

1 Q Sir, in your discussions with Mr. Rosenblum did you ever ask  
2 Mr. Rosenblum why he didn't cross-examine Pratico and  
3 Chant at the preliminary?

4 A. No, I didn't because that's a frequent occurrence, almost a  
5 matter of practice unfortunately.

6 Q Not to cross-examine eyewitnesses at a murder trial?

7 A. On a preliminary. I'm speaking trials generally.  
8 Preliminaries in generally. Like my own view is that very  
9 often defence really make a strategic error by not waiving the  
10 preliminary because there's no better preparation for the  
11 Crown's case and to plug some holes in it than a good run at  
12 the preliminary so...

13 Q Well Mr. Khattar...

14 A. The defence counsel that does a lot of cross at a preliminary  
15 does so with some risk. And sometimes, you know, it has to  
16 be decided on an individual case basis, of course. Sometimes  
17 you have to, sometimes you're better off signing the waiver.

18 Q. You ever, agree or stated yesterday that based on the  
19 evidence before the jury you could understand who Mr.  
20 Marshall was found guilty at trial.

21 A. Sorry, give me that again, Mr. Barrett.

22 12:10 p.m.

23 Q. I say you've testified based on the evidence before the jury  
24 you could understand how Mr. Marshall was found guilty at  
25 trial?

MR. EDWARDS, EXAM. BY MR. BARRETT

1 A. Yes.

2 MR. BARRETT

3 Those will be all my questions.

4 COMMISSIONER EVANS

5 Mr. Edwards, when you were discussing matters with Simon  
6 Khattar some time later, did he ever indicate to you that he had  
7 interviewed any witnesses other than Marshall?

8 MR. EDWARDS

9 No, he didn't.

10 COMMISSIONER EVANS

11 Because he seemed to feel that he was restricted in  
12 discussing anything with Crown witnesses.

13 MR. EDWARDS

14 Yes.

15 COMMISSIONER EVANS

16 So he really was flying in court with Marshall as a witness  
17 and he did not have the statements of what the Crown witnesses  
18 were going to say.

19 MR. EDWARDS

20 That seems to his evidence, yes.

21 COMMISSIONER EVANS

22 Now as far as your predecessor and yourself is concerned, it  
23 appears that those statements are available. But if a defence  
24 counsel wants the statements, surely you're not expected to  
25 prepare his defence. And if he wants them, he goes over to you

MR. EDWARDS, EXAM. BY MR. BARRETT

1 and gets them, or writes for them, isn't that what you do?

2 MR. EDWARDS

3 Yes, although my practice has been to, particularly in the  
4 major cases, to mail them out, whether there's a request or not.  
5 But certainly if the request comes before the statements are  
6 mailed out, they're available. Now that's been the practice as long  
7 as I've known the business.

8 COMMISSIONER EVANS

9 And then if something turns up later, you will send that on  
10 as well.

11 MR. EDWARDS

12 Oh, yes, I think the Crown is obliged then.

13 COMMISSIONER EVANS

14 I always thought defence counsel was being paid and, in this  
15 case, we were told that money was no object as far as the defence.

16 MR. EDWARDS

17 Yes.

18 COMMISSIONER EVANS

19 They'd be out moving around, interviewing witnesses as fast  
20 as the police.

21 MR. EDWARDS

22 Yes. I think when we had the general discussion at the  
23 beginning there, I think I emphasized that, you know, generous  
24 disclosure practices by the Crown should never replace the need...

25

MR. EDWARDS, EXAM. BY MR. BARRETTCOMMISSIONER EVANS

1  
2 Preparation.

MR. EDWARDS

3  
4 For diligence by defence counsel.

COMMISSIONER EVANS

5  
6 Thank you.

MR. BISSELL

7  
8 My Lords, before I begin, I didn't wish to interrupt Mr.  
9 Barrett when he was cross-examining Mr. Edwards, but there was  
10 one point that I think I should clarify or put our position on the  
11 record. He suggested that Robert Anderson's testimony had been  
12 that Donald C. MacNeil called Mr. Anderson to advise him of the  
13 results of the polygraph examination and that was the telephone  
14 call that Inspector Marshall said he overheard being made at the  
15 hotel following the polygraph examination. Both Mr. Pringle's  
16 notes and my notes suggest that Mr. Anderson, or Judge Anderson  
17 rather, when he testified, has said that he received word from  
18 Sydney, either by the prosecutor or the R.C.M.P., and that's at page  
19 9142 of the transcripts. Volume 50 of the transcripts as well. So I  
20 don't think it could be said with any conclusion, with all due  
21 respect, that that was necessarily the call that Al Marshall  
22 overheard being made at the hotel following the polygraph  
23 examination. I just wish to put our interpretation on the record so  
24 that silence is not deemed to be consent.  
25

EXAMINATION BY MR. BISSELL

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Q. We're moving down the batting order, Mr. Edwards. I have just a few questions for you. In the first area, questions relate to questions which Mr. MacDonald put to you, what must seem like months ago, but it was last week, about disclosure in the 1971 R.C.M.P. police investigation.

A. Yes.

Q. And whether or not that ought to be disclosed. And I would suggest to you, sir, that there is a separate duty of disclosure that's totally independent of the 1971 R.C.M.P. investigation or the activities of Al Marshall. And that was a duty to disclose the evidence of Jimmy MacNeil that came forward to the Sydney Police Department and to Lou Matheson in November '71 following Mr. Marshall's conviction. There was a separate duty to disclose that, whether or not there was ever a 1971 reinvestigation, would you not agree with that?

A. Well, let's say it had stopped there.

Q. Yes.

A. That those statements were taken from Jimmy MacNeil and the Ebsarys and no more was done. Certainly there's a duty to disclose that, in my opinion. But the fact of the matter is it didn't stop there, of course.

Q. No.

A. And the reinvestigation took place and with those results.

Q. I'm not suggesting that there was no duty to disclose the '71

1 R.C.M.P. investigation.

2 A. Yes.

3 Q. I would just suggest that there is a duty as well to disclose the  
4 evidence of Jimmy MacNeil.

5 A. All of it.

6 Q. All of it, yes.

7 A. All of it, yes.

8 Q. And so whether or not, and Judge Anderson, of course,  
9 testified that he was aware of the results of the investigation,  
10 but whether or not he was aware of the results, ever received  
11 Al Marshall's report, there was the duty to disclose Jimmy  
12 MacNeil's statement. Wouldn't you agree with that?

13 A. I would.

14 Q. I don't want to get into the, which version of the paper-  
15 dropping episode is correct and when it occurred, but I would  
16 simply ask you two questions on that. First of all, don't you  
17 agree that the statement of Patricia Harriss is an important  
18 statement, the first statement of Patricia Harris, No.1, that  
19 that's an important document?

20 A. Yes.

21 Q. And wouldn't you also agree that taking your recollection of  
22 events...

23 A. Yes.

24 Q. That that document was not forthcoming from John  
25 MacIntyre at the very beginning.

1 A. Yes.

2 Q. That he had a number of opportunities to advise you and to  
3 advise Inspector Scott and Staff Sergeant Wheaton of the  
4 existence of Patricia Harriss No. 1, that statement.

5 A. I think that's fair, yes.

6 Q. Now I detected some criticism in your evidence of the Royal  
7 Canadian Mounted Police in that you felt the 1982  
8 investigation, they were not vigorous in pursuit of their  
9 investigation, particularly in regards to the Sydney Police  
10 Department and Chief John MacIntyre. Is that correct?

11 A. Yes.

12 Q. That's despite my learned friend's suggestion that they had  
13 tunnel vision and focused in...

14 A. That they were too vigorous, yes.

15 Q. Okay. Yet you didn't have to push Staff Sergeant Wheaton or  
16 Corporal Carroll to go out and interview the various so-called  
17 eyewitnesses, did you?

18 A. Oh, no. Insofar as the investigation went, it was done in what  
19 I felt to be a competent manner. I'm aware of the criticisms  
20 made through Mr. Pugsley and they're valid. But, generally  
21 speaking, I was impressed with the investigation and it's  
22 probably gratuitous for me to say it, in a sense, but I think it's  
23 important to underline that had it not been for that  
24 reinvestigation, Donald Marshall probably would still be in  
25 Dorchester.

1 Q. In fact, you've described it in your own notes at the time, I  
2 believe your note of April 16th, that it was a detailed  
3 investigation.

4 A. Yes.

5 Q. In referring to it. Now just, your desire to have Staff  
6 Sergeant Wheaton question John MacIntyre.

7 A. Yes.

8 Q. You would acknowledge, sir, that he did at least on two  
9 occasions speak to John MacIntyre.

10 A. I acknowledge that he did?

11 Q. That he spoke to John MacIntyre on at least two occasions.

12 A. Yes.

13 Q. Whether or not he questioned him in the fashion that you  
14 would have liked.

15 A. I can acknowledge that he spoke to him on two occasions,  
16 right.

17 Q. And that John MacIntyre briefed you and he briefed  
18 Inspector Scott as well.

19 A. Yes.

20 Q. So what was your purpose in wanting Staff Sergeant Wheaton  
21 to question John MacIntyre to take a statement following... in  
22 the form that you suggested that they had done with Patricia  
23 Harriss and Maynard Chant?

24 A. Well, it seemed to me that to properly assess the credibility, I  
25 suppose, of the recanting by those witnesses, one had to



1 explore and explore fully the reasons why they had lied in  
2 the first place. And it seemed to me that you'd go to the  
3 investigators.

4 Q. But you testified also that by April, at least, you were fully  
5 satisfied that there was lots of evidence that Donald Marshall  
6 was not guilty of the offence. You were content.

7 A. Oh, yes. I was content that there was sufficient evidence to  
8 prove that he had not done the murder. But I was not  
9 content with the fact that Chief MacIntyre and Bill Urquhart,  
10 in particular, had not been questioned fully.

11 Q. Was that with respect to an inquiry into the means and  
12 methods of the Sydney Police Department in conducting the  
13 investigation, or solving the murder?

14 A. Well, it would be basically the means and methods that would  
15 go to the heart of the credibility of Chant, Harriss, and Pratico.

16 Q. But an investigation of the means and method, you will agree,  
17 is something that your department wished to have put in  
18 abeyance, or at least that was your interpretation of the  
19 instruction that you got from Mr. Gale.

20 A. That was something that, I think, that the proper  
21 characterization of that would be that, in effect, our  
22 Department acknowledged the reluctance of the R.C.M.P. to do  
23 that investigation and said, "Well, we don't need that right  
24 now. We'll get back to it."

25 Q. But was not your instruction to Staff Sergeant Wheaton that

- 1 he was to put that part of it in abeyance at the time?
- 2 A. Yes.
- 3 Q. I would ask you to refer, sir, to Volume 34, page 88. Do you  
4 have it, sir?
- 5 A. Yes, I have it.
- 6 Q. Paragraph 4.
- 7 A. Yes.
- 8 Q. And that suggests that there were consultations with you  
9 with respect to interviewing Chief MacIntyre and Inspector  
10 Urquhart in regards to the allegations of Chant, Pratico, and  
11 Harriss?
- 12 A. Yes.
- 13 Q. "Mr. Edwards has advised me that he further discussed the  
14 matter with Mr. Gordon Gale of the Attorney General's  
15 Department."
- 16 A. Yes.
- 17 Q. "And it was felt these interviews should be held in abeyance  
18 for the present."
- 19 A. Yes.
- 20 Q. Does that suggest any reluctance on the part of Staff Sergeant  
21 Wheaton to...
- 22 A. Well, he's writing that on May the 20th. So it's almost exactly  
23 a month after the report, or after the instruction, and I'm a  
24 little uncomfortable with that word.
- 25 Q. But it's not a confirmation of the R.C.M.P.'s reluctance to

1 interview Sergeant Mac... to question Sergeant MacIntyre and  
2 Inspector Urquhart on their means and methods.

3 A. No, it's not an expression of reluctance but it's not exactly an  
4 expression of "we want to go and do this but they won't let  
5 us", either.

6 Q. No, I would suggest it's a simple statement of what happened.

7 A. Well, I put it to you... The advocate is coming out. The word  
8 "discussions", I suggest, begs some questions about what  
9 discussions. What was the nature of the discussions? It  
10 hardly reveals the fact that when I used the verb "urge", I  
11 don't think I'm overstating it, that I had been "urging" them  
12 to go and question the investigators. So, yes, it's accurate as  
13 far as it goes, but it doesn't say it all.

14 Q. Yes, and I guess that brings up my next point. You use the  
15 word now "urged", earlier with my friend, Mr. MacDonald, you  
16 used the word "emphatically".

17 A. Yes.

18 Q. In stating what you did. But I would suggest that your notes,  
19 which were made at the time, or shortly thereafter.

