

ROYAL COMMISSION ON THE  
DONALD MARSHALL, JR., PROSECUTION

VOLUME XXXIII

Held: December 8, 1987

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

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

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

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

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Ronald N. Pugsley, Q.C., Joel Pink, Q.C.:  
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Donald C. Murray: Counsel for William Urquhart

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Counsel for the Donald MacNeil estate

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

Al Pringle: Counsel for Correctional Services Canada

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

Charles Broderick: Counsel for Carroll

S. Bruce Outhouse: Counsel for Wheaton & Scott

Guy LaFosse: Counsel for Davies

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

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

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

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COURT REPORTER'S CERTIFICATE

INQUIRY RECONVENED AT 9:33 o'clock in the forenoon on Tuesday, the 8th day of December, A.D., 1987, at Sydney, County of Cape Breton, Province of Nova Scotia.

1 JOHN F. MacINTYRE, resumes testimony, as follows:

2 BY MR. MacDONALD:

3 Q. Just before I go on, Chief, there was one answer or one question  
4 I asked you yesterday several times, and reading the transcript  
5 I'm not quite certain what the answer was and maybe it's the way  
6 I phrased the question. Let me put it a little more directly.  
7 Who do you believe stabbed Sandy Seale?

8 A. Well, up until '82, I had my belief on it that I was right,  
9 and the Appeal Court at that time gave a different decision.  
10 I've kept quiet ever since.

11 Q. Who do you believe today? What's your belief today? Who  
12 stabbed Sandy Seale?

13 A. Well, I guess I'd go along with -- I'd have to go along with  
14 what the Appeal Court said.

15 Q. So you believe it was --

16 A. It's -- The only problem I have with that is that the witnesses  
17 have changed their stories so many times.

18 Q. The Appeal Court acquitted Donald Marshall, but I don't believe  
19 the Appeal Court said who stabbed Sandy Seale. Is it your  
20 belief -- Do you believe that Roy Ebsary stabbed Sandy Seale?

21 A. I think the question at this time is who -- that I'd have to ask  
22 myself, who do you believe --

23 Q. Well, I'm asking you.

24 A. -- as far as the witnesses are concerned. They've told so many  
25 stories, sir.

1 Q. Well, I'm asking --

2 A. And they're still telling stories as far as I'm concerned.

3 Q. I accept --

4 A. And it's adding to and what have you.

5 Q. Well, I accept that, Chief. I know what --

6 A. I'd leave that up to the Commission here to --

7 Q. But I'm asking, sir, what is your belief? Who do you believe  
8 stabbed Sandy Seale?

9 MR. PUGSLEY:

10 My Lord, is this relevant to these proceedings? Does it have assis-  
11 tance to the Commissioners to know what Chief MacIntyre believes  
12 today in that regard?

13 MR. CHAIRMAN:

14 It has some relevance to -- particularly in the light of the evidence  
15 that we heard to date where there has been a review of all the facts  
16 surrounding the death of Sandy Seale and the investigation of the  
17 stabbing and his subsequent death and conviction -- and the subse-  
18 quent conviction of Donald Marshall and then his acquittal and then  
19 the conviction of Roy Ebsary; so I would -- It is relevant. As to  
20 its ultimate relevance, I guess that's something we will have to  
21 decide after we've heard all the evidence, Mr. Pugsley.

22 BY MR. MacDONALD:

23 Q. Can I have an answer, Chief?

24 A. Again, I would leave it with the Courts; although, I have my  
25 own problems with it.



- 1 Q. Okay. But what I --
- 2 A. I want to be fair with you. The witnesses have changed their  
3 stories so many times in the course of -- that I wonder when  
4 they're telling the truth, to be honest with you.
- 5 Q. I'm not asking you, sir, to judge who's telling the truth.
- 6 A. No.
- 7 Q. The simple question, Who do you believe?
- 8 A. I have the problem -- I have a problem with the witnesses though,  
9 and at various stages what they've said, and of course, I have  
10 questioned them on two different occasions as the Commission  
11 knows and you know, and I got two different stories.
- 12 Q. I understand all that, but you're still have not answered my  
13 question. Do you believe -- Who do you believe stabbed Sandy  
14 Seale on the night of May 28th, 1971?
- 15 A. At this time, as I said yesterday, I'm going along with the  
16 Appeal Court of 1982, what they decided on.
- 17 Q. Well, the Appeal Court in 1982, sir, I believe --
- 18 A. Yeh.
- 19 Q. We can look at it if you like, but I believe they decided merely  
20 that Junior Marshall did not, or at least there was no evidence  
21 on which a jury could convict him.
- 22 A. And again, that was because of the witnesses at that time because  
23 they had changed their story again, sir.
- 24 Q. You sat through the evidence at trial --
- 25 A. No, I didn't -- which -- At which trial?

1 Q. That's what the --

2 A. The Appeal Court, you mean?

3 Q. No, I'm sorry, I didn't -- You didn't let me --

4 A. No.

5 Q. -- finish my question. You sat through the evidence, did you,  
6 at the various Roy Ebsary trials?

7 A. No, I didn't. I was unfortunate. I wasn't called in the first  
8 trial. The second trial I was called on one statement, and then  
9 I was told I wasn't allowed to stay in. On the third trial, I  
10 was called by the defence, sir, and at no time was I in on the  
11 trials.

12 Q. Okay, I didn't -- That's good information for me to know. You  
13 say people changed their stories all the time.

14 A. That's right.

15 Q. Jimmy MacNeil never changed his story, did he?

16 A. Yes, to a degree.

17 Q. In what way?

18 A. Well, now, when I questioned Jimmy MacNeil on November the 15th,  
19 1971, in regard to Ebsary stabbing Marshall, he said that he  
20 didn't -- that he never seen Ebsary stabbing Marshall, that  
21 Ebsary -- that -- Wait now, just a minute. Yes, that Marshall  
22 let him go and took off. He doesn't know where he went. I  
23 noticed later on in the trials that he's got Ebsary -- he's  
24 got Marshall going towards Ebsary. He's still not stabbing  
25 him at -- making gestures.

9:40 a.m.

- 1 Q. Have you read --
- 2 A. I would say that that was different than what I had in 1971.
- 3 Q. Have you read the transcripts of the Ebsary trials then?
- 4 A. I've -- Yes, I've read the transcripts, yes.
- 5 Q. So you've at least had the benefit of reading the transcripts?
- 6 A. That's right. Yeh.
- 7 Q. Jimmy MacNeil never said anything other than, "Roy Ebsary
- 8 stabbed Sandy Seale," did he? He never said anything different
- 9 than that?
- 10 A. No. No, he didn't -- No. No.
- 11 Q. He told you that in November of 1971?
- 12 A. That's right, yeh.
- 13 Q. And he has sworn to that before the Appeal Court, before the
- 14 Supreme Court on at least three occasions, and here. He's
- 15 never changed that story.
- 16 A. Wait now, you talking about the three Ebsary cases too?
- 17 Q. Yes.
- 18 A. Yes.
- 19 Q. Jimmy MacNeil always, always testified that Sandy Seale was
- 20 stabbed by Roy Ebsary, did he not?
- 21 A. Well, I noticed -- You asked me if I read the transcripts. I
- 22 noticed in one of the Ebsary cases, Jimmy MacNeil again, who
- 23 was the star witness in 1982 according to the Appeal Court,
- 24 that Marshall's evidence alone wouldn't stand, but that Jimmy
- 25 MacNeil's evidence with it, and the story that the other three

1 told at that time that they were pressured and what have you  
2 and changed their stories, that they would have to take that  
3 into consideration, and therefore, I think that's on the -- why  
4 the acquittal was allowed. But I notice in one of Ebsary's  
5 trials that the -- MacNeil wasn't even going to be called by  
6 the Crown, and he was on the indictment at that time. I was  
7 very astonished about that.

8 Q. That may be --

9 A. It wasn't until the judge ordered for him to be called that he  
10 was called.

11 Q. That may be, Chief, but at all times --

12 A. Sir --

13 Q. -- Jimmy MacNeils' evidence was --

14 A. Jimmy --

15 Q. -- that Roy Ebsary stabbed Seale. Isn't that correct?

16 A. Well, that's correct to --

17 Q. Yeh.

18 A. -- me. That's what you told me, yeh.

19 Q. You're -- If I get back to the question I asked you to start  
20 today, and I suggest you still haven't answered it. Who do you  
21 believe stabbed Sandy Seale?

22 A. Well, I wasn't there, and there was an eyewitness there. There  
23 was eyewitnesses there. Some say now they didn't see it, and  
24 it -- and MacNeil says he did see it. That portion of it --  
25 And the Appeal Court bought that, and MacNeil told me that

1 I would have to go along with it at this time because the other  
2 witnesses say that they were lying. I'd -- It's a very con-  
3 fusing thing to me at this time, all the stories that were told  
4 and now they were changed around. I want to be honest with  
5 you, I'm not -- And again, I'm only going to deal with the '71  
6 when I had it.

7 Q. See, here's my confusion. I had the same thing yesterday. I  
8 take it you don't want to answer that question whether or not  
9 you believe Ebsary stabbed Seale?

10 A. Well, I think there's other ingredients added that way that  
11 comes along with that.

12 Q. You don't want to answer --

13 A. There's the stabbing of Marshall that as you know in 1971  
14 bothered me. And I haven't go into that as yet, and I don't  
15 know whether you're going to.

16 Q. Oh, I will. Yes.

17 A. Yes. So I have to -- You know.

18 Q. Perhaps at the end of the -- before you leave the witness--

19 A. Well, I mean -- Yes, I'd --

20 Q. Before you leave the witness stand, I will give you another  
21 opportunity to --

22 A. Thank you.

23 Q. -- answer the question. We were talking yesterday afternoon,  
24 Chief, about the events of Sunday on May the 30th.

25 A. Yes.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Do you recall you went and brought Chant in and -- How did  
2 Pratico end up at the police station on that day?

3 A. At this time, I couldn't say, but he was likely sent for  
4 because -- I would say I had it in my mind to get a statement  
5 from him.

6 Q. I'm sorry.

7 A. I say I would have it in my mind at that time that I was  
8 probably going to have to get a statement from him on that  
9 day.

10 Q. Why would you have that in your mind?

11 A. Because, I suppose, of information I received at that time.

12 Q. And who did you receive information from?

13 A. I just can't tell you at this time, sir.

14 Q. And no idea at all?

15 A. Not to my recollection at this time.

16 Q. Did you have any source of informants that -- around the city that  
17 would give you information from time to time?

18 A. Well, I had people tell me things now and again, yes, sure.

19 Q. Did someone tell you that Pratico had something to say?

20 A. I couldn't investigate it always. It depends on that at times.

21 Q. Yeh, I can -- I believe -- I understand that.

22 A. Yeh.

23 Q. Did someone tell you --

24 A. What's your question again, sir?

25 Q. Did someone tell you that Pratico had some useful information

- 1 for you?
- 2 A. All I can say at this time, that must've came to my attention,  
3 but I had nobody --
- 4 Q. You have no recollection of that?
- 5 A. No recollection of --
- 6 Q. Yeh.
- 7 A. -- what was done.
- 8 Q. Do you recall speaking with or some -- one of your officers  
9 attending at Mrs. Pratico's house to get Pratico -- told to  
10 go get him and being given a blood -- I'm sorry, a shirt of  
11 Pratico's that was filled with blood?
- 12 A. No. I heard that testimony when I was here.
- 13 Q. Did you ever see a shirt of --
- 14 A. No.
- 15 Q. -- Pratico's with blood on it?
- 16 A. I don't recall seeing anything like that at all.
- 17 Q. If you did see such a thing, Chief, could we assume you would've  
18 made a note of it somewhere?
- 19 A. I would -- I think that's something that I would remember, yes.
- 20 Q. And it's something you would've questioned Pratico about?
- 21 A. That's right.
- 22 Q. Was Pratico kept separated from Chant and Marshall at the  
23 police station on that Sunday?
- 24 A. Yes. They wouldn't be together.
- 25 Q. Would they be in a position where they could see each other?

9:46 a.m.

1 A. I wouldn't say so.

2 Q. The second Chant statement said he saw Pratico at the police  
3 station. Could that have been possible?

4 A. No, I wouldn't have them come in contact with one another, sir.

5 Q. I realize you may not have them come in contact --

6 A. No.

7 Q. -- but would it be possible --

8 A. No.

9 Q. Any possibility of Pratico coming into contact with Marshall?

10 A. I wouldn't say so.

11 Q. Do you have any recollection of what you had been told Pratico  
12 might be able to tell you? Why was he of interest to you?

13 A. Just as a result of information received, sir, that Pratico  
14 was taken in. At this time, I just can't recall.

15 Q. And did you follow your usual practice with him of saying, "I  
16 want to take a statement," and then writing down everything  
17 that was said?

18 A. Pratico's statement? I would have to have a look at it, sir.

19 Q. It's on page 22 of Exhibit 16. That's a typewritten copy  
20 of it, Chief, you'll realize.

21 A. Yeh, I realize that.

22 Q. Yeh. But I think it's an accurate typewritten copy.

23 A. Yeh.

24 Q. You didn't have another officer present?

25 A. That's right.



JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. In fact, you didn't have another officer present on that --
- 2 A. No, I had done all three of those myself.
- 3 Q. Yeh. Even though you had Michael MacDonald go out to Louisbourg
- 4 with you --
- 5 A. Yeh.
- 6 Q. -- to get Mr. Chant.
- 7 A. That's right. I'd done all three --
- 8 Q. And even though you're dealing with all juveniles?
- 9 A. Pratico wasn't a juvenile, sir.
- 10 Q. Pratico was sixteen. That's not a juvenile.
- 11 A. That's right. No.
- 12 Q. And Marshall's seventeen; so --
- 13 A. That's right.
- 14 Q. I'm sorry.
- 15 A. That's right. And Chant's mother was asked if she wanted to
- 16 come along and she said, "No, you can take -- He can go along
- 17 himself."
- 18 Q. Okay. Let's look at Pratico's statement. Would that comprise
- 19 everything that was said that day?
- 20 A. Yes.
- 21 Q. Do you have independent memory of that interview?
- 22 A. Well, I -- The purpose of talking to him was to take a statement
- 23 from him, and I would relate to him, of course, why he was
- 24 there and that -- what he might know about May the 30th.
- 25 Q. Just give me an -- I know you can't do it word for word, Chief.

1 A. I can't do it word for word, sir.

2 Q. Give me an idea of what you would say to him.

3 A. I would just tell him I was investigating -- what I would likely  
4 tell him that I was investigating a stabbing over at the park  
5 on Friday night, and I was wanting to know if he'd be able to  
6 tell me anything about it.

7 Q. And then you would write down everything that was said?

8 A. I would do my best, yes, sir. Do my best to write down.

9 Q. Okay. He talks in that statement of seeing -- I'm sorry, of  
10 being over by the Court House when he heard a scream.

11 A. Yes.

12 Q. Now, the Court House, you know from having grown up in that  
13 area, is a block or so removed --

14 A. Yeh.

15 Q. -- is it not --

16 A. That's right, yeh.

17 Q. -- from the Crescent Street Apartments.

18 A. Yeh, that's right. It's still Crescent Street, but then the --  
19 It's on the other side of the track and over towards Kings Road.

20 Q. Yes.

21 A. Yes, sir.

22 Q. He says when he heard the scream, he looked and seen two  
23 fellows running from the direction --

24 A. That's right.

25 Q. -- and then said that he jumped in a white Volkswagen, and he

1 describes two individuals. Now, would you -- Why didn't you  
2 ask him to -- some questions about those individuals? Why  
3 didn't you ask him how old they were, for example?

4 A. Well, he gives a description of the car that he jumped into  
5 and gives a description of the two parties that he seen jumping  
6 into it.

7 Q. I know that, but why didn't you ask him? The other witnesses had  
8 been talking about ages. Wouldn't you have asked him, "How  
9 old were they? Any idea of their age?"? Why wouldn't you  
10 ask him that?

11 A. Probably that's a question that I left out at the time.

12 Q. What color their hair was?

13 A. Yeh.

14 Q. Whether they were wearing glasses? None of those points seem  
15 to have been covered.

16 A. I was taking his story at the time, sir.

17 Q. But you were also questioning and answering, Chief.

18 A. Yeh, I was. Yeh.

19 Q. Why didn't you ask him those very basic questions?

20 A. His answers to the --

21 ...One had a brown corduroy  
22 jacket - 5'5 dark complexion;  
heavy set. The other...

23 -- fellow --

24 ...grey suit about 6 ft. tall;  
25 husky; red sweater - like a  
pullover...

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. I know what he said --

2 A. Yeh.

3 Q. -- and I'm trying to find out why you didn't ask him, sir --

4 A. Well, they weren't asked, sir, and that's what -- the statement  
5 I took from him at that time.

6 Q. Can you give me any reason why you wouldn't have asked given  
7 the --

8 A. No.

9 Q. -- fact that the other people had talked about age, for example.  
10 Why wouldn't you have asked him how old they were or did he notice  
11 their age?

