

STAFF SGT. WHEATON, EXAM. BY MR. MacDONALD

1 Thank you. That's all I have, My Lord.

2 MR. CHAIRMAN

3 Thank you very much, Staff Sgt. Wheaton. You've been in the
4 box for six and a half days, which is a record, and it's one that I
5 hope will not be equaled during the remainder of this Inquiry.

6 Thank you very much.

7 STAFF SGT. WHEATON

8 Thank you, My Lord.

9
10 THE WITNESS WITHDREW

11
12 MR. MACDONALD

13 The next witness, My Lord, is Herb Davies.

14
15 HERBERT LEONARD DAVIES, duly called and sworn, testified as
16 follows:

17
18 EXAMINATION BY MR. MACDONALD

19
20 Q. Your name is Herb Davies?

21 A. Herbert Leonard Davies.

22 Q. You're a member of the RCMP?

23 A. Yes, I am.

24 Q. What's your current rank?

25 A. Sergeant.

1 Q. You're stationed at the present time where?

2 A. In St. Peters.

3 Q. That's in Cape Breton?

4 A. Cape Breton.

5 Q. How long have you been there?

6 A. I've been there, it was five years in October, sir.

7 Q. Just generally for us, Sergeant, and briefly, just trace your
8 career, would you, in the RCMP?

9 A. Okay, I joined the RCMP on the 28th of April, 1964 at Sydney.
10 And from there, I went to Depot Division in Regina for
11 training. I graduated from our training depot in December of
12 1964 and I was posted to Montreal for a short period of time.
13 I left Montreal in April of 1965 and I was transferred to
14 Cornerbrook, Newfoundland. I remained in Cornerbrook until
15 the summer of 1966 at which time I was transferred to Bonne
16 Bay and these various postings will be in Newfoundland.
17 From Bonne Bay, I was transferred to Nain, Labrador in the
18 last fall of '66 and I remained in Nain until July of 1967.
19 When I come out of Nain, I was transferred to Cornerbrook
20 Highway Patrol and I remained there for four years. Then I
21 was transferred in charge of Stephenville Highway Patrol for
22 a period, that was a two-man highway patrol. I was there for
23 a period of three years and, if I recall correctly, it was on
24 Mother's Day in 1971 that I was transferred to...Pardon me,
25 Mother's day of 1974 that I was transferred to Burgeo. I

1 remained there until June of 1976 at which time I was
2 transferred to Arichat, which is in the Province of Nova Scotia,
3 Richmond County. I remained in Arichat for two years and I
4 was transferred to the Customs and Excise Section in Sydney.
5 I remained in charge of the Customs and Excise Section in
6 Sydney from 1978 until October 6th, 1982, at which time I
7 was transferred to St. Peters. Now, during my four years in
8 Sydney, I spent the summers relieving, temporary in charge
9 of Ingonish Beach Detachment and one summer, Inverness
10 Detachment. During my stay in St. Peters, I spent the summer
11 of '86 relieving as the NCO in charge of Port Hawkesbury
12 Detachment. And I received word on the 7th of January of
13 this year that I'm being transferred as the NCO in charge of
14 the Antigonish Detachment at which time I will be promoted
15 to the rank of Staff Sergeant the day I arrive there.

16 Q. Thank you.

17 A. Which I hope is in the near future.

18 Q. I'm always amazed at how you RCMP people can give the
19 dates of when you went everywhere. I would hate to be put
20 to that test. What's your practice with taking notes of what
21 your activities are on a particular day?

22 A. If I am involved in an investigation, normally I would take
23 notes, if it was an investigation of my own or if it was
24 something that I felt I should document, I would.

25 Q. Do you retain your notes?

SGT. DAVIES, EXAM. BY MR. MacDONALD

1 A. Yes, I do.

2 Q. So you do have your notes from 1982?

3 A. I don't have any notes on this investigation whatsoever.

4 Q. I appreciate that. That would be my next question. But you
5 do have in your possession your notebooks that would cover
6 the period of time that you were involved in this matter.

7 A. If I felt there was a need to keep my notebook, I certainly
8 would. I have some, not all of them.

9 Q. Have you made a search to determine if you had any notes of
10 any kind with respect to your involvement in the Donald
11 Marshall, Jr. matter?

12 A. Yes, sir, I did.

13 Q. Were you able to locate anything?

14 A. I don't have any. If I did have any, they would have been
15 passed over to the Commission.

16 Q. During your time you were in Sydney, did you have any
17 involvement with, other than the time we're going to talk
18 about, any involvement with Chief MacIntyre?

19 A. No, I did not, sir.

20 Q. Did you know him?

21 A. I knew who he was, yes.

22 Q. But you did not know him personally.

23 A. No, I didn't.

24 Q. You did have some involvement in this reinvestigation carried
25 out by Staff Sgt. Wheaton, is that correct?

SGT. DAVIES, EXAM, BY MR. MacDONALD

- 1 A. I had some involvement, sir, yes.
- 2 Q. And do you have personal knowledge of that involvement or
3 personal recollection?
- 4 A. I do, yes.
- 5 Q. Did you have, or have you had discussions with anyone to
6 refresh your memory as to what your involvement was?
- 7 A. Yes, I have.
- 8 Q. Who have you discussed the matter with?
- 9 A. Corporal Grant Shaw, Inspector Harry Murphy, and Staff Sgt.
10 Harry Wheaton, and also, if I recall his name correctly, Gordon
11 Proudfoot. He was a lawyer for the CBC when Chief
12 MacIntyre launched a civil suit against the CBC.
- 13 Q. Tell me about the discussions you've had with these various
14 people, when they occurred, the length of them, the nature of
15 them?
- 16 A. Okay, with Inspector Murphy and Corporal Grant Shaw, they
17 came to my detachment in St. Peters concerning this
18 particular file. They wanted to know what part I played in
19 the investigation and I told them what it was. Now...
- 20 Q. Is that the same with Mr. Proudfoot?
- 21 A. Same with Mr. Proudfoot. I met with Mr. Proudfoot on the
22 22nd of May, 1986 at our headquarters in Sydney.
- 23 Q. How are you so certain of that date?
- 24 A. How am I so certain of that date? Well, I'll tell you. That
25 particular day, I traveled from St. Peters to Sydney. I was

1 | gone for a considerable length of time from St. Peters and we
2 | have an expense account. I claimed a lunch that particular
3 | day. So I referred back to that particular file and it was
4 | there.

5 | Q. What date did you accompany Staff Wheaton to Chief
6 | MacIntyre's office to pick up files?

7 | A. Okay, as far as I recall, it would have to be the 26th of April,
8 | 1982.

9 | Q. As far as you can recall, is there some expense report or
10 | something you can look...

11 | A. Okay, I have no independent recollection of the exact date.
12 | There are two things I can refer to.

13 | Q. And what are those?

14 | A. And I think both have been tendered before this Commission
15 | as an exhibit.

16 | Q. Can you tell me what they are and I'll get them for you.

17 | A. Okay, Exhibit 88.

18 | Q. Yes.

19 | A. That pertains to...

20 | Q. That's a listing of materials.

21 | A. Of documents received from Chief MacIntyre. And that was
22 | prepared by Chief MacIntyre and the date on it is, the 26th of
23 | April, 1982.

24 | Q. And what other information?

25 | A. The other item would be, okay, there was a letter from

SGT. DAVIES, EXAM. BY MR. MacDONALD

1 Attorney General Harry How at that particular time in 1982
2 dated the 20th of April, and that letter was authorizing Staff
3 Sgt. Harry Wheaton to go to the Chief's office and obtain the
4 complete file concerning the Marshall case.

5 Q. Did you see that letter before you went to the Sydney Police
6 Station?

7 A. Yes, sir, I did. Staff Sgt. Wheaton read that letter to me and
8 then I also wanted to have a look at it myself. I read it
9 before I left Sydney. Now that was dated April 20th. So it
10 had to be after April 20th that I was there and that inventory
11 prepared by Chief MacIntyre is dated April 26th. So that had
12 to be the date. I don't...

13 Q. Was there an inventory present? Do you recall the inventory
14 being present when you were there?

15 A. Yes, I do, sir. I don't recall...

16 Q. Could you give the witness Exhibit 88 and also Volume 16,
17 please?

18 A. I have both, sir.

19 Q. In Volume 16, if you look at page 221. Is that a letter from
20 the Attorney General?

21 A. Yes, it is, sir.

22 Q. And the contents of that letter, is that the information that
23 you had read before you went to see Chief MacIntyre with
24 Staff Wheaton?

25 A. Yes, sir. And the date on that letter is April 20th, 1982.

SGT. DAVIES, EXAM, BY MR. MacDONALD

1 Q. Have you ever seen such a thing before?

2 A. No, I haven't, sir.

3 Q. In your career.

4 A. No, I haven't sir.

5 Q. Have you ever seen a direction to a police station, police chief
6 to turn over his files?

7 A. No, I haven't, sir.

8 Q. It would be a fairly significant event, then, in your career, to
9 be involved with something like this.

10 A. It would be, but I must say when I left Chief MacIntyre's
11 office, I figured that was the end of it. Little did I expect that
12 I would be here on this date.

13 Q. You made no note, though, of what took place that day.

14 A. No, I didn't, sir.

15 Q. Now the Exhibit 88 is the other exhibit which is the inventory
16 that's been laid in front of you.

17 A. Yes, sir.

18 Q. And do I understand you to say that you recall having seen
19 that?

20 A. Yes, sir.

21 Q. Document.

22 A. And also I was present on this particular date, it's marked
23 April 26th, 1982, I was present when Chief MacIntyre had
24 Staff Sgt. Harry Wheaton sign for the various documents.

25 Q. Were you only present with Staff Wheaton on one occasion in

1 the office of Chief MacIntyre?

