

1     2:07 p.m.

2     CHAIRMAN

3             Go ahead, Mr. Pugsley.

4     MR. PUGSLEY

5             Thank you, My Lord.

6     Q.   Staff Sergeant Wheaton, did I understand your evidence  
7           before lunch correctly that Beudah Chant advised you that  
8           Wayne Magee was not present during the time that her son,  
9           Maynard, was interviewed in the Louisbourg Town Hall?

10    A.   Yes, sir.

11    Q.   Yes. She told you that.

12    A.   Yes, sir.

13    Q.   Yes. Okay. I'd like to direct your attention to Volume 20 of  
14           the evidence given before this Commission and ask if that  
15           could be, no, it's Volume 20 of the evidence given before the  
16           Commission and ask if a copy of that volume be placed before  
17           you. I think you said that you read the evidence of Beudah  
18           Chant before you gave evidence here today.

19    A.   Yes, I have, sir.

20    MR. MacDONALD

21           There's only one copy, unfortunately, My Lords, of the  
22           transcript down here. The official copy is upstairs.

23    Q.   Thank you. What I'll, do you have any objection if I read  
24           along with you on this?

25    A.   No, Mr. Pugsley, fine.

1 Q Thank you.

2 CHAIRMAN

3 What's the...

4 MR. PUGSLEY

5 It's 3535, My Lord. 3535.

6 Q At the bottom of page 3535, "Question", this is the  
7 examination of Beudah Chant by Mr. Orsborn. Okay, line 23,  
8 okay.

9 Q So you went into a room, this was a room in the  
10 Town Hall, the Court Room, is it?

11 A. Town Hall, yeah.

12 Next page, 3536.

13  
14 Q In Louisbourg?

15 A. Yes.

16 Q Right. Do you remember if there was anybody  
17 else present?

18 A. I believe Wayne Magee but that's all besides the  
19 two officers. That's all I remember being there.

20 Q Did you know Mr. Magee?

21 A. Oh, yes.

22 Q Is he a friend of yours?

23 A. Yes.

24 Q A friend of Maynard's?

25 A. Yes.

Q Did he being there give you any comfort in any  
way?

A. Yeah. I believe it did.

Now that's a, I've read that accurately.

A. Yes, you did, Mr. Pugsley.

1 Q. Yes. Do you have any comment on that evidence?

2 A. The only comment I would have by, "That's all I remember  
3 being there" in this answer here. Does she refer to in the  
4 room or in the hall itself?

5 Q. Well, I know no more than you. She says you went into a  
6 room, this, or the question is,

7 Q. Okay, you went into a room. This was a room..."

8 A. Town Hall, Court House, isn't it?

9 Q. The court house, is it?

10 A. Town Hall, yeah.

11 Q. Louisbourg?

12 A. Yes.

13 Q. Right. Do you remember if there was anybody  
14 else present?

15 A. I believe Wayne Magee but that's all besides the  
16 two officers. That's all I remember being there.

17 And then her comment that Wayne Magee giving comfort to  
18 her son certainly suggests, does it not, that he was present in  
19 the room.

20 A. To me it suggests that he could have either been present in  
21 the room, Mr. Pugsley, or present in the hall. I notice in line  
22 20 just above she says,

23 I don't remember like too much. I know  
24 we went into the room, they talked to him  
25 for a bit. They thought they weren't  
getting anywheres with him so they asked  
me to leave and I would leave...

26 Q. "Asked me if I would leave."

27 A. Yeah. I would take it that way, yes, sir.

1 Q. Okay. Thank you. I'd like to address your attention now to  
2 the events of, in my submission, April 16th and in your  
3 evidence April 26th. And, indeed, in particular the handing  
4 over of the statement of Patricia Harriss, the unsigned  
5 statement of June 17th, 1982, and the handing over of the  
6 statements of Mary and Greg Ebsary of November 15th, 1971,  
7 which I'm going to suggest to you occurred on the same  
8 occasion and occurred on Friday, April 16th. What do you say  
9 about that?

10 A. Well again, all I could say to you, sir, is I, insofar as Patricia  
11 Harriss' statement, there is confusion whether it was the 16th  
12 or 26th, I believe. And I wished I could clarify it. I've tried  
13 with Mr. Orsborn, I can try with you, but I can tell you I do  
14 not, to the best of my own personal recollection I think it was  
15 the 26th and I base it on a paper flow. And I base it on the  
16 fact that I submitted a report stating that. However, I can't  
17 be clear in my own mind, sir.

18 Q. Okay. Two things, two comments you made. You based it on  
19 a paper flow and on a report you submitted. What paper flow  
20 is it that assists you in coming to your conclusion that it was  
21 April 26th?

22 A. Yes, sir. One thing I recall is having the letter from the  
23 Attorney General's Department giving me the permission to  
24 go do that. That letter from your review of files was mailed  
25 by the, on the 21st to our Headquarters, was received on the



1 23rd and was forwarded to Sydney on the 23rd. I recall  
2 having that and reading it to Corporal Davies, then Corporal  
3 Davies, and going down and doing the search. Also, there's a  
4 report written by me, I believe it's the 5th of May report, in  
5 which I state in the report that I went to the Sydney City  
6 Police office on the 26th...

7 Q. Yes. Just so that you understand the purport of my question.  
8 I am not quarreling with you that you were there on the 26th  
9 of April. I am not quarreling with you that you went there  
10 with the order from the Attorney General or that you  
11 received the index, that is Exhibit 88, I don't quarrel with  
12 that.

13 A. Right.

14 Q. I'm simply suggesting to you that there are two occasions you  
15 went there. Once on the 26th in which you received all the  
16 papers...

17 A. Yes, sir.

18 Q. But earlier on the 16th at which time you received the  
19 statement of Patricia Harriss, the unsigned statement, and  
20 also the statements of Greg and Mary Ebsary of November  
21 15th, '71. That's what I'm suggesting to you.

22 A. I can see your hypothesis, sir, and based on Mr. Edwards'  
23 notes I can see your reasoning, too. But I know in my own  
24 mind, sir, that there was one meeting and that was the  
25 meeting with the Chief when he turned these things over and

1       there's certain things occurred during that meeting.

2       Q. Right. And you're convinced of that, are you?

3       A. I know, sir.

4       Q. You know. All right. Okay. From the Chief's point of view, I  
5       suppose, if these incidents occurred, far worse for him if he,  
6       in fact, had thrown the Patricia Harriss statement on the floor  
7       for it to be at the April 26th meeting than at the April 16th  
8       meeting when on the 26th the order of Harry How had  
9       already been issued.

10      A. I suppose, sir.

11      Q. Because if he was trying to not, if he was throwing something  
12      on the floor on the 26th and not handing it over to you, that  
13      would be in defiance of an order.

14      A. In defiance of an order, yes, sir. Yes, I see your point.

15      Q. By the Attorney General.

16      A. And well-taken. Yes.

17      Q. When did you first find out that a request was going to be  
18      made to the Attorney General for the request of the order  
19      that he issued on April 20th? When did you first hear about  
20      that? Or did you hear about it before you received a copy of  
21      the letter?

22      A. I heard about it before I had received the copy of the letter,  
23      sir, from Inspector Scott.

24      Q. Yes.

25      A. He had received a phone call from Superintendent Christen

1 and then, as a result of that phone call, he said well if he has  
2 more statements we should have them, and then I had  
3 subsequent, the next day or two days, I can't recall when, a  
4 conversation with Inspector Scott and he told me that we  
5 would be receiving an order from the Attorney General and to  
6 search the Sydney City Police, or go to the Sydney City Police  
7 to receive the file.

8 Q. Can you tell us how long before you received Mr. How's letter  
9 of April 20th that you had this conversation with Inspector  
10 Scott?

11 A. No, I can't, sir.

12 Q. Would it be a matter of a couple of days? Something like  
13 that?

14 A. I wouldn't think it would be more than that. But I can't, I  
15 don't have the date.

16 Q. How many times had you interviewed John MacIntyre from  
17 February 3rd to April 26th? On how many occasions?

18 A. February the 4th...

19 Q. Yes.

20 A. February the 26th...

21 Q. Right.

22 A. Then there was another interview I was present with  
23 Inspector Scott, I believe sometime in March. It would have  
24 been after the evidence of the knives came forward and John  
25 MacIntyre came to our office on Alexandra Street and I was

1 present during that.

2 Q Is that referred to in your extract of notes that we find on  
3 pages 1 and 2 of Exhibit, Volume 34?

4 A. My own personal notes?

5 Q Yes. The typewritten copy of your notes. These three pages  
6 that we have at the beginning of Exhibit, Volume 34. Is there  
7 anything on those notes that refresh your memory as to when  
8 that third interview with MacIntyre might have taken place?

9 A. I see no note in there that, of an interview with, perhaps I'm  
10 missing it. But I see no note in there of an interview with the  
11 Chief, sir.

12 Q No, I, there might be another way we can try and isolate this.  
13 If you refer to Volume 17, Frank Edwards' notes.

14 A. Volume 17. Yes, sir.

15 Q On page 5...

16 A. Yes, sir.

17 Q And the date is March 1st, '82, notes began 4 p.m. and I  
18 realize that your evidence is different than Mr. Edwards'  
19 notes here but, and it may help us to isolate us this date.

20  
21 Harry Wheaton called this a.m. to say that meeting  
22 with Chief MacIntyre had gone down on  
23 Friday p.m. Just Inspector Scott attended  
as Wheaton was involved in a surveillance  
exercise.

24 And I think your evidence was that, no, that's not accurate. I  
25 did, in fact, attend, and that you were doing a surveillance

1 exercise at the time but it was your very distinct recollection  
2 that you did attend that meeting with Inspector Scott.

3 A. And he's referring to a March 1st meeting, not a February  
4 26th meeting?

5 Q. Well he says that, "Meeting with Chief MacIntyre..."oh, I see.  
6 "Had gone on on Friday p.m." He may have been referring to  
7 February to 26th, that's right. Sorry.

8 A. Yes.

9 Q. Yes. That may not be the third meeting. Well, in any event,  
10 you say that you had the meeting of February 4th, the  
11 meeting of February 26th and you believe a third meeting as  
12 well.

13 A. That's correct, Mr. Pugsley, yes.

14 Q. Before April 26th.

15 A. Yes, sir.

16 Q. Yes. There was lots of opportunity for the Chief to get rid of,  
17 I'll use the word, "offensive" material in his file long before  
18 April 26th.

19 A. That is correct, sir, yes.

20 Q. Lots of opportunity after he received a letter from Harry How  
21 before he called you to come down and hand the file over to  
22 you to get rid of any offensive material in the file as well.

23 A. Yes, sir.

24 Q. When you went there, do you have Exhibit 88 which is the  
25 three pages of notes, the typewritten...

1 A. Yes, I do, sir. Yes.

2 Q. When you went down there on April 26th did you have any  
3 material with you?

4 A. No, sir. I believe I had the letter from Mr. How.

5 Q. Right. But you did not have your own statements or file  
6 material to compare then with what the Chief was going to  
7 give you.

8 A. No, I did not, sir.

9 Q. And was the four pages of Exhibit 88 typed and ready for you  
10 when you arrived at the meeting?

11 A. To the best of my recollection it was, sir.

12 Q. And was it ever removed at any time during the course of the  
13 meeting and additional typewriting put on it?

14 A. I believe it was. The last page, as I recall, the original  
15 statements page...

16 Q. Yes, I see it.

17 A. I believe that that was not like that and I did it up in  
18 longhand and, as I recall, it was given to the Chief's sister,  
19 Kay, who typed it up.

20 Q. I see.

21 A. And it was returned to us by her.

22 Q. So the authorship of the words that appear on the fourth page  
23 of Exhibit 88 is yours, not the Chief's.

24 A. I beg your pardon?

25 Q. The authorship of the words that appear on the fourth page of

1 Exhibit 88 is your authorship. You were the one who wrote  
2 this out in longhand, gave it to the Chief's sister to type and  
3 she brought it back and it was made a part of Exhibit 88, or  
4 made a part of the other three pages.

5 A. That's correct, sir.

6 Q. I see. But the first three pages were typewritten, you believe  
7 when you arrived, and they would, of course, be typewritten  
8 completely by the Chief, his dictation.

9 A. To the best of my recollection, sir, yes.

10 Q. Now on page 3 of Exhibit 34 there is a typewritten note...

11 A. Page 3 of?

12 Q. Yes.

13 A. Exhibit 88 or 34?

14 Q. 34.

15 A. 34.

16 Q. The book. Of Volume 34.

17 A. Page 3 of Volume 34.

18 Q. Correct. Page 3 of Volume 34 which is Item number 26.  
19 Your...

20 A. Oh, yes.

21 Q. Notes of 16 April '82 and you can't really offer any assistance  
22 as to how that date got on there it just got on there.

23 A. I believe in my own mind I put a 1 instead of a 2 but...

24 Q. Yes, okay. We have your handwritten notes of which pages 1,  
25 2 and 3 of Volume 34 are the typewritten copy. I'm sorry, I

1 forget that exhibit number. Perhaps Mr. Orsborn...

2 MR. ORSBORN

3 90A.