12 A. It had -- It wasn't asked, sir. I can't give any reason for  
13 that.

14 Q. He refers in the statement in his last sentence there, Chief,  
15 to a Robert Patterson.

16 A. Yes.

17 Q. Now, that is a name that Junior Marshall referred to as well.

18 A. Yes, and the Harriss girl also.

19 Q. Yeh. But at least on May 30th, two people gave you the name  
20 Robert Patterson.

21 A. Yes.

22 Q. Did you ever speak with him?

23 A. No.

24 Q. Why not?

25 A. I didn't locate him.

- 1 Q. Did you try?
- 2 A. Well, my men were out looking for him, and it wasn't brought  
3 to my attention.
- 4 Q. He --
- 5 A. The only part about Patterson, if you recall from all witnesses  
6 that say that they seen him, was that he was down in the park  
7 area on the other side of the pond, and he was supposed to  
8 be intoxicated and sitting there by himself. In fact, I think  
9 in one of the statements of Harriss's that he came down to the  
10 park with them on that particular night and stayed in the park.
- 11 Q. Does the fact that he is drunk have any significance?
- 12 A. Well, according to some of them that he was so full that they  
13 put him under bushes over there so the police wouldn't see him,  
14 I believe, and I think that's the story of Marshall.
- 15 Q. Well, let's go back to Marshall's statement. That's on page 17.  
16 Page 17.
- 17 A. Yeh.
- 18 Q. The first paragraph.
- 19 A. Yes.
- 20 Q. We met Bob Patterson. He  
21 was drunk. We asked him if  
22 he knew us and he called us  
23 by name.
- 24 A. Yes.
- 25 Q. That's Sandy Seale and Marshall together.
- 26 A. Yes.
- 27 Q. So he's sober enough to know Sandy Seale and Junior Marshall.

1 | There's no reference to Bob Patterson in Maynard Chant's state-  
2 | ment, and then Pratico just says Patterson was there and he  
3 | spoke to him, that Patterson told him where these two  
4 | individuals were from, that they were members of the Toronto  
5 | Saints Choice bike gang. It would seem to me that given what  
6 | you knew on May the 30th, Patterson would be a pretty important  
7 | person to find and talk to. Wouldn't you not agree with that?

8 | A. No, I think Patterson was over on the other side of the park.  
9 | There's no evidence to state that Patterson was over around  
10 | Crescent Street or that Patterson was involved with any of  
11 | those people that I talked to.

12 | Q. Let me come back to you, to May 30th, Sunday. You've already  
13 | gone through who you spoke to. It wasn't a lot of people up  
14 | until the time you brought in Marshall, Chant, and Pratico. And  
15 | when you're through with Marshall, Chant, and Pratico, this is  
16 | what you know at least as I see the information. ( You know that  
17 | Seale and Marshall met Patterson and that he called them by  
18 | name and that he was drunk, and you know that Pratico spoke  
19 | with Patterson who told him that the two people Pratico allegedly  
20 | saw carrying out a stabbing were from -- told him they were  
21 | from the Toronto -- or at least were from a certain bike gang  
22 | in Toronto. That's all you knew, isn't it?

23 | A. Well, yes, that was his story, yes.

24 | Q. That was --

25 | A. That was --

- 1 Q. -- the story of Pratico.
- 2 A. Pratico, yes.
- 3 Q. And Marshall?
- 4 A. Marshall is not talking about a Volkswagon.
- 5 Q. No.
- 6 A. No.
- 7 Q. I never suggested he was.
- 8 A. No.
- 9 Q. I'm trying to find out why you wouldn't have on Sunday or Monday  
10 or Tuesday or any day, yourself, as the man in charge, gone  
11 and found Patterson.
- 12 A. Well, he just wasn't located. That's all I can tell you, and  
13 he wasn't interviewed, and --
- 14 Q. Do you think that was competent police work on your behalf?
- 15 A. I don't -- I didn't see anything wrong with it. I don't know  
16 what Patterson could tell me except that what other people were  
17 telling me that he was on the bench on the other side of the  
18 park, if he was sober enough to realize that and that -- I had  
19 no information that Patterson seen anything from anybody.
- 20 Q. You tell me what information you had that Patterson was on the  
21 bench on another side of the park. Who told you that?
- 22 A. Well, I think -- Wasn't there evidence that when -- the people  
23 who walked through the park that seen this fellow alone on a  
24 bench?
- 25 Q. Are you saying you had that evidence before you spoke with

1 Marshall and Pratico?

2 A. Before I spoke -- I don't know what the Dixons -- I think I seen  
3 the Dixon's on that same day, didn't I?

4 Q. Dixon is on page 24, Chief.

5 A. No, I don't know whether I had that before or not, sir.

6 Q. Alanna Dixon you saw on May the 30th, the same day.

7 A. Yeh.

8 Q. Her statement's on page 24. I don't see any reference in it  
9 to Bob Patterson. Is there?

10 A. No, the only thing is here is:

11 Q. Did you see anybody else  
12 in the park?

13 And they'd be coming in the direction from George from the  
14 dance.

15 A. Just one man wearing some-  
16 thing light sitting on a  
bench with his head down.

17 Now, you know, who was that?

18 Q. I have no idea, Chief.

19 A. No, but I mean, that's where I -- That was my understanding at  
20 the time that more than one person seen this Patterson in the  
21 park. Now -- And my men tried to contact him with no success  
22 at that time.

23 Q. Have you ever spoken to him?

24 A. No, I haven't. No.

25 Q. I come back, Chief, and suggest to you that when you have finished your



1 examinations on Sunday of those three witnesses, and including --  
2 four witness, if you like. Alanna Dixon. You know that  
3 Patterson may well have important information to give you, at  
4 least important enough that you should go talk to him.

5 A. No, I didn't have important information that he could give me,  
6 sir, from anybody, except he was sitting in the park -- He was  
7 in the park and he was intoxicated, eh.

8 Q. That he had spoken to Seale and Marshall. You knew that? At least  
9 that's what Junior Marshall told you.

10 A. That's what Marshall said, yes.

11 Q. And that he had knowledge of where the two people Pratico saw  
12 came from -- who they were. He had knowledge of that.

13 A. Yeh.

14 Q. You didn't consider that important?

15 A. I just took what he had to -- Pratico had to say at the time  
16 at that time. As you -- You know, as you realize, I went back  
17 to Pratico at a later date.

18 Q. Did you not -- Were you interested in any evidence that -- you  
19 know, might lead you to these two other people that were  
20 supposed to be there?

21 A. You mean the two that Pratico was talking about?

22 A. Pratico. Chant was talking about two people. Marshall was  
23 talking about two people.

24 A. I think Ryan of the R.C.M.P. gave information, and I don't  
25 recall at this time, but I accompanied him to Waterford on a

10:00 a.m.

1 Tuesday looking for this Volkswagen.

2 Q. Well, I think, in fact, what -- Ryan said you accompanied him  
3 to Waterford --

4 A. It was in New Waterford. Yeh.

5 Q. -- to look for any witnesses there who might've been in the  
6 park.

7 A. Yes, I think he did talk about the Volkswagen.

8 Q. He did talk about the Volkswagen?

9 A. That's what I think. I'm not that --

10 Q. Do you wish today, Chief, that you'd gone and seen Bob Patterson?

11 A. No, I don't -- Looking at today, what would it -- You're  
12 talking about them belonging to a chain -- a bicycle gang in  
13 Toronto and what have and what have you, and that didn't turn  
14 out, did it, in the evidence?

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- 1 Q. It didn't turn out in the evidence because --
- 2 A. We're talking about Sunday now, but on Friday that was a different  
3 story.
- 4 Q. Are you saying today --
- 5 A. On June the 4th it was a different story than May the 30th.
- 6 Q. On May the 30th?
- 7 A. Yes.
- 8 Q. Are you saying today that it was in your opinion good, competent  
9 police work not to find Bob Patterson and take a statement  
10 from him?
- 11 A. I'm saying today that my men looked for Bob Patterson and we  
12 didn't find him, but what Pratico said on May the 30th was a  
13 different -- is different than what he said on June the 4th, sir.
- 14 Q. I'm talking May 30th.
- 15 A. I know, May 30th. Well, I'm saying that we couldn't locate  
16 him.
- 17 Q. Patterson couldn't be that hard to find.
- 18 A. Well, we -- my men couldn't locate him. That's all I can tell  
19 you, sir.
- 20 Q. Well, do you know if they talked to Marshall and asked him  
21 where they could find Patterson?
- 22 A. No, I don't know that, sir.
- 23 Q. Did you?
- 24 A. No, I didn't. No.
- 25 Q. Did you know if they talked to Pratico and said, "Where can we

1 find Patterson?

2 A. No, I --

3 Q. Did you?

4 A. I don't -- No, I didn't, sir, not that I recall --

5 Q. And as you said --

6 A. Not that I recall, no.

7 Q. Now are you saying that you told your men specifically, "Go  
8 and find Bob Patterson for me"?

9 A. Yes, I would -- During this investigation his name came up and  
10 I would say that the men were looking for him to the best of  
11 my recollection.

12 Q. You would have --

13 A. And they never came up with him and in -- and the R.C.M.P. were  
14 looking for the man too and didn't come up with him.

15 Q. You would instruct your men then, Chief, just so I understand--

16 A. I believe --

17 Q. Just let me ask the question and then you can answer. You're  
18 telling me that you instructed your men on May 30th or shortly  
19 thereafter to find Bob Patterson for you, that you wanted to  
20 speak to him?

21 A. I would say that I discussed Bob Patterson with my men, yeh.

22 Q. Yeh, that's a different thing, Chief. Did you instruct your  
23 men to go find him or not?

24 A. Well, if Bob Patterson could have been found (I'll put it this  
25 way.) we would have questioned Bob Patterson, but he couldn't be

1 | located, sir. That's all I can tell you at this time.

2 | Q. Well, my question doesn't seem to me to be difficult, Chief.

3 | Did you or did you not instruct your men to go pick him up for  
4 | you?

5 | A. If he was seen around to pick him up, yes, that would be my  
6 | instructions.

7 | Q. Okay. And what men are we talking about? Are we talking about  
8 | patrolmen?

9 | A. It could be patrolmen. It could be Billy Urquhart that I was  
10 | working with. I mean then we all knew that Bob Patterson was  
11 | in the park that night and that several people had seen him.  
12 | And again I'm telling you, I don't know, although we couldn't  
13 | find him -- I'm being honest with you. But I'm telling you at  
14 | this time, I don't know what evidence he could -- you're  
15 | talking about his importance. I don't know what evidence  
16 | that he could give as this thing turned out later on with  
17 | those people.

18 | Q. As it turned out later on, Chief --

19 | A. Yeh.

20 | Q. -- we still haven't -- you and I haven't reached an agreement  
21 | yet on what you think turned out later on.

22 | A. No.

23 | Q. The --

24 | MR. PUGSLEY:

25 | In fairness to the witness I wonder if my friend would direct his

1 attention to page 135.

2 MR. MacDONALD:

3 Thank you.

4 MR. PUGSLEY:

5 And at the two words at the top of the page which may assist in  
6 this line of questioning.

7 MR. MacDONALD:

8 Thank you, Mr. Pugsley.

9 BY MR. MacDONALD:

10 Q. Chief, page 135 of volume 16. Can you tell me whose handwritting  
11 that is, Chief?

12 A. That's William Urquhart's: "Patterson wanted".

13 Q. I don't know when those were made. It's not dated, but in any  
14 event hopefully some day we'll be able to ask Mr. Urquhart about  
15 that, and that's in quotes, "Patterson wanted". So you would  
16 have told Urquhart then you wanted Patterson?

17 A. That is my recollection.

18 Q. Okay. That's fine. So you did want to talk to him?

19 A. I wanted to talk to him, yes.

20 Q. Now, was Patterson. Do you know him, Robert Patterson?

21 A. No.

22 Q. And you, yourself, did not ask Junior Marshall, John Pratico,  
23 or anyone else who mentioned Patterson, you didn't ask them  
24 where he lived, how can I get in touch with him?

25 A. I can't recall at this time, sir, but I -- you know, I have no

1 knowledge of asking them.

2 Q. And I suggest if you had asked, you would have then told  
3 someone, go get him at such and such an address?

4 A. That's right. If they knew, yes.

5 Q. At the end of the day on May the 30th, that's Sunday, when you're  
6 through taking these statements, is that the last thing you  
7 would have done that day, Chief, with respect to this  
8 investigation?

9 A. I couldn't say at this time.

10 Q. Could you tell me at the end of that day did you have your  
11 patrolmen, your investigators, actively looking for anybody,  
12 searching for any suspects?

13 A. I'll put it this way to you, sir, the police were aware of it  
14 and the police were aware of what went on Friday night, they  
15 were aware of descriptions. I don't know about this Volkswagen  
16 business at that time.

17 Q. Let me just review with you, Chief, the various descriptions  
18 that were available to the police on May the 30th in the  
19 evening, just review them and then see if I can get you to  
20 tell me which one would have been followed or which  
21 description would have been given to your people to look  
22 for? I've just summarized these and I can take you through  
23 them if you wish, but this is what I've summarized. Mroz's  
24 report said he had been told there was someone in their  
25 mid-forties, very tall with white hair and there was a second

1 person much shorter and younger. That's what Mroz said.  
2 Dean said it was a tall fellow with white hair and a short  
3 fellow. M.R. MacDonald said one of them was heavy set and  
4 short, wore a dark blue coat to his knees, grey hair, black  
5 low shoes, wearing glasses, dark rims; the second was tall,  
6 five foot eleven, black hair, clean shaven, corduroy coat,  
7 brown in colour, three quarter length. We have the Telex  
8 that was sent from the Sydney Police saying that there was  
9 an unknown male, just one of them, five foot eight to six  
10 foot tall, grey hair, approximately fifty years old. You  
11 had Junior Marshall saying that it was small fellow, five  
12 foot nine or ten, a hundred and ninety pounds, grey hair,  
13 combed back, glasses, fifty years old, long wide face, long  
14 blue coat, black shoes, rounded toes. And the second guy  
15 was wearing a brown corduroy coat, five eleven, a hundred  
16 and fifty pounds, black hair, thirty-five years, thin face.  
17 And you had Chant saying, six foot two, light brown hair,  
18 dark pants, suit coat, over two hundred pounds; six foot  
19 tall, dark pants, dark hair, a hundred and sixty-five pounds,  
20 couldn't say if he was young or old. And Pratico, one had on  
21 a brown corduroy jacket, five foot five, dark complexion,  
22 heavy set; the other was, a grey suit, six feet, husky with  
23 a red sweater. What did you have your men looking for? What  
24 description did you give your men? What did you tell them?  
25 A. There was quite a few different descriptions here.



- 1 Q. That's right.
- 2 A. Yeh.
- 3 Q. So what were your men looking for?
- 4 A. Well, I think that Marshall on Friday -- His description was  
5 what on Saturday?
- 6 Q. Marshall's description to you, the handwritten one or --
- 7 A. Yeh.
- 8 Q. --the one that's taken down?
- 9 A. Yeh.
- 10 Q. May the 30th. The one that he gave to M.R. MacDonald was given  
11 at the hospital on Friday night.
- 12 A. That's right.
- 13 Q. And the one that he gave to MacDonald was pretty similar to  
14 the one that he gave to you. Is that the one you were relying  
15 on?
- 16 A. Well, Marshall seemed to be the handiest to them at that time  
17 for any statement.
- 18 Q. Is that the one you would have relied on? Is that the -- You  
19 must have put a bulletin out, I take it, to your men?
- 20 A. I was getting a different statement -- different descriptions  
21 from different people, including the police. A tall man  
22 with grey hair, a short man with grey hair, the weight, a man  
23 five foot, five foot 8; a hundred and eighty, a hundred and  
24 ninety pounds, a pretty stocky individual, you know.
- 25 Q. So what did you tell your men?

1 | A. Well, that's what I would think that the men would be -- would  
2 | be looking out for and this Volkswagen, of course, came into  
3 | it on Sunday. And that's the only time I heard about the  
4 | Volkswagen and the screaming and two fellows running in that  
5 | direction. Marshall didn't give me that at all about any  
6 | Volkswagen. Marshall gave me a different description to what  
7 | I got here.

8 | Q. Did Marshall give you a description of the car?

9 | A. No car, no, sir. There was no car, sir. And Marshall was the  
10 | closest to the scene in my opinion. The other fellow --

11 | Q. So do I take it from that that the description you would give  
12 | to your force to look out for is the one Marshall gave you?

13 | A. Well, at that time also they would have the police reports and  
14 | there was different descriptions on them, hey, than what was  
15 | in this, but it -- it -- Now they're -- they're all different.  
16 | And again you're -- I'm taking statements here from those  
17 | people and one doesn't know what the other has said. It's  
18 | what they said, but they're all different descriptions.

19 | Q. What I'm trying to determine, Chief, is the decision that  
20 | you made as head of this investigation?

21 | A. As head of this investigation --

22 | Q. What did you tell your men, your police staff? Did you tell  
23 | them to look out for particular people?

24 | A. I was sticking to what Marshall said, the short-- you know,  
25 | the short --

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Okay. So you were sticking with Marshall's description?

2 A. Yeh. That's right. At that time, yeh.

3 Q. Thank you. And what efforts were made to locate the people  
4 that were described by Marshall, first by you and then by  
5 others on your direction? What efforts did you make to  
6 locate those people?

7 A. Well, the police were looking out on their beats and as you  
8 know, some of the police had checked premises, hotels, and  
9 boats, and different places for this description at the  
10 time.

11 Q. And what did you do?

12 A. And then -- What did I do? I stayed pretty close to the  
13 situation waiting for information.

14 Q. Did that --

15 A. You know, you don't -- you just can't pick this out of a --

16 Q. Do I translate that in that you stayed in the station waiting  
17 for people to tell you --

18 A. Not in the station, but I -- I'd be around too in a car and  
19 what have you.

20 Q. You'd be around --

21 A. But I can't tell you, you know, every minute what I done.

22 Q. At the end of that day on Sunday did you have any theory in  
23 your mind as to what happened here?

24 A. No, I -- I gave the statements that I took a lot of thought.

25 I visited the scene to see if I could put together any of this.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. Did you do that on Sunday, Chief?
- 2 A. No, but it was -- it was the first of the week.
- 3 Q. But on Sunday --
- 4 A. No, I wouldn't say the first of the week, but somewhere  
5 probably more close to the middle of the week. I can't tell  
6 you just what night, but I'll tell you it was before June  
7 the 4th. I went there myself at midnight and I -- I walked  
8 this area and I observed what I could. The reason I went there  
9 at midnight, because it was dark and I'd be able to observe it.  
10 In fact, it was at midnight I went there.
- 11 Q. At the end of the day on May 30th, at the end of that day, that's  
12 Sunday --
- 13 A. Yes.
- 14 Q. --did you believe the story that Junior Marshall had given to  
15 you?
- 16 A. I had taken Junior Marshall's story at that time and I had  
17 taken those other statements and I had still kept an open mind  
18 on it, sir.
- 19 Q. Do I take it then you -- at that stage you were prepared to  
20 believe what Junior Marshall told you?
- 21 A. Well, no, I wouldn't say that I was with those other stories  
22 here. I wouldn't say I was. I still wanted to see some more  
23 evidence.
- 24 Q. You wanted to see some more evidence?
- 25 A. Yeh, or get some more evidence, yes.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Was there a blockade of Membertou Reservation?

