

601 X-exam of A.H.Cadrain

being interrogated by these people?

A No.

Q So you weren't under any particular stress then?

A What does stress mean?

Q Well, it didn't bother you?

THE COURT:

Q Worried - worried about it?

A No.

MR. TALLIS:

Q So that it wasn't worry that would affect your 10
memory or anything like that in Regina?

A Say that over again?

Q Well, what was the answer you muttered?

THE COURT: He didn't say anything.

MR. TALLIS: Well, I saw his lips moving -

Q Did you not say something?

A No, I never.

What did you say?

Q I take it that it wasn't worry that would cause
you to be forgetful in Regina when the police 20
were interrogating you?

A No.

Q Well now, you were questioned by City police
officers from Saskatoon in Regina, weren't you?

A They brought me down to Regina for questioning -
or just brought me down, I guess.

Q Well, when was this?

A Well, say the question over again.

By two Saskatoon police?

Q Yes. 30

A Yes, after I went to the police and told them
everything.

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Q I see; then you went down to Regina?

A Yes.

Q And they drove you down there, did they?

A Yes.

Q And did you meet them - were you at the Police Station in Regina with them?

A Yes.

Q And when would that be, Witness, that you were down there or do you recall?

A I don't remember.

Q And that was an occasion when you met with Nicky?

A Yes.

Q And as a matter of fact your memory had to have a little help on some things, didn't it?

A Yes.

Q For example, at one point you were asked how Nicky was dressed that morning?

A Yes; they reminded me about the boots.

Q You couldn't remember what she had on in the way of footwear for example?

A Yes.

Q You couldn't remember it on your own, could you?

A Oh yes, I could.

Q I see; well, didn't someone tell you what she had on and then that reminded you of what she had on?

A Yes.

Q So there was some of these things that you had to be told about, isn't that correct?

A But I remembered when they told me.

Q You remembered when you were told about them by somebody else but on your own you couldn't

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met Nicky
in Regina
for questioning

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remember?

A I could remember but, you know, if I thought lots I probably could, yes.

Q Well now, just a moment - this is page 708 question 940, My Lord -
Do you recall being asked this question at the preliminary hearing and giving this answer:

"Do you recall how Nicky was dressed?"

Answer:

"She had black boots on and they came up 10
her knees, I think. I remembered this
after I was reminded by the police."

Were you asked that question and did you give that answer?

A Yes.

Q And then 941:

"Oh, on your own you didn't remember that?"

Answer: "No."

Now, were you asked those questions and did you give those answers? 20

A Yes.

Q Were the trousers that David had on that morning at your house torn up the rear?

A In the crotch on the seam.

Q Yes on the seam, but you noticed it from the rear?

A I can't remember now.

Q Well, just to use your term, at one point you said they were - "up the ass" was your term, wasn't it? 30

A Yes.

Q Well, that doesn't mean the crotch, does it?

A Well, the ass was ripped too.

Q I see; and it was the seam?

A Yes.

THE COURT:

Q What was the length of the rip?

A About six inches.

MR. TALLIS: I have no further questions,
My Lord.

THE COURT: Any re-examination?

MR. CALDWELL: No, My Lord. 10

THE COURT: You may go.
Next witness?

MR. CALDWELL: I call Mary Alice Marcoux.
My Lord, this is the first of the series of young
witnesses.

THE COURT: Oh, just a minute then.

MR. CALDWELL: If Your Lordship wishes I
have two or three available and could very
easily call one of the adult witnesses.

THE COURT: Well, it really doesn't 20
matter that much. Did you want to let this child
get away to go back to school in the morning?

MR. CALDWELL: There's no great hurry; she's
here now and there are two adult witnesses - it
really doesn't matter.

THE COURT: Well, you can call her.

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MARY ALICE MARCOUX, IN THE WITNESS BOX.

THE COURT:

Q What is your name?

A Mary Marcoux.

Q How old are you?

A Twelve.

Q Are you going to school?

A Yes.

Q What school are you going to?

A St. Mary's.

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Q St. Mary's?

A Yes.

Q And that's the Roman Catholic school on 20th
Street?

A No, it's on - yes.

Q Just off 20th?

A Yes.

Q Do you live at home with your family?

A Yes.

Q Your father and mother?

20

A Yes.

Q And have you brothers and sisters?

A Yes.

Q Are you the oldest in the family?

A No.

Q Where do you come in the family?

A Fourth.

Q You're the fourth; and how many children are
there altogether?

A Seven.

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Q Seven altogether; and what grade are you in?

A Seven.

Q Grade seven; I assume you went into grade seven

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last fall, did you?

A No, I was in grade six last fall.

Q Well, when were you put into grade seven?

A September.

Q Well, that's what I mean - you started up into grade seven in September then?

A Yes.

Q I see; and how do you get along in school?

A Fine.

Q What kind of grades do you get? 10

A B's.

Q B's; have you always passed your year?

A Mhm.

Q Do you go to church?

A Yes.

Q That's the Roman Catholic church, I take it?

A Yes.

Q Do you go regularly?

A Yes.

Q That's every Sunday? 20

A Yes.

Q And does that include just church or is that also Sunday School?

A No, we don't have Sunday School.

Q You don't have Sunday School?

A No.

Q How long have you been going to church?

A Oh, I don't know; since I was old enough.

Q Ever since you can remember I suppose?

A Yes. 30

Q Have you received religious instruction from the priests, that is religious instruction with

respect to what religion means?

- A Yes.
- Q And what the bible means?
- A Yes.
- Q And Jesus Christ?
- A Yes.
- Q And have you received the same type of religious instruction from your parents?
- A Yes.
- Q When you're at home are there ever any prayers 10
said or any invocations, you know, blessings
asked for and that sort of thing?
- A We ask grace for meals and we used to say the
rosary.
- Q I see; do you know what it means to tell a lie?
- A Yes.
- Q Is that a good or a bad thing?
- A Bad.
- Q Do you believe that God will reward people who
do good things and punish people who do bad 20
things?
- A Oh yes.
- Q Do you know what it means to take an oath on
the bible?
- A Yes I do.
- Q What does that mean?
- A To tell the truth.
- Q And what would happen if you don't tell the
truth?
- A Well, you would go to hell. 30
- THE COURT: I see; thank you.
This witness may be sworn.

MARY ALICE MARCOUX, sworn, states:

MR. CALDWELL, examining:

Q Mary, how old are you again?

A Twelve.

Q And would you please speak up so everyone can hear you?

MR. TALLIS: You can lead on many of these things, Mr. Caldwell.

MR. CALDWELL:

Q And you're in school and grade I believe if I 10
can remember what you said . . ?

A . . grade seven.

Q Now, what is your home address?

A 105 Avenue "N" South.

Q And I believe that generally you walk to school daily during the school week to St. Mary's?

A Yes.

Q And I believe that you did so Friday January the 31st 1969 or at least started out to school that morning? 20

A Yes.

Q And do you know your directions up around your home and school there?

A Yes, I guess you could say that.

Q Alright. Well, I'd like to show you P.1, Mary, and there has been evidence - maybe you could just stand for this - that this is a sketch of the block that includes 20th Street, 21st Street, Avenue "N" and Avenue "O"; and north is at the top? 30

A Mhm.

Q And that this 1402 I believe there's been

evidence is Westwood Funeral Home?

A Yes.

Q Do you know where it is?

A Yes I do.

Q Where would your home be?

A It would be over here.

THE COURT:

Q A little louder please?

A It would be over here some place.

MR. CALDWELL:

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Q And you're pointing off the right hand top of the drawing as we're looking at it, aren't you?

A Mhm.

Q Now, on that morning what route did you follow to school?

A Well, I went down Avenue "N" until I got to 19th Street - that would be right here (indicating).

Q Now, just a minute - what street?

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MR. TALLIS: You can lead her on those matters, Mr. Caldwell.

A It would be 19th Street; and I would go down and walk down the back alley.

Q Alright, let me suggest then that you came south on "N" and west on 21st Street?

A Mhm.

Q Is that right?

A Yes.

Q And you got to a back alley?

30

A Yes.

Q And were you aware, Mary, that there had been

an apartment block being built there that time?

A Yes I was.

Q Would it correspond with this rectangle shown
"Apartment Block" here?

A Yes.

Q And did you go south down this alley?

A Mhm.

Q And were you by yourself?

A Yes I was.

Q And what time did you leave home? 10

A About twenty-five after eight.

Q And was that your normal route?

A No, it wasn't.

Q Alright; and as you went south down the alley
was it darkness, daylight or what?

A It was foggy.

Q How about the light - could you see at all?

A Well, it was pretty light but it was still
foggy.

Q Foggy; and as you went on south in that alley 20
did you come across something?

A Yes I did.

Q What was it?

A A body.

Q And what was the first you knew that there was
a body there, Mary?

A Well, there was just a coat at first.

THE COURT:

Q Just a what? Just a coat?

A Yes. 30

MR. CALDWELL:

Q You saw a coat; and did you come closer?

A Yes.

Q And when you got closer did you see that it was a female body?

A Yes I did.

Q I show you P.4, photo #6. With the exception of the van and the people at the end of that alley does that scene look reminiscent of what you saw?

A Yes, it does.

Q Any difference particularly? 10

A Well, that (indicating).

Q I think that's just a flaw in the photograph - but about the body?

A Yes.

Q How does that compare?

A That was right.

Q That was right, eh?

A Yes it was.

Q And when you got up closer, Mary - I show you number 4 and again with the exception of the 20 van and that piece of surveyor's rod, how does that compare with the situation you found?

A Yes, it was.

Q Yes it was like that, was it?

A Yes it was.

Q When you saw that much were you still alone?

A Yes sir.

Q Now, did some other people show up there, Mary?

A Yes.

Q Who were they? 30

A It was a Hnatiuk boy.

Q A Hnatiuk boy and you would know him from before,

would you?

A Yes.

Q And when he showed up did you and he do something?

A I told him to go tell his mother.

Q Alright; and did he leave then?

A Yes.

Q And did you go and see his mother too?

A Well, yes I did.

Q At the same time he did? 10

A No, after; a little after.

Q And was Hnatiuk's house somewhere near the body?

A Yes, one house away.

Q Pardon?

A One house away.

Q One house away; and did you go to see Mrs. Hnatiuk?

A Yes I did.

Q Did you tell her what you had found? 20

A Yes.

Q Did she send you somewhere?

A Yes, to the Westwood Funeral Home.

Q To the Westwood Funeral Home and did you go along there by yourself?

A Yes.

Q And did you see somebody there?

A At the funeral home?

Q Yes.

A Yes, like there's two apartments for the family 30 and I told the mother Mrs. Murdoch.

Q Mrs. Murdoch - about what you had found?

