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

**Volume 54**

Held: March 9, 1988, in the Imperial Room, Lord Nelson Hotel,  
Halifax, Nova Scotia

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

Counsel: Messrs. George MacDonald, Q.C., Wylie Spicer, and David  
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Mr. Ronald N. Pugsley, Q.C.: Counsel for Mr. John F. MacIntyre

Mr. Donald C. Murray: Counsel for Mr. William Urquhart

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Mr. William L. Ryan, Q.C.: Counsel for Officers Evers, Green and  
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Mr. Charles Broderick: Counsel for Sgt. J. Carroll

Messrs. S. Bruce Outhouse, Q.C. and Thomas M. Macdonald: Counsel  
for Staff Sgt. Wheaton and Insp. Scott

Mr. Guy LaFosse: Counsel for Sgt. H. Davies

Messrs. Bruce H. Wildsmith and Graydon Nicholas: Counsel for  
the Union of Nova Scotia Indians

Mr. E. Anthony Ross: Counsel for Oscar N. Seale

Mr. E. Anthony Ross and Jeremy Gay: Counsel for the Black  
United Front

Court Reporting: Margaret E. Graham, OCR, RPR

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MR. URQUHART, EXAM. BY MS. DERRICK

1 MARCH 9, 1988 - 9:40 a.m.

2 MR. CHAIRMAN

3 Good Morning. Ms. Derrick?

4 MS. DERRICK

5 Thank you, My Lord.

6 WILLIAM URQUHART, still sworn, testified as follows:

7 EXAMINATION BY MS. DERRICK

8 Q. Mr. Urquhart, my name is Anne Derrick and I represent  
9 Donald Marshall, Jr. I want to take you back and discuss with  
10 you your role in this investigation, the original investigation.

11 Would it be fair to say that you were really a central  
12 character in the investigation? That there were really two  
13 main investigators and you were obviously one of them?

14 A. I was one of them, yes.

15 Q. And you were the person that was most closely involved with  
16 Sgt. MacIntyre in the investigation, isn't that right?

17 A. Not at the start. Det. M. R. MacDonald was.

18 Q. But once you came back to work, from then on you were the  
19 person most closely involved.

20 A. Yes.

21 Q. And you didn't occupy the position of being a minion or a  
22 jobboy. You were, in fact, Mr. MacIntyre's peer.

23 A. I worked very closely with him, yes.

24 Q. And on an equal footing, would that be fair to describe?

25 A. He was in charge of the investigation and I was helping.

1        Anything that he asked me to do, I did it to the best of my  
2        ability.

3        Q. But he would have relied your ability and your experience.  
4        He didn't treat you like a junior. He would have relied on you  
5        more as a peer or an equal, would that be fair?

6        A. I suppose it would be fair, yes.

7        Q. And at that time, you were an experienced police officer.

8        A. Yes.

9        Q. So you had discussions with Sgt. MacIntyre about where the  
10       investigations should go, is that correct, and who should be  
11       interviewed?

12       A. He was in charge of the investigation, as I said at the outset. I  
13       took my direction from him. If he come up with anything to  
14       be done, statements to be taken, or anybody to be taken in or  
15       try to be found, I helped to the best of my ability to do that.

16       Q. But there must have been a process of conferring with him  
17       and he with you. You must have exchanged ideas. In fact, I  
18       think you said that in your direct examination that you  
19       discussed ideas and opinions.

20       A. Yes.

21       Q. So there was a give and take, a flow of communication  
22       between...

23       A. Yeah, I would say there was, yes.

24       Q. It wasn't just that he had ideas and said to you, "Go do this,"  
25       without there being any discussion about why you were going



1 to go and do that or what it was that he wanted out of that.

2 A. No, there would be a reason for everything that's done.

3 Q. And you would understand the direction that the  
4 investigation was going in according to Mr. MacIntyre.

5 A. Yes.

6 Q. Is that fair? Did you discuss with him possible scenarios of  
7 what happened that night?

8 A. When I was briefed, to the best of my knowledge, I had a  
9 picture of what happened that night, yes.

10 Q. Do you recollect what that picture was?

11 A. That there was a stabbing in the park. Later the boy died,  
12 Mr. Seale. And there was many people to interview and  
13 witnesses to see.

14 Q. In that early briefing, was there any discussion that there  
15 may have been some argument going on between the,  
16 between Seale and Mr. Marshall?

17 A. I can't recall if there was.

18 Q. There may have been?

19 A. There may have been, but I can't recall at this time whether  
20 there was or there wasn't.

21 Q. Mr. MacIntyre briefed you throughout the investigation, is  
22 that correct?

23 A. Yes, we talked over the case, yes.

24 Q. So this process of conferring and discussing the case went on  
25 throughout.

1 A. I would say it did, yes.

2 Q. And anything that you did, you kept Mr. MacIntyre informed.

3 A. Yes.

4 Q. So he informed you what was going on, you informed him.

5 A. Correct.

6 Q. Now you said in your direct examination, and I'm not going to  
7 quote it. It's found in Volume 52 at page 9512. But you said  
8 that you had no idea about particular leads or theories that  
9 were being pursued in the course of the investigation. And  
10 you also said that you had no recollection of the investigation  
11 involving looking for two men, one gray-haired man. What  
12 I'm going to suggest to you is that given your role in the  
13 investigation, it's most likely that had there been an  
14 investigation looking for a gray-haired man, had there been  
15 particular theories being pursued, you would have known  
16 about that?

17 A. I can't recall at this time.

18 Q. I know you can't recall...

19 A. It's a long time ago and I...

20 Q. I know that it is and I know that you can't recall it but what  
21 I'm asking you to agree with is that given the role you've  
22 described that you occupied in the investigation, had there  
23 been a search for a gray-haired man and had there been  
24 certain theories being pursued, given your central role, you  
25 would have known about that?

1 A. I would say yes.

2 Q. Now this was one of your first murder investigations. Am I  
3 correct in saying that?

4 A. No, I was on, it was an investigation that... but I was on two  
5 others before that, prior to that.

6 Q. It must have been a very important case, though, at the time.

7 A. Any murder case is very important.

8 Q. That's what I was wondering. I would assume that although  
9 you had other work ongoing at the time, that this must have  
10 succeeded in importance any other work that you were  
11 presently seized with.

12 A. Any case that police are involved in, in my opinion, is very,  
13 very important. And murder, rape, arson, any of them are  
14 very important.

15 Q. Murder cases were rare in Sydney, though, is that not  
16 correct?

17 A. Yes.

18 Q. When you were first briefed by Mr. MacIntyre, do you have  
19 any recollection whether he told you about the description of  
20 the two men that is found in M. R. MacDonald's notes, one  
21 being a gray-haired man?

22 A. I can't recall now if that discussion took place or not.

23 Q. Do you recollect whether he told you that Mr. Marshall had  
24 been around the police station all week-end?

25 A. No, I don't know that.

1 Q. And I believe by the time you came to work on the Monday  
2 morning, there had been about four statements taken by that  
3 time. Mr. Marshall had given a statement. These are found in  
4 Volume 16. Mr. Chant and Mr. Pratico had given their first  
5 statements and a statement had been taken from Alanna  
6 Dixon. Do you recollect whether you discussed those  
7 statements with Mr. MacIntyre, whether you saw those  
8 statements?

9 A. I don't recollect if I did or not.

10 Q. This would be the kind of thing you would have wanted to  
11 know about or you would have wanted to be part of the  
12 briefing though, is that correct?

13 A. Yes, you'd want to know as much about the case as you could.

14 Q. So you would want to know who was interviewed and what  
15 they may have said?

16 A. I would say, yes.

17 Q. Now I believe you said that you had, you came out of that  
18 briefing, or perhaps I'm making that assumption, that you  
19 had on Monday a list of witnesses to contact and to take  
20 statements from.

21 A. The list was introduced as evidence yesterday.

22 Q. I'm sorry?

23 A. The list of witnesses in my handwriting was produced  
24 yesterday as evidence and I don't know what day that was  
25 taken down, whether it was Monday, Tuesday, or what day it

1 was. There's no date on it to say which day that list was  
2 given to me or I had copied that list down to take those  
3 statements.

4 Q. Is it fair to say that given that Mr. MacIntyre was going to be  
5 relying fairly heavily on you to be his right-hand support in  
6 doing this investigation that he would have probably given  
7 you direction and requested you to do things very early on, as  
8 soon as you kind of came on the scene.

9 A. I didn't get involved, I don't believe, in the taking of  
10 statements until Wednesday, and that was the first time my  
11 name appears, I believe, on any of the statements.

12 Q. I think, yes, you took a statement on June 2nd from Frankie  
13 French. I think that's the first statement you took. Yeah,  
14 that's June 2nd.

15 A. What day would that be?

16 Q. That would be Wednesday.

17 A. Wednesday.

18 Q. When you did start to try and locate people and obtain  
19 statements from them, I take it that given your central role in  
20 the investigation, you must have known what you wanted out  
21 of those witnesses? Would that be fair to say that you must  
22 have had some discussion with Mr. MacIntyre what it was  
23 you were looking for from these people?

24 A. Yes, to gather all the evidence that you could to conclude the  
25 case, if possible.

MR. URQUHART, EXAM. BY MS. DERRICK

1 Q. Do you have any recollection at all what were the central  
2 concerns that you were pursuing in the getting of this  
3 information from people?

4 A. Your concern would be to get all the evidence that you could.

5 Q. Do you have any recollection of what that evidence would  
6 have been, what theory may have been being pursued?

7 A. Who was in the park? What role did they play? Who did  
8 they see? And all those questions would have to be answered  
9 if possible by the witnesses that you were interviewing.

10 Q. Do you remember if you were trying to find out any more  
11 about a gray-haired man?

12 A. Certainly anything that would come up. Any question that  
13 would come up and anybody that would tell you there were  
14 certain people in the park, you would ask them to describe  
15 them to the best of their knowledge and you would take it  
16 down in writing.

17 Q. So given that it's likely that when you came in on Monday  
18 you knew that Mr. Marshall had given a statement in which  
19 he describes a gray-haired man, is it then to fair...

20 MR. CHAIRMAN

21 Ms. Derrick, this witness has told us about five times already  
22 this morning. He didn't, he wasn't told about any statements, so  
23 how can he remember it?

24 MS. DERRICK

25 I think he said that he doesn't recollect, but if that's what he

1 would...

2 MR. CHAIRMAN

3 I change recollect, he doesn't recollect but he may remember,  
4 is that what you're saying?

5 MS. DERRICK

6 All I'm saying and I think the evidence we have from this  
7 witness is that he doesn't have an actual recollection.

8 MR. CHAIRMAN

9 That's right.

10 MS. DERRICK

11 But that that is very likely what he would have known about.  
12 He would have known about those statements and he would have  
13 known about the gray-haired man.

14 MR. CHAIRMAN

15 That's right. That's as far as he can go.

16 MS. DERRICK

17 That's right.

18 MR. CHAIRMAN

19 So what's the point of pursuing it again?

20 MS. DERRICK

21 I appreciate that, My Lord. I'm interested in getting from this  
22 witness the kinds of things that in all likelihood he would have  
23 been pursuing.

24 MR. CHAIRMAN

25 I don't mind you trying to get any new information from any

1 witness, but repetition has got to come to an end.

2 MS. DERRICK

3 I appreciate that, My Lord, and I know that was your  
4 message yesterday. So I will try and keep that to a minimum.

5 BY MS. DERRICK

6 Q You don't recollect there being any particular theory being  
7 pursued, I think you say about the case, is that correct now?

8 A. What do you mean by "theory"?

9 Q An idea of what happened in the park and who may have  
10 committed this murder. Was it a gray-haired man? Was it  
11 Junior Marshall? Those would be different theories that could  
12 have been being put forward. And I think your evidence has  
13 been that you don't recollect now what the theory may have  
14 been.

