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**ROYAL COMMISSION ON THE
DONALD MARSHALL, JR., PROSECUTION**

Volume XXXVII

- Held: January 11, 1988, in the Imperial Room, Lord Nelson Hotel,
Halifax, Nova Scotia
- Before: Chief Justice T.A. Hickman, Chairman
Assoc. Chief Justice L.A. Poitras and
Hon. G. T. Evans, Commissioners
- Counsel: Messrs. George MacDonald, Q.C., Wylie Spicer, and David
Osborn: Commission counsel
- Mr. Clayton Ruby, Ms. Marlys Edwardh, and Ms. A. Derrick:
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- Mr. Michael G. Whalley, Q.C.: Counsel for City of Sydney
- Mr. Ronald N. Pugsley, Q.C.: Counsel for Mr. John F. MacIntyre
- Mr. Donald C. Murray: Counsel for Mr. William Urquhart
- Messrs. Frank L. Elman, Q.C., and David G. Barrett: Counsel for
Donald MacNeil estate
- Messrs. Jamie W.S. Saunders and Darrel I. Pink: Counsel for the
Attorney General of Nova Scotia
- Mr. James D. Bissell: Counsel for the R.C.M.P.
- Mr. Al Pringle: Counsel for the Correctional Services of Canada
- Mr. William L. Ryan: Counsel for Officers Evers, Green and
MacAlpine
- Mr. Charles Broderick: Counsel for Staff Sgt. J. Carroll
- Messrs. S. Bruce Outhouse, Q.C. and Thomas M. MacDonald: Counsel
for Sgt. Wheaton and Insp. Scott
- Mr. Guy LaFosse: Counsel for Sgt. H. Davies
- Messrs. Bruce W. Wildsmith and Graydon Nicholas: Counsel for
the Union of Nova Scotia Indians
- Mr. E. Anthony Ross: Counsel for Oscar N. Seale
- Mr. E. Anthony Ross and Jeremy Gay: Counsel for the Black
United Front
- Court Reporting: Margaret E. Graham, OCR, RPR

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MR. MacDONALD - OPENING COMMENTS

1 JANUARY 11, 1988 - 9:35 a.m.

2 MR. CHAIRMAN

3 Well, here we are back again after a very quiet
4 festive season, I'm sure, and I can tell by the look of
5 anticipation on the faces of counsel that they're ready,
6 willing and able to quietly and responsibly move on with
7 this Inquiry.

8 Unfortunately Mr. Justice Evans will not be sitting
9 with us this week. Yesterday, his brother, a retired
10 Provincial Court Judge in Timmins, Ontario, died suddenly,
11 and he will, for that reason, be unable to come to Halifax
12 this week. But under the rules of the Commission two
13 constitute a quorum, so Associate Chief Justice Poitras and
14 I will do our best to carry on. We have extended to our
15 colleague the sympathy of the Commission.

16 Mr. MacDonald.

17 MR. MacDONALD

18 I should warn all counsel, My Lord, I'm told that this
19 mike will be on all the time, so be judicious with your
20 remarks.

21 MR. CHAIRMAN

22 Including this one here?

23 MR. MacDONALD

24 I don't know about that one, but this one that's on my
25 tie at the moment, My Lord. When we commenced hearings in

MR. MacDONALD - OPENING COMMENTS

1 Sydney some time ago I indicated that when we came to
2 Halifax I would make a statement, I believe I used the word
3 "comprehensive". It won't be that. But I think it would
4 be useful if I did give you some indication of what will be
5 taking place during the Halifax phase of these hearings.

6 As you know, during the Sydney phase evidence was
7 presented concerning the factual circumstances leading to
8 the conviction of Donald Marshall, Jr., for the murder of
9 Sandy Seale and the subsequent reinvestigation carried out
10 by Inspector Marshall in November, '71, and that's
11 the...chronologically how far we went, with very few
12 exceptions.

13 All witnesses who had relevant information to present
14 to the Commission gave evidence in Sydney, with the
15 exception of Mr. William Urquhart. As you know, he was
16 scheduled to give evidence and was unable to due to health
17 reasons. We had hoped, in fact, that he would be giving
18 evidence this week. We had scheduled him to give evidence
19 on January the 13th, and that was the case as late as last
20 week, but we now are advised that for medical reasons he
21 will be not able to testify this week, but will be
22 available, hopefully, in early February.

23 We propose to continue with the chronological
24 treatment of the events surrounding Donald Marshall,
25 Jr. including his time in prison; various attempts to secure

MR. MacDONALD - OPENING COMMENTS

1 his release; the investigation carried out in 1982 by the
2 RCMP; the reference proceedings in the Nova Scotia Court of
3 Appeal which led to the acquittal of Mr. Marshall; the
4 subsequent dealings between him and the various levels of
5 government leading to payment of compensation; and the
6 further review by the RCMP and the Department of Attorney
7 General of the 198...of the '71 investigation and related
8 matters.

9 We anticipate the requirement to call evidence from
10 approximately fifty witnesses in order to cover all of
11 these areas.

12 We will also be calling evidence of an expert nature,
13 relating to the practises followed in Nova Scotia with
14 respect to post-mortem examinations, and the procedures
15 followed in other jurisdictions.

16 It is possible, in addition, that we will introduce
17 expert evidence with respect to the reference proceedings
18 in the Appeal Division, and such evidence would be similar
19 to that evidence that was given by Professor Archibald in
20 Sydney with respect to the trial proceedings.

21 Now, when all the evidence relating to...directly to
22 Mr. Marshall has been presented, it is our intention at
23 that time to introduce other evidence dealing with the
24 administration of justice in Nova Scotia.

25 Mr. Chairman, in your opening remarks, I believe, at

MR. MacDONALD - OPENING COMMENTS

1 the application for funding you said the following, and I
2 quote:

3 Bringing out the facts will give the
4 Commission a understanding of what
5 happened, but that is only a beginning. It
6 is not enough to examine minutely one
7 incident and from that to expect to suggest
8 changes within a complex system of
9 administration of justice. In order to
10 develop meaningful recommendations--the
11 most important part of our mandate--all
12 contributing or potentially contributing
13 factors must be carefully reviewed within
14 the context of the current state of the
15 administration of justice in Nova Scotia.

16 Thus the analysis of the Marshall case alone would not
17 enable the Commission to draw a conclusion or make
18 meaningful recommendations on the system as a whole.

19 Proceeding in this fashion will necessitate certain
20 witnesses taking the stand on two occasions. You will
21 recall we followed that procedure in Sydney when dealing
22 with the Sydney Police Department officials.

23 In the first segment of the Halifax headings,
24 therefore, members of the Attorney General's Department
25 will be called to discuss their involvement and
26 participation in the various phases of the Donald Marshall,
27 Jr., matter. At that time their evidence will be
28 restricted to their role in the Marshall matter. Some of
29 these officials will be recalled at a later stage to
30 discuss the changes, if any, which have been made in the
31 operation of the Department and their involvement in other

MR. MacDONALD - OPENING COMMENTS

1 cases being considered by the Commission as relevant to a
2 complete examination of the system of the administration of
3 justice.

4 It is during this second phase of the hearings, as
5 well, that evidence will be called from representatives of
6 the Sydney Police Department to discuss changes, if any,
7 which have taken place in the administration and
8 functioning of that Department.

9 It is important to remember that many of the parties
10 granting standing before this Commission are interested
11 only in the Donald Marshall, Jr., case. We expect,
12 therefore, that when we have concluded calling the evidence
13 directly relating to Mr. Marshall some counsel who had been
14 participating on a regular basis before the Commission will
15 no longer consider it necessary to attend to represent the
16 interest of their particular client.

17 Once all the evidence has been called it is proposed
18 to have oral argument addressed to the Commission by any
19 interested party. You have indicated before, Mr. Chairman,
20 that arguments in this matter are to be heard in Sydney and
21 that the date for final arguments will be fixed at the
22 appropriate time.

23 That's a brief outline, My Lord, of how we attend to
24 proceed. Mr. Spicer will be calling the first witness.

25

MR. WARDROP - EXAM. BY MR. SPICER

1 MR. SPICER

2 The first witness is Mr. Wardrop.

3 MR. DONALD JAMES WARDROP, duly called and sworn,
4 testified as follows:

5 EXAMINATION BY MR. SPICER

6 Q. Mr. Wardrop, what's your full name, please?

7 A. Donald James Wardrop. Could I make a few brief
8 comments
9 before we start.

10 MR. SPICER

11 Go ahead.

12 MR. WARDROP

13 Very short. I've heard a lot of comment on this
14 Inquiry about, "I don't recall," and I want to say that was
15 sixteen years ago, with age there's going to be a lot of
16 "don't recalls" in this Inquiry. I...and for the news
17 media, in particular, I say that I will try my best to keep
18 it to a minimum.

19 MR. SPICER

20 When we do get to that point, Mr. Wardrop, we just
21 want to be sure when you don't recall that it is, in fact,
22 that you don't recall.

23 MR. WARDROP

24 That is exactly what I'm trying to lay down, but there
25 has been many comments spread over the CP Press from here

MR. WARDROP - EXAM. BY MR. SPICER

1 to Winnipeg, where I live, about this business of "I don't
2 recall" and one particular person, one particular
3 individual, the press even counted the times that he didn't
4 recall, which I found astounding.

5 MR. SPICER

6 Q. You're a retired member of the RCMP.

7 A. Yes.

8 Q. Where do you currently reside, sir?

9 A. Winnipeg.

10 Q. When did you first commence your career with the RCMP?

11 A. In 1946. Two years before that I was in the Air Force
12 during World War II and I've completed thirty-five
13 years in the Mounted Police, retiring the 2nd of May,
14 1979.

15 Q. Now, can you briefly take us through your career with
16 the RCMP in terms of positions you held and the
17 locations in which you served?

18 A. Exactly. When I first started to get involved in
19 investigative procedures was in Moncton. In 1958 I was
20 commissioned. In 1963 I went to Regina. In 19...

21 Q. Just let's...just slow down for a second. In 1962 what
22 was your rank?

23 A. I was a Sub Inspector.

24 Q. Okay.

25 A. Went to Regina for two years, then I went to Edmonton

MR. WARDROP - EXAM. BY MR. SPICER

1 as an Inspector for two years. Then I went...to IC in
2 Edmonton. Went to Swift Current as OC at Swift Current
3 subdivision.

4 Q. OC means Officer in Charge.

5 A. Right. Yeah. Came back to Halifax then as OC Halifax
6 subdivision.

7 Q. And what year was that, sir?

8 A. 1970.

9 Q. And for how long were you in Halifax?

10 A. One year in that position, then I moved to CIB Officer,
11 1971 to '74.

12 Q. Would that also have been in Halifax?

13 A. In Halifax.

14 Q. Right.

15 A. Uh-huh. After that I went to Toronto, three years in
16 Toronto. Then on...mostly involved in drugs. Then I
17 went to...from there I went as the CO of Manitoba in
18 1976 to 1979.

19 Q. And it was from that position that you retired in 1979.

20 A. Right.

21 Q. During the years 19...in 1971, in November of 1971,
22 were you at that time then CIB officer in Halifax.

23 A. Yes.

24 Q. Can you give...give us an indication of what your
25 responsibilities would have been in that position?

MR. WARDROP - EXAM. BY MR. SPICER

- 1 A. I was completely involved in the whole CIB function,
2 criminal investigation function for the whole of the
3 Province of Nova Scotia.
- 4 Q. And was it a supervisory function or did you carry out
5 investigations yourself?
- 6 A. No, it was a supervisory function. I had an
7 investigative arm working under me.
- 8 Q. To whom did you report?
- 9 A. Super...Chief Superintendent Jack Mudge.
- 10 Q. And did Al Marshall report to you?
- 11 A. Yes.
- 12 Q. What was his position in 1979?
- 13 A. He was Detective Inspector, Sub Inspector.
- 14 Q. And as such would you have considered him to be a
15 person capable of carrying out an independent
16 investigation?
- 17 A. He had carried out many investigations for me. When I
18 say "many" a few, you know, the number, I suppose,
19 would be irrelevant, but yes, he was a very competent
20 investigator. He had thirteen years service and I
21 never questioned any of his investigations whatever.
- 22 Q. Had you ever done any investigations with him yourself?
- 23 A. No, no. You mean getting into the field and going out,
24 no, no.
- 25 Q. Yes.

MR. WARDROP - EXAM. BY MR. SPICER

1 A. I was...my function was...as CIB Officer entailed
2 mostly in the office, you know, in the whole Province.
3 I didn't get out in the field that...like that to go
4 out.

