

NOV 3<sup>rd</sup> 1987

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

SUMMARY OF TESTIMONY

Date: November 3, 1987

Witness: TOM CHRISTMAS

Examination by: Wylie Spicer

Christmas furnished the following about the Seale stabbing and related events:

- Early a.m. of Saturday May 29, '71, he met and talked with Marshall at Membertou. Marshall said, "I got nailed today", said he and a buddy got mugged by two men, described assailants.
- Marshall showed the wound on his arm and Christmas helped to cut sleeve of jacket at the cuff.
- Later the following week, Christmas learned that Pratico "put the finger on Marshall".
- Approached Pratico who said the pliced made him do it. Christmas told Pratico to tell the truth, tell them you didn't see nothing.
- Next morning Christmas taken to station and questioned by MacIntyre and Urquhart about threatening Pratico. Remanded for one week on charge of obstruction of Justice. Release on bail after preliminary hearing.
- Picked up on charge of break and enter, plead guilty on Oct. 4th and charge of Obstruction was dropped when no evidence was presented.
- Sentenced to two years although led to believe that he would get only short time "in the County".
- Unable to attend and not called to testify at Marshall's trial

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Christmas denied involvement in graveyard vandalism and related

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the following about the "case":

- He and an number of others were picked up at home by police detectives, held and questioned at the police station for an extended period, no counsel, no phone calls.
- Gave a false account of the vandalism in order to get out, but refused to sign the statement prepared.
- Claims statement about the incident which bears the note 'refused to sign' is different from the story he told to the police.
- Not represented at court, not certain if he plead or was found guilty. Not aware Legal Aid available at no cost.

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End Summary of Testimony, Tom Christmas, November 3, '87

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Witness: ARTHUR PAUL

- Paul was with Marshall prior to incident and later Marshall came to his house on the Reserve and told what happened.
- Paul had no recollection of the statement bearing his signature.
- Stated the force sometimes used when bumming money, "stemming" in the park and that he saw Marshall use force for this purpose.

Paul's testimony to be continued.

End Summary of Testimony November 3, 1987

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NOV 4<sup>th</sup> 1917

SUMMARY OF TESTIMONY

Date: November 4, 1987

Witness: ARTHUR PAUL (cont)

Examination by: Wylie Spicer

Paul clarified testimony given yesterday when he was suffering ill effects of prescribed nerve medicine:

- Did not see Marshall use force in bumping money in the park.
- Described conversation with Pratico at the circus when Pratico said he made statements because he was afraid of the police
- Told Pratico there was nothing to fear from him but that other fellows might not understand and Pratico should avoid the park.
- Pratico hung around with the Indians in the park before the stabbing but not after.
- Paul met Seale once at a dance at Trinity Church Hall and saw him twice more at Holy Redeemer but never saw in the park.

End Summary of Testimony, Arthur Paul, November 4, 1987.

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FRANK ELMAN offered a newspaper clipping about the sentencing of Tom Christmas on the B&E charge and dismissal of Obstruction charge which stated that Elman was in court at that time. Elman had no recollection of being there.

ELMAN clarified as statement of the previous day that they wanted to get Christmas out of the way - they wanted to clear the court docket as regards Christmas not to remove him personally.

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SUMMARY OF TESTIMONY

Witness: DAVE RATCHFORD

Examination by George MacDonald

Ratchford offered the following about his involvement:

- Became friends with Donna, daughter of Roy Ebsary; she told Ratchford she saw her father wash what looked like blood off a knife on the night that Seale was stabbed.
- Insists he went to detective office at police station and tried to get Urquhart to listen to Donna's story. Told case was closed.
- Introduced Donna to Gary Green, an RCMP officer who listened to the story, no action resulted.
- Befriended Roy Ebsary and visited house.
- Gave statement to Wheaton in 1982 briefly outlining his recollection of the story of Donna.
- Met Ebsary again in 1982 and offered to write a biography and screen play based on his life.
- Tape recorded conversations with Ebsary in which he admitted stabbing Seale.
- Set up video taping session which resulted in video shown to Commission while Ebsary was a witness.
- Received assistance of Peter Cotter, CJCJ News, and Ray Dolomont in visits to Ebsary and other persons involved.
- Still has a large collection of audio tape interviews with Ebsary.

and Summary of Testimony, Dave Ratchford, Nov. 4, '87

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SUMMARY OF TESTIMONY

Date November 4, 1987

Witness: MARY EBSARY

Examination by David Orsborn.