15 A. No.

16 Q Was it like Mr. MacIntyre not to have a theory about a case?  
17 When you worked with him, was it your experience that he  
18 did develop a theory or try to develop a theory fairly early  
19 on?

20 A. I can't speak for Mr. MacIntyre's thoughts at that time. All I  
21 can go by is what, the work that he give me to do and, as I  
22 said before, I did it to the best of my ability and I got the  
23 witnesses, took statements, tried to get as much information  
24 from each of the witnesses that I could.

25 Q In your experience with working with Mr. MacIntyre,



1           though, because this was obviously not the only case you  
2           worked on with him, was it your experience that he would try  
3           and develop a theory about the case fairly early on, that he  
4           might discuss it with someone like you and see if he could  
5           come up with some scenarios or some ideas to pursue about  
6           who may have been responsible for the particular offence  
7           that you were investigating?

8           A. If you're suggesting that he picked out any particular name  
9           and said to me, "This is the person that we'll have to pursue,"  
10          no.

11          Q. That wasn't...

12          A. No.

13          Q. His style.

14          A. No.

15          Q. Is that your answer? Do you recollect whether you made any  
16          suggestions to Mr. MacIntyre early on in that early briefing  
17          such as, "Well, maybe we should do a canvass of the  
18          neighbourhood."

19          A. It's quite possible but I...

20          Q. Now I believe you have said that Mr. MacIntyre was  
21          suspicious about Mr. Marshall's wound on his arm, that he  
22          had concerns about that. That is one of your recollections, is  
23          that correct?

24          A. Yes.

25          Q. And I think you've said as far as, to your knowledge, there

1 was no hard and fast suspect by June the 3rd, which was the  
2 Thursday of that week.

3 A. No.

4 Q. Mr. MacIntyre, when he testified, said that when he got hold  
5 of Mr. Marshall's jacket on June the 2nd, that at that point in  
6 his mind Mr. Marshall became a suspect. Does that help your  
7 recollection as to whether you learned any earlier that Mr.  
8 Marshall may have been a suspect?

9 A. No.

10 Q. I mean there is evidence as well to suggest that Mr. Marshall  
11 was a suspect much earlier than that in Mr. MacIntyre's mind,  
12 but I'm referring to Mr. MacIntyre's evidence itself. The  
13 jacket did have cuts on it. I don't remember your evidence.  
14 You don't recollect whether you ever saw the jacket, is that...

15 A. No, I don't recollect if I ever saw the jacket.

16 Q. Now your notes which are found in Volume 16 at page 137  
17 show that you...There are notes here with respect to Dr. Virick  
18 and also Nurse Davis, and both of them refer to, in Virick's  
19 case, "Did not cut jacket sleeve," and in the nurse's case, "She  
20 did not cut the jacket sleeve." So obviously you and... That's  
21 what they say. You can take my word for it. You and Mr.  
22 MacIntyre obviously were interested in the cuts on Mr.  
23 Marshall's jacket.

24 A. Yes, you'd be interested in any evidence that you could gather  
25 to help your case.

1 Q. Do you have any explanation today why you didn't ask Mr.  
2 Marshall how those cuts got there?

3 A. No recollection, no.

4 Q. I think the evidence was you don't remember having done  
5 much on that Monday with respect to this case. We see in the  
6 evidence that Mr. MacIntyre appears to have taken a  
7 statement from a George and Sandy MacNeil. That was taken  
8 on the Monday, May 31st. It's found in Volume 16 at page  
9 26. In it, the Mr. MacNeils describe "two men, one with gray  
10 hair." And that's a very similar description to a description in  
11 Mr. Marshall's statement which had been taken earlier. Do  
12 you have any explanation as to why more effort wasn't made  
13 to look for a gray-haired man?

14 A. No, I have no idea.

15 Q. I think you testified that you remember discussions with Mr.  
16 MacIntyre about Mr. Marshall's wound being self-inflicted,  
17 the wound on his arm. Do you have any recollection of those  
18 discussions?

19 A. As I stated yesterday, if you're protecting yourself, I would  
20 think that the wound would be on the outer arm instead of on  
21 the inner arm.

22 Q. So part of the concern then was the location of the wound.

23 A. Right.

24 Q. I just want to go back to the issue of the gray-haired man for  
25 a moment. We have an Exhibit 121, which is this

1 fingerprinting sheet. I think you've seen it before, Mr.  
2 Urquhart, showing that in April, 1970 you took Mr. Ebsary's  
3 fingerprints and that the sheet seems to indicate that Mr.  
4 Ebsary had been remanded on a weapons charge involving a  
5 knife. Now if I understand how the Sydney Police  
6 Department worked at that time, am I correct in saying that  
7 you would have taken this case over from one of the  
8 constables, you as an investigating detective would have been  
9 responsible for further investigation of this charge against Mr.  
10 Ebsary?

11 A. I wouldn't say that I was. I would say that whoever... I just  
12 did the fingerprinting.

13 Q. So the fact that you did the fingerprinting doesn't necessarily  
14 indicate that you were in charge of the investigation relating  
15 to Mr. Ebsary?

16 A. No, it doesn't.

17 Q. Investigations were the territory of the detectives though, is  
18 that correct, not foot patrolmen?

19 A. Whoever was assigned to the case, yes, in the Detective  
20 Department. But I'd have to see documentation on that case  
21 to answer that question thoroughly.

22 Q. The question being whether you were the one investigating  
23 this.

24 A. I'm quite sure that I wasn't.

25 Q. I understand your evidence.

MR. URQUHART, EXAM. BY MS. DERRICK

1 MR. MURRAY

2 With respect, My Lord, in fairness to the witness, I don't think  
3 it's fair to suggest that there was anything turned over to any  
4 investigator in this case. I believe Mr. Ebsary was apprehended  
5 on April 8th, had his fingerprints taken, pleaded guilty on April  
6 the 9th, and there was no further investigation.

7 MS. DERRICK

8 That may well be.

9 MR. CHAIRMAN

10 If you're done with that point, can we move on to something  
11 else?

12 MS. DERRICK

13 I'm doing my best, My Lord.

14 BY MS. DERRICK

15 Q. Now I expect that in the course of this Inquiry, you've heard

16 Mr. Ebsary described as "a colourful character", is that fair?

17 A. When I saw him on the stand before the Inquiry, I thought  
18 that, yes.

19 Q. Would you agree that he's a memorable character?

20 A. To remember him?

21 MR. CHAIRMAN

22 We're not going to forget him.

23 MS. DERRICK

24 I'm just wondering if Mr. Urquhart would forget him.

25 BY MS. DERRICK

1 Q. And I guess where I'm getting to here, Mr. Urquhart, is Mr.  
2 Ebsary is, I think all would agree a colourful character. You  
3 were involved in taking his fingerprints and we do have your  
4 evidence that you took fingerprints of a lot of people. But a  
5 year after you have a description for a short gray-haired man  
6 in the course of a murder investigation involving a knife, Mr.  
7 Ebsary never came to your mind, even though you would  
8 have had contact with a short gray-haired man who was  
9 remanded on a weapons charge just a year before?

10 A. No, I wouldn't have no knowledge of Mr. Ebsary because, at  
11 that time, I did a lot of fingerprinting for the department and  
12 I just simply fingerprint them, take them out, turn them over  
13 to the stenographer and she'd fill in the colour of the eyes,  
14 weight, height, residence, and on the bottom of the sheet what  
15 was the disposition of the case.

16 Q. And you don't think that it's unusual that you wouldn't  
17 recollect this person a year later when you're dealing with a  
18 description very similar in all its material elements?

19 A. I cannot answer that at this time, no.

20 Q. Now there was also a Robert Patterson that was discussed and  
21 we know about Robert Patterson, in part, because of Mr.  
22 Pratico's first statement which is found in Volume 16 at page  
23 22. This is Mr. Pratico's May 30th statement when he  
24 describes two fellows running from the direction of the  
25 screaming, I'm paraphrasing it, and jumping into a white

1 Volkswagen. And then he goes on to say: "I saw the fellows  
2 twice last night walking near the park." He goes on to say, "I  
3 seen them walking around. Bobbie, Robert Patterson said  
4 they are from Toronto Satan's Choice," sorry, "Saint's Choice  
5 bike gang." Do you see that at the end of Mr. Pratico's  
6 statement there?

7 A. Yes.

8 Q. What I want to ask you is before June 4th when you get the  
9 two eyewitnesses, Chant and Pratico, who identify Mr.  
10 Marshall, before that, Mr. Patterson was the only key person  
11 in this investigation to the identify of the killer or killers in  
12 this instance, is that correct? We have a statement where he  
13 says that he's seen them and that, Pratico says he seen them  
14 and Patterson can identify them as being members of a bike  
15 gang.

16 A. That's what he told to Patterson...or to Pratico.

17 Q. That's right, yes. And in the alternative, you also say that  
18 anybody who was in the park should be regarded, was  
19 regarded as a suspect. So either way you look at it, Mr.  
20 Patterson is a pretty important person to find, is that fair to  
21 say?

22 A. Yes, I would say, and we did the best we could to find him  
23 and we didn't find him.

24 Q. Well, that's what I'm wondering. You say you did your best  
25 to find him. You knew his mother and you knew where he

1 lived. Did you ask her where he was, if you want to his house  
2 and he wasn't there?

3 A. I would imagine I went to the house but I can't tell you at  
4 this date, this day whether I went to the residence of  
5 Pattersons or not. I would say yes that I went there, or  
6 somebody went, and that we looked around. He might have  
7 been away. He might have left town for a few days. I have  
8 no idea.

9 Q. And you don't recollect what efforts you made to try and find  
10 him by asking what people you asked, where you went to  
11 look for him, what members of the police department you  
12 may have...

13 A. No, because I have no notes to say that I did or I didn't.

14 Q. Now judging from Mr. Patterson's record, which we've already  
15 seen as well, it appears he had had a number of contacts with  
16 the Sydney Police. It's very likely he was picked up by the  
17 Sydney Police before this particular matter, so that the  
18 Sydney Police would have had to look for him on other  
19 occasions.

20 A. I'd have to see documentations before I could say anybody  
21 was picked up. It wouldn't be fair to him or to anybody else  
22 to say that I had picked him up without documentation to say  
23 that.

24 Q. No, I don't mean you but I mean members of the Sydney  
25 Police Department.



MR. URQUHART, EXAM. BY MS. DERRICK

1 A. That, again, I would have to have documentation for because  
2 it wouldn't be fair to say that somebody picked up Bobbie  
3 Patterson, or whoever it might be, without knowing for sure.

COMMISSIONER POITRAS

4  
5 Do we not have that...

MS. DERRICK

6  
7 We do.

COMMISSIONER POITRAS

8  
9 Information here? Why don't we refer the witness to it,  
10 then?

MS. DERRICK

11  
12 Q. I think it's Exhibit 120.

13 A. What page?

14 Q. It's an exhibit. It's just a few sheets of paper. It's just  
15 perhaps the front page there, Mr. Urquhart.

16 A. Yes.

17 Q. Where you see "Criminal convictions and related information.  
18 1970, Break and enter and theft; 1971, Theft over; 1971, B&E  
19 and Theft..." So you can see from that that there were a  
20 number of occasions when Mr. Patterson was charged...

21 A. Yes.

22 Q. With offences.

23 A. Correct.

24 Q. So looking at that, wouldn't you agree that Mr. Patterson must  
25 have been picked up in Sydney by the police on other

1 occasions?