4 Q 90A. Thank you. In going through...

5 A. What are we looking for Mr. Pugsley?

6 Q Sorry...

7 A. 90A?

8 Q 90A, I believe.

9 A. Oh, these are the...

10 Q These are your handwritten, these are a photostat of your  
11 handwritten notes.

12 A. Oh, I see.

13 Q If you wish you can refer to the originals. I think you have  
14 the originals there.

15 A. Yeah, I have them right in front of me, sir, yes. Or I have this  
16 now.

17 Q The, how did the first three pages of Exhibit 34 get typed?  
18 Did you dictate to a secretary or did you....

19 A. First three pages.

20 Q Of Volume 34. How did they get typed? Who typed them?

21 A. My secretary typed them, sir.

22 Q Did you dictate into a Dictaphone or did you call her into your  
23 office and...

24 A. I believe I gave it to her in shorthand, sir, yes.

25 Q I see. And did you compare the typewritten result with the



STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1 handwritten notes after she had done it?

2 A. No, I had not. I'm told recently, in preparation for this on the  
3 weekend prior to going to...

4 Q. When did you dictate this to your secretary?

5 A. I just forget the date again, sir. It was as a result of a request  
6 by Commission lawyer Mr. MacDonald to my solicitor...

7 Q. Sometime within the last three months, something like that?

8 A. Yes, sir. Yes.

9 MR. OUTHOUSE

10 My Lord, if I might interject. It is a matter of record and I  
11 have correspondence I can show Mr. Pugsley but the request  
12 came in in August as I recall and these notes, along with notes of  
13 Superintendent Scott, were forwarded to the Department of  
14 Justice September 16th, as I recall.

15 MR. PUGSLEY

16 Thank you very much.

17 Q. In comparing Exhibit 90A, your handwritten notes, with the  
18 typewritten pages that appear in the first three pages of  
19 Volume 34, there's a number of differences and I'm not  
20 suggesting anything improper at all but I, for example, your  
21 notes are not numbered. Your handwritten notes are not  
22 numbered, 1 - Mary Ebsary, 2 - Jimmy MacNeil, et cetera up  
23 to 26. The notes are just...

24 A. No, sir.

25 Q. And if you compare the note on Exhibit 90 in your

STAFF SGT. WHEATON, EXAM, BY MR. PUGSLEY

1       handwriting of 16 April '82 with the handwritten there are  
2       some rather considerable differences between the two and I  
3       just want to address them with you if I may.

4       CHAIRMAN

5       What page is that Mr. Pugsley?

6       MR. PUGSLEY

7       It's about the third last page in my bundle...

8       COMMISSIONER POITRAS

9       Page 12.

10      CHAIRMAN

11      Page 12.

12      MR. PUGSLEY

13      Page 12 is right. Thank you. It's page 12.

14      CHAIRMAN

15      Okay.

16      Q. Whether the differences are significant or not, I don't really  
17      know but I want to get your assistance on that if I may.

18      "Interview - 3:40-..." and I'll read from your handwritten  
19      notes and then compare them to the typewritten notes.

20  
21               Interview - 3:45...(I guess, p.m., p.m.'s not  
22               there. That's not particularly significant.)  
23               Chief MacIntyre, Corporal Davies and  
24               myself. Chief produced Brown (capital "B"),  
25               Accordion (capital "A"), file folder.

24      There appears to be a period after folder in the handwritten  
25      note. Is that, in the original is that so?

1 A. That is correct, Mr. Pugsley.

2 Q. Then,

3 ...containing approx. (A-P-P-R-O-X, which  
4 your secretary has made approximately) 4  
5 (the number for four and your secretary  
6 has written F-O-U-R) Manilla (misspelling  
7 and a capital for "M") file folders as well as  
8 a number of envelopes. Chief was asked  
9 (No period in the typewritten.) 4 or 5  
10 (And the numeral four or numeral five)  
11 times for any other statements from  
12 Patricia Harriss last (And there's no period  
13 after the word "Harriss", and then it just  
14 carries on) last (small "l") statement given.

15 In the typewritten note it says,

16 Chief was asked four or five times for any  
17 other statements from Patricia Harriss.  
18 (New, capital) Last statement given - (and  
19 then the continuation on the same line  
20 which is not accurate at all according to the  
21 handwritten note.)

22 Now when you were asked about four or five times for any  
23 other statements from Patricia Harriss what that meant in the  
24 context of these notes, is it my recollection that you  
25 responded,

26 I didn't mean that I asked the Chief on  
27 April 26th four or five times for any other  
28 statements from Patricia Harriss. I may  
29 have asked her a couple of times on that  
30 day but really what I was referring to  
31 earlier times that I had asked for other  
32 statements from Patricia Harriss.

1 Is my recollection accurate as to..

2 A. Fairly accurate, sir. I think I said it was probably a  
3 combination of the both.

4 Q. Yes. So on occasions prior to April 26th you had asked the  
5 Chief for any other statements of Patricia Harriss.

6 A. Yes, sir.

7 2:25 p.m.\*

8 A. I think I said it was probably a combination of the both.

9 Q. Yes. So, on occasions prior to April 26 you had asked the  
10 Chief for any other statements of Patricia Harriss.

11 A. Yes, sir.

12 Q. And you also asked her that...asked him that on April 26th.

13 A. On April 26th.

14 Q. Yes.

15 A. Yes, sir, right.

16 Q. And on each occasion I take it your evidence is that he said  
17 he had no additional statements to give you.

18 A. That's correct, sir.

19 Q. So, that you had this in your mind when you went to see the  
20 Chief on the 26th of April.

21 A. Definitely, yes, sir.

22 Q. The fact that Patricia Harriss had sort of suggested to you  
23 there were other statements you hadn't see yet.

24 A. She didn't suggest, she told me.

25 Q. Yeah.

1 A. That they had been crumpled up though and thrown on the  
2 floor, so.

3 Q. That's right. And, so that you had in your mind when you  
4 went to see the Chief on the 26th "I wonder what I'm going to  
5 get from him as far as other statements from Patricia Harriss  
6 are concerned." You must have had that in your mind.

7 A. It was one of the things I had in my mind, yes, sir.

8 Q. And, this is a man you didn't trust either. You didn't trust the  
9 Chief at this time, did you?

10 A. April 26th, I was beginning to have, yes, that's right. I was  
11 beginning to mistrust him.

12 Q. Yeah.

13 A. And asked...yeah.

14 Q. Can you tell me why, sir, that Exhibit 88 on the first page you  
15 signed an acknowledgement that you received statements of  
16 Patricia Ann Harriss on June 18th, dated June 18th, 1971?  
17 And I direct your attention to the fact that it is "statements of  
18 Patricia Ann Harriss" rather than statement of Patricia Ann  
19 Harriss.

20 A. Because I had received statements of Patricia Ann Harriss  
21 dated June 18th, 1971.

22 Q. So.

23 A. Typewritten copy of statements.

24 Q. Total, you had received statements, more than one statement  
25 of Patricia Ann Harriss.

1 A. I...yes, sir.

2 Q. You had.

3 A. Dated the 18th of June.

4 Q. How many statements of Patricia Ann Harriss were there  
5 dated the 18th of June?

6 A. I don't recall, sir, but a number of copies of the same  
7 statement.

8 Q. A number of copies of the same statement.

9 A. Yes, sir.

10 Q. I see.

11 A. This was not uncommon. You'll see other ones along the...in  
12 that where I received plural statements of Marvel Dwight  
13 Mattson, statements of Terrence Patrick Gushue.

14 Q. And you're suggesting that the plural use there does not  
15 indicate that you received statements, different statements of  
16 Patricia Harriss, but rather more than one copy of the same  
17 statement.

18 A. That's is correct, sir.

19 Q. I see. Okay. Carrying on with your handwritten notes, it  
20 says, "Hand," new paragraph, "Handwritten statements of Bill  
21 Urquhart," and were these notes written in chronological  
22 order as to how this interview occurred?

23 A. No, these notes were just written as little highlights to refresh  
24 my memory.

25 Q. And, but they were written when? When you got back to the

1 station.

2 A. After I had gotten back to the station, yes, sir.

3 Q. Within fifteen minutes or a half an hour of the conclusion of  
4 this.

5 A. That's correct, sir.

6 Q. Yes. What order were they put in? In what order did you  
7 put these notes down?

8 A. Generally in more or less a chronological order. I started at  
9 3:45 when we did the search and then I continued on with  
10 points that I wished to highlight to refresh my memory.

11 Q. Yes. "Handwritten statements of Bill Urquhart on Harriss  
12 showed." Is there then a period after the word "showed"?

13 A. It would appear to me, yes, sir.

14 Q. Yeah. "Numerous only one read Corporal Davis.[sic]" What's  
15 that mean? "Numerous only one read Corporal Davis." And  
16 there does not appear to be any comma or period between  
17 any of those words.

18 A. Well, if you read on it says "Corporal Davies see them placed  
19 on floor." I assume I'm referring to Corporal Davies seeing a  
20 statement of Patricia Harriss placed on the floor.

21 Q. But before...

22 A. A handwritten statement of Bill Urquhart.

23 Q. But what does the word...the words mean "numerous only one  
24 read", what's that mean?

25 A. That I had received numerous statements of Patricia Harriss,

1 I assume.

2 Q. Numerous statements of Patricia Harriss.

3 A. Only one read. The only statement I had received from the  
4 Chief was the 18th statement.

5 Q. Yes.

6 A. "Corporal Davies see them placed on floor." That would refer  
7 to the 17th statement.

8 Q. When it says, "See them placed on floor," what's the "them"  
9 refer to?

10 A. I don't know, sir, it would be...it was only one piece of paper  
11 to the best of my recollection.

12 Q. I see. "Asked numerous times by Pratico, no explanation, no  
13 comment on line-up."

14 A. Yes, sir.

15 Q. "No comment on Pratico re witness, definitely did not  
16 interview Ebsary, wife or son after murder on 15th." With  
17 respect to that last comment are you saying that the Chief  
18 told you that he did not interview Ebsary's wife or son after  
19 the murder on the 15th?

20 A. That's what it would mean to me, sir, yes.

21 Q. And just so that I understand what those words mean,  
22 definitely did he mean...did you mean to put down there that  
23 the Chief did not interview Ebsary's wife or son at all after  
24 the murder?

25 A. On 15th.



1 Q On the 15th.

2 A Yes.

3 Q Yeah, okay. But the fact is the Chief did interview Mrs.

4 Ebsary and did interview Greg Ebsary on the 15th.

5 A Yes.

6 Q And you knew that.

7 A I had those statements, yes, sir.

8 Q You had them at least on the 19th of April.

9 A That's probably why I put it to him.

10 Q You had them at least seven days earlier.

11 A Yes, sir.

12 Q Why didn't you say to the Chief, "Look it, Chief, I know that

13 you interviewed these people on the 15th because I've got

14 the statements."

15 A I believe I did, that's why I made note of it, and he denied it.

16 Q But you had the statements.

17 A I note in here, "He definitely did not interview Ebsary, wife or

18 son after murder on 15th."

19 Q But you had the statements taken by him. You could have

20 put the lie to that.

21 A Yes, sir.

22 Q Well, did you?

23 A I asked him, I can't recall. I have a note here to that effect. I

24 certainly believe I asked him. I asked him a number of

25 things which were sort of clouded, the line-up, where did

1 Pratico come from, when did you do the interviews with  
2 Ebsary. I believe what was in my mind there there was some  
3 conversation from Inspector Scott from Superintendent  
4 Christian to the effect that the Chief had been in to Halifax  
5 with Ebsary's statements and I wondered what Ebsary  
6 statements he had in there. Were there further Ebsary  
7 statements to what I already had or where were they. I...so I  
8 did put a question to him. I believe, and I wrote the answer  
9 that he did not...definitely did not interview Ebsary, wife or  
10 son after the murder on the 15th.

11 Q. It didn't make any sense for the Chief to hide those  
12 interviews or be quiet about them because they were  
13 supportive of Ebsary's innocence, weren't they? The  
14 statement of Mary Ebsary was supportive of Ebsary's  
15 innocence.

16 A. That's correct.

17 Q. She said she didn't think he could do that kind of thing.

18 A. That's correct, sir, yes.

19 Q. So, it didn't make any sense for the Chief to keep that away  
20 from you if he was...

21 A. I already had those statements, yes, sir.

22 Q. Of course.

23 A. Yes.

24 Q. But for him to deny that he did interview Mary Ebsary on the  
25 15th did not make any sense at all.

1 A. No, sir.

2 Q. No. Going to the last page of Exhibit 88, and your dictation,  
3 what did you...what did you mean to imply by "P.A. Harriss,  
4 one statement given to S.S.Wheaton already."?

5 A. That's very interesting. In preparing for court this morning  
6 and over the weekend I found another handwritten copy of  
7 this.

8 Q. Oh.

9 A. Yes, I did, sir.

10 Q. Where did you find that?

11 A. This was in materials given to me I believe by Inspector  
12 Murphy.

13 Q. Who is Inspector Murphy?

14 A. Inspector Murphy is the officer who's coordinating this  
15 matter and bringing the materials to court each day for the  
16 Commission.