20 A. Yes, right.

21 Q. Use somewhat softer terminology. Would you agree with me?  
22 I'd refer you to..

23 A. Okay, let's have a look at them.

24 Q. Volume 17, page three.

25 A. Would you give me the date, Mr. Bissell?

- 1 Q. Yeah, that's...
- 2 A. February 23rd, the 11 p.m. phone call?
- 3 Q. 23rd, yes.
- 4 A. Yes.
- 5 Q. That's right.
- 6 A. So I called him at 11 o'clock in the night, suggested  
7 investigation not complete until MacIntyre questioned,  
8 though he should not be privy, et cetera.
- 9 Q. The verb there is "suggested". That's somewhat softer than...
- 10 A. That verb is softer than "urge" but...
- 11 Q. But it's a note you made at the time.
- 12 A. Yes.
- 13 Q. And at page 10 at Volume 17.
- 14 A. The date, again?
- 15 Q. April the 19th. Excuse me, April the 17th. There you, the  
16 very last two sentences of the note. There you're saying that  
17 you thought he should do something.
- 18 A. Sorry, maybe I'd better refer to the... What's the page  
19 number in Volume 17?
- 20 Q. Page ten, Mr. Edwards.
- 21 A. Page ten and whereabouts?
- 22 Q. See the sentence: "Told Wheaton that I thought he should get  
23 entire file." Note of Saturday, April 17th, the last entry of  
24 that note.
- 25 A. Yes, okay. "Told Wheaton I thought he should get the entire

1 file. Said he would go down Monday and get it." Yes. Again...

2 Q. You told...

3 A. All right.

4 Q. But, again, that's not emphatically telling him to do something,  
5 wouldn't you agree?

6 A. I guess it's a matter of argument.

7 Q. Well. But those were notes that you made at the time.

8 A. They were notes I made at the time and, "Look, Harry, I think  
9 you'd better go down and get the entire file. Don't you think  
10 it's time?" That was something like the discussion. I can't  
11 recall it word for word but it wasn't, "Well, gee, Harry, maybe  
12 you should do it."

13 Q. But on the issue of the search warrant, you felt that a search  
14 warrant should be used to get the file, is that correct? Either  
15 that or just ask them to give them, turn over the file?

16 A. Yeah, I think I said "to threaten the use" and then I told Mr.  
17 MacDonald part of the conversation I required... I recalled  
18 about putting it in your hip pocket and taking the soft  
19 approach first.

20 Q. But have the search warrant there and use a search warrant  
21 if necessary.

22 A. If necessary, yes.

23 12:30 p.m.

24 Q. And they'd already met him on a couple of occasions and  
25 asked Chief MacIntyre if they had all the relevant material.

MR. EDWARDS, EXAM. BY MR. BISSELL

1 A. Yes.

2 Q. So the soft approach hadn't exactly been working, I take it.

3 A. The soft approach had been too soft.

4 Q. You wanted a harder soft approach.

5 A. That's right.

COMMISSIONER EVANS

7 Like a stick it in your back pocket.

MR. EDWARDS

9 That's right. The polite but firm request approach, I  
10 suppose, is what I'm...

MR. BISSELL

12 Q. But you said the only reason that they gave you that they  
13 didn't want to use a search warrant is because it was another  
14 police force. That was the only reason ever proffered to you.

15 A. Yes, other than Inspector Scott says in the notes there, he  
16 said, "Well, we couldn't be sure of getting it all that way."

17 Q. Yeah, exactly. That was my point. That your note suggested  
18 there was more than one reason expressed to you as to why it  
19 wouldn't be proper to, why they didn't wish to use a search  
20 warrant.

21 A. Well, there was, all right, more than one stated reason but I  
22 can't for the life of me understand the rationale for that  
23 reason, "Couldn't be sure of getting it that way."

24 Q. Well, I don't want to get into an argument on whether or not  
25 you agreed or disagreed.

1 A. No, okay.

2 Q. I think that's better left for another time.

3 A. Sure, of course.

4 Q. But what was the reason you wanted them to get the file?  
5 Was it for the murder investigation or was it an investigation  
6 into the practices and procedures of the Sydney Police  
7 Department, particularly the investigators in the Marshall  
8 case?

9 A. It was for the murder investigation.

10 Q. Well...

11 A. And...

12 Q. Sorry.

13 A. And my view is that you can't separate it off because the  
14 main witnesses in the murder investigation, there was  
15 reasonable and probable grounds to believe at that time there  
16 may be evidence in that file relating to them, or maybe other  
17 witnesses.

18 Q. Fine, and then I would suggest to you, Mr. Edwards, that the  
19 proper course is to do exactly what the R.C.M.P. asked you to  
20 do, and that was to get an order from the Attorney General of  
21 Nova Scotia, under Section 31, Subsection 2 of the Police Act.  
22 Isn't that what 31 Subsection 2 is designed for?

23 A. It's designed to, for that purpose. That can be a purpose but I  
24 don't understand why resort would have to be made to the  
25 Police Act in a murder investigation.

1 Q. But doesn't the Police Act, particularly Section 1, envision that  
2 applying when another department is brought in to take over  
3 an investigation from another department? I would suggest  
4 to you that the proper way to get the police file from the  
5 Sydney Police Department was this section, the legislative  
6 scheme in place that covers that particular situation that you  
7 were confronted with in 1982? Where another police  
8 department is coming in investigating a file already  
9 investigated by a police department?

10 A. Well, maybe that's arguable but it wasn't my opinion as to the  
11 proper way.

12 Q. Well, wouldn't you agree, sir, that as a principle of law, that  
13 where there exists an alternate method of obtaining  
14 documents and material, alternate to the intrusive power of a  
15 search warrant, that it's preferable that you use that power  
16 first?

17 A. Again, in the circumstances that pertained at this time, all I  
18 can say is, in my view, the search warrant was the preferred  
19 way. But I think we have to put this in perspective. And I  
20 didn't really believe, and it was my impression... Well, I can't  
21 say what they believed, but I didn't really believe that there  
22 would be any difficulty in getting the entire file, if only they  
23 would go down and say, "Give us the entire file."

24 Q. But you were telling them to use the stick of the search  
25 warrant...



MR. EDWARDS, EXAM. BY MR. BISSELL

1 A. If you have to. If you have to. That was the...

2 Q. But you say, sir, it depends on the circumstances and I  
3 suggest to you that the circumstances in this particular case  
4 are the circumstances envisioned by the Police Act, Section  
5 31, Subsection 2.

6 A. Like I say, I recognize that that's an argument. I don't feel  
7 that way.

8 Q. Pardon?

9 A. I don't feel that way.

10 Q. And you don't feel that as a matter of principle in terms of  
11 getting a search warrant under the Criminal Code, that if an  
12 alternate means exists to get the material you're seeking, an  
13 alternate statutory scheme...

14 A. Yes.

15 Q. That you must use that statutory scheme before you use the  
16 intrusive power of a search warrant?

17 A. I think generally speaking that's the rule, yes, generally  
18 speaking.

COMMISSIONER EVANS

19  
20 Mr. Bissell, under the Police Act, who applies?

MR. BISSELL

21  
22 Who applies? No one needs to apply. The Attorney General  
23 signs the direction, so I suppose the police force wishing.

COMMISSIONER EVANS

24  
25 In this case, the R.C.M.P. wishing.

MR. EDWARDS, EXAM. BY MR. BISSELL

1 MR. BISSELL

2 Yes.

3 COMMISSIONER EVANS

4 Would have made an application to the Attorney General of  
5 Nova Scotia.

6 MR. BISSELL

7 Yes, I don't think there's a formal application set out. In  
8 fact, that's exactly what they did because Mr. Edwards' notes  
9 indicate that they suggested to Mr. Edwards that an order be  
10 obtained under the Police Act, or a direction.

11 COMMISSIONER EVANS

12 But as far as Mr. Edwards was concerned, that was kind of a  
13 slow process in which they were white-gloving the Sydney Police  
14 Department for some time and he wanted them to get the files  
15 now and suggested to ask for it, make a demand for it and to back  
16 that up, have a search warrant in his back pocket.

17 MR. BISSELL

18 Yes, I guess my answer to that, My Lord, would... I don't  
19 really wish to argue right now, is that there was an alternate  
20 method.

21 COMMISSIONER EVANS

22 Oh, yeah.

23 MR. BISSELL

24 That covers this situation and that's the... In fact, the case  
25 law requires.

MR. EDWARDS, EXAM. BY MR. BISSELLMR. EDWARDS

1  
2 A. And the other point, I guess, to try to get the picture complete  
3 here, my note of April 19th says that Gordon Gale was going  
4 to speak to the A. G. re direction under the Police Act. The  
5 Police Act was never mentioned to me by the R.C.M.P. That  
6 was the only mention I recall. I don't believe there's any  
7 reference in my notes other than that to the Police Act.

8 Q. Where are you reading from, sir?

9 A. I'm reading from my note of Monday, April 19th. I'm looking  
10 at the original note, so. The paragraph beginning, "This a.m.  
11 phoned by Herschorn in an unrelated matter," the end of that  
12 paragraph.

13 Q. If you refer at page eight of Volume 17, your note of Friday,  
14 April the 16th.

MR. CHAIRMAN

16 What page?

COMMISSIONER EVANS

18 April 19th, page 10.

MR. BISSELL

20 But I'm asking the witness to refer to page eight.

MR. EDWARDS

22 A. Okay.

23 Q. The note of April the 16th.

24 A. Yes.

25 Q. The paragraph that starts with "And call with Wheaton..."

- 1 A. Yes. They wanted a direction from the A.G.
- 2 Q. To the Chief.
- 3 A. To the Chief, yes. But all I'm saying is that the Police Act  
4 wasn't mentioned. Maybe that's what they intended, but it  
5 wasn't mentioned to me.
- 6 Q. I see, but that's what, in effect, the Police Act does. It's a  
7 direction to the, to proceed in a general...
- 8 A. That's, in effect, what the Police Act does, yes.
- 9 Q. So it was the police that suggested that procedure, that that's  
10 what they wanted. Whether they identified it...
- 11 A. They wanted the order to come from Halifax, yes.
- 12 Q. And in terms of conducting an investigation into the practices  
13 and procedures of the Sydney Police Department, well, that's  
14 something that there would have to be a specific direction  
15 from the Attorney General, as well, for them to do, would you  
16 not agree?
- 17 A. No, definitely not.
- 18 Q. Where do they get their authority to go in to a municipality  
19 policed by another police department to conduct that  
20 investigation?
- 21 A. They were already over that hurdle when they were invited  
22 in by John MacIntyre...
- 23 Q. To reinvestigate a murder.
- 24 A. To reinvestigate the murder case.
- 25 Q. But your own Department said they didn't want an

1 investigation of practices and procedures at this stage.

2 A. Well, you're jumping ahead to April 19th.

3 MR. CHAIRMAN

4 I take it you're going to be awhile, Mr. Bissell.

5 MR. BISSELL

6 About another five or ten minutes.

7 MR. CHAIRMAN

8 We'll adjourn until two o'clock.

9 12:39 p.m. INQUIRY RECESSED UNTIL 2:02 p.m.

10 MR. CHAIRMAN

11 Mr. Bissell?

12 MR. BISSELL

13 Thank you, My Lord.

14 Q. Just a few more questions, Mr. Edwards. I think when we  
15 broke at noon, we were talking about the jurisdiction of the  
16 R.C.M.P. to go into the City of Sydney's jurisdiction to conduct  
17 an investigation of the, I suppose whether or not Chief  
18 MacIntyre counselled perjury, which would be the end result  
19 of an investigation into the practices and methods of the  
20 Sydney Police Department, is that fair to say?

21 A. No, I wouldn't frame it that way, Mr. Bissell. What I was  
22 talking about then was questioning the City Police as part of  
23 an ongoing murder investigation. Now it may very well have  
24 been that that investigation could have led in that direction,  
25 hypothetically.

1 Q. I thought your instruction to hold that part of it in abeyance  
2 was that it was felt by your departmental people that that  
3 was really a second part. We have to determine who  
4 committed the murder and whether or not it was Donald  
5 Marshall. And then an investigation into what the Sydney  
6 Police Department did was a second component.

7 A. Well, you'd have to ask the departmental people about that  
8 but my view was that that was part of an ongoing murder  
9 investigation. For example, if I may illustrate.

10 Q. Sure.

11 A. Let's say that when Harry Wheaton was talking to Chant,  
12 Chant had said, "Well, I testified the way I did because John Q.  
13 Public, who lives down on Townsend Street in Sydney, told  
14 me if I didn't, I'd be in trouble." Now surely no one would  
15 suggest that Harry Wheaton wouldn't swoop right in on John  
16 Q. Public and ask him the "why for." My difficulty is that John  
17 MacIntyre was in no different position than the John Q. Public  
18 that I just used in the illustration.

19 Q. Well, I guess I would take exception that nobody would  
20 challenge whether Harry Wheaton would swoop in and take a  
21 statement from...

22 A. I'm sorry?

23 Q. John Q. Public. I'm not sure it can be said that Harry Wheaton  
24 would swoop in and take a statement from John Q. Public in  
25 that particular situation. Surely that's a separate...

