

George
January 6, 1988

WITNESS LIST

JANUARY/FEBRUARY 1988

January 11th

D. Wardrop/E. Smith/S. Clarke

January 12th

I. MacLeod/M. Veniot/G. Green/E. Cole

January 13th

W. Urquhart

January 14th

M. MacLean/D. Gass/K. Lynk/A. Walsh

January 18th

H. Wheaton

January 19th

H. Wheaton

January 20th

J. Carroll/H. Davies/Dr. R. Perry/Dr. P. Markesteyn

January 25th

D. Scott/D. Christen

January 26th

A. Evers/S. Aronson

January 27th

H. How

January 28th

D. Rutherford/R. Fainstein/M. Whalley

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February 1st

J. Stewart/D. McConkey/A. Estabrooks

February 2nd

Parole (Ottawa)

February 3rd

R. Anderson/R. Giffin

February 4th

R. Giffin/Court of Appeal(?)

OPENING REMARKS - HALIFAX PHASE

During the Sydney phase of the Hearings, evidence was presented concerning the factual circumstances leading to the conviction of Donald Marshall, Jr., for the murder of Sandy Seale, and the subsequent re-investigation carried out by Inspector Marshall in November, 1971. With few exceptions, all witnesses who had relevant information to present to the Commission gave evidence. It was necessary to postpone the taking of evidence from one of the key witnesses, William Urquhart, and he will be giving evidence in Halifax. We had hoped in fact to schedule Mr. Urquhart's testimony for January 13th, but for medical reasons, he will not be available and we are hoping that he will be able to testify in early February.

We propose to continue with the chronological treatment of the events surrounding Donald Marshall, Jr., including his time in prison; various attempts to secure his release; the investigation carried out in 1982 by the R.C.M.P.; the Reference proceedings in the Nova Scotia Supreme Court Appeal Division which led to the acquittal of Mr. Marshall; the subsequent dealings between him and various levels of Government leading to payment of compensation; and the further review by the R.C.M.P. and the Department of Attorney General of the 1971 investigation and related matters. We anticipate the requirement to call evidence from over 50 witnesses in order to cover all of these areas. Evidence of an "expert" nature will be called during this

phase of the Hearings relating to the practices followed in Nova Scotia with respect to post-mortem examinations, and the procedures followed in other jurisdictions. It is possible that expert evidence will also be called with respect to the Reference proceedings. This evidence will be similar in nature to that of Professor ~~Q~~ Bruce Archibald who testified previously on the legal issues which arose at the 1971 trial.

When all evidence relating directly to Mr. Marshall has been presented, it is our intention to introduce other evidence dealing with the administration of justice in Nova Scotia. As you indicated, Mr. Chairman, in your opening statement on May 13, 1987 ~~(Q)~~, and I quote:

"Bringing out the facts will give the Commission an understanding of what happened. But that is only a beginning. It is not enough to examine minutely one incident, and from that to expect to suggest changes within a complex system of administration of justice. In order to develop meaningful recommendations, the most important part of our mandate, all contributing or potential contributing factors must be carefully reviewed within the context of the current state of the administration of justice in Nova Scotia."

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

Proceeding in this fashion will necessitate certain witnesses taking the witness stand on two occasions. You will recall we followed a similar procedure in Sydney when dealing with the Sydney Police Department officials. In the first segment of the Halifax Hearings, members of the Attorney

General's Department will be called to discuss their involvement and participation in the various phases of the Donald Marshall, Jr., matter. At that time their evidence will be restricted to their role in the Marshall affair. Some of these officials will be recalled at a later stage to discuss the changes, if any, which have been made in the operation of the Department, and their involvement in other cases being considered by the Commission as relevant to a complete examination of the system of administration of justice. It is during this second phase of the Hearings, as well, that evidence will be called from representatives of the Sydney Police Department to discuss changes, if any, which have taken place in the administration and functioning of that Department.

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

Once all the evidence has been called, it is proposed to have oral argument addressed to the Commission by any interested party. You have indicated that the arguments in this matter will be heard in Sydney. The date for final argument will be fixed at a later time.

I N D E X

TAB A

TAB B

TAB C

CARROLL, James

CHRISTEN, Supt. D. F.

TAB D

TAB E

EDWARDS, Frank

EBSARY, Donna

EBSARY, Roy

TAB F

TAB G

GUSHUE, Terry

TAB H

HARRISS, Patricia

TAB I

TAB J

TAB K

KHATTAR, Simon

TAB L

TAB M

TAB Mc/Mac

MacINTYRE, Chief John
MacDONALD (COUTURE), Deborah

TAB N

TAB O

TAB P

PERRY, DR. ROLAND

TAB Q

TAB R

ROSENBLUM, Moe

RATCHFORD, David

TAB S

SCOTT, Inspector

TAB T

TAB U

TAB V

TAB W

WHEATON, Sgt.

TAB XYZ

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS
COMMISSIONER

THE HONOURABLE
MR. JUSTICE GREGORY THOMAS EVANS
COMMISSIONER

October 7, 1987

PROPOSED SCHEDULE

HALIFAX PHASE (1988)

ROYAL COMMISSION HEARINGS

MONTH	MON.	TUES.	WED.	THURS.	FRI.
JANUARY:	11TH 18TH 25TH	12TH 19TH 26TH	13TH 20TH 27TH	14TH 28TH	
FEBRUARY:	1ST	2ND	3RD	4TH	
MARCH:	7TH 14TH 21ST	8TH 15TH 22ND	9TH 16TH 23RD	10TH 17TH 24TH	

APPROXIMATE NUMBER OF HEARINGS DAYS: 27

Amended
October 7, 1987

LIST OF WITNESSES FOR THE PUBLIC HEARINGS
OF THE ROYAL COMMISSION ON THE DONALD MARSHALL, JR.,
PROSECUTION TO BE EXAMINED IN SYDNEY

Please note: This list is subject to change at any time. An attempt will be made to give prior notification of changes.

Roy Ebsary
James MacNeil
Robert MacKay
Debbie Timmins (nee MacPherson)
Marvel Mattson
Maynard Chant
Ambrose MacDonald
Constable Ryan, R.C.M.P.
Richard Walsh
Howard Dean
John Mallowney
Michael Bernard MacDonald
Inspector Terry Ryan
Sergeant M. Wood
Sandy MacNeil
George MacNeil
Linda Muise
C. Livingston
John Butterworth
John Pratico
Mrs. Pratico
Dr. O'Brien
Dr. M. A. Mian
Rudolph Poirier
Dr. M. A. Naqvi
Ed MacNeil
Arthur Paul
Terrance Gushue
Patricia Harriss
Mrs. Eunice Harriss
Mrs. Emily Clemens
Barbara Floyd
Sandra Cotie
Mary Csernyik (O'Reilley)
Catherine Soltesz (O'Reilley)
Mrs. Beudah Chant
Lawrence Burke
Wayne Magee
• Art Woodburn
- Wyman Young
- Norman MacAskill
Roy Gould
Arthur Paul

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Thomas Christmas
Bernie Francis
S. Khattar
Lewis Matheson
Robert Anderson
Mary Ebsary
Greg Ebsary
David Ratchford
Eugene Smith
Inspector E. A. Marshall
Donna Ebsary
William Urquhart
John MacIntyre

By Teleconference

Butterworth

Briefing
descriptions etc
during weeks of
investigation

Describes current stage

Knew about Dr. Set reputation.

Def. for Unsubant for 4-5 months. Later
like statement taken: Opinion

38
Ex. 40

Knew practice? Reliable? In U.S. Hospital
absent? marked?

