

GREG EBSARY, by Mr. MacDonald

1 GREG EBSARY, being called and duly sworn, testified as follows:

2 BY MR. MacDONALD:

3 Q. Your name is Greg Ebsary?

4 A. It is.

5 Q. And you're the son of Roy Ebsary and Mary Ebsary?

6 A. That is correct.

7 Q. Okay, how old are you Mr. Ebsary?

8 A. I'm thirty-three years old.

9 Q. You live in Sydney?

10 A. Mechanic Street, yes, in Ashby.

11 Q. Okay, would you just speak up a little bit. I'm not sure
12 if that's being heard in the back. If you could pick up
13 a bit. Your education?

14 A. I have completed Grade twelve at Sydney Academy.

15 Q. Okay, and when did you do that?

16 A. 1974.

17 Q. Growing up in Sydney, I understand you were active as a hockey
18 player, is that correct?

19 A. I played a little.

20 Q. Okay, did you ever run into Sandy Seale as you played hockey?

21 A. No, I didn't.

22 Q. And by that I mean did you know him rather than hit him?

23 A. No, I didn't -- I didn't know Sandy.

24 Q. Okay, did you have -- did you used to run around in gangs
25 of any kind or that sort at all?

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1 | A. Everybody had -- everybody had groups of friends but I don't
2 | think gangs is exactly the words to -- to use for that.

3 | Q. We've heard a description here of or suggestion from time
4 | to time that there may have been gangs racially divided and
5 | fights between the various races. Ever experience that?

6 | A. I think that that's being -- I think that that's being blown
7 | a way out of proportion. And I think that the proper way to
8 | describe that is that any group that you're in -- any group
9 | of friends; for instance, we were "shipyard" people which
10 | means we came from a certain section of the city. Well,
11 | all the people that you went to school with, you all hung
12 | around together. So that doesn't necessarily make you a
13 | gang as much as it makes you just a group of friends that
14 | hang around together. And if you happen to be at a dance
15 | or you happen to be at some place else and something broke
16 | out, then everybody just kind of stuck to their group. And
17 | if something happened, one looked after the other. I don't --
18 | I don't really think that that indicates "gang warfare". I
19 | think that that just indicates hanging around with your
20 | friends; that's all.

21 | Q. Okay, did you know Donald Marshall?

22 | A. No, I didn't.

23 | Q. Donald Marshall, Junior, I mean?

24 | A. No, no.

25 | Q. You lived in a house on Rear Argyle Street?

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1 A. That is correct, yeh.

2 Q. Okay, Roy Ebsary, your father, what was your relationship with
3 him as you grew up?

4 A. Putting it as nicely as I can, I -- I didn't really care for
5 him and the same was true on his part. We had -- we had no
6 relationship.

7 Q. You had no relationship at all?

8 A. No.

9 Q. You certainly weren't confidant one to the other?

10 A. Certainly not.

11 Q. Was he a heavy drinker?

12 A. That's putting it mildly.

13 Q. Was he frequently drunk?

14 A. He was constantly is a better word.

15 Q. And violent when he was drunk?

16 A. He -- he had tendenacies of violence when he was drinking.
17 He just -- depending on the mood he was in or who he was
18 with.

19 Q. Did he ever physically abuse you?

20 A. No.

21 Q. Did he -- did you ever see him physically abuse your mother?

22 A. No, sir.

23 Q. Or your sister?

24 A. No, sir.

25 Q. In fact, did he ever lay a hand on any of you?

- 1 A. No, sir.
- 2 Q. But he was known to lay hands on furniture and things like
3 that, I understand?
- 4 A. Anything that couldn't fight back.
- 5 Q. Did you ever hear him use phrases such as "blackie"?
- 6 A. No, sir.
- 7 Q. And "nigger"?
- 8 A. No, sir.
- 9 Q. Any sort of derogatory terms towards Indians?
- 10 A. No, sir.
- 11 Q. Did you consider him -- did you ever evidence anything that
12 would indicate he was prejudice in any way?
- 13 A. Roy was a lot of things but he was certainly not prejudice.
14 Not against anybody.
- 15 Q. You were here during the evidence that your mother gave?
- 16 A. Yes, indeed I was.
- 17 Q. And Mr. Orsborn went through the -- the display of some
18 knives --
- 19 A. Yes.
- 20 Q. -- to her. You've seen those knives before?
- 21 A. Yes, indeed.
- 22 Q. What do you say as to Roy's use of knives? And I'm talking
23 now about the early '70's if we can zero in on that time?
- 24 A. Gee, that's kind of -- that's kind of difficulty to -- that's
25 kind of difficult to pinpoint. Roy was a -- Roy an oddball

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1 to -- to say the least. He liked -- Where most people would
2 use a screwdriver, Roy would use a kitchen knife. Where
3 anybody would go and get a small hatchet to make kindlings,
4 Roy would use a kitchen knife.

5 Q. By kitchen knife, do you mean one that's fairly long blade,
6 do you?

7 A. Yeh, like that or whatever he had in his -- whatever he
8 happened to have at the time. He's -- Roy liked to use a
9 knife where other people would use other impliments.

10 Q. Did he carry knives with him?

11 A. He -- he -- he carried knives with him, yes.

12 Q. Did he carry knives with him constantly?

13 A. I can't say -- I can't say forever. But I've seen him carry
14 knives for -- for a couple of hours or a couple of days even.
15 I seen him with a knife stuck in his belt or in his pocket
16 or something a couple of days.

17 Q. Let me read you an extract of evidence you gave. It was
18 in the Reference in the Appeal Division, do you remember
19 giving evidence up there, Mr. Ebsary, in Halifax?

20 A. Yes, indeed, yes, indeed.

21 Q. I just want to read this to you.

22 MR. MacDONALD:

23 It's taken -- it's in volume 14 at page 56 of the exhibits here,
24 my Lords.

25

1 BY MR. MacDONALD:

2 Q. I'll just read this to you and then --

3 A. Okay.

4 Q. You've, in fact, got volume 14 there in front of you if you
5 want to turn it up.

6 A. Sure.

7 Q. Page 56.

8 A. Okay.

9 Q. Do you have that in front of you?

10 A. I have that in front of me, yes.

11 Q. Okay, starting around line 11 or so

12 Mr. Ebsary do you know whether
13 or not your father was in the
14 habit of carrying knives on
his person?

And your answer was:

15 My father carried knives constantly.

16 Q. How do you know that?

17 A. Because the man is my father. I
18 see what he does everyday. The
19 man carrying -- the man carries
20 those sticks with them all the
time -- those walking sticks.
They all have knives in them.
He has knives in his pocket.
He has knives in his belt -- in
his belt like a dagger would be.
22 Constantly.

23 Q. And did he have that habit around
the time of stabbing in 1971?

24 A. He carried knives contantly at
25 that time.

1 Now is that -- would you affirm that evidence today as being
2 your recollection of your father's activity in around the
3 time of the stabbing?

4 A. I would -- I would affirm that. But I'd also like to say
5 that by "constantly", I cannot say twenty-four a day, seven
6 days a week. Perhaps every time that I'd see him for a
7 week or ten days in a period, he would have a knife on him.
8 But I cannot say twenty-four hours a day, seven days a week.

9 Q. Did he used to carry knives in his belt?

10 A. He carried knives in his belt, yes.

11 Q. And did you see him carrying knives in his belt when he went
12 out in the night, for example?

13 A. Sometimes, sometimes.

14 Q. Thank you. Were you involved with an incident with respect
15 to Tony Tratnik?

16 A. Yes, I was.

17 Q. Just tell us about that, if you would?

18 A. I was at home with my mother on one evening and apparently
19 it was in 1970 from what I've heard today and yesterday.
20 Roy came home quite drunk, said that he was going to -- I'm
21 trying to think of the exact words he used. I think he
22 said he was "going to gut Tony Tratnik".

23 A. "Going to gut him"?

24 A. Yeh, I believe that's the -- if you want the exact term,
25 I think that's exactly what he said.

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1 Q. And what did you understand that to mean?

2 A. Well, he went to the drawer and he took a knife and he headed
3 out the front door and we kind of tried to see what was going
4 on. And he said he was "going to gut Tony Tratnik". Well,
5 we took it to mean that he was going to use the knife to
6 stab him. That's what we assumed. And then he was gone.
7 He left. So my mother and I talked it over for a couple of
8 minutes and neither one of us -- neither one of us thought
9 that Roy would carry out the act because Roy really didn't
10 have that kind of intestinal fortitude, at least not in our --
11 not in our knowledge of him anyway. But as my mother said
12 yesterday, we weren't -- we weren't ready to take that chance
13 either. So we decided the best thing to do would be to phone
14 the City Police and have him picked up. And they -- they did.
15 They picked him up on Charlotte Street some place. And he
16 was there charged. He was charged with carrying a concealed
17 weapon.

18 Q. How did Roy react to that when he came home?

19 A. He wasn't really happy about it. But I don't know if he knows
20 to this day that it was us that called.

21 Q. Okay, was there another incident involving someone known as
22 "old man Spencer"?

23 A. Oh, that was -- there was an incident, yes.

24 Q. Did that involve a knife?

25 A. I have no idea what that involved. I was probably only two

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1 | years old at the time, so I really wouldn't recall.

2 | Q. Okay, you were not home on the night of May 28th, '71; that's
3 | the night of the stabbing?

4 | A. No, I was not.

5 | Q. When did you come home after -- or did you get home that
6 | night sometime?