2 A. That's all I can ever recall, sir. As a matter of fact, that
3 particular morning, Staff Sgt. Wheaton introduced me to Chief
4 MacIntyre and I shook hands with him.

5 Q. Do you have recollection today of what took place that day,
6 whenever it was, in Chief MacIntyre's office?

7 A. Yes, I do, sir.

8 Q. I want to show you Exhibit 109, which is a sketch, I think
9 prepared by Sergeant Wheaton, showing the outline of that
10 office.

11 11:55 a.m.

12 Q. Do you have your copies of that, My Lords, it's the sketch that
13 was prepared. What time of day were you there?

14 A. If I recall correctly it was in the afternoon of April 26th,
15 1982.

16 Q. Who was present?

17 A. Chief MacIntyre, Staff Sergeant Wheaton and myself.

18 Q. Was there any discussion between you and Staff Wheaton as
19 you headed to the Sydney Police as to what was going on and
20 why it was necessary to obtain such a letter from the
21 Attorney General?

22 A. I can't recall. There could have been.

23 Q. Exhibit 109, Sergeant, is the, as I've indicated, the sketch
24 prepared by Staff Wheaton and I understand it's intended to
25 show the outline of the office where you met with Chief

1 MacIntyre.

2 A. Yes.

3 Q. Can you confirm, and also intended to show, I believe, the
4 location of chairs where you and Staff Wheaton were sitting
5 and where Chief MacIntyre was sitting and also his desk.

6 A. Okay. There's one thing I don't recall here, the doorway. I'm
7 not sure exactly where the doorway was positioned. It was in
8 that area but it could have been a little over. I'm not too
9 certain on the exact location of the doorway.

10 Q. What about the other...

11 A. Okay. The desk, you know, I will say this. That we went into
12 the Chief's office, prior to sitting down Chief MacIntyre did
13 offer Staff Sergeant Wheaton his chair because he was the
14 man that was going to be doing the writing. Staff Wheaton
15 refused and the Chief remained in his chair where he would
16 normally sit at his desk. Staff Sergeant Wheaton was seated
17 exactly as shown on Exhibit 109. Now myself, when I first
18 went in, I think you, I feel quite certain that the chair was
19 perhaps towards the end of the desk. And before I sat down
20 I moved the chair up this way further so that when looking
21 across I could observe Chief MacIntyre.

22 Q. Is the location shown on Exhibit 09 for Herb Davies' chair, is it
23 accurate?

24 A. It's not accurate. I was up further.

25 Q. I'll ask you to mark in red, if you would, on that exhibit

1 where you would say you were located that day. And you've
2 drawn a red square...

3 A. Right there, sir.

4 Q. On the exhibit?

5 A. Yes.

6 Q. What was your purpose in being there?

7 A. My purpose of being there, sir, was as an observer. To
8 observe the transaction of a file being passed over from Chief
9 MacIntyre to Staff Sergeant Harry Wheaton.

10 Q. Tell me what you observed.

11 A. Chief MacIntyre had the files there. It was quite obvious to
12 me upon our arrival that he was expecting us. The meeting
13 was pre-arranged, by whom, I don't know. But in any event,
14 when I went there we took our seats as shown in Exhibit 109
15 and Chief MacIntyre began to go through the files and passed
16 the various documents across to Staff Sergeant Wheaton.
17 There was only one time when I observed the Chief had a
18 document in his hand that this document did not go to Staff
19 Sergeant Wheaton.

20 Q. Where did it go?

21 A. The Chief took that document in his left hand and placed it
22 down on the floor. Now, I will say I could not see the
23 document when it hit the floor, but I could see Chief
24 MacIntyre take it in his hand and drop it.

25 Q. Would you describe it as an accident or deliberate dropping?

1 A. In my opinion it was deliberate.

2 Q. He took it in his left hand. Did he drop it immediately down
3 or did he throw it under? Describe in a little more detail.

4 A. Okay. This particular document came from a manila file
5 folder that the Chief sort of had partially on the desk and
6 partially on his lap. And he took the document from that and
7 he might have leaned just a little bit and dropped it on the
8 floor. I couldn't see when it hit the floor but I could see when
9 it left his hand.

10 Q. Did you, did the Chief observe the document before he did
11 this?

12 A. Yes, he did, sir. He read it before he threw it on the floor.

13 Q. What was the general practice being followed that day by the
14 Chief as he was handing over documents? Would he read
15 them first?

16 A. He would look at all documents first, sir, yes.

17 Q. Would he describe what was in them?

18 A. He would read off the names, et cetera, and say what it is.
19 Statement of such-and-such, statement of such-and-such.
20 And...

21 Q. And what would Wheaton do then? As it was handed to him.

22 A. Wheaton would take possession of them and, if I recall
23 correctly, he would, I'm not certain exactly at what point he
24 filled all of these, he initialed for all of the documents. But I
25 do know that after receiving what Staff Wheaton felt was all

1 of the documents I know that Exhibit 88 was signed by Staff
2 Wheaton, in my presence, in front of the Chief.

3 Q. And are you telling this Commission that you observed Chief
4 MacIntyre take a document, read it and deliberately put it on
5 the floor?

6 A. That's exactly what I'm telling this Commission, sir.

7 Q. Thank you. How long were you in the Chief's office?

8 A. Oh, it could have been an hour or so. It could have been a
9 little better.

10 Q. And at what point in the visit did that event occur?

11 A. I feel it was close to the end but, I tell you, I didn't interrupt
12 at that particular moment when he dropped it because my
13 reason for that was the meeting between Chief MacIntyre and
14 Harry Wheaton and myself was running so smooth. I said to
15 myself, "I will let it continue this way and bring it to Staff
16 Wheaton's attention as we are leaving." I didn't want to have
17 any conflict between Chief MacIntyre and Harry Wheaton and
18 myself if it was not necessary.

19 Q. What was the atmosphere like in the room? How would you
20 describe it?

21 A. I would say there was a bit of tension there. I felt sort of
22 relaxed but I think there might have been a bit of tension
23 there between Staff Wheaton and Chief MacIntyre.

24 Q. Just continue then. Tell us what took place that day.

25 A. Okay. After Staff Wheaton received what he thought was

1 everything that pertained to the Marshall file he asked the
2 Chief, I would say on at least two occasions, "Now, Chief, do
3 we have it all? Do we have it all?"

4 Q. What was the answer?

5 A. "Yes." So Staff Wheaton thanked the Chief and I think I did
6 also. I feel quite cer-, I'm sure I did. Thanked him. We just
7 got outside of the Chief's door when I stopped Staff Wheaton,
8 I said, "Staff, you didn't get the complete file. The Chief
9 dropped a document on the floor."

10 Q. Now...

11 A. What that document was at that particular time, I didn't
12 know.

13 Q. Did the Chief accompany you to the door?

14 A. The Chief was still in his office and we were just outside of
15 the door. It didn't take me very long to advise Staff Wheaton
16 of what took place. Then Staff Wheaton went right back into
17 the Chief's office, ahead of me. I went in behind him. He
18 advised the Chief as to what I told him concerning him
19 dropping a document on the floor. The Chief went over
20 behind his desk, picked up the document and made a remark
21 to the effect, "I might just as well give you it all."

22 Q. Just before I get into that. When you left the first time, did
23 the Chief come from behind his desk and walk with you to the
24 door?

25 A. He was, he got up from his desk and came around, yes.

1 Q You heard...

2 A. But as I say, he never had a chance to get out of his office
3 before we were back in.

4 Q He then went back behind the desk and picked up something
5 from the floor?

6 A. A document from the floor, sir, yes. And passed it to Staff
7 Wheaton...

8 Q And said something to the effect, "You might as well have it
9 all?"

10 A. Yes, that's correct.

11 Q How would you describe the Chief's demeanour at that point?

12 A. Well, needless to say, in my opinion at this particular time the
13 Chief was quite upset.

14 Q How did that manifest itself?

15 A. Well certainly being confronted by Staff Wheaton with what I
16 told him, and we were there acting on directions from the
17 Attorney General for the Province, it's only rightly so, I guess,
18 that he was upset when confronted with it. But what...

19 Q What does that mean? People can be upset in various ways.
20 How did it manifest itself with him?

21 A. He became quite flushed and maybe little bit nervous at that
22 point.

23 Q What happened then?

24 A. Staff Wheaton took the document from the Chief...

25 Q Yes.

1 A. And we left. There was no further conversation, sir.

2 Q. Were you satisfied at that time that you had everything?

3 A. Yes, sir.

4 Q. Did you look under the desk?

5 A. No, I didn't. But I only saw him drop one document. I didn't
6 know how many pages there were to it or anything at that
7 particular time. One document.

8 Q. What happened after you left the office?

9 A. When we left the office after Staff Wheaton received that
10 document, he didn't put it in any of the files nor in his
11 briefcase, he kept it in his hand. I drove back to our
12 headquarters on Alexandra Street and Staff Wheaton did read
13 the statement to me while en route from the Chief's office to
14 our office, but I will say the statement didn't mean anything
15 to me. I wasn't involved in the investigation so I didn't know
16 what it was all about.

17 Q. Was there any indication from Staff Wheaton that the
18 document meant anything to him?

19 A. There was indication from Staff Wheaton it, and I know
20 certainly it had to mean something to Staff Wheaton. He was
21 the chief investigator. I was not investigating this particular
22 file, I was assisting on this particular day.