Training? True career.



now
aware investigation? re-investigation

Consider Marshall did stabbing

C

Clayce

Name etc.

Training -

Notebook: what recorded
why

Baddeck:

Involvement \bar{c} Marshall

Independent Recollection?

Ex. 87. In detail

4-6-71 7:30 pm

One N/Ac Turner &
 McCutcher arrived
 Baddock & requested
 a number to go
 with them to locate
 comagly 401 by 15
 to locate Donald
 the Marshall. The
 Marshall family
 is staying at John
 P. Cobble's house,
 a grandfather who
 died a few weeks
 ago. John & his
 siblings. John Marshall
 had given them a
 statement of how
 they were walking
 thru the park &
 two men came
 up to them &
 stabbed the other
 fellow in the
 stomach. Both men
 from first of one
 with white hair.
 We then proceed
 via 15-5
 to physically
 check a couple
 of fellows on a
 local stop where
 Cobble had lived
 & they pointed to
 the house across
 the road. Went to
 house. Women &
 children in yard
 and N/Ac Turner
 asked if Donald was
 home, said yes
 & he came out
 the door. He got
 out & N/Ac Turner
 got out the wheel
 of Donald and
 went to check to
 get it. Donald

NOTE TAKEN
 FROM THE NOTEBOOK
 OF CPK S.G.
 CHURKE
 WHILE STATIONED
 IN BADDECK
 N.I.S.

M.P. MALDONADO
 NOTES
 2/11/71 38

2/11

went back into
 the house &
 opened the back
 door of the PC
 for them. Chouat
 sat up in rear seat
 behind driver side
 door & I sat in front
 seat & father & got
 back in car. We
 drove to the edge
 of the city & I
 got out of the car
 near the police
 station & searched
 the apartment in
 Marshall. There
 was no reply but
 Chouat then phoned
 Marshall &
 we drove to hotel
 about half way there
 Marshall had been
 clobbering & had put
 his hands cuffed
 over his head. I
 told the police to
 let him go & at
 this time he said
 "I did not do it"
 These were the only
 words he spoke
 during the time I
 was with them.
 We arrived back
 at the office &
 before Marshall got
 into the city police
 car with 4 other
 men & search
 nothing was found.
 Before we left
 Chouat & I just
 after he got in
 the car Det Chouat
 helped him & I
 saw him get
 into car. Det
 Chouat took

my name + reg
number, got into
their car & drove
off left handed ⁵⁰ 2001
Est fund collect
in sales with

Sydney Coles

Name etc.

Corleen path.

Notebook Practice:

Sydney Contact 1975

Instructions: must have see'd some
what done?

Report?

Exhibit - note book & Extracts

16/213

what is "Elbany" file?

Called by Frank Edwards? Oct. 1982
Whiston
anyone else

Ex. 109

John McIntyre.

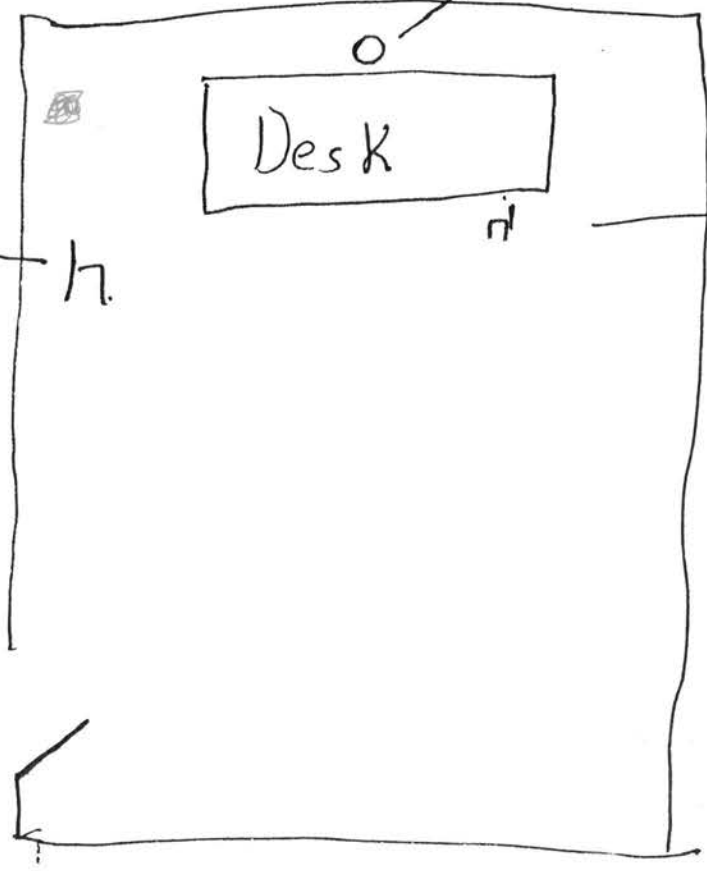
Herb
Davies

h.

Desk

h

Harry Wheaton



Sgt. Herb Davis

Rank

Station St. Peters 5 years.

Career: ↔

June 1976 - Aitchat

1978-1982 C & E Sydney

1982

Note taking Practice:

Any notes of this case

(2)

Knowledge of John Mac Intyre

Mac I 6371/21 Doesn't know him

Involvement in Marshall case.

Discussions with Wheaton: Carroll: Murphy:

Why did he accompany Wheaton?

How does he know Lott?

Discussions Grand Jury

Refer Frank Edwards 17/6

Wheaton Diary 34/3

Wheaton Evidence 26th

Does he recall letter from
A-G? Vol 16 / 221
Show by wheator 42/7714²⁷⁰⁸

Had he ever seen such a document
before? Since?

Describe the events?
1 1/2 hours - wheator 42/7744

✓ who sat where Ex. 109
wheator behind desk?

Chief very formal (7745)

How many documents on floor. (more than one)

afterwards did wheator read to him
partially completed statement from Deary
42/7710

Show plan Ex. ✓

3A

Does he know Sgt. MacIntyre (6371/21 No.)

Ex. 88

See this. what being
done. Review it at any time?

Was a critical document:

Chief looked very embarrassed

(4)

Refer to MacIntyre evidence.

XXXIV

6371

6372

Wheaton

42 / 77 48 ft

Both cannot be correct: How certain?
Ever experience anything like that before.

(5)

Have heard evidence from whom?
Anyone else? Did that evidence
assist him in any way.

✓ Has he made any report, or considered
doing so, after hearing of Mae Intyre
evidence ^{to} this Commission

STAFF SGT. WHEATON. EXAM. BY MR. ORSBORN

- 1 Q. Staff Wheaton, when we broke we were just looking at the,
2 seeing if we could account for the difference in the dates on
3 your notes and you now say it should be the 26th. Could you
4 tell us again how you've come to the conclusion that it should
5 be the 26th?
- 6 A. I come to that conclusion, sir, based on, I just forget which
7 volume it is, I believe it was my sort of overall
8 comprehensive report on the thing, in which I state to my
9 headquarters in Halifax, which would have gone through
10 Inspector Scott, that it was the 26th of April, 1982 that I met
11 with Chief MacIntyre and he handed over the file. I also have
12 reviewed the correspondence in our division file and I find
13 that the letters written by the Attorney General's Department
14 to the mayor of Sydney and the chief of police were dated the
15 20th of April. There's a letter, memorandum from the
16 Attorney General's Department to our headquarters with
17 attachments of the two previous mentioned letters dated the
18 21st. And the bottom of that is date stamped signed by, I
19 believe, Corporal Stutt of our Readers Department, forwarded
20 to Sydney on the 23rd. I know that I showed that letter to
21 Sergeant Davies, then Corporal Davies, prior to our trip to the
22 Sydney City Police on the 26th of April and I recall the
23 incident very clearly and I recall in our opening conversation
24 the chief producing this index and telling me that he had his
25 sister, Kay, prepare it that morning.