Mary Ebsary, former wife of Roy Ebsary, lived with him at the time of the Seale stabbing:

- Described Ebsary as "unpredictable", "Roy was all temper", often broke things in a rage, never did physical harm to Mary or children.
- Always carried his pocketknife, often left home carrying another knife if he left when using it, carried in rear pocket with blade up.
- The night of the Seale stabbing she remembers Jimmy MacNeil coming into the yard to go with Roy Ebsary, believes he took knife he was using in the garden with him.
- Ebsary came home "just after 11 or just before twelve" but she only saw him for a second as he passed the door. Believes he was quite drunk because of the way he walked.
- Jimmy MacNeil stopped to talk about Roy saving his life. Ebsary told him to go home and told him how to get there "otherwise he might get caught by the guys chasing them".
- A few days later Mary told MacNeil to stay away from the house because she wanted Roy to stop drinking.
- Ebsary changed after the incident and stayed home more, drank less.

Mary Ebsary testimony will continue Nov. 5, '87

NOV 5<sup>th</sup> 1964



SUMMARY OF TESTIMONY

Date: November 5, 1987

Witness: MARY EBSARY (cont.)

Examination by: David Orsborn

Mary Ebsary added the following to her previous testimony:

- Some time later in 1971 she was picked up at work and taken to the police station to talk about the night of the stabbing.
- She has no recall of signing statement but identified her signature.
- She did not see other family members or Jimmy MacNeil at the station.
- Can't recall how she found out some of the things in her statement, e.g. that they (Roy & MacNeil) were attacked on the night in question.
- Did not volunteer information about Roy's potential for violence, his fixation with knives, etc., because she wasn't asked.
- RCMP statements (2) resulted from numerous chats around the kitchen table. Doesn't remember the statements being taken.
- Knives turned over to RCMP were in general use in the kitchen for many years after 1971.
- Identified Exhibits 24, & R24(c) as knives which were favorites of Roy
- No recollection of Aronson or affidavit

End Summary of Testimony, Mary Ebsary, November 5, 1987.

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SUMMARY OF TESTIMONY

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Date: November 5, 1987

Witness: GREG EBSARY

Examination by: George MacDonald.

Greg is the son of Roy and Mary Ebsary. He was 17, living with his parents but not at home the night of the Seale stabbing. He furnished the following about his father and his own interview by city police at time of MacNeil's accusation of R. Ebsary:

- R. Ebsary liked knives and "always" had one with him.
- He was constantly drunk, frequently violent when drinking. Violence mostly directed to inanimate objects "that couldn't fight back".
- Did not know his father to use derogatory racial terms.
- He was not told by Ebsary not to talk about the incident. "I would have done the opposite."
- MacNeil never told Greg what happened in the park.
- No recall of statement to police, identified signature.
- Statement to RCMP taken from a general conversation around the table.
- Identified two knives with green tubing and tape on the handle as favorites of father.
- Knives were taken from drawer in the kitchen, in dining room for a while and then put in the basement. All were used and washed during the time of being in the kitchen.
- Was not asked about knives or description of his father when interviewed by city police.

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End Summary of Testimony, Greg Ebsary, November 5, 1987.

SUMMARY OF TESTIMONY

Date: November 5, 1987

Witness: SIMON KHATTAR

Examination by: George MacDonald

Khattar was a defense attorney for Marshall. Khattar's evidence can be divided into two parts: 1) His involvement in the Marshall defense, 2) General observations about the practice of criminal law at the time.

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1. Marshall defense:

- Retained by Membertou Band Council and interviewed Marshall about 10 days after stabbing. Marshall described assailant and told about conversation regarding women, bootleggers, priests, Manitoba and not liking Blacks and Indians.
- Doubted Marshall's story but never heard Marshall vary.
- Rosenbloom led the defense. Witnesses divided, Khattar got Pratico.
- No independent investigation conducted, did not interview crown witnesses, did not ask for or receive statements of crown witnesses.
- No cross-examination of Pratico or Chant at Preliminary because did not want to give away defense strategy, i.e. "hoping Marshall could come up with some leads" and "trying to weaken the evidence on cross-examination".
- Not allowed to raise hallway conversation of Pratico, believed it a serious error by Judge, but couldn't do anything.
- Surprised by the verdict, "have a suspicion that Marshall being an

Indian had something to do with it." Marshall was a poor witness.

