

1 BY MR. CHAIRMAN:

2 Q. Mr. Christmas did you give evidence at the trial of Junior  
3 Marshall?

4 A. No, I never did.

5 BY MR. SPICER:

6 Q. Just one point I forgot, Tom. I'd asked you earlier if --  
7 about this -- over the course of the years you've accumulated  
8 criminal record which I'd like put in evidence?

9 A. Yes.

10 MR. CHAIRMAN:

11 When counsel are cross-examining witnesses I would appreciate if  
12 they would identify themselves to the witness and indicate the  
13 person for whom they are appearing.

14 BY MS. DERRICK:

15 Q. Mr. Christmas, my name is Anne Derrick and I represent  
16 Junior Marshall.

17 A. Yes.

18 Q. You were saying earlier in your testimony that before you  
19 went to school as a young child you had spoken Micmac in  
20 your home. Is that correct?

21 A. Yes.

22 Q. And that would have been the only language spoken in your  
23 home at that time. Is that correct?

24 A. Yes.

25 Q. So you must have had considerable difficulty understanding

- 1 | what went on in the classroom when you started school. Is  
2 | that your recollection?
- 3 | A. Yes, that's what I say. You had to more like listen and  
4 | sort of -- more of like listen and pick up.
- 5 | Q. You tried to pick it up by listening?
- 6 | A. Yeh, just by listening you picked it up, like you know, what  
7 | was going on around you.
- 8 | Q. Is that right? And was that hard for you to do at the beginning?
- 9 | A. Yeh, it was, you know.
- 10 | Q. Mr. Christmas you've also told us that you remember as a  
11 | teenager that there was bumming going on in the park. Is  
12 | that correct?
- 13 | A. Yes.
- 14 | Q. Bumming for small amounts of money?
- 15 | A. Yes, that's true.
- 16 | Q. In your experience was it that teenagers hanging around in  
17 | the park would first of all try and bum money from each other?  
18 | From their friends? People that they knew?
- 19 | A. Yeh, people you knew.
- 20 | Q. People that you knew?
- 21 | A. Yeh.
- 22 | Q. Was it mostly Indian kids that were hanging around the park  
23 | when you were a teenager?
- 24 | A. Pardon?
- 25 | Q. Sorry. Was it mostly Indian kids that were hanging around the

1 park when you were a teenager?

2 A. No, there was White kids there and coloured kids, Indian  
3 kids, you know.

4 Q. And so there was a -- there were a variety of kids that  
5 would use that has a hangout?

6 A. Yes. Yeh.

7 Q. Now, you've told us that there was alledgedly a headstone  
8 incident for which you were picked up for questioning?

9 A. Yes.

10 Q. And on the occasion of your being questioned at the police  
11 station, is it your recollection that Sergeant Urquhart,  
12 Sergeant MacIntyre and Detective M. J. MacDonald were  
13 around the police station during that day?

14 A. Yes.

15 Q. And did each one of them speak to you on various occasions  
16 throughout the day?

17 A. Yes, they did. Yeh, they were taking us out, taking us  
18 back in the lockup and --

19 Q. So you would have spoken to each one of those men at some  
20 point during that day?

21 A. Yeh, we were all --

22 Q. Is that correct?

23 A. Yes.

24 Q. And was it after you had been told by one of these police  
25 officer that you're friends had fingered you for this incident

- 1 | that you gave a statement to the police?
- 2 | A. Yeh.
- 3 | Q. Do you remember which police officer that was that told  
4 | you your friends had put the finger on you?
- 5 | A. Well, MacIntyre was doing all the questioning, like. He  
6 | had the papers and he was telling me that your friend just  
7 | told us that you and so and so did -- just did this and that,  
8 | you know, and --
- 9 | Q. So it was Sergeant MacIntyre who said this to you?
- 10 | A. Yeh.
- 11 | Q. I just want to ask you some questions about your relationship  
12 | with John Pratico. Prior to Mr. Seale being stabbed is  
13 | it correct that you had known John Pratico for about a year?
- 14 | A. Not about a year. About -- for almost a year anyway. Not  
15 | a -- after a year, you know.
- 16 | Q. And you and the other Indian boys had had a very friendly  
17 | relationship with him, is that correct?
- 18 | A. Yes. Yeh, I did. Yes.
- 19 | Q. And that relationship involved your sharing things with him.  
20 | Is that --
- 21 | A. Yes, I recall taking him home and lent him some of the  
22 | clothes I had and he ate off my table, you know.
- 23 | Q. So he went home for meals and --
- 24 | A. Yeh.
- 25 | Q. -- was given some of your clothes?

- 1 A. Yeh.
- 2 Q. Do you remember also sharing cigarettes with him and liquor?
- 3 A. Oh, yeh.
- 4 Q. And also paying his way into dances?
- 5 A. Well, not paying his way, like you know, if he was short so
- 6 much, you know, whatever we had, you know, we --
- 7 Q. So pooling your money --
- 8 A. Yeh.
- 9 Q. -- to assist him to go to a dance as well?
- 10 A. That's right, yeh.
- 11 Q. And was it true that at times you also protected him from
- 12 other people bothering him?
- 13 A. Yeh, the other people -- if another strange, like, kids
- 14 who I didn't even know bothered him or something like that
- 15 you know.
- 16 Q. Sorry. I missed that Mr. --
- 17 A. Like, other kids that didn't know him, like, bothered him or
- 18 we didn't know them, you know, and they come around and started
- 19 trouble like, people that we knew, eh, you know.
- 20 Q. But you would stick up for him? Is that correct?
- 21 A. Yeh, we'd stick up for him. Yes.
- 22 Q. And was it your experience that you knew him to stretch
- 23 a story to impress you?
- 24 A. No, I never -- never took him as that. He was just a little
- 25 slow and it was more like he was more scared and, like you know,

- 1 he was always looking at us and, you know.
- 2 Q. Did you ever know him to exaggerate things or tell you lies?
- 3 A. Well, he said he got -- he had a few fights and all that, you  
4 know, and there was -- He said he took on three or four guys,  
5 you know, and--
- 6 Q. But that wasn't true.
- 7 A. That wasn't -- We can tell, you know, the guy never -- I  
8 don't think he ever fought --
- 9 Q. So you -- Sorry.
- 10 A. He never fought before like, you know.
- 11 Q. You knew some of the things he told you weren't true?
- 12 A. No, they were true. Yeh.
- 13 Q. Now, on May 28th did you go to the dance at St. Joseph's?
- 14 A. Yes, I did go.
- 15 Q. And is there a lumber yard near St. Joseph's church?
- 16 A. Yeh, there was one down by -- down by the park there, yeh.
- 17 Q. Can you indicate where that would be on this map that you  
18 have behind you of roughly where it would be?
- 19 A. Right by the tracks there. Around that area here.
- 20 Q. Beyond George Street.
- 21 A. Yeh, right around there.
- 22 Q. Is that what you're indicating?
- 23 A. Yeh.
- 24 Q. Were you aware that John Pratico was taken to that lumberyard  
25 on that night of May 28th because he was drinking and that

- 1 he was sick there?
- 2 A. No, I don't recall that.
- 3 Q. You don't recall hearing about that?
- 4 A. No, I never.
- 5 Q. And were you involved in looking after him in any way that
- 6 night?
- 7 A. No, I was hanging around with girls from the Pier area then.
- 8 Q. Did you see him at all on that evening?
- 9 A. I don't know if I seen him on that night or not, you know,
- 10 but I was only mostly dancing.
- 11 Q. So you can't recollect seeing him that evening?
- 12 A. No, I can't.
- 13 Q. You saw Mr. Marshall -- Junior Marshall later that evening
- 14 at the Reserve and you say that there were other people
- 15 around when you were talking with him. Is it possible
- 16 that Stuart Marshall was one of those people?
- 17 A. Well, he could be, you know.
- 18 Q. And could it have been Stuart Marshall that, in fact, cut
- 19 the cuff of Junior Marshall's jacket to relieve the pressure
- 20 on this arm?
- 21 A. I guess. I think that's where we got the knife from. Stuart
- 22 Marshall.
- 23 Q. You got the knife from Stuart Marshall?
- 24 A. I think so, yeh.
- 25 Q. Do you recollect whether it was Stuart Marshall or yourself

1 that actually cut the jacket?

2 A. No, we were both standing, like you know, standing like this.  
3 Like, you know, we were talking first and then he told me  
4 about his arm and he was trying to put his jacket up over  
5 the bandage that was -- like it was bandaged up, eh. And  
6 his arm was like -- the bandage and sleeve was caught in  
7 the middle, like, and we were trying to get it up more,  
8 like, you know, we were --

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1 Q. So you and Stuart were helping him?

2 A. Yeh, we were helping him.

3 Q. And what did you use, just an ordinary kitchen knife, a  
4 paring knife?

5 A. Just an ordinary jack knife.

6 Q. Did you go down to the park later with Junior that night to  
7 look for the two men he'd described?

8 A. No.

9 Q. Throughout that week before Junior Marshall was arrested, did  
10 you hear people on the Reserve saying that if the police didn't  
11 find out who was responsible for Sandy Seale's murder that they  
12 were going to blame Junior Marshall?

13 MR. MURRAY:

14 Just a sec. Perhaps if someone specific made that remark she could  
15 specifically refer him to that remark.

16 BY MS. DERRICK:

17 Q. Do you recall Kevin Christmas having said that?

18 A. I don't -- I don't really recall it, you know.

19 Q. And you don't recall being there when it was said to Junior  
20 Marshall?

21 A. No, I don't.

22 Q. When you saw John Pratico during the week before Mr. Marshall  
23 was arrested, on no occasion did he tell you that he had  
24 seen anything in the park on the night Mr. Seale was stabbed,  
25 did he?

1 A. No.

2 Q. Do you recall Mr. Marshall -- Junior Marshall telling you that he  
3 was going to leave the Reserve, and that was the last time you  
4 saw him before he was arrested? Is that correct?

5 A. Yeh, we were -- we were sitting sitting in front of a -- we  
6 were sitting on Roy Gould's lawn at the time. We were talking  
7 there and he was telling me that his family and him were going t  
8 Whycomomagh til you know, this thing. They found that after  
9 the stabbing and you know, he never -- I know I never  
10 thought that they were going to charge the guy myself, eh, you  
11 know.

12 Q. That was sometime on that Friday, June 4th, was it?

13 A. Yes, it was before that Friday, you know.

14 Q. Had Junior told you about anonymous telephone calls to the  
15 Marshall home?

16 A. Yeh, he told me that he was getting -- his mother was getting  
17 upset because people were calling up and --

18 Q. So he told you that his mother was frightened by these calls?

19 A. Yeh, she was like more --their mother was more upset and scared.

20 Q. Mr. Christmas, when you were serving time in Springhill, I  
21 believe you told us that you were corresponding with Junior  
22 Marshall, (Is that right?) writing letters back and forth to  
23 him?

24 A. Yeh.

25 Q. Was there an occasion when you were stopped from doing that?

- 1 | A. Yes, that was -- that's the night -- that's later on after I  
2 | was released I was brought back to prison for violating my  
3 | parole and the City Police, MacIntyre and Urquhart again, they  
4 | were -- they had me up for -- Well, there was a guy robbed on  
5 | the Reserve. A White man was robbed on the Reservation, and  
6 | in the earlier part of the evening-I knew this woman that was  
7 | drinking with the man, so me and Artie Paul went over and we  
8 | had a few drinks with them and we left, and --
- 9 | Q. And did you end up getting charged for an offense as a result of  
10 | this?
- 11 | A. I was questioned about it. This man woke up that morning and his  
12 | money was missing. I don't know if he was -- they say he was  
13 | assaulted or -- I don't think he was assaulted or nothing like  
14 | that and they asked who was -- who was he -- who does he  
15 | remember last being with him or -- and the woman -- that Indian  
16 | woman told the police that it was me and his brother were there  
17 | the earlier part of that evening.
- 18 | Q. So this resulted in a violation of parole?
- 19 | A. Yes.
- 20 | Q. And you went back to prison?
- 21 | A. I went back for fifteen months.
- 22 | Q. And you continued to correspond with Junior Marshall?
- 23 | A. Yeh, well, I was in Springhill and he was in Dorchester.
- 24 | Q. Were you prevented from doing that at that time?
- 25 | A. I was writing letters to him back and forth from Springhill,

1 | you know, and I was writing back home, you know, to my  
2 | parents and my sisters and all of a sudden they told me that  
3 | there was no more writing to other inmates in other gaols, and  
4 | I asked them why and they said, "You got to be really close to  
5 | him like". You got to be a brother to him, you know. And they  
6 | said -- I asked them, you know, what about being like a first  
7 | cousin or relations and all that, you know, and he told me,  
8 | no. He said, "You just can't go on writing letters to him  
9 | any more". So I didn't think nothing of it, you know. I said,  
10 | "All right, you know". But I had ways of getting the letters up  
11 | there anyway, you know, like --

12 | Q. But officially you weren't permitted to continue writing to  
13 | Mr. Marshall?

14 | A. No, I wasn't permitted to write letters to Marshall.

15 | Q. You were eventually released from prison, and in 1979, did you  
16 | visit Junior Marshall in prison?

17 | A. In '79? No, I never -- I never visited Marshall in prison.