23 Q. Did you take it that it was a significant document?

24 A. Yes, I did, sir.

25 Q. From Staff Wheaton's comment or actions or whatever?

1 A. Yes, I did.

2 Q. But you have no recollection today what the document,
3 indeed, was.

4 A. Yes. He read it to me.

5 Q. Can you tell us what it said?

6 A. I can't tell you what it said but if I recall correctly it was a
7 statement from Patricia Harriss.

8 Q. And do you actually remember that?

9 A. Yes.

10 Q. Do you know what Staff Wheaton's practice was with respect
11 to keeping notes of what took place?

12 A. I can't comment on that, sir.

13 Q. Have you ever seen the notes that Staff Wheaton made about,
14 in his diary, about that visit?

15 A. I would say that perhaps I might have had them in my
16 possession last night and the reason I say that is I took all of
17 the volumes that Mr. Guy LaFosse had so that I could turn
18 them over to Mr. Bernie Boudreau, who is representing me
19 here today. I didn't read them.

20 Q. Look at page, at, Volume 34 is probably on the table there.

21 A. Yes, sir, I have it.

22 Q. And turn to page 3, please.

23 A. Page?

24 Q. Three.

25 A. Yes, sir.

1 Q. There's a note there numbered 26, dated 16 April 1982.

2 Have you ever seen that before?

3 A. No, I can't say I have, sir. I don't recall it anyway.

4 Q. You did say...

5 A. In any event, I see the date there is the 16th of April 1982.

6 That's certainly not correct because the letter wasn't written
7 by Attorney General Harry How until the 20th of April 1982.

8 Q. You did say that you have discussed this matter with
9 Sergeant Wheaton since, or Staff Sergeant Wheaton since this
10 Commission was set up?

11 A. Yes, sir.

12 Q. When was that?

13 A. I'll tell you when it was. It was when the Commission, the
14 last week that the Commission was sitting in Sydney in
15 December, the last week that they sat there in December.
16 That's when it was. What day, I'm not exactly certain but I
17 know it was during Chief MacIntyre's testimony.

18 Q. Were you present in Sydney during the evidence given by
19 Chief MacIntyre?

20 A. I was for some of it, sir. Not all of it.

21 Q. Were you present on the afternoon in Sydney when I put to
22 Chief MacIntyre my understanding of the evidence that you
23 would give?

24 A. What day in Chief MacIntyre's evidence was that?

25 Q. Wednesday.

1 A. Yes, I would say I was there, yes.

2 Q. Let me read to you what I put to him that day and his
3 response and get your reaction. This is found, My Lords, on
4 page 6372 of the transcript. I think it's Volume 34. I'll just
5 read it.

6 A. Yes, sir. Go ahead.

7 Q. I said:

8
9 I want to put this to you, Chief, because my
10 understanding is that Davies will testify as
11 follows: (Davies, of course, being you.)
12 Davies will testify to this Commission that
13 he was present in your office with
14 Sergeant Wheaton at which time they were
15 getting materials from you, from your file,
16 and that you took some documents and
17 threw them on the floor. That Wheaton
18 could not see this and that when they left,
19 they were leaving the office, he told
20 Wheaton (that's you), 'You didn't get
21 everything.' Wheaton then went back to
22 you and said, 'I want everything', at which
23 you said (that's the Chief), 'Well I might as
24 well give you everything.' You were very
25 embarrassed and you picked up a
document from the floor and gave it to
Wheaton. (I said) 'Now that's what Davies
would testify, I think.'

And the Chief said, and I might say my recollection is he said
it in very vigorous tones: "Well I'm testifying now under oath
here that I never done such a thing, sir." What do you say to
that?

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1 A. What I'm saying to that, sir, is I just gave evidence before the
2 Commission I'm telling the truth and what Chief MacIntyre is
3 telling you there is not true.

4 Q. We've heard evidence from Staff Wheaton the last, it's been
5 so long now, but some time ago, that he, following hearing
6 that evidence, in fact, filed a report recommending that an
7 investigation be carried out. Did you take any such action?

8 A. I discussed it with Staff Wheaton. The inquiry finished up in
9 Sydney on Friday, I think, at 12:30...

10 Q. Yes.

11 A. On Monday morning Staff Sergeant Wheaton called me and
12 we had discussions concerning the Chief denying what took
13 place insofar as a document was being placed on the floor.
14 We did have discussions and it was my feeling, and I
15 expressed this to Staff Wheaton, that the Chief was saying
16 that he and I were both lying, referring to Staff Wheaton and
17 myself, were both lying, and the Chief felt he was telling the
18 truth and that's not correct in my opinion. I felt that Staff
19 Wheaton and myself are both truthful and no reason to hide
20 anything, and Staff Wheaton advised me that he was going to
21 report it to the Assistant Crown Prosecutor in Sydney.

22 Q. You, yourself, have not filed any report.

23 A. No, I haven't, sir.

24 MR. MacDONALD

25 Thank you, sir. That's all I have.

1 CHAIRMAN

2 We'll rise until...

3 MR. RUBY

4 You may rise if you wish...

5 CHAIRMAN

6 Yeah, well I mean, are you going to very long or...

7 MR. RUBY

8 No.

9 CHAIRMAN

10 Carry on.

11

12 *12:15 p.m.

13

EXAMINATION BY MR. RUBY

14 Q. Sergeant Davies, I take it that you've been a police officer for
15 quite some time now.

16 A. Yes, sir. For 23 years and nine months today.

17 Q. And you're aware that the public expects of police officers
18 extremely high standards of probity and honesty and
19 integrity.

20 A. Yes, sir, I am.

21 Q. And would it be fair to characterize by the standards
22 expected of police, that concealing exculpatory evidence is a
23 corrupt act?

24 A. Yes, sir.

25 Q. Is there any reason, and to be particular, do you have any

1 grudge against Chief MacIntyre?

2 A. I have nothing against Chief MacIntyre nor any member of
3 Sydney City Police, sir.

4 Q. Had you ever met him before this occasion?

5 A. I knew who he was but I can't recall ever meeting him
6 officially before.

7 Q. Did you have any hatred or ill will towards Chief MacIntyre
8 then or now?

9 A. I certainly did not.

10 Q. Is there any motive or any reason why you would lie on a
11 matter so important concerning him?

12 A. I certainly wouldn't lie, sir, before this Commission.

13 MR. RUBY

14 Thank you, sir.

15 12:17 - ADJOURN to 2 p.m.

16 INQUIRY RESUMES - 2:06 P.M. *

17 MR. CHAIRMAN

18 Yes, Mr. Pugsley.

19 EXAMINATION BY MR. PUGSLEY [Cont'd.]

20 Q. Sergeant Davies, this is an incident that occurred almost six
21 years ago.

22 A. Yes, sir.

23 Q. An incident in your life that lasted how long?

24 A. Pardon me.

25 Q. An incident in your life that consumed how much time?

1 A. Not very much time.

2 Q. Well, how much time?

3 A. You mean while the incident took place in Sydney or...

4 Q. No, from the beginning to the end. From the time that Staff
5 Wheaton first spoke to you, and I assume that was at RCMP
6 Headquarters in Sydney.

7 A. Yes.

8 Q. Until you got back to the station after this incident and left it
9 behind. How long would that have taken from beginning to
10 end?

11 A. From beginning to end when I went to the Chief's office, from
12 the time I left our headquarters in Sydney.

13 Q. Yes.

14 A. Went to the Chief's office.

15 Q. Yes.

16 A. And got back.

17 Q. Yes.

18 A. Approximately an hour and a half, two hours, in that vicinity.
19 I can't say for certain.

20 Q. And after...and you say this was in the afternoon.

21 A. If I recall correctly it was in the afternoon, yes.

22 Q. And after you finished with it on that day.

23 A. Yes, sir.

24 Q. When did it next cross your mind or come to your attention?

25 A. If I recall correctly it would be when I was approached by

1 Mr. Gordon Proudfoot.

2 Q. Yes.

3 A. A lawyer for the CBC.

4 Q. That was on May 22nd of 1986.

5 A. Yes, sir.

6 Q. So, almost four years had elapsed without you having thought
7 about this or discussed this with anyone.

8 A. I won't say that. I perhaps thought about it maybe...yes, and
9 perhaps discussed it.

10 Q. I see.

11 A. With other members.

12 Q. Discussed it with whom?

13 A. Well, I could have just in general discussion discussed it with
14 other members. There is no doubt in my mind I perhaps did.

15 Q. Well, do you have any recollection of so doing?

16 A. I would say I have, yes. No doubt in my mind I have, yes.

17 Q. And who have you discussed it with and on what occasion?

18 A. Oh, I can't recall. I can't recall.

19 Q. I see.

20 A. There's no doubt in my mind that I have discussed it over the
21 years, yes.

22 Q. You cannot recall having discussed it with any particular
23 individual.

24 A. I know I did discuss it with, I feel quite certain, Inspector Ron
25 Jessup.

1 Q. Ron Jessome.

2 A. Jessup. J-E-S-S-U-P.

3 Q. And who is he?

4 A. He used to be in charge of Glace Bay Detachment.

5 Q. Glace Bay Detachment.

6 A. He used to be in charge of Glace Bay Detachment. He was a
7 sergeant at that time and he is presently an inspector
8 stationed in Ottawa.

9 Q. Yes. And...

10 A. And I would have discussed it with other members, yes,
11 Corporal Grant Shaw and Inspector Harry Murphy.

12 Q. I'm talking now between April, 1982, and May of 1986. Did
13 you discuss it with anyone?

14 A. I can't recall of anyone else, sir, offhand. I could have though.
15 I could have, yes, I could very well have.

16 Q. Was the discussion with Inspector Ron Jessup between April,
17 1982, and May of 1986?

18 A. Yes, it was.

19 Q. And why was that? Why did you happen to discuss it with
20 him?

21 A. He is a member of the Force.

22 Q. Yes.

23 A. And it was just in general conversation that's all.

24 Q. I see. Do you recall any, and Corporal Bradshaw, when would
25 you have discussed it with him?

1 A. Corporal who?

2 Q. Did you say Corporal Bradshaw or Grant Shaw?

3 A. No, Corporal Grant Shaw.

4 Q. Yeah. When did you discuss it with him?

5 A. On the 1st of December, 1986, sir.

6 Q. On December 1st, 1986.

7 A. Yes, if I recall correctly.

8 Q. And on what was...what prompted that?

9 A. Well, Inspector Harry Murphy, as you are aware, is
10 coordinator for the RCMP...

11 Q. Yes.

12 A. Insofar as this Inquiry is concerned and he was accompanied
13 by Corporal Grant Shaw.

14 Q. Do you mean December 1st, 1987, or 1986?

15 A. '86.

16 Q. 1986.

17 A. '86 if I recall correctly.

18 Q. You mean about thirteen months ago.

19 A. Yes, sir.

20 Q. Yes. Okay.

21 A. I could be wrong. I think that was the date.

22 Q. Yes, and is that first time you had any detailed conversation
23 with anyone concerning this incident on December 1st, 1986,
24 apart from your meeting with Mr. Proudfoot?