2 A. Yes, I would say he was.

3 Q. And would it be fair to say, and I think the record shows this,  
4 too, that in September of 1971, Mr. Patterson was in jail for  
5 an offence but by September, 1971, although you would have  
6 known where to find Mr. Patterson because he was in jail, he  
7 just wasn't of much interest any more because the case had  
8 been solved by that point?

9 A. I wouldn't say that he was of no interest. I think that's  
10 unfair. I would say that he would be of interest but why we  
11 didn't get him, I have no answer for.

12 Q. There's no evidence that you can give us that Mr. Patterson  
13 was looked for...

14 A. No.

15 Q. Any further. Now June 4th was the really significant day in  
16 this investigation, isn't that correct, Mr. Urquhart? That's  
17 when you got the two eyewitnesses.

18 A. Yes.

19 Q. Mr. Pratico in his June 4th statement says, and Mr. MacIntyre  
20 took this statement, but he says in his statement, "I stopped  
21 where I showed you." This is on page 41 of Volume 16 in  
22 about the middle of the page, "I stopped where I showed  
23 you."

24 A. Yeah.

25 Q. It's likely, isn't it, that you would have been interested in

1 hearing that. Do you recollect whether you asked Mr.  
2 MacIntyre about that? Whether you inquired as to whether  
3 they had been in the park together?

4 A. [No audible response.]

5 Q. Now you must have known that this new statement by Mr.  
6 Pratico, his second statement, was now in conflict with Mr.  
7 Chant's earlier statement, because in Mr. Chant's earlier  
8 statement, he describes a different set of events than Mr.  
9 Pratico is now describing on June 4th.

10 A. Correct.

11 Q. I can refer you to both statements if you want, but is that...

12 A. The other statement is?

13 Q. The other statement is Mr. Chant's May 30th statement, which  
14 is found on page 18 of Volume 16, and he describes a  
15 different set of events than Mr. Pratico described as an  
16 alleged eyewitness on the 4th of June. So my question is,  
17 being a central figure in this investigation, you would have  
18 known on June 4th that you had conflicting statements  
19 between Mr. Pratico and Mr. Chant.

20 A. Yes, I would imagine that that was the reason that we went to  
21 Louisbourg to take the second statement.

22 Q. Now you say as well that on June 4th when Mr. Pratico gave  
23 you this statement that you were satisfied that he was now  
24 telling the truth. Would that be because it fitted with the  
25 theory that Mr. Marshall had committed the offence?

MR. URQUHART, EXAM. BY MS. DERRICK

1 A. Would you mind repeating that, please?

2 Q. You've said in your evidence earlier that on June 4th when  
3 you got the statement from Mr. Pratico, you were satisfied  
4 that that was the truth. And is that because it fitted with  
5 your theory that it was Mr. Marshall that committed the  
6 offence?

7 A. No, because at that time, I personally didn't believe that Mr.  
8 Marshall had committed the offence until we had all the  
9 evidence in.

10 Q. So at that point, although you say you have no reason to  
11 disbelieve Mr. Pratico, there were some reasons to disbelieve  
12 Mr. Pratico. The reason to disbelieve Mr. Pratico was that  
13 there was Junior Marshall's statement itself. There was a  
14 different statement from Mr. Chant that doesn't identify Mr.  
15 Marshall. There were statements identifying a gray-haired  
16 man. So those would be reasons to disbelieve Mr. Pratico, but  
17 you didn't disbelieve him.

18 A. I would say no, when we took the second statement, I didn't  
19 disbelieve him.

20 Q. I just want to ask you a bit about your experience in taking  
21 statements, Mr. Urquhart. Over your years of being a police  
22 officer, you've witnessed and taken many statements.

23 A. Yes, I have.

24 Q. And surely it's fair to say that there's always discussion with  
25 the person beforehand, before the actual question and answer

1       portion of the statement. An explanation of why they're  
2       there. Maybe they ask some questions. Perhaps they, the  
3       witness, are nervous. Is that not fair to say?

4       A. No, any statement that I've ever taken, I've taken them into  
5       the office or they've come in. I haven't gone into their family  
6       background, if that's what you mean, or into anything else. I  
7       tell them that I'm taking the statement concerning a certain  
8       matter. I start it out, like all my statements, time, date, their  
9       name, date of birth, and I tell them I'm investigating a certain  
10      matter and what, if anything, can they tell me about it. And I  
11      don't go into any preamble of other than that.

12     Q. But there is some introduction, there is some discussion at the  
13      beginning of the statement.

14     A. That's, the only introduction would be I'd introduce myself  
15      and tell them who I was, if they didn't know me personally.

16     Q. But what if, I mean have you had the experience that  
17      witnesses are nervous and what is this going to mean? Am I  
18      going to have to testify in court? What effect is this going to  
19      have on my job? Have you had that experience where  
20      witnesses have asked those kinds of questions?

21     A. Yes, I've had experiences that people would say to me, "Have  
22      you got a cigarette?" That's one of the questions. And then,  
23      "If I give a statement, will this hurt my chances of getting in  
24      the R.C.M.P.?" I've had all those questions asked of me.

25     Q. And when you have that kind of exchange with a witness,

1 that doesn't always get written down on the statement, does  
2 it?

3 A. Asking for a cigarette?

4 Q. Asking whether it's going to hurt their chances to get to the  
5 R.C.M.P. and your response to that.

6 A. I suppose I had put it in statements, yes, but I can't recall  
7 today whether I have or I haven't. But I've never gone into  
8 any long preamble on taking the statement.

9 10:10 a.m. \*

10 Q. Then would you agree, as well, there may be discussion  
11 throughout the statement, that there may be discussion at the  
12 end of the statement, as well, and that all of this doesn't  
13 necessarily religiously get taken down?

14 A. After the statement is taken and signed by whoever gives the  
15 statement if they wish to sign, and signed by the witness, if  
16 there's one there, and myself then if they want to discuss it  
17 certainly, they're free to do so.

18 Q. And that isn't necessarily recorded.

19 A. No, because the statement is over then. Your statement is  
20 free and voluntary.

21 Q. Now, what can you tell us about statement-taking techniques,  
22 for example I've heard of a technique called the sort of good  
23 guy/bad guy, the good cop/bad cop technique, and I'm  
24 curious about this because it's sort of the sort of thing that  
25 Scott MacKay, Robert MacKay described in his evidence before

1 the Inquiry which is in volume...transcript Volume 4 at page  
2 667. And, in that Mr. MacKay says, "I found Detective  
3 Urquhart quite helpful and friendly. I found Detective  
4 MacIntyre overbearing and bullish." Now, I'm not asking you  
5 to comment on the accuracy of that. I understand from your  
6 evidence you don't recollect that statement. What is the  
7 purpose of such a technique if it's utilized that there's kind of  
8 a friendly cop and there's an unfriendly cop?

9 A. I didn't know there was such a...such a...I didn't know such a  
10 thing...

11 Q. You've never heard of that as a...

12 A. I...

13 Q. ...police technique for getting statements out of people.

14 A. No. And I have never used it.

15 Q. Have you heard yourself described as "father confessor"?

16 A. That is very difficult to answer, I've been called many things  
17 I suppose in my career as a policeman.

18 Q. But particularly the phrase "father confessor", does that...

19 A. I was always, I'd say, a kind person and I didn't like to abuse  
20 anybody and I never have abused anybody, and if I was kind  
21 to people and they wanted to call me nice names or say nice  
22 things about me I...

23 Q. You didn't object to that.

24 A. No, I did not object to that.

25 Q. I'm referring actually to Volume 11 in the transcripts at page

1 1992. This is evidence of John Butterworth, a police officer,  
2 and it's in fact in response to questions by your counsel. Mr.  
3 Murray says, "Would I be correct, sir, that Mr. Urquhart had a  
4 reputation around the station that developed into a nickname  
5 as the "father confessor"?" Mr. Butterworth says, "Yes, I  
6 believe there was something." And Mr. Murray says, "And  
7 the reason for that nickname was because people wanted to  
8 talk to him, they seemed to open up to him, is that correct?"  
9 Does that refresh your memory? Did you...do you recall  
10 people calling you "father confessor" or referring to you that  
11 way?

12 A. They might have called me that when I wasn't around but...

13 Q. You don't remember.

14 A. Nobody has every come up and said, "How are you this  
15 morning, father," or anything like that.

16 Q. Uh-hum. Now, that means to me if people regarded you that  
17 way, if you were regarded that way as...and describing you as  
18 someone people wanted to open up to, people wanted to  
19 confess to or talk to you, that you got what you wanted when  
20 you took statements, would that be accurate?

21 A. I was successful taking statements, yes, I would say.

22 Q. And that would be a valuable asset, would it not, to be able to  
23 get people to open up if you're trying to take a statement?

24 A. You didn't force anybody to open up. You asked them...

25 Q. No, but if you have that ability, that facility with people, that



- 1 would be very helpful as a police officer.
- 2 A. Yes, I would say it would be.
- 3 Q. I want to ask you about Mr. Chant's Louisbourg statement  
4 that was June the 4th. Why were there so many people  
5 present at his statement? You've already said in your direct  
6 evidence that you feel that if there are more than two people  
7 present in the taking of a statement that there's a possible  
8 risk of intimidation of that witness. So, why was that  
9 permitted to happen in Louisbourg?
- 10 A. He was well known, the people that were involved were well  
11 known. There was his mother. There was the Chief of Police  
12 who he knew very well, and Lawrence Burke or Larry Burke,  
13 his probation officer.
- 14 Q. Even if we assume that he would have been comfortable with  
15 his mother there, which I don't doubt, did it cause you no  
16 concern that there would be another police chief there in  
17 addition to you and Mr. MacIntyre, and his probation officer,  
18 who was obviously his probation officer with respect to  
19 another offence that he had committed?
- 20 A. No, it never crossed my mind that it would be an intimidation  
21 to him, no.
- 22 Q. Do you have any thoughts about that now looking back on it  
23 that that was...
- 24 A. No.
- 25 Q. ...undesirable to have all those people there?

1 A. I wouldn't say it was undesirable, no, but...I really... I don't  
2 think it would hurt the boy in one way or the other.

3 Q. I believe you agree with Mr. Magee that there was no  
4 pressure put on Mr. Chant and that there was no...there was  
5 no suggestions, sorry, there was no pressure put on Mr. Chant  
6 and there was no duress or no influence applied to him, is  
7 that correct?

8 A. That's correct.

9 Q. What you don't agree with, am I right, is that you don't agree  
10 with Mr. Magee saying that there was certain suggestions put  
11 to Mr. Chant?

12 A. No, I can't remember of any suggestions put to Mr. Chant to  
13 give that statement.

14 Q. And is it your evidence that Mr. Magee must be mistaken in  
15 saying that there were suggestions put to Mr. Chant?

16 A. He could very well be, yes.

17 Q. Can you give any explanation as to why Mr. Magee's  
18 recollection would only be partially correct?

19 A. I can't answer that. I have no idea what Mr. Magee was  
20 thinking.

21 Q. If there were suggestions made, if Mr. Magee was correct, if  
22 we accept that for the moment, then any of these suggestions  
23 or any of this assistance is certainly not reflected in Mr.  
24 Chant's June 4th statement, is it?

25 A. No.

MR. URQUHART, EXAM. BY MS. DERRICK

1 MR. CHAIRMAN

2 ... a response, it's a...

3 MS. DERRICK

4 Well, he can certainly refer to the statement on page 46.

5 MR. URQUHART

6 A. Would you mind repeating that question?

7 Q. Certainly. I think the point is probably made, but I'm simply  
8 saying that if Mr. Magee was correct that suggestions were  
9 made to help Mr. Chant with his statement that any of these  
10 suggestions are not reflected in the statement that was  
11 recorded, which is the statement shown on page 46 of Volume  
12 16. Certainly we don't see any statements in there saying,  
13 "We have another witness that saw you there."