18 | Q. You didn't -- You didn't at any time didn't visit --

19 | A. I was -- just when I was transfered from Springhill to a Farm  
20 | Camp in Dorchester, that's the only correspondence I had with  
21 | the guy since he was arrested and convicted.

22 | Q. Did you see him on that occasion?

23 | A. No, we never seen each other. We spoke to each other though,  
24 | but we were told -- I was told to get away from the wall that  
25 | time, and not to --

1 Q. You just had a conversation at that --

2 A. Yeh, we just had a little talk and, you know, he was -- he was  
3 just telling me what's going on and all that and I told him,  
4 I don't know, you know. He said, "What are you doing up  
5 here"? I said, "I don't know". "I didn't want to come up  
6 here". "I was just put here, you know". Because I was -- I was  
7 transfere~~d~~ from out of Springhill where I liked it. I told them  
8 that I didn't want to -- I wasn't a farmer, you know. I didn't  
9 know nothing about farm work and all that, you know, and  
10 they said, "Well, then it's the best time to take it, you know;  
11 you'll learn something, you know".

12 MS. DERRICK:

13 Okay. Thank you, Mr. Christmas.

14 BY.MR. MURRAY:

15 Q. Mr. Christmas, my name is Donald -- Donald Murray and I'm  
16 here representing John MacIntyre this morning.

17 A. Yes.

18 Q. There was some evidence this morning from Commission Counsel  
19 that in the week between the stabbing of Sandy Seale and the  
20 time when Donald Marshall was charged that you were in the  
21 company of John Pratico and I believe you said, down at the  
22 park?

23 A. Yeh, we were hanging around down by the park, you know.

24 Q. And would that have been two or three times, two or three  
25 different occasions when you saw John Pratico down at the park?

1 A. It might have been, yeh, two or once anyway, you know.

2 Q. And is it possible that during that week John Pratico was  
3 in your home?

4 A. No, it was before that.

5 Q. So you're saying that he did not -- was not in your home between  
6 the time of the stabbing and the time when Donald Marshall was  
7 charged?

8 A. No, he was in my house before the stabbing. He was -- We were  
9 already hanging around and that's before the stabbing took  
10 place that he was -- he arrived up on the Reservation and  
11 come to my place, you know, and --

12 Q. I'd like you to look at Exhibit 48 which you have in front of  
13 you, page 29. On that page Mr. MacNeil is questioning John  
14 Pratico and about line 20 --

15 A. Pardon?

16 Q. About line 20 which is about halfway down the page.

17 A. Yes, I see.

18 MR. CHAIRMAN:

19 Which page -- Which page are we on?

20 MR. MURRAY:

21 We're on page 29 of Exhibit 48 which is page 8 of the transcript  
22 of the Preliminary.

23 BY MR. MURRAY:

24 Q. Why don't we start with the question:

25 Q. You and Tom Christmas are very friendly?

1 A. Yes, sir, we were.

2 Q. Up until when?

3 A. Until Friday.

4 Q. Friday morning or Friday night?

5 A. Friday evening.

6 And I believe at that time during this he's referring to the  
7 time when you and he met on his doorstep?

8 A. Yeh.

9 Q. Q. Until he came to your house?

10 A. Until he came to my place, sir?

11 Q. When were you at the Reserve,  
12 Membertou, on, was it Wednesday  
of that evening, that week?

13 A. That week, Wednesday.

14 Q. You had dinner at his home?

15 A. Yes, sir.

16 Does that assist your recollection as to whether John Pratico  
17 was in your home during that week?

18 A. That's what Johnny Pratico is telling the police. I don't --  
19 You know, I know when he came over and I had him in my place.  
20 But I don't know if it was that week. I'm saying I don't know  
21 if it's that week or that year, but I know that he was in the  
22 house and I brought him home with me and, you know, I -- I  
23 was -- I trusted the guy that much to bring him in my home,  
24 you know, and --

25 Q. Yes. Certainly, and if I understand your evidence this morning

- 1 and the answer you've just gave, it's possible that he had  
2 been up there that week?
- 3 A. Yeh, it's possible he was -- I know he wasn't up that week,  
4 you know.
- 5 Q. I thought that's what you just said that it's possible that he  
6 could have been up that week?
- 7 A. No, no, I said it was possible in that -- in that -- in that  
8 year in between. I know it wasn't that final week, you know,  
9 because before that -- before this incident took place we were  
10 still hanging around and he was already on the Reservation.
- 11 Q. Yes.
- 12 A. He was already up there before this incident took place, you  
13 know. We already knew Johnny.
- 14 Q. All right. Was the topic of Donald Marshall, Jr.'s involvement  
15 in this stabbing in the park quite a subject of conversation  
16 between you and your friends?
- 17 A. Yeh, it was pretty -- you know, we kept to ourselves, you  
18 know, around the Reserve, you know, and we never -- we never  
19 spoke to it with no White people, you know, or --
- 20 Q. But when you were in a group you would discuss certain aspects  
21 of what has happened as you understood?
- 22 A. Like, you know, we understood what Marshall told us and that's  
23 what, you know -- We believed him. He told us that two guys  
24 came up to him and something about a cigarette being bummed or  
25 he asked for a cigarette or a light, you know, and he described --



1 He said, "I have" -- "I got something for you", and that's  
2 when the stabbing took place.

3 Q. And my question to you, sir, is whether you after having  
4 discussed it with Donald Marshall on the night of the stabbing,  
5 would have discussed it among your friends when you were within  
6 a group?

7 A. Well, I didn't, you know, myself, eh, you know. I kept it to  
8 myself, you know, and I just waited, you know. I -- The results  
9 like -- you know, we believed -- we didn't figure that -- I  
10 didn't figure that he was ever going to get charged for this  
11 murder.

12 Q. Was the subject discussed?

13 A. I don't know if it was discussed or not, no.

14 Q. So your recollection from that last answer is you can't tell us  
15 whether or not it was discussed? Your recollection is that it  
16 was not but you can't say that it was not?

17 A. Pardon? I can't --

18 Q. Your recollection as far as I take it from your answer is that  
19 you cannot recall whether or not it was discussed, but --

20 A. Like I say it might have been with other people. I don't know,  
21 you know. What I -- What Marshall told me, I just believed him  
22 and then I just told him no, we'd wait for the results of what  
23 comes out, you know, like he told us that his friend was badly  
24 hit, you know, and it happened so quick, you know, it was just  
25 a matter of -- in a matter of seconds this went down, you know.

- 1 Q. You mentioned in discussing this incident with the gravestone  
2 that you and five or six friends were kept in the lockup and  
3 one would go out at a time and then you would come back and  
4 discuss in Micmac what had been going on in the other rooms  
5 outside the lockup. Is that correct?
- 6 A. Yeh, that's what we were saying.
- 7 Q. Was that a common process among -- along Native -- Native  
8 boys who were picked up?
- 9 A. Yes, it was.
- 10 Q. And the process, I take it, was something to the effect of,  
11 let's find out what the police are looking for and we'll discuss  
12 it among ourselves to make sure that our backs are covered?
- 13 A. Yes, we're -- we're discussing that in the lockup as we were  
14 coming in.
- 15 Q. Yes.
- 16 A. We were meeting each other and we were telling each other what's  
17 going on in Indian because, you know, the police officer won't  
18 understand what you're saying. They're telling us to shut up  
19 and speak when you're spoken to, you know, and we're going on  
20 telling them then what they want to know, like, you know,  
21 what they're asking us -- what they want. We're telling them --  
22 I'm telling my friend as I'm going in, go out and ask the officers  
23 what they want, you know. And they say, "Well, don't worry  
24 about it, you know." We'll see -- We'll get to the bottom of  
25 this.

- 1 Q. Now you would often go through this process I suggest with --  
2 any time you had an involvement with the police you would  
3 discuss it among your friends to try to protect each other?
- 4 A. See we're -- Yeh, if we're picked up, you know, and if we  
5 know what we're in there for -- If we're in there for being  
6 drunk, you know, it's just the matter of a drunk fine or five  
7 or ten days in gaol, the most you can get out of it.
- 8 Q. Right.
- 9 A. All right. But --
- 10 Q. But something more serious --
- 11 A. But, you know, there's things where we were brought in -- we're  
12 brought out of the lockup and they say, the detectives--the detectiv  
13 want to talk to you about something. And then they'd bring  
14 you in the office and they'd question you as to where were you  
15 last night, you know. We went on this area of town or down the  
16 Northend or other parts of town, the Ashby area and all that,  
17 and they asked me where were you -- where like -- Myself,  
18 where I was, I'd tell them I was down the Pier. And they'd  
19 say, "Well, how did you get home from the Pier", and all  
20 that, and I'd just tell them that I went through the tracks,  
21 you know. They'd say, "Why didn't you take the bus over"?  
22 "Why didn't you walk on the street?", and all that. I'd say,  
23 "Well, it's just faster going home through the tracks", you  
24 know, and I was more avoiding the cops. If I walked on the  
25 street and the police cruiser drove by they'd ask me what was

- 1 I doing on that part of town, you know, and I said, "I was  
2 avoiding the streets as much as possible."
- 3 Q. When you met John -- Donald Marshall, Jr., that night of the  
4 stabbing with the others, whoever they were, and you don't  
5 recall who they were I take it?
- 6 A. Well, there was girls and guys there, you know, but I don't --  
7 I can't really pinpoint names, you know, like I said.
- 8 Q. When you met him that night--I take it that you did go through  
9 that same process with him of making sure that his position  
10 was protected? You asked him questions about what had happened  
11 to try to make clear in his own mind and yours what the  
12 evidence was?
- 13 A. Well -- Yeh, well, what he told me, you know, like -- He told me  
14 that it was two guys that come up and, you know, they knifed  
15 Sandy and that he was pricked himself -- that he got cut in  
16 the arm and all that.
- 17 Q. Yes.
- 18 A. And I believed what he said, you know, and he told -- he described  
19 the guys, you know, the people that were -- that after they  
20 did it, he described them the best way he could because --
- 21 Q. And you discussed that with him?
- 22 A. Yes, you know, and even after -- after that I was -- When I  
23 was even in the drunk tanks after he was convicted, after I  
24 was released in prison when I was brought in drunk tanks, I  
25 looked at every old guy that walked in that gaol. I asked them,

1 | you know, if he knew Marshall or if he knew anything, but  
2 | you know, they were just in there for drunk, you know, but I  
3 | asked around, you know.

4 | Q. Specifically that night, you and Kevin Christmas perhaps and  
5 | others went through a process with Donald Marshall of asking  
6 | him questions and going into more detail and obtaining more  
7 | detail about what had happened down in the park other than the  
8 | initial things which Donald Marshall, Jr., originally told you?

9 | MR. CHAIRMAN:

10 | He didn't say that.

11 | MR. MURRAY:

12 | I'm suggesting that to the witness.

13 | BY THE WITNESS:

14 | A. Like I say, I don't recall anybody like -- or giving any more --  
15 | putting any more effects in Junior's story, like what he  
16 | already told us, you know. He told us that -- what happened and  
17 | we just, you know -- Well, we -- You know, you grew up with the  
18 | guy and you know, you hung around him day in and day out, you  
19 | knew him, you know. And you could tell the guy was scared and,  
20 | you know -- He said, "I don't know how my friend is doing".  
21 | He's still down the hospital. He said, "The police drove me  
22 | down", and he said they drove him back up, you know.

23 | BY MR. MURRAY:

24 | Q. Were you drinking that night, Mr. Christmas?

25 | A. Yes, I was drinking that night.

- 1 Q. Your major concern in going to see John Pratico on Friday  
2 night is that if he had told the story to the police --
- 3 A. None of this would have happened --
- 4 Q. Yes. If he had told the story to the police that Donald  
5 Marshall had stabbed Sandy Seale, he could be convincing in  
6 telling that story? That was your concern, was it not?
- 7 A. You know, it's just the way the guy went around, you know. You had  
8 to -- You had to know the guy. You had to hang around with  
9 the guy before you can judge him, you know. You just can't--  
10 You know how the guy was, he was pretty slow and he was more  
11 scared, you know, but he was glad that we were around him, you  
12 know. When we had cigarettes we shared with him, you know,  
13 and we told him, you know, just be yourself. Be calm. Don't --  
14 Don't act so nervous or don't be scared of us, you know.  
15 We're not going to -- If we wanted to hurt you, we would have  
16 hurt you a long time ago, you know. That's what we meant like,  
17 you know. We wouldn't have wanted you hanging around with  
18 us.
- 19 Q. My question to you, Mr. Christmas was on the Friday evening, you--  
20 were you concerned that John Pratico might be convincing in  
21 telling a story about Donald Marshall, Jr.?
- 22 A. I know he was. I know he was pressured. I know he was  
23 pressured into --
- 24 Q. Did you know that he might be convincing?
- 25 A. No, I figured that he wouldn't -- he shouldn't anyway.