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- A Yes.
- Q And as a result of that did somebody come out?
- A Yes - the assistant.
- Q Speak up a little louder please?
- A The assistant came out.
- Q The assistant; did you know his name?
- A No.
- Q And what did he do?
- A Well, he went - well I showed him where the
body was and he went there and he lifted up 10
her shoulder and he said "Well, you were right",
or something like that I think. And then by
that time Mr. Murdoch had come out and he said
something to Mr. Murdoch and then went and got
a blanket.
- Q Well, you took him back to where it was, eh?
- A Yes I did.
- Q Now, I want to show you P.4 photograph #4 again
please and I think that there is an area around
the body that seems to be so to speak trampled 20
down in the snow?
- A Yes.
- Q Now, was any of that done by you or your friend
the Hnatiuk boy?
- A No.
- Q How did the area look compared - like, when you
arrived there how did it look compared to the
photograph as far as the snow trampling
condition?
- A It was something like that. 30
- Q Something like this, eh?
- A Yes, as far as I can remember.

Q AS far as you can remember?

A Yes.

Q And while you were there when you and this boy and the assistant were there did anyone else go right up to the body?

A No.

Q Did you interfere or touch it in any way?

A No.

Q I think you said the assistant covered the body with a blanket? 10

A Yes.

Q Where did you go after that?

A Well, Mr. Murdoch told me to go back to the apartment because the police wanted to question me.

Q Did you go back to Westwood Funeral Home?

A Yes.

Q And up into an apartment or living quarters over it?

A Yes. 20

Q And did the police eventually come and see you there?

A Yes.

Q And you told them what you knew, did you?

A Yes.

MR. CALDWELL: Thank you, your witness.

MR. TALLIS, cross-examining:

Q Mary Alice, what time did you leave for school that morning?

A Twenty-five after eight. 30

Q Twenty-five after eight?

A Yes.

615 X-exam of M.A. Marcoux

Q And as you went down this alley where you came upon the body I take it you didn't see anybody else in the alley?

A No.

Q Around the apartment block I gather that there were already a bunch of men at work?

A Yes, there was.

Q And you estimated to the police and I believe at the preliminary about fifty persons?

A Well, maybe not that many. 10

Q That may be a little bit on the high side?

A Yes.

Q Thinking about it since then would it be more like twenty or thirty?

A Yes.

Q Something like that; and I gather that apart from this gentleman from the funeral home just lifting up the shoulder a little, the body was left in the same position . . . ?

A Yes. 20

Q . . . as when you came upon it - is that correct?

A Yes.

Q And you didn't see anyone else move it or anything like that?

A No.

Q And it was a gentleman from the funeral home that put the blanket over the body?

A Yes.

Q And I take it after you went to the funeral home you didn't go out there at all to the alley? 30

A No.

Q Pardon?

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616 X-exam of M.A. Marcoux

A No, I didn't.

MR. TALLIS:

Lord.

THE COURT:

MR. CALDWELL:

Lord.

No further questions, My

Thank you; you may go.

I call Rae John Murdoch, My

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RAE JOHN MURDOCH, sworn, states:

MR. CALDWELL, examining:

Q Mr. Murdoch, I believe that you are the manager of Westwood Funeral Chapel and that it's at 1402 20th Street West in Saskatoon?

A That's correct, yes.

Q And that is at Avenue "N" and on the northwest corner, as I understand it?

A Yes, that's right.

Q And I believe that Terry Michayliuk is an assistant of yours there? 10

A That's correct, yes.

Q And I believe on Friday January the 31st of 1969 that you were present in the place and in fact you and your wife actually lived in quarters above the funeral home?

A That's right, yes.

Q Did Michayliuk live there - or did he then?

A He did and he still does on the lower floor.

Q Right; now, I believe that morning that you had a girl arrive at your premises there; were you the first one to see her or deal with her? 20

A No; she came to the door of my apartment and my wife answered the door.

Q And did you learn something from your wife about what she had in mind?

A Yes. She called me to the door to say that this girl was there.

Q Did you speak to this girl?

A Yes. 30

Q Do you know her to see her or anything?

A Not at that time; I wouldn't have known what her

name was; I've seen her since and of course I know what her name is now.

Q But you would know her as a child around the neighborhood?

A That's right.

Q And that's Mary Alice Marcoux?

A Correct, yes.

Q And initially who went out with her as a result of her going there?

A From my place Mr. Michayliuk went out ahead of me. 10

Q Mr. Michayliuk?

A Yes.

Q And did he return back shortly to the funeral home?

A Before I - I went out there before he had completely returned to the funeral home. I met him out in the lane.

Q And did you talk to him there - Michayliuk?

A Yes. 20

Q You found out approximately what was going on, did you?

A What the situation was.

Q And as a result of talking to him where did you go?

A I went on to where he had said that this body was and he went back into the funeral home to call the police.

Q Did he go back with you to where the body was or did you go there and he came on back to the funeral home? 30

A That's right.

Q The latter?

A The latter is correct.

Q I'd like to show you P.1 briefly; there's been evidence this is a scale drawing of the block in which I believe your funeral home is located and that it is the thing shown as 1402?

A Yes.

Q And that this is Avenue "N", this "O", this 20th, this 21st Street?

A Mhm. 10

Q Now, can you indicate - just point out on this thing if you would where approximately you feel the body was when you got there?

A Right there (indicating).

Q Speak up please?

A It would be in this area here.

Q And that's in the north-south alley, is it?

A Yes.

THE COURT: This area doesn't mean much unless you . . . 20

MR. TALLIS: . . My Lord, I have no objection to my learned friend leading on this.

THE COURT: Refer to the designations on there.

MR. CALDWELL: Yes, My Lord -

Q How about those letters on there, Mr. Murdoch?

THE COURT: A, B, C, D and E.

A Yes, in that area.

MR. CALDWELL:

Q And when you got there you located the body at that place, did you? 30

A Yes.

Q And did you check it for life?

A No, I didn't really; I didn't go that close to it; I didn't touch it.

Q When you got there was there anyone else in the vicinity of the body?

A Well, the Marcoux girl had gone back. She would be standing at the point where those lanes intersect, but there was no one else in the immediate area. There were people at the other end of that lane and coming south in that lane. 10

Q What people were these?

A Children.

Q Did you more or less direct traffic past the scene then?

A Yes, yes.

Q By that I mean pedestrian traffic?

A Correct.

Q And this was mainly school kids?

A Entirely school kids that I saw.

Q Now, once you got to the place where the body was did you stay there for some while? 20

A Just until the police arrived.

Q And do you know the names of the first policemen who arrived?

A No, I don't.

Q Do you know them to see them?

THE COURT: It really doesn't make much difference.

A I can't say that I would remember them.

MR. CALDWELL: 30

Q Were they uniformed or plain clothes officers?

A Plain clothes.

Q And you were still there when the first police arrived, were you?

A Yes.

Q Now, I believe the situation is that a blanket was brought from the funeral home to where the body was?

A That's true.

Q Who did that?

A Terry Michayliuk got the blanket.

Q And what color blanket was this? 10

A Blue.

Q You worked there daily so to speak at the funeral home?

A Yes.

Q And did you have one or more than one blue blanket in use?

A Only one in use.

Q And is that the one?

A That's the one.

Q Did it return back afterwards? 20

A It did.

Q Now, Mr. Murdoch, in due course did a police officer get a sample of the blanket from you?

A Yes, they did.

Q And the sample they got, was it from that same blanket?

A It was.

Q I want to just briefly show you P.4, photograph #1; how does that compare with the view you would see when you started say north in the T-shaped alley? 30

A That's the same except that automobile wasn't . .

Q . . . was not there; and how about the body
itself?

A Oh yes, yes.

Q And in number 2, a closer up view, would this
still be the way you would be approaching,
moving from south to north?

A Correct, yes.

Q Now, I show you what appears to be an area
trampling in the snow around the body - you
see that?

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A Yes.

Q Now, was that like that or different when you
got there?

A It was like that.

Q Like it shows here, eh?

A Yes.

Q And as far as you were aware was any of that
done by you or the people looking at the body?

A Not as far as I was concerned, no.

Q At least not when you were there at any rate.
And aside from Mr. Michayliuk and the police
that arrived were there any adults around the
immediate scene from the time you came out and
started looking around?

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A Not that I recall, no.

Q And while you were there was anyone but
yourself or Michayliuk right up to and touch
the body?

A No.

Q And you said you did not do that?

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A No, I didn't.

Q Was there any discoloration in the snow area

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surrounding the body?

A There was some blood spots.

Q Mr. Murdoch, I want to ask you as of January the 31st 1969, the day of this event, you're familiar with the funeral homes in this city, is that right?

A Yes.

Q Alright, would you just very briefly tell us the location of any other funeral homes in the city as of that time? 10

A There's one located at Third Avenue and 20th Street.

Q Which is that?

A McKague's Funeral Home. There's one at Fourth Avenue and 25th Street - Saskatoon Funeral Home. And there's one in the 300 block on Third Avenue North, which is Park Funeral Chapel.

Q And were those the only other funeral homes or chapels or what-have-you in Saskatoon at that time? 20

A Yes. The former location of Saskatoon Funeral Home was on Second Avenue but it wasn't operating; they hadn't operated in that location since their new building was built on Fourth Avenue.

Q As I understand that then, Westwood Funeral Chapel would be at any rate the only one say west of Idylwyld Drive in the city on that date at least?

A That's correct, yes. 30

Q And the lane that's shown in P.1 - that big sketch - is a T-shaped lane and the top of the T

so to speak runs right behind your premises?

A Yes.

Q And I take it of course that - showing you P.1 again - there's the usual driveway from the street or entrance into the lane from Avenue "N" and at the other end out on to "O"?

A Yes.

Q And at about that time around the 31st of January was that lane the top of the T open to vehicle traffic?

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A Yes.

Q And was it used to any extent to your knowledge?

A Quite an extent.

Q And was it passable - travelable by cars, trucks and so on?

A Yes.

Q And I presume likewise with the north-south part of the T?

A Yes.

Q And I may have asked you, sir, but in photograph 20 2 of P.4, from what you saw of the body would the arrangement of clothing that you saw appear to be as shown in photo 2 of P.4?

A Yes.

MR. CALDWELL: Thank you; your witness.

MR. TALLIS, cross-examining:

Q Mr. Murdoch, just a couple of questions. I take it first of all it's common ground between us that it was about forty-two below that morning?

A That's what I understand; it was awfully cold 30 anyway.

Q Well, you gave that evidence in the court below?

A Yes.

Q And that's your best recollection?

A Right.

Q And secondly, I gather that it's common ground between us that when you first saw the body it was laying face down?

A Yes.

Q And you did nothing whatsoever to disturb it?

A No, I didn't.

Q And as a matter of fact kept the kids moving by 10 it so that it would be as unmolested as possible for the police when they came?

A Yes, that's right.

MR. TALLIS: No further questions.

THE COURT: Thank you.

MR. CALDWELL: I call Terry Michayliuk.

TERRY MICHAYLIUK, sworn, states:

MR. CALDWELL, examining:

Q Mr. Michayliuk, I think you are assistant manager at Westwood Funeral Chapel in Saskatoon?

A Yes.

Q Where Mr. Murdoch is manager?

A Right.

Q And that in January of 1969 that you lived on the premises I understand on the main floor there?

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A It isn't on the main floor but I lived on them.

Q Alright; and that you were there Friday morning January the 31st 1969?

A Yes.