5 Q. Would it have been your job then to assign
6 investigators to the various jobs that needed to be
7 done?

8 A. Exactly, yes.

9 Q. And were you, in fact, the person who assigned Al
10 Marshall to the reinvestigation of the Marshall case?

11 A. Yes, I did.

12 Q. Prior to the November, 1971 reinvestigation done by
13 Mr. Marshall, had you yourself ever been involved in a
14 reinvestigation or an investigation of another police
15 force?

16 A. Yes, I have.

17 Q. Was that a common experience, an uncommon experience?

18 A. It wasn't a common experience. It occurred
19 occasionally.

20 Q. In what sorts of circumstances would it...had it
21 occurred with you previously?

22 A. In Swift Current there was the one specific, there
23 probably would be more, but this is the one that stands
24 out in my mind. There was an investigation there that
25 entailed the Swift Current City Police and...

MR. WARDROP - EXAM. BY MR. SPICER

- 1 Q. Was it going back and looking...
- 2 A. The matter came to our attention and we cleared it with
3 the Attorney General that it wasn't done according
4 to...there was something awry and they asked us to come
5 in and look at it and we did.
- 6 Q. And were you involved in that yourself?
- 7 A. I was the OC. I detailed a person to go and
8 investigate it.
- 9 Q. When you say you "detailed somebody to go and
10 investigate it" do you, when you do that, do you tell
11 somebody "And, I want you to go and interview this
12 person or that person," or do you just tell them that
13 there's an investigation that needs to be done and rely
14 on their competence to go and do it?
- 15 A. Let me say this about that. I was doing the same job as
16 Marshall was doing here in Moncton for four years. I
17 had several...I would say six murder investigations,
18 and when I was tasked to do a job nobody said, "You go
19 out and talk to so and so," or, "You go and talk to so
20 and so," and this. They never ever after I finished my
21 investigation said, "What did you do? What did you do?
22 What didn't you do?" They relied on my initiative and
23 my capability. This is what I relied on here, okay.
24 I'll lay that down to you right now.
- 25 Q. All right. When you say "in this case", you're saying

MR. WARDROP - EXAM. BY MR. SPICER

- 1 you relied on that when Al Marshall went off to Sydney?
- 2 A. Exactly.
- 3 Q. Okay. What is your...what was your first knowledge of
4 the situation in Sydney? How did it come to your
5 attention?
- 6 A. I knew that there was a murder in Sydney. I knew that
7 a certain person by the name of Marshall was convicted.
8 I didn't follow the thing in the newspaper because I
9 had my own function to perform here. I got word from
10 the Attorney General's Department that there was a
11 person by the name of MacNeil that was putting...that
12 was maybe a slang expression "putting the finger" on
13 Ebsary, and that he was saying Marshall hadn't
14 committed the murder. I...
- 15 Q. Sorry. MacNeil was saying that Marshall committed it.
- 16 A. No, no. That Ebsary had committed the murder, not
17 Marshall. Okay. And this came over to me from the
18 Attorney General's Department. Now...
- 19 Q. Do you remember who in the Attorney General's
20 Department?
- 21 A. This is exactly what I'm going to try to tell you. I'm
22 not sure if Bob Anderson or Gordon Gale called me
23 direct or if I might have been out of the office at the
24 time and Burgess might have taken the call. If I was
25 out of the office they had free...we had a very

MR. WARDROP - EXAM. BY MR. SPICER

1 informal relationship with the Attorney General's
2 Department. Like if I was out and they wanted to talk
3 to anyone else they would talk to one of my readers,
4 and Burgess would be the one that would talk to them.
5 So, I don't know. It was one of the two. But anyway,
6 I was told that the Attorney General had received this
7 information, they wanted an investigation.

8 Q. And Burgess is...

9 A. Is my...one of the chief readers there.

10 Q. What's the function of reader?

11 A. Well, they handle criminal files and they research them
12 and they delve into them, and you know, they go into
13 them pretty carefully.

14 Q. Are they commissioned?

15 A. No, no.

16 Q. No.

17 A. They're NCO's. Uh-hum.

18 Q. And in Halifax you had Mr. Burgess and others or.

19 A. Well, he was the one that I can recall handling that
20 particular file. Every one had different particular
21 duties. Some would handle Federal statutes and some
22 would handle, you know, the Provincial Statutes,
23 etcetera, etcetera.

24 Q. As a result of the request that you received from the
25 Attorney General's office what did you do?

1 A. I got ahold of Marshall and asked him to go and look
2 into it.

3 Q. Would there have been anybody else other than Al
4 Marshall that you would have considered to do this?

5 A. No, no. He was my main investigator. He was the only
6 investigator that I had. He was my investigator.

7 Q. Do you have any recollection...

8 A. And when I told him...pardon me. When I told him or
9 asked him to go, I said, "Take all your time and go
10 into, dig in there." I didn't say...I can't express the
11 words that I said, but I said, "Look into it, take all
12 the time you need."

13 Q. And what was it that you told him to look into?

14 A. To the fact that this person MacNeil had said this and
15 there seemed to be something, you know, something wrong
16 with the whole thing.

17 Q. Are you able to tell us today when you said that to
18 Marshall what...what in your mind you would have
19 expected him to do?

20 A. I would have expected him to do as I had done when I
21 was an investigator for many years in Moncton, to
22 ...to...a basic routine thing to go into the whole
23 thing and talked to everyone that was involved.

24 Q. Would you expect him to be acting independently of the
25 Sydney Police Department?

1 A. Yes, of course.

2 Q. Um. Look at volume 16.

3 Q. I would just ask you to turn to page 195 of that
4 volume. Can you tell us what that is?

5 A. Yeah, that is a result of talking to Marshall in Sydney
6 and clearing with me that it would be okay to have the
7 polygraph operator come down. I immediately gave
8 Burgess the nudge and said, you know, send the message
9 off and, of course, I suppose that to do that, he
10 wouldn't have enough detail to do it on his own. He
11 would have got in touch with Marshall and sent it off
12 to Regina. "F" Division is Regina, Saskatchewan and it
13 was the request for Smith to come down and...

14 Q. And the drafter's name, "D.L.B." at the top of that,
15 would that be Burgess?

16 A. Burgess, yeah.

17 Q. And it goes out under your signature.

18 A. Exactly, yes.

19 Q. Towards the end of that message you say:

20 If examination of MacNeil reveals he is
21 telling truth, possibly three further
examinations would be required.

22 Are you able to tell us today what you were thinking at
23 that time as to who those three people would have been?

24 A. I never discussed that with Marshall. He said he
25 needed the polygraph operator and consequential from

1 that, I suppose when he was talking to Burgess, he said
2 "three further examinations", but if you're asking me
3 who he would be thinking about, I would say Marshall,
4 Ebsary, and I don't know who else but, you know, I
5 don't know.

6 Q. You weren't thinking of anybody yourself.

7 A. No.

8 Q. At the time.

9 A. No, no, no.

10 Q. With respect to the polygraph, was the polygraph at
11 that time in 1971 in the RCMP being used extensively?

12 A. I can't recall but it seems to me that it wouldn't have
13 been. It wouldn't have been invoked too much at that
14 time. I can't recall exactly the time but I know that
15 Smith was considered a very efficient and capable
16 operator and for what reason, I don't know. Whether,
17 that he was the first or whether or what but it was
18 coming into vogue, shall we say.

19 Q. At that time in 1971, was it considered to be an aid to
20 investigation; in other words, one of the things that
21 you would do?

22 A. Yes, yeah, it would be an aid, yes.

23 Q. Would there be a circumstance where that would be all
24 you would do, just do a polygraph?

25 A. No, no, no. No, no, no, I never ever thought of that

1 like that.

2 Q. So you would have expected Marshall to talk to people
3 as well as...

4 A. Of course, yes.

5 Q. What was your knowledge of the polygraph in November of
6 1971? Did you know how it worked? Did you know what
7 it was...

8 A. Not really, no. I never got into it. It was one of
9 these advances, technical advances that everybody
10 seemed to advocate from our headquarters and, you know,
11 I accepted it as that.

12 Q. Being advocated as an aid to investigation.

13 A. Yeah.

14 Q. I'll just take you through the documents here, sir, 196
15 of the same volume. Again, that seems to be a message
16 drafted by Mr. Burgess and going out under your
17 signature on the 17th of November.

18 A. Yes.

19 Q. Is that just indicating to whoever is coming from "F"
20 Division...

21 A. To let him know who is the main investigator of the
22 thing, who he should contact.

23 Q. And to get in touch with Al Marshall at that phone
24 number in Sydney.

25 A. Uh-huh.

1 Q. Will you turn to page 200? A couple of notes seemed to
2 be generated by the crime index in Halifax indicating
3 where Ebsary's criminal record. Are you able to tell
4 us about whether or not you would have had that
5 information?

6 A. I never read that, no. I never read those reports. I
7 haven't seen them, no. You see, the thing is that, I
8 might tell you, things are transmitted between
9 detachments and even different police departments and
10 our MCIS, which is Modus Criminal Index Section, I
11 wouldn't see because that was just a routine thing and
12 they transmitted back and forth like, I mean.

13 Q. Notwithstanding that you may not have seen the message,
14 did you know in November of '71 from any source that
15 Roy Ebsary had a criminal record for possession of a
16 concealed weapon?

17 A. No.

18 Q. Did not?

19 A. No.

20 Q. If Al Marshall had known that, would you expect him to
21 tell you at some point?

22 A. I don't think that had much bearing on the thing at
23 that particular time. No, I wouldn't have, I suppose
24 it would have been good information for me to know but,
25 you know, to go down and look at him and say, "You

1 didn't tell me," I don't think I could have said that,
2 no.

3 Q. Is it the sort of information, though, that you would
4 have expected to see in Marshall's report?

5 A. You know, I don't think that that would have really
6 very much bearing on this particular situation. No, I
7 don't, I didn't, I wouldn't think that I would be
8 astounded if it wasn't in the report, no. It wasn't,
9 it didn't seem to be all that serious, like, you know,
10 like that he should have highlighted it or something
11 like that.

12 Q. In any event, you didn't know about it.

13 A. No.

14 Q. Al Marshall goes up to Sydney on the 16th or 17th and
15 then comes back to Halifax and is in Halifax for a few
16 days and goes back up to Sydney with Mr. Smith.

17 A. You see...

18 Q. My question is did you during the period of time that
19 Al Marshall was back in Halifax before he went up to
20 Sydney, did you have any discussions with him
21 concerning this case?

22 A. You see, I have searched my mind over and over again
23 about that. I don't even recall him coming back. I
24 don't, if he came back, I don't recall seeing him. As
25 far as I'm concerned, when he left to go to Sydney, he

1 was there for two weeks. Now if he came back...I want
2 to say one thing clearly, that he was pretty well on
3 his own. He had a loose rein maybe, maybe too loose.
4 Not necessarily too loose but he was one, the only one
5 investigator I had and I didn't ride herd on him and
6 say where are you from day to day and such and such
7 like this. As far as I'm concerned, he would have been
8 there for two weeks. I can't recall him coming back
9 and I can't recall having any conversation with him if
10 he was back.

11 Q. His indication in his testimony at page 5636 of the
12 transcript was that he does recollect having some
13 discussion with you during the time he was back in
14 Halifax.

15 A. You see, there's one thing that I want to tell you. I
16 have a recollection of two conversations with Marshall.
17 The first one was to ask about, clearing with me to
18 have the polygraph operator. And the other one is that
19 somehow or other, I knew very shortly after he went to
20 Sydney that he didn't, somehow or other, they didn't
21 think that MacNeil was giving them the straight story.
22 Now whether that, I think as far as I'm concerned, that
23 was through a conversation in Sydney, not face to face
24 with him when he come back because I don't remember him
25 coming back.

1 Q. Are you able to tell us whether that conversation that
2 MacNeil wasn't telling the truth, whether or not that
3 conversation would have taken place prior to the
4 administration of the polygraph test or after?

5 A. Well, I have no idea.

6 Q. No?

7 A. It just seemed to come to me, and I say that it is
8 very, very vague. It seemed to come to me that I knew
9 that somehow subconsciously, you might say, that they
10 didn't believe MacNeil.

11 Q. Was there any indication as to why they didn't believe
12 MacNeil?

13 A. Well, he was telling different stories. He told the
14 polygraph, he was so erratic that the polygraph
15 operator couldn't get a good reading from him and then
16 he told him apparently that he had lied, et cetera, et
17 cetera, et cetera, you see.

18 Q. Well, that discussion must have taken place after the
19 polygraph thing because you've just been...

20 A. Yeah, it must have, it must have, of course, it must
21 have but, you see, this is what I'm trying to just go
22 over the thing and try to give you the best of my
23 knowledge, you know, and not necessarily in a
24 chronological order but the way I see it or hear it or
25 think it.