2 A. I -- As I said before, I didn't know anything about that,  
3 sir.

4 Q. You've never known anything about that?

5 A. I don't recall anything about that, no.

6 Q. Chief, I'm just going to show you an extract taken from  
7 volume 19 of the Exhibits. This is a volume, I think, which  
8 contains all the documents generated by the R.C.M.P. in 1982.  
9 I'll just read it to you.

10 COUNSEL:

11 What page?

12 MR. MacDONALD:

13 I'm sorry, it's on page 124. Well, if we just wait, Chief, until  
14 their Lordships get their copy of that.

15 BY THE WITNESS:

16 A. Yes, I recall.

17 BY MR. MacDONALD:

18 Q. That is referenced in -- in a report prepared by the R.C.M.P.,  
19 Corporal Carroll.

20 A. Yeh.

21 Q. And it says:

22 O.C. ...

23 Whoever that is.

24 ...also advised Chief John MacIntyre  
25 of Sydney P.D. had just called...

10:16 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. Yeh.

2 Q. ...stating Inspector Richard Walsh  
3 and Ambrose MacDonald now remember  
4 responding to a call at Membertou  
reserve when road blocks were  
being set up to prevent trouble...

5 A. Yes.

6 Q. ...on the reserve (prior to MARSHALL'S  
7 arrest) at which time MARSHALL was  
present...

8 A. Yeh.

9 Q. ...and was asked by MacDonald what he  
10 was doing while SEALE was being stabbed.

11 And he went on to say --

12 A. Yes, I recall this. Your question to me was whether I knew at  
13 the time back in '71, if I've got you right --

14 Q. Yeh, but I --

15 A. Pardon me now, for a minute.

16 Q. All right.

17 A. If there was road blocks placed up at the Reservation and I  
18 said no to that, this report here came to me on this particular  
19 date here and the R.C.M.P. were investigating that at that time.  
20 Those men never brought that to my attention before that and  
21 getting this information I thought they should have them  
22 if they want to interview my men.

23 Q. Okay.

24 A. Because I told my men when this investigation opened up to  
25 co-operate fully with the R.C.M.P. if they came in to question.

1 | But when -- when this came to my mind on that date I called  
2 | and conveyed that to them for their information at that  
3 | time, sir.

4 | Q. And on that date, Chief, just for the record, it appears to  
5 | be June 16, 1982?

6 | A. Yes. So that's when it came to my attention, sir.

7 | Q. And so on June 16, 1982 --

8 | A. Yeh.

9 | Q. --you had been advised by Walsh that he and MacDonald --

10 | A. I'm not sure whether it was Walsh or Ambrose that told me, but  
11 | I did say at the time, "You never told me anything about that",  
12 | or words to that effect and I called them and told them that  
13 | in case that they wanted to interview my men on that. I knew  
14 | nothing about that until that time.

15 | Q. The advice you were given was that the road blocks were being  
16 | set up on the Reserve prior to Marshall's arrest?

17 | A. Whatever's there. Whatever's there.

18 | Q. That's what you were told?

19 | A. Yeh, well, that's the message that they said I conveyed to  
20 | them.

21 | Q. And you weren't aware of that?

22 | A. No, sir. No.

23 | Q. As the Sergeant of Detectives in Sydney Police you weren't  
24 | aware --

25 | A. No.

- 1 Q. --that road blocks were being set up?
- 2 A. I wasn't aware of that, sir.
- 3 Q. Was there any knowledge that you have, any concern being  
4 expressed that there was some racial overtones or some problem  
5 that could arise on the Reserve?
- 6 A. It doesn't come to mind. I have no recollection of it, no.  
7 Anyway, he talked to me about that.
- 8 Q. When was the search of the park carried out? I'm sorry, not the  
9 search, the draining of the park.
- 10 A. The draining of the park, that would be very early, probably  
11 Monday or Tuesday of that week.
- 12 Q. And just describe for me what you arranged to have happen?
- 13 A. Well, they -- That's where the Engineering Department and  
14 the reservoir park which is a way out that controls the  
15 water, the water coming into the creeks, the water was  
16 stopped at that period, early in the evening, and, of course,  
17 it would take an all night draining. And we came out at  
18 daybreak, including some men -- I gathered some men at daybreak.  
19 I should say I came out at daybreak when the water was down  
20 to look for the weapon in all those creeks. I expected --  
21 I thought that the weapon might have been fired into the  
22 creek area.
- 23 Q. If you'd just look at the plan, Chief, to your right, would  
24 all of the ponds shown on that plan have been drained?
- 25 A. Yeh, over to -- over to Bentinck Street, yeh. Yeh.

10:20 a.m.



JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. And that is the left extremity on that plan.
- 2 A. Yeh.
- 3 Q. All of those would have been drained?
- 4 A. They'd go right down, yes, and they'd flow then out to the  
5 harbour, you know, they'd keep on going. So if you stopped  
6 the water up at the reservoir then it gives you a chance to  
7 drain it.
- 8 Q. Now had you ever seen that -- those creeks drained before?
- 9 A. Drained before? I might have. I might have, you know. For  
10 some reason I might have, but they were drained for that  
11 purpose at that time. Now during the night some time  
12 somebody had interfered with the lock -- with the apparatus  
13 that was controlling that of the reservoir, yes, and when we  
14 got out there it was starting to -- starting to build up again  
15 because of that -- that --
- 16 Q. Did it hamper your search in any way?
- 17 A. Well, we got out in time. We were out there -- We were out  
18 there at daybreak.
- 19 Q. So it didn't hamper your search?
- 20 A. Well, I -- not to any great extent, no. We didn't have to  
21 wait for another night.
- 22 Q. What were the bottom of those ponds like?
- 23 A. Very muddy and kind of a tar situation.
- 24 Q. Black?
- 25 A. You know you could -- Yeh, black muck, yeh.

1 Q. What --

2 A. I thought we might see a weapon laying there or stuck in  
3 the mud or landed there. We weren't lucky enough.

4 Q. How was the search, how was it carried out?

5 A. Well, we searched the ponds, sir, right.

6 Q. How did you do that?

7 A. From the shore.

8 Q. From the shore?

9 A. From the shore, yes.

10 Q. Did you have any sort of device, metal detectors, anything like  
11 that?

12 A. No, nothing like that, no.

13 Q. Did you attempt to have any of those?

14 A. No.

15 Q. Make any request of the R.C.M.P., for example?

16 A. No.

17 Q. How long would the search have taken?

18 A. Well, until we were sure that we -- that we -- there was nothing  
19 there that we could see, sir, and then, of course, the place  
20 was flooded later on that morning again.

21 Q. Did you have any devices, such as, binoculars to help you see  
22 or anything of that nature?

23 A. I don't know if we had binoculars or not. I'm not sure if  
24 we had binoculars.

25 Q. You, yourself, were present?

10:23 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 A. The eyesight was pretty good at that time. We were out  
2 looking and we didn't have to look too far.
- 3 Q. Okay. And what creeks -- Would you have looked at all three  
4 of those creeks?
- 5 A. Over to Bentinck Street.
- 6 Q. Yeh.
- 7 A. Yeh.
- 8 Q. Now can you tell me what else -- We're on to -- We're into  
9 Monday now. Tell me what you did on Monday as best you can?
- 10 A. Monday?
- 11 Q. I can help you a little bit.
- 12 A. I think there was a statement or two taken on Monday too, wasn't  
13 there?
- 14 Q. If you go to -- first of all to page 15. That's of Exhibit 16  
15 by the way.
- 16 A. Yeh.
- 17 Q. That would indicate that you had spoken with Keith Beaver at  
18 the bottom of that page?
- 19 A. Yes. Keith Beaver on that particular evening, he -- he was  
20 at the dance at St. Joseph's Hall with those other people,  
21 Alanna Dixon and I believe -- No, the Cotie one, she wasn't  
22 with them. What was it? Dixon and Noseworthy, I believe, yes,  
23 they were there.
- 24                   ...Keith Beaver in regard to Alanna  
25                   Dixon's story and the only change that  
                  I found in his story was that they

1                   were talking with Sandy Seale  
2                   leaving the dance and that he  
3                   walked down George St. with  
4                   them - that Sandy did not enter  
5                   the Park at that time. He kept  
6                   on down George by himself. The  
7                   Dixon girl stated that Sandy  
8                   walked through the Park in her  
9                   statement but went over the bank  
10                   to the railway track.

11            Yeh.

12   Q. Now you spoke with Beaver it appears on May the 31st?

13   A. Yes.

14   Q. Now the only other statement I can find that date in the  
15       book is -- in volume 16 is the statement from George and  
16       Sandy McNeil on the evening of May the 31st. That's on  
17       page 26, Chief.

18   A. Yeh. And the Dixon girl's story, that was -- that was  
19       May the 30th.

20   Q. The Dixon girl you saw the day before.

21   A. That's on twenty-four, yeh. All right. Yes, I have that  
22       here.

23   Q. Now other than seeing Beaver, and we'll come to the McNeil  
24       statement that started at six-thirty at night. Other than  
25       seeing Beaver, can you tell us what else you would have done  
26       on that May 31st, the Monday?

27   A. No, I have no recollection at this time just what I was --  
28       what I was doing.

29   Q. McNeil, that is George McNeil, and Sandy McNeil testified that

- 1 | they contacted you, they came to the police rather than the  
2 | police having found them. Is that your recollection?
- 3 | A. Well, that could be so. I -- I -- I thought I went to  
4 | Coxheath.
- 5 | Q. There is a note --
- 6 | A. I think -- Did they hear -- But they might have called and then  
7 | I went out there. I'm not sure. And look at ninety-- yes,  
8 | ninety-one, Bungalow Road, Coxheath.
- 9 | Q. If you look at page 138, Chief, this might help you. Is that  
10 | your handwriting?
- 11 | A. No, that's William Urquhart's handwriting.
- 12 | Q. That's Urquhart's as well?
- 13 | A. Yeh.
- 14 | Q. Well, we'll have to ask him.
- 15 | A. Yes, that's his handwriting, sir.
- 16 | Q. In any event, you did take a statement from George and Sandy  
17 | McNeil?
- 18 | A. Yes, it's-- Yes, on page 27 is the original. Yes.
- 19 | Q. Whose handwriting is that on page 27?
- 20 | A. That's mine. That's mine.
- 21 | Q. So you took the statement from --
- 22 | A. From the two of them at that time, yes.
- 23 | Q. There's no time noted when the statement was finished?
- 24 | A. No, that was the -- that was the crux of the statement right  
25 | there and the -- I think they seen a man down in the park, if

JOHN F. MacINTYRE, by Mr. MacDonald

1 I recall, with -- in his fifties and he had a white--a grey  
2 or white coat on him that night, if I recall.

3 Q. We'll look at his statement, but is there any reason you  
4 wouldn't have put the date or the time when it was finished.  
5 That wasn't your normal practice, was it?

6 A. It would have been, yes.

7 Q. Now this is a statement from McNeil.

8 A. From the two of them?

9 Q. Yeh, from the two of them.

10 A. Yeh.

11 Q. And that description they give you, isn't that quite similar  
12 to the description that Marshall had given to you?

13 A. No.

14 Q. No?

15 A. No, they -- this -- this man here had a light or a white  
16 coat on him. Marshall said it was a blue burberry this other  
17 man was wearing if you recall.

18 Q. Okay.

19 A. Yeh.

20 Q. Marshall says the man was grey haired?

21 A. Yeh.

22 Q. And so does McNeil. Marshall said he was five nine or ten.  
23 McNeil says he's five nine?

24 A. Yeh.

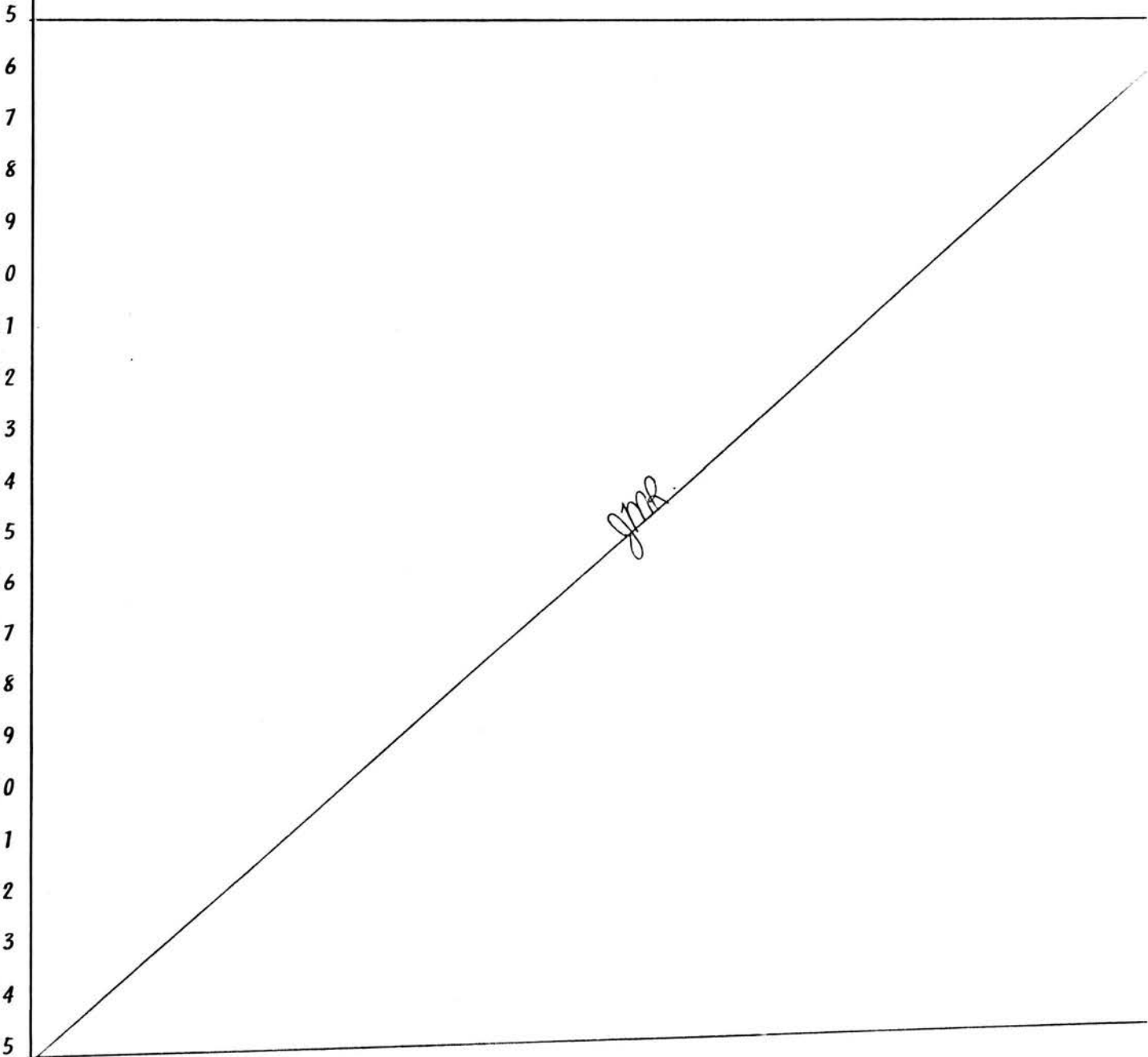
25 Q. Marshall said he weighed a hundred and ninety pounds, McNeil

10:29 a.m.

1        said a hundred and eighty pounds?

2    A.    Yes.

3    Q.    Hair flat on his head according to McNeil and Marshall says,  
4        hair combed back?



1 A. Yes, I see that.

2 Q. McNeil says: "Round fat face". And Marshall says: "Long  
3 wide face". And they both say or Marshall says: "Fifty  
4 years". McNeil says: "Late fifties". And then for the  
5 second person, Marshall says: "Five eleven". McNeil says:  
6 "Six feet, thin, average size". Marshall says: "He weighs  
7 one hundred and fifty pounds". "Dark hair", Marshall says  
8 "Black hair". "Late thirties". Marshall said: "Thirty-  
9 five years". "Brown jacket". Marshall said: "Brown  
10 corduroy coat". I suggest that they are very similar, yes?

11 A. Well, they're not -- some of this is similar, yes.

12 Q. Well, isn't the only difference --

13 A. There's a big difference between a blue Burberry coat and  
14 this is on the -- this is on May the 31st he's talking and a  
15 whiter -- white coat.

16 Q. That is the primary distinction, is it, in your own mind?

17 A. Well, no. But I mean that is -- that is -- you know, that  
18 is very important what he was wearing on that particular  
19 night, the party they're talking about. But the hair flat  
20 on the head, that is -- that -- that is the same. "Round  
21 fat face", and Marshall said, I think, a "round fat face",  
22 and then he said "thin face".

23 Q. You were going --

24 A. And then he -- I'm sorry, yes.

25 Q. You -- you had told me that as of Sunday night --

10:30 A.M.