17 Q. And when did he give you this piece of paper?

18 A. It was a photocopy and he gave it to me last Saturday, I  
19 believe.

20 Q. What do you mean three..

21 A. I believe.

22 Q. Three days ago.

23 A. Either that or I received it from my solicitor.

24 Q. Two days ago.

25 A. I can't. No, no, a week.

1 Q. Ten days ago.

2 A. Yes. Yeah.

3 Q. Is this something that's been disclosed to the Commission?

4 A. I don't know. I wasn't aware it really...I just never thought  
5 about it.

6 Q. May I see it?

7 MR. CHAIRMAN

8 Are you saying a copy of Exhibit 88?

9 STAFF SGT. WHEATON

10 Yeah, a page, My Lord, I just noticed it of this last page, and  
11 there's a handwritten copy of it I found in going over  
12 correspondence of this page that I had written.

13 MR. CHAIRMAN

14 Oh, right.

15 STAFF SGT. WHEATON

16 And it's not included in Exhibit 88 and...

17 MR. PUGSLEY

18 Do you have it with you?

19 STAFF SGT. WHEATON

20 The reason I...I don't have it with me, no, sir. I can get it. It  
21 should be here. The Commission lawyers perhaps have it, or  
22 maybe my lawyer has it, sir.

23 MR. OUTHOUSE

24 Perhaps I can just go on record, My Lord, as saying I've  
25 never seen it so I'm in the same position as Mr. Pugsley. I don't

1 know where it is.

2 MR. PUGSLEY

3 I'm very surprised to hear that in view of all the requests  
4 I've made for documents from the RCMP that there is a document  
5 that I've not yet seen, a document that was given to you ten days  
6 ago and I specifically requested last Wednesday afternoon that...if  
7 I had all documents, and I was assured that I did. Now, you say  
8 you got this ten days ago and we have not see it. This Commission  
9 has not seen it, to the best of my knowledge. And, you say  
10 Murphy gave it to you.

11 STAFF SGT. WHEATON

12 I believe, and my solicitor says he did not so it had to have  
13 come from Mr....from Inspector Murphy, who is taking care of the  
14 documentation.

15 MR. CHAIRMAN

16 Mr. Orsborn.

17 MR. ORSBORN

18 I don't recall seeing any handwritten version, My Lord, of  
19 Exhibit 88 or any...

20 STAFF SGT. WHEATON

21 I'll gladly bring it along with me, Mr. Pugsley and...

22 MR. PUGSLEY

23 Well, I wonder if those many counsel who are acting for the  
24 RCMP here, there must be a half dozen of them, can advise us  
25 where the original is or why we haven't received it.

1 MR. BISSELL

2 Well, there's only two counsel here acting for the RCMP, and  
3 if there is such a document, neither Mr. Pringle nor I recall seeing  
4 it, there's certainly nothing sinister to it. We'll make some  
5 enquiries. But I think it's totally out of order to suggest there's  
6 anything sinister in keeping a document withheld. The RCMP  
7 have cooperated fully with the Commission counsel.

8 MR. CHAIRMAN

9 You're the only one who has used the word sinister so far.

10 MR. BISSELL

11 Well, the tone of voice suggested to me some impropriety  
12 was suggested and we'll make enquiries about it, but...

13 MR. CHAIRMAN

14 Make enquiries right now.

15 MR. BISSELL

16 I will.

17 MR. PUGSLEY

18 I certainly was not casting any aspersions on my friends, of  
19 course. I was not...did not mean...

20 MR. CHAIRMAN

21 While that's being sought after, would...would you explain  
22 the...what's meant by the last sentence on the last sheet of Exhibit  
23 88. It says, "Two...page two...two pages handwritten notes."  
24 What's that...what are you referring to there, do you...

25

1 STAFF SGT. WHEATON

2 I believe, My Lord, to the best of my recollection that there  
3 were two pages of handwritten notes, perhaps, of Donald C.  
4 MacNeil. I recall there were notes in his hand. Whether that's  
5 what I mean there or not, it possibly could be. There were other  
6 handwritten notes too of like occurrence reports that the police  
7 officers had which were turned over to me, My Lord.

8 MR. CHAIRMAN

9 Before...have you unraveled the mystery of the...

10 MR. BISSELL

11 No, I'm afraid we're not, My Lord. I've checked with  
12 Inspector Murphy. He doesn't recall the document. But there will  
13 be another check made of divisional file today and if we can find  
14 the document we'll...

15 MR. CHAIRMAN

16 Well, maybe this witness can help you. It appears Inspector  
17 Murphy doesn't know anything about it according to counsel and  
18 your counsel hasn't seen it, the Commission counsel hasn't seen it.  
19 Can you suggest anyone else who may have give it to you?

20 STAFF SGT. WHEATON

21 No, I cannot, My Lord, I'm sorry. The reason that I brought  
22 it up was that, as I recall, in my handwritten list and the typed  
23 list that we have here in this page the witnesses or the statements  
24 were in a different order and this business of "P.A.Harriss, one  
25 statement given to Staff Sergeant Wheaton already," was...I don't

1 recall it being on my handwritten list that was given to the Chief's  
2 sister for typing. I believe it's up in my room and I could supply  
3 it to the Commission.

4 MR. PUGSLEY

5 Q. Thank-you. You say that a photostat of your handwritten  
6 notes of the fourth page of Exhibit 88 you found ten days ago  
7 some way and that you have this in your room, you mean in  
8 your home, do you?

9 A. No, here in this hotel.

10 Q. You have a room in this hotel.

11 A. Yes, I do, sir.

12 Q. I see. All right. Perhaps when we adjourn later on this  
13 afternoon you might get it during the adjournment.

14 A. Yes, I will, Mr. Pugsley.

15 Q. But you say that you don't...you don't believe that that  
16 handwritten says "One statement given to S.S.Wheaton  
17 already."

18 A. Yes, I don't believe it does. I don't quibble with it at all  
19 though because one statement was given to me already by  
20 the Chief on the 26th of February.

21 Q. And what statement was that?

22 A. That was the 18th of June statement of Patricia Harriss.

23 Q. That was another copy of the statements that you refer to on  
24 the front page of Exhibit 88.

25 A. That is correct, sir.



1 Q. I suggest to you that the one statement given to S.S.Wheaton  
2 already was the statement of June 17th that was given to you  
3 on April 16th and that's...

4 A. Absolutely and categorically no.

5 Q. Okay. But the other strange thing is that there is no similar  
6 comment opposite Terry Gushue and you had al...you had  
7 received one copy or one statement or one copy of a  
8 statement from Terry Gushue on the 26th of February, as  
9 well, hadn't you?

10 A. Yes, sir, and on the typewritten copies it says, "Statements"  
11 plural, "of Terrence Gushue."

12 Q. Yes. No, but the point I'm making is that there is no  
13 differentiation in the typewritten page, fourth page of Exhibit  
14 88, about Terry Gushue that there is about Patricia Harriss?

15 A. Yes, sir.

16 Q. And...but you did receive a copy of a statement of Patricia  
17 Harriss and Terry Gushue on the same day, namely February  
18 26th.

19 A. I beg your pardon, sir.

20 Q. You did receive a copy of Terry Gushue's statement on  
21 February 26, long before this April 26th meeting?

22 A. I did receive a copy of Terrence Gushue statement of the 17th  
23 on February 26th, yes, sir.

24 Q. Yes. That is correct.

25 A. Yes.

1 Q. But on the fourth page of Exhibit 88 there is not typed in  
2 opposite "Gushue" one statement given to S.S.Wheaton  
3 already.

4 A. No, that's correct, sir.

5 Q. But in any event, you signed for it.

6 A. That's correct, sir.

7 Q. Okay. So, if you didn't get it from your solicitor and you  
8 didn't get it from Mr. Murphy, can you tell us where you got  
9 this handwritten page?

10 A. The only other place I could have gotten it to the best of my  
11 knowledge would be from the division file and the old Sydney  
12 GIS file which was provided to me on the weekend prior to  
13 the commencement of my evidence for the purpose of  
14 refreshing my memory.

15 Q. Were there any other goodies in there?

16 A. I'm not hiding things, sir, I...

17 Q. I'm not...I just say are there anything else that we haven't  
18 seen?

19 A. Not to my knowledge. If there is I'll certainly bring them to  
20 the attention of this Commission.

21 Q. Thank-you. Further I direct your attention to the phrase that  
22 is used on page 4 of Exhibit 88. It doesn't say P.A.Harriss one  
23 copy given to S.S.Wheaton already, it says, "P.A.Harriss, one  
24 statement given to S.S.Wheaton already."

25 A. That's correct, sir.

1 Q. Now, we still have the mystery of Frank Edwards' notes and  
2 why Frank Edwards could have made the mistakes he did in  
3 putting this meeting down on April the 16th. Do you have  
4 any explanation as to how Mr. Edwards could have made  
5 those mistakes?

6 A. I don't say Mr. Edwards did make a mistake, sir. As I said,  
7 and when you began this line of questioning I'm confused  
8 myself. I feel in my own mind it was the 26th. But there  
9 is...there is certainly indications that Mr. Edwards notes may  
10 be right. I don't know.

11 Q. Is it your evidence, sir, that you are confused yourself about  
12 when that meeting took place?

13 A. No. In my own mind that meeting took place on the 26th of  
14 February, 1982.

15 Q. Do you have any explanation as to why Mr. Edwards has  
16 made a mistake?

17 A. No, I do not, sir, and I do not...I do not.

18 Q. Okay. Now, if you turn to Exhibit 17, which is Mr. Edwards'  
19 notes.

20 A. 17, sir.

21 Q. Exhibit 17.

22 COMMISSIONER POITRAS

23 Volume 17, Volume 17.

24 MR. PUGSLEY

25 Q. I'm sorry. I beg your pardon, Volume 17, I'm sorry. Volume

1 17.

2 A. I've got it.

3 Q Page 8. And, I'm sorry, page 9, if you'd go to page 9. He  
4 writes in the second paragraph,

5  
6 After being pressed Chief turned over  
7 previous written statement by Patricia  
8 Harriss in which she described someone  
9 matching Ebsary, Wheaton said, 'Chief went  
10 scarlet when pressed about this statement,'  
11 also turned over November '71 statements  
12 of Mary and Greg Ebsary.

13 Do you have any recollection of getting those at all from the  
14 Chief, MacIntyre?

15 2:48 p.m.

16 A. Yes, I did, sir.

17 Q You got those from Chief MacIntyre and when did you get  
18 them?

19 A. I would have gotten these statements on the 26th of February  
20 and it also...

21 Q 26th of February?

22 A. 26th of April, I'm sorry, sir.

23 Q But, sir, you just...

24 A. I'm referring to the index 88, sir. And on Page 2, it says  
25 "Original statements taken November 15, 1971 as follows,  
Gregory Allan Ebsary, Mrs. Mary Patricia Ebsary, Roy Ebsary."  
So I would have received...and I signed for them. I would

1 have received those statements from the Chief on that date.

2 Q. On what date?

3 A. On the 26th of April, 1982.

4 Q. But you had them before that time.

5 A. And I also had copies before that, yes, sir.

6 Q. But how did you get them?

7 A. I would suspect they were given to me by Inspector Scott,  
8 having received them from the Chief.

9 Q. I see. But you'll note that on the previous page of Frank  
10 Edwards' diary, on Page 8, I'm sorry, on Page 7, where he  
11 talks about a conversation he had with Gordon Gale  
12 Called Gordon Gale in the a.m. to ask him  
13 about Chief MacIntyre's visit. Gale advised  
14 Chief had been there with Marshall file.  
15 Two points struck Gale.

16 Number one we can ignore. Number 2,  
17 The Chief had produced statements from  
18 Ebsary's wife, son and daughter which  
19 were opposed to what they were saying  
20 now. I said that if such was the case, the  
21 probable explanation was that they were  
22 living in fear of Ebsary at the time, told  
23 him I was concerned about fact that Chief  
24 was producing statements now which  
25 neither I nor the RCMP had known about  
before.

22 A. Yes, sir.

23 Q. So this note was made on Monday, April 19 and I believe it  
24 refers to a meeting between Chief MacIntyre and Mr. Gale  
25 around the 15th of April.

1 A. Yes, sir.

2 Q. And it goes on to say at the bottom of that page 7, "Significant  
3 that Chief left nothing with Gale, collected all papers before  
4 leaving." So if Edwards' note is correct that the RCMP knew  
5 nothing about these statements, November '71 statements on  
6 or about the 15th of April, if the Chief left that meeting with  
7 Gale and had all his papers with him, how did the RCMP get  
8 these statements unless they were delivered to you on April  
9 16 by the Chief?

10 A. What is your question, sir?

11 Q. How did these statements of Mary Ebsary and Greg Ebsary of  
12 November 15, 1971 get into the hands of the RCM Police unless  
13 they were delivered by Chief MacIntyre to you on Friday,  
14 April 16?

15 A. They were not delivered by Chief MacIntyre to me, sir. I  
16 received statements from Inspector Scott. The only  
17 statements I received from Chief MacIntyre was February 26  
18 meeting.

19 Q. There were two there?

20 A. There were two there, yes, sir.

21 Q. Gushue and Harriss?

22 A. That's correct, sir, and then the April 26, 1982 meeting in  
23 which the indexes were made up and I received these  
24 statements. Now what statements he had at the Attorney  
25 General's Department, we did not know at that time and

1 perhaps Mr. Gale or Mr. Edwards can enlighten you. I can't.