- 1 Q. Maybe I could ask you now to turn to page 202 of that
2 volume.
- 3 A. Yeah, right.
- 4 Q. That's Mr. Smith's report.
- 5 A. Yeah.
- 6 Q. Is that directed to you, sir?
- 7 A. Yes, it was, uh-huh.
- 8 Q. Do you have a recollection of receiving that report?
- 9 A. Yes, I do have recollection but, you know...
- 10 Q. Do you remember discussing the substance of it with Al
11 Marshall?
- 12 A. When he came back from his initial investigation, he
13 and I discussed the whole thing before that I had
14 received this report but...
- 15 Q. Prior to receipt of the report?
- 16 A. I believe so, yes.
- 17 Q. And that report is dated November 30th and I think if
18 you just flip back one page to 201, you would see what
19 would appear to be a transmission slip of that report
20 from "F" Division to "H" Division?
- 21 A. Uh-huh.
- 22 Q. 201.
- 23 A. Yeah. No, I don't remember discussing it particularly
24 with him. I know, if you want to go in chronological
25 order, I'll tell you, when he came back from Sydney,

- 1 when Marshall came back from Sydney, we discussed the
2 whole thing complete and this would be involved. I
3 mean not necessarily...
- 4 Q. When you're saying "this", you're talking about the
5 report.
- 6 A. Not necessarily this report but the results of the
7 report.
- 8 Q. Okay. Did you have any discussions with Mr. Marshall
9 by telephone before he came back to Halifax subsequent
10 to the administration of the polygraph test in Sydney?
11 Did he phone you and say, "These are the results."
- 12 A. No, not, no, no, I don't recall anything like that. I
13 told you before and I'll tell you again, I have
14 recollection of knowing somehow or other that they
15 didn't believe MacNeil, that he was, you know, a little
16 bit, he was not, he wasn't, they didn't, they didn't
17 believe what he had said. They found that they
18 couldn't put two and two together and, you know, it
19 just didn't work out.
- 20 Q. In the normal course of events, would you be the person
21 to whom Al Marshall would report the results?
- 22 A. Yes.
- 23 Q. You did have a discussion with Inspector Marshall
24 concerning the substance of his report and the
25 polygraph results.

- 1 A. Prior to that, let me...Should we go into this? He
2 came back from Sydney and he came into my office and we
3 talked about and he said, he assured me that the
4 investigation had been thorough, that the conviction
5 had been substantiated with the evidence and that he
6 was perfectly clear and felt that it was, there was
7 nothing awry. Everything was fine and dandy, that...
- 8 Q. When you say "the investigation had been thorough",
9 you're talking now about the initial investigation in
10 Sydney.
- 11 A. The Sydney investigation had been thorough and
12 everything was copacetic. Everything was kosher. And,
13 you know, that, and, you know, he went over it again
14 and I said, "Well, are you sure?" and he said, "Yes."
15 and he expounded on the competency and the efficiency
16 of the Sydney Police Force and, in particular, John
17 MacIntyre. He went over that and I got the impression
18 that he had known John MacIntyre from time immemorial,
19 you know, the way he was talking about and his
20 capability of this and that and the other thing and...
- 21 Q. Did you have the impression they were friends?
- 22 A. Oh, I certainly had the impression that he knew him
23 quite well, you know.
- 24 Q. Did Inspector Marshall indicate to you what, in fact,
25 he had done in order to satisfy himself that everything

1 was okay in Sydney?

2 A. I'll tell you this, that he said that he had gone over
3 everything as far as the Sydney Police Force was
4 concerned. He had gone over the evidence that was
5 presented to the court. He had gone over those matters
6 and he had, then he...What else did he do? Yeah, he
7 said that he was very assured in his own mind that
8 everything was done thoroughly and completely and he
9 had no reservations whatever about it.

10 Q. When you say "he had no reservations," was he conveying
11 an attitude to you, he was enthusiastic?

12 A. Pardon me, he added that, you know, that coupled with
13 the polygraph operator's findings, certainly made him
14 feel that there was nothing further to be done in the
15 matter.

16 Q. Did you have the impression from talking to him that he
17 had conducted an independent investigation and talked
18 to witnesses and done that sort of thing?

19 A. I want to tell you this that when you go to an
20 investigation, how could he certainly substantiate or
21 negatate [sic] MacNeil's assertion that someone else
22 had done it, unless he talked to everyone. I never
23 gave that one thought. To me, that would be an
24 absolute basic routine thing to do.

25 Q. Inspector Marshall's report itself is dated December

1 21st. Are you able to tell us whether or not prior to
2 receipt of that report, you had received any inquiries
3 from the Attorney General's Department as to what was
4 going on in Sydney and how things were going?

5 A. I can't tell you that, you know, because I can't
6 recall. That's the famous phrase again, "I can't
7 recall."

8 Q. We're familiar with it.

9 A. But the thing is that I would be very, very astounded
10 if we didn't discuss it because I had weekly reports,
11 weekly reports with the senior solicitor, either Gordon
12 Gale or Bob Anderson, and the purpose of those meetings
13 were to discuss current events. And they were very
14 concerned over this thing, so I would be very, very,
15 you know, it would put me right off to think that they
16 wouldn't have, or we wouldn't have discussed it.

17 Q. In what way would they express their feelings such that
18 you can say to us that they were very concerned?

19 A. Well, you know, that if, you know, I suppose that
20 attorney generals don't want any police force under
21 their jurisdiction to be, you know, to be questionable
22 and I suppose that's why there would be concern.

23 Q. How would that concern convey itself to you, though?
24 You say that you thought they were concerned. Was it
25 things they were saying to you? Do you have

1 recollection of any discussion or how do you get that
2 feeling?

3 A. Well, you know, it's a very touchy way to tread, you
4 know, to go into another police force jurisdiction, to
5 start with, okay? That's a very difficult thing. And,
6 you know, I could see that there was some apprehension,
7 that they thought, well, you know, if there's something
8 wrong, let's try to level it out.

9 Q. What I'm trying to get at from you, sir, is whether or
10 not other than your own feeling that they were
11 concerned, there was any expression by anybody in the
12 Attorney General's Department...

13 A. No, no, no. No, no, no. Nobody came out and said
14 anything like that, no, like that we don't trust the
15 Sydney Police Force or anything, no, no.

16 Q. And prior to your receipt of Inspector Marshall's
17 report on December 21st, or about that time, was it
18 your recollection that you would have discussed the
19 substance of what was going on in Sydney at these
20 weekly meetings with representatives of the Attorney
21 General's Department?

22 A. I would say that it would very unusual if I didn't and
23 if I can say that I recall any specific discussion, no.

24 Q. Are you assuming then today that you did?

25 A. I would be very surprised if I didn't. That was the

1 | purpose of our meeting, was to every, every Friday to
2 | discuss current events and go over everything that had
3 | happened, you know, like item from item. You know, I
4 | can't tell you exactly. I mean there was, you see,
5 | this was one of the minor things that, not minor, but
6 | one of the things that we would be discussing. I mean
7 | it wouldn't be, that wasn't the only thing. There was
8 | a lot of other things going on at the same time.

9 | Q. And these discussions would take place, would you be
10 | the only representative of the RCMP there?

11 | A. Yes.

12 | Q. And you'd be discussing them either with Mr. Anderson
13 | or Mr. Gale?

14 | A. Gordon Gale. Sometimes I talked to Gordon Coles but it
15 | would be more of a personnel nature, like manpower,
16 | stuff like that, things of an administrative rather
17 | than criminal.

18 | Q. And discussions with Anderson or Gale would be
19 | substantive matters, is that it?

20 | A. Right.

21 | Q. Would they be discussions with both of them or would it
22 | be just with one of them?

23 | A. No, no, no. See, Bob Anderson was there and then he
24 | was replaced by Gordon Gale. And I can't tell you,
25 | like when I say "one of the two," I can't tell you

1 when one left and the other came on. But it would be
2 one of the two solicitor's desks at the time. So it
3 wouldn't be the two at any time.

4 Q. As far as you were concerned at the time in
5 November/December 1971, was this one of the more
6 important things that was going on in terms of your
7 relationship with the Attorney General's department?

8 A. I would say it would be very important, yes.

9 Q. When you received Inspector Marshall's report, it
10 starts on page 204. First of all, perhaps you could
11 just tell us how you received that report?

12 A. He handed it to me, as I recall, directly. And the
13 rest of the report would have gone in the routine mail
14 distribution. It would have gone to the readers, okay?
15 It's what, if you know the Mounted Police, it would...

16 Q. Yeah, just let me stop you there. When you say "the
17 rest of the report," what is it that would have gone to
18 the readers?

19 A. Okay, hold it, hold it for a second. If you know the
20 Mounted Police, when they prepare a report, it's
21 prepared in about twelve copies, okay? I get a copy
22 from Marshall. The rest of it went into the mail
23 distribution centre.

24 Q. And there were other copies.

25 A. And the readers would have sent it to where they would

1 have. Now, normally, they would send a copy to the
2 A.G. and whoever else. Maybe to Headquarters Ottawa
3 and whatever else that they thought would be involved
4 in it.

5 Q. If that were the case, sir, if the readers did, in
6 fact, distribute various copies of this report to other
7 places, should there be transmittal slips to indicate
8 that that had been done?

9 A. Possibly, yes, but normally if it would have required
10 any further dissertation, they would have put a
11 footnote on there saying, you know, we believe this, we
12 believe this, dit, dit, dit. But I don't see that on
13 there. So I would say then that they must have put a
14 transmittal slip on and said it's complete, it's
15 concluded, there's nothing more to say. There's
16 nothing we can add and let it go at that. Now on top
17 of that, you're asking me about this report. When
18 Marshall handed this report, it seemed to me this was
19 coincidental with my visit to the Attorney General's
20 visit and my best recollection is that the report that
21 he gave me, I took over and handed to either Bob
22 Anderson or Gordon Gale. Now I'm not sure which one
23 was there at the time, but one of the two. Now when I
24 say that, I can't tell you that I remember saying,
25 "Here, this is the report." But I've been trying to

1 recall the many reports that I would take over on a
2 weekly visit. If I was over there, if anything came
3 across my desk that was coincidental with my visit,
4 then I would take it across and talk to him about it,
5 you know. Above everything else, lots of times I would
6 go over there and we'd have nothing to talk about. And
7 if I had a report that we had to discuss, we'd discuss
8 it. So this is what I'm asserting, that this is
9 probably what I...If I didn't do that, and I feel in my
10 own mind as clear as I can, that I took that report
11 over by hand. But if I didn't, it would have gone over
12 in the routine mail, anyway. And if I did take it
13 over, I would, Burgess or none of the readers would
14 have known. I mean their mail would go out in the
15 regular routine flow of mail and that would be it. They
16 wouldn't know that I took it. I didn't, I wouldn't go
17 and say, "I'm taking this over. You don't have to send
18 it." So the normal course of mail would have gone
19 anyway.

20 Q. All right, I just wanted to be certain of one thing
21 arising out of what you just said. Are you telling us
22 today that you have a recollection that you took this
23 report over to somebody in the Attorney General's
24 Department or are you assuming that that's what you did
25 because that's what you would normally do?

1 A. No, no, no, I'm telling you that my best recollection
2 is that I took it over, and when I say that, I'm
3 thinking back of all of the other reports that I took
4 over and it seems to me, in my best recollection,
5 that's the only thing I can say, that I took this
6 report over at the same time. Now I can't tell you,
7 and can't tell you any conversation that ensued as a
8 result of me taking it over, like anything. But I can
9 only tell you that the Attorney General's Department
10 never asked me for any further investigation on this
11 matter at all.

12 Q. And you're telling us today that you have a
13 recollection of that happening. You're not just
14 putting the pieces together and assuming that it
15 happened.

16 A. No, no, this is my best recollection, and, you know,
17 piecing that with the other pieces of correspondence
18 that I took over, I'm, it seems to me that this is one
19 piece of correspondence that I took over.

20 Q. Do you remember, after having taken it over, do you
21 remember discussing it with anybody in the A.G.'s
22 department?

23 A. That's what I simply just got through telling you. I
24 do not recall discussing it but my purpose of a weekly
25 trip over there was to discuss current events and if I

1 | didn't discuss it, I would be completely mesmerized.

2 | If I didn't discuss...

3 | Q. What do you mean by that?