- 1 A. Yes.
- 2 Q. -- you were going on the description that Marshall had  
3 given to you?
- 4 A. Yes.
- 5 Q. And then on May the 31st you have a description given to you  
6 by an individ -- two independent people that is very similar  
7 except for the coat and perhaps the description of the face.  
8 And did you not consider that to be corroborative evidence  
9 to support what Marshall had told you?
- 10 A. To -- yes, to a degree, yes. But those people were down in  
11 the Park and the MacNeil's did not see those particular  
12 people doing anything except that he did see -- take notice  
13 of those people when he was coming through the Park.
- 14 Q. And he went through the Park around eleven-forty at night  
15 or at least he left the dance eleven-forty?
- 16 A. Yeh, and then you have the others coming through the Park  
17 too around that time. Beaver and Dixon and them and they  
18 see nothing.
- 19 Q. Did you say Beaver and Dixon went through the Park?
- 20 A. That's -- yes, they did, yeh.
- 21 Q. Let me see, I -- yes --
- 22 A. "The four of us cut down through the Park", and --
- 23 Q. Yes.
- 24 A. -- they didn't -- they didn't see anything, sir.
- 25 Q. Thank you.

- 1 A. So, you know, a lot of confusing things there in that. You  
2 have to sit down and start -- start sorting the thing out  
3 and as I continued the investigation, of course, I --
- 4 Q. Did you -- did you suspect that Marshall had been in contact  
5 with George McNeil and Sandy McNeil?
- 6 A. No, I didn't suspect that at all, no.
- 7 Q. Do you suspect that today?
- 8 A. No, no.
- 9 Q. So where do you think they come up with the description of  
10 these two people?
- 11 A. Who is this now?
- 12 Q. McNeil -- George and Sandy?
- 13 A. I'm not -- I'm not saying, sir, that they didn't see somebody  
14 down there, only I'm saying that they -- the description is  
15 a little different. I'm not saying that the McNeil's didn't  
16 see those people in the Park; but they didn't see them doing  
17 anything is what I'm saying.
- 18 Q. They didn't see them doing anything; no, we know --
- 19 A. No, and -- no, but the descript -- the clothing and that is  
20 different.
- 21 Q. Did you subsequently decide to reject this evidence of  
22 McNeil, this George and Sandy McNeil as being not  
23 important?
- 24 A. Not as important as the evidence that showed up later on that  
25 week, sir, as I continued my investigation.

10:34 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. But that evidence was not important given what you were told  
2 later by Chant and Pratico, is that what you're saying?

3 A. Chant and Pratico and --

4 Q. And?

5 A. And I suppose other things that I was looking at.

6 Q. What other things?

7 A. Well, I think that week I -- early that week, I can't tell  
8 you what day it was; but I had that -- that jacket of mine  
9 and I -- and that jacket of Marshall's I should say and I  
10 looked that jacket over and I -- it bothered me quite a bit  
11 when I did.

12 Q. What bothered you about it?

13 A. What bothered me about the jacket was the cuts and the tears  
14 that were on it and several, of course. And then I had a --

15 Q. Why did they bother you?

16 A. Because I had to relate the sleeve -- the arm of that jacket  
17 with the cut that was on Marshall's arm and the blood contact  
18 on the jacket and what Marshall had told me before that about  
19 how they were stabbed. And I had a problem with that and as  
20 a result of that, I thought I should interview the doctor,  
21 Doctor Virick, which I did at the City Hospital and I asked  
22 him if he could get a spot where we could talk for a couple  
23 of minutes. And I told him -- identified myself at the time  
24 and I think Doctor Virick knew me; I'm not sure. And I asked  
25 him about the wound at that time. He was the attending

1 | physician and he discussed the wound with me. And then I  
2 | had the jacket sent to the lab in Sackville, To the fibre  
3 | expert there to get expert examination done on the jacket  
4 | and I went -- I went to Sackville with M. R. MacDonald and  
5 | my recollection the party that was going to look at that  
6 | jacket wasn't there at the time; but I did talk to the  
7 | party that was there and told them what I wanted to -- why  
8 | and what -- wanting to know about those fresh -- those  
9 | tears and what-have-you in the jacket and see what the fibre  
10 | expert could tell me.

11 | Q. Now I suggest to you, Chief, you just covered a fair point  
12 | in time. You were into a couple of weeks anyway.

13 | A. Well, I mean, it was one time, one day, early in the week  
14 | was the jacket.

15 | Q. Okay, but --

16 | A. Later on was the trip to the -- Sackville. And I think the trip to  
17 | Sackville, in New Brunswick; I think was on the 15th of June.

18 | Q. Yes, well, let's stick if we can to the early part of June  
19 | or May. When did you get the jacket?

20 | A. No, they got the jacket -- I got the jacket in the first  
21 | of the week, which is, we're still talking about June.

22 | Q. Yeh, May 31st, June 1st?

23 | A. Yeh, you know, --

24 | Q. You got it then, did you?

25 | A. Or -- or -- or second.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Pardon?

2 A. It was either Monday or Tuesday, I believe. It was the first  
3 of the week anyway.

4 Q. And when you got the jacket, tell me again, what was it about  
5 it that bothered you?

6 A. It bothered me about the condition of the jacket. The arm  
7 and the sleeve and the wrist of the jacket was ripped --  
8 ripped and I believe and cut, or I recall right, and there  
9 was cuts, separations in the arm of the jacket. One  
10 separation was quite long and the other -- other separations  
11 were shorter. I'd say, well, I'm talking inch, inch and a  
12 half; but none of them were continuous separations.

13 Q. Yes.

14 A. And then I relating that, as an investigator, with the cut that  
15 was on the arm. I also noticed that there was very little  
16 blood on that jacket. And I had in mind that somebody was  
17 stabbed in the Park, namely, Sandy Seale and Marshall; but  
18 that Seale was stabbed first and that knife should contain,  
19 in my opinion and as a lay-person's, blood. And where the  
20 cut was on the jacket and the cut on the arm, there was no  
21 blood there on that jacket. Now I'd expect, as an  
22 investigator, for blood to be there and I'd expect, also as  
23 an investigator, for blood from the arm of Marshall to show  
24 up on that jacket in the area. So that was the idea of me  
25 making the trip to Sackville. And I went up there personally

10:37 a.m.

1 | myself, sir, And stayed, I think, in Amherst that night and  
2 | went into the lab the next morning, And accompanied, of  
3 | course, by Mickey R. MacDonald.

4 | Q. Before we -- I'm sorry, Chief, I don't like to interrupt you;  
5 | but before we get up to Sackville, can we just stay here in  
6 | May the 31st or early that week? Do I understand what you're  
7 | telling me that early in the week following the death of Mr.  
8 | Seale, you obtained the jacket of Marshall and that caused  
9 | you some concern?

10 | A. Yes, it did.

11 | Q. Okay, and the concern arose because of the presence of what?

12 | A. The cuts on the jacket which were in different places on the  
13 | jacket coming from close to the shoulder and down to the --  
14 | down to the -- down to the wrist of the jacket.

15 | Q. Okay, now that's -- that's what I -- I'd like you to describe  
16 | for me if you could?

17 | A. Yeh, well, at this time now --

18 | Q. To your best recollection?

19 | A. At this time, I'm going to say there was several cuts and they  
20 | were ~~4~~ continuous cuts. It wasn't one long cut and none others  
21 | it was a long cut, a shorter cut and I think there was one  
22 | up here or somewhere up close here and then there was damage  
23 | down here at the -- at the cuff.

24 | Q. Okay, now be just, for again for the record, when you say there  
25 | was cut up here, you pointed to your shoulder and then you --

10:40 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. Not a -- not a way up, sir. Somewhere but up a lot higher  
2 than where this cut was here.

3 Q. Okay, just so I understand and again --

4 A. Yes.

5 Q. -- so we can describe it for the record, you're saying --

6 A. And that bothered me, yeh.

7 Q. -- you're saying that there was one long cut on the inside  
8 of the arm?

9 A. Yes.

10 Q. Is that correct?

11 A. Yeh, not -- not where you're pointing though. You're pointing  
12 at where the cut was.

13 Q. Okay.

14 A. I don't think it was there but the expert from the lab can  
15 be called because he gave evidence in 1971 as to the  
16 condition of the jacket, sir.

17 Q. Yeh, but I'm trying to get it from you, Chief, what it was  
18 that got you -- made you concerned --

19 A. As an investigator, sir.

20 Q. Yes?

21 A. Yeh, because there was a man cut, namely, Marshall; his arm  
22 was cut and it was cut on the inside.

23 Q. Yes?

24 A. And he was wearing a jacket that night, that yellow jacket.

25 And I real -- I was trying to relate the picture of the thing.

1 Q. Did you ask any -- did you ask Marshall anything about how  
2 the cuts came to be on the jacket?

3 A. No, he told me -- I knew that he was wearing a yellow jacket  
4 that night. He told me about being stabbed on that  
5 particular night.

6 Q. But early in the week then when you got that jacket you  
7 started to have concern about --

8 A. Well --

9 Q. -- Marshall's story?

10 A. Well, I was concerned about how those cuts and again, I -- I'm  
11 not an expert on that. I would have to get from the lab --  
12 from the fibre expert what -- what was his opinion on it.  
13 I wanted to get somebody else's opinion on it, sir.

14 Q. You started to have concern in your own mind about the cuts  
15 and that --

16 A. That's right.

17 Q. -- couldn't -- that couldn't gel with the story that Marshall  
18 told you?

19 A. That's correct.

20 Q. And that started early in the week?

21 A. Well, now Marshall didn't tell me anything about the cuts  
22 on the jacket, sir.

23 Q. He told you --

24 A. He told me about the cut on the arm and he showed it to me,  
25 you know.



JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Yeh, that's what I mean, John, you started to have concerns  
2 that Marshall's story about the cut on the arm really couldn't  
3 be valid given what you saw on the jacket?

4 A. It warranted what I seen, further investigation at the time,  
5 sir.

6 Q. Okay, --

7 A. It was just another aspect I was looking into. I think --

8 Q. I would just ask you to look at page 92 of exhibit 16.

9 A. 92?

10 Q. Now on page 92 is a report prepared by Mr. Evers and  
11 approved by another person and describing the cuts that  
12 appeared on the yellow jacket?

13 A. Yes.

14 Q. Do you see that?

15 A. Yes, I see that, yes.

16 Q. And it says in paragraph four that:

17 The yellow jacket...has two  
18 separations in the material.  
19 The first...approximately 1"  
20 in length and is indicative  
21 of being a cut, "fresh" in  
22 appearance. The second  
separation is approximately 8"  
in length and is indicative  
of being cut and torn and being  
"fresh" in appearance.

23 And those I think, Chief, are the only two cuts that were  
24 found on that jacket by the R. C. M. P. Inspector. Now do  
25 I understand from what you've told me, you're recollection is

10:43 a.m.

1 | that the -- the longer cut, "the 8" long cut", was in the  
2 | vicinity of where Marshall would have had the cut on his  
3 | arm?

4 | A. I -- no, I don't think -- I don't think it was -- you're  
5 | talking about the inner arm where the cut was. I think the  
6 | '8" cut was, you know, over away from that. Now, you know,  
7 | that -- that's my recollection. He would be able to tell  
8 | you because he examined it. But I think there was more than  
9 | probably the '1"' and the '8"', I think and not only that  
10 | it doesn't say anything here; well, it says, - it doesn't say  
11 | anything here about the cuff, does it? At a glance it doesn't  
12 | say anything being cut.

13 | Q. Oh, I would expect that what it says here, is everything  
14 | that appeared on the jacket; but Mr. Evers will have to  
15 | tell us.

16 | A. I think -- I think that you -- I think in the evidence it's  
17 | much stronger than that in the evidence that was given in  
18 | court, sir. I was very interested in that and I did read  
19 | what was said in the courts.

20 | Q. It was your recollection then that all other --

21 | A. All I'll tell at this time, sir, is that I'm talking now  
22 | back in '71, is that there was several cuts and there weren't  
23 | one cut as far as I was concerned in that jacket and if it  
24 | was one stab -- one -- if it was one stab wound that Marshall  
25 | was supposed to receive, the cuts were in different places on

JOHN F. MacINTYRE, by Mr. MacDonald

1           that jacket which would indicate me, as an investigator,  
2           that there would have to be more than one -- one swipe or  
3           one cut on a jacket to do it.

4           Q. And you think that's significant?

5           A. I think it's very significant.

6           Q. You did at the time?

7           A. I think it's very significant. And I think if you's look at  
8           Mr. Gould's statement that I took from him at that time, the  
9           man that owned that jacket and what he said about it on that  
10          particular night -- that afternoon that he gave it to him,  
11          I think he'll tell you the jacket was in perfect shape at  
12          that time. There was no cuts and so forth when he put it  
13          on him. But all and all, it -- it warranted further  
14          investigation, sir, by me and I looked for that.

15          Q. Now this book or this report on page 92 is directed to you.  
16          It's dated June the 29th, 1971?

17          A. Yes.

18          Q. But you would have had it at the -- shortly thereafter I take  
19          it?

20          A. Yes.

21          Q. At least I believe it's directed to you, Chief, isn't it?

22          A. It would have -- a copy at least would have come to the --  
23          I don't --

24          Q. If you see, it says "FOR - The Chief of Police"?

25          A. Yes, that would -- well, I wasn't Chief at the time, you know.

10:46 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. But I assume the Chief would have given to you?

2 A. That's correct. It would have went to the Ident -- to the  
3 -- our section, yes.

4 Q. Did you contact Evers and have any discussion with him about  
5 the results of his inspection of those -- of that jacket?

6 A. No, I would -- I would have talked it over with the Crown  
7 here, sir, and I -- and I understand -- my understanding is  
8 Mr. Evers gave evidence at 1971 in the court in regard to  
9 this jacket.

10 Q. He did.

11 A. He did. Now I think, is the evidence any different in -- in  
12 his evidence than right here?

13 Q. Over the break, I'll have a look at that --

14 A. I think -- I think it is, sir.

15 Q. -- and refresh you.

16 A. I think it is, sir.

17 Q. I'll have a look at that over the break and we'll see.

18 A. And I think --

19 MR. CHAIRMAN:

20 I think this is an appropriate time to break.

21 INQUIRY ADJOURNED: 10:47 a.m.

22 INQUIRY RECONVENED: 11:10 a.m.

23 BY MR. MacDONALD:

24 Q. Now, Chief, we were looking at the report that was prepared  
25 by the R. C. M. P., Mr. Evers, on page 92 of volume 16.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. Yes.

2 Q. And you asked me to find the evidence and I put volume 1 in  
3 front of you.

4 A. Yes.

5 Q. And the I'll ask you to first of all turn to page 61.

6 A. Yes.

7 Q. This is the evidence given by Mr. Evers at the Preliminary  
8 Inquiry for Junior Marshall?

9 A. Yes.

10 Q. And down at the bottom of the page he's asked what he found  
11 on that yellow jacket and he said this:

12 I found a separation on the  
13 left arm of the jacket the  
14 separation is continued from  
15 the cuff upwards. Actually  
16 there are two separations, the  
17 first separation is approximately  
18 one inch in length..

16 A. Yes.

17 Q. the separation is a fresh appearing  
18 cut; the second separation is  
19 approximately eight inches in  
20 length, the separation continues  
21 down on to the cuff, approximately  
22 six and one half inches, it is  
23 indicative of being a fresh...  
24 cut measuring a inch and a half  
25 which continues through the cuff  
and through the elastic (and) it  
is indicative of being torn...

23 Now that's the same, I suggest, as said on -- in his report  
24 which is on page 92?

25 A. There's some other stuff at the bottom of page 61 but I guess

11:12 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1           you can't make it out.

2           Q. I think that's just a --

3           A. No, it said, "it could have been cut by an axe, a knife",  
4           what is that, something about "determine what made the cut,  
5           the cut was" --

6           COMMISSIONER EVANS:

7           At the bottom of 62 is an overlap.

8           BY MR. MacDONALD:

9           Q. That's just on page 62 --

10          A. Oh, yes, I see what it is.

11          Q. -- it's just carried over.

12          A. All right, that's what it is.

13          Q. And if you also want to look at the trial evidence, it's on  
14          page 103 of the same volume. Down at the bottom of that  
15          page.

16          A. Yes.

17          Q.                 I found one cut approximately  
18                               one inch long on the left arm  
19                               of the jacket. The cut is  
20                               fresh in appearance having  
21                               occurred since the garment was  
22                               last washed, laundered or  
23                               actively worn. The second  
24                               separation is approximately  
25                               eight inches in length - six  
                             and one half inches is indicative  
                             of being cut, again the cut is  
                             fresh in appearance. The remaining  
                             one and a half inches which  
                             continues through the cuff of the  
                             jacket is indicative of being torn.  
                             The tear is fresh in appearance.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Now, Chief, isn't that saying that there's an "8 inch cut  
2 starting at the cuff, part of it's torn, six and a half  
3 inches cut and then there's a one inch cut further up on  
4 the jacket"?

5 MR. PUGSLEY:

6 It's on page 104, perhaps, Mr. MacDonald.

7 MR. MacDONALD:

8 Thank you.

9 BY MR. MacDONALD:

10 Q. Yes, at the top of that --

11 A. Yes, that's what I was looking for.

12 Q. Anything else in that exhibit...

13 I found a number of superficial  
14 cuts to be present near the large  
15 separation. These superficial  
16 cuts again appear to be fresh.

17 What do you mean by superficial...

(They) These are small cuts which  
one can notice with a microscope.

18 I take it however good your eyes were, Chief, you wouldn't  
19 have been able to notice those?

20 A. I noticed some cuts.

21 Q. At that cut at the -- at the cuff --

22 A. Not those, though.

23 Q. That cut at the cuff is the long one. That's the "8 inches"  
24 extending from the cuff, isn't it? That's what Evers told  
25 us?