- No part in Appeal, no knowledge of Jimmy MacNeil accusation of Ebsary. No further involvement until 1982 conversation with Frank Edwards.

- Files on Marshall case destroyed during office renovation.

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2. Criminal Law Practice:

- Defense lawyers did not approach the Crown about the case, practice was to wait until the Preliminary.

- Full disclosure was not the practice, not given statements of witnesses or advised of them.

- The purpose of the defense at the Preliminary was to learn what the Crown had for a case.

- Practice at the time was not to talk with the Crown witnesses.

- Not given or have any say in the Statement of Facts read to the Grand Jury.

- No Indians, or Blacks recalled on any jury panel or serving on any jury when he was on a case.

Khattar will return on Monday November 9, '87

NOV 9<sup>th</sup> 1989

SUMMARY OF TESTIMONY

Date: November 9, 1987

Witness: SIMON KHATTAR (cont.)

Examination by George MacDonald

Khattar added the following observations to his previous testimony:

1. Marshall Defense

- Knew nothing of background of Chant, Pratico or Harriss and conducted no independent investigation, no investigator hired.
- Visit to the scene with Rosenbloom must have been after the Preliminary because they knew about the position of the witnesses.
- Did not discuss cross-examination tactics with Rosenbloom.
- No thought or discussion about the "shortcut" across park by Chant.
- No part in preparing Marshall as a witness, Rosenbloom handled.
- Does not feel that language was a problem for Marshall
- No knowledge of lie detector tests for Ebsary and J. MacNeil, or letter from RCMP officer Smith concerning results.
- No part in Appeal except general conversation with Rosenbloom.
- Contrary to what was said in the Aronson affidavit Khattar was only aware that Pratico, Chant and Harriss had given statements to the Police, he did not see them and was not aware of the details.

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2. Criminal Law Practice

- Khattar said he had frequent experience with Indian clients and did not see evidence of different treatment or derogatory references.

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- Not aware of any right to have prior inconsistent statement produced.
- Race would have been a factor in the jury selection process.
- Denied assertion of Bernie Francis that Rosenbloom was less diligent in his defense of Indian clients.
- Not aware of any improprieties on racial grounds by the legal community.
- No experience that copy of the Statement of Facts read to the Grand Jury was available in the Prothonotary's records.
- In his experience, Blacks had very little involvement with the Criminal Justice System.
- Experience with Indians was mainly in minor matters and most plead guilty.

End Summary of Testimony, Simon Khattar, November 9, 1987.

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LAWRENCE BURKE, recalled at the request of Mr. Ross, added the following to his testimony of October 28, '87:

- Did not have experience with Blacks on his case load as a juvenile Probation Officer until 1976.
- Has only had a small number of Blacks since that time. In his experience, Race or area of residence did not make it more difficult to get information for Probation reports.
- No differences in sentencing of Blacks observed.
- Not aware of "Renner's" Study of sentencing of Blacks in Halifax/Dartmouth area.

End Summary of Supplementary Testimony of Lawrence Burke, Nov. 9, '87.

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SUMMARY OF TESTIMONY

Date: November 9, 1987

Witness: LEWIS MATHESON

Examination by: David Orsborn

Matheson, a Judge in Magistrates Court, was assistant to Crown Prosecutor D.C. MacNeil in 1971. His involvement in the Marshall case began on June 22, 1971 when he was reassigned to his position as Assistant Crown Prosecutor and reviewed the file on Marshall.

Matheson's testimony can be divided into two parts: 1) General Practice and procedure in the office of Crown Prosecutor at the time.  
2) Involvement in the Marshall Case,

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1. General Practice

Close working relationship between Matheson and Crown Prosecutor D.C. MacNeil. Assignment of cases by district where they were to be heard rather than subject of case itself.

- Matheson not aware of formal assessment procedure for Crown counsel.
- In minor case Assistants lay charges, more serious referred to Crown.
- No recall of charge being laid "when I thought it wrong".
- No recall of any specific case where he was instructed to withdraw a charge

Police departments investigating a case would keep the originals of statements, evidence and lists of witnesses, Crown saw original and got a copy.



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- Not aware of any degree of difference of disclosure by various police forces. Police commonly provided details over and above what was contained in the Information through reports and conversations to the crown.
- No recall of disagreement with police over laying charges.
- No reason to think that Sydney Detectives ever withheld information about a case from the Crown.
- Sometimes the Crown involved itself in Police investigations

Policy regarding disclosure was governed by a directive from the Attorney Generals office.