Q And I believe that morning you had occasion to go out and look in the alley which goes behind the funeral home and which runs north?

A Yes, that's correct.

Q And how did this occasion arise?

A Mr. Murdoch buzzed me on the intercom if I would check - he told me that he thought there was a lady . . .

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Q . . . as a result of Mr. Murdoch saying something to you, at any rate . . . ?

A Right.

Q As a result of that did you go out?

A Yes I did.

Q Did anyone go with you?

A Not from the funeral home.

Q But I mean, were you joined by some person?

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A Yes I was.

Q And where was it you saw this person?

A It was out in the alley just behind our place.

Q And what sort of person was this?

A It was a young girl.

Q And did she show you where to go so to speak?

A Yes.

Q And you followed along with her?

A Mhm.

Q Where did she take you?

A She took me down to an adjoining alley off the
alley that runs behind the funeral home. 10

Q This would be the T-shaped alley we've heard
about?

A Right.

Q And did you go north in the north-south part
of it?

A Yes I did.

Q When you got up there what did you find?

A I found a lady laying face down in the snow.

Q And did you approach this person when you got
there first? 20

A Yes.

Q Did you check for life?

A Yes I did.

Q What did you do, Mr. Michayliuk?

A Well, I spoke to her and tugged her shoulder.

Q Yes; and did you realize then there was no
sign of life?

A That's right.

Q And what did you do then?

A That's when I started to head back to the 30
funeral home.

Q Now, other than say tugging on the shoulder,

was this all you did to the body so to speak?

A That's right.

Q And then you headed back to the funeral home?

A Mhm.

Q Did you meet anyone on the way?

A Yes, Mr. Murdoch.

Q Did you speak with him?

A Yes I did.

Q And did you continue on to the funeral home?

A Yes.

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Q Did you get something there?

A Yes I did; I got a blanket.

Q And did you return to the body with the blanket?

A Yes I did.

Q Did you do anything else while you were at the funeral home?

A Yes, on the way up to the home I was met by Mrs. Murdoch and I had asked her to call the ambulance and I went in and phoned the police. 20

Q You phoned the police?

A Right.

Q And did you return to the body with the blanket?

A Yes.

Q And what did you do with it?

A Covered the body.

Q And did you stay there then until the police arrived?

A Yes.

Q I'd like to just show you P.4 briefly. Photo #1 30 of P.4, how would that compare with the situation when you turned the corner and started north in the alley?

A That would be what I saw.

Q Was the car or oars or vehicles up the alley there at the time or not?

A No, it wasn't.

Q But as far as the rest of it how would it compare?

A The rest would be the same.

Q The rest would be the same; and then I also show you photo #2 of P.4. How would this compare with the situation when you got close? 10

A That would be the same.

Q Now, specifically what about the arrangement of the clothing on the body?

A Yes, that would be the same.

Q The same?

A Right.

Q And what about this area of snow which appears to be trampled around the body?

A That was the same too.

Q And was any of that trampling done as far as you 20 are aware by yourself or others examining or looking at the body?

A No, other than about three or four steps of my own.

Q Alright; and was there any sort of discoloration in that area while you were there?

A Not that much.

Q Pardon?

A No.

Q No, okay; and I understood you to say you were 30 still there when the first police arrived?

A Yes.

Q Was the situation changed any between you first seeing the body and the police arriving other than you covering it with the blanket?

A No.

MR. CALDWELL: Thank you, your witness.

MR. TALLIS: No questions.

THE COURT: Thank you, you may go.

We'll adjourn until ten o'clock tomorrow morning.

4:55 P. M. JANUARY 22ND, 1970 - COURT ADJOURNED. 10

10:00 A. M. JANUARY 23RD, 1970 - COURT RESUMED.

ALL JURORS PRESENT.

THE COURT: Before you commence, Mr.
Caldwell -
Members of the jury, a matter of some urgency
has arisen which has nothing to do with this
case, as a result of which when we adjourn at
noon we'll adjourn until Monday at ten o'clock.
We won't be sitting this afternoon. I thought
I'd let you know that now. 10
Mr. Caldwell?

MR. CALDWELL: Thank you, My Lord.
I call Adeline Nyczai, My Lord.

ADELINE NYCZAI, sworn, states:

THE COURT:

Q That's spelled N-y-c-z-a-i?

A Yes.

MR. CALDWELL, examining:

Q Miss Nyczai, I believe it's still correct that
you are a University student in Saskatoon? 20

A Yes.

Q And I believe that you last January including
Friday January the 31st 1969, that is a year
ago, lived at 130 Avenue "O" South, Saskatoon?

A Yes.

Q Are you still there?

A Yes.

Q And that that's a large sort of rooming house
type of affair where various people have
individual rooms? 30

A Yes.

Q And were there some living two to a room and

some one?

A On the bottom floor - the ground floor there were suites where several people lived per suite; but on the second floor it was single people.

Q I see; and you were on which?

A The third floor.

Q Now, I believe you knew Gail Miller?

A Yes I did.

Q And that she lived in that building at that time? 10

A Yes.

Q And had you known her for some time as a result of that?

A Yes, since September - around the middle of September, about the 15th she moved in within about a week of when I moved in.

Q That would be September . . . ?

A . . . of 1968.

Q Of '68; and I believe you were home on the morning of Friday January the 31st 1969? 20

A Yes, early in the morning.

Q And I believe that that was one of the mornings when you went off to University?

A Yes, I had eight-thirty classes.

Q And did Miss Miller - now, did she live alone in a room there?

A Yes.

Q And were you aware of her employment?

A Yes. 30

Q Where was she working at the time?

A At the City Hospital as a Certified Nursing

Assistant.

Q And did you see her that particular morning
January the 31st?

A Yes I did.

Q And whereabouts?

A On the second floor just outside of her door.
I was on my way back up to the third floor to my
suite and she had just come out of her door.

Q Right; and was she dressed apparently to go to
work at that time or not? 10

A Yes she was.

Q And what did you see of how she was dressed?

A She was wearing a white nurse's uniform.

THE COURT:

Q Just a minute please - white nurse's uniform?

A Yes; and her hair was combed, it had been
back-combed and smoothed down. She wasn't
wearing shoes.

MR. CALDWELL:

Q She was not? 20

A No. And she wasn't wearing a cap or anything
but she was fully dressed otherwise.

THE COURT:

Q You said that she was dressed to go to work but
didn't have her shoes on?

A No, she wasn't wearing boots or anything.

MR. CALDWELL:

Q And were you by any chance familiar with her
sort of outside clothing that winter?

A Yes, she had a black coat which she wore most of 30
the time; it had a black fur collar.

Q It would be a cloth coat I take it?

A Yes, it was a cloth coat.

Q And what about sort of winter boots or . . . ?

A They were black also I believe.

Q Were they high or . . . ?

A About medium height I'd say.

THE COURT:

Q Were they the kind that you wore with shoes
or did you carry your shoes?

A You carry your shoes, sir.

MR. CALDWELL:

10

Q If I can show you P.17 - you can see that boot
through the plastic?

A Yes.

Q How does that compare with hers?

A Well, they look about the same height; I
couldn't say if they are the same ones but they
look about the same height as this one.

Q What about the color?

A I think they were black, the ones she had.

Q And what are these?

20

A These are black.

Q Those are black to you, are they?

A If you can see under the dirt.

Q Alright; but that's the type of boot I take it
which a lady wears without a shoe underneath?

A Yes.

Q And that time was what again?

A When I saw her?

Q Yes.

A Approximately twenty-five to seven or a quarter 30
to seven, around there.

THE COURT:

Q Twenty-five to seven or a quarter to seven?

A Yes - in between those times.

MR. CALDWELL:

Q And were you familiar with when she usually left for work in the morning or day?

A I believe it was around seven o'clock.

Q I see; now, did you see anything more of her after the twenty-five to or the quarter to?

A No, just that one time.

Q On that morning?

10

A Just the one.

Q And did you see anything further of her later on in fact that day?

A No, I didn't.

Q Now, what time did you leave for University that morning?

A Around seven-thirty.

Q How were the weather conditions?

A It was very cold and very foggy.

Q And did you have a ride?

20

A Yes, I got a ride with one of the other occupants of the house.

Q And who is that?

A Mr. Hugo Tenezaca.

Q Hugo Tenezaca?

A Yes.

Q And which way did you head out from the house with him?

A The car was parked at the rear of the house at 130 "O" South and we headed south towards 21st Street, turned left on 21st, proceeded on to 22nd Street.

30

Q And I'd like to show you briefly P.1. There has been evidence that this is a sketch of the block which as I understand it lies immediately south of the block containing 130 "O" South; and I believe there's been evidence that this is 130 "O" South up here. Now, can you just show the Court in fact the route you took from 130?

A Yes, it's indicated by the arrows here. The car was parked at the rear here, we drove into the alley towards 21st Street, then this way along 21st Street on to "N" and then on to 22nd and down town. 10

Q North again to 22nd?

A Yes.

Q Did you put the pencilled arrows here on the preliminary inquiry?

A Yes, I believe I was the one that did that if that's the same drawing.

Q And does that appear to you to be a good approximation of your route so to speak? 20

A Yes.

MR. CALDWELL: My Lord, there's already a mark that she's adopted on here; I wonder if it's necessary to have her mark it again or anything?

THE COURT: Well, I must say I don't get the significance of this testimony.

MR. CALDWELL: Well, I think that will be clear in a moment, I hope. 30

THE COURT: Alright.

MR. CALDWELL: There is a pencilled marking

on it.

THE COURT: Very well.

MR. CALDWELL:

Q Now, what I wanted to ask you, Miss Nyczai, is that when you were going south down your alley so to speak I take it that would be facing directly toward the north-south alley in this next block?

A Yes.

Q Now, did you have any view into that alley as you went along there in the car? 10

A No. The visibility was very poor, it was very foggy; we couldn't see - I don't think the visibility would have been past about here; you couldn't see into that alley.

Q Alright, you yourself - where do you feel you could see to that morning?

A Perhaps around the area of this apartment block here, no further.

THE COURT: 20

Q About how far would that be?

A In feet?

Q Well in block, half block, feet, yards - anything you can describe it?

A Well, less than half a block.

Q The visibility was less than half a block?

A About half a block or less.

MR. CALDWELL:

Q And this is the rectangle marked "Apartment Block" you're talking about? 30

A Yes.

Q And you feel you could see to about there?

A Yes.

Q I see; and in fact did you see anything of any sort going on in the alley on to which the apartment block backs?

A No, there was nothing that we could see that was unusual.

MR. CALDWELL: Your witness.

THE COURT: Cross-examination?

MR. DISBERY, cross-examining:

Q Now, I think you told my learned friend that 10
there were a number of other people living in the house, were there?

A Yes.

Q And as I understand it you were the only person living on the third floor?

A Yes.

Q And how many people lived on the second floor?

A Besides Miss Miller there were five girls.

Q Five besides her?

A Yes. 20

Q And did you see any of them that morning?

A No, not that morning.

Q And how many people live on the ground floor?

A Five.

Q And are they all single males?

A Yes, they were all single.

