my Lord, in so far as Mr. Burke is an employee
5 of the -- a Department of the Provincial Government, my friend,
6 Mr. Saunders, may wish to examine him last. He's not openly --
7 he's strictly employed by the Department of the Attorney General
8 but --
9 BY THE WITNESS:
10 A. No, I'm not.
11 BY MR. ORSBORN;
12 Q. You are an employee of the Provincial Government?
13 A. Department of Social Services.
14 Q. Okay, in 1971, I take it, you were employed as a probation
15 officer?
16 A. Yes, I was.
17 Q. Where were you based in 1971?
18 A. The office was based out of Sydney. But we all had different
19 areas to cover.
20 Q. Yes, what areas did you have to cover?
21 A. The areas that I covered at that time were the Northside,
22 being North Sydney, Sydney Mines, Florence area, the
23 Membertou Reserve, and Louisbourg, Mira area.
24 Q. I see. Could you give us a brief description of the duties
25 and responsibilies of a probation officer?

1 A. Well, basically when a young person appears before a court
2 and receives a disposition from the court. And the kids
3 we're talking about here are now twelve to sixteen years
4 of age. Back in 1971 it was seven to sixteen years of age.
5 Q. Yes.
6 A. And they are given a disposition by the court, then the
7 probation officer is responsible to become involved with
8 that disposition. For example, being a boy or girl are
9 placed on probation then during the period of that probation
10 you'd be responsible in supervising the individual who is
11 on probation by way of home visits, school visits and visits
12 to police departments and just keep a general run down on
13 how they are doing and to offer any help or assistance
14 you can in any way.
15 Q. Yes. Apart from the children and their homes and the --
16 and the schools, who would you have contact with? Would
17 you have contact with police?
18 A. We would have contact with the police.
19 Q. Would you have contact with lawyers?
20 A. Not really.
21 Q. Would you have an ongoing contact with the court, with the
22 judges?
23 A. Well, yes, yes.
24 Q. How would you have ongoing contact with the -- you said
25 the judges, the judge in the Family Court, I guess, was it?

1 A. Well, we're -- we're all in the same office so you're --
2 you're, you know, you're seeing them or -- you mean in
3 regard to a particular case or --
4 Q. No, I'm thinking about in the sense of the supervision of
5 probation?
6 A. No, the judge wouldn't be involved again unless you brought
7 him back to court for violation of that probation.
8 Q. Okay, would the police be involved in your supervision of
9 probation?
10 A. Usually when you went out to, you know, the individual area
11 whether it be North Sydney or Louisbourg or whatever, you'd
12 drop in to see the police to see how things were going in
13 the area.
14 Q. In the areas that you mentioned you were covering in 1971,
15 how big a case load would you be responsible for?
16 A. My recall would be that the average case load at that time
17 probably would have been around forty-five.
18 Q. Forty-five kids?
19 A. Yes.
20 Q. Okay, and how often would you be involved in direct contact
21 with those kids?
22 A. We would have been expected to see an individual on probation
23 once every two weeks. Again because of time and priorities
24 it sometimes might depend on the -- on the particular case.
25 Q. Were there varying lengths that kids would be placed on
probation?

1 A. Yes.
2 Q. What would they range?
3 A. Three months. Six months. A year.
4 Q. Any minimum?
5 A. Entirely the judges decision.
6 Q. I see, so if a kid were placed on probation say for three
7 months, you would see that child every two weeks within that
8 three month period?
9 A. We would attempt to do that.
10 Q. All right. When you met with the child would you met with
11 them alone?
12 A. Usually you went to the homes. So the parents was there.
13 It would be -- it could be you alone -- it could be with
14 the parents present.
15 Q. What was your intention or your hope in dealing with these
16 children. Was it your intention that you would be regarded
17 as an authority figure or part of the justice system or you
18 would be more of a friend and councillor to them?
19 A. Well, the hope would be to be more of a friend or a councillor.
20 You tend to explain to the individual that you have two
21 functions and that's one to see that the court order is
22 carried out. The probation order but you're also there to
23 be a friend and to help in any way you possibly can.
24 Q. Would you get calls from kids outside your normal visits to
25 them?

1 A. I have, yes.
2 Q. Okay, you mentioned that you were responsible for the -- the
3 Membertou Reserve. Would your activities take you on to the
4 Reserve?
5 A. Yes.
6 Q. Into the homes on the Reserve?
7 A. Yes.
8 Q. From your experience and observations, was there anything
9 about the -- the culture of the Indians kids that you --
10 you had to supervise that meant that you had to treat them
11 or look after them any differently?
12 A. I don't think any differently.
13 Q. Okay, do you have a degree or diploma in social work?
14 A. I took a course in Halifax. It was a ten month Social
15 Welfare Worker course at that particular time back in '69.
16 Q. Yes.
17 A. That followed Grade twelve.
18 Q. I see. You had any subsequent training or up-grading,
19 attend any courses?
20 A. Just courses here and there. But nothing like a B. S. W.
21 or anything.
22 Q. Okay. Have you had any training or been asked to do any
23 reading with respect to cultural differences with Indians
24 or Blacks that might mean a social worker would have to
25 take a different approach. Anything along those lines?

1 A. No.
2 Q. No. Are you still responsible for the Membertou Reserve?
3 A. Yes, I am.
4 Q. And have you been responsible for it for the past eighteen
5 years?
6 A. Yes, I have.
7 Q. What's your case load presently?
8 A. Present case load is thirty-four.
9 Q. So over the last seventeen or eighteen years, has it sort of
10 ranged between forty-five and thirty-five or have there been --
11 A. Basically, yes.
12 Q. Okay. And of that number, thirty-five to forty-five, are
13 you able to give us any indication what percentage would be
14 Indians, Whites and Blacks?
15 A. At this very moment or --
16 Q. Is there any average over -- over the past number of years
17 you've been working?
18 A. Most areas fluctuate.
19 Q. Yes.
20 A. You know, you find through the years that at one point in
21 time Glace Bay maybe really busy. Another point in time
22 New Waterford maybe really busy. It's really hard to -- the
23 areas just fluctuate. It is extremely difficult to put an
24 average on it.
25 Q. Would you expect though that at any given time say half of

1 your case load would be Indian children?
2 A. Oh, no.
3 Q. No?
4 A. I wouldn't expect that, no.
5 Q. Okay, five? Five children?
6 A. It's very minimal right now.
7 Q. What do you call very minimal?
8 A. If my memory serves me right, I don't think I have anybody
9 right now from Membertou.
10 Q. Do you have Black children that you're responsible for?
11 A. Yes.
12 Q. Do you have any now that you're responsible for?
13 A. Yes.
14 Q. And how many?
15 A. There's two.
16 Q. Have you then worked with Indian children and Black children
17 and White children over the last eighteen years?
18 A. Yes, I have.
19 Q. Gone into their homes?
20 A. Yes, I have.
21 Q. Talked to them about their problems?
22 A. Yes, I have.
23 Q. Talked to their teachers?
24 A. Yes.
25 Q. Police?

1 A. Yes.
2 Q. Parents?
3 A. Yes.
4 Q. From that observation and lengthy experience, are you able
5 to give the Commission any assistance as to whether or not
6 different approaches are required in dealing with any of
7 these three groups? Whether different problems are
8 experienced that people in the justice system should be
9 sensitive to?
10 A. That's kind of a complex question. I --
11 Q. So we're finding out.
12 A. Right. I don't recall through my experience in dealing
13 with the kids that we deal with. And again, I repeat that
14 we deal with the younger --
15 Q. Yes.
16 A. -- younger kids. You know, of anything different or unusual
17 happening --
18 Q. You deal with --
19 A. -- because of their colour or race.
20 Q. Okay, you also deal with the parents?
21 A. Yes.
22 Q. You find -- it's been suggested to us that Indians are less
23 likely to open up and have conversation with you rather than say a
24 White person might be particularly when the situation is
25 one of stress. Is it your experience that in talking to

1 an Indian family is any more difficult or any easier than
2 talking to a White family?
3 A. I feel in general that kind of applies to a lot of the
4 younger kids we deal with. You get a lot of one word
5 answers. They don't elaborate on things.
6 Q. When you say a lot of the kids you deal with, you mean
7 of all groups?
8 A. I mean of all groups, yes. I'm not singling out any group.
9 Q. When you visit the -- the home of a child, what are you
10 looking for?
11 A. Talk to the parents to see how the boy or girl is doing as
12 far as the probation is concerned. See how they are doing
13 otherwise in their life, in school. To give the boy or
14 girl an opportunity if they have anything they want to
15 discuss with us as councillors. To give them the opportunity
16 to see if they have any questions about their probation.
17 Q. Do you yourself approach an Indian family any different
18 than you approach a White family?
19 A. I don't feel that I do.
20 Q. Okay, do you approach a Black family any differently?
21 A. I don't feel that I do.
22 Q. All right. Have you over your experience noticed any variation
23 in probation terms between Blacks, Indians and Whites?
24 A. Not through our court.
25 Q. Not through your court?

1 A. I can only speak towards our court --
2 Q. I understand that.
3 A. -- By my experience --
4 Q. I understand that. Do you know Maynard Chant?
5 A. Yes, I do.
6 Q. Okay, did you know Maynard Chant back in 1971?
7 A. Yes.
8 Q. And in what context did you know him in 1971?
9 A. I guess this is breaking no confidentiality at this point.
10 It's --
11 Q. I think he's already told us --
12 A. -- been in the newspaper --
13 Q. -- that he was in probation.
14 A. -- yeh, right. So he was on probation, yes.
15 Q. And was he in your area of responsibility?
16 A. Yes.
17 Q. And do you recall what -- how long he was on probation for
18 in 1971, in June of '71?
19 A. No, I don't.
20 Q. At that time were you following this practice of a visit
21 every two weeks?
22 A. I can't say whether it was every two weeks. But I would
23 have to assume I was visiting, yes.
24 Q. Would it have been likely a longer period, every three or
25 four weeks?