- Policy of full disclosure, except when a witness or informant would be put in jeopardy, if requested by defense.
- Not aware of any complaint about lack of full disclosure.

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2. Marshall Case

Matheson said that his experience with Rosenbloom and Khattar was that they sought disclosure of information from Crown in cases they handled and he would be surprised to learn that this was not done in the Marshall case.

- Statements of Pratico may not have been disclosed because of possible threat to him by friends of Marshall.
- Matheson participated in parts of the Preliminary and all of the Trial.
- Concerns about the age of the witnesses, prior inconsistent statements, Pratico being drunk, lack of murder weapon and lack of Post Mortem all discussed and evaluated.

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- Believed the witnesses were truthful in part because there were three unconnected individuals telling the same story.
- Matheson twice visited murder scene to satisfy his curiosity about the statements made by witnesses.
- Aware that Pratico was taken to the Nova Scotia hospital, believes it was because of anxiety about alleged threats.
- Believed it possible that Pratico and Chant might change stories again. In preparing for such a possibility it would acquaint the person with the meaning of perjury.
- Going over stories with witnesses was not to rehearse but to satisfy the story is the truth.

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End Summary of Testimony, Lewis Matheson, November 9, 1987

NOV 10<sup>th</sup> 1950

SUMMARY OF TESTIMONY

Date: November 10, 1987

Witness: LEWIS MATHESON (cont.)

Examination by: David Orsborn

Matheson's testimony falls into five categories: 1) Pre-trial  
2) Trial, 3) J. MacNeil's statement, 4) Procedure, and 5) Allegations  
of Racism.

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1. Pre-Trial

- Harriss Statement: Does not recall first statement, but would have been aware if it were there.
- Knew her first statement contained a description consistent with that of Marshall.
- Not impressed by it because "we had reason to believe that Marshall or other Indians spoke to witnesses and told them what to say", e.g. Pratico "threat" by Christmas, Marshall call to O'Reilly.
- Statement of Facts: Completed by D.C. MacNeil, Matheson "may have reviewed".
- Not sent to Defense counsel but available in Prothonotary's file
- Contains errors or omissions, e.g. prior inconsistent statement of Pratico, mention of knife, Chant did not know Seale.
- Read by Judge, not certain if verbatim or not.
- Other Issues: Not aware if Pratico's mental illness raised with Defense.
- Not aware of the extent of Pratico's illness

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- Not aware why O'Reilly not called for 'Consciousness of Guilt' evidence.

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2. Trial

- Role of Matheson to make sure testimony consistent with previous statements and preliminary.
- Attended conference in Barrister's room about Pratico's change: satisfied that Pratico urged to tell truth, perjury may have been mentioned, No recall of anything "untoward" by MacIntyre or MacNeil.
- Agreed with Ruby that implication of threat to Pratico by Donald Marshall, Sr. was unfair.
- No Blacks, Indians or Women on panel or jury.
- No part in the appeal.

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3. J. MacNeil's Statement

- Matheson called by Police because D.C. MacNeil on holiday
- MacNeil statement believable, interviewed and thought he was lying.
- Ordered Police to question Ebsary and family asap. Not aware Donna Ebsary not interviewed.
- MacNeil and Ebsary agreed to polygraph examination.
- Called Robert Anderson, his superior in the Attorney General's office
- Expected RCMP investigation to go beyond MacNeil and Ebsary.
- Not aware that information never received by Defense counsel.
- Aware of results of Polygraph but not of Insp. Marshall's report to Halifax.

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4. Procedure

- Copies of Indictment and Statement of Facts filed in Prothonotary's office. Matheson certain that Bar was aware of this practice.
- Statement of Facts read to Grand Jury by Judge. Jury then retired to deliberate, no lawyers present.
- Appeal was handled in Halifax, not by MacNeil or other local prosecutor familiar with case.
- Recognized obligation of Crown to be impartial presenter of facts, not certain whose obligation to tell defense about Jimmy MacNeil.
- Common practice for Crown to interview major witnesses before Preliminary and between preliminary and trial.
- D.C. MacNeil was open with defense counsel, provided information orally and by copies of relevant documents when asked.
- J. MacNeil statement may not have been included in Appeal documents sent to Halifax because it occurred after papers sent.

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5. Allegations of Racism:

- Matheson denied making racist statements in court at any time.
- No recall of making statements outside of court, if he did they were in jest.
- No recall of being spoken to by Judge J.F. MacDonald.
- Avoided Francis and Eva Bernard because he did not want them to tell him things that might be adverse to defense case.
- No awareness of different treatment of Indians in court.
- Used interpreters but never had occasion with Indians.