- 1 | Q. Yes. Yesterday in evidence there was a comment that you may  
2 | have made a remark that John MacIntyre was not after the truth  
3 | but was after Indians. Do you recall ever making such a  
4 | remark?
- 5 | A. It would seem to us he was, like, you know, every time we  
6 | were picked up --
- 7 | Q. That was not my question, Mr. Christmas. Do you recall ever  
8 | making such a remark?
- 9 | A. About MacIntyre?
- 10 | Q. Yes.
- 11 | A. Yeh, I recall it.
- 12 | Q. When was that, sir?
- 13 | A. When we were being questioned about charges or things, you know.
- 14 | Q. When you were being questioned about what?
- 15 | A. Anything that happened in Sydney like -- like that night or --
- 16 | Q. Well, I'm looking for a time and the date. If you can give  
17 | me any more specific --
- 18 | A. I can't give you the time or date, you know. That happened  
19 | in sixteen, seventeen years ago.
- 20 | Q. Can you give me a place?
- 21 | A. You know I can't remember dates that good, you know, but I  
22 | mean days, but as far as being told and, you know, I can --  
23 | I remember being told, you know, if it wasn't for you Indian  
24 | people none of this would be happening.
- 25 | Q. So what I gather is, is that was a general impression more than

- 1 something specific arising from one incident?
- 2 A. Yes, you know.
- 3 Q. Now is that a conclusion that you came to as a result of various  
4 encounters that you had with the law?
- 5 A. Pardon?
- 6 Q. Is that a result -- a conclusion you came to as a result of  
7 various encounters that you had with the law?
- 8 A. Yeh, you know, I knew -- I knew how those -- how those detectives  
9 went about their questioning and how they, you know --
- 10 Q. And would you say the same about most or all police officers,  
11 sir?
- 12 A. Just detectives that were on that year, sure, you know, that  
13 time.
- 14 Q. Just MacIntyre and Urquhart?
- 15 A. Well, I had my -- I had my dealings with MacIntyre and Urquhart  
16 right up to '78, '79, something -- I don't know.
- 17 Q. In '78 and '79?
- 18 A. Something like that. And when he retired from it --
- 19 Q. It's your evidence, sir, that you had dealings with John MacIntyre  
20 up until 1978 or '79?
- 21 A. When he was a detective, yes.
- 22 Q. Well, was he a detective in 1978 and 1979?
- 23 A. That's what I mean. I don't know whether he was a detective.  
24 He was the Chief of Police at that time, but I know one year  
25 that he made himself -- I mean he was Chief of Police and that's



- 1 | when I -- I was released on -- I was getting out of the  
2 | Correctional Centre in Sydney here and they they were involved  
3 | in that charge I was brought up on.
- 4 | Q. And how was he involved, sir?
- 5 | A. He was the one that questioned me.
- 6 | Q. In 1978?
- 7 | A. In '77, '78, yeh -- '76 or '77.
- 8 | Q. And which charge would that have been, sir?
- 9 | A. Assault causing bodily harm.
- 10 | Q. Are you as sure about that as about every other part of your  
11 | evidence that you've given here today?
- 12 | A. Yes.
- 13 | Q. Mr. Spicer introduced a copy of your criminal record and I'd  
14 | be pleased to show you a copy but I'm sure you're familiar  
15 | with it. Did you go through trial on any of those offenses,  
16 | sir?
- 17 | A. Yes, I went to -- I went to trials on -- on the charges I was  
18 | brought on. I'd plead not guilty to them. I knew more --  
19 | I knew more -- a little more -- about the law then because I was in  
20 | prison three times, you know, all together.
- 21 | Q. Yes.
- 22 | A. And I knew more about the law and how to be handled by police  
23 | or be questioned.
- 24 | Q. Yes.
- 25 | A. To -- And this I told you.

- 1 Q. When was it you first understood the difference between -- or  
2 the meaning of pleading guilty or not guilty?
- 3 A. Oh, after I got two years.
- 4 Q. After you got two years?
- 5 A. Yeh.
- 6 Q. At the time you got two years, that was the break and enter and  
7 indecent assault charge. Is that correct?
- 8 A. Yeh.
- 9 Q. Is it your evidence that John MacIntyre was involved in that,  
10 sir?
- 11 A. Yeh, he was the one -- he was the one that picked me up and  
12 I -- well, they knew themselves -- well, they -- you know, they  
13 never got no statements off me. I wouldn't -- I used to tell  
14 them whatever you got, just take it to Court and let the Court  
15 judge, you know -- I said let me -- It's not as --
- 16 Q. May I suggest to you, sir, that the investigator on that  
17 charge was M -- Michael J. MacDonald?
- 18 A. Well, it's like I say, they were in and out. You know,  
19 MacIntyre was in and Urquhart was in. Yeh, Mike -- Michael  
20 MacDonald was in, you know. They were coming in and out of  
21 that office like there was no tomorrow.
- 22 Q. Do you know Police Constables Charlie Wall and Arnold Joseph,  
23 sir?
- 24 A. Charlie Wall? It rings a bell. I heard of some Wall officers  
25 on there, yeh.

1 Q. And Arnold Joseph?

2 A. Arnold Joseph, I don't know. I don't --

3 Q. And if I suggest to you, sir, that it was those three officers,  
4 M. J. MacDonald, Charlie Wall, and Arnold Joseph that you dealt  
5 with on the break and enter and indecent assault, those would  
6 be the officers you dealt with?

7 A. Like I told you this morning like how it would come out, you  
8 know. I didn't even know about this deal and this they were  
9 talking about yesterday or this -- you know, if my charges were  
10 brought up, then they told me to turn around and plead guilty  
11 to it and, you know, you should be just -- you might get two,  
12 three months out of it.

13 Q. But my question to you, sir, was whether it was those three  
14 officers -- whether you recollect whether it was those three  
15 officers or, in fact, M. J. MacDonald, Urquhart, and MacIntyre?

16 A. Yeh, like -- like I say, you know, they were all -- you know, I  
17 don't know why you're getting these police officers involved,  
18 like these patrol -- patrol officers because that's what they  
19 were because I knew the -- I knew the Detective Division at  
20 that time was MacIntyre, Bill Urquhart, Mike MacDonald, and  
21 "Red Nick", I think they call him. Now I don't know if  
22 "Red Nick" was a detective at that time or not, but I seen  
23 him behind a desk when we were brought in for intoxicated.  
24 That's why I knew the voice and I remember "Red Nick" too there.

25 Q. Well, you were certainly in the Detective Department, but as

- 1 | to who specifically worked on this particular charge, do you  
2 | have a specific recollection today or not, sir?
- 3 | A. I just remember MacIntyre, Bill Urquhart, and Mike MacDonald  
4 | and just -- they just went to Court with it then.
- 5 | Q. You spoke this morning about being chased out of the park by  
6 | the police. At no time, I suggest, did John MacIntyre or  
7 | William Urquhart ever chase you out of the park?
- 8 | A. No, they were --
- 9 | Q. When you were chased out of the park at times it was because  
10 | of underaged drinking, was it not?
- 11 | A. Well, most of the time we weren't, you know -- It wasn't  
12 | every night we were drunk.
- 13 | Q. That's not what I -- I asked you.
- 14 | A. I know, but I -- When we were chased out of the park we  
15 | were sent home, sure, you know. We were told to get back on  
16 | the Reservation where we belonged and --
- 17 | Q. And that was because of drinking by persons under the age  
18 | of sixteen?
- 19 | A. Sure. I understand, yeh.
- 20 | Q. I'm not sure that I understood correctly this morning when  
21 | Mr. Spicer was asking you about the statement that you gave  
22 | about this headstone incident. Do I understand it that you  
23 | gave a statement that's not the one that Mr. Spicer showed you  
24 | in the book? Is that correct?
- 25 | A. That's right.

1 Q. However, in the statement that you say you did give, you did  
2 not tell the truth to the police?

3 A. Pardon?

4 Q. In the statement that you say you did give at that time, you  
5 did not tell the truth to the police?

6 A. No, I didn't tell the truth, no.

7 BY COMMISSIONER EVANS:

8 Q. What was your answer? You didn't say that.

9 A. Do you want me to tell you like --

10 Q. I didn't hear what your answer was?

11 A. To --

12 Q. When you gave -- You were asked that you gave a statement --  
13 did you give a statement to MacIntyre and you say the one  
14 in the book is not the one that you gave?

15 A. Yeh, I did give a statement to them.

16 Q. And did you lie in that statement or did --

17 A. Yes, well, it was a lie. It was more like well you telling them  
18 about you meeting two guys from outer space and one guy was  
19 green and the other was blue and, you know, that's the guy  
20 that -- that did it.

21 MR. MURRAY:

22 Make it up as a faux pas.

23 BY COMMISSIONER EVANS:

24 Q. That's the statement?

25 A. That's right. That's the statement I gave them.

1 | BY MR. MURRAY:

2 | Q. Did Donald Marshall tell you on the night of the stabbing that  
3 | Sandy Seale had screamed?

4 | A. Like I say it was a matter of seconds that this thing went  
5 | down and, you know, I don't -- I don't recall him telling me  
6 | that anybody ever screamed or -- it just happened so fast.

7 | Q. Did Donald Marshall on that night tell you that the person  
8 | he encountered or the persons he encountered, one of them  
9 | had said -- called Sandy Seale "Blackie" or "Black bastard"  
10 | and called Donald Marshall, Junior, an "Indian"?

11 | A. He just told me this: "I got something for you, Black guy,  
12 | and I got something for you, Indian." or something like that,  
13 | you know.

14 | Q. So your recollection is something like "Black guy"?

15 | A. Yeh, like, you know, like the guy's -- I knew Sandy, you know.  
16 | He was -- He wasn't really -- really a Black guy, you know.  
17 | He was more White than -- Like you know, he wasn't really  
18 | White. Like half and half, like you know. He was not really  
19 | a dark person, you know, you could say. But that's what  
20 | Marshall told me what that fellow said to them.

21 | MR. MURRAY:

22 | If I might have a moment, My Lords.

23 | BY MR. MURRAY:

24 | Q. You testified that you had a conversation with Donald Marshall,  
25 | Junior, in the Cape Breton Correctional Centre over the weekend

1 before you both appeared in court for the first time on June  
2 7th, 1971. Is that correct?

3 A. Yes. We were both remanded to the County Gaol. We stayed in  
4 the same cell and like we bunked together. There was a bunk  
5 bed and you know, we were -- like, you know, we were the only  
6 guys that -- So he told me about the case and what he knew,  
7 what he already told me, and what I --

8 Q. And you told him what you knew.

9 A. What I was in there for, yes.

10 Q. Yes, and told him about John Pratico.

11 A. Yes.

12 Q. And that's the point at which Donald Marshall, Junior, made  
13 the remark: "He's crazy."?

14 A. "He's crazy", yeh.

15 Q. And I take it that you understood that in the sense of, "How  
16 can he be saying that? That never happened."?

17 A. That's right.

18 Q. And not that John Pratico had any mental problems that you  
19 knew of?

20 A. I never knew he had a mental problem until he testified.

21 Q. I see, testified at these Commission Hearings?

22 A. Yes.

23 MR. MURRAY:

24 I have no further questions.

25 MR. BARRETT:

No questions, My Lord.

1 | BY MR. SAUNDERS:

2 | Q. Mr. Christmas, my name is Saunders and I represent the Attorney  
3 | General and I have some questions for you.

4 | A. Yes.

5 | Q. You indicated that when you and John Pratico were on the  
6 | street outside his house, you urged Mr. Pratico to go back  
7 | to the police and tell the truth.

8 | A. Yes.

9 | Q. You recognized, sir, how important it was for Mr. Pratico to  
10 | tell the truth to the authorities?

11 | A. Yes, that's the reason I told him.

12 | Q. And you knew that that was an important thing for him to do.

13 | A. Yes.

14 | Q. Yes, and did you have that search for the truth in mind, Mr.  
15 | Christmas, when you were interviewed by Detectives MacIntyre  
16 | and Urquhart on October 28, 1970, with respect to the tomb-  
17 | stone incident? Did you know that it was important to tell  
18 | the truth to the police officers on that occasion, sir?

19 | A. Well, the way they were questioning you and everything, you  
20 | know. You know, you had no other choice but give them some-  
21 | thing they wanted.

22 | Q. Did you know that it was important to tell the truth to the  
23 | police officers investigating that incident?

24 | A. I don't know if it was important or not to me. But to me,  
25 | they were blaming -- They were blaming me for something I



1 | wasn't doing.

2 | Q. Was it important to you to tell the truth to the policemen?

3 | A. I did. I told them as much as they want. I gave them the  
4 | statement they wanted.

5 | Q. Did you give them the truth?

6 | A. No, I didn't.

7 | Q. You lied to the police officers.

8 | A. Well, they wanted something and I gave them something. I  
9 | didn't know what they wanted. They told me there was two or  
10 | three other people involved with me and all that and they  
11 | said that they seen me doing something which I never did.

12 | Q. Yeh, the story that you gave to the police officers was false?

13 | A. Yes, it was.

14 | Q. All right, now you attended an actual hearing before the judge  
15 | on that incident. 'Is that not so?

16 | A. Yes, and --

17 | Q. Yes, and you testified, sir?

18 | A. No, I never testified or nothing.

19 | Q. Are you sure about that, Mr. Christmas?

20 | A. Yes, I'm sure.

21 | Q. I'm going to show you a newspaper clipping that I have from  
22 | the Cape Breton Post of November 18, 1970 and you'll see that  
23 | according to this article a number of accused people are  
24 | described as having appeared in court in respect to charges,  
25 | and is your middle name Joseph?