14 A. No.

15 Q. I think it's your evidence you can't account for how Mr. Chant  
16 and Mr. Pratico came up with the same story, is that...

17 A. No, I can't account for it, no.

18 Q. Do you agree that what you're saying is that quite by accident  
19 on June 4th you got two remarkably similar stories from what  
20 you believe to be disinterested witnesses which we now know  
21 are false?

22 MR. MURRAY

23 Well, with respect, whether it was by accident or not, he said  
24 he doesn't have any idea as to how...

25 MS. DERRICK

1 That's why I'm asking whether that's the effect of his  
2 evidence.

3 A. No, I have no idea.

4 Q. You have no idea of how you got those statements. I'd like to  
5 ask you about Patricia Harriss' statement. I believe in your  
6 evidence you were asked why her June 17th statement,  
7 which is at page 63 of Volume 16, why it wasn't signed and  
8 you said you don't recall, that maybe she asked to go to the  
9 bathroom and maybe she asked to see her mother. If that  
10 was the case, wouldn't it have been a normal procedure to  
11 have waited until she got back and then resumed the  
12 statement?

13 A. Well, I've been before the Commission, I've been asked this  
14 question before, and if I had an answer and I'm not trying to  
15 be...

16 Q. I...

17 A. I would only be too glad to clear that point up, but I just don't  
18 know.

19 Q. No, and...I was just referring you to your evidence so that, you  
20 know, you would be able to remember it because I realize  
21 there's been an intervening day since you testified. But the  
22 question I am asking you is that if there had been some  
23 interruption such as Patricia Harriss going out to speak to her  
24 mother for a minute or going to the bathroom, wouldn't a  
25 normal procedure have been to have resumed a statement

1       once she returned?

2       A. Yes.

3       Q. To have continued the statement at that point.

4       A. Yes.

5       Q. Now, in your direct evidence you said that your signature on  
6       a statement as a witness indicated that the question and  
7       answers in the statement were true to the best of your  
8       knowledge. The question I want to ask you is that if in the  
9       taking of a statement you believed that a witness was lying,  
10      would you then sign that statement as a witness?

11      A. It was the story that he was telling and if it was proved or  
12      evidence, you know, I can't quite follow your question.

13      Q. Well, it may be that...

14      COMMISSIONER EVANS

15      Just a moment. What you're asking, as I understand his  
16      evidence was, he is saying that what was said was actually  
17      recorded. He doesn't say that what is...that the statement is true  
18      that is, in the sense of whatever the witness says is true. I...

19      MS. DERRICK

20      I'm certainly happy for this witness to clear up what he  
21      meant, but in fact what he said at page 9486 is that, the question  
22      is, "If you signed as a witness to a statement, what does that  
23      signature indicate?" and the answer is, "It indicates that  
24      everything that was asked and the answers given in that  
25      statement were true to the best of your knowledge." Now...

1 COMMISSIONER EVANS

2 To the best of whose knowledge?

3 MS. DERRICK

4 At the best of Mr. Urquhart's knowledge.

5 COMMISSIONER EVANS

6 How would he know?

7 MS. DERRICK

8 Well, that's my question and that's why...

9 COMMISSIONER EVANS

10 Well, I think...

11 MS. DERRICK

12 ...I want to clarify if that's, in fact, what he meant.

13 COMMISSIONER EVANS

14 I think the reasonable interpretation is that what was written  
15 down was actually said.

16 MS. DERRICK

17 I think that is a reasonable interpretation, that's why I  
18 wanted Mr. Urquhart to be able to explain whether that is, in fact,  
19 the explanation or...

20 COMMISSIONER EVANS

21 Miss Derrick, how can this witness say that because he was  
22 present and a statement was given that what the person giving  
23 the statement said was true? How does he know that?

24 MS. DERRICK

25 No, I...My Lord, I quite agree. I don't see how he could say

1 that.

2 COMMISSIONER EVANS

3 Well, isn't the other interpretation the only sensible or  
4 reasonable one?

5 MS. DERRICK

6 That's what I was putting to the witness so, that if, in fact,  
7 that is his explanation he can give that to us, because I think that  
8 does leave, although maybe an unreasonable explanation, it does  
9 leave an explanation that could be interpreted either way.

10 Q. So, in fact, what you mean when you say that by signing as a  
11 witness you are, in fact, saying that what is in this statement  
12 represents what was discussed between the person taking the  
13 statement and the person that gave the statement, is that  
14 correct?

15 A. Yes.

16 Q. Okay. Thank-you. Now, setting aside for a moment these  
17 allegations that you crumpled up Patricia Harriss' first  
18 statements and threw them on the floor or threw them away,  
19 if, in fact, in the taking of a statement that was done, that  
20 would indicate, would it not, that that statement was not  
21 acceptable?

22 A. I have never crumpled up statements and thrown them on  
23 the floor.

24 Q. You were present at Mr. Marshall's arrest.

25 A. Yes.

1 Q. Can you tell us what the seating arrangement was in the car  
2 leaving Whycomomagh and going back to Baddeck? Where  
3 was everybody seated?

4 A. I was in the back seat, I believe.

5 Q. With Mr. Marshall.

6 A. With Mr. Marshall. And the R.C.M.P. officer and Sergeant  
7 MacIntyre were in the front seat of the vehicle.

8 Q. Would you agree that as a police officer you have an  
9 obligation to record an accused person's utterances?

10 A. Yes.

11 Q. And is it your evidence that you don't recollect Mr. Marshall  
12 saying, "I didn't do it."?

13 A. That's correct.

14 Q. You...there is evidence that in November of 1971 you drove  
15 Mr. Pratico to the Nova Scotia Hospital, and I know that your  
16 evidence is you don't recollect having done that. You did say  
17 in your evidence that if you had done it you would have done  
18 it in a private car. Does that mean you would have driven  
19 your own car?

20 A. Yes. As I explained yesterday, there was no...I don't know  
21 about ambulance service at that time, but the police were on  
22 escort duty, they'd take people from the Nova Scotia or the  
23 Cape Breton Hospital to the Nova Scotia Hospital. They would  
24 call in the evening or something during the day and one of  
25 the off-duty policemen would take their private car and go to



1 the Nova Scotia Hospital to deposit the prisoner or the...not  
2 the prisoner, the person involved and the envelope containing  
3 the medical records which would be sealed and you'd turn it  
4 over to the people at the Nova Scotia Hospital.

5 Q. Now, I believe your evidence was that you had no concerns  
6 about Mr. Pratico's reliability as a witness because you said  
7 that people were sent to the Nova Scotia Hospital for  
8 treatment because there was no detox in Sydney and they  
9 were sent there to dry out. Now, in fact, in I think it's Exhibit  
10 47, and I'll read it as best I can, the reason for Mr. Pratico's  
11 admission was the readmission, and I'm reading from the  
12 exhibit, "The readmission certificate notes he," meaning Mr.  
13 Pratico, "...is incoherent, feels people are after him, curses and  
14 swears continually." What I'm going to suggest to you that if  
15 he...

16 COMMISSIONER EVANS

17 Is that report from somebody?

18 MS. DERRICK

19 This is the admission form, My Lord.

20 COMMISSIONER EVANS

21 Well, does this witness...was he aware of that? I think he said  
22 the report came in an envelope.

23 MS. DERRICK

24 I don't doubt that he wasn't aware and that he wouldn't have  
25 seen this because I think that, in fact, this would not have been a

MR. URQUHART, EXAM. BY MS. DERRICK

1 report in a sealed envelope from Sydney, but rather the report  
2 that would have been put out by the admitting physician in...at  
3 the Nova Scotia Hospital.

COMMISSIONER EVANS

5 All right.

MS. DERRICK

7 And the note...it appears that they note that they were  
8 certifying Mr. Pratico, I assume, committing him as an involuntary  
9 patient. So, I'm not suggesting that Mr. Urquhart would have seen  
10 this report, I'm merely reading what the doctor wrote down once  
11 you handed Mr. Pratico over to the Nova Scotia Hospital.

12 Q I mention it to you...I use, you know, I refer to him having  
13 been incoherent and cursing and swearing continually and  
14 obviously being paranoid, feeling people were after him, to  
15 see whether that refreshes your memory at all because this  
16 would have been a five-hour ride with a person in that  
17 condition. It must have been an unforgettable experience I  
18 would have thought, but you don't...you don't recall having  
19 taken him down.

20 A. No.

21 Q I just want to take you now, Mr. Urquhart, to 1982 and this is  
22 around the time when this whole matter was beginning to be  
23 reinvestigated by the R.C.M.P.. Mr. Frank Edwards, the  
24 prosecutor notes in his notes, this is Volume 17 at page 2, and  
25 it's at the bottom, it's in the section that says, "Re: Chief

1 MacIntyre". Mr. Edwards notes that he had some discussions  
2 with Chief MacIntyre around February 19th, 1982, where the  
3 Chief questioned the fact that he had heard that some  
4 witnesses were being...some of the, I guess, the old witnesses  
5 were being questioned, and Mr. MacIntyre was quite upset  
6 about the whole matter. I just want to ask you do you  
7 recollect around this time whether Mr. MacIntyre discussed  
8 his feelings with you about this reinvestigation and, if so,  
9 what did he say to you?

10 10:26 a.m. \*

11 A. After the...this was on the 21st of February.

12 Q Around that time, that's right.

13 A. Yeah. No, I can't...

14 Q Or any time in February, March, April, May.

15 A. I was involved in another murder case at that time and I was  
16 in contact with Mr. Edwards. I'm not sure of the date of that  
17 murder. And, no doubt I was back and forth talking to Mr.  
18 Edwards, possibly he was down to the police office too.

19 Q Do you have any recollection of Mr. MacIntyre, thought,  
20 discussing the re-opening of the case with you and expressing  
21 being upset as is...

22 A. No, I can't recall that.

23 Q There's also a reference, and this is on page 12 of these same  
24 notes, recorded by Mr. Edwards, where he has a telephone  
25 conversation with Mr. MacIntyre in which Mr. MacIntyre

1        says, "They are not going to put me in jail, are they?" In fact,  
2        "Have I been talking to them? They're not going to put me in  
3        jail, are they?" is what the conversation was with Mr.  
4        Edwards. Did you have any concerns at that time about  
5        criminal charges with respect to this matter?

6        A. Myself personally.

7        Q. Yourself.

8        A. No, because I didn't have any concerns about it at that time.

9        Q. Were you aware of Mr. MacIntyre's concerns in this regard?

10       A. No, if he had concerns he never relayed them to me.

11       Q. He never discussed them with you. Can you recall when you  
12       last discussed this case with Mr. MacIntyre?

13       A. No, I cannot.

14       Q. Mr. Urquhart, you made reference very early in your direct  
15       evidence that you had had a series of tapes that from the  
16       sounds of things were reminiscences of your experiences as a  
17       police officer, would that be...

18       A. Yes, I had tapes and I had...I had some tapes. I had scraps of  
19       paper.

20       Q. And did these deal with your experiences as a police officer?

21       A. They dealt with some of the cases possibly, some funny things  
22       that happened, some expressions, names that were on it that  
23       had no connection with any criminal charges, once you'd  
24       interview or talk to the people.

25       Q. I see. Just people you had come in contact with then.

1 A. Right.

2 Q. Do you recollect over what period of time these tapes  
3 spanned, what years of experience?

4 A. I suppose...I can't really tell you what dates.

5 Q. And were you just trying to preserve some of these  
6 reminiscences, these experiences?

7 A. No, I had a file in my office and it was a folder and I used  
8 to...I'd come up with something and I'd put it in that, nobody  
9 else could get to it because I had the only key to the office.