25 A. As far as I can recall, sir, yes.

1 Q. How long would your meeting with Mr. Proudfoot have
2 lasted?

3 A. Maybe an hour. Maybe, I'm not certain.

4 Q. And how long was your meeting with Inspector Murphy and
5 Corporal Grant Shaw?

6 A. Then, again, I can't exactly recall how long it was because we
7 weren't just discussing this case. Inspector Murphy used to
8 be the officer commanding in Sydney.

9 Q. Yes.

10 A. And we talked about things in general. He could have been
11 there an hour and a half or so. I don't quite recall.

12 Q. Did you discuss this incident with Staff Sergeant Harry
13 Wheaton on any occasion after the afternoon on which it
14 occurred in April of 1982 prior to December of 1987 in
15 Sydney?

16 A. I could have. I don't ...I could have. It's quite possible.
17 Perhaps I did.

18 Q. You were stationed at Sydney in April 1982.

19 A. Yes, sir.

20 Q. And you remained there for what period of time?

21 A. I left in...on October 6th, 1982.

22 Q. And where did you go on that occasion?

23 A. St. Peters.

24 Q. Yes. What days have you attended this Commission...this
25 Commission's hearings?

- 1 A. What days?
- 2 Q. What days?
- 3 A. I think it was two and a half days in Sydney.
- 4 Q. Yes.
- 5 A. And I was here for last week and all of this week.
- 6 Q. You've been here for all of Staff Sergeant Wheaton's evidence.
- 7 A. Yes, I have, sir.
- 8 Q. Yes. Have you discussed this matter with Staff Sergeant
- 9 Wheaton since January 1st of this year?
- 10 A. Since January 1st of this year. Not that I can recall, no.
- 11 Q. What instructions are you given in your training as an RCMP
- 12 constable or recruit with respect to note taking?
- 13 A. We are required to keep a notebook.
- 14 Q. Yes. And what are you required to put in it?
- 15 A. Well, anything that...it depends upon each individual member
- 16 I suppose as to what he would mark down in his notebook.
- 17 Q. What instruction do you receive about note taking?
- 18 A. I have no comment on that.
- 19 Q. Well, do you...have...did you receive any instruction at all
- 20 when you took your training about the things you should put
- 21 down in a notebook?
- 22 A. Yes, things that are important you will put in your notebook.
- 23 Q. All right. And did you follow that instruction throughout
- 24 your career?
- 25 A. On occasions I would say that perhaps I didn't.

1 Q. I see. Did you keep a notebook in April, 1982?

2 A. Yes, sir, I did.

3 Q. And were you used to putting daily entries in it?

4 A. No, sir.

5 Q. How often did you put entries in it?

6 A. I can't recall.

7 Q. Well, did you put any entries in for the month of April, 1982,
8 at all?

9 A. I can't recall, sir.

10 Q. You said you made an examination or a search for your notes
11 for the year 1982.

12 A. Yes.

13 Q. And when did you make that search?

14 A. When did I make that search? I can't be sure as to when.

15 Q. Well, within the last five months or...

16 A. I know it was...I don't know which come up first, what I was
17 notified of first that this Commission would be sitting or the
18 civil suit against the CBC by Chief MacIntyre.

19 Q. I see.

20 A. I know I looked for it prior to whichever came first or long
21 before that even and...

22 Q. All right. And did you find your notebook for the year 1982?

23 A. I don't recall if I had any or not for that year, sir.

24 Q. I see. Would you have thrown them out?

25 A. I would have if there was nothing of any importance in them.

- 1 Q. Can you tell us whether or not you found your notebook for
2 1982 when you made your search for it?
- 3 A. No, sir, I didn't.
- 4 Q. You did not find it.
- 5 A. I did not find a notebook. If I did it would be before this
6 Commission today, sir.
- 7 Q. No, I'm not suggesting that there was a notebook that had
8 relevant details concerning your April, 1982, meeting. I'm
9 simply wondering whether or not you found a notebook for
10 the ...for April 1982 at all.
- 11 A. No, I didn't.
- 12 Q. No.
- 13 A. No.
- 14 Q. But is it your recollection that you, in fact, made no notes of
15 this meeting?
- 16 A. I know I made no notes, sir.
- 17 Q. All right.
- 18 A. Yes. I'm positive of that. I certainly didn't.
- 19 Q. Were you at the station when you were requested by Staff
20 Sergeant Wheaton to accompany him to the Chief's office?
- 21 A. Yes, I was, sir.
- 22 Q. Had you ever accompanied Staff Sergeant Wheaton on any
23 other meeting or investigation of any kind at any time?
- 24 A. Yes.
- 25 Q. On how many occasions?

1 A. I don't know. I don't recall, sir.

2 Q. I assume it would be somewhat unusual for you to
3 accompany him on an investigation since you weren't in the
4 same department.

5 A. That's correct, sir.

6 Q. Did he tell you that it was an important matter that he was
7 going on?

8 A. He discussed with me...he read to me that letter from
9 Attorney General Harry How.

10 Q. Yes.

11 A. And then I read it myself.

12 Q. You said you had never seen a letter like this before.

13 A. No, I haven't, sir.

14 Q. Did you ask him why such a letter had been issued?

15 A. No, I didn't.

16 Q. You didn't discuss this at all as being a bit unusual.

17 A. We could have but I certainly don't recall.

18 Q. I see.

19 A. You see I wasn't involved in this particular investigation very,
20 very little.

21 Q. I appreciate that. Well, at all. Were you involved at all?

22 A. There was one other date that I went to Ebsary's house.

23 Q. When was that?

24 A. That would have been on, if I recall correctly, the 31st of
25 March, 1982.

- 1 Q. And who did you go with?
- 2 A. Constables MacQueen and Hyde.
- 3 Q. And what involvement did they have in this investigation?
- 4 A. They were going there to look for items of clothing, I think, if
- 5 I recall correctly.
- 6 Q. Did you meet anyone there or have any discussion with
- 7 anyone?
- 8 A. I can't recall, sir. I know that I certainly didn't seize anything
- 9 at all and...
- 10 Q. Did you meet Mr. Ebsary there?
- 11 A. I can't recall, sir.
- 12 Q. Did you meet anyone there?
- 13 A. There was perhaps someone there but who it was I certainly
- 14 can't recall.
- 15 Q. Well, did you have to forcibly go into the house? Did you
- 16 break open a lock?
- 17 A. I can't recall, sir. That's why I'm saying there could have
- 18 been someone there but...I feel quite certain there was
- 19 someone in the house upon our arrival but I don't know...
- 20 Q. Did they resist your entrance at all?
- 21 A. I can't recall, sir.
- 22 Q. Was that person...
- 23 A. I don't say they did, certainly.
- 24 Q. Was that person warned, given a warning?
- 25 A. Not by me, sir.

1 Q. You went into the house, did you?

2 A. Yes. I went into the house and...

3 Q. You made a search of the house.

4 A. I accompanied the other two members.

5 Q. What were you looking for?

6 A. As I stated, I think it was...if I recall correctly, clothing.

7 Q. What kind of clothing?

8 A. Clothing that Ebsary might have worn when this incident took
9 place.

10 Q. And what kind of clothing was that? Did you have a
11 description of it?

12 A. I can just vaguely recall. I think it might have been a blue
13 Burberry of some sort.

14 Q. Did you find it?

15 A. I didn't. But...

16 Q. Did anyone...

17 A. I think one of the other members did.

18 Q. I see.

19 A. Yes.

20 Q. You can't recall if Roy Ebsary was there or not.

21 A. I don't think he was there, sir. I feel quite certain he wasn't.

22 Q. Was this a house or an apartment or a flat or what?

23 A. I think it might have been an apartment.

24 Q. You're not sure.

25 A. There might have been two or three apartments in the same

1 house.

2 Q. I see.

3 A. I'm not certain.

4 Q. Did you make any notes of this visit?

5 A. No, I didn't, sir, because I didn't seize anything there...I didn't
6 do anything.

7 MR. CHAIRMAN

8 Why were you there, Sergeant?

9 SGT. DAVIES

10 I feel, My Lord, I think it was the articles of clothing we were
11 looking for but I know I didn't find anything.

12 MR. CHAIRMAN

13 No. But you were not attached to the Sydney detachment,
14 were you.

15 SGT. DAVIES

16 No, My Lord, I was just asked to assist. Yes.

17 MR. PUGSLEY

18 Q. This was on March the 31st.

19 A. If I recall correctly, yes.

20 Q. How would you recall that date?

21 A. I have no personal recollection of that particular date other
22 than looking at the...it was pointed out to me by Corporal
23 Grant Shaw when he was at our detachment in St. Peters.

24 Q. When was that?

25 A. That would have been when he and Inspector Murphy came

1 to our office just on that one occasion.