7 | A. I was home sometime that night, yeh.

8 | Q. So you didn't stay out all night?

9 | A. Oh, no, no. I probably got home at two o'clock maybe or in
10 | the a.m.

11 | Q. Any discussions with your mother when you came home?

12 | A. No, I came home and went to bed.

13 | Q. Any discussion with your mother the next day about it?

14 | A. No, I got up and left.

15 | Q. You got up and left?

16 | A. Home wasn't a place that I liked to spend a lot of time.

17 | Q. Did you have a relationship with your mother closer than
18 | your --

19 | A. Yes, we had -- we had a fairly close relationship. But like
20 | I said, home wasn't -- home wasn't a place I liked to spend
21 | any great amount of time. So I generally just used home as
22 | a place to sleep.

23 | Q. What about your relationship with your sister Donna?

24 | A. I don't -- I can't really say that Donna and I had a
25 | relationship at that time. We were more acquaintances than
-- then even brother and sister.

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- 1 Q. Do you recall -- What's your first recollection of anything
2 involving the events of that night?
- 3 A. The -- Geez, I really can't say. I think almost the first --
4 almost the first recollection I'd have would be when -- Sunday
5 I think. Sunday -- That was a Friday night, I think. I
6 think. So it would be Sunday. Jimmy MacNeil and I think
7 maybe his father came down to have a few drinks with Roy and
8 my sister came up to get me at a friend's house to tell me
9 the old man was drinking again. So I came down to get them,
10 take them out for a drive. Not Roy and his company but my
11 mother and sister. Take them out for a drive in our car and
12 I think when I went in I said something to the effect of:
13 What the hell's going on here. I'd -- I really didn't care
14 when Roy was drinking around the house. I really didn't
15 care for it, I mean. Anyway she said: We think you're father
16 might have been attacked in the park or something happened
17 in the park or something and I wasn't really paying attention
18 because I didn't care about what happened to Roy. I just
19 didn't care and I said, "Well fine, whatever he's doing that's
20 good. Let him do his stuff and let's go for a drive."
- 21 Q. How old were you at that time?
- 22 A. I would be 17.
- 23 Q. And did you hear Jimmy MacNeil saying anything that day?
- 24 A. No.
- 25 Q. Did you hear Roy saying anything?

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- 1 | A. No.
- 2 | Q. Did you have discussion with your mother or sister as you
3 | took your drive?
- 4 | A. Not about that.
- 5 | Q. That's what I mean, about that?
- 6 | A. Not about that.
- 7 | Q. So the extent of it is that when you went there your mother
8 | said something to the effect Roy and Jimmy may have been
9 | attacked in the park?
- 10 | A. I'm assuming -- I think that's what she said. That's --
11 | Something to that effect anyway. Maybe she said they
12 | might have had a little trouble in the park. I can't
13 | really be specific. It was a long time ago.
- 14 | Q. But it referred something that happened in the park?
- 15 | A. Yeh.
- 16 | Q. And it involved Jimmy and your father?
- 17 | A. Yeh.
- 18 | Q. Did you hear the evidence of David Ratchford yesterday?
- 19 | A. I heard some of it, yes.
- 20 | Q. Mr. Ratchford, my recollection, is -- testified that he had
21 | been told by Donna that the day after the stabbing Roy had
22 | warned the family members or at least Donna not to say anything
23 | about this. Did Roy ever say anything like that to you?
- 24 | A. No, he did not. Speaking on my own behalf, I would like
25 | to say that Roy would never say anything like that to me.

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1 At the time I was 17 I was pushing -- trying to push my
2 own assertiveness, I guess. If Roy had said to me: Do not
3 say anything about this. Then the first thing that I would
4 have done is said something about it.

5 Q. And -- So he definitely did not say anything to you?

6 A. He certainly never said anything to me.

7 Q. Do you know if he said anything to the other family members?
8 Did anyone ever tell you that he did?

9 A. No, sir.

10 Q. Do you recall the visit that you had with your mother -- I'm
11 sorry, with Jimmy MacNeil to your mother at the Wandlyn
12 Hotel?

13 A. Yes, I do. Yes, I do.

14 Q. What do you recall about that?

15 A. I recall that my mother either called me or she said before
16 she left work: Go pick up Jimmy MacNeil and bring him
17 down to the Wandlyn. I want to talk to him. And I said:
18 Yeh, okay. That's fine. So sometime through the day I
19 went and got him. After -- After she went to work I went
20 and got him and pick him up. I said: My mother wants to
21 talk to you. He said: Fine. I took him down to the Wandlyn
22 Motel. She came out and she said -- in effect, she told
23 him that we wanted Roy to stay off the sauce. Roy's drinking
24 was getting way out of hand and we wanted it stopped. And
25 whatever the little trouble was that they had had in the park

1 -- whatever it was -- and I'm saying park but maybe --
2 where ever it was they had it. Anyway we decided that
3 enough was enough. The Tratnik thing had happened so
4 many months before. He was picked up and he was charged
5 with that. The young Seale boy had been killed in the park.
6 Roy was a frequent visiter through that Wentworth Park as
7 were a lot of other people. But Roy was one of them. And
8 Roy being the way he was would talk to anybody. If he
9 was coming through that park he'd talk to anybody. So
10 we just decided that enough was enough and we wanted all
11 of these activities of Roy's -- we wanted them all stopped.
12 We wanted all of Roy's drinking companions, not just Jimmy
13 MacNeil but anybody that Roy was drinking with, we wanted
14 it stopped. My mother told Jimmy not to come back to the
15 house anymore. That would be her wish, that he would
16 not come back anymore. And I'm not really clear on the
17 exact words of what went on but I believe she said something
18 to the effect of -- Pardon me. I believe she said something
19 to the effect of: Look what happened to the young fellow in
20 the park. And Jimmy MacNeil replied something to the effect
21 of that the trouble that they had had in the park might
22 have been with the same two. Maybe. I'm not really clear on
23 it. I told Jimmy MacNeil that if he was going to be shooting his
24 mouth off like that that we were all going to wind up in court
25 besides the fact that they were liable to get themselves in

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1 trouble in the park. And anyway the conversation ended
2 with Jimmy -- with Jimmy not coming back anymore and that
3 was the extent of that conversation.

4 Q. What did you mean by saying: if you keep shooting your
5 mouth off like that we're all going to end up in court?

6 A. He said that -- or somebody said that they had had a little
7 trouble in the park. Jimmy says it could have been with
8 the same two. It could have been. If you're going to put
9 yourself into a situation where you're saying that you're
10 involved with something that you're not really involved in or
11 you're not really sure of, then somebody is going to pick
12 it up and even if you're involved in it or not, you're going
13 to wind up in some kind of trouble. And nobody wants
14 any kind of police trouble. Certainly not me. And --

15 Q. Do you know what --

16 A. -- I guess being a hothead -- I guess being a hothead, which
17 I general am, I guess really what I wanted to tell Jimmy was
18 that if he was going to make statements he better make
19 damn sure what he was saying. I think maybe that's what
20 I wanted to say but it didn't come out that way anyway.

21 Q. When did that visit take place? Do you know?

22 A. I have no idea. I have no idea.

23 Q. At the time --

24 A. I've seen it in statements and I've read my mother's original
25 statement to the police where it says -- my mother's November

1 statement, 1971 and she says it was about six weeks ago which
2 would place it the end of September, the first of October.
3 That's the best of her recollection but I have no idea. It
4 could have been in May. I could have been any time. I really
5 have no idea. All I know is that it did happen.

6 Q. And at the time at least there was discussion of something
7 happening with two people in the park?

8 A. I don't know what you're definition of discussion is. In
9 our home discussion could be two sentences.

10 Q. I'm sorry. I'm talking about the -- the visit with MacNeil
11 and your mother. There was reference to two people. The --
12 It could have been the same two people. Could have been the
13 same to people as Seale and Marshall?

14 A. That's true, yeh.

15 Q. Okay. Can I assume for that then that at the very least
16 it must have been after Marshall was charged?

17 A. I'm not -- I told you I can't -- I can't say whether he
18 was charged or not. I have no idea. I didn't follow the
19 case. I have no idea when this conversation took place.
20 I know that it took place after the stabbing. That's as
21 clear as I can be on it. That's as much as I can pin-point.

22 Q. Did Jimmy MacNeil tell you at any time what had happened that
23 night in the park?

24 A. Jimmy MacNeil, from May of 1971 to this very day, has never
25 told me what happened in the park that night.

1 Q. And you're very definite on that are you?

2 A. There's no question.

3 Q. He has given evidence here that he in fact had told you and
4 he repeated that on a couple times but you deny that?

5 A. I don't care what Jimmy MacNeil has said. I'm telling you
6 that Jimmy MacNeil has not to this very day, ever, disclosed
7 to me what happened with him and Roy or anybody else in the
8 park in May of 1971.

9 Q. Okay. And let me again just refer you to the evidence you
10 gave in the Appeal Court and it's on page 57 of the volume
11 that you have in front of you, Mr. Ebsary. And around line
12 20 it says:

13 James MacNeil testified in this court that he had
14 told you what had happened in the park on the night
in question, is that correct?