10 Q. This was just for your own personal enjoyment...

11 A. That's right.

12 Q. ...or information.

13 A. And when I retired in 1983, June 30th, I gathered it all up  
14 and I cleaned out my office and turned it over to my  
15 successor, who was Roy Young, I took it home, I went through  
16 some of it and I said, "What am I keeping it for?" and I  
17 destroyed it. But there was nothing concerning the Donald  
18 Marshall, Jr., case on all of those pieces of paper.

19 Q. I see. So, no portions of those tapes dealt with the Donald  
20 Marshall, Jr., case at all.

21 A. No, none whatsoever.

22 Q. And you're sure of that.

23 A. I'm positive.

24 Q. Mr. Urquhart, would it be fair to characterize your evidence  
25 or the effect of your evidence as being that, with the

MR. URQUHART, EXAM. BY MS. DERRICK

1 exception of the June 4th Louisbourg statement involving Mr.  
2 Chant, that you really don't recollect very much about this  
3 investigation or the details involved in it?

MR. MURRAY

4 Well, I suppose, My Lords, that that's a decision for  
5 yourselves to make as opposed to Mr. Urquhart to characterize his  
6 own evidence.  
7

MR. CHAIRMAN

8 Good copy, but it is for us to decide.  
9

MS. DERRICK

10 I'm certainly not asking for the purpose of being good copy,  
11 I'm just asking whether or not he disagrees or agrees with that  
12 statement of his recollection of the investigation, the 1971  
13 investigation.  
14

MR. URQUHART

15 A. All I can say is that I was on the investigation, I did  
16 everything I could to the best of my ability.  
17

MS. DERRICK

18 Those are my questions, thank-you.  
19

MR. PUGSLEY

20 I have no questions, My Lord, thank-you.  
21

MR. BARRETT

22 I have just several questions.  
23

EXAMINATION BY MR. BARRETT

24 Q. Mr. Urquhart, my name is David Barrett. I represent the  
25

MR. UROUHART, EXAM. BY MR. BARRETT

1 estate of Donald C. MacNeil. You've testified you were  
2 employed thirty-four years with the Sydney Police  
3 Department.

4 A. Correct.

5 Q. And I assume during this period you had an opportunity to  
6 observe the late Donald C. MacNeil act as both prosecutor and  
7 defence counsel.

8 A. Yes, sir, I did.

9 Q. And during your service with the Sydney Police Department  
10 did you observe Mr. MacNeil to prosecute cases involving  
11 whites, Indians and blacks?

12 A. Yes.

13 Q. And did you feel he prosecuted these cases any differently?

14 A. No, I would say not. He prosecuted them as the evidence was  
15 given to him by the police or whoever was in charge of the  
16 investigation.

17 Q. Would you describe Mr. MacNeil as being an experienced  
18 prosecutor?

19 A. Yes.

20 Q. Competent.

21 A. Very competent, I would say.

22 Q. Did you feel he was fair in his dealings with people?

23 A. He was fair, yes, as far as I was concerned.

24 Q. Did he have a good rapport with police officers in your  
25 opinion?

MR. URQUHART, EXAM. BY MR. BARRETT

1 A. Yes.

2 Q. And did he respect your opinion as a police officer?

3 A. Yes, and he respected police.

4 Q. Did he ever direct you how to conduct an investigation?

5 A. Did he become involved and tell you what to do or anything?

6 Not to my knowledge. He'd suggest possibly, "This other  
7 witness should be investigated or interviewed or you'll have  
8 to get...see if you can get more on this case or on that."

9 Q. And did he...did you ever feel he pressured you during the  
10 course of your investigation?

11 A. No. He was the type of man that you could go to, you could  
12 call him at his home at night and you could ask for advice and  
13 he'd give it to you freely.

14 Q. Did you ever have any reason to complain to your superiors  
15 or to the Attorney General's Department about Mr. MacNeil's  
16 manner of prosecuting?

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

18 MR. BARRETT

19 Those are all my questions. Thank-you.

20 MR. CHAIRMAN

21 Mr. Pink.

22 EXAMINATION BY MR. PINK

23 Q. Mr. Urquhart, there are just two areas that I'd like to address  
24 with you. The first relates to the preparation of your  
25 affidavit that was used in the reference.



1 A. Yes.

2 Q. You recall that you met with Mr. Edwards in July, 1982, for  
3 preparation of that affidavit.

4 A. I'm not...I can't recall now, but I believe the affidavit was  
5 made up when I got up there. I'm not absolutely sure on it  
6 though.

7 Q. Do you have Volume 17 in front of you?

8 A. Volume 17. Yes, I have it.

9 Q. Could you look at page 12?

10 A. 12, that's right. .

11 Q. Those are Mr. Edwards' notes and they're dated the 12th of  
12 July.

13 A. Page 12.

14 Q. Yes.

15 A. Yes.

16 Q. And you see that on...just below the date it says, "My office,  
17 present John MacIntyre, Mike Whalley, Harry Wheaton, began  
18 with summary of Chambers' appearance," a-p-p-r. Do you see  
19 that?

20 A. No. Is this Wednesday, July 12th?

21 Q. Wednesday, July 12th, '82. "My office, present..."

22 A. Oh, yes, I'm sorry.

23 Q. I understand that you attended at that meeting but arrived  
24 after the meeting began.

25 A. I'm not...I might have been in court in that morning and I

1 believe I was, and I come over to Mr. Edwards' office after I  
2 was through in court.

3 Q. Yes. And the notes on the page on page 13 have a number of  
4 specific references to you, at the top of page 13, about a third  
5 of the way down and again about two-thirds of the way  
6 down.

7 A. Where I don't recall the interview with Harriss.

8 Q. Yes.

9 A. Yeah.

10 Q. And I believe you told Mr. Orsborn the other day that that  
11 was your recollection, in fact, I believe it continues to be your  
12 recollection today the information that's recorded there by  
13 Mr. Edwards.

14 A. Right.

15 Q. And that was the information that made it into the affidavit  
16 that Mr. Edwards prepared for you.

17 A. Right.

18 Q. The affidavit itself, it's my understanding was prepared  
19 shortly after this and delivered to you and you had an  
20 opportunity to review it and make whatever changes you  
21 wanted.

22 A. Correct.

23 Q. And you reviewed the affidavit with Mr. Whalley who was  
24 the solicitor for the City of Sydney and for the Sydney Police  
25 Commission.

1 A. Yes.

2 Q And you took the opportunity to make some changes as you  
3 felt they were appropriate.

4 A. Yes.

5 Q You testified the other day regarding a meeting in 1971 with  
6 a Mr. Dan Paul, 1981, pardon me, with Mr. Dan Paul.

7 A. Yes.

8 Q And just...so that you have the document in front of you, it's  
9 at page 16, at page 215, Volume 16, at page 215.

10 A. Page 215.

11 Q Page 215, yes. And, that's a note that you made as a result of  
12 the meeting with Mr. Paul.

13 A. Yes.

14 Q When did you make that note?

15 A. August 26th, 1981.

16 Q Did you make it contemporaneously with the meeting, after  
17 the meeting, some time later in the day, the next day?

18 A. No, I would say it would be immediately after Mr. Paul left  
19 the office or possibly when he was in the office.

20 Q And...

21 A. So, that I would make sure that I had the right name.

22 Q And do you have an independent recollection of that  
23 meeting?

24 A. I remember Mr. Paul and before on one of the occasions, I  
25 believe it was on the discovery, I couldn't remember the

MR. UROUHART, EXAM. BY MR. PINK

1 name of the man that turned this information over to me.

2 Q. Sure. But today do you have an independent recollection of  
3 his coming to your office and your meeting with him?

4 A. Yes, because I have the document here.

5 Q. Okay. But...beside...

6 A. And I remember him coming to the office.

7 Q. You do, and do you remember your call to Mr. Williston?

8 A. I remember I...after I got it and asked Mr. Paul to see if he  
9 could get any more information for me on it that I went to the  
10 Deputy Chief of Police, M. J. MacDonald. Chief MacIntyre was  
11 on vacation at the time, and Mike MacDonald was acting chief.  
12 And, I took it to him and then I turned it over or called up  
13 Brian Williston and spoke to him about it.

14 Q. Did you call Mr. Williston the afternoon that Mr. Paul came to  
15 see you?

16 A. Yes, I did.

17 Q. Shortly after that.

18 A. Shortly after, yes.

19 Q. And you appraised him of what had taken place in the  
20 meeting and you told him what you were going to do?

21 A. Yes.

22 Q. I have a note that Mr. Williston made as a result of your  
23 telephone call, Mr. Urquhart, and I'll just read a portion of it  
24 to you.

25 MR. MURRAY

MR. URQUHART, EXAM. BY MR. PINK

1 Is this an Exhibit?

2 MR. PINK

3 No, it's not, and I'll show it to you, Mr. Murray. I just...

4 MR. WILDSMITH

5 Perhaps, My Lord, I don't know what's going on here, but this  
6 document should be an exhibit.

7 MR. CHAIRMAN

8 We don't know what's going on either.

9 MR. WILDSMITH

10 But apparently the witness is going to be referred to...

11 MR. CHAIRMAN

12 We don't even know that yet. We wait in breathless  
13 anticipation.

14 MR. PINK

15 Q Perhaps I could just read this note to you, Mr. Urquhart, and  
16 you can confirm or deny if...

17 MR. CHAIRMAN

18 Well, if you're going to read it, I take it you're going to put it  
19 in.

20 MR. PINK

21 I have no difficulty with putting it in. I only have one copy at  
22 present, My Lord, and I'll arrange for copies to be made at the  
23 break. It's a note that Mr. Williston made. It's dated the 26th of  
24 August at 4:50 p.m.

25 EXHIBIT 129 - BRIAN WILLISTON'S NOTES ON TELEPHONE

CONVERSATION WITH WILLIAM UROUHART, AUGUST 26, 1981

1  
2 Q I note from your record that your meeting with Mr. Paul was  
3 at 4:30 p.m.. 1981. It says,

4  
5 Urquhart indicated that Ebsary had been  
6 checked out previously with negative  
7 results, but he would interview Dan Paul  
8 for further details and information  
9 supporting this allegation. He stated that  
10 he would get back to Frank Edwards  
11 regarding the results of his inquiry, but for  
12 now just wanted to state that Dan Paul was  
13 in.

14 Does that accurately reflect what you told Mr. Williston on  
15 that day?

16 A. I don't know if I told him that I'd be in contact with Mr.  
17 Edwards or not. I'm not clear on that. And, I have nothing  
18 documented to state that I did.

19 Q You indicated that you were awaiting Mr. Paul's return to  
20 you...in your direct examination...

21 A. I told...and it's in on the notes that I have written here, I  
22 believe, that I told Paul that it was not enough information  
23 and "He is going to try and get the name of the person who  
24 gave him the name of Ebsary and get back to me."

25 Q Was it your intention, Mr. Urquhart, to do anything further?

A. I thought at that time, and I did do something about it, I took  
it to my superior, the Deputy Chief of Police, and I took it to  
the Crown Prosecutor, Brian Williston.

MR. URQUHART, EXAM. BY MR. PINK

1 Q. But besides that, was it your intention to make contact again  
2 with Mr. Paul to find out if he had any additional  
3 information?

4 A. I was waiting for him to get back to me.

5 Q. And you felt that was sufficient.

6 A. I did at that time, yes, sir.

MR. PINK

8 That's all I have, thank-you.

EXAMINATION BY MR. PRINGLE

9  
10 Q. Just two minor areas, I'll probably use this mike here. Mr.  
11 Urquhart, my name is Al Pringle, I'm counsel...one of the  
12 counsel for the R.C.M. Police. In your discovery which you  
13 gave in...discovery evidence in 1986 I believe you stated in  
14 your direct that you didn't have much chance to prepare for  
15 that, you got a subpoena and you attended.