2 Q In December of 1986.

3 A. Yes. Yes, sir.

4 Q And what did he use to refresh his memory or your memory
5 that it was March 31st, '82?

6 A. I think perhaps he would have had an exhibit report.

7 Q I see.

8 A. Yes, an exhibit report, yes.

9 Q If he had not shown you that exhibit report would you have
10 recalled that you had been there at all?

11 A. Oh, yes, I would recall...yes, that I was there, yes, no doubt in
12 my mind.

13 Q Why were you requested to go on this occasion? There were
14 already two constables going. Why was a third necessary?

15 A. It's nice to have three members at times.

16 Q I see. Well, when Staff Sergeant Wheaton showed you this
17 letter from Attorney General How did you not have any
18 discussion that you recall with him as to why it was necessary
19 for such a document to be issued or alternatively, "Staff, why
20 didn't you ask the Chief for the papers?" Didn't it prompt any
21 kind of inquiry on your part at all, or can you recall?

22 A. No doubt we had some discussion, but I can't recall what it
23 was and...

24 Q All right.

25 A. I just happened to be in the office at that particular time and

SGT. DAVIES, EXAM. BY MR. PUGSLEY

1 I guess that's the reason I was requested by Staff Sergeant
2 Wheaton to accompany him.

3 Q. Yes. And what was the...why did he ask you to accompany
4 him? What was the reason for you to be there?

5 A. As an observer.

6 Q. Are those the words he used?

7 A. Yes, sir. Requested that I accompany him as an observer.

8 Q. What he concerned that he was not going to get all the
9 documents that he was instructed to get pursuant to the
10 Attorney General's letter?

11 MR. RUBY

12 You might make enquiries of what was told to this witness
13 but I don't think he knows what's in Sergeant Wheaton's mind by
14 osmosis.

15 MR. PUGSLEY

16 Q. Did he express any concern to you at all about not getting all
17 the documents?

18 A. You mean prior to April 26th?

19 Q. No, on the day you went.

20 A. I don't recall if he did or not, sir.

21 Q. I see. At this point in time on April 26th or the day you
22 went down.

23 A. Yes.

24 Q. Were you familiar with any of the names of the people
25 involved in the original 1971 incident apart from Ebsary?

1 A. Yes, I was, sir.

2 Q. What names were you familiar with?

3 A. Donald Marshall.

4 Q. Yes.

5 A. Sandy Seale.

6 Q. Yes.

7 A. Ebsary.

8 Q. Yes.

9 A. Roy Newman Ebsary, I think it is.

10 Q. Yes. Did you know any of these people?

11 A. No, sir. I knew Ebsary to see him but didn't know who he
12 was.

13 Q. Any other names that you were familiar with prior to going
14 down to Chief MacIntyre's office?

15 A. It's quite possible there were more but I just can't recall right
16 now. It's quite possible.

17 Q. Okay. But you had no involvement in the investigation prior
18 to that time.

19 A. No, sir, well...

20 Q. You hadn't read any of Staff Sergeant Wheaton's reports or
21 any ...hadn't seen any statements that he had taken or
22 Corporal Carroll had taken.

23 A. No, sir.

24 Q. And you weren't in the habit of discussing the case with him?

25 A. No, sir.

1 Q. You went down to the Chief's office and you drove the car, did
2 you?

3 A. Yes, sir, I did.

4 Q. How far is the journey from your headquarters to Chief
5 MacIntyre's office?

6 A. Maybe a mile or so.

7 Q. Uh-hum. And you say that when you arrived there the Chief
8 obviously anticipated your arrival.

9 A. Yes, sir.

10 Q. And indeed, he had something prepared. He had a
11 typewritten document consisting of a number of sheets of
12 paper.

13 A. Yes, sir.

14 Q. Prepared.

15 A. Yes, sir.

16 Q. And when Staff Wheaton came in did he give a copy of this
17 document to him?

18 A. I know he gave up...he had him sign for it and at what point
19 he actually gave it to him I don't know, sir, I don't recall.

20 Q. Did he give it to him upon his arrival at the office?

21 A. I don't exactly recall at what point he gave him that Exhibit
22 88.

23 Q. Well, the purpose was...the purpose of the visit was to get
24 documents from the Chief.

25 A. Yes, sir.

- 1 Q. Yes. May I suggest to you that he gave him Exhibit 88 upon
2 arrival.
- 3 A. He could very well have right upon our arrival, he could have,
4 sir.
- 5 Q. Did you get a copy of Exhibit 88?
- 6 A. I have a copy here, sir.
- 7 Q. No. Did you get a copy upon your arrival in the Chief's office,
8 as well?
- 9 A. Not me, no, sir.
- 10 Q. Or did you have a copy at any time?
- 11 A. I looked at a copy of it here...
- 12 Q. I'm sorry. I meant at any time during the course of the
13 interview in the Chief's office did you get a copy.
- 14 A. No, sir, I didn't. No.
- 15 Q. Was there more than one copy? Was there one copy for the
16 Chief and one copy for Staff Wheaton?
- 17 A. I can't recall.
- 18 Q. You say that when the Chief...when you arrived the Chief got
19 up, was introduced to you by Staff Wheaton, you shook hands.
- 20 A. Yes, sir.
- 21 Q. And the Chief offered Staff Wheaton his chair.
- 22 A. Yes, sir, he did.
- 23 Q. His chair being the chair behind the desk.
- 24 A. That's correct, sir, where he would normally sit in his office.
- 25 Q. Yes.

1 A. Yes, that's correct, sir.

2 Q. And what was the positioning of the other chairs in the room?
3 Were they around the table or were they moved by either
4 you or Staff Wheaton, and I have in mind Exhibit 109 where
5 you have marked with the red square the location of the chair
6 that you took. Firstly, was that chair in that location when
7 you arrived there?

8 A. It would have been close to here.

9 Q. When you say "close to here" I think perhaps we better mark
10 that. Thank-you. Perhaps you'd put a circle with the...a circle
11 with the location of the chair when you first arrived.

12 A. It would be somewhere in this vicinity where...

13 Q. Thank-you. And would you put...and you've coloured in the
14 circle so it's now a black dot. And would you put an arrow to
15 the red square where it was moved by you?

16 A. Yes.

17 Q. Yes.

18 A. Not a great distance but moved.

19 Q. All right. By you.

20 A. Yes, sir.

21 Q. And deliberately so.

22 A. Yes, sir.

23 Q. So, you could see.

24 A. That's correct, sir.

25 Q. All right. Now, you see the position I am standing with

1 respect to where you are.

2 A. Yes, sir.

3 Q. Is this approximately where you located your chair?

4 A. It could have been up that way just a little bit more and back
5 a bit further.

6 Q. All right. How's that?

7 A. About there I would say, sir.

8 Q. About there. Now, I'm about two feet from the desk. I'm
9 about in the middle of the desk and, in any event, were you
10 in a position so that when seated you could clearly see the
11 Chief's hands?

12 A. Yes, sir.

13 Q. Yeah.

14 A. I could.

15 Q. You could.

16 A. Yes, yes.

17 Q. And see his waist and presumably see his knees as well.

18 A. Ah.

19 Q. Or the upper part of his legs.

20 A. Yes, I could see right here on his lap and his two hands.

21 Q. Okay.

22 A. Yes.

23 Q. Now, the files that were produced by him were they on the
24 desk when you arrived or did he take them from a filing
25 cabinet or from the desk?

- 1 A. I can't recall, sir. I can't recall.
- 2 Q. And do you recall whether the files were loose files in manila
3 folders or whether they were bound up in something else?
- 4 A. Okay, I think they were, if I recall correctly, accordion-type
5 files.
- 6 Q. Yes.
- 7 A. And I'm not certain if...I think in that were some manila file
8 folders, okay.
- 9 Q. Okay.
- 10 A. And I can't quite recall if there were any manila file folders
11 loose, and I did see some envelopes. But maybe the Chief
12 might have taken these out of the accordion-type files, sir.
- 13 Q. Can you tell us how many accordion-type files there were?
- 14 A. I think there was two.
- 15 Q. Right. That's...I think Staff Sergeant Wheaton's recollection as
16 I recall his evidence. And were the accordion files bound up,
17 that is to say, was a string or the elastic around the accordion
18 file?
- 19 A. I don't recall, sir.
- 20 Q. Okay. At any time while you were there...
- 21 A. Yes.
- 22 Q. ...was there any more typing done?
- 23 A. If I recall correctly there was.
- 24 Q. Uh-hum. Now, Staff Sergeant Wheaton has testified that
25 there was, at least that's my recollection.

1 A. Yes.

2 Q. Forgetting about his recollection.

3 A. That's exactly what I'm trying to do.

4 Q. And forgetting about his evidence.

5 A. Yes.

6 Q. If he had not raised that what would have been your
7 response to my question?

8 A. I think there was.

9 Q. You think there was.

10 A. Yes.

11 Q. Do you have any idea at what point in time it was done and
12 for what reason?

13 A. I think it would...I think it was close to the end of our
14 meeting.

15 Q. Uh-hum. And what occurred? And what was the reason for
16 it?

17 A. I don't know, sir.

18 Q. Okay. Do you recall whether or not a secretary came into the
19 room or whether or not the Chief left the room and came back
20 and subsequently appeared with a typewritten piece of
21 paper?

22 A. I do recall that there was another piece of paper that...I don't
23 recall if the Chief took it out or if his secretary right...right to
24 the door or what. I don't recall. But I know there was, as you
25 say, another piece of paper, yes.

1 Q. Yes.

2 A. What was on it I can't exactly tell you.

3 Q. Tell me what you recall about the discussion in the room,
4 after the introduction, after you shook hands.

5 A. Yes.

6 Q. Staff Sergeant Wheaton sat where? Where did he sit?

7 A. Staff Sergeant Wheaton would have sat right over here.

8 Q. When you say "right over there" that is towards the end of
9 the desk, that would be on the Chief's side towards the left-
10 hand end of the desk and right about the end, would it?