15 And you said:

16 I don't recall that.

17 And you went on to say:

18 I don't recall him telling me what happened in the
19 park.

20 And you were asked:

21 Is it possible that he could have?

22 And your answer was:

23 He could have but if he did I certainly don't recall.

24 Now, what you're saying today I take it is a little different.

25 You're saying he definitely did not tell you?

- 1 A. Okay, I'd like to defend this thing too.
- 2 Q. Yeh, but --
- 3 A. This was in when? 1982?
- 4 Q. 1982, yes.
- 5 A. This was in December, 1982. We went to Halifax and I was
6 almost pretty prepared for everything that I was going to
7 be asked and when this was asked, this kind of caught me
8 by surprise and I really didn't know what to say. I didn't --
9 I just kind of jumped into an answer because I really -- I
10 really didn't take any time to think about it and I just
11 didn't -- I just didn't recall at that time. But I've had
12 a lot of time to think about the Marshall affair since then.
13 I've had a lot of time to think about it and I'm telling
14 you, today, that Jimmy MacNeil has never told me, ever.
- 15 Q. Okay. Thank you. Did you follow the trial of Donald Marshall
16 Junior as it went on?
- 17 A. No, sir. I didn't know Donald Marshall Junior at the time.
18 I didn't know Sandy Seale. So it didn't interest me.
- 19 Q. I just want to read to you. It's in volume 16 at page 17.
- 20 A. Page 17 you say?
- 21 Q. Yes.
- 22 A. 15, 16, 17.
- 23 Q. This is a statement that Junior Marshall gave to the police
24 on May the 30th of 1971. And I just want to read to you
25 a portion of it, a description he gave, and ask you if that

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1 description would fit Roy Ebsarys' description as of that time?

2 He was asked;

3 Describe these fellows to me?

4 And he answered down -- that's around the bottom of the page

5 Mr. Ebsary.

6 One fellow, the small fellow, was five foot nine
7 or ten. 190 pounds. Grey combed back.

8 And I suppose that means grey hair combed back.

9 Wore glasses, black rimmed. Aged 50 years. Long
10 wide face. Long blue coat. Dark blue sweater.
11 Black shoes, rounded toe.

12 How would -- Would that description fit your father as of
13 that time?

14 A. I'd say that that's a fairly accurate description coming
15 from where it came from. I mean coming from the -- coming
16 from the park. That would be a fairly accurate description.
17 He's fairly -- right on the biscuit with that.

18 Q. Did your father used to wear a coat in a particular fashion
19 in those days?

20 A. Yes. Roy had a trenchcoat, I guess you'd call it. An overcoat.
21 And when he would be going out he wouldn't use the sleeves.
22 He'd just throw it over his shoulders. Drape it over his
23 shoulders, I guess. Wear it without the sleeves.

24 Q. Your next involvement with -- with anything to do with this
25 matter occurred in November, 1971.

A. This is correct.

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1 Q. Isn't that correct?

2 A. That is correct, yes.

3 Q. And I understand you ended up at the police station on
4 the night of his -- November the 15th I believe.

5 A. Okay.

6 Q. Would you tell the Commissioners how you ended up there?
7 How'd you get there?

8 A. Certainly. It was my custom at the time - at the time
9 every night that my mother would be working, to go down
10 and pick her up at the Wandlyn Motel at nine-thirty.

11 Q. Were you the only driver in the house?

12 A. I was.

13 Q. Okay.

14 A. So I would pick her up every evening at nine-thirty when
15 she'd get off. We'd go for a pop or whatever. Donna, myself
16 my mother and the dog.

17 Q. And the dog?

18 A. Yeh, we'd take everybody.

19 Q. Okay.

20 A. Anyway this evening came along and where ever I was -- I
21 have no idea where I was but at nine-thirty I made myself
22 present at the Wandlyn Motel and I waited a few minutes and
23 she wasn't coming out and she wasn't coming out so I went
24 in and they said; Oh, she left quite some time ago. Her and
25 two police officers. And I said: That's nice. And I left.

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1 So I went out and I asked Donna and Donna said; I don't know.
2 So I said; Well, there's only one thing to do. I guess we'll
3 go down and see what the hell's going on. So we drove down
4 to the Sydney Police Station which was on Bentinck Street
5 at the time and I went in and I asked -- I said; I'm Greg
6 Ebsary. I said; I want to know where my mother is. And
7 they said; You're Greg Ebsary. And I said; Yes. And they
8 said; Well, just wait here a second. And from there I was
9 ushered in to the detective office in the back of the
10 building.

11 Q. Now, they that you were talking about first of all, would
12 that just be the person on the desk?

13 A. Whoever I happened to come in to contact with first. The
14 police officer.

15 Q. When you were issued -- or escorted in to the detective
16 office who -- Do you know who you saw there?

17 A. Well, I'm assuming it was John MacIntyre because it's his
18 name on my statement.

19 Q. Do you have any recollection of who it was?

20 A. I have no idea.

21 Q. Okay. Had you any prior experience with the police at that
22 time?

23 A. I had -- I had a brush with the law around 1969 or something.

24 Q. Did you have any prior experience with Detective MacIntyre?

25 A. No.

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1 Q. Would you have known who he was? Can you today describe the
2 person who took your statement?

3 A. No, I can't. I can't.

4 MR. MACDONALD:

5 This is the original handwritten copy of that statement, My Lord,
6 and that will also be found in volume 16. I'll just find out where
7 for you -- 193.

8 BY MR. MACDONALD:

9 Q. Mr. Ebsary I'm showing you Exhibit 77 which is a document
10 I believe in the handwriting of Sergeant MacIntyre. You're
11 signature appears on page one and two. Is that correct?

12 A. Yes, sir. That is my signature.

13 Q. Okay. And it's also the signature of Sergeant MacIntyre
14 appears and a witness Corporal Taylor, I believe.

15 A. Yes. Yes, sir.

16 Q. Now, a typewritten copy of that statement is also -- It's
17 in volume 14 at page 40. Have you reviewed that statement
18 recently?

19 A. Yes, indeed.

20 Q. Is -- It's noted that that statement commenced at 9:55 p.m.
21 and ended at 10:20 p.m. which is a period of approximately
22 of 25 minutes. Are you able to tell us today how long -- to
23 your recollection how long you were at the police station?

24 A. If you want an exact time for how long I was there, I have
25 no idea.

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1 Q. No, I just -- Any recollection of that?

2 A. I'm -- It seemed like an eternity to me.

3 Q. Could it have been only 25 minutes?

4 A. It very well could have been. I'm saying it seemed like
5 an eternity to me seeing how I didn't want to be there in
6 the first place.

7 Q. And having reviewed that statement recently is it an accurate
8 statement of what you had said that night?

9 A. Yes, sir. It's --

10 Q. Let me just refer you to certain parts. I'm going to
11 get your comment if I can.

12 A. Okay, sir.

13 Q. And I'll use the typewritten part because it's easier to
14 deal with. On page 40 of volume 14.

15 A. Okay, sir.

16 Q. Down at the -- the last third or so. The question is:

17 Was there any conversation about a disturbance
18 at the park?

19 The answer was:

20 No.

21 And what he's talking about here is, of course, the discussion
22 you had with Jimmy MacNeil and your mother.

23 Q. Did you tell Jimmy MacNeil that if he told the police
24 what happened he would have to go to court?

25 And you said:

I can't remember saying that.

GREG EBSARY, by Mr. MacDonald

1 | A. I see that there but I also see underneath in another
2 | answer.

3 | Was there any talk in the car about what Roy done?

4 | I said:

5 | There would be trouble. Court.

6 | And meant if he, Jimmy, were to go back to our house anymore.

7 | And I've looked at that a couple of times and I'm not sure

8 | which question and answer they really belong to because

9 | it seems like that belongs to the question above.

10 | Q. Did you read that statement before you signed it?

11 | Yes, sir, I guess I did. If I signed it I must have read it.

12 | Q. Let me put you on to page 41 then.

13 | A. Okay, sir.

14 | Q. Do you see the question about -- the third question on the
15 | page:

16 | Did you know your father and Jimmy were attacked
17 | that night on Crescent Street? The same night as
 the Seale stabbing.

18 | You said:

19 | I found out about a week after.

20 | A. Okay.

21 | Q. And who told you?

22 | My mother said they were attacked by two fellows
23 | who were going to beat them up for cigarettes or
 something.

24 | A. Yes.

25 | Q. And is that what your mother had told you a week or so after

1 the event?

2 A. My mother said that there was -- as I have told you before
3 in this statement -- today, I mean. When I came home that
4 Sunday which would be a couple of days after the incident
5 I said: What's going on. And she said -- I assume she
6 said anyway that there was some trouble in the park or your
7 father might have got in some trouble in the park or something
8 like that. And then I said: Fine. Away we went. And then
9 these two fellows were going to beat them up for cigarettes
10 or something I guess she must have told me that too cause
11 there's no where else I would have got that information.

12 Q. Your intention on November 15th, '71 was to tell the police
13 truthful answers to whatever questions were asked?

14 A. This is correct.

15 Q. Yeh. And as far as your concerned that's what you did?

16 A. To the best of my knowledge I told them what I knew.

17 Q. Okay. Thank you. Do you recall if there was any pressure
18 applied to you?

19 A. I remember that I was scared. My mother was in there. I
20 had come to see her in the first place. I didn't know my
21 father was there. I knew that -- I now knew that we were
22 being questioned about a murder that had taken place and
23 that perhaps we were now involved so I was plenty scared.
24 I guess that in itself was enough pressure on me.

25 Q. I can appreciate that and I'm sure that everyone would, that

GREG EBSARY, by Mr. MacDonald

1 you would be very nervous and apprehensive but what I'm trying
2 to find out was there any -- What was the attitude of the
3 police towards you?