16 A. That's correct.

17 Q. However, I'd like to refer you to several portions of that  
18 discovery evidence and just have your comment on whether  
19 that evidence is accurate or not. That's Volume 14 of the  
20 exhibits, the fairly large red book, Volume 14. You don't have  
21 that?

22 A. No.

23 Q. Perhaps we could have that given to you. And the pages I'll  
24 be referring are 131, 135 and 156. And these questions, that  
25 evidence all relates to the first statements that were given

MR. UROUHART, EXAM. BY MR. PRINGLE

1 Mr. Chant, Mr. Pratico and the one and only statement given  
2 by Mr. Marshall. And, I can refer you to those pages, but the  
3 evidence that you gave in 1986 at discovery was that, in fact,  
4 you were not aware of the existence of those statements until  
5 that discovery in 1986. Do you recall that?

6 A. Of which statements, sir?

7 Q. The first statement of Mr. Chant, the first statement of Mr.  
8 Pratico and the only statement of Mr. Marshall. Perhaps we  
9 could start with page 131. And, that is in reference to Mr.  
10 Chant, do you have that page, Mr. Urquhart?

11 A: Yes, I have.

12 Q. All right. Specifically you were asked at that time, and the  
13 question was Q. 367,

14  
15 Q. Were you aware on June the 4th when  
16 that statement was taken from Maynard  
17 Chant that a previous statement had been  
18 taken, so you went into Louisbourg  
19 Town?

20 A. No, I didn't.

21 Q. You didn't know about a previous  
22 statement?

23 A. No, I didn't know there was a previous  
24 statement taken of him, and later.

25 Q. And you can tell by reading it, is that the  
first time you've ever seen that  
statement?



1 A. As far as I know it is.

2 I just want to ask you, sir, is that your recollection that the  
3 first time you knew about those statements was in the  
4 discovery in 1986?

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

6 Q. Okay. One other minor little area I want to ask you about, the  
7 fingerprinting that you did in 1970 with respect to Mr.  
8 Ebsary, how long would that process normally take when you  
9 took someone in and you were the detective or the officer  
10 taking the prints?

11 A. Not very long.

12 Q. Not very long.

13 A. No.

14 MR. CHAIRMAN

15 Mr. Pringle, could you indicate the relationship with this line  
16 of questioning to your client's interest?

17 MR. PRINGLE

18 I anticipated I might get asked that and I thought that...I had  
19 screened out many questions and left these two little areas. I  
20 think in a very general way our clients, of course, in 1982 were  
21 involved in the primary investigation and they've been subject to  
22 a lot of cross-examination with respect to what took place  
23 and 1971 statements relating to...I think it relates...

24

25

MR. URQUHART, EXAM. BY MR. PRINGLE

1 MR. CHAIRMAN

2 The fact that you're here appearing as counsel representing  
3 someone of interest doesn't give you the right to cross-examine on  
4 all issues. Your...

5 MR. PRINGLE

6 I appreciate that, My Lord, that's why...

7 MR. CHAIRMAN

8 It would not be related to your clients and...

9 MR. PRINGLE

10 That's why I took it down from nine to two and I hoped those  
11 two related in some way, and perhaps they do and perhaps they  
12 don't.

13 MR. CHAIRMAN

14 I don't think they do.

15 MR. PRINGLE

16 I would like to ask that question with respect to what...what a  
17 detective, an officer, taking fingerprints would normally do, would  
18 he normally find out what the offence related to that he was  
19 taking the prints for and would he normally make some kind of a  
20 note, mental or otherwise, about the description of...

21 MR. CHAIRMAN

22 I think he's answered that. I thought that...

23 MR. PRINGLE

24 Okay. Thank-you, My Lord.

25

MR. URQUHART, EXAM. BY MR. PRINGLE

1 MR. CHAIRMAN

2 Now...

3 MR. MURRAY

4 Not wanting to cast any aspersion on Mr. Ross, but perhaps it  
5 would be a good time to break before commencing cross-  
6 examination.

7 MR. CHAIRMAN

8 Well, let me...you have no...go ahead, Mr. Ross.

9 MR. ROSS

10 A minimum.

11 MR. CHAIRMAN

12 I'm prompted in my commitment, I don't want to tire this  
13 witness, so if...go ahead, if it's just a short...

14 EXAMINATION BY MR. ROSS

15 Q. Mr. Urquhart, I would like to ask you just a couple of  
16 questions with respect to the investigation of the death of  
17 Sandy Seale and then one or two with respect to matters that  
18 might relate to the Black United Front. Now, the evidence of  
19 Debbie MacPherson was that when she came over to Sandy  
20 Seale he mentioned the word "No cops." Do you recall that  
21 evidence?

22 A. I recall that evidence, yes, sir.

23 Q. As far as you're concerned when was the first time you heard  
24 any indication that there was such a statement made?

25 A. When the Inquiry took place in Sydney, sir.

- 1 Q. You never heard it before then.
- 2 A. Not before that, to my knowledge.
- 3 Q. Thank-you. And tell me further, as far as this robbery theory
- 4 was concerned, when was the first time you became aware
- 5 that there might have been a robbery theory?
- 6 A. I don't know when I...I believe, and I'm not sure on it, but I
- 7 think it was during the appeal or I read it in the paper. I
- 8 never heard it from anybody around the police department if
- 9 that's the...
- 10 Q. That would have been around 1982.
- 11 A. Yes, sir, I would say it is.
- 12 Q. Yes. I see. Now, as far as the investigations in 1982 which
- 13 were carried on by the R.C.M.P. is concerned, were you in any
- 14 way troubled by the results of that investigation as compared
- 15 to what you had been involved in back in 1970?
- 16 A. What do you mean by "troubled"?
- 17 Q. Well, you were involved in the investigation in 1970,
- 18 investigation of the death of Sandy Seale.
- 19 A. In '71.
- 20 Q. In '71, yes.
- 21 A. Right.
- 22 Q. Yes. And in 1982 it appeared as though the investigation was
- 23 taking a completely new...a completely new turn. Did you
- 24 find that in any way troubling when you reflect on the work
- 25 that you had done in 1971?

1 A. It would trouble me, yes, that somebody was in jail for  
2 something they didn't do, that would bother me. As far as the  
3 investigation, I asked Mr. Edwards how the investigation was  
4 coming and he didn't chose to enlighten me in any way, shape  
5 or form on how it was progressing. The only way I'd know  
6 about it was through the press and radio.

7 Q. I see. You weren't keep abreast of what was happening.

8 A. No, sir, I was not.

9 Q. Okay, fine, thank-you very much. That's all I'm going to ask  
10 you with respect to Sandy Seale. Now, perhaps you'd be good  
11 enough, sir, to turn Volume 35. And at page 102 just about in  
12 the centre of the page when they were speaking about leave  
13 for Junior Marshall from Dorchester, from the penitentiary, it  
14 reads,

15  
16 Sydney Police would be opposed to  
17 subjects going to the area on a TA. They  
18 feel there might be reprisals from the  
19 black community and the subject's entire  
20 family had to move to Whycomagh  
21 reserve after the offence.

22 As a police officer in the Sydney area, is it your view that  
23 there would be any basis for that form of concern with  
24 respect to the black community?

25 A. I worked in the black community on the police department  
for roughly twelve years and I never heard any remarks  
about Indians or whites or blacks.

1 Q. A statement of a similar...a similar statement appears on  
2 page 147 where it reads, "The Chief of Police in Sydney stated  
3 in C.A. dated June, 1978, he's against a three-day...against any  
4 three-day passes Marshall might get as he feels there still  
5 might be reprisals from the black community." Were you  
6 aware of whether or not the Chief, in fact, made such  
7 statements?

8 A. No.

9 Q. And if, in fact, these statements were made, is it your  
10 evidence that you'd find difficulty finding a basis for such a  
11 statement?

12 A. I wouldn't know what statements would be made to the  
13 Parole Board officers that would come in, no, by Chief  
14 MacIntyre or anybody else really other than ones I would  
15 make myself to them when they'd come to visit me, and the  
16 policy I had was that if somebody was involved in a case  
17 other than myself and the parole people come in to see them  
18 I'd kind of...I'd try to refer them to the officer that was in  
19 charge of the case so they could give them the full disclosure  
20 of what was going on.

21 Q. Sure, I appreciate that, sir, but I'm asking if from your own  
22 experience whether in your view there would be any basis to  
23 make such a statement?

24 A. No, I don't believe there would be.

25 Q. Thank-you. Then I ask you to look at page 151 where there

1 is reference to you.

2 A. I see that here, sir.

3 Q. Yes. It reads:

4  
5 Inspector William Urquhart of the Sydney  
6 Police Department was contacted in order  
7 to elicit his reaction to the subject's request  
8 for a three-day temporary absence to  
9 return to the Membertou Reserve with  
10 hopes of gaining support for his appeal.

11 It goes on to say,

12  
13 As expected, the police reaction in this case  
14 is quite negative and they are very  
15 concerned about the risk of subject,

16 Sorry,

17  
18 ...the risk the subject presents should he  
19 return to the area. Inspector Urquhart  
20 feels that the subject is a high risk for re-  
21 offending and should not be given the  
22 opportunity to do so. As stated earlier the  
23 reaction of the Sydney Police to the  
24 subject's return to the Membertou Reserve  
25 is negative.

26 Now, number one, I'll ask you first whether or not that  
27 statement properly reflects your sentiments current at that  
28 time?

29 A. I can't see how that would reflect what I was thinking at that  
30 time.

31 Q. Thank-you. Therefore I can't ask any more on that. In your

MR. URQUHART, EXAM. BY MR. ROSS

1 experience, sir, was there a section of Sydney which was  
2 classified as the Negro community?

3 A. There was...when I went first on the police department there  
4 was black people living at the Pier area, wards five and six,  
5 mostly in ward five, but I never heard it referred to as a  
6 Negro area.

7 Q. So, if, sir, you heard a statement made about the Negro area  
8 of Sydney, would any particular area come to mind?

9 A. No, because most of the...the people have...there was people at  
10 that time living on Townsend Street that were black. I  
11 believe they were living in other parts of the City too, so I  
12 don't think it would be a fair statement to make that there  
13 was a Negro community wrapped up into one package and  
14 left in one ward.

15 Q. Uh-hum. Well, then in your experience...did you have any  
16 knowledge of a case which was heard before Judge MacDonald  
17 in which Judge MacDonald said it was dangerous for young  
18 people to be in that neighbourhood at night, referring to a  
19 black community area?

20 A. I never heard Judge MacDonald or any of the other Judges  
21 making that statement to my knowledge, sir.

22 MR. ROSS

23 Thank-you, very much. No more questions of this witness.

24 MR. CHAIRMAN

25 All right. Can you give an indication of how long you will be,



MR. URQUHART, EXAM. BY MR. NICHOLAS

1 Mr. ...

2 MR. NICHOLAS

3 Well, I have about hopefully ten relevant questions here, My  
4 Lord, so it may take fifteen minutes.

5 MR. CHAIRMAN

6 Seeing we have ten relevant questions one can hardly resist  
7 rising for ten minutes.

8 BREAK

9 11:20 a.m.

10 MR. CHAIRMAN

11 Mr. Nicholas?

12 MR. NICHOLAS

13 Thank you, My Lords. I wasn't sure if I could limit myself  
14 to ten questions or not, but with your indulgence.

15

16 EXAMINATION BY MR. NICHOLAS

17 Q Well, my first question to Mr. Urquhart, I guess, Mr. Urquhart,  
18 you know I'm representing the interests of the Union of Nova  
19 Scotia Indians in these proceedings.