Q And I think you said you left about seven-thirty that morning?

A Yes.

Q And did you hear anything at all after you had 30
seen Gail that one time?

A Yes, I could hear somebody - a door closing and

somebody going downstairs, but I wouldn't know who it was.

Q I see; would that have come from the second floor?

A Yes.

Q And about what time would that have been?

A Around seven.

Q About seven; now, do you know what time the other girls on the second floor leave for work or school?

10

A One of them left shortly after we did at seven thirty - Miss Betty Hunt. Sometimes we saw her in the morning but that morning we didn't. Another girl Ann Friesen left fairly early but I don't think she was in the house that day; she would have left around seven or earlier, she had to be at work quite early also. Linda Markwart had to leave around eight thirty or so, she had to be at Marvel at nine. And another girl was a Nursing Assistant so she changed her shifts and I wouldn't know what time she left that day.

20

Q And this fellow you got a ride with, he left at seven thirty every morning as well, did he?

A Yes.

Q Now, do you usually take the bus at all on 20th Street?

A Yes, I take it quite often.

Q I see; and as I understand it your usual route is out the front door and down south on Avenue "O" to 20th Street, is it?

30

A Yes.

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Q And how do you - do you go out the front door to get to the car at the back or do you go out the back door?

A We went out the back door.

Q I see; now, do you know how Gail usually got to work at all?

A No, I didn't see what method of transportation she took but I believe it was usually the bus.

Q You think she usually took the bus?

A Yes.

10

Q And do you recall if she ever took taxis?

A Occasionally she did, yes.

Q Now, when you were leaving with this gentleman and driving down the alley I presume you had your lights on, did you?

A Yes.

Q And you were driving quite slowly?

A Yes.

Q Now, you didn't see anything that looked out of the ordinary in the alley across 21st Street, I understand? 20

A No.

Q I see; did you see any headlights at all in that alley?

A No, not that I can recall.

Q And were there other cars in the general area when you left driving on 21st Street?

A Driving on 21st? I don't think there were any on 21st.

Q Do you recall any on Avenue "N"? 30

A No.

Q You don't recall seeing any cars presumably

until you got to 22nd?

A No, not till 22nd.

Q Now, when you saw Gail that morning was she going into her apartment or out?

A She had just come out of her door.

Q I see; did she have her coat with her?

A No.

Q I see; where did she usually keep her coat, do you know?

A In her room.

10

Q I see; and did she have a bag for her shoes or anything of that nature in her hand?

A Not that - I don't remember.

Q You more or less passed her on the stairway, did you?

A Well, I was already up the stairs; I didn't really pass her; I don't think she saw me.

Q Now, as I understand it you've told my learned friend that you usually or you sometimes catch a bus yourself, do you?

20

A Yes.

Q Are you familiar with where the bus stops are on P.1 on 20th Street?

A Yes.

Q Where are they in relation to the . . . ?

A . . . there is one right here.

THE COURT:

Q Could you indicate it by the corner - that is the corner of 20th and what?

A 20th and Avenue "O".

30

MR. DISBERRY:

Q The southwest corner?

A Yes, there's one there and one on "N" and 20th.

Q Again on the southwest corner?

A Yes.

Q And as I understand it, your usual route then to catch the bus would be out your front door and straight down Avenue "O", would it?

A Yes.

MR. DISBERY: I see; no further questions,
My Lord.

THE COURT: Just one second please. 10

Where is that big sketch P.1 -

Q Now, on the right hand side of this P.1 is Avenue "N"?

A Yes.

Q On the left hand side is Avenue "O"?

A Yes.

Q And you said that there was a bus stop on 20th both at "O" and on "N"?

A Yes.

Q That's right - here and here? 20

A Well, it depends which way you're going. If you're coming back from down town they would be on . .

Q . . well, when you're going to the City Hospital?

A Yes, on the south side of the street.

Q On the south side of the street?

A Yes.

Q On both streets?

A Yes.

Q And you live at 130 . . ? 30

A . . Avenue "O" South.

Q Avenue "O" South; and the front door faces on

"O", does it?

A Yes.

Q And if you came out the front door your usual route would be to walk straight down "O"?

A Yes.

Q And if you came out the back door - if you happened to come out the back door which way would you go to get to a bus?

A I'd probably go down "O" again.

Q You would walk back to "O"? 10

A Yes.

Q Why wouldn't you come straight down through these lanes here?

A I wouldn't do that.

Q Why?

A Well, I just normally take the street, I wouldn't go down the alley.

Q You just don't like going down alleys?

A No.

THE COURT: I see; thank you; I don't 20
blame you.

Any re-examination?

MR. CALDWELL: No, My Lord.

THE COURT: Thank you; you may go.

MR. CALDWELL: I call Mathew Mervin Hnatiuk.

This is another young witness, My Lord.

THE COURT: How old?

MR. CALDWELL: Eight or nine I believe.

THE COURT: What's the effect of this 30
witness?

MR. CALDWELL: He's the lad that was
mentioned yesterday as one of the first that came

to the body. His evidence will be brief, My Lord.

THE COURT: If I can't swear him it's not of very much value, is it? It's really a repetition of what's taken place.

MR. CALDWELL: Well, it's quite similar to what Miss Marcoux said yesterday, I suspect.

MATHEW MERVIN HNATIUK, examined by the Court:

Q Hello, son.

A Hello.

10

Q What is your name again please?

A Mathew Hnatiuk.

Q Mathew?

A Yes.

Q Do they call you Mat?

A Yes.

Q How old are you?

A Ten.

Q What grade are you in school?

A Five.

20

Q How do you get along in school?

A Okay.

Q How are your grades?

A Okay.

Q What do you get - D's and C's, do you get a few B's or what do you get?

A A couple A's and a couple B's.

Q A couple A's and a couple of B's - good for you.

Do you know what religious faith means - what church do you go to?

30

A Greek Catholic.

Q Greek Catholic - is that Greek Orthodox?

A Yes.

Q Do you go to church regularly?

A Yes.

Q That means pretty well every Sunday, is it?

A Yes.

Q And is there a Sunday School in connection with the church?

A No.

Q You just go into the big church, do you?

A Yes. 10

Q Where is that church - is that on "G"?
Which one do you go to?

A St. George's.

Q Well, that's over there somewhere, isn't it?

A Yes.

Q How long have you been going to church, Mat?

A I don't know.

Q Ever since you can remember - is that right?

A Yes.

Q I see; and do your parents talk about the church 20
in your home?

A Sometimes.

Q Sometimes, I see; do they ever talk about the bible?

A I don't know.

Q Do you learn anything about the bible when you're in church?

A No.

Q You don't eh - and there's no Sunday School?

A No. 30

Q And do you know what it means to tell a lie?

A Yes.

Q Is that a good or a bad thing?

A Bad.

Q And do you believe that God will help people
who do good things?

A Yes.

Q And punish people who do bad things?

A Yes.

Q Do you know what it means to swear to tell the
truth on a bible?

A No.

10

Q You don't; but you understand that when you're
here in this court - you know this is a court,
don't you?

A Yes.

Q And you know that you must tell the truth?

A Yes.

Q Will you answer the questions that are put to you
- will you answer them truthfully?

A Yes.

THE COURT: I don't think I'll have the 20
witness sworn.

MR. CALDWELL: Very well, My Lord.

THE COURT: You answer these gentlemen
some questions, will you please?

MATHEW MERVIN HNATIUK, not sworn, states:

MR. CALDWELL, examining:

Q Mathew, please speak up good and loud, will you,
because everyone has to hear you. Now, you live
at home at your parents' place with some brothers
and sisters, do you? 30

A Yes - two brothers.

Q And which school do you go to?

A Pleasant Hill.

Q And do you walk there every school day from your place?

A Yes.

Q Which way do you head out of your house?

A Through the back alley.

Q Through the back alley; and I believe that last January 1969 one morning you headed out for school in the usual way and discovered something unusual in your back alley? 10

A Yes.

Q And who was the first one out of your house that day?

A I was.

Q And your house is 219 "N" South, Mathew, isn't it?

A Yes.

Q And when you went out that morning what time did you go, do you know?

A Eight thirty. 20

Q Eight thirty; and did you get out to the back alley?

A Yes.

Q What did you see there?

A I seen a lady in the snow.

Q And was anyone else there at that time?

A Yes, a girl.

Q And who was the girl, Mathew?

A I didn't know at first but then I found out that she was a Marcoux. 30

Q A Marcoux girl, eh; and when you saw the lady in the snow and the Marcoux girl, what did you do?

A She told me to go and tell my mother so we went and told my mother and she told us to go and tell Murdochs.

Q Did you go and do that?

A Yes.

Q And you went over to Murdochs, did you?

A No, the girl went to Murdochs and we stayed outside.

Q Alright; and did you go on to school then after that?

10

A Yes.

Q Now, did you go right up to the lady lying in the lane or not?

A No.

Q You stayed a distance away, did you?

A Yes.

Q And just one more thing then. In P.4 I'd like to show you photograph #5 and except for that piece of sort of yardstick there, how does that look - does that look like what you saw or not?

20

A Yes.

Q And was the snow like that around the body or not, Mathew?

A Yes, it was tramped around.

Q It was tramped around; did you or the Marcoux girl do that as far as you are aware?

A No.

Q And she was the only one out there when you got there beside the lady in the snow, was she?

A No, there was some children coming from the alley.

30

MR. CALDWELL: Some other children?

Thank you, your witness.

MR. DISBERRY, cross-examining:

Q Now, Mathew, when you got out I gather you didn't see any grownups around in the alley?

A No.

Q And did you see any cars or anything in the alley?

A No.

MR. DISBERRY: I see; no further questions.

THE COURT: Thank you, Mathew; you may go.10

MR. CALDWELL: I call Hattie Hnatiuk, My Lord. This is this lad's mother.

HATTIE LILLIAN HNATIUK, sworn, states:

MR. CALDWELL, examining:

Q Mrs. Hnatiuk, you are the mother of Mathew who was just here in court, are you?

A Yes I am.

Q And I believe you have other children and that your family lives at 219 "N" South?

A Yes.

Q And I believe you were around on the morning of Friday January the 31st 1969 when some of your children left for school? 10

A Yes.

Q And who left first that morning?

A Mathew as usual, he always does.

Q And which way did he go out of the house?

A He went west of the house to the back lane.

Q And what time did he depart that morning, do you remember?

A Well, about eight thirty; that's usually the time I sent him out. 20

Q Alright; and after he went out did he come back again?

A Yes.

Q As a result of that did you go out and look into the back lane?

A Yes I did.

Q And what was the situation when you got there?

A Well, I saw this lady lying in the snow.

Q Now, if I may show you P.1 briefly - this is a sketch of your block and I believe that 219 on "N" South would be then your lot, wouldn't it? 30

A Yes.

Q Now, could you just point out to the Court where would the body be in relation to that and if there is anything there you can . . ?

A . . it would be around B or C - around that area.

Q Around the letters B or C?

A Yes.

Q And showing you P.4 briefly photo #5, except for the surveyor's rod how did the situation look compared to that?

A That's the way I seen it. 10

Q Alright; and was the clothing similar to that?