- 1 A. Yes.
- 2 Q. And were you sixteen years of age on November 18, 1970?
- 3 A. Yes.
- 4 Q. And do you see the reference in the article that you pleaded  
5 not guilty to the charge before Provincial Court Judge R. J.  
6 MacDonald?
- 7 A. Yes, but I -- That's what I was saying. That's when the  
8 papers come in. That's what we were waiting for, the statements  
9 to come out.
- 10 Q. Yes, and do you see the reference "City Police Detective  
11 Sergeants M. J. MacDonald and William Urquhart testified  
12 concerning a statement taken from the accused at the police  
13 station on October 28."
- 14 A. Yes. That's what I was saying. That's when the statement was  
15 brought up to the judge and --
- 16 Q. Exactly and you've already referred to the exhibit in Book 48  
17 which was the statement and it was marked "refused to sign" or  
18 something to that effect.
- 19 A. Yes.
- 20 Q. Yeh. And you see the last part of the article, sir, that:  
21 In it the accused said that he and two others  
22 damaged the headstone and at his trial yesterday,  
23 the accused said he was lying in his statement to  
the police. Judge MacDonald found him guilty.
- 24 Do you see that commentary in the article, sir?
- 25 A. Yes, that's what I'm saying about the statement that I --  
that I gave him wasn't brought up.

1 Q. Having been shown the article, do you now recall actually  
2 testifying before the Provincial Court Judge at that hearing,  
3 sir?

4 A. No, I don't. I don't recall testifying.

5 Q. You don't recall that.

6 A. No.

7 Q. Do you recall giving any indication to the Provincial Court  
8 Judge at that trial that you had lied to the police officers?

9 A. I told the boys I gave them a statement and you know, they'll  
10 have to bring it up in court to -- you'll hear it but which wasn't  
11 brought up. And this statement that is on this book here is  
12 not the statement that I gave him.

13 Q. Indeed, I guess it's your evidence, is it, that you've never  
14 seen that statement before; that is, in Exhibit 48?

15 A. That's right. I never seen this statement before.

16 Q. Never saw it before?

17 A. No.

18 Q. Do you recall other accused being in court that day including  
19 Junior Marshall and Dennis Michael Tobin and Arthur James Paul?

20 A. Stewart Marshall, yes.

21 Q. Yes, on the same dates?

22 A. We were all brought in court that day and the charges read  
23 out to us and --

24 Q. Do you recall Junior Marshall being convicted on that day of  
25 separate charges of giving liquor to minors?

- 1 | A. I don't know --
- 2 | Q. When you were in court.
- 3 | A. I don't know. I think he had a trial that time, Marshall, on
- 4 | that. I don't know if both charges were tried or just one.
- 5 | Q. In any event the newspaper article that I showed you indicates
- 6 | that Mr. Marshall was sentenced to five months on that date
- 7 | that you were there in court that morning on two charges of
- 8 | giving liquor to minors.
- 9 | A. Yeh, I think he got --
- 10 | Q. Do you recall that, sir?
- 11 | A. Yeh, I think he got three months on one charge and two on the
- 12 | other.
- 13 | Q. Exactly. You remember that?
- 14 | A. Yes.
- 15 | Q. Yeh, and you remember on the same date that you were there and
- 16 | Junior Marshall was there, Dennis Michael Tobin being --
- 17 | entering a plea of guilty to a charge of break and entering
- 18 | a railway van and theft of materials from that railway van
- 19 | and being sentenced on that offence.
- 20 | A. Yes, he got six months that time.
- 21 | Q. Yes. And on that same date that you were there and the others
- 22 | were there, do you remember Arthur Paul pleading guilty to
- 23 | offences of theft of radio equipment?
- 24 | A. He got six months for that.
- 25 | Q. Yes, and that was all on the same date.

THOMAS J. CHRISTMAS, by Mr. Saunders

1 MR. CHAIRMAN:

2 I -- The relevancy of that line of questioning is difficult to  
3 follow. Maybe it's difficult --

4 MR. SAUNDERS:

5 I've concluded with this witness the point --

6 MR. CHAIRMAN:

7 -- for me to follow.

8 MR. SAUNDERS

9 Pardon me, My Lord?

10 MR. CHAIRMAN:

11 Difficult for me to follow but tell me what it is -- why you  
12 consider that to be relevant.

13 MR. SAUNDERS:

14 Well, my point in asking this witness those questions, My Lord, was  
15 to find out what he recalled and what had happened in court that  
16 day, and I'm testing his memory as to what he in fact did and  
17 what he observed others do.

18 MR. CHAIRMAN:

19 Well, he's told us what he recalled as it relates to himself.

20 BY THE WITNESS:

21 Q. Like I say like everything took place at the police station.  
22 What you gave -- what you said but when you got to court, you  
23 had no say. You know, you were just told to sit down and wait  
24 until your name is called up. That's what I recall of the  
25 court system in Sydney that there.

1 | BY MR. SAUNDERS:

2 | Q. My information, Mr. Christmas, is that Dalhousie or Nova  
3 | Scotia Legal Aid was established in Sydney in about 1969.

4 | A. Well we were never told about lawyers at that time.

5 | Q. Yes. Tell me, sir, did you ever have a Legal Aid solicitor  
6 | on any of the occasions that you appeared in court on any of  
7 | the charges that are indicated in your record?

8 | A. Just that -- threatening that witness. That's the only time  
9 | I never knew about Legal Aid lawyers.

10 | Q. Except, though, on that occasion on that charge, threatening  
11 | a witness, you had Mr. Elman represent you.

12 | A. Yes, and I think he was from the Legal Aid system at that time.

13 | Q. You think that, do you?

14 | A. I don't -- I think. Yeh, I'm pretty sure he was. Like he  
15 | was just a young man, like, you know --

16 | Q. You indicated earlier, Mr. Christmas, that you weren't sure  
17 | whether the court had appointed a lawyer for you or whether  
18 | the case worker had appointed a lawyer. Had you ever gone to  
19 | court, Mr. Christmas, and asked the judge for a lawyer?

20 | A. They never asked me if I ever needed a judge or --

21 | Q. Never went into court and said, "Look, Your Honour, I don't  
22 | have a lawyer but I would like one."? Never did that?

23 | A. I never knew nothing about it.

24 | Q. So you never did that?

25 | A. No, I never -- I never knew that you could ask for a lawyer or

1 | you can ask for a court worker or a social worker.

2 | Q. I see. I see. And the only time that you ever had representat  
3 | by Nova Scotia Legal Aid was the incident as you recall it  
4 | involving Mr. Elman.

5 | A. Yes.

6 | Q. Throughout all of these charges from 1970 according to the  
7 | exhibit through 1986. Is that correct?

8 | A. Well, after -- After I was released, I knew more about lawyers  
9 | and systems and all that, appeals and all that.

10 | Q. Yes, so after those occasions that you were released from  
11 | incarceration, did you then get a lawyer the next time you were  
12 | before the court?

13 | A. Oh, yeh. Yes, sure.

14 | Q. You did?

15 | A. Yes.

16 | Q. All right. Have you ever been refused a lawyer any time that  
17 | you've appeared in court, sir?

18 | A. No, I never was.

19 | Q. Any time you've asked for a lawyer, one was provided to you or  
20 | you got one?

21 | A. I refused it myself, you know, if the lawyer wasn't -- Like  
22 | if the lawyer wasn't going with what I'm telling him. You  
23 | know if he's telling me he got the statement that, you know,  
24 | that these people seen you and these police officers say they  
25 | got a statement that you know -- As far as giving statements to

1 | police officers or something, I gave one statement and it's  
2 | in this book here --

3 | Q. Yeh, but my question, sir, Mr. Christmas, is: Has there ever  
4 | been an occasion when you have been turned down in --

5 | A. No, I was never.

6 | Q. -- seeking a lawyer. All right. I take it from your answer  
7 | that there have been times when you've dismissed a lawyer  
8 | because you weren't happy with him.

9 | A. Yes, if he was --

10 | Q. All right, did you get another lawyer on those occasions?

11 | A. Well they sent another lawyer in, I think, or --

12 | Q. You've never been turned down in seeking legal counsel, correct?

13 | A. I know one incident I had a lawyer working on my case and I  
14 | was sentenced to eighteen months on a charge which I -- there  
15 | was evidence in court and the lawyer himself knew that there  
16 | was evidence in court that the charge should be dismissed. He  
17 | even asked for dismiss on the charge at that time.

18 | Q. I'm sorry?

19 | A. They asked for a dismiss on the charge at that time, this  
20 | lawyer I had, the legal aid lawyer, and I was still convicted  
21 | in their court.

22 | Q. Other than that one incident, did you always have representation  
23 | when you sought it?

24 | A. I always had a lawyer when I went to court.

25 | Q. All right, okay. You're presently on probation for an offense



- 1 | that occurred in April of '86, Mr. Christmas?
- 2 | A. Yes.
- 3 | Q. That was an assault, was it?
- 4 | A. Common assault, yes.
- 5 | Q. Yeh, as I look at your record that's been introduced by
- 6 | Commission Counsel you have a number of assault-related
- 7 | offenses.
- 8 | A. That's what -- That's what I'm getting at today. It's them
- 9 | that say that I assaulted all these people which is not true.
- 10 | Q. For example, Mr. Christmas, October 12, 1976, sentenced to
- 11 | eighteen months for assault.
- 12 | A. That's the -- That's the case I'm talking about lawyer -- I'm
- 13 | loosing my lawyer in this appeal.
- 14 | Q. Yes.
- 15 | A. I'm in gaol and this lawyer tells me, "I'm going to put an
- 16 | appeal in for you. We'll take it to a different court."
- 17 | Right. And I'm sitting in this gaol -- I sat in this gaol for
- 18 | thirteen months and then I called up six months, seven months
- 19 | after asking if the appeal was going through or not --
- 20 | Q. In any event --
- 21 | A. -- and they tell me this lawyer don't further work here no more.
- 22 | Q. Yeh. In any event, Mr. Christmas, you were convicted on an
- 23 | assault charge in October of '76, and sentenced to eighteen
- 24 | months?
- 25 | A. Yes.

1 Q. In May of 1978 you were also convicted of an assault charge.

2 BY MR. CHAIRMAN:

3 Q. Before you leave that, you had been sentenced and you had  
4 instructed your lawyer to appeal.

5 A. Yes.

6 Q. And six months later when you inquire, you find that he is no  
7 -- this lawyer is no longer working for Legal Aid?

8 A. That's right.

9 Q. Did Legal Aid offer then to provide another lawyer to continue  
10 the appeal for you?

11 A. They told me there's no -- nobody could help me, you know.

12 Q. So am I entitled to assume then that your case was never  
13 appealed?

14 A. That's right.

15 Q. All right.

16 BY MR. SAUNDERS:

17 Q. And where were you incarcerated for that term of eighteen  
18 months, Mr. Christmas?

19 A. Cape Breton Correctional Centre.

20 MR. SAUNDERS:

21 Anything else on that point, My Lord?

22 BY MR. SAUNDERS:

23 Q. In May of 1978, Mr. Christmas, you were convicted again of  
24 assault.

25 A. Excuse me. Could I have the record there, you know?

1 Q. Oh, certainly.

2 MR. CHAIRMAN:

3 We have -- the record's been admitted in evidence and I -- this  
4 seems to be an unnecessary line of questioning. We have it before  
5 us. The witness has admitted that he has a lengthy record. Are  
6 you leading into something that I can't anticipate?

7 MR. SAUNDERS:

8 I took his answer to be, My Lord, that he wasn't responsible for  
9 any of those offenses.

10 MR. CHAIRMAN:

11 Well, he -- but he doesn't deny the convictions.

12 MR. SAUNDERS:

13 No, well I wasn't sure about that and that's why I asked him the  
14 question about the '78 one.

15 MR. CHAIRMAN:

16 Well my understanding is when Mr. Spicer put the record to him,  
17 he admitted that was his record and that was admitted into evidence.

18 MR. SAUNDERS:

19 Fine. I'm quite content with that, My Lord.

20 BY MR. SAUNDERS:

21 Q. Mr. Christmas, were you present during the evidence of Terrance  
22 Gushue?

23 A. Yes.

24 Q. Were you ever involved in a physical attack on Mr. Gushue?

25 A. No.

1 | Q. Answer, "no"?

2 | A. No.

3 | Q. Were you one of the young men walking with Mary O'Reilley when  
4 | she was stopped by the Sydney Police in or about May, 1971, at  
5 | about two o'clock in the morning?

6 | A. No.

7 | Q. You were not?

8 | A. No.

9 | MR. SAUNDERS:

10 | Thank you.

11 | MR. PRINGLE:

12 | No questions, My Lord.

13 | MR. CHAIRMAN:

14 | Rise until two.

15 | INQUIRY ADJOURNED: 12:30 p.m.

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1 INQUIRY RECONVENED: 2:05 p.m.

2 MR. CHAIRMAN:

3 Mr. Ross.

4 MR. ROSS:

5 Thank you, my Lord.

6 BY MR. ROSS:

7 Q. Mr. Christmas, my name is Anthony Ross and I'll be asking  
8 you some questions. I take it that apart from being cousins,  
9 you and Junior Marshall were also very good friends?