4 A. I have nothing to compare the attitude to. John MacIntyre
5 was -- he questioned me. He certainly wasn't discussing things
6 like you and I are right now. He was a little louder than
7 that. But outside of that I really can't say anything about
8 it.

9 Q. Now, let me just pick up. You said John MacIntyre.

10 A. I'm assuming.

11 Q. I understood you were telling me in this --

12 A. I'm assuming. It says by John MacIntyre and I'm assuming
13 that that's who it was. Whoever the officer was that
14 interviewed me. Is that better?

15 Q. Yes.

16 A. Okay.

17 Q. If - Unless you know for sure it was --

18 A. No, sir. I can't say for sure. I can't.

19 Q. Did you see your mother there?

20 A. No.

21 Q. Did Donna go in to the police station?

22 A. Not to the best of my knowledge. She did not.

23 Q. Were the police aware that Donna was outside?

24 A. I have no idea. I have no idea.

25 Q. Did you discuss with Donna and your mother what had taken place

GREG EBSARY, by Mr. MacDonald

- 1 there?
- 2 A. No.
- 3 Q. No? Ever?
- 4 A. I don't think so.
- 5 Q. Did you --
- 6 A. No, I don't think I did.
- 7 Q. Did you discuss with your father what had taken place?
- 8 A. Certainly not.
- 9 Q. Do you know if he was there that night?
- 10 A. I have no idea.
- 11 Q. Were you aware that he was being subjected to a polygraph
- 12 examination several days after that?
- 13 A. I think that at the time of the polygraph I think I knew
- 14 that he went for that.
- 15 Q. Did you ever discuss or hear him discuss what took place
- 16 there?
- 17 A. No.
- 18 Q. Your mother testified, I think, that when he came home he
- 19 was quite happy that he had passed, if you will. Do you
- 20 recall that?
- 21 A. If Roy had passed that which apparently he did, he would
- 22 come home in seventh heaven. And he would say: You see, I
- 23 told you so. Now, leave me alone.
- 24 Q. Now, -- But did you hear him say that?
- 25 A. No, sir. I can only tell you what I know he would say.

GREG EBSARY, by Mr. MacDonald

1 Q. Okay. But as far as -- that's based on your knowledge of
2 him but you didn't hear him say that?

3 A. No, sir.

4 Q. Okay. Thank you. There's been some suggestion that your
5 father became a recluse after -- sometime in 1971.

6 A. Okay, we'll --

7 Q. I'm not sure when it was. What do you say about that?

8 A. I guess we'll have to deal with that now. My fathers only
9 interests -- I was going to say outside of work but he
10 wasn't really interested in work either. He was interested
11 in liquor. Outside of his liquor interests my father had
12 no interests so when the liquor was cut off there was nowhere's
13 for him to go. Nowhere. He had his garden to attend to and
14 outside of that there was nothing for him to do. There
15 was nowhere's for him to go so I guess if you want to call
16 that becoming a recluse then I guess that's what he became.

17 Q. Did your father not like to read?

18 A. Oh, certainly he read. But I assumed you meant by being
19 a recluse that he didn't go out anymore. Now, if you want
20 me to entail what he did while he was home that's something
21 different. I mean, I'm sure that recluses do other things
22 besides go to town. By being a recluse I assumed you meant
23 he didn't venture from the home anymore.

24 Q. And is that a fact that he did not venture from the home
25 anymore?

GREG EBSARY, by Mr. MacDonald

- 1 | A. He had nowhere's to go.
- 2 | Q Did that change subsequently?
- 3 | A. Not to the best of my knowledge. He stayed pretty close
4 | to home.
- 5 | Q. For how long?
- 6 | A. For quite a long time. Even -- I would say until the late
7 | 1970s.
- 8 | Q. And you were involved in actually the final act of kicking
9 | him out of the house, weren't you?
- 10 | A. Yes, indeed I was.
- 11 | Q. And why did that happen?
- 12 | A. Well, that's because at the time of -- at the time that all
13 | this stuff occurred he was told that he was either going to
14 | cease his drinking and his antics or he was going to leave.
15 | And he was also told that the next drink he took under our
16 | roof was his last. And he started again in 1979 -- the
17 | late part of 1979, the early part of 1980 and I made good
18 | that threat and we put him out.
- 19 | Q. And when he was put out did you have any dealings with him
20 | after that?
- 21 | A. I had a couple. I had a couple because I'm hardheaded but
22 | I'm soft hearted. So I had to move him around a couple of
23 | times after but to say that I had any major dealings with him,
24 | I had none.
- 25 | Q. Were you aware that -- Let me put it another way. Did

GREG EBSARY, by Mr. MacDonald

1 Donna ever confide in you what she had seen on the
2 night of the stabbing?

3 A. No, sir. She did not.

4 Q. And has she ever to this day?

5 A. Not to the best of my knowledge she has not. We have
6 better things to discuss when we get together.

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GREG EBSARY, by Mr. MacDonald

- 1 Q. Do you recall being contacted by the R.C.M.P. in 1982?
- 2 A. Yes, indeed I do.
- 3 Q. And tell me about that? What do you recall about it?
- 4 A. A couple of -- a couple of R.C.M.P. officers, plain clothed
- 5 officers came to our door sometime -- sometime apparently in
- 6 1982 and they knocked and asked for access and we told them
- 7 to come in. They said they were going to reopen or they were
- 8 in the process of reopening the Marshall investigation and they
- 9 asked if we would be willing to talk to them and we said,
- 10 "Certainly". So they came in and we -- and we spoke.
- 11 Q. Was that on one occasion or more than once?
- 12 A. Oh, there was lot's of occasions. There was quite a few
- 13 occasions. There was only a few occasions I guess for me,
- 14 but they were there or one of them was there quite a few
- 15 times even when I wasn't there.
- 16 Q. Look at page 42 in volume 40 if you would, Mr. Ebsary?
- 17 A. Okay.
- 18 Q. That's a typewritten copy of a statement, the original of
- 19 which is signed by you and your mother?
- 20 A. Yes.
- 21 Q. And taken by Sergeant Wheaton. That was March, 1982. Do you
- 22 remember this?
- 23 A. Yes, sir.
- 24 Q. And did that take place at your home on Mechanic Street?
- 25 A. Yes. Yes, sir.

1 Q. What were the circumstances, sitting around a table or
2 something --

3 A. We were sitting at the kitchen table.

4 Q. Have you had the opportunity to look at this statement
5 recently?

6 A. Yeh, I guess, I've looked it. I've looked at a lot of
7 statements recently.

8 Q. Okay. It's -- It's obviously a statement that contains
9 facts that were be given by both of you, both you and your
10 mother?

11 A. Yeh, there was -- I guess there was three of us at the time.
12 There was myself and my mother and Harry Wheaton was there.
13 So we were kind of -- This statement was given generally in --
14 kind of in the context of general conversation.

15 Q. Let me just refer you to a couple of things in this statement
16 and get your comments on them if I can. In the second
17 paragraph, the third sentence, it says:

18 Roy had a habit of carrying knives
19 at that time always. He carried
20 them in his belt. He would take a
21 knife and grind it down like a
22 stiletto and he also made knives
23 out of canes that would fit in the
24 handle. He had knives -- knives of
25 all shapes and descriptions and
would have carried one the night of
the murder I feel, however, I did
not actually see it.

24 Now are you able to tell us whether that would be your statement
25 or your mother's or a combination of both of you?

1 | A. I believe that that would be an accurate description of something
2 | that we both would feel. It's all true. Roy was in the habit
3 | of carrying knives. He did carry them in his belt. The fact
4 | of grinding the knives down, well, Roy hated -- Roy hated
5 | nothing worse than a dull knife and the whole statement, it's
6 | both of ours.

7 | Q. I understood your mother's evidence to be that your father would
8 | always carry a pocket knife in his pocket but that he would not
9 | always carry one of the knives of the type described here, but
10 | from time to time he may take one of those and shove it in his
11 | back pocket as he was going downtown but he certainly would not
12 | always carry one. Is your recollection different than that?

13 | A. No, I said I couldn't speak for him for twenty-four hours a day
14 | for seven days a week. I said I couldn't account for that, but
15 | I think that if somebody carries -- if somebody is in the habit
16 | of carrying a knife in his belt say seventy-five percent of the
17 | time, I think that -- that pretty well accounts for always.

18 | Q. Your -- The statement you'd given to the Sydney Police in '71
19 | didn't have any reference to knives. Do you know -- Did they
20 | ask you if your father carried knives or was known -- did he
21 | like knives or anything like that?

22 | A. That was not asked. That was not asked.

23 | Q. All right. And if you go back to page 42, the bottom page --
24 | the bottom sentence:

25 | In regard to this murder we cannot say
if he did it or didn't do it, but we

1 certainly feel he is capable of
2 it.

3 Was that your view that your father was capable of murder?

4 A. I think in the general discussion around the time of this
5 statement we were asking or we were talking about the circumstances
6 or whatever and we felt that he was capable of committing a
7 crime such as this, but I don't think either one of us even at
8 this time felt that Roy had the guts to do something like that.
9 We felt that he was capable of it but neither one of us felt
10 that if push came to shove that he would actually do it.

11 Q. Okay. Turn the page to 43 if you will. That is another
12 statement. This is your own, just you and Sergeant
13 Wheaton and taken again on Mechanic Street in April of 1982.
14 Have you seen that statement recently?

