

FEB 1st 1988

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

SUMMARY OF TESTIMONY

Date: February 1, 1988

Witness: Sgt. JAMES CARROLL

Examination by George MacDonald

Carroll offered the following about his part in the 1982 RCMP reinvestigation:

Re: Chant Statements - In first interview Chant definitely identified MacIntyre by name, said he was pressured and threatened with perjury.

- No explanation why specific threats, name MacIntyre and mention of perjury are not in Carroll's notes or in statement.

- Chant said in second interview (Carroll and Hyde) that he was pressured by MacIntyre, His mother was not in the room, perjury mentioned. Interview necessary to clear up details as first interview held under adverse conditions.

- Believes Magee mistaken when he says he was there.

- Mrs. Chant told him she was not present in room.

- Denied MacIntyre name omitted because of "tenderness" for fellow police officer, offered no other explanation.

Re: Marshall Statements - First interview cut short. Warning given before second statement. Marshall raised the issue of the robbing or rolling.

- Spoke with Official at institution named Cross who said Marshall would have gotten parole already if he admitted guilt.

Re: Ebsary - Ebsary was drinking heavily and usually drunk by noon.

- Tape recorded admission by Ebsary in Jan '83, used later in Ebsary trial. Disagrees with Scott that it was not of much value.

- Arranged Ebsary meeting with Marshall's, nothing of value obtained.

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- Searched yard where Ebsary said he threw broken knife, did not find.

Re: MacIntyre - Agreed investigation not complete until MacIntyre interviewed. Shared Wheaton's belief charges should be laid.

- No recall being present when Wheaton asked MacIntyre for more documents.

- No recall Wheaton complaining that he did not have whole file.

Re: Other Statements - Aware that Pratico not considered reliable witness but believed when he said he lied because of pressure from the Sydney Police.

- Present for but took no active part in Patricia Harriss interview, believes she was straight forward

- Saw Greg and Mary Ebsary often, no recollection of being present when their statement taken.

Miscellaneous - No contact or discussion with Press.

- Met Michael Harris twice, once for an hour and once for a few minutes in the hallway of the courthouse.

- Investigation of another police force "not something done at my level, as a Cpl. it would have been uncomfortable." "Not likely a Staff Sgt. would do it without instructions from superiors."

- Initialed Inventory of documents Apr. 27 because he was receiving it from Wheaton. (WHAT OTHER DOCUMENTS FROM THE FILE DID HE INITIAL TO INDICATE RECEIPT?)

- Not familiar with Insp. Marshall's report. From talking to Smith the polygrapher and Marshall, got the impression they only came for a few interviews and the polygraph tests. Surprised by A. Marshall testimony.

- Not aware of different level of respect for Natives in courts.

End Summary of Testimony, James Carroll, Feb. 1, 1988.

FEB 2nd 1988

SUMMARY OF TESTIMONY

Date: February 2, 1988

Witness: JAMES CARROLL

Under cross examination by various counsel Carroll stated:

- No recall of working with Wheaton when statements taken before 1982
- Marshall file in filing cabinet in general office, available to Carroll to review when necessary.
- Reviewed file with Wheaton on 'perhaps' weekly basis
- Omissions from Chant statements, i.e. MacIntyre name, pressure, perjury, perhaps because 1. investigating Marshall rather than MacIntyre or the Sydney police department, or 2. shock at statement of Chant threw them off.
- Carroll did not see Wheaton's reports before they were submitted.
- No recall of Chant saying threatened by Crown Prosecutor, No explanation why it appeared in Wheaton's report.
- Normal practice for 'readers' to check reports and request statements mentioned in the report but not attached.
- Unusual to initial for the statements received from MacIntyre because they was not treated like an exhibit but put in the regular file.
- Decision to call Pratico as a witness responsibility of Crown.
- Did not tell Michael Harris he did not wish to be identified. Does not release Harris from pledge of confidentiality.
- Does not recall conversation with Harris about MacIntyre, Urquhart or the Sydney police department.
- Not aware of any person other than Ebsary who was identified by Marshall as the person who stabbed Seale.
- Aware that Pratico gave radio interview in which he again said that he saw Marshall stab Seale. Not certain when.
- May have asked Lou Matheson about D.C. MacNeil's notes but did not interview him or ask him about Patricia Harriss statement.
- No recollection of Brooks McGuire, May have interviewed Irving Cameron but no statement resulted.
- Talked with Alan Storey who requested information on many occasions, provided answers as best he could.

- Can't recall Chant naming Urquhart. Perhaps named in report because he felt they were a team.
- No recall of Pratico naming Urquhart.
- Did not give Aronson any reports.

- Ultimate responsibility of police not crown to lay charge.
- Consultation with Crown in serious matters and guided by Crown for correct charge.

- Race did not play a very large role.
- Racist language reported by Saracen consistent with Ebsary character.
- Marshall's courtroom demeanor may have affected credibility.
- No personal bias toward MacIntyre.

End Summary of Testimony, James Carroll, February 2, 1988.

FEB 3rd 1988

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

SUMMARY OF TESTIMONY

Date: February 3, 1988

Witness: ROBERT ANDERSON

Examination by: David Orsborn

Anderson, Director, Criminal, Department of Attorney General in November 1971, has limited recollection of his role in ordering the RCMP to investigate the allegation of J. MacNeil that Ebsary stabbed Seale and Marshall was innocent.