1 A. The 19th of April?

2 Q. The 19th of April.

3 A. Yeah.

4 Q. Does that in any way...

5 A. That refreshes my memory further, sir, that I must have
6 shown them statements that I had obtained from the Sydney,
7 from Inspector Scott probably. If I showed them statements
8 and I dated this the 19th of April.

9 Q. So do we take from that then that you had the Ebsary
10 statements prior to the 26th of April?

11 A. I must have had them, sir, if I showed them to them, yes.

12 Q. And does that not further suggest that, in fact, your note on
13 page three of a meeting showing the 16th of April is, in fact,
14 the correct date?

15 A. How do you figure this one now?

16 Q. Does it not suggest to you that the note that you show of your
17 meeting with Chief MacIntyre and Corporal Davies as shown
18 as having occurred on the 16th of April, perhaps occurred on
19 the 16th?

20 A. No, it did not, no. It occurred, I feel, on the 26th of April
21 because I know I had the letter from the Attorney General's
22 Department and I know I showed it to Corporal Davies and I
23 know the chief had also received the letter from the Attorney
24 General's Department. Now there were quite a number of
25 statements floating around here in this investigation. There

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 perhaps a little more clearly, I showed it to the chief or
2 mentioned to him that I was doing it and he looked over and
3 saw me doing it and we then went to page three. And page
4 four, which is not numbered, I made some notes on that as
5 well. Then after we had finished this process, I said I was
6 satisfied that I had received these items as noted in the index
7 and "I have been initialing all along on this, Chief, do you wish
8 to sign it, too, if you agreed that I have received them from
9 you?" and he wrote his "Chief" and his signature.

10 Q. How long did the process take?

11 A. This took quite awhile. By that, I would say maybe an hour
12 and a half, in that area.

13 Q. And as the Chief extracted documents from, for example, the
14 brown file folder, were you able to ascertain that you got all
15 the documents that were in that file folder?

16 A. Well, as far as I could see looking across the desk, I had. At
17 the termination of this, I specifically asked the Chief, "Now do
18 I have everything?" And he indicated to me that I had
19 everything.

20 Q. Did he give you the file folders?

21 A. He didn't indicate it, he said it. I beg your pardon?

22 Q. Did he give you file folders themselves?

23 A. Yes, sir.

24 Q. Did he give you the brown accordian file folder?

25 A. Yes, sir.

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 Q. So the containers in which he had his statements were
2 provided to you?

3 A. Yes, sir.

4 Q. Was there any discussion between you and the Chief about
5 the matter generally other than identifying the statements
6 then initially?

7 A. We had some discussion as we went along, yes.

8 Q. Do you recall what it was about?

9 A. Not really.

10 Q. How was the Chief?

11 A. I beg your pardon?

12 Q. How was the Chief?

13 A. Formal, very formal.

14 Q. Anybody else there with him?

15 A. No.

16 Q. Now your note says, "The Chief was asked four or five times
17 for any other statements from Patricia Harriss." This is at
18 page three of Volume 34.

19 A. Yes, sir.

20 Q. And then it says, "Last statement given, handwritten
21 statement of Bill Urquhart."

22 A. Uh-huh.

23 Q. Are you able to expand on that note and tell us what it
24 means?

25 A. Yes, sir. My secretary, in transcribing that, has cleaned up

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 the order had been made by the Attorney
2 General that they turn over all
3 documentation, I found a partially
4 completed statement dated 17th of June
5 '71, 8:15.

6 Is that the comment or the type of comment you're referring
7 to as supporting your recollection of it being the 26th when
8 you visited the Sydney Police Department?

9 A. Yes, sir, and there's another report somewhere, sir, in which I
10 stated that it's the 26th.

11 Q. I'll look for that. You met with Mr. Edwards, Inspector
12 Scott...Let me back up just a little bit. The note that you made
13 with respect to the meeting, reproduced on page three of
14 Volume 34, when did you make that note?

15 A. Note made dated 16th of April, incorrectly dated?

16 Q. Yes.

17 A. I would have made that in the afternoon of the 26th of April,
18 1982 at my office in Sydney.

19 Q. Did you discuss the content of that with Corporal Davies
20 before you wrote it?

21 A. Corporal Davies and I, yes, had a discussion en route from the
22 Sydney City Police office to our office in the subdivision
23 headquarters building as to, I read the partially completed
24 statement.

25 Q. Can you offer any explanation as why Mr. Edwards would
have a detailed chronology going through April 16th, April
17th, which, and April 19th, which would be at variance with

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 on Harriss was what we got during this meeting. "Only one
2 read." The Chief was reading these as he was giving them to
3 me and he only read the one, that would be the 18th, which I
4 believe on that date he gave me another copy of that.

5 Q. The Chief was reading what as he was giving them to you?

6 A. He was reading these documents as he was handing them
7 over to me.

8 Q. Reading the substance of them?

9 A. Yes, partially. He would pick it up and say, "This is a
10 statement of Patricia Harriss given to me on such and such a
11 date," and might go into, say, some of the first paragraph on
12 it.

13 Q. I see. Your statement there then, "Last statement given." Do
14 I take it from your testimony that the word "last" refers to
15 the last statement from Patricia Harriss?

16 A. Uh-huh, he gave us the last statement from Patricia Harriss.

17 Q. Right.

18 A. The one from the 18th.

19 Q. So one should not read the note as meaning the handwritten
20 statement of Patricia Harriss was the last statement that you
21 got this day.

22 A. No.

23 Q. Now can we get to this business about the floor?

24 A. Yes, sir. Okay, after receiving these items from the chief, I
25 placed them in my briefcase and I believe Corporal Davies

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 had a briefcase and we placed some in his. I got up then and
2 I...

3 Q. Just let me stop you, at that point you had signed your
4 statement and...

5 A. Packed our bags.

6 Q. Had your acknowledgements with the Chief.

7 A. Yes, sir, and I thanked the Chief for his cooperation and he
8 come out from around the desk to see us out sort of thing and
9 Corporal Davies went ahead, I came second, the Chief came
10 third and we continued out the door. As we, I would have
11 been in the doorway or just a step or two out the door.

12 Corporal Davies turned to me and said, "Staff, you didn't get
13 everything." He slipped one piece of paper or something on
14 the floor, a piece of paper on the floor. I turned to the Chief,
15 who was still back in his office, I may have taken one step or
16 two, and I said, "Chief, Corporal Davies tells me you slipped
17 something on the floor."

18 He stared at me for some time eye to eye and then turned
19 and said, "Well, you may as well have all of it." Or, "You may
20 as well have everything," words to that effect. And he then
21 walked toward the desk. At this time, I did not know if it
22 was on the right or left of the desk or where it was behind
23 the desk. He walked facing the desk, it would be on the left-
24 hand side; sitting behind the desk, it would be on the right-
25 hand side. Behind the desk and picked up a piece of paper.

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 Q. Picked up from where?

2 A. From the floor under the desk on that side, which would be
3 sitting behind the desk on the right-hand side, where facing
4 the desk, on the left-hand side on the side Corporal Davies
5 had been sitting on. And he was flustered, he was red in the
6 face, and he said, "Well, you may as well have it all," or words
7 to that effect, "You may as well have everything," and gave it
8 to me. I took it and I turned and I walked out. And Corporal
9 Davies was in the office at that time as well, and we left.