15 A. Yes, sir.

16 Q. And do you recall the circumstances of giving it?

17 A. Well, it would be the same as the -- the statement on page 42.
18 I guess I was home and Harry came to the house and he wanted
19 to talk to me about -- he must have wanted to talk to me about
20 this I guess.

21 Q. Okay. Let me take you --

22 A. And I said, "Fine". Go ahead, this time --

23 Q. It starts out:

24 Tonight Harry Wheaton of the R.C.M.P.
25 has shown me a statement which I gave
 to Sydney Police back in November of
 1971...

GREG EBSARY, by Mr. MacDonald

1 | That's the one we've already looked at.

2 | A. Okay.

3 | Q. Now the second paragraph says:

4 | It looks reasonably accurate as
5 | far as it goes...

6 | And then you go on to say:

7 | I was at the Sydney Police that night
8 | for approximately three hours. I
9 | talked with John MacIntyre a great
 deal more than what is in the
 statement.

10 | Now I didn't -- From your evidence this morning I didn't get
11 | that impression and I'm wondering why you told that to Sergeant
12 | Wheaton in 1982?

13 | A. Well, I don't see anything in the statement from 1971 about
14 | where my mother was or I don't see anything about what the
15 | hell is going on here, or I don't see anything about why
16 | can't I see my mother or what do you want to talk to me
17 | about. There's a good deal of conversation that's there
18 | that is not in that statement. I'm sure that he didn't
19 | take down every -- every single -- every single sentence that
20 | was made and as far as the -- as far as the three hours goes,
21 | I asked Donna on several occasions how long she thought I was
22 | in there because it seemed to me like I said, it seemed to me
23 | to be an eternity. And we figured that it was about three
24 | hours that we were in there or that I was in there and that's --
25 | that's where that came from, but like I said --

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1 Q. Is it fair to say you would have -- you would have got there
2 between nine-thirty and ten?

3 A. Without a doubt I would say I got there about maybe quarter
4 to ten perhaps.

5 Q. And are you able to -- Do you have any recollection at all
6 of when you would have got home that night?

7 A. No, I have no -- I have no idea.

8 Q. Okay. But you did tell me though today that you're not sure
9 if it was John MacIntyre. So when you say --

10 A. Yes, I keep saying John MacIntyre and I guess I'm sorry for
11 that because I cannot say it was -- I cannot say it was
12 John MacIntyre. The officer -- I keep reading this John
13 MacIntyre in front of me but that's an assumption on my part.
14 Also -- Also I guess at that time I remember one of the things
15 that we discussed, the officer and myself, was that the officer
16 said, "You're a big boy". "You must be listening when your
17 mother and father are talking so you must have heard them
18 talking about this". I don't see that in the statement
19 either.

20 Q. All right. Let me take you back to this page 43 and I'll pick
21 it up again:

22 I talked with John MacIntyre a great
23 deal more than what is in the statement.
24 One thing being what happened that night
in the park. He accused me of this and
I denied it as I had not.

25 Now I don't understand what that's referring to and I'd like

- 1 | you to --
- 2 | A. I've looked at that myself and I can't -- I can't understand
- 3 | that myself either.
- 4 | Q. Did anyone ever accuse you of doing something in the park?
- 5 | A. No, and I don't know -- unless it was --unless -- and I can
- 6 | only assume here that -- that I'm referring back to what I
- 7 | just said that one thing being what happened that night in
- 8 | the park and if I can refer back to my other statement for
- 9 | a second -- Let me see. There was some -- There was some
- 10 | conversation about -- between the officer and myself as to the
- 11 | Seale -- "Did you see Jimmy when he came to your house
- 12 | following the Seale stabbing?", and whatever, so I guess the --
- 13 | Yeh. "Did you know about the Crescent Street thing?", so I
- 14 | guess we were talking about what happened in the park. And
- 15 | I guess maybe he had -- maybe he assumed that I knew more than
- 16 | I was saying.
- 17 | Q. But the -- I suggest to you that certainly the clear impression
- 18 | of what is recorded about Sergeant Wheaton is that you were
- 19 | telling him that someone accused you of doing something?
- 20 | A. Yeh, now I don't understand that.
- 21 | Q. Today do you have any knowledge --
- 22 | A. If you had asked me -- If you had asked me the day after the
- 23 | statement was made, I'd probably be able to tell you but I
- 24 | don't know what that -- I don't know what that's even referring
- 25 | to.

GREG EBSARY, by Mr. MacDonald

1 Q. Are you able to tell us today whether anyone in the Sydney
2 Police ever accused you of being involved in -- in anything?

3 A. No, certainly not. Certainly not.

4 Q. Thank you. You go on to say:

5 I was truthful and honest and told
6 him...

7 And that's referring again to MacIntyre.

8 ...of my father's violence, carrying knives,
9 and manner of dress. I do remember
10 that I was very frightened and it
seemed to me that he was trying to
intimidate me.

11 Now again I invite you to go back to look at the statement.

12 There is -- There is nothing in the statement I don't believe
13 about your father's violence, for carrying knives, or manner
14 of dress?

15 A. No, there's not.

16 Q. Now do you recall that being discussed at the Sydney Police
17 Station in November of '71?

18 A. Not at -- Not at this time.

19 Q. Okay.

20 A. Not at this time.

21 Q. Okay. The rest of that statement is to Wheaton and it deals
22 with -- You say you remember Jimmy MacNeil being at the house
23 the day after the murder. You told me this morning I think that
24 that was the Sunday as best you can recall. Is that correct?

25 A. Well, okay, I should have said the day after the day after the

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- 1 | murder I guess.
- 2 | Q. But you do recall it was a Sunday?
- 3 | A. I recall it was a Sunday.
- 4 | Q. Thank you. Do you -- Turn to page 44 then if you would,
5 | Mr. Ebsary. That is an affidavit that was sworn by you in
6 | July of 1982. Do you recall swearing that affidavit?
- 7 | A. Yes, sir.
- 8 | Q. Can you tell me how it was prepared, whether you had the
9 | opportunity to give instructions to whoever it was that
10 | prepared that affidavit?
- 11 | A. Let me see. I'm not really -- I'm not really a hundred percent
12 | sure but I think that perhaps Mr. Aronson was at our home
13 | on one evening and that could have been when this was -- when
14 | this was made.
- 15 | Q. You don't have any clear recollection of the event, do you?
- 16 | A. There's been so many of these statements made that keeping them
17 | all in order is very difficult.
- 18 | Q. Sure. Okay. Tell me or tell the Commissioners if you would
19 | the events or -- Trace the history of that group of knives that
20 | you ultimately turned over to Sergeant Wheaton for us?
- 21 | A. Well, they were a collection of household knives to start with
22 | except for a few of them that came up -- a few of the bigger
23 | ones came from the -- from the Isle Royale Hotel. I guess they
24 | were discarded or whatever. They came from there anyway.
25 | Roy brought them home and they were -- they were just in a

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1 drawer in the kitchen I guess, some of them, most of them,
2 and Roy would take them -- Roy would take them and use them.
3 There was some up in his room and maybe -- maybe even a few
4 out in the backyard, wherever they were. Anyway they were
5 on -- in our residence, around our residence on Argyle
6 Street. And in '73 or '74 when we moved from Argyle Street to
7 Mechanic Street we collected up whatever was around, knives
8 and whatever else was around and we -- we moved it from Argyle
9 to Mechanic Street and then we unpacked it up there and the --
10 if some of them happened to be in a box marked 'Roy's room' then
11 that's where they would be uncrated. If some of them were
12 marked "kitchen" they'd be uncrated in the kitchen. Some of
13 them were in Roy's room, some of them -- a couple of them
14 perhaps were even in the basement. It's very difficult to --
15 to actually keep track of a -- of a knife. It's -- it's very
16 difficult. I can only tell you to the best of my knowledge.
17 Anyway, eventually they all -- they all wound up -- when we
18 put -- when we put Roy out of the house we started to collect
19 up all the old junk and they went in the kitchen for a while in
20 one drawer and then we -- we did something in the kitchen, we were
21 putting cupboards in or something, and we took all the old
22 knives -- I think at that time -- Probably at that time I was
23 married and my -- my wife and I would have moved in so we --
24 we had our own stuff which was a lot better or we thought
25 anyway. And we would have taken all the old knives and whatever --

1 Not just knives. I was saying the old knives, but there was
2 old spoons and old other junk too and we took it all and we put
3 it all in a drawer in the -- in the dining-room. We had a junk
4 drawer in the dining-room that we didn't use so we -- we fired
5 it all in there and then when we started to renovate the
6 dining-room, we took all the knives and we put them in a peach
7 basket and we put them in the rafters in the basement.

8 Q. Are you able to say approximately when that would have happened?

9 A. I would -- I would venture a guess as to say, 1980, because
10 that's when we put Roy out so that's when we would have started
11 the major renovations.

12 Q. From 1971 to 1980 when you put those knives away in the
13 basement, would they have been used from time to time?

14 A. They would have been used perhaps a lot. They were basically
15 Roy's -- They were Roy's letter openers and garden utensils or
16 whatever so until I put Roy out in 1980 or 1979, they would
17 have been -- they would have been used a fair amount.

18 Q. And would they have been washed frequently?

19 A. Oh, certainly. Certainly.

20 Q. Did Roy have a favourite knife? Can I have that photograph?

21 A. He has one that -- There are a few that he carried a little
22 bit more than the others because they were smaller. He could
23 accommodate them in his belt or his pocket a little better
24 than -- than the larger ones.

25 Q. I'm showing you Exhibit 76 which is a photograph of -- of a group

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1 of knives and your mother has circled a couple.