A Yes.

Q And how about this area of snow around the body in that condition?

A That was all tramped around.

Q When you saw it?

A Yes.

Q Now, while you were there watching or out there checking was the trampling or trampled situation added to or changed at all or not? 20

A No, not to my knowledge.

Q And when you saw that I believe you sent one of the children to see Mr. Murdoch, did you?

A Well, I sent the children to Mr. Murdoch when they first came back and then when they went to Murdochs I went out.

Q This is when you went out?

A Yes.

Q I see; and did you phone the police?

A When I came back to the house I phoned the police 30 but by this time the police had been called by Murdochs.

Q And were you there when they arrived?

A No, I was just looking out my window when the police arrived.

Q When the police arrived; how much later would you say that was?

A I don't know, it seemed like an awful long time to me but I don't know within an hour or so, I don't know; but it seemed like a terribly long time for me.

Q You don't know the exact time? 10

A No, I couldn't recall the exact time.

MR. CALDWELL: Thank you, your witness.

MR. DISBERY, cross-examining:

Q Mrs. Hnatiuk, what time do you usually get up in the mornings?

A Seven o'clock.

Q About seven o'clock?

A Yes.

Q And I gather you got up at seven o'clock on January the 31st? 20

A Much the same, yes.

Q And is your kitchen at the back of the house?

A Yes.

Q I see; and you would be working in your kitchen around seven?

A Yes.

Q And did you hear anything or see anything unusual in the back alley?

A No, not out of the ordinary.

Q I see; from the time you got up? 30

A Yes.

Q I see; you didn't notice any car lights or

anything of that nature in the alley?

A No, when I have the kitchen light on I can't see much out the window.

Q At any rate, you didn't hear a car driving in the alley at all?

A No, not that I would notice because cars are driving around all the time in the mornings, especially that hour when they're going to work.

Q I see; so you don't recall anything special . . . ?

A . . . I don't recall any special sounds. 10

Q In other words, there was nothing that attracted your attention that morning?

A Pardon?

Q There was nothing that attracted your attention that morning?

A No, no.

MR. DISBERY: That's all.

THE COURT: Thank you, you may go.

MR. CALDWELL: I call Henry George Diewald,

My Lord. 20

HENRY GEORGE DIEWALD, sworn, states:

MR. CALDWELL, examining:

Q Mr. Diewald, I believe that you are the caretaker of St. Mary's Church in Saskatoon?

A That's right.

Q And that that's located at Avenue "O" and 20th Street and on the so to speak northwest corner of that intersection?

A Right.

Q And that there is a rectory building as well as 10 the church building there?

A Right.

Q Do you live in the rectory?

A Yes.

Q And I believe that you regularly open the church in the mornings, do you?

A Right.

Q And I'd like to direct your attention to Friday January the 31st of 1969. Now, on that morning did you get up and open the church? 20

A Yes.

Q And what time did you leave the rectory for that purpose?

A Seven o'clock.

Q And went to the church, did you?

A Yes - right.

Q Now, which direction is the rectory from the church?

A The north side.

Q And if I can show you P.2 briefly, there is 30 evidence that this is a sort of sketch of the lay-out of the city in that area. I direct your

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attention to Avenue "O" and "P" and 20th and 21st Street and these not being drawn to scale but the indication of the location of St. Mary's Church and the rectory?

A Yes.

Q Now, does that seem the right location to you, like is that where they are?

A Mhm.

Q And I direct your attention to the block immediately east with a T-shaped - and there's 10 been evidence that that's a lane?

A That's right.

Q Now, when you went from the rectory to the church did you have a view down the east-west lane?

A Yes.

Q Horizontally?

A Yes.

Q Did you look that direction?

A Yes.

Q And on your way from the rectory to the church 20 first of all did you see anything?

A From the rectory to the church?

Q Yes - on your way to the church?

A Yes.

Q What did you see?

A Car light - lights shining towards the west.

Q Was that in that lane?

A In that lane.

Q And I'm sorry - you said car lights?

A Yes. 30

Q And something else?

THE COURT:

Q Facing which way?

A West.

MR. CALDWELL:

Q Facing west?

A Yes.

Q Now, was there any - could you see the actual vehicle, Mr. Diewald?

A No, no.

Q Just lights?

A Headlights.

10

Q I see; and are you able to say that it was specifically a car?

A Car lights.

Q Car lights, okay; and were they headlights or parking lights . . . ?

A Headlights.

Q And were they moving or stationary?

A Stationary.

Q And I take it that they were in that lane you have just shown the Court - the east-west lane?

20

A That's right.

Q Did you form an estimate of how far down the east-west lane, that is how near or how far to you in that lane?

THE COURT: To him?

MR. CALDWELL: Well, I'm really . . .

THE COURT: . . . that's down the lane from the north-south lane, is that what you're getting at?

MR. CALDWELL: No -

30

Q I'm trying to inquire how far east or west in that lane within that block is what I'm getting

at, sir.

If I may show you P.1. There's evidence that this is a sketch of that next block to yours, the church being over here, and I am asking you about this east-west lane that runs here and as I understand you the lights were in that lane and pointing west, is that right?

A Yes.

Q Alright now, did you form an estimate of where the vehicle would be in terms of east or west in 10 that lane?

A The north and south lane?

Q Yes.

A Right here (indicating).

THE COURT:

Q At the intersection of the two lanes, is that right?

A That's right.

MR. CALDWELL:

Q Alright, you saw that at that point. Did you 20 see anything else at that particular time?

A No.

Q Did you go on to the church and open up?

A That's right.

Q What time that morning was it you opened the church?

A I would say about five after seven, sometime about there.

Q About five after seven a.m.?

A Mhm.

30

Q And did you set off back to the rectory after that?

A That's right.

Q And did you walk along the same route only going north to the rectory this time?

A Same route.

Q Going back to the rectory?

A Right.

Q Did you look down that lane again?

A The second time, yes.

Q Now, what time would it be in your estimate by this time? 10

A Well, this all happened within ten minutes from the time I left until I got back.

Q That's all it took for the whole trip?

A That's right.

Q I see; and the second time then you looked down the lane what did you see?

A I saw the lights shining to the west with an individual walking from the driver's side across in front of the headlights to the opposite side and back again. 20

THE COURT:

Q Excuse me, was the car in the same position as it was?

A Same position.

Q And you saw what again - you saw an individual . . . ?

A . . . walking from the driver's side across in front of the lights to the opposite side and back again.

MR. CALDWELL: 30

Q And I take it it appeared to be the same set of lights and in the same place?

A That's right.

Q And what could you see of the individual?

A Nothing too much.

Q Could you tell whether for instance it was a male or female or age or anything?

A No; no.

Q And was the individual clad in say some sort of pants as opposed to . . . ?

A . . . well, that I couldn't see.

Q You couldn't see that, alright; and how much 10
time elapsed from the individual walking across
the lights until the individual walking back in
front of the lights?

A Well, just a matter of walking across and back.

Q I see; and I take it, it appeared to be the
same person, did it?

A Yes.

Q Could you tell, Mr. Diewald, whether the car
engine was running or not?

A No. 20

Q You could not tell, is that right?

A That's right.

Q And from what you say I take it that you saw
nothing of the actual vehicle itself?

A No.

Q And once you had passed on the second time then
did you go back to the rectory?

A Right.

Q Did you see anything more going on in that alley
of any description later? 30

A No.

MR. CALDWELL: Thank you; your witness.

MR. TALLIS, cross-examining:

Q From your observations in that area is there a fair amount of traffic through that alley?

A At times there is, yes.

Q I see; and on this particular morning you would estimate that the time lapse from when you left the rectory until you got back was approximately ten minutes?

A That's right.

Q And as I understand it from what you have told my learned friend you at no time heard this car start up? 10

A No, I didn't.

Q And you didn't see any motion on its part?

A No.

Q I take it you didn't pay any particular attention to it at that time?

A No, I didn't.

Q And you heard nothing that attracted your attention? 20

A No.

Q You've already said you have no recollection of hearing the motor but when I say hearing anything I'm thinking in terms of shouts or screams?

A Nothing.

Q Nothing like that; and I presume that you were asked about this a few days after the incident?

A Yes I was.

Q And the best that you can recollect about this one individual is that a person came from the driver's side . . ? 30

661 X-exam of H.G.Diewald

A Yes.

Q . . and passed across in front of the lights?

A Yes.

Q In other words, you only saw one person?

A That's right.

Q And I presume you were asked about that quite recently, that is, you were asked about that by the police just a few days after this?

A That's right, yes.

MR. TALLIS: I have no further questions. 10

THE COURT: Thank you, you may go.

MR. CALDWELL: I call Walter Joseph Danchuk,
My Lord.

211517

WALTER JOSEPH DANCHUK, sworn, states:

MR. CALDWELL, examining:

Q Mr. Danchuk, I believe that you live in Saskatoon
and that last January in 1969 you lived at 129
Avenue "T" South?

A Yes, that's right.

Q And that you and your wife had a basement suite
at that address?

A That's right.

Q And I believe that the usual state of affairs 10
was that you drove her to work when you left
in the morning for work yourself?

A That's right.

Q Now, 129 "T" South, which avenues would that be
between - "T" and what?

A "U".

Q And which streets?

A 22nd and 21st.

Q And I'd like to show you briefly P.2; I point
out a block with three rectangles and a number 20
129 on it; does that appear to indicate where
your house was at that time?

A Yes, that looks similar.

Q Now, do you see a T-shaped set of alleys
drawn in your block?

A Yes, there is.

Q Now, is that the way that the alleys ran in
that block at that time?

A Yes, that's right.

Q I see; so the front of your house would be on 30
Avenue "T" then at that time?

A That's right.

Q What sort of car did you have, Mr. Danohuk?
A A '64 Chev. convertible.
Q What color was it?
A Red and white - red and white top.
Q Red with a white top?
A That's right.
Q And was it just you and your wife who set out for work that morning or did you have any passengers?
A No, just my wife and me. 10
Q Which way did you leave the house?
A Through the back door and see like I was parked in the back.
Q Parked in the back yard, were you?
A In the back yard, yes.
Q And I take it you got in and backed out into the alley, did you?
A That's right.
Q What happened when you got into the alley?
A Well, I got stuck. 20
Q And was this as a result of the alley conditions or the car quitting or what?
A Well, I mean there was quite a bit of snow there and I couldn't see out my back window.
Q But you got stuck in the snow I take it, did you?
A That's right.
Q What time of the morning was it right at that point where you backed out and got stuck?
A It would be approximately about seven thirty or twenty to eight. 30
Q At that time?
A Yes.