2 Q. But we do know that you had these statements of Mary and  
3 Greg Ebsary on April 19 when you interviewed them.

4 A. I had a set, yes, sir.

5 Q. How did you get them?

6 A. I got them, I believe, to the best of my recollection, from  
7 Inspector Scott.

8 Q. When?

9 A. I don't know, perhaps on February 3, perhaps in the March  
10 meeting. I don't recall, sir. I didn't make any...

11 Q. I suggest to you that's inaccurate because they are not  
12 included or referred to in your report that's dated February  
13 25 but was probably sent on March 8. If you look at the  
14 index, those statements are not there.

15 A. Fine, sir.

16 Q. So I suggest to you that your recollection is wrong, that the  
17 Chief gave you the Mary and Greg Ebsary November 15, '71  
18 statements on April 16.

19 A. To me personally.

20 Q. Yeah.

21 A. No, sir.

22 Q. And you can offer no explanation why Frank Edwards writes  
23 on Page 9 of Volume 17, "Also turned over November  
24 statements of Mary and Greg Ebsary on the interview of the  
25 16th of April." You don't have any explanation for that?

1 A. Page 9, what, sir?

2 Q. Volume 17.

3 A. Yeah, I have page 9, Mr. Pugsley.

4 Q. Second paragraph near the end. Chief MacIntyre (I interpose  
5 there) "also turned over November '71 statements of Mary  
6 and Greg Ebsary." You can't offer any explanation as to why  
7 Frank Edwards wrote that down?

8 A. No, sir.

9 Q. Then on Page 10, under the heading Monday, April 19, '82,  
10 "Phoned Wheaton," second paragraph "Phoned Wheaton, told  
11 him I wanted copies of newly acquired statements." And  
12 then down a little bit further,

13 1:30 p.m. on Monday April 19, before the  
14 Attorney General's letter was issued,  
15 Wheaton arrived with statements of Roy,  
16 Greg and Mary Ebsary dated November 15,  
17 '71, Donna Ebsary, 17 April '82, Patricia  
18 Harriss, 17 June '71.

19 That is on Monday, April 19.

20 A. That is correct, sir.

21 Q. Can you offer any explanation as to why Frank Edwards wrote  
22 that down when you say this occurred on the 26th?

23 A. 26th?

24 Q. Of April.

25 A. Yeah.

Q. But you've got the Patricia Harriss 17th of June statement.

A. Right.



1 Q. And he refers to you giving it to him.

2 A. No, I can offer you no reason for that.

3 Q. And indeed he refers a little bit further to it, just to identify it  
4 even better. "Note, Patricia Harriss not complete, i.e. may  
5 have been a page 2."

6 A. Yes, sir.

7 Q. And the June 17 statement of Patricia Harriss, '71 is only one  
8 page, isn't it?

9 A. Yes, sir.

10 Q. Do you remember Frank Edwards telling you that on or about  
11 the 16th of April that he was concerned about the fact that the  
12 Chief was producing statements which neither he nor the  
13 RCMP had known about before. Do you remember him  
14 telling...Frank Edwards telling you that?

15 A. I recall a conversation to that effect. I don't recall the date,  
16 sir.

17 Q. Do you remember him telling you on Monday, April 19 that he  
18 was disappointed that you still had not taken all the files  
19 from the Chief and that you responded that you couldn't be  
20 sure of getting it all that way. Do you remember that?

21 A. Again, I don't recall the date, sir, but there was conversation  
22 to that effect, yes, sir.

23 Q. Yes. You recall the evidence you gave concerning the incident  
24 in the courthouse involving John Pratico and the statement  
25 that he made to the Sheriff. When you first relayed your

1 evidence to the Commission on that topic, you said that you  
2 were concerned because Chief MacIntyre and Donnie MacNeil  
3 took Pratico into a room after you said he'd seen nothing.

4 A. That's correct.

5 Q. And then when he came out and went on the stand and gave  
6 the party line again.

7 A. That's correct, sir.

8 Q. And you felt that was bad?

9 A. Yes, sir.

10 Q. But, in fact, the evidence of Simon Khattar before this  
11 Commission, according to my recollection, is that he was  
12 present at this interview. And that casts an entirely different  
13 light on it, doesn't it?

14 A. It certainly does. It was...

15 Q. Because if Donnie MacNeil and Chief MacIntyre said anything  
16 improper to John Pratico in the presence of Simon Khattar,  
17 one would be thoroughly certain that that would have been  
18 brought out before Mr. Justice Dubinsky?

19 A. That is correct, sir.

20 Q. Now your only knowledge of this was a statement that you  
21 had with Mr. Rosenblum.

22 A. Yes, and also the conversations I had with Corporal Carroll  
23 who did the main interviews with John Pratico who was also  
24 there.

25 Q. But Rosenblum told you that he was not present during the

1 course of this interview but that Khattar had something to do  
2 with it?

3 A. I don't recall specifically...Mr. Rosenblum and I may have  
4 talked about that.

5 Q. I thought that's how it came to your attention initially.

6 A. No, I think it came to my attention from Corporal Carroll vis-  
7 vis John Pratico, that he was taken into a room.

8 Q. Was it discussed between you and Rosenblum when you met  
9 him that day in the courthouse or wherever it was?

10 A. I really don't believe it was, sir, no.

11 Q. Did you ever talk to Simon Khattar about it?

12 A. No, I did not.

13 Q. I want to address your attention to your report of May 30,  
14 1983 and I think the references are found in Volume 20.

15 A. Do you have a page number, sir?

16 Q. Yes, Page 4, I think, is the letter from Gordon Gale to the  
17 commanding officer of "H" Division. Page 4. I can't recall  
18 your evidence as to whether or not you saw this letter or not  
19 before you prepared your response.

20 A. Yes, I can't be positive that it was attached to my copy that I  
21 received from Superintendent Christen. It may well have  
22 been, but when I looked at it the other day when Mr. Orsborn  
23 brought it to my attention, it looked sort of new to me, sir. I  
24 may have seen it.

25 Q. You may have seen it, all right. In any event, would you have

1 got Superintendent's Christen's letter that is found on Page 6?

2 A. Yes, sir.

3 Q. And he refers to attached correspondence from the A.G.'s  
4 Department and says "It may certainly be difficult to define  
5 what is improper police procedure." Is pressuring a witness  
6 into committing perjury, is that an improper police  
7 procedure?

8 A. Yes, sir.

9 Q. And then there's your response that is found on Page 8 and  
10 continues up to Page 20. And the mandate that you  
11 understood you were under is set out in Paragraph 1: "To  
12 review this investigation in relation to any instances of  
13 improper police practices or procedures." And that's what  
14 you understood to be your mandate?

15 A. Yes, sir.

16 Q. Now this was May 30 of 1983. This was almost a year since  
17 you'd been involved in the investigation when you prepared  
18 this report and I think you responded to Mr. Orsborn last  
19 week that you spoke to Barlow in Sydney to clarify a couple  
20 of things on the file and Barlow would have been who? Who  
21 is...

22 A. Staff Sergeant Barlow took my place in Sydney. He was in  
23 charge, the plain clothes coordinator.

24 Q. And you say "I probably drew the division file." And that  
25 would have been located where?

1 A. Here in Halifax, sir.

2 Q. And would that have had all your reports in it?

3 A. It should have.

4 Q. And all of the statements?

5 A. It should have, sir.

6 Q. Do we have any way of determining how long you spent in  
7 preparing your response? The letter from Inspector Christen  
8 is dated the 19th of May and your response is dated the 30th  
9 of May. Is there any way you can check to assist us in  
10 determining how long you would have taken to prepare your  
11 response?

12 A. About all I could state, Mr. Pugsley, it would be between the  
13 19th, you say, and the 30th?

14 Q. Yes.

15 A. And it's a fairly lengthy report. I really don't know how long  
16 I would have spent on it, maybe a day or two, I don't know.

17 Q. It would be important to be fair and accurate.

18 A. I tried to be as accurate as I could.

19 Q. Who was going to read the report? To whom was it  
20 addressed?

21 A. To Superintendent Christen.

22 Q. What involvement did he have in the reinvestigation? In  
23 '82?

24 A. The reinvestigation?

25 Q. In '82, yes.

1 A. In '82.

2 Q. Yes.

3 A. Of what?

4 Q. Of the Marshall case. What involvement, if any, did  
5 Superintendent Christen have in the reinvestigation?

6 A. He was the criminal operations officer who would review all  
7 criminal files in the province and this would be one of the  
8 files that he and his reading staff would review, sir.

9 Q. So he had some familiarity with the matter?

10 A. Oh, I'd say he'd have a fair familiarity with it, yes, a very  
11 good familiarity.

12 Q. In Paragraph 4 you state, referring to Maynard Chant:

13 Chant was next interviewed by Chief  
14 MacIntyre at 5:35 p.m. on the 30th of May,  
15 '71, with the murder occurring on the night  
16 of the 28th, 29th, of May, '71. This would  
17 be good police practice, I would submit. In  
18 this interview Chant places himself on the  
19 railway tracks in the park and relates the  
20 story of how the murder was committed as  
related to him by Donald Marshall whom  
he saw at the scene and talked to. In this  
statement he does not say that he saw  
Donald Marshall stab Sandy Seale.

21 Two points I take out of that, Staff Sergeant Wheaton, or that  
22 I want to address to you about. Of course, he does not say  
23 that he saw Donald Marshall stab Sandy Seale. In that first  
24 statement, he said two other men or another man other than  
25 Donald Marshall stabbed Sandy Seale. Am I correct in that?

1 A. That's right, sir.

2 Q. And secondly, you say: "In this interview Chant places  
3 himself on the railway tracks in the park and relates the  
4 story of how the murder was committed as related to him by  
5 Donald Marshall." But the key thing was, I suggest from  
6 MacIntyre's point of view, was that Maynard Chant never told  
7 him on May 30 "I'm telling you what Donald Marshall told  
8 me." But what he said was "I saw someone else murder  
9 Sandy Seale or stab Sandy Seale." Now that was the key  
10 thing, wasn't it?

11 A. Yes, sir.

12 Q. But in reading your paragraph, that difference is not made  
13 clear, I suggest.

14 A. No, I'm taking what I knew in 1983.

15 Q. In Paragraph 8 on Page 9 of Volume 20, you talk about  
16 Wayne Magee and the Louisbourg statement. And about the  
17 middle of the page, middle of that paragraph you say "He was  
18 then taken into a room and interviewed by the Chief and  
19 Detective Urquhart." Where did you get that...why did you  
20 come to that conclusion that he was then taken into a room  
21 and interviewed by the Chief and Detective Urquhart?

22 A. From Maynard Chant and from his mother.

23 Q. I see. O.K. in the paragraph you say, same paragraph, a  
24 couple of lines later "He further advises that he threatened  
25 him with revocation of his probation for theft of milk bottle

1 money." In the first statement you took from Maynard Chant,  
2 there was no suggestion of that at all, was there?

3 A. Not in the statement, no, sir, as I recall.

4 Q. And again in Paragraph 10 on Page 10: "Chant for his part..."  
5 the second last sentence in Paragraph 10 "Chant for his part  
6 feels that he was set up and orchestrated into being an  
7 eyewitness by Chief MacIntyre." Where did you get that?  
8 That does not appear in the statement anywhere, does it?

9 A. I don't believe, in those words, no, sir.

10 Q. And finally your conclusion that is found on Page 13. Was  
11 your conclusion,

12 I would submit for your consideration that  
13 if a police officer in his drive to solve a  
14 crime refuses to look at all sides of an  
investigation and consider all ramifications,  
then he ultimately fails in his duty.

15 Was that your conclusion as to the improper police practices  
16 carried on by the Sydney Police in 1971?

17 A. Yes, sir.

18 Q. No mention there of forcing witnesses to commit perjury or  
19 pressuring witnesses to commit perjury?

20 A. No, sir.

21 Q. Although that certainly as you've admitted, would be an  
22 improper police practice?

23 A. Yes, sir.

24 Q. But you did not refer to that at all?

25 A. No, sir.



1 Q. You talked about the pressure the Chief was under in  
 2 Paragraph 17 on Page 12 and you talked about the taking of  
 3 the statement from Red Mike MacDonald and you will recall  
 4 that you testified that Red Mike told you that on Saturday  
 5 morning he went to the Chief's house, the Chief of Police's  
 6 house, and drove him to John MacIntyre's house where the  
 7 Chief went in to get MacIntyre going on this investigation.  
 8 And suggesting to Red Mike that he might have to threaten to  
 9 fire him. You recall giving that evidence?

10 A. I do, sir, yes.

11 Q. Did it ever strike you as being strange that in the statement  
 12 that Red Mike gave to you and perhaps I can just refer to  
 13 that, it's on Page 95 of Volume 34.

14 A. Volume 34, sir?

15 Q. Volume 34, Page 95.

16 A. Page 95, sir?

17 Q. Yes, Page 95. I just want to address one comment to you.

18 A. Yes, sir.

19 Q. At about two-thirds of the way down the page:

20 I phoned John MacIntyre who was the  
 21 Sergeant of Detectives and told him what  
 22 was happening, that I thought we had a  
 23 murder on our hands. I asked him if he  
 24 would come out and he refused. I reported  
 25 this to the Chief of Police, Gordon MacLeod.  
 I had to go to his house and see him. My  
 next shift, as I can recall, was Sunday, the

30th of May, 1971.

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So that Red Mike did not work on the Saturday, apparently.