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 | A. That's what he's saying, yeh.
- 2 | Q. Yeh, that's the man whose job it is to inspect these things?
- 3 | A. He is the fibre expert, yes.
- 4 | Q. Yes, and the only other cut he has des -- found on the
- 5 | jacket, is a "one inch cut up the arm"; that's what he has
- 6 | testified to?
- 7 | A. Well, yes, and he said there was also several "small cuts
- 8 | which one can notice with a microscope. They are just
- 9 | where the material is separated. It doesn't go through
- 10 | the material".
- 11 | Q. And that is where the -- in the area of the large separation
- 12 | at the cuff?
- 13 | A. It doesn't say, I don't believe, does it, sir?
- 14 | Q. Well, he says "they're in the area --
- 15 | A. That's on the arm.
- 16 | Q. -- of the large separation"?
- 17 | A. Yeh.
- 18 | Q. There's only one large separation and it's "8 and a half
- 19 | inches long"?
- 20 | A. Any how, my recollection is looking at the arm of the jacket;
- 21 | you know, there was more than one cut there.
- 22 | Q. So are you saying Evers is wrong?
- 23 | A. No, I'm saying that's what -- why the jacket was sent away.
- 24 | No, I'm reading his report here, sir. I'm not -- after all
- 25 | that was back in '71.

11:15 a.m.



JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. But I'm trying to find out, Chief, is why the jacket somehow  
2 got you upset and worried or thinking you had to look into  
3 something?
- 4 A. There was one -- supposed to be one stab wound and the jacket  
5 had more than one cut. It -- this was not a continuous cut  
6 in the jacket that I was looking at.
- 7 Q. Did you expect that someone who was stabbed in the arm through  
8 the jacket, that it will continue to cut through the jacket?
- 9 A. Well, it just depends what force is used behind. I would  
10 intend to -- if there -- if there was force used behind  
11 whatever sharp object it was, that it would penetrate more  
12 than the jacket and that it would go in deep at point "A"  
13 to some extent and come out at point "B" to nothing somewhere.
- 14 Q. Where is that now?
- 15 A. Where as it would be -- any place in your arm.
- 16 Q. Is that on the jacket or on the arm you're talking about?
- 17 A. I would say, no I'm talking about the -- the penetration now  
18 in the --
- 19 Q. In the arm?
- 20 A. Yes. That what I would expect.
- 21 Q. And I'm trying to find out what it was on the jacket that led  
22 you to this test --
- 23 A. I don't -- I have a recollect -- a faint recollection that  
24 the cut on the jacket wasn't over here where the cut was  
25 on the arm. Get what I mean? That it was somewhere else on

1 | the jacket, that's what I'm -- now I'm not sure of that; but  
2 | that's -- that's in the back of my head.

3 | Q. Did you get the jacket early in the week?

4 | A. Yes, I can't tell you what date it was on.

5 | Q. Before you went out to Louisbourg the second time --

6 | A. No, no.

7 | Q. -- to talk to Chant?

8 | A. No.

9 | Q. Before you went out to Louisbourg --

10 | A. Oh, yes.

11 | Q. -- the second time?

12 | A. Yes, I think -- yes, I think we had the -- there's a statement  
13 | here on -- there's something here on that the chap that owned  
14 | the jacket, Mr. Gould, I believe.

15 | Q. We'll come to his statement.

16 | A. Yeh, no but it's there when he got the jacket and turned it  
17 | over to Mike MacDonald.

18 | Q. In any event, you -- your recollection is that you got the  
19 | jacket early in that week and that started to make you  
20 | suspicious of Junior Marshall's story?

21 | A. I was going to look at that to --

22 | Q. You were suspicious of his --

23 | A. -- to get it cleared up.

24 | Q. -- story?

25 | A. Yes, at that time.

1 Q. Okay.

2 A. Yes.

3 Q. Now in the face of and you considered that to be significant  
4 what you had -- what you had seen on the jacket. Significant  
5 enough to make you suspicious of Marshall?

6 A. That's significant enough to me to have it examined by an  
7 expert, sir.

8 Q. And suspicious enough to make you suspicious of the story  
9 Marshall told you?

10 A. Yes, I'd be --

11 Q. Okay, so Marshall is now a suspect, isn't he?

12 A. Well, of course, at that time -- yeh, you're -- all in the  
13 one week other statements were taken also; but the jacket  
14 -- we didn't have anything -- I don't think the jacket was taken  
15 to the lab until the 15th to get -- to -- to get any of  
16 that cleared up one way or the other.

17 Q. I'm not talking about when it went to the lab. Chief, you  
18 told me that you got the jacket early in the week and that  
19 when you received the jacket, it made you suspicious of what  
20 Marshall had told you. He's then a suspect, is that not  
21 correct?

22 A. Yes, I'm looking at -- I'm looking at that at that time; but  
23 I'm still keeping an open mind on it.

24 Q. You're keeping an opened mind?

25 A. Sure, I am, yes.

1 Q. What did you do to try and follow up on what George and Sandy  
2 McNeil gave you? The statement of these two people that were  
3 in the Park?

4 A. I -- on June the 4th, I took two statements and at that time  
5 they were eyewitnesses to what did happen.

6 Q. Yeh, but I'm asking you on May the 31st?

7 A. And I -- I -- I considered that more important than what the  
8 two McNeil's seen somebody down in the Park that night and  
9 couldn't add anything else to it.

10 Q. That's on June the 4th, Chief?

11 A. No, that's on -- on June the 4th, yes. Well, we're talking  
12 about the same week as we had this jacket.

13 Q. But I'm talking early in the week. You've told me that  
14 you got the jacket early in the week --

15 A. Yeh.

16 Q. -- you said you considered it significant --

17 A. I'm not sure what day I got the jacket.

18 Q. Was it before you took the statments from Chant and Pratico?

19 A. Well, I don't think -- I'd have to check -- I thought it  
20 was the same week but I don't -- I'm not sure of the day.  
21 And I would say it's before -- before I took the statement  
22 from Chant.

23 Q. Before you took the statements from Chant and Pratico?

24 A. I think it was. If I could look --

25 Q. So before you went out to see -- before you saw Pratico the

11:18 a.m.

1 second time and before you saw Chant the second time, Marshall  
2 was a suspect in your mind?

3 A. I was looking into the -- yes, yeh, I'm looking into the  
4 jacket end of it, yeh.

5 Q. Marshall was a suspect in your mind then?

6 A. At that time, I suppose you could say that, yes.

7 Q. And it's based on the jacket?

8 A. Not only the jacket, of what took place at the Park that night  
9 too.

10 Q. Well, what was it that took place in the Park?

11 A. Well, there was a -- there was a stabbing took place and not  
12 in the Park, it was on Crescent Street. And Seale was stabbed  
13 first what he told me that Seale was stabbed and then he was  
14 stabbed. And he happened in a matter of a few seconds. There  
15 was nothing about robbery. There was nothing about quarrelling  
16 or anything like that. And that it happened -- both stabbings  
17 took place in a few seconds.

18

19

20

21

22

23

24

25

*JFK*

11:20 a.m.

1 Q. You are confusing me, Chief. You told me that Marshall  
2 was a suspect before you took the second statement from  
3 Chant and Pratico. You told me one reason was because of  
4 the jacket and you said the other reason is something that  
5 happened in the park. What happened in the park to make  
6 Marshall a suspect?

7 A. I was given a story and I was then comparing the story when  
8 I seen the jacket and the cut on the arm and what have you.  
9 Those things are all coming together that I have to look  
10 at and think about and as I told you -- already told you  
11 that the stabbing was a quick thing, that Seale was stabbed  
12 and then Marshall was stabbed and I just thought in my own  
13 mind that the wound should be deeper and if he was stabbed  
14 the jacket should show that cut and there should be blood  
15 on the jacket and what have you. I had many things to  
16 look at.

17 Q. Are you telling me that Marshall's story itself is such  
18 that you had -- you had concern about it. He's a suspect  
19 as soon as he gave you this -- the story?

20 A. No, I'm telling you that week -- the week I was looking  
21 that situation over.

22 Q. What was the event that occurred that made you suspect  
23 Marshall as being the killer?

24 A. Oh, --

25

11:20 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 MR. PUGSLEY:

2 I think in fairness to the witness, the witness has tried to  
3 say that he was keeping an open mind and my friend keeps hammering  
4 at him; when did you first start in suspecting Marshall as a  
5 suspect. The witness has not said that. He said he was keeping  
6 an open mind. He was looking into all things.

7 MR. CHAIRMAN:

8 Well, it's a very simple question for him to answer.

9 BY MR. CHAIRMAN:

10 Q. Mr. MacIntyre, at some time during your investigation did  
11 Junior Marshall become a suspect in your mind?

12 A. Yeh, I was taking a long look at him after I examined that  
13 jacket and seeing the cut on the arm before that, that was  
14 bothering me and I took those steps at that time.

15 Q. The question I just put to you --

16 A. Yes.

17 Q. -- was put --

18 A. I would say at that time, My Lord, that week, that he was  
19 considered as a suspect, yes, in my -- with me.

20 Q. Now, is that the answer we've been --

21 A. Yes.

22 Q. -- trying -- The answer is now yes?

23 A. Yes.

24 MR. MacDONALD:

25 My Lord, --

JOHN F. MacINTYRE, by Mr. MacDonald

1 BY MR. CHAIRMAN:

2 Q. I guess then the next question is, when? At what point  
3 in your investigation?

4 MR. MacDONALD:

5 And that's what I asked him. What event triggered it? I'm  
6 trying to find that out.

7 BY MR. CHAIRMAN:

8 Q. At what point in your investigation did you treat Donald  
9 Marshall Junior as a suspect, not necessarily the only  
10 suspect at that time but a suspect?

11 A. I would say -- I would say -- Again I'm not sure of the  
12 day that I got the jacket, My Lord, but I think if I could  
13 check that other statement there of LeBlanc that had the  
14 jacket that -- the jacket was returned and then turned  
15 over to the police. I think it's the same week. I don't  
16 want to -- I think it was Tuesday or Wednesday of the week.

17 BY MR. MacDONALD:

18 Q. Which statement would you like, Chief? I'll show you.

19 A. Yeh, the statement of that man that owned the jacket, Gould.

20 Q. Artie Gould?

21 A. Yes, what page is that on please?

22 MR. PUGSLEY:

23 Page 16 of the preliminary evidence.

24 BY MR. MacDONALD:

25 Q. The statement of Gould is --



JOHN F. MacINTYRE, by Mr. MacDonald

1 MR. PUGSLEY:

2 From the preliminary evidence.

3 MR. MacDONALD:

4 Page 16 of volume 1?

5 MR. PUGSLEY:

6 Yes.

7 BY MR. MacDONALD:

8 Q. Okay, Chief, page 16 of volume 1. The evidence given at  
9 the preliminary inquiry.

10 A. Yes.

11 Q. It's the evidence of Mr. Gould and he says:

12 When was the next time you saw this  
13 jacket?

14 Wednesday the following week, I was  
15 asked to bring the jacket into the  
16 police station.

16 A. Wednesday.

17 MR. CHAIRMAN:

18 What date is that?

19 MR. MacDONALD:

20 That would be the second.

21 MR. CHAIRMAN:

22 The second of June.

23 MR. MacDONALD:

24 June.

JOHN F. MacINTYRE, by Mr. MacDonald

1 BY MR. MacDONALD:

2 Q. Now, does that help you, Chief?

3 A. Yeh, I would -- I would say it would be after I seen the  
4 jacket.

5 Q. And that's what my question was directed to. Was it  
6 when you got the jacket, that was the triggering event.

7 A. Well, on the same week, I don't know if it was the day  
8 before or that day also that I got in touch with Doctor  
9 Virick also on the wound at the hospital.

10 Q. You saw Doctor Virick?

11 A. Virick in regard to the wound, yes.

12 Q. And -- So the wound had caused you some concern as well,  
13 had it?

14 A. No, I got -- Yes, I got his version on the wound.

15 Q. But why were you talking to him about the wound?

16 A. Because I was -- The wound seemed to be very slight in  
17 nature to me.

18 Q. Why was that of importance?

19 A. Well, at a stabbing -- I was looking at the arm and the  
20 concentration and also I thought in my own mind, again,  
21 that if you were stabbed that the wound -- a wound like  
22 that would be deeper at the point of entry and at point  
23 A and it would be run to nothing at Point B.

24 if it was -- if it was any type of a serious stabbing.

25 Q. Was that before you received the jacket that you were

11:26 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 concerned about the wound?
- 2 A. I would say so. I would say so.
- 3 Q. Okay. And you had seen the wound when Junior Marshall--
- 4 A. When Junior --
- 5 Q. -- showed you once --
- 6 A. Yes, on the weekend, yes. Yes.
- 7 Q. You told us yesterday, I think, on Saturday he pulled the --
- 8 A. Yes.
- 9 Q. -- bandage down.
- 10 A. The bandage down, yes.
- 11 Q. And when did you start having questions about that wound
- 12 in your mind?
- 13 A. I suppose I -- after I done some thinking on it and we're
- 14 just talking there a matter of three or four days.
- 15 Q. It has to be before a Wednesday?
- 16 A. I looked at the jacket, yeh. I can't tell you just what day
- 17 I seen Doctor Virick.
- 18 Q. But, in any event, --
- 19 A. Again, I was looking at -- talking to somebody that -- trying
- 20 to get some type of professional evidence on it and Doctor
- 21 Virick was the man that stitched it and I just wanted to
- 22 talk to him to satisfy my own mind.
- 23 Q. You were concerned that the wound on Junior Marshall's arm
- 24 couldn't have been there as a result of a stab wound and you
- 25 wanted to test that out?

1 | A. I was -- I was concerned at the time what his answer would  
2 | be. Was that wound, it was superficial, could it be self-  
3 | inflicted? That's what I was looking at.

4 | Q. So, you were --

5 | A. That's what I was looking at.

6 | Q. You were considering at that time that that wound could  
7 | be self-inflicted?

8 | A. It -- yes.

9 | Q. And if it was self-inflicted, then Junior Marshall's story  
10 | to you on -- as recorded on May the 30th could not be correct?

11 | A. If he said he was stabbed by somebody else but I didn't  
12 | make my mind up on that at that time. I had to send the  
13 | jacket away and find out about the jacket also. That's  
14 | why I had the jacket examined along with, of course, of the --  
15 | if there was any blood smears and what they might be.

16 | Q. Is that why you went to get the jacket or asked for the  
17 | jacket --

18 | A. No.

19 | Q. Just listen to my question.

20 | A. Yes.

21 | Q. Did you go -- Did you ask the police to get the jacket  
22 | because you -- you had concerns that that wound could not  
23 | have been there as a result of a stabbing, --

24 | A. No.

25 | Q. -- it was self-inflicted?

- 1 A. I had wanted to get the jacket to look at it, sir, as  
2 an investigator and also have it for the court for later  
3 on also -- for the -- as an exhibit.
- 4 Q. Was it not as a result of your discussion with Doctor Virick  
5 and your concern that this wasn't -- this was a self-inflicted  
6 wound that you said, "get me the jacket?"
- 7 A. No. Doctor Virick didn't tell me that -- that it was or  
8 it wasn't. It could be.
- 9 Q. But you thought it could be?
- 10 A. Well, I mean, I -- no doubt I had thoughts on it. Sure, I  
11 had thoughts on it but I was --
- 12 Q. You thought it was self-inflicted.
- 13 A. That was one of the thoughts in my mind, yes.
- 14 Q. And you wanted the jacket to see if that could help you  
15 at all in proving that theory.
- 16 A. I wanted to see the jacket because the jacket was on  
17 him when he was stabbed, sir, and I wanted to have a look  
18 at the jacket. That's correct, sir.
- 19 Q. And when you got the jacket, as you've told the Chief  
20 Justice, then Marshall is a suspect?
- 21 A. I was looking at him at that time, yes.
- 22 Q. And that's before you had your second statement from Pratico  
23 and Chant?
- 24 A. Yes, that would be on Friday I believe.
- 25 Q. What were you doing to try and support the story that Marshall

1 | gave you that there were two people there and he gave  
2 | you the description and you had a description from the  
3 | two MacNeils confirming or at least corresponding in  
4 | many particulars, to Marshall's description? What were  
5 | you doing to try and assist his part of the story?

6 | A. These -- Those two people that MacNeil seen were over on  
7 | the other side of the park in my understanding at the  
8 | time and the people that Marshall was talking about were up  
9 | on Crescent Street and as I said before, the description  
10 | wasn't the same in all respects and they couldn't offer  
11 | me anything further on it. They didn't witness any  
12 | stabbing, the people that were down in the park.

13 | Q. It seems to me, Chief, that the fact that you didn't try  
14 | and get Bob Patterson or didn't get him and the fact  
15 | that you didn't follow up anything that the MacNeils  
16 | were telling you, that you weren't particularly interested  
17 | in finding any evidence that would support Donald Marshall's  
18 | story.

19 | A. We couldn't find Bob Patterson and as I already said, the  
20 | only evidence that the MacNeils could offer was a description  
21 | at that time and they didn't see the party that they --  
22 | that they were looking at doing anything.

23 | Q. They saw them in the vicinity, Chief, of this stabbing.

24 | A. They seen them in the park but this happened up on Crescent  
25 | Street and --

1 | Q. Chief, that's not very far, is it?

2 | A. No, -- No but my understanding was they seen them on the  
3 | other side of the bridge in the park towards George. I  
4 | thought that's -- that's the area

5 | Q. Well, let's look at page 26 of volume 16.

6 | A. Yeh. 26?

7 | Q. That is the -- That's the statement of the MacNeils?

8 | A. That's correct, sir.

9 | Q. Now, let's go through it and we'll give you the chance  
10 | to tell me why you --

11 | A. Okay.

12 | Q. -- you thought that.

13 | We left the dance at St. Joseph's...  
14 | We walked through the park and seen  
15 | 2 men hanging around.

16 | And then gives you the description.

17 | They spoke to a fellow and a girl  
18 | sitting on a bench closest to the  
19 | railroad tracks as you come over the  
20 | hill. They asked them for a cigarette.  
21 | The grey haired fellow said he had  
22 | just a dollar.