20 A. Yes, sir.

21 Q And yesterday...No, I'm sorry, on Monday you indicated in  
22 your training you had approximately two-week refresher  
23 courses or some elementary training in police work and I'm  
24 wondering in your years as a police officer, any of the courses  
25 you took, were any of those touching on Micmac Indians or on

1 | their social conditions?

2 | A. No, sir.

3 | Q. None on race relations between peace officers and Indians  
4 | then.

5 | A. I imagine it was, I would say if it was on the refresher course  
6 | that it would be touched upon but as a course, no. You mean  
7 | a two-week course or a three-week course?

8 | Q. Well, I know in your testimony you had referred to a two-  
9 | week refresher course.

10 | A. Right.

11 | Q. That you took in Halifax.

12 | A. But nothing specific on any race.

13 | Q. Okay. So what is the extent then of the relationship that you  
14 | as a peace officer had with the Micmac or the Membertou  
15 | Reserve?

16 | A. I worked with Indians and I was in the army with them, in  
17 | the legion with them, and I had never any problem with  
18 | Micmac or any other race.

19 | Q. But to be a bit more specific in your relationship with the  
20 | Micmac Indians living in Membertou within the City of  
21 | Sydney, did you have any meaningful relationship with them  
22 | or any significant relationship with them?

23 | A. No, I knew some of them, but I never had any courses in that  
24 | type of question that you're asking me, sir.

25 | Q. So in carrying out your police work, did you ever think of

1 using an interpreters in questioning the Micmac people?

2 A. No, sir, I didn't because any that I did talk to, they would  
3 speak English.

4 Q. So you took it from that that they fully understood the  
5 English language.

6 A. Yes, sir, I did.

7 Q. I was going to also refer you to a particular volume, Volume  
8 35, I believe, at page 151, which I think was referred to as  
9 Exhibit 112. And you've already had a few questions on this  
10 matter this morning. When it came to Indian offenders being  
11 assessed for the possibility of probation or parole, how much  
12 were you involved in the actual assessment with the Reserve,  
13 with the individual, and the community?

14 A. It would be the National Parole people that would come in  
15 and interview us. Sometimes Bernie Francis would come in.  
16 He'd be wanting some information, Roy Gould. But outside of  
17 that, that would be the extent of it, sir.

18 Q. But in your involvement in these assessments, did you  
19 yourself take any initiative to approach the Reserve itself and  
20 either contact the Chief or other people in authority for their  
21 particular evaluation?

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

23 Q. Not up even to the time when you retired in 1983?

24 A. Pardon?

25 Q. Not even up to the time when you retired in 1983?

1 A. No, sir.

2 Q. When you were Inspector of Criminal Investigation?

3 A. Did I contact anybody at the reservation?

4 Q. Yes.

5 A. I would have contact but not on a parole basis, not to my  
6 knowledge, no.

7 Q. Now I want to go back to the particular Exhibit 119, which  
8 outlines your, in a one-page summary, I guess, your C.V. or  
9 curriculum vitae, if I can refer to that, and in particular, I  
10 wanted to find out about your experience in the police college.  
11 This is a police academy in Charlottetown?

12 A. Charlottetown, yes.

13 Q. And during your term on the Board of Directors between  
14 1978...1972 and '78, were there any discussions that dealt  
15 with Indian policing or Indian offenders or any particular  
16 difficulties that enforcement agencies were having with  
17 Micmacs?

18 A. On any of the Board meetings that I attended at the Atlantic  
19 Police College in Charlottetown, there was never, to my  
20 knowledge, there was never anything to come up about any  
21 of the different races about whether they should be on police  
22 departments or whether they shouldn't be on them. It was,  
23 to my knowledge, that question was never raised.

24 Q. So did you yourself initiate any of these particular areas to be  
25 taken into consideration as part of the training of a peace

1 officer?

2 A. No, because at that time, and I still don't believe that there  
3 was any problem with any of the different races in any of the  
4 police departments. Our department was small compared to  
5 some of the other ones and, to my knowledge, there was  
6 never any discussion on it.

7 Q. Were you familiar then with their curriculum at the  
8 Academy, were there any particular courses that touched on  
9 race relations?

10 A. After I left the college, I can't speak for what happened on  
11 the curriculum then, sir. I don't know whether it's the same  
12 curriculum they have now as when I was involved or not, sir.

13 Q. Now if I can refer you, Mr. MacIntyre, to Volume 31....I'm  
14 sorry, Mr. Urquhart, excuse me, on page 71.

15 A. Page 71?

16 Q. Well, it begins on page 71, yes, Volume 31. And, in particular,  
17 pages 73. On page 71, it refers to an anonymous letter that  
18 was sent to Mr. Chrétien, the Minister of Justice at the time,  
19 and I'm wondering... First of all, I don't imagine you've ever  
20 seen this particular document?

21 A. No, I can't say that I have, sir.

22 Q. On page 73.

23 A. Yes.

24 Q. I should maybe just have you glance at that last paragraph.  
25 And the particular line I'm concerned with here, if I may just

1 read it to you and follow along, it says:

2  
3 Anyone in Sydney can tell you that Donald  
4 MacNeil was a racist, he made racist  
5 remarks about Indians.

6 Now that particular reference in an anonymous letter, were  
7 you ever, did anyone ever tell you about racist remarks that  
8 were harboured by Crown Prosecutors or other officers of the  
9 Court?

10 A. No, I never heard Donnie MacNeil, and he's named here, make  
11 any racist remarks.

12 Q. And no racist remarks, I think you've already indicated, were  
13 ever said to you, in your presence at least, by the peace  
14 officers within the department.

15 A. No, I never heard anything stating that, of any ethnic group in  
16 any way, shape, or form to me.

17 Q. And perhaps in my last area then, Mr. Urquhart, it's in the  
18 area of what you testified on Monday, again regarding this  
19 particular incident with Dan Paul, an employee of the Union of  
20 Nova Scotia Indians about the recent complaint that was  
21 raised to you.

22 A. Yes.

23 Q. And on page... First of all, maybe just as a clarification, in  
24 your... I'm not sure if you've had the opportunity to review  
25 your testimony of Monday and, in particular, I'm thinking of  
page 9631 of the transcript, of Monday's transcript. In

1 particular in response to a question on Line 10 and your  
2 response on Line 12.

3 A. 9631?

4 Q. Yes.

5 A. Yes.

6 Q. We have also, of course, seen the memo that Mr. Williston  
7 wrote but did you give the impression to Mr. Paul on August  
8 26th, 1981 that the Attorney General's Department is  
9 involved in this particular instant?

10 A. Did I give Mr. Paul that?

11 Q. Yes.

12 A. Not to my knowledge I didn't. Anything that I had said  
13 concerning that visit by Mr. Paul to my office was on the  
14 paper that I had written.

15 Q. Yes.

16 A. And I can't remember making that statement to Mr. Paul.

17 Q. So your response then on Lines 12 thereon, where you say  
18 that you didn't know where Mr. Paul got this information  
19 from, even though he told you this came from Mr. Marshall, is  
20 that what you meant in this response, or who Mr. Marshall  
21 got it from?

22 A. I believe, if I can refresh my memory, that I asked him to get  
23 more information and to get me the name of the person  
24 where he got his information from.

25 Q. Do you mean that Mr. Marshall, or do you mean whom Mr.

1 Marshall got it from? I'm sort of a bit confused.

2 A. Who Mr. Paul got it from, I would say.

3 Q. Well, if I recall in your note, which was read into the record  
4 on page 9629, if you want to refer to that page.

5 A. Yes.

6 Q. And on that note that you made to the particular file, you  
7 indicated that it came from Mr. Marshall.

8 A. Can we go back to the original note?

9 Q. Yes, the original note is located in Volume 16, page 215.

10 A. Yes, I have it here, sir.

11 Q. I believe you were going to read it or compare it to your  
12 response?

13 A. Yes.

14 Q. Now in response then that you gave on 9631, were you  
15 expecting a representative of the Union of Nova Scotia Indians  
16 to do some investigative work?

17 A. I was expecting Dan Paul if he got any more information to  
18 come back to see me. That's what I was expecting.

19 Q. And even though this was a very serious matter that a  
20 representative brought to your attention.

21 A. A very serious matter, yes.

22 Q. And did you at any time after that contact the Union of Nova  
23 Scotia Indians to try to establish more contact with Mr. Paul?

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

25 Q. May I ask you why?



1 A. I have no answer for that. I don't know.

2 Q. And with regard to this information, if I understand, you  
3 contacted the Deputy Police Chief but I'm wondering why you  
4 contacted Mr. Williston, the Crown Prosecutor?

5 A. To see if he had any further advice to give me.

6 Q. Have you seen Mr. Williston's memo, Mr. Urquhart, that's  
7 found in Volume 17 on page 35? Now, in particular, in the  
8 last few lines of 35 where Mr. Williston indicates that at some  
9 later you, in fact, contacted him again, do you have any  
10 recollection as to when you contacted Mr. Williston that you  
11 were not successful in contacting Mr. Paul or that he didn't  
12 come forward?

13 A. No, at this time, I can't recall when I recontacted Mr.  
14 Williston, as he states here.

15 Q. So in the second paragraph then where...Is this a clear  
16 reflection then where you might have indicated to Mr.  
17 Williston that it was your intention to reinterview Dan Paul?

18 A. To re?

19 Q. Interview Dan Paul?

20 A. I believe I left it with Dan Paul to get back to me and that's  
21 the indication I have from the note that I wrote at that time.

22 Q. So the words "to reinterview" do not come to your mind?

23 A. Pardon?

24 Q. The words that Mr. Williston uses in his memorandum, "His  
25 intention to reinterview Dan Paul", this is not a reflection of

MR. URQUHART, EXAM. BY MR. NICHOLAS

1           what your intentions were.

2       A. Not to my knowledge, no.

3       Q. Did you think of yourself approaching Junior Marshall to ask  
4           him of this information?

5       A. No, I didn't, sir. I didn't approach him.

6       Q. So in your meeting then with Mr. Paul on August 26th, the  
7           impression you didn't leave with him was that this is all done  
8           and over with and you have nothing to do about it any more.

9       A. No, I wouldn't say that we'd have nothing to do with it. I  
10           don't think that that's fair to say that I would say that or  
11           think that. As far as I was concerned, any information we got  
12           I would keep a copy of it or take a copy of it and consult my  
13           immediate bosses and the crown.

14       MR. NICHOLAS

15           I see. I have no further questions, My Lords.

16

17

EXAMINATION BY MR. MURRAY

18       Q. Mr. Urquhart, my name is Donald Murray. You know me.

19       A. Yes, sir.

20       Q. With respect to one factual matter. On June 4th, you went to  
21           Baddeck to arrest Donald Marshall, Jr. Can you explain to the  
22           Commission why you went to Baddeck?

23       A. As a result of statements we had taken that day and being in  
24           contact with the Crown Prosecutor, Mr. Donald C. MacNeil.

25       Q. How did you know to go to Baddeck?

1 A. We first went to the Membertou Reservation and I believe it  
2 was Donald Marshall, Jr.'s brother we met and he told us that  
3 they were at Baddeck.

4 Q. You've been asked a number of questions about the taking of  
5 statements and when you sign statements and I don't believe  
6 you have been asked, but when you were in the position of  
7 witnessing a statement rather than writing it out yourself,  
8 would you do anything before signing that document?

9 A. Read it over.

10 Q. Was that an invariable practice?

11 A. Yes, it was a practice that I always did. And it was given to  
12 the accused to read. And if they didn't want to read it or  
13 couldn't read it and they asked for one of us to read it, the  
14 witness to the taking of the statement would read it over.