2 A. Yeh, these two -- these two here with the -- they have green--
3 green tubing on the handles and tape and silver paper on them.
4 That's the ones he would have carried most of the time. They
5 were sharpened on both edges and -- sharpened on both edges,
6 like brought even out to a point. That's the -- That's the
7 ones he would have -- he would like to carry more than the --
8 than the others.

9 Q. I'm just going to get those, okay.

10 A. The ones with the green handles, yeh.

11 Q. Exhibit 24 in this Hearing is a knife, one of the ones they
12 think that's circled in the photograph. Did you ever see
13 your father carry that -- a knife -- or that knife on his
14 person?

15 A. Well, I can't say this knife for --

16 Q. Or a knife similar to it?

17 A. Yes. A knife similar to that, yes.

18 Q. In his belt?

19 A. Yes, he would have it stuck in his belt or --

20 Q. In his pocket?

21 A. --in his back pocket.

22 Q. In his back pocket with the tip up?

23 A. With the tip up, yeh.

24 Q. Did you ever see him carry it in his coat?

25 A. No, not in his coat, no. No, in his belt or in his pocket

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1 | perhaps, but not in his -- not in his coat.

2 | Q. And when you say in his pocket, you're talking about his
3 | back pocket?

4 | A. Yes, his back pocket, yeh.

5 | Q. Did you ever see him leave the home to go downtown with that knife
6 | on his person?

7 | A. Well, like I say, not that one but one similar to it, certainly.
8 | Certainly, stuck in his belt.

9 | Q. He used to make knives such as that, did he?

10 | A. Well, that -- that is one of -- that is one of Roy's creations.

11 | Q. In your affidavit, Mr. Ebsary, on page -- page 45 of the
12 | Exhibit book.

13 | A. This one here?

14 | Q. Yes, just page 45 at paragraph number six, the initial draft
15 | of that had that -- the statement in it or it would have read
16 | that:

17 | I would be surprised if the said Roy
18 | Newman Ebsary were not carrying one
19 | of the knives depicted in Exhibit B
20 | herein on the night of May 28th,
21 | 1971, and note that the knife marked
22 | with an "X" on Exhibit B herein was
23 | a particular favourite of the said
24 | Roy Newman Ebsary.

22 | And that's scratched out, that last part. Was that at your
23 | request that that be scratched out?

24 | A. Yes, it was. Yeh. Yes, it was.

25 | Q. You weren't prepared to say that the- whatever knife was marked with

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- 1 an "X" was a particular favourite of his?
- 2 A. They had a picture that they had shown my mother and she had --
- 3 she was prepared, I guess, at the time to say that one was a
- 4 particular favourite over the other but as I have said here
- 5 today, I cannot say with any certainty at all which one of
- 6 those knives -- I'm not even sure you have -- You have some.
- 7 I'm not even sure that you have even the one that he would
- 8 be carrying because I know that there was -- there was more than
- 9 that so I'm not even sure that you have it.
- 10 Q. And I'm prepared to show you everything we have if you like --
- 11 if you would like to see them?
- 12 A. Sure.
- 13 Q. Those are all that we have and those were taken --
- 14 A. That's all that I have. That's all that I had so --
- 15 Q. Is that all that was given to Staff Sergeant Wheaton?
- 16 A. That's all the knives that I had belonging to Roy.
- 17 Q. Okay, and in the affidavit again in paragraph six, when it
- 18 refers to Exhibit B, Exhibit B was a photograph of the knives,
- 19 and would -- would that have been similar to the photograph
- 20 that we've marked 76?
- 21 A. That would be similar to that -- Yeh, that would be a similar
- 22 photograph to that.
- 23 Q. And isn't it your evidence today that you would be surprised
- 24 if your father was not carrying one of those knives on the
- 25 night of May 28th, 1971?

GREG EBSARY, by Mr. MacDonald

1 | A. I would be surprised if he was not carrying a knife, maybe one
2 | of these, one like that. I would be suprised if he wasn't.

3 | Q. So do I take it from that that it is your evidence that your
4 | father would always be carrying a knife similar to one of
5 | these on his person when he went downtown?

6 | A. As I say, I can't say always. I would be surprised if he
7 | wasn't.

8 | Q. Okay. Well, that's good.

9 | MR. MacDONALD:

10 | Thank you. That's all I have. Thank you, Mr. Ebsary.

11 | COMMISSIONER EVANS:

12 | Mr. MacDonald, just looking at the same paragraph -- I mean
13 | paragraph eight on page 45.

14 | MR. MacDONALD:

15 | Yes.

16 | COMMISSIONER EVANS:

17 | Would you go over that in order to help us?

18 | That the knives depicted by the photograph
19 | marked 'B' were...

20 | subsequently

21 | ...left untouched by the said Roy Newman
22 | Ebsary subsequent to the November, 1971...

22 | MR. MacDONALD:

23 | Oh, yes, I'm sorry, My Lord. I didn't -- Thank you for pointing
24 | that out to me.

25 | BY MR. MacDONALD:

Q. Do you see that?

GREG EBSARY, by Mr. MacDonald, by Mr. Ruby

1 A. Yeh, I see that and I'm not sure that that shouldn't be
2 1981. Sometimes when you're dealing with--

3 ...were left untouched by the
4 said Roy Newman Ebsary...

5 Yeh, I'm not -- I'm not sure that that shouldn't have been --
6 that that shouldn't have been 1981 perhaps. Sometimes when
7 you're dealing with dates --

8 ...they were kept in a drawer in our
9 home when our family moved to
Mechanic Street...

10 Yeh, because it was 19 -- Well, I said 1980, but it could
11 very easily have been 1981, but the knives were in use right
12 up until I put Roy out of the house and then even after that --

13 BY COMMISSIONER EVANS:

14 Q. Late that year?

15 A. Yeh, I'm saying late 1979 or 1980 and then even still they were
16 around until I finally put them to rest. Now it could have
17 been 1981 when I was doing the renovations in the front rooms.

18 Q. It's not in '71 then?

19 A. No, certainly not. No. No.

20 BY MR. RUBY:

21 Q. Mr. Ebsary, this has been a very difficult appearance for you
22 I know and I won't keep you very much longer but I have just
23 a few questions to ask. Would you turn with me first to
24 page 43 which is the second statement you gave to Harry Wheaton.
25 You've been asked about that already. You said with regard to

GREG EBSARY, by Mr. Ruby

1 | the second paragraph, the fourth line or I guess, fifth line
2 | that you no longer remember telling Sergeant MacIntyre of
3 | your father's violence, carrying knives and manner of dress.
4 | The first question I want to ask you is this, is it fair to
5 | say that when you talked to Harry Wheaton and told him this
6 | that you would have remembered it then?

7 | A. What I'm saying -- What I'm saying is that if you're sitting
8 | around and you're making general conversation then maybe you
9 | say I assumed I told him, I thought I told him, I think I told
10 | him. How the hell do you remember after sixteen years?

11 | Q. Okay. What I'm suggesting to you is this, is that if you, in
12 | fact, told Sergeant Wheaton in 1982 as the note indicates that
13 | you did tell him of those things?

14 | A. Maybe in 1982 I thought I told him.

15 | Q. You would logically have remembered it because you wouldn't
16 | want to mislead Harry Wheaton?

17 | A. I haven't mislead any -- I have not mislead anybody in this
18 | investigation, not in 1971 or 1981 or today.

19 | Q. Okay.

20 | A. And I do not intend -- It is not my intention to mislead anybody
21 | today or any other day on this.