4 | A. Well, it would be, it would be totally, you know,
5 | different from any of our discussions before. I mean
6 | it would be confusing to me to say that I wouldn't
7 | discuss it. But I can't recall sitting down talking.
8 | I can only recall, and I'm telling you again, the only
9 | thing I can recall is that they did not ask me for any
10 | further investigation. And from that, I presumed that
11 | they were satisfied.

12 | Q. And you have no recollection of any discussion with
13 | anybody in the Attorney General's department about it.

14 | A. Not clearly, no. We talked about so many things that I
15 | cannot tell you of any clear distinct impression of a
16 | discussion, no.

17 | Q. What about within the RCMP itself? Would you have had
18 | to forward this report on to your superiors?

19 | A. I think in the normal course of paper flow, they would
20 | have forwarded it on but there would be no comment. I
21 | was sort of, you know, it would end right here, more or
22 | less.

23 | Q. When you say "right here", it would end at you.

24 | A. Yeah.

25 | Q. Did you have any discussions with any of your superiors

1 | concerning the substance of that report?

2 | A. No.

3 | Q. Was Al Marshall's report vented by anybody else in the
4 | RCMP? Did anybody else, to your knowledge, sit down
5 | with him and say, "Okay, what about this and what about
6 | that?

7 | A. No.

8 | Q. Would it have been normal for that to have been done?

9 | A. No.

10 | Q. Would it be fair to say then that, normally, the
11 | investigating officer who makes up his report, brings
12 | it to you, and the conclusions are his and he wouldn't
13 | have had the benefit of having sat down and had to
14 | have himself quizzed, essentially, about the findings
15 | that he made.

16 | A. No, no, you know, listen, if you're talking about a
17 | constable, a third class constable, or an inspector
18 | with 13 years services who is a very competent
19 | investigator, we're talking about two different things,
20 | no.

21 | Q. Sure.

22 | A. In his position, no, he wouldn't do that, no. I had a
23 | great deal of faith in him and I looked upon his report
24 | with a great deal of faith and admiration because I
25 | admired him as an investigator.

1 Q. Were you satisfied then in your own mind after you had
2 received this report and talked to Inspector Marshall
3 about it that, in fact, they got the right man in
4 Sydney?

5 A. Certainly the way he expressed it himself to me, I was
6 completely satisfied that he had felt, and I'll tell
7 you another thing right now. I had never thought, right
8 up until the time that he gave evidence before this
9 Inquiry, that he hadn't given me his all in this
10 investigation and when he came out with saying that he
11 had rubber-stamped things, I was astounded and annoyed
12 to no end.

13 Q. Since you bring that up, was that the first...That was
14 the first indication that you had that anything had
15 gone with Inspector Marshall's report?

16 A. Exactly. I had felt, I knew, I hadn't followed this
17 thing, I was out west. You don't hear much about this
18 out west but I had heard that Marshall was released
19 from jail and I had assumed in my own mind that
20 something come up that our Inspector Marshall was able,
21 was unable to uncover on the investigation and I don't
22 know anything else about that investigation except that
23 I heard or read in the paper something about papers
24 being hidden or something like that. And that's all I
25 know about it.

1 Q. Did you have any further involvement then at all with
2 the substance of this investigation in your last eight
3 years with the RCMP as from '71 to '79 at the time you
4 retired?

5 A. No.

6 Q. Nothing at all?

7 A. That was, that report was the last, it was concluded as
8 far as I'm concerned, that was the end of it. That's
9 all I've ever heard of it.

10 Q. And you attended the meetings in the A.G.'s office
11 during your time in Halifax, so it would have been from
12 '71 to '74?

13 A. '74, right.

14 Q. And, to your recollection, it never came up.

15 A. No.

16 Q. When you did realize the nature of the investigation
17 carried out by Inspector Marhsall, do you have any
18 views today as to why that might have happened, given
19 what you knew about him in the past from his previous
20 investigations?

21 A. I think that he was probably, his admiration of the
22 Sydney Police Force and their competency and their
23 efficiency probably overshadowed his investigative
24 ability and, possibly, he was, by virtue of that, he
25 just depended on them and expected that what they did

MR. WARDROP, EXAM. BY MR. SPICER

1 was perfectly right and everything was copacetic and
2 that was it.

3 Q. I take it that you would have expected Inspector
4 Marshall to do something other than to rely on the
5 Sydney Police Force?

6 A. Like I told you, when you go to do an investigation, an
7 officer like that, you're not talking about some young
8 junior person. You tell them, you task them with a job
9 and you expect them to do it. You don't go out and
10 spell them, say, you go see this one or that one or
11 anything else. You expect them to do the whole thing.
12 For anyone to say that he went there to just
13 investigate MacNeil, because MacNeil said something
14 without going into the background, that's beyond
15 comprehension.

16 Q. That was unbelievable to you.

17 A. Couldn't handle it.

18 MR. SPICER

19 Thank you.

20 MR. RUBY

21 I have no questions.

22 EXAMINATION BY MR. PUGSLEY

23 Q. Mr. Wardrop, my name is Ronald Pugsley. I'm appearing
24 for John MacIntyre. When you received Inspector
25 Marshall's report, did you read it?

1 A. Yes, I did.

2 Q. Would you have had an opportunity of reading it before
3 you interviewed Inspector Marshall?

4 A. No, no, I interviewed him quite a bit before that
5 because his report was a little late coming in. It
6 would be a few days, well, I don't say how long, but I
7 interviewed him before, okay?

8 Q. Yes, and after reading the report, would you have
9 interviewed him again?

10 A. Yes, I did.

11 Q. And discussed the nature of his report with him.

12 A. Yes, you know, by that time, I had made up my mind that
13 he had completed a thorough, as far as he was
14 concerned, everything was thoroughly investigated and
15 there was no problem. I went over the report but I
16 didn't go over and say sentence for sentence and dot
17 all the i's and t's and say, "Did you do this?" and or
18 anything like that. There were two things that I asked
19 him on that report. I said there was two girls and two
20 boys that Marshall and Chant met on Byng Avenue and
21 there was a driver that drove Chant and Marshall down
22 to where Seale's body was. I said, "Did you try and
23 find out who these people were? Did you try to
24 identify them?" He said he did. And then I said at
25 the end of the report, I said, "Why would you report to

1 Donald Marshall[sic], Donnie Marshall[sic] about this?"

2 Well, I understand that lawyers, prosecutors...

3 Q. Donald MacNeil, you mean?

4 A. I beg your pardon?

5 Q. I think you said "Donald Marshall". Do you mean Donald
6 MacNeil?

7 A. Donald MacNeil, pardon me, I'm sorry.

8 Q. The crown prosecutor.

9 A. Yeah, Donnie MacNeil. I said, you know, this was a
10 little bit irregular for him to be reporting to Don
11 MacNeil about his investigation. But I realize that
12 prosecuting attorneys and investigators have a rapport
13 and if there's harmony, they talk back and forth and
14 there's a lot of things exchanged that may be, and I
15 didn't take exception to it.

16 Q. And you would have been alerted to that because on page
17 207 of Volume 16 that is in front of you, at the end of
18 Inspector Marshall's report, he says under Section 10:
19 "Mr. Donald MacNeil, Q.C., has been made aware of the
20 results of this investigation."

21 A. Yeah, I read that, sure. This is what I say. I took
22 exception to it in a way in my own mind but then I
23 thought, because I'd been involved in many
24 investigations and as I tell you again, an
25 investigator and a prosecutor, if there's a good

1 rapport and lots of harmony, there's a great exchange
2 of information, that's the way it should be. So I
3 didn't accept, I didn't question it at all.

4 Q. So obviously that comment or that discussion you had
5 with him was after you received his written report.

6 A. Yes.

7 Q. Because it was in the written report that you were made
8 aware that he had talked to Donnie MacNeil.

9 A. Yeah.

10 Q. Now you say that was the second point that you had
11 discussed with him. The first point you discussed with
12 him was about two girls and two boys.

13 A. That Marshall and Chant had met on Byng Avenue.

14 Q. That's right.

15 A. Okay, and they talked there and then the driver, some
16 driver came along and picked up Marshall and Chant up
17 and took them over to where Seale's body was.

18 Q. That's right.

19 A. And I said, did you try and find out who those people
20 were, because to me, that would be very important. I
21 would have torn Sydney apart to find out, if I had been
22 the investigator.

23 Q. And you would have wanted to try and find out who they
24 were for the purposes of interviewing them, I take it.

25 A. Of course, of course, to find out what Marshall or

1 Chant might have said to them, of course.

2 Q. Precisely.

3 A. Obviously.

4 Q. And what did he tell you?

5 A. He said that he had tried and he was unable to identify
6 them.

7 Q. Unable to identify the two girls?

8 A. The two girls and the two boys, yes.

9 Q. The driver.

10 A. Yeah.

11 Q. I see. So you knew that he did not interview those
12 people.

13 A. Exactly.

14 Q. What about interviewing any other people? Did you have
15 any discussion with him about what others he
16 interviewed?

17 A. I never sat down, like I told you or I told counsel
18 here, that being an old-time investigator, when you're
19 tasked with a job, you don't go out and tell somebody,
20 who to talk to and who not to. When you task somebody
21 with a job, you would presume, and it's just basic
22 routine investigative procedure to talk to everyone.
23 And I certainly wouldn't go down and say, "Did you talk
24 to Joe Blow? Did you talk to Chant? Did you talk to
25 Pratico? Did you talk to this one and that one?" No,

1 I never did, no.

2 Q. But you assumed that he would have talked to those
3 people.

4 A. Of course, of course.

5 Q. And interviewed them.

6 A. Of course.

7 Q. And taken statements from them.

8 A. Not necessarily statements. You see, this is the thing
9 that I have to tell you. If he interviewed these
10 people and he found that their admissions or their
11 statements would be coincidental and similar to what
12 they had given the Sydney City Police, it would be a
13 duplication for him to take statements. And I assumed
14 that he didn't take statements for that very reason.

15 Q. Would you have expected him to have gone to the trial
16 transcript or the preliminary transcript to determine
17 who the witnesses were and who gave evidence?

18 A. Well, I believe he did. I don't know. I did expect
19 that, yes.

20 Q. You'd have to have, one would have to have a guide as
21 to who you were going to talk to and would not going to
22 the preliminary transcript and determining who gave
23 evidence at trial be one way of determining who you
24 would want to interview? Would that not be correct?
25 Is that not one way one would find out who gave

1 evidence?

2 A. Right, exactly, yes, of course, of course.

3 Q. And you would expect that he would interview those
4 people.

5 A. Yeah, exactly, yes. I didn't even get, listen to me, I
6 want to tell you something. If you had been on the job
7 35 years, as long as I have, you wouldn't even think of
8 some things. It's so basic routine that, you know,
9 that's just beyond comprehension. Again, I tell you
10 that and I say that, I sound like I'm repeating myself,
11 but that is a fact. That doesn't even make sense to
12 me.

13 Q. Of course. And would you have expected that since
14 MacNeil told a story about what occurred in the park,
15 would you have expected Inspector Marshall to have gone
16 to the park with MacNeil and say, "Show me where you
17 were when this happened?"

18 A. I would have thought he would have. And I thought he
19 might have. I don't know. You see, like, you see,
20 again, I have to tell you, to try and, we have
21 foresight here now and we're talking about then, at
22 that particular time. I assumed that he did all of
23 those things. They're very basic. He's a 13-year-old
24 investigator, very competent. He had done many jobs
25 for me, very well, very competent. And for me to sit

1 down and question him, I took him in good faith and I
2 thought that that was a perfect, you know, he did his
3 best and, again, I say I didn't even think for one
4 moment that he hadn't covered all of those tracks until
5 he come out here in the report and said that he had
6 rubber-stamped everything.

7 Q. Yes, there's nothing in his written report to indicate
8 that he did interview anyone...

9 A. Listen...

10 Q. I'm sorry, excuse me, let me finish.

11 A. Okay.

12 Q. Anyone really other than MacNeil. There's nothing to
13 indicate that...

14 A. No, no.

15 Q. In his written report.

16 A. Listen, when you lay down a report and you don't expect
17 all of the things to be, the t's to be crossed and the
18 i's to be dotted. I mean if you're, have been involved
19 in investigations like I have and you make an
20 assumption, you make a conclusion. You don't have to
21 say I did this--A, B, C, D, like that. Do you know
22 what I mean?

23 Q. So the fact that there was nothing in the report
24 about...

25 A. Didn't bother me at all. I assumed that I sent a very

1 experienced investigator to do a job and he did it.

2 Q. Would your expectation that he would have interviewed
3 witnesses directly, would that have arisen as a
4 consequence of the training he got when he became an
5 RCMP officer or would it have been something you would
6 have expected that he would have picked up during the
7 course of his work with the RCMP?