- Q Alright; and did some other vehicle show up
 after you got stuck?
- A Yes.
- Q What sort of vehicle was that?
- A It was a 1958 Pontiac.
- Q And do you recall anything else about that car
 particularly its appearance or what-not?
- A Well, like what do you mean by appearance?
- Q Color and what-have-you?
- A I think it was blue; it was a two tone car, I'm 10
 not quite sure now.
- Q Alright now, which direction was it going when
 it appeared?
- A South; I mean it came in facing south.
- Q It was facing south and travelling south?
- A Yes.
- Q Now, which way was your car facing when it was
 stuck?
- A South - well actually, see it was halfway in the
 alley, I mean in my back yard and halfway on the 20
 road.
- Q At an angle, eh?
- A Yes.
- Q So this car as I understand you would come behind
 you then?
- A That's right.
- Q And what occupants did it have in it?
- A Two boys and a girl.
- Q Did you know any of them?
- A No. 30
- Q And was there some conference over what to do
 or what happened?

A Well no, they just - I can't recall if I
flagged them down or not but they pulled behind
me and they tried to help me out - push me out
like.

Q Using what?

A Their car.

Q Their car; and did that work?

A No it didn't.

Q What happened?

A My car stalled and then his car stalled at the 10
same time.

Q I see; and what happened then?
I might ask you first whether any of the people
who were with the Pontiac car are here in court
today?

A Yes.

Q Which person?

A The accused sitting over there.

Q And the person in the box to my left here?

A That's right. 20

Q And I understand you to say that you did not
know him of course before that time?

A That's right.

Q Alright; what happened when both cars stalled
in that manner?
Well, did you have some discussion between the
people from the Pontiac and yourself?

A I really can't recall that.

Q Okay; what was the next thing you did?

A Well, we sat in my car for a while, then I went 30
in - went in the house and told my wife - I
mean, she got out first and she went in the house.

Q Alright . . . ?

A . . . and I sat out there for a while and they
 came out and I guess we talked for quite a
 while outside and I was trying to get my car
 going again but the battery wouldn't even
 turn over.

Q Alright; what did you do then?

A So I went in the house and I waited for a
 while.

Q Did you do something about getting help? 10

THE COURT: Why don't you lead on
 some of those things, Mr. Caldwell. I don't
 think there's any controversy here, is there?

MR. CALDWELL: I don't think so, My Lord -

Q Did you call a tow truck?

A I called one tow truck but he said he couldn't
 come for half an hour.

Q Alright; and so did you call another one?

A Yes I did.

Q And did he show up? 20

A Yes he did.

Q How long?

A I couldn't really specify as to how long.

Q At any rate, this second truck did show up and
 did you get your car started as a result of the
 second truck showing up?

A That's right; he started me up and I think he
 pushed me out too.

Q Now, while you were waiting for these trucks
 were any of these people in your house? 30

A Yes, they were; the three of them came in the
 house.

- Q And which part did they go to?
- A Well, they were sitting actually in the back porch or the hallway of the house.
- Q Did any of them come down into your suite?
- A Yes, the girl did and the chap sitting over there.
- Q The accused?
- A That's right.
- Q And did you have some conversation with the accused while you were waiting for the truck? 10
- A Yes, we did.
- Q To what general effect was this?
- A Well, we were just more or less - I mean just general talk.
- Q Alright; what did he tell you?
- A Well, when we started talking, like I asked them where they were from first and they said they were from Regina; they were travelling all night and they got stuck first at Hanley or some place around there. 20
- Q Did they tell you where they were going or anything like that?
- A Well, they said they were going to Edmonton or else to Newfoundland.
- Q Alright; and did they say anything about looking for something in Saskatoon?
- A Well, they were looking for a house some place around I think it was St. Mary's School or something.
- Q Any name in connection with the house? 30
- A Yes, a chap - well, his name was Shorty or something like that; they didn't know his real

name.

Q Alright; now, Mr. Danchuk, did you notice anything about the type or condition of the accused's clothes during this whole incident?

A Well, not really until he was in the car and we went back to the service station.

Q This was somewhat later, was it?

A Somewhat later.

Q What did you notice then?

A Well, he had a tear in his trousers. 10

Q Whereabouts?

A Well, I guess in the back part of the leg - or the seat actually.

Q The seat of the trousers?

A Mhm.

Q You noticed that, did you?

A Yes.

THE COURT:

Q Excuse me; how big or how long a tear was it?

A I couldn't . . . 20

Q . . . was it an inch or half an inch?

A No, it was quite a big tear.

Q Well, can you give us any general idea of how many inches - was it more than one inch?

A Oh yes.

Q How much more?

A Maybe four - something like that.

Q It would be about five altogether then?

A Somewhere around there.

MR. CALDWELL: 30

Q Now, I believe when you got your car going eventually that you drove the three - the two

boys and the girl - from the Pontiac including the accused of course to a service station?

A That's right.

Q Which one was it or do you know?

A The accused sitting there.

Q No but I mean which station?

A Oh, it was a Texaco.

Q And I believe that you drove them back to your place after that?

A That's right.

10

Q Who went into the station while you were there?

A The accused sitting over there.

Q And just him?

A Yes.

Q And he was one of the ones whom you drove back of course?

A That's right.

Q And when you got back to your place were you there when any other tow truck appeared?

A Yes; one came back to help their car out.

20

Q Alright; and did it get their car going?

A Yes it did.

Q That's while you were still there?

A Yes.

Q Now, had your wife gone along to work by other means?

A That's right; she went to work with this other girl by cab.

Q I see; once the Pontiac was running so to speak did you do anything further to assist them?

30

A No, I was just sitting in my car with the girl.

Q Alright; and who left first finally at the end

of this thing - you or they?

A Well, they left and I followed them, because I was right behind them.

Q How far did you follow them?

A Well, they lost me somewhere - it was close to Avenue "P" and 22nd, like, where they lost me.

Q I see; on 22nd?

A Yes, on 22nd.

Q And I take it that's the first^{and}/the last you had to do with that group or any of their number? 10

A That's right.

MR. CALDWELL: Thank you; your witness.

MR. TALLIS, cross-examining:

Q Now, Walter, as I understand it your wife was working at Richardson Securities at that time?

A Yes.

Q And you were working at Engineering and Plumbing Supplies?

A That's right.

Q Now, what time did you have to be at work? 20

A Eight o'clock.

Q Eight o'clock; and I take it then your practice was to drop your wife off at Richardson Securities?

A That's right.

Q And this would be on your way up to work?

A That's right.

Q Now, where was the office of Engineering and Plumbing Supplies located, that is where did you have to go to work?

A Up in City Park - it's 906 Duchess. 30

Q 906 Duchess Street?

A That's right.

Q And so that in order to get to work on time you would ordinarily leave as I understand it then between seven thirty and twenty to eight?

A That's right.

Q Is that sort of the standard routine?

A That's right.

Q And you had been working for this company for quite a while?

A That's right.

Q And so had your wife? 10

A Yes.

Q That is for Richardson's; now I gather that when you went out that morning it would be fair to say that it was extremely cold?

A It was.

Q And that's one of the things that stands out vividly in your mind?

A That's right.

Q And I take it that if you hadn't been dressed up decently with gloves and something on your ears and whatnot you would have become frostbitten pretty quickly? 20

A Probably, yes.

Q And as I understand it you did have on the usual type of dress for colder weather that morning?

A That's right.

Q And when you went out to try and start your car you noticed that it really was cold that morning?

A Yes.

Q Did your wife go out with you at the same time or did you go out a few minutes earlier to start the car? 30

A Well, like I used to go out about fifteen minutes earlier, then start my car up so it would warm up and then I would go back to the house and then she would come out with me after it was warmed up.

Q I see; well now, at any rate on the morning in question I take it you weren't late or anything, all had gone well?

A No.

Q And as I understand it your wife was in the car with you, that is in the front seat of the car with you when this other car pulled in behind you? 10

A That's right.

Q And were your wheels spinning, that is were you trying to get out of this spot that you were stuck in by rocking your car?

A I think I was.

Q And as you told my learned friend you couldn't remember whether or not you had flagged this car down? 20

A No, I can't remember now.

Q But your motor was running?

A That's right.

Q And you were stuck and you may have been rocking your car to get it out?

A Yes.

Q And as I understand it then one way or another this car tried to give you a push?

A That's right. 30

Q And the result was that your car stalled as well as his?

A That's true.

Q Now, this would mean that as I understand it from what you told my learned friend you talked to these people?

A Yes.

Q After you got stuck; that is you chatted outside or did you get in their car?

A No, I was in my car.

Q And did they get in your car?

A No, not at that time. 10

Q I see; but in any event you chatted there for a while?

A Yes.

Q And was there some discussion about possibly using their battery to give you a boost or something?

A There was, yes sir.

Q And where did this discussion take place or can you recall?

A Well, if I recall it was outside. 20

Q It was outside; and I take it David was there?

A Yes.

Q And the other boy was there - or do you remember?

A I can't really recall.

Q I see; but you remember David being there when this discussion . . . ?

A . . . well, I remember - I mean, I can't recall whether there was two or one out there at this time.

Q I see; now, as I understand it then, while you 30 were chatting anyway outside as distinct from in the house there was a discussion with the boys

about getting a tow truck?

A Yes.

Q And you decided that this would be the best thing to do?

A Yes.

Q And had your wife already gone into the house at that time?

A I think she was in the house at that time.

Q And as I understand it there came a time when you actually invited them into the house? 10

A Yes I did.

Q And this was because it was so cold outside?

A Yes.

Q Now, as I understand it from what you told my learned friend your wife arranged to get transportation in some other way?

A That's right.

Q And there was a group of three people came into the house and is it fair to say that they were in the hallway chatting with you for a while? 20

A Yes.

Q And was this before or after your wife had gone to work?

A Well, she was still at home at the time for a while.

Q For a while; now, looking at the whole morning and not quibbling over a minute or two here and there, how long would you be with these three people? I gather from your evidence it was quite a little time? 30

A Yes it was; I'd say over an hour at least.

Q Over an hour; do you recall about what time you

got on your way to work?

A Well, it was after nine because I can recall that I got to work about a quarter to ten or so.

Q I see; and dealing with this particular hallway where the group were, I take it that there were lights in this hallway?

A Yes.

Q It was well lit?

A Yes.

Q And as I understand it there would be no problem of seeing facial features and clothes on people there? 10

A No, that's right.

Q And similarly in your suite the lighting was good?

A That's right.

Q Now, as I understand it, you went down into your suite after the group of you were in the house in the hallway to make a phone call?

A Yes, I think I did. 20

Q And then you came up and talked with the group in the hall?

A That's right.

Q Is that correct?

A That's right.

Q And as I understand it on one occasion the girl came downstairs?

A Yes.

Q And this was after your wife had gone, or do you recall? 30

A I don't recall now.

Q I see; and she asked you if she could use the

washroom?

A Yes.

Q And she went down to the suite and then came back to the hallway, is that correct?

A Yes.

Q And then I think David went down into your suite, didn't he? When I say David I mean David here.

A Yes, he was down there.

Q And now then, when you drove them to the station, that is to the service station, do you recall the 10 seating arrangement in your car?

A Well, the girl was in the front with me and the two fellows in the back.

Q I see; the two fellows were in the back; and you saw David get out and go to the station, did you?

A Yes I did.

Q And then you saw him coming back to the car?

A Yes.

Q And where was it that you noticed the trousers - the rip or tear as you have described it - where 20 was it that you first noticed this?