10 Q. Did you look at it?

11 A. I did not look at it.

12 Q. You did not look at it?

13 A. No, sir. I went to the police car and...

14 Q. What did you do with it when he gave it to you?

15 A. I held it in my hand.

16 Q. You didn't put it in you briefcase?

17 A. No, sir.

18 Q. Okay.

19 A. I went out to the police car and Corporal Davies was driving, I
20 was in the passenger side and I said, you know, "Let's return
21 to the office," and as we drove up the hill returning to the
22 office, I read it and found that it was a partially completed
23 statement of Patricia Harriss on the 17th of June 1971
24 written by William Urquhart, I believe it was.

25 Q. Do you have any doubt at all, sir, that that partially completed

1 statement was given to you by Chief MacIntyre after he
2 picked it up off the floor?

3 A. I have absolutely no doubt on that point. I also have
4 absolutely no doubt that I was not sitting behind his desk. I
5 was sitting in front of his desk.

6 Q. Was that an original statement, sir, or a typed one?

7 A. It was an original statement, sir.

8 Q. Do you know how it got to the floor?

9 A. Corporal Davies advised me he observed the chief slip it to
10 the floor. He said he picked it up with his left hand, reached
11 over, and put it down underneath the right-hand portion of
12 the desk.

13 Q. Did you see that?

14 A. I did not see that, no, sir.

15 Q. Can you suggest why you would not have seen that if the files
16 were on the desk in front of you?

17 A. Probably because I had my head down looking in this index
18 and trying to find whatever and signed for it, sir.

19 Q. I put to you, Staff Wheaton, that Chief MacIntyre under oath
20 here denied a number of times having slipped any statements
21 or anything onto the floor. Are you suggesting that his
22 testimony is incorrect?

23 A. I'm suggesting, I'm not suggesting, I'm stating the man
24 perjured himself.

25 Q. Before this Commission.

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 A. Before this Commission.

2 Q. In respect of the taking of the statement of Patricia Harriss
3 and putting it on the floor.

4 A. That is correct, sir, yes.

5 COMMISSIONER POITRAS

6 Mr. Orsborn, I draw to your attention that the handwritten notes
7 show that Corporal Davis or Davies "saw them placed on the floor"
8 as opposed to the typewritten notes that referred to Corporal
9 Davies having seen "it placed on the floor." I don't know if it has
10 any relevance, I just draw it to your attention.

11 MR. ORSBORN

12 Thank you, My Lord.

13 BY MR. ORSBORN

14 Q. Just going to your handwritten notes, Staff Wheaton, and it
15 would be, appears to page 12 of your handwritten notes. You
16 can read it from there, the second paragraph:

17 Handwritten statements of Bill Urquhart on
18 Harriss showed numerous, only one read.
19 Corporal Davies see them placed on floor.

20 Can you suggest any reason why the "them" would be
21 changed to an "it" in a typewritten version?

22 A. No, I cannot, sir. It was one piece of paper.

23 Q. How do you know it was one piece of paper?

24 A. Because that's what the chief handed me.

25 Q. Did you go and look behind the desk and see if there was any

1 more?

2 A. I stood at the desk. I didn't see any more, sir, no.

3 Q. Did you, in fact, report to Frank Edwards, having gone to the
4 chief's office and had this difficulty with the chief and the
5 statements?

6 A. Yes, I did, sir.

7 Q. Leaving aside the problem with dates and referring to Mr.
8 Edwards' notes, Volume 17, page nine, the third paragraph, I
9 guess, his notes read, "Also told me," and he's referring to a
10 conversation with yourself:

11 Also told me that Herb Davies had noticed
12 chief slip some of the information on floor
13 behind desk. Believes it was some
14 information with transcript attached
15 relating to threat by Christmas against
16 Pratico. Believes there was a charge
17 against Christmas at the time.

18 Do you have any recollection of relating that to Mr. Edwards?

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

20 Q. Are you saying that Mr. Edwards' note is incorrect?

21 A. Yes, sir.

22 INQUIRY RECESSED UNTIL 2:00 p.m.

23

24

25

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 on Harriss was what we got during this meeting. "Only one
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15 the last statement from Patricia Harriss?

16 A. Uh-huh, he gave us the last statement from Patricia Harriss.

17 Q. Right.

18 A. The one from the 18th.

19 Q. So one should not read the note as meaning the handwritten
20 statement of Patricia Harriss was the last statement that you
21 got this day.

22 A. No.

23 Q. Now can we get to this business about the floor?

24 A. Yes, sir. Okay, after receiving these items from the chief, I
25 placed them in my briefcase and I believe Corporal Davies

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 had a briefcase and we placed some in his. I got up then and
2 I...

3 Q. Just let me stop you, at that point you had signed your
4 statement and...

5 A. Packed our bags.

6 Q. Had your acknowledgements with the Chief.

7 A. Yes, sir, and I thanked the Chief for his cooperation and he
8 come out from around the desk to see us out sort of thing and
9 Corporal Davies went ahead, I came second, the Chief came
10 third and we continued out the door. As we, I would have
11 been in the doorway or just a step or two out the door.

12 Corporal Davies turned to me and said, "Staff, you didn't get
13 everything." He slipped one piece of paper or something on
14 the floor, a piece of paper on the floor. I turned to the Chief,
15 who was still back in his office, I may have taken one step or
16 two, and I said, "Chief, Corporal Davies tells me you slipped
17 something on the floor."

18 He stared at me for some time eye to eye and then turned
19 and said, "Well, you may as well have all of it." Or, "You may
20 as well have everything," words to that effect. And he then
21 walked toward the desk. At this time, I did not know if it
22 was on the right or left of the desk or where it was behind
23 the desk. He walked facing the desk, it would be on the left-
24 hand side; sitting behind the desk, it would be on the right-
25 hand side. Behind the desk and picked up a piece of paper.

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 had a briefcase and we placed some in his. I got up then and
2 I...

3 Q. Just let me stop you, at that point you had signed your
4 statement and...

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6 Q. Had your acknowledgements with the Chief.

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8 come out from around the desk to see us out sort of thing and
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10 third and we continued out the door. As we, I would have
11 been in the doorway or just a step or two out the door.

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13 everything." He slipped one piece of paper or something on
14 the floor, a piece of paper on the floor. I turned to the Chief,
15 who was still back in his office, I may have taken one step or
16 two, and I said, "Chief, Corporal Davies tells me you slipped
17 something on the floor."

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19 and said, "Well, you may as well have all of it." Or, "You may
20 as well have everything," words to that effect. And he then
21 walked toward the desk. At this time, I did not know if it
22 was on the right or left of the desk or where it was behind
23 the desk. He walked facing the desk, it would be on the left-
24 hand side; sitting behind the desk, it would be on the right-
25 hand side. Behind the desk and picked up a piece of paper.

STAFF SGT. WHEATON. EXAM. BY MR. ORSBORN

- 1 Q Picked up from where?
- 2 A. From the floor under the desk on that side, which would be
3 sitting behind the desk on the right-hand side, where facing
4 the desk, on the left-hand side on the side Corporal Davies
5 had been sitting on. And he was flustered, he was red in the
6 face, and he said, "Well, you may as well have it all," or words
7 to that effect, "You may as well have everything," and gave it
8 to me. I took it and I turned and I walked out. And Corporal
9 Davies was in the office at that time as well, and we left.
- 10 Q Did you look at it?
- 11 A. I did not look at it.
- 12 Q You did not look at it?
- 13 A. No, sir. I went to the police car and...
- 14 Q What did you do with it when he gave it to you?
- 15 A. I held it in my hand.
- 16 Q You didn't put it in you briefcase?
- 17 A. No, sir.
- 18 Q Okay.
- 19 A. I went out to the police car and Corporal Davies was driving, I
20 was in the passenger side and I said, you know, "Let's return
21 to the office," and as we drove up the hill returning to the
22 office, I read it and found that it was a partially completed
23 statement of Patricia Harriss on the 17th of June 1971
24 written by William Urquhart, I believe it was.
- 25 Q Do you have any doubt at all, sir, that that partially completed

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 statement was given to you by Chief MacIntyre after he
2 picked it up off the floor?