11 A. Not quite over to the end I wouldn't say, no.

12 Q. All right.

13 A. Over a bit from the end and perhaps, I don't know how close
14 he was to the desk, but certainly when he was signing for the
15 documents, okay, he would sign on the...

16 Q. On the desk.

17 A. ...Chief's desk.

18 Q. On the Chief's desk. Yes.

19 A. Yes.

20 Q. Can you give us any estimate of how long the desk was?

21 A. I would say, sir, that desk was similar in size to mine and
22 mine was thirty-six by sixty-six.

23 Q. Uh-hum. A little less than six feet long then I guess, eh.

24 A. Yes, sir.

25 Q. Yeah, okay. And thirty-six, so about three feet wide and

1 about five and a half feet long.

2 A. Yes, sir.

3 Q. Yeah. Do you have any recollection of what it was like at the
4 front and at the sides? I don't mean the kind of wood but
5 whether it was open or closed?

6 A. I think it was closed. I feel quite certain it was.

7 Q. But there was no hesitation in the Chief and... if the files were
8 not on the desk when you arrived there is no hesitation about
9 him bringing the files out?

10 A. Oh, no. No hesitation at all. If they weren't on the desk he
11 might have taken them out of a drawer or picked them off
12 the floor, the files. As I say the Chief was expecting us, no
13 doubt in my mind.

14 Q. Quite. Right. And, indeed...I take it...are you sure of one thing
15 that he didn't start dictating four pages from the beginning
16 after you arrived. He already had typewriting done, in part,
17 Exhibit 88 done before you arrived. That was there. That
18 wasn't dictated by him during the course of the interview.

19 A. Exhibit 88.

20 Q. Yes.

21 A. No, it wasn't.

22 Q. No. That was something...

23 A. That was all prepared upon our arrival.

24 Q. All prepared.

25 A. That's why I say no doubt in my mind he was expecting us.

1 Q. So, there's no question that the Chief had presumably gone
2 through the file and made a list of the contents and had the
3 list of the contents available for Sergeant Wheaton when he
4 arrived.

5 A. That's correct, sir.

6 Q. No question that the Chief knew of the direction of the
7 Attorney General.

8 A. Yes, sir.

9 Q. Your answer is there is no doubt that he did know.

10 A. No doubt he knew.

11 Q. Sure.

12 A. Yes.

13 Q. Did Staff Sergeant Wheaton say anything to him about why he
14 was there or did he read out the letter from the AG or
15 anything like that?

16 A. I can't quite recall but I...he might have said, "You know why
17 we're here or something."

18 Q. Yeah.

19 A. You know, the meeting was prearranged.

20 Q. Sure. Okay.

21 A. Yes.

22 Q. Tell me what you recall about the items that were discussed
23 during the course of the meeting? Firstly, before we get to
24 the documents themselves, do you recall any discussion on
25 any other topics?

1 A. I don't recall, sir, no.

2 Q. On any other topics at all. I mean involving Marshall.

3 A. I don't recall.

4 Q. You have reviewed Staff Sergeant Wheaton's notes of this
5 interview I believe, or have you not?

6 A. No.

7 Q. You have not. You've never seen them.

8 A. I haven't read any of them, no.

9 Q. No. You're not...

10 A. No, sir.

11 Q. ...aware that he, in fact, did make notes at some time after
12 this interview took place?

13 A. Yes, I'm aware of that that he made notes...

14 Q. Yeah.

15 A. Afterwards, yes.

16 Q. My question is have you ever seen those notes.

17 A. No, sir.

18 Q. Okay. Well, let's just take a look at them. It's Volume 34, I
19 think, the first.

20 A. Right here, sir.

21 Q. Yeah. If you take a look at Volume 34, Sergeant Davies.

22 MR. PUGSLEY

23 May I have Staff Sergeant Wheaton's handwritten notes, please?

24 Thank you. This is Exhibit 90B?

25

1 REGISTRAR:

2 Yes, it is.

3 MR. PUGSLEY:

4 Thank you.

5 Q. I'm going to give you staff Sergeant Wheaton's actual notes
6 because they're a little bit different as far as spelling, periods
7 and paragraphs are concerned than the notes that we have in
8 Exhibit 34. Is it a problem for you, Sergeant Davies, if I bend
9 over your shoulder and look at them with you?

10 A. No problem, sir.

11 Q. He writes "16th April, '82." Have you had any discussion at all
12 with Sergeant Wheaton concerning that date?

13 A. I would say I could have in Sydney, sir, yes.

14 Q. In December of this year you mean, of last year?

15 A. Yes.

16 Q. What was the nature of the discussion?

17 A. Well, he and I were discussing our evidence in Sydney, which
18 is not unusual. Members going to court, to refresh your
19 memory.

20 Q. And what discussion did you have about the 16th of April?

21 A. That I can't recall ever going down there on the 16th of April,
22 1982.

23 Q. Sorry, he said that or you said that?

24 A. No, I said that.

25 Q. But you don't have an independent recollection of that day.

1 It's only because you've looked at documents and come to the
2 conclusion that it could not be that day?

3 A. Well, I read the letter, sir, written by Attorney General Harry
4 How dated April 20 and...

5 Q. You're sure you read that before you went down?

6 A. I'm positive, sir, no doubt in my mind. Staff Wheaton read it
7 to me first and then I read it to myself.

8 Q. That was in your office?

9 A. Yes.

10 Q. And that's how you're able to pinpoint in time the fact that it
11 must have been after April 20?

12 A. That's correct, sir, that along with Exhibit 88. I mean that was
13 prepared by Chief MacIntyre. He was expecting us. Quite
14 obvious, as I told you earlier. And that Exhibit 88 is dated
15 April 26, 1982.

16 Q. Yes, so those are those two facts.

17 A. These two facts, sir, so...

18 Q. Is there any way that you could have seen a draft of the
19 letter from the Attorney General that was undated?

20 A. No, sir.

21 Q. Why do you say that?

22 A. Well, I know April 20, 1982 was on it.

23 Q. How can you possibly recall that?

24 A. Well, I read the letter, you see.

25 Q. Oh, sure, but I mean, how can you now recall today that April

1 20, 1982 was the date of the letter you saw six years ago?

2 A. I have since seen that letter.

3 Q. Oh, quite so, you've seen the letter since then with the date
4 April 20, '82 on it.

5 A. Yes, that's correct.

6 Q. But you have no independent recollection today that that
7 letter said April 20?

8 A. Well, it's marked on it April 20, 1982.

9 Q. The one you've seen. O.K.

10 A. And I read it before I went to the Chief's office.

11 Q. It says "Interview: 3:45 p.m." Does that sound roughly
12 accurate as far as you're concerned?

13 A. As I said, I couldn't quite recall the time. I think it was in the
14 afternoon.

15 Q. Yes, you said that.

16 Chief MacIntyre, Corporal Davies and
17 myself. Chief produced brown accordion
18 file folder.

19 That's singular. Do you have any comment on that? That the
20 note there is...would appear to indicate...it does not say "one,"
21 but it would appear to indicate one brown accordion file
22 folder.

23 A. That's what it would say there, sir. I can't comment on Staff
24 Sergeant Wheaton's notes.

25 Q. Well, can you comment as to whether or not they're accurate?

A. No, I can't sir.

1 Q. Containing approximately....

2 A. The only thing I'm saying is that when I went to Chief
3 MacIntyre's office is that it was after April 20.

4 Q. Quite so, but I was questioning you about the number of
5 folders there were and can you comment as to whether or not
6 there was one or more than one?

7 A. On the 26th of April?

8 Q. Yes.

9 A. I think there was two if I recall correctly.

10 Q. You have no explanation as to why Staff Wheaton would have
11 written...produced a brown accordian file folder?

12 A. Sir, I can't explain Staff Sergeant Harry Wheaton's notes.

13 Q. No.

14 A. They're his notes, not mine.

15 Q. Quite so.

16 Containing approximately four
17 manila file folders as well as a number of
18 envelopes.

19 Would that be consistent with your recollection, "about four
20 manila file folders"?

21 A. I can't recall how many. I can't recall, sir, how many manila
22 file folders. And I know there were envelopes. I do recall
23 that.

24 Q. The Chief was asked four or five times for
25 any other statements from Patricia Hariss.

Do you recall that?

1 A. No, I can't recall that. I can recall our meeting on the 26th of
2 April, 1982, Staff Wheaton asking that she, at least on two
3 occasions "Now is there anything else, Chief? Do we have it
4 all, Chief?"

5 Q. But you do not recall Patricia Hariss' name being mentioned?

6 A. I don't recall.

7 Q. "Last statement given," I don't quite understand the purport
8 of that note. Can you give us any assistance on that, after the
9 word "Patricia Hariss" it says "last statement given." Can
10 you...

11 A. I can't comment on that, sir.

12 Q. All right.

13 Handwritten statements of Bill
14 Urquhart on Hariss shown.

15 Do you recall that?

16 A. I don't recall, sir, no.

17 Q. You just don't remember?

18 A. I just don't, no, I don't remember.

19 Q.
20 Numerous, only one red. Corporal
Davies see them placed on floor.

21 Can you tell us what you saw placed on the floor? How many
22 pieces of paper?

23 A. I can only recall one document being dropped on the floor.

24 Q. And what do you mean by "one document"?

25 A. O.K. I didn't know how many pages there were to that

1 document at that particular time when it was dropped on the
2 floor. I didn't know. There could have been one page. There
3 might have been two. There might have been four if they
4 were stapled together.

5 Q. Did you subsequently find out how many pages there were?

6 A. Yes, sir, I feel quite certain it was one.

7 Q. One page?

8 A. Yes.

9 Q. As a consequence of something you saw later?

10 A. Pardon me? Yes, when the Chief retrieved that document
11 from the floor and passed it to Staff Wheaton, Staff Wheaton
12 kept that particular document in his hand. And did all the
13 way to the office. As a matter of fact, he read it to me, but it
14 didn't mean anything to me as to what was in it or even who
15 it was from, you know.