10 A. Yes, I said that.

11 Q. You grew up with him?

12 A. Yes.

13 Q. You chummed around together?

14 A. Yes.

15 Q. I guess you even got into trouble together from time to time,  
16 is that a fair statement?

17 A. Well, I'm not sure --

18 Q. Some kind of trouble?

19 A. A few things. Breaking windows here and --

20 Q. Pardon me?

21 A. Breaking a window here and there, it's no --

22 Q. Sure, break a window here and there. I guess you would know  
23 his friends?

24 A. Yeh.

25 Q. And his girlfriends?

- 1 A. Yeh.
- 2 Q. And I guess he would know your friends?
- 3 A. Yeh.
- 4 Q. And your girlfriends?
- 5 A. Yeh.
- 6 Q. And he would be acquainted with the relationship that you had  
7 with John Pratico?
- 8 A. Well, we were all hanging around together, yeh.
- 9 Q. Sure, and as far as the group was concerned, did you maintain  
10 a level of discipline in the group?
- 11 A. What do you mean.
- 12 Q. Well, were you a persuader or an enforcer or anything like  
13 that in the group?
- 14 A. No, I wouldn't say I was the enforcer or --
- 15 Q. I see, anyway this friendship continued -- as a matter of  
16 fact -- how long before this incident in May of 1971 would  
17 you say that you and Junior Marshall had become very good  
18 friends?
- 19 A. In '71.
- 20 Q. Yes.
- 21 A. Well, we were friends all along -- growing up.
- 22 Q. All along, yes, my suspicion. As a matter of fact you would  
23 have seen Junior Marshall quite often during the -- during  
24 the week of -- the week of the Seale stabbing and the  
25 following week, wouldn't you?

- 1 A. Well, I'd see him off and on, I'd say that, yeh.
- 2 Q. Well, is it just off an on or quite often?
- 3 A. Once or twice.
- 4 Q. Just once or twice?
- 5 A. Yeh.
- 6 Q. I see. Now my records indicate and the facts are that this  
7 incident took place on Friday the 28th of May, 1971?
- 8 A. Yes.
- 9 Q. Now you were at the dance that night?
- 10 A. Yeh.
- 11 Q. Now did you see Sandy Seale at that dance?
- 12 A. No, I don't -- not really; no.
- 13 Q. When you say not really, did you sort of see him and sort  
14 of not seeing him; is that what I am to understand?
- 15 A. No, no, there was other Coloured people there and Whites and  
16 Indians, so they were all leaving the dance. There was, you  
17 know, you don't know who's there or you're going the other  
18 way yourself and leaving the group there.
- 19 Q. Yeh, I guess the short answer to all of that is no, is it?
- 20 A. No, that's right, yeh.
- 21 Q. No you did not see Sandy Seale.
- 22 A. I didn't see him, no.
- 23 Q. No. As a matter of fact did you hang around with Sandy Seale  
24 prior to this dance?
- 25 A. No.

1 Q. As a matter of fact if you hung around with Sandy Seale the  
2 fact that Junior knew your friends, he would know that you  
3 were hanging around with Sandy Seale, is that correct?

4 A. Yeh, he'd know, yeh.

5 Q. And on the other hand if Junior was hanging around with  
6 Sandy Seale as friends, you would have known that also?

7 A. Yeh.

8 Q. And is it not true that you cannot say with any honesty that  
9 Junior and Sandy Seale were friends who hung around together?

10 A. I wouldn't know because I -- we had friends that was Coloured  
11 people down there with us too, you know.

12 Q. Well, that's true, well, I mean --

13 A. But, gee, I don't know Sandy Seale -- well -- we'd -- see I  
14 never knew where Sandy Seale was from until after, you know.  
15 I thought he was -- I always thought he was from the Pier.  
16 But he hung around with Pier fellows and you know, that's  
17 where the boys we were hanging around with. They were  
18 from the Pier area and --

19 Q. I hear what you're telling me but I don't think it answers  
20 my question. As far as Junior and Sandy are concerned you  
21 cannot say that they were friends; you're not in a position  
22 to say that?

23 A. No.

24 Q. As a matter of fact, you never saw Junior hanging around with  
25 Sandy?



- 1 A. No.
- 2 Q. I see. And is it fair to say then that when you heard that  
3 there was a stabbing on this Friday night -- first I must  
4 ask you, did you hear the name of the person who got stabbed?
- 5 A. Yeh.
- 6 Q. So you heard that somebody by the name of Sandy Seale got  
7 stabbed?
- 8 A. Yeh.
- 9 Q. Now this was somebody that you didn't know?
- 10 A. Well, I'd seen him around, like, you know, in town -- in the  
11 Park and I'd met him before. I'd seen --
- 12 Q. Oh, you had seen him?
- 13 A. -- I'd seen him before -- I'd seen him before, eh, but I  
14 never chummed around with the fellow.
- 15 Q. Had you seen -- did you see him in the Park -- in Wentworth  
16 Park?
- 17 A. Well, he chummed around the Park. Yeh, he went through the  
18 Park.
- 19 Q. He went through the Park?
- 20 A. Yes.
- 21 Q. You say he chummed around the Park; who was he chumming around  
22 with?
- 23 A. Well, there was other people around he knew, like, you know,  
24 White people and White girls and --
- 25 Q. You saw him chumming around in the Park with White people?

- 1 A. Yeh.
- 2 Q. Did you know these people?
- 3 A. Well, I knew Barbara Floyd and --
- 4 Q. That --
- 5 A. Barbara Floyd and their -- their group there, you know.
- 6 Q. But my recollection is that when Barbara Floyd was on the
- 7 stand I asked her if she knew Sandy Seale and she didn't?
- 8 A. Well, like she knew the bunch that hunged around, the girls and
- 9 all that, like, you know -- you hunged around the Park at
- 10 times -- do you understand what I'm saying, like, like --
- 11 you know, everybody knew each other in the Park, you know.
- 12 Q. Well, the thing I'm going to --
- 13 A. With the group -- from this group that I'm talking about.
- 14 Q. But what I'm going to ask you, sir, is that you give me
- 15 information that's from your personal knowledge that you
- 16 know personally. If it is something that somebody told you
- 17 I will ask you about that, okay? Is that fair enough?
- 18 A. Yeh.
- 19 Q. Okay. Now can you say that you saw Sandy Seale with anybody
- 20 that you personally know?
- 21 A. Just a few guys I knew from the Pier.
- 22 Q. A few guys from the Pier?
- 23 A. Yeh.
- 24 Q. Who were these guys from the Pier?
- 25 A. Alphonse Bishop.

- 1 Q. Alphonse Bishop?
- 2 A. Yeh, and Martin Lovell.
- 3 Q. Martin?
- 4 A. Lovell.
- 5 Q. Lovell. And who else?
- 6 A. There was a few other guys but I don't recall --
- 7 Q. No, but do you remember that I asked you tell me what you
- 8 know?
- 9 A. Yes, I'm trying to -- I'd -- just like nicknames they had, eh,
- 10 you know, and --
- 11 Q. Give us the nicknames and we'll find out who they are?
- 12 A. "Winky" and --
- 13 Q. "Winky"?
- 14 A. Yeh.
- 15 Q. That's Winky Lucas, isn't it?
- 16 A. I don't know -- it must be -- I don't know.
- 17 Q. Yes. Well, any way "Winky" and who else?
- 18 A. I don't know -- some King -- last name was King any way.
- 19 Q. King, but these people that you saw him hanging around with,
- 20 this was down in Whitney Pier?
- 21 A. Yeh, they were from the Pier, yeh.
- 22 Q. And you'd see that when you visited Whitney Pier?
- 23 A. Yeh.
- 24 Q. Yeh, okay. We'll move to another area. As far as the Park
- 25 itself is concerned -- Wentworth Park?

1 A. Yes.

2 Q. Can you say in all honesty that you seen Sandy Seale hanging  
3 around in Wentworth Park, yes or no?

4 A. No.

5 Q. Thank you. So then I take it that at the time of the stabbing  
6 when you heard that somebody had been stabbed, you heard the  
7 name Sandy Seale, you knew the person?

8 A. I heard the name, yeh.

9 Q. Yes, and you -- and you identified -- you were able to  
10 connect the name with the individual?

11 A. Yes.

12 Q. Yes. Now as far as this stabbing is concerned, when you -- you  
13 spoke to Junior Marshall within five hours of the -- the  
14 stabbing, am I correct with that?

15 A. Five about -- three hours at the most, I'd have to say.

16 Q. Sure, you thought around three hours after the stabbing.  
17 And at that time did he mention to you that there was a  
18 robbery?

19 A. No, there was --

20 Q. As a matter of fact, I'm suggesting today there was no  
21 robbery and that -- would you agree that the first time you  
22 heard of the robbery was some -- some substantial time after  
23 Marshall had been convicted?

24 A. No, it was never mentioned about robbery until '82.

25 Q. '82, precisely. Now tell me did Junior tell you anything

1 about somebody saying "dig man, dig"?

2 A. No.

3 Q. And the first time you heard about that was around '82 also?

4 A. Yeh.

5 Q. And so I take it then the Friday night going into the Saturday  
6 morning, you get back at the Reserve from the dance?

7 A. From the Pier.

8 Q. Well, from -- well, from the dance you went to the Pier and  
9 then you returned to the Reserve?

10 A. Yeh.

11 Q. Yes. And at that point you spoke with Junior?

12 A. Yeh, I met him on the road.

13 Q. Yes. And from there you went over to somebody else's house?

14 A. Yeh.

15 Q. And from there, where did you go?

16 A. I went home.

17 Q. You went home. Now when you last -- before going home, the  
18 last place you saw Junior was at this house, isn't that  
19 correct?

20 A. Yeh.

21 Q. And whose house was it?

22 A. James Joe.

23 Q. James Joe?

24 A. Yeh.

25 Q. Yeh. So you left him over at James Joe's and you went home,

- 1 am I correct?
- 2 A. Yes.
- 3 Q. Yes. And when did you next see Junior after going home that  
4 morning?
- 5 A. A couple of days afterwards --
- 6 Q. I see.
- 7 A. -- a day and a half or that.
- 8 Q. So you did not see him at all on Saturday?
- 9 A. He was -- well, I heard he was down at the police station.
- 10 Q. Yes, but I'll get to what you heard. I'm going to ask you  
11 what you -- what you seen for a minute.
- 12 A. No, I never seen him after that.
- 13 Q. You didn't see him on Saturday at all?
- 14 A. No.
- 15 Q. And you didn't see him on Sunday?
- 16 A. No.
- 17 Q. You saw him sometime the next week?
- 18 A. Yeh, the following week, you know.
- 19 Q. Were you here when Roy Gould was giving evidence?
- 20 A. No.
- 21 Q. I see. Roy Gould gave evidence to the effect that there were  
22 rumors of reprisals of attacks on the Indian community. Did  
23 you hear those rumors?
- 24 A. Yes.
- 25 Q. And Roy Gould further gave evidence that as a result of

1           these rumors certain precautions were taken to secure the  
2           Reserve?

3           A. Yes.

4           Q. Do you -- and are -- were you aware the precautions were  
5           being taken?

6           A. Yes.

7           Q. And I understand it that there was a road-block among other  
8           things?

9           A. Yes.

10          Q. Did you remember the road-block with two cars?

11          A. Yes, yes.

12          Q. And do you recall whether or not this was done with the  
13          cooperation and the assistance of the Sydney Police  
14          Department?

15          A. I really wouldn't -- I can't answer that because it was  
16          up to the Council then.

17          Q. Very good. It was up to -- oh, it was a move by the Council  
18          to secure the Reserve, was it?

19          A. That's right, yeh.

20          Q. I see. And as far as the securing of the Reserve is concerned  
21          were you involved in that security program?

22          A. No, I was just -- just there like everybody else was.

23          Q. I'm going to read something to you and I'm going to ask  
24          you whether or not this is typical of the type of security  
25          that was in place?

- 1 A. Okay.
- 2 Q. Now I want you to really listen to me carefully. Now this is th  
3 report that is entered as exhibit 69 and a part of it is a  
4 conference which was or discussion which involved Pius  
5 Marshall. What he is saying here, the writer is saying:  
6  
7           During my house visit to the Marshall  
8           home, Pius recalled that he had to  
9           sit in the upstairs alone with a shot-  
10           gun while his family resided in  
11           Whycocomagh.
- 12 Now you recalled the Marshall family going over to Whycocomagh?
- 13 A. Yeh, Junior told me there that he was going to Whycocomagh.
- 14 Q. Do you recall them going over to Whycocomagh?
- 15 A. I don't know if they went -- I don't know if they left or  
16 not but I -- I was told that he -- he was going to  
17 Whycocomagh, you know.
- 18 Q. Well, just listen to me for a minute that "Pius was upstairs  
19 with a shotgun", did you know whether or not anybody else  
20 on the Reserve had armed themselves in case of trouble?
- 21 A. I don't know. I really can't say. I did see people with  
22 guns or --
- 23 Q. No, but I'm asking you what do you know? If it's none, it's  
24 none?
- 25 A. I don't -- I can't recall none of that like, you know.
- Q. You cannot recall whether or not other people had armed  
themselves?
- A. No, I can't.