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End Summary of Testimony, Lewis Matheson, November 10, 1987.

NOV 16<sup>th</sup> 1951

SUMMARY OF TESTIMONY

Date: November 16, 1987

Witness: LEWIS MATHESON (cont.)

Matheson added the following to his testimony under examination by counsel for the Union of Nova Scotia Indians and the Department of Attorney General:

- Matheson had some Indian clients while in private practice but no knowledge of life on the Reserve or awareness of special cross-cultural programs for dealing with problems of Indians and the Law.
- Believes that most Indians who appeared before him had legal representation, and does not recall that guilty pleas were entered more often by Indians than non-Indians.
- Grand Juries had members who were experienced and therefore able to conduct the proceedings with lawyers or police present.
- Local police did not use "will say" statements or prepare summaries.
- No knowledge of where report of Inspector Marshall was sent, to his knowledge it was not received in Sydney Crown Prosecutor's Office.
- Believed it was the burden of the Defense to seek disclosure.
- Believed statement of accused was property of Crown to be disclosed at will.

End Summary of Testimony, Lewis Matheson, November 16, 1987

\* Donald Murray advised Commission that William Urquhart was unable to testify at this time due to illness, May be available in Halifax.\*

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SUMMARY OF TESTIMONY

Date: November 16, 1987

Witness: Judge JOHN F. MacDonald

Examination by: Wylie Spicer

Judge MacDonald sat at the Preliminary hearing of Marshall.

- Not aware of special problems of Indians in court.
- Presentence Report normally ordered when defendant found guilty unless long previous record or recent PSR available.
- No recall or statements in court showing anti-Indian attitude.
- No recall of complaint by Francis, would recall if it happened.
- Favorable opinion of Khattar, Rosenbloom and D.C. MacNeil.
- No independent recollection of Marshall preliminary.

End Summary of Testimony of John F. MacDonald, November 16, 1987

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\* ROY GOULD completed testimony interrupted by illness.

- In his period as Chief of the Membertou Band he was not approached by Sydney police or parents of teenagers about problems with gangs of Indian teenagers.
- After consultation in 1970 it was determined that the Sydney police were responsible for policing on the Membertou Reserve.
- Membertou residents vote in city elections, but not aware of any Indian having served Jury duty.

End Roy Gould, November 16, 1987 \*

SUMMARY OF TESTIMONY

Date: November 16, 1987

Witness: DOUGLAS WRIGHT

Examination by: George MacDonald

Wright, a former RCMP officer, worked with MacIntyre, was called by his counsel as a character witness. Described MacIntyre as a persistent, hard-working, digger.

- No personal knowledge of Marshall investigation.
- Admitted that situations as described by counsel concerning Marshall investigation were incompetent.
- No personal experience of reinvestigating the work of another police force, if called upon would handle as any new investigation, reporting would be in accordance with the specific mandate of the investigation with a report going to the authority requesting it.
- No personal knowledge of reinvestigation by Inspector Marshall, RCMP, 1971.

End Summary of Testimony, Douglas Wright, November 16, 1987

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\* DAVID MacNEIL, brother of James MacNeil, told how he and brothers went to the Sydney police in November 1971 resulting in James telling police that Ebsary stabbed Seale.

- Recognized his statement, no recall of policeman who took it.
- No further contact until by Commission.

End Summary of Testimony, David MacNeil, November 16, 1987

NOV 17<sup>th</sup> 1965

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

- Learned of 1982 reinvestigation from Media reports.
- Described family life and character of Sandy. Anxious to hear the story of people with Sandy in the last minutes before stabbing.

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ART MOLLON - Nova Scotia Legal Aid.

- Legal Aid Attorney since 1972. Almost daily contact with Prosecutor D.C. MacNeil.
- Disclosure: Crown provided all information requested including witness statements, Defense advised if new information received.
- No difficulty experienced interviewing Crown witnesses, if no statement provided, his practice was to interview.
- Prejudice: No recall of Indians on Jury Panel, but some Blacks.
- Mollon, as Legal Aid attorney often represented Indians when Matheson was Crown Prosecutor, recalls statements like "what are you doing here," but saw no racial prejudice in statements.
- No recall of statement by Matheson about a fence around the reserve.
- No indication of racist attitude by Judge John F. MacDonald.
- Court Worker program helpful for Indians to understand proceedings.
- Sentences for Indians sometimes more lenient because Judges recognized lifestyle difficulties.