3 A. I have absolutely no doubt on that point. I also have
4 absolutely no doubt that I was not sitting behind his desk. I
5 was sitting in front of his desk.

6 Q. Was that an original statement, sir, or a typed one?

7 A. It was an original statement, sir.

8 Q. Do you know how it got to the floor?

9 A. Corporal Davies advised me he observed the chief slip it to
10 the floor. He said he picked it up with his left hand, reached
11 over, and put it down underneath the right-hand portion of
12 the desk.

13 Q. Did you see that?

14 A. I did not see that, no, sir.

15 Q. Can you suggest why you would not have seen that if the files
16 were on the desk in front of you?

17 A. Probably because I had my head down looking in this index
18 and trying to find whatever and signed for it, sir.

19 Q. I put to you, Staff Wheaton, that Chief MacIntyre under oath
20 here denied a number of times having slipped any statements
21 or anything onto the floor. Are you suggesting that his
22 testimony is incorrect?

23 A. I'm suggesting, I'm not suggesting, I'm stating the man
24 perjured himself.

25 Q. Before this Commission.

STAFF SGT. WHEATON. EXAM. BY MR. ORSBORN

1 A. Before this Commission.

2 Q. In respect of the taking of the statement of Patricia Harriss
3 and putting it on the floor.

4 A. That is correct, sir, yes.

5 COMMISSIONER POITRAS

6 Mr. Orsborn, I draw to your attention that the handwritten notes
7 show that Corporal Davis or Davies "saw them placed on the floor"
8 as opposed to the typewritten notes that referred to Corporal
9 Davies having seen "it placed on the floor." I don't know if it has
10 any relevance, I just draw it to your attention.

11 MR. ORSBORN

12 Thank you, My Lord.

13 BY MR. ORSBORN

14 Q. Just going to your handwritten notes, Staff Wheaton, and it
15 would be, appears to page 12 of your handwritten notes. You
16 can read it from there, the second paragraph:

17
18 Handwritten statements of Bill Urquhart on
19 Harriss showed numerous, only one read.
20 Corporal Davies see them placed on floor.

21 Can you suggest any reason why the "them" would be
22 changed to an "it" in a typewritten version?

23 A. No, I cannot, sir. It was one piece of paper.

24 Q. How do you know it was one piece of paper?

25 A. Because that's what the chief handed me.

Q. Did you go and look behind the desk and see if there was any

STAFF SGT. WHEATON, EXAM. BY MR. ORSBORN

1 more?

2 A. I stood at the desk. I didn't see any more, sir, no.

3 Q. Did you, in fact, report to Frank Edwards, having gone to the
4 chief's office and had this difficulty with the chief and the
5 statements?

6 A. Yes, I did, sir.

7 Q. Leaving aside the problem with dates and referring to Mr.
8 Edwards' notes, Volume 17, page nine, the third paragraph, I
9 guess, his notes read, "Also told me," and he's referring to a
10 conversation with yourself:

11
12 Also told me that Herb Davies had noticed
13 chief slip some of the information on floor
14 behind desk. Believes it was some
15 information with transcript attached
16 relating to threat by Christmas against
17 Pratico. Believes there was a charge
18 against Christmas at the time.

19 Do you have any reco!lection of relating that to Mr. Edwards?

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

21 Q. Are you saying that Mr. Edwards' note is incorrect?

22 A. Yes, sir.

23 INQUIRY RECESSED UNTIL 2:00 p.m.

24

25

1 notes. And this is -- refers to a conversation on April 17th,
2 and I'm looking at the second paragraph:

3 While on the the phone, he told
4 me...

5 I think that's Wheaton.

6 ...that he and Herb Davies had
7 gone to see Chief MacIntyre late
8 Friday and spent a couple of hours
9 with him. After being pressed,
10 Chief turned over previous written
11 statement by Patricia Harriss in
12 which she described somebody
13 matching Ebsary. Wheaton said
14 Chief went scarlet when pressed
15 about this statement. Also turned
16 over November '71 statements of
17 Mary and Greg Ebsary.

18 Down to the next paragraph:

19 Also told me that Herb Davies
20 had noticed Chief slipped some of
21 the information on the floor behind
22 the desk. He believes it was some
23 information with transcripts
24 attached relating to threats.

25 A. I never slipped papers under my desk at any time.

Q. Chief, it's my understanding that Sergeant Herb Davies -- Do you
know Herb Davies?

A. No, I don't know him.

Q. You've never met him?

A. There was one or two people accompanied Wheaton to my office
on different occasions. I mean, one -- Probably once or twice.
At least once, and probably twice. One other fellow, I think.

JOHN F. MacINTYRE, by Mr. MacDonald

1 Q. Do you remember being --

2 A. And I don't recall the name. I might know him to see him.

3 Q. Okay.

4 A. But what you're saying -- what he's saying there that I slipped
5 papers under my desk; I definitely deny that, sir.

6 Q. And I want to put this to you, Chief, because my understanding
7 is that Davies will testify as follows: Davies will testify to
8 this Commission that he was present in your office with Sergeant
9 Wheaton at which time they were getting materials from you --
10 from your file and that you took some documents and threw them
11 on the floor, that Wheaton could not see this and that when
12 they left -- they were leaving the office, he told Wheaton,
13 "You didn't get everything." Wheaton then went back to you
14 and said, "I want everything," at which time you said, "Well,
15 I might as well give you everything." You were very embarrassed,
16 and you picked up a document from the floor and gave it to
17 Wheaton.

18 A. Yeh.

19 Q. Now, that's what Davies, I think, will testify.

20 A. Yeh. Well, I'm testifying now, under oath here, that I never
21 done such a thing, sir.

22 Q. Thank you. And I understand also --

23 A. And it's very embarrassing to even hear it -- hear of it.

24 Q. And, Chief, what I'm trying to do is give you the opportunity,
25 sir, to give your evidence on it.

- 1 A. I'm giving it now, sir.
- 2 Q. Yeh. And Sergeant Wheaton will testify as follows: That he was
3 there to get documents from you. That when they were leaving
4 the office, he was told by Davies that there were documents on
5 the floor, that you had not given them everything, that he
6 went back and asked you for the document which turned out to
7 be the first Harriss statement, that he had never seen that
8 document before, and that you had a very guilty look on your
9 face. And that's what Sergeant Wheaton will testify to.
- 10 A. Yeh.
- 11 Q. Do you deny that as well?
- 12 A. I deny that as well, sir.
- 13 Q. So both Davies and Wheaton are --
- 14 A. And I think at one point, sir, that you or one of your -- the
15 gentleman with you told me that they thought it was some other
16 document, and now it is the Harriss document.
- 17 Q. But I am -- What I am telling you, Chief, and giving you the
18 opportunity to comment on.
- 19 A. I was told at one occasion at -- of this certain thing here by
20 somebody that that was -- it was the information of Tom
21 Christmas, I believe. Is that right?
- 22 Q. That is, in fact, what -- That is Frank Edwards' notes say.
- 23 A. And somebody else now is saying that it's the Harriss -- I'm
24 telling you, sir, and this Commission here that I never slipped
25 anything under my desk, and I -- and we kept those files for

JOHN F. MacINTYRE, by Mr. MacDonald

1 eleven years, and that statement was no more important than
2 Pratico's or Chant's and the other statements that I had in
3 that file and the information that I had on it that we kept
4 for eleven years.