8 A. It's just pretty basic, you know. Like I mean, with
9 experience, eh? You don't get it in training
10 necessarily but with experience, you know what I mean,
11 you know.

12 Q. The meetings that you had with Attorney General's
13 department, they were each Friday morning, were they?

14 A. Friday morning, as I recall.

15 Q. Every week.

16 A. You know, with the exception if I was out of town or
17 they were out of town or something like that.

18 Q. And you would go down to the A.G.'s office, would you?

19 A. Right, I'd walk down. We were on Hollis Street then.
20 It was just a walk over to the building.

21 Q. Would you have a fixed time for the meeting, normally?

22 A. It was around ten o'clock usually. We had coffee and
23 our meeting.

24 Q. How long would the meeting normally last for?

25 A. Depending on what we had to discuss. It would go for a

1 half hour to an hour, an hour and a half sometimes, you
2 know.

3 Q. Incidentally, have you talked to Inspector Marshall
4 since he gave his evidence here?

5 A. No, I haven't, no.

6 Q. You didn't phone him up and say...

7 A. Never.

8 Q. You know, what happened?

9 A. No, I haven't, no. No, I haven't talked to him. I
10 haven't talked to anyone on the Inquiry, you know, like
11 that, no, I haven't.

12 Q. Would you turn to page 47 of Exhibit 20, sir? I don't
13 expect this is in your writing. Do you recognize the
14 handwriting at all?

15 A. It's not my writing, for sure.

16 Q. After the first few lines on the right-hand side of the
17 page, can you just read out loud for me what appears?

18 A.

19 He requested me to go on camera for
20 interview but I declined. Mr. Vickery
informed me that he spoke to the...

21 Can you give me a hand there?

22 Q. I don't know. Is that your name?

23 A. "Assistant Commissioner Wardrop."

24 Q. Is that you?

25 A. That's me, assistant, I was an assistant commissioner,

1 | yes.

2 | Q. Yes.

3 | A. See, you know, but I wasn't at that time. I don't know
4 | what that's all about. And then he goes, "C.B.O. "H"
5 | but was told that he, Wardrop was..."

6 | Q. Had nothing to do with the file?

7 | A. That, no, I, you know...That is all foreign to me. I
8 | don't know what they're talking about.

9 | Q. Are you the Wardrop that is referred to there?

10 | A. Well, I'm, yes, I'm, I guess I'm the only one involved
11 | in this affair.

12 | Q. But you can't shed any light on this note.

13 | A. No, but as to what I'm trying, can you decipher the
14 | rest of it? My ability to decipher may not be as acute
15 | as yours but I certainly can't come up with anything
16 | there.

17 | Q. I have the same difficulty you do.

18 | A. Well, what is it all about? I mean it's just a bunch
19 | of garbled junk, as far as I'm concerned.

20 | Q. Well, it presumably came, I don't know whether
21 | commission counsel could help us with this or not, as
22 | to who is the author of this.

23 | A. But what reference, what relevance does it have to
24 | this?

25 | Q. I don't know. I don't know what relevance it has.

MR. WARDROP, EXAM. BY MR. PUGSLEY

1 A. You try to tell me because I can't see anything
2 relevant. Vic...what's his name? Who are you talking
3 about? What's this person? Victor, Vickery...

4 Q. I only saw your name mentioned, so I thought you might
5 know something about it.

6 A. No, I do not know a thing about it and I further tell
7 you that it's completely foreign to me.

MR. SPICER

9 The page before may help you. I can't help you too much
10 but it does say "From C.O." on the page before and makes
11 reference to "Claude Vickery and CBC", telephone
12 conversation. It's part of the same thing.

MR. WARDROP

14 A. Well, let me say this, what was the gist of that
15 telephone conversation? Can you give me that without
16 me trying to go through it?

17 Q. I'm afraid I can't help you at all.

18 A. I don't recall talking to any Claude Vickery on
19 television. If I did and he was inquiring about this,
20 I would simply say to myself, it's none of his bloody
21 business to start with and I'd tell him anything that
22 came, the first thing that came to my mind.

23 Q. Why would you tell him that?

24 A. Because it's none of his bloody business. It's my
25 business.

1 Q. Right. And as far as the RCMP is concerned, is it
2 customary for the RCMP to leak to the media during the
3 course of an investigation...

4 A. Not at all. That's what I'm saying. That's why I'd
5 shut him off and say nothing. If I said anything, it
6 would be irrelevant to anything pertinent to the fact
7 at all.

8 Q. Is there any written guidelines in the RCMP about not
9 leaking information to the media during the course of
10 an investigation?

11 A. No, no, no, there's nothing laid down like that. It's
12 just good common sense.

13 Q. Something you're expected to know.

14 A. Of course, of course.

15 Q. And have you followed that practice of not...

16 A. Exactly, exactly.

17 Q. Leaking information to the media?

18 A. Exactly. And you know whatever that is all about, I
19 don't know what they're trying to suggest, but I can't
20 get a heck of a lot out of it. But as far as I'm
21 concerned, I can't recall speaking to him. If I did
22 speak to him and he was asking me what I knew about
23 this business, I would have told him nothing or told
24 him, you know, I would have told him none of his
25 business. But mostly I would have said, you know,

MR. WARDROP, EXAM. BY MR. PUGSLEY

1 nothing. I don't believe in telling people things. I
2 was, I knew that I was coming before this Inquiry.
3 This is the place that I'm going to tell what I know,
4 not to the press.

5 Q. Quite so. Did you have a superior in Halifax when you
6 were here between '71 and '74?

7 A. Yes.

8 Q. Who was that?

9 A. Chief superintendent Jack Mudge and he was my
10 predecessor on the job that I had. He was the CIB
11 officer. He moved up to Jack Ross' place and I moved
12 into his place from the C.O. down, I was the C.O. down
13 in Halifax Subdivision.

14 Q. Would Superintendent Mudge have received a copy of
15 Inspector Marshall's report?

16 A. I doubt it very much. I doubt that he would be
17 involved in that at all, no. You know, he had another
18 superior that he was involved with, he wouldn't be.

19 MR. PUGSLEY

20 Thank you.

21 EXAMINATION BY MR. BARRETT

22

23 Q. Mr. Wardrop, my name is David Barrett and I represent
24 the Estate of Donald C. MacNeil and I just have a
25

1 couple of questions for you. Were you aware when this
2 report was presented to you by Inspector Marshall that
3 the Donald Marshall case had been appealed?

4 A. No.

5 Q. And your instructions then to commence this
6 investigation were received from the Attorney General's
7 office in Halifax?

8 A. Yes.

9 Q. Your best recollection is that a copy of this report
10 was forwarded to the Attorney General's office in
11 Halifax?

12 A. I feel that is, yes.

13 Q. Would you have any reason personally to contact the
14 Attorney General's office or the crown office in
15 Sydney?

16 A. No.

17 Q. So you had no reason to speak with Donald MacNeil or
18 Lou Matheson?

19 A. No, I don't know, I've never spoken to him, no.

20 Q. Are you aware whether a copy of this report would be
21 sent to the crown office in Sydney?

22 A. I would say that it would be sent to Sydney Subdivision
23 and where they might have distributed it after that, I
24 would have no idea. It would be sent to Sydney
25 Subdivision, okay, of RCMP, Sydney Subdivision.

MR. WARDROP, EXAM. BY MR. BARRETT

1 Q. But as far as the Attorney General's department
2 requesting this investigation, a copy, you feel, would
3 be sent to the Attorney General's office in Halifax.

4 A. Absolutely. It would be, it's unthinkable to think
5 that it wasn't. I can't even, you know, that's just
6 out of the question.

MR. BARRETT

7
8 Thank you. Those are all my questions.
9

EXAMINATION BY MR. PINK

10
11 Q. Mr. Wardrop, my name is Darrel Pink and I'm counsel for
12 the Attorney General's Department. You've had a chance
13 to look at the documents in Exhibit, in Volume 16.
14 Would you just open Volume 16 again? Mr. Spicer asked
15 you to look at page 195 and if you could just start
16 there, please?

17 A. Right.

18 Q. And if you could just look at the documents from 195
19 through to page 209. I don't want you to read each
20 one but just look at them and generally know what each
21 of them is.

22 A. Yes.

23 Q. It's clear from that that there's nothing which
24 indicates in writing that Inspector Marshall's report
25 went to the Attorney General's Department, is that

1 correct?

2 A. Yes.

3 Q. And it's your understanding or it was your evidence
4 that normally one would expect two types of written
5 indication that the report was forwarded. Either a
6 forwarding note at the bottom of his report or a
7 transmittal.

8 A. Or by hand by myself.

9 Q. Yes, but your evidence also was that even if you
10 delivered it by hand, you would still expect the
11 readers to put it through the normal distribution
12 network.

13 A. Exactly.

14 Q. And that would be accompanied by either a forwarding
15 note or a transmittal.

16 A. Yeah, but you know what a transmittal slip is. It's
17 just a little green thing that you stick on there. I
18 mean there's nothing printed on the report itself. I
19 mean, you know.

20 Q. There is attached...

21 A. But there wouldn't be a duplicate copy, there wouldn't
22 not necessarily be a duplicate copy in our office of a
23 transmittal slip that was sent over like that. The
24 file copy would be kept in our office. It would be
25 sent over in a transmittal slip and that would be it.

1 One copy of a transmittal slip.

2 Q. Okay. Can you tell me what the distribution of a
3 report like this would normally be?

4 A. Well, now, listen, you're asking something that I, you
5 know, it would depend on what department was involved
6 and how many departments. First of all, everything of
7 any consequence went to the Attorney General. There's
8 no doubt about that. No question about that at all.
9 That's just automatic.

10 Q. Mr. Wardrop, let me take you back. Turn your mind back
11 to this particular investigation. Where would you have
12 expected this report to have been distributed?

13 A. To go to the Attorney General's Department, No. 1.

14 Q. Where else?

15 A. Our office in Ottawa.

16 Q. Where else?

17 A. Well, now, come on. There's nowhere else that I would
18 particularly think would be involved.

19 Q. Well, you indicated the Sydney Subdivision?

20 A. Well, of course, that's automatic. That's one of our
21 people, you know...

22 Q. Okay, but I don't know who your normal people would be
23 and that's what I'm asking you.

24 A. Well, you know, okay, the subdivision involved, okay?
25 It would be Sydney. They would get a copy of it. A

1 copy would go to the A.G., a copy would go to our
2 headquarters in Ottawa, a copy would stay here. And
3 that's about it, I would expect.

4 Q. So there would only be four copies circulated, is
5 that...

6 A. No, no, listen, you're asking for something that I
7 can't tell you. You know, like getting down to the
8 paper flow, there might have been some other persons
9 involved or some other interest. I can't tell you that
10 specifically, no.

11 Q. Do you recall regarding this particular investigation
12 whether there was anybody interested who did receive a
13 copy of the report?

14 A. There wouldn't be anyone that I know of, no.

15 Q. So with regard to this particular investigation, the
16 circulation would have been limited to four parties.

17 A. I would say so, yeah.

18 Q. You've indicated that you had weekly meetings with the
19 senior solicitor and the Attorney General's department.

20 A. I had, yeah, weekly, right.

21 Q. And you said you believed those meetings were on
22 Friday?

23 A. I believe it, yeah.

24 Q. Is it possible those meetings were regularly scheduled
25 for Thursday mornings?

1 A. I think Friday.

2 Q. Your recollection is Friday, okay. Who did you meet
3 with at the department when you first became the CIB
4 officer for "H" Division?

5 A. Bob Anderson.

6 Q. And until what time did you meet with Mr. Anderson?

7 A. Until he was replaced by Gordon Gale.

8 Q. Can you put a time frame on that?

9 A. No.

10 Q. Can you give us any help as to what caused the change
11 in meeting from Mr. Anderson to Mr. Gale?

12 A. Because, I don't know where Mr. Anderson went but there
13 was a change in the hierarchy over there and I never
14 followed it, no.

15 Q. Was there any gap or lapse between the time that you
16 met with Mr. Anderson and you began meeting with Mr.
17 Gale?

18 A. No.

19 Q. Did the meetings take place every week without fail?

20 A. No, not every week. If he happened to be out of town
21 or if I was out of town, no, there was, it wasn't every
22 week without fail, no, of course.

23 Q. The thing that strikes me about Inspector Marshall's
24 report is that it's dated the 21st of December,
25 correct?

1 A. Yeah.

2 Q. Did you receive it on that day or subsequent to that?

3 A. Subsequent. Very shortly after, I would say. I can't
4 give you the days but it would be very close after
5 that.

6 Q. 22nd, 23rd, 24th?

7 A. I don't know exactly. No, I couldn't tell you that.

8 Q. And you got the report, I believe, or indication was
9 and you took it, or your recollection is that you took
10 it with you to the Attorney General's Department?