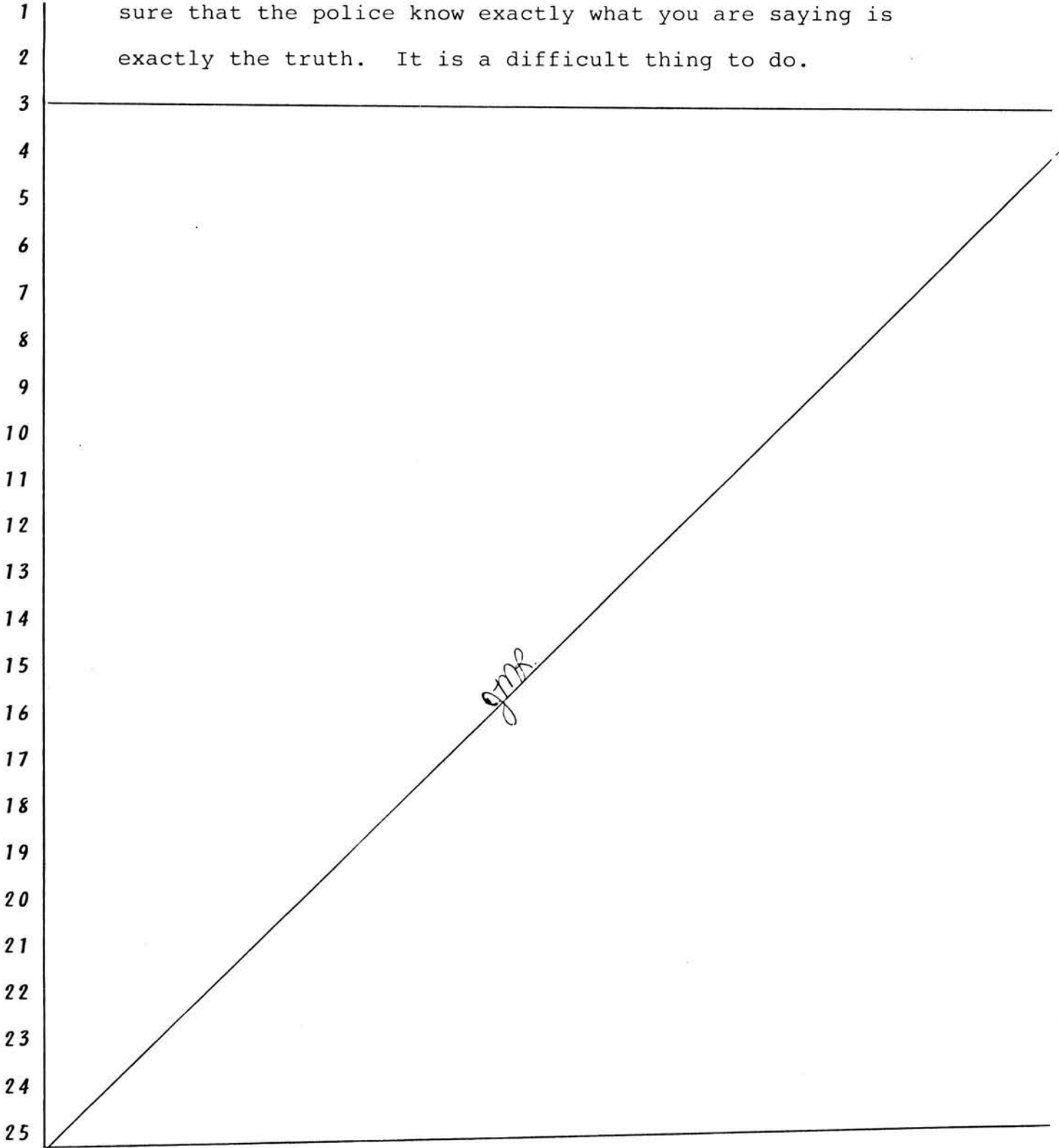
22 | Q. And I wasn't trying to suggest that you have. I'm just trying
23 | to say that since it's true that you didn't mislead anyone
24 | and didn't want to mislead anyone, if you did, in fact, say
25 | that then you would have remembered it?

GREG EBSARY, by Mr. Ruby

- 1 A. I would have assumed -- I would have said and perhaps even
2 when I made this statement -- I guess if I made that
3 statement, at the time I would have said, "Yeh, I guess I
4 told him".
- 5 Q. Yes.
- 6 A. But I'm saying today that I do not remember -- I don't remember
7 the biggest part of the conversation I had with the officer
8 and again I'm going to say the officer because I don't even
9 remember if it was John MacIntyre.
- 10 Q. Just to be clear then you're agreeing with me that assuming
11 this had been said by you to Harry Wheaton in '82, that would
12 have been a truthful and honest statement at the time. Is that
13 right?
- 14 A. To the best of my knowledge at that time that would have been --
15 that would have been the truth as I remembered it.
- 16 Q. We've had other cases just to assure you that people have
17 remembered things at one stage and then forgotten them by the
18 time they get here. That's not --
- 19 A. Well, the other thing being that I would like to say --
- 20 Q. Yes, sir.
- 21 A. --and it is exactly this, that after such a long period of
22 time it is very difficult for somebody to remember what they
23 remember and to disassociate that from what you have heard
24 and think you remember. It is a very difficult thing to do,
25 and especially when you're talking to the police and you want to mak

GREG EBSARY, by Mr. Ruby

1 sure that the police know exactly what you are saying is
2 exactly the truth. It is a difficult thing to do.



- 1 Q. I accept that, thank you. Now, when you spoke with Sergeant
2 MacIntyre in 1971, did you know that the issue -- the question
3 that was being discussed then was whether or not your father
4 had been involved in the stabbing death of Sandy Seale?
- 5 A. Well, certainly I knew because of the -- because of the direction
6 of the questioning. I knew then that perhaps Roy was involved.
- 7 Q. Okay. Did you know, when you were talking to Sergeant MacIntyre
8 about the previous incident with him and the attack on the
9 chef with the knife?
- 10 A. Well, certainly. It was my mother's decision and my own to
11 have Roy picked on that.
- 12 Q. So it really sounds to me, tell me if you agree with me, quite
13 impossible that you would have not have told MacIntyre about
14 that in 1971 with it fresh in your mind?
- 15 A. No, sir, I can't honestly say that. I can honestly say that
16 when I was talking to whoever it was I was talking to at the
17 Sydney Police Department in 1971, that I was scared to death
18 and that I was glad to get the hell out of there.
- 19 Q. What were you scared of?
- 20 A. My mother was being questioned by police. My father was being
21 perhaps implicated in a murder. Would that not make you
22 afraid?
- 23 Q. Yes, I think it would.
- 24 A. Well, then I think it would make me afraid too.
- 25 Q. Okay. Did you ask to have your mother present while you were

- 1 being questioned?
- 2 A. I asked where she was. I guess I didn't use the term, "Could
3 I have her here."
- 4 Q. Yes.
- 5 A. But I asked where she was. That was my first question when I
6 went in, and I didn't see her at the Sydney Police Department
7 first or last.
- 8 Q. Would you have wanted her to be present while you were being
9 questioned?
- 10 A. I don't think it would've made any difference. I wouldn't
11 have told them anything one way or the other. I wouldn't have
12 told them anything different one way or the other had she
13 been there or not.
- 14 Q. Okay. You said the manner of the questioning was, and I think
15 I made a note of it here, a little louder than the tone of
16 conversation that we're engaging in here today. Can you give
17 me any more detail of how it took place, how much louder?
18 Was there any gestures, mannerisms?
- 19 A. Well --
- 20 Q. Describe it for me; so that we'll understand what it was like.
- 21 A. All right. I'd like to say that subsequently -- subsequent to
22 that, I've had some dealings with John MacIntyre, and I found
23 that John is a little boisterous anyway. He's a little loud
24 anyway. So I guessed he was asking about a murder. I assume
25 that he wanted the truth. He wanted me to know that he was serious.

1 | in trying to get the truth. I assumed that, and I just assumed
2 | that he was trying to tell me in his way that he was serious
3 | about what he was doing and he didn't want to fool around.

4 | Q. Okay. Let's -- But I want to know exactly what it was that
5 | you observed. Give -- I wasn't there. How did he talk to you,
6 | the mannerisms, the gestures? Describe it for me, if you would.

7 | A. He was at his -- He was at the -- at his desk, or he could've
8 | even been standing up. I'm not really sure. I know that
9 | he asked me the questions that are on this sheet here. I know
10 | that he was loud. I know that I was afraid. I was scared, and
11 | I know that when it was over, I was glad to get out. That's
12 | the best I can -- That's the best I can do on it.

13 | Q. Okay.

14 | A. I knew that he wasn't fooling around.

15 | Q. You've had subsequent dealings with him in what way?

16 | A. I operate a taxi cab in the city. I've been in a couple of
17 | times, and I had some dealings with Taxi Commissions and stuff,
18 | and once I was trying to get Roy picked up on a -- Roy was
19 | making some threats against my own family, and I was trying
20 | to get him put away for that, and I had one dealing with John
21 | on that and most of the times dealing with Richard Walsh and
22 | once it came before John MacIntyre because the -- I'm not
23 | sure why it came before John. Anyway, we wound up in front of
24 | John, and another time we were trying to get something else
25 | done, and I found him pretty good.

GREG EBSARY, by Mr. Ruby

1 Q. He's been helpful to you, I take it?

2 A. I found him very decent. He's always treated me pretty decent.

3 Q. Has he been helpful to you?

4 A. I found him pretty decent.

5 Q. Okay.

6 A. He's never turned me away if that's what you're looking for.

7 Q. No. I want to know if he helped you with your problems. Did
8 he help solve the problems that you presented him with?

9 A. Well, whatever we needed, we always wound up fairly happy
10 anyway.

11 Q. I sense, and you tell me if I'm correct or not, when you were
12 talking about Jimmy MacNeil, that you didn't think of him as
13 being a very reliable witness? Am I right on that or am I
14 wrong?

15 A. I'm sure that Jimmy MacNeil told you what he felt is the truth
16 in his mind. I can't say whether Jimmy MacNeil is a good
17 witness or not. That's not for me to say.

18 Q. You have no view on that?

19 A. I don't care. I can only tell you what I know. What Jimmy
20 MacNeil know, that's for him to know.

21 Q. Okay. And Roy Ebsary -- I take it at this time it's fair to
22 say that he was an extremely violent man?

23 A. That's fair.

24 Q. With an unpredictable sometimes uncontrollable temper?

25 A. Yes.

- 1 Q. Who at times was explosive?
- 2 A. Yes.
- 3 Q. Coming back briefly to the interview with MacIntyre -- the first
4 one, 1971, that we're concerned with, was there any record
5 other than the writing down of questions made? Was there any
6 tape made of that interview?
- 7 A. I have said on subsequent occasions and apparently I have
8 been mistaken in what I thought, I do not remember anybody
9 writing this out. I did not remember signing it, but that is
10 my signature.
- 11 Q. Sure.
- 12 A. I guess at the time, my intention was I must have seen a reel
13 to reel tape recorder in there, and I just perhaps assumed in
14 later years when it was brought back to my attention -- I must
15 have assumed that it was taped because I did not -- I do not
16 to this day remember this being written.
- 17 Q. Okay. Let me ask you the question that I want to know about.
18 Tell me now about your memory, not what you're assuming or
19 anything else. Do you remember seeing a reel to reel tape
20 recorder in the office?
- 21 A. I remember seeing a reel to reel tape recorder.
- 22 Q. Do you remember the -- whether or not -- Do you have a memory
23 of whether the reel to reel --
- 24 A. No, I have no idea.
- 25 Q. -- tape player was in fact moving?