1 Q. I see. Now you say there -- when -- when Mr. Spicer was  
2 questioning you, you said that there were threatening  
3 phone calls. Threatening phone calls and something about  
4 the "panthers" coming down?

5 A. Yeh, that's --

6 Q. Where were they supposed to be coming down from, did you  
7 ever find out?

8 A. Well, people who called in from other Reserves, they were  
9 coming down from Halifax.

10 Q. Pardon me.

11 A. I say they were coming down from Halifax something like that,  
12 you know.

13 Q. "Panthers" in Halifax.

14 A. Yeh.

15 Q. I see. I see, any idea what they were coming down to do?

16 A. I don't know.

17 Q. Did you try to find out?

18 A. Well, after -- after Marshall's charged for the stabbing  
19 and all that, that's when --

20 Q. After Marshall what?

21 A. -- because he was like, getting charged for stabbing and  
22 all that, you know, that's when people -- after -- you know  
23 -- they -- I guess they blamed it on Marshall right from  
24 the start.

25 Q. When you say they blamed it on Marshall, who do you mean?

- 1 | A. Well, the "Black Panthers" were coming down.
- 2 | Q. Now, sir, that I understand you, I'll move on. I understand
- 3 | that you were on remand; you were one time in the Correctional
- 4 | Center and Junior Marshall was there?
- 5 | A. Yes.
- 6 | Q. And you spoke to him from time to time during that stay?
- 7 | A. Oh, yeh.
- 8 | Q. Did you -- and did you read that book by Harris, "Justice
- 9 | Denied"?
- 10 | A. No.
- 11 | Q. You didn't know anything about it?
- 12 | A. No.
- 13 | Q. Anyway there was a section in it in which Harris reports that
- 14 | when Junior was in the Correctional Center and asked why
- 15 | he was there, he said, "Killing Seale's out of season". Did
- 16 | you ever hear him saying anything like that?
- 17 | A. I recall something like that coming up while we were in there.
- 18 | Q. While you were on the inside?
- 19 | A. Yes.
- 20 | Q. Did he say that to you?
- 21 | A. No, it was -- White people that brought that up.
- 22 | Q. I see. What do you recall?
- 23 | A. It was at that time there was some inquiry or something going
- 24 | on tv about the young seal pups getting killed --
- 25 | Q. Yes.

- 1 A. -- and slaudered and that's when -- that's when that -- that  
2 took place that --
- 3 Q. Because around that time that the stabbing took place, yes?
- 4 A. Yeh, that -- that -- that was going on on tv and everything  
5 else and the White inmates there, like, made a joke out of  
6 it or something like, you know. And Marshall got upset over  
7 it and said it wasn't --
- 8 Q. Oh, I see. It didn't originate with him?
- 9 A. No, there was nothing to do with, like, the stabbing -- it  
10 was just the name that was, you know.
- 11 Q. I see, so it did not originate with -- with Marshall?
- 12 A. No.
- 13 Q. It originated in the -- in the prison system?
- 14 A. Yeh, like, just what people seen on tv that's what they're  
15 talking about, you know.
- 16 Q. Tell me something, as far as your correspondence with Junior  
17 Marshall when you were in gaol and he was also in gaol, you  
18 were writing back and forth for a while, weren't you?
- 19 A. Yes.
- 20 Q. Well, tell me about the prison system, were they monitoring  
21 these letters, were there a record kept of what letters went  
22 out and what letters were received?
- 23 A. Oh, yeh, they were written and checked.
- 24 Q. Pardon.
- 25 A. They were written/checked, you know.

1 Q. I see, and were -- do you know whether or not it is the  
2 system to keep a record of these things so that they can  
3 go back there and say on such and such a date, you wrote  
4 such a letter to Marshall?

5 A. There's some letters that I never got answered back and never  
6 know what ever become of them. You know, I asked Marshall  
7 if he did get a hold of them and he said, no I never heard  
8 it, you know.

9 Q. I see, so you can't tell us whether or not today there's  
10 a system in which the -- there's a recording of the letter --  
11 the -- the correspondence.

12 A. No, I don't think so.

13 Q. I see.

14 A. Just the letters I got myself.

15 Q. But just to wrap up and you will confirm for me that you  
16 never had any personal contact with Sandy Seale yourself?

17 A. No.

18 Q. And you cannot give any account of any personal contact  
19 between Junior Marshall and Sandy Seale?

20 A. No.

21 Q. And anything you can say is what somebody told you?

22 A. Just what -- what this letter acknowledges, that's what I  
23 believe in, you know.

24 Q. I see.

25 A. You know, so that I just go by what I heard now, you know.

1 Q. I guess those are my questions; thank you very much Mr.  
2 Christmas.

3 BY MR. WILDSMITH:

4 Q. Mr. Christmas, you and I have met before, so I won't bother  
5 with the introductions.

6 A. Yes.

7 Q. Dealing first, Mr. Christmas, with the rumors of racial  
8 tensions at the time that my friend, Mr. Ross, has mentioned  
9 to you, can you tell us your understanding of the relationship  
10 between the Indian and Black communities at about this time?

11 A. There were no fighting amongst each other or there were no  
12 arguments amongst each other, you know.

13 Q. No evidence -- no prior evidence of tensions --

14 A. No.

15 Q. -- between Indians and Blacks?

16 A. No.

17 Q. And I think your testimony is that in Wentworth Park itself  
18 there would often be members of the Black community, members  
19 of the White community and members of the Indian community  
20 there at the same time?

21 A. Yes.

22 Q. And when that happened, there wasn't a problem between Blacks  
23 and Indians?

24 A. No.

25 Q. Thank you. You used the -- the word in relation to some of

1 | these activities in the Park of "stemming". Am I correct  
2 | in understanding that is the same kind of expression  
3 | as bumming?

4 | A. Yeh, panhandling, you know.

5 | Q. Yes, looking for change?

6 | A. Yeh.

7 | Q. Thank you.

8 | COMMISSIONER EVANS;

9 | I didn't get the word.

10 | MR. WILDSMITH:

11 | The word is "stemming". S-T-E-M-M-I-N-G, I believe. I believe  
12 | that was a word that will appear in the record from Mr. Christmas'  
13 | testimony.

14 | COMMISSIONER EVANS:

15 | Accepted.

16 | MR. WILDSMITH:

17 | Accepted, okay.

18 | BY MR. WILDSMITH:

19 | Q. Now with -- with respect to the incident that surrounded the  
20 | MacIntyre gravestone, I believe your evidence is that the  
21 | police came to the Reserve and engaged in what you described  
22 | as a "round up"?

23 | A. Yeh.

24 | Q. And by that do you mean that they went from house to house  
25 | and picked up the six or seven youths that you identified and

1 |       took them all down to the police station?

2 | A. Yeh.

3 | Q. And am I correct in understanding that you were not told the  
4 | reason why they wanted you at the police station?

5 | A. Just told us that they want to question us to a few things.

6 | Q. About a few things?

7 | A. Yeh.

8 | Q. They didn't identify the gravestone at that time --

9 | A. No.

10 | Q. -- as being one of the things?

11 | A. Just wanted to see us down there.

12 | Q. Okay. And you indicated, I believe, that you were kept in  
13 | the lock-up?

14 | A. Yes.

15 | Q. Can you give us some idea of the length of time that you spent  
16 | at the police station from when they picked you up at your  
17 | home and took you down until you were finally released?

18 | A. It was nine --

19 | Q. I'm sorry.

20 | A. -- it was at nine o'clock that morning until about three-  
21 | thirty, four o'clock.

22 | Q. I see, and when you described being kept in the lock-up,  
23 | what did you mean by lock-up? Is that a gaol cell or a  
24 | room?

25 | A. Yeh, it's like where they kept drunks and people like, going

1 -- going to court and all that.

2 Q. Yes.

3 A. Like a cell block -- cells and --

4 Q. Was it -- were you locked into this lock-up?

5 A. No, we're all in this -- like, there's cells here like --  
6 there's a big hallway like and the cell block.

7 Q. Yes.

8 A. And you can walk around there and there's cells on each side.

9 Q. Were you actually locked up?

10 A. We were locked up in there, you know; some of us were locked  
11 up, you know. We acted up in there, eh, you know. Hollering  
12 and stuff like that, you know; they'd come in and throw one  
13 of us in the cell.

14 Q. I see. Were you -- while you were being kept down there,  
15 did you feel free to leave?

16 A. Oh, I couldn't -- couldn't leave. No, the door is locked.

17 Q. The door was actually locked?

18 A. Yeh.

19 Q. And at this point were you told that you were under arrest?

20 A. No, they just told us that they wanted to questioned us and  
21 you know, there was other people that they had seen already  
22 and --

23 Q. Did they purport to read to you any rights that you might  
24 have to counsel or make phone calls?

25 A. No.



- 1 Q. I see. I take it from the fact that they came to the Reserve  
2 and picked you up at your home, that your parents would know  
3 that you were down at the police station?
- 4 A. Oh, yeh, I had -- I had a phone that time and you know, we  
5 had a phone at the house and -- but never gave us no calls  
6 or nothing, you know. And my mother knew that I was taken  
7 by the cops.
- 8 Q. So your mother knew that you were at the police station?
- 9 A. Yeh, she know.
- 10 Q. Was there any discussion of her accompanying you?
- 11 A. No, they were just -- they say they wanted to see me, that's  
12 all, you know.
- 13 Q. Did they ask you whether you wanted somebody like your parents  
14 with you?
- 15 A. No.
- 16 Q. Okay. Now if I understand your evidence correctly, you were  
17 suggesting something about the police needing a statement  
18 before you could be released?
- 19 A. Oh, yes. They'd reading out statements to us like, you know,  
20 I never gave them statements or actually like, before like --  
21 I used to just hear them, you know, like they'll do all  
22 the talking and just answer, you know, if it's right or  
23 wrong. You know, that's how they come out there with their  
24 statements, you know.
- 25 Q. Is it fair to think that they wanted one of the group of people

1 | who were brought down there, who were rounded up to be charged  
2 | and to confess and then to be charged?

3 | A. Oh, yeh, that's -- that was the whole think, I guess, you  
4 | know.

5 | Q. And did that have something to do with why you eventually  
6 | told them something that was written down, even though you  
7 | didn't sign it?

8 | A. Yeh.

9 | Q. Now with respect to John Pratico, we've had fairly lengthy  
10 | discussion about your conversation with Mr. Pratico and about  
11 | some of the statements that Mr. Pratico made at the  
12 | Preliminary Inquiry. And the point that I want to be clear  
13 | on is whether when you told John Pratico to go back to the  
14 | police, were you telling him to go back to the police to  
15 | tell a lie about what happened?

16 | A. No, I just told him to go back and tell them, you know, --  
17 | you're not telling the truth and he told me and that the  
18 | cops pressed him and you know, they forced on him, eh, you  
19 | know. He said the cops -- the cops' fault, you know. I just  
20 | told him, well, you go back and tell him, you know, that you  
21 | never seen nothing and you don't know nothing, you know. And  
22 | tell the truth what they want, you know.

23 | Q. And your impression that if they went back and said that he  
24 | wasn't there and he didn't see anything and he doesn't know  
25 | anything, that that would have been the truth?

1 A. Pardon.

2 Q. That if Mr. Pratico had gone back and said that he wasn't  
3 there, that he didn't see anything, that he didn't know  
4 anything, that that would have been the truth. Is that  
5 your impression?

6 A. I don't think they would have believed him anyway, you know,  
7 and saying --

8 Q. I'm sorry.

9 A. I said I don't think they would have believed him anyway if  
10 he did go back and told him that time that I, you know, -- he  
11 did go back and --

12 Q. Yes.

13 A. -- you know, they did find out my name, that I went to their --  
14 to Johnny and you know, they had me picked up right away and  
15 charged, you know.

16 Q. Are you suggesting that if he went back to the police and  
17 the police knew that he had been talking to you, that they  
18 would not have believed him? Is that what you're saying?

19 A. No, I'm not saying that. You know, like I'm saying that if  
20 he -- if he did go back and tell them that how he was talking  
21 -- I told him to go back and tell them that he was lying and  
22 you know, they still wouldn't believe him anyway, you know.

23 Q. Yes, they wouldn't have believed him if he had --

24 A. No, I don't think -- I don't think they would have.

25 Q. -- said he'd been lying previously? Right. Well, what I'm

1 interested in is what was going through your mind and whether  
2 what you were trying to do was encourage him to go back and  
3 tell the truth?

4 A. Yeh, that's -- that's right. At least I went up there, you  
5 know, and I told him, you know, to go back and but he told  
6 me himself that he was pressured and you know, he was given  
7 a rough time down there. And I understood what -- what he  
8 meant.

9 Q. There was some discussion between you and --

10 A. Johnny, at that time.

11 Q. -- Mr. Spicer about whether John Pratico told you that he  
12 wasn't there and didn't see it?

13 A. No, he never -- he never said that. I told --

14 Q. He never actually told you that?

15 A. No, I -- I told him, you know, like -- I went up to him and  
16 he just told me what -- what the cops told him, you know, and  
17 to stay away from us and you know, not to hang around with  
18 us and to stay away from us.

19 Q. Okay, if I may try a different area with you. Would you  
20 say that John MacIntyre had a particular reputation amongst  
21 the Indian youth.