16 Q. He read it to you in the car?

17 A. Yes, sir, he did.

18 Q. Did he show it to you? Did you see it? Did you read it
19 yourself?

20 A. I can't recall reading it myself, no. I know he read it, yes.

21 Q. So what you're saying is that one sheet of paper was then
22 placed on the floor?

23 A. That's what I'm saying, sir, yes.

24 Q. You have no explanation as to why Staff Wheaton would have
25 written "See them placed on floor"?

1 A. No, sir.

2 Q

3 Asked numerous times by Pratico, no
4 explanation.

5 Do you have any recollection of that?

6 A. No, I don't, sir.

7 Q What that's talking about or...

8 A. No, I don't.

9 Q Or the word "Pratico"?

10 A. No, I don't, sir. I've heard the name "Pratico," certainly.

11 Q So many times since then, of course.

12 A. Yes.

13 Q But did you know...

14 A. It didn't ring a bell with me as to who he was at that
15 particular time.

16 Q Nor did Patricia Hariss' name ring a bell, I assume?

17 A. No, it didn't, sir.

18 Q

19 No comment on line-up.

20 Does that ring any bells in your mind as to what that
21 reference was about?

22 A. No, sir.

23 Q

24 No comment on Pratico re witness.

25 Again you can't...

26 A. I can't recall, sir.

1 Q.

2 Definitely did not interview Ebsary, wife or
3 son after murder on 15th.

4 Do you recall any discussion of that?

5 A. No, I don't.

6 Q. Do you recall any discussion at all about statements of Mary
7 Ebsary or Greg Ebsary given to Inspector Marshall in
8 November of 1971?

9 A. No, I don't, sir. I'll tell you, I wasn't paying too much
10 attention to the conversation. These people that the Chief and
11 Staff Wheaton were talking about, I didn't know them. It
12 didn't mean anything to me. I wasn't the man doing the
13 investigation and you know, the names didn't mean anything
14 to me.

15 Q. Of course not, o.k. Now as the Chief took pieces of paper out
16 of the file folder, would he pass them over to Staff Wheaton?

17 A. He would read them first.

18 Q. Read them aloud?

19 A. Sometimes he might have.

20 Q. For example...

21 A. "Statement of such and such."

22 Q. Yeah, he would read, the person who had made the statement,
23 would he then read the statement through?

24 A. No. He perhaps would maybe read it through but...

25 Q. To himself?

1 A. To himself, yes.

2 Q. Yes, so he would simply identify the statement and pass it
3 across the table to Staff Wheaton?

4 A. That's correct, sir.

5 Q. Did Staff Wheaton then take the statement and mark off on
6 Exhibit 88, tick, "I've got the statement of X, Y, Z." Is that how
7 it was done?

8 A. I'm not quite certain how or at what point Exhibit 88 was
9 initialed by Staff Wheaton, whether it was prior to...as to
10 whether or not it was when he received everything and then
11 he went through it item by item or if he signed for it, initialed
12 for it item by item as he received it from the Chief. I'm not
13 too certain. I can't quite recall.

14 Q. Staff Wheaton, I take it, was Staff Wheaton upset as a
15 consequence of the Chief producing this document, Exhibit 88,
16 to him and wanting him to sign it? Was he a little taken
17 aback by this, do you recall?

18 A. I don't recall. I can't see why he would be.

19 Q. It was the Chief, however, who requested Staff Wheaton to
20 sign this document?

21 A. I feel quite certain it was, yes.

22 Q. And did Staff Wheaton take a copy away with him of the
23 document that was signed and leave a copy with the Chief?

24 A. I think perhaps Staff Wheaton took a copy with him. I'm not
25 sure who kept the original or who kept...

1 Q Presumably the Chief would have kept a copy?

2 A. Yes, I would think he would.

3 Q One would assume so since he's the one who prepared it and
4 requested it and wanted Staff Sergeant Wheaton to sign it.

5 A. Yes, sir.

6 Q And you think that Staff Sergeant Wheaton would have taken
7 a copy away with him?

8 A. I feel quite certain he would have, yes. I can't quite recall,
9 but I...

10 Q And do you recall him making additions to Exhibit 88? Do
11 you recognize the writing "Noseworthy, two and one, original,"
12 that kind of thing written on it?

13 A. No, I didn't take any notation of this, sir. And I wasn't
14 involved in the investigation and these names and everything
15 and statements that he was receiving from the Chief didn't
16 mean anything to me.

17 Q And I take it that you were not...you're not saying anything
18 during the course of this hour interview?

19 A. I didn't carry on any conversation whatsoever.

20 Q You were simply there as a silent witness?

21 A. That's right.

22 Q If the Chief wanted to deliberately keep something from Staff
23 Wheaton with respect to the papers that he was going to hand
24 over, it would have been a very easy matter for him to have
25 taken it out of the file before Staff Wheaton and you arrived?

SGT. DAVIES, EXAM. BY MR. PUGSLEY

1 A. If it didn't slip his mind, yes.

2 Q. If it didn't slip his mind, but on the other hand, he had
3 prepared a typewritten list of all the documents that were in
4 the file, so he must have gone through the file before you
5 arrived.

6 MR. RUBY

7 There's a typewritten list of most of the documents in the file and
8 it omits this one.

9 MR. PUGSLEY

10 Well, it's good of Mr. Ruby to give us his assistance. I pointed out
11 earlier that there are, I guess, six counsel here for the RCMP, at
12 least six and it's kind of him to afford this assistance, but if he
13 could perhaps confine his remarks during the course of my cross-
14 examination to proper interruptions...

15 Q. I suggest to you that the Chief....

16 MR. RUBY

17 Let me just deal with that. I thought it was correct and when
18 counsel puts a factual statement to the witness that I would be of
19 assistance to counsel in correcting him factually.

20 COMMISSIONER EVANS

21 I guess counsel doesn't feel he needs any assistance, Mr. Ruby.

22 MR. RUBY

23 It's the first time I've been accused of being close to the RCMP.

24 I'm not sure I like it.

25

1 MR. PUGSLEY

2 Q. I'm sorry, would you just give me your response again?

3 A. What's the question again, sir?

4 Q. The question is, the list was prepared before you arrived by
5 the Chief. The list was prepared. The typewritten list was
6 prepared.

7 A. Yes, but have a look at Exhibit...what would this be, 88A?

8 Q. Yes, and what is that?

9 A. Well, I take it this is an exhibit that had to be typed or was
10 typed that particular day after we arrived?

11 Q. Do you recall that?

12 A. As I say, I recall something having to be typed and I'm
13 assuming it's this.

14 Q. Do you know what the writing is, the handwriting is on this
15 exhibit? Do you know whose handwriting it is?

16 A. No, I don't, sir.

17 Q. You don't know whether it's Staff Wheaton's or Chief
18 MacIntyre's or whose it is?

19 A. No, sir, I don't.

20 Q. But in any event, do you recognize Staff Wheaton's initials?

21 A. Yes, right here.

22 Q. And there's a list of sixteen statements and he has
23 signed...and he has witnessed presumably the receipt of those
24 or can you even say that?

25 A. Yes, I would expect that's what he was signing for.

1 Q. Can you give us any assistance with respect to the final page
2 entitled "Original statements" as to whether or not that in fact
3 was the page that was typed later or not?

4 A. I can't help you there, sir.

5 Q. All you can say is that you believe that at one point in time
6 an additional typewritten page was brought in?

7 A. Yes, sir.

8 Q. But how that occurred or why it occurred, you can't really
9 say?

10 A. I can't quite recall, no.

11 Q. And you can't give us any assistance with respect to the,
12 under the original statement, the typewritten page, "P.A.
13 Hariss, one statement given to S.S. Wheaton already."

14 A. I can't explain any of this to you, sir. You know, I had nothing
15 to do with this. I can't explain it to you.

16 Q. You can't explain why that was there or whether or not how
17 many original P.A. Hariss' statements were signed for by Staff
18 Wheaton?

19 A. I have no idea, sir, no.

20 Q. Now you say that it's your recollection that the name
21 mentioned to you by Staff Wheaton was Patricia Hariss.

22 A. Yes, sir.

23 Q. How do you happen to recall that name six years later when
24 the name meant nothing to you during the course of the
25 interview, you weren't familiar with that person, indeed you

1 weren't familiar with any of the witnesses' names except for
2 Ebsary and a few others that you mentioned.
3

4 2:52 p.m.

5 A. That's correct. That was a name that was mentioned to you
6 me and I have heard it here certainly during the past couple
7 of weeks.

8 Q. Oh, I have no doubt you that you've heard it here. It's been a
9 name that's mentioned very often here. But the question is,
10 how do you happen and do you have any independent
11 recollection of that name being mentioned to you by Staff
12 Wheaton in the car going back that day.

13 A. I feel quite certain there's no doubt in my mind, sir, it was
14 the name Patricia Harriss, but who she is I don't know. Or
15 what the statement contained I can't tell you now. It was of
16 no interest to me. I was not the investigator.

17 Q. But how do you happen today to have an independent
18 recollection that six years ago in a car going back to your
19 Headquarters, Staff Wheaton mentioned Patricia Harriss, a
20 name that meant nothing to you?

21 A. Sir, because that was the document that was retrieved from
22 the floor by the Chief, handed to Staff Wheaton and it was
23 that particular document that he kept in his hand all the way
24 back to our Subdivision Headquarters. And he read it to me.

25 Q. I'm not, he read, he read what to you?

1 A. He read the statement to me.

2 Q. And what did it say?

3 A. I can't recall what it said. As I stated, it didn't mean anything
4 to me and that's why...

5 Q. And the name would mean nothing to you.

6 A. The name still means nothing to me, sir.

7 Q. But the name would mean nothing to you then...

8 A. That's correct.

9 Q. But how, my question is how do you happen to recall six
10 years later...

11 A. Yes.

12 Q. How do you happen to have an independent recollection that
13 the name Patricia Harriss was mentioned to you?

14 A. Because that's the particular document, sir, that was dropped
15 on the floor and retrieved by the Chief and passed to Staff
16 Wheaton.