A. That's correct, sir.

Q. Now did it not strike you as being highly unusual for Red Mike to go off shift around midnight, be called out to an investigation that he worked on until 3:00 or 3:30 in the morning, go to the Chief of Police's house at four o'clock in the morning where he'd met with the Chief of Police and then have the Chief of Police call him to go back to his house at around eight o'clock the same morning, four hours later, for the purpose of driving the Chief of Police to John MacIntyre's house. Didn't that strike you as being rather odd?

A. No, sir.

Q. Why, for example, would not the Chief of Police take his own car to John MacIntyre's house or take a taxi? Why would he get a man who had been working until four in the morning come back to his house at eight o'clock for the purpose of driving him to Chief MacIntyre's house?

A. Chiefs of police often get driven by their men.

Q. That didn't strike you as being strange?

A. No.

Q. And, of course, it was your opinion at this time in 1983, in May of 1983 that Chief MacIntyre should have been charged criminally with counselling perjury?

A. Yes, sir.

1 Q. One point I neglected to put to you with respect to the  
 2 incident concerning the throwing of the paper on the floor  
 3 that you have related as to why this did not appear in any of  
 4 your subsequent reports and I think we dealt with that last  
 5 week. There were two reports, one early May, May 5, '82 and  
 6 May 20, 1982. And this incident which must have been a  
 7 highly significant incident, I assume.

8 A. Yes, sir.

9 Q. Because it...I mean, if true, Chief MacIntyre was committing  
 10 an offence.

11 A. No, he wasn't sir.

12 Q. Yes, he was. There was a direction from Harry How.

13 A. Well, I suppose in that regard he would be committing an  
 14 offence against the Police Act. That really never occurred to  
 15 me.

16 Q. You're familiar with the provisions of the Police Act, Section  
 17 30(2) which says that anyone who...well, let's just get it for a  
 18 moment. I think I have a note of it here. There's a provision,  
 19 I believe...yes, here it is. I think the direction of Mr. How and  
 20 that is found at Volume 1999. And just take my word for it,  
 21 this is what it says:

22 Pursuant to Section 31(2) of the Police  
 23 Act I hereby request you to deliver to Staff  
 24 Sergeant H.F. Wheaton of the Sydney  
 25 Subdivision of the RCM Police all warrants,  
 papers, exhibits, photographs and other

information or records in your possession  
or under your control dealing with the  
Donald Marshall, Junior case commencing  
with the initial investigation in 1971.

That's my recollection of what this letter says. And Section  
31(2), the section that Mr. How referred to says that a  
member of a police force shall, upon the request of the A.G.  
deliver to any person named by the A.G. all warrants, papers  
and so on and so on. So, you know, although the letter is  
framed in the form of a request, it in fact is an order. And  
Section 38 of the Police Act says "Every person who violates  
any provision of this Act or any provision of any regulations  
made pursuant to this Act shall be guilty of an offence and  
liable on conviction to the penalties provided by the  
Summary Proceedings Act. So I suggest to you that the  
Chief's failure to hand over this piece of paper to you on April  
26 was a very serious matter.

A. Yes, sir, that's the first time I've ever read that.

Q. The first time you've ever read the Police Act?

A. Yes, sir.

Q. Why then did you not refer to this incident in your report of  
May 5 and May 20?

A. I don't have any reason for that. I've searched my mind. I  
don't know.

Q. The other strange thing is that you felt the June 17 statement  
of Patricia Harriss that you got that day was very critical.

1 A. It was...if you will, the first physical overt act that I saw the  
2 Chief do. I felt that he had been misleading me all along, but  
3 here he was actually hiding a piece of paper.

4 Q. I'm sorry, what I meant was that the statement of Patricia  
5 Harriss, apart from what you say the Chief did, that statement  
6 you felt was a critical statement, an important statement?

7 A. Oh, yes, sir, yes, I'm sorry.

8 Q. Because she describes Ebsary and MacNeil.

9 A. That's correct, sir, yes.

10 Q. And you realized, I take it, how significant it was when you  
11 got it?

12 A. Yes, sir.

13 Q. Now the funny thing is that I've read your reports and unless  
14 I've not read them as carefully as I should, the two reports  
15 that you sent immediately after that incident on April 26 not  
16 only don't contain any reference to the Chief throwing this  
17 stuff on the floor, but they don't even contain any reference  
18 to the statement, to Patricia Harriss' June 17 statement. Now  
19 why would that be?

20 A. I have no explanation, sir. I know I reported it to Frank  
21 Edwards. I know I reported it to Inspector Scott. I, like you,  
22 don't see it in those reports, no.

23 Q. If you turn to 34, Volume 34, page 76, that's your first report  
24 after this incident. 76, My Lord. Just as far as dates are  
25 concerned, it says 82-05-04. That's May 4, Staff, is it?

1 A. I beg your pardon?

2 Q. 82-05-04 is May 4?

3 A. Yes, Mr. Pugsley, yes.

4 Q. Now in Paragraph 3 you say:

5  
6 On 82-04-26 Chief MacIntyre handed over  
7 to the writer the file in regard to this case  
8 as held by the Sydney City Police as per  
9 instructions of the Department of the  
10 Attorney General.

11 Now not only is there no reference, sir, to the Chief throwing  
12 it on the floor, but I draw your attention to the words you  
13 used:

14 ...to the writer the file in regard to this case  
15 as held by the Sydney City Police as per  
16 instructions of the Department of the  
17 Attorney General.

18 Now if the Chief had thrown this stuff on the floor, that's  
19 hardly handing over a file to you in accordance with  
20 instructions. I mean, instructions, I assume, are the letter of  
21 Harry How of April 20. But why would you write that the  
22 Sydney Police handed over the file to you as per instructions  
23 of the Department of the Attorney General if he threw  
24 something on the floor and tried to hide it from you?

25 A. He did hand over the file as per the instructions of the  
Attorney General with the exception of the 17th June  
statement of Patricia Harriss.

1 Q. Pretty significant. You thought it was pretty important, but  
2 you didn't note it, did you, sir?

3 A. No, sir.

4 Q. Now the next report that I wish to bring to your attention is  
5 your final report of 86-07-14 and that's found at Volume 20  
6 at Page 63.

7 Q. Page sixty what, sir?

8 A. Sixty-three, sir.

9 Q. I'll be a few moments on this report, My Lord, it might be...

10 MR. CHAIRMAN

11 We'll take a short recess. 3:19 p.m.

12 INQUIRY RESUMES - 3:38 p.m. \*

13 MR. BISSELL

14 Yes, My Lord. I just wanted to address for a second the  
15 issue of that document that we went looking for. I believe that  
16 Staff Sergeant Wheaton has found the document and it appears  
17 there was, indeed, a fifth page which is page four of that  
18 document. We've checked the inventory of documents that we  
19 turned over to the Commission and it appears to be item 413,  
20 suggesting that there are five pages to that particular document. I  
21 assume that in the photocopying process by those putting together  
22 the exhibit books for the Commission that that page has somehow  
23 got...got overlooked.

24 MR. PUGSLEY

25 Mr. Orsborn.

1 MR. CHAIRMAN

2 I see Mr. Orsborn arriving now. Do you agree with the  
3 explanation just given, Mr. Orsborn?

4 MR. PUGSLEY

5 I agree with anything said by Mr. Pugsley, My Lord.

6 MR. CHAIRMAN

7 No, no. Would you repeat again for the benefit of Mr.  
8 Orsborn.

9 MR. BISSELL

10 Yes, I had just noted that Staff Sergeant Wheaton has  
11 checked, I understand, and found the document that he was  
12 referring to and on examining it it appears to be the fourth page  
13 of a..

14 MR. CHAIRMAN

15 Fifth page.

16 MR. BISSELL

17 Well, yes, makes a fifth page, but it appears in the document  
18 as the fourth page, I believe. Staff Sergeant Wheaton can correct  
19 me if I'm wrong. We've checked the inventory of documents that  
20 were turned over to the Commission and it appears to be items  
21 413 on that inventory. "Typed notes under captions Sydney  
22 Police Department initialed by Harry Wheaton, five pages." So, it  
23 appears that the document is a five-page document and in the  
24 photocopying process in putting the exhibit book, perhaps, I  
25 would assume a page is overlooked.



1 MR. ORSBORN

2 We'll check that out, My Lord.

3 MR. PUGSLEY

4 It's just being photostated at the present time, My Lord, and  
5 as soon as Mrs. MacDougal brings it back down we'll distribute it  
6 to yourselves and to counsel.

7 Q. I take it that you felt another area of criticism should be  
8 directed towards Chief MacIntyre for his failure to ensure  
9 that the two statements given by Chant and the two  
10 statements given by Pratico and the earlier unsigned  
11 statement of June 17th of Patricia Harriss were not given to  
12 defence counsel. You felt that that was a...something that  
13 should have been done and you laid blame at the doorstep of  
14 Chief MacIntyre for that.

15 A. What are you referring to, sir? My report to Superintendent  
16 Christen or my previous evidence in answer to Mr. Orsborn.

17 Q. Well, I'm asking you just generally, and I think there's been  
18 reference to it and it may be in the report that we're coming  
19 to. But am I correct in that assumption?

20 A. Could you give me it again, sir, so I understand it?

21 Q. Yes. Did you feel that Chief MacIntyre should be criticized for  
22 a failure to give to defence counsel prior to the trial or prior  
23 to the preliminary the two statements of Maynard Chant, May  
24 30th and June 4, the two statements of John Pratico, May  
25 30th and June 4 and the unsigned statement of Patricia

1 Harriss of June 17th?

2 A. I'm criticizing John MacIntyre for not...

3 Q. Do you? Do you? Do you criticize...

4 A. For not giving them to who? Me, sir.

5 Q. Defence counsel. No. To defence counsel.

6 A. Back in 1971.

7 Q. '71, yes, right.

8 A. Well, I would...I would...my comment on that would be that  
9 Donald C. MacNeil would be the one who would do that, sir.

10 Q. Quite so. It would be up to the Crown Prosecutor to make  
11 sure that those statements were given.

12 A. Yes, sir.

13 Q. And did you feel that...did you form any conclusion as to  
14 whether or not John MacIntyre had given them to the Crown  
15 Prosecutor, those statements that I've just referred to?

16 A. He told me he did.

17 Q. Yes. And did you form...

18 A. But now with the exception, I don't think...are you referring to  
19 the 17th of June one as well?

20 Q. I am.

21 A. There was no comment on that and I wasn't aware of that  
22 until April 26th.

23 Q. You were not aware of the existence of that statement, and I  
24 won't quarrel with you about whether it's the 16th or 26th.

25 A. Yeah.

1 Q. But in any event, do you feel that MacIntyre should have  
2 given that statement, unsigned statement of Patricia Harriss  
3 of June 17th to Crown Prosecutor?

4 A. Yes, yes, sir.

5 Q. Did you carry out any investigation to determine whether or  
6 not he had, in fact, given that unsigned statement to the  
7 Crown Prosecutor?

8 A. No, sir, I never received a mandate to do that and I did not  
9 investigate Chief MacIntyre.

10 Q. But you certainly talked to Lou Matheson.

11 A. I did, sir, yes.

12 Q. In the Wandlyn Motel at Port Hawkesbury.

13 A. Yes, sir.

14 Q. And you asked him whether or not he had May 30th of  
15 Pratico, and May 30th Chant, and he told you that he did.

16 A. Yes, sir.

17 Q. Yes. Why, if you did not have a mandate to investigate Chief  
18 MacIntyre, did you ask Lou Matheson those questions?

19 A. Because Donald C. MacNeil, of course, had...was not with us  
20 and I was...had a general conversation with Judge Matheson  
21 on what he knew of the case and that was one of the items  
22 that was brought up.

23 Q. Yes. Brought up by you.

24 A. I believe so, yes, sir.

25 Q. Lou Matheson wouldn't bring up in a conversation in Port

1 Hawkesbury, "I have both statements of Chant and Pratico,"  
2 that doesn't make any sense. I mean he wouldn't take the  
3 initiative on that if he was responding to a question put by  
4 you.

5 A. Judge Matheson was most accommodating and answered  
6 whatever I said, yes, sir.

7 Q. Yes, quite. Although you say you were not investigating  
8 MacIntyre at that point in time, you nevertheless asked  
9 Matheson about those two statements.

10 A. Yes, sir. I don't believe I knew about the 17th of June  
11 statement at that time.

12 Q. No. I don't think you did either. But the question is why  
13 didn't you go back and ask Lou Matheson if he got the 17th of  
14 June statement...

15 A. Had I received a mandate...

16 Q. ...at a later date?

17 A. ...I probably would have. But I didn't and...

18 Q. Well, you...here's a man who you had formed the impression  
19 that he had counseled perjury.

20 A. Yes, sir.

21 Q. At some time, I take it, during 1982 a man who had misled  
22 you, was that not a matter of some interest to you as to  
23 whether or not this statement, this unsigned statement of  
24 Patricia Harriss had been turned over to the Crown?

25 A. Yes, sir.

1 Q. Yeah. Now, going to your report of 1986 which is found at  
2 Volume 20, page 63.

3 A. Yes, sir.

4 Q. Now, this report, unlike the earlier report, was given to a man  
5 who was entirely new to this matter. It was given to a  
6 Superintendent Vaughan and he did not have any previous  
7 background on Marshall, did he?