A. I wouldn't be able to recall that.

Q. Okay, do you have any recollection of being in Louisbourg on June 4th, '71, when the statement was taken from Maynard Chant in respect to the Seale stabbing?

A. Yes, I know the occasion you mean.

Q. Could you -- do you -- do you now have a recollection of that?

A. Yes.

Q. Could you give us that recollection please?

A. At that particular point in time the Junvenile Court as it was known travelled the circuit in that there would be court on a certain day in a certain town. And it happened on that particular that I was out in Louisbourg at the Town Hall because court was being held. I can't remember who asked me but I can remember that I was asked to sit in on a statement to be taken from Maynard.

Q. Yes.

A. At that point in time my recollection is that I discussed the matter with the judge who was presiding at court that day. Was informed that if a parent was present, that the probation officer would not have to sit in on the statement taking. And I followed that direction.

1 Q. That if a parent was not present you would not have
2 to sit in -- If a parent was present --
3 A. If a parent is present I would not necessarily have to sit
4 in on that statement taking.
5 Q. You gave a statement, I believe, to the R.C.M.P. in 1982
6 and that's reproduced in volume 13 at page 204 which I think
7 is in front of you. And you mentioned there the name of
8 a Judge Lewis Edwards. Was this the judge that you're
9 referring to?
10 A. Yes.
11 Q. Why would you discuss with a judge whether or not you would
12 sit in on an interview with Mr. Chant?
13 A. Basically because I was young, new to the job, probably scared
14 to death when they asked me sit in on it knowing how serious
15 the situation was and I had a good relationship with the
16 judge so I went to him and asked him about the situation.
17 Q. Do you recall at the time if you had a good relationship
18 with Maynard?
19 A. I don't recall much about the actual workings with the boy
20 so long ago?
21 Q. Now, the advise that you received was that if the parents
22 were present you did not have to --
23 A. Sit in on the statement taking.
24 Q. -- sit in on the interview? What did you do after you
25 received that advice?

1 A. I -- Again, I wouldn't be able to remember if you were
2 to ask me who I passed that on to but I did not sit in on
3 the statement taking.
4 Q. You say you did not sit in on the statement taking?
5 A. Statement taking.
6 Q. Your statement on page 204 indicates, this was taken in
7 1982, four lines from the bottom:
8 I don't recall being present when Chant was
9 interviewed by the police.
10 Is it possible you were there and do not now recall it?
11 A. I don't believe that's possible. I think I would know if
12 I was there and I think I would remember if I sat down and
13 heard someone discribe the incident.
14 Q. I see.
15 A. I personally don't believe I was there.
16 Q. I see. If you'd direct you attention to exhibit 31 which
17 is the handwritten statement which is in front of you there.
18 MR. ORSBORN:
19 And this, My Lord, is reproduced in Volume 16 at page 50. Again,
20 the handwritten version of that.
21 BY MR. ORSBORN:
22 Q. I'd ask you to look at the bottom of the first three pages, does your
23 signature or you name appear anywhere on the -- on those
24 pages, Mr. Burke?
25 A. I don't see it.

1 Q. If you would turn to the last page, I think you'll see
2 your name written down there. Is that your name?
3 A. That's my name.
4 Q. Is that written in your handwriting?
5 A. I'd have to say no.
6 Q. I take it it's not your signature?
7 A. It's not my signature.
8 Q. Now, we have had testimony from Mr. Chant -- from Maynard
9 Chant and also from his mother and we anticipate testimony
10 from Sergeant MacIntyre -- Chief MacIntyre and Wayne Magee
11 to the effect that you were, in fact, present during the
12 interview. Does that in any way shake your recollection
13 that you were not there?
14 A. No.
15 Q. So is your testimony today before this Commission that, not
16 withstanding that evidence of other people, that you were not
17 in fact, at that interview?
18 A. I was not at that interview.
19 Q. Once you received that advice from Judge Edwards do you recall
20 if you checked to see if there was in fact a parent present?
21 A. I don't recall.
22 Q. Do you recall seeing and visiting Maynard Chant in the normal
23 course of your duties after June 4th, 1971?
24 A. Pardon me?
25 Q. After this date, do you recall visiting Maynard as a normal

1 part of your supervisory duties?
2 A. I don't recall but I would assume that. If his probation continued
3 I would have been visiting.
4 Q. Do you remember having ever discussing with Maynard or his
5 family the events surrounding the Seale stabbing?
6 A. No.
7 Q. If somebody under your supervision were going to testify in
8 a major proceeding such as this, would this be the type of
9 thing that you would discuss with them in your visits?
10 A. No, it would be the type of thing that you'd probably stay
11 away from.
12 Q. Why is that?
13 A. Well, you know, it's best to leave it between he and his
14 parents and if he's represented by a lawyer or whatever, best
15 to leave it at that situation and let them handle it.
16 Q. I see.
17 A. You might get into a situation of -- you know, giving advice
18 or whatever that you shouldn't so it's best to stay clear of
19 something like that.
20 Q. Do you, today, have any recollection of how you found Maynard
21 in 1971? What kind of a kid he was?
22 A. I really don't -- I didn't even remember why he was on
23 probation until it was in the newspaper recently.
24 Q. When were you first aware that Maynard said that he had
25 given a false statement that day in Louisbourg? When did

1 you first know that?
2 A. I guess when it broke in the news.
3 Q. I see. Now, other than giving evidence today and other than
4 this discussion with the R.C.M.P. in 1982, have you had
5 occasion to -- Let me ask this. When were you first aware
6 that your name appeared on that piece of paper?
7 A. I wasn't aware of that until 1982 when I was interviewed by
8 the R.C.M.P.
9 Q. Okay. That surprise you to find your name on it?
10 A. It surprised me. I told him that my name -- you know --
11 he had said to me that he --
12 Q. I'm sorry. When you say him, who are you referring to?
13 A. Oh, Carroll. The R.C.M.P. officer.
14 Q. Corporal Carroll?
15 A. Yes.
16 Q. Yes.
17 A. Had said to me what would you say if we told you we have
18 a statement with your name on it. And I said to him you
19 may have a statement with my name on it but you don't have
20 a statement with my signature on it.
21 Q. Did they, in fact, show you that statement at the time?
22 A. No.
23 Q. You didn't see it?
24 A. No. Today is the first time I've seen the actual statement.
25 Q. Right. Do you know Wayne Magee?

1 A. Yes, I do.
2 Q. And do you know Chief MacIntyre?
3 A. I know who he is.
4 Q. Yes. Do you know Detective Urquhart?
5 A. I know who he is.
6 Q. Have you at any time discussed the circumstances surrounding
7 the taking of the Louisbourg statement with Wayne Magee?
8 A. I don't believe.
9 Q. Have you discussed it at any time with Sergeant MacIntyre --
10 with Chief MacIntyre?
11 A. I discussed it with lawyers throughout different episodes
12 of what's been happening over the last number of years. So
13 I discussed it indirectly with his lawyer, like, not with
14 him but with his lawyer.
15 Q. When was that discussion?
16 A. At the time that there was the involvement with the C.B.C.
17 And there was a lawyer from the C.B.C. interviewed me and
18 there was also a lawyer representing Mr. MacIntyre who
19 interviewed me.
20 Q. Do you have any recollection of having discussed it directly
21 with Chief MacIntyre?
22 A. Oh, no.
23 Q. Prior to the R.C.M.P. coming to see you, do you have any
24 recollection of having discussed it with Wayne Magee?
25 A. No.

1 Q. Detective Urquhart?
2 A. No.
3 Q. Sergeant MacIntyre?
4 A. No.
5 MR. ORSBORN:
6 Those are my questions Mr. Chairman. Thank you.
7 BY MS. DERRICK:
8 Q. Mr. Burke, my name is Anne Derrick and I represent Junior
9 Marshall. You said in your direct evidence that you took
10 a course in 1969. Is that correct?
11 A. Yes.
12 Q. And that was immediately after you finished grade 12 was it?
13 A. No. There was a year in between.
14 Q. And did you, after taking this course, immediately become
15 a probation officer?
16 A. I finished the course in June of '69 and was hired on
17 in September of '69.
18 Q. And how old were you then?
19 A. I would have just turned 20.
20 Q. So you were quite young and relatively inexperienced at the
21 time?
22 A. Right.
23 Q. In fact not that much older than Maynard Chant?
24 A. Right.
25 Q. Is that right?

1 A. Right.
2 MS. DERRICK:
3 Thank you. Those are my questions.
4 BY MR. J. PINK,
5 Q. Mr. Burke, just a couple of questions sir. When you spoke
6 to His Honour Judge Edwards, is my understanding correct that
7 it was he who suggested that if Chant's parents were present
8 that there was no need for you to be present?
9 A. That's my recall, yes.
10 Q. And is -- do I interpret that correct, sir, that it -- that
11 means that both parents were present?
12 A. I'm not sure.
13 Q. Tell me, you had a good relationship with Maynard Chant?
14 Is that correct?
15 A. I can't recall in an individual -- I would hope that with
16 most of my kids I've had a good relationship.
17 Q. At no time did he ever complain to you in regards to the
18 way that the Sydney Police had treated him?
19 A. No.
20 Q. And in particular at no time had he ever complained to you
21 that Chief MacIntyre was unduly harsh upon him in taking any
22 statement?
23 A. No.
24 Q. Assuming for a moment, Mr. Burke, that the handwriting on the
25 last page of this statement that you were referred to is the

1 handwriting of Chief MacIntyre and assuming that what it
2 sets out are the people who were present at the time that
3 the statement was taken, could it have been that you were,
4 in fact, were there but just today do not have recollection
5 of it since it took place some 15, 16, 17 years ago?
6 A. I don't believe that I was there. I feel that I would recall
7 that.
8 Q. You know Wayne Magee?
9 A. Yes, I do.
10 Q. And how long have you known Wayne Magee?
11 A. For quite a while actually because at that time I was doing
12 the Louisbourg area and he was Police Chief and I also have
13 working relationship with him now as Sheriff.
14 Q. He's a pretty honest and decent and truthful guy, would you
15 agree with me?
16 A. I would assume.
17 Q. Do you know Mrs. Chant?
18 A. Well, I remember who she is.
19 MR. J. PINK:
20 I have no further questions.
21 BY MR. MURRAY:
22 Q. Yes, Mr. Burke, just a few questions. My name is Donald
23 Murray. I'm here on behalf of Mr. Urquhart. Do you recall
24 me, sir, coming to speak to you with respect to the C.B.C.
25 matter?