22 MR. MURRAY:

23 With respect, my Lord, I was going to get up and object before.

24 Mr. -- Mr. MacDonald on an earlier day objected to specific  
25 questioning by the Union for Nova Scotia Indians about John

1 MacIntyre and the Commission upheld Mr. MacDonald's objection at  
2 that time. No objection is being made now but I'd like to put  
3 one on the record that Mr. -- Mr. Wildsmith has -- has a client  
4 with interest to pursue. Those interests aren't specifically  
5 directed against John MacIntyre. And I suggest that any  
6 questions which he has along that line aren't appropriately  
7 part of these cross-examinations.

8 MR. CHAIRMAN:

9 Mr. Wildsmith, would you indicate what is the purpose of that  
10 question.

11 MR. WILDSMITH:

12 Yes, we've --

13 MR. CHAIRMAN:

14 Bearing in -- bearing in mind your client being the Union of --

15 MR. WILDSMITH:

16 Certainly. Well, I think it goes to the reputation of the police  
17 force in general with the Indian community, one particular officer  
18 who is very heavily involved in investigations, who dealt with  
19 this individual; and indeed, we've already had on record the  
20 statement that apparently Mr. Christmas has said that "Mr.  
21 MacIntyre didn't want the truth, he wanted Indians". So all  
22 of these things seem to be to me --

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 | MR. CHAIRMAN:

2 | It's -- A more appropriate way to -- I would suggest to put that  
3 | question is to ask Mr. Christmas whether, in his opinion, there  
4 | were members of the Sydney Police Department who had views toward  
5 | the Indians that he would find unacceptable. If the answer is  
6 | yes then he could give some instances. It may turn out to be  
7 | Mr. MacIntyre is one of them or there may be others.

8 | MR. WILDSMITH:

9 | Certainly.

10 | MR. CHAIRMAN:

11 | But from your -- I intended to do this earlier this morning because  
12 | I notice again counsellors beginning to ask questions that I'm  
13 | having some difficulty tying into their client's interest. Whereas  
14 | Commission Counsel have an obligation to bring forth all of the  
15 | evidence, I would hope that in the interest of the orderly conduct  
16 | of this hearing that Counsel ask questions that are relevant to  
17 | the people who they are representing. Now, I know that we can't  
18 | draw a hard and fast line -- that there's overlapping. I just use  
19 | it -- take advantage of this to once again remind Counsel. But in  
20 | the meantime, back to your question. I -- Would you rephrase that  
21 | question and then the answer will indicate what approach you should  
22 | use.

23 | MR. WILDSMITH:

24 | Certainly, My Lord.

25 |

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 BY MR. WILDSMITH:

2 Q. Mr. Christmas, my question to you is about the reputation  
3 enjoyed by particular police officers within the Indian  
4 community that you were familiar with in 1970, '71, '72.  
5 Can you tell us whether any particular police officers enjoyed  
6 a poor reputation with the Indian youth?

7 A. Oh, you couldn't really pinpoint the police officers in  
8 clothes -- officers in police clothes, you know. You know,  
9 you knew them, you know, one or two, you know, but as far  
10 as the Detective Division was, you know, they had suits on  
11 and they're the ones that were doing all the questioning --  
12 asking about things that were done, you know, and that happened  
13 and, you know, they want to know why you were -- If you were  
14 picked up for intoxication, they want to know why -- where you  
15 were picked up and why, you know.

16 Q. I'm not sure if I'm understanding your answer too well. You  
17 referred to the uniformed policemen first.

18 A. Yeh, like -- Well, you couldn't really pinpoint out a man with  
19 a uniform like, you know, by sight looking at him, you know,  
20 you couldn't -- there's police officers with glasses on and  
21 there's police officers without and they almost look the  
22 same, you know, and with the hat on it's different, you know,  
23 and --

24 Q. So you're saying --

25

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 BY MR. CHAIRMAN:

2 Q. I think what you're saying is that police officers in uniform  
3 are sometimes difficult to identify --

4 A. Yeh, difficult to --

5 MR. WILDSMITH:

6 Yes.

7 BY MR. CHAIRMAN:

8 Q. -- unless you know them --

9 A. Yeh.

10 Q. -- well.

11 A. We knew them really -- We knew like Ambie MacDonald and all  
12 them. We knew him right from --

13 Q. Who?

14 A. Ambie MacDonald. One of the police --

15 BY MR. WILDSMITH:

16 Q. Yes.

17 A. officers that testified. We knew him pretty good, you know,  
18 and --

19 Q. And what about with respect to the Detective Division?

20 A. Well, they never believed us anyway, you know. Anything we  
21 told them -- We were telling the truth, and they still wouldn't  
22 believe us anyway, you know.

23 Q. So what you're saying is that the reputation enjoyed by the  
24 Detective Division in general with Indian youth was that they  
25 weren't interested in hearing the truth from you?



THOMAS J. CHRISTMAS, by Mr. Wildsmith

- 1 A. No, it's just to get the case over with and -- That's the  
2 way I seen it, you know, that time.
- 3 Q. What about this expression that a particular officer didn't  
4 want the truth, he wanted Indians. What -- Was that a state-  
5 ment that you made?
- 6 A. I said something like that, yeh, you know. I just don't --
- 7 Q. What does that mean?
- 8 A. That, you know, he never -- Like, you know, he never -- He  
9 don't believe us like no matter what we tell him, you know.  
10 And I like -- For instance, now, Marshall had the two best  
11 lawyers in Sydney that time, and but, you know, I still can't  
12 understand why that he was found guilty on the charge, you  
13 know, the lawyers that he had, you know, and the eyewitnesses  
14 themselves, you know, they should have been --
- 15 Q. Yes?
- 16 A. -- you know, removed from the --
- 17 Q. Would you say the same thing about all members of the Detective  
18 Division or any particular members?
- 19 A. No, just those people there I'd say today, you know, they  
20 were pretty --
- 21 Q. Which people are you referring to?
- 22 A. John MacIntyre and Bill Urquhart. They were pretty rough and  
23 hard men to talk to, you know, and --
- 24 Q. Those two detectives in particular?
- 25 A. Yeh, you know, never gave you a chance to explain it -- They

THOMAS J. CHRISTMAS, by Mr. Wildsmith

- 1 never told us about the law in other words, you know, they  
2 just -- They went along with what they seen was right, you  
3 know. They think that you were involved in something, you  
4 know, they figured that you did it. That was over with, you  
5 know. You go to court, and that's it, you know.
- 6 Q. What would happen if they didn't seem to be wanting the  
7 response that you were giving?
- 8 A. Pardon?
- 9 Q. How would they react if they didn't seem to like the response  
10 that you were giving?
- 11 A. Well, holler at you and call you a liar and stuff like that,  
12 you know. "You're nothing but a bum on the street," and
- 13 Q. I'm sorry?
- 14 A. Say that you were nothing but a bum on the street and go  
15 around, you know, and bothering people and all that, you  
16 know, and -- you know and --
- 17 Q. They were referring to bumming money?
- 18 A. Yeh, it must be or --
- 19 Q. I see. Okay. Let me take you now to the break and enter  
20 charge and the time that the obstruction charge was dismissed  
21 and you pleaded guilty to the break and enter charge. My  
22 question to you is, Can you recall what discussions you might  
23 have had with whom before you decided to plead guilty?
- 24 A. No, like I said this morning, you know, I was brought in. I  
25 never gave no statement -- nothing, you know, about the case --

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 about the break and enter, you know, I was -- Never gave no  
2 statement on it, you know, they just --

3 Q. Well, before you came to the courthouse that morning?

4 A. Well, they already had the charge out for me, you know, and --

5 Q. Yes?

6 A. -- pressed another charge and --

7 Q. But before you got there, had you already made an arrangement  
8 to plead guilty to one charge and have the other one dismissed?

9 A. Well, I kind of figured one of them would be dismissed. It  
10 was that obstruction charge, you know, and I -- the evidence  
11 I heard in that case and what really come out on it, you know,  
12 and you can just tell where the -- The people were talking.  
13 The lawyer was talking and the Crown, you know, that they  
14 really had no really solid proof that I threatened that fellow  
15 in any way, you know. There was no violence used. There was --  
16 When I was first questioned about it, there was a knife  
17 involved in -- you know, in --

18 Q. Yes. Well, what I'm trying to get at is the circumstances  
19 under which you decided to plead guilty to the break and  
20 enter charge.

21 A. Well, I just -- Like I said, I just wanted to get of there  
22 and get this thing over with. No --

23 Q. Did somebody come up to you and say something like,  
24 "Mr. Christmas, if you plead guilty to this charge, we'll  
25 withdraw or not offer any evidence on the other one."?

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 A. Well, there's police officers there and John MacIntyre but,  
2 you know, they went to the Crown, you know, and you know, it --  
3 You know, he could get no guilty plea, no --

4 Q. My question to you though is, Who spoke to you about this?

5 A. Well, one of the detectives that time, I think did or -- I  
6 know somebody told me that, you know, you'll get three -- maybe  
7 two to three months for it, you know, and --

8 Q. Well, who is it you think said that?

9 A. Well, one of the people that worked in the courthouse at that  
10 time.

11 Q. Yes. Can you identify whether it would've been police or a  
12 prosecutor or a defence lawyer?

13 A. Well, I was right by the police office and the Crown where  
14 they're -- where I was sitting, you know. You can hear what's  
15 going on and, you know, and -- that -- Not really hear that  
16 good but, you know, we can see what's going on and they were  
17 talking to themselves so and -- And then, you know, it's  
18 guilty plea --

19 Q. Was there a lawyer there representing you at that time?

20 A. I can't really say that there was.

21 Q. Okay.

22 BY MR. CHAIRMAN:

23 Q. I understood this morning that -- Wasn't Mr. Elman your lawyer?

24 A. That was for the obstruction charge that --

25 Q. The obstruction charge?

THOMAS J. CHRISTMAS, by Mr. Wildsmith

- 1 A. Yeh. See, there was another charge brought up -- the break  
2 and enter charge.
- 3 Q. I see. And Mr. Elman wasn't representing you --
- 4 A. I don't know if he --
- 5 Q. -- on it?
- 6 A. On that. I don't know. I never -- I don't know. I just went  
7 by what the cops had, you know, and the police officer charged  
8 me --
- 9 Q. But did all of this happen at the same time? The charge of  
10 obstruction was dismissed and then the second charge read to  
11 you and you pleaded guilty to that charge. Did it all happen  
12 the same morning?
- 13 A. Well, I really can't say it happened in the same morning. I  
14 think I was brought back that afternoon for a sentence or  
15 something, but I pleaded guilty to it. I figured I'd get --  
16 the most time I'd get out of it is -- three months out it.  
17 That's what I figured, you know or for the charge, you  
18 know. There was nothing that was stolen or nothing did  
19 happen, you know, and --
- 20 Q. I take it then you can't recall whether you had discussions  
21 with your lawyer, Mr. Elman --
- 22 A. No, I can't.
- 23 Q. -- before the decision was made for you that you would plead  
24 guilty?
- 25 A. No, I can't recall.

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 Q. Okay. All right.

2 BY MR. WILDSMITH:

3 Q. And I think, My Lord, -- What you're saying, Mr. Christmas,  
4 is that Mr. Elman, to your knowledge was not in court that  
5 morning?

6 A. I don't know if he was there or not, you know. He might  
7 have been there and, you know, as far as he -- We were with  
8 the court worker that time, you know.

9 Q. Yeh.

10 A. He might have been there. I'm not too sure on that like.  
11 You know, what I heard in the evidence yesterday, you know,  
12 and that there was some dealing going on, you know, which I  
13 didn't know about or that I wasn't told nothing about it,  
14 you know, and --

15 Q. Yes.

16 A. And --

17 Q. What I'm trying to get at though, Mr. Christmas, is before  
18 you decided to plead guilty, somebody must've spoken to you?

19 A. Well, I was -- Like I say, I was more concerned about that  
20 obstruction charge --

21 Q. Yeh.

22 A. -- than I was with this B&E, you know. I figured --

23 Q. Okay.

24 A. -- I'll plead guilty to it when that came up, you know, or  
25 when they have court on it or something, you know, or --

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 Q. Okay. Now, let's move to after you pleaded guilty.

2 BY MR. CHAIRMAN:

3 Q. Was -- The court worker at that time was Mr. Bernard Francis  
4 I think.

5 A. Yeh, he was like more like studying law that time. He was  
6 just --

7 Q. Pardon?

8 A. He was like more like studying law and getting into the courts  
9 and all that.

10 Q. Was Mr. Francis with you during these discussions?

11 A. No, I don't think he was there that day.

12 Q. There was no court worker there?

13 A. No, I don't think there was a court worker that day, you know.

14 Q. I see. All right. Now you can go ahead. Sorry. I just wanted --

15 MR. WILDSMITH:

16 Okay.

17 BY MR. WILDSMITH:

18 Q. So for whatever reason now you've decided to plead guilty,  
19 and you plead guilty in the court. Now, the next question  
20 I want to ask you is, Did somebody make representation to the  
21 judge on the question of sentence you should receive?