8 A. No, he did not.

9 Q. Or the reinvestigation.

10 A. No, he did not, sir.

11 Q. This was an important response that you were making to a  
12 man who had no previous association with the matter. I take  
13 it that you wanted to be accurate and fair.

14 A. Yes, sir.

15 Q. You had not carried out, as I understand it, any additional  
16 investigation into this matter of any kind since your report of  
17 May 30th, 1983.

18 A. No, I don't believe so.

19 Q. No. You certainly hadn't looked at the Sydney Police  
20 Department, you certainly hadn't looked at John MacIntyre, so  
21 that from 1983, May 30th, 1983, until July 14th of 1986 you  
22 had done nothing with respect to Marshall.

23 A. No, sir, I had been stationed here in Halifax.

24 Q. Right. But you did conclude that notwithstanding the fact that  
25 you had not carried out any further investigation that

1 "Marshall was the victim of an unscrupulous police officer and  
2 that MacIntyre should be charged criminally with counseling  
3 perjury," this you wrote on page 59 of Volume 20, on May...on  
4 June 5 of 1986.

5 A. Page 59, sir.

6 Q. Page 59.

7 A. And what paragraph?

8 Q. Near the bottom of the page, second-last paragraph. "I feel  
9 that Chief John MacIntyre should be charged criminally with  
10 counseling perjury and he is the victim of an unscrupulous  
11 police officer, John MacIntyre." This is an opinion you  
12 expressed on June 5, 1986.

13 A. Yes, sir.

14 Q. That is an opinion you held in May of 1983, as well, I take it.

15 A. That is correct, sir, yes.

16 Q. Now, the injunction and the response you were making here  
17 was in connection with the issue that you set forth at about  
18 six lines from the top of your report on page 63, the main  
19 point at issue being you write, "What evidence is there to  
20 support a charge and/or further investigation of former Chief  
21 of Police for the City of Sydney, John MacIntyre." That  
22 was...that was your task to answer that question, I take it.

23 A. Six lines in the first paragraph, page 63, sir.

24 Q. Page 63, yeah. About, well, seven or eight lines. "The main  
25 point of issue being..."

1 A. Oh, yes, sir, yes.

2 Q. "What evidence is there to support a charge and/or further  
3 investigation of former Chief of Police for the City of Sydney,  
4 John MacIntyre." That's...that's what you wanted to write  
5 Superintendent Vaughan about, the evidence that would  
6 support a charge against MacIntyre, correct?

7 A. Correct, sir, yes.

8 Q. Now, at the bottom of the page you say "On 71 05 30 Chant  
9 will state he was interviewed by MacIntyre." Let's just stop  
10 right there for a moment. Chant never said in any written  
11 statement to you that he was interviewed by MacIntyre. He  
12 did not give evidence at the reference that he was  
13 interviewed by MacIntyre. In fact, he said he didn't know  
14 who had interviewed him. But notwithstanding that, you put  
15 down in your report on "71 05 30, Chant will state he was  
16 interviewed by MacIntyre."

17 A. That's the way I felt, sir, and I feel that way now, yes.

18 Q. Yeah. Okay. "In this statement he will give evidence that he  
19 said what MacIntyre told him to say, basically that he saw  
20 Donald Marshall, Sandy Seale and two other men on Crescent  
21 Street." Now, at no time has Chant ever suggested that the  
22 evidence he gave or the statement that he gave on May 30th,  
23 1971, was told to him by MacIntyre. He has never said that,  
24 has he?

25 A. He said it to me, sir, yes.

1 Q. The first statement.

2 A. No, not statement, no, sir. I'm sorry.

3 Q. You see, the words that you write are, "In this statement,"  
4 that's 71 05 30, that's May 30th, "In this statement he will  
5 give evidence," Chant will give evidence, "...that he said what  
6 MacIntyre told him to say."

7 A. Yeah, I'm stating what I feel he will say on the stand. Chant  
8 will state he was interviewed by MacIntyre and in this  
9 statement he will give evidence that he said what MacIntyre  
10 told him to say, basically that he saw Donald Marshall, Sandy  
11 Seale, and two other men on Crescent Street, this was totally  
12 untrue.

13 \* 3:48 p.m.

14 Q. Let's just go back for one moment. Chant has never said at  
15 any time to you or to anyone else that the information he put  
16 down in that first statement was what MacIntyre told him to  
17 say. From time to time, he's said it's what Marshall told him  
18 to say.

19 A. Yes.

20 Q. But he's never said it is what MacIntyre told him to say. That  
21 statement is the one that implicates other people.

22 A. That's right, yes.

23 Q. So your comment that in this statement he will give evidence  
24 that he said what MacIntyre told him to say is completely  
25 wrong.



1 A. No, you're quite correct, Mr. Pugsley. In that first, 30th  
2 statement, he was repeating the story as he got from Donald  
3 Marshall.

4 Q. Quite so. Not what he got from MacIntyre.

5 A. That's correct, yes.

6 Q. So you were wrong in your comment to Inspector Vaughan  
7 there.

8 A. Yes, sir.

9 Q. You go on to say, at the top of page 64:

10  
11 This was totally untrue referring to the  
12 first statement. However, he advises he  
13 was afraid of MacIntyre, who threatened  
14 him by banging the table and talking  
15 loudly.

16 Untrue. That's untrue, isn't it?

17 A. No, sir.

18 Q. Now we're talking about the first statement.

19 A. That's right.

20 Q. Chant has never told you at any time...

21 A. Yes, he told me there was pressure on him in the first  
22 statement as well as the 4th of June statement.

23 Q. Going back to the first statement, did Chant ever tell you that  
24 MacIntyre threatened him by banging the table and talking  
25 loudly at the first statement?

26 A. Yes, sir.

27 Q. He did?

1 A. Yes, sir, the 30th statement.

2 Q. Okay. You, I'm just having my associate check the reference,  
3 but last Wednesday, you were asked this question and you  
4 said, "No, I made a mistake there," that MacIntyre never  
5 threatened Chant...

6 A. There was pressure from what Chant told me in the first  
7 statement. Not as much pressure as in the 4th of June  
8 statement but there was pressure there, sir.

9 Q. I'm not talking about pressure, and you and I fenced about  
10 that earlier. I'm talking about threatening him by banging  
11 the table and talking loudly. You're saying that Chant told  
12 you that?

13 A. As I recall it.

14 Q. Okay, okay. On page 64 going down that paragraph, you say:

15  
16 During the 1982 investigation, various side  
17 issues of the people present during the  
18 June 4th statement, court transcripts were  
checked. In all instances, Chant's recall has  
been extremely accurate.

19 And you heard him give evidence at the reference and you  
20 read the decision of the appeal division when they said he  
21 was completely unreliable.

22 A. Yes, sir.

23 Q. Yes. You don't share that opinion, I take it?

24 A. No, sir.

25 Q. You say:

1                   When giving evidence since 1982, Chant  
2                   has been a very believable witness and has  
3                   become rather frustrated that the real  
4                   reason for him perjuring himself as a 14-  
                  year-old has never been revealed totally.

5           How many times has Maynard Chant given evidence since  
6           1982 before 1986?

7   A.   He would have given evidence, I believe, at all three of the  
8           Ebsary trials.

9   Q.   How many of the Ebsary trials were you present at?

10  A.   One, sir.

11  Q.   Which one was that?

12  A.   I believe the last. I'm not positive.

13  Q.   Did Chant give evidence there?

14  A.   I can't recall specifically if he did or did not, sir, at this time.  
15       I believe he did.

16  Q.   It's my recollection from having examined the evidence in the  
17       three Ebsary trials, that the only trial that Maynard Chant  
18       gave evidence at was the third trial. That's the only one. He  
19       did not give evidence, according to my examination of the  
20       transcript of evidence, in Ebsary 1 and Ebsary 2, he did not  
21       give evidence at those trials. He only gave evidence on the  
22       one occasion and that was pretty innocuous stuff. It was  
23       eleven pages. That's all the transcript is in January, 1985.

24  A.   You're probably quite correct, sir, yes.

25  Q.   You were not referred to as being there, strangely enough,

1 but Carroll was, during the course of the examination of  
2 Maynard Chant in the January '85 Ebsary trial, the crown  
3 identifies one of the men who took the statement from Chant  
4 and asked Carroll to stand.

5 A. I beg your pardon, sir?

6 Q. I say during the course of the evidence that Ebsary...that  
7 Chant gave in January '85, Carroll is identified from the  
8 audience as being present in the courtroom to Chant...

9 A. I see.

10 Q. While Chant is on the stand, as being one of the persons who  
11 took the statement from Chant. But you were not referred to  
12 and I'm surprised at that. To me, that indicated that you had  
13 not been there, but you say you were there, do you?

14 A. Yes, I recall being there and I recall talking with Maynard in  
15 the hallway and being there.

16 Q. I see, all right.

17 A. And I believe I gave evidence.

18 Q. You think you gave evidence, do you? Is that so?

19 A. I believe I did, yes.

20 Q. Did you? I see, okay. You say: "In all instances, Chant's recall  
21 has been extremely accurate." In any event, all you were  
22 referring to were the Ebsary trials? That's the only...

23 A. No, no. I was referring to, back in '82 when I interviewed  
24 him, the business about being a hostile witness. It impressed  
25 me when I went back and looked at the transcript and in

1 point of fact he was a hostile witness. He didn't use those  
2 words but it impressed me that he was being honest.

3 Q. I'm sorry, the next sentence: "When giving evidence since  
4 1982, Chant has been a very believable witness." To the  
5 best of your knowledge, was there more than one occasion  
6 since 1982 that he gave evidence?

7 A. Well, again, I can only recall the reference and the one time I  
8 saw him in Sydney.

9 Q. Okay. Now the next, in this report to Vaughan and what  
10 you're setting forth for Inspector Vaughan was the evidence  
11 that could be relied upon to support a charge against Chief  
12 MacIntyre. You deal with Chant, first of all, and then you go  
13 to Pratico.

14 A. Yes, sir.

15 Q. And you say, "Will give evidence." "Will give evidence."

16 A. Yes, sir.

17 Q. But you knew in 1986 that Pratico was not competent to give  
18 evidence, didn't you?

19 A. I personally wouldn't probably have used him to give  
20 evidence, no, sir, unless his mental condition had improved. I  
21 hadn't been talking to a psychiatrist about his mental  
22 condition.

23 Q. But it was your evidence last day, and I can check the record  
24 if you like, that in 1986, you would not have considered  
25 Pratico and, indeed, you may have said it this morning, a

1       competent person.

2       A. Yes. No, I wouldn't, sir, no.

3       Q. Well, if you didn't consider him competent, why did you put  
4       in Pratico's name in the report at all, bearing in mind the  
5       reason you were writing this report, and also why did you say  
6       that he will give evidence?

7       A. What was the last part of your...

8       Q. Why did you put Pratico in the report at all to Vaughan; and,  
9       secondly, why did you say Pratico will give evidence?

10      A. I was writing this report more or less on the idea of who  
11      could say what, and I used that terminology, and that's the  
12      terminology I used, sir.

13      Q. Well, but, sir, the point of you writing the report, as is found  
14      on page 63, the main point of issue being what evidence is  
15      there to support? You're talking about evidence in the legal  
16      sense.

17      A. Yes, sir.

18      Q. Yeah, okay. At the top of page 65, in the third line, you say:  
19      "Gushue was older and intoxicated." Do you remember  
20      Patricia Harriss' evidence at the reference where she said  
21      that, I don't want to quote her words out of context, but she  
22      said that, well, she said, in effect, that she did not, she did not  
23      think he was intoxicated. Do you recall that evidence at the  
24      reference?

25      A. I have no independent recollection of that, Mr. Pugsley.

1  
2 Q. And I acknowledge that there is other evidence, other areas  
3 by other people that indicate that he had been drinking and  
4 "was in the bag," or "half in the bag," as he described it. A  
5 few lines later you say:

6  
7 She will give evidence, [that's Patricia  
8 Harriss,] that Detective Urquhart did not  
9 want to hear about these other two men.  
10 She was turned over to MacIntyre who  
11 kept badgering her for hours and hours  
12 until she eventually told him what he said.

13 But in the two written statements that, or the one written  
14 statement that Patricia Harriss gave you, there is no reference  
15 at all to the people who had interviewed her at the Sydney  
16 Police Station, was there?

17 A. Not in the statement, no, sir.

18 MR. OUTHUSE:

19 I wonder, My Lords, Ms. MacDougall has just delivered the  
20 documents that we were looking for. If now is a convenient  
21 time, perhaps they could be distributed to counsel.

22 MR. CHAIRMAN

23 I guess we should mark this, EXHIBIT 88A.

24 \*EXHIBIT 88A - COPY OF STAFF SGT. WHEATON'S WRITTEN NOTES.

1 BY MR. PUGSLEY

2 Q Just before I go to the statement, there's just one point that I  
3 want to pick up with you, if I may, Staff Wheaton. I talked a  
4 moment ago about your allegation that there was pressure,  
5 "MacIntyre threatened by banging the table and talking  
6 loudly,"  
7 in the first Maynard Chant interview.

8 A. Yes.

9 Q. At the top of page 64. I'd like to direct your attention to your  
10 evidence last Wednesday, Volume 43, page 7909.