A When he was getting out of the car, like he was sitting in the back and he was getting out of the car - like my car is only a two-door and the seat was pushed forward.

Q I see; and you noticed that at that time?

A Yes.

Q And then did you notice it again later?

A I think I did because it looked sort of, you know . . .

30

Q . . . I see.

THE COURT:

Q What's that? Looked sort of what?

A Well, you know, it looked kind of odd or something.

Q It attracted your attention?

A Yes.

MR. TALLIS:

Q It stood out in your mind.

Now, as I understand it then, you drove them back - the three of them back to their car after you had taken them to the service station? 10

A That's right.

Q And did you more or less lead the way for the tow truck that was coming?

A Well no, I came in one way and he came in the other way.

Q I see; in other words, it wasn't a question of the tow truck following you to where this car was located?

A No.

Q And as I understand it they got the car going, 20 did they?

A Yes.

Q And I take it the girl was still sitting in the car with you up until the time they got their car going?

A Yes, she was.

Q And were the two boys out around the other car, that is their car that was stalled?

A I can recall one got out first and then the other one got out. 30

Q I see; you wouldn't recall which one?

A No.

Q Now, after they got their car warmed up I
take it the girl got out and joined them?

A Yes.

Q In other words you sat in the car with her
while . . . ?

A That's right.

Q . . . it was warming up?

A While it was warming up.

Q And as I understand it while you were there
David came back to the car where you and the 10
girl were sitting?

A That's right.

Q And at that time she gave him some money to
pay for the tow truck?

A That's right.

Q And you recall her having a ten or twenty
dollar bill?

A I think it was a ten dollar bill.

Q A ten dollar bill; and some change?

A Yes. 20

Q And did she hand it over to David?

A Yes.

Q Now, in any event, it's fair to say that
during that morning you talked to David quite
a little bit off and on?

A That's right.

Q And naturally you had never seen these people
in your life before?

A No.

Q And had no idea who they were, where they were 30
from or anything about them?

A No.

Q They were complete strangers to you?
A That's right.
Q And now, I gather that when you were talking to David any conversation you had with him was quite polite?
A Yes, he was very polite.
Q And soft spoken?
A I'd say so.
Q And when you were talking to him and the others in the house you would be right close to them when they were in the hall area there? 10
A Yes I was.
Q Within two or three feet on occasion?
A Yes.
Q And I take it that you were chatting with them and in particular you were chatting with David as to what he did for a living?
A Yes because he - well, I mean he was doing most of the talking.
THE COURT: 20
Q He was what?
A He was doing most of the talking.
MR. TALLIS:
Q But you were sort of curious as to what they were doing?
A Yes I was.
Q I mean, when you have strangers come to your place at that hour of the morning you sort of look them over, don't you, and wonder what they're doing? 30
A Well, you sort of kind of wonder what they're doing.

Q That's right; and there was a discussion about him either selling magazines or going to sell magazines?

A Yes, there was.

Q And do you remember the name Maclean's coming up?

A I can't recall it now.

Q I see; you just don't recall details of this?

A No.

Q But you recall general talk?

10

A That's right.

Q Now, this mark that you saw down on his trousers - the tear as you've described it to My Lord the Chief Justice and also my learned friend and the jury - was I think in the rear?

A Yes.

Q You would say the buttock area?

A That's right.

Q But you also had an opportunity to see the front portion of his trousers too, that morning, didn't you? 20

A Well, yes.

Q And I take it that it's fair to say that when he was at your place you didn't see any blood or anything resembling blood on the front of his trousers?

A Well, I never really looked that close.

Q But I mean, you didn't see any; there was nothing like that that stood out in your mind?

A That's right.

30

Q As a matter of fact you were interviewed by the police not too long after these events?

A Yes.

Q And at that time this was naturally one of the questions that you would be asked - whether there was any sign of blood - isn't that right?

A That's right.

Q Yes; and isn't it fair to say that when you were interviewed by the police you certainly told them when you were asked that you did not notice or see any blood on any of David's clothing?

A No, I didn't notice any. 10

Q And I suppose you were asked as to whether or not you saw any blood on the clothing of either of the other two?

A Well, I never really looked.

Q No, but were you asked about this by the police?

A Probably; I don't remember now.

Q In any event it's fair to say that you noticed nothing unusual except this tear that you have told us about?

A Yes. 20

Q In the trousers, is that correct?

A Yes.

Q And you certainly didn't notice any scratch marks or anything like that on David's face?

A No, I didn't.

Q And the lighting was certainly good enough there that you would have seen that?

A Yes, I would have.

Q And now, when you first spoke to David there was no indication - this is right outside when 30 you first saw him - there was no indication that he was out of breath or anything like that?

A No.

Q In other words, the conversation was on a normal basis as far as you noticed?

A I would say so.

Q Yes; and by that I mean there was normal breathing and everything like that, nothing that you noticed unusual . . ?

A . . well, nothing that I noticed.

Q No; and now, Mr. Danchuk, I have mentioned to you about being asked about the question of blood by the police and I believe you also remember me asking you a few questions about this at the preliminary hearing, don't you? 10

A Yes, I think I do.

Q Well, you remember being here in this room as a witness?

A Yes.

Q And were you asked these questions and did you give these answers -

And this, My Lord, is page 243, questions 126 and 127: 20

"But you also had an opportunity to see his front portion?"

This is with reference to the trousers and the answer is recorded as "Yah."

Do you remember being asked that question and giving that answer?

A Yes, I think I do.

Q And then 127:

"And I take it that it's fair to say that when he was at your place there was not any blood or anything like that on the . . ." 30

" . . front of his clothes?"

And the answer: "I didn't see any."

Do you remember being asked that question and giving that answer?

A Yes.

Q And this is consistent with what you had told the police when you were interviewed not too long after this incident?

A Yes.

Q And I think it's fair to say that with reference 10 to the other two individuals you noticed nothing unusual about them?

A No.

Q And I'm sure you've been asked that question so many times by police officers and lawyers that it's boring to hear it.

Was your car out far enough into the alley that it would have been impossible for people to pass you, that is were you blocking the alley off for other traffic in the position that your vehicle 20 was?

A I can't recall now.

Q I see; now, when the tow truck arrived to pull you out were the three people outside in your car at this time? Had you gone out?

A Well, we all went out at the same time.

Q You all went out at the same time?

Did you all climb into your vehicle so to speak?

A After my car was started we climbed into my car.

Q I see; now, after they got into your car and after 30 you were pulled out, was there some discussion between the group of you as to whether or not you

could pull out their car?

A I think there was.

Q And did you indicate to them that you wouldn't be able to because you only had smooth tires on?

A That's right.

Q And this is a fact, isn't it - you only had smooth tires at that time?

A Yes.

Q And that was why you drove them over to the Texaco station so that they could get a tow truck?

A That's right.

Q Rather than have you try and pull them out just with smooth tires?

A Yes.

Q And when these people were at your house there was certainly no indication of the use of alcohol or anything else like that?

A I didn't notice any.

Q From their actions and speech?

A No, I wouldn't say there was.

20

Q And this may be a rhetorical question but you've certainly seen people that are at least affected by liquor?

A Yes.

Q Or are in an impaired or intoxicated condition by something?

A Yes.

CROSS-EXAMINATION CONCLUDED.

THE COURT: Any re-examination?

MR. CALDWELL: No, My Lord.

30

THE COURT: You may go, thank you.
We'll adjourn for ten minutes.

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MR. CALDWELL: I call Olesia Alexandra
Danchuk.

OLESIA ALEXANDRA DANCHUK, sworn, states:

MR. CALDWELL, examining:

Q Mrs. Danchuk, your husband I believe is Walter
Danchuk and you work at Richardson Securities
in Saskatoon?

A Yes I do.

Q And I believe that in January of 1969 you and he
had the basement suite 129 "T" South, Saskatoon? 10

A Yes we did.

Q And particularly on the morning of Friday
January the 31st 1969 you and he set out for work
in the usual way together in his car?

A Yes.

Q And that you initially got stuck in the lane as
soon as he backed out of your back yard?

A Yes.

Q Now, what is your memory of the time it was when
you got stuck there? 20

A It was between seven thirty and a quarter to
eight.

Q When you got stuck?

A Mhm.

Q And I believe another vehicle showed up behind
yours then?

A Yes.

Q What time would you say it got there?

A Anywhere from twenty to eight to ten to eight.

Q Somewhere in there? 30

A Mhm.

THE COURT:

Q Excuse me just a minute, I want to get those times straight. You got stuck between seven thirty and . . . ?

A A quarter to eight.

Q And when did this car arrive?

A Well, shortly after we got stuck, I can't really say - maybe three minutes - five minutes.

MR. CALDWELL:

Q How many people were with the other car?

A I saw three.

10

Q Now, what people were these - strangers to you, I take it?

A Yes.

Q Alright; what were they?

A Two boys and a girl.

Q And what happened from the time they showed up there?

A Well, I can't remember anybody getting out of the car at first; I think they just came up behind us and started pushing and their car got stuck once they started pushing our car.

20

Q I see; so that both cars would be stuck at that point?

A Yes.

Q What happened then?

A My husband told me to go into the house because it was cold and I went down and I think he came down and called a tow truck; I really can't say for sure.

Q That is your husband?

30

A Yes.

Q Okay; and you went down I take it into your own

suite in the basement?

A Yes.

Q Did any of the occupants of the other car come in the house?

A I think one of the boys asked if the girl could come into the house because she was cold and I think the boy and the girl both came in but they sat on the steps upstairs.

Q Now, do you know they came in of your own knowledge or not? 10

A Yes, I saw them as I was leaving for work.

Q I see; this would be a little later then?

A Yes.

Q Alright; and that was one of the boys and the girl and I think you said sort of in the back porch, did you - just in the back door?

A Yes.

Q And did you have any direct dealings with those two for instance?

A No. 20

Q And did you have any direct dealings with the other boy?

A He came down and he asked for a glass of water.

Q And did you give him a glass?

A Yes I did.

Q And where would he get that - in your suite?

A Yes, in our kitchen.

Q The glass or . . . ?

A . . . the glass of water - he came into our kitchen. 30

Q Alright; now, are any of that group of three in court here today?

- A Just one that I can see.
- Q Alright; which one can you see?
- A The one in the box.
- Q The man in the box to my left?
- A Yes.
- Q Which of the ones was he?
- A He was the one that asked for a glass of water.
- Q And he was down in your suite, eh?
- A Yes.
- Q Alright; and when he got this glass of water I 10
presume he went back up, did he?
- A Yes.
- Q Now, it would be after that you left for work -
sometime after that?
- A Shortly after, yes.
- Q And did anyone leave with you?
- A The girl in the next suite - there were two
suites in the basement.
- Q And another girl who lived in the other suite
left with you? 20
- A She called a cab and she saw that our car was
stuck and she asked if I wanted a ride and I
went.
- Q And you and she took the cab then when?
- A I'd say it was around a quarter after nine.
- Q Now, when you left were the two cars still stuck
there?
- A Yes, they were.
- Q And your husband I presume remained there?
- A Yes. 30
- Q Were the three other youths still there?
- A Yes.