1 A. Yes.
2 Q. Yes. And the other person that you met was a David
3 Coles?
4 A. Yes.
5 Q. And he was representing the C.B.C?
6 A. He was.
7 Q. And during the interviews with both Mr. Coles and myself,
8 you insisted that another person be present throughout.
9 Is that correct?
10 A. I didn't insist. I asked that, because it was work related,
11 that my immediate supervisor be there.
12 Q. And that person was Rita MacNeil?
13 A. Yes, it was.
14 MR. MURRAY:
15 I have no further questions.
16 MR. BARRETT:
17 No questions.
18 MR. BISSELL:
19 No questions.
20 BY MR. WILDSMITH:
21 Q. A few questions, Mr. Burke. We met just prior to you giving
22 evidence this morning and you know that I represent the Union
23 of Nova Scotia Indians. As part of your duties do you also
24 prepare pre-disposition reports?
25 A. Yes.

1 Q. And if I understood your previous testimony correctly a
2 major portion of your duties as well is to supervise kids
3 who are on probation orders?
4 A. Yes.
5 Q. Those are the two major activities that you're engaged in?
6 A. Yes.
7 Q. Are there others?
8 A. Well, there's others but that's -- that's the major one.
9 Q. Yes. I'm not really talking about administrative duties
10 but ways in which you come into contact youth who've run
11 in to trouble with the law.
12 A. Yes, those are the main --
13 Q. Okay. Can you tell us something about the kinds of things
14 you put into pre-disposition reports? The kinds of -- the
15 factors that you evaluate?
16 A. The pre-disposition report is basically divided up in to
17 the legal history of the individual, the family history,
18 the individual's own history, comments from the police
19 in the community and then closing remarks.
20 Q. Is it fair to think that one of the major objectives of
21 putting these factors into the report is to give to the
22 presiding judge a good sense of who the individual is, the
23 individual's background, the context, the social context,
24 economic context in which the individual is set?
25 A. Yes, in order to help with the sentencing.

1 Q. Yes, because all those things ought to be taken into account
2 in disposing of young offenders?
3 A. Yes.
4 Q. And can you also help us out with what kinds of things go
5 in to probation orders? It is after somebody has been found
6 to be a young offender and a disposition is made and a person
7 is placed on a probation order, what are some of the things
8 that are found in that order?
9 A. Since the young offenders act come in a couple of years
10 ago there's three basic probation rules that go in to an
11 order. First is to obey the law and be of good behaviour.
12 Second is to notify of any change of address, educational or
13 any major changes in their lives. Third is to return to court
14 when notified to do so for whatever reason. And then
15 depending on the individual case-I could give you some examples.
16 Q. Yes, I'm interested in things that would typically go in to
17 such an order. Things like curfews, drinking.
18 A. Things -- There could be a direction that they take counselling.
19 There could be a direction that they stay away from a particular
20 store if, in fact, they were shoplifting in that store. There
21 could be a direction that they attend school and obey the
22 rules of that institution. The curfew can be put in to the
23 probation order depending on the judge who gives the probation
24 rules.
25 Q. Yes. Is that a typical provision in most probation orders?

1 A. The way it's handled today, I think, most of the judges
2 are looking at that as a parental responsibility and it's
3 not a typical thing to have it in the probation order but
4 it is covered by that first probation rule which says to
5 be of good behaviour because obviously if an individual is
6 out till three or four in the morning they're not being
7 a -- of good behaviour.
8 Q. I missed the last comment. If an individual did what?
9 A. Is out till three or four in the morning, he's obviously
10 not being of good behaviour at 13 years of age.
11 Q. And by that do you mean being at home in ones house?
12 A. No. Being away from ones residence.
13 Q. Yes, and if you've met your curfew that means your in your
14 own individual house. Is that the idea?
15 A. Generally yes. Yeh.
16 Q. Yes. And would it be common to have a reference to drinking?
17 A. There can be if it's brought out that there is a drinking
18 problem. There can be a reference either to not drinking or
19 to counselling in regard to drinking.
20 Q. And whether there was a reference to not would being drunk
21 be not good behaviour and a violation of that order?
22 A. Again you're asking me a legal question. I assume it would --
23 Q. Would you be concerned as a probation officer that that
24 represented bad behaviour?
25 A. I would approach the Crown Prosecutor and ask for direction

1 in regard to a breach, yes.
2 Q. Yeh. So you would be concerned about it?
3 A. Yes.
4 Q. All right. Is there any difference in the kinds of factors
5 you take in to account or the kinds of reports you prepare
6 for a pre-disposition or with respect to the kinds of contents
7 judges put into probation orders when dealing with Indian
8 youth?
9 A. I -- Could you repeat that?
10 Q. Is there any differentiation made either by you in a pre-disposition
11 report or by a judge, in your experience in probation orders,
12 when dealing with Indian youth?
13 A. I would have to say no.
14 Q. Thank you. You've made some reference to your case load and
15 Mr. Orsborn asked you about Indians in your case load. Can
16 you tell me whether any records are kept by you or within
17 your office in Sydney of the racial makeup of persons who
18 are on probation orders?
19 A. I'm not sure. There -- The secretary has to fill out
20 a form that I believe goes to either Halifax or Ottawa, whether
21 racial is on there or not I'm not sure.
22 Q. Okay.
23 A. That's not part of my --
24 Q. Right. I take it from the fact that you have no knowledge
25 about this particular fact that the racial makeup of your

1 case load isn't a factor of concern to you?
2 A. No.
3 Q. All right. Now, Mr. Orsborn also asked you the question about
4 whether there were particular problems in dealing with racial
5 groups and I'm particularly interested in the Indian youth,
6 particular problems to be sensitive to when dealing with
7 Indian youth. And your answer, I think, was that it was
8 kind of a complicated question. Could you take the time
9 now to advise us whether you think there are particular
10 problems to be sensitive to with Indian youth?
11 A. I think basically the way I have dealt with the situation is
12 to take it individually per case regardless of race or colour
13 of the individual I'm dealing with so I would have to be -- say
14 that I'm sensitive to issues pertaining to particular cases
15 not pertaining to the nationality or whatever of the individual.
16 Q. Okay. And I think that response is consistent with another
17 statement you made which, I think, was that you didn't approach
18 the problem any differently whether you were dealing with
19 an Indian youth or a Black youth or a White youth or any
20 other racial minority. That's correct is it?
21 A. Yes.
22 Q. In the course of your duties you indicate that you to home
23 visits and school visits?
24 A. Yes.
25 Q. And you had the Membertou Reserve within your area of

1 responsibility for 18 years?
2 A. Yes.
3 Q. I take it you visit the Reserve on a number of occasions?
4 A. Yes.
5 Q. And you'll agree with me will you not that the social
6 and economic conditions on the Reserve are bad?
7 A. Did you say are bad?
8 Q. Are bad.
9 A. Generally speaking I can agree with the statement.
10 Q. You can?
11 A. Yes.
12 Q. Yes. Okay. High rate of umemployment for example?
13 A. Yes.
14 Q. All right. And would you also agree with me that drinking
15 is a problem on the Reserve?
16 A. As in any other area there's people who drink and people who
17 don't I suppose.
18 Q. I see. So you're saying it's no worse on the Reserve than
19 other communities or other areas of the city of Sydney that
20 you've visited?
21 A. There is areas as bad.
22 Q. Okay. What are they?
23 A. Pardon me?
24 Q. What areas are as bad?
25 A. Well, certain low rental districts or welfare areas.

1 Q. I see.
2 A. It's very difficult to start naming individual areas but there
3 is, I believe.
4 Q. Okay. But you're saying that those are associated with being
5 low income areas, welfare areas?
6 A. In more difficult situations, yes.
7 Q. Have you heard MicMac spoken on the Reserve?
8 A. Yes, I have.
9 Q. Would you agree with me that there are different norms of
10 conduct present on the Membertou Reserve than in other areas
11 of Sydney?
12 A. To a certain extent, yes.
13 Q. Can you give us some examples?
14 A. Parents may tend to not be so strict as far as curfew. Feeling
15 if just in around the Reserve that that's okay.
16 Q. That it's okay to be around the Reserve as opposed to in your
17 house?
18 A. Yes.
19 Q. All right. Other examples?
20 A. That's the biggest one that I've experienced.
21 Q. Okay. What about questions of sharing? By that I mean helping
22 yourself to items that are around on the Reserve. Would you
23 say that Indians on the Reserve, in general, have a different
24 attitude about helping themselves to things that might be
25 available?

1 A. I don't recall having a lot of complaints from anybody about
2 that.
3 Q. Well, not about complaints but as a part of your observations?
4 A. Only from the extent, I think, that they all know each other
5 very well and there's -- there is a lot of coming and going.
6 Q. Would you require any of the youth to visit you at your
7 offices?
8 A. I have on occasion, yes.
9 Q. Yes. And would you say that the Indian youth had a different
10 perception about questions of time and punctuality?
11 A. I believe so.
12 Q. Yes. Would you also agree that there may be different
13 personality traits that Indian youth exhibit?
14 A. I haven't found in particular.
15 Q. I see. This question that you were asked about Indian youth
16 tending not to very responsive to your questions, would you
17 say that that was a typical Indian response?
18 A. Again, as I said before, a lot of the kids at that age are
19 quiet and you get very direct one word answers from them.
20 To a certain extent perhaps you can say that the -- the
21 Indian kids are a little quieter but I think it's a typical
22 thing among a lot of kids that age.
23 Q. Yes. But you are, I think, agreeing that the Indian youth
24 tend to be, on the whole, a little quieter than non-Indian
25 youth?
A. Generally speaking.