23 | And that's the -- that's the result. That's the totality  
24 | of their description of where they saw this person. Now,  
25 | they saw two people, --

26 | A. Yes.

27 | Q. I suggest to you, whose descriptions correspond in many  
28 | particulars with those given to you by Marshall.

11:32 a.m.

1 | A. Yes, they --

2 | Q. They told us they saw them in that park, Wentworth Park,  
3 | on the same night at or around -- somewhere around 11:40  
4 | and a stabbing occurs up on Crescent at around midnight.  
5 | Don't you think that's significant evidence that should  
6 | be tracked down?

7 | A. Well, yes, but I still don't -- We took that into consideration  
8 | of course. I did take that into consideration, what they  
9 | said but it was a different description as far as clothing  
10 | was concerned and I had no other thing to go along with that.

11 | Q. What did you --

12 | A. And more than -- the only witness I had to the stabbing, as  
13 | you know, at that time was Marshall.

14 | Q. Not at that time.

15 | A. No, not at that time, no. On May the -- No, maybe this  
16 | was May the 31st. Yeh, this was Monday.

17 | Q. You had -- You had other people.

18 | A. I had the statement Sunday evening, yes. Yeh.

19 | Q. What did you do? As a policeman, what did you do to try  
20 | and find the people that were described by the MacNeils  
21 | to you on May the 31st?

22 | A. In particular the two people there, as you say, I -- I came  
23 | up with nothing with that.

24 | Q. Well, I'm not argueing what you came up with.

25 | A. Yes.



JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. What did you do?

2 A. I don't think I done any more than the description that  
3 we had already.

4 Q. You did nothing more than write it down.

5 A. No. Write it down. Take a statement of what they seen  
6 and what they had to offer, yes.

7 Q. And that was it?

8 A. At that time, yes.

9 Q. Well, at -- Did you do anything further later with respect to  
10 this statement --

11 A. Not that I --

12 Q. -- in trying to find these people?

13 A. My recollection is not that good at this time. I had no  
14 names, as you realise, in '71 at that time, either, of those  
15 two people.

16 BY MR. CHAIRMAN:

17 Q. Mr. MacIntyre, did you --

18 A. Yes, My Lord.

19 Q. -- attach any significance to the -- well -- the statement  
20 made by the MacNeils and Donald Marshall Junior with respect  
21 to the behaviour pattern of whoever it was they saw in the  
22 park, namely, according to the MacNeils, these two fellows  
23 had asked the couple for a cigarette and then according  
24 to Donald Marshall Junior the two men who came up on him  
25 and Seale made a similar request. Would that trigger or did

11:35 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 | that trigger in your mind that whoever was in the park  
2 | that night seemed to be exhibiting the same behavioural  
3 | pattern that they were looking for cigarettes amongst  
4 | other things?

5 | A. It could have, My Lord, but I don't remember at this  
6 | time of--

7 | MR. CHAIRMAN:

8 | The MacNeils were not called?

9 | MR. MacDONALD:

10 | No, they weren't, My Lord, at any trial.

11 | BY MR. CHAIRMAN:

12 | Q. Can you tell us, Mr. MacIntyre, whether the statement  
13 | taken from the two MacNeils was handed over to the Crown  
14 | Prosecutor?

15 | A. All those statements would be in the file, sir, and I would  
16 | say the Crown Prosecutor seen the whole file.

17 | BY COMMISSIONER EVANS:

18 | Q. Including -- (To pin that down.). I'd just like  
19 | to make certain that he did receive that as the Crown  
20 | Attorney. He did receive the statement that you obtained  
21 | from George and Sandy MacNeil?

22 | A. Yes, I kept nothing away from the Crown Prosecutor, sir.

23 | BY MR. MacDONALD:

24 | Q. And you've told us what you were doing on May 31st. According  
25 | to these documents you saw Beaver, the MacNeils came to see you

1 at six-thirty. Was it that day, the Monday, that you  
2 went to see Doctor Virick?

3 A. Yeh, I'm not sure. It was the first of the week that I  
4 went to see him.

5 Q. The first of the week?

6 A. The first of the week.

7 Q. And the reason you went to see Doctor Virick is because  
8 you had some question in your mind whether the wound on  
9 Junior Marshall's arm could have been a result of a stab  
10 as he described it to you? Yes?

11 A. That's right, yeh.

12 Q. So you were questioning, at least in your own mind, Marshall's  
13 story that he had been stabbed or at least you wanted to  
14 have it -- you wanted to talk to some expert about it?

15 A. I did, yes. I wanted to talk to the doctor that stitched  
16 it and see what he had to say about it.

17 Q. And I suggest to you that, and as early as that first  
18 of the week when you went to Virick at least, you were  
19 questioning Marshall's statement to you and he was  
20 a suspect in your mind.

21 A. I was looking at it. I was looking at that at that time,  
22 yes. I'd have to say yes.

23 Q. Did you ever hear of the phrase 'tunnel/vision'?

24 A. I heard it here.

25 Q. Yeh. Did you ever hear of it before?

11:37 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 A. Can't say I did.
- 2 Q. Well, forgetting the phrase, did you ever hear of the  
3 concept that you made up your mind and then you just  
4 build the facts to support your conclusion?
- 5 A. That would be it, I suppose.
- 6 Q. You've heard of that?
- 7 A. I've heard it discussed, yes.
- 8 Q. Is that one of the dangers that a policeman should be --  
9 should avoid or try to avoid?
- 10 A. I would say.
- 11 Q. Do you think you were exhibiting that particular phenomenon  
12 in your investigation of this case?
- 13 A. I wouldn't agree with that at all unless you got eye  
14 witnesses to the -- what took place. There's no doubt  
15 an investigator has thoughts in his mind unless he gets  
16 evidence which -- which he thinks is concrete evidence  
17 or evidence that should be put to the Crown and the Crown  
18 to the courts. There's nothing you can do about it and I  
19 think every investigator has thoughts when he's investigating  
20 something and I think every investigator digs to see what  
21 he can come up with.
- 22 Q. Didn't you have thoughts in your mind, Chief, on Saturday  
23 morning, right after this, that Junior Marshall had done  
24 the stabbing?
- 25 A. Did I have thoughts?

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 Q. Yes.
- 2 A. No, I wouldn't say I had thoughts, no.
- 3 Q. But someone in the police department did as reported to  
4 the R.C.M.P.
- 5 A. Well, I can't answer for them, sir, but if you recall  
6 that week I was down at midnight looking over the area  
7 myself and putting the -- what I'd gathered up together  
8 and --
- 9 Q. When did you do that?
- 10 A. I done that -- I done that that week also before I -- that's  
11 why -- that's the reason that I got Pratico back in on  
12 June the 4th.
- 13 Q. Which week are we talking about, Chief?
- 14 A. Well, it was before June the 4th, sir.
- 15 Q. Okay, before June the 4th.
- 16 A. That's right. And I went down there and I parked my car  
17 and I went -- I walked that area there to see what I could  
18 see and what Pratico told me that he could see and that's  
19 why I got him back in on June the 4th, sir, and then when  
20 I got another story from him, well, I thought that I would  
21 visit Chant again which I did.
- 22 Q. Who was your investigating team? It was you at the head  
23 of it. Who was on your team?
- 24 A. Well, it'd -- I was alone on this and the officer that  
25 would be with me. I think in Pratico's statement, I think,

11:39 a.m.

1 M. R. MacDonald was around on that one. I'd have to look  
2 at it.

3 Q. No, it was -- It's Urquhart but I'm -- Did you do the  
4 investigation yourself or did you have people assisting  
5 you?

6 A. I done this. I took statements from Pratico on the 4th.  
7 I took statements -- There was a party with me, yeh.

8 Q. I'm not talking about the 4th alone; I'm saying that when  
9 this --

10 A. When I went down to visit the scene, I done it myself, sir.

11 Q. When this thing happened, Chief, when you're dealing  
12 with a stabbing ultimately with a murder--

13 A. Yes.

14 Q. -- you were the investigator. Did you have a team together  
15 or was it just you?

16 A. Just me and any -- anybody that was with me.

17 Q. Anyone that you would ask?

18 A. Yeh, that's right.

19 Q. But no one was assigned to it?

20 A. No.

21 Q. And when you were in charge of an investigation; you, John  
22 MacIntyre, you took control of it, didn't you?

23 A. Yes.

24 Q. You didn't let anybody else do the work unless you told  
25 them to do it?

JOHN F. MacINTYRE, by Mr. MacDonald

- 1 A. Well, we had -- I had -- No, I had others take statements.  
2 I think there was statements taken besides on this. They  
3 were assisting me -- were all in --
- 4 Q. They were assisting you?
- 5 A. They were all in this together, yeh.
- 6 Q. But unless you told them to do something they wouldn't do it.
- 7 A. I asked them or I told them to come with me. That was it, yeh.
- 8 Q. And it's unlikely that Ed MacNeil would be around telling  
9 the R.C.M.P. who the suspects are in the case?
- 10 A. Well, Eddie MacNeil would be talking to different members  
11 of the department also, I suppose. I can't tell you what  
12 he might have said.
- 13 Q. Would he --
- 14 A. I didn't -- I didn't -- You know, I'm not aware of it.
- 15 Q. Would he say it in your presence that here is -- who the  
16 suspect is?
- 17 A. No, I don't think he'd have any grounds to say that at that  
18 time. That was supposed to be said, I think, it was  
19 early Saturday morning.
- 20 Q. Would he say it in your presence?
- 21 A. Would he?
- 22 Q. Yes.
- 23 A. I don't recall him saying anything in my presence about  
24 that and I -- and if he did I think I'd recall it.
- 25 Q. And if he did you would have picked him up if you didn't agree

11:42 a.m.

1 with him?

2 A. If I -- Sure, I'd want to know where he got it or why his  
3 mind was made up on it.

4 Q. You don't agree with me that you had made up your mind fairly  
5 early that Junior Marshall was the person who committed this  
6 crime and you were just going to build up -- get the  
7 evidence to support that?

8 A. No, I wouldn't say it was done that way.

9 Q. Okay. Can you tell me what you did on June the 1st? That's  
10 Tuesday. I can show you again, Chief.

11 A. Yes.

12 Q. On page 15 there's a typewritten note that you had  
13 interviewed a Mr. James Cotie.

14 A. Oh, yeh. That was a chap that lived down North George  
15 Street in the city and he was supposed to have some type  
16 of a wound or -- anyhow I interviewed him. What page  
17 is it on? 15?

18 Q. 15.

19 A. And I think he had fallen down a stairway at home or  
20 something.

21 Q. That's correct.

22 A. And had nothing to do with this though.

23 Q. So he had nothing of any consequence to tell you?

24 A. No. There was nothing there, no.

25 Q. And I don't have any other documents of June the 1st to show that



1 | A. No.

2 | Q. -- there was any documents taken by you on that day. Are  
3 | you able to tell us what you would have done on that day?

4 | A. No. No present--

5 | Q. Are you able to tell this -- whether you had any theory on  
6 | that day that you were trying to establish?

7 | A. That would be what day? Monday, Tuesday?

8 | Q. Monday, Tuesday.

9 | A. Yeh, that would be a Tuesday.

10 | Q. That was your theory at that time?

11 | A. Well, I suppose that was one of the days we drained the park,  
12 | wouldn't it, and that's one of the days I'd be talking with  
13 | Doctor Virick.

14 | Q. So at least one of the theories --

15 | A. I don't know -- I don't know if it was that day or not  
16 | but it was around that time.

17 | Q. One are the theories that you're operating on early that  
18 | day -- or early that week, I'm sorry, is that Marshall  
19 | was not stabbed by someone else and therefore must have  
20 | been involved in the stabbing of Seale?

21 | A. I was looking at the possibility.

22 | Q. That's one of the theories that you had in mind?

23 | A. I was looking into that possibility, sir.

24 | Q. Was there any other theories that you were looking into the  
25 | possibility of?

11:45 a.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. Well, at that time, of course, I was waiting also for  
2 any other evidence that might come in or any other names  
3 that might come to us.

4 Q. How, are they going to come to you?

5 A. Oh, people would call up or through talking somebody gets  
6 in touch with you. There's different angles of police  
7 picking up things. Police, themselves, they talk with people.  
8 I notice there we were taking evidence long beyond -- not  
9 long but later on from people.

10 Q. It appears, at least from the documentary of them Chief, that  
11 Monday, Tuesday, you saw Keith Beaver, you took the statement  
12 from MacNeil and you went and saw that Cotie. I don't  
13 have any other documents to show that you were doing -- what  
14 you were doing. You told us that you went to see Doctor  
15 Virick sometime. Were you doing anything to try and support  
16 or find evidence--

17 A. To the --

18 Q. -- to support the story that Marshall and MacNeils had  
19 given to you?

20 A. No, I had it in mind. That's about all I can tell you.

21 Q. You had it in mind to do what?

22 A. Yeh, there was nothing there except the description that  
23 -- the description that they were in the park around that  
24 time.

25 Q. You said that one of these evenings you went to the park in

1 the night?

2 A. Yes.

3 Q. Would -- That was early in the week, was it?

4 A. That was -- That would be before June the 4th.

5 Q. And what was the purpose of that visit?

6 A. I wanted to do some thinking and some looking there and  
7 I decided that time that I should interview Pratico again  
8 which I did on June the 4th.

9 Q. As a result of your visit to the park?

10 A. Yes.

11 Q. Why is that? What would be --

12 A. Well, I didn't and again it was my thinking that he couldn't  
13 see what he did see over by the court house when he said  
14 he'd heard those screams and seen this -- those people  
15 jump into a Volkswagen and what have you, that he couldn't  
16 see it from that -- the distance he was at and I thought  
17 I should have another talk to him. That was my opinion at the  
18 time and which I carried out as -- to interview him and  
19 on that morning when he was interviewed he told a different  
20 story.

21 Q. What about Chant?

22 A. Chant, yes.

23 Q. Did you find his first story as a result of your visit to the  
24 park, was it believable?

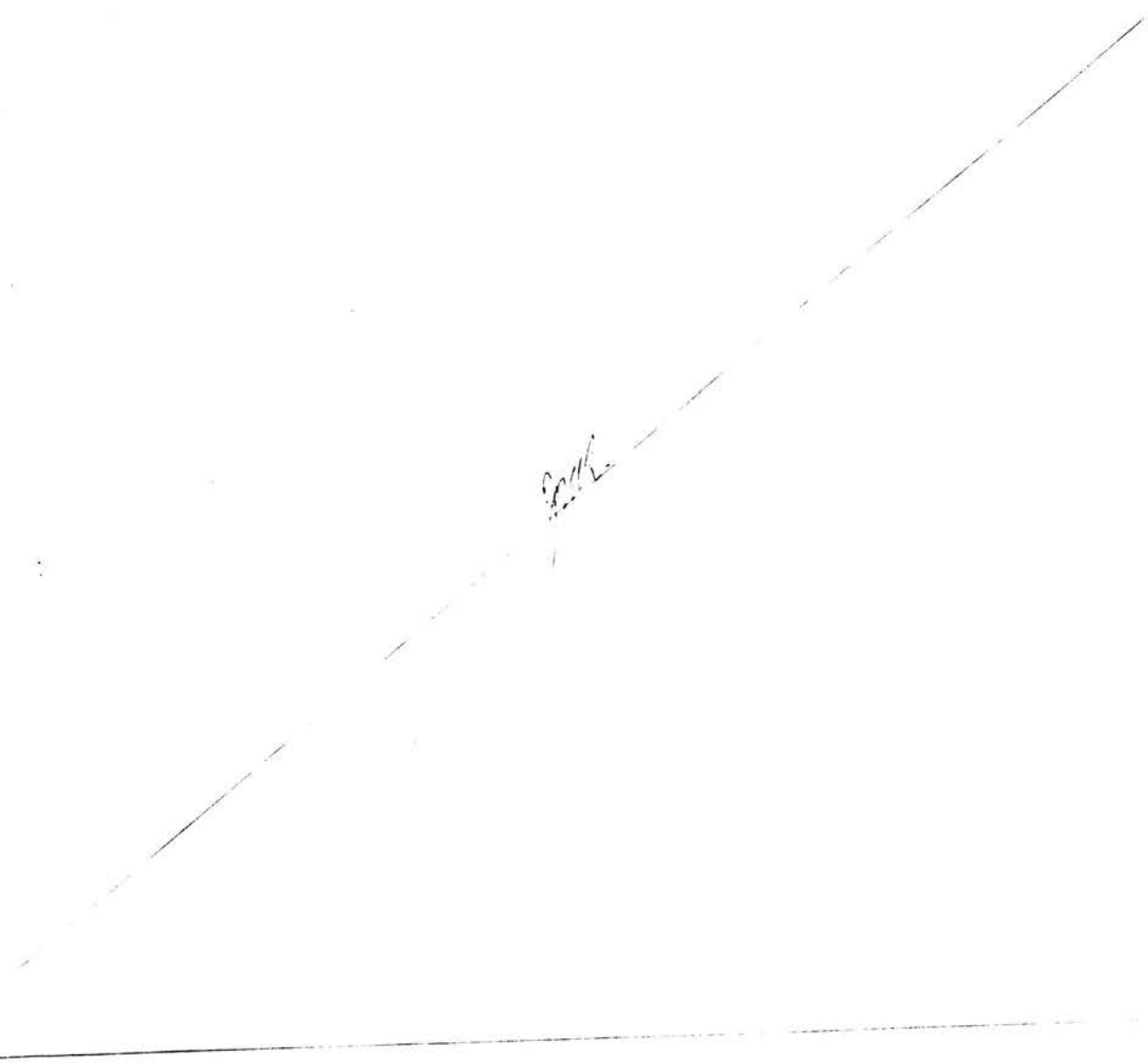
25 A. Chant's story -- first visit up to the park, he stayed

JOHN F. MacINTYRE, by Mr. MacDonald

1 on the other side of the trestle there was two men walking  
2 and two more, I think, were walking slow, talking and he  
3 was supposed to see that. After I took a statement from  
4 Pratico I decided that, on the same day, I would -- that  
5 I would visit Chant.  
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- 1 Q. Let's get back to your visit to the park in the night, though,  
2 Chief.
- 3 A. Yeh.
- 4 Q. Did you go there for the purpose of determining whether the  
5 statements of Pratico could be correct, the statement of Chant  
6 could be correct?
- 7 A. And what their vision would be at the time.
- 8 Q. That's why you were there?
- 9 A. And what they said in their statement, yeh.
- 10 Q. And as a result of that visit, did you conclude that Pratico  
11 could not have been telling you the truth?
- 12 A. That's what I thought, I wasn't getting all the truth from  
13 him. I thought I should go back in and have another talk to  
14 him, which I did.
- 15 Q. And what about Chant? Did you --
- 16 A. I thought I should visit him again, which I did.
- 17 Q. So do I take it that you formed the conclusion after your visit  
18 to the park in the evening that both -- that Chant and Pratico  
19 had given you an incorrect statement?
- 20 A. That I wasn't getting -- that there was something wrong. On  
21 Pratico it was that he -- I didn't think he could -- vision--could  
22 see over where this took part on Crescent Street from the  
23 vantage point that he was in -- at.
- 24 Q. Well, Pratico said he was by the Court House.
- 25 A. Yeh.