Q When you left?

A Yes.

Q Now, can you tell the Court, Mrs. Danchuk, what if anything you noticed about the way that any of these three people were clothed or dressed and to the extent that you can recall?

A You mean a full description or . . . ?

Q Yes, as much as you know.

A Well, they were just dressed like school kids, nothing different; I didn't really notice 10 anything in - well, I don't know how to put it really.

Q Do you remember specific items of clothing on any of them or not?

A Well, I thought one of them was wearing a toque.

Q I see; and did they all have some sort of outer winter coats or what-have-you?

A Oh yes, yes.

THE COURT:

Q Which one was wearing the toque, do you know? 20

A The one that asked for the glass of water.

Q Was that the accused in the box?

A Yes.

MR. CALDWELL:

Q Now, when the other car got stuck behind your husband's car was there any way that you could see that they could get by so to speak?

A No.

Q I see; and did you see anything of any backing up on the part of the other car? 30

A Pardon?

Q Did you see the other car back up?

A It couldn't; it was stuck.

Q It was which?

A It was stuck.

Q Oh, it was stuck right on the spot?

A I don't know if it was stuck; I think something went dead in the car.

MR. CALDWELL: I see. Thank you, your witness.

MR. TALLIS, cross-examining:

Q Mrs. Danchuk, I have a few questions to ask you. 10
I think that you have already mentioned or it's
already been given in evidence that you were
working at Richardson Securities at that time?

A Yes.

Q And as I understand it this was your normal
routine as far as time and everything in
getting out and going to work?

A Yes.

Q Because your husband customarily dropped you off
on his way to work? 20

A That's right.

Q At his place where he was employed?

A Yes.

Q Actually you would get to work before starting
time, wouldn't you?

A In the winter we start at eight thirty but I
went for the ride, yes.

Q Now, I think on the morning in question you
didn't actually get away to work until about
nine fifteen? 30

A I arrived at about nine thirty.

Q Yes; and what time would you get away from the

house then on that basis?

A I'm pretty sure it was about a quarter after nine.

Q About a quarter after nine?

A Mhm.

Q But you didn't spend a great deal of time with the people upstairs, that is the group?

A No; no.

Q But as I understand it - I believe you may have mentioned this - the boy in the box here whom I'll call David, I think he came down and spoke 10 to you in the suite?

A Yes.

Q And was your husband there at the time?

A No, he was outside.

Q He was outside; and did he come down and ask for permission to use the phone to call a tow truck?

A I think he did but I'm not sure.

Q I see; but in any event it was at that time that you gave him a glass of water?

A Either around then or shortly after. 20

Q Now, I gather that your recollection is that David was quite polite when he spoke to you?

A Yes, very.

Q And his conversation was in quite a normal tone?

A Yes.

Q Now, I don't know whether you mentioned it in this court or not but I believe it is fair to say that he was wearing a jacket?

A Yes. 30

Q And I think that as you recall it the jacket was open?

A It was partly opened I think.

Q When I say . . ?

A . . in a V. It was I think just half way zipped up or buttoned up whatever.

Q I see; and now, you noticed that he had on - he was wearing trousers; can you recall the color of them by chance?

A No.

Q I see; and I suppose you've been asked this question many times? 10

A Yes; I thought I could shortly after but I'm not sure at all.

Q Fine; well now, in any event, I take it that you noticed nothing unusual down the front of his clothes?

A No, I didn't pay much attention to the clothing.

Q But as I understand it, not too long after this unfortunate incident that is the subject matter of these proceedings, you were certainly asked 20 whether or not you noticed any blood on anyone's clothes?

A Yes, I was asked.

Q And you indicated at that time as you have on subsequent occasions that you did not see any blood on anyone's clothes that morning?

A I didn't pay that much attention to their clothing that I could see anything.

Q In any event, if you had remembered seeing any blood on any clothes you would have certainly 30 told us about it?

A If I would have seen it, yes.

Q Yes; and as a matter of fact you were also asked whether or not you had seen any blood around the sink?

A Yes.

Q And that is in your bathroom, is that correct?

A Yes, we were asked.

Q And you didn't see anything of that nature at all?

A No, I didn't.

Q I think at the preliminary hearing you told my learned friend that David's jacket was open to the best of your recollection? 10

A It was either opened or part way opened; I can't recall really.

Q You can't be sure whether it was open or not?

A I'm sure part of his shirt was showing.

Q I see . . . ?

A . . . but I can't remember if it was opened or not.

THE COURT: 20

Q Did he have a sweater on underneath his coat?

A I think it was a shirt.

Q You think it was a shirt?

A I think so.

MR. TALLIS:

Q Well, do you remember being asked by Mr. Caldwell about that at the preliminary hearing?

A About his . . . ?

Q . . . about the jacket?

A I was asked by one of you; I can't remember which one. 30

Q Well, do you remember at that time saying that

your best recollection was that his jacket was open?

A I can remember saying it but now that I have thought about it I really can't be sure.

Q You can't be sure one way or the other; I take it that the lighting in your house was good?

A Yes.

Q I should say in the suite that you were living in?

A Yes.

10

Q And that's where you saw more of David, is it - close up?

A That's about the only time I did see him.

Q Right close up?

A Well . . .

Q . . . you saw him outside but that . . . ?

A I don't think I saw him outside.

Q Oh I see; you don't have any recollection - you weren't there when . . . ?

A . . . I saw somebody outside but I can't remember who it was.

20

Q What I was getting at is you don't have any recollection of the three of them getting into the car while you were there?

A Getting back into the car?

Q That is into your husband's car?

A Oh no, I wasn't there then.

MR. TALLIS: I see; you weren't there at that time.

I have no further questions.

30

MR. CALDWELL: No re-examination, My Lord.

THE COURT: Thank you, you may go.

MR. CALDWELL: I call William Alexander
Campbell, My Lord.

WILLIAM ALEXANDER CAMPELL, sworn, states:

MR. CALDWELL, examining:

Q Mr. Campbell, I believe that in January of 1969
you were the operator of Belmont Texaco
Service 22nd Street at Avenue "W" in Saskatoon?

A That's correct.

Q Are you still there?

A That's correct.

10

Q And I believe that Friday January the 31st of
1969 you were at work in the station and that
you personally went out on a service call to
the 100 block of Avenue "T" South in Saskatoon?

A It was the back lane between "T" and "U".

Q And it was in that block, was it?

A In the 100 block south, yes.

Q Did you go by yourself?

A Yes I did.

Q And what time did you get there, do you
remember? 20

A Approximately eight-thirty.

Q And what was the situation when you got into
the lane?

A There was two cars in the lane stuck. One
car I assumed at the time was a '63 Ford but
it turned out it was a Pontiac. And there was
another car behind it being a '58 Pontiac.

Q Alright; now, did you actually like personally
determine what that first car was in due course? 30

A Afterwards, yes.

Q You went and looked at it?

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- A Yes.
- Q And I take it this was the north-south alley that was running parallel to the avenues?
- A Alley running north and south, that's right.
- Q And the older car was . . . ?
- A . . . to the north of the newer car.
- Q And I take it facing south?
- A Right.
- Q And what people were there apparently in conjunction with the cars? 10
- A Well, it was hard to tell. The first car there was two people in it as far as I knew and we pulled them out and in the second car - I didn't pay much attention to it really; they asked us to pull them out and said they didn't have the money for the tow job so we left.
- Q But the second car would be the older one?
- A This is correct.
- Q And you got the first car freed, did you?
- A This is right. 20
- Q Was this a matter of pulling it?
- A Just pulling it; it was stuck in the snow, that was all.
- Q And then it was perfectly operative, was it?
- A Right.
- Q And then I take it from what you said that you'd had some brief conversation only with any of the people from the older Pontiac?
- A That's correct.
- Q About the towing situation? 30
- A At that moment, yes.
- Q Alright; and during the course of that did you

notice how many people were in it?

A No, it was fairly dark yet at the time.

Q I see; now, when you got the more southerly car freed did you leave then?

A Well, it was just after I got the southerly car freed that they came from the other car and asked if we could pull them.

Q You had that discussion then?

A Right.

Q And would you leave then right after that? 10

A Yes I did.

Q And back to the station?

A That is right.

Q And did you see any of the people whom you had seen at the place where the cars were stuck at the station?

A Yes I did.

Q And is the person whom you saw at the station here in court today?

A That would be hard to say. 20

Q Alright, that's fine if you cannot say but the person who did come into the station roughly what age would the person be?

A Well, I considered him at the time around nineteen or twenty I thought and he was wearing dark clothes.

Q I take it a male?

A That's right.

Q Alright; and as a result of this person coming into the station I take it - I don't want to go 30 into what was said - but he talked to you I presume?

- A This is right.
- Q And as a result of that did you send someone else out with a tow truck?
- A Yes, I sent one of my men out with a tow truck.
- Q And who was that?
- A Garry McQuhae.
- Q And where did you send McQuhae?
- A Well, he was supposed to be showed the way over by the people in the car but he knew - I told him where to go anyway and he took off on his own to have them pulled out. 10
- Q McQuhae, eh?
- A That's right.
- Q And you didn't go on this second call?
- A No, I didn't.
- Q Around what time would you suggest this youth came into the station, as a result of which you sent McQuhae?
- A Well, it would be approximately nine o'clock when the truck went out for the second time. 20
- Q The second occasion?
- A Yes; there would be about a half hour lapse in there by the time I pulled the one car out and got back and sent the truck out again.
- Q And I take it that would be the last dealings you had with that situation over there?
- A This is correct.
- MR. CALDWELL: Thank you; your witness.
- MR. TALLIS, cross-examining:
- Q I'm sure you've been asked this question far too many times but when this chap came to the service station it's fair to say you noticed nothing 30

unusual about him?

A No; we weren't looking for anything, I mean
this is about the size of it - right.

Q You have been asked if you recollect anything
unusual?

A I would think so, yes.

Q And you have no recollection of anything unusual?

A No.

CROSS-EXAMINATION CONCLUDED.

THE COURT: Thank you; you may go. 10

MR. CALDWELL: I call Garry Leslie McQuhae,

My Lord.

GARRY LESLIE McQUHAE, sworn, states:

MR. CALDWELL, examining:

Q Mr. McQuhae, I believe in January of 1969 you worked for William Campbell at Belmont Texaco 22nd and "W" in Saskatoon?

A That's right.

Q Are you still working for him there?

A Yes.

Q And I believe that that morning Mr. Campbell sent you out on a service call to the lane at 10 100 block Avenue "T" South Saskatoon?

A That's right.

Q And was this in the tow truck?

A Mhm.

Q And did you go by yourself?

A Yes.

Q And what time would you say you got there?

A Oh, between nine and nine thirty, somewhere around there.

Q And when you did get there I take it this was 20 the north-south alley between the avenues and parallel to the avenues?

A Yes.

Q And what was the situation when you got there?

A Well, this Pontiac was gray - grayish colored Pontiac was stopped in the alley and he needed to get a boost to get him going.

Q What age of a car was this?

A '58.

Q And you say that he needed a boost to get going? 30

A Yes.

Q Did you give them that?