1 Q. Do you also believe that there are communication problems
2 in dealing with Indian youth?
3 A. Do I?
4 Q. Yes.
5 A. I haven't noticed any particular situations where I can relate
6 to that.
7 Q. Do you understand that with respect to a lot of the Indian youth
8 the first language spoken in the home is Micmac?
9 A. Yes.
10 Q. Yes, and you're dealing with young people who have not been
11 exposed to English to as great an extent as an adult Indian
12 might be, for example?
13 A. Well, I mean most of the kids that we deal with have been
14 going to school for a number of years. You know, I'm not --
15 I'm talking a twelve or thirteen year old that's been in school
16 for quite a number of years. They do have a working knowledge
17 of the English language.
18 Q. Now you visited schools as well as part of your duties. Is it
19 not the case that there was a Micmac Indian day school operating
20 out of Membertou Reserve?
21 A. Pardon me?
22 Q. Is it not true that there was an Indian day school operating
23 on the Membertou Reserve?
24 A. An Indian day school?
25 Q. Yes, an Indian school in the early '70's.

1 A. I don't recall.
2 Q. All right. Is it also your observation that with respect to
3 the Membertou Reserve extended families are a common
4 phenomenon?
5 A. Yes.
6 Q. That supervision is provided to children not just by the direct
7 parents but by grandparents and uncles and relatives?
8 A. Uncles and -- Yes.
9 Q. Yes. Now you've indicated something about your training and
10 just to be absolutely sure about this, I take it that in the
11 ten month course you took back in 1969 and in the subsequent
12 training that you received on the job that there has been no
13 courses directed at cross cultural understanding?
14 A. No courses in particular if I can remember correctly of that--
15 Q. Yeh, to point out to you differences in the cultural values
16 of the Black community or the Indian community?
17 A. Well, I haven't taken any courses, you know. I have read, you
18 know -- I can't name the particular books but I have read
19 studies and different papers that filter in all the time
20 through the office, the place I work, and so forth about
21 what you're referring to.
22 Q. I see. Can you recall anything that relates -- Do you recall
23 very precisely anything that relates to understanding Indian
24 communities?
25 A. Well, I can recall articles talking about the culture and

1 sub-cultures and, you know, the background and maybe implying
2 some differences and that type of thing.
3 Q. Yes.
4 A. But I can't remember nothing specific.
5 Q. But I take it they weren't enough to persuade you to approach
6 the question of doing pre-sentence reports or the supervision
7 of Indian youth any different than anybody else?
8 A. Well, you know, I approached them the same as anybody and put the
9 facts down as they're presented.
10 Q. Yes. What I am really suggesting to you is you haven't changed
11 your practice of not paying particular attention to cultural
12 or ethical -- ethnic values of the Indian community in your
13 work?
14 A. Well, I think I have, you know, and I think I consider things
15 like the curfews and the acceptance of a few minor things
16 like that in dealing with a young person.
17 Q. Okay. Then if I understand you correctly, you're agreeing that
18 there are particular problems to be sensitive to and that you
19 do take those into account in your work?
20 A. Yes.
21 Q. And that, therefore, you don't approach the Indian youth in
22 the same way as you approach others?
23 A. Well, I take --
24 Q. You take these --
25 A. No, I do --

1 Q. --problems into account?
2 A. --from the point of view that if -- you know, if it was a White
3 family and there was particular difficulties and you're looking
4 at curfews I consider where the direction is coming from and
5 that way I don't think I -- I treat them any differently.
6 Q. Can you help us out as to whether you have any contact with
7 the Indian community outside your official duties as a court
8 worker?
9 A. Except to perhaps see people I know in town and chat with them
10 them, but nothing -- no involvement otherwise.
11 Q. All right, and can you help us out as to whether in the eighteen
12 years that you've been employed in this position, whether any
13 native persons have been employed as probation officers?
14 A. In our Court?
15 Q. Yes, here in Sydney?
16 A. In Juvenile Court, in our Court?
17 Q. Yes, or more generally the Adult Probation Service.
18 A. I think there is a gentleman there now who is an Assistant
19 Probation Officer who is a native.
20 Q. And is it correct that he's only been there for a matter of
21 a couple of months?
22 A. I believe.
23 Q. And that's the only one in the eighteen years?
24 A. Well, I can only talk about our Court. In our --
25 Q. Yes, in your experience.

1 A. --Court there hasn't been any. There hasn't been any.
2 Q. Okay.
3 A. There's been Court workers from the union but not -- not hired
4 by our Department.
5 Q. The Court workers from the Union you're referring to are
6 Court workers employed through the Union of Nova Scotia Indians
7 to work with the Indian youth in the Court system?
8 A. Yes. Yes.
9 Q. And you know that there isn't such a person now?
10 A. No, there's not.
11 MR. WILDSMITH:
12 Those are all the questions, My Lord, that I have for this witness.
13 There is something else on my mind I would like to raise. I can
14 wait until this gentleman's cross-examination is over before doing
15 that or I can bring it up now. It has to do with a letter that
16 was received by some Counsel with respect to the appearance of
17 certain witnesses and the desirability of Counsel being there when
18 those witnesses were giving evidence. It doesn't -- It's not of
19 interest to this particular witness except that he was on -- on this
20 list. I'd like to discuss that with the Commission but it might
21 be more appropriate to do that after this witness's examination
22 is complete.
23 MR. CHAIRMAN:
24 MR. Saunders.
25

1 MR. SAUNDERS:

2 No questions. Thank you, My Lord.

3 MR. CHAIRMAN:

4 That's all. Thank you, Mr. Burke.

5

6 (WITNESS WITHDREW)

7

8 MR. WILDSMITH:

9 The particular point that's troubling, My Lord, and frankly I
10 didn't think that it was going to be anything that would be worth
11 bringing up in front of the Commission until I saw the events that
12 unfolded this morning. Commission Counsel sent to some of us, and
13 I was certainly one of them and I believe Mr. Ross who isn't here
14 this morning was also one of them, a letter suggesting that there
15 would be certain witnesses called and that at this point in time or
16 at least the point in time in which the letter was sent, Commission
17 Counsel couldn't see that it would be in the interest of our
18 particular client for us to be here and be represented at that
19 particular time. As it so happened, Mr. Burke was on my list and
20 I'm making the assumption more for Mr. Ross's benefit now that --
21 that he was on Mr. Ross's list, and I wasn't intending until last
22 night to be here this morning when Mr. Burke was on the stand until
23 it appeared to me that there would be a little bit of evidence that
24 I might want to ask him about -- and I guess the point that's
25 really -- it doesn't bother me this morning so much for me because I

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1 had anticipated that there would be an opportunity to ask him
2 these kinds of questions, but I was surprised that Commission Counsel
3 went into this area having already told me that the Union wouldn't
4 have an interest in examining this witness, so that what really
5 transpired is the Commission Counsel, I think appropriately, went
6 into these areas with the witness that were of direct concern to my
7 client and it just turned out to be fortuitous that I was here this
8 morning and had the opportunity to make use of them, and as it has
9 now turned out references were made about the treatment of Black
10 youth and Mr. Ross is not here. I presume he is not here because
11 he was on the list that Mr. Ross received. So I'm simply drawing
12 this to your attention as a problem in an area that is of concern
13 to me as to how this might unfold in the future.
14 MR. CHAIRMAN:
15 Would Commission Counsel help us on this? I'm not clear yet what--
16 MR. ORSBORN:
17 I'm not sure Mr. Wildsmith is saying we should have asked
18 Mr. Burke the questions we did or whether we shouldn't have asked
19 the questions we did or whether we should have asked them
20 yesterday or whether we should have asked them in a months' time.
21 It is true that we had attempted in response to requests from
22 Counsel to give them some indication of what -- of what a witness
23 is going to say. We had initially not planned on calling
24 Mr. Burke certainly at this stage dealing with the -- with the
25 Louisbourg statement. We appreciate that his memory is less than --

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1 less than clear on that and we had thought about perhaps getting
2 something from Counsel as to what Mr. Burke's evidence proposed
3 to the Commission would be and then they said, no, the easiest
4 thing to do is get him on the stand and let's hear what he has
5 to say, and it is true that we did not anticipate a short time ago
6 that we would get into some detail with Mr. Burke over his particular
7 job -- job functions.
8 We were not aware that Mr. Burke was on Mr. Wildsmith's list and
9 that he said, "Please make sure at some time when you call
10 Mr. Burke that -- Had Mr. Wildsmith made us aware that he wanted
11 Mr. Burke called for the specific purpose of talking about his
12 job functions unrelated to the -- to the Louisbourg statement we
13 would have been more than happy to -- to accommodate him. Since
14 we did have Mr. Burke on the stand this morning we discussed it
15 with him and I think Mr. Wildsmith said it was appropriate to do
16 so.
17 I also would point out that I would think that this is the --the
18 sort of matter that could be more properly discussed between
19 Counsel. We do have a regular Counsel meeting on Wednesday afternoons
20 at which we have invited Counsel to raise matters which concern them
21 of this nature.
22 MR. CHAIRMAN:
23 Well, as a Commission we have taken the position that Counsel is
24 Officers of the Court. They are respected, of course, and skilled
25 in the examination of witnesses and skilled in the professional

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1 courtesies of dealing with each other would do so on matters of
2 this kind, and we have been encouraged by the fact that we understand
3 there was instituted and presumably will continue meetings of
4 Counsel once a week which I think is a very salutary thing in
5 an approach and one that I'm not aware of-- It has been used
6 in my -- They may have been used in some but certainly in other
7 Commissions that I've been involved in that very salutary
8 practice had not been instituted.
9 The matter raised by Mr. Wildsmith is --comes to us new. I can
10 only speak for myself. I thought the Examination in Chief of
11 Mr. Burke elicited a lot of information, not factual, that may
12 somewhere down the road be of assistance to the Commission and
13 certainly may -- the transcript may be of great assistance to those
14 people who are very skilled in the areas raised by Mr. Wildsmith
15 who are doing some very highly professional work for us. I can
16 only suggest to Counsel that the spirit of co-operation that I
17 feel assured has been present from the beginning of this Inquiry
18 will continue. I can only speak for myself. I welcome the very
19 thorough dissertation presented by this last witness and I don't
20 believe anything was left out or anyone was prejudiced in any way
21 by having it brought forth today and I would simply ask Counsel
22 that they continue. I'm sure Commission Counsel will let
23 others -- let Counsel involved know the evidence that is
24 anticipated will be led from a particular witness so that then
25 Counsel can decide whether or not it is necessary for them to be

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1 present whether anything is coming up that will be of interest
2 to their client, and that all Counsel have assured us from the
3 very beginning that they will be here when their matter is raised
4 as a matter of interest to their clients.
5 MR. ORSBORN:
6 On that latter part, Mr. Chairman, if I might just reiterate and
7 confirm for the benefit for all Counsel that we have in the past
8 indicated to them that if by some surprise or whatever a witness
9 testifies as to a matter which is relevant to their client and
10 they were not aware that that was coming up and were not present,
11 that at their request we will be prepared to recall that witness
12 or ask the Commission to recall that witness so that they could
13 cross-examine them on matters which were relevant to their client.
14 MR. CHAIRMAN:
15 That should take care of that, Mr. Wildsmith.
16 MR. WILDSMITH:
17 Yes, it does with respect to me and as I say, I'm not upset because
18 I was here and I think it was appropriate for Mr. Orsborn to ask
19 the questions he did and I'm glad he did. There was just an
20 inconsistency between the instructions or the suggestions that
21 I received from Commission Counsel, so it's okay as far as I'm
22 concerned with this witness but there may be a problem with
23 Mr. Ross.
24 MR. CHAIRMAN:
25 Well, you heard Mr. Orsborn that if any other Counsel having read

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1 the evidence of any witness that was given when he was not here, that
2 if he concludes that there was some question not asked that may be
3 relevant to his client and relevant to the Inquiry that he simply
4 has to request to have the -- the -- the witness recalled and we
5 have to rely on the professional competence of Counsel to act
6 responsibly in -- in that area when asking to have a witness
7 recalled. We have no difficulty in recalling witnesses as long
8 as they're within -- they can be found again. We have enough trouble
9 as it is trying to find some of them.
10 COMMISSIONER EVANS:
11 Mr. Wildsmith, do you now get a copy of the transcript of the
12 evidence, a daily copy?
13 MR. WILDSMITH:
14 Oh, yes. Yes.
15 COMMISSIONER EVANS:
16 Well, if you had not been here this morning and if you got a copy
17 of that evidence that was given and if you have felt yourself
18 badly prejudiced in view of the fact that you could have asked the
19 Commission Counsel to recall this witness.
20 MR. WILDSMITH:
21 Well, only --
22 COMMISSIONER EVANS:
23 Was there anything that you brought out that hadn't been canvassed
24 by Commission Counsel?
25 MR. WILDSMITH:
Yes, I felt as though --

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1 COMMISSIONER EVANS:
2 That you could not have brought out on a recall?
3 MR. WILDSMITH:
4 Oh, certainly not on -- No, and in fact maybe more on the recall.
5 It might have been better, but it might not have been as expeditious
6 to the conduct of the hearing to have brought a man back again and
7 put him through this exercise when Counsel are already here in
8 Sydney. Mr. Ross could have been here and he may request that the
9 person be brought back. It's just a question of what is expeditious.
10 MR. CHAIRMAN:
11 Well, may I once again repeat that I hope--so that we don't have to
12 waste ten, fifteen minutes on issues that are -- that I feel can be
13 resolved by Counsel, expressing the hope that Counsel should do this
14 without raising these things and taking away from the focus of this
15 Judicial Inquiry.
16 Now are you ready for the next witness?
17 MR. WILDSMITH:
18 Yes, My Lord.
19 MR. ORSBORN:
20 The next witness is Sheriff Wayne Magee.
21
22
23
24
25

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?

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

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 safty 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?

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

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

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

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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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 --

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 --

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?

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

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

MR. CHAIRMAN:

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

MR. ORSBORN:

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

MR. CHAIRMAN:

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

MR. ORSBORN:

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

MR. CHAIRMAN:

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

INQUIRY ADJOURNED: 12:22 p.m.

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?

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

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

1 Maynard. That's not too much to
2 ask of anyone, is it.
And she said:
3 No, not at all, sir.
4 She said -- and she pointed to Maynard and she said:
5 Maynard, you tell these
6 gentlemen the truth.
7 And so then we proceeded over to the -- the -- where the
8 desk -- or desks were located. There was -- there would
9 be desks similar to what I'm at here or tables and they
10 were double and they were in a long line perhaps ten or
11 fifteen feet or more. And there was chairs lining each
12 side of them for the Council and the other people that
13 would attend Council Meetings to sit at.
14 Q. So the -- the table would have been the width of some eight
15 feet across?
16 A. Well, not across, perhaps -- perhaps eight feet across, yes.
17 And down maybe fifteen or sixteen or eighteen feet or more.
18 Q. And there were seats on either side of the table?
19 A. And there were seats on either side and at the end.
20 Q. Yes.
21 A. Now at the back of the room there were perhaps three rows
22 of chairs perhaps identical to what I'm sitting on here.
23 And they would be used by people or public that would attend
24 Council Meetings at that time. And it's my -- as I recall
25 Mrs. Chant sat in one of those chairs directly behind Maynard.

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.

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

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

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.

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.
And we don't want, you know,
12 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

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

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 presence and it was taken in
5 > as far as I'm concerned in the proper manner. There was no
6 > arm twisting or raising of voices or anything of that
7 > nature at all.

8 Is that your evidence also here today, sir?

9 A. Yes, it is.
10 Q. Do you know whether or not Maynard read the statement over
11 that he gave?
12 A. He was handed the statement. He was looking at the statement
13 and he was asked to sign it as I recall. And he signed it --
14 Q. Did you read the statement -- I'm sorry --
15 A. -- I did -- I did not read the statement.
16 Q. You didn't read the statement?
17 A. No.
18 Q. Was it given to you to read?
19 A. No, it was not.
20 Q. And did you sign it?
21 A. No.
22 Q. I would ask you to look at, sir, Exhibit 31, it is the
23 foolscap paper that we have here. Looking at the first
24 three pages of that, sir, do you see on those pages any
25 ref -- any of your handwriting?

WAYNE MAGEE, by Mr. Orsborn

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 interfer 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

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?

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.

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 voice was very loud. He was
20 very -- even his posture -- his gesture was very, you know,
21 forward and --
22 Q. Could you explain that a little more please?
23 A. I don't know. It was -- he was just very forceful with what he
24 was saying. He's -- it was almost like not to the point of screaming
25 or really yelling but it was to

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

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

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

JMR

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

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 interfer 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

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?

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 sitation 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

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 argueing 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.

WAYNE MAGEE, by Mr. Orsborn

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

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

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

had signed it?

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

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

A. Yes.

Q. -- at that statement?

A. Yes.

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

A. Could I have that question again, please?

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

A. Quite possible, I could yes.

Q. You did sit in on it?

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

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

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 this.
5 Is that your belief today sir?
6 I'm sorry. Page 195. Your answer to question 59. You
7 say at the fourth line.
8 I've always retained that the Sydney Police
9 Department had a hard time as a result of this.
10 Is that still your belief?
11 A. Well, what I meant --what I meant and what I mean by that
12 statement is that any police officer or police agencies that
13 are out investigating a criminal offense and they're interviewing
14 persons that are saying that they are witnesses to certain
15 events and they are giving statements and then they are
16 going to court and misleading the courts and the juries,
17 then I often wonder if you can blame that on police
18 officers.
19 Q. Were you aware that this was -- Were you of the opinion
20 this was being blamed on police officers?
21 A. The -- The consensus, I believe, certainly from my observations
22 in listening and reading was that the police or the persons that
23 were applying the pressure to all the witnesses -- I'm of --
24 Q. Do you have any opinion on that yourself?
25 A. I can only comment on the statement that I was present for.

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

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

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

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

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

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

A. Yes.

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

A. Yes.

Q. Correct?

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

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

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,

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

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

A. Yes.

JMB

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.

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

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

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?

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.

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.

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 ther 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 infomation 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?

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?

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 curcumstance, 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

very well on a first name basis.

Q. That's it, isn't it? You wouldn't allow it to happen because if you did -- If you sat there and allowed this to happen --

A. Yes.

Q. -- as Chant swore --

A. Yes, that's correct.

Q. -- then you would be equally culpable of neglect of duty with the officers who did it. Fair enough?

A. I'll agree with that, yes.

Q. And you would be criticized equally with them. Fair enough?

A. In that particular aspect of it, yes, I'd agree with that.

Q. And that you would dearly like to avoid. Fair enough?

A. Well, sir, I'm not worried about avoiding it because I can only tell you as I recall and that's the way it happened as I recall it. If you read something else in it, then that's not my problem, so to speak.

Q. Let me come back to the questioning process that I talked about a moment ago. Would one of the things have been that -- Might it have been the case that MacIntyre said that someone had seen him in the park and he had to have seen the murder?

A. That may have been said, yes. I can't recall it being said, but I can't say that it wasn't said.

Q. Do you recall the phrase, "had to have seen it?"

A. No, I do not.

Q. My friend asked you some questions about the passage of

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
record or off the record, it doesn't matter, but
8 I've always maintained that the Sydney Police
Department had a hard time as a result of this.
9 And I've always stated, and I'll state it here, you
got -- The police were out doing an investigation,
10 you have witnesses . . .
11 Plural, not just one, plural.
12 . . . and supposedly an eyewitness, etc.,
giving false statements . . .
13
Plural.
14
. . . lying under oath and misleading all of the
15 Justice. Can you blame the police for that?
16 Is it not clear, sir, that you're referring to more than one
17 witness, not just Chant?
18 A. No, as I understood, sir, from listening to the news and
19 reading the newspapers, and accounts of it, it was my under-
20 standing that there was numerous people allegedly lied and
21 gave this information.
22 Q. Exactly. And my point is this, sir. You formed a fixed view
23 of the innocence of your fellow officers before you heard any
24 of the evidence. You don't know what went on, what they did
25 or didn't do, do you?

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.

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 Dectective 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?

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

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

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 accompanyment of
24 Maynard Chant, yourself, Detective Urquhart, and the probation
25 officer -- At any time did Sergeant MacItyre keep on insisting

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

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

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?

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.

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.

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.

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

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.

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

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:

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
statement? Was that discussed?

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

11 Do you remember that?

12 A. Yes, I do.

13 Q. Forty-six:

14 Q. Some of the information in his
15 first statement didn't correspond
with the information from other
16 people?

17 A. I would assume that they were
conducting an investigation and
18 they were getting information
from all persons and some of it
19 may have been conflicting. I
don't know, but I take it that
20 perhaps what Mr. Chant may have
said in an earlier statement may
21 not have corresponded with what
they had found out later during
22 their investigation and they were
merely setting the record straight
23 again.

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

25 Q. That's what you have stated?

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
didn't seem to fit and they wanted him
to tell the truth?

5

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
I expected they wanted to get a
10 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 --

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

A. Yeh.

COMMISSIONER EVANS:

All right. Thank you.

BY MR. CHAIRMAN:

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

A. No.

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

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

MR. CHAIRMAN:

Okay. Thank you. That's all.

(WITNESS WITHDREW)

MR. CHAIRMAN:

Do you have another witness?

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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1 ARTHUR WOODBURN, being called and duly sworn, testified as follows:
2 BY MR. ORSBORN:
3 Q. Inspector Woodburn, where do you live, sir?
4 A. At 271 Cherry Street in Sydney.
5 Q. Your first name is Arthur?
6 A. Yes, sir.
7 Q. And are you presently employed with the Sydney Police
8 Department?
9 A. Yes, sir, I am.
10 Q. And you hold the rank of Inspector?
11 A. Yes, sir.
12 Q. How long have you worked with the Department, sir?
13 A. Twenty-one years.
14 Q. Twenty-one years. Are you able to give the Commission a brief
15 chronology of your progression through the Department?
16 A. My first five years I spent as a foot patrolman and the next
17 five -- four years I spent in the police patrol car. I spent
18 four years as a drug investigator and four years as a
19 detective and eight years in those -- two or four years as
20 a dog master and for the past three years I've been Patrol
21 Inspector.
22 Q. In what capacity were you employed in 1971?
23 A. As a foot patrolman on Charlotte Street.
24 Q. On Charlotte Street?
25 A. On beats in the City.

1 Q. And was Charlotte Street one of your beats?
2 A. Yes, sir, it was.
3 Q. I see. On these beats did you work in pairs with another
4 patrolman?
5 A. Normally not. If you were on Charlotte Street, for example,
6 you'd be assigned to what they call the upper end of Charlotte
7 which would be from Prince Street to Dorchester. The other
8 man on Charlotte Street would be assigned to what they call
9 the lower end of Charlotte Street which would be from Prince
10 Street down to Townsend, and including the Esplanade.
11 Q. So it would not be normal for you to walk the street together?
12 A. No, sir.
13 Q. But on occasion would you pass like ships in the night?
14 A. Oh, yes, we'd get together occasionally.
15 Q. Yes. As of May, 1971, Inspector, did you know or know of
16 Donald Marshall, Jr.?
17 A. Vaguely. I didn't know him personally. I knew his father
18 Donald, Sr.
19 Q. Did you know anything about him?
20 A. Donald, Jr.?
21 Q. Yes.
22 A. No, just what I heard in the police service itself that he was
23 in and out of trouble occasionally.
24 Q. And I'm thinking now specifically of prior to the -- the Seale
25 incident?

1 A. No, I can't say so, no.
2 Q. Was there anything about Mr. Marshall that set him apart from
3 other teenager's in the City?
4 A. No, I wouldn't say so.
5 Q. At that time did you know John Pratico?
6 A. By sight, yes.
7 Q. Did you know Sandy Seale?
8 A. Just to see him.
9 Q. Roy Ebsary?
10 A. No, sir, I did not know him.
11 Q. Did you know Jimmy MacNeil?
12 A. Pardon?
13 Q. Did you know Jimmy MacNeil?
14 A. No, sir, I didn't.
15 Q. On the night of May 28th, 1971, do you recall if you were
16 working or not?
17 A. What was the date again?
18 Q. The Friday night, May 28th, 1971.
19 A. No, I was not working.
20 Q. Do you recall when you first learned that there had been a
21 stabbing in Wentworth Park?
22 A. It was probably -- I probably heard it a couple of days later
23 on the news or the following day on the news I would say.
24 Q. Do you know what your shift schedule was at that time?
25 A. As far as I can recall I was off on the long weekend. I would

1 be off on Friday night, Saturday night, Sunday night, Monday
2 night, and I would go back to work at twelve o'clock Tuesday
3 night.
4 Q. Twelve o'clock Tuesday night?
5 A. Right.
6 Q. I see. Did you have any part -- As a patrolman did you play
7 any part in the investigation or searches or interviewing
8 related to the Seale stabbing?
9 A. No, sir.
10 Q. When you returned to work on the Tuesday, do you recall if you
11 received any instructions as to what you might be on the look-
12 out for in respect to that stabbing?
13 A. I didn't receive any instructions whatsoever.
14 Q. Would it have been the normal course of events for patrolmen
15 to receive either from their sergeant or from detectives
16 briefings as to what they should be on the lookout for?
17 A. Briefings in those days were very far -- far between -- You
18 wouldn't -- Occasionally you'd get -- your sergeant would
19 tell you maybe that the Detective Department was looking for
20 a certain person or if you seen a certain person around to
21 notify them, but other than that the only real briefing we
22 had in those days were just from each other.
23 Q. When you say, "each other", do you mean --
24 A. Each patrolman.
25 Q. Each patrolman.

1 A. When he was coming off his beat he would tell you what he did
2 on the beat that night and so on.
3 Q. I see.
4 A. We had a report system (It wasn't a very good one.) where you
5 would write--if anything extraordinary happened on your beat
6 you would write an occurrence report on it and sign it and
7 it would be filed.
8 Q. Was there a free exchange of information between the constables
9 and the detectives?
10 A. No, I wouldn't say so.
11 Q. Why not?
12 A. It -- In those days it -- you would give them information but
13 you would very rarely hear anything about it.
14 Q. Yes.
15 A. And that was basically it. It was a very bad system.
16 Q. A bad system?
17 A. Yeh, it was because there was no briefing of shifts and no
18 briefing from the Detective Department going through the
19 shifts so they'd know what was going on throughout, you know,
20 different shifts that came on previous to it and afterwards.
21 There was very poor communications.
22 Q. Do you know of the Maple Leaf Restaurant?
23 A. Yes, sir.
24 Q. Where was that located in '71.
25 A. It still is there right now on the corner of Charlotte and Pitt.

ARTHUR WOODBURN, by Mr. Orsborn

1 Q. And was that on your Charlotte Street beat?
2 A. Yes, sir, it was.
3 Q. In the week following the Seale stabbing, the week following
4 May 28th, '71, while you were on your beat did you have any
5 occasion to meet John Pratico at or close to the Maple
6 Leaf Restaurant?
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1 A. No, sir, I did not.
2 Q. In that week or give or take that week, did you have any
3 occasion to meet John Pratico anywhere in which he related
4 his version of the stabbing?
5 A. Sir, as I stated, I know John Pratico by sight. I have
6 never in my life time had a conversation with him. He
7 has never had a conversation with me and I have never been
8 with anybody else that he had a conversation with.
9 Q. If such a conversation had taken place with you following
10 the -- the night of the Seale stabbing, what would you
11 have done about it if anything?
12 A. I would have made a report on it at the end of my shift
13 and I would have put "Attention Detective Department"
14 because anything of serious nature that happened on my
15 beat, that's generally what I would do.
16 Q. That you would have made a report of it a written report?
17 A. Yes, sir.
18 Q. We've had some evidence here from John Butterworth who was
19 a constable working at the time. Do you know John
20 Butterworth?
21 A. Yes, sir, I do.
22 Q. And did you have occasion in 1971 to work the beats on
23 Charlotte Street with him?
24 A. Off and on, yes.
25 Q. I see, he testified, sir, and I'm reading from volume 11 of

1 our transcript and we're at now page 1971 and he's speaking
2 of the week following the stabbing. He said:

3 I was with Constable Arthur
Woodburn. We were working
4 together and Mr. Pratico
appeared just as we were
5 walking along our beat he
appeared. A short while
6 later we went into the Maple
Leaf Restaurant which is on
7 Charlotte Street and we had
a cup of cofee. Constable
8 Woodburn -- I can remember
that night if I can recall
9 was to my left and John
Pratico followed us in. We
10 didn't ask him in. It was
Constable Woodburn but I
11 don't recall him doing --
he was saying to my right --
12 Constable Woodburn and I
were talking out of the blue.
13 I was getting -- I can remember
getting up to leave like we were
14 through and as we were getting
up he was facing me and he
15 mentioned that he'd never forget
what he had seen in the Park.
16 And he described the stabbing.

17 And the question to Mr. Butterworth:

18 Do you have independent
recollection of that night
19 and this conversation with
Mr. Pratico? Do you recall
20 that now?

21 And he says:

22 Well, I don't recall that
conversation word for word
23

And he goes on -- on page 9 -- 1974 and he's asked:
24

Could you tell us how he
25

1 you mean John Pratico
2 described the stabbing.

3 He mentioned about a
4 knife going in, bringing
her down and twisting her
5 and across. I took it to
mean like an "L" shape,
6 coming down and twisting
going across. I can remember
that like yesterday.

7 Did that happen in your presence, sir?

8 A. No, sir, it did not.

9 Q. I see, from your --

10 A. If -- oh, I'm sorry -- if I may elaborate a bit on that, sir.
11 John Butterworth was a very meticulous person about writing
12 reports. He would write a report on anything of even a
13 small nature that happened on his beat. And I would say if
14 that had happened at that time, that he would have submitted
15 a report to the Detective Department office.

16 Q. That he would have submitted --

17 A. And I would have had knowledge -- I would have had knowledge
18 of it being the senior man on that beat.

19 Q. To your knowledge, sir, did Mr. Butterworth, Constable
20 Butterworth, ever make such a report?

21 A. Not that I'm aware of, no.

22 Q. And if he did not make such a report, is it your opinion that
23 Pratico did not, in fact, demonstrate that to Mr. Butterworth?

24 A. I can't say what -- I can't speak for John Butterworth, but
25 it never happened in my presence.

1 Q. I see. Did you attend any of the Marshall trial, sir?
2 A. No, sir.
3 Q. Were you aware that an investigation was conducted by the
4 R. C. M. P. in 1971?
5 A. I had been aware at that time, yeh, there was one going on,
6 yes. I had no facts of the case or anything like that.
7 Q. It was a topic of discussion around the station house?
8 A. Not that I recall.
9 Q. What capacity were you -- did you hold in the Department, sir,
10 in 1974-75?
11 A. I was -- if I may check just for one second -- in '75.
12 Q. Yes. Were you in the car or in the drug squad?
13 A. Drug Department.
14 Q. Drug Department?
15 A. Yes, sir.
16 Q. Do you have any knowledge between 1974-75 of R. C. M. P.
17 making inquiries and I'm thinking of Constable Gary Greene
18 and Constable Eugene Coles, inquiries concerning the Marshall
19 matter?
20 A. No, sir, I did not. Not that I recall.
21 Q. How long did you work in the car patrol?
22 A. About four years.
23 Q. But between the beat and the car you were ten years, nine
24 ten years?
25 A. Yeh, a little over nine and a half years or so.

1 Q. Did you have occasion to patrol areas such as Wentworth Park?
2 A. Yes, sir.
3 Q. Both on foot and in the car?
4 A. Yes, sir. Not so much on foot but on -- in vehicles, yes.
5 Q. And have occasion to patrol the Membertou Reservation?
6 A. Yes, sir.
7 Q. On foot?
8 A. No.
9 Q. I see. In the 1970-71 era, were there any particular trouble
10 spots that you would check more frequently than others on
11 your patrols?
12 A. No, sir. Not really, no.
13 Q. Was the Park area known as a particular trouble spot?
14 A. Not in my days in the car, it wasn't, no.
15 Q. Did you have occasion to check the teenagers in the Park
16 for alcohol?
17 A. That was pretty -- that would occur almost every where in
18 the city where there was darkness, trees and etcetera.
19 But we would go down there and do the same thing as at
20 Wentworth Park. Sometimes Victoria Park. No great deal
21 of trouble with it.
22 Q. We've heard some evidence of young girls being stopped in
23 the very early morning hour at one o'clock and two o'clock
24 and questioned as to the company they were keeping and
25 then contact being made with their parents by the police to

1 suggest that, you know, the parents should be concerned about
2 the company they were keeping. Do you have any knowledge of
3 that kind of activity on the part of the constables or the
4 policemen in the cars?
5 A. Not -- not that I'm aware of, no.
6 Q. Did you ever contact a parent of a teenager to express
7 concern about the company they were keeping?
8 A. I can never recall doing that, no.
9 Q. When did you work in the Detective Division, Inspector?
10 A. Pardon.
11 Q. You did work as a Detective for a period of time?
12 A. Yes, sir, I did.
13 Q. When was that?
14 A. Be roughly three and a half four years ago.
15 Q. And who were your fellow detectives?
16 A. Inspector Urquhart was in charge of it at that time.
17 Inspector Young worked there, myself, Deputy Chief John
18 Mullowney and we had an Ident Section. There were two
19 members -- three members in it.
20 Q. Sir, in February of 1983, did you have occasion to have a
21 conversation with a Brooks MacGuire concerning the Marshall
22 matter?
23 A. Yes, sir, I did.
24 Q. And did you make some notes of that conversation with Mr.
25 MacGuire?

1 A. I did the following day, yes.
2 Q. The following day. These have already been circulated to
3 counsel but I'd ask you if that is in fact the notation
4 that was made.
5 MR. RUBY:
6 My Lords, I don't fully understand. I'm -- I'm asking -- asking
7 your Lordships for assistance. Why is this really relavent. If
8 MacGuire has got evidence to give then let him be called by
9 someone, by Commission Counsel. But I'm not sure why we're
10 getting at -- from second hand from this witness. And what
11 significance is it. It looks as if he's a red herring and
12 doesn't really go anywhere. He's not alone in that. There's
13 a lot of other people that are like that as well, which is not
14 bothered with. I'm wondering why he'd going into it now.
15 MR. ORSBORN:
16 My friend, Mr. Murray, maybe able to answer that. I think we
17 had this discussion when this was originally suggested by Murray
18 and we agreed that certainly as far as he felt that this was
19 relevant to his client and as far as Mr. Marshall's name is
20 mentioned, we had no objection to pursuing this with Inspector
21 Woodburn. I think he, in fact, was asked to stand down when
22 he was here before so that Mr. Marshall's counsel could review it
23 and then we'll review it with Inspector Woodburn.
24 MR. MURRAY:
25 Yes, and if it -- please -- please my Lords, as I said the last

1 time when I first raised this document with the Commission, we
2 simply raised it in the matter of completeness because it is
3 referred to in volume 17 or exhibit 17 on page 19 so the
4 documentation used by the Commission, certain comments are made
5 about something being done with this particular document and
6 it may become relevant as to whether what is said was to be
7 done was in fact ever done. Just as a matter of completeness
8 I think it's appropriate that the matter be placed before the
9 Commission. But if the Commission chooses to call Mr. MacGuire
10 or not, that's certainly not up to us.
11 THE CHAIRMAN:
12 That's not the point that Mr. Ruby's making. This gentlemen
13 Brooks MacGuire whom we've heard of -- I've heard of for the
14 first time now, apparently says that he made certain statements
15 to Inspector Woodburn concerning Donald Marshall, Junior's
16 behaviour shortly after the -- after the stabbing. And it seems
17 to be that if Brooks MacGuire was still around that he should be
18 called and put to the test. Rather than try and introduce this
19 piece of evidence.
20 MR. RUBY:
21 My point is this, that if MacGuire is anything more than a
22 passing flake -- I mean that's relevant. There's nothing to
23 indicate that at the moment other than this report.
24 MR. CHAIRMAN:
25 I haven't see it yet, so I can't -- this is --

1 MR. MURRAY:
2 My Lord, the document does go on and says -- it talks about being
3 turned over to the R. C. M. P. The R. C. M. P. said that they
4 were going to do something with it and I suggest that it's very
5 relevant whether in fact the R. C. M. P. did do what they said
6 they were going to do with it. That is the main purpose from our
7 point of view that we see the document.
8 MR. CHAIRMAN:
9 Is Mr. MacGuire still in existence?
10 MR. ORSBORN:
11 Yes, my Lord.
12 COMMISSIONER EVANS:
13 Is he available?
14 MR. ORSBORN:
15 Yes, my Lord.
16 THE CHAIRMAN:
17 Then we'll call him.
18 MR. ORSBORN:
19 Then we'll probably have called a witness that we needed --
20 THE CHAIRMAN:
21 Pardon.
22 MR. ORSBORN:
23 Then we may discover that we've called a witness that we perhaps
24 did not need to call and he may be even a redder herring than
25 this -- than this is. This is part of the dilemma that we -- that

1 we face and as I indicated earlier when Mr. Murray produced this
2 or requested us to consider this statement that we had some
3 concerns about the -- the relevance of evidence that Mr. MacGuire
4 might give. Then if he asked us to proceed with it on these
5 to the basis of completeness and in the -- that Inspector Woodburn
6 did indeed have conversations with Detective MacIntyre and Frank
7 Edwards about this information, I can see where it may have some
8 relevance to Mr. Urquhart but I have -- would have no difficulty
9 in simply exploring with Inspector Woodburn, number one his
10 opinion of Mr. MacGuire without getting into the contents of
11 the statement and then number two, what action he took as a result
12 of getting the statement and then if your Lordship wishes, calling
13 Mr. MacGuire.
14 MR. RUBY:
15 I think that I would agree with that, my Lord.
16 THE CHAIRMAN:
17 Yes.
18 MR. RUBY:
19 It would seem that the completeness aspect of what was done
20 is relevant. I invite you to go ahead and I have no objection to
21 that. If it's purported, some of its contents should be supported.
22 THE CHAIRMAN:
23 Right.
24 BY MR. ORSBORN:
25 Q. Let me ask you about the circumstances, Inspector, under

1 which you had this conversation with Mr. MacGuire. As I
2 understand it he was at your home and this was a --
3 A. It was just --
4 Q. -- an off-duty conversation.
5 A. Yeh, it was just a casual conversation which, I believe,
6 at that time it was in the news media about an appeal or something
7 was up and he just happened to bring it up while we were
8 down my basement. I was working on a rifle stock there.
9 Q. All right. This was about a year after the Marshall case
10 had become the subject of news that --
11 A. It was in 1983. I don't know exactly. I didn't follow it
12 that closely myself.
13 Q. Was Mr. MacGuire a friend of yours?
14 A. A casual acquaintance.
15 Q. I see.
16 A. I hunted with him a couple of times. I know him -- I don't
17 know him extremely well but I know him.
18 Q. How long had he been in your company this night before he
19 started to give you this information?
20 A. I'm not sure. It could be ten, twenty minutes, I guess.
21 Q. Do you know --
22 A. It was just casual conversation while we were down the
23 basement working on his gun.
24 Q. Do you know whether or not Mr. MacGuire had been drinking
25 prior to your having this conversation?

1 A. I don't believe he was.
2 Q. Do you know if he was drinking while you were having this
3 conversation?
4 A. No, I don't think.
5 Q. Did you believe Mr. MacGuire?
6 A. I'm not sure and even to this day I'm still not sure.
7 Q. Had he given you any reason in the past to have some doubt over
8 statements that he might make?
9 A. No, it's hard for me to judge the man because I don't know
10 him that well. I don't know if he just said it to make
11 conversation or if it actually happened.
12 Q. I see. Was he in the habit of making conversation with you
13 over serious matters?
14 A. No, not really. Mostly hunting or something like that or
15 rifles or --
16 Q. Did Mr. MacGuire at any time indicate to you the source of
17 the information that he was conveying to you?
18 A. I didn't take it all that serious because, you know, he
19 said it was general talk around the dance halls and it was
20 more like hearsay that he was passing on to me.
21 Q. Did he ever provide you with any specific names?
22 A. No, as is -- in the thing here, I told him, I said, you know, I
23 asked him did he ever tell anybody -- any police officers
24 about it or R.C.M.P. or anybody investigating it and he said
25 no, he didn't. And I asked him did he know other people that

1 were present when this was supposedly said and he gave
2 me a name or two and he said he'd try and look up some old
3 friends -- this was a long time after -- and I said well,
4 you give me the. names and phone numbers of whoever, you
5 know, that would more or less back up what he's saying. And
6 he never ever did and I seen him several times after that.
7 Q. He never got any more names or phone numbers?
8 A. No.
9 Q. Did you ever ask him for them?
10 A. No, because my instructions, after this happened, -- I
11 met with Chief John MacIntyre, Inspector Urquhart, Michael
12 Whalley, and their advise to me was to turn it over to the
13 R.C.M.P. through the Crown Prosecutor because the R.C.M.P.
14 at that time were conducting an investigation and they said
15 it was better for me not to get involved in it because
16 I might be interferring with their investigation.
17 Q. The note indicates that the conversation took place at
18 around ten-thirty p.m. on Sunday night, February 6th, 1983
19 and the note indicates that you -- you supplied this
20 information to Chief MacIntyre, Inspector Urquhart on
21 February the 7th, the next morning. Would that be correct?
22 Q. The next morning,yes.
23 Q. Your note then indicates that on the following day, February
24 8th, you spoke with the Crown Prosecutor Frank Edwards?
25 A. Yes sir, I did. I went up to his office and I --

1 Q. When you spoke to -- It appears from your signature at the
2 bottom and the date underneath that, that the notes themselves
3 were made up on February 9th, 1983 which would be, I think, a Wednesday.
4 A. Yeh, it must have been if I put the date. I think what
5 happened here, this -- the last page here is after I
6 completed going to Frank Edwards and so on and I made the
7 second page cause I was after completing what I was told to
8 do.
9 Q. I see. Now, to lead in to --
10 A. This would be on the 9th that I completed the page that
11 I visited the Crown Prosecutor and left a copy with him.
12 Q. When did you, in fact, make the notes of the conversation
13 with Mr. MacGuire?
14 A. Just that morning when I went to work.
15 Q. And you had those notes when you spoke to Chief MacIntyre?
16 A. Yes, I had them. That would be basically the first page
17 right to the bottom here.
18 Q. I see. And is it your evidence that Chief MacIntyre instructed
19 you to pass your information along to the Crown Prosecutor?
20 A. Yes, sir. He told me not to get involved in it because it
21 was being re-investigated by the R.C.M.P. and that I should
22 contact the Crown Prosecutor with it and he also conferred
23 with city solicitor, Michael Whalley, and he gave the same
24 advice.
25

ARTHUR WOODBURN, by Mr. Orsborn

1 MR. CHAIRMAN:
2 What was the date of the hearing of the review by the Court
3 of Appeal of Nova Scotia?
4 MR. ORSBORN:
5 I believe the final argument on the appeal was really prior to this.
6 MR. CHAIRMAN:
7 Prior to this?
8 MR. ORSBORN:
9 Immediately prior -- the decision came out on May 12th of 1983 but
10 I believe the final arguement had been presented in, I think,
11 in early February. I stand to be corrected but my understanding
12 is prior to that.
13 MR. SAUNDERS:
14 The appeal was heard in December; argument was made in February,
15 My Lord.
16 MR. CHAIRMAN:
17 Fine, thank you.
18 BY MR. ORSBORN:
19 Q. Did you provide copies of these notes to Chief MacIntyre?
20 A. I -- What I did at the time, I wrote it down. I gave it to a steno
21 to type up for me and I gave a copy to everybody that was
22 concerned with it.
23 Q. I see. And have you discussed this with Mr. MacGuire since?
24 A. No.
25 MR. ORSBORN:
Those are my questions, sir. Thank you.

1 BY MR. RUBY:
2 Q. Two areas only that I want to ask --
3 MR. CHAIRMAN:
4 Before you commence your cross-examination, Mr. Ruby, I think
5 I should make it clear that this statement has not been admitted
6 in evidence.
7 BY MR. RUBY:
8 Q. Did you ask Brooks MacGuire why he hadn't come forward back
9 at the time of the original trial if he had something to offer;
10 not whether he did but why?
11 A. I'm just trying to recall it. I believe it's -- I believe what
12 I asked him was why he -- I asked him did he ever speak to
13 anybody in authority, a police officer or anybody, concerning
14 it and he said no, he didn't. He said it was common knowledge
15 all over Sydney what was going on.
16 Q. But you didn't -- You didn't ask him why it was that he didn't
17 speak to anybody in authority?
18 A. No. He just -- He more or less said that everybody in Sydney
19 knew what he was telling me; you know, that him telling them
20 wouldn't make any difference, I guess, is what he meant.
21 Q. Okay. And we all -- at least I do. We all I think know people
22 who for whatever reason like to inject themselves in matters
23 of public notoriety and attention. Is this MacGuire got the
24 reputation of being that sort of fellow?
25 A. No, sir. I think he's almost opposite to that from what I

1 know of him.
2 Q. Okay. In terms of his character, is he the kind of person who
3 you'd -- From what you know of him, by reputation, is he the
4 kind of person you'd find reliable?
5 A. I can't even answer that truthfully. I can't because I don't
6 know him that well.
7 Q. Thank you, sir.
8 BY MR. J. PINK:
9 Q. Inspector, just two questions: Did Constable John Butterworth
10 work with anyone else on the beat other than yourself?
11 A. Oh, definitely, yes.
12 Q. And secondly, was there a curfew in the City of Sydney back
13 in 1971 for young people?
14 A. Yes, I believe there was but nobody ever bothered with it.
15 Q. What was the curfew?
16 A. Nine o'clock, I believe.
17 Q. And for what age?
18 A. Up to sixteen.
19 Q. And how many other people would John Butterworth work with on
20 the beat?
21 A. Well, he could work with anywhere from ten to twenty men.
22 Q. But you say that you were definitely not present at the time
23 of this meeting with John Pratico?
24 A. No, sir, because I definitely -- I would remember something
25 like that. I definitely would have and I would have put a

1 report in on it.

2 MR. J. PINK:

3 Thank you.

4 BY MR. CHAIRMAN:

5 Q. Before you leave, I missed that curfew. You say there's a --

6 COMMISSIONER EVANS:

7 There was a curfew?

8 BY MR. CHAIRMAN:

9 Q. There was a curfew?

10 A. Yes.

11 Q. Where?

12 A. In the City of -- In Sydney itself.

13 Q. Inside for the City of Sydney?

14 A. Yes.

15 Q. Anyone -- And it applied to everyone sixteen years of age and

16 under?

17 A. Yeh, but as I say, nobody paid any attention to it.

18 BY COMMISSIONER EVANS:

19 Q. Particularly the teenagers.

20 A. That's right. Even when I was a young fellow myself, I can --

21 you know, they had it then but nobody really paid any attention

22 to it. A policeman came along at nine o'clock and he told

23 you to go home, you went home and that was it.

24 Q. Things changed a little later.

25 A. Yes.

ARTHUR WOODBURN, by Mr. J. Pink

1 MR. CHAIMRAN:

2 Any questions?

3 NO QUESTIONS FROM REMAINING COUNSEL

4

5 (WITNESS WITHDREW)

6

7 MR. CHAIRMAN:

8 We'll adjourn until nine-thirty tomorrow.

9

10 INQUIRY ADJOURNED at 4:22 o'clock in the afternoon on the 28th
11 day of October, A.D., 1987.

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COURT REPORTER'S CERTIFICATE

I, Judith M. Robson, an Official Court Reporter, do certify that the transcript of evidence hereto annexed is a true and accurate transcript of the Royal Commission on the Donald Marshall, Jr., Prosecution as held on the 28th day of October, A.D., 1987, at Sydney, in the County of Cape Breton, Province of Nova Scotia, taken by way of recording and reduced to typewritten copy.

Judith M. Robson
Official Court Reporter
Registered Professional Reporter

Sydney Discovery Services
October 28, 1987