GREG EBSARY, by Mr. Ruby, by Mr. J. Pink

1 A. All I know is that I saw it.

2 Q. Okay.

3 A. That's all I know.

4 MR. RUBY:

5 Thank you for being patient with me, sir.

6 BY MR. J. PINK:

7 Q. Mr. Ebsary, my name is Joel Pink, and I'm here on behalf of

8 John MacIntyre, I just have a few questions for you, sir.

9 Is it fair to say, sir, that once the questioning of John

10 MacIntyre commenced with you that you had the feeling that

11 what he wanted to know was the conversation that took place

12 between Roy Ebsary and your mother?

13 A. That was the -- That was one of the things that he asked me

14 because he asked me directly, did I overhear them?

15 Q. Yes. And do you know whether or not he knew, or did you tell

16 him, that your sister, Donna, was out in the car?

17 A. No, I have said that I have no idea whether they knew or not.

18 Q. Okay.

19 A. I certainly didn't tell him.

20 Q. There is some evidence that we've heard in the last day or so

21 about fear that your sister had for your father, Roy. Can you

22 enlighten us on that at all? Is that a true statement?

23 A. Donna was twelve years old and witness to a great deal of

24 violence, but I would like to say that none of the violence --

25 And this is one of the reasons that we found it so difficult to

1 believe that Roy was involved in this stabbing was because I
2 believe at the time I don't think any of us had ever witnessed
3 Roy in violence against another human being; so all of his
4 violence was towards inanimate objects. Donna would have a
5 great fear being a child. I mean, I had a fear of Roy. But
6 being a child of a little younger than I -- being twelve, I'm
7 sure that if you see somebody smash up a house with an axe
8 or rip the head off of a budgie bird and fire it on the floor,
9 I'm sure that being a child, you're going to be a little
10 leary of that person yourself.

11 Q. I would appreciate that, sir, and would you agree with me that
12 your sister, Donna, had a good relationship with her mother?

13 A. Oh, yes. We -- I think the three of us; Donna, myself, and
14 my mother, that's the only family unit we had.

15 Q. Yes.

16 A. So whatever family contact we had, that was it because there
17 was nothing from my father; so we had to make it between the
18 three of us.

19 Q. Now, Mr. MacDonald had showed you a description of a person
20 mentioned in the Donald Marshall, Jr., statement. Could you
21 agree with me, sir, that even though that description may
22 describe Roy Ebsary that that description also could describe
23 a number of other people?

24 A. Oh, there's no question about it, that's for sure.

25 Q. Tell me, what was the weight of your father back then? Was it

GREG EBSARY, by Mr. J. Pink

1 as high as 190 pounds because we've heard --

2 A. No, sir. No, sir. My father, best of my recollection, between
3 150, 165.

4 Q. Yes. Okay. I just want to make it very clear in my own mind
5 that the fear or being scared -- being at the police station
6 back in November of 1971 was because of what was going on and
7 nothing that the police had done?

8 A. No, it was fear of what was going on. I mean, if your family
9 is involved or --

10 Q. I can fully appreciate that, sir.

11 A. Yeh.

12 Q. Now, just a couple of questions regards to statements that you
13 gave, Mr. Ebsary. The word, "stiletto," is that a word that
14 you would use?

15 BY MR. RUBY:

16 Q. Would you like to take the knives off the table?

17 A. No, they don't bother me. I seen them before.

18 BY THE WITNESS:

19 A. I assume that -- Sometimes when you're looking for a statement
20 or you're looking for a word, if "stiletto" had come into my
21 mind, I would've said it because that's --

22 Q. I mean that's a word that you would use?

23 A. Yeh. I would use that because that would describe this
24 particular knife in my mind.

25 Q. Right. And the knife you're referring to there, sir, just

GREG EBSARY, by Mr. J. Pink

- 1 | for the record -- Is there a number on this?
- 2 | A. It's E-X-4 and in brackets, "I."
- 3 | Q. Okay. On the blade there appears to be a number.
- 4 | A. Oh, okay. Twenty-four.
- 5 | Q. Okay. Exhibit 24. So that's a word that you would use?
- 6 | A. Certainly.
- 7 | Q. And what about the word, "recluse"? Would that be a word that
- 8 | you would use?
- 9 | A. I suppose that I could've said that.
- 10 | Q. Now, and finally, Mr. Ebsary, I just want to deal with this
- 11 | final statement that you gave to Sergeant Wheaton on April
- 12 | the 19th, 1982. Mr. Ruby has asked you certain questions as --
- 13 | about your memory being back in -- it would be better back
- 14 | in 1982 than it would be today. I take it, sir, from what
- 15 | I've heard during --
- 16 | A. No, I --
- 17 | Q. -- this Inquiry, that there's a lot of assumptions by a lot of
- 18 | people. Are you assuming a lot or --
- 19 | A. No, I don't believe I am assuming a lot. I've had a long
- 20 | time to think about this. I've had five years --
- 21 | Q. Yes.
- 22 | A. -- since they re-opened this in 1981 or 1982, whatever it was.
- 23 | I've had a lot of time to think about it, and I think my mind is
- 24 | clear on it.
- 25 | Q. And when you say here that:

GREG EBSARY, by Mr. J. Pink

1 I was truthful and honest and told
2 and told him of my father's violence,
3 carrying knives, and manner of
4 dress.

4 Do you actually remember telling Sergeant MacIntyre that today?

5 A. I think I told this gentleman just in the previous questioning --

6 Q. Yes.

7 A. -- that if I said that at the time that I would have thought
8 that I did tell him -- the officer that.

9 Q. Could it be that you could be mistaken about your thoughts
10 back in 19 --

11 A. There's no question about it.

12 Q. Right. Sure.

13 A. I'm --

14 Q. Well, it's sixteen years ago. I mean, this is the whole point.

15 A. I'm not saying I'm not mistaken.

16 Q. Right.

17 A. I'm saying that at the time I told him what I thought.

18 Q. And when you made the statement back in 1982 that: "He was trying to intimidate me."

19 He was trying to intimidate me.

20 A. I felt intimidated by the whole process.

21 Q. Right, but not --

22 A. I guess I said, "him," but the whole process was intimidating
23 and I've tried to explain that today.

24 Q. Right. I appreciate that, sir. Okay.

25

1 MR. RUBY:

2 I helped you out?

3 MR. J. PINK:

4 Absolutely.

5 MR. J. PINK:

6 I think that's all, sir. Thank you very much.

7 MR. MURRAY:

8 No questions on behalf of William Urquhart.

9 MR. BARRETT:

10 No questions, My Lords.

11 BY MR. SAUNDERS:

12 Q. Mr. Ebsary, my name's Jamie Saunders. I'm here on behalf of
13 the Attorney General's Department. I'll only keep you a
14 moment. As I understand your evidence, sir, you went into
15 the police station and your sister, Donna, remained in your
16 car?

17 A. To the best of my knowledge, yes.

18 Q. And was she in the car when you left the police station after
19 being interviewed by the police?

20 A. Yes, sir, she was.

21 Q. Did any police officer that evening on November 15, 1971, ask
22 you if you had brothers or sisters?

23 A. I -- They could have. They could have.

24 Q. Do you have any recollection of being asked that question,
25 sir?

GREG EBSARY, by Mr. Saunders, by Mr. Ross

1 A. No, I haven't.

2 Q. Right.

3 A. I am saying they could have.

4 Q. Sorry?

5 A. I am saying they could have.

6 Q. Do you have any recollection of being asked by any police
7 officer whether anyone other than you, Roy, and your mother
8 resided at 126 Rear Argyle Street?

9 A. I'm not certain.

10 MR SAUNDERS:

11 All right. Thanks very much.

12 MR. ROSS:

13 You're smiling, Mr. Justice Evans. Does that mean I've got two
14 hours?

15 COMMISSIONER EVANS:

16 I'd be disappointed if I didn't hear your voice this morning,
17 Mr. Ross.

18 MR. ROSS:

19 Never let it be said that I disappointed Justice.

20 BY MR. ROSS:

21 Q. Mr. Ebsary, my name is Anthony Ross. There's one or two
22 questions I'm going to ask you about those knives only.
23 Would it be fair to say that you yourself could have used
24 those knives from time to time?

25 A. I could have. I could have.

GREG EBSARY, by Mr. Ross

1 Q. There was really no restriction on the use of the knives?

2 A. Certainly not.

3 Q. Anybody could use them for any --

4 A. No, I have said in my statement that they were in a drawer.

5 Q. Yes.

6 A. Or they were around the house. I have never said that they
7 were exclusively for Roy's use.

8 Q. Sure. And they were used --

9 A. They were around if you wanted one. If you wanted to cut a
10 piece of whatever --

11 Q. Cloth?

12 A. Whatever.

13 Q. Anything.

14 A. If it was around you could pick it up and use it. There was
15 nobody said you couldn't.

16 Q. I see.

17 MR. ROSS:

18 Thank you very much. That's the extent of it.

19 MR. CHAIRMAN:

20 Thank you very much, Mr. Ebsary. It's adjourned until two.

21

22 INQUIRY ADJOURNED: 12:34 p.m.

23

24

25