MR. EDWARDS, EXAM. BY MR. BISSELL

1 A. Well...

2 Q. Is that a question or is that an argument?

3 MR. CHAIRMAN

4 Well, I don't know if it's a question or an argument. But it  
5 seems to be a very logical answer to the question.

6 MR. BISSELL

7 Q. The point, you would acknowledge, though, would you not,  
8 Mr. Edwards, that the R.C.M.P. don't have primary jurisdiction  
9 in a municipality of less than 17... of more than 1700 people.

10 A. I acknowledge that but, again, I take the view, and I may be  
11 wrong, of course, that that hurdle was overcome on February  
12 3rd. John MacIntyre gave them the murder investigation to  
13 do. They needed no more than that.

14 Q. Okay, but John MacIntyre, I would suggest to you, didn't give  
15 them the mandate to go in and investigate the Sydney Police  
16 Department.

17 A. He gave them the mandate to do whatever was necessary to  
18 investigate that murder.

19 Q. The ultimate mandate must come from the Attorney General's  
20 office, though, is that not correct?

21 A. That's not correct.

22 Q. The mandate to go in...

23 A. In my view.

24 Q. You disagree that the Police Act, or the police contract for the  
25 Province of Nova Scotia, I would suggest to you, requires the

MR. EDWARDS, EXAM. BY MR. BISSELL

1 mandate to come from the Attorney General's Department.

2 A. Perhaps that was Mr. MacIntyre's rationale in having me  
3 there. I was the agent of the Attorney General and I  
4 concurred that the R.C.M.P. should do the investigation.

COMMISSIONER EVANS

5  
6 Mr. Bissell, are you drawing a distinction between coming in  
7 to examine or to reinvestigate a police department and, on the  
8 other hand, coming in to reinvestigate a murder in which the  
9 police department may be involved?

MR. BISSELL

10  
11 Yes, I think there's a difference between the two. Their  
12 mandate was to investigate a murder.

COMMISSIONER EVANS

13  
14 And that murder involved the conduct of the Sydney Police.

MR. BISSELL

15  
16 Peripherally, yes, but I don't think it... But if the purpose of  
17 your investigation of the activities of the police department are to  
18 determine whether or not further charges are warranted, then  
19 that's a separate investigation, I would submit, and re...

COMMISSIONER EVANS

20  
21 But, generally, if the R.C.M.P. are instructed to go in and  
22 investigate a police department, it's usually because of some  
23 police corruption or things of that kind, isn't it?

MR. BISSELL

24  
25 Or allegations of some wrong...



DISCUSSION

1 COMMISSIONER EVANS

2 An official allegation...

3 MR. BISSELL

4 Or allegation of some wrongdoing.

5 COMMISSIONER EVANS

6 Yes.

7 MR. BISSELL

8 I'm not sure that it would be restricted necessarily to  
9 corruption.

10 COMMISSIONER EVANS

11 Well, that was kind of a loose term that I was...

12 MR. BISSELL

13 But improper police methods might be construed as  
14 something of wrongdoing.

15 COMMISSIONER EVANS

16 Yes, but you say it's different if they're brought in to  
17 investigate...invited in to investigate a murder and then they  
18 restrict themselves strictly to that murder.

19 MR. BISSELL

20 Yes, well, they're doing it at, technically, at the request of  
21 the Attorney General.

22 COMMISSIONER EVANS

23 Right.

24 MR. BISSELL

25 It's their mandate and if the Attorney General instructs

DISCUSSION

1 them to hold it in abeyance or stop, their authority is derived  
2 from the Attorney General, if the Attorney General considers an  
3 investigation of the police department as separate and distinct  
4 from the murder, which I would submit Mr. Gale must have when  
5 he issued that instruction, then that is the limit upon the authority  
6 of the R.C.M.P. in the situation.

COMMISSIONER EVANS

7  
8 When they're ordered to investigate and they're told to halt,  
9 they halt.

MR. BISSELL

10  
11 No, they're ordered to investigate a murder, which they did  
12 investigate, and brought to a successful conclusion, able to get a  
13 conviction of the individual who committed the murder and were  
14 awaiting further instructions to proceed, if the Attorney General  
15 so wished, on to the methods and practices of the Sydney Police  
16 Department. But I would suggest that the Attorney General had  
17 other options. Rather than having the R.C.M.P. do that, the  
18 Attorney General may have preferred that that be done through  
19 the Police Commission, for example, under the Police Act. That's  
20 the point that I'm trying to make.

MR. CHAIRMAN

21  
22 That's not the point that's before us. That's not the point  
23 Mr. Edwards is making. The R.C.M.P. are called in to reinvestigate  
24 the conviction of Donald Marshall, Jr. of the offence of murder.  
25

DISCUSSION

1 MR. BISSELL

2 Correct.

3 MR. CHAIRMAN

4 Flowing from that as a result of their investigation, someone  
5 else was charged but they didn't know that when they started out.

6 MR. BISSELL

7 No.

8 MR. CHAIRMAN

9 And as part of the investigation, they naturally go to the  
10 three principal witnesses at the original murder trial and these  
11 principal witnesses now say we gave evidence that was not  
12 correct because we were scared of the police or they, at least they  
13 raised the suspicion that there may have been police pressure in  
14 the taking of these statements. Are you suggesting that the  
15 R.C.M.P. should not then go and interview the police who took  
16 these statements?

17 MR. BISSELL

18 Well, they did speak to the police who took the statements.

19 MR. CHAIRMAN

20 Go and take statements.

21 MR. BISSELL

22 I suppose how they do is up, I mean there certainly is ample  
23 evidence that they spoke to the principals involved. Admittedly,  
24 they didn't take statements but they sought instruction as to  
25 whether or not there was to be an investigation or the taking of

DISCUSSION

1 statements from these people as part of the practices of the  
2 Sydney Police Department and the instruction that came from the  
3 Attorney General to Mr. Edwards via Gordon Gale, I would  
4 submit...

5 MR. CHAIRMAN

6 Was to hold it in abeyance.

7 MR. BISSELL

8 Hold that part of it in abeyance.

9 MR. CHAIRMAN

10 But that was long after. When I say "long", you know, days  
11 after. As I understand Mr. Edwards' evidence, he had been urging  
12 the R.C.M.P. to take a statement from MacIntyre and Urquhart.  
13 Subsequently, instructions come from Mr. Gale, who had  
14 concluded that the evidence had gone far enough to enable them  
15 to, to enable an application to be made to the Court of Appeal for a  
16 review and to introduce whatever fresh evidence might be  
17 required. That was later. Anyway, that's more argument than...

18 MR. BISSELL

19 Yes, I agree, My Lord.

20 MR. EDWARDS

21 A. I guess if I could just, to make my answer complete, if that  
22 was the concern of the R.C.M.P. that they didn't have  
23 jurisdiction to go in, I can tell you that that concern was never  
24 addressed to me. They never said to me, "Look, we don't  
25 have jurisdiction to go in and question MacIntyre and

1 Urquhart." "We don't have jurisdiction to go in and get the  
2 file. We need an order under the Police Act." That wasn't...  
3 It may have been a concern but it wasn't communicated to  
4 me.

5 Q. It may not have been put to you, I would suggest, in terms of  
6 jurisdiction but what then was the purpose for you going to  
7 Mr. Gale and getting some instructions on it with respect to  
8 the interrogation of John MacIntyre?

9 A. Because by that point, it was obvious to me that the R.C.M.P.  
10 weren't going to go in on their own accord and I felt it  
11 important in order for them to do a complete investigation,  
12 that those questions be undertaken.

13 Q. And the response that you got from Mr. Gale, or as you  
14 interpreted, was to hold that part of it in abeyance, is that not  
15 correct?

16 A. That is correct. Although I don't recall the specific  
17 conversation with Gordon Gale, I am sure that I let him know  
18 that what I had urged the police and that the police were  
19 reluctant to go on my urging.

20 Q. One other area that I want to go into just for a few moments,  
21 sir, is the decision to go under 617(b) or (c). Now you  
22 indicated, I believe, that you met in June with Mr. Gale and  
23 Mr. Rutherford.

24 2:17 p.m.

25 A. That's correct, yes.

1 Q. It was clear, was it not, at that meeting that the ultimate  
2 decision whether the reference would be under paragraph  
3 (b) or (c) was the decision of the Minister of Justice.

4 A. No question.

5 Q. Not of any of the participants.

6 A. That's right.

7 Q. And your intention to hold an inquiry such as this would  
8 have come to naught had the Court of Appeal decided that  
9 under (c) you didn't have the power to ask questions.

10 A. No question.

11 Q. Yeah.

12 A. They had the discretion, the ultimate discretion to say what  
13 they were going to hear.

14 Q. Also your ability to conduct an inquiry, such as you testified  
15 that was your intention, would also depend upon the  
16 instructions that you received from the Attorney General's  
17 office, is that not correct?

18 A. The reason for my pause is that, of course, you're correct  
19 that the Attorney General's Department would have ultimate  
20 control there, but I had conducted several inquiries, you  
21 know, that obviously haven't had the high profile of this  
22 one, and hundreds of trials and I have never had any  
23 direction as to who I should call or...

24 Q. Those are magisterial-type of inquiries.

25 A. That's correct, yes.

1 Q. And surely...and surely there is quite a distinction between  
2 that though and...

3 A. Oh, yes, this...this in those ways is the unique situation, but  
4 I never had any indication from anyone that I was going to  
5 receive a list of witnesses if you want.

6 Q. Fine.

7 A. I mean there was a general discussion on June 9th between  
8 or among Gale, Rutherford and myself and I believe both  
9 of...both of them would agree with my recollection that I  
10 was the one who was going to be making those decisions.

11 Q. But would your plans not have been frustrated by what  
12 later became the policy of your Department that there  
13 would be no such inquiry until the Ebsary matter  
14 were...Ebsary trials were disposed of?

15 A. Well, that's...that again, I guess, is hypothetical, but yes.

16 Q. But that became...that became the policy of the Department.

17 A. That became a policy, and a valid one.

18 Q. Yeah.

19 A. But that still would not have hampered the scope of the  
20 inquiry. I think that would have been, as far as I know, left  
21 to me and to make a submission to the Court and then  
22 what...whether they accepted it or not that was something  
23 else.

24 Q. Unless your superiors took a different view as to how that  
25 inquiry should be handled.

MR. EDWARDS, EXAM. BY MR. BISSELL

1 A. That's always a possibility, but again that's speculative.  
2 And, since you raised that policy, Mr. Bissell, that...I think  
3 that there is a parallel situation and I had never heard it  
4 been articulated in public before. There was, of course, a lot  
5 of criticism about the inquiry being held until after the  
6 Ebsary matter was concluded. And I just want to point out  
7 that there's a parallel under the Fatality Inquiries Act which  
8 you're probably aware of, that when there is a criminal  
9 matter arising out of the same circumstances as the matter  
10 you're holding the inquiry on the inquiry...the inquiry shall  
11 be adjourned until that matter is complete, so...

12 Q. Yeah. Now I wasn't...

MR. CHAIRMAN

13  
14 I think we're getting at cross purposes here somewhat too.  
15 Your question started out with 617(c). If it had gone under 617(c)  
16 my recollection is Mr. Rutherford told us that the first...the minute  
17 of counsel that had been drafted was to proceed under 6...the  
18 Minister of Justice would proceed under 617(c) and then there  
19 was a courtesy call to advise the Chief Justice of the intention of  
20 the Minister, and there was a subsequent change. But if you had  
21 gone at that time...

MR. EDWARDS

22  
23 That's right.

MR. CHAIRMAN

24  
25 There would have been no worry about prejudicing the



1 rights of Mr. Ebsary.

2 MR. EDWARDS

3 Because the Ebsary charge hadn't been laid.

4 MR. CHAIRMAN

5 There was no charges laid or any indication that charges  
6 might be laid.

7 MR. EDWARDS

8 Excellent point, right.

9 MR. BISSELL

10 Oh, I think that's a matter, I acknowledge that the charges  
11 hadn't been laid but you would be trying the matter through an  
12 inquiry process when there was an intention, I would submit, was  
13 there not, to charge Mr. Ebsary as soon as Mr. Marshall was  
14 acquitted. Is that not the...

15 MR. EDWARDS

16 That was the game plan, if you want, but sequentially the  
17 matter of Donald Marshall's guilt or innocence had to be resolved  
18 first in our view. There is some debate on...

19 MR. CHAIRMAN

20 This is all very illuminating, but I'm at a loss to see what  
21 concern that is to the RCMP.

22 MR. BISSELL

23 Well, it's a concern not solely to the RCMP but to the  
24 Department of Justice, the suggested reason for the change. I just  
25 wish to point out that Mr. Rutherford testified that the reason for

MR. EDWARDS, EXAM. BY MR. BISSELL

1 the change was concerns expressed about whether or not evidence  
2 could be called under 617(c).

3 MR. CHAIRMAN

4 But that was not his concern. He told us that he was  
5 satisfied under the Ontario decision that there was no doubt that  
6 under 617(c) there could be very wide-ranging inquiry.