11 A. The thing is that it didn't come on my desk right now
12 and I run over to the Attorney General and said, "Here
13 is the report." The thing is that if it came in to my
14 office on Wednesday or Thursday and I read it over and
15 digested it and knew I was going over to see the
16 Attorney General, the solicitor on Friday, I would have
17 just stuck it over there and said, "Well, I'll take it
18 over with me."

19 Q. That was your normal practice.

20 A. Exactly.

21 Q. Your normal routine.

22 A. Exactly.

23 Q. But you cannot say that Inspector Marshall's report
24 came to your desk, that you read it, and you took it
25 with you to the Attorney General's department.

1 A. I can't say specifically. My best recollection, as
2 I've told you, is that I recall handing it to one of
3 the two of them. Now I can't go beyond that.

4 Q. And your recollection is, again, somewhat qualified
5 because you're not even sure which of the two people
6 you spoke to.

7 A. Exactly.

8 Q. And just so that I'm clear, and for the Commission,
9 you're talking about what your normal practice is or
10 was at the time.

11 A. Yes.

12 Q. That's what you would have expected.

13 A. Yes.

14 Q. And you said that you would have been surprised had you
15 not done it.

16 A. Exactly.

17 Q. Now you were surprised, Mr. Wardrop, when you learned
18 about the quality of Mr. Marshall's reinvestigation,
19 weren't you?

20 A. Yes.

21 Q. I suggest to you that maybe you could be surprised with
22 regard to this and that you never did deliver it to the
23 Attorney General's department?

24 A. I would doubt it, I would doubt that. I would doubt
25 that now. Hold it for one moment. I don't say that

1 I'm completely clear that I took it over but my best
2 recollection is I did. But I'm telling you absolutely
3 for sure that that report got over to the Attorney
4 General's Department in one way or the other. You
5 know, it just doesn't make any sense to me whatever and
6 I'm very surprised, I'm very surprised that you would
7 bring this up because of all the times that I've been
8 here, there's never been any question about a flow of
9 reports over at the Attorney General's Department.
10 There's something absolutely, a weird wall put up here,
11 saying that that report didn't get over there. I'm
12 telling you that now.

13 Q. Mr. Wardrop, I'm only trying to understand what your
14 accurate and best recollection is.

15 A. Well, I'm just telling you. Our routine, and it hasn't
16 failed me yet, that mail got over to the Attorney
17 General's Department and you tell me that Bob Anderson
18 or Gordon Gale, who asked for this investigation,
19 didn't get the report and weren't querying me and
20 asking me where it was? Come on.

21 Q. Mr. Wardrop, your testimony today is based on what your
22 normal practice was at the time, correct?

23 A. No, no, I have a recollection, faint as it may be, with
24 age and time, but I have a recollection.

25 Q. The report that you received from Inspector Marshall,

- 1 you were satisfied with it?
- 2 A. Completely.
- 3 Q. You presumed...
- 4 A. No, but listen, that's based on my previous talk to
5 Inspector Marshall and his assurance of everything
6 being a thorough investigation, a complete proper
7 conviction, the competency of the Sydney Police Force,
8 especially John MacIntyre, the polygraph operator, et
9 cetera, et cetera. And my faith in a human being.
- 10 Q. You've presumed...
- 11 A. Listen, when I was involved in investigations.
- 12 Q. Excuse me, Mr. Wardrop.
- 13 A. No, I want to finish what I have to say. When I was
14 involved in an investigation and was tasked with
15 something, nobody asked me ifs, buts, or ands. You
16 didn't, they didn't say did you go out and do this or
17 that? They relied on my initiative and my capability
18 and this is what I relied on here.
- 19 Q. You presumed that Mr. Marshall had done a thorough and
20 conclusive investigation.
- 21 A. Exactly. Exactly.
- 22 Q. And as a result of his report, you concluded and were
23 satisfied that there was nothing to the story of Jimmy
24 MacNeil.
- 25 A. I concluded that they felt he, MacNeil had told the

1 polygraph operator that he had lied and then that they
2 were, he was erratic, they couldn't get a good reading
3 from the polygraph sense as an operator. That there
4 was something awry with him and that, you know, it was
5 something that you couldn't depend on.

6 Q. And you were satisfied that as a result of the
7 investigation of the Sydney Police and the trial that
8 the right person had been convicted.

9 A. Yes, I was satisfied from Marshall's report that
10 everything was thoroughly investigated, a proper
11 conviction was registered, and with the evidence that
12 was adduced at the trial and that was it. It was
13 closed as far as I'm concerned.

14 Q. The case was closed.

15 A. Yeah. I never thought of it again, as a matter of
16 fact.

17 Q. And that was the message that you gave to whomever you
18 spoke to in the Attorney General's Department?

19 A. Exactly, exactly.

20 Q. And you expected them to rely upon it.

21 A. Exactly.

22 Q. You wouldn't have expected them, based on your being
23 satisfied with the report was thorough and conclusive,
24 to look at that report and ask anything, ask of
25 anything more, would you?

1 A. No, no.

2 Q. Just go back one step in the whole exercise, Mr.
3 Wardrop, you received a request from the Attorney
4 General's Department to have a look at the new
5 information that was received from Mr. MacNeil.

6 A. Right.

7 Q. And I believe your testimony was that you're not sure
8 whether, from whom the call came.

9 A. You know, it would, let's say it this way. Normally,
10 Bob Anderson would have called me. Now...

11 Q. Again, you're talking about what the normal practice
12 was.

13 A. Exactly, all right.

14 Q. But you don't recall to whom, from whom the call came.

15 A. I do know, no, I can't say that. It might have come
16 through Burgess, if I was out of the office. But I do
17 know that I got the message loud and clear that this
18 had gone, this was going on down in Sydney and that
19 the Attorney General's Department wanted me to look
20 into it. And that's, I can tell you that with complete
21 surety.

22 Q. And in the request from the Attorney General's
23 department, the scope of the investigation, what was to
24 be done was purely in the discretion of the RCMP, is
25 that correct?

MR. WARDROP, EXAM. BY MR. PINK

1 A. Yes, they didn't spell anything out. I suppose they
2 relied on our investigative ability the way I relied on
3 Marshall. When you go to investigate something, you
4 don't go...Listen, I wouldn't expect Marshall to go up
5 and ask MacNeil, did you, what did you say, is that
6 right, is that wrong? And then come back to me with
7 the conclusion? He would have to go through more than
8 that. He would have to talk to more people.

9 Q. You wouldn't expect the Attorney General's Department
10 to ask you specifically to do something.

11 A. No, of course not. Of course not, I never had and we
12 had a good relationship and they had more confidence,
13 more faith in my ability than that.

14 Q. And in this case, they didn't specify what was to be
15 done.

16 A. No.

17 MR. PINK

18 That's all I have. Thank you.

19 11:00 a.m. INQUIRY RECESSED.

20

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23

24

25

1 11:15 a.m.

2 INQUIRY RESUMES

3 EXAMINATION BY MR. ROSS

4 Q. Mr. Wardrop, I have a few questions to ask on behalf of
5 Oscar Seale. Now, with respect to the investigation
6 carried out by Al Marshall, is it fair to say that you
7 would have expected him to perhaps look into the
8 background of Sandy Seale, the person who was stabbed?

9 A. Yes, I would expect that any investigator would look
10 into the background of the deceased and then possibly
11 the accused, you know, to see what, you know, what had
12 gone on before, yes.

13 Q. And this would be particularly relevant after there had
14 been a trial with no reference at all to any wrongdoing
15 by Sandy Seale, and MacNeil coming forward and
16 suggesting that there might have been an attempted
17 robbery.

18 A. Well, that's a pretty hypothetical question, you know,
19 I think. I couldn't probably comment very
20 intelligently on that, you know. As far as I'm
21 concerned you're asking me if I would have looked into
22 the background of all of them, I would have, yes.

23 Q. I see. And, the conclusion in a report filed by
24 Marshall, and I refer you to volume 16, page 207, seems
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to suggest that Marshall was satisfied that there was, in fact, an attempted robbery. In paragraph numbered 9.

A. Yes.

Q. Wouldn't you have expected that a competent investigation would have further developed the circumstances which would address the charge of...a probable charge of robbery?

A. I would think that would be an aftermath of the original investigation of murder, yes.

Q. Sure. Now, having accepted this report I take it you would have had some discussion with somebody from the Attorney General's Department about the report.

A. I'm repeating myself again when I say that I certainly should have had and probably did, but I can't recall that specifically. I went over to the Attorney General's Department every week with the specific intent of talking over current events. Now, it would leave me cold and estranged to think that having this before me that I wouldn't have discussed it with him. But coming right down to it and asking me to tell you that I talked to anyone and with any specific...specific idea or what I had said I can't tell you that.

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quarterback. It's okay to stand back and say this is...this happened and that happened, but let's put it back sixteen years ago and then stand in the same position. You can't say that.

Q. Well, I don't want to be argumentative. I just want...

A. I'm not trying to be, but I'm trying to put you on the right track so that you don't get, you know, off course.

Q. I appreciate all that, but I just want to ask some questions and whatever the answers are I will live with them. So, I take it that you'd attend these meetings and there would be no notes taken.

A. No.

Q. But as far as this report is concerned, I take it that you would have been rather surprised if, in fact, you did not deliver a copy of the report to the Attorney General's Department.

A. Absolutely. I have no doubt in mind at all that if I didn't deliver it, it went over in the regular mail, and duplications, that it probably went over in the regular mail and I took it over at the same time.

Q. And I take it you would have been really surprised if, in fact, a copy of the report did not reach the Attorney General's Department and nobody asked you

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about it?

A. I don't believe that...I don't think that could happen.

Q. My understanding, my understanding is that Robert Anderson was appointed to the County Court bench around December the 16th, 1971, that would be subsequent to the date of the investigation but prior to the date of the report. Now, accepting that as fact for a minute, could it be that you received instructions from Robert Anderson with respect to the investigation but somebody else handled the reporting?

A. Well, you know, I found him a more of a responsible person than that. I would think that he would have turned everything over to whoever

Q. I see. And tell me about the transition? Do you recall whether or not after Anderson was being moved from his position in the Attorney General's Department whether or not at any of the Friday meetings, or whenever they were, that he was accompanied by anybody else to discuss all the files that were in progress?

A. Never.

Q. And, as far as your relationship with Gordon Coles is concerned, would you have had any opportunity at the...or any reason to discuss this report with Gordon Coles?

1
2 A. No, mostly the only discussion that I had with Gordon
3 Coles would be administrative, a...all of my criminal
4 discussions were with a senior solicitor as I recall.
5 I do recall talking to Len Pace, but I don't recall the
6 specific thing, but you know like, that was the set-up,
7 eh.

8 Q. Now, I understand from the evidence that has been given
9 so far that some time around 1974 or 1975 another
10 member of the RCMP on information from one Ratchford
11 again attempted to get information with respect to this
12 inquiry. Were you aware of that?

13 A. No.

14 Q. Weren't aware of that at all.

15 A. No. Never heard of it.

16 Q. Were you aware of any attempt by the RCMP to uncover
17 anything to do with the Seale murder subsequent to your
18 filing of the report with the Attorney General's
19 Department, as I understand you say you did, back in
20 1971?

21 A. Let me say this about that. When that report came in
22 and I addressed it and I had made a decision in my own
23 mind, having read it, that there was nothing further to
24 be done, that was the end of it. I know nothing more
25 right from that day on. You can wipe that right out of

MR. WARDROP, EXAM. BY MR. ROSS

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your mind. Nothing.