- Recalls receiving phone call, believed from D.C. MacNeil, that someone confessed after someone else convicted.
- Next recollection - word received from Sydney that J. MacNeil unstable mentally and opinion he was not telling truth.
- Appointed to the bench Dec. 16, '71; RCMP report of Insp. Marshall dated Dec. 21, '71, no recollection seeing.

No recollection, but Usual practice - Daily meetings of lawyers in the section, policy, procedures, problems and cases discussed.

- Daily reports from RCMP, weekly meeting with RCMP CIB officer.
- RCMP reports always directly to Director Criminal.
- Anderson contact with RCMP usually through 'reader' Burgess.

No recollection, but Likely - Request for RCMP investigation discussed with Deputy Attorney General or the A.G. himself if there.

- File on the matter not opened in office until receipt of RCMP report of investigation.
- Marshall case subject of discussion at daily meetings because request for polygraph very unusual.
- RCMP report would have been expected and failure to arrive noticed.
- Notice of Marshall Appeal would have been received by Anderson and assigned by him to a lawyer in his section.

No recollection but Unlikely - Defense counsel would have been advised of investigation because assumed that Crown Prosecutor would have previously passed on the information.

- Lawyer handling appeal would have raised issue not in the factum.

Anderson recalled discussing Marshall case with then Lawyer Felix Cacchione. - "Felix don't get your balls caught in a vise over an Indian", "sounds like something I would say."

- Meaning, "Perhaps one might spend more time and energy with a client with a clean record."

End Summary of Testimony, Robert Anderson, Feb. 3, 1988

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

SUMMARY OF TESTIMONY

Date: February 3, 1988

Witness: DONALD SCOTT

Examination by: Wylie Spicer

Inspector Scott, 31 year veteran of RCMP was officer in charge of Sydney Subdivision in 1982.

- Assigned Wheaton to the investigation, kept advised of the course of the investigation, reported by phone and in writing to Supt. Christen.
- Investigation begun at request of MacIntyre with meeting at Edwards office on Feb. 3, 1982.
- MacIntyre briefing on the case and documents turned over gave Scott impression "check it out and put it to rest."
- No specific recall of which statements received from MacIntyre.
- Briefed MacIntyre on course of investigation and allegations of pressure from witnesses. MacIntyre produced more statements including P. Harriss to support his investigation in '71. - Does not recall MacIntyre throwing papers.
- Discussions with Wheaton and Edwards on how to obtain complete file.
- Opposed search warrant, requested letter from AG directing MacIntyre to turn over the file.
- MacIntyre not under investigation because beyond mandate of the case.
- Believed that permission of AG needed to investigate allegations of misconduct by MacIntyre.
- Recalls Wheaton relating incident of document thrown on floor and showing Harriss statement, can't recall date of incident.
- No reference in reports to improper conduct by MacIntyre because Christen was aware from conversation, and believed Edwards had informed his superiors in the AG's department.
- Expected instructions to investigate MacIntyre conduct and Sydney Police would be forthcoming when Marshall and Ebsary matters settled.
- Would not have paid attention to Gale suggestion that interviews of MacIntyre and Urquhart be held in abeyance if it had not been practice to get permission before such an investigation.

End Summary of Testimony, Donald Scott, Feb. 3, 1988.

Fall 4th 1988

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

SUMMARY OF TESTIMONY

Date: February 4, 1988

witness: DONALD SCOTT (day 2)

Scott continued describing his role in the 1982 reinvestigation of Marshall, the subsequent Ebsary investigation and the attempts to initiate an investigation of MacIntyre.

Re Investigation of MacIntyre:

- Order of Attorney General for MacIntyre to turn over files not seen as authority to conduct investigation of MacIntyre or Sydney police.
- Cover letter from Mayor to MacIntyre re "any matter arising there from", took to mean Ebsary.
- No jurisdiction to investigate in Sydney unless directed.
- Not aware of RCMP Manual provision directing that permission of Attorney General must be sought (to investigate police), but practice.
- May 83 letter from Gale requested review of files about police practice, was not directive to investigate Sydney police or MacIntyre.
- Never saw memo to investigate noted by AG Giffin in news article.
- Understood "abeyance" permanent until AG ordered otherwise.

Re Marshall:

- MacIntyre still believed Marshall guilty after reference.
- No recollection of long distance phone calls from Aronson as noted in Aronson's account.
- Discussed reference with Edwards who indicated that he was getting pressure from AG who felt Edwards taking position in favor of Marshall not proper.
- Continued to follow leads after Reference, many calls received and information checked, no specific recollection of Brooks MacGuire or Irving Cameron allegations.
- Believes Marshall would have been more credible if he told of robbery attempt, (admits this is unusual case).

Re Ebsary:

- Believes Ebsary would have been located if looked for in '71.
- Assumes knowledge of Ebsary was common to Sydney police at the time.

Re '71 Investigations:

- After April 16th meeting with MacIntyre, began to wonder if Al Marshall was "set-up" in '71, asked to interview Insp. Marshall and polygrapher Smith. Christen said no at that time.
- Later sent Carroll to talk with Insp. Marshall and Smith. Marshall did not wish to make statement, felt he had done proper investigation.
- Telex of May 30, 71, naming Marshall as suspect: expect that an answer was sent.

Miscellaneous:

- No personal knowledge of criticism of Wheaton for leaks to Media.
- No sinister implication taken from "hold in abeyance" order at time.
- No knowledge of a written report which points out MacIntyre's attempt to conceal Harriss statement of 17 June.
- Native constables an excellent idea supported by Scott.

End Summary of testimony, Donald Scott, February 4, 1988.