17 Q. But I don't understand how, I understand your evidence that
18 you say a document was on the floor, it was retrieved by the
19 Chief, was given to Wheaton and Wheaton takes a piece of
20 paper back to him, to the office. But my question is, how do
21 you recall today independently that that was the document
22 that was given to the Chief or given to Wheaton.

23 MR. BOUDREAU

24 My Lord, if I may interject at that point. By my count I think
25

1 that's the third or fourth time that question has been directed to
2 the witness. He's answered it, I think, on the three previous
3 occasions. I would ask for your direction on the matter. There's
4 some limit as to how many times it should be asked.
5

6 CHAIRMAN

7 There's a limit, there most definitely is a limit as to the
8 number of times the same question can be put and I have to
9 confess I haven't been keeping count as to the number but so far,
10 as I understand it, it's not the first. The question has been put
11 and the witness is trying to explain why he remembers the name
12 Patricia Harriss. And I guess Mr. Pugsley's entitled to be sure, to
13 make certain, bearing in mind the accusations were made against
14 his client, that the reason for the positive identification is
15 substantial, substantiated. So try one more time.

16 MR. PUGSLEY

17 That was the question I was trying to put to the witness,
18 perhaps not very well.

19 CHAIRMAN

20 Well I thought you put it to him. And I thought he had
21 explained it, at least I understood what he was saying, but if you
22 want him to say it once more then I suppose we'll hear from
23 another counsel. The only counsel that I keep looking for and
24 guidance from is counsel for the witness.
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VOICE

Well I think the witness answered.

MR. PUGSLEY

All right.

CHAIRMAN

Could you, well let's get, in fairness. You've ...

MR. PUGSLEY

Q My question is, Sergeant Davies, do you have an independent recollection today that the name Patricia Harriss was mentioned by Staff Sergeant Wheaton in the car going back, or is it something that, because Staff Sergeant Wheaton has said, testified and has told you that that's the document he got, is that the reason why you're able to identify it as being Patricia Harriss?

A. There is no doubt in my mind, sir, that it was the, a statement of Patricia Harriss.

Q . I see. Can you give the Commission any assistance why Frank Edwards' notes advise that the Patricia Harriss statement was given to Staff Sergeant Wheaton on Friday, April 16th?

A. No, I can't, sir.

Q Did you have a discussion with Staff Sergeant Wheaton going back to the station concerning the incident that you've just talked about? The incident of the paper on the floor.

A. We could have.

1 Q. Did you have a discussion when you went back to the station?
2

3 A. Maybe we did, I can't recall.

4 Q. All right. Did you ever discuss the matter with Inspector
5 Scott?

6 A. No, sir.

7 Q. Or any ...

8 A. Not that I can recall.

9 Q. Or any of your superiors.

10 A. Not that I can recall, sir.

11 Q. There's an affirmative obligation placed on a peace officer to
12 lay an information if he has reasonable and probable grounds
13 to believe an offence has been committed, is that not so?

14 A. It depends upon the circumstances, sir.

15 Q. Okay. Was an offence committed by the Chief in your opinion
16 on this occasion?

17 A. It didn't cross my mind that, in fact, the Chief had committed
18 a particular offence. I heard you read the other day a certain
19 section under the Police Act ...

20 Q. Yes.

21 A. And it didn't cross my mind, even after I left the Chief's
22 office, or, and there was no thought in my mind that I would
23 be suggesting a charge because after the Chief was confronted
24 by Staff Wheaton with what I told him, he gave us a
25 document.

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Q. I see.

A. So ...

Q. You did not consider that an offence of any kind had been committed by the Chief, then.

A. Perhaps there was one committed but it didn't cross my mind.

Q. No, you did not consider that one had been committed...

A. No, sir.

Q. Either under the Police Act or the Criminal Code.

A. That's correct, sir.

Q. Staff Wheaton kept the piece of paper in his hand after he left the office, carried it in his hand while in the police car and did you say that he gave it to you and you read it. I wasn't sure of your evidence on that point.

A. No, I didn't say that, sir. I said he read it to me.

Q. I see. Did you see it? Did you see the piece of paper?

A. I perhaps glanced over while I was driving, yes. Saw the piece of paper, yes.,

Q. Was it an original or was it a copy?

A. I can't quite recall.

Q. Okay. I take it that there was nothing, and at this point in time Staff Sergeant Wheaton had bundled up the documents that he had received from the Chief, together with his copy of Exhibit 88, put them, what, in a briefcase?

A. I'm not too certain, sir. I don't quite recall.

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Q. In any event, after the Chief delivered the piece of paper to Staff Wheaton, there is no further typing and no further acknowledgement of any additional document on Exhibit 88.

A. You're talking about that last piece of paper that was retrieved from the floor and given to Staff Wheaton?

Q. Yes.

A. No, there was no further conversation let alone any more typing at that point.

Q. No further conversation. No further typing and no further acknowledgement by Staff Wheaton of having got whatever he got.

A. No, sir.

Q. In writing.

A. No. Staff Wheaton took that document and we left.

Q. Yeah.

MR. PUGSLEY

Thank you. I have no further questions.

MR. MURRAY

No questions, My Lord.

COMMISSIONER EVANS

Before we leave that at risking people thinking I've been asleep up here, did anybody ever ask what the 31 pieces of correspondence was?

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MR. PUGSLEY

No. I'll be glad to address that to the witness, My Lord.

Q. You'll note on Exhibit 38...

COMMISSIONER EVANS

I don't know whether he would know.

CHAIRMAN

He probably can't...

COMMISSIONER EVANS

I wouldn't expect him to answer. I'm just curious as to whether that has been asked and I don't have a note of it.

MR. OUTHOUSE

My recollection, My Lord, is that it was asked, yes, by Mr. Orsborn and the explanation, and I don't have the volume right at...

COMMISSIONER EVANS

As long as it's been asked...

MR. OUTHOUSE

It has been asked.

COMMISSIONER EVANS

I'll find it. Thank you.

MR. PUGSLEY

Q. You cannot assist us on that, I take it, Sergeant Davies? At the bottom of page 38 there's 31 pieces of correspondence or something mentioned...

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A. Bottom of page?

Q. Sorry, Exhibit 88, I'm sorry...

MR. OUTHOUSE

No, it's not.

CHAIRMAN

It's in thenotes.

MR. OUTHOUSE

The handwritten notes.

MR. PUGSLEY

That's right. It's in...

CHAIRMAN

Handwritten notes of Wheaton.

MR. PUGSLEY

In Staff Wheaton's notes in...

CHAIRMAN

The total correspondence, 31 pieces.

MR. PUGSLEY

Q. Yeah, can you assist us on that at all?

A. No, I can't, sir.

MR. PUGSLEY

Thank you.

CHAIRMAN

Mr. Saunders?

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MR. SAUNDERS

We have no questions for the Sergeant, My Lord.

CHAIRMAN

Now how are we going again? I can't sort out the...

MR. OUTHOUSE

We have no questions, My Lord.

MR. PRINGLE

I'd just ask one question to perhaps clear up some matter and I think it is minor.

3:02 p.m.

EXAMINATION BY MR. PRINGLE

Q. You were asked about a search that took place with yourself and Constables Hyde and MacQueen, I believe?

A. Yes, sir.

Q. Was there a search warrant at that time?

A. There would have been a search warrant at that time, yes.

Q. I refer you to Volume 34, exhibit volume 34...

A. I have it.

Q. Exhibit number 98. At page 133. Page 133, My Lord, Volume 34.

A. Page 133?

Q. Yes. Do you have Volume 34, Sergeant...

A. I have Vol-...

Q. Exhibit 98?

SGT. DAVIES, EXAM. BY MR. PRINGLE

1 A. Volume 34.

2 Q. Yes. Page 133. About three pages from the back, that'll save
3 us a little time. Now that appears to be a listing of some
4 items seized, an old navy blue topcoat and so on, and
5 Constable Hyde's name is at the bottom. Is that correct?

6 A. Yes, sir.

7 Q. Does that help you in any way with respect to the search of
8 the premises that you referred to earlier?

9 A. Yes. It would have been Constable Hyde that took possession
10 of the exhibit.

11 Q. And that refers to what? One navy blue topcoat. One white
12 shirt and two gold wrap belts.

13 A. Two gold wrap-around belts.

14 Q. Thank you. I think, My Lord, generally, the next following
15 pages refer to those exhibits as well. 134, 135.

16 MR. PRINGLE

17 Thank you.

18 CHAIRMAN

19 Mr. Ross?

20 3:04 p.m.

21 EXAMINATION BY MR. ROSS

22 Q. Just one short question. Perhaps I could ask it from here.
23 You made reference to Sandy Seale, do you recall?

24 A. Yes, sir.
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Q. Did you ever do a background check on Sandy Seale?

A. Did I ever...

Q. Do a background check on Sandy Seale?

A. Not me, sir.

Q. Did you ever, do you know of any checks which were done on Sandy Seale?

A. I don't know, sir.

Q. I take it you had no involvement whatever with Sandy Seale or any of the Seale family?

A. No, I didn't, sir.

Q. Thank you. Just before I sit down, one thing. These postings that you got to these strange places Newfoundland, did you consider them as cruel and unusual punishment?

A. No, sir.

MR. ROSS

Thank you very much, no more questions.

CHAIRMAN

Well, I must remind Mr. Ross that we do have the power of contempt.

MR. WILDSMITH

Nothing, My Lord.

CHAIRMAN

Now that leaves Mr. Broderick.