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GALE RUDDERHAM-CHERNIN - Saw Sandy Seale about 11:40 pm May 28, '71 outside dance at St. Joseph's, Seale going to King's Road to try to hitch a ride home, if no luck then catch the bus when it came by.

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End Summary of Testimony, O'HANDLEY, L. SEALE, O. SEALE, MOLLON, RUDDERHAM-CHERNIN, November 17, 1987.

NOV 18<sup>th</sup> 1963

ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

SUMMARY OF TESTIMONY

Date: November 18, 1987

Witness: BRUCE ARCHIBALD

Examination by: George MacDonald

Archibald, professor of Law studied the transcript of the Marshall trial and offered his opinion on the evidentiary rulings of Judge Dubinsky:

- Rulings about admissibility of hearsay evidence and limitations on cross-examination of key witnesses were wrong.
- The rulings excluded evidence which tended to show that Marshall was innocent.
- The judge did not direct the jury properly about some evidence harmful to the defense, which was admitted.
- The errors were substantial enough that they should have been apparent to the Appeal court even though they were not raised by either Crown or Defense on Appeal.

Archibald suggested that Commission urge adoption of revised rules of evidence.

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KEITH BEAVER - attended the dance at St. Joseph's, May 28, '71, saw Seale there, invited Seale home. Seale declined offer and when Beaver and friends got to the Park, Seale left to catch his bus.

- advised that new regulations about hunting rights of Indians were recently issued by his superiors in the RCMP.

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ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

Inspector ALLAN MARSHALL, RCMP - Sent to conduct reinvestigation of Marshall case after J. MacNeil alleged he saw Ebsary stab Seale.

- Reviewed files provided to him by detective MacIntyre, interviewed J. MacNeil, concluded that MacNeil's information was a figment of his imagination.

- Returned with Polygrapher Smith, stayed in adjoining room while Smith conducted Polygraph exams of MacNeil and Ebsary. Talked briefly with MacNeil. Reviewed results with Smith: Ebsary telling truth; MacNeil inconclusive, confirmed his belief that J. MacNeil lying.

- Called D.C. MacNeil, Crown Prosecutor to report results, MacNeil phoned Halifax, believed he talked with Att. Gen. Pace.

- Returned to Halifax, wrote report about Dec. 21st, put internal routing on it and put in mail for his superior. (Woodrup?)

Marshall offered various reasons why his investigation may have been less than "thorough": -Trusted MacIntyre because he worked with him when assigned to Sydney.

- Relied on strong positive results of Ebsary polygraph, although he recognized that polygraph was only an aid, not conclusive.

- Mandate "to determine if any substance to MacNeil's statement".

- Believed that the system, i.e. Police, Grand Jury, Preliminary, Trial, good lawyers, good judge, could not get the wrong man.

Marshall not certain but thinks he recalls: -seeing report on Ebsary concealed weapon charge

- Polygraph for Junior Marshall suggested to Rosenbloom who refused.

- Seeing Junior's yellow jacket and believes MacIntyre suggested cut could have been self inflicted. \*\*\*\*\*

End Summary, Archibald, Beaver, Marshall, Nov. 18, 1987.

NOV 19~~th~~ 1989



ROYAL COMMISSION ON THE DONALD MARSHALL, JR., PROSECUTION

SUMMARY OF TESTIMONY

Date: November 19, 1987

Witness: Insp. E.A. MARSHALL (cont.)

Examination by Wylie Spicer

Inspector Marshall conducted the reinvestigation of the Marshall case in November, 1971.

Admits he overlooked or disregarded numerous warning signs that, in light of what he now knows, should have prompted him to do a more adequate investigation.

Accepts responsibility for having done a poor job which resulted in the wrongful imprisonment of Donald Marshall, Jr. for eleven years, but offers no explanation for the inadequate performance of his duties.

Some items in his report, e.g. theory that Marshall and Seale intended robbery and that Marshall's wound was self-inflicted probably came from MacIntyre.

No complaint was received by Insp. Marshall from his superiors, from Attorney General's office, from Sydney police, from Crown Prosecutor.

Denied race of accused or victim had any bearing on the sloppy nature of his investigation. He would have done the same if it had been the son of Justice Evans.

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End Summary of Testimony, Insp. E.A. Marshall, November 19, 1987.