15 Q. My friend, Mr. Nicholas, referred you to Exhibit 19, which is  
16 your resumé and there's a reference under "Community  
17 Involvement" to Board of Directors of Howard House. Could  
18 you explain to the Commission what "Howard House" is, sir?

19 A. At that time, there was a house set up in Sydney, it was on  
20 Bentinck Street, where people on parole would be housed. It  
21 was a joint, I think it was between the Federal and Provincial  
22 Government. It was under, at one time, under the John  
23 Howard Society, but I believe that was later changed and I  
24 believe it still goes by the name of the "Howard House" on  
25 Bentinck Street. Marjorie Peck, she's in charge of the House.

1       There's, I forget how many beds there now, possibly 10 or 12,  
2       and they come there. The boys that's in there, and girls now,  
3       I believe, they go out in the community and they look for  
4       work. There's counseling there. The National Parole people  
5       are back and forth. Rob MacDougall sat on that same Board  
6       with me, that's a parole officer, and there was meals supplied  
7       to them, beds, and they seemed to get along in the community  
8       very good. I was appointed from the Sydney Police  
9       Department and when I retired, I wanted to resign off the  
10       Board, but Father John Graham, who is in charge, who was  
11       Chairman of the Board at that time, asked me if I would stay  
12       on for another while and I did until I moved out of Sydney in  
13       1985 or so.

14    Q. I would like to spend a few brief moments with you going  
15       through some documents where allegations have been made  
16       about you, sir, that haven't been dealt with specifically by  
17       other counsel. Justice Denied, have you read this book by  
18       Michael Harris?

19    A. By who?

20    Q. Michael Harris?

21    A. I might have glanced through it, I'm not....

22    Q. On page 89 of Justice Denied, Michael Harris states:

23  
24                   When Patricia Harriss was taken to the  
25                   Sydney Police Station on the evening of  
                    June 17th, she wondered if the police

MR. UROUHART, EXAM. BY MR. MURRAY

1 would ever leave her alone. The 14-year-  
2 old had already talked to Det. Michael  
3 MacDonald on two occasions, both times  
4 telling him the same story.

5 And then over on page 90, Michael Harris states:

6 Now at 8:15 she began for the third time to  
7 tell police what she knew of events on  
8 Friday, May 28th only this time in  
9 statement form.

COMMISSIONER POITRAS

10 Mr. Murray, do we have that as evidence before us and is that  
11 really germane to this Inquiry?

MR. MURRAY

12 I suggest that it is...

COMMISSIONER POITRAS

13 Unless the book has been filed, and I don't think it has.

MR. MURRAY

14 Even if it wasn't, a number of witnesses have been examined  
15 about portions of this book, My Lord.

COMMISSIONER EVANS

16 Having to do with quotes, having to do with quotations, I  
17 believe.

MR. MURRAY

18 Certainly.

COMMISSIONER EVANS

19 We're not interested in Michael Harris' observations or his  
20 opinions.  
21  
22  
23  
24  
25

MR. URQUHART, EXAM. BY MR. MURRAY

1 A. No, sir, I cannot.

2 Q. Turning now to red Volume 31, and I'm not aware of what  
3 exhibit number this is. 124? Actually, pages 130 and 131,  
4 and I merely refer to it to show the basis of my questions, Mr.  
5 Urquhart. This is a statement of claim which I understand  
6 was never served on you in an action by Donald Marshall  
7 against the City of Sydney, John MacIntyre and yourself. And  
8 to summarize I think fairly what is contained in it, it suggests  
9 that you, in particular, were negligent in the performance of  
10 your duties in 1971 and that you were instrumental in the  
11 fabrication of false and misleading evidence against Donald  
12 Marshall and I'd like to give you the opportunity to respond,  
13 if you wish, to those complaints.

14 11:47 a.m.

15 A. I never fabricated any evidence, and the investigation was  
16 done to the best of my ability.

17 Q. I'd like you to turn to red Volume 27, and again I don't know  
18 what exhibit number this is. Page 2 of that volume, this is a  
19 letter from Mr. Stephen Aronson, who was Donald Marshall's  
20 counsel at one point, to the Attorney General of Nova Scotia in  
21 April of 1982 and in the second paragraph on page 2 Mr.  
22 Aronson states,

23  
24 It would be most appreciated if you might  
25 keep me advised as to your department's  
position. In particular, I have expressed

MR. URQUHART, EXAM. BY MR. MURRAY

1 and continue to express my concern over  
2 the leaks to the press of information  
3 relating to the Marshall investigation. I do  
4 not believe that such leaks serve the  
5 interests of justice. This is particularly  
6 true as the source of the leaks appear to  
7 come from the Sydney City Police and  
8 officers of your own department, including  
9 the Attorney General himself.

10 What can you tell this Commission, sir, about anything you  
11 did that might constitute a leak?

12 A. I would have no way of getting any information, as the  
13 evidence points out I asked Mr. Edwards and I didn't get any  
14 answers. It was under investigation. Therefore, I would not  
15 know anything about the case to leak to the press or radio.

16 Q. What can you tell the Commission about your contact with the  
17 media in 1982 and '83?

18 A. They were looking for information. It was...they harassed,  
19 and that's the only word I can use, my daughter at home. I  
20 was on vacation at the time when the case broke, I guess, and  
21 she called up crying at my home at Glace Bay and telling me  
22 that some of the mean things that was said to her and I told  
23 her to ignore it and not pay any attention to it.

MR. MURRAY

24 My Lords, I have a book of newspaper articles which refer to  
25 allegations that have been made, some go much farther than what  
has been raised by the evidence here. I distributed that to  
counsel yesterday and as I understand there is no objection to

1 MR. UROUHART

2 A. Yes, I see it now.

3 Q. In the paragraph immediately following that

4  
5 One witness, John Pratico, recently told a  
6 Sydney reporter the police were out to get  
7 Marshall, another witness has alleged he  
8 was pressured by the Sydney and  
9 Louisbourg police to concoct this story. A  
10 Sydney man who has known the suspect  
11 for eight years says he went to the Sydney  
12 Police Department and the R.C.M.P. in 1974,  
13 gave them the suspect's name and  
14 evidence allegedly linking him with Sandy  
15 Seale's murder but they had already had  
16 their man behind bars, the local resident,  
17 who did not want to be identified, said in  
18 an interview on Friday. The Union of Nova  
19 Scotia Indians also gave the suspect's name  
20 to police in 1981 but the police again  
21 refused to reopen the case then. It was  
22 reopened after December, 1981.

23  
24 With respect to those allegations contained in those  
25 paragraphs as they relate to you, do you have anything to  
say, sir?

26 A. No, sir.

27 Q. On page 2, and this is an article from the Mic Mac News, if  
28 you'd keep the page turned straight up with 2 at the top, that  
29 one column that is in the right direction,

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MR. URQUHART, EXAM. BY MR. MURRAY

to cover up the whole affair.

1  
2 And then paragraph below,

3 The Union of Nova Scotia Indians also gave  
4 the suspect's name to police in May, 1981,  
5 but then police...but the police again  
6 refused to reopen the case then.

7 That, I suggest, sir, refers to your contact with Dan Paul.

8 What can you say about any alleged cover up?

9 A. There was no cover up by me personally, sir, in any of that.

10 Q. Now, referring you to page 8. Page 8. This is an article from  
11 the Toronto Star dated October 6th, 1982. At the bottom of  
12 the first column,

13 One of them, but one of them told Sydney  
14 Police in November, 1971, ten days after  
15 Marshall was convicted, that he saw  
16 someone else murder Seale. Sydney Police  
17 did not reveal this information until the  
18 Royal Canadian Mounted Police took  
19 another look at the case this year.

20 What do you have to say about that, sir?

21 A. It was turned over from the...when Jim MacNeil came in and  
22 gave the statement to the Sydney Police the R.C.M.P., I  
23 believe, were contacted at that time and there was a  
24 polygraph test done on Roy Newman Ebsary and on MacNeil.

25 Q. Do I gather from the evidence that you've given, and I don't  
want to suggest an answer to you, sir, what was your main  
source of information about the R.C.M.P. reinvestigation in

MR. URQUHART, EXAM. BY MR. MURRAY

1 1982?

2 A. What I would read in the press.

3 Q. I'd like you to go to the last page in this document, page 14.

4 Have you had an opportunity to read that, sir?

5 A. Yes.

6 Q. It concludes with, "The strain has been heavy on both Police  
7 Chief John MacIntyre and Inspector Bill Urquhart that they  
8 have had to suffer in silence. It's not fair." What can you tell  
9 this Commission as to your personal feelings since 1982 and  
10 your involvement in this matter?

11 A. Well, I've been...was a police officer for a number of years.  
12 As far as I was concerned my record was good, and as far as  
13 I'm concerned it's still good. And, anything that's written  
14 about me I can't...I can't do anything about what people think,  
15 say or do and if that's what they want to write to slant the  
16 truth I...let them go ahead. It's them that's got to answer for  
17 it some day, not me.

18 MR. MURRAY

19 I have no further questions, My Lord.

20 MR. ORSBORN

21 I'll be brief on the re-direct, My Lord.

22 RE-EXAMINATION BY MR. ORSBORN

23 Q. Mr. Urquhart, I believe you told my friend, Mr. Ross, that you  
24 were first aware of the robbery theory sometime around  
25 1982, either from the appeal or from the newspaper.

1 A. Yes, I'm not quite sure, as I've said, when that theory come  
2 up.

3 Q. When you did learn of the robbery theory, did you form any  
4 opinion of the effect on your 1971 investigation of not having  
5 had that information?

6 A. No, that information never came forward to us.

7 Q. I appreciate that, but did you say, well, if we had had that  
8 information it would have made all the difference?

9 A. I don't really know whether it would have or not because I  
10 can't go back and say, you know, that part of the evidence if  
11 we had it it might have made a difference and it might not.

12 Q. Were you not aware though on November, 1971, when you  
13 interviewed John MacNeil that the Indian fellow had Jimmy  
14 MacNeil's arm behind his back?

15 A. I don't know if that's in the...

16 Q. Yeah, it is, take my word for it.

17 A. Yeah.

18 Q. And would that suggest to you some kind of altercation or  
19 dispute?

20 A. Well, unless he was trying to protect himself and the other  
21 fellow grabbed him, I don't really know.

22 Q. You said this morning that with respect to suggestions being  
23 made to Maynard Chant at Louisbourg that you can't  
24 remember and that Mr. Magee could be mistaken. When I  
25 asked you similar questions on Monday, Mr. Urquhart, about

MR. URQUHART, RE-EXAM. BY MR. ORSBORN

1 advice or assistance being given to Mr. Chant you said, no,  
2 that did not happen, and could you just clarify whether or not  
3 you simply don't remember whether Mr. Chant was given any  
4 assistance or whether he was not given assistance?

5 A. No, I would say he wasn't given any assistance to answer the  
6 questions that John MacIntyre put to him.

7 Q. Okay. One final question, you discussed the similarities  
8 between Mr. Pratico's and Mr. Chant's statement. I'd just like  
9 to settle in my mind your evidence about a dissimilarity in  
10 those statements of June 4th, the two June 4th statements. In  
11 the second statement or I'm sorry, the statement from the  
12 second eyewitness, Mr. Chant, Mr. Chant places himself on the  
13 tracks and describes a fellow similar to John Pratico, who you  
14 had previously interviewed. He said there was a dark-haired  
15 fellow on the tracks. Previous to that, a couple of hours  
16 before that you interviewed Mr. Pratico and he said there  
17 wasn't a soul around. Can you suggest any reason for that  
18 dissimilarity in those statements?

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

20 MR. ORSBORN

21 Those are my questions, thank-you, My Lord.

22 MR. CHAIRMAN

23 Thank-you very much, Mr. Urquhart. That's all, thank-you.

24 WITNESS WITHDRAWS