11:49 a.m.

- 1 Q. He heard a scream, and he looked and he seen two fellows running.  
2 Are you saying that from the Court House you could not see that?
- 3 A. No, not in my opinion at that time.
- 4 Q. All right. We'll come to that statement in a moment then to  
5 the second statement. Let's go to June the 2nd. There's a  
6 statement on page --
- 7 A. Robert Scott MacKay?
- 8 Q. No.
- 9 A. No?
- 10 Q. On page 28 of Volume 16, a statement from Francis French, and  
11 that's at three fifty-five in the afternoon. Were you doing  
12 anything else on that day that you can recall?
- 13 A. There was a statement taken from Scott MacKay on that date  
14 too on page 31.
- 15 Q. Yes, okay. And there's also one of Lawrence Paul --
- 16 A. I think there was two --
- 17 Q. -- on page 34.
- 18 A. I think there was two Paul's.
- 19 Q. Yes, and there's one of Artie Paul on page 36. Do you recall  
20 taking the statement from Scott MacKay?
- 21 A. What page is that on, sir?
- 22 Q. That's on page 31.
- 23 A. Yes, it was me that took it.
- 24 Q. That's your handwriting?
- 25 A. That's correct.

- 1 Q. You don't have anyone present with you?
- 2 A. No, sir.
- 3 Q. How did you come across Scott MacKay?
- 4 A. I don't know; unless he called up.
- 5 Q. I'm sorry.
- 6 A. Unless he called up in our notes here. I'm not sure.
- 7 Q. That is in your handwritten notes?
- 8 A. I'm wondering if there's something there.
- 9 Q. Mr. MacKay has testified here that he was -- that you sent  
10 Detective Urquhart to pick him up. Do you recall that?
- 11 A. Not at this time, no. I see in Urquhart's handwriting here on  
12 page -- in notes 135 that -- Item 4, he's got the name here.
- 13 Q. One thirty --
- 14 A. One thirty-five
- 15 Q. Where is MacKay's name on 135?
- 16 A. Down below on number four.
- 17 Q. Oh, yes.
- 18 re - Scott MacKay statement.
- 19 A. Yes.
- 20 Q. But that would be after he took his statement, I take it? Would  
21 it not?
- 22 A. What's that?
- 23 Q. That would be after his statement was taken from him. It's  
24 referring to the statement.
- 25 A. It could be, yeh.

11:53 a.m.

1 Q. You don't remember why he was brought to the station?

2 A. He was brought to the -- We had got his name somewhere or he  
3 had called up. One of the two. No, I don't recall at this  
4 time, sir.

5 Q. If Sergeant Urquhart had been present with you --

6 A. Yes.

7 Q. -- when you took the statement from MacKay, --

8 A. Yes.

9 Q. -- would his name be on it?

10 A. Should be, yes.

11 MR. PUGSLEY:

12 The answer to that may be found in Ambrose MacDonald's evidence  
13 on page 1138. He apparently told Sergeant Urquhart about --

14 MR. MacDONALD:

15 Eleven thirty-eight?

16 MR. PUGSLEY:

17 Yes, page 1138.

18 MR. MacDONALD:

19 That he picked him up?

20 MR. PUGSLEY:

21 Yes.

22 BY MR. MacDONALD:

23 Q. I'm advised that Ambrose MacDonald testified that he would've  
24 picked up Scott MacKay.

25 A. I see.



1 Q. Okay.

2 MR. PUGSLEY:

3 No, I'm sorry. Ambrose MacDonald testified:

4                   ...So I left and I went over  
5                   to the Detective office and I  
6                   furnished the name to Sergeant  
7                   Urquhart and I understand from  
8                   there, arrangements were made  
9                   and the witness was interviewed.

8 MR. MacDONALD:

9 Okay.

10 BY MR. MacDONALD:

11 Q. So he gave the name -- Ambrose MacDonald gave the name, Chief.

12 A. I see.

13 Q. That's what -- There is no time noted on the MacKay statement  
14 when it finished.

15 A. No, I noticed that, sir.

16 Q. Do you have any memory as to when it would've finished?

17 A. It's just a short statement. I don't imagine it took that  
18 long.

19 Q. You don't imagine it took that long?

20 A. No, it -- No.

21 Q. Do you remember this particular statement?

22 A. Not particularly, I don't think.

23 Q. Let me read you some of the things Scott MacKay said here and  
24 get your comment on them. And I'm reading from page 653. He  
25 says he was picked up by Sergeant Urquhart who took him to the

11:56 a.m.

- 1 station, and there he met with you, Detective Urquhart, and  
2 another detective and that the interview took -- I'm going  
3 to page 668 -- four hours -- that he was there for four hours.  
4 Now, do you have any comment on that?
- 5 A. Well, he wouldn't be there for four hours, no.
- 6 Q. Are you saying that --
- 7 A. I'd say this is a very short statement.
- 8 Q. Are you saying Scott MacKay is wrong?
- 9 A. Well, he couldn't be there for four hours, no.
- 10 Q. Well, how long would he have been there?
- 11 A. I'd say this was within -- This would be probably within a  
12 half hour period, a statement like this. I notice that there's  
13 very few questions. There's only one question asked. It looks  
14 like what he wanted to say, and I wrote it down.
- 15 Q. So when he says he was there for four hours, he's wrong.
- 16 A. No, he wasn't there four hours in that statement, no.
- 17 Q. And when he says that Mr. Urquhart -- or Detective Urquhart  
18 and another detective were present throughout when the state-  
19 ment was being taken, could that be correct?
- 20 A. No, I'd say I took that statement by myself, sir.
- 21 Q. So MacKay's wrong on that too?
- 22 A. At this time, yes.
- 23 Q. He also said that during the course of the interview, officers  
24 were brought into the room -- officers that -- who were at  
25 the scene that night -- the night of the stabbing. That they

- 1 | were brought into the room in plain clothes and asked -- He was  
2 | asked if he could identify them. Do you remember doing that?
- 3 | A. No, that never -- As far as I'm concerned, that never took place.
- 4 | Q. That never took place?
- 5 | A. No.
- 6 | Q. So MacKay is wrong on that as well? Is that right?
- 7 | A. That is correct.
- 8 | Q. Now, he refers in the statement to a Debbie MacPherson, that he  
9 | left the dance with her. Do you see that on the first state-  
10 | ment?
- 11 | A. Yeh.
- 12 | Q. Do you remember seeing Debbie MacPherson?
- 13 | A. I don't recall at this time.
- 14 | Q. I'll show you page 127 of that Volume 16.
- 15 | A. Yeh, I see her name here.
- 16 | Q. Is that your handwriting?
- 17 | A. That's my handwriting, yeh. I don't --
- 18 | Q. Do you know when those notes were made?
- 19 | A. No, I can't give you the date. There's no date on them, sir.
- 20 | Q. Would they have been made at the time that you -- Does that  
21 | mean that you saw Debbie MacPherson at Keltic Drive. Is that  
22 | what the note means?
- 23 | A. No. Wait just one minute please. No, that would mean her address re  
24 | Scott MacKay's statement.
- 25 | Q. And does that tell you -- Does it assist you at all in saying

11:59 a.m.

1 | whether you met with Debbie MacPherson?

2 | A. I have no recollection at this time.

3 | Q. You have no recollection?

4 | A. At this time, no.

5 | Q. If you had met with her, would you have taken a statement from  
6 | her?

7 | A. I think I would've. He claims here that she was with him.

8 | Q. Do you recall ever taking a statement from her?

9 | A. No, I don't recall, sir.

10 | Q. Debbie MacPherson, who is now Deborah Timmins, testified here,  
11 | Chief, and I am referring to page 714 of the transcript. She  
12 | was asked -- She said that she was at the police station.  
13 | She got to the police station and was interviewed by you and one  
14 | other gentleman and that she says she was there for an hour  
15 | and a half and being questioned by you most of the time.

16 | MR. PUGSLEY:

17 | For an hour or an hour and a half.

18 | BY MR. MacDONALD:

19 | Q. For an hour or an hour and a half, sorry. And that she found  
20 | you a little suggestive, things that she didn't see that maybe  
21 | she should've seen -- that you were suggesting things to her.  
22 | Recall that?

23 | A. I have no recollection of that, no.

24 | Q. No recollection of that?

25 | A. No recollection of that.

- 1 Q. And that she told you that she had spoken with Sandy Seale on  
2 the night of the killing, and he had told her, "No cops." Do  
3 you recall that?
- 4 A. No, don't recall that, no.
- 5 Q. Are you saying that you didn't interview her or you just don't  
6 remember?
- 7 A. I have no recollection of interviewing her, sir.
- 8 Q. Would you think that that would be a fairly significant piece  
9 of evidence to get?
- 10 A. If she said that at that time, yes, I would suggest that I  
11 would've had it written down.
- 12 Q. Does the fact that you don't have it written down indicate to  
13 you that you probably did not interview her?
- 14 A. I have no recollection of interviewing her.
- 15 Q. But if you had, and she had told you the things which she has  
16 testified to here, you would've made notes of that?
- 17 A. I would've taken -- I would say I would've taken a statement  
18 from her. I was very handy at taking statements from people.
- 19 Q. She testified on page 732 that a statement was taken.
- 20 A. I have no recollection of that at all, sir.
- 21 Q. Now on that same day, June the 2nd, you saw the two Pauls,  
22 Lawrence and Artie Paul. Why were you interviewing those people?
- 23 A. Well, they were at the dance at St. -- at the hall that night.  
24 See if they had -- could be of any assistance, I --
- 25 Q. Where did you get their names?

12:01 p.m.

1 A. They came to us. I don't know just who -- through who at this  
2 time. I believe I seen their names over here. Page 140.  
3 Lawrence Paul. Yes, page 140. It was written by William  
4 Urquhart.

5 Q. One forty is dated June the 14th?

6 A. Yeh.

7 A. That'd be a later date than I had took the statement. I took  
8 the statement of Lawrence Paul on June the 2nd.

9 Q. Did you get anything useful out of those statements from  
10 Lawrence Paul and Artie Paul. Did they help you at all in your  
11 investigation?

12 A. No, it just ties in time there that -- 11 p.m., left the hall --

13 Friday night I was at the dance  
14 at St. Joseph's Hall, George  
St...left the...

15 -- hall --

16 ...about 11 p.m...

17 and walked to the Mira Road with his girlfriend -- with a  
18 young lady and when

19 ...we turned back and went  
20 back to Wentworth Park and  
21 sat there for about 20  
22 minutes and then went back  
to the hall...I was talking  
with Sandy...

23 -- the late --

24 ...with Sandy Seale just  
25 outside of the hall.

- 1 Q. And down the bottom that he had seen Sandy Seale outside of  
2 the hall just before midnight.
- 3 A. Yes, I didn't get down to that, sir.
- 4 Q. Was that a fact of any significance to you? Any importance?
- 5 A. Yeh, he was placing Sandy Seale there just before midnight, yes.
- 6 Q. And then Artie Paul's statement talks about having -- met Junior  
7 on the night --
- 8 A. Yeh, he was down in that car on -- with the -- Tobin's son.
- 9 Q. And that he spoke to Junior the next day.
- 10 A. Intercolonial Street. Yes.
- 11 Q. So -- And then the only other statement, Chief, before June  
12 the 4th is from Gary Tobin, and that was taken on June the 3rd.
- 13 A. Yes, that was taken by myself also.
- 14 Q. Now, on June the 2nd -- That's the Wednesday. That's the day  
15 you also received the jacket, isn't it? We've already shown  
16 you that.
- 17 A. June?
- 18 Q. The Wednesday. You received the jacket that Junior had worn on  
19 the night of the stabbing.
- 20 A. That was the night it was turned over to M. -- That was the day it  
21 was turned over to M.R.
- 22 Q. Okay.
- 23 A. Yeh.
- 24 Q. And you would've visited the scene yourself in the night and  
25 during the day?

1 A. Yeh.

2 Q. And you had then concluded that Pratico had told you an incorrect  
3 statement or his statement could not have been correct, is that  
4 right?

5 A. That was my opinion that he couldn't see what he said he did  
6 see from being over at the Court House.

7 Q. And did you believe that Chant -- that his statement was  
8 believable?

9 A. I'd have to go over the statement again, but I think I decided  
10 that I should go and see the two of them again, which I did  
11 on the same date.

12 Q. In 1982, Chief, you swore an affidavit of -- to be used in  
13 the Appeal Division, and I'd like you to look at Volume 15 at  
14 page 12.

15 A. What book?

16 Q. Fifteen at page 12.

17 A. Yes.

18 Q. Paragraph 14 of that affidavit says:

19 THAT the reason I did...

20 I being you.

21 ...did not believe Chant had  
22 been truthful in Exhibit 'A'...

23 Exhibit A is his first statement.

24 ...or Pratico in Exhibit 'C'...

25 Exhibit C is Pratico's first statement.

12:08 p.m.



1                   ...was that I suspected that  
2                   each had previously obtained  
3                   their respective stories from  
4                   the appellant Donald Marshall,  
5                   Jr., and their stories regarding  
6                   their respective vantage point  
7                   did not seem possible based upon  
8                   my personal examination of the  
9                   scene.

6           Now, why did you believe or suspect that each of those people  
7           had previously obtained their story from Donald Marshall, Jr.?

8   A.   Well, they had both been in contact with him before this.

9   Q.   When was Pratico in contact with him?

10  A.   Donald Marshall, Jr., -- I -- If memory serves me right, he was  
11       down there on Saturday and Sunday morning.

12  Q.   Down where? Pratico's place?

13  A.   Pratico's, yeh.

14  A.   And Chant, of course was -- met Donald Marshall on Byng Avenue  
15       the night of the stabbing.

16  Q.   And you believed that Marshall gave them the stories they'd  
17       told you the first time? You suspected that they -- he had?

18  A.   I believed that there was a discussion took place, but I wasn't  
19       there and I don't know if --

20  Q.   Well, you swore an affidavit saying that you suspected that  
21       each of them had obtained their stories from Marshall.

22  MR. CHAIRMAN:

23       Swore or signed?

24  MR. MacDONALD:

25       I'm sorry, signed an affidavit.

1 THE WITNESS:

2 Yeh.

3 BY MR. MacDONALD:

4 Q. Is that correct?

5 A. Yes.

6 MR. CHAIRMAN:

7 Is there any reason why that affidavit was not completed?

8 MR. MacDONALD:

9 I believe, My Lord, that it -- If you will look at page 15. I think  
10 we only have a copy of the thing. I believe there is a signed copy  
11 of that affidavit--the sworn copy in the files at the Court House.  
12 This -- We don't have one here.

13 MR. CHAIRMAN:

14 Okay.

15 MR. MacDONALD:

16 There is one in the file at the Court House, though.

17 MR. CHAIRMAN:

18 So it was sworn to?

19 MR. MacDONALD:

20 It was sworn, yes.

21 MR. CHAIRMAN:

22 Yeh. All right.

23 BY MR. MacDONALD:

24 Q. What did you have in your possession to swear an affidavit saying  
25 that you suspected Chant and Pratico had been given their stories

1 by Marshall?

2 A. Well, Marshall was talking about the two men. He gave a -- He  
3 was talking to Pratico on that particular night about those  
4 two men. He was down at -- not Pratico, but Chant, I should  
5 say -- May -- of the 28th. And on the 29th and 30th, I think  
6 both days, he was down at Pratico's and -- discussing this  
7 thing.

8 Q. Well, if he talked to them and gave him the stories, he -- I  
9 suggest he must've given them opposite stories because their  
10 statements to you aren't similar.

11 A. No, but at -- On the statement of Poirier, which is taken later,  
12 I think it -- There was a chap by the name of Poirier present  
13 at Pratico's on a Sunday -- that Sunday morning, and the  
14 Volkswagen was discussed at that time.

15 Q. Okay, let's -- Poirier's statement was taken on July the 2nd.  
16 Had you spoken with Poirier before that?

17 A. No, I took a statement from him on that date, I believe.

18 Q. On July 2nd?

19 A. Yeh. What page is that on?

20 Q. That's on page 85.

21 MR. SPICER:

22 Volume 16.

23 BY MR. MacDONALD:

24 Q. Is that what you rely on to tell the Appeal Division of this  
25 province that you suspected Marshall had given Pratico the

12:12 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 statement to tell? His first statement?