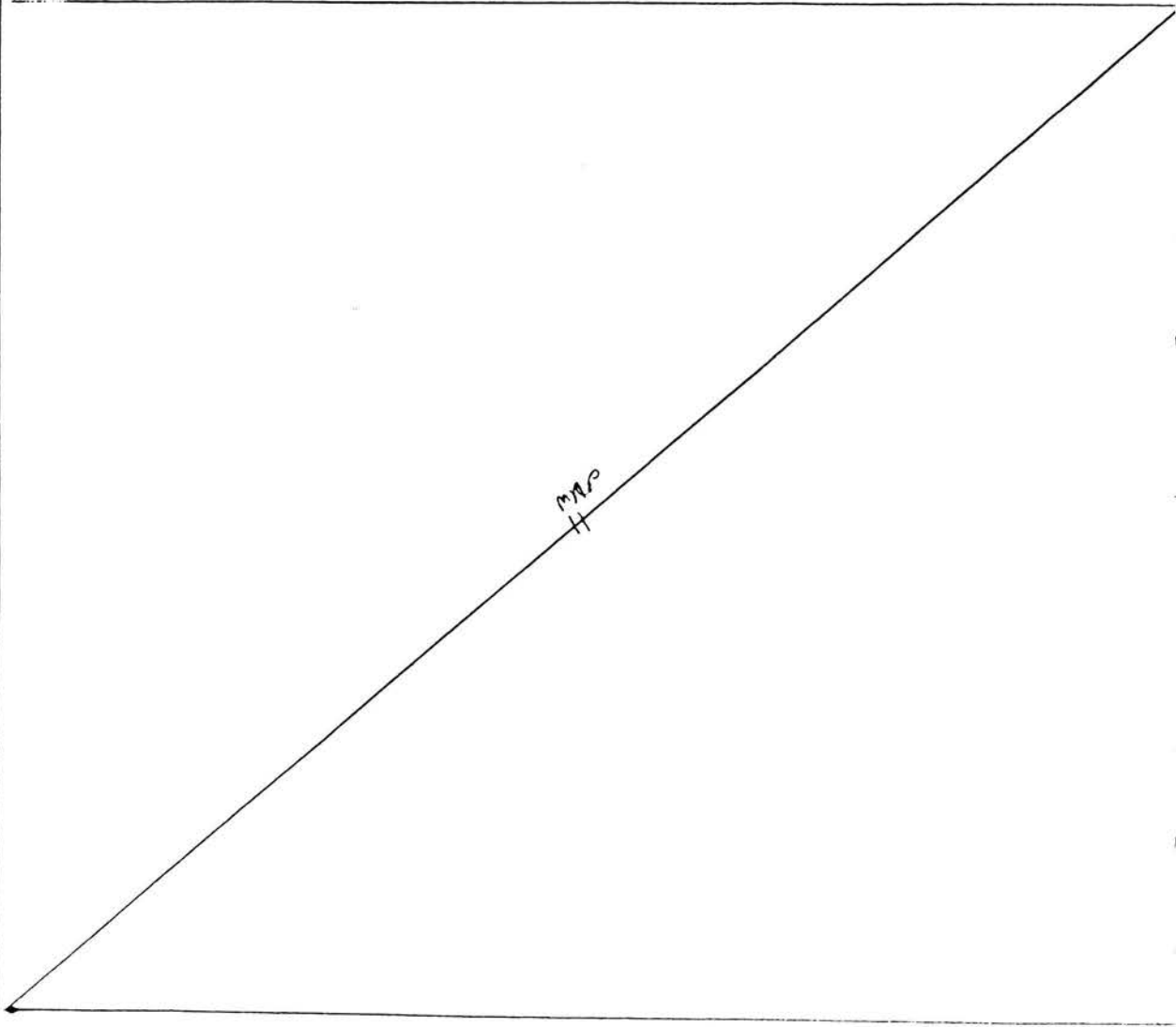
Q. Uh-hum.

MR. ROSS

Thank-you very much. Those are my questions.

EXAMINATION BY MR. NICHOLAS

Q. Yes, Mr. Wardrop, my name is Mr. Graydon Nicholas. I'm representing the interests of the Union of Nova Scotia



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Indians at this Inquiry, and I have a few questions for you. Perhaps if I can probe into your background a bit, when you started with the RCMP in 1946 first.

A. Uh-hum.

Q. Now, in the basic training that you did in Regina were you trained in any way about Indian people?

A. No. No, there was no specific training, no.

Q. Were you made aware of any particular special legislation dealing with Indians?

A. No.

Q. Nor any about the reserve life?

A. No. Anything that I gained was in consequence of being stationed on several Indian reserves, and number two, hold it, I adopted two Indian children five and six years of age, okay. They grew up and they were married last year, twenty-five and twenty-six years of age and I walked them up the aisle.

Q. Well, that's very nice.

A. Now, I want to give you...well, you wanted my background, you've got it.

Q. Well, I haven't finished my preliminary.

A. No, I know, but I'm giving you my background.

Q. Fine, well that's good from your perspective. However, to satisfy my particular concerns, if I may ask a few

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more questions on it, did you at any time undertake any formal training with respect to the laws dealing with Indians in this country?

A. No, not specifically, no.

Q. Now, in the investigations that you have handled throughout your career, did any of the criminal investigations involve murder or any violent crimes where Indians either were victims or were the accused?

A. I think one murder investigation I had in a penitentiary involved an Indian, in Dorchester Penitentiary.

Q. And when would that have been, Mr. Wardrop?

A. Oh, it was way back in when I was a sergeant in Moncton, and it would be in around fifty-eight.

Q. So, in your particular post that you occupied here in Halifax in 1971 were you in any contact with the reserves in this Province with respect to investigations of offences on reserves or involving Indians?

A. Not on hand. No, you know, anything that would involve a reserve or anything would cross by my desk, but I wasn't specifically on hand involved myself, no.

Q. Did you at any time in your career work with Indians who were peace officers?

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A. In Manitoba we have several special constables who are police officers and we had two of them shot, as a matter of fact, and I was their CO at the time.

Q. How about in the Maritimes itself?

A. No.

Q. None. Now, if I may ask you then to go back to the time of the, I believe it was November 15th or 17th you were contacted by the Attorney General's office to be responsible for this investigation, how did you determine then that the accused in this case was an Indian?

A. Quite frankly, I didn't know.

Q. You didn't know.

A. Didn't know. No, I didn't even know that Marshall was...yeah, or Seale was a Negro, if you want to know the truth. I didn't know.

Q. Could I refer you then to Volume 16 that I believe you have in front of you at page 204.

A. Yeah.

Q. Mr. Wardrop and...

A. Right.

Q. In particular refer you to the very first paragraph.

A. Yes.

Q. And I think you've indicated to this Commission that

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you had perused this particular report.

A. Yes, I did. But I'll tell you another thing, I never even...this is how far that I'm away from of being concerned about people's backgrounds, I never even knew that Sandy Seale was a Negro. I'm telling you that right now. Or that Marshall was an Indian. And I can tell you that. Those things mean nothing to me.

Q. Well, if I could refer you again to that page before you close the volume so quickly.

A. No, you don't need to refer me, because I'll tell you that that means nothing to me.

Q. So, does that mean you didn't read this report?

A. I beg your pardon.

Q. Does this mean that you didn't read this report?

A. I read the report but...

Q. So, those...

A. When I read over something about a person being a Negro or a Indian that means nothing. They're people. They're my people. I don't care about that. I don't go for that. I can't even comprehend that. It doesn't mean anything to me.

I gloss over it if you will.

Q. Well, if I could refer you again to that particular page of 204, Mr...

- 1
2 A. Well, go ahead, but I'm not going to... Yeah, go ahead.
3
4 Q. Well, I want to ask you the question. I think it
5 would be best for...
6
7 A. Okay, fine.
8
9 Q. ...you to look at it.
10
11 A. Oh, well, sure.
12
13 Q. Now, in the concluding lines of paragraph 2 of that
14 page 204.
15
16 A. Yeah.
17
18 Q. Earlier you had indicated to counsel that you were not
19 aware an appeal had been undertaken with respect to
20 this case.
21
22 A. Um.
23
24 Q. And I'm wondering, having examined this report, are you
25 telling us today that you did not know an appeal had
been launched?
A. I want to tell you something that I do not have any
knowledge, any recall of an appeal being launched, no.
Q. So, at no time in your two discussions with Inspector
Marshall, nor with the Attorney General's office, were
you made aware by anyone that the accused was an
Indian?
A. I...as far as I know right now, I'm telling you right
now, that I didn't know he was an Indian at all, not at

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all.

Q. Now, would that have made a difference to you if, in fact, you were told that fact?

A. As I told you before I adopted two Indians and you could take that probably without asking me further questions.

Q. Well, I think it's...I'm curious because of the standard that you would have expected from your junior officers, and you were ultimately responsible for this. I'm wondering if cultural factors here were important to consider in the investigation?

A. I expect that I would...having the attitude that I have towards natives and towards me adopting them that I would expect everyone to have the same attitude.

Q. Did you not, Mr. Wardrop, also indicate to Mr. Tony Seale [sic] that you think as a...as a competent officer you would have investigated the background of the accused as well as the victim?

A. I said if I...what would I be looking for?

Q. Well, you're the one who made the statement to a question asked by my learned friend.

A. What should I be looking for though? Like I mean...

Q. Well, what did you mean when you responded to his question?

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A. Well, the thing is that you look into the...you're not looking into the...to find something derogatory. You look in to see if they were, you know, you know, what...where they lived, et cetera, et cetera, you know, if they were working, if they had a job, if they weren't working or what their situation was. I mean just general knowledge I suppose.

Q. Would you have then visited the reserve in Membertou if you were in charge of this investigation to talk to people at that reserve?

A. No, I don't think. I don't think that would be necessary, no. I don't think that would be necessary, no.

Q. Where else would you then find out the cultural background of one of these people?

A. Well, I mean...but, you know, the thing is you'd be getting too involved then.

Q. I'm sorry, pardon.

A. I think that you're going down the road too far on that. I, you know, I'd make a basic investigation as to the background or their criminal background, etcetera, etcetera. But, you know, how far can you go on that? I mean if their mother was, you know, this or if their mother was separated from their husband, is

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that what you're talking about? Come on now.

Q. No, wouldn't you try to find out if the accused in this case would have understood English? Would not a competent officer do that?

A. I would think that...that they must have. I would suspect that anybody talking to Marshall would find that out. I certainly never even gave that a thought, you know, like I would expect, yes, of course they would. They would want to know if he could speak English and comprehend English as a matter of fact.

Q. And would that make a difference whether, in fact, you would ask a polygrapher to come or not?

A. You see the polygrapher didn't talk to Marshall.

Q. No, but the reports indicate that a request may have been made to his counsel, was it not?

A. Well, the thing is that he wouldn't have given him a test if he didn't completely understand English. You know, I mean, he's very competent and, you know, you just don't go out and test somebody that doesn't understand what you're talking about. You'll have to have sort of a response for your questions and I mean you just don't go out talking to someone that doesn't understand you.

Q. I believe earlier you had indicated in one of the

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questions that was asked about on, I believe, it was page 195 of Volume 16, you indicated... On page 195 the communique indicates a possibility of three further examinations to be required. And, I believe you really were not made aware of the substances of this message. But you tried to...

A. No, I didn't try to do anything. I'm trying to tell you right now up front, I don't do anything in background, it's all up front, okay. What happened there? Marshall called me from Regina and he said, "Could I have the polygraph operator from..." No, he called me from Sydney, "Could I have the polygraph operator from Regina?" I said, "Yes." He said, "Do you agree to it?" I said, "Yes." I said, "I'll speak to Burgess and he'll get in touch with you and get the gist of the message." And that's it.

Q. But you...if I recall though, in your response at that time...

A. Somebody asked me what I thought afterward of the three further examinations and I said, Chant, Marshall and Ebsary, and I said that because I'm saying after the fact. At the time I didn't even give it a thought.

Q. Well, how can you include Mr. Marshall on that list now?

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A. I'm saying what I think that could have been the possible people that they would want to examine. That's all. Nothing more. It could have been Pratico, I don't know.

Q. So you're just...

A. I didn't get involved in it.

Q. Yours is speculation then.

A. Exactly. After the fact.

Q. And Mr.Marsh...Inspector Marshall at any time did not indicate to you, in your two meetings with him, that there were any people of native ancestry involved in this case?

A. People of, I beg your pardon.

Q. Native ancestry were involved in this case.

A. People of what? I didn't quite catch it again.

Q. There were any Indians involved in this case.

A. No, no, no.

Q. During your term as the Chief Inspector of the Criminal...

A. No, no, Superintendent, come on.

Q. Pardon.

A. Superintendent, give me my right rank. Superintendent.

Q. I said during your term.

A. Yeah, but you quoted me as some sort of a sub inspector

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or something. I'm a chief...a Superintendent I was then, okay.

Q. Well, what ever your title was?

A. Well, all right, come out with the title.

Q. Now, at that particular time in head of the criminal investigation branch of this Province on behalf of the RCMP, were you required at any time to have contact with Indian leader, Indian Chiefs of reserves in this Province? So, there were no complaints...

A. No, no, I haven't been, but let me tell you, prior to coming here way back in my history, I have a lot of relationship with Indian Chiefs, but that has no bearing. No. In Nova Scotia, no.

Q. So, as the head of the criminal investigation branch at the time did you receive any complaints about the quality of policing with regard to Indians?