5 Q. So Wheaton and Davies, if they testify as I've just told you, --

6 A. Yes.

7 Q. -- will not be telling the truth. Is that correct?

8 A. I am speaking for myself, sir, in front of the Commission
9 here that I never done that. And I understand also from you
10 that Wheaton didn't see that done either until Davies told him
11 after he left my office, is that correct?

12 Q. Yes, Mr. Wheaton will say as -- not as they left, as they were
13 leaving.

14 A. As they were leaving --

15 Q. Yes.

16 A. ...that MacIntyre slipped documents
17 under his desk.

18 Q. Yes.

19 A. Yeh. And I was present there at that time. That's not what
20 I was told before either, sir. I was told before -- And it's
21 a very serious accusation, and I'm -- I was told before that
22 they both left the office and that he told Wheaton outside
23 of the office and then they returned to my office. Now I'm
24 learning that they never left the office, that he told him.
25 Well, I'd have to be present if he told him that, sir, in my

JOHN F. MacINTYRE, by Mr. MacDonald

1 office. Am I right on that, sir?

2 Q. Unfortunately, we haven't yet heard from Wheaton and Davies and
3 what I'm trying to do is tell you what I understand their
4 evidence will be.

5 A. I'm denying that statement.

6 Q. What someone told you before, I can't help that. I'm telling
7 you now what I understand the evidence of those gentlemen will
8 be.

9 A. Yeh.

10 Q. And they'll be tested at the time. You deny it?
11

12

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pink

JOHN F. MacINTYRE, by Mr. MacDonald

1 A. I deny that sure.

2 Q. And if they give that evidence that you did that, they
3 are not telling the truth.

4 A. That will be up to the Commission here, sir.

5 Q. Okay.

6 COMMISSIONER POITRAS:

7 But is this evidence in connection with the Christmas matter
8 or is it in connection with --

9 MR. MacDONALD:

10 No, My Lord.

11 COMMISSIONER POITRAS:

12 Because that is referred to in the next paragraph as indicated
13 by Mr. MacIntyre.

14 BY MR. MacDONALD:

15 Q. But that is what is referred to in Frank Harris's -- in
16 Frank Edwards' notes. You're correct, Chief.

17 A. What's that?

18 Q. In Frank Edwards' notes, --

19 A. Yes.

20 Q. If you look at page nine, see the third paragraph:

21 Also told me that Herb Davies had noticed
22 Chief slipped some of the information on
23 (the) floor behind the desk, believes it was
24 some information with transcript attached
relating to threat by Christmas against
Pratico, believes there was a charge against
Christmas at (the) time.

25 That's what Frank Edwards recorded.

4:14 p.m.

1 Q. Now the reference to the Harriss statement is what I am
2 suggesting to you that Wheaton and Harriss -- Wheaton
3 and Davies will tell the Commission.

4 A. Well, you know, this is a very serious remark to make and
5 we have here two R.C.M.P. officers making that remark
6 and then the Crown Prosecutor making another remark and
7 on the documents that was slipped under my desk. And
8 I was also advised that they were in the office at the
9 time and I was there and what was said and another incident
10 that they had left the office and came back in. Now my
11 officer, sir, was only -- I think it's nine by sixteen
12 with a desk and three or four chairs in there, three of
13 us in there and I'm slipping documents under the desk.
14 That's something, sir, that I never done in my life.
15 Thank you.

16 Q. Thank you.

17 COMMISSIONER EVANS:

18 Mr. MacDonald, going down a little further on this, on the
19 notes where you're dealing with Herb Davies, I take it when
20 it's said

21 He also saw Prosecutor MacNeil's notes
22 on (the) Chief's file.

23 That's referring to Davies, I take it. And then the next
24 thing:

25 Left with only (the) statement and a few
other papers. Still did not demand the
full file and all information from (the)
Chief.

Grey Ebsary

Age.	Background.	Education
Activities as youngster.	Hockey	Sandy Seale
Gangs	Indians	Blacks

(Donald Marshall)

Where grew up: Home arrangement?

Life with Roy: Type of Dress 11/47 Blue Bberry

Acquaintance: bringing people home.
Prejudiced? "Blackie" "Nigger"

Drinking: Violence: Physical

Knives: Use of 11/49 ^{very thin} Exhibit 26 & 27

Carry in his belt? where? When he went out? 11/56

Tony Tretnik? Old man Spenser?

May 28/71 - not home

Discussions: mother Donna Roy

May 29/71 MacNeil visit. Could it have been 30th (Sunday?). What said & by whom.

Discussions family members next several days.

Witchford

MacNeil visit Wondlyn: ^{recollection?} ~~Final visit~~ Purpose
→ "all going to end up in court" 16/177

MacNeil tell him what happened 14/57
Transcript 452-54 464-65 505-07

TRIAL: Aware of? Ever hear Marshall
Story: Connected description with Roy
16/177

NOV. 1971: Independent recollection?
In Detail how got there, time?
How long Police Station 14/43 Three hours
Statement taken entire time?
Treatment? Frightened?

Speak Donna mother Ray aftermaths?

Review Statement: Introduce original: See before?
16/191, 177, 181 Read to you?

Does Statement contain accurate record
of entire questioning?
Recorder?
Speak MacNeil? Rosenblum? Keston.

Answer Polygraphs? Result?
Contacted by RCMP?

Release? when 14/42 after Polygraph

Notchford: Donna approach to him. R.C.M.P.
Police. Visits to House

(4)

Swanson : Removal of Ray from home. Threats.

Hear Ray confess over years?
Swanson. Robert M. Leon

1982 RCMP: Describe contact Wheaton

14/42 : accurate statement of what asked + said? Review in detail

14/55 No reference to any of this in his statement

Affidavit: 14/44 Meeting Swanson.
Opportunity to construct? Scratched out statement p. 2. where did the information come from?

Knives: explain history. How given to Wheaton.
Swanson's knife?

Donna

Ratched + she to Police Sta.

Green visit to R. Home + said "I believe you"

Roy Ebsary

letter
Ebsary to
Munshall

Background:

Munshall → Ebsary

1912 - June 2.

History in Sydney:

1952

1964 - Isie Royal - 1972
Esplanade Diell

WORK History:

Previous Offences:

TONY TRATNIK 10/18/34

Previous mugshots:
Had hair in the past

Police involvement at Home:

None.

Drinking: ~~no~~ Seldom at TAYERN. Wine Mostly

May 28, 1971:

Clear picture in his mind

Wife gave him a bottle of wine. Went to MacNeil home.

Jim came home at midnight. Went to State tavern. Closed

noticed a row in Park. Ignored

poorly lighted. About 1/2 way along

Mustall grabbed MacNeil by the coat
Could hear MacNeil screaming

after MacNeil said if we go up tonight other
people will get us

May 29 + FF

Greg:

DONNA: Didn't Tell Nam what to do. ✓

Hermit: why ✓

NOV. 15 + FF

Vol. 11 / 1 ✓

16/188 - Police Robertson ✓

Statement: only ^{there} ~~there~~ 10-15 minutes.
Never saw copy before

Why did MacNeil go to Police
Doesn't know why.

Refer to MacNeil Statement??

Polygraph

Work-up: any physical defects. Put him through 3 times
Asked him many questions

Questions: Vol. 16, p. 202

told Do not reveal that test taken

Subsequent Questioning: none

INSP. Marshall: no questioning ✓

Satisfied Telling the Truth ✓

told people story

David Ratchford

Mitch Sarson

After
Rec'd
evidence

1981 - Audio

pumped?