11 A. Page what, sir?

12 Q. Page 7909. And Mr. Orsborn was examining you and he says  
13 at Line 5:

14  
15 Q. At the bottom of that page, sir, you  
16 refer to the first statement of Maynard  
17 Chant, a statement on the 30th of May,  
18 and you say, [This is in your report and  
19 this is found at Volume 34, page 63.] he  
20 will give evidence that he said what  
21 MacIntyre told him to say basically that he  
22 saw Donald Marshall, Sandy Seale, and two  
23 other men on Crescent Street. This was  
24 totally untrue, however. He advised us he  
25 was afraid of MacIntyre, who threatened  
him by banging the table and talking  
loudly.

And then you go on to discuss the, and you interjected,

"I have the wrong date there, sir?"



STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1 Q. The Louisbourg statement. A. That  
2 would be the 4th of June. It wouldn't be  
3 the 30th of May statement in which that  
4 was said. Q. So inasfar as this report  
5 relates to the statement of the 30th of  
6 May, it is not correct. A. As I recall, the  
7 30th of May statement, he does not, he  
8 doesn't say that. Q. No. A. He says it in  
9 the 4th of June statement. Q. Your report  
10 then goes on clearly though to identify the  
11 4th of June statement, you say "The next  
12 statement." A. Oh, Yes. Q. You clearly  
13 separate the two statements. A. Uh-huh.  
14 I'm in error on that. Q. Okay, thank you,  
15 sir. I am correct that there is no evidence  
16 that we are aware of of pressure from  
17 Chief MacIntyre on the 30th of May. Is  
18 there any that you're aware of? A. No.

19 What do you say to that, sir?

20 A. I have no comment there, sir. It's my impression and my  
21 feeling that, not my feeling, I know Maynard did tell me there  
22 was pressure and there was some banging of the table on the  
23 30th of May.

24 Q. Why did you give this evidence last Wednesday?

25 A. As you read through that scenario, sir, I would say it's a  
reasonably complicated one. I don't know. All I can tell you  
is what I feel or what I know Maynard told me and the 4th of  
June statement he felt a lot more pressure. There was, and he  
put banging of the table in both, both as far as I know.

Q. I see. You say it's reasonably complicated. The question Mr.  
Orsborn directed to you.

I am correct that there is no evidence

STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1                   that we are aware of of pressure  
2                   from Chief MacIntyre on the 30th of  
3                   May. Is there any that you're aware  
4                   of?

5                   A. No.

6                   Do you think that's a complicated question?

7                   A. Well there's quite a run-in into it, sir, and...

8                   Q. I see.

9                   CHAIRMAN

10                  So that I understand what you're saying now, Staff Sergeant  
11                  Wheaton. Are you saying that the testimony that you gave last  
12                  week, that's just been read back to you, that's not true.

13                  STAFF SGT. WHEATON

14                  Insofar My Lord as the pressure Maynard Chant felt and the  
15                  banging of the table, I recall him telling me that there was  
16                  pressure on the 30th of May and there was banging of the table...

17                  CHAIRMAN

18                  Your answer...

19                  STAFF SGT. WHEATON

20                  I also recall him telling me that on the 4th of June there was  
21                  more, he felt more intense pressure, and that there was banging  
22                  of the table. So...

23                  CHAIRMAN

24                  Your answer to the question put by Mr. Orsborn and your  
25                  answer was "no".

STAFF SGT. WHEATON

                  That's an incorrect answer, My Lord.

STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEYCHAIRMAN

You now say that the answer that you gave last week, when you were testifying in that regard, is not true.

STAFF SGT. WHEATON

That's right, My Lord.

MR. PUGSLEY

Q. Finally, just to put this thing about whether or not Wayne Magee was present or not to rest. Would you give to Staff Sgt. Wheaton Volume 3, please, Volume 3...

A. I have it, Mr. Pugsley.

Q. You have Volume 3?

A. Yes, I do, sir.

Q. And would you turn to page 177, page 1-7-7.

A. Yes, sir, I have it.

Q. About line 26.

Q. Where was the first statement you've referred to given?

A. In Sydney at the police station.

Q. And the second statement?

A. Louisbourg in the Town Hall.

Q. Do you recall who as present while the second statement was being given?

A. My probation officer.

Q. What was his name?

A. Larry Burke. My mother, Beulah Chant, Chief of Police - Wayne Magee, that's it.

Now I don't want to mislead you because there is another reference later on concerning his mother being out of the

1 room, but he certainly does indicate that Wayne Magee was  
2 there, doesn't he.

3 A. Yes, sir, as well as Larry Burke.

4 Q That's right. And that's what he gave under oath at the  
5 reference.

6 A. Yes, sir.

7 Q And you heard that.

8 A. I was present during the reference, yes, sir.

9 Q Now Inspector Vaughan bringing a relatively virgin mind to  
10 this Marshall re-investigation in 1982, upon reading your  
11 report would conclude that Chant would finger MacIntyre as  
12 the villain, yet, we certainly see by the statements he gave  
13 and the evidence he gave that that's not accurate. Secondly,  
14 that Chant says that MacIntyre pressured him by banging the  
15 table and talking loudly in the first interview as well as the  
16 second interview and I won't go into that. Thirdly, that when  
17 giving evidence since 1982, Chant has been a very believable  
18 witness and in all instances Chant's recall has been extremely  
19 accurate. No reference at all to the decision of the Appeal  
20 Division where they found him completely unreliable. No  
21 reference to the fact that his giving evidence since 1982  
22 consisted of 11 pages in January 1985. And finally, that John  
23 Louis Pratico, will give evidence saying terrible things about  
24 MacIntyre as well. And again, Patricia Harriss saying that  
25 she'll give evidence that Detective Urquhart did not want to

1       hear about these other two men and she was turned over to  
2       MacIntyre who kept badgering her for hours notwithstanding  
3       the fact that Patricia Harriss was not able to identify either  
4       MacIntyre or Urquhart in the statement that you took from  
5       her in March of 1982. Certainly as a consequence of what you  
6       told him, he would get, I suggest to you, sir, a very distorted  
7       view of MacIntyre's participation in 1982, in 1971. Would  
8       you agree?

9       A. That his view would be distorted?

10      Q. As a consequence of reading your report and excepting it as  
11      being a fair, impartial and accurate one.

12      A. That's how I felt about it, sir.

13      Q. Sure. Okay. Now last Wednesday afternoon after my friend,  
14      Mr. Orsborn, had sat down and concluded his examination you  
15      and my friend, Mr. Ruby, had gotten on his feet to examine  
16      you, you asked for an opportunity to respond to a question  
17      that Mr. Orsborn had earlier put to you concerning other files  
18      in the AG's Department.

19      A. Yes, sir.

20      Q. And, this was late in the day but you referred to another  
21      investigation and you identified the person involved in 1982  
22      and you, apparently, were involved in that investigation.

23      A. Yes, sir.

24      Q. Over what period of time were you involved in it?

25      A. I spent two or three days on it, sir.

1 Q. Two or three days. Did you conduct any first-hand interviews  
2 of anyone?

3 A. Yes, sir. I interviewed the chief suspect.

4 Q. You interviewed the chief suspect. I see. And who was the  
5 chief suspect?

6 A. I hesitate to answer that in view of My Lord's decision. If My  
7 Lord directs me to answers that I will.

8 Q. Well is this the person who was out in the front of the  
9 restaurant in a blinding snowstorm at 4 in the morning?

10 A. Well, I'm not sure of the time...

11 Q. Same guy?

12 A. But early, yes.

13 Q. Same person. So you interviewed him. Did you interview  
14 anyone else?

15 A. Yes, sir. I conducted a number of interviews.

16 Q. Yes. Take statements from people?

17 A. I believe I did or made notes maybe. I interviewed a number  
18 of people, yes, sir.

19 Q. And you took statements from them, did you?

20 A. I don't recall how many statements I took, sir.

21 Q. And you gave the rather sensational evidence that in this  
22 investigation, we, "We were able to place Mr. MacLean at the  
23 front door of the restaurant in a blinding snowstorm at  
24 approximately 4 to 5 o'clock in the morning." Now you must  
25 have known that the sensation in the media that such a

STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1           revelation from you would make.

2       A. As I said in my previous remarks that I wrestled with my  
3       conscience over the lunch hour and I felt that if Mr. Orsborn  
4       had placed it to me and could very well be picked up by  
5       another lawyer later on and I felt in fairness to Mr. Orsborn I  
6       should answer it.

7       Q. But you knew that no charges had been laid against Mr.  
8       MacLean.

9       A. That's correct, sir.

10      Q. You also knew that the insurance company that insured the  
11      restaurant had paid the claim for the fire damage.

12      A. Yes, sir.

13      Q. Yeah. Why, then, did you deliberately name Mr. MacLean  
14      before this Commission? What was the reason for publicly  
15      naming him? Why didn't you, why could you not refer to that  
16      investigation without naming an innocent person?

17      A. The question was in relation to any files which may have  
18      been shown to someone and that is how I answered the  
19      question as I saw it put to me and there was certainly no  
20      attempt on my part and believe me it was, I would rather not  
21      have done that but I felt in all honesty and fairness to this  
22      Commission and Mr. Orsborn and to answer honestly and  
23      fairly, I should bring the subject up.

24      Q. But there are a number of ways you could have handled it,  
25      Staff. You could have said,

STAFF SGT. WHEATON, EXAM, BY MR. PUGSLEY

1                   There was an investigation I was involved  
2                   in 1982 involving a fire. If required, the  
3                   man was not charged. He's presumed  
4                   innocent. The insurance company paid the  
5                   damage. If necessary, I can give the name  
6                   of the individual involved to the Chief  
7                   Justice on a piece of paper and ask for  
8                   direction as to whether or not I should  
9                   disclose his name.

10                  But you, you didn't do that. You said...

11                  MR. OUTHOUSE

12                  My Lord, it seems to me that he's answered the question.  
13                  The witness was cut off from counsel at the time. He wasn't  
14                  offered the opportunity to consult with counsel about the matter.  
15                  It seems to me the course of conduct which Mr. Pugsley's  
16                  suggesting may well be the right one, but surely it's not a matter  
17                  for cross-examination.

18                  CHAIRMAN

19                  Oh, I think it is. I'm waiting to hear that answer as well.  
20                  It's very relevant.

21                  MR. PUGSLEY

22                  Q. I'd like to know the motive which you had for bringing Mr.  
23                  MacLean's name to the public not only in this room but  
24                  across Canada, as was done, by your naming him before this  
25                  Commission on Wednesday afternoon last.

                  A. My purpose of it was, sir, to answer Mr. Orsborn's question.

                  Q. I see.



STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1 CHAIRMAN

2 Just so we don't get carried away with this again without,  
3 you know, what was the question? Will someone read back that  
4 question of Mr. Orsborn's? Can you put your finger on it, Mr  
5 Orsborn?

6 MR. PUGSLEY

7 Staff Sergeant's Wheaton's reference is at 7952. That's  
8 where he brings it up after Mr. Orsborn sat down. I'm not sure  
9 where Mr. ...

10 CHAIRMAN

11 This was supposed to have related to a question that had  
12 been put in the, put to Staff Sergeant Wheaton by Mr. Orsborn in  
13 the morning.

14 MR. PUGSLEY

15 Yes.

16 CHAIRMAN

17 And he, and his answer was he couldn't recall any incident.  
18 But I'm not clear as to what the question was. There seems to  
19 have been some confusion as to whether the question put to this  
20 witness in the morning had anything to do with releasing of files.  
21 But I'm not sure.

22 MR. PUGSLEY

23 I'll endeavour to find that over the evening. I don't have  
24 my hand on it now.

25

STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1 CHAIRMAN

2 Can you find it, Mr. Orsborn?

3 MR. PRINGLE

4 I think the pages, My Lord, are 7898, 7899 and 7952, I  
5 think.

6 MR. PUGSLEY

7 Q Would you turn to those pages, Staff?

8 A. Yes, sir. What volume was that?

9 Q I assume it's 43. The one we're looking at. Oh I see, yes.  
10 7898, line 18, question:

11  
12 I'm curious about Item 6 on page 50 of this  
13 report. It says, 'Inquiries in "H" Division  
14 reveal that there are other known releases  
15 of reports, et cetera, other than normal  
16 communications to and from the Deputy  
17 Attorney General. We "H" Division are  
18 satisfied that this is the case.'

(And the question.)

17 Do you have any knowledge of releases of  
18 reports other than normal communications  
19 to and from Deputy Attorney General?

19 A. You mean in regards to the Marshall case  
20 or in regards to any case, sir.

20 Q Let's start with the Marshall case.

21 I don't know whether Mr. Orsborn followed that up later...

22 MR. PRINGLE

23 I think it's just at 7952, Mr. Pugsley.

24 MR. PUGSLEY

25 7952. Yes, that's where Staff Sergeant Wheaton brought it

1 up. My Lord, if I might come back to Mr. Orsborn for one minute.

2

3

4

5

6

7

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9

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11

He asked me a number of times throughout the day, do I have any independent recollection of anything new between here and here and here. You asked me this morning and I have been thinking it over at the lunch period of do I know of any instances where files, Mounted Police files, were brought forth, they went to the Attorney General's Department.' And I said, my answer to you was, 'Are you referring to Donald Marshall case or other cases?' and you said, 'We'll deal with the Donald Marshall case and come back to other cases.'