A. Never.

Q. Never.

A. Never.

Q. And did you try to find out if there were any problems or was that within your authority?

A. No, you see, we don't have to delve for problems. We have problems coming to our door without going out and searching for them.

MR. WARDROP, EXAM. BY MR. NICHOLAS

1 Q. So, this particular report then that was submitted to
2 you by Inspector Marshall I assumed appended to that
3 would have been the report of the polygraph.
4

5 A. Yes.

6 Q. And these sort of documents would be submitted then, or
7 at least assume were submitted to the Attorney General
8 of this Province.

9 A. Yeah.

MR. NICHOLAS

10 I have no further questions, My Lord.
11

MR. PRINGLE

12 I'd like to ask a question if...
13

COMMISSIONER POITRAS

14 One question. All right, go ahead.
15

EXAMINATION BY MR. PRINGLE

16 Q. Mr. Wardrop, you've testified about your recollection,
17 faint though it might be, about taking the report over
18 on the weekly meeting, correct?
19

20 A. Right.

21 Q. I want to ask you did you receive at any time from
22 anyone in the Attorney General's Department any
23 request, complaint or inquiry alluding to the fact that
24 they hadn't received a report and wanted one?

25 A. No.

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Q. Not from Mr. Gordon Gale.

A. No.

Q. From Mr. Robert Anderson.

A. No, no, none whatever, and I...I was in constant contact with all of them, you know, off and on, no.

Q. And you would have expected, sir, that they having asked you to conduct the investigation would be looking for a follow up.

A. Exactly.

Q. And you would have expected, sir, that if they didn't receive one they would certainly follow it up and request one.

A. I'm very sure they would.

MR. PRINGLE

Thank-you very much.

EXAMINATION BY COMMISSIONER POITRAS

11:40 a.m.

Q. Mr. Wardrop, just one or two questions, if I may. I understand from your testimony that you interviewed Mr. Marshall, Inspector Marshall, following his investigation in Sydney, and then you received his report and then you would have interviewed him again after that.

A. The interview occurred before his report, okay. The

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in-depth interview, and I was satisfied with that interview that he had completed a full investigation and everything had been completed. The report was a confirmation really, if you will, of that report, of his interview.

Q. And, did I understand you to say that you interviewed him again after that report?

A. After the report I asked him...after I got the report in my hand, he hadn't mentioned anything about these two girls and two boys that met Chant and Marshall on Byng Avenue, and I said to him...and also the driver that drove Marshall and Chant over to where Seale was lying, and I said, "Did you make every attempt to find out who these people were and identify them?" He said, "Yes," and he couldn't find out who they were. That was after the report. The next thing that I said to him was that, you know, I said, "Donnie MacNeil got a copy of the report," and he said, "Yes," and I, you know, I didn't...not a copy...not a copy of the report. Donnie..."You talked to Donnie MacNeil," and he said, "Yes, I did," and I didn't...so, you know, I was going to... In my mind I thought that was a little irregular and I didn't pursue it. I said, well, like I told the hearing here before, that a rapport creates between the

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prosecutor and an investigator and harmony, if there's harmony, they tell one lots of things probably that you wouldn't expect.

Q. Well, did you make a point of reading Mr. Marshall's report carefully after receiving it?

A. I read it over, yes.

Q. Did you?

A. Uh-hum.

Q. And were you concerned with the fact, as I note, I think, that the only person he appeared to have interviewed was Mr. James William MacNeil?

A. The thing is that I've mentioned here before that as an experienced investigator of thirty-five years you don't...you don't necessarily say, "Did you hear this or did you hear that or did you do this?" I expected him, it's almost routine, basic routine investigative procedure that he would have talked to everyone. Not...he doesn't necessarily...I wouldn't expect him to necessarily, I talked to A, B, C, D, E, F. You know, his conclusion was enough to convince me that everything was done properly and thoroughly.

Q. Well, as I understand the report, he appears to have made reference to having interviewed a person, that is clear enough, I think that is Mr. MacNeil. But does he

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in his report indicate that he would have interviewed anyone else? Is there sort of a catch-all clause that would convince you that he had, indeed, interviewed a number of other persons?

A. Well...not...

Q. Any where in that report?

A. It wasn't specifically spelled out, and I say again, this is almost basic routine, and I suppose an assumption on my part, maybe incorrectly so. Maybe I should have said...listen we're talking about an experienced investigator with thirteen years' service who had done many investigations for me, thoroughly without a cinch. And, for me to stand up and ask him, "Did you do this, did you do that?" it was...it would be beyond my comprehension. Nobody has ever done that to me. I depended on his initiative and his ability and capability to do that without me saying to him. I know it's not spelled out in the report. I agree with you there.

Q. Of course, I benefit from hindsight here, but as I look at this report, which is only, I think, four pages long, I see that he would have interviewed MacNeil, he would have ordered a polygraph, he made reference to certain statements, certain excerpts of the evidence,

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and then on page 207, under Item 7, he would have examined some of the exhibits. And I don't think there is anything else in this entire report.

A. Let me say now after hearing his evidence.

Q. Uh-hum.

A. That he rubberstamped probably many too things with regards to the Sydney City Police Force. I didn't know that at the time. And, as far as I can tell you again, and I'll repeat, I did not even have one inkling that he hadn't gone through the whole thing, investigated everything that I would have done on the same type of job, which I was involved in Moncton. I don't want to get into this at. I don't want to bore you with this.

Q. No.

A. But I would not, having been told to go do something, have someone tell me you're going to do, you're going to talk to this one, you're going to talk to that one, and then come back and say, "What did you talk to? Who did you talk to?" You would assume that they did this. He's an experienced man, thirteen years of service, and as, again I repeat, had done several investigations for me completely and thoroughly and satisfactorily.

Q. So, in short, you were not concerned with the fact that

MR. WARDROP, EXAM. BY COMM. POITRAS1
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there is a single interview referred to in this report?

A. It didn't come across to me as being very important because I took it for granted, okay.

COMMISSIONER POITRAS

Thank-you.

MR. SPICER

Just a couple of things.

EXAMINATION BY MR. SPICER

Q. One small point. If you could just flip to page 1, sorry, 201 of Volume 16. I just want to be clear, you were asked some questions concerning these transmittal slips. Do I take it from your...from your testimony that a transmittal slip is a document that doesn't have a bunch of carbons behind it so that once it is sent that may be the end of it?

A. A single copy.

Q. A single copy.

A. A single copy, yeah.

Q. Okay.

A. They don't even put it on the file copy.

Q. Okay. And there's one other area that's...came up in the examination actually by Mr. Justice Poitras to some extent. I had asked you some questions earlier about venting of these reports, and you indicated that with a

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senior official that wouldn't be done. What do you do though in a circumstance and what does the RCMP do to prevent tunnel-vision, in other words, somebody getting any idea in their mind that this is the solution and excluding everything else which may tend to negate that conclusion?

A. Well, the thing is that normally when you get people like that that you say are sitting behind a desk and trying to be desk detective and, you know, trying to solve the solution and coming up, it passes over my desk and I read it. And, I'll read some of their ideas and what have you and then you go through that and you talk to someone, and you say, well, you know, is this right or does it sound feasible and, yeah, that's...

Q. But my question then is how in any circumstance can you distinguish between somebody that's...an investigation that you think might have any element of tunnel-vision in it from one that doesn't unless you ask the questions, unless you ask, "Well, did you in fact interview so and so, and did you in fact do this, did you in fact do that?"

A. Well, you see, I 'll tell you something that you probably don't appreciate that. I suppose when you're talking to a younger junior person you do that. You're

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very, very careful. But when you're talking to a person like Marshall, Inspector Marshall, and I'm not trying to downgrade him or anything else, but I'm trying to tell you the way that I see it. I think that as far as I'm concerned, and I'll say it again, that Inspector Marshall relied too much on the competency of the Sydney Police Force and their efficiency and he just rubberstamped things then and this after the fact, you know, it came out in his evidence, and I have to tell you that I'm surprised.

Q. It's fair to say, isn't it, sir, that at the time in 1971 if you had asked him you could have found that out in 1971?

A. Well, but you're talking about foresight now. Come on.

Q. I'm just asking a question.

A. Yeah, I know, yeah, of course. Of course, if I had asked him, yes. If I...listen if I had a crystal ball or something like that, short of going up there myself or being a soothsayer, I did everything possible as far as that investigation is concerned, you know. I satisfied myself and I...and in my mind everything was completely right.

Q. Is it fair to say that it wouldn't have been your policy to secondguess the investigation of a senior

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investigator where you might have with a more junior constable?

A. Well, of course, of course, of course. I took him at face value and I honoured his commitment as a senior investigator and with his previous record and appreciated it.

Q. And, so in the case of a senior investigator would it then be the case that there really wasn't a method in place by which you could assess whether or not that particular investigator had adopted tunnel-vision?

A. You see, like, you know, the only thing that I think of with hindsight as you're talking of there that here's...when he expounded on the competency and efficiency of the Sydney City Police Force, especially John MacIntyre, looking back on it I begin to think that maybe he was mesmerized by something or other and, you know, by their...by his admiration or whatever, what you will, for his capability and just said, "That's it." He did a good job and there's no further, you know, I can't expound any further on that. But that is my personal feeling.

Q. Was there... in 1971 would there have been any policy of the RCMP to vet even the reports of senior investigators or was that a decision that you just made

MR. WARDROP, EXAM. BY MR. SPICER

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on your own as to whether you would or wouldn't?

A. Well, you know, you have, you know, it's a...there's no policy, no.

Q. So, it would have been your decision solely as to whether or not you wanted to second guess, in a sense, in the way Mr. Justice Poitras...

A. Yes, yeah.

Q. ...was just doing to Al Marshall's report.

A. Yes, yeah, uh-hum.

MR. SPICER

Thank-you.

MR. CHAIRMAN

Mr. Wardrop, before you leave us.

EXAMINATION BY MR. CHAIRMAN

Q. You had made reference to the reader, was it Staff-Sergeant Burgess?

A. Burgess, My Lord, yes.

Q. His rank was Sergeant or Staff-Sergeant?

A. I believe he was Sergeant at that time, but it changed. Like he was a Corporal and Sergeant. I'm not sure. It was one of the two. He wound up as a Sergeant and I believe he would be a Sergeant.

Q. As I understand it from your evidence, that the

MR. WARDROP, EXAM. BY MR. CHAIRMAN

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responsibility of a reader is to review all reports coming in very carefully.

A. Research and research and go back and, you know, anything that he could dig up of relevance.

Q. So, are we entitled to assume then that Sergeant Burgess very carefully perused the report and researched the report that had come in from Inspector Marshall?

A. I had the greatest faith in him and I would assume that he would, yes. I never questioned...I had to question him never once.

Q. A reading of that report by a skilled RCMP officer, given the appointment of reader, I would suggest would very quickly indicate to him that only one witness had been interviewed by Inspector Marshall?

A. Reading it literally, I suppose he would have, yes.

Q. If he reached that conclusion would it be his responsibility then to bring that to your attention?

A. No, you know, I would have thought that, you know, he would have satisfied himself otherwise if he...and got himself involved in delving into it further and when it came to my, you know, to my area I would have thought that he would have satisfied himself that everything had been done. No, you know, I wouldn't say that he

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should have come up to me and said, "Listen, hey, this didn't happen, or that didn't happen," no.

Q. Or come up to you and say, "In my view Inspector Marshall didn't..."

A. No.

Q. "...carry out the kind of investigation that I would have expected."

A. No, I wouldn't expect him to do that.

Q. Would you expect him to go to Inspector Marshall?

A. No, you know, when the thing went through...if there was...if he was completely dissatisfied with himself, if there was an irregularity or that something hadn't been done, then, yes. But if he was satisfied with it and felt that everything had been done the way that we do things in the Mounted Police, you know, like without...again I go back to this whole business of crossing the T's and dotting the I's. He knows as well as I do, as well as I tried to relate here, that Marshall is a very competent person and, you know, he would probably assume too much also.

Q. But isn't that the duty of the reader to cross the T's and dot the I's?

A. It probably would be in a lot of cases. It probably...yes.

MR. WARDROP, EXAM. BY MR. CHAIRMAN

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2 It probably would be, but, you know, the thing is that
3 hindsight is very easy and in that particular case it
4 seemed that everything was above board, and the
5 investigation was well carried out and the conviction
6 was supported by evidence and the, you know, like it's
7 very easy then to turn around and, you know, and now
8 say that...

9 Q. Now, say what? I'm waiting.

10 A. I think I extended myself.

11 MR. CHAIRMAN

12 Thank-you. That's all, thank-you.

13 WITNESS WITHDRAWS

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