Sept 1984 - Video

✓ Was Mustache present when Polygraph?
✓ Investigative Interview?

Maerick Stated
why Maerick Sealed. why sealed "life"?
Knife - Confiscated 16/1 ✓

✓ Same his life - Sealed. p. 7, 7, 8, 13, 15

✓ Seize
Clean knife off in ground.

anything in Seale's pockets

19^N

(5)
EX.

1982 Feb. R.C.M.P. Vol. 18/32

16/214 -

Letters to Marshall 19/96 -

✓ KNIVES Vol 19/91 : Introduced Knife from
Gibson TRIAL

Interview Carroll 19/138

meaggs before

Why want to get Marshall out of jail.

Found Guilty & Served Time. ✓

Medical Treatments ✓
Medical Records:

nee J. H. ...

Albany Medical Record P.S. Hosp.

who endorsed Seal &
Authenticated Contents in
pockets

Series #
P. H. ...

Elsony Service number PJX 247943 - Service Number

Ruby ~~PJX 457943~~
547943
Invited boys to come to house because
going to have a barbeque. Have to
decide they were nice boys before
inviting them into their home

Pugster
Murray
Saunders
Ross
Wildsmith

[Provide Patchford & Harps from evidence
re acting & directing
Also Abbass]

gpl

Gpl. Gary Sizer

Name

Station:

why not meet with Commission Counsel?

Cover Path: September 1973-77

Training:

Notebook: None here. No documents.
of any kind in his possession
evidence here.

✓ David Ratchford: Knowledge of him
work out & him? attend classes 4522/23

M^{oe} R-type - Unpublished. Explanatory with them.

ETIS

"Full"

(2)

Meeting Donna + Ratchford:

What told? Ratchford 4405
Believe her? ! read transcript??

Visit to Sydney Police. Describe physical
set up? who saw? How long etc.

Ex. 90 Item 15 Wheaton notes

Ex. 74 Ratchford notes

Report to Supervisors? Why? Ratchford 4407
4435
Knew City Police not going to
do anything.

Donna not interviewed in 1971? N.B.?

Contact ^{Donna} Elzany's Parents?

Contact Prosecutor?

Marshall's lawyers?

Consider any obligation owed to Marshall?

Donna Osary?

Duty as a Policeman?

Speak to anyone else ✓

Wharton media ✓

Other counsel ✓

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

MARITIME CENTRE, SUITE 1026, 1505 BARRINGTON STREET, HALIFAX
NOVA SCOTIA, B3J 3K5 902-424-4800

CHIEF JUSTICE T. ALEXANDER HICKMAN
CHAIRMAN

ASSOCIATE CHIEF JUSTICE LAWRENCE A. POITRAS
COMMISSIONER

THE HONOURABLE
MR. JUSTICE GREGORY THOMAS EVANS
COMMISSIONER

IN THE MATTER of the Public Inquiries Act,
R.S.N.S. 1967 c. 250

- and -

IN THE MATTER of a Commission appointed
by Order-in-Council the
28th day of October, 1986,
to inquire in and report to the
Governor in Council with respect
to all matters related to the
death of Sandford William Seale
and the criminal prosecution of
Donald Marshall, Jr. (The
Marshall Inquiry)

TO: Constable Gary Green
c/o William L. Ryan
Stewart, MacKeen & Covert
1959 Upper Water Street
Halifax, N. S.

BY VIRTUE of the powers vested in me by the Public Inquiries Act and by Order-in-Council dated October 28, 1986, I do hereby order that you:

1. Produce and deliver to Commission Counsel within 15 days of receipt of this Order any and all such documents, reports and materials as may be in your possession or custody and relevant to the matters before the Inquiry, including, without restricting the generality of the foregoing:
All diaries, files, or other documentation relating to the investigation of the Donald Marshall conviction and subsequent acquittal.

30th WITNESS the Chairman of the Marshall Inquiry this day of November, A.D., 1987.


CHAIRMAN

Sydney, N.S. 17 April 82

STATEMENT OF: DONNA ELAINE EBSARY,
B: 16 June 57, 287 Washington,
NEWTON, U.S.A.

I am the daughter of Roy EBSARY, and presently reside in Boston. I was born in Sydney and we lived at 126 Rear Argyle Street until I was 15 or 16 years old at which time we moved to 46 Mechanic St. Sydney. In 1971, I would have been 13 years of age and I remember the night of the SEALE Murder, vividly, as it made such an impression on me.

I was home when father and Jimmie McNEIL arrived home, and I can recall them facing me in the living room. My mother was there and we were watching T.V. Jimmie said to Roy, "you did good, or you did a good job", words to that effect: he was excited. He turned like he was going to tell us and father, said, "Shut up, don't say anything" They went down the hall to the kitchen and I followed along. Father was at the sink washing off something.

I know it was a knife and as I remember, it had a brown handle. He took it upstairs and it always bothered me and I used to hunt for it. At school everyone talked about the Murder, and I know they were looking for an old man with a goatee, white hair and a cape. Outwardly, to other kids, I pretended it was not my father, but inwardly I knew it was.

I feared my father and he disrupted the household. I always felt that if I could get the knife he would be put away. I remember going to the Police station with father, Greg, and myself. I stayed out in the car with the dog and was never spoken to by the Police. I can remember Detectives coming to my home during this time.

///////2

STATEMENT OF DONNA ELAINE EBSARY - CONT'd

The next thing I can recall, around 1974 I told Dave RATCHFORD that I knew my father did the stabbing in the park. We got a hold of the Sydney City Police and apparently they would do nothing. We also got a hold of Cst. Gary GREEN of the R.C.M.P. and they apparently got nowhere with the City Police either. I also talked to Diane LEWIS, who was with a group of people that was trying to get MARSHALL parolled. I didn't tell her I saw the knife, just that I knew MARSHALL was innocent. I also mentioned it to Debbie COUTOURE that father did it. She was with National Parks.

I felt totally frustrated to think MARSHALL was in jail and my father had committed this crime, and there was nothing I could do about it. While going to the College of Cape Breton, I mentioned it to one of my professors, Liz BOARDMORE.

Around 1975, Uncle Bob EBSARY was over from Newfoundland. Father and Uncle Bob were drinking and I heard father tell Bob about the attempted Robbery. He said, "they asked me for my money, and I said, I'll give you what I have". Father then made an underhanded stabbing motion as if he had a knife in his hand. As he was telling Uncle Bob this, he was acting it out as if he put his hand in his coat pocket, pulled out a knife and stabbed forward with it. He also said you should have seen the look on the other fellow's face, meaning the person accompanying the person he stabbed. He explained that people had tried to roll him before in the park, and he always carried a knife.

During the period between 1971, at the time of the Murder, until I left home in late 1978 or early 1979, Father stayed completely in the house and mainly in his room. He wrote, read

STATEMENT OF DONNA ELAINE EBSARY - CONT'd

...and generally acted eccentric. He still had knives around all the time and still had an extremely violent side. He rambled on about killing during the war and the present like killing a neighbour. I don't think killing anything bothers father, human or animal. I know he killed a budgie of mine when I was a kid. He literally ripped its head off.

Father dressed like a Five-Star General with his coat over his shoulders. He read a lot and would act out the lives of the people.

(Sgd) Donna E. EBSARY

WITNESS:

H.F. WHEATON, S/Sgt.