7 MR. BISSELL

8 That it had happened under...it had happened in the  
9 [Gourecki?] case.

10 MR. CHAIRMAN

11 We sometimes follow the law of Ontario with reluctance.

12 MR. BISSELL

13 Occasionally.

14 COMMISSIONER EVANS

15 Depends on who's presiding.

16 MR. BISSELL

17 Those are the questions I have. Thank you, Mr. Edwards.

18 MR. CHAIRMAN

19 Mr. ...lost me, now which way to we go?

20 COMMISSIONER EVANS

21 Outhouse.

22 MR OUTHOUSE

23 It's my understanding, My Lords, is that I would be...

24 MR. CHAIRMAN

25 All right. We only see you on rare occasions, Mr. Outhouse.

MR OUTHOUSE

That's correct.

EXAMINATION BY MR. OUTHOUSE

Q. All right, Mr. Edwards. You'll forgive me for shouting at you from the bleachers back here.

A. Okay, sir.

Q. The record indicates, I believe, that Staff Wheaton was stationed in Sydney as the plainclothes coordinator from 1980 until '82, is that correct?

A. That's correct, yes.

Q. And that you were the Crown Prosecutor, I guess, for the County of Cape Breton since 1978.

A. That's right.

Q. Now, I take it that over that period of time your overlapping period with Staff Sergeant Wheaton in Sydney that you would have had a number of dealings with him in your professional capacity.

A. I did, but my recollection of them is overshadowed by this, of course.

Q. All right. I'm certainly not going to ask you to recall them, but other than to confirm that you were involved in a number of other cases with him.

A. Yes.

Q. Now, as a result of your dealings with him back then did you form the opinion that Staff Sergeant Wheaton was a highly

1           competent investigator?

2       A.    Yes.

3       Q.    And as a result of those dealings did you form the opinion  
4           that he was a reliable police officer?

5       A.    Yes.

6       Q.    Would you take Volume 17, please, page 3.

7       A.    Yes.

8       Q.    And I want to refer you to your note there in the middle of  
9           the page, the February 23rd note.

10      A.    Yes.

11      Q.    Do you have that? Now, when my learned friend, Mr.  
12           MacDonald, asked you about that note, page 3 of Volume 17.  
13           When Mr. MacDonald asked you about that note you said,  
14           and this is at Volume 65 of the transcript, page 11734, that  
15           the reference in your note to the Department having had,  
16           and I quote, "The opportunity to decide on it, " wasn't a  
17           reference to the RCMP questioning MacIntyre.

18      A.    Yes.

19      Q.    Now you're not suggesting though, I take it, that you  
20           instructed Staff Sergeant Wheaton on February the 23rd,  
21           '82, to go and interrogate or investigate Chief MacIntyre?

22      A.    I'm sorry. Could you run that by me again?

23      Q.    I say you're not suggesting that you were instructing Staff  
24           Sergeant Wheaton on February 23rd, '82, to go and  
25           interrogate or investigate Chief MacIntyre.

1 A. That's what...

2 Q. What?

3 A. That's what I am...

4 Q. Doesn't it say that you're not...you're suggesting an  
5 investigation won't be complete until that is done?

6 A. Yes, that's what it says, right.

7 Q. Is that correct?

8 A. Yes.

9 Q. Now, I suggest to you...

10 A. Okay. Maybe I missed the point of your question. No, I'm  
11 not saying that he has to do it right then.

12 Q. Sure.

13 A. Is that what you mean?

14 Q. Sure. That's going to be part of the investigation.

15 A. That's going to be part of the investigation that he should do  
16 before he calls his investigation complete.

17 Q. And as I go through your notes that subject is next again  
18 discussed on or about April the 19th. I don't find any other  
19 reference.

20 A. There's no other reference in the notes, but...and I have no  
21 specific recollections, but I know that there were...there  
22 were several times that we discussed it in that vein.

23 2:30 p.m.

24 Q. But April 19th came, the murder investigation was just  
25 about complete, all important statements were had, all

1 important witnesses interviewed virtually at that stage.

2 A. Yes.

3 Q. And the crunch point was obviously coming that the  
4 investigation wasn't going to be complete until MacIntyre  
5 was investigated, but that point was obviously now at hand,  
6 correct?

7 A. Yes, precipitated by the events of the Friday before.

8 Q. And when that very question was then put, and I'm not  
9 going to get into why it was put, you clearly had discussions  
10 about this with Staff Sergeant Wheaton and perhaps  
11 Inspector Scott as well, and you then went to Gordon Gale,  
12 correct?

13 A. Wait now, on April...

14 Q. 19th as I understand your...

15 A. 19th, yes.

16 Q. And what Mr....those were the very instructions that came  
17 back, that is, hold that part of the investigation in abeyance.

18 A. Yes.

19 Q. And that's what you communicated to Staff Sergeant  
20 Wheaton.

21 A. Yes.

22 Q. And at no time did you tell Staff Sergeant Wheaton after  
23 April the 19th that he should now go ahead with that,  
24 correct?

25 A. After April 19th, no.

- 1 Q. And at no time after April 19th did you tell then  
2 Superintendent Scott to go ahead with it, correct?
- 3 A. After April 19th that's correct.
- 4 Q. Okay. Now, just to change gears to another topic. Mr. Evers.  
5 You indicated in your evidence and this is found in Volume  
6 67 at page 11988.
- 7 A. Yes.
- 8 Q. That Mr. Evers' evidence didn't play very well in the Appeal  
9 Division, correct?
- 10 A. That was my feeling, yes.
- 11 Q. And you had originally thought that his evidence would be  
12 quite potent.
- 13 A. Yes.
- 14 Q. And I just want to clear up any possible misunderstanding  
15 about that. You're not in any way suggesting that it was  
16 Staff Sergeant Wheaton or Inspector Scott who had misled  
17 you into thinking that his evidence was...
- 18 A. Absolutely not, no.
- 19 Q. No.
- 20 A. No.
- 21 Q. And, in fact, you yourself had questioned Evers on April the  
22 8th, '82.
- 23 A. Yes, yes.
- 24 Q. You...
- 25 A. No, there is no criticism, direct or indirect, intended there.

1 Q. All right. You questioned Mr. Evers and you were satisfied  
2 yourself that his evidence would be, I believe your words  
3 were "extremely compelling".

4 A. I can remember being asked by Mr. Justice MacDonald just  
5 before Evers got on the stand, he said, and I don't think the  
6 transcript picked it up, but it was kind of an aside, "Is this  
7 compelling evidence?" That was the...and I nodded "yes".

8 Q. Now, I can't find any note anywhere of your conversation  
9 with Evers on April the 8th. Is there one?

10 A. No, if it's not here I don't have one.

11 Q. Well, perhaps Mr. Pink or Mr. Saunders can point it out to  
12 me.

13 A. I don't think there is.

14 Q. So when you were writing your report to the Department, to  
15 your superiors in Halifax, sometime between April 22nd and  
16 May the 3rd of '82 you were recapping your conversation  
17 with Mr. Evers based on your memory alone. You had no  
18 notes from which you were working.

19 A. I think that's fair. I believe I interviewed Mr. Evers by  
20 phone at that time. I think I called him in New Brunswick,  
21 he was in Sackville, New Brunswick.

22 Q. I think that's right.

23 A. Yes.

24 Q. I think that's right. All right. I want to go to the July 12th  
25 meeting.



1 A. Okay.

2 Q. And your evidence concerning this starts in Volume 67 at  
3 page 11885. Now, I wasn't here for Mr. Whalley's  
4 testimony, so you'll forgive me if I get it a bit wrong.

5 A. Well, we're even, neither was I.

6 Q. I've read the transcript and as I read it he certainly  
7 conveyed the impression, in the written word at least, that  
8 Staff Sergeant Wheaton played a rather major role in that  
9 July 12th meeting. Now, you were there and I think that  
10 you'll agree with me that, in fact, Staff Sergeant Wheaton  
11 played a rather minor role in that meeting.

12 A. I'd agree with that, yes.

13 Q. Now at the bottom of page 11885 in your evidence you were  
14 asked how long the meeting was and you said you had no  
15 specific recollection.

16 A. That's right.

17 Q. It was long, could have been two or three hours, maybe  
18 longer.

19 A. Yes.

20 Q. And then over on page 11887 you were asked about the  
21 evidence of Staff Sergeant Wheaton to the effect that the  
22 meeting was both morning and afternoon, do you recall  
23 that?

24 A. Yes.

25 Q. Mr....Staff Sergeant Wheaton had testified that it went in the

1 morning.

2 A. Yes.

3 Q. Then it broke for lunch, came back.

4 A. Uh-hum.

5 Q. And your recollection was that he could be right, you  
6 couldn't say.

7 A. That's right.

8 Q. Now I put it to you, though, that having had a chance to  
9 reflect on it that that meeting, in fact, was both morning and  
10 afternoon, in fact it was all day, am I correct?

11 A. I'm in no better position than I was before. I, of course, had  
12 heard Staff Sergeant Wheaton give evidence that it was both  
13 morning and afternoon, so I've had lots of time to try to...

14 Q. All right. Do you have your Daytimer there?

15 A. Yes.

16 Q. Perhaps you'd just dig it out for that day.

17 A. No, I don't.

18 Q. Perhaps you...

19 A. Wait now, yeah.

20 Q. If you turn to that day.

21 A. July 12th.

22 Q. July 12th. You'll see in handwritten...your own handwriting.

23 A. Yes. "Spent all day with Chief MacIntyre, Mike Whalley,  
24 Harry Wheaton and Bill Urquhart re Marshall."

25 Q. So you agree with me now?

1 A. Yeah. The only problem, I see there's an appointment  
2 already noted there at 2:00 p.m., "Inspector Urquhart, re..."  
3 re a case that we were working on at the time.

4 Q. Is it likely that Inspector Urquhart joined you in the  
5 afternoon at two o'clock?

6 A. It's not likely. I think he was there for part of the morning.  
7 But I can't speak with certainty.

8 Q. Sure.

9 A. Either way.

10 Q. But your note, you'll agree with me, is written in the past  
11 tense. It's not "planning to spend" its says that you "spent  
12 the entire day".

13 A. Agreed, yes.

14 Q. And you wouldn't be going back months later and writing  
15 that in. That would have been something that was written  
16 in your Daytimer fairly close to the event.

17 A. Probably sometime that week, yes.

18 Q. Sure. So, to that extent, at least, you'll agree with me that  
19 Staff Sergeant Wheaton's recollection of July...of that July  
20 12th meeting is a little crisper than yours?

21 A. Yes.

22 Q. Now...

23 A. Probably.

24 Q. Now, in answer to a question put to you yesterday by my  
25 learned friend, Ms. Derrick, you indicated that at no time

1 were Whalley or MacIntyre standing up during that meeting  
2 and pointing out things, I think was the way she put it.

3 A. Yes.

4 Q. Now I want to suggest to you that in a day-long meeting...

5 A. Yes.

6 Q. That it's very unlikely that at some stage during that  
7 meeting they weren't up, walking around pointing out  
8 things, talking, making their points, and that you weren't,  
9 and that perhaps someone else wasn't, do you agree with me  
10 or disagree?

11 A. I might have got up to go to the washroom or something like  
12 that, but my office with a desk and a conference table in it  
13 and the number of individuals who was in it, there wasn't  
14 too much room to walk around I can assure you.

15 Q. Now, I'm not going to ask you to check these references, but  
16 I'll give you the page numbers so that they're on the record.

17 A. Yes.

18 Q. On page 11885 you describe that meeting as being intense.

19 A. Yes.

20 Q. And on page 11886 you say that the Chief banged his fist on  
21 the table and demanded to know what's going on, "What is  
22 this?"

23 A. That's right.

24 Q. And on page 11893 you acknowledge that the meeting...in  
25 the meeting with Whalley and Urquhart there it was

1 virtually impossible for you to effectively question the Chief  
2 about these matters.

3 A. That's right.

4 Q. You also said at another point in your testimony, and this is  
5 on page 11900 that you really didn't have the opportunity  
6 on July the 12th in the meeting with the Chief and Urquhart  
7 to press them as to how Pratico and Chant came up with the  
8 same stories because, and I'm quoting, "It was hard to keep  
9 that meeting on track."

10 A. That's right.

11 Q. And you've testified that Mr. Whalley's parting shot at that  
12 meeting was that "If you take this case to court," by you he  
13 meant you.

14 A. Yes, no question.

15 Q. "You'll be laughed out of the courtroom."

16 A. That's right.

17 Q. And I suggest to you he said that in a contemptuous,  
18 disdainful fashion.

19 A. Yes, it was not received as a compliment, that's for sure.

20 Q. That's for sure. Now, then after the meeting, well,  
21 immediately following that meeting, despite the fact that  
22 Mr. Whalley has testified before this Commission that he  
23 had no problem with your conduct at the meeting, only Staff  
24 Sergeant Wheaton's, he promptly went to the Attorney  
25 General or the Deputy Attorney General, I should say, and

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 complained that you weren't impartial. Isn't that correct?

2 A. That's right.

3 Q. But despite all of those things that I've just gone through.

4 A. Yes.

5 MR. CHAIRMAN

6 Mr. Outhouse, we're getting back...you're following right in  
7 the footsteps of Mr. Barrett. You're making great speeches, but  
8 we don't seem to get...

9 MR OUTHOUSE

10 Well, My Lord, just let me ask one more question and I'm  
11 finished on this topic.

12 MR. CHAIRMAN

13 All right.

14 MR OUTHOUSE

15 Q. But despite all that.

16 A. Yes.

17 Q. You say that the Chief and Whalley weren't aggressive with  
18 you during that meeting.

19 A. I said the Chief and Whalley didn't stand over me pointing  
20 their fingers and...

21 Q. I see.

22 A. Yeah.

23 Q. Would you say that Staff Sergeant Wheaton's impression  
24 that they were aggressive towards you, at least to that  
25 extent, was right?

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 A. Well, aggressive, I mean, John MacIntyre and I exchanged  
2 some pretty, what, direct remarks to one another. But the  
3 impression didn't go beyond that.

4 Q. That's good.

5 A. Okay.

6 Q. All right. In the spring of 1982 I just want to confirm what  
7 other things you had on your plate to set your notes in  
8 context, and that's the last area I want to question you  
9 about.

10 A. In when of '82?

11 Q. Yeah, in the spring of '82.

12 A. Spring of '82.

13 Q. Starting through February really, and I'm not going to ask  
14 you to look at the details of your Daytimer, but first of all I  
15 understand you had another murder that occurred in  
16 February.

17 A. Yes.

18 Q. That was the Weatherbee case.

19 A. Yes.

20 Q. And there's frequent reference to that throughout your  
21 notes.

22 A. Yes.

23 Q. It was in connection with that case, I believe, that the  
24 second fist pounding that you witnessed by the Chief  
25 occurred, am I correct?

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 A. That's correct.

2 Q. Yeah. I'm...I won't go into that, but that was something  
3 that...that name Weatherbee appears frequently in your  
4 diary throughout that time.

5 A. Yes, that was a first degree murder.

6 Q. And in addition to that you had the Ebsary matter, and by  
7 that I mean the stabbing matter.

8 A. Yes.

9 Q. And that appears very frequently.

10 A. Yes.

11 Q. And you were receiving information about Mr. Ebsary from  
12 Detective Woodburn, I believe it was.

13 A. That's correct.

14 Q. And again, just generally reviewing your Daytimer  
15 throughout that spring, it appears as though you were  
16 carrying a fairly heavy load of trials and preliminaries  
17 throughout that time.

18 A. Yes.

19 Q. Now let's go to the notes. You told my learned friend, Mr.  
20 MacDonald, that you normally take notes, "normally" was  
21 your word, although you stopped short of saying you were  
22 compulsive about it. Is that a fair characterization of your  
23 evidence?

24 A. That's fair, although I think I did acknowledge, and if I  
25 didn't I should have, that the number of notes in this case



- 1 would be more copious than...
- 2 Q You did say that.
- 3 A Yeah.
- 4 Q You did say that. But you do agree with me that for the  
5 most part the notes that we have here in Volume 17 aren't  
6 contemporaneous notes, and by that I mean they're not  
7 notes that you made while you were talking to people,  
8 either on the phone or in person.
- 9 A No, I, you know, I think a lot of the notes are  
10 contemporaneous.
- 11 Q Most...
- 12 A Well, we could go through them bit by bit I suppose and...
- 13 Q Yes, well, unfortunately we...
- 14 A ...I think it's identified.
- 15 Q ...to a degree. Unfortunately I have to to a degree and...
- 16 A Sure.
- 17 Q ...we'll get to that. I suggest to you, though, that for the most  
18 part they are recapitulations after you finished either the  
19 meeting or the conversation and you are then summing it  
20 up.
- 21 A Yes.
- 22 Q Either shortly after the meeting or in some cases not so  
23 shortly after the meeting.
- 24 A Okay.
- 25 Q That's fair enough.

- 1 A. Yeah, that's fair.
- 2 Q. Now, and I gather as well, that you didn't keep scraps of  
3 paper, and you'll often hear witnesses who seem to have  
4 very fine notes say, "Well, I kept notes as I went along and  
5 then I made these better set of notes and threw the scraps  
6 of paper away."
- 7 A. No, you see like the notes of December 6th...
- 8 Q. Yeah.
- 9 A. ...for example.
- 10 Q. Sure.
- 11 A. The scraps of paper are right here.
- 12 Q. So you were, when you were doing them after the meetings  
13 you were reconstructing them from memory not scraps of  
14 paper is my point.
- 15 A. That's right.
- 16 Q. Now look at what I take to be a contemporaneous note. If  
17 have Volume 29, page 33. Do you have that, Mr. Edwards?
- 18 A. Yes. Yes.
- 19 Q. Now it says it's your note and the only reason I know is  
20 because I'm looking at the tab. Do you agree with me it's  
21 your note?
- 22 A. It's my writing, yes.
- 23 Q. Okay. And it has a date, March the 17th, '82.
- 24 A. Yes.
- 25 Q. And I want you to look at that note and tell me what it is.

1 A. That may be a note I took when I was talking to Evers,  
2 although I...

3 Q Well the record shows you spoke to Mr. Evers on April the  
4 8th.

5 A. Um. But the content there, oh, maybe I got that from Harry  
6 Wheaton.

7 Q Staff Sergeant Wheaton when he heard from Evers...

8 A. Yes.

9 Q The record will show, and I'm not going into the documents,  
10 but...

11 A. Yes.

12 Q MacAlpine who originally got the documents to test for  
13 blood, deliver...the exhibits, turned them over to Evers on  
14 the 17th of March. Evers returned them to...immediately  
15 did his analysis, returned them to MacAlpine on the 18th.

16 A. Yes.

17 Q The evidence is that before a formal report ever came in...

18 A. Yes.

19 Q Evers called Wheaton.

20 A. Yes.

21 Q Wheaton, in turn, called you. Now...

22 A. So that's likely the call.

23 Q That's likely the call. Certainly when you look at the note it  
24 talks about a single fibre...

25 A. "Used stereomicroscope."

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 Q. "Fibres consistent," do you see that?

2 A. Yes.

3 Q. All those things.

4 A. Yes.

5 Q. Okay. So this is what I mean by a contemporaneous note.

6 You would have...

7 A. Yes, that I'm writing that down...that information as...

8 Q. Sure, as you're talking with Staff Sergeant Wheaton.

9 A. That's right.

10 Q. It's disjointed and it's sketchy.

11 A. Yes.

12 Q. But you're marking down the information that he's giving  
13 you.

14 A. Yes.

15 Q. Okay. Now, we'll come back to that in a little while, but for  
16 now I just wanted to make the point that that's what I mean  
17 by contemporaneous and most of these notes aren't of that  
18 sort.

19 A. Okay.

20 Q. Now apart from not being contemporaneous in the sense  
21 which I've just described, they don't...the notes aren't  
22 exhaustive either are they? They don't represent all of your  
23 contacts with Staff Sergeant Wheaton or Corporal Carroll for  
24 that matter.

25 A. That's right, yes.

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 Q For example, you indicated in your testimony at page...at  
2 Volume 65, page 11729 that you were told by Wheaton  
3 and/or Carroll on or about February 22nd that Ebsary had  
4 virtually admitted to the crime in a telephone conversation  
5 and yet that doesn't appear anywhere in your notes.

6 A. Right.

7 Q And you had been told by them about their first visit to  
8 Dorchester and that's not mentioned in your notes.

9 A. Right.

10 Q And your conversation with Evers of April 8th isn't  
11 mentioned in your notes.

12 A. No.

13 Q Or your conversation with Mr. Rosenblum on the 3rd of  
14 April isn't in your notes.

15 A. Right.

16 Q So, and I could go on but the only point I wish to make...

17 A. Yes.

18 Q Is that you agree with me that these notes don't purport to  
19 be comprehensive and aren't comprehensive.

20 A. No, and if any other meaning was conveyed by me it was  
21 unintentional.

22 Q I'm not saying that you were attempting to convey that, Mr.  
23 Edwards. Now, while I'm hesitant to embark on the task  
24 which you spoke about earlier going through these notes, I  
25 feel compelled to do it and unfortunately for that purpose I

1 think it's necessary to look at the handwritten notes rather  
2 than the typed ones. And in Volume 17 those handwritten  
3 notes start at page 21. You have your originals there and...

4 A. I do.

5 Q. And perhaps it might be just as easy if you perhaps kept the  
6 book open but used your originals.

7 A. Okay. You're starting at what page now?

8 Q. Page 21 in Volume 17. These are the handwritten versions.

9 A. Okay.

10 Q. Okay. Now as I understand it from your evidence you made  
11 the first notes on February the 21st.

12 A. Yes.

13 Q. And the note for February 3rd, for example, that we see at  
14 the top was something that you made on the 21st of  
15 November.

16 A. Yes.

17 Q. There is no indication there that that's so, but you know that  
18 it's a fact.

19 A. That's right.

20 Q. Is there any reason why it doesn't indicate when you've  
21 made the note?

22 A. Well, the only reason would be that I started writing on  
23 February 21st and didn't put the date at the top of the page.

24 Q. All right. And your...what you're doing...

25 A. In other words, no reason.

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 Q. Okay. What you're doing is going back and recapping from  
2 your memory the events that had unfolded from February  
3 the 3rd to the 21st, correct?

4 A. That's right.

5 Q. Now, the original page, and while it doesn't show here, the  
6 original page that you have is a legal foolscap size, if I can  
7 put it that way.

8 A. Yes.

9 Q. It's been reduced for photocopying purposes.

10 A. Right.

11 Q. And at the first page of your notes, you can tell from the  
12 original, is all in the same pen, correct?

13 A. That's right.

14 Q. And it was probably made all at one sitting on the 21st.

15 A. Yes.

16 Q. Correct.

17 A. Right.

18 Q. Now when you turned to page 22 in Volume 17 it says,  
19 "Notes continued", do you see that? And your notes starts at  
20 the top, "Notes continued, February 21st, '82."

21 A. Yes.

22 Q. You'll agree with me that you've changed pens.

23 MR. CHAIRMAN

24 Changed what, pens?  
25

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 MR. EDWARDS

2 Changed pens.

3 MR OUTHOUSE

4 Q. Yes.

5 A. Possibly, I can't tell.

6 Q. Well, all right. I suggest to you that the notes that you made  
7 on what we call in our exhibit book page 21, and what  
8 appears in the exhibit book as 22, weren't made at the same  
9 time. That is something interrupted you, you went away for  
10 however long and came back to it.

11 COMMISSIONER EVANS

12 Or else your pen ran out of ink and you picked up another  
13 one.

14 MR OUTHOUSE

15 Well, My Lord, the original is there and I don't think that  
16 hypothesis washes with the quality of the ink at the bottom of  
17 page 1.

18 MR. EDWARDS

19 A. I don't know.

20 Q. All right.

21 A. I can't tell from that.

22 Q. In your original, the notes that you have there, I believe  
23 there is a telephone message from Mr. Donovan attached to  
24 it. Is that correct?

25 A. Yes.



- 1 Q That's not in the book, but that is there.
- 2 A Yes.
- 3 Q Now, 23, 24, appear to be written all at the same time as  
4 page 22, is that correct?
- 5 A Yes.
- 6 Q Now, when we go over to page 25 this is the one we were  
7 dealing with earlier.
- 8 A Yes.
- 9 Q This is where you have the note about the 11:00 p.m. call  
10 with Staff Sergeant Wheaton.
- 11 A Yes.
- 12 Q And you agree with me that that page from February 23rd,  
13 '82, down to and including the last entry on that page, is all  
14 written in the same pen.  
15 2:52 p.m.
- 16 A It appears to be.
- 17 Q Looking at it, does it not leave you with the impression that it  
18 was all written at the same time?
- 19 A That it was all written at the same time?
- 20 Q Yes.
- 21 A I don't think it was.
- 22 Q Well, let me ask you this. Would you have taken this legal  
23 pad home with you on the night of February the 23rd?
- 24 A I may have.
- 25 Q I appreciate you may have, Mr. Edwards, and I'm just trying...

1 I'm not trying to be devious, I just want...

2 A. And I'm not trying to be evasive, believe me.

3 Q. As much information before the Commission as I can about  
4 these points.

5 A. Yeah. No, I mean...

6 Q. No times appear.

7 A. At that time, you see, I may have taken material home. I  
8 can't recall, six years ago.

9 Q. But you'll see the "11 p.m." by Mr., by the call to Staff  
10 Sergeant Wheaton, correct?

11 A. Yes.

12 Q. But there's no note before that about the time you met Staff  
13 Sergeant Wheaton and then you were off work for personal  
14 reasons.

15 A. Yes.

16 Q. There's no, February 5th there's no, or the first entries on  
17 February the 25th, there's no times. But when we get down  
18 to 2:45 p.m. in the afternoon, there's a time, correct?

19 A. Yes.

20 Q. And then when we go over to the next page, the continuation  
21 of February the 25th, which is again, certainly appears to be  
22 in the same pen, there's another time "3:40 p.m.", correct?

23 A. Yes, there's a time there but you say "the same pen"...

24 Q. I'm not saying you couldn't have had the same pen and kept  
25 it for weeks and weeks.

1 A. Yeah, it's all...

2 Q. But you write...

3 A. Government-issued pens.

4 Q. Sure. You were writing on the same page, correct?

5 A. Essentially all the same.

6 Q. You were writing these things on the same page?

7 A. Yes.

8 Q. And I suggest to you, Mr. Edwards, and I want you to think as  
9 hard as you can about it, that that page, that entire page that  
10 we see there, 25 and 26, was written all on or about February  
11 the 25th?

12 A. I don't think so, Mr. Outhouse. I believe I put those entries in  
13 separately, but I can't rule it out definitely.

14 Q. Okay. Now just while we're on that page, in the copy that we  
15 have on page 25, "11 o'clock" appears very distinct, "11 p.m.".

16 A. Yes.

17 Q. But on the originals, it's not. There's a penciled over and I  
18 can't tell whether it's "one o'clock" or "11 o'clock".

19 A. There is a pencil mark there, all right, no question.

20 Q. In fact, this penciling appears throughout the notes in places.  
21 There's underlinings in pencil and I'm just wondering when  
22 they got on there.

23 A. Oh, I can't tell you specifically.

24 Q. It was before...

25 A. It was at least a year or two later.

1 Q. Okay, it was before these notes went, were produced for the  
2 purpose of this Commission, though, because the underlinings  
3 appear in these handwritten notes that the Commission had,  
4 correct?

5 A. Yes.

6 Q. Do you recall putting them there?

7 A. I recall highlighting them, underlining, yes.

8 Q. And, obviously, given the note at, that we look at underlined  
9 on page 25, that wasn't a note that had anything to do with  
10 the Marshall case or the Ebsary case. That had to do with  
11 your dealings with the R.C.M.P. and perhaps your dealings  
12 with your superiors. That particular one with the R.C.M.P.,  
13 you were highlighting that.

14 A. Wait now, I've lost you.

15 Q. Well...

16 A. Are you referring to the "11 p.m." paragraph?

17 Q. Yes.

18 A. And your question, that had to do with my dealing with  
19 Harry Wheaton?

20 Q. Yes, at the point in time when you were highlighting that, you  
21 were focusing on your relationship with the investigation and  
22 Harry Wheaton and not on whether Donald Marshall was  
23 guilty or innocent or on whether Mr. Ebsary should be  
24 convicted. You weren't grappling with those problems.

25 A. I can't tell you what I was grappling with at that time.

- 1 Q. All right, fair enough.
- 2 A. I think I may have been simply reviewing my notes.
- 3 Q. Go to page 27.
- 4 A. Yes. Now that's a different pen. It's a different colour.
- 5 Q. Sure. And that's a note that you likely made at home, is that  
6 correct?
- 7 A. Yes.
- 8 Q. And it's a note that you made of a call that you had that  
9 evening with Harry Wheaton.
- 10 A. Yes.
- 11 Q. And so you wrote and you made a separate page of it and  
12 that's, you would say, a contemporaneous note or fairly close  
13 in time. It was recorded...
- 14 A. I would say that that would have been made immediately  
15 after the phone call.
- 16 Q. Okay, fair enough. Now when we go to page 28, do you have  
17 that?
- 18 A. Yes.
- 19 Q. You have specific times there—9:05 and 11:35.
- 20 A. Yes.
- 21 Q. Do you agree with me that that's a contemporaneous note or  
22 at least made very shortly after the meetings referred to in  
23 the notes?
- 24 A. Yes.
- 25 Q. Now at 11:35 a.m., Staff Sergeant Wheaton was in your office.

1 A. Yes.

2 Q. And at that time, he confirmed to you that the meeting with  
3 Chief MacIntyre was on for that afternoon?

4 A. Yes.

5 Q. And certainly left you with the impression at that time, if he  
6 didn't expressly say so, that he was still planning on  
7 attending.

8 A. Yes.

9 Q. Now when you go over to page 29, that's the following  
10 Monday, I believe.

11 A. I'll take your word for it.

12 Q. Well, March 1st is, as I understand it, the Monday that Staff  
13 Sergeant Wheaton called you and told you that he was at the  
14 meeting.

15 A. Yes.

16 Q. You started, as I understand from the top of the page, you  
17 started making those notes at 4 p.m.?

18 A. Yes.

19 Q. That afternoon, and Staff Sergeant Wheaton had been there in  
20 the morning.

21 A. Yeah, well, he had called in the morning.

22 Q. Called in the morning, I'm sorry.

23 A. Yes.

24 Q. And, in fact, he had...

25 A. Then he came at 1:30.

1 Q. Yes, and he brought Patricia Harriss in, correct? He and  
2 Carroll were both there?

3 A. Yes.

4 Q. Harriss was there.

5 A. Yes. He brought Patricia Harriss in at 3 p.m.

6 Q. Yes, that's right.

7 A. At 1:30 p.m., I'm sorry, he had left a message.

8 Q. Yes.

9 A. And at 3 p.m., he and Carroll arrived with Patricia Harriss.

10 Q. All of these notes, you agree with me, were made after  
11 Harriss was in and gone.

12 A. Yes.

13 Q. And I can find no note of actual discussions with Harriss. It's  
14 your summary that we see here.

15 A. That's right.

16 Q. Now when you were recapping at four o'clock in the afternoon  
17 what had happened in the morning, the note that you have is  
18 that Wheaton told you that he hadn't been at the meeting  
19 with MacIntyre on Friday, the 26th, that just Scott had been  
20 there, correct?

21 A. Yes.

22 Q. You didn't understand or recall that he was only for part of  
23 the meeting, that he stayed for part of the meeting and then  
24 left. That wasn't your understanding.

25 A. No.

1 Q. And, if I read your note correctly, you say you remember  
2 wondering why Wheaton had not thought this investigation  
3 more important than surveillance exercise but I did not  
4 communicate this to him.

5 A. Right.

6 Q. So you thought of it when you spoke to him in the morning  
7 and didn't raise it with him.

8 A. Right.

9 Q. It was certainly in your mind when you went to write these  
10 notes at four o'clock in the afternoon, correct?

11 A. Yes.

12 Q. But you didn't communicate it to him.

13 A. Right.

14 Q. You had seen him once in the meantime and spoken to him  
15 once in the meantime.

16 A. Yes.

17 Q. Didn't communicate it to him, correct?

18 A. I...

19 Q. Correct?

20 A. Right.

21 Q. You're used to this.

22 A. From your angle.

23 Q. Sure. Now isn't it entirely possible that this was simply just a  
24 misunderstanding between you and Staff Sergeant Wheaton,  
25 that he was there for part of the meeting but missed the tail



1 end of it. You never questioned him about it and so it never  
2 came up between you.

3 A. That's a possibility, yes.

4 Q. Sure. Now go to page 31 and look at the entry there for  
5 March the 5th.

6 A. Okay, now that's on two different pieces of paper.

7 Q. Leave aside the small piece for the second, and go to the big  
8 piece.

9 A. "Met at office"?

10 Q. Yes.

11 A. Yes, okay.

12 Q. Now just, do you see those first two paragraphs that are  
13 there?

14 A. Yes.

15 Q. Now, first of all, let me ask you whether or not those notes  
16 that we see there on Friday, March the 5th, were made on  
17 March the 5th or on some other day?

18 A. I believe they were made on March the 5th.

19 Q. But you have no recollection of that actually being so.

20 A. Oh, certainly not.

21 Q. And, in fact, when you look at the page that you have in your  
22 original notes there.

23 A. Yes.

24 Q. The small page, which is found in our exhibit book on page  
25 43, it's gotten separated in the reproduction process. When

- 1           you look at that tear-out from a notebook.
- 2   A.   Yes.
- 3   Q.   That covers that same day, doesn't it, March the 5th?
- 4   A.   Yes.
- 5   Q.   And it covers the same events, too.
- 6   A.   Yes, the meeting at the office with Harry Wheaton.
- 7   Q.   Also the discussion with Urquhart.
- 8   A.   Yes.
- 9   Q.   And it covers them in more detail.
- 10  A.   Yes.
- 11  Q.   And it has precise times.
- 12  A.   It has one precise time, 3:30 p.m.
- 13  Q.   Oh, yes, that's right. The first one just says "a.m." You're
- 14       quite correct.
- 15  A.   Yes.
- 16  Q.   Now I suggest to you that the note that we see on page 43 of
- 17       Volume 17 was made on or about March the 5th, but that the
- 18       one that we see on page 31 wasn't.
- 19  A.   I can't...
- 20  Q.   Okay, let's go down...
- 21  A.   I can't help you one way or the other.
- 22  Q.   Perhaps I can help you if we go to the next item.
- 23  A.   Sure.
- 24  Q.   The next one says: "Monday or Tuesday, March 8th or 9th."
- 25  A.   Yes.

- 1 Q. "Urquhart comes to office. Tries to find out about  
2 investigation. Tell him I'm not at liberty to discuss."
- 3 A. Yes.
- 4 Q. Next line says: "Had meeting with Wheaton. Didn't record  
5 date."
- 6 A. Yes.
- 7 Q. Do you see that?
- 8 A. Yes, I see that.
- 9 Q. Clearly that note couldn't have been made on March the 8th  
10 or the 9th, if you couldn't remember when you had the  
11 meeting with Wheaton.
- 12 A. The note could have been made on March 8th or the 9th, but  
13 the meeting didn't take place or didn't necessarily take place...  
14 Well, it wouldn't have taken place on the 8th or the 9th or I  
15 would have remembered the date.
- 16 Q. Look at the next one, Wednesday, March 17th.
- 17 A. Yes.
- 18 Q. "Met at noon with Wheaton."
- 19 A. Yes.
- 20 Q. "Says he has talked to Lou Matheson."
- 21 A. Yes.
- 22 Q. Now, again, it's a very brief note. Are you saying that that's  
23 something you made after the meeting with Mr. Wheaton was  
24 over and you wanted to record the substance of it?
- 25 A. No, I can't say when it was made.

- 1 Q. No. When we go down, though, to Monday, March the 22nd.
- 2 A. Yes.
- 3 Q. You see "3:10 p.m." and then sort of a detailed note of what
- 4 happened there.
- 5 A. Yes.
- 6 Q. And then "3:50 p.m."
- 7 A. Yes.
- 8 Q. When we turn over the next page, we have "4:00 p.m."
- 9 A. Yes.
- 10 Q. And "4:20 p.m."
- 11 A. Yes.
- 12 Q. And I suggest to you, you have the original of your notes
- 13 there in front of you.
- 14 A. Yes.
- 15 Q. When you read the contents of those two pages that we see
- 16 here at pages 31 and 32, you look at the pen again and you
- 17 look at your more detailed note for March 5th, which we find
- 18 on page 43.
- 19 A. Yes.
- 20 Q. The most reasonable conclusion that you can draw is that
- 21 pages 31 and 32 were all written on March the 22nd.
- 22 A. Yes, I'd agree with that.
- 23 Q. So you were going back and recapping events from March 5th
- 24 through to the 22nd.
- 25 A. Apparently so, yes.

1 Q. Now while we're on the 22nd, I want to draw your attention  
2 to the note at the top of page 32. Do you have that?

3 A. Yes.

4 Q. It says: "4:00 p.m. Spoke with Wheaton. Said he had been  
5 contacted by Dolph Evers who confirms that fibres on knives  
6 taken from Ebsary's wife's basements came from Marshall's  
7 jacket."

8 A. Yes.

9 Q. "He had saved original exhibits."

10 A. Yes.

11 Q. "Wheaton asked me to check at courthouse for Seale's jacket.  
12 I returned call. Not there."

13 A. Yes.

14 Q. "I did and returned call. Not there." Do you see that?

15 A. Yes.

16 Q. Now the difficulty that I have with that is that your  
17 contemporaneous note of your conversation with Wheaton is  
18 dated March the 17th.

19 A. Uh-huh.

20 Q. That's found...

21 A. Yes, I see your difficulty.

22 Q. It's found in Volume 29, page 33. It appears to be  
23 inconsistent.

24 A. It does, yes.

25 Q. And it would appear, if I take your contemporaneous note as

1           being correct, that while this note shows you had a  
2           conversation with Wheaton at 4:00 p.m. on March the 22nd  
3           and he informed you about these fibres, that that, in fact,  
4           happened on the 17th.

5           A. Unless I had two conversations.

6           Q. There's no note certainly...

7           A. No.

8           Q. On the 17th.

9           A. No.

10          Q. About that, is there?

11          A. No.

12          Q. No notes in the ones that we find here.

13          A. Uh-huh. Maybe if I can just take a moment to read them, Mr.  
14          Outhouse.

15          Q. Certainly, Mr. Edwards.

16          A. You know, unless there were two telephone calls.

17          Q. And if there were, you didn't make a note of the other one, at  
18          least, a note that was recorded along with...

19          A. That's possible.

20          Q. This chronology from March 5th through to the 22nd.

21          A. Right.

22          Q. All right, now there are no notes that I can find from March  
23          the 28th through to April the 19th. Is there any reason for  
24          that that you can think of?

25          A. Not that I can think of, no.

- 1 Q. So there's no notes during that period and then when we go to  
2 page 34... I might say, My Lords, that in the book, Volume 17,  
3 the notes start on page 34 and then there's page 35 and 36  
4 which is a typed memorandum to Mr. Edwards from Mr.  
5 Williston. That appears, to me, to just be put in there out of  
6 sequence and certainly Mr. Edwards' original notes don't have  
7 that. Correct, Mr. Edwards?
- 8 A. You're referring to what now?
- 9 Q. Now if you look at page 35 and 36.
- 10 A. Of Volume 29?
- 11 Q. I'm sorry, Volume 17, Mr. Edwards, I apologize, your notes.
- 12 A. 35 and 36.
- 13 Q. Yes.
- 14 A. Yes, that's Mr. Williston's memo.
- 15 Q. And they're sandwiched into your April 16th/19th notes, but  
16 they're not in your original...
- 17 A. They're not my originals, no.
- 18 Q. That's just a glitch in the xeroxing process, correct?
- 19 A. A glitch.
- 20 Q. All right. Now the note at the top of page 34 where these  
21 begin, notes made April 19th '82, beginning at 9:00 a.m.,  
22 correct?
- 23 A. Right.
- 24 Q. Now do you agree with me, first of all, that that note at the  
25 top is in a different pen?

1 A. It appears to be, I agree with that, yeah.

2 Q. Do you know when it was put there and why?

3 A. No, I mean there's no way I can remember putting that there.  
4 The why part of it would be so that I would know when  
5 exactly those notes were made because, obviously, they were  
6 a significant set of notes.

7 Q. It's your handwriting.

8 A. Oh, no question.

9 Q. Okay. Now I only have one more question in terms of these,  
10 the writings, and we'll go back to the typed copies. There are  
11 a couple of questions on substance.

12 A. Yes.

13 Q. But if you would just flip over in your originals to the meeting  
14 with Donna Ebsary on April the 17th, and in Volume 17, it's  
15 found on page 39, My Lords.

16 A. Yes.

17 Q. Do you have that? You agree with me that it appears that you  
18 completed your notes down to the meeting with Donna Ebsary  
19 and then there was a break and you came back and you  
20 started again.

21 A. Yes.

22 Q. With a different pen and continued on?

23 A. That appears right, yeah.

24 Q. Do you have any knowledge of why the interruption or how  
25 long it lasted?



1 A. No.

2 Q. None, okay. All right, now if you would stay with your  
3 original handwritten notes, Mr. Edwards, I think that would  
4 be all right. But for everyone else, if anyone cares to follow at  
5 this stage, we can go back to page eight of the typed versions.  
6 Now I'm referring to notes that you made of April the 16th  
7 and probably in your handwritten copies, you're down at  
8 about page two and it's the part about your meeting with  
9 Superintendent Scott and Staff Sergeant Wheaton, the  
10 discussion about the Attorney General's Department, do you  
11 have that? It appears at the bottom of page eight in the  
12 typed version.

13 A. Yes, the paragraph beginning "In call with Wheaton"?

14 Q. Yes, that's correct.

15 A. "Suggest that he..." .Yes.

16 Q. Now you wanted them, and this we've heard a thousand times  
17 over, to demand the file and use a search warrant if  
18 necessary.

19 A. Yes.

20 Q. And they wanted, their position was they wanted direction  
21 from the A.G.

22 3:14 p.m.

23 A. Yes.

24 Q. And I suggest to you that it was really Inspector Scott as the  
25 commanding officer who was the one taking that position.

- 1 A. Yes, that's fair.
- 2 Q. And that's the way that meeting was left. That is, when that  
3 meeting was over there was no doubt in your mind that to  
4 get the RCMP to go in and do what you wanted them to do  
5 that you were going to have to get a direction from the AG.
- 6 A. That's right.
- 7 Q. And you say that in Volume 66 of the transcript at page  
8 11788. There's no need for you to refer to it. Those were  
9 your words. Now, having left the meeting that way...
- 10 A. Yes.
- 11 Q. And by the way, with no indication whatever there that  
12 Harry Wheaton was going to leave that meeting and go  
13 down and get things from the Chief, which is something my  
14 learned friend Mr. Pugsley suggested to you this morning.  
15 There was no suggestion of that at the meeting, was there?
- 16 A. That he was going to do it after that meeting.
- 17 Q. Yeah. He was going down that afternoon and get things  
18 from MacIntyre.
- 19 A. No, there's another...there's another note on that, I believe.
- 20 Q. Not on this day.
- 21 A. No.
- 22 Q. But certainly there is no note here.
- 23 A. That's right.
- 24 Q. At two o'clock you meet. There's no suggestion at that  
25 meeting that Wheaton is then going down and get things

1 from the Chief that afternoon.

2 A. No.

3 Q. And, in fact, as you say, that meeting was left on the basis  
4 you were going to get a direction from the AG and they  
5 weren't going to go without it, correct?

6 A. Right.

7 Q. Yet, when you go to the next day, page 10 in our version,  
8 that's on Exhibit 7 of the exhibit book, Volume 17, and it  
9 appears just before Monday, April 19th, '82, in the originals.  
10 The quote is, "Told Wheaton that I thought he should get the  
11 entire file from city police. Said he would go down Monday  
12 and get it." Do you see that?

13 A. Yes.

14 Q. Now you leave a meeting the previous day.

15 A. Yes.

16 Q. Where it's clear to you that they're not going to go get it  
17 without a direction from the Attorney General.

18 A. Yes.

19 Q. Superintendent Scott, who is the officer in charge, takes  
20 that position. Yet if this note is correct.

21 A. Yes.

22 Q. The very next day, before you've ever gotten a direction  
23 from the AG.

24 A. Yes.

25 Q. You say to Harry Wheaton, "You go down to the police

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 station and get that file," and Harry Wheaton says, "Yes, I'll  
2 do it on Monday."

3 A. Yes. That's what the notes says.

4 Q. You recognize that Superintendent Scott was the  
5 commanding officer.

6 A. I did, yes.

7 Q. I suggest to you that it would be almost unthinkable that  
8 the very day after the meeting you've described.

9 A. Yes.

10 Q. You would be suggesting to Wheaton that he go down and  
11 get the file. You already determined they weren't going.  
12 Scott had taken that position and you were going to get a  
13 direction from the Attorney General.

14 MR. PINK

15 But my friend leaves out what's on page 9.

16 MR OUTHOUSE

17 What?

18 MR. PINK

19 The conversation earlier in the day with Mr.Wheaton.

20 MR OUTHOUSE

21 Q. I'm not leaving it out. I'm sure Mr. Edwards is well aware of  
22 what's in his notes. I'm just suggesting that after this  
23 discussion about the file and the RCMP not going down and  
24 demanding the file you're now suggesting it to Staff  
25 Sergeant Wheaton again on Saturday.

1 A. Mr. Pink has piqued my curiosity now. Where is the...

2 Q. Well, he's referring, I presume, well, I don't think he's  
3 sworn, but he'd like to give evidence I'm sure, I'm sure he's  
4 referring to the fact that your notes show that Mr. Wheaton  
5 had, in fact, gone despite previous indications, to the police  
6 station and gotten statements. And I guess maybe the  
7 inference that Mr. Pink would like you to draw in your  
8 answer is that having gotten some of it he can go down now  
9 and get the rest and demand the entire file.

10 A. Uh-hum.

11 COMMISSIONER EVANS

12 It's pretty obvious.

13 MR OUTHOUSE

14 Q. Is that your rationalization?

15 A. My rationalization.

16 Q. I shouldn't say that to you. I should have said it to Mr. Pink.

17 A. No, I'm looking for that reference.

18 Q. Perhaps, Mr. Edwards, I'll spare you the trouble and we'll  
19 leave it to be argued about. I...the record is there, and it  
20 speaks for itself.

21 A. You know, the only thing I can suggest is that he said they  
22 wanted a direction to the Chief from the AG to turn over the  
23 info on the 16th, and then me telling him that I thought he  
24 should get the entire file from the city police. Maybe Scott  
25 wasn't as definitive. Maybe he was indicating that was a

1 preferred option the day before. I can't help you.

2 Q. Well, all right, be careful. Because you've already gone on  
3 record, as I pointed out, as saying in Volume 66 page 11788  
4 it was clear to you that they weren't going to get that file.

5 A. Yes.

6 Q. Unless they had the direction from the AG.

7 A. Yes. There was no doubt that that was my ...that was my  
8 feeling by the time I called Gordon Gale on Monday.

9 Q. Anyway, when you were writing these notes up on Monday  
10 that was something that you recall two days earlier having  
11 told Wheaton.

12 A. Yes.

13 Q. And that was what you recalled two days earlier he  
14 responded.

15 A. Yes.

16 Q. I'd...I suggest to you that if the date is wrong...let me  
17 rephrase it. I suggest to you that his ready answer would  
18 have made a lot more sense on Saturday, April the 24th  
19 because, in fact, he did go down on Monday, April the 26th  
20 and get the entire file. That's what the record shows.

21 A. I lost you, I'm sorry, Mr....

22 Q. Well, what I'm saying to you is if you're wrong about the  
23 date as you...it appears you were about the conversation  
24 with Wheaton in terms of the knives and Evers. If the date  
25 is wrong, the date is off, in fact, Staff Sergeant Wheaton did

1 go down on the 26th of April and pick up the entire file and  
2 was planning to do that as of Saturday, April the 24th. So if  
3 you said to him on Friday that he better go...or Saturday,  
4 April the 24th go get that file he would have said, "Yes, I'm  
5 going on Monday," and that's what he did. I'm just  
6 questioning the date.

7 A. Yes. But that doesn't jive with my recall at all.

8 Q. All right. Go to page 11. This is...this is something that Mr.  
9 Barrett, my friend, has already touched on.

10 A. Right.

11 Q. In the middle of page 11 it says, "In meeting with Wheaton  
12 also discussed advisability of questioning Rosenblum." I'm  
13 not going to go on...

14 A. Which date is this?

15 Q. This is April 19th now.

16 A. Okay.

17 Q. And this is a meeting that presumably took place on the  
18 19th. Okay.

19 A. Yes. Yes. Okay. I have it.

20 Q. All right. Now, that note was made of a meeting on the  
21 19th and it was made, according to your recollection, on the  
22 19th. You made the note on the 19th, the meeting was the  
23 19th.

24 A. Yes.

25 Q. And that note, I take it, is as likely to be accurate as any of

1 the other notes I find here.

2 A. Yes.

3 Q. I always hate that question. I was going to ask you whether  
4 you're as sure of that as you are of everything else in your  
5 notes, but I won't. I'll spare you that. I suggest to you, Mr.  
6 Edwards, that that note is inaccurate. You would never have  
7 said, what this note says to Staff Sergeant Wheaton because  
8 you had already, yourself, questioned Mr. Rosenblum.

9 A. Oh, no, I mean, I had had the conversation with Mr.  
10 Rosenblum, questioned him, but I didn't feel that that  
11 conversation formed part of the police investigation and that  
12 he should be...he should be questioned by Staff Sergeant  
13 Wheaton independently and probably in more detail that I  
14 did.

15 Q. Did you ever follow up on that request?

16 A. I don't think so, no.

17 Q. And were you questioning in any way that Mr. Rosenblum  
18 would change his answer or that you couldn't prepare an  
19 affidavit for Mr. Rosenblum to sign based on your  
20 conversation with him?

21 A. No, but I didn't have a written statement from him so I  
22 assume that that was my rationale.

23 Q. Well, I know that that's what you're assuming and I'm not  
24 imputing anything wrong in motive or otherwise. I'm just  
25 suggesting to you that the note is inaccurate and it's an



1           inaccurate reflection of what happened at that meeting.

2       A.    Well, I disagree.

3       Q.    All right. In your original notes that you have in front of  
4           you you'll notice that someone has underlined the word  
5           "Rosenblum" in that line, correct?

6       A.    Yes.

7       Q.    And you'll notice that they have then put an "X" after the  
8           line.

9       A.    Yes, someone did, yes.

10      Q.    And for some reason that doesn't appear in the copies that  
11           we have, the "X" doesn't, the underlining does. Why is that?  
12           Do you have any explanation?

13      A.    No idea.

14      Q.    Does it appear to you in looking at it that somebody has  
15           looked at it and said that you're wrong?

16      A.    No.

17      COMMISSIONER EVANS

18           Did you put the "X" there?

19      MR. EDWARDS

20      A.    I don't think so. I may have but if I did perhaps it was just  
21           to note that passage, but that doesn't say to me that  
22           somebody marked that wrong.

23      Q.    Well, and I'm only interested if you marked it wrong.

24      A.    Well, I know I never marked it wrong. I can guarantee you  
25           of that.

1 Q. But you agree with me that there are very...there are,  
2 throughout your notes, your originals, there are penciled  
3 underlinings.

4 A. Yes.

5 Q. Now, it's not your recollection that you made them, or you  
6 don't know one way or the other.

7 A. That's right. I don't know one way or the other.

8 Q. All right.

9 A. But I can tell...

10 MR. CHAIRMAN

11 Before all of these notes came into the possession of  
12 Commission counsel, did anyone else have access to them other  
13 than you?

14 MR. EDWARDS

15 After they came into the...

16 MR. CHAIRMAN

17 No before. After you made them, between the time you  
18 made the notes and the time that...

19 MR. EDWARDS

20 They were turned over to Commission counsel.

21 MR. CHAIRMAN

22 Yes.

23 MR. EDWARDS

24 No, no, I don't think so. Not that I can recall.  
25

1 MR. CHAIRMAN

2 So...

3 COMMISSIONER EVANS

4 Your secretary transcribed them.

5 MR. EDWARDS

6 Secretary transcribed them, but other than that.

7 MR. MacDONALD

8 We've never had the original notes. Commission counsel has  
9 never had the original notes.

10 MR. CHAIRMAN

11 All right. You still have them.

12 MR. EDWARDS

13 Yes.

14 MR. CHAIRMAN

15 But have they...all right, then read...try it the other way.  
16 Have these notes been in the hands, to your knowledge, other  
17 than from...for the purpose of your secretary transcribing them  
18 been in the hands of any person other than yourself?

19 MR. EDWARDS

20 Well, after the...after Mr. Pink and Mr. Saunders were  
21 appointed counsel they had them in their possession for awhile.

22 MR. OUTHOUSE

23 I perhaps should say for the completion of the record, My  
24 Lord, that obviously I've had them as well to look at.

25

1 MR. PINK

2 And other parties have had access to the original notes.

3 MR. EDWARDS

4 Yes.

5 COMMISSIONER EVANS

6 Who's fond of making x's?

7 MR. CHAIRMAN

8 I hope this...

9 MR OUTHOUSE

10 I can only assure the Commission that I haven't.

11 MR. EDWARDS

12 Will the X-maker please stand up?

13 MR OUTHOUSE

14 Q. Mr. Edwards.

15 A. Yes.

16 Q. You do not claim authorship of those x's or the penciled  
17 underlinings.

18 A. Or deny it.

19 Q. Yeah.

20 A. I don't think I made the "X". I may have. But I can tell you  
21 if I did it was just to note that place not to say, gee, that's  
22 wrong.

23 Q. You go on in that note to say "It would be extremely  
24 material to the admissibility of the present testimony to  
25 show that the defence did not know of this evidence at the

1 time."

2 A. Yes.

3 Q. "Must be able to show that the evidence," and you agree that  
4 there is a typo there, it should say, "Was not left out by the  
5 defence."

6 A. That's right.

7 Q. "For tactical reasons."

8 A. Right.

9 Q. It doesn't say told Staff Sergeant Wheaton that I had  
10 already questioned Rosenblum about this and I want him to  
11 take statements to confirm it. Nothing of that sort.

12 A. It doesn't say that but I believe I did tell Mr. Wheaton that I  
13 had spoken with him.

14 Q. I see. Do you honestly recall that now, Mr. Edwards, or are  
15 you just speculating?

16 A. I'm saying I'm pretty sure, but I may not have, it's...

17 COMMISSIONER EVANS

18 He starts off by saying "In the meeting with Wheaton also  
19 discussed advisability of questioning Rosenblum," and then he  
20 keeps right on. "I told him," who's he telling that to?

21 MR OUTHOUSE

22 Telling Wheaton.

23 COMMISSIONER EVANS

24 "That it would be extremely material to the admissibility of  
25 the present testimony of Chant and Harriss to show the defence

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 did not know of this evidence at the trial."

MR OUTHOUSE

2  
3 My point, My Lord, is that Mr. Edwards' own evidence is  
4 that he had already questioned Mr. Rosenblum on that very point  
5 and satisfied himself that they didn't know.

COMMISSIONER EVANS

6  
7 All right. So, he's passing it on to Wheaton.

MR OUTHOUSE

8  
9 That certainly isn't what he's saying. He's not saying they  
10 didn't know. He's saying it's important to find out, to determine.

COMMISSIONER EVANS

11  
12 Well, he's probably explaining to Wheaton, who is a police  
13 officer, how important it would be for the counsel to know about  
14 it.

MR. CHAIRMAN

15  
16 That's right. He should have...

MR OUTHOUSE

17  
18 Yes, but my point, My Lord, and ...

COMMISSIONER EVANS

19  
20 Maybe I'm...

MR OUTHOUSE

21  
22 God knows I'm not here to answer questions, but if Mr....if  
23 someone in Mr. Edwards' position speaks to a defence counsel of  
24 Mr. Rosenblum's repute and gets certain assurances from him, he  
25 is then not going to sic a police officer on that defence counsel

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 without telling the police officer of his previous conversation and  
2 the content of it and why he is sending him.

COMMISSIONER EVANS

4 Well, it's so Wheaton can satisfy himself.

MR. CHAIRMAN

6 Well, I would think it's equally as logical when you read that  
7 first part, "In meeting with Wheaton also discussed advisability  
8 of questioning Rosenblum." I find it would be almost  
9 inconceivable for Mr. Edwards to have this discussion without not  
10 mentioning it, but I can't see any reason why he would note it.

MR. OUTHOUSE

12 Neither can I.

MR. CHAIRMAN

14 You know, this makes logic...you know, I have no difficulty  
15 accepting the logic of the reasoning that's been articulated by Mr.  
16 Edwards with respect to that paragraph, that note, and certainly  
17 whatever he may know, any...I would think any prudent Crown  
18 Prosecutor would suggest to the investigating officer that, if for no  
19 other reason, for completeness of the record, that he go and  
20 interview Mr. Rosenblum and get a statement from him.

MR OUTHOUSE

22 Well, My Lord, as I said, I'm not here to argue with you. I  
23 have...with respect, I have the greatest difficulty understanding  
24 the way that note is put in the context that this witness, Mr.  
25 Edwards, had already spoken to Mr. Rosenblum and gotten the

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 very information which he's asking Staff Sergeant Wheaton to get.  
2 But I don't propose to argue with you.

COMMISSIONER EVANS

4 There may be a little difficulty here in that we seem to be  
5 casting, and some certain counsel are casting Mr. Edwards in the  
6 role of an investigator rather than the role of a prosecutor. And  
7 that isn't his function. He got some information and he passes it  
8 on to the investigator.

MR. EDWARDS

10 That's the very point I'm just here waiting to make. That,  
11 you know, and I think I've made the point before, that I felt that  
12 here my involvement in the investigation was very close to the  
13 fine line past which I shouldn't go. And, you know, I...I felt it was  
14 part of the police investigation to speak to Mr. Rosenblum.

MR OUTHOUSE

16 Q. Mr. Edwards, I just have a couple of more questions. Can  
17 you tell the Commission why you made no notes from April  
18 the 20th to July the 12th?

19 A. I think I...

20 Q. To July the 12th.

21 A. Yes, well, July the 8th there is a few that were made at the...

22 Q. Oh, I'm sorry.

23 A. ...Chambers application.

24 Q. I didn't...

25 A. But other than that, yes, you're right, and I believe I gave



1 that in my direct and I can't answer it. There is some  
2 correspondence in there which would fill in some of the  
3 blanks. There's May correspondence and there's also... Well,  
4 there was the meeting with Rutherford and I've  
5 acknowledged that I was remiss there.

6 3:31 p.m.

7 Q. There was also meetings...

8 A. I will always regret not having notes of that meeting.

9 Q. But there were also meetings with Wheaton and Carroll  
10 during that period and you kept no notes of those.

11 A. There could have been.

12 Q. In fact, your Daytimer discloses, for example, a meeting with  
13 Carroll and a meeting with Wheaton?

14 A. Yes.

15 Q. After that, separate meetings with them, isn't that correct?

16 A. Well, if you say they're there, I'd have to look to check.

17 Q. And, in fact, I...

18 A. Assuming you're correct.

19 Q. And I don't want there to be any misunderstanding about the  
20 document that Mr. Pugsley circulated this morning. I don't  
21 know whether it's been marked as an exhibit.

22 A. Yes, it has.

23 Q. If it has, it should be clarified that it's simply a recap of  
24 contacts that appears in you notes.

25 A. Yes, that's the way I took it.

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 Q And it is not an exhaustive summary of your contacts with  
2 Wheaton and Carroll.

3 A. That's right.

MR. CHAIRMAN

4  
5 Were you involved in prosecuting the other murder trial in  
6 that period?

MR. EDWARDS

8 The Weatherbee?

MR. CHAIRMAN

10 Yeah.

MR. EDWARDS

11  
12 As it turned out, that became a guilty plea. But after  
13 considerable legwork had been done to get it ready.

BY MR. OUTHOUSE

14  
15 Q Mr. Edwards, one final question. There are no entries in your  
16 Daytimer for meetings with anyone concerning the Marshall  
17 case, including Staff Sergeant Wheaton and Superintendent  
18 Scott on either April the 16th or April the 19th. Isn't that  
19 correct? You can confirm it if you wish, but I'm sure that's  
20 what you'll find.

21 A. No, not on April 16th nor the 19th.

22 Q Nor the 17th.

23 A. Pardon me?

24 Q Nor the 17th?

25 A. Nor the 17th. Nor...

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 Q. Those are all my questions, Mr. Edwards.

2 A. Well, I was going to say the following Monday, Tuesday, and  
3 Friday, there's no notes of meetings there either.

4 Q. There is a meeting, I believe, on the 26th concerning Oscar  
5 Seale?

6 A. In my Daytimer?

7 Q. Yes.

8 A. In August?

9 Q. If I said "August," I'm mistaken.

10 A. April.

11 Q. April.

12 A. Okay, your question was April 19th?

13 Q. Yes.

14 A. There's no note.

15 Q. April 16th?

16 A. Friday, April 16th, there's no note there at all. April 17th,  
17 which, of course, is a Saturday, no note. And April 19th, and  
18 then the following Friday, the 23rd and Saturday, the 24th, no  
19 note. And Monday, the 26th, no note. But on the 26th, 10:45,  
20 Oscar Seale. I believe I met with Oscar Seale that day.

21 COMMISSIONER EVANS

22 Do you make a note when you go fishing?

23 MR. EDWARDS

24 Maybe that was off for personal reasons.

25

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 MR. OUTHOUSE

2 Those are all my questions.

3 MR. CHAIRMAN

4 Now it's twenty to four and it pains me to suggest, Mr.  
5 Edwards, that you... You've been extremely patient and that  
6 you're going to have to come back next week. We still have one,  
7 two, three... Well, I assume that Mr. Wildsmith and Mr. Ross and  
8 Mr. Saunders wish to cross-examine this witness.

9 MR. SAUNDERS

10 I have very few questions, My Lord, of Mr. Edwards, at this  
11 stage.

12 MR. CHAIRMAN

13 Can I get some indication?

14 MR. ROSS

15 I think I'm going to require a minimum of 20 minutes, My  
16 Lord.

17 MR. CHAIRMAN

18 Mr. Wildsmith?

19 MR. WILDSMITH

20 Probably a little bit longer, maybe half hour.

21 MR. CHAIRMAN

22 We'll adjourn until Monday at 9:30. And I have to remind  
23 counsel again before we leave that the responsibility of  
24 Commission counsel is to canvass all areas and, as the Rules of  
25 Evidence do not apply with the same rigidity, Commission counsel,

MR. EDWARDS, EXAM. BY MR. OUTHOUSE

1 in effect, do a lot of cross-examination during examination-in-  
2 Chief. And if an area has been thoroughly canvassed by  
3 Commission counsel, endless repetition certainly doesn't help the  
4 Commission and doesn't convince us of anything. But that doesn't  
5 mean that some cross-examination isn't necessary or warranted.  
6 But I'm detecting repetition, matters that have been so thoroughly  
7 canvassed by Mr. MacDonald in his examination, which is his duty.  
8 If we had Utopia, we'd be striving for that sometime between now  
9 and, I don't know when, there would be no need for any questions  
10 after Commission counsel completed. With these words of  
11 wisdom, I trust you'll have a good weekend. Enjoy your  
12 cucumbers!

13 3:36 p.m. INQUIRY ADJOURNED UNTIL 9:30 a.m. MAY 30th.

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REPORTER'S CERTIFICATE

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



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Margaret E. Graham

DATED THIS 26 day of May, 1988 at Dartmouth, Nova Scotia