12

Uh-hum

13

14

Says Mr. Orsborn and then Staff Sergeant Wheaton says:

15

16

17

18

19

20

You have not come back to other cases and I would feel it remiss for some other lawyer to pick this item up later and you think that I was hiding things from the Commission which I assure My Lords I'm not doing so that's why I take this opportunity to go back to that question if I may.

21

22

23

24

25

I guess that's the references, My Lord. Let's turn then to Exhibit 88A which has been introduced and direct your attention to the second last page. Now, I take it that the second last page is in your handwriting, is it?

A. Yes, it is, sir.

1 4:16 p.m.\*

2 Q. And direct your attention to the second last page. Now I take  
3 it that the second last page is in your handwriting, is it?

4 A. Yes, it is, sir.

5 Q. Do I understand your evidence...Well, how did it get typed?  
6 Was it typed then and there?

7 A. Yes, I believe it was, sir.

8 Q. By Mr. MacIntyre's sister?

9 A. Yes, who was the secretary.

10 Q. Called into the room and she typed it and then she came back  
11 and produced the typewritten page and are there any...Well,  
12 let's see. It says "Original handwritten statements of..." What  
13 does it say, what are your words?

14 A. "Original of Chant for June '71."

15 Q. No, no, I'm sorry. Taking a look at your handwriting at the  
16 top of your page, "Original handwritten statements of..."

17 A. "The following."

18 Q. Oh, "The following."

19 A. "Of following."

20 Q. Right. And one, "Roy Gould, 7th of June '71." What is that?  
21 This seems to be...

22 A. Yes, if you'll notice, it's second from bottom of typewritten  
23 ones on the typewritten copy, "Gould, okay."

24 Q. Well, what you did, you wrote down in handwriting the  
25 original handwritten statements and then you signed for

1       them.

2       A. Uh-huh.

3       Q. And then did you write the words, "Listed on separated page."

4       A. Which words, again, sir?

5       Q. "Listed on separated page." Did you write that?

6       A. Yes, sir.

7       Q. Does that mean that they would be listed on the typewritten  
8       page, is that what you meant?

9       A. On this page, yes.

10      Q. I see. And then when the typewritten page...Well, was, did  
11      you dictate to Mr. MacIntyre's sister the statements, the  
12      original statements?

13      A. I beg your pardon, sir?

14      Q. Did you dictate to Mr. MacIntyre's sister the information that  
15      appears on the typewritten page?

16      A. No, I did not, sir.

17      Q. Or did she just take your handwritten page...

18      A. As I recall it, she took the handwritten page and...

19      Q. Go out to her typewriter and type that page.

20      A. That is correct, sir.

21      Q. Well...

22      A. As I recall it.

23      Q. How would you know to write "May 29th statement of Chant  
24      missing?????" I mean how would she know to do that? I  
25      mean she wouldn't take any initiative in that regard, would

1 she? I mean someone must have dictated that to you.

2 A. No, I...

3 Q. Would that not be so?

4 A. No, I don't, there may have been conversation between the  
5 chief and I and the secretary to that effect. I don't recall at  
6 this date.

7 Q. Well, there must have been. I mean how would...

8 A. I would assume that there would be, yes, Mr. Pugsley.

9 Q. One would have to assume that to be so. She wouldn't do that  
10 on her own initiative.

11 A. Yes.

12 Q. And then "P.A.Harriss," under your handwriting, we've got  
13 "Patricia Harriss, 18 June '71."

14 A. Yes, sir.

15 Q. Now the dates don't appear on the typewritten copy but what  
16 does appear, instead of the date, is "One statement given to  
17 S.S. Wheaton already."

18 A. Yes, sir.

19 Q. That must have been dictated to her.

20 A. That must have come from conversation, yes, sir.

21 Q. And then you signed the handwritten page and you signed  
22 the typewritten page. You signed them both.

23 A. Yes, sir.

24 Q. And then it's your writing at the bottom of the typewritten  
25 page, "George McNeil, 31 May," and then "Sandy" underneath.

1 A. Yes, sir.

2 Q. And it's your writing, "Two pages handwritten notes typed  
3 abstract of Donald Marshall evidence." That's your writing as  
4 well.

5 A. Yes, it is, sir.

6 Q. And it's Chief MacIntyre's signature immediately above that.  
7 On the typewritten page, what is the signature at the bottom?

8 A. Down at the bottom right there, sir?

9 Q. Yeah.

10 A. That's "James E. Carroll."

11 Q. James E. Carroll?

12 A. Yes, sir.

13 Q. Well, James Carroll wasn't present at this interview.

14 A. These were handed over to James E. Carroll on the 27th, as  
15 noted on the front page upper right.

16 Q. Oh, I see. So he signed on this page.

17 A. That he had received these, yes, sir. He signed it on the first  
18 page and I note his initials on that last page as well.

19 Q. But it's your evidence that the only person present at the  
20 interview was Davies, yourself, and MacIntyre.

21 A. That is correct, sir, yes.

22 COMMISSIONER EVANS

23 When were they given to Carroll, the next day?

24 STAFF SGT. WHEATON

25 Yes, My Lord.

1 MR. CHAIRMAN

2 Why were they given to Carroll when you were in charge of the  
3 investigation?

4 STAFF SGT. WHEATON

5 I was leaving and I believe I knew I was transferred at that time  
6 late in April and I started turning exhibits over and it would be  
7 for purposes of continuity, My Lord.

8 BY MR. PUGSLEY

9 Q But you did reports on May 5, you did a report on May 20th,  
10 you attended a meeting on July 11th in Frank Edwards' office,  
11 you were still there then. You said you were there until after  
12 school was over.

13 A. Yes, sir, but I was away, actually, most of the month of June  
14 and I returned to Sydney and I was winding down my part of  
15 this investigation.

16 Q And you say that's the reason you turned it over to Carroll,  
17 because you were winding down.

18 A. To the best of my recollection, yes, sir.

19 Q On April 26th.

20 MR. CHAIRMAN

21 I'm finding this somewhat confusing. I'm sure Staff Sgt. Wheaton  
22 can straighten me out. This copy that's now part of Exhibit 88A,  
23 in your handwriting.

24 STAFF SGT. WHEATON

25 Yes, My Lord.



STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1 MR. CHAIRMAN

2 You referred to this afternoon for the first time. That's your  
3 initials after each statement, I presume, listed there?

4 STAFF SGT. WHEATON

5 Yes, My Lord.

6 MR. CHAIRMAN

7 And that was handed...Had you initialed it before you handed it  
8 over to the secretary to Chief MacIntyre to be typed?

9 STAFF SGT. WHEATON

10 I believe I had, sir, yes.

11 MR. CHAIRMAN

12 And are we entitled to assume that when you initialed a  
13 statement it meant that you had received it that day?

14 STAFF SGT. WHEATON

15 That is correct, My Lord, yes.

16 MR. CHAIRMAN

17 All right, now let's look at 15 and 16, Maynard Chant, 4th of June  
18 '71, you initialed that. No. 16, Maynard Chant, 30th of May '71.

19 STAFF SGT. WHEATON

20 Yes, My Lord.

21 MR. CHAIRMAN

22 Which would indicate that you had seen these two statements...

23 STAFF SGT. WHEATON

24 Yes.

25

STAFF SGT. WHEATON, EXAM. BY MR. PUGSLEY

1 MR. CHAIRMAN

2 That had been handed to you. Then when we turn over, it says:

3 "May 29th, Statement of Chant missing."

4 STAFF SGT. WHEATON

5 Yes, My Lord.

6 MR. CHAIRMAN

7 And then there's but one statement of Pratico.

8 STAFF SGT. WHEATON

9 Pratico, okay, yes, sir. Yes, My Lord.

10 BY MR. PUGSLEY

11 Q Just if I may interject as well, on May 29th on the typed copy,  
12 it says "Statement of Chant missing May 29th. Original of  
13 Chant, 4 June '71." But it doesn't say "Original of Chant, 30  
14 May '71."

15 A. No, the only thing...

16 MR. CHAIRMAN

17 I'm not suggesting anything sinister. I just don't understand why  
18 you had initialed all of these on your handwritten listing. You  
19 said because you checked and they were there.

20 STAFF SGT. WHEATON

21 Yes.

22 MR. CHAIRMAN

23 Then you were just handed and say, "Please," to the chief, "Please  
24 have this typed." It comes back typed. Apparently somewhat  
25 different and then you initial them all over again.

1 STAFF SGT. WHEATON

2 I was satisfied when it returned to me that I had those, yes. I  
3 may have checked, I believe I would have checked them twice,  
4 My Lord.

5 MR. CHAIRMAN

6 And you were still in the Chief of Police office waiting for these to  
7 be typed.

8 STAFF SGT. WHEATON

9 Yes, My Lord.

10 MR. CHAIRMAN

11 So that if you had two statements of Maynard Chant earlier when  
12 you initialed the written list, when the secretary comes back,  
13 there's only one.

14 STAFF SGT. WHEATON

15 No, My Lord, 29th was missing and I think the reason for that, as  
16 I recall in my cross-examination, or my examination by Mr.  
17 Orsborn, the 29th was not actually a statement. It was a  
18 handwritten or I believe, yes, a handwritten comment by two  
19 police officers about checking Chant on the night of May 29th at a  
20 road check, or in that area, something to do with that. And that's  
21 what the 29th was. And then I wrote in the original of Chant, 4th  
22 of June '71, I assumed that I got the original of his 4th of June '71  
23 and then I have Pratico, "Okay," so I would assume that I had the  
24 two statements from John Pratico, the 4th of June and the 30th of  
25 May. But I didn't have a 29th of May statement from Chant. It

1 must have been a 29th of May police report that was Chant.

2 MR. OUTHOUSE

3 The only point that I wanted to make, My Lord, that you are  
4 asking whether, in fact, it looks like one of the statements listed as  
5 15 and 16 on the handwritten page were missing when they came  
6 back. And the one that's referred to as missing is this police  
7 report of the 29th and not the statement of the 30th, although  
8 there is the handwritten note which is, I agree, not consistent but  
9 the reference to the missing statement is to the 29th, not to either  
10 of the statements listed as 15 or 16 in the handwritten statement.

11 MR. CHAIRMAN

12 Well, let me confuse you a bit more. It says the original, on the  
13 typewritten statement, "Original of Chant, 4th of June '71," and  
14 then it's initialed. That's also referred to as No. 15 on the  
15 handwritten statement. Then there's the 16, "Maynard Chant,  
16 30th of May '71," initialed. Then we go over, "May 29th,  
17 Statement of Chant missing," which you say was not really a  
18 statement at all.

19 MR. OUTHOUSE

20 That's my understanding. There's a police report in the file of  
21 what he said to police officers but it's not a statement signed by  
22 Mr. Chant and I think that's the only distinction.

23 MR. CHAIRMAN

24 Well, are we referring to the same, one in the same document  
25 when we say "May 30th '71" and "May 29th '71," regardless of

1 what it is?

2 MR. OUTHOUSE

3 Well, they're referred to as statements, My Lord, as I understand  
4 it, on the bottom of page one. "May 29th" and "early morning of  
5 May 30th," they're referred to as statements. There, they are  
6 information of police officers.

7 MR. CHAIRMAN

8 Yes, on the front, it says, "Maynard Chant gave statements on the  
9 29th, the 30th, and the 4th of June." Which would indicate to me  
10 three separate documents. One may now turn out not to be a  
11 statement at all.

12 MR. OUTHOUSE

13 That particular one is found at page six of Volume 16.

14 MR. CHAIRMAN

15 All right.

16 MR. OUTHOUSE

17 It's a police report referring to conversations with Chant.

18 MR. CHAIRMAN

19 I'm simply, I was left with the impression that this list was  
20 handed to a typist, "Please go type," but before it's handed to a  
21 typist, Staff Sgt. Wheaton initials them all to make sure that he  
22 has in his possession a corresponding statement. And then back  
23 comes the typed statement, which appears to be somewhat at  
24 variance with the original.

25

1 MR. OUTHOUSE

2 I don't think there's any question about the statement being at  
3 variance, My Lord. I don't think, though, that it can...

4 MR. CHAIRMAN

5 And then they're all initialed.

6 MR. OUTHOUSE

7 Yes, as to what's there.

8 MR. CHAIRMAN

9 As to what's there?

10 MR. OUTHOUSE

11 With some comments and some additions. But there is no  
12 suggestion, at least there's nothing in the typewritten statement to  
13 suggest that the May 30th statement, the original of the May 30th  
14 statement had suddenly gone missing. Which I thought was the  
15 point of your questioning, My Lord.

16 MR. CHAIRMAN

17 I thought it had gone missing between the time this list was  
18 handed to the typist until she brought it back. But apparently  
19 that's not so.

20 MR. OUTHOUSE

21 Obviously I haven't clarified it, My Lord.

22 MR. CHAIRMAN

23 Oh, no, I'm sure you clarified it and on that rather nebulous  
24 qualification, we will adjourn until tomorrow at 9:30.

25 4:38 p.m. INQUIRY ADJ. TO JANUARY 26, 1988 at 9:30 a.m.

REPORTER'S CERTIFICATE

I, Margaret E. Graham Court Reporter, certify that the foregoing is a true and accurate transcript of all the evidence taken by way of recording and reduced to typewritten copy.

  
Margaret E. Graham

DATED THIS 25th day of January , 1988, at Dartmouth,  
Nova Scotia