2 A. Would you mind if I looked this over, please?

3 Q. No, please do.

4 MR. PUGSLEY:

5 You'll also on page 127, Mr. MacDonald.

6 MR. MacDONALD:

7 Yes, I noticed that before, thank you.

8 BY MR. MacDONALD:

9 Q. Page 127 is your handwritten note.

10 A. Yes.

11 Q. Saying what, Chief. Read your writing for me. That's the one  
12 on the top.

13 Mary O'Reilley said to Miss  
14 Harriss that Sandy Seale ran  
up to the corner where Pollett's...

15 Q. I'm sorry. Page 127.

16 A. Oh. -- Rudolph --

17 Poirier seen Junior Marshall  
18 at John Pratico's Sunday  
morning after stabbing - re  
19 story to tell.

20 Q. Now, where did that -- Where did the information come for you  
21 to make that note, and do you know when the note was made?

22 A. No, but I -- No, I wouldn't be able to tell you at this time.

23 Q. But we do know that when you --

24 A. Well, there was a statement taken from Poirier. What page is  
25 that on now?

1 Q. I've already given you -- page 85.

2 A. Yes. And in that story, they were talking about the  
3 Volkswagen.

4 Q. When you swore the affidavit, Chief, that was filed with the  
5 Appeal Division, that was in 1982. You would've had knowledge  
6 of the statement that Poirier had given to you?

7 A. Yes.

8 Q. And is -- Do you have anything else that you rely on to form  
9 your suspicion that Marshall had given Pratico the story that  
10 he had told you the first time -- the story he gave you on  
11 Sunday?

12 A. No, I don't think.

13 Q. Did Pratico ever tell you that Marshall had told him what to  
14 say?

15 A. No, I don't think he did.

16 Q. Well, if you read the statement of Poirier, down toward the  
17 bottom, question and answer --

18 A. Yes, I see that.

19 Q. What did the guy look like?

20 A. He said one guy was about  
21 50 yrs. old with grey hair  
22 and he said that was the  
23 fellow that stabbed Sandy.  
He said the other fellow  
tried to stab him - he was  
about 35 yrs. old...

24 A. Yeh.

25 Q. That's not what Pratico told you on March -- on May the 30th.

JOHN F. MacINTYRE, by Mr. MacDonald

1 That's not the statement he gave you.

2 A. No.

3 Q. But why do you say or swear it to the Appeal Division?

4 A. I'm talking about the Volkswagen here. That's the only other  
5 time that came in. Pratico said they'd jumped into a  
6 Volkswagen.

7 Q. So that's what you're saying?

8 A. And he -- the bottom of that page, it says:

9 ...He said then the two men took  
10 off and jumped into a white  
Volkswagen...

11 Q. But are you saying that Marshall gave Pratico part of the  
12 statement to tell you or all of the statement? The statement  
13 that he gave on May the 30th. Did Marshall give him everything?

14 A. Oh, I wouldn't say that. I meant to --

15

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21

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JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Well, that's what you swore though, Chief. You said: "The  
2 reason I didn't believe Pratico, I suspected he had been given  
3 his story from Marshall"?

4 A. Well, he did give him part of it anyway, and this was made  
5 up at the court house by the Crown Prosecutor of the day and  
6 after going over the evidence and Pratico is talking about a  
7 Volkswagen on that night and Porier is talking about a  
8 Volkswagen here and -- and --

9 Q. Are you saying that the contents of paragraph fourteen of your  
10 affidavit are not correct, at least not totally correct?

11 A. I'm going to read it again, sir. It's the vantage points that  
12 we're talking about in paragraph fourteen, sir.

13 Q. Chief, however fourteen is -- I submit -- I suggest to you  
14 that fourteen -- paragraph fourteen is very straight  
15 forward. It says: "The reason I didn't believe Chant  
16 had been truthful in his first statement or Pratico in  
17 his first statement was that I suspected that each had  
18 previously obtained their respective stories from the appellant  
19 Donald Marshall Jr., and their stories regarding their  
20 respective vantage point did not seem possible based upon my  
21 personal examination"?

22 A. Yeh, well, I did examine it and I didn't think it was possible,  
23 no.

24 Q. But are you saying that you believe, and you do today or you  
25 did in 1982, when you swore this affidavit that Marshall gave

12:16 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Pratico the information that he conveyed to you in his first  
2 statement?

3 A. Yes, I would -- I would say that Marshall was down at  
4 Pratico's on that Sunday morning which was two days after the  
5 stabbing and he was talking about a Volkswagen and about what  
6 took place at that time.

7 Q. He was also talking about a man fifty years old with grey hair.  
8 Pratico makes no mention of that in his first statement to you.

9 A. No.

10 Q. Do you want to turn that up? That's on page 22. Are you saying  
11 that Pratico met with Marshall more than once before he gave  
12 you the statement--before Pratico gave you the statement on  
13 May the 30th?

14 A. My recollection tells me that he was at Pratico's on Saturday  
15 and Sunday. I took this statement in the afternoon.

16 Q. But in 1982 you swore an affidavit saying you believed that  
17 Marshall gave Pratico the information that's contained in  
18 the first statement?

19 MR. PUGSLEY:

20 No, he didn't. He said the respective story was given by  
21 Marshall, and the respective story is that these people jumped  
22 into a white Volkswagen and that's borne out.

23 MR. MacDONALD:

24 That's a very selective reading of an affidavit, My Lord, with  
25 respect of a statement. The statement talks about a white Volkswagen.



JOHN F. MacINTYRE, by Mr. MacDonald

1 It also talks about two people who jumped him and gives a  
2 description. It also talks about a Bobby Patterson and a --  
3 the bike gang. It talks about all kinds of things.

4 MR. CHAIRMAN:

5 This is Pratico's statement?

6 MR. MacDONALD:

7 Yes.

8 MR. CHAIRMAN:

9 Yes.

10 MR. MacDONALD:

11 And I think it's proper to ask the Chief what he meant in his  
12 affidavit.

13 BY MR. MacDONALD:

14 Q. You're saying that the story that Pratico gave you on May 30th,  
15 1971, was given to him by Marshall. That's what you swore in  
16 an affidavit filed in the Appeal Division?

17 A. The Volkswagen part of it -- I don't know other conversation  
18 he had, but the Volkswagen part of it -- the Volkswagen part  
19 of it I would say came from Marshall.

20 Q. Well, where did Pratico get the part about the -- the  
21 description of the men, five foot five, dark complexion,  
22 heavy set; six foot tall, husky, read sweater, grey suit.  
23 Where did he get that?

24 A. I couldn't say.

25 Q. Did he get it from Marshall?

12:21 p.m.

1 A. I couldn't say, sir, at this time.

2 Q. Is that what you intended to tell the Court in -- when you  
3 swore the affidavit in 1982?

4 A. No, I -- the Volkswagen part was the first time that a car  
5 showed up here and it was -- and Marshall is telling it there  
6 on Sunday morning and I guess that's what I looked at-I -- when  
7 I read it over.

8 Q. So that paragraph in your affidavit with respect to  
9 Pratico now is not totally correct. It doesn't totally --  
10 You're not saying --

11 A. The vantage points came from myself.

12 Q. Yes, the vantage point. I'm talking about the story that  
13 Pratico gave you on May 3rd.

14 A. You mean the -- the description of the men?

15 Q. Yes.

16 A. That part there, I'm not sure on that, but I'm sure on the  
17 vantage points and I'm -- I took it that the Volkswagen part  
18 came from Marshall.

19 Q. What made you swear -- What evidence were you relying on or  
20 facts were you relying on to tell the Appeal Court that  
21 you believed Chant got his -- the story -- his first story  
22 from Pratico -- from Marshall?

23 A. Because of him discussing the thing with him on May 28th, I  
24 guess from my recollection.

25 Q. The encounter they had -- You mean the encounter Marshall and

JOHN F. MacINTYRE, by Mr. MacDonald

1 Chant had on Byng Avenue the night of the stabbing?

2 A. And they talked about it, yeh, what took place.

3 Q. That's what you mean there?

4 A. Which number is that you're talking about?

5 Q. I'm still talking about paragraph fourteen, Chief.

6 A. Yeh. Oh, yes, he's in that.

7 BY MR. CHAIRMAN:

8 Q. Who prepared the affidavit?

9 A. Mr. -- I would say -- I don't know. The day I was there  
10 it was Mr. Edwards and Mr. Wheaton were there and it's from  
11 them I got the affidavits.

12 BY MR. MacDONALD:

13 Q. Did you not have Mike Whalley available as well as your  
14 solicitor or acting on your behalf?

15 A. We weren't present. We weren't present when those affidavits  
16 were made up. We were given them. Mr. Whalley was up there,  
17 I believe, on one occasion.

18 Q. Did you not give instructions to Frank Edwards in order that he  
19 could prepare the affidavit?

20 A. I did not.

21 Q. Did you not discuss it with him?

22 A. No. No.

23 Q. So he just prepared it himself and called you in?

24 A. That's right.

25 BY MR. CHAIRMAN:

Q. Can you just take me through that again? Mr. Edwards who

12:23 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 prepared the affidavit must have gotten --

2 A. I don't know. The day I was there Mr. Edwards and  
3 Mr. Wheaton was there, the Staff Sergeant of the R.C.M.P.,  
4 and the Crown Prosecutor.

5 Q. Yes.

6 A. And we were given those and they weren't made up in my  
7 presence. That's all I have to say, sir -- My Lord.

8 Q. No, but you did meet with them -- with Mr. Edwards I  
9 understand -- I assume?

10 A. That's right.

11 Q. Before the affidavits were prepared?

12 A. Before this was written down?

13 Q. Yes.

14 A. No.

15 Q. Well, would he have gotten the information?

16 A. They made them up.

17 BY MR. MacDONALD:

18 Q. Chief, let me refer you to volume 17.

19 BY MR. CHAIRMAN:

20 Q. Well, what do you mean they made them up? They -- They --

21 A. They made up this so --

22 Q. You mean they prepared them?

23 A. Prepared them, yes.

24 Q. But in preparing them they must have gotten the information  
25 contained therein from somewhere and the question is, did they

JOHN F. MacINTYRE, by Mr. MacDonald

1 get it from you?

2 A. They weren't talking to me before that, My Lord.

3 Q. Well --

4 MR. MacDONALD:

5 Could I have volume 17?

6 BY MR. MacDONALD:

7 Q. Do I understand you to say you didn't meet with Frank Edwards  
8 for a period of time in order that he could get the information  
9 to prepare that affidavit?

10 A. The information from me?

11 Q. Yes.

12 A. I don't recall meeting with him, no.

13 COMMISSIONER EVANS:

14 What page?

15 MR. MacDONALD:

16 On volume 17?

17 COMMISSIONER EVANS:

18 Right.

19 MR. MacDONALD:

20 I'm going to start on page 12, My Lord.

21 THE WITNESS:

22 What are you showing me there?

23 BY MR. MacDONALD:

24 Q. What I've handed to you, Chief, is volume 17 and they  
25 contain hand -- typewritten parts-- typewritten notes prepared

1 | by Frank Edwards from -- at the -- his evidence will be, at  
2 | or about the time that they are dated. That will be the  
3 | evidence of Mr. Edwards I suspect. And you see he says on  
4 | Wednesday, July 12th --

5 | A. What page are you on there, sir?

6 | Q. On page 12, I'm sorry. He says: "My office"... After he  
7 | lists:

8 | 1. Chant

9 | 2. Pratico

10 | 3. Harris

11 | My office - present John MacIntyre,  
12 | Mike Whalley, H. Wheaton Began with  
summary of Chambers appr.

13 | Do you see that?

14 | A. Yes, I see that.

15 | Q. And he goes on to -- Have you seen these notes before?

16 | A. I think I -- Yes, I think I did. Yes, I did somewhere.

17 | Q. Then let's go over to page 13.

18 | A. Wait now.

19 | My office - present John MacIntyre,  
20 | Mike Whalley, ...Wheaton Began with  
summary...

21 | Q. Let's go over to page 13, Chief.

22 | A. Yeh.

23 | Q. It says -- See under John Pratico:

24 | - did he know him before? had known  
25 | him to see him before. May 30 - figures  
he was lying when he gave (his) 1st  
statement

12:26 p.m.

JOHN F. MacINTYRE, by Mr. MacDonald

1 See that?

2 A. Yes, I see that, yeh.

3 Q. And up above there's John F. MacIntyre:

4 - doesn't recall who was with  
5 her...

6 He's talking about Patricia Harriss and other people.

7 A. Yeh.

8 Q. Don't you remember meeting with Frank Edwards to discuss all  
9 this stuff?

10 A. I remember being up there on two occasions I believe.

11 Q. What were the two occasions?

12 A. Well, I was up there in regard to this here.

13 Q. To what?

14 A. This -- This document we're looking at here.-- over here.

15 Q. The affidavit?

16 A. Yeh.

17 Q. Were you up there on two occasions with respect to the  
18 affidavit?

19 MR. PINK:

20 -- on page 14.

21 MR. SAUNDERS:

22 The middle of page 14.

23 MR. MacDonald:

24 Yes, I'm coming to that. That's a different date. It's later.

25 BY MR. MacDONALD:

Q. Were you there twice with respect to this affidavit?

1 A. I'm not sure at this time to be honest with you.

2 Q. Go to page 14 of volume 17, Chief.

3 A. Yes.

4 Q. Now under Thursday, July 22nd, 1982, do you see that?

5 I'm sorry, Chief, volume 17, Frank Edward's notes.

6 A. Yeh.

7 Q. Go to page 14.

8 A. Yes.

9 Q. Do you see that, where it says Thursday, July 22nd, 1982:

10 - Whalley, MacIntyre and Urquhart  
11 come to office with affidavits I  
had previously drafted.

12 - Urquhart and MacIntyre want to  
13 delete paragraph regarding their  
lack of knowledge of John Pratico  
14 in 1971. Chief says it's  
possible that Pratico's mother  
15 would have told him her son was  
on pills at the time.

16 - MacIntyre wants paragraph added  
17 relating to statements he took from  
the Ebsary's on Nov. 15 ...  
18 after he had learned about  
Ebsary's possible involvement  
19 in stabbing from MacNeil.

20 - Told them I would make requested  
changes and have them sign revised  
21 affidavits.

22 Don't you recall that, Frank Edwards drafted an affidavit, you  
23 reviewed it, you made changes in it?

24 A. I didn't mark down any conversation I had with him at the time.

25 I see his remarks here. Yeh, he's claiming here that it was him



JOHN F. MacINTYRE, by Mr. MacDonald

1 that previously drafted the affidavit.

2 Q. After having met with you on July 12th and gone over the  
3 evidence of Chant, Pratico, and Harriss? You're not  
4 suggesting Frank Edwards just sat down and prepared  
5 affidavits all by himself without having received instructions  
6 from you?

7 BY COMMISSIONER EVANS:

8 Q. On page 14, above that, under Wednesday, July the 21st,  
9 where you come to the paragraph:

10 G. Coles said they were concerned  
11 ...I wasn't calling enough witnesses.  
12 Magee was one of...

12 those...

13 ...mentioned - told him I had prepared...

14 Now I take it that is Frank Edwards?

15 A. Yes.

16 Q. ...I had prepared affidavits for  
17 Urquhart, MacIntyre and Magee. That  
18 all affidavits would be reviewed by  
19 Mike Whalley, and I would make any  
20 changes they wished.

19 So that they had obviously been prepared by --

20 MR. MacDONALD:

21 Oh, I don't -- The evidence of Mr. -- The evidence of Mr. Edwards  
22 will be that he prepared the affidavit.

23 COMMISSIONER EVANS:

24 Right, and that later they were submitted to Whalley and then  
25 later on they were again given to Mr. MacIntyre.

JOHN F. MacINTYRE, by Mr. MacDonald

1 | THE WITNESS:

2 | Yeh.

3 | BY MR. MacDonald:

4 | Q. And Whalley was acting as solicitor for you, wasn't he? Was  
5 | he the City Solicitor?

6 | A. Not me -- I think he came up with us, yeh, he's solicitor for  
7 | the City.

8 | Q. So I suggest to you, Chief, that you had ample opportunity  
9 | to review that affidavit in detail and that you did review it  
10 | before you swore to it?

11 | A. Yes, I looked it over and I did swear to it, that's right.

12 | COMMISSIONER EVANS:

13 | He asked him on the 22nd as I have it. He had them before that  
14 | because it said on the 22nd:

15 |                               - Whalley, MacIntyre and Urquhart ...  
16 |       came...

17 |                               ... to (the) office with (the)  
18 |                               affidavits I had previously drafted.

19 | And that would be -- Then that affidavit was not sworn until the  
20 | 26th.

21 | MR. MacDONALD:

22 | That's correct, My Lord.

23 | COMMISSIONER EVANS:

24 | And then there was a subsequent application or change made on that  
25 | particular affidavit to delete paragraph 29.

JOHN F. MacINTYRE, by Mr. MacDonald

1 MR. MacDONALD:

2 That's correct.

3 COMMISSIONER EVANS:

4 So that you're --

5 MR. MacDONALD:

6 This all arose, My Lord, because I understood the witness to be  
7 saying that he almost had no part in giving the instructions  
8 for preparing this affidavit.

9 BY THE WITNESS:

10 A. Explain yourself on that one, sir, that I had no part in  
11 what, giving instructions?

12 BY MR. MacDONALD:

13 Q. I had understood you to say earlier, Chief, with respect to  
14 the affidavit that you didn't even meet with Edwards before  
15 the affidavits were drafted?

16 A. I told you that I thought I was up on two different occasions  
17 and that Whalley was with us, and that the affidavits that --  
18 I don't recall taking the affidavits from the office, but  
19 somebody else said that we did, you know, and I don't  
20 recall at this time but I thought we were up there on two  
21 occasions.

22 MR. MacDONALD:

23 It's an appropriate time to break, My Lord.

24 MR. CHAIRMAN:

25 Yes, we'll rise until two.

INQUIRY ADJOURNED AT: 12:35 p.m.