64.9⁰

Extract of Notes from S/Sgt. Wheaton's Notebook 1982 -
Re: Donald MARSHALL Case

1. Mary EBSARY - Mechanic St. across from Taxi Stand
Phone 539-4399
2. Jimmie MCNEIL - 222 Mt. Pleasant St.
Father - Spring Garden Villa
3. To Dorchester 18Feb82 - Interview MARSHALL 11:34 a.m.
4. John L. PRACTICO - Andy ARSENAULT
Phone 562-3202
5. Interviewed Mrs. M. PRACTICO mother of John L. 10:00 a.m. -
15Feb82.
6. 22Feb82

EBSARY came into office at 10:17 a.m. Jim CARROLL and myself. Religious talk, war experiences.

11:15 a.m. left room and returned 11:31 a.m.

Read MCNEIL'S statement 12:27

1:41 p.m. finished interview - 3 hrs. 25 mins.

82Feb22

Received call from EBSARY at 4:30 p.m.

E - All our talking today was not in vain.

W - What do you mean by that?

E - Well, you know I am a British Officer and a gentleman.

W - Yes.

E - You called me a homosexual

W - Yes.

E - All our talking was not in vain.

W - Why is that?

E. - Well I did it.

W - Are you admitting stabbing SEALE?

E - Yes.

W - Would you like to speak to me?

E - No, the other fellow.

W - Okay, I'll send Jim down.

7. Ian MCPHERSON, Social Services
8. 3March87 - Ten knives seized from Greg EBSARY.
9. Forwarded to Lab - 4Mar82, Reg. Mail #2185;
Attention: Richard MCALPHIN
10. Knives returned via Registered Mail, No. 242 on
7April82.
11. 9March82 - Interview MARSHALL Dorchester -
Warned Statement taken 12:03 p.m. to 12:30 p.m.
12. 23March82 - Fruit basket found in basement of
EBSARY home.
13. 26March82 - Basket turned over to Guy ARSENAULT to be taken
to Lab.
14. A.D. GUNN - Confirms meeting with Patricia HARRIS and
mother on 28June71 at 4:30 p.m.
15. 25March82 - Cst. Gary GREEN contacted - recalls Dave
RATCHFORD telling him re Donna EBSARY'S father's knife -
Reports to Billy URQUHART - cool reception.
16. Debbie MACDONALD - Couture Bisco - 564-8228,
Home - 539-1790, 18 Milton.
17. 1April82, Interview with Dr. DONOVAN
18. 31March82 - Mary corroborates coat seized Jim MCNEIL.
19. 30March82 EBSARY remanded to Nova Scotia Hospital.
20. 2April82 - Interview with Donna EBSARY by phone.
21. Brian KAZOO - 469-7500, Local 715
539-7121
22. Catherine - 23 Cross St., Sydney
Mary O'RILEY - SEAL'S girlfriend
PALLETTS - tell going - Margaret O'RILEY'S sister.
23. Rudie POIRIER saw JUNIOR at steps.

24. Interviewed once EBSARYS.
25. Patricia HARRIS - 1-455-8070
3536 Connaught Avenue, Apartment #3.
26. 16 April 82

Interview 3:45 Chief MCINTYRE, Cpl. DAVIES, myself. Chief produced brown accordion file folder containing approximately four manila file folders as well as a number of envelopes. Chief was asked four or five times for any other statements from Patricia HARRIS. Last statement given - hand written statement of Bill URQUHART. On HARRIS showed numerous, only one read. Cpl. DAVIES saw it placed on floor, asked numerous times why, PRACTICO no explanation. No comment on line up. No comment on PRACTICO re witness.

Definitely did not interview EBSARY'S wife or son after murder on 15th. Total correspondence 31 pieces.

Exhibit Number: 90
Filed on: DEC 11 1987, 1987

At The Hearings of The
Royal Commission On The
Donald Marshall, Jr., Prosecution

Malcolm Williston,
Registrar

4.74

1 young, 11...
29 Mar 82

Statement of: David F Ratchford
B: 18 Aug 49, 2961 Charlotte
St Sydney N.S. - 539-9502.

1974 During the period of approx
 my Donna Ebsary began attending
 my Marshall Arts Studio here in
 Sydney. We became rather good
 friends over a period of time. She
 had a rather turbulent relationship
 with her father. She appeared to
 get along with her mother.
 I recall that one evening
 she told me an amazing story about
 her father. She said that at
 the time of the Seale murder she
 was home when her father and
 another guy came home. She stated
 that her father had blood on his
 shirt and a knife in his belt.
 She saw him wash blood off
 his hands and he mentioned
 stabbing a rapper in the back.
 Donna hated her father
 but still had a strange respect for
 him.
 I felt that this
 should be reported to the paper
 immediately. I phoned the
 City Police and talked to

Bill Traubert, I believe. He
said that the case was over and
they were not prepared to re-open
the case. I believed this girl and
felt this was most improper. I
Cst. Gary Green was ~~attempting to~~ ^{good friend} ~~blame~~
so I reported it to him. I understood that he
also ran into a blank wall with
the City Police. In the years
following Doyna occasionally brought
it up and found it strange that
the Police were not doing anything.
Doyna and I discussed the possibility
of her father admitting to me
that he committed the murder. I
got to know him but he never
admitted it to me.

Off Wheeler
David L. Patch York

Donna Ebsary - 1-617-2449645

Tiger Crane Kung
Fu Club
P O Box 114
Essex Station, Boston

Exhibit Number: 74

Filed on: NOV - 4 1987, 1987

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Bush

Independent recollection:

Keiked out of Lonce that night
going to back.

Met In Marshall. Impression didn't want
him staying there
cannot picture anyone else at this stage

Drinking: some wine & beer. Feeling good.
Social encounters.

Remember Police picking him up.

told I not to say anything

Questioned by Mac Intyre & Dequhart
Loud but not outrageous

There for some time.

Doesn't remember talking to Patricia

Marshall: tough nut, Bad Beating from
him once.

tough guy.

Police always seemed to be on their case
Songs, etc.

no pressure from police. Good Guy Bad Guy.

NOTES FOR EXAMINATION OF TERRENCE GUSHUE
(VOLUME 13, P.66ff.)

1. Statement of June 17, 1971 commenced at 11:40 p.m. How did he arrive at the Police Station. How long was he there. Who was questioning him. Describe the circumstances. (Gushue is 20 years old at the time).
2. What was his experience with Donald Marshall, Jr. Did Marshall have a reputation. Did Marshall hold Patricia Harriss' hand that night. How can he explain that action.
3. Is he certain there was only one other person present with Marshall.
4. Did he speak with Patricia Harriss at the Police Station on the night his statement was taken.
5. Did he speak with the Crown Prosecutor prior to the trial? With the Defence Counsel?
6. Does he have independent recollection of the night of May 28, 1971. Try and tie him down on times as closely as possible.
7. Refer him to his statement to the R.C.M.P. Vol. 13, p. 76.
8. Refer him to his Affidavit Vol. 13, p. 77 and have him describe how it was prepared and sworn. The times given in the Affidavit do not correspond with the evidence given by him at trial or the preliminary or his statement.
9. Isn't it true that he saw the people on Crescent Street from the Park and went up to them to get a light and there could have been more than one person with Marshall.
10. Isn't it true he had been beaten up by Marshall and other people had also had the same experience.
11. Does he recall hearing sirens on the night in question.
12. Did he and Harriss initially agree not to become involved.
13. Did they initially tell the police they had not seen anything and went back to the police only after Harriss' mother insisted they do so.

*Police presence?
Interviewed by Defence Counsel.*

PATRICIA HARRISS and TERANCE GUSHUE

Were they interviewed by Crown Prosecutors
or Defence Counsel prior to trial?