22 A. Just the police officers went up the the Crown that day and  
23 they were talking and --

24 Q. Did the prosecutor get up and speak to the judge about what  
25 he thought you should get for a sentence?

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 A. Yeh, they -- the judge -- Crown got up and went up to the  
2 judge or something, you know, and passed him a piece of paper  
3 or something that time and sat back down and I was told to  
4 stand up and --

5 Q. To your understanding, did he say anything out loud in the open  
6 court to the judge about what sentence you should get?

7 A. He just told him that I was -- I appeared more than once in  
8 front of him, you know, and --

9 Q. I'm sorry?

10 A. Said I appeared more than once in front of him and I was on  
11 probation and --

12 Q. So the prosecutor got up and said that to the court?

13 A. He must have. That's the only way they knew of me like, you  
14 know, and --

15 Q. Can you recall?

16 A. I just recall getting two years and I was shocked.

17 Q. All right and did anybody ask you if you'd anything to say in  
18 your own behalf?

19 A. No, I think I was drove back to the lock-up, that's all.

20 MR. CHAIRMAN:

21 Mr. Wildsmith, all of this could be cleared up in about one minute  
22 if Mr. Elman can recall. All he would have to do is stand up and  
23 tell us whether he represented the accused and if he appeared and  
24 made representation.

25



THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 MR. ELMAN:

2 I recall certainly representing Tommy Christmas of the charge of  
3 intimidation and taking the Preliminary -- I didn't recall that  
4 until I saw the evidence. I was concerned about him getting out  
5 on bail at that time, and I think that that was the reason why  
6 the Preliminary was very shortly after the charge was filed  
7 against him. I believe that the charge was on a Monday and the  
8 Preliminary was on a Friday. Otherwise, we have to go to a bail  
9 application before another court and may not get in there before  
10 possibly a couple of weeks. So we did take -- have the Preliminary  
11 obviously, and at that time he was allowed out on bail. My research  
12 work thereafter was mainly with that one charge because that matter  
13 was going to go before the Supreme Court in the November term.  
14 In the meantime, of course, he was picked up on this break and  
15 enter. As I recall now, thinking back, I don't remember knowing  
16 anything about the break and enter until after he had been brought  
17 into the court. And I noticed in the records that we had that he  
18 appeared on one day after a remand on the break and enter and  
19 then appeared again the next day because I believe it's the 4th  
20 of October and the 5th of October from the records. Now, I --  
21 Bernie Francis gave evidence yesterday. I don't recall that  
22 meeting with the Prosecutor and with the -- or with the judge  
23 and the Prosecutor, but I would suspect that once I found out  
24 that Tom Christmas had pleaded guilty to this charge of break  
25 and enter, that I made representation to the Crown at that point

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 in time that it was senseless to continue with the other  
2 charge since the object of the exercise appeared to be to get  
3 Tommy Christmas out of the way prior to the Marshall trial. And  
4 as a result, I approached the Crown, obviously, and we had that  
5 charge dismissed. We offered no evidence, and it was dealt with  
6 in that fashion. And that's to my recollection, but I don't  
7 believe I represented Mr. Christmas on the break and enter.

8 MR. CHAIRMAN:

9 Thank you very much.

10 MR. WILDSMITH:

11 Thank you, My Lord, I think that's been very helpful.

12 BY MR. WILDSMITH:

13 Q. Two points arising out of that. One then -- This is the point  
14 that I'm primarily interested in. I didn't mean to end up  
15 with Mr. Elman making representations, but the point is  
16 whether anybody including yourself spoke on your own behalf  
17 to the court on the question of sentencing?

18 A. No, I never asked, you know.

19 Q. Okay. So the answer's no. Is that correct?

20 A. No.

21 Q. And can you comment on the notion that the object of the  
22 exercise was to get you out of the way before the Marshall  
23 trial?

24 A. We were both surprised, you know, the sentence that I got,  
25 you know, and I kept telling Junior to inform the court that

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 I want to be heard on that -- on this trial, you know, about  
2 one of the eyewitnesses that were involved, you know, and it  
3 Johnny Pratico we're talking about and said, you know, that  
4 what I -- what he told me and what I knew about him that time  
5 that he spoke back to me and told me how he was involved  
6 and everything, you know, and he told me about the cops  
7 pressuring him and all that. I knew then, you know, that much  
8 about that his story wasn't holding -- shouldn't hold, you  
9 know like we were brought in that time, you know, and told --

10 Q. Is it fair to think, Mr. Christmas, that it's your belief  
11 that the police wanted you out of Sydney --

12 A. Yes.

13 Q. -- because they were concerned that with you in Sydney,  
14 Mr. Pratico might end up telling the truth?

15 A. That's what I figured anyway, myself, yes.

16 Q. Now, you said that when you pleaded guilty to this charge,  
17 you expected to get two or three months. Is that what is  
18 commonly referred to in the vernacular as "county time?"

19 A. Yeh.

20 Q. And that's something that you are reasonably familiar with, is  
21 it?

22 A. Oh, yeh, yeh. Like, you know, it's a couple of months you're  
23 in goal, you know.

24 Q. And how did you feel about going to Dorchester Penitentiary  
25 rather than Cape Breton Correctional Centre?

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 A. Well, I was scared, you know, and I was never -- never even  
2 heard about the place, you know, I heard a little about it,  
3 but I was never -- never expect to see it at that early an  
4 age, you know, and --

5 Q. Is it fair to think from your experience that Dorchester is  
6 a far more harsh environment --

7 A. Yes.

8 Q. -- to be in than the Cape Breton Correction Centre?

9 A. Yes, it is, yeh.

10 Q. Thank you. Now, one comment you've made in relation to your  
11 time, I think, in Springhill -- I'm not sure if I completely  
12 understood this. It was something about not being allowed  
13 to write letters to other Indians?

14 A. It wasn't other Indians.

15 MR. RUBY:

16 Inmates.

17 BY MR. WILDSMITH:

18 Q. To other inmates, okay.

19 A. No, it was just when once me and Marshall used to write letters,  
20 and I got one letter back. It didn't go out, and I asked him  
21 why and he said, "No, you further can't write to Mr. Marshall  
22 anymore," or something. You know, you had to be some -- It  
23 had to be your brother or something to keep writing to each  
24 other from another prison.

25 Q. Okay. So what you're saying is that you couldn't write

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 | to Mr. Marshall anymore and he to you because you were both  
2 | inmates and that inmates weren't allowed to write to each  
3 | other?

4 | A. Yes, like it'd have to be your brother before you can write  
5 | to him, you know, and -- But I seen other inmates getting  
6 | letters from other goals and some Indian -- inmates here  
7 | that couldn't read, you know. They used to get letters and  
8 | they asked me to read them to them and explain to them, you  
9 | know, what the letter meant and --

10 | Q. You mean some people get letters from other inmates?

11 | A. Oh, there's other inmates that got letters back in Dorchester  
12 | and persons that were in, you know.

13 | Q. Did you view this as a particular effort to stop communication  
14 | between you and Junior Marshall?

15 | A. I always asked -- We always ask ourselves today, you know,  
16 | that's the reason why, you know, ever since he was released,  
17 | you know, and we sat and talked, you know, and --

18 | Q. And part of the reason you have this question in your mind  
19 | is because you understand other inmates were able to write  
20 | to other inmates?

21 | A. Yeh. Yeh.

22 | Q. Okay. Now, we've had some evidence about Wentworth Park  
23 | and the activities in Wentworth Park and the activities in  
24 | particular of the police in chasing the Indian youth out of  
25 | that park. Would it be fair to describe the police conduct

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 as being like raids on the park?

2 A. Yeh, you can say that it was like raids, yeh. There was one  
3 or two police cruising sometimes, you know.

4 Q. Can you describe then how it would happen?

5 A. Well, one that would come the park and the one drive right  
6 around the park, you know.

7 Q. Yes.

8 A. They come right up -- They come up Crescent Street because we  
9 used to run up through the hill like to get out -- head for  
10 the graveyard or get in the woods like, you know.

11 Q. Do you mean that several cruisers would come at the same time  
12 and you would be closed in on from several different directions  
13 so you wouldn't escape, is that the idea? Yeh, that's the  
14 idea.

15 Q. Okay. Do you recall one particular time when this happened  
16 and you were chased by the present Chief, Boots Walsh?

17 A. I guess we were picked up by Boots Walsh or -- I'd say we  
18 were, yeh.

19 Q. Do you recall one particular time when you were chased some  
20 distance by him?

21 A. I know he chased other -- I mean I know he chased other  
22 fellows, you know, but, you know, they -- I never used to --  
23 just that incident I ran in. I was hit you know, and I was  
24 struck with the billy bat, you know, and --

25 Q. Okay. Okay, let's take us to the billy bat incident then. The

THOMAS J. CHRISTMAS, by Mr. Wildsmith

- 1 particular point I'm interested in is what the police officers  
2 said to you at that time. I think in your direct evidence  
3 you said that they said, "Why don't you get to the Reservation  
4 where you belong," or words to that effect.
- 5 A. Oh, yeh, yeh. They told me to get back to where I -- to the  
6 Reservation where I belonged, to get out of the park, and get  
7 back where I belonged on the Reservation, you know.
- 8 Q. You also said that you given "sass" if I understood your word  
9 correctly and that they called you down.
- 10 A. Oh, they always called us down, you know.
- 11 Q. How would they call you down.
- 12 A. Well, called you "a bunch of wagon-burners, you know, you're  
13 nothing but trouble around here, you know, you're just coming  
14 around town and destroying people's properties," and that's  
15 what we're being questioned about, you know, this like dif-  
16 ferent things, you know.
- 17 Q. Are these the kinds of things that the police would say directly  
18 to you to your face?
- 19 A. Yeh.
- 20 BY MR. CHAIRMAN:
- 21 Q. What time of the night or day did these events occur when you  
22 were being chased out of the park?
- 23 A. Oh, you know, 9:30, 10 o'clock.
- 24 Q. In the evening?
- 25 A. Yeh.

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 Q. Was there a curfew in that park, do you know?

2 A. There was never no curfew on the park until after the incident  
3 took place.

4 Q. I see.

5 BY COMMISSIONER EVANS:

6 Q. Was there a curfew in the city?

7 A. After the incident took place, they put a curfew on it. The  
8 park had to be closed at 11 o'clock, some days at 10. I think  
9 it was 11 and open 7 in the morning. But before there was  
10 never no sign up there that was -- the park was ever closed?

11 BY MR. WILDSMITH:

12 Q. Why did the Indian youth from the Reservation go down to the  
13 park?

14 A. Well, there was people down there that slept down there to be  
15 honest with you. You know, people did sleep down the park in  
16 the bushes.

17 Q. Yes.

18 A. And these people were from the city. They were White men, you  
19 know, like they were called winos.

20 Q. Yes.

21 A. And they sleep down there, and when we get down there, you  
22 know, they have -- they got cigarettes and they got booze,  
23 you know, and they had -- If we had enough money, we'd give  
24 it to them. They go in the liquor store for us, and we used  
25 to share what we had and, you know, there was never --



THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 Q. Okay. And my last question to you, Mr. Christmas, is, Are  
2 there any other instances of contact with the police that you'd  
3 like to tell us about? Any particular complaints?

4 A. Just one charge that they brought up against me back in -- that  
5 assault charge back in -- I don't know what year that was. It'  
6 on a record anyway. The time I was sentenced to three years --

7 Q. Yes.

8 A. -- on that charge, you know, that was no evidence in that case  
9 and -- but I was still convicted in their courts and I was  
10 sentenced to three years. The lawyer I had was from the Legal  
11 Aid, and he turned and he appealed it to a court in Halifax,  
12 and that case was dismissed and I walked out of Dorchester, you  
13 know, at that time, you know.

14 Q. So you're saying that the conviction was overturned on appeal?

15 A. Yes, and I was -- I came back home and -- That time, I was  
16 going to a dance, I was sober and with a girl and Paul and  
17 heading to a dance at Sydney Forum. There's a concert going  
18 on over there and police officers come around and I was sup-  
19 posed to be in the Pen doing three years, and they must have  
20 shocked them to see me back out on the street. So I guess  
21 they didn't know nothing about this appeal going through or  
22 this appeal going up for me that I was released and I was told  
23 that the case -- oh, I don't know was overturned or was cut down  
24 so much, you know, and I was picked up by Bill Urquhart that  
25 time, and I was -- I asked him why was the reason all this --

THOMAS J. CHRISTMAS, by Mr. Wildsmith

1 I asked him why I was picked up for and he just told me,  
2 "We'll be getting a complaint from you later anyway, you  
3 know, might as well take you down there now," and they put  
4 me into the cell. I was sober and --

5 Q. Were you sober on the night that the billy club was thrown at  
6 you?

7 A. Yeh. I was sober that night too, yeh.

8 Q. You also mention in your direct testimony about coming back  
9 from the Pier after having walked a girlfriend home -- coming  
10 along the railway tracks. Was there some reason why you didn't  
11 go on the main streets?

12 A. Well, you know, they see you on the -- the City Police see you  
13 on the street, they come up and they question you and they'll  
14 search you, you know, and you know, they smell any booze off  
15 you, you'll be put in goal.

16 Q. Thank you. Those are all my questions.

17 MR. CHAIRMAN:

18 Thank you very much, Mr. Christmas. Take a couple of minutes  
19 break and then we can go on with the next witness.

20 INQUIRY ADJOURNED